
POLICY TRANSMITTAL NO. 05-09	DATE: MAY 10, 2005
FAMILY SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF PLANNING, POLICY & RESEARCH

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:40-7, Table of Contents; 40-7-1; 40-7-8; and 40-7-12.

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

OAC 340:40-7-1 revisions clarify information about who is predetermined eligible for child care with a zero co-payment.

OAC 340:40-7-8 revisions clarify how to consider need for child care for employment and remove the need factor for food stamp Employment and Training recipients as this rule is moved to food stamp rules.

OAC 340:40-7-12 is revised to describe how to consider money received by another household for a household member.

Original signed on 3-29-05

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WF # 04-27 (NAP)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

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

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

REMOVE

340:40-7, Table of Contents

340:40-7-1

340:40-7-8

340:40-7-12

INSERT

340:40-7, Table of Contents, 1 page only, revised 5-12-05

340:40-7-1, pages 1-3, revised 5-12-05

340:40-7-8, pages 1-14, revised 5-12-05

340:40-7-12, pages 1-8, revised 5-12-05

SUBCHAPTER 7. ELIGIBILITY

Section

340:40-7-1.	Categories of eligibility
340:40-7-2.	Conditions of eligibility
340:40-7-3.	Age requirements
340:40-7-4.	Identity
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340:40-7-6.	Household composition and income consideration
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340:40-7-13.	Computation of income

340:40-7-1. Categories of eligibility

A person may be predetermined eligible for a child care benefit, determined income eligible based on the gross income of the household, or have dual eligibility with his or her tribe.

(1) **Predetermined eligible.** A person is predetermined eligible for a child care benefit with a zero co-payment when he or she is a recipient of public assistance or Supplemental Security Income (SSI) and the parent or guardian requesting the child care benefit for the child is also the payee on the public assistance payment for the child. Public assistance is defined as a State Supplemental Payment, Temporary Assistance for Needy Families (TANF), or Refugee Cash Assistance. This definition also includes non-cash vouchers a child receives from the TANF program per OAC 340:10-3-56(3)(k). ■ 1 All TANF recipients who go to work and are eligible for a child care benefit can choose to receive a child care benefit through the Oklahoma Department of Human Services (OKDHS) while they work or choose to pay for the child care themselves. If they choose to pay for the child care cost themselves, it can be considered as an earned income exemption for the TANF benefit. ■ 2

(2) **Income eligible.** Households who are not predetermined eligible for a child care benefit must meet income eligibility guidelines shown on OKDHS Appendix C-4, Child Care Eligibility/Rates Schedule, for their household size, to receive assistance with child care costs. ■ 3

(3) **Transitional child care.** Per Section 230.61 of Title 56 of the Oklahoma Statutes, a TANF recipient who becomes employed is eligible for transitional child care benefits for 24 months following the date of employment as long as he or she meets income eligibility guidelines on OKDHS Appendix C-4 for his or her household size unless:

(A) the employer provides child care benefits; or

(B) the monthly salary received from the employer exceeds the monthly allowance of assistance pursuant to the TANF program plus the cost of child care and medical insurance to which the recipient would be entitled. ■ 4

(4) **TANF families in the Work Supplementation Program.** TANF families in the Work Supplementation Program are considered income eligible families and must meet income eligibility guidelines shown on OKDHS Appendix C-4 for their household size, to receive assistance with child care costs. ■ 5

(5) **Dual eligibility.** An individual may have dual eligibility for both the child care

subsidy program through OKDHS and through his or her tribe. The child care provider may not receive payment from both programs simultaneously. ■ 6 The client may be approved for the child care subsidy program and the tribe may pay the client's family share co-payment.

INSTRUCTIONS TO STAFF

1. (a) **Supplemental Security Income (SSI) is a means tested program administered by the Social Security Administration.**
- (b) **The child must also meet all other conditions of eligibility defined in this Subchapter before subsidized child care is approved.**
- (c) **If someone other than the parent or guardian who is receiving the Temporary Assistance for Needy Families (TANF) benefit for the child or who is the payee for the child's SSI payment requests child care for the child, as is the case in some joint custody households, the child is not predetermined eligible for a zero co-payment in that household. The child's eligibility for the child care benefit is based on the countable income in the other household.**
- (d) **Enter information regarding eligibility in the Family Assistance/Client Services (FACS) Interview Notebook under the Household and Income tabs.**
2. **The worker informs the client of the right to choose child care either as a Temporary Assistance for Needy Families (TANF) deduction or as a child care benefit. The worker explains to the client if he or she chooses to change from receiving subsidized child care to child care as an earned income exemption, the client must actually pay the child care expense out-of-pocket for one month. If the choice is to terminate subsidized child care and begin child care as an earned income exemption, the closure of subsidized care must meet notification requirements listed in OAC 340:40-9. A TANF recipient is never approved for Child Care and Development Fund subsidized child care and have child care considered as an earned income exemption during the same month. When a recipient is discovered to have received both kinds of child care during the same month for the same children, overpayment procedures in OAC 340:40-15 are followed.**
3. **See Oklahoma Department of Human Services (OKDHS) Appendix C-4, Child Care Eligibility/Rates Schedule, for income eligibility guidelines and OAC 340:40-7-11 for types of income considered. Document income eligibility in the FACS Interview Notebook under the Household and Income tabs.**

- 4. A former TANF recipient must still meet the income guidelines listed on OKDHS Appendix C-4 to receive a child care benefit. The TANF worker is required to advise the client of his or her potential eligibility for a child care benefit and to document the offer in the case narrative or in FACS Case Notes. When it is determined the client does not meet the eligibility guidelines for subsidized child care, the worker provides resources and referral information. If child care is not needed, the narrative also reflects what alternative to subsidized child care is utilized. The worker provides all families who receive earned income information about the Earned Income Credit and the Child Tax Credit and how to apply for these credits.**
- 5. See OKDHS Appendix C-4 for income eligibility guidelines and OAC 340:40-7-11 for types of income considered. This is the only group of active TANF recipient families who are expected to help pay for subsidized child care. It is essential the worker counsel with families who must make family share co-payments to ensure they understand how much they must pay. Realistically, these families are a step closer to the goal of assuming the total cost of child care. While working with families, the worker includes this goal as part of the overall service plan.**
- 6. If there is a tribal child care program in the county for which the client might qualify, the worker asks the client if he or she is receiving subsidized child care from this program. If the client chooses to receive OKDHS subsidized child care, the same rules governing other clients apply to this client as well. The client may receive subsidized child care and the tribe pay the client's family share co-payment. The child care provider may not file a claim with both OKDHS and the tribe.**

340:40-7-8. Defining the need factor for a child care benefit

(a) **Employment.** Employment means the parent or the caretaker earns wages for work performed. ■ 1

(1) The client must provide proof of his or her work hours. If the client has the flexibility to set his or her own work hours, the client and worker jointly determine if they can reduce the number of hours the child(ren) needs care by rearranging the client's work schedule. This is especially important in two-parent or two-caretaker families. ■ 2

(2) The worker limits approval of child care to the number of days and hours the client is working plus reasonable travel time. In two-parent or two-caretaker working families, the worker limits approval to the days and hours they are both working at the same time plus reasonable travel time. If the child attends school or Head Start during part of the work hours, the worker reduces the number of hours he or she approves child care accordingly.

(3) If the parent or caretaker is not making at least minimum wage for the number of hours he or she is working, the worker may limit the number of days and hours of care initially approved. The worker counsels with the individual regarding increasing his or her income. If counseling is unsuccessful, the worker decides whether to further reduce or terminate the child care benefit. ■ 3

(4) A person employed and working from his or her own home may be approved for a child care benefit in an out-of-home child care home or center. ■ 4

(5) Job search meets the definition of employment and child care may be approved only when a recipient who has received a child care benefit for at least 30 days loses employment or successfully completes a formal education or training program and requests child care assistance to look for a job. Child care may be approved for a maximum of 30 calendar days from the date the client loses employment or successfully completes a formal education or training program as long as the child continues to attend the same child care facility. Job search may be approved no more than twice per calendar year. ■ 5

(b) **Training.** Job skills training includes vocational training and hands-on work experience to develop technical skills, knowledge, and abilities in specific occupational areas. All training programs must include qualitative measures to evaluate the participant's progress. Examples include competency gains, proficiency levels, and certificates of completion. ■ 6

(c) **Formal education program.** A formal education program is defined as a course of study which leads to the attainment of an associate's or bachelor's degree. ■ 6

(d) **Temporary Assistance for Needy Families (TANF) Work activity.** When a client receives a TANF benefit, child care may be provided for any activity outlined in the client's Form TW-2, TANF Work/Personal Responsibility Agreement. ■ 7 Need is also met when the individual is waiting to enter an approved TANF Work activity. Approval is limited to a time period not to exceed:

(1) two weeks; or

(2) one month on an exception basis where child care arrangements or other services would otherwise be lost and the subsequent activity is scheduled to begin within that period. ■ 8

(e) **TANF applicant job search.** TANF applicants referred for immediate employment are eligible for child care to job search. ■ 9 TANF applicants are advised:

(1) child care to job search is limited to 20 days which must be used within 30 calendar days from the date of request;

(2) in-home child care arrangements are not available for TANF applicants;

(3) child care may only be used during the times the applicant is actually looking for a job; and

(4) he or she must notify the county office immediately upon securing employment.

(f) **Protective or preventive child care.** A protective or preventive child care benefit can be used as an early intervention strategy in certain critical situations to help in preventing neglect, abuse, or exploitation of a child. The worker may approve child care in these situations to help stabilize the family situation or to enhance family functioning. The client must provide proof of the need for child care before the worker authorizes care. ■ 10

(1) The worker may approve protective or preventive child care for a maximum of 30 calendar days at the county level. If protective or preventive child care is needed beyond this initial 30 day period, the worker obtains approval for this extension from the FSSD Child Care Section. ■ 11

(2) The family may or may not be expected to help in paying the cost of this child care depending on the unique circumstances of the family. ■ 12

(3) If the family is financially ineligible for a child care benefit but there is evidence the family is so burdened by debt that the additional financial pressure of paying for child care may result in further deterioration of family stability and functioning, the worker may approve protective or preventive child care. A plan to reduce such debt must be established. ■ 13

(4) If determining financial eligibility will take time, the worker may approve child care while the parent or caretaker is gathering necessary information as long as the client has provided proof of the need for child care.

(5) Protective or preventive child care is temporary and planning to reduce or eliminate the need for such child care begins at the initial contact.

(g) Child with disabilities. A child with disabilities is defined as a child who receives Supplemental Security Income (SSI), SoonerStart early intervention services, or special education services provided in accordance with an Individualized Education Program (IEP) by the local school district. ■ 14 This definition also includes a child whose SSI payment stops because of financial reasons but who still meets the medical definition of disability as determined by the Social Security Administration. ■ 15 Child care may be approved for a child with disabilities through the day before the child's 19th birthday when a statement from a licensed health care professional is provided stating the child is physically or mentally incapable of self-care as age appropriate.

(1) Approval for the higher special needs rate. Form ADM-123, Certification for Special Needs Child Care Rate, is completed and signed by the parent or guardian, the child care provider, Division of Child Care (DCC) licensing staff, and the child's Family Support Services worker or Child Welfare worker. The parent or caretaker must submit the child's IEP or Individualized Family Service Plan (IFSP) that documents the care needs of the child. If a child who receives SSI is not receiving special education or SoonerStart services, the parent or caretaker must submit a statement from a health professional describing the care needs of the child. A change to the higher special needs rate is effective the first of the month following the month eligibility for the rate is determined by DCC licensing staff. When care is not provided until the special needs rate is approved, it is effective the first day care is provided. ■ 16 Once Form ADM-123 has been completed and the worker determines the child is eligible for one of the special need rates, a new Form ADM-123 is only completed when:

(A) the needs of the child change; ■ 17

(B) the child moves to a different child care facility; or ■ 18

(C) the child stops attending the facility that was approved for the special needs rate for more than six months. ■ 19

(2) **Enrichment child care benefit for children with disabilities.** The purpose of an enrichment child care benefit is to assist the child in developing socialization skills. Children with disabilities receiving SSI who are normally not eligible for child care may be approved for an enrichment child care benefit based solely on the needs of the child's condition of delay or disability rather than on the activities of the parent or caretaker. Child care for enrichment is limited to a maximum of two days per week not to exceed ten full-time or part-time days per month. ■ 20 The parent or caretaker must provide a statement from a professional involved in the child's life recommending child care be provided and the reason child care would be beneficial to the child. ■ 21 When such enrichment child care is approved, it is provided outside of the child's home, preferably in a setting where at least one other child is present.

INSTRUCTIONS TO STAFF

1. (a) **Some clients work at jobs where they are paid at least minimum wage but the Oklahoma Department of Human Services (OKDHS) does not count the income. This is because the income comes from exempt sources such as work study or Workforce Investment Act income per OAC 340:40-7-12. The client still meets the employment need factor even though the income is not counted.**

(b) **Some clients work at jobs where they are not guaranteed any wage. Examples include working for commission only or being self-employed. In these situations the worker does not approve more than 30 days of care until the client brings in proof he or she has made some income from this employment.**

(c) Bartering for services in exchange for work performed does not meet the definition of need because of employment. **Examples of bartering include working in exchange for payment of rent, utilities, or a car payment.**

2. (a) **Proof can be a copy of the work schedule showing the client's name and the name of the business or a signed statement from the employer. The worker can also confirm the client's work hours over the telephone with the employer. If part of the client's work duties involve staying overnight away from home or working split shifts, the worker uses his or her judgment to determine how much care is reasonable to approve.**

(b) When the client first starts working, the worker approves the maximum number of days and hours the client could work. For instance, an employer statement might say the client works three to five days per week. The worker initially approves 23 days per month of care. The worker reevaluates the amount of care approved when actual pay is requested at 90 days per OAC 340:40-7-13. Care may be reduced or increased depending on how many days and hours the client actually worked during that period.

(c) If the client has been employed for at least 30 days, the worker evaluates the actual number of days and hours the client worked to determine how much care to approve unless there is reason to expect the work schedule to change. The worker documents in the Daycare tab and Case Notes of the Family Assistance/Client Services (FACS) how he or she determined the care plan approved.

(d) Clients who have the flexibility to set their own work hours are most often self-employed. When the client is self-employed, the worker can accept his or her statement regarding work hours as long as it appears reasonable and meets the minimum wage requirement shown in OAC 340:40-7-8(a)(3). If the children are attending school or Head Start in most instances it is usually reasonable to expect the client to be working during those hours. If it is not reasonable, Case Notes must clearly document why. When child care is requested in two-parent or two-caretaker families for self-employment, care must be taken to determine whether self-employment work hours could be adjusted to reduce or eliminate the need for child care. For instance, could they each work a different schedule?

3. (a) The worker uses his or her judgment to decide how many hours of care to initially approve after counseling with the client on how he or she plans to increase his or her income to at least minimum wage.

(b) Counseling may include:

(1) helping the client determine whether this is the best field of employment for him or her;

(2) referring the client to the Oklahoma Employment Security Commission for help in locating other employment;

(3) helping the client develop an action plan to increase income from the enterprise;

(4) referring the client to a local resource which helps with small business planning. Most technology centers offer this type of service; or

(5) referring the client to the Department of Labor to file a complaint if his or her employer is not paying minimum wage.

(c) The worker and client decide jointly what strategy to use to increase the client's income and by what date this plan can be accomplished or progress made. If the client does not cooperate in either making an action plan to increase income or in following through with the plan he or she agreed to try, child care for this employment enterprise can be reduced or terminated. The worker consults with his or her supervisor before taking such action.

(d) The worker clearly documents in FACS Case Notes how he or she initially determined the child care plan hours, what strategy the client agreed to follow to increase income during counseling, and why any subsequent changes are made to the child care plan.

4. When the client is operating a child care home, the worker only approves child care in an out-of-home child care home or center if the client's own child(ren) places him or her over maximum licensed capacity. A family child care home provides care for seven or fewer children. Large family child care homes provide care for eight to 12 children. The provider's own child(ren) under five years of age counts toward licensed capacity. The worker consults with Division of Child Care (DCC) licensing staff to establish whether a client, who is a child care provider, will be over capacity if his or her own child(ren) remains in the home and documents this discussion in FACS Case Notes. See OAC 340:110-3-84 and 340:110-3-97.1 for licensing guidelines. If child care is approved, it must be in an out-of-home child care home or center.

5. (a) Job search is approved for recipients who have received a child care benefit for at least 30 days in order to ensure that the services of the child care provider are not lost and continuity of care for the child(ren) is provided while the parent or caretaker attempts to locate a job. Care is only continued when the child remains at the same child care facility for the entire 30 days job search is approved. If the client wishes to change child care providers, care by a different provider is not approved to job search.

(b) To approve a client to job search, the worker closes the current authorization using the reason code "30 day job search time frame has ended." The end date entered on the authorization is 30 days from the time

the client lost employment or successfully completed a formal education or training program.

(c) The worker makes changes as needed to the income shown for the family and to the family share co-payment prior to closing the authorization. No change is made to the days and hours of care.

(d) If the client obtains a job during the time frame job search was approved and requires more care, the worker contacts the Family Support Services Division (FSSD) Child Care Section to ask that a change be made to the authorization because the worker cannot make a change to a closed authorization.

(e) If an authorization is closed because job search has ended, it cannot be reopened when the client meets another need factor. The client must complete a new application based on new circumstances before further child care is approved.

(f) If the authorization is closed on another reason code prior to offering child care to search for a job, it can be reopened to cover this 30 day period. The authorization is then closed using the reason code "30 day job search time frame has ended."

(g) When the client does not report the loss of employment or completion of a formal education or training program within ten calendar days but continues to use child care, the worker asks the client whether he or she is searching for a job.

(1) When the client is searching for a job, the worker closes the authorization effective the date job search would have ended if the client had notified the worker timely or using the advance notice deadline schedule shown on the Oklahoma Department of Human Services (OKDHS) Appendix B-2, Deadlines for Case Actions, Section I, whichever date is greater.

(2) When the client does not plan to job search, the worker closes the authorization using the advanced notice deadline schedule shown on OKDHS Appendix B-2, Section I.

(3) If the client uses care beyond the time frame that the client could have been approved to job search, the worker sends an overpayment memo to

the FSSD Overpayment Section per OAC 340:40-15-1.

- 6. (a)** Documentation of need must include proof of the client's training or class schedule for each semester and proof the client is making progress in completing the degree or training program. Child care is limited to actual classroom attendance, including travel time. This can include scheduled televised courses.

(b) Self-paced courses taken over the Internet are not covered.

(c) Child care may also be approved for activities outside of the classroom required to pass the course such as internship and practicum placements, volunteer hours required to pass a specific class, laboratory work, or other required activities.

(d) Additional study time is never approved.

(e) When there are gaps in class times, the worker may approve child care beginning with the first class of the day through the last class of the day.
- 7.** See OAC 340:10-2-1 for approved work activities. Child care is limited to the days and hours needed to complete the Temporary Assistance for Needy Families (TANF) Work activity plus travel time.
- 8.** This provision is included to ensure that services of the child care provider are not lost and continuity of care is provided so an individual can continue the employment process.
- 9.** The worker approves child care before expecting the applicant to begin job search. The worker assists the applicant in selecting a licensed, contracted facility. Upon selection of a facility, the worker contacts the child care provider to ensure acceptance of this child(ren) does not cause the child care provider to exceed his or her licensed capacity. The authorization is then entered into the system in the FACS Eligibility Notebook under the Auth. Daycare tab showing a reason, "for caretaker to search for employment," and a beginning and ending date for the authorization using fields K45 and K47. The ending date is no more than 30 days from the date of request and is approved for a maximum of 20 full-time days. If the client requests a change of provider during this 30 day period, the worker only approves child care for the number of days remaining in the 30 day period.

10.(a) Proof of need may include a statement from a professional such as a doctor, counselor, therapist, Child Welfare (CW) worker, or SoonerStart worker stating the reasons the parent or caretaker is incapable of safely caring for the child.

(b) When a family is considered at risk for child abuse and neglect by CW worker but the family is not court involved, the CW worker contracts for Comprehensive Home Based Services (CHBS) with the Oklahoma Children's Services (OCS). When CW is not maintaining an open CW case, the FSSD worker completes the application for preventive child care benefit. The CHBS case manager assists the family in applying for child care. To verify the need for child care, the CHBS case manager provides a written statement to the FSSD worker indicating:

(1) the name(s) and age(s) of the child(ren);

(2) why child care is needed and how it can eliminate or reduce the risk to the child(ren);

(3) what days and hours child care is needed; and

(4) how long the child care is expected to be needed.

11. (a) The worker sends a memo to FSSD Child Care Section requesting an extension. The worker attaches to the memo any verification supporting the need for child care. For most preventive extension requests, the memo must include:

(1) names and ages of all children for whom child care is needed;

(2) an explanation of the reason child care is needed, the circumstances leading to the conclusion the child(ren) is at risk of neglect, abuse, or exploitation, and how child care can eliminate or substantially reduce risk to the child(ren);

(3) an explanation of whether a CW referral was made and, if not, the reason, as well as any coordination efforts between FSSD, CW staff, and any other community partners;

(4) the days and hours child care is requested for each child;

(5) an explanation of the support system available to the family;

(6) an explanation of the exploration of any free alternative to child care. Examples include the availability of other family members, Head Start, and Mother's Day Out programs;

(7) the length of time child care is needed;

(8) an explanation of what, if any, family share co-payment the family is expected to contribute. If the family share co-payment is reduced or completely waived because of family expenses, an explanation of the plan to decrease the debt is included in the memo; and

(9) the worker's opinion about the need for child care.

(b) When the family is involved with a CHBS case manager and more than 30 days of care is needed, the FSSD worker completes a short memo requesting that the preventive child care benefit continue to be approved. The worker attaches this memo to the statement provided by the CHBS case manager and sends them to the FSSD Child Care Section. Other information requested in (a) of this Instruction to Staff are not required.

(c) FSSD Child Care staff typically approve protective or preventive requests for no more than six months at a time. When an extension is requested beyond the original time frame approved by FSSD, the worker sends a new memo that includes more detail to show what efforts are being made to reduce or eliminate the need for protective or preventive child care.

(d) In the FACS Eligibility Notebook under the Auth. Daycare tab enter reason, "prevention of or protection from abuse, neglect, or exploitation," on the authorization.

12. The worker documents plans to increase the family's responsibility toward meeting the family share co-payment in the memo. Families for whom preventive child care is requested by a CHBS case manager, are approved with a zero co-payment. If the family is receiving other FSSD benefits and income is considered for those other benefits, the worker diverts the income in the Social Services tab of FACS, "total diverted income" field E47.

13. A plan to reduce the debt may include the worker helping the client develop a budget which decreases the debt or referring the client to Consumer Credit

Counseling or another local resource to help develop a budget which reduces the client's debt. This plan is included in the memo.

14. The client must provide proof the child is receiving services based on special needs criteria from at least one of these sources before the child is considered a child with disabilities. A child must receive SSI to be predetermined eligible for a child care benefit with a zero family share co-payment if he or she meets all conditions of eligibility for child care.

15. The client must provide proof from the Social Security Administration that the child meets the medical definition of disability and the Supplemental Security Income (SSI) is closed because of financial reasons.

16. Form ADM-123, Certification for Special Needs Child Care Rate, is completed any time the parent or caretaker requests the higher special needs rate. Steps (1) through (4) in this Instruction must be followed before approving a child with disabilities for the higher special needs rate listed on Oklahoma Department of Human Services (OKDHS) Appendix C-4, Child Care Eligibility/Rates Schedule. To approve a child for the higher special needs rate:

(1) the FSS worker, CW worker, child care provider, or DCC licensing staff gives Form ADM-123 to the parent or caretaker to complete Sections I and II. Section I contains identifying information about the child. In Section II the parent or caretaker checks one statement in each category which best describes the child's needs in a child care setting when compared with a typical child of the same age. For example, question number three in Section II of Form ADM-123 asks whether the child requires extra assistance in eating and toileting. If the child is an infant, the answer is marked (d) unless this child requires more assistance than a typical infant. The Birth to Six Prescreen Wheel for Vision, Hearing and Development is a resource available in the county office which describes a typical child's development from birth to six years of age. The parent or caretaker then gives details about the child's individual needs in each area listed;

(2) the parent or caretaker takes Form ADM-123 to the child care facility of his or her choice to complete Section III of the form. This Section outlines how the child care facility plans to meet the special needs of the child. Both the child care provider and the parent or caretaker sign Section III;

(3) the worker, the client, or the child care provider then sends Form

ADM-123 to DCC licensing staff. DCC licensing staff visit the child care facility within ten days of receiving the request per OAC 340:110-1-9.1(b) to determine whether the facility is able to meet the special needs of that specific child. DCC licensing staff complete Section IV of Form ADM-123 stating whether the facility meets or does not meet certification requirements and sends the form back to the worker for case action. Certification requirements include confirming the provider has received required First Aid and Cardio-Pulmonary Resuscitation (CPR) training and an on-site consultation as described at OAC 340:110-1-9.1; and

(4) the worker compares the parent or caretaker's answers on Form ADM-123 to the Individualized Education Program (IEP), Individualized Family Service Plan (IFSP), or health professional's statement describing the care needs of the child for consistency. If the information is inconsistent, the worker further consults with the parent or caretaker and the professional who signed the document for further clarification. When agreement is reached, the worker completes Section V of Form ADM-123 using Form ADM-123-A, Scoring Sheet for Special Needs Rate Determination, to determine whether to approve the child at the applicable daily, blended, or weekly authorization or the moderate or severe special needs rate.

(A) When certification requirements are not met and the parent or caretaker still wishes to use the facility, the worker approves the child at the applicable daily, blended, or weekly authorization for that child's age.

(B) When certification requirements are met, the higher special needs rate is authorized for that child. Copies of the completed Form ADM-123 are sent to the parent or caretaker, the provider, and DCC licensing staff for their records.

(i) When the child does not attend the facility until the facility is certified for the higher special needs rate, the special needs rate is effective the first date care is provided. If a child care provider refuses to care for the child until the higher special needs rate is approved, the worker informs the provider that this is an Americans with Disabilities Act (ADA) violation. If the provider continues to refuse, the worker completes Form OCR-1, Discrimination Complaint Form - Client or Vendor, and sends it to the OKDHS Office for Civil Rights.

(ii) To authorize the child for the higher special needs rate, go to the FACS Eligibility Notebook under the Auth. Daycare tab and select either the moderate or severe special needs rate on a full-time, part-time, or weekly basis. Select the reason code which best meets the need factor for which child care is approved, such as employment or education.

(C) Per OAC 340:110-1-9.1(b) DCC licensing staff monitors the facility's ability to meet the child's needs each time a visit is made to that facility.

17. If the parent or provider reports that the child requires more or less care than previously determined, a new Form ADM-123 is completed to reflect the child's current care needs. Form ADM-123-A is also completed to determine whether a change is needed in the rate paid by OKDHS.

18. A new Form ADM-123 must be completed with the new provider because both the child and the provider must meet certain criteria before the child is authorized at a higher special needs rate. The new provider must agree to follow the Child Care Plan developed in Section III of the form and licensing staff must certify in Section IV that the new provider meets certification requirements for the higher rate.

19. If the child stops attending the facility that was approved for the special needs rate for fewer than six months and then returns to the same facility, a new Form ADM-123 is not needed unless the care needs of the child have changed. The worker ensures that both the provider and licensing staff still have a copy of Form ADM-123 and that the provider agrees to follow the Child Care Plan described in Section III of the form. If the child stops attending the facility for more than six months, a new Form ADM-123 must be completed.

20. If child care is needed more often for protective purposes, see OAC 340:40-7-8(f) for protective or preventive child care. In the FACS Eligibility Notebook under the Auth. Daycare tab, enter the reason, "prevention of or protection from abuse, neglect, or exploitation." When child care is approved for socialization and enrichment, use the reason, "enrichment, supervision, training, or to avoid institutionalization." The Form ADM-123 process must be followed to approve the higher special needs rate.

21. Professionals who may provide a statement include the child's doctor, SoonerStart worker, school counselor, and therapist. The worker submits a memo to FSSD Health Related Medical Section, Supplemental Security

Income-Disabled Children's Program (SSI-DCP) coordinator requesting approval for child care. Reviews of this service are completed as requested by the SSI-DCP coordinator. The worker enters a child care request using the AUSNC transaction. See OAC 340:70-8-1(3) for SSI-DCP information. The child care mentioned here is the same child care described in this Section. Once this is approved by the SSI-DCP coordinator, the worker enters an authorization in the FACS Eligibility Notebook, Auth. Daycare tab. When the child has other avenues to receive enrichment such as attending school or Head Start, socialization child care is normally not approved.

340:40-7-12. Sources of excluded income

Only the income listed in this Section is excluded in determining a household's eligibility for a child care benefit. No other income is excluded.

(1) **Lump sum payments.** Both one-time and recurring lump sum payments are excluded as income unless they are specifically mentioned in OAC 340:40-7-11.

(2) **In-kind income.** In-kind income is defined as any gain or benefit which is not in the form of money payable directly to the household, including non-monetary or in-kind benefits such as meals, clothing, public housing, or produce from a garden, and is excluded. ■ 1

(3) **Money received from the sale of property.** Money received from the sale of property such as stocks, bonds, a house, or a car is excluded. This exclusion does not apply if the person is engaged in the business of selling such property. ■ 2

(4) **Bank or trust account withdrawals.** Money withdrawn from a bank or trust account is excluded as income even if used to meet current living expenses.

(5) **Capital gains.** The proceeds from the sale of capital goods or equipment is excluded.

(6) **Earnings of children.** Earnings of an individual 17 years of age and younger who is considered a child in the case is excluded as long as the child is attending school regularly. This exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment resumes following the break. Earned income of a child who is head of his or her own household, such as is the case for a minor parent, is treated as adult income. ■ 3

(7) **Irregular income.** Any income received too infrequently or irregularly to be reasonably anticipated is not counted unless it is in excess of \$30 per calendar quarter.

(8) **Reimbursements.** Reimbursements for past or future expenses to the extent they do not exceed actual expenses are excluded. ■ 4

(9) **Tax refunds.** Federal or state income tax refunds, including the state and federal Earned Income Tax Credit (EITC), and advance payments of federal EITC are excluded.

(10) **Money received for third parties.** Money received and used for the care and maintenance of a third party who is not a household member is excluded.

(11) **Loans.** All loans, including loans from private as well as commercial institutions, are excluded. Verification that the income is a loan is required.

(12) **Grants.** Grants obtained and used under conditions that preclude their use for current living costs is excluded.

(13) **Educational assistance.** All education grants, work-study, scholarships, and student loans are exempt if receipt is contingent upon the student regularly attending school.

(14) **Stipends.** Stipends paid to students participating in the Indian Vocational Education Program through the Carl D. Perkins Vocational and Applied Technology Education Act is excluded.

(15) **Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE).** Payment for supportive services or reimbursement of out-of-pocket expenses made to volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in SCORE and ACE is excluded.

(16) **Government rent or housing subsidies.** Government rent or housing subsidies by government agencies which is received in-kind or in cash for rent, mortgage payments, or utilities is excluded.

(17) **Foster care payments.** Foster care payments received for a foster child in state or tribal custody are excluded as income.

(18) **Victims of Crime Act of 1984.** Payments made from the crime victims compensation program as amended in Section 1402 of the Victims of Crime Act of 1984 are excluded. [42 USC 10602]

(19) **Family Support Assistance Payment Program.** Family Support Assistance Payment Program payments paid to individuals by the Developmental Disabilities Services Division of the Oklahoma Department of Human Services (OKDHS) are excluded as income.

(20) **Vendor payments.** Vendor payments are payments in money on behalf of a household when a person or organization outside the household uses its own funds to make a direct payment to either a household's creditors or a person or

organization providing a service to the household are excluded. Payments specified by a court order or other legally binding agreement to be paid directly to the client but that are instead diverted to pay a third party for a household expense are counted as income. ■ 5

(21) Money received by another household for a household member. When a child spends part of the month in two separate households and receives countable income, the worker determines which household actually receives the income. Only the portion of the income that is actually received by the household applying for or receiving a child care benefit is considered as income for that household. ■ 6

(22) Income excluded by federal law. Income excluded by federal law is defined as:

(A) payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(B) payments received:

(i) under the Alaska Native Claims Settlement Act [Public Law (P. L.) 92-203, § 21(a)];

(ii) under the Sac and Fox Indian Claims Agreement [P.L. 94-189];

(iii) from the disposition of funds to the Grand River Band of Ottawa Indians [P.L. 94-540];

(iv) by members of the Confederated Tribes of the Mescalero Reservation [P.L. 95-433]; or

(v) under the Maine Indian Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation [P.L. 96-420];

(C) any payment to volunteers under Title II, Retired and Senior Volunteer Program, Foster Grandparents and others, of the Domestic Volunteer Services Act of 1973 [P.L. 93-113] as amended. Payments under Title I of that Act, Volunteers in Service To America, University Year for Action, and Urban Crime Prevention Program, to volunteers are excluded only if the monthly amount, when converted to an hourly rate, is less than the Oklahoma minimum wage; ■

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(D) income derived from submarginal land of the United States which is held in

trust for certain Indian tribes [P.L. 94-114, Sec. 6];

(E) Indian payments, which include judgment funds or funds held in trust, distributed per capita by the Secretary of the Interior of the Bureau of Indian Affairs or distributed by the tribe subject to approval by the Secretary of the Interior. Also, any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds. Any income from mineral leases, from tribal businesses investments, and the like, as long as the payments are paid per capita. For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. However, any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(F) income up to \$2,000 per year received by individual Indians, which is derived from leases or other uses of individually-owned trust or restricted lands is not counted as income. The income exclusion applies to calendar years beginning January 1, 1994. Any remaining disbursements from the trust or restricted lands are considered as income;

(G) allowances, earnings, and payments received by a child(ren) in the household from a program funded by participation in the Workforce Investment Act (WIA), including Job Corps income are not counted as income;

(H) payments, allowances, or earnings to individuals participating in programs under Title I of the National and Community Service Trust Act of 1993. Title I includes three Acts: Serve-America, The Community Service, Schools and Service-Learning Act of 1990, the American Conservation and Youth Service Corps Act of 1990, and the National and Community Service Act. Most of the payments are made as a weekly stipend or for educational assistance. The Higher Education Service-Learning Program and the AmeriCorps Umbrella Program come under this Title. This includes AmeriCorps income;

(I) payments or allowances made under any federal law for the purpose of energy assistance, Low Income Home Energy Assistance Program (LIHEAP), and also utility payments and reimbursements made by the Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA);

(J) the amount of the mandatory salary reduction of military service personnel used to fund the G.I. Bill;

(K) all funds paid to individuals under the Community Service Employment Program under Title V. [P.L. 100-175] This program is authorized by the Older Americans Act. Each State and various organizations receive some Title V funds. These organizations include:

- (i) Green Thumb;
- (ii) National Council on Aging;
- (iii) National Council of Senior Citizens;
- (iv) American Association of Retired Persons;
- (v) U.S. Forest Service;
- (vi) National Association for Spanish Speaking;
- (vii) National Urban League;
- (viii) National Council on Black Aging; and
- (ix) National Council on Indian Aging;

(L) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement In Re Agent Orange Product Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);

(M) payments received under the Civil Liberties Act of 1988. These payments are made to individuals of Japanese ancestry who were detained in interment camps during World War II;

(N) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from exposure to radiation from nuclear testing and uranium mining;

(O) payments for the fulfillment of a Plan for Achieving Self-Support under Title XVI of the Social Security Act;

(P) payments made to individuals because of their status as victims of Nazi persecution;

(Q) payments made for the Experimental Housing Allowance Program under

Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937 as amended;

(R) monetary allowances provided to certain children of Vietnam War veterans as described in Chapter 18 of Title 38 of the United States Code (USC);

(S) federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. For payments to be excluded, the disaster or emergency must be declared by the President of the United States;

(T) the value of the food stamp allotment under the Food Stamp Act of 1977; and

(U) the value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food services program for children under the National School Lunch Act of 1970, both as amended by the Omnibus Budget Reconciliation Act of 1981.

INSTRUCTIONS TO STAFF

- 1. See OAC 340:40-7-11(c)(5) for court-ordered benefits.**
- 2. See OAC 340:40-7-11(b)(2) for how to handle self-employment income.**
- 3. For purposes of this provision, an elementary or high school student also includes someone who attends classes, to obtain a General Educational Development (GED) certificate, that are recognized, operated, or supervised by the student's state or local school district.**
- 4. (a) Examples are reimbursements for:**
 - (1) job or training related expenses such as travel, per diem, uniforms, and transportation to and from the job or training site. If these expenses are not reimbursements, they are not otherwise deductible;**
 - (2) out-of-pocket expenses incurred by volunteers in the course of their volunteer activity;**
 - (3) medical or dependent care; and**
 - (4) services provided by Title XX of the Social Security Act.**

(b) When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursement covers normal living expenses. The worker counts the amount of the reimbursement that exceeds the actual incurred expenses. The worker does not consider a reimbursement to exceed actual expenses unless the provider or household indicates the amount is excessive.

5. (a) Examples of vendor payments that are excluded as income are:

(1) a friend, employer, agency, church, relative, or former spouse making payments for household expenses such as rent or utilities directly to the landlord or utility company. If the payment is made from funds not owed to the household, it is a vendor payment and excluded as income;

(2) a payment made directly to the landlord or financial institution for the household's rent or house by an employer, in addition to paying regular wages, is excluded;

(3) payments specified by a court order or other legally binding agreement to go directly to a third party rather than the household are excluded as income as they are not otherwise payable to the household; or

(4) payments or allowances made by the Department of Housing and Urban Development (HUD) or by the Farmers Home Administration (FmHA) directly to mortgage holders, landlords, or utility providers are vendor payments and excluded as income.

(b) An example of a vendor payment that is considered as income is when a non-custodial parent is directed by the court to pay \$400 in child support to the client. The non-custodial parent pays \$200 to the client and \$200 directly to the landlord for rent. The worker counts the entire \$400 as unearned income because the payment is taken from money that is owed to the household. If the court order had directed the non-custodial parent to make a payment directly to a vendor, that payment is excluded as income.

6. An example of this could occur in certain joint or shared custody situations. One parent may be receiving a Temporary Assistance for Needy Families (TANF) benefit or an Supplemental Security Income (SSI) payment for a child. If none of the income comes with the child into the other parent's household, it is not counted as income in that household. If part of the income is given to the other parent, only that portion of the income is considered as income.

7. See OAC 340:50-7-22(5)(H) for **determining food stamp eligibility.**