
POLICY TRANSMITTAL NO. 11-13	DATE: MAY 26, 2011
DEVELOPMENTAL DISABILITIES SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF INTERGOVERNMENTAL RELATIONS AND POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:100-3, Table of Contents; 100-3-1; 100-3-5; 100-3-38; 100-3-38.1 through 100-3-38.5; 100-3-38.7 through 100-3-38.8; 100-3-38.10 through 100-3-38.13; 100-3-39 through 100-3-40; 340:100-5, Table of Contents; 100-5-22.1; 100-5-22.6; 100-5-26.1; 100-5-32; 100-5-34 through 100-5-35; 100-5-52; 100-6-12; and 100-6-55.

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

OAC 340:100-3-1 is amended to direct members of the Homeward Bound class to resolve financial eligibility issued within a 90-day period; or receive state-funded services available to other eligible persons.

OAC 340:100-3-5 is amended to remove the requirement for Form 06MP034E (Guardianship, Advocacy, and Capacity Annual Review) as the information will be required in the Individual Plan or Needs Assessment.

OAC 340:100-3-38 is amended to establish: online training expectations; supervised retraining as a course of action following training violations; and documentation and reporting requirements to substantiate training.

OAC 340:100-3-38.1 is amended to add an online option for foundation training; clarify the requirements for individual specific training, job specific training, specialized training, and ongoing training.

OAC 340:100-3-38.2 is amended to add an online option for foundation training, clarifies the requirements for individual specific training, job specific training, specialized training, and ongoing training.

OAC 340:100-3-38.3 is amended to add an online option for foundation training, clarify the requirements for individual specific

training, job specific training, specialized training, and ongoing training.

OAC 340:100-3-38.4 is amended to add an online option for foundation training, clarify the requirements for individual specific training, job specific training, specialized training, and ongoing training.

OAC 340:100-3-38.5 is amended to add an online option for foundation training, clarify the requirements for individual specific training, job specific training, specialized training, and ongoing training.

OAC 340:100-3-38.7 is amended to add an online option for foundation training, and clarify the requirements for individual specific and specialized training.

OAC 340:100-3-38.8 is amended to add an online option for foundation training.

OAC 340:100-3-38.10 is amended to clarify that any nurse with a current unrestricted license is exempt from training requirements and can administer medications.

OAC 340:100-3-38.11 is revoked as training will be tracked via IMS and CDS.

OAC 340:100-3-38.12 is amended to add an online option for foundation training, clarifies the requirements for individual specific and ongoing training.

OAC 340:100-3-38.13 is amended to add an online option for foundation training, clarify the requirements for individual specific training, job specific training, specialized training, and ongoing training.

OAC 340:100-3-39 is amended to disallow a temporary employee from working alone or solely with other temporary employees pending the results of the OSBI criminal history records search.

OAC 340:100-3-40 is amended to remove the requirement of Form 06HM007E (Physical Status Review – PSR;) and require that contract provider agencies develop a form that certifies that persons accessing information within the home record has been informed and understands the penalties for the misuse of confidential and protected information within the home record, per HB 3323 "Kelley's

Law."

OAC 340:100-5-22.1 is amended to allow contract provider agency administration staff to complete monitoring visits; allow unannounced visits to be reduced to one per month when certain criteria are met; allow full-time equivalent experience in a supervisory position for program coordinators; and increase the program coordinator case loads from 15 to 20 with a formula for calculating case loads.

OAC 340:100-5-22.6 is amended to reduce the awake staff requirement for alternative group homes, and add the requirement that the agency have additional staff available in the event of need.

OAC 340:100-5-26.1 is amended to remove the requirement that the DDS area medical director or designee approve the use of p.r.n. medications; change the review of psychotropic medications from semi-annual to annual; and direct the Team to provide appropriate information to the prescribing physician when psychotropic medications are believed to be ineffective in treating a psychiatric illness.

OAC 340:100-5-32 is amended to remove the requirement for Form 06HM063E (Individual Medication Support Plan – IMSPP); and remove the requirement that the DDS area medical director or designee approve the use of p.r.n. medications; exempt hospice patients from p.r.n. medication requirements; and clarify the disposal requirement for discontinued and expired medications, and medications of a deceased service recipient.

OAC 340:100-5-34 is issued to establish the scope of HTS services in non-residential settings.

OAC 340:100-5-35 is issued to establish the scope of Prader Willi services.

OAC 340:100-5-52 is amended to change the summary of progress reporting requirement from monthly to quarterly.

OAC 340:100-6-12 is amended to remove the requirement for a state fire marshal inspection of group homes every three years, and add the requirement that the inspection be dictated by the local or state fire marshal; and remove the requirement for an annual plumbing and electrical inspection.

OAC 340:100-6-55 is amended to clarify that home visits are to

monitor service recipients and to supervise staff; allow the monitoring visits to be completed by agency administration staff in addition to the program coordinator; allow for unannounced visits to be reduced to one per month when specific criteria are met; and allow for a group home administrator or program coordinator to substitute full-time experience in a supervisory position for a four year any combination college level course work or full-time equivalent experience.

Original signed on 4-21-11

James M. Nicholson, Director
Developmental Disabilities Services Division

Sandra Harrison, Coordinator
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WF # 10-13 (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

INSERT

340:100-3, Table of Contents

340:100-3, Table of Contents, pages 1-2, revised 7-1-11

340:100-3-1

340:100-3-1, pages 1-2, revised 7-1-11

340:100-3-5

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340:100-3-38

340:100-3-38, pages 1-11, revised 7-1-11

340:100-3-38.1

340:100-3-38.1, pages 1-5, revised 7-1-11

340:100-3-38.2

340:100-3-38.2, pages 1-5, revised 7-1-11

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340:100-3-38.7

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340:100-3-38.10

340:100-3-38.10, pages 1-4, revised 7-1-11

340:100-3-38.11

340:100-3-38.12

340:100-3-38.12, pages 1-3, revised 7-1-11

340:100-3-38.13

340:100-3-38.13, pages 1-4, revised 7-1-11

REMOVE

INSERT

340:100-3-39	340:100-3-39, pages 1-16, revised 7-1-11
340:100-3-40	340:100-3-40, pages 1-5, revised 7-1-11
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340:100-5-22.6	340:100-5-22.6, pages 1-10, revised 7-1-11
340:100-5-26.1	340:100-5-26.1, pages 1-3, revised 7-1-11
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-----	340:100-5-35, pages 1-6, issued 7-1-11
340:100-5-52	340:100-5-52, pages 1-4, revised 7-1-11
340:100-6-12	340:100-6-12, pages 1-2, revised 7-1-11
340:100-6-55	340:100-6-55, pages 1-3, revised 7-1-11

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

- 340:100-3-1. Eligibility determination for Developmental Disabilities Services Division state-funded services
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- 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. Service recipient personal funds
- 340:100-3-4.1. Consumers' personal funds managed by contract residential providers **[REVOKED]**
- 340:100-3-5. Advocacy and guardianship
- 340:100-3-5.1. Volunteer guardians and advocates
- 340:100-3-5.2. Guardianship Voucher Program
- 340:100-3-6. Human Rights Committee
- 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)
- 340:100-3-15. SoonerStart

PART 3. OPERATIONS

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- 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)
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- 340:100-3-28. Volunteer services
- 340:100-3-29. Foster Grandparent Program

- 340:100-3-30. News media relations
- 340:100-3-31. Student placements
- 340:100-3-32. Fire/disaster/emergency plan
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- 340:100-3-33.1. Criteria to establish service necessity
- 340:100-3-33.2. Provision of waiver services by legally responsible persons and other family members or guardians
- 340:100-3-34. Incident reporting
- 340:100-3-35. Death of a DDS service recipient
- 340:100-3-36. Emergency first aid for employees and visitors
- 340:100-3-37. Employee and provider rights and responsibilities **[REVOKED]**
- 340:100-3-38. Training requirements for community staff
- 340:100-3-38.1. Training requirements for staff providing residential supports
- 340:100-3-38.2. Training requirements for staff providing employment services
- 340:100-3-38.3. Training requirements for staff providing supports in family's or service recipient's home through the Community Waiver, or Homeward Bound Waiver, other than residential supports
- 340:100-3-38.4. Training requirements for persons providing specialized foster care
- 340:100-3-38.5. Training requirements for staff providing supports in family's or service recipient's home through an In-Home Supports Waiver
- 340:100-3-38.6. Training requirements for Developmental Disabilities Services Division case managers and case management supervisors
- 340:100-3-38.7. Training requirements for program coordinators
- 340:100-3-38.8. Training requirements for employment services program managers
- 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 **[REVOKED]**
- 340:100-3-38.12. Training requirements for direct support staff providing respite, homemaker, or homemaker respite services
- 340:100-3-38.13. Training requirements for staff providing supports in alternative group homes
- 340:100-3-39. Pre-employment screening for community service workers
- 340:100-3-40. Community records
- 340:100-3-40.1. Continuous medical record

**340:100-3-1. Eligibility determination for Developmental Disabilities Services
Division state-funded services**

Revised 7-1-11

Developmental Disabilities Services Division (DDSD) services funded through the state without federal subsidy are available to persons meeting eligibility requirements.

(1) To be eligible for state-funded DDSD services a person must:

(A) present a psychological assessment with a diagnosis of mental retardation (MR) that includes a full scale intelligence quotient (IQ) of 75 or less; or

(B) be determined disabled, with a diagnosis of MR, by the Social Security Administration;

(C) be a resident of Oklahoma; and

(D) have achieved an age defined within the provisions of each state-funded program per OAC 340:100.

(2) Persons approved for DDSD state-funded services prior to January 1, 1990, maintain their eligibility for services.

(3) Members of the Homeward Bound class, who are not eligible for services through Home and Community-Based Services (HCBS) Waivers because they do not meet the intermediate care facility for persons with mental retardation (ICF/MR) level of care, receive state-funded services.

(4) Members of the Homeward Bound class who are not eligible for services through the HCBS Waiver because they do not meet financial eligibility requirements must resolve financial eligibility issues within a 90-day period. Members may continue to receive services included in their plan of care with state funding for a maximum 90-day period while resolving financial eligibility issues. If issues are not resolved, the member may receive state funded services available to non-Medicaid eligible persons including group homes, assisted living services without supports, community integrated employment services, and sheltered workshop services. The member may also receive such other services as the member may choose to purchase. The member is not eligible for other Medicaid services until eligibility issues are resolved. Case management is provided.

(5) Per Section 1414 of Title 10 of the Oklahoma Statutes, the Oklahoma Department of Human Services Director may authorize delivery of services to persons whose capacities exceed criteria per OAC 340:100-3-1.

(6) Eligibility for the Family Support Assistance Payment Program is in accordance with OAC 340:100-13-1.

340:100-3-5. Advocacy and guardianshipRevised 7-1-11

(a) **Purpose.** Developmental Disabilities Services Division (DDSD) Advocacy and Guardianship Program identifies the advocacy needs of each service recipient to protect the service recipient's interests, rights, and welfare.

(1) Although a service recipient may have other advocates, only a guardian may act on behalf of his or her ward, per OAC 340:100-1-2, to the extent authorized in the guardianship order and Title 30 of the Oklahoma Statutes (O.S.).

(2) Each guardian is:

(A) responsible for representing the interest of his or her ward as provided by Oklahoma law; and

(B) obligated to involve the ward in decision-making to the extent the ward is able.

(3) An advocate is responsible for assisting the service recipient to represent the interests of the service recipient.

(b) **Capacity to give informed consent.** Service recipients, age 18 and older, are presumed to have capacity to give informed consent except to the extent adjudicated incapacitated by the court. A service recipient:

(1) is not considered incapacitated solely by reason of his or her diagnosis or admission to:

(A) Northern Oklahoma Resource Center of Enid (NORCE);

(B) Southern Oklahoma Resource Center (SORC); or

(C) Robert M. Greer Center (Greer);

(2) may be adjudicated incapacitated in one area while being fully capable of understanding and exercising his or her rights in other areas; and

(3) has the right to exercise judgment in all areas of capacity.

(c) **Assessment of capacity to give informed consent.** Each service recipient's

current need for advocacy or guardianship services is reviewed at least annually and documented in the Individual Plan (Plan).

(1) Form 06MP032E, Capacity Assessment, is:

(A) used to determine the service recipient's capacity to give informed consent and identify the type of assistance, if any, the service recipient needs to make life decisions and be protected from maltreatment; and

(B) completed for each:

(i) adult and minor attaining the age of 17 ½ years, who receives residential services through the Community Waiver or Homeward Bound Waiver;

(ii) child in Oklahoma Department of Human Services (OKDHS) custody who receives DDSD services upon reaching the age of 16 per OAC 340:75-8-39; and

(iii) resident older than age 17 ½ residing in:

(I) NORCE;

(II) SORC; or

(III) Greer.

(2) In order for the Assessment Team to meet to complete Form 06MP032E, all members are notified of the meeting at least two weeks in advance and offered the opportunity to provide written input if they cannot attend. The Assessment Team includes:

(A) all members of the Personal Support Team;

(B) the service recipient's primary physician, if the service recipient resides at NORCE, SORC, or Greer; and

(C) a licensed psychologist or psychiatrist, if the service recipient resides at NORCE, SORC, or Greer.

(3) For service recipients who do not receive residential services per OAC 340:100-5-22:

(A) a capacity assessment is not required. If the family or service recipient wishes to complete a capacity assessment, the DDS case manager includes this assessment as an outcome in the Needs Assessment or Plan, and the family participates in the assessment process; and

(B) a review of the service recipient's need for advocacy or guardianship must occur annually beginning at age 17½, and be addressed in the Needs Assessment or Plan, using Form 06MP033E, Guardianship, Advocacy, and Capacity Initial Review. If this review indicates needs in the area of advocacy, the DDS case manager offers a capacity assessment.

(d) **Recommendations of Assessment Team.** DDS supports the use of less restrictive alternatives to guardianship.

(1) The Assessment Team recommends guardianship after they have considered and ruled out less restrictive alternatives to guardianship. Alternatives include, but are not limited to:

(A) guidance and support from family or friends;

(B) a volunteer advocate;

(C) modification of the Plan to more effectively meet the service recipient's health, safety, and financial needs;

(D) a representative payee;

(E) limited bank accounts;

(F) power of attorney, durable power of attorney, or durable power of attorney with health care powers;

(G) Advance Directive for Health Care;

(H) a trust fund; or

(I) a conservatorship.

(2) If Form 06MP032E indicates that a guardian is needed, the Personal Support Team recommends an appropriate person to serve.

(A) Priority for persons to serve as guardians is given to:

- (i) any person nominated by the service recipient pursuant to Section 3-102 of Title 30 of O.S. (30 O.S. § 3-102);
- (ii) a current guardian appointed by an appropriate court in another jurisdiction;
- (iii) a person nominated by will or other writing of a deceased parent, spouse, or adult child who was serving as the service recipient's guardian pursuant to 30 O.S. § 3-103;
- (iv) the spouse of the service recipient;
- (v) an adult child of the service recipient;
- (vi) a parent(s) of the service recipient;
- (vii) a sibling of the service recipient;
- (viii) a person with whom the service recipient has been living for more than six months prior to the filing of the petition for guardianship. Providers subject to the provisions of the Nursing Home Care Act, Residential Home Care Act, or Group Home for Developmentally Disabled or Physically Handicapped Persons Act must not be appointed guardian of such service recipient unless the provider is the service recipient's spouse, mother, father, sibling, adult child, aunt, uncle, grandparent, adult grandchild; or
- (ix) other relatives of the service recipient, such as a niece, nephew, or cousin.

(B) If an appropriate relative is not available, a volunteer is sought per OAC 340:100-3-5.1.

(e) Guardianship eligibility requirements.

(1) A guardian must:

- (A) be at least 18 years of age;
- (B) be a resident of Oklahoma for at least one year, except as provided in 30 O.S. § 4-104;
- (C) not be under any financial obligation to the proposed ward; and

(D) disclose to the Personal Support Team and to the court any potential conflict of interest that may preclude acting in the best interest of the proposed ward.

(2) An incapacitated or partially incapacitated person cannot be appointed guardian.

(3) A convicted felon cannot be appointed guardian, except upon:

(A) further review by the court into the nature of the felony; and

(B) court approval.

(f) Responsibilities of a guardian.

(1) The guardian:

(A) is responsible for protecting the rights of the ward per 30 O.S. § 1-103;

(B) files the Plan for the Care and Treatment of the Ward, with the court within ten days of appointment as guardian;

(C) files Administrative Office of the Courts (AOC) Form 34, Report on the Guardianship of the Person, AOC Form 34a, Report on the Guardianship of Property, or both, with the court. Assistance in completing these annual reports may be obtained from the DDS case manager or guardianship coordinator. The guardian may also hire an attorney to prepare annual reports for a fee;

(D) has a legal duty to:

(i) know the service recipient, including his or her capabilities, needs, and physical and mental health;

(ii) maintain contact with the service recipient;

(iii) ensure the service recipient is living in the least restrictive environment that meets his or her needs;

(iv) provide necessary consents authorized by the court; and

(v) notify the court if the service recipient's incapacity has ended; and

(E) has limited authority per 30 O.S. § 3-119 and the guardianship order that sets forth the limitation of powers of a guardian by prohibiting the guardian from

consenting on behalf of the ward to the withholding or withdrawal of life-sustaining procedures except with specific authorization of the court having jurisdiction over the guardianship proceedings. Authorization must be granted in a separate court order and only at such time when the ward is in need of life-sustaining treatment.

(2) When performing duties and exercising authority, the guardian:

(A) ensures the interests, rights, and welfare of the ward are protected;

(B) may act independently, if necessary, from provider agency staff and DDSD staff;

(C) encourages the ward to:

(i) participate to the maximum extent possible in all decisions that affect the ward; and

(ii) act on all matters in which the ward is able to do so within the limitations imposed by the court; and

(D) as appropriate, assists the ward to develop or regain, to the maximum extent possible, his or her capacity to meet the essential requirements for health or safety.

(g) **Changes in guardianship.** The ward, any person interested in the welfare of the ward, or a guardian may make application to the court for:

(1) termination of the guardianship;

(2) removal of a guardian;

(3) imposition of additional restrictions or the removal of existing restrictions; or

(4) a review hearing.

(h) **Special guardianships.** The Advocacy and Guardianship Program assists service recipients who are in need of a temporary surrogate to obtain consent for non-emergency medical and dental procedures or to protect the service recipient's money, property, or assets at risk of loss or exploitation through a process to establish special guardianship.

(i) **Costs and fees.** Court costs are not charged for filing guardianship petitions and reports for persons who are applicants for or recipients of Social Security, per 56 O.S. § 192.

(j) **Responsibilities of OKDHS Legal Division.** If a guardian cannot be found for a resident of NORCE, SORC, or Greer, OKDHS Legal Division has the authority, per 10 O.S. § 1415, to file a petition for the appointment of a guardian ad litem for the service recipient.

(1) Legal Division attorneys do not provide any legal services to any other party or potential party in guardianship cases.

(2) The only legal services provided are to ensure compliance with 10 O.S. § 1415. No other legal services in connection with these guardianships are provided directly or indirectly by OKDHS.

340:100-3-38. Training requirements for community staffRevised 7-1-11

(a) **Application.** OAC 340:100-3-38 sets forth training requirements for Developmental Disabilities Services Division (DDSD) staff, specialized foster care (SFC) providers, and agencies contracting for delivery of residential supports per OAC 340:100-5-22.1, habilitation training services, group home services, assisted living services, employment services, or in-home supports through DDSD state funds or a Home and Community-Based Services (HCBS) Waiver per OAC 317:40-1-1. DDSD staff, provider agency staff, and SFC providers complete a course of instruction specific to applicable job duties in accordance with:

- (1) residential supports and group home services per OAC 340:100-3-38.1;
- (2) employment services per OAC 340:100-3-38.2, excluding job coaching services through contracts with industry, per OAC 317:40-7-18. The job coach, per OAC 317:40-7-18, completes contracts with industry job coach curriculum, approved by the DDSD director of human resource development, within 30 days of assignment as job coach;
- (3) supports in the family's or service recipient's home through Community Waiver or Homeward Bound Waiver, other than residential supports, per OAC 340:100-3-38.3;
- (4) SFC per OAC 340:100-3-38.4;
- (5) supports in the family's or service recipient's home through an In-Home Supports Waiver per OAC 340:100-3-38.5;
- (6) DDSD case management services per OAC 340:100-3-38.6;
- (7) program coordination services per OAC 340:100-3-38.7;
- (8) employment program manager services per OAC 340:100-3-38.8;
- (9) DDSD or provider agency supervisory or management support per OAC 340:100-3-38.9;
- (10) respite, homemaker, or homemaker respite services per OAC 340:100-3-38.12; and
- (11) supports in alternative group homes per OAC 340:100-3-38.13.

(b) Training curricula.

(1) To fulfill the training requirements of OAC 340:100-3-38, any training course or curriculum must be approved by the DDS director of human resource development unless the course is:

(A) designed and offered by a professional training or education organization to enhance the management skills of supervisors; or

(B) offered by a regional, state, or national professional organization, such as:

(i) The Association for Persons with Severe Handicaps (TASH);

(ii) The Council on Quality and Leadership (CQL); or

(iii) the American Association on Intellectual and Developmental Disabilities (AAIDD).

(2) In-services to staff and meetings pertaining to agency policies and practices are not subject to approval by the DDS director of human resource development.

(3) Trainers of approved courses must be licensed, certified, or otherwise qualified based on requirements of the course or by approval of the DDS director of human resource development.

(4) Competency-based courses require a specified level of proficiency to receive credit for satisfactory completion. Competencies are based upon specific identified outcomes. The trainer of each course communicates the required level of proficiency to participants at the beginning of each course.

(5) Each curriculum developed or sponsored by DDS is reviewed at least every two years to ensure the curriculum is:

(A) reflective of current best practice;

(B) aligned with Oklahoma Department of Human Services (OKDHS) rules; and

(C) reflective of changes in the service delivery system.

(c) **Classroom expectations.** DDS training staff and contract training staff are authorized to dismiss a participant or observer from a class for the reasons in (1) through (5) of this subsection.

(1) Dismissal from a training class may occur for:

(A) sleeping in class; ■ 1

(B) disruptive behavior, such as:

(i) inappropriate comments during class that are considered rude, insensitive, or derogatory;

(ii) whispering or talking to other participants during class;

(iii) conducting activities unrelated to the class topic;

(iv) being called out of class frequently; or

(v) leaving class frequently other than at designated break times; ■ 1

(C) tardiness or absence. ■ 1

(i) Tardiness, such as:

(I) arriving at class more than 30 minutes after class begins on the first day;

(II) arriving at class more than 15 minutes after class begins on subsequent days; or

(III) missing a total of more than 30 minutes of any day's presentation.

(ii) Participants may be granted no more than 30 minutes the first day of class to allow for difficulty in locating the building or parking, except in courses that require a specific number of training hours to meet certification requirements;

(D) incomplete preparation. Dismissal from class occurs for any participant who has not completed required prerequisite courses, tasks, or preparatory materials prior to attending; and

(E) violating confidentiality requirements, per OAC 340:100-3-2 and other applicable rules.

(2) If dismissal from class occurs, the trainer notifies the participant's agency and trainer's supervisor as soon as possible and maintains a brief written summary of

the incident.

(A) Dismissed participants do not receive credit for the class and are required to re-enroll and satisfactorily complete the entire course or module to receive credit.

(B) The trainer must give approval before re-enrollment is allowed. Appeal of the trainer's decision is made to the DDSD director of human resource development.

(3) No children, friends, or family members of participants may attend class unless enrolled as participants.

(4) Service recipients family members, advocates, DDSD staff, and provider agency staff may observe training classes unless they engage in activities disruptive to the class. Service recipients who wish to participate in training and who need staff support must be accompanied by a staff not enrolled in the training.

(5) When other persons attend class in place of enrolled participants, or in addition to enrolled participants, they are allowed to remain, if the trainer determines there are adequate materials and space. ■ 2

(d) Online Training Expectations. Online training courses may be used as an alternative to classroom instruction.

(1) Online courses must be approved by the DDSD director of human resource development.

(2) Provider agencies participating in online training have responsibility for preventing misuse of online training.

(3) Provider agencies participating in online training develop protocols governing use of online training. The protocols include, but are not limited to the following:

(A) supervision of employees completing online training;

(B) provision of technical assistance to learners;

(C) mentoring and assisting learners; and

(D) completion of on-the-job components of the courses including maintaining documentation of completion.

(4) DDSD and provider agency staff sign Form 06MP050E, Notice of

Responsibilities Regarding Online Training, prior to taking online courses that have been approved to meet the training requirements per OAC 340:100-3-38.

(e) **Course availability.** The DDSD Human Resource Development Unit and contract trainers work to ensure the availability of all courses by taking into account:

- (1) location;
- (2) time of day; and
- (3) day of the week.

(f) **Class closings due to inclement weather.**

(1) If the public schools in the town where the class is held are closed due to bad weather, class is canceled. The provider agency is responsible to enroll the staff in the next available class.

(2) If provider agency staff plans to attend an out-of-town class, but the schools are closed at the staff's work location, the agency may determine that it is not safe for staff to travel.

(A) The agency is responsible to call the enrollment phone number for the class on the next work day to notify the training provider of this decision.

(B) The trainer enrolls the staff in the next available class, and the staff is not penalized for not attending.

(C) The letter confirming re-enrollment serves as notification of the next available class.

(3) If a class is cancelled due to bad weather, the enrolled staff is expected to notify the provider agency of his or her potential availability to work.

(4) If a provider agency or staff is uncertain about weather conditions or cancellations, they must call the enrollment phone number for the particular class.

(g) **Quality assurance.** To ensure consistency with state laws and regulations and current best practices, training provided by DDSD staff, service providers, or contract agents, and other classes required by DDSD are observed and monitored on a regular basis. ■ 4

(1) The components of the monitoring system are listed in (A) through (E).

(A) The DDSD director of human resource development attends and monitors training classes on a random basis throughout the calendar year. ■ 3

(B) DDSD training supervisors and contract training coordinators observe each trainer directly under their supervision at least twice a calendar year. ■ 3

(i) At least one review must include foundation training, if applicable.

(ii) Each review is at least one-half training day, which is three hours in length.

(iii) The reviews:

(I) cover the range of primary training topics offered by each trainer;

(II) are conducted in both metropolitan and rural areas of Oklahoma, when applicable; and

(III) include announced and unannounced observations.

(iv) The supervisor or coordinator reviews the training classes as a participant rather than as an observer, when possible.

(v) Direct feedback is given to the trainer following the class in both written and verbal form. ■ 3

(vi) A copy of the written review is sent to the DDSD director of human resource development.

(vii) If significant areas of concern are noted, the trainer and immediate supervisor develop a specific plan of correction that may include retraining, increased supervision of classes, or co-training. A copy of the plan of correction is sent to the DDSD director of human resource development.

(viii) The supervisor or coordinator may request an unannounced review by another supervisor, coordinator, or trainer.

(ix) Exceptional performance is noted in writing with a copy to:

(I) the trainer's personnel file; and

(II) DDS director of human resource development.

(C) Provider agencies notify DDS area training staff at least the day before the class of the location and time when offering in-house training courses to meet requirements per OAC 340:100-3-38. DDS may provide unannounced monitoring at any time.

(D) To ensure contract trainers support the DDS mission, values, and philosophies, as well as demonstrate mastery of the subject matter and good training skills, each DDS trainer is assigned to monitor a specific number of contract trainers per calendar year.

(i) Each DDS trainer:

(I) is assigned to monitor contract trainers based upon the DDS trainer's areas of expertise and interest;

(II) reviews each assigned contract trainer at least one time per calendar year for a minimum of one-half training day, which is three hours. ■ 3
The review is unannounced; and

(III) provides written and oral feedback to the contract trainer following the class.

(ii) A copy of the written report is provided to the contract trainer, contract trainer's supervisor, and DDS director of human resource development.

(iii) If significant areas of concern are noted, the contract trainer and immediate supervisor develop a specific plan of correction that may include retraining, increased supervision of classes, or co-training. A copy is sent to the DDS director of human resource development.

(iv) Exceptional performance is noted in writing with a copy to:

(I) trainer's personnel file; and

(II) DDS director of human resource development.

(v) DDS training staff reviews the primary training programs and other sensitive training programs provided by contract training staff.

(E) Service recipients, family members, and advocates, as well as organizations

with expertise in disability issues or training may be invited to review training classes or portions of classes.

(i) These reviews may be announced or unannounced.

(ii) Service recipients, family members, friends, advocates and legal guardians, or organizations provide feedback to the trainer, trainer's supervisor, and DDSD director of human resource development.

(2) Training found to violate requirements of OAC 340:100-3-38, including material covered, testing procedures, or DDSD rule requirements may result in:

(A) corrective discipline for OKDHS employees;

(B) revocation of approval to provide training;

(C) supervised retraining; or

(D) sanctions against the provider per OAC 340:100-3-27.

(3) Any participant or agency with concerns about course content, a course instructor, or availability of a course immediately notifies the supervisor of the course or instructor. If resolution of the issue does not occur, the participant or agency notifies the DDSD director of human resource development.

(4) Each class used to fulfill training requirements, per OAC 340:100-3-38, offered by DDSD, contract training agents, or provider agencies offers participants the opportunity to provide feedback. Feedback options include:

(A) end-of-class evaluation forms;

(B) periodic surveys; or

(C) focus group discussions.

(5) DDSD case managers and providers report to the DDSD director of human resource development any training system issues inhibiting fulfillment of requirements per OAC 340:100-3-38.

(h) Documentation.

(1) Provider agencies maintain documentation of completion of required training as

defined in OAC 340:100-3-38. Staff who attend training are given certificates or other completion verification and the agency maintains a copy of such documents.

(2) DDSD case managers monitor training completion through review of progress reports from service providers per OAC 340:100-5-52 and follow up when issues are noted.

INSTRUCTIONS TO STAFF 340:100-3-38

Revised 7-1-11

1. Classroom expectations.

(1) Participants who become drowsy are free to stand or get refreshments, as long as this is not disruptive to the class.

(A) If drowsiness continues, the trainer talks to the participant at the first available break to determine the cause, such as working a double shift or health reasons, and to encourage the participant to move around or get refreshments.

(B) The trainer tells the participant the trainer wants the participant to be successful in the class, but sleeping is not tolerated and further occurrence results in dismissal from the class.

(2) If the participant disrupts class, the trainer:

(A) talks to the participant on the first available break to determine the reason for the disruption; and

(B) informs the participant that further disruptions will not be tolerated and will result in dismissal from class.

(3) If the participant is tardy for class, the trainer:

(A) reminds the participant to be on time the next day if the class is a two-day class;

(B) tells the participant to return from breaks and lunch on time and that class resumes as scheduled; and

(C) counsels the participant who is tardy after the first offense on the

guidelines for dismissal from the class.

2. Trainer responsibilities. The trainer:

(1) obtains the name, provider agency, hire date, and Social Security number of the person who is not enrolled;

(2) ensures the person has completed any prerequisite courses or pre-course activities; and

(3) calls the appropriate training coordinator for the course at the first available opportunity to enroll the person.

3. Class monitoring. The Developmental Disabilities Services Division (DDSD) director of human resource development monitors classes in accordance with guidelines in (1) through (7).

(1) Each review is at least one-half training day, which is three hours in length.

(2) The reviews cover the range of primary training topics offered through DDSD, such as foundation training, leadership and administration, and health.

(3) The DDSD director of human resource development reviews training classes as a participant rather than as an observer, when possible.

(4) The reviews include announced and unannounced observations.

(5) Direct feedback is given to the trainer following the class, in written and verbal form. A copy of the written review is given to the trainer's immediate supervisor.

(6) If significant areas of concern are noted, the trainer and immediate supervisor are asked to develop a plan of correction that may include retraining, increased supervision of classes, or co-training.

(7) Exceptional performance is noted in writing with a copy to the trainer's personnel file.

- 4. Monitoring documents. Documents to assist in the review process are available from the DDSD director of human resource development.**

340:100-3-38.1. Training requirements for staff providing residential supports

Revised 7-1-11

(a) **Applicability.** OAC 340:100-3-38.1 sets forth training requirements for staff or volunteers and direct supervisors providing either full-time or part-time direct supports for a service recipient receiving:

- (1) daily living supports (DLS), per OAC 317:40-5-150;
- (2) Prader-Willi Syndrome services;
- (3) agency companion services (ACS), per Part 1 of OAC 317:40-5; or
- (4) group home services, per OAC 340:100-6.

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

(c) **First aid and cardio-pulmonary resuscitation (CPR).** All direct support staff must be certified in an approved course of first aid and CPR before providing services alone or with other untrained staff.

- (1) First aid and CPR certification of each staff must occur within 90 days following employment.
- (2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, staff must receive first aid and CPR certification in less than 90 days.

(d) **Medication administration training.** Staff must be certified in an approved medication administration course, per OAC 340:100-3-38.10, before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).

(1) Training requirements are based on the service recipient's identified needs through team discussion and review of available assessment information.

(2) A service recipient's Team specifies 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 before working with the service recipient.

(3) As the service recipient'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 required, with time frames for completion.

(4) Individual-specific training is provided by the person or persons designated by the Team and identified by name in the Plan, in accordance with policy, statute, and professional practice regulations, if applicable.

(5) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

(f) Job-specific training.

(1) Staff must complete:

(A) within 90 days after date of assignment:

(i) Health course;

(ii) Ethical and Legal Issues course; and

(B) within six months after date of assignment:

(i) Communication course;

(ii) Skill Building course;

(iii) Connections course; and

(iv) Nuts and Bolts course.

(2) Staff who work in both residential and employment or other settings must meet the job-specific training requirements of both jobs. Transfers to avoid completion of required training are prohibited.

(g) **Specialized training.** Additional specialized training may be required for direct support staff working with service recipients who have significant behavior support issues.

(1) Staff supporting a service recipient with a protective intervention plan that includes non-restrictive intervention techniques must be trained on these techniques before use.

(2) Completion of an approved behavior support course is required for staff supporting a service recipient with a protective intervention plan that:

(A) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; and

(B) contains one or more procedures in (i) through (iv).

(i) Physical guidance to overcome resistance.

(ii) Physical guidance to move to safety.

(iii) Physical hold to restrict movement.

(iv) Intensified staffing to ensure safety.

(3) Staff must complete the approved:

(A) behavior support course before working alone or with other untrained staff, but no later than 60 days after starting work with the service recipient; and

(B) physical management course before using any technique of physical management identified in a protective intervention plan.

(i) All staff to be trained must complete foundation training with the approved effective teaching course and behavior support course.

(ii) Staff working with the service recipient implements the positive components of the protective intervention plan, as well as non-intrusive procedures to assist the service recipient during a crisis.

(iii) The protective intervention plan must be reviewed by the provider agency Human Rights Committee and approved by the Statewide Behavior Review Committee.

(iv) Only staff and staff supervisors providing support to the service recipient are trained on the use of a physical management procedure.

(v) Staff formally trained to use physical management procedures do not use those techniques with other service recipients, except in emergencies per OAC 340:100-5-57.

(vi) Training curricula regarding behavior support are approved by the DDSD director of human resource development and DDSD director of psychological and behavioral supports.

(4) Training regarding physical management procedures must be obtained from trainers approved by the director of human resource development.

(5) Staff must complete annual retraining on physical management or physical restraint procedures in the approved protective intervention plan.

(h) **Ongoing training.** All direct support staff employed by provider agencies complete 12 hours of approved annual training.

(1) Annual training may come from:

(A) required re-certification classes in first aid, CPR, and medication administration training;

(B) courses per OAC 340:100-3-38(b)(1);

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

(D) individual-specific training; or

(E) agency-specific in-services.

(2) Any direct support staff who supervises other staff must take 12 hours of supervisory training annually that may be included in the hours required per OAC 340:100-3-38.1.

(3) Direct support staff may challenge or test out of required annual recertification when an approved option is available. Training completion hours will be granted equal to the number of hours for the standard recertification class.

(i) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.1 may be made by the DDSD director or designee.

340:100-3-38.2. Training requirements for staff providing employment servicesRevised 7-1-11

(a) **Applicability.** OAC 340:100-3-38.2 sets forth training requirements for provider agency staff or volunteers and direct supervisors providing either full-time or part-time direct supports for a service recipient receiving:

- (1) center-based services;
- (2) community-based services;
- (3) sheltered workshop services;
- (4) job coaching services, excluding services per OAC 317:40-7-8; or
- (5) other supported employment services.

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

(c) **First aid and cardio-pulmonary resuscitation (CPR).** All direct support staff must be certified in an approved course of first aid and CPR before providing services alone or with other untrained staff.

- (1) First aid and CPR certification of each staff must occur within 90 days following employment.
- (2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, staff must receive first aid and CPR certification in less than 90 days.

(d) **Medication administration training.** Staff must be certified in an approved medication administration course, per OAC 340:100-3-38.10, before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is

identified for direct support staff in the service recipient's Individual Plan (Plan).

(1) Training requirements are based on the service recipient's identified needs through team discussion and review of available assessment information.

(2) The service recipient's Team specifies 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 before working with the service recipient.

(3) As the service recipient'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 required, with time frames for completion.

(4) Individual-specific training is provided by the person or persons designated by the Team and identified by name in the Plan, in accordance with policy, statute, and professional practice regulations, if applicable.

(5) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

(f) Job-specific training.

(1) Staff must complete:

(A) general employment training within 90 days after date of assignment; and

(B) employment specialist training within six months after date of assignment as job coach or other position providing supported employment service. **■ 1**

(2) Staff who work in both residential and employment or other settings must meet the job-specific training requirements of both jobs. Transfers to avoid completion of required training are prohibited.

(g) Specialized training. Additional specialized training may be required for direct support staff working with service recipients who have significant health and physical support issues or behavior support issues.

(1) Staff supporting a service recipient with a protective intervention plan that includes non-restrictive intervention techniques must be trained on these techniques before use.

(2) Completion of an approved behavior support course is required for direct support staff supporting a service recipient with a protective intervention plan that:

(A) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; and

(B) contains one or more procedures in (i) through (iv).

(i) Physical guidance to overcome resistance.

(ii) Physical guidance to move to safety.

(iii) Physical hold to restrict movement.

(iv) Intensified staffing to ensure safety.

(3) The approved behavior support course is identified in the Plan and must be completed before working alone or with other untrained staff, but no later than 60 days after starting work with the service recipient.

(4) Staff must complete the approved physical management course before using any technique of physical management identified in a protective intervention plan.

(A) All staff to be trained must complete foundation training with the approved effective teaching course and behavior support course.

(B) Staff working with the service recipient implements the positive components of the plan, and non-intrusive procedures to assist the service recipient during a crisis.

(C) The protective intervention plan must be reviewed by the provider agency Human Rights Committee and approved by the Statewide Behavior Review Committee.

(D) Training in physical management procedures occurs only within the requirements of OAC 340:100-3-38.2(g).

(E) Only staff and staff supervisors who provide support to the service recipient are trained on the use of a physical management procedure.

(F) Staff formally trained to use physical management procedures do not use those techniques with other service recipients, except in emergencies per OAC

340:100-5-57.

(G) Training curricula regarding behavior support are approved by the DDSD director of human resource development and DDSD director of psychological and behavioral supports.

(5) Training regarding physical management procedures must be obtained from trainers approved by the director of human resource development.

(6) Staff must complete an annual retraining on the physical management or physical restraint procedures in the approved protective intervention plan.

(h) **Ongoing training.** All direct support staff employed by provider agencies complete 12 hours of approved annual training.

(1) Annual training may come from:

(A) required re-certification classes in first aid, CPR, and medication administration training;

(B) courses per OAC 340:100-3-38(b)(1);

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

(D) individual-specific training; or

(E) agency-specific in-services.

(2) Any direct support staff who supervises other staff must take 12 hours of supervisory training annually that may be included in the hours required per OAC 340:100-3-38.2.

(3) Direct support staff may challenge or test out of required annual recertification when an approved option is available. Training completion hours will be granted equal to the number of hours for the standard recertification class.

(i) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.2 may be made by the DDSD director or designee.

INSTRUCTIONS TO STAFF 340:100-3-38.2

Revised 7-1-11

1. Approved employment specialist training courses are:

(1) Employment Training Specialist Orientation I (ETSO I); or

(2) Oklahoma Department of Rehabilitation Services Job Coach Training.

340:100-3-38.3. Training requirements for staff providing supports in family's or service recipient's home through Community Waiver or Homeward Bound Waiver, other than residential supports

Revised 7-1-11

(a) **Applicability.** OAC 340:100-3-38.3 sets forth training requirements for provider agency staff or volunteers and direct supervisors providing direct supports funded through the Community Waiver or Homeward Bound Waiver in the family's or service recipient's home. Staff providing:

(1) services through an In-Home Supports Waiver must complete training per OAC 340:100-3-38.5; and

(2) residential supports per OAC 340:100-5-22.1 must complete training per OAC 340:100-3-38.1.

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

(c) **First aid and cardio-pulmonary resuscitation (CPR).** All direct support staff must be certified in an approved course of first aid and CPR before providing services alone or with other untrained staff.

(1) First aid and CPR certification of each staff must occur within 90 days following employment.

(2) The service recipient's Personal Support Team (Team) may determine, based on the needs of the service recipient, staff must receive first aid and CPR certification in less than 90 days.

(d) **Medication administration training.** Staff must be certified in an approved medication administration course, per OAC 340:100-3-38.10, before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).

(1) Training requirements are based on the service recipient's identified needs through team discussion and review of available assessment information.

(2) The service recipient's Team specifies 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 before working with the service recipient.

(3) As the service recipient'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 required, with time frames for completion.

(4) Individual-specific training is provided by the person or persons designated by the Team and identified by name in the Plan, in accordance with policy, statute, and professional practice regulations, if applicable.

(5) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

(f) **Job-specific training.** Staff must complete:

(1) within 90 days after date of assignment, Health course; and

(2) within six months after date of assignment:

(A) Skill Building course; and

(B) Communication course.

(g) **Specialized training.** Additional specialized training may be required for direct support staff working with service recipients who have significant behavior support issues.

(1) Staff supporting a service recipient with a protective intervention plan that includes non-restrictive intervention techniques must be trained on these techniques before use.

(2) Completion of an approved behavior support course is required for staff supporting a service recipient with a protective intervention plan that:

(A) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; and

(B) contains one or more procedures in (i) through (iv).

(i) Physical guidance to overcome resistance.

(ii) Physical guidance to move to safety.

(iii) Physical hold to restrict movement.

(iv) Intensified staffing to ensure safety.

(3) The approved behavior support course must be completed before working alone or with other untrained staff, but no later than 60 days after starting work with the service recipient.

(4) Staff must complete the approved physical management course before using any technique of physical management identified in a protective intervention plan.

(A) All staff must complete foundation training with the approved effective teaching course and behavior support course.

(B) Staff working with the service recipient implements the positive components of the plan, as well as non-intrusive procedures to assist the service recipient during a crisis.

(C) The protective intervention plan must be reviewed by the provider agency Human Rights Committee and approved by the Statewide Behavior Review Committee.

(D) Training in physical management procedures occurs only within the requirements per OAC 340:100-3-38.3(g).

(E) Only staff and staff supervisors who provide support to the service recipient are trained on use of a physical management procedure.

(F) Staff formally trained to use physical management procedures do not use those techniques with other service recipients, except in emergencies per OAC 340:100-5-57.

(G) Training curricula regarding behavior support are approved by the DDSD director of human resource development and DDSD director of psychological and behavioral supports.

(5) Training regarding physical management procedures must be obtained from trainers approved by the director of human resource development.

(6) Staff must complete an annual retraining on the physical management or physical restraint procedures in the approved protective intervention plan.

(h) **Ongoing training.** All direct support staff employed by provider agencies complete 12 hours of approved annual training.

(1) Annual training may come from:

(A) required re-certification classes in first aid, CPR, and medication administration training;

(B) courses per OAC 340:100-3-38(b)(1);

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

(D) individual-specific training; or

(E) agency-specific in-services.

(2) Any direct support staff who supervises other staff must take 12 hours of supervisory training annually that may be included in the hours required per OAC 340:100-3-38.3.

(3) Direct support staff may challenge or test out of required annual recertifications when an approved option is available. Training completion hours are granted equal to the number of hours for the standard recertification class.

(i) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.3 may be made by the DDSD director or designee.

340:100-3-38.4. Training requirements for persons providing specialized foster care

Revised 7-1-11

(a) **Applicability.** OAC 340:100-3-38.4 sets forth training requirements for persons providing specialized foster care (SFC).

(b) **Initial training.** Prior to the contractual agreement with Oklahoma Health Care Authority (OHCA), SFC providers must complete the:

(1) online or first available Developmental Disabilities Services Division (DDSD) approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the SFC provider's work location; and

(2) SFC orientation training as approved by the DDSD director of human resource development.

(c) **First aid and cardio-pulmonary resuscitation (CPR).** Prior to the contractual agreement with OHCA, SFC providers must be certified in an approved course of first aid and CPR.

(d) **Medication administration training.** Prior to the contractual agreement with OHCA, SFC providers must be certified in an approved medication administration course, per OAC 340:100-3-38.10.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).

(1) Training requirements are based on the service recipient's identified needs through team discussion and review of available assessment information.

(2) A service recipient's Team specifies 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 before working with the service recipient.

(3) As the service recipient'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 required, with time frames for completion.

(4) Individual-specific training is provided by the person or persons designated by the Team and identified by name in the Plan, in accordance with policy, statute, and professional practice regulations, if applicable.

(5) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

(f) **Job-specific training.** SFC providers working in both residential and employment or other settings must meet the job-specific training requirements of both jobs. The SFC provider must complete:

(1) within 90 days after receipt of the approved OHCA contractual agreement:

(A) Health course;

(B) Ethical and Legal Issues course; and

(2) within six months after receipt of the approved OHCA contractual agreement:

(A) Communication course;

(B) Skill Building course;

(C) Connections course; and

(D) Nuts and Bolts course.

(g) **Specialized training.** Additional specialized training courses may be required for SFC providers working with service recipients who have significant behavior support issues.

(1) Staff supporting a service recipient with a protective intervention plan that includes non-restrictive intervention techniques must be trained on these techniques before use.

(2) Completion of an approved behavior support course is required for SFC providers supporting service recipients with a protective intervention plan that:

(A) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; and

(B) contains one or more procedures in (i) through (iv).

- (i) Physical guidance to overcome resistance.
- (ii) Physical guidance to move to safety.
- (iii) Physical hold to restrict movement.
- (iv) Intensified staffing to ensure safety.

(3) The SFC provider must complete the approved:

(A) behavior support course before working alone or with other untrained staff, but no later than 60 days after starting work with the service recipient; and

(B) physical management course before using any technique of physical management identified in a protective intervention plan.

- (i) The SFC provider implements the positive components of the plan, as well as non-intrusive procedures to assist the person during a crisis.
- (ii) The protective intervention plan must be reviewed by a Human Rights Committee and approved by the Statewide Behavior Review Committee.
- (iii) Training in physical management procedures occurs only within the requirements of OAC 340:100-3-38.4(g).
- (iv) Only SFC providers who provide support to the service recipient are trained on use of a physical management procedure.
- (v) The SFC provider formally trained to use physical management procedures does not use those techniques with other service recipients, except in emergencies per OAC 340:100-5-57.
- (vi) Training curricula regarding behavior support are approved by the DDSD director of human resource development and DDSD director of psychological and behavioral supports.

(4) Training regarding physical management procedures must be obtained from trainers approved by the director of human resource development.

(5) The SFC provider must complete an annual retraining on the physical management or physical restraint procedures in the approved protective intervention plan.

(h) **Ongoing training.** All SFC providers complete 12 hours of approved annual training.

(1) Annual training may come from:

(A) required re-certification classes in first aid, CPR, and medication administration training;

(B) courses per OAC 340:100-3-38(b)(1);

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

(D) individual-specific training; or

(E) Oklahoma Department of Human Services in-services.

(2) Direct support staff may challenge or test out of required annual recertification when an approved option is available. Training completion hours will be granted equal to the number of hours for the standard recertification class.

(i) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.4 may be made by the DDSD director or designee.

340:100-3-38.5. Training requirements for staff providing supports in family's or service recipient's home through an In-Home Supports Waiver

Revised 7-1-11

(a) **Applicability.** OAC 340:100-3-38.5 sets forth training requirements for staff providing direct supports funded through an In-Home Supports Waiver (IHSW) in the family's or service recipient's home. Staff providing employment supports must complete training per OAC 340:100-3-38.2.

(b) **New employee training.** No later than 30 days following the date of hire, staff providing direct supports or supervising at any level the delivery of direct supports must complete the online or first available Developmental Disabilities Services Division (DDSD) approved foundation training course and effective teaching course. The supervisory staff training requirement does not apply to the service recipient or representative who is self-directing services per OAC 317:40-5-114. The person directing services per OAC 317:40-5-114 must complete the approved self-directed services training course. The first available class is the first unfilled class held within 60 miles of staff's work location following staff's date of hire.

(c) **First aid and cardio-pulmonary resuscitation (CPR).** All direct support staff must be certified in an approved course of first aid and CPR before providing services alone or with other untrained staff.

(1) First aid and CPR certification of staff must occur within 90 days following employment.

(2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, if staff must receive first aid and CPR certification in less than 90 days.

(d) **Medication administration training.** Staff must be certified in an approved medication administration course, per OAC 340:100-3-38.10, before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).

(1) Training requirements are based on the service recipient's identified needs through team discussion and review of available assessment information.

(2) The service recipient's Team specifies 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 before working with the service recipient.

(3) As the service recipient'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 required, with time frames for completion.

(4) The Team identifies the person responsible for providing individual-specific training and verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

(f) **Job-specific training.** Staff must complete:

(1) within 90 days after date of assignment, Health course; and

(2) within six months after date of assignment:

(A) Communication course; and

(B) Skill Building course.

(g) **Specialized training.** Additional specialized training courses may be required for direct support staff working with service recipients who have significant behavior support issues.

(1) Staff supporting a service recipient with a protective intervention plan that includes non-restrictive intervention techniques must be trained on these techniques before use.

(2) Completion of an approved behavior support course is required for staff supporting a service recipient with a protective intervention plan that:

(A) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; and

(B) contains one or more of these procedures:

(i) physical guidance to overcome resistance;

(ii) physical guidance to move to safety;

(iii) physical hold to restrict movement; or

(iv) intensified staffing to ensure safety.

(3) The approved behavior support course must be completed before working alone or with other untrained staff, but no later than 60 days after starting work with the service recipient.

(4) Staff must complete the approved physical management course before using any technique of physical management identified in a protective intervention plan.

(A) All staff must complete foundation training with the approved effective teaching course and behavior support course.

(B) Staff working with the service recipient implements the positive components of the plan, as well as non-intrusive procedures to assist the service recipient during a crisis.

(C) The protective intervention plan must be reviewed by the provider agency, Human Rights Committee, and approved by the Statewide Behavior Review Committee.

(D) Training in physical management procedures occurs only within the requirements per OAC 340:100-3-38.5(g).

(E) Only staff and staff supervisors who provide support to the service recipient are trained on use of a physical management procedure.

(F) Staff formally trained to use physical management procedures do not use those techniques with other service recipients, except in emergencies per OAC 340:100-5-57.

(G) Training curricula regarding behavior support are approved by the DDSD director of human resource development and DDSD director of psychological and behavioral supports.

(5) Training regarding physical management procedures must be obtained from trainers approved by the director of human resource development.

(6) Staff must complete annual retraining on the physical management or physical restraint procedures in the approved protective intervention plan.

(h) **Ongoing training.** All direct support staff employed by contract agencies that provide services funded through an IHSW complete 12 hours of annual training.

(1) Annual training may come from:

(A) required re-certification classes in first aid, CPR, and medication administration training;

(B) courses per OAC 340:100-3-38(b)(1);

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

(D) individual-specific training; or

(E) agency-specific in-services.

(2) Direct support staff may challenge or test out of required annual recertification when an approved option is available. Training completion hours will be granted equal to the number of hours for the standard recertification class.

(i) **Certification of competency.** If the service recipient, if applicable, legal guardian, or parent(s) of a minor service recipient determines the person chosen to provide services has demonstrated competency in providing care to the service recipient, the service recipient, legal guardian, or parent(s) may exempt the person from training requirements, per OAC 340:100-3-38.5, by signing Form 06IS037E, In-Home Supports Waiver - Certificate of Competency.

(1) The exemption from training is intended to allow services to be provided by a friend, neighbor, family member, or other person who has been trained and deemed competent by the service recipient, or if applicable, legal guardian or parent(s) of a minor service recipient.

(A) No person may coerce or in any way influence a service recipient, legal guardian, or family member to sign Form 06IS037E.

(B) Violation of this prohibition may result in sanctions per OAC 340:100-3-27.

(2) If a service recipient, if applicable, legal guardian, or parent(s) of a minor service recipient chooses to exempt staff from training, neither Oklahoma Department of Human Services (OKDHS) nor the employing contract agency is liable in the event of harm, attributable to lack of training, to the service recipient while in the care of

contract agency staff.

(3) If an adult service recipient without a legal guardian chooses to exempt staff from training, training requirements are not waived without written concurrence, on Form 06IS038E, In-Home Supports Waiver - Family Member's Statement, from a parent(s) or family member closest to the service recipient.

(4) The provider agency employing the staff may require training not included in the exemption.

(5) All staff, regardless of signed Form 06IS037E, must successfully complete:

(A) certification in first aid and CPR before working alone or with untrained staff, but no later than 90 days after starting work with the service recipient;

(B) an approved medication administration course per OAC 340:100-3-38.10; and

(C) individual-specific in-service training per OAC 340:100-3-38.5(e).

(6) Form 06IS037E:

(A) is valid for no longer than one year; and

(B) may be withdrawn at any time by the service recipient, if applicable, legal guardian, or parent(s) of a minor service recipient by writing to the DDSD case manager and provider agency.

(7) OKDHS may withdraw the exemption from training at any time.

(j) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.5 may be made by the DDSD director or designee.

340:100-3-38.7. Training requirements for program coordinatorsRevised 7-1-11

(a) **Applicability.** OAC 340:100-3-38.7 sets forth training requirements for persons employed by a provider agency to meet the program coordination requirements per OAC 340:100-5-22.1 and OAC 340:100-6-55, or to supply supervision, guidance, and oversight of paraprofessional staff providing direct supports. If providing fill-in direct support services, the program coordinator must complete applicable training per OAC 340:100-3-38.1, 340:100-3-38.3, 340:100-3-38.5, or 340:100-3-38.13.

(b) **New employee training.** No later than 30 days following the date of hire, persons performing program coordination duties must complete the online or first available Developmental Disabilities Services Division (DDSD) approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the program coordinator's primary work location following the program coordinator's date of hire.

(c) **Job-specific training.** Each program coordinator must complete:

- (1) within one week after date of assignment, health care coordinator training;
- (2) within 60 days after date of assignment, Health course;
- (3) within 90 days after date of assignment:
 - (A) case management Individual Plan module;
 - (B) case management Quality Assurance module; and
 - (C) an approved medication administration course per OAC 340:100-3-38.10; and
- (4) within one year after date of assignment, at least 12 hours of supervisory training when supervising direct support staff.

(d) **Individual-specific training.** The program coordinator ensures direct support staff are trained as specified in the service recipient's Individual Plan.

(e) **Specialized training.** The program coordinator completes the approved behavior support course if required for service recipients served by the program coordinator within 90 days after date of assignment.

(f) **Ongoing training.** All program coordinators complete at least 20 hours of annual training through courses, workshops, conferences, or other sources, per OAC 340:100-3-38(b)(1). The annual training requirement includes at least 12 hours of supervisory training if the employee supervises other staff. Program coordination staff may challenge or test out of required annual recertification when an approved option is available. Training completion hours will be granted equal to the number of hours for the standard recertification class.

(g) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.7 may be made by the DDS director or designee.

340:100-3-38.8. Training requirements for employment services program managersRevised 7-1-11

(a) **Applicability.** OAC 340:100-3-38.8 sets forth training requirements for persons employed to meet the program manager requirements per OAC 317:40-7-20. If providing fill-in direct support services, the program manager must complete direct support staff training per OAC 340:100-3-38.2.

(b) **New employee training.** No later than 30 days following the date of hire, each program manager must complete the online or first available Developmental Disabilities Services Division (DDSD) approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the program manager's primary work location following the program manager's date of hire.

(c) **Job-specific training.** The program manager must complete:

(1) prior to assuming program manager duties, the job coach certification training;
■ 1

(2) within 60 days after date of assignment:

(A) advanced employment specialist training; and ■ 2

(B) program manager training; and

(3) within 90 days after date of assignment:

(A) case management Individual Plan module;

(B) case management Quality Assurance module; and

(C) an approved medication administration course per OAC 340:100-3-38.10.

(d) **Individual-specific training.** The program manager ensures direct support staff are trained as specified in the service recipient's Individual Plan (Plan).

(e) **Specialized training.** The program manager completes the approved behavior support course if required for service recipients served by the program manager within 90 days after date of assignment.

(f) **Ongoing training.** All program managers complete at least 20 hours of annual training through courses, workshops, conferences, or other sources, per OAC 340:100-3-38(b)(1). The annual training requirement includes at least 12 hours of supervisory training if the employee supervises other staff. Program managers may challenge or test out of required annual recertification when an approved option is available. Training completion hours are granted equal to the number of hours for the standard recertification class.

(g) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.8 may be made by the DDSD director or designee.

INSTRUCTIONS TO STAFF 340:100-3-38.8

Revised 7-1-11

- 1. Job coach certification training courses. The job coach certification training courses are:**
 - (1) General Employment Training; and**
 - (2) Employment Training Specialist Orientation I (ETSO I); or**
 - (3) Oklahoma Department of Rehabilitation Services Job Coach Training.**
- 2. Advanced employment training course. The advanced employment training specialist course is ETSO II.**

340:100-3-38.10. Medication administration trainingRevised 7-1-11

(a) **General requirements.** Staff must be certified in a medication administration training course approved by the Developmental Disabilities Services Division (DDSD) director of human resource development before administering medication(s) to a person receiving services or assisting with a person's medication support plan.

(1) The DDSD director of human resource development may approve medication administration certification from another state if supplied with a copy of an acceptable course curriculum.

(2) A licensed nurse who maintains a current, unrestricted license is exempt from the training requirements of this paragraph.

(A) Licensed practical nurses (LPNs) and registered nurses (RNs) may administer medications in accordance with their training and the Oklahoma Nurse Practice Act.

(B) The employer must maintain a copy of the nurse's license in the nurse's personnel file or make the license available for review.

(3) Certification or re-certification to administer medications is valid for one year from the date of issuance.

(A) If a person allows his or her medication administration certification to expire, he or she cannot administer medication(s) or assist with a medication support plan. If the person's certification has been expired for less than 60 days, the person's certification is renewed by taking the one-day update training.

(B) If the person's medication administration certification has been expired for 60 days or more, the person does not administer medication(s) or assist with a medication support plan and must complete an approved initial medication administration class.

(4) All provider agencies must:

(A) establish written policies that assure compliance with the rules in this Section and with applicable federal and state laws;

(B) provide documentation that staff have been given an in-service in agency-

specific practices, including, but not limited to medication storage requirements, documentation forms, and procedures for a medication event, as defined in OAC 340:100-3-34; and

(C) maintain a copy of each employee's current certification in that employee's personnel file.

(b) Medication administration training provided by provider agencies. DDSD provider agencies may conduct medication administration training under the conditions listed in this subsection.

(1) Any provider agency wishing to conduct medication administration training or re-certification classes must submit the credentials of the prospective trainer(s) to the DDSD director of human resource development for approval. The provider agency is responsible for ensuring that the instructor adheres to the rules given in this Section.

(A) The prospective instructor must be an RN or LPN working under the supervision of an RN.

(i) The nurse's license must be current and active through the Oklahoma State Board of Nursing.

(ii) Any exception to the requirement that the instructor be an RN or LPN must be approved in writing by the DDSD director of human resource development and the DDSD director of nursing.

(B) Potential instructors with other types of medical experience or licensure may seek approval to teach medication administration training classes by submitting credentials to the DDSD director of human resource development.

(C) Each instructor must request and receive approval every two years to teach medication administration training.

(2) The DDSD director of nursing and director of human resource development must approve or deny the agency's request in writing. A letter designating approval of an instructor to conduct medication administration training must be maintained in the instructor's personnel file at the agency.

(3) Approved instructors use only course materials approved by the DDSD director of human resource development.

(4) Each participant in an initial medication training course receives an approved

training manual to keep for future use.

(5) Each agency approved to provide medication administration training must implement an internal monitoring system, subject to DDSD random review, to review and document the consistency of the training and use of the approved curriculum.

(6) All medication administration training must be conducted according to the specific requirements of the course, the rules in this Section, and DDSD training rules, per OAC 340:100-3-38.

(7) Instructors provide Certificate Number C-0226, Certificate of Medication Administration Training, based on the competency criteria given in this paragraph.

(A) Each person must satisfactorily complete the course with a minimum passing score of 85 percent for each test or subtest. If a person does not achieve a score of at least 85 percent after taking the exam two times, the class must be repeated.

(B) The instructor is responsible for administering a written test to each participant and directly observing completion of the test.

(8) The agency providing the training sends documentation of completed medication administration training to the area DDSD Human Resource Development Unit within one week of the completed training. Documentation must include the:

(A) name of the agency providing the training;

(B) name(s) of the instructor(s);

(C) name of the training, whether initial medication administration training or update;

(D) date(s) of the training;

(E) names and Social Security numbers of the participants;

(F) name of the agency employing each participant; and

(G) pass or fail status of each participant.

(9) The DDSD director of nursing and director of human resource development may revoke the approval of an instructor to provide medication training for violation of the

rules in this Section.

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

Revised 7-1-11

(a) **Applicability.** OAC 340:100-3-38.12 sets forth training requirements for direct support staff or provider agency volunteers and direct supervisors providing only respite, homemaker, or homemaker respite services through the Community Waiver, an In-Home Supports Waiver (IHSW), or Homeward Bound Waiver in the family's or service recipient's home or in any community setting as specified per the service recipient's Individual Plan (Plan).

(1) If Form 06IS037E, In-Home Supports Waiver - Certificate of Competency, is in place for IHSW participants per OAC 340:100-3-38.5, staff does not have to meet the requirements of OAC 340:100-3-38.12.

(2) Direct support staff providing services beyond respite, homemaker, or homemaker respite services completes training appropriate to staff jobs per OAC 340:100-3-38.

(b) **New employee training.** No later than 30 days following the date of hire, staff providing direct supports or supervising at any level the delivery of direct supports must complete the online or first available Developmental Disabilities Services Division (DDSD) approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the staff's work location following the staff'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) First aid and CPR certification of each staff must occur within 90 days following employment.

(2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, staff must receive first aid and CPR certification in less than 90 days.

(d) **Medication administration training.** Staff must be certified in an approved medication administration course, per OAC 340:100-3-38.10, before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).

(1) Training requirements are based on the service recipient's identified needs through team discussion and review of available assessment information.

(2) A service recipient's Team specifies 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 before working with the service recipient.

(3) As the service recipient'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 required, with time frames for completion.

(4) Individual-specific training is provided by the person or persons designated by the Team and identified by name in the Plan, in accordance with policy, statute, and professional practice regulations, if applicable.

(5) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services.

(f) **Ongoing training.** All direct support staff employed by provider agencies complete eight hours of approved annual training.

(1) Annual training may come from:

(A) required re-certification classes in first aid, CPR, and medication administration training;

(B) courses per OAC 340:100-3-38(b)(1);

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

(D) individual-specific training; or

(E) agency-specific in-services.

(2) Direct support staff may challenge or test out of required annual recertification when an approved option is available. Training completion hours are granted equal to the number of hours for the standard recertification class.

(g) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.12 may be made by the DDSD director or designee.

340:100-3-38.13. Training requirements for staff providing supports in alternative group homes

Revised 7-1-11

(a) **Applicability.** OAC 340:100-3-38.13 sets forth training requirements for staff or volunteers and direct supervisors providing direct supports for a service recipient in an alternative group home per OAC 340:100-5-22.6.

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

(c) **First aid and cardio-pulmonary resuscitation (CPR).** All direct support staff must be certified in an approved course of first aid and CPR before providing services alone or with other untrained staff.

(1) First aid and CPR certification of each staff must occur within 90 days following employment.

(2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, staff must receive first aid and CPR certification in less than 90 days.

(d) **Medication administration training.** Staff must be certified in an approved medication administration course, per OAC 340:100-3-38.10, before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).

(1) Training requirements are based on the service recipient's identified needs through team discussion and review of available assessment information.

(2) A service recipient's Team specifies 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 before working with the service recipient.

(3) As the service recipient'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 required, with time frames for completion.

(4) Individual-specific training is provided by the person or persons designated by the Team and identified by name in the Plan in accordance with policy, statute, and professional practice regulations, if applicable.

(5) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

(f) Job-specific training.

(1) Staff must complete:

(A) within 90 days after date of assignment:

(i) Health course; and

(ii) Ethical and Legal Issues course; and

(B) within six months after date of assignment:

(i) Communication course; and

(ii) Skill Building course.

(2) Staff working in both residential and employment or other settings must meet job-specific training requirements of both jobs. Transfers to avoid completion of required training are prohibited.

(g) Specialized training. Additional specialized training is required for each direct service staff working with service recipients in the alternative group home.

(1) Staff supporting a service recipient with a protective intervention plan that includes non-restrictive intervention techniques must be trained on these techniques before use.

(2) Completion of an approved behavior support course is required for staff supporting a service recipient with a protective intervention plan that:

(A) addresses challenging behavior that places the service recipient's physical

safety, environment, relationships, or community participation at serious risk; and

(B) contains one or more procedures in (i) through (iv) of this subparagraph.

(i) Physical guidance to overcome resistance.

(ii) Physical guidance to move to safety.

(iii) Physical hold to restrict movement.

(iv) Intensified staffing to ensure safety.

(3) Staff must complete the approved:

(A) behavior support course before working alone or with other untrained staff, but no later than 60 days after starting work with the service recipient; and

(B) physical management course before using any technique of physical management contained in a protective intervention plan.

(i) Staff working with the service recipient implements the positive components of the plan, as well as non-intrusive procedures to assist the service recipient during a crisis prior to using physical management techniques.

(ii) Only staff and staff supervisors providing support to the service recipient are trained on the use of a physical management procedure.

(iii) Training curricula regarding behavior support are approved by the DDSD director of human resource development and DDSD director of psychological and behavioral supports.

(4) Training regarding physical management procedures must be obtained from DDSD trainers approved by the director of human resource development.

(5) Staff must complete:

(A) an annual retraining on the physical management or physical restraint procedures in the approved protective intervention plan; and

(B) the DDSD approved orientation specific to community protection issues within 60 days of starting work with the service recipient.

(h) **Ongoing training.** All direct support staff employed by provider agencies complete 12 hours of approved annual training.

(1) Annual training may come from:

(A) required re-certification classes in first aid, CPR, and medication administration training;

(B) courses per OAC 340:100-3-38(b)(1);

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

(D) individual-specific training; or

(E) agency-specific in-services.

(2) Any direct support staff supervising other staff must take 12 hours of supervisory training annually that may be included in the hours required per OAC 340:100-3-38.13.

(3) Direct support staff may challenge or test out of required annual recertification when an approved option is available. Training completion hours are granted equal to the number of hours for the standard recertification class.

(i) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.13 may be made by the DDSD director or designee.

340:100-3-39. Pre-employment screening for community services workersRevised 7-1-11

(a) **Legal basis.** Section 1025.1 et seq. of Title 56 of the Oklahoma Statutes (56 O.S. § 1025.1 et seq.) requires Oklahoma Department of Human Services (OKDHS) to establish and maintain a registry listing the names of community services workers against whom a final investigative finding of maltreatment involving a service recipient, has been made by OKDHS or an administrative law judge. Providers of community services:

(1) are required to conduct a search of criminal history records and OKDHS Community Services Worker Registry (Registry) prior to permanent employment of any community services worker; and

(2) must not hire, contract with, or use as a volunteer, a person whose name is listed in the Registry or who has a criminal background described in OAC 340:100-3-39(d)(1)(G).

(b) **Applicability.** The requirements set forth in OAC 340:100-3-39 apply to all community services providers who contract with, or are licensed or funded by OKDHS or who contract with Oklahoma Health Care Authority (OHCA) to provide residential or employment services to service recipients through Developmental Disabilities Services Division (DDSD) Home and Community-Based Services (HCBS) Waivers.

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

(1) "**Community services provider**" means a community-based program, corporation, or person who contracts with, or is licensed or funded by OKDHS or who contracts with OHCA to provide residential or employment services to a service recipient through DDSD HCBS Waivers.

(2) "**Community services worker**" means any person who:

(A) contracts with the OHCA to provide specialized foster care, habilitation training specialist services, or homemaker services to persons with developmental disabilities; or

(B) is not a licensed health professional; and

(C) employed by or under contract with a community services provider to provide

for compensation or as a volunteer:

- (i) health-related services;
- (ii) training; or
- (iii) supportive assistance.

(3) "**Good cause**" means failure of a community services worker to make a timely response for reconsideration of a confirmed finding of maltreatment due to:

- (A) a death within the community services worker's immediate family;
- (B) hospitalization of the community services worker; or
- (C) an equally meritorious reason, determined within the sound discretion of the administrative law judge or other OKDHS staff authorized per OAC 340:100-3-39 to determine such cause.

(4) "**Health related services**" means assistance provided to a service recipient that includes, but is not limited to:

- (A) personal hygiene;
- (B) transferring;
- (C) range of motion;
- (D) supervision or assistance in activities of daily living; or
- (E) basic nursing care, such as:
 - (i) taking temperature, pulse, or respiration;
 - (ii) positioning;
 - (iii) incontinent care; or
 - (iv) identification of signs and symptoms of disease; and
- (F) certain tasks that may be performed as basic nursing care by community services workers and require appropriate training provided or approved by

OKDHS, written agreement by the service recipient's personal support team, and the primary care physician's acknowledgement and specific order related to the task. Under such circumstances, basic nursing care may include, but need not be limited to:

- (i) nutrition, including meals by gastrostomy tube or jejunostomy tube;
- (ii) blood glucose monitoring;
- (iii) ostomy bag care;
- (iv) oral suctioning; and
- (v) administration of oral metered dose inhalers and nebulizers.

(5) "**Supportive assistance**" means the service rendered that is sufficient to enable the service recipient to meet an adequate level of daily living including, but not limited to:

- (A) training;
- (B) supervision;
- (C) assistance in housekeeping;
- (D) assistance in meal preparation; and
- (E) assistance in personal care and activities of daily living necessary for the health and comfort of the service recipient.

(6) "**Maltreatment**" means abuse, verbal abuse, sexual abuse, neglect, financial neglect, exploitation, or sexual exploitation of vulnerable adults as defined in Section 10-103 of Title 43A of the Oklahoma Statutes; or abuse, neglect, sexual abuse, or sexual exploitation of children as defined in Section 7102 of Title 10 of the Oklahoma Statutes.

(7) "**Specialized foster care**" means the home and community-based service as defined in the 1915(c) waiver approved by the Centers for Medicare and Medicaid Services.

(8) "**Habilitation training specialist services**" means the home and community-based service as defined in the 1915(c) waiver approved by the Centers for

Medicare and Medicaid Services.

(9) "**Homemaker services**" means the home and community-based service as defined in the 1915(c) waiver approved by the Centers for Medicare and Medicaid Services.

(d) **Duties of OKDHS.** When the OHCA contracts directly with a specialized foster care provider, habilitation training specialist services provider, or a homemaker services provider to provide services through the DDS HCBS waivers, OKDHS follows the screening procedures required for community services providers.

(e) **Duties of community services providers.**

(1) **Provider pre-employment responsibilities.** Each community services provider conducts a search of criminal history records and the Registry for each potential employee who is not a licensed health professional and who will provide, for compensation or as a volunteer, on a full-time or part-time basis, health-related services, training, or supportive assistance to a service recipient. This requirement also applies to applicants for supervisory, management, or administrative positions, when the applicant is to provide, on a full-time or part-time basis, supportive assistance, health-related services, or training to a service recipient. The provider:

(A) uses Form 06PE039E, Employment Application Supplement, to formally advise each applicant of the:

(i) required search of criminal history records and the Registry;

(ii) potential consequences of background checks, including the provider's prohibition from hiring any person whose name appears in the Registry or who has a prohibited criminal conviction, per OAC 340:100-3-39(e);

(iii) requirement that the community services worker's employment must be terminated if his or her name appears in the Registry, even though the applicant's name may not have appeared in the Registry at the time of application or hiring;

(iv) requirement to report all current and previous employers who provide services to children or to vulnerable adults; and

(v) fact that giving false information regarding current and previous employers results in termination of employment.

(B) contacts all previous employers engaged in delivery of services to children or vulnerable adults, defined in 43A O.S. § 10-103, requesting information on investigations or findings of maltreatment;

(C) when contacted by a potential employer, gives accurate information regarding investigations of maltreatment that were reported to Adult Protective Services (APS), Office of Client Advocacy (OCA), or Child Protective Services (CPS) and are pending or confirmed;

(D) requests a criminal history records search from Oklahoma State Bureau of Investigation (OSBI) prior to employment of, or offer of employment to, any applicant, except as provided in OAC 340:100-3-39(d)(1).

(i) The provider must secure the criminal history records search and cannot accept documents provided by the applicant.

(ii) If the provider uses a contractor to secure the criminal history records search, the contractor attaches the document received from OSBI to any report given to the provider;

(E) investigates discrepancies in the criminal record information received from OSBI.

(i) If discrepancies exist between criminal history information and information reported by the applicant, such as convictions not reported by the applicant, the provider secures from the applicant a written explanation of the discrepancy that is then sent to OKDHS if the provider is requesting a waiver per OAC 340:100-3-39(e).

(ii) If OSBI information reports inconclusive data, such as reporting the case was referred to another law enforcement agency, the provider secures documentary evidence of the outcome;

(F) may choose to make an offer of temporary employment to an applicant, pending the results of the OSBI criminal history records search.

(i) The provider submits a request for a criminal history records search to OSBI within 72 hours of the applicant's acceptance of any offer of temporary employment.

(ii) Temporary employment of any applicant does not extend longer than the time necessary to receive the results of the criminal history records search

and registry review, not to exceed 30 calendar days.

(iii) During any period of temporary employment the temporary employee may not work alone nor work solely with other temporary employees; and

(G) when the OSBI search reveals that the applicant has been convicted, pled guilty, or pled nolo contendere to misdemeanor assault and battery or a felony, the provider does not hire or contract with the person and immediately cancels any temporary employment arrangement. If a waiver is requested per OAC 340:100-3-39(e), the community services worker is relieved of responsibilities working directly with service recipients until the provider receives a written decision by OKDHS.

(2) Provider duties during an investigation. Upon receiving notification of an investigation of an allegation of maltreatment involving an employee, the provider chief executive officer or designee:

(A) ensures protection and the health and safety for any and all persons receiving services from the provider;

(B) notifies the community services worker, in a face-to-face conference, of the upcoming investigation; and

(C) explains the rights of the community services worker, using Form 06PE059E, Rights and Responsibilities of Community Services Worker in an Investigation of Maltreatment, before the community services worker is interviewed by the investigator, including:

(i) that notice of the outcome of the investigation is mailed to the community services worker's address given on Form 06PE059E; and

(ii) the community services worker's right to request due process in accordance with procedures given in the notice mailed.

(3) Provider responsibilities regarding due process procedures. If an employee of a provider is called as a witness in a hearing, the provider:

(A) directs the employee to attend the hearing to give testimony;

(B) accommodates work schedules; and

(C) when written records are required, submits the required records or certified

copies. Failure to comply with these responsibilities may result in sanctions per OAC 340:100-3-27.

(f) **Waiver of requirement not to hire based on criminal history records search.** If the criminal history records search reveals a criminal background the provider believes will not place a service recipient at risk of harm and will not affect the quality of services provided by the applicant, the provider may request a waiver from OKDHS.

(1) The provider sends a written request for a waiver to the DDS director. The request includes:

(A) the applicant's:

- (i) full name;
- (ii) Social Security number; and
- (iii) date of birth;

(B) a legible copy of the criminal history records search; and

(C) an explanation of all factors or circumstances the provider believes must be considered.

(2) A waiver is not granted, under any circumstance, for employment of an applicant who has been convicted of, pled guilty, or pled nolo contendere to:

(A) a felony count of:

- (i) aggravated assault and battery;
- (ii) homicide;
- (iii) murder;
- (iv) attempted murder;
- (v) rape;
- (vi) incest; or
- (vii) sodomy; or

(B) abuse, neglect, or exploitation of any person entrusted to the applicant's care.

(3) No waiver is granted for offenses resulting in a conviction, plea of guilty, or plea of nolo contendere to a felony that occurred less than five calendar years from the date of the request.

(4) Factors considered in the OKDHS decision to grant or deny a waiver include:

(A) other convictions of the person;

(B) responsibility evidenced by the person since conviction;

(C) time lapse since the person's conviction;

(D) person's age upon conviction;

(E) nature and underlying circumstances of the person's offense;

(F) evidence of efforts made by the person toward rehabilitation, including job training or educational programs in which the person participated;

(G) person's prior employment record; and

(H) nature and location of the position the person seeks.

(5) OKDHS:

(A) may grant a waiver for applicants who will provide services through DDSD HCBS Waivers only upon concurrence by OHCA; and

(B) assumes no responsibility for the actions of a person employed by a provider subsequent to a waiver. The provider indemnifies and holds OKDHS harmless for any damages or attorney fees resulting from a claim that an employee of the provider subsequently abused, neglected, exploited, or otherwise injured a service recipient.

(g) **Rights of community services worker.** During investigation of an allegation of maltreatment, any community services worker who is accused of maltreatment is entitled to:

(1) be advised of the nature of any allegation against such worker;

(2) be interviewed by the investigator and allowed to give his or her position in relation to the allegation;

(3) be advised of the substance of the evidence against him or her prior to making a statement to the investigator. The identity of persons reporting alleged maltreatment is not released during the investigation;

(4) refuse, without penalty, to take a polygraph examination;

(5) submit or supplement a written statement relating to the allegation;

(6) seek and receive advice concerning his or her rights and responsibilities in the investigation and review process; and

(7) receive notice from OKDHS of the outcome of the investigation. The community services worker:

(A) provides a correct address to receive notice; and

(B) is responsible to notify CPS, APS, or OCA, as applicable, of any address change.

(h) Responsibilities of community services worker. Any community services worker who is involved, either as a witness or an accused caretaker, in the investigation of alleged maltreatment has the responsibility to:

(1) prepare a written incident report;

(2) be available for scheduled interviews;

(3) respond fully and truthfully to the investigator's questions. A community services worker who believes that his or her answers to official inquiries concerning alleged maltreatment may incriminate the worker in a criminal prosecution may discontinue the interview for that reason;

(4) refrain from any action that may interfere with the investigation, including any action that may intimidate, threaten, or harass any person who has or may provide information relating to alleged maltreatment; and

(5) appear at any hearing as requested by OKDHS per OAC 340:100-3-39(h)(6).

(i) Procedures for notice and due process.

(1) **Determination not to place in Registry.** At any time during the notice and due process, OKDHS may determine the placement of a community services worker's name in the Registry is not warranted, despite a confirmed finding of maltreatment by APS, CPS, or OCA, as applicable.

(A) OKDHS may determine that the community services worker's name will not be placed in the Registry when the wrongful conduct:

(i) does not warrant placement in the Registry using the clear and convincing evidence standard applicable at the administrative hearing;

(ii) did not result in, or create a substantial risk of, serious physical or emotional injury to a service recipient; or

(iii) is not the result of intentional, willful, or reckless disregard for the health or safety of a service recipient.

(B) When a determination is made that a community services worker's name is not to be placed in the Registry, OKDHS sends a notice to the community services worker informing the worker that his or her name will not be placed in the Registry. A copy of the notice is sent to the community services provider who employed the community services worker at the time of the incident that resulted in the confirmed finding.

(2) **Notification of DDSD.** OKDHS divisions responsible for investigating allegations of maltreatment, per OAC 340:2-3, OAC 340:5, or OAC 340:75-3, send reports of investigations to the DDSD director or designee.

(3) **Notification to provider.** The OKDHS division responsible for the investigation notifies the provider, or appropriate OKDHS representative, when the investigative report reveals systemic administrative issues regarding:

(A) protection or safety of the service recipient; or

(B) provider agency shortcomings.

(4) **Notification to community services worker.** OKDHS sends written notice of the results of the investigation to the community services worker alleged to have committed maltreatment. The name of the community services worker who has a confirmed finding of maltreatment is added to the Registry when OKDHS has sent proper notice to the last known address of the community services worker, and the notice was returned as unclaimed or undeliverable. The notice:

(A) is sent within three working days of receipt by OCA of the OKDHS determination to proceed with the Registry process. If the allegation is ruled out, the provider is also notified;

(B) is sent by certified mail, return receipt requested, if the investigation resulted in a finding of maltreatment;

(C) contains a summary of the evidence supporting the finding of maltreatment without identifying the complainant;

(D) specifies that, if the community services worker desires to contest the finding, he or she submits a detailed written statement with a request that OKDHS issue a reconsideration decision reversing the finding;

(E) advises the community services worker that a reconsideration decision must be requested in writing, postmarked within ten calendar days of receipt of the notice; and

(F) notifies the community services worker that failure, absent good cause, to request a reconsideration decision within ten calendar days, as evidenced by the date of his or her signature on the U.S. Postal Service return receipt card:

(i) results in the finding becoming final;

(ii) waives the right to further administrative or judicial review; and

(iii) authorizes:

(I) entry of the community services worker's name in the Registry; and

(II) disclosure per OAC 340:100-3-39(I) to any person requesting such information per OAC 340:100-3-39(j).

(5) **Reconsideration decision.** If the community services worker submits a timely request for a reconsideration decision, or if OKDHS determines good cause for untimely filing, OKDHS issues a reconsideration decision.

(A) The reconsideration decision:

(i) affirms the investigative report;

(ii) modifies the investigative report;

(iii) reverses the investigative report; or

(iv) remands the investigative report for further investigation; and

(v) is issued within ten working days of receipt of the request or, if applicable, the date of any determination of good cause.

(I) If the decision is to remand for further investigation, the investigation is completed within 15 working days of the decision to remand.

(II) Upon completion of the supplemental investigation, OKDHS notifies the community services worker within three working days;

(vi) states the basis for the determination including, but not limited to, any investigative report, OKDHS records, or provider records deemed relevant;

(vii) specifically evaluates and comments upon the contents of the community services worker's written request; and

(viii) is mailed to the community services worker by certified mail return receipt requested, postage prepaid.

(B) When the reconsideration decision affirms or modifies the investigative report, OKDHS:

(i) if the community services worker is aggrieved by the decision, notifies the community services worker that he or she may request an administrative hearing;

(ii) states a written request for hearing must be submitted by the community services worker to OKDHS at a specified address and postmarked within ten calendar days of receipt of the reconsideration decision, unless good cause is established. Receipt is deemed to occur on the date the community services worker signs the U.S. Postal Service return receipt card; and

(iii) states failure to timely request a hearing, absent a finding of good cause by an administrative law judge:

(I) results in the reconsideration decision becoming final;

(II) waives any right to either an administrative hearing or judicial review; and

(III) authorizes entry of the community services worker's name in the Registry, and disclosure to any person requesting the information per OAC 340:100-3-39(j).

(6) **Notice of hearing.** When the community services worker submits a timely written request for hearing, or upon the administrative law judge finding of good cause for a request that was not timely, OKDHS sends a notice of hearing by certified mail, return receipt requested, postage prepaid within ten working days of receipt of the request. The notice is dated and states:

(A) name of administrative law judge;

(B) time and date of hearing, that must be held no earlier than 15 calendar days and no later than 60 calendar days after the date of mailing of the notice;

(C) street and city address, and room number where the hearing will be held;

(D) failure of the community services worker to attend the hearing, absent a finding of good cause by an administrative law judge:

(i) results in the reconsideration decision becoming final;

(ii) waives any right to either an administrative hearing or judicial appeal; and

(iii) authorizes entry of the community services worker's name in the Registry, and disclosure to any person requesting the information per OAC 340:100-3-39(j);

(E) the community services worker may be represented by an attorney;

(F) requests by the community services worker or his or her attorney for witnesses, records, or both, relevant to the proceeding must be directed to OKDHS. OKDHS sends requests to the relevant provider, per OAC 340:100-3-39(d)(3), persons, and appropriate OKDHS divisions;

(G) a final proposed list of witnesses and summary of anticipated testimony must be submitted to the administrative law judge designated on the notice of hearing at least ten calendar days prior to any hearing;

(H) any final decision on the specific persons allowed to testify, the scope of direct testimony and cross-examination, and admissibility of exhibits will be within the sound discretion of the administrative law judge, except all OKDHS and

provider records pertaining to a finding of confirmed maltreatment are admissible;

(I) the community services worker or his or her attorney is allowed to cross examine witnesses called by the OKDHS attorney, who is allowed to cross examine any witnesses called by the community services worker or his or her attorney; and

(J) although the formal rules of evidence and procedure under Oklahoma law are not controlling, the burden of persuasion and initially coming forward with evidence is on OKDHS through its attorney, and the standard of proof is clear and convincing evidence.

(7) Hearing.

(A) The hearing is:

(i) closed and all information presented therein is confidential; and

(ii) tape recorded.

(B) The administrative law judge affirms, modifies, or reverses the reconsideration decision, or determines the name of the community services worker, who has been confirmed as having engaged in maltreatment, must not be added to the Registry when the act or omission that is the basis for the confirmed finding:

(i) did not result in, or create a substantial risk of, serious physical or emotional injury to a service recipient; or

(ii) was not the result of intentional, willful, or reckless disregard for the health or safety of a service recipient.

(C) A written decision by the administrative law judge affirming, modifying, or reversing the reconsideration decision, or determining, per OAC 340:100-3-39(h)(7)(B), the community services worker's name is not to be placed in the Registry:

(i) is issued within 30 calendar days of the hearing;

(ii) is mailed to the community services worker by certified mail, return receipt requested, no later than the first working day following the date the decision

is signed by the administrative law judge;

(iii) contains findings of fact and conclusions of law;

(iv) notifies the community services worker that, if he or she is aggrieved by the decision, a judicial appeal, solely on the administrative record, may be initiated by filing a petition in the Oklahoma district court with jurisdiction within 30 calendar days from the date the decision is signed by the administrative law judge, pursuant to 56 O.S. § 1025.3 and 75 O.S. § 318; and

(v) states a copy of any petition and summons filed in district court must be served on OKDHS Legal Division.

(j) Disclosure requirements for Registry.

(1) The Registry information includes, but is not limited to:

(A) community services worker's:

(i) full name;

(ii) Social Security number; and

(iii) date of birth;

(B) date the community services worker's name was placed in the Registry; and

(C) information on the final investigative finding or administrative law judge finding regarding the community services worker.

(2) The information disclosed includes only whether the person is listed in the Registry. No other information related to the allegation, investigation, or evidence is disclosed.

(3) The provider requesting Registry information on an applicant or employing a community services worker alleged to have committed maltreatment is notified when the community services worker's or applicant's name is entered in the Registry. If more than one community services worker is named as an accused caretaker, a separate letter is sent to the provider for each community services worker.

(k) Public access to Registry. Access to the Registry is available to the public through

the OKDHS Web site: www.okdhs.org.

340:100-3-40. Community records

Revised 7-1-11

(a) **Purpose.** OAC 340:100-3-40 sets forth requirements for:

- (1) maintenance of records by contract providers;
- (2) transfer to a history file of documents in a service recipient's record maintained by the contract provider; and
- (3) transfer of information when a service recipient changes contract providers.

(b) **General requirements.** Records maintained by the contract provider are indexed, orderly, well-maintained, readily accessible, and current. Records must contain adequate documentation of services rendered.

- (1) All service recipient records are available for review by the service recipient, his or her legal guardian, and staff and authorized agents of Oklahoma Department of Human Services. Copies of records are available upon request to such persons.
- (2) The service recipient record is maintained with:
 - (A) an index;
 - (B) identification of the service recipient's name on the record and on each page;
 - (C) section tabs clearly marked; and
 - (D) documents secured in the record.
- (3) All entries in the record:
 - (A) are made in accordance with OAC 317:30-3-15;
 - (B) are made in chronological order;
 - (C) are legible;
 - (D) include date and time of each entry, with legible identification of the person making the entry; and

(E) include, if the entry is health-related:

- (i) description of concern; and
- (ii) action taken.

(4) The provider ensures compliance with OAC 340:2-8-1 through 340:2-8-13 and OAC 340:100-3-2 pertaining to protection, use, and release of personal information. The provider holds confidential all personal information regarding service recipients, including names, addresses, photographs, records of evaluation, and all other records. Information is not disclosed, directly or indirectly, unless consent is obtained in writing.

(c) Home record for service recipients receiving community residential supports or group home services. A record of services is maintained by the contract provider in the home for each service recipient receiving community residential supports, per OAC 340:100-5-22.1, or group home services, per OAC 340:100-6.

(1) Documents contained in each home record include:

(A) items that are not removed from the record, including guardianship documents and other legal documents;

(B) copy of current Individual Plan (Plan) packet; ■ 1

(C) health-related documents, including, but not limited to:

(i) Form 06HM039E, Continuous Medical Record, per OAC 340:100-3-40.1;

(ii) Form 06HM005E, Referral Form for Examination and Treatment, physician orders, discharge summaries, and emergency room reports;

(iii) Form 06HM006E, Health Status and Medication Review;

(iv) special instructions or Health Care Plan;

(v) individually identified data forms relevant to service recipient's current health status;

(vi) Dyskinesia Identification System: Condensed User Scale (DISCUS) or Abnormal Involuntary Movement Scale (AIMS), if required, per OAC 340:100-5-29;

- (vii) current immunization record;
 - (viii) medication administration records from previous months;
 - (ix) most recent lab, x-ray, and consultation reports, and pharmacological evaluation, if applicable; and
 - (x) miscellaneous health-related consultations and correspondence;
- (D) miscellaneous documents relating to the service recipient, including, but not limited to:
- (i) observation notes;
 - (ii) Form 06CB035E, Site Visit Report, completed by all professional contract providers and program coordination staff;
 - (iii) implementation strategies;
 - (iv) applicable data collection sheets; and
- (E) monthly residential reports on progress; and
- (F) a form certifying that all authorized persons accessing the service recipient information contained within the home record have been informed and understand the penalties for misuse of confidential and protected information within the home record. The form must cite the criminal penalties related to identity theft found in Section 1533.1 of Title 21 of the Oklahoma Statutes.

(2) In unusual circumstances a service recipient's home record, or specified types of documents from the record, may be maintained at a location other than the service recipient's home, if requested by the Team and approved in writing by the DDSD area manager.

(d) **Retention.** Each contract provider retains a record for each service recipient receiving services from the provider.

(1) Transfer of all documents more than three months old from the provider agency record to a history file occurs yearly, unless otherwise specified per OAC 340:10-3-40.

(2) The provider agency retains original records for a period of six years or until any

pending litigation involving the service recipient is completed, whichever occurs last.

(e) **Transfers between agencies.** When a service recipient changes provider agencies, the agency provides the new agency with a copy of the current home record and any health documents requested by the Team.

(f) **Other provider records.** The provider must maintain service records that substantiate the provision of services, eligibility of service recipients, and outcome of services.

(1) Records are maintained for a period of six years after OKDHS has made final payment and all pending matters are closed.

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

INSTRUCTIONS TO STAFF 340:100-3-40

Revised 5-15-08

1. Individual Plan packet. The Developmental Disabilities Services Division (DDSD) case manager provides to the home record and service recipient's Personal Support Team:

- (1) Form 06MP002E, Request for Authorization, when required;**
- (2) Individual Plan (Plan);**
- (3) Level of Care screen printout;**
- (4) Plan of Care screens printout;**
- (5) assessment information used to develop the Plan;**
- (6) psychological assessment;**
- (7) annual medical report;**
- (8) social or developmental history;**
- (9) freedom of choice forms;**

(10) right to fair hearing form;

(11) Client Contact Manager (CCM) consumer data sheet;

(12) Form 06HM007E, Physical Status Review, if applicable;

(13) protective intervention plan, if applicable;

**(14) medical history or Continuous Medical Record Summary, if applicable;
and**

**(15) Oklahoma Health Care Authority (OHCA) Form LTC-300, Long Term
Care Assessment, when required.**

SUBCHAPTER 5. CLIENT SERVICES**PART 1. ADMISSION AND SAFEGUARDS**

Sections

- 340:100-5-1. Admission **[REVOKED]**
- 340:100-5-2. Service safeguards
- 340:100-5-3. Emergency Services

PART 3. SERVICE PROVISIONS

- 340:100-5-15. Developmental Disabilities Services Division case manager activities
- 340:100-5-16. Individual Habilitation Plan **[REVOKED]**
- 340:100-5-17. Habilitation services - professional and paraprofessional **[REVOKED]**
- 340:100-5-18. Employment services **[REVOKED]**
- 340:100-5-19. Support services **[REVOKED]**
- 340:100-5-20. Respite Voucher Program
- 340:100-5-21. Family training and counseling **[REVOKED]**
- 340:100-5-22. Residential services
 - 340:100-5-22.1. Community residential supports
 - 340:100-5-22.2. Assisted Living without Waiver supports
 - 340:100-5-22.3. Authorization for community residential supports **[REVOKED]**
 - 340:100-5-22.4. Residential options for Homeward Bound class members
 - 340:100-5-22.5. Supported living services
 - 340:100-5-22.6. Alternative group homes
- 340:100-5-23. Specialized foster care contracted by individuals **[REVOKED]**
- 340:100-5-24. Adult Companion Services contracted by individuals **[REVOKED]**
- 340:100-5-24.1. Companion Services/Adult Foster Care contracted by agency **[REVOKED]**
- 340:100-5-24.2. Guidelines for Department staff for Agency Companion/Adult Foster Care Programs **[REVOKED]**
- 340:100-5-25. Service authorization/client services/service provisions/residential services **[REVOKED]**
- 340:100-5-26. Health and wellness
 - 340:100-5-26.1. Psychotropic medication
 - 340:100-5-26.2. End-of-life issues
 - 340:100-5-26.3. Health-related services
- 340:100-5-27. Skilled nursing services
- 340:100-5-28. Community health services **[REVOKED]**
- 340:100-5-29. Monitoring for dyskinesia

- 340:100-5-30. Adult day care
- 340:100-5-32. Medication administration
- 340:100-5-33. Medication events
- 340:100-5-34. Services for persons with Prader-Willi Syndrome
- 340:100-5-35. Non-Residential Habilitation Training Specialist (HTS) services

PART 5. INDIVIDUAL PLANNING

- 340:100-5-50. Principles of individual planning
- 340:100-5-51. Individual assessment
- 340:100-5-52. The Personal Support Team (Team)
- 340:100-5-53. Individual Plan
- 340:100-5-54. Planning for obstacles
- 340:100-5-55. Person-centered assessment **[REVOKED]**
- 340:100-5-56. Risk assessment
- 340:100-5-57. Protective intervention plan
- 340:100-5-57.1. Reporting and monitoring the use of restrictive or intrusive procedures or emergency interventions
- 340:100-5-58. Prohibited procedures

340:100-5-22.1. Community residential supportsRevised 7-1-11

(a) **Applicability.** Community residential supports are funded through contracts with Oklahoma Department of Human Services (OKDHS), Oklahoma Health Care Authority (OHCA), or both, and must meet standards per OAC 340:100-5-22.1.

(1) A service recipient is considered receiving community residential supports when the service recipient receives:

(A) daily living supports (DLS), per OAC 317:40-5-150;

(B) Prader-Willi Syndrome services;

(C) agency companion services (ACS), per Part 1 of OAC 317:40-5; or

(D) specialized foster care (SFC), per Part 5 of OAC 317:40-5.

(2) OAC 340:100-5-22.1 does not apply to:

(A) group home services, per OAC 340:100-6; or

(B) services provided to service recipients who receive assisted living services, per OAC 340:100-5-22.2.

(b) **General information.**

(1) Services for children are provided in family settings unless approved by the Developmental Disabilities Services Division (DDSD) Community Services Unit programs administrator or designee.

(2) In addition to OAC 340:100-5-50 through 340:100-5-58, the DDSD case manager ensures each Personal Support Team (Team) assesses and addresses the service recipient's needs regarding:

(A) safety in the home, including:

(i) storage of toxic chemicals, cleaning supplies, and combustibles; and

(ii) use of a tempering valve or other anti-scald device or lowered hot water tank temperature to control water temperature;

(B) financial issues in addition to OAC 340:100-3-4, including:

(i) a household budget that provides adequate resources for housing, food, clothing, furnishings, personal supplies, and recreational opportunities; and

(ii) assistance needed by the service recipient in money management;

(C) selection, adaptation, and maintenance of a home;

(D) community inclusion and access to work, recreation, and therapies;

(E) transportation; and

(F) water safety.

(3) Each service recipient is responsible for his or her room and board expenses, including recreational activities, clothing, furnishings, food, and other expenses for services or supports not funded through OKDHS, except as:

(A) provided to members of the Homeward Bound class; or

(B) approved in emergency circumstances per OAC 340:100-3-33 or 340:100-5-3.

(c) **Homes.** Community residential supports are provided in the service recipient's home. The provider agency ensures:

(1) the home and yard are clean, well-maintained, safe, free from hazards, and adapted to the service recipient's needs;

(2) the home has:

(A) utility service and adequate heating, cooling, and plumbing;

(B) safety items in operating condition located in strategic locations in the home, such as:

(i) flashlight;

(ii) smoke detector;

(iii) carbon monoxide detector;

- (iv) first aid kit;
 - (v) fire extinguisher; and
 - (vi) a tempering valve or other anti-scald device, when determined by the Team necessary to ensure the service recipient's safety;
- (C) phone service that is available and accessible to the service recipient. Emergency numbers are available at each phone, including:
- (i) DDSD toll-free number;
 - (ii) fire, police, ambulance, hospital, and poison control, if not in a 911 area;
 - (iii) physician name and number; and
 - (iv) nursing agency number, if applicable;
- (D) at least two means of exit;
- (E) a bedroom of at least 80 square feet for each service recipient living in the home. If a service recipient shares a bedroom with another, the bedroom must have 120 square feet or more;
- (F) adequate enclosed storage space available for personal items;
- (G) laundry equipment, if in the home, located in a safe, well ventilated, and clean area, with dryers vented to the outside;
- (H) an address that is clearly visible from the street;
- (I) a bathroom that:
- (i) includes a:
 - (I) flush toilet;
 - (II) fixed basin; and
 - (III) shower or bath tub that meets the service recipient's needs;
 - (ii) is in proper working order;

(iii) provides privacy;

(iv) is adapted if needed; and

(v) provides hot and cold running water; and

(J) a kitchen and equipment to store, prepare, and serve food in a sanitary manner;

(3) dangerous or deadly weapons are not permitted in the home, except as provided in OAC 317:40-5-40. Provider agency staff is prohibited from assisting any service recipient to obtain or possess dangerous or deadly weapons. Dangerous or deadly weapons include, but are not limited to:

(A) guns, BB guns, air rifles, or other firearms;

(B) crossbows;

(C) paint guns;

(D) arrows;

(E) explosives;

(F) stun guns; and

(G) knives, except cooking and eating utensils; and

(4) illegal substances are not permitted in the home.

(d) **Pre-service requirements.** The DDSD case manager and service recipient, or, if applicable, legal guardian, complete and approve steps in (1) through (3) when community residential supports are initiated, when the service recipient changes provider agencies, and before the service recipient moves to a new home. The documentation of such is maintained in the home record and the case manager record.

(1) Prior to service delivery, the provider completes an emergency housing back-up plan for review and approval by the service recipient's Team per OAC 340:100-5-52.

(A) The back-up plan contains:

(i) service recipient's name;

- (ii) description of living arrangement;
 - (iii) name and phone number for back-up staff;
 - (iv) back-up housing location;
 - (v) written agreement by:
 - (I) service recipient or legal guardian;
 - (II) direct provider of service, if an ACS or SFC provider;
 - (III) agency program coordination staff (PCS), as applicable;
 - (IV) provider agency administrative representative, as applicable; and
 - (V) DDS case manager;
 - (vi) dates for provider review of back-up plan, required quarterly and as changes occur; and
 - (vii) review date by DDS case manager.
- (B) When the location for the back-up plan is a hotel or motel, the provider agency is responsible for including a plan to pay the cost without additional reimbursement from OKDHS.
- (C) OKDHS must complete a home profile on a private home prior to the Team's identification of the home in the back-up plan or use of the home to provide back-up services to the service recipient. A home profile is not required if the service recipient stays in the private home of a relative, per OAC 340:100-5-22.1(f)(4)(A).
- (D) The ACS or SFC provider is responsible for re-establishing a residence if his or her home becomes uninhabitable.
- (2) The provider agency cooperates with the service recipient and Team to establish and maintain a household budget based on the service recipient's earned and unearned income.
- (A) Expenses associated with supporting the household are maintained in an auditable fashion sufficient to track the use of money collected from the service

recipient by the contract provider.

(B) Upon request, the contract provider furnishes to the service recipient, service recipient's family, and legal guardian:

- (i) a record of all funds collected from the service recipient;
- (ii) documentation of how the money was used; and
- (iii) the amount of remaining money held by the provider.

(C) Upon termination of residential supports from the contract provider, unused funds are returned to the service recipient within ten calendar days of service termination date.

(3) Form 06CB034E, Residential Pre-Service Checklist, is completed, and all requirements of OAC 340:100-5-22.1 are satisfied.

(e) Service requirements.

(1) Unless the service recipient demonstrates the ability under varying conditions to independently and appropriately respond to emergency situations, the provider agency assists in conducting fire drills at least quarterly and weather emergency drills two times annually. The dates, times, and outcomes of the drills are available in the home for review.

(2) The provider:

(A) ensures all requested financial information necessary for maintaining the service recipient's financial eligibility is provided to OKDHS in a timely manner;

(B) when serving as payee, ensures the service recipient maintains financial eligibility for benefits and services by notifying appropriate authorities of a change in the service recipient's income;

(C) when a change of payee is necessary, cooperates to ensure the change is made in a timely manner;

(D) establishes a written financial agreement with the service recipient or legal guardian that defines financial responsibilities of the agency and service recipient. The financial agreement:

- (i) accurately reflects the ongoing financial arrangement between the provider and service recipient;
- (ii) clearly defines who purchases personal items;
- (iii) is renewed annually and when changes occur; and
- (iv) is available to the service recipient, legal guardian, Office of Client Advocacy (OCA) advocate, and DDSD case manager;
- (E) as a member of the service recipient's Team, assists in determining safeguards necessary to protect the service recipient's assets;
- (F) allows service recipients to select stores for the purchase of food, clothing, and personal items;
- (G) implements the service recipient's Individual Plan (Plan);
- (H) provides necessary assistance, including staff support for each service recipient's active participation in community life;
- (I) assists the service recipient in maintaining an adequate supply of seasonal clothing that fits appropriately, personal grooming materials, and linens. All items are maintained in good condition;
- (J) promotes the service recipient's health and welfare, including providing meals that meet the service recipient's nutritional needs;
- (K) promotes visitation and contact with each service recipient's natural family, legal guardian, and friends, according to the service recipient's desires;
- (L) promotes friendships with neighbors, co-workers, and peers, according to the service recipient's desires;
- (M) when the service recipient, legal guardian, or provider wishes to discontinue services, cooperates in securing alternative services and continues to serve the service recipient until the Team confirms all essential services are in place;
- (N) while providing services, ensures staff is engaged at all times in purposeful activity that directly or indirectly benefits the service recipient;
- (O) ensures the service recipient attends scheduled medical and therapy

appointments.

(i) Transportation to the appointment is provided.

(ii) Adequate records, needed materials, and equipment accompany the service recipient to the appointment.

(iii) If the service recipient requires support in describing illness, issues, or concerns to the practitioner, knowledgeable staff accompanies the service recipient;

(P) ensures the service recipient's prescriptions are filled and administered as prescribed, per OAC 340:100-5-32;

(Q) ensures the Plan addresses in a positive manner any issues related to maintaining the home per OAC 340:100-5-22.1(c);

(R) ensures the service recipient has transportation to programs and services.

(i) Transportation is provided to and from:

(I) medical or therapy appointments;

(II) personal shopping;

(III) leisure or recreational activities;

(IV) vocational or employment activities;

(V) religious or cultural activities;

(VI) Team meetings;

(VII) appointments necessary to secure or maintain needed services; and

(VIII) voting.

(ii) All vehicles used to transport the service recipient meet local and state requirements for licensing, inspection, insurance, and capacity.

(iii) A vehicle used to transport a service recipient with physical disabilities is adapted to meet the service recipient's needs.

(iv) Drivers of vehicles have valid and appropriate driver licenses.

(S) ensures that the hot water temperature for the home is set to no more than 120 degrees Fahrenheit. The provider tests the hot water temperature of the home at least annually, after any servicing of the home's water system, and any time the water temperature is believed to have increased above 120 degrees Fahrenheit. The provider will maintain documentation of tests performed, and this documentation will at minimum include the date of the test and the temperature of the home's hot water. The documentation is maintained in the home and available for inspection. The provisions within this paragraph will henceforth be known as the Julie Teenor Anti-Scald Protocol; and

(T) ensures reasonable precautions are employed for safety with hot food, cooking oils, and other hot liquids.

(f) **Provider agency policies, practices, and procedures.** The provider agency develops and maintains written policies and procedures that are consistent with OKDHS rules and govern all aspects of service provision.

(1) Provider agency policies are made available to each service recipient, service recipient's parent(s), legal guardian, or advocate, provider agency staff, and OKDHS.

(2) Provider agency policies and procedures include, but are not limited to:

(A) service recipient rights protection;

(B) services provided;

(C) admission and discharge criteria;

(D) grievance procedures;

(E) prevention and reporting of abuse, neglect, and exploitation;

(F) confidentiality;

(G) emergency management;

(H) fees paid by service recipient;

(I) health and safety precautions; and

(J) safeguarding service recipient funds.

(3) The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency.

(4) The provider agency is responsible for recruitment, screening, training, and supervision of staff or volunteers providing direct services, ensuring direct support staff:

(A) is not supervised by a relative or person living in the staff's home. A relative includes wife, husband, children, parents, stepparents, parents-in-law, grandchildren, grandparents, brothers, sisters, stepchildren, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, aunts, uncles, nieces, nephews, first cousins or any such person with whom the employee shares a foster relationship;

(B) who provides back-up services is available and has received training per OAC 340:100-3-38;

(C) is at least 18 years of age;

(D) is present in sufficient numbers to ensure the service recipient's health, and welfare, as authorized by the service recipient's Plan of Care;

(E) is physically able and mentally alert to carry out the duties of the job;

(F) implements and follows the service recipient's Plan;

(G) does not take the service recipient to visit staff's home unless the Team has provided prior written approval; and

(H) must meet requirements of OAC 317:40-5-40 when overnight visits are going to occur.

(5) The provider agency ensures the Program Coordinator Staff (PCS) supervises, guides, and oversees all aspects of programming associated with receipt of community residential supports.

(A) The PCS must:

(i) get to know the service recipient and his or her needs;

(ii) make announced and unannounced visits to the service recipient's home. The PCS makes a minimum of three face-to-face visits per month, to monitor the needs of the service recipient and for supervision of staff. Agency administration staff who meet the requirements of (f)(5)(A)(xii) of this Section, may complete these visits in addition to program coordination staff. At least two of the three visits must be unannounced. Of the unannounced visits:

(I) at least one visit each month must occur on Saturday or Sunday; or

(II) between 8:00 p.m. and 7:00 a.m. on a weekday;

(iii) Monthly visits may be reduced to one unannounced face-to-face visit to the service recipient's home when the home has fully trained staff, no turn-over for the past year, does not require restrictive or intrusive procedures, and has had no medication errors during the previous year.

(iv) provide support and assistance to any service recipient who is experiencing an emotional, behavioral, or medical crisis;

(v) be accessible to direct service staff 24 hours per day and available to respond, in person if necessary, to an emergency;

(vi) supervise direct contact staff to promote achievement of outcomes in the Plan;

(vii) ensure staffing levels meet the requirements of the service recipient's Plan, with staff trained in accordance with OAC 340:100-3-38;

(viii) ensure records are maintained according to DDSD community records per OAC 340:100-3-40;

(ix) ensure basic household requirements are always in place, including:

(I) utilities and phone service;

(II) furniture;

(III) food supplies that meet the service recipient's nutritional needs;

(IV) linens;

(V) personal items;

(VI) adaptive equipment; and

(VII) prescription medications;

(x) assist the DDS case manager as requested to prepare for and implement the Plan and its revisions per OAC 340:100-5-50 through 340:100-5-58;

(xi) ensure applicable OKDHS and OHCA rules are followed;

(xii) complete necessary training per OAC 340:100-3-38; and

(xiii) have a minimum of four years of any combination of college level education or full-time equivalent experience in serving persons with disabilities, or full-time equivalent experience in a supervisory position, unless this requirement is waived in writing by the DDS director or designee.

(B) Provider agencies ensure that residential PCS caseloads do not exceed 20 with the following calculations:

(i) calculate one for persons receiving community residential supports and group home services; and

(ii) calculate one for every three persons receiving In-home Supports Waiver services, assisted living services, or any other non-residential service on the PCS caseload.

(C) Provider agencies providing community residential supports for less than one year ensure the caseload of each PCS numbers no more than 15 service recipients when the PCS serves service recipients receiving community residential supports.

(D) The DDS director may grant a written exception to the PCS ratios per OAC 340:100-5-22.1 upon written request and adequate justification from the provider.

(E) Provider agencies who fail to meet program coordination requirements per OAC 340:100-5-22.1(f) may be required to provide a reduced PCS ratio in accordance with sanctions per OAC 340:100-3-27.

(6) Staff, who assist a service recipient with bathing or showering, must ensure the water temperature is safe and comfortable for the service recipient. The

requirements of this paragraph are enforced even when an anti-scald device is used. The staff:

(A) tests the water temperature by touch or with a thermometer designed to test hot liquids, before the service recipient enters the water. The water must be determined safe and comfortable for the service recipient, not merely comfortable for the staff;

(B) is trained by his or her employer in the unique needs of each service recipient including tolerance to water temperature and bathing or showering needs; and

(C) does not leave a service recipient who is unable to attend to safety considerations alone in the bath or shower.

340:100-5-22.6. Alternative group homes

Revised 7-1-11

(a) **Legal basis.** Authority to operate alternative group homes is based on the Group Homes for Persons with Developmental or Physical Disabilities Act per Section 1430.1 through 1430.41 of Title 10 of the Oklahoma Statutes. Administrative and program requirements for alternative group homes are described in OAC 317:40-5-152 and OAC 340:100-5-22.6 and OAC 340:100-6.

(b) **General information.** Alternative group homes:

(1) serve up to four service recipients who have:

(A) serious behavioral or emotional challenges or community protection issues in addition to mental retardation and require continuous supervision and assistance to remain in the community; or

(B) been charged with a felony, determined by the district court as incompetent to stand trial due to mental retardation and dangerous, and placed by the district court in the custody of the public guardian; and

(2) provide more restrictive measures than other community residential settings to ensure the safety of the service recipient and others.

(c) **Provider approval criteria.** In addition to requirements of OAC 340:100-6-12, prospective providers of alternative group home services must demonstrate a history of effective services and supports to persons with serious behavioral or emotional challenges or community protection issues. Provider approval requires review of historical information, if available, from Developmental Disabilities Services Division (DDSD) Quality Assurance Unit and area office. The location of the alternative group home must be approved in writing by the DDSD director or designee prior to the implementation of services. Each prospective provider submits written documentation of:

(1) history of services to persons who present serious behavioral or emotional challenges or community protection issues, including:

(A) past experience;

(B) number of persons served;

(C) provider's perspective on the greatest challenges in serving persons eligible for alternative group home services; and

(D) provider's philosophy for service provision;

(2) financial viability through fiscal information when requested, including the anticipated budget related to the rate for alternative group home services;

(3) service provision plans, including:

(A) anticipated number of homes;

(B) location;

(C) floor plans;

(D) gender to be served;

(E) population to be served; and

(F) availability of psychological, psychiatric, and vocational services in the proposed location;

(4) plans for staffing and program coordination; and

(5) staff qualifications, including any additional training to be provided.

(d) **Eligibility to receive services.** To be eligible for services in an alternative group home, the person must:

(1) be in public guardian custody per Section 1175.6b or 1175.6b.A of Title 22 of the Oklahoma Statutes (22 O.S. § 1175.6b or 1175.6c); or

(2) meet the criteria for intermediate care facility for the mentally retarded (ICF/MR) level of care; and

(A) require 24-hour, on-site, awake staff supervision to ensure safety; and

(B) be found by the DDSD Community Services programs administrator or designee to have serious behavioral or emotional challenges or community protection issues, such as:

(i) evidence of commitment of a sexually violent offense, sexually predatory act, or crime of sexual violence including, but not limited to:

(I) rape;

(II) lewd or indecent acts or proposals made to a child, per Section 1123 of Title 21 of the Oklahoma Statutes (21 O.S. § 1123); or

(III) forcible sodomy, per Section 888 of Title 21 of the Oklahoma Statutes (21 O.S. § 888);

(ii) history of stalking or opportunistic behavior that demonstrates a likelihood to commit a sexually violent or predatory act;

(iii) documented pattern of acts of violence toward others;

(iv) experience ongoing, highly disruptive behavioral episodes that:

(I) are dangerous per Section 1175.1 of Title 22 of the Oklahoma Statutes (22 O.S. § 1175.1); and

(II) require close supervision and frequent intervention by staff;

(v) evidence of commitment of one or more violent offenses, such as:

(I) murder or manslaughter;

(II) attempted murder;

(III) arson;

(IV) assault;

(V) kidnapping; or

(VI) use of a weapon to commit a crime; or

(vi) severe ongoing self-injurious behavior.

(e) **Services provided.** Services provided are designed to assist service recipients in acquiring, retaining, and improving self-help, socialization, and adaptive skills necessary to reside successfully in a home and community-based setting.

(1) Services include supports to meet each service recipient's needs including, but not limited to:

(A) residential habilitation such as assistance with the acquisition, retention, or improvement of skills related to activities of daily living, such as:

(i) personal grooming and cleanliness;

(ii) bed making and household chores;

(iii) eating and food preparation; and

(iv) social and adaptive skills necessary to enable the service recipient to reside in a shared home;

(B) program supervision and oversight including 24-hour availability of response staff to meet schedules or unpredictable needs in a way that promotes maximum dignity and independence, while providing for supervision and safety. In addition to requirements in OAC 340:100-6-55, program coordination staff (PCS) must:

(i) serve no more than 12 service recipients;

(ii) ensure staffing levels meet the requirements of OAC 340:100-5-22.6(e)(1)(H); and

(iii) ensure records are maintained per OAC 340:100-3-40;

(C) implementation of community protection precautions and individual program plans per OAC 340:100-5-22.6(f);

(D) recreational and leisure activities, including individual and group activities;

(E) assistance in money management;

(F) health care services provided per OAC 340:100-5-26 and OAC 340:100-5-26.3;

(G) medication administration per OAC 340:100-5-32; and

(H) management of staffing levels that provides supervision to ensure the safety of the service recipient, community, staff, and other service recipients and implementation of each service recipient's Individual Plan (Plan).

(i) An average of 14 hours of staffing per service recipient must be provided per billable day prior to filing a claim for habilitation training staff authorized per OAC 317:40-5-152.

(I) At least two awake staff must be on duty during daytime and evening hours when service recipients are in the home.

(II) This requirement may be reduced to one awake staff, when there are only one or two service recipients in the home.

(ii) Sufficient daytime staffing must be provided to:

(I) ensure adequate supervision in the home and community; and

(II) implement the Plan, except during the time the service recipient is in an authorized employment, vocational, or day services program that provide the needed supervision, security, and support identified in the Plan. All staff are trained per OAC 340:100-3-38.

(iii) At least one awake staff must be on duty during hours when service recipients are asleep.

(I) The agency must have a provision to immediately provide additional staff in the home should the need arise.

(II) Staff on duty must be physically able and mentally alert to carry out the duties of the job.

(iv) The provider must:

(I) have staff available to provide necessary support and supervision when the service recipient needs to return from employment or other day services;

(II) provide activity options and supervision during all times when the service recipient is not participating in authorized employment activities; and

(III) ensure effective transition and coordination of supervision between alternative group home and employment programs or other authorized absences from the alternative group home program.

(2) In addition to the services in OAC 340:100-5-22.6(e)(1), services for wards of the public guardian are designed to ensure the service recipient is not dangerous to self or others.

(f) **Alternative group home program requirements.** In addition to compliance with applicable Oklahoma Department of Human Services (OKDHS) and Oklahoma Health Care Authority (OHCA) rules, the provider ensures:

(1) staff implements security precautions protecting the service recipient, neighbors, children, adults who are vulnerable, animals, and others;

(2) staff implements outcomes and action steps detailed in the Plan to assist service recipients to function safely in the community and avoid criminal activity;

(3) collaboration and coordination occur with DDSD staff, employment providers, therapists, and other entities and persons, such as law enforcement, corrections officers, schools, employers, mental health workers, and, when appropriate, the public guardian;

(4) written agency policies comply with OKDHS and OHCA rules;

(5) effective security and supervision of service recipients in the residence and community are provided;

(6) contingency plans are developed and implemented for:

(A) emergency relocation of a service recipient who has created a danger or who is in danger;

(B) emergency staffing in the event changes are required to protect staff or others;

(C) general emergencies requiring evacuation of the entire home, such as fire or weather emergencies, per OAC 340:100-6-45; and

(D) elopement;

(7) legal and court requirements are followed, including adherence to Oklahoma laws governing registered sexual offenders;

(8) the health care coordinator or other knowledgeable staff accompanies the service recipient to each medical or psychiatric appointment, taking current data

summaries that indicate the rate of occurrence of medication-responsive symptoms or behaviors over the last one to three months. For visits to the physician prescribing psychotropic medication, the summary covers symptoms or behaviors listed on Form 06HM067E, Semi-annual Psychotropic Medication Review;

(9) specific offense patterns are considered and addressed when determining appropriate program locations;

(10) cabinets are locked if they contain any knives or other sharp objects that may be used as weapons or any items specifically identified by the Team as dangerous;

(11) staff provides arm's-length supervision to each service recipient when outside the home unless another supervision pattern is specifically described in the Plan approved by designated DDSD State Office staff;

(12) door and window alarms are used;

(13) the yard is fenced with a locked gate, unless the requirement for a locked gate is waived in writing by the DDSD director or designee; and

(14) other necessary restrictive procedures as detailed in the Plan are implemented, that may include:

(A) restricted views from or into windows, doors, and other openings;

(B) restricted access to certain areas;

(C) for wards of the public guardian, restrictions deemed necessary to maintain the safety of the service recipient and public; and

(D) room and personal searches.

(g) Weapons. Dangerous or deadly weapons are not permitted in the alternative group home or on the premises. Providers are prohibited from assisting any service recipient to obtain or possess dangerous or deadly weapons including, but not limited to:

(1) guns, BB guns, air rifles, or other firearms;

(2) crossbows;

(3) paint guns;

- (4) arrows;
- (5) explosives;
- (6) stun guns; and
- (7) knives, except cooking and eating utensils.

(h) Substances and items prohibited in alternative group homes are:

- (1) illegal substances;
- (2) alcohol; and
- (3) cell phones, except for staff who have written authorization from the program coordinator.

(i) SoonerCare eligibility. The service recipient and guardian, with necessary support from the provider, establish and maintain SoonerCare eligibility, if possible.

(j) Natural supports. Persons who agree to provide natural supports to a service recipient living in an alternative group home must:

- (1) work with the Team to develop a schedule, support strategies, and agreement for support. Each Plan contains a description of any natural support to be provided that ensures the safety and welfare of the service recipient and community. No arrangement can be made for natural supports that violate existing court orders, security arrangements, or the Plan;
- (2) keep commitments made regarding supports; and
- (3) document or report to the program coordinator or DDSD case manager regarding supports provided.

(k) Refusal to participate. If a service recipient or guardian refuses to participate in service delivery as described in the Plan:

- (1) the provider:
 - (A) continues to implement the Plan as written; and
 - (B) immediately notifies the DDSD case manager of the need for a Team

meeting;

(2) the DDSD case manager takes immediate action to convene the Team to address the situation; and

(3) steps in OAC 340:100-3-11 are followed.

(l) **Record keeping.** In addition to requirements of OAC 340:100-3-40, records of service recipients must include:

(1) documentation of the registration of the service recipient with appropriate law enforcement authorities, if required, and documentation of subsequent notification to DDSD of registration;

(2) documentation of all agreements or plans with other agencies or persons who support the service recipient, including guardian and family members, that specifies requirements for supervision of the service recipient when staff is not present;

(3) documentation of any refusal by the service recipient to follow conditions of the Plan, Protective Intervention Plan, or treatment recommendations of treatment professionals; and

(4) Form 06CB055E, Monthly Summary of Restrictive/Intrusive Procedure Usage, per OAC 340:100-5-57.1.

(m) **Training.** Staff or volunteers and their supervisors providing direct supports for service recipients in an alternative group home are required to complete the necessary training requirements per OAC 340:100-3-38.13.

(n) **Transportation.** Providers of alternative group home services must ensure transportation is:

(1) available as needed for medical emergencies, appointments, day programs, and community activities per OAC 317:40-5-103; and

(2) supervised per OAC 340:100-5-22.6 in accordance with each service recipient's needs.

(o) **Transition.** Teams plan for transition of service recipients to appropriate services when it is determined the alternative group home program is no longer necessary.

(1) Within three months of the service recipient's admission to an alternative group

home, the Team develops reasonable criteria for the service recipient's move to a less restrictive environment that are:

(A) included in a written plan submitted to designated DDSD State Office staff; and

(B) reviewed at least annually by the Team.

(2) All transitions from alternative group homes must be approved by designated DDSD State Office staff. State Office Residential Unit staff may adjust the transition date if necessary. ■ 1

(p) **DDSD-initiated transition.** DDSD Community Services programs administrator or designee may initiate the transition process for a person receiving alternative group home services who can be effectively served in another residential environment.

INSTRUCTIONS TO STAFF 340:100-5-22.6

Revised 6-1-10

1. (a) The Developmental Disabilities Services Division (DDSD) case manager:

(1) reviews any existing legal documents and court minutes to determine if the transition would require modification of an existing court order;

(2) immediately notifies DDSD State Office Residential Unit of any transition plans being considered by the Team and when a transition must occur for any reason. A six-week advance notice of planned transition date is provided to Residential Unit staff;

(3) reports any alternative group home vacancy immediately to Residential Unit staff; and

(b) DDSD State Office Residential Unit staff:

(1) reviews any existing court limitations or placement issues; and

(2) notifies the DDSD case manager of approval or denial of the transition.

(c) DDSD Area staff completes tasks necessary for approved transition.

340:100-5-26.1. Psychotropic medication

Revised 7-1-11

(a) OAC 340:100-5-26.1 applies to service recipients receiving:

- (1) community residential supports, per OAC 340:100-5-22.1;
- (2) group home services, per OAC 340:100-6; or
- (3) behavioral supports, per OAC 340:100-5-57.

(b) A psychotropic medication is a drug used to treat a mental disorder, or any drug prescribed to stabilize or improve mood, mental status, or behavior.

(c) Medication is not used as punishment, for the convenience of staff, as a substitute for a program, or in quantities that interfere with a service recipient's participation in programming.

(d) The service recipient's Personal Support Team (Team) obtains from the prescribing physician a description of data to be collected to evaluate the effectiveness of the psychotropic medication.

(1) The Team:

(A) identifies a method for collecting necessary data; and

(B) specifies a routine method for reporting this data to the prescribing physician.

(2) If the psychotropic medication is changed, the Team obtains from the prescribing physician new instructions for additional or different data needed to evaluate the effectiveness of the new medication.

(e) Developmental Disabilities Services Division (DDSD) defines the use of p.r.n. medication for behavioral control to be a highly restrictive procedure per OAC 340:100-3-34. In cases where a medication is ordered to be administered p.r.n. for behavioral control, the service recipient's Team ensures there is a written protocol for the administration of the p.r.n. medication from the prescribing physician as part of the protective intervention planning per OAC 340:100-5-57, and contract provider agency staff will follow critical incident reporting requirements per OAC 340:100-3-34.

(f) Psychotropic medication is monitored in accordance with OAC 340:100-5-26.

(g) Monitoring for side effects such as tardive dyskinesia is in accordance with OAC 340:100-5-29.

(h) The Team implements positive support strategies according to OAC 340:100-5-57.

(i) The Team reviews the use of psychotropic medication annually via Form 06HM067E, Annual Psychotropic Medication Review

(j) When psychotropic medication is used to treat the symptoms of a psychiatric diagnosis and the medication is determined ineffective in eliminating or substantially reducing symptoms, the Team provides pertinent information about the service recipient's status to the prescribing physician.

(k) If psychotropic medication is ordered p.r.n., the Team meets with appropriate service providers to review considerations per OAC 340:100-5-26.1(i) as soon as possible, but within five working days.

(l) Psychotropic medication is considered to be in use only for behavioral control if prescribed without a confirmed psychiatric diagnosis appropriate for the medication.

(1) When the service recipient and service recipient's Team determine the medication is effective in eliminating or substantially reducing targeted behaviors, the Team submits documentation to the appropriate committees for review as described in (A) through (C).

(A) A protective intervention plan is required per OAC 340:100-5-57.

(B) The Team must submit the plan to the Human Rights Committee (HRC) and Statewide Behavior Review Committee (SBRC) annually.

(C) The Team documents the service recipient's targeted behavior in conjunction with physician-guided efforts to reach the optimal effective dosage.

(2) When the service recipient and service recipient's Team determine the medication is ineffective in eliminating or substantially reducing targeted behaviors, documentation and review are required as described in (A) through (D).

(A) The Team meets and reviews available documentation at least quarterly while the medication is in place and continues to be ineffective.

(B) The Team provides pertinent information about the service recipient's status to the prescribing physician.

(C) Documentation of the information provided and physician's response is submitted to the positive support field specialist for review by SBRC.

(D) The Team must annually submit a protective intervention plan that includes a physician-approved psychotropic medication reduction or adjustment plan to HRC for review and SBRC for approval.

340:100-5-32. Medication administration

Revised 7-1-11

(a) **Purpose.** OAC 340:100-5-32 sets forth requirements that enable service recipients to receive medication in the safest possible manner.

(b) **Applicability.** OAC 340:100-5-32 applies to Developmental Disabilities Services Division (DDSD) staff and service providers who are contracted, licensed, or funded through a Home and Community-Based Services Waiver or DDSD state funds and their employees who administer medication or assist with a medication support plan for a service recipient receiving community services, including employment service providers.

(c) **General requirements.** Administration of medication is managed in accordance with applicable Oklahoma Department of Human Services (OKDHS) rules and federal and state laws.

(1) Every service recipient is free from unnecessary use of medication.

(2) No medication is used for the convenience of staff or as a substitute for positive supports or program.

(3) Use of psychotropic medications and associated medication reviews must follow requirements per OAC 340:100-5-26.1.

(4) Form 06MP046E, Incident Report, and follow-up must be completed when a medication event occurs, per OAC 340:100-3-34. The service recipient's Personal Support Team (Team) reviews all medication incident reports and revises the service recipient's medication support plan when needed.

(d) **Individual medication support plan.** Each service recipient's Team may develop an individual medication support plan to identify participation by the service recipient in his or her medication administration and specify supports needed by the service recipient for administering, storing, and monitoring medication.

(1) The Team completes an assessment that identifies the service recipient's demonstrated ability to:

(A) understand and follow medication label directions;

(B) properly identify the medication;

- (C) remember to take the medication at the correct time;
- (D) take the correct dosage;
- (E) administer his or her medication without supervision; and
- (F) demonstrate ability to address problems, including asking staff for help.

(2) The Team may develop a medication support plan if the service recipient desires training in administering his or her medication, individualization of the medication support program, or both.

(A) The service recipient's medication support plan ensures the service recipient's involvement, together with the designed supports implemented by staff, result in a safe program of medication administration.

(B) The Team revises the medication support plan to provide safety and meet the service recipient's medication support needs if a medication change or monitoring by the DDS case manager, program coordinator, nurse or quality assurance staff, or other person reveals a concern with the service recipient's medication supports.

(C) The provider is responsible to ensure:

(i) the medication support plan clearly specifies staff responsibilities in the administration of medication; and

(ii) staff implements the medication support plan as developed by the Team.

(D) The service recipient's medication support plan may address either or both of:

(i) the service recipient's administration of his or her medication. If the service recipient is not independent per OAC 340:100-5-32(d)(1), and he or she desires to achieve greater independence in medication administration, the medication support plan documents:

(I) service recipient's ability to administer medication;

(II) staff assistance that must be provided;

(III) any adaptations or reminder systems used;

(IV) documentation requirements to ensure accountability;

(V) monitoring requirements, including compliance with requirements of the medication review process per OAC 340:100-5-26; and

(VI) staff responsible for implementation and monitoring of the medication training program; or

(ii) modifications to the medication administration responsibilities of staff, per OAC 340:100-5-32(e).

(E) Each medication support plan must address medication safety issues affecting each household member.

(e) **Medication administration.** Items (1) through (9) must be implemented unless the service recipient's medication support plan identifies a specific alternative. The service recipient's medication support plan may modify only those rules that state the plan may address an exception.

(1) **Prescription medication.** Prescription medication, per OAC 340:100-1-2, is administered or used only with a written order by a licensed physician, dentist, advanced practice nurse, physician assistant, or optometrist.

(A) Prescription medication must only be administered to or used by the service recipient for whom the medication is ordered.

(B) All prescription medication is clearly labeled with:

(i) first and last name of the service recipient for whom the medication is prescribed;

(ii) prescribing physician's name;

(iii) prescription number;

(iv) name of medication;

(v) strength of medication;

(vi) dosage;

(vii) directions for use;

- (viii) date of issue;
 - (ix) quantity; and
 - (x) name, address, and phone number of pharmacy or physician who dispensed the medication.
- (C) All labels on containers must be legible and firmly affixed by the pharmacy or ordering physician.
- (D) No one is permitted to alter the label on a prescription container.
- (i) If a medication dosage change is made by the physician:
 - (I) the container must be flagged or prominently identified; and
 - (II) a label change must be made by the dispensing pharmacy or doctor within three business days of receiving the prescription change. If the service recipient uses a system of medication supply that precludes meeting the three-day requirement, that requirement may be modified in the service recipient's medication support plan.
 - (ii) The container may be marked or otherwise adapted to support a service recipient's independence as described in the medication support plan.
- (E) Sample medications must be:
- (i) accompanied by a physician's written order including the length of time the medication is to be taken;
 - (ii) labeled with the service recipient's name; and
 - (iii) used for no longer than 30 days, unless reviewed prior to the end of the 30 days by the DDSD nurse and case manager, per OAC 340:100-5-26.
- (F) Prior to the initial administration, if the medication name on the doctor's order and the generic or trade name of the medication on the label are different, staff responsible for medication administration documents on the medication administration record the reason for the difference and source of the information.
- (G) At an employment site, the labeled pharmacy container is considered the written order for a prescription medication.

(2) **Medication count.** Each prescription medication must be documented upon receipt from the pharmacy, and an inventory record maintained.

(A) All new or refilled prescription medication must be:

(i) counted upon receipt, following infection control procedures, unless the service recipient's medication support plan defines another method of inventorying new medication; and

(ii) documented in the service recipient's medication record noting the reason for which the medication is prescribed.

(B) Each prescription medication is counted, following infection control procedures, and documented at least weekly. The service recipient's medication support plan may provide for counting at least monthly. Specialized foster care (SFC) and agency companion services (ACS) providers count and document prescription medications at least monthly.

(C) Any staff responsible for administering, storing, monitoring or documenting controlled medications, listed in Schedule II of the current Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD) schedule, is required to count and document controlled medications each time the responsibility for medication administration is transferred to another person, but at least monthly.

(D) Any discrepancy in the medication count must be reported immediately to the program coordinator, and then followed up with an incident report per OAC 340:100-3-34. A SFC provider reports the discrepancy to the DDSD case manager and completes Form 06MP046E.

(3) **Non-prescription medication.** Approval for a service recipient to use or be administered a non-prescription medication, per OAC 340:100-1-2, is received in writing at least annually from the service recipient's primary care physician.

(A) Items used for personal care or hygiene are not considered medications.

(B) The service recipient's medication record must document:

(i) condition for which the non-prescription medication is used;

(ii) dosage;

(iii) frequency with which the non-prescription medication may be

administered; and

(iv) any specific instructions related to the medication.

(C) Each non-prescription medication must have the service recipient's name clearly marked on the container when more than one service recipient lives in the home or works at the employment site.

(D) Administration of a non-prescription medication does not differ from the recommended dosage as noted by package directions, unless ordered in writing by a licensed physician, dentist, advanced practice nurse, physician assistant, or optometrist.

(4) Medication storage.

(A) All medications must be:

(i) secured under proper conditions of temperature and light; and

(ii) kept in a locked medication area, unless the service recipient's medication support plan specifies other storage arrangements.

(B) Each provider agency is responsible for developing and enforcing written policies that ensure medication security in the absence of a service recipient medication support plan.

(C) Schedule II medications, per current OBNDD schedule, must be secured separate from other medications.

(D) Medication requiring refrigeration must be:

(i) secured, unless this requirement is modified in the service recipient's medication support plan;

(ii) kept in the temperature range according to label directions; and

(iii) separated from food and other non-drug items.

(E) Hazardous or dangerous materials must not be kept in the secured medication area.

(F) Each service recipient's medication must be stored separately from the

medication of other persons.

(G) Externally applied medications must be stored separately from medications taken internally.

(5) **Medication administration.** Only staff who complete an approved training program in medication administration per OAC 340:100-3-38 are permitted to administer medications.

(A) Staff responsible for medication administration must personally:

(i) read the medication label;

(ii) prepare the dosage;

(iii) give the medication as ordered;

(iv) observe the person using the medication as ordered; and

(v) document the medication administration immediately, but no longer than 30 minutes after administration.

(B) The person responsible for medication administration must know the purpose for each medication administered.

(C) All medications must be administered according to label directions unless flagged, prominently identified, for change in accordance with OAC 340:100-5-32(e)(1)(D). A medication with a flagged container is administered according to the change made on the medication sheet in accordance with the physician's orders.

(D) No contract provider or DDSD staff is permitted to transfer medications from the original container to any other container. The service recipient's medication support plan cannot modify this requirement.

(E) The ultimate user may transfer medication from one container to another container that clearly identifies the medication, in accordance with criteria established in the service recipient's medication support plan. The ultimate user is:

(i) the service recipient for whom the medication is prescribed, if assessed by the Team as able to carry out each step in OAC 340:100-5-32(d)(1);

(ii) an adult member of the service recipient's family, as identified in the medication support plan;

(iii) the service recipient's SFC provider; or

(iv) the service recipient's ACS provider.

(F) No one, other than the ultimate user who transferred the medication to the new container, is allowed to administer medications transferred from the original container. The service recipient's medication support plan cannot modify this requirement.

(G) Each medication must be administered at the specified time.

(i) When circumstances prevent administration at the specified time, the medication must be administered no more than one hour before or after the specified administration time.

(ii) Any time medication is administered more than one hour before or after the scheduled administration time, Form 06MP046E is completed according to OAC 340:100-3-34.

(iii) Orders requiring medication administration two, three, or four times a day, unless specific times are ordered by the physician, must be evenly spaced through the day and are required to accommodate the service recipient's schedule.

(H) The person administering medication must be able to access information to identify common side effects of the medication administered.

(I) If there is an adverse reaction, a significant change in behavior, or any other significant indication of a problem that may be related to medication currently administered to or by a service recipient, immediate action and notification is required according to written provider agency protocols.

(6) **p.r.n. medication.** Medication prescribed on a p.r.n. basis must have a physician's order identifying the medication, amount, route, time requirements, and under what circumstances the medication is administered.

(A) The decision to actually administer a p.r.n. medication, except per OAC 340:100-5-32(e)(6)(C), must be made by the service recipient's health care coordinator unless another person is designated by the Team in the medication

support plan.

(B) The results or the service recipient's responses to p.r.n. medications must be documented for the physician to determine whether continuation of the medication is required.

(C) DDSD defines the use of p.r.n. medication for behavioral control to be a highly restrictive procedure per OAC 340:100-3-34. In cases where a medication is ordered to be administered p.r.n. for behavioral control, the service recipient's Team ensures there is a written protocol for the administration of the p.r.n. medication from the prescribing physician as part of the protective intervention planning per OAC 340:100-5-57, and contract provider agency staff will follow critical incident reporting requirements per OAC 340:100-3-34.

(D) Service recipients receiving Hospice services are exempt from the requirements for p.r.n. medications per OAC 340:100-5-32.

(7) Medication documentation. An accurate written record of the administration of the service recipient's medication or implementation of the service recipient's medication support plan must be maintained.

(A) Unless the service recipient is independent in medication administration per OAC 340:100-5-32(d)(2)(D)(i), the service recipient's medication administration record must specify:

(i) service recipient's first and last name;

(ii) name and strength of the medication as written on the label;

(iii) dosage and frequency to be administered;

(iv) date and time medication is administered, including a.m. or p.m. for each entry;

(v) service recipient's medication allergies and other known allergies;

(vi) results or the service recipient's response to p.r.n. medications and other treatment;

(vii) name of person administering the medication or implementing the medication support plan, or initials supported by signature;

(viii) route of administration, if specified on the label;

(ix) any special orders about the timing of the medication administration, if specified on the label; and

(x) reason for the medication's use, if specified on the label.

(B) If the service recipient is independent in medication administration per OAC 340:100-5-32(d)(2)(B)(i), the medication support plan documents monitoring and documentation needs.

(8) Medication away from home. When a service recipient goes on an outing, vacation, home with family, or otherwise leaves the location where he or she typically takes medication, accountability for the medication is maintained.

(A) When medication is taken from the location:

(i) the documented medication count confirms the amount of medication taken and returned, with signatures of the responsible party receiving the medication and staff responsible for medication administration who releases the medication;

(ii) any discrepancy in the count is documented on Form 06MP046E, and any necessary action is taken; and

(iii) medication is sent from the home and returned to the home only in the original container.

(B) The ultimate user, per OAC 340:100-5-32(e)(5)(E), may remove medication from the location in the original container or another container that fully identifies the medication, if the ultimate user also administers the medication.

(C) Although the medication administration record is not removed, medication administration or implementation of the medication support plan is documented while away from the home.

(9) Discontinued medication, expired medication, and medication destruction.

(A) Discontinued medication:

(i) may be kept up to 90 days, unless the time period is adjusted in the service recipient's medication support plan; and

- (ii) must be secured separately from current medications.
- (B) Expired or discontinued medications are safely disposed of in compliance with provider agency policy, Environmental Protection Agency recommendations, local, state, and applicable federal requirements.
- (C) Scheduled medication are disposed of in compliance with OBNDD and Oklahoma State Bureau of Investigation requirements.
- (D) When a service recipient dies, unused medication is kept for at least 30 days or longer if part of an ongoing investigation.
- (E) The provider agency develops and enforces written policy regarding the disposal of any medication without an expiration date.

340:100-5-34 Services for persons with Prader-Willi Syndrome**Issued 7-1-11**

(a) Legal Base. Section 1020 of Title 56 of the Oklahoma Statutes authorizes the Oklahoma Department of Human Services (OKDHS) to provide community services for persons with Prader-Willi Syndrome.

(b) Applicability. The rules in this section apply to services provided through OKDHS, Developmental Disabilities Services Division (DDSD) to persons with Prader-Willi Syndrome through funds appropriated by the Oklahoma Legislature.

(c) General information. Services for people with Prader-Willi Syndrome are intended to meet the specialized needs of persons with Prader-Willi Syndrome. OKDHS provides a monthly payment to the contracted residential provider to:

(1) ensure each service recipient participates in regular recreation, leisure, and exercise activities at home and in the community;

(2) provide program coordination staff who serve no more than eight service recipients in a 40-mile radius. The program coordinator must visit each home at least four times per month when the service recipient is present, and one of the visits must occur during night-time hours;

(3) assess the service recipient's progress and challenges related to activities of daily living and safety and provide a written summary to the case manager 30 days prior to the annual Individual Plan (Plan) meeting;

(4) ensure program coordination staff attend a Prader-Willi Syndrome conference annually and provide the direct service staff at least one hour per month of Prader-Willi Syndrome related training;

(5) ensure service recipients are provided with specialized diets as specified in their Plan;

(6) ensure service recipient's exercise program is implemented and provide access to exercise equipment and classes as identified in their Plan;

(7) work with the service recipients and their teams to develop a plan for the replacement of property damaged by a service recipient at no cost to OKDHS;

(8) assist service recipients in conducting safety and evacuation drills per OAC

340:100-5-22.1; and

(9) ensure that service recipient's home is safe and secured as defined in their Plan.

(d) Eligibility. To be eligible for Prader-Willi Syndrome services, each person must:

(1) provide documentation from a licensed physician that confirms the diagnosis of Prader-Willi Syndrome as evidenced by the DNA Methylation Analysis;

(2) be receiving Home and Community Based Waiver Services (HCBS) or be on the Request for Waiver Services List per OAC 317:40-1-1 and determined eligible for HCBS unless admitted to the program prior to July 1, 1997; and

(3) be 18 years of age.

(e) Waiting list. When resources are unavailable to offer services through the Prader-Willi Syndrome program applicant names are maintained on a statewide waiting list.

(1) The waiting list is maintained by the residential programs supervisor for DDSD, or designee.

(2) The waiting list is maintained in chronological order based on the date of receipt of a written request for Prader-Willi Syndrome services.

(3) The waiting list is administered by DDSD uniformly throughout the state.

(4) An applicant is removed from the waiting list when:

(A) determined ineligible for services; or

(B) the applicant cannot be located by OKDHS.

(5) When an applicant is offered Prader-Willi Syndrome services but declines or is not eligible due to age, the applicant maintains their position on the waiting list.

(f) Scope. Reimbursement for Prader-Willi Syndrome Services is provided at a rate approved by the Oklahoma Commission for Human Services within the program capacity determined by legislative appropriation.

(g) Service expectations. The provider agency ensures that:

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

(A) OAC 340:100-3-24, Quality assurance;

(B) OAC 340:100-3-38, Staff training;

(C) OAC 340:100-3-40, Community records system;

(D) OAC 340:100-5-22.1, Community residential supports;

(E) OAC 340:100-5-26, Health services;

(F) OAC 340:100-5-32, Medication administration;

(G) OAC 340:100-5-34, Incident reporting; and

(H) OAC 340:100-5-50 through 100-5-58, Individual planning;

(2) each service recipient is weighed at least weekly;

(3) all food and money are safeguarded to ensure a proper diet and maintenance of health;

(4) transportation to and from vocational activities, community outings, and medical appointments is provided in accordance with the Plan and Plan of Care;

(5) staff implement periodic room, clothing, and baggage searches as necessary to ensure that food and money are not present as outlined in their Plan; and

(6) the staffing ratio is appropriate to ensure service recipient's safety as defined in the Plan. Staff are trained and competent to meet the needs of service recipients with Prader- Willi Syndrome.

(h) **Room and board.** Each service recipient is responsible for room and board per OAC 340:100-3-4.

(1) When the home is owned or leased by the service recipient or their family or guardian, the agency develops a financial agreement for payment of household expenses by the service recipient per OAC 340:100-5-22.1.

(2) When the home is owned or leased by the provider agency, the agency may

charge a room and board payment of all but \$100 per month of the service recipient's income up to a maximum of 90% of the current Social Security Supplemental income rate. In these circumstances the agency must comply with OAC 340:100-6.

340:100-5-35 Non-Residential Habilitation Training Specialist (HTS) services**Issued 7-1-11**

(a) Applicability. Habilitation Training Specialist (HTS) services per OAC 317:30-5-482 and authorized per OAC 317:40-5-110 or 111 and OAC 340:100-3-33. This policy applies to nonresidential HTS services provided to service recipients not receiving community residential or group home services per OAC 340:100-5-22.1 or OAC 340:100-6.

(b) General information.

(1) Non-residential HTS services are authorized:

(A) as a result of needs identified by the team and informed selection by the service recipient;

(B) only during periods when staff are engaged in purposeful activity which directly or indirectly benefits the service recipient;

(C) when directed toward the development or maintenance of a skill in order to achieve a specifically stated outcome; and

(D) when the service provided is not a function that the parent would provide for the individual without charge as a matter of course in the relationship among members of the nuclear family when the member resides in a family home.

(2) Non-residential HTS services are not authorized when a service recipient is in need of:

(A) sleep time supervision; or

(B) assistance responding to emergencies, in which cases they must select a residential alternative per OAC 317:40-1-2, unless unpaid natural supports are available to meet these needs and identified in the Individual Plan.

(3) Non-residential HTS services are not authorized for:

(A) services provided in the home of the HTS unless the service recipient and the HTS reside in the same home;

(B) employment supports which are provided per OAC 317:40-7;

(C) respite services provided per OAC 317:30-5-517;

(D) homemaker services provided per OAC 317:30-5-537;

(E) adult day services provided per OAC 317:40-5-113; or

(F) child care services.

(4) In accordance with OAC 340:100-3-33.1, services must be provided in the most cost effective manner. When the need for HTS services is expected to continue to exceed an average of nine hours daily, cost effective community residential services must be considered and requested per OAC 317:40-1-2. For adults, continuation of non-residential services in excess of nine hours per day for more than one plan of care year will not be authorized except:

(A) when needed for members who receive services through the Homeward Bound Waiver;

(B) when determined by the division administrator or designee to be the most cost effective option; or

(C) as a transition period of 120 days or less to allow for identification of and transition to a cost effective residential option. Members who do not wish to receive residential services will be assisted to identify options that meet their needs within an average of nine hours daily.

(5) Non-residential HTS providers may not perform any job duties associated with other employment, including on call duties, at the same time they are providing HTS services.

(6) Non-residential HTS services are limited to no more than 40 hours per week when the HTS resides in the same home as the service recipient. If additional hours of service are needed, they must be provided by someone living outside the home.

(7) When the service recipient also receives Homemaker services or is out of the home for school, work, adult day services or other non-HTS supported activities, the total number of hours of non-residential HTS, Homemaker and hours away from the home cannot exceed 12 hours per day unless an exception is granted per OAC 317:40-5-110.

(c) Service location.

(1) Non-residential HTS services are provided in:

(A) the service recipient's home; or

(B) the community.

(2) Non-residential HTS services are not provided in:

(A) a school;

(B) a hospital;

(C) a nursing facility;

(D) an ICF/MR;

(E) an unlicensed facility-based program;

(F) a private home except the service recipient's home or the home of a relative unless the home has been approved per OAC 317:40-5-40; or

(G) the service recipient's employment setting or any other employment setting.

(d) **Backup plan.** Prior to service delivery, an emergency backup plan must be developed and specify how the service recipient's needs will be met if paid staff are unavailable. The emergency backup plan is included in the Individual Plan (Plan).

(e) **Service requirements.**

(1) The provider:

(A) implements the service recipient's Plan;

(B) promotes community inclusion;

(C) promotes the service recipient's health and welfare, increased independence, and self-sufficiency; and

(D) cooperates in securing alternative services while continuing to provide services when the service recipient, legal guardian, or provider wishes to discontinue services until the Team confirms all essential services are in place.

(2) The provider develops and maintains written policies and procedures that are consistent with OKDHS rules and govern all aspects of service provision, with the exception of services provided per OAC 317:40-9-1.

(A) Provider agency policies are made available to each service recipient, service recipient's parent(s), legal guardian, advocate, provider agency staff, and OKDHS.

(B) Provider agency policies and procedures include, but are not limited to:

(i) service recipient rights protection;

(ii) services provided;

(iii) admission and discharge criteria;

(iv) grievance procedures;

(v) prevention and reporting of abuse, neglect, and exploitation;

(vi) confidentiality;

(vii) emergency management;

(viii) fees paid by service recipient;

(ix) health and safety precautions;

(x) safeguarding service recipient funds;

(xi) medication administration; and

(xii) incident reporting.

(3) The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency, with the exception of services provided per OAC 317:40-9-1.

(4) The provider agency is responsible for recruitment, screening, training, and supervision of staff or volunteers providing direct services, ensuring direct support staff:

(A) are not supervised by a relative or person living in the staff's home. A relative includes wife, husband, children, parents, stepparents, parents-in-law, grandchildren, grandparents, brothers, sisters, stepchildren, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, aunts, uncles, nieces, nephews, first cousins or any such person with whom the employee shares a foster relationship;

(B) who provide backup services are available and have received training per OAC 340:100-3-38;

(C) are at least 18 years of age;

(D) are present as specified in the Plan and as authorized by the service recipient's Plan of Care;

(E) are physically able and mentally alert to carry out the duties of the job;

(F) implement and follow the service recipient's Plan; and

(G) do not take the service recipient to visit staff's home unless the Team has provided written approval in advance of any visit with the purpose specified in the Plan.

(5) The provider agency ensures supervision, guidance, and oversight of all aspects of programming associated with receipt of non-residential HTS supports.

(A) The Program Coordination Staff (PCS) must:

(i) ensure staff are familiar with the requirements of the Plan;

(ii) make supervisory visits to the service site. The PCS makes a minimum of one monitoring visit per month, based on the need for supervision of staff and oversight of the program;

(iii) supervise direct contact staff to promote achievement of outcomes in the Plan;

(iv) ensure staffing levels meet the requirements of the service recipient's Plan, with staff trained per OAC 340:100-3-38;

(v) ensure records are maintained according to DDSD community records per OAC 340:100-3-40;

(vi) assist the DDSD case manager as requested to prepare for and implement the Plan and its revisions per OAC 340:100-5-50 through 340:100-5-58;

(vii) ensure applicable OKDHS and OHCA rules are followed;

(viii) complete necessary training per OAC 340:100-3-38; and

(ix) have a minimum of four years of any combination of college level education or full-time equivalent experience in serving persons with disabilities, or full-time equivalent experience in a supervisory position, unless this requirement is waived in writing by the DDSD director or designee.

(B) Provider agencies assign PCS caseloads per OAC 340:100-5-22.1.

(6) Staff, when assisting a service recipient with bathing or showering, must ensure the water temperature is safe and comfortable for the service recipient. The requirements of this paragraph are enforced even when an anti-scald device is used. The staff:

(A) tests the water temperature by touch or with a thermometer designed to test hot liquids, before the service recipient enters the water. The water must be determined safe and comfortable for the service recipient, not merely comfortable for the staff.

(B) is trained by his or her employer in the unique needs of each service recipient including tolerance to water temperature and bathing or showering needs; and

(C) does not leave a service recipient who is unable to attend to safety considerations alone in the bath or shower.

340:100-5-52. The Personal Support Team (Team)Revised 7-1-11

(a) The Personal Support Team (Team) is composed of people selected by the service recipient who know and work with the service recipient or whose participation is necessary to achieve the outcomes desired by the service recipient.

(1) To respect the dignity and privacy of the service recipient, the Team is no larger than is necessary to plan for and implement the services needed to achieve the service recipient's desired outcomes. The Team is large enough to possess the expertise and capacity necessary to address the service recipient's needs, but not so large as to intimidate the service recipient or to stifle participation on the part of the service recipient or his or her representatives.

(2) At its core, the Team includes the service recipient, his or her case manager, the legal guardian, and advocate(s), if there is one, who may be a parent, a family member, a friend, or another individual who knows the service recipient well. The service recipient is assured the opportunity to select an individual to serve as an advocate.

(3) Depending on the needs of the service recipient and the issues to be addressed, the Team may include others. The selection of these additional Team members reflects the choices of the service recipient.

(b) The role of the Team is explained in this subsection.

(1) Team members implement responsibilities identified in the Individual Plan (Plan) or in the Oklahoma Department of Human Services (OKDHS) or Oklahoma Health Care Authority (OHCA) rules. Implementation of the Plan may only be delegated to persons who are appropriately qualified and trained.

(2) The Team reviews and approves strategies, plans, and guidelines developed to implement services or supports.

(3) The Team implements the Plan upon approval of the Plan of Care.

(4) A copy of the Plan is maintained per OAC 340:100-3-40. All staff implementing the Plan must be knowledgeable about its contents and have access to a copy of the Plan.

(5) Each Team member responsible for services identified in the Plan sends a

quarterly summary of progress on assigned outcomes and action steps to the case manager.

(A) The quarterly summary of progress is due by the tenth of:

(i) April for services rendered in January, February, and March;

(ii) July for services rendered in April, May, and June;

(iii) October for services rendered in July, August, and September; and

(iv) January for services rendered in October, November, and December, unless an alternative schedule is specified in the Plan.

(B) The quarterly summary of progress includes:

(i) whether services were provided as specified in the Plan, and if not why; and

(ii) if the outcomes have been achieved; or

(iii) the status of progress on the outcome if not achieved.

(c) The role of the case manager is detailed in this subsection.

(1) Prior to the initial and each annual Team meeting, the case manager meets with the service recipient and the service recipient's advocate or legal guardian, if there is one, to review the individual situation, including the service recipient's desired vision and progress in attaining the vision. Among the questions explored are whether the service recipient is satisfied with the results of the Plan and whether outcomes need to be revised based on the progress achieved or on changing circumstances in the service recipient's life. This review provides a clear agenda for the Team meeting and assures the service recipient's input and participation.

(2) The case manager identifies available service providers for selection by the service recipient or legal guardian.

(3) The case manager ensures that the size and composition of the Team support the person-centered planning process.

(A) The case manager plans for the participation of people whom the service recipient desires to have on the Team, people whose services are needed to

achieve identified outcomes, and people who know the service recipient best. The case manager sends written notice of the annual meeting to all Team members at least two weeks in advance. ■ 1

(B) Planning may occur in Team meetings or through individual or small group consultation according to the desires and needs of the service recipient.

(C) The case manager notifies a Team member by letter that his or her services on the Team are no longer required:

(i) at the request of the service recipient or the legal guardian; or

(ii) if the performance of the Team member reveals a course of action that:

(I) is not in the best interest of the service recipient;

(II) is destructive toward the collaborative process of the Team; or

(III) violates OKDHS or OHCA rules or accepted standards of professional practice.

(4) Unless the service recipient elects to chair his or her own meetings, the case manager serves as chair of the Team.

(5) The case manager empowers and supports the service recipient in setting the direction for the Team and in actively participating in Team meetings.

(6) The case manager writes or revises the Plan based on input from the Team.

(7) The case manager assists the Team in developing strategies, plans, and guidelines to achieve the outcomes desired or needed by the service recipient.

(8) The case manager monitors all aspects of the Plan's implementation per OAC 340:100-3-27.

(9) The case manager routinely asks the service recipient and his or her family, guardian, or advocate about their satisfaction with services and supports, and initiates appropriate action to identify and resolve barriers to consumer satisfaction.

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(10) The case manager convenes Team meetings as needed.

(A) The Team, as needed, evaluates whether the Plan and its components are meeting the objectives of the service recipient.

(B) The case manager convenes a Team meeting, when needed, at the request of any Team member.

(11) Case manager responsibilities are carried out by agency program coordination staff when the service recipient receives state funded employment, state funded group home, or assisted living services without waiver supports. Each person filling this role in a provider agency must have a minimum of four years of any combination of college level education and full-time equivalent experience in serving persons with disabilities, unless this requirement is waived in writing by the DDSD director or designee.

INSTRUCTIONS TO STAFF 340:100-5-52

Revised 6-1-10

- 1. If a key person cannot attend the meeting, the case manager secures written or verbal input from that person prior to the meeting.**
- 2. Since the absence of a complaint does not necessarily imply satisfaction, the case manager initiates action to resolve barriers when:**
 - (1) progress towards identified outcomes is not occurring; and**
 - (2) the person's identified needs are not addressed or met.**

340:100-6-12. Application for group home license, license renewal, or contractRevised 7-1-11

(a) Any person or organization desiring to operate a group home must request a licensure packet from Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services Division (DDSD), Group Home Licensure, P.O. Box 25352, Oklahoma City, OK 73125.

(b) An applicant for license, license renewal, or contract to operate a group home must submit to OKDHS a completed application along with the documents required by OKDHS to determine whether the applicant:

- (1) is 21 years of age or older and of reputable and responsible character;
- (2) demonstrates the skill and fitness to provide the necessary services;
- (3) has appropriate business experience; and
- (4) has professional experience with the population to be served.

(c) An application for a license or contract to operate a group home must include documentation that the state fire marshal or representative has inspected and approved the home. A contract provider who wishes to open an additional group home must also provide this documentation.

- (1) After the initial state fire marshal inspection, each group home must be inspected as required by ordinance per local or state fire marshal and found in compliance with fire safety regulations prior to re-issuance of a license or contract.
- (2) All group home inspections are subject to state fire marshal fees, citations, and penalties.

(d) Prior to opening the provider must obtain for each group home a licensed:

- (1) plumber or municipal building inspector's report; and
- (2) electrician or municipal building inspector's report.

(e) An approval letter from the local zoning authority must accompany all initial license applications or contractor requests for each particular address.

(f) No person who is ineligible for employment as a community services worker, per OAC 340:100-3-39, is eligible to:

(1) be licensed; or

(2) receive a contract to become a provider. If the applicant, licensee, or contractor is a firm, partnership, limited liability company or corporation, the applicant is not eligible to:

(A) be licensed; or

(B) receive a contract if any:

(i) member of the firm;

(ii) major member of the limited liability company or manager;

(iii) major partner of the partnership; or

(iv) officer or major stockholder of the corporation is ineligible for employment as a community services worker.

340:100-6-55. Staffing requirements

Revised 7-1-11

Group homes must employ sufficient staff who are appropriately qualified and trained to provide the essential services of the home.

(1) **Sufficient staff.** The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency.

(A) There must be at least one designated person in charge of the home and its operation available for each home when service recipients are present. Staff support and supervision must be provided as needed for each service recipient in the home.

(B) In addition to direct support staff, each service recipient in a group home must have a staff person who serves as program coordinator. In addition to duties required by OAC 340:100-5-52, program coordination staff must:

(i) get to know the service recipient and the service recipient's needs;

(ii) make announced and unannounced visits to the group home that include a minimum of three monitoring visits per month, to monitor the needs of the service recipients and the need for supervision of staff. The visits should occur at times when it would reasonably be anticipated that the majority of the residents are home. Agency administration staff meeting the requirements of this Section may complete these visits in addition to program coordination staff. At least two of the visits must be unannounced, unless the home has fully trained staff, no turn-over for the past year, the service recipients do not require restrictive or intrusive procedures, and there have been no medication errors for the previous year, in which case the unannounced visits may be reduced to one per month. Of the unannounced visits, at least one visit must occur each month:

(I) on Saturday or Sunday; or

(II) between 8:00 p.m. and 7:00 a.m. on a weekday;

(iii) provide support and assistance to any service recipient who is experiencing an emotional, behavioral, or medical crisis;

- (iv) be accessible to direct support staff 24 hours per day and available to respond, in person if necessary, to an emergency;
 - (v) supervise direct support staff to promote achievement of outcomes in the service recipient's Individual Plan (Plan);
 - (vi) ensure staffing levels meet the requirements of the service recipient's Plan, with staff trained per OAC 340:100-3-38;
 - (vii) ensure each service recipient's needs are always met, including but not limited to:
 - (I) utilities and phone service;
 - (II) furniture;
 - (III) food supplies that meet the service recipient's nutritional needs;
 - (IV) linens;
 - (V) personal items;
 - (VI) adaptive equipment; and
 - (VII) prescription medications;
 - (viii) assist the Developmental Disabilities Services Division (DDSD) case manager as requested to prepare for and implement the service recipient's Plan and its revisions per OAC 340:100-5-50 through 340:100-5-58;
 - (ix) ensure Oklahoma Department of Human Services and Oklahoma Health Care Authority rules are followed; and
 - (x) complete necessary training specified in OAC 340:100-3-38.
- (C) All group home providers must have a signed, written agreement with a registered nurse to:
- (i) act as a consultant;
 - (ii) review medication issues and administration quarterly, or more often if required; and

- (iii) provide technical assistance upon request. Documentation of the use of the nurse consultant must be maintained by the group home provider.
- (D) Service recipients do not supervise other service recipients.
- (2) Staff qualifications.**
- (A) The group home has an administrator and program coordinator who must:
- (i) be at least 21 years old; and
 - (ii) have a minimum of four years of any combination of college level course work or full-time equivalent experience in serving persons with disabilities or full-time equivalent experience in a supervisory position, unless this requirement is waived in writing by the DDSD director or designee. Both roles may be filled by the same person.
- (B) All other staff must be at least 18 years of age.
- (C) The provider agency must comply with OAC 340:100-3-39 regarding pre-employment screening for community services workers.
- (3) Staff training.** To ensure all providers achieve and maintain a level of competency necessary to meet the needs of each service recipient in the group home, provider agency staff must complete training specified in OAC 340:100-3-38.