
POLICY TRANSMITTAL NO. 09-21	DATE: JUNE 11, 2009
FAMILY SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF LEGISLATIVE RELATIONS AND POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:40-13-1 and 40-13-2.

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

OAC 340:40-13-1 is revised to: (1) remove language regarding the guidelines for use and approval of in-home child care; and (2) remove the requirement for the in-home provider to watch a training video prior to approval.

OAC 340:40-13-2 is revised to: (1) remove the exception allowing an in-home provider to be a member of the child's household; (2) add guidelines for use and approval of in-home child care that were removed from 340:40-13-1; (3) change approval rights of an in-home child care provider from the county director to the Family Support Services Division (FSSD) Child Care Subsidy Section; (4) add the requirement that a caregiver provide photo identification and a Social Security number before being approved as an in-home provider; (5) change initial training requirements once a caregiver is approved as an in-home provider; and (6) change paragraph headings and where information is located for clarity. ITS revised to: (1) add clarification that a caregiver can bring his or her own children to the client's home if approved by the client; (2) change the name of the Oklahoma State Bureau of Investigation form and add more information regarding use of the form; and (3) add a time frame for when FSSD Child Care staff must send initial training material to the in-home provider.

Original signed on 4-16-09

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WF # 08-26 (NAP)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

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

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, OKDHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, OKDHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at 405-521-4326.

REMOVE

340:40-13-1

340:40-13-2

INSERT

340:40-13-1, 1 page only, revised 7-1-09

340:40-13-2, pages 1-9, revised 7-1-09

340:40-13-1. Child care arrangementsRevised 7-1-09

(a) **Out-of-home care arrangements.** Out-of-home care is care provided outside of the child's home for less than 24 hours. ■ 1 The Oklahoma Department of Human Services (OKDHS) purchases out-of-home child care services only from licensed or permitted child care centers and family child care homes. ■ 2 A list of licensed, contracted out-of-home providers is available upon request.

(b) **In-home child care arrangements.** OKDHS purchased in-home child care services are obtained only from approved in-home providers. In-home child care is considered the arrangement of choice when night-time child care is needed or when care is needed for a medically fragile child. A parent can choose an in-home provider even when an out-of home provider is available. In no instance is housekeeping service approved. The approval is for the child care plan and the person giving care. Guidelines for use and approval of in-home child care are found at OAC 340:40-13-2.

INSTRUCTIONS TO STAFF 340:40-13-1Revised 7-1-09

1. If due to the nature of the parent or caretaker's work he or she must leave the child(ren) in child care over 24 hours on an occasional basis, it is acceptable to approve care after receiving approval from Family Support Services Division (FSSD) Child Care Subsidy Section.
2. Child care centers provide group care to children for part of the 24-hour calendar day. Family child care homes provide care for seven or fewer children, including the operator's own children under five years of age. See OAC 340:110-3-84. Large family child care homes provide care for eight to 12 children, including the provider's own children under five years of age. See OAC 340:110-3-97.1. See OAC 340:40-5-1(7) for restrictions on the choice of providers.

340:40-13-2. Guidelines for use in approving in-home child careRevised 7-1-09

(a) **Purpose.** In-home child care is defined as care given to a child by a person coming into the child's own home for the express purpose of caring for the child. The purpose of standards for in-home care is to help ensure the safety of children cared for in their own home when the usual responsible adult is temporarily absent due to employment, training, illness, or other valid reason.

(b) **Qualifications of caregiver.** The worker helps the family select a caregiver capable of providing adequate care and supervision of the child. ■ 1 The caregiver:

(1) must be at least 18 years of age;

(2) demonstrates the vitality and flexibility needed to care for children as well as the ability to exercise good judgment and appropriate authority; ■ 2

(3) must provide personal references prior to approval if, in the worker's judgment, they are considered necessary;

(4) cannot be a member of the child's household, whether relative or non-relative;

(5) can only care for the child(ren) of one family at a time. ■ 3 The provider can give care to more than one family as long as the hours do not overlap and the child(ren) of each family is cared for in his or her own home; and

(6) must not be under the effects of alcohol, illegal drugs, or medication that impairs functioning when caring for children.

(c) **Requirements prior to approval of the caregiver for subsidy payment.** Upon selection of a caregiver, requirements in paragraphs (1) through (3) must be met before the caregiver may be approved as an in-home provider.

(1) The client and caregiver must complete and sign forms described in (A) through (C).

(A) Form 08CC003E, In-home Mutual Agreement and Notification to Provide Child Care Services. This form notifies the caregiver of the eligibility and child care plan for the child requiring care and the intent of the parent or caretaker to receive care from the caregiver. Once approved, it also serves as the in-home provider's authorization to bill the Oklahoma Department of Human Services

(OKDHS) for services provided on or after approval.

(B) Form 08CC004E, Mutual Agreement Regarding the Plan of Care. This form serves as a basis for discussion between the parent or caretaker and the in-home provider of the plan of care for the child, duties of the in-home provider, how to handle emergencies, and the family rules.

(C) Form 08CC005E, In-Home Provider Health and Safety Checklist. This form serves as a basis for discussion between the parent or caretaker and the in-home provider of adequate safety precautions and possible safety hazards in the child's home. ■ 4 The parent or caretaker is also responsible for advising the provider of known risks of a contagious condition of one or more persons in the household. The disclosure allows for training in the universal precautions against exposure. ■5

(2) The caregiver must provide photo identification and a copy of his or her Social Security card.

(3) The caregiver must complete a criminal history investigation as described in paragraph (A) and not be guilty of crimes or enter a plea of guilty or nolo contendere, no contest, to crimes described in paragraph (B).

(A) Criminal history investigations:

(i) are required and must be requested by each caregiver and substitute caregiver, prior to caring for children; ■ 6

(ii) are not required for persons who have documentation of a criminal history investigation within the last 12 months;

(iii) must be obtained from:

(I) the Oklahoma State Bureau of Investigation (OSBI); and

(II) the authorized agency in the previous state of residence if the individual has resided in Oklahoma less than one year;

(iv) must include a search of the Oklahoma Department of Corrections files maintained by the OSBI pursuant to the Sex Offenders Registration Act; and

(v) must include the worker completing a computer check using the Social Security number of the potential caregiver prior to approval as an in-home

provider. When a Child Welfare (CW) case number appears, the worker consults with CW staff to see if concerns exist about this person's ability to care for children. ■ 7

(B) A caregiver whose criminal history report includes a conviction of fiscal mismanagement, such as embezzlement or fraud, or repeated convictions that indicate a pattern of criminal activity is not approved as an in-home provider. Persons who are convicted of or enter a plea of guilty or nolo contendere, no contest, to certain crimes are not approved to care for children or be a substitute caregiver. These crimes include:

(i) violence against a person;

(ii) child abuse or neglect;

(iii) possession, sale, or distribution of illegal drugs;

(iv) sexual misconduct; or

(v) gross irresponsibility or disregard for the safety of others.

(4) Once requirements described in paragraphs (1) through (3) are met, the worker faxes a memo and supporting documentation to the Family Support Services Division (FSSD) Child Care Subsidy Section to request approval. ■ 8

(A) If the chosen caregiver is approved as an in-home provider, the approval is valid for a maximum of one year from the date FSSD Child Care Subsidy staff signs Form 08CC003E. This form must be renewed annually. ■ 9 Once approved, FSSD Child Care Subsidy Section staff mail the in-home provider the "In-home Child Care Provider Handbook for Subsidy Payments" to advise him or her how to claim for OKDHS payment and a copy of Form 08CC003E advising the in-home provider of the assigned contract number.

(B) If the chosen caregiver is not approved as an in-home provider, FSSD Child Care Subsidy Section staff sends a letter to the caregiver advising of the denial. The worker sends Form 08MP037E, Notice Regarding Social Services, to the client advising him or her to choose another caregiver.

(d) Duties of the caregiver. The caregiver:

(1) provides adequate care and supervision of children at all times, including frequent observations of children in cribs or playpens. The caregiver must arrange

to have a competent adult provide consistent supervision during his or her absence from the home;

(2) is responsible only for each child specified in Form 08CC003E;

(3) must be aware of adequate safety precautions and take action to correct hazards to children's safety, both indoors and outdoors;

(4) provides opportunities for learning, indoor and outdoor play, rest periods, and meals. The caregiver ensures that the use of television is age-appropriate and suitable for children;

(5) must be able to give understanding, consistent, and loving guidance. Discipline is constructive and educational in nature and appropriate to the child's age and circumstances. Loud, profane, and abusive language, corporal punishment, or any technique that is either humiliating or frightening to children is not used. Discipline is not associated with rest, toilet training, or loss of food;

(6) seeks emergency medical attention in case of sudden illness or accident. The parent or guardian stipulates who is called in case of an emergency by entering this information on Form 07LC038E, Child Information, provided by OKDHS. The caregiver has emergency telephone numbers readily available at all times. Emergency telephone numbers include the fire department, police department, ambulance service, and physician or clinic;

(7) is responsible for preparation and serving of food. The child's family provides the food used to prepare snacks and meals. The caregiver consults with the child's parent(s) or guardian to ensure a balanced diet suitable to the age and physical development of the child; and

(8) ensures the child's school attendance in accordance with the requirements of the State Department of Education.

(e) In-home provider training requirements after approval. The in-home provider must read "The Good Health Handbook - A Guide For Those Caring For Children" within 90 calendar days of the approval date of the in-home provider shown on Form 08CC003E. ■ 10 The in-home provider must then sign and complete Form 08CC008E, In-Home Child care Provider Training Declaration of Completion, and return it to the worker. ■ 11 The signature and completion of Form 08CC008E meets the in-home provider training requirement for the first year of approval.

(1) After the first year of approval, the in-home provider must receive and declare six

clock hours of training yearly. The provider can meet the training requirement by attending workshops, formal training programs, viewing videos, or through individual job related readings. The declaration is valid for one year from the date the provider signs the document. ■ 12

(2) Training hours earned by the in-home provider are transferable from one family to another during the year the declaration is in force. ■ 13

(f) Requirements prior to approval for a special needs child care rate for a child with disabilities. When an in-home child care provider cares for a child with disabilities, the provider may be approved for the special needs rate in addition to the applicable daily rate. Prior to receiving this additional rate:

(1) the client, provider, and worker must complete Form 08AD006E, Special Needs Child Care Rate Certification, as described in OAC 340:40-7-3.1; ■ 14

(2) the provider must be currently certified in first aid and infant and child cardiopulmonary resuscitation (CPR). Only training that is OKDHS approved, such as Red Cross, American Heart Association, or First Care, is accepted; ■ 15

(3) the provider must receive on-site consultation regarding the nature of the child's disability and the development of the child care plan which may include how to operate equipment needed by the child and any specialized training needs. ■ 16
The consultant also provides any available resource materials that might aid the provider in caring for the child. This consultation may be provided by a:

(A) health professional;

(B) child guidance specialist;

(C) SoonerStart provider if the child is under three years of age;

(D) public school teacher familiar with that child; or

(E) consultant through the Center for Early Childhood Professional Development; and

(4) the provider must agree to obtain six additional hours of training in areas that address the care of children with disabilities within six months of approval. This training is documented on Form 08CC008E. ■ 17

(A) First aid, CPR, or informal training may not be counted to meet the special

training requirement.

(B) Recommended training includes:

(i) Special Care's Unique Environments;

(ii) Child Care Careers' Helping Children with Special Needs;

(iii) SoonerStart training;

(iv) Training Inclusive Child Care Equal Terrific Opportunities for Children (TIC-TOC) training;

(v) formal training from an OKDHS approved sponsor training list; or

(vi) specialized workshops or conferences addressing the care of children with disabilities.

INSTRUCTIONS TO STAFF 340:40-13-2

Revised 7-1-09

- 1. Normally an in-home provider is a relative or friend of the client. If the client does not know someone willing to provide such care, the worker can suggest the client inquire within his or her church or other organizations the client belongs to, among the parents of his or her child(ren)'s friends, local student job placement organizations, or any other community groups known to the worker.**
- 2. How the potential caregiver responds to the duties outlined in (d) of this Section and what he or she and the client write on Form 08CC004E, In-home Child Care Mutual Agreement Regarding Plan of Care, helps the worker determine whether the caregiver meets this qualification.**
- 3. The caregiver can bring his or her own child(ren) into the client's home if the client agrees.**
- 4. Form 08CC005E, In-Home Provider Health and Safety Checklist, serves to make the client and provider aware of adequate safety precautions so they can take action to correct any hazards to the child's safety. The Oklahoma Child Care Services (OCCS) local licensing staff are a good resource to provide suggestions if the client and provider are unsure how to correct**

potential hazards. If the client refuses to make recommended changes, the in-home provider may still be approved to care for the child in the home since this is the child's natural environment. Depending on the nature of the potential hazard, the worker determines whether a referral to Child Welfare is indicated.

5. The worker is prohibited from disclosing information regarding a contagious condition unless written consent to disclose this information is obtained from the parent or caretaker.

6. (a) Oklahoma State Bureau of Investigation (OSBI) background check forms, Form CHRU, OSBI Criminal History Record Information Request, is available on the Family Support Services Division (FSSD) Child Care Subsidy Web site. The worker prints the form for the provider and in the Type of Search Requested box, checkmarks:

(1) Name base;

(2) Sex Offender; and

(3) Mary Rippy Violent Offender.

(b) The cost of the OSBI check is shown on the form. The Oklahoma Department of Human Services (OKDHS) does not pay for the cost of this background check.

(c) The provider is responsible for mailing the form to the address listed on the form. After the inquiry is complete, the provider returns it to the worker.

(d) Once the results of the inquiry are received, the worker faxes a copy along with other required forms, memo, and verification to FSSD Child Care Subsidy Section. The original is filed in the case record.

7. (a) The prefix of a Child Welfare case number is KK.

(b) The computer check is run by both name and Social Security number. The findings are kept confidential and not released to the client. The findings are documented in the memo and faxed to the FSSD Child Care Subsidy Section. The original of this memo is filed in the case record. If concern exists about the caregiver's ability to safely care for the child, FSSD Child Care Subsidy staff makes the final decision regarding whether to contract with this

caregiver.

8. The memo gives information about whether the provider meets the requirements described in this Section, the worker's opinion of the suitability of this person to provide child care, and the parent or caretaker's plan of service approved by the worker. The worker may request the assistance of OCCS local licensing staff in determining whether the in-home provider meets the guidelines. The worker faxes the memo to the FSSD Child Care Subsidy Section along with copies of Form 08CC003E, In-home Mutual Agreement and Notification to Provide Child Care Services, Form 08CC004E, Form 08CC005E, Form CHR001, and copies of the provider's photo identification and Social Security card. Originals of the memo and all forms are filed in the case record. Copies of Forms 08CC003E, 08CC004E, and 08CC005E are given to the parent or caretaker and the in-home provider.
9. The earliest date child care can be approved with an in-home provider is the date FSSD Child Care Subsidy staff signs Form 08CC003E and assigns a contract number. To be considered timely, the worker must certify or deny the application within two working days of the date he or she is notified of the approval and the in-home provider's contract number as long as all necessary verification needed to determine eligibility has been provided.
10. FSSD Child Care Subsidy staff send the "The Good Health Handbook - A Guide For Those Caring For Children" to the in-home provider within two working days of the approval date of the in-home provider shown on Form 08CC003E.
11. The worker faxes a copy of the Form 08CC008E, In-Home Provider Declaration of Completion of Training, to the FSSD Child Care Subsidy Section and the original is filed in the case record. Form 08CC008E serves as:
 - (1) a declaration by the in-home provider that the minimum caregiver training requirements have been met;
 - (2) case documentation of compliance with the training requirements as set forth in the Child Care Development Fund State Plan for federal financial participation; and
 - (3) certification that the in-home provider has a sufficient knowledge base that ensures the care setting provides for the health and safety of the child(ren), thereby enhancing the quality of child care.

12. The in-home provider completes a new Form 08CC008E each year and the worker faxes a copy of the form to the FSSD Child Care Subsidy Section. The original is filed in the case record showing what training was received during that year. If the provider is unsure about training opportunities, the OCCS local licensing staff can help them choose appropriate training.
13. The worker may copy the existing Form 08CC008E and update in red the new case name, number, and child(ren)'s name. The date of the declaration is never updated on the copy of the form because that is the date which starts the clock for yearly completion of minimum training requirements. The worker faxes a copy of the form to the FSSD Child Care Subsidy Section and the original is filed in the appropriate case record.
14. For in-home providers, the worker completes Section IV of Form 08AD006E, Special Needs Child Care Rate Certification, rather than the OCCS licensing specialist.
15. The worker views the training documentation to obtain the effective dates of certification.
16. If the on-site consultation will delay the approval for certification by more than 30 calendar days, the provider may be approved for certification prior to the on-site consultation criteria being met if a reasonable plan of correction has been documented in writing. The worker documents the provider's attempts to schedule the on-site consultation in Case Notes.
17. OCCS local licensing staff can help in-home providers find and choose any of these training opportunities.