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POLICY TRANSMITTAL NO. 10-08	DATE: MAY 3, 2010
DEVELOPMENTAL DISABILITIES SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF INTERGOVERNMENTAL RELATIONS AND POLICY

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TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:100-1-2; 100-3-4; 100-3-29; 100-3-38.5; 340:100-5, Table of Contents; 100-5-3; 100-5-22; 100-5-22.5 through 100-5-22.6; 100-5-52 through 100-5-53; and 100-17-30.

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

The proposed revisions to Subchapters 1, 3, 5, and 17 of Chapter 100 amend the rules to: (1) bring the terminology associated with programs and services offered by Developmental Disabilities Services Division (DDSD) to the current standard in the field of providing services to persons with developmental disabilities and certain other related conditions; (2) clarify the monitoring responsibilities of personal funds for different residential placements and allow the use of personal funds for minor repairs to a residence; (3) provide rules for operation of the Respite Voucher Program; (4) clarify the requirements of the Foster Grandparent Program; (5) remove the supervisory staff training requirement for service recipients or representatives who elect to self-direct services and require the approved self-directed training course; (6) remove eligibility criteria for services not provided by DDSD; (7) include room and personal searches within allowable restrictive procedures; (8) prohibit the use of cell phones in alternative group homes; (9) specify training requirements; (10) clarify Oklahoma Department of Human Services (OKDHS) provider payments and their approved use; (11) disallow the use of room and board funds to support a roommate who is not a recipient of DDSD services; (12) provide clarification about the responsibility of any roommate in paying his or her fair share in the cost of operating a household; (13) disallow the use of room and board payments for supporting more than one household except when a transition is occurring; (14) clarify the responsible party for paying for co-payments and over the counter medications; (15) provide clarification for the approval process for the use of property replacement funds; (16) specify information to be included in the monthly report of progress; (17) specify case management for recipients of state funded non-waiver services; (18) clarify planning requirements for the Individual Plan; and (19) limit

therapeutic leave in state funded employment services to a maximum of 10% of the authorized units with a maximum of 150 hours per service recipient per fiscal year.

OAC 340:100-1-2 is amended to bring the terminology associated with programs and services offered by DDS to the current standard in the field of providing services to persons with developmental disabilities and certain other related conditions.

OAC 340:100-3-4 is amended to clarify the monitoring responsibilities of personal funds for different residential placements and allow the use of personal funds for minor repairs to a residence.

OAC 340:100-3-29 is amended to clarify the requirements of the Foster Grandparent Program.

OAC 340:100-3-38.5 is amended to remove the supervisory staff training requirement for service recipients or representatives who elect to self-direct services and require the approved self-directed training course.

OAC 340:100-5-3 is amended to remove eligibility criteria for services not provided by DDS.

OAC 340:100-5-20 is created to provide rules for operation of the Respite Voucher Program.

OAC 340:100-5-22 is amended to clarify transition and discharge planning requirements.

OAC 340:100-5-22.6 is amended to: (1) include room and personal searches within allowable restrictive procedures; (2) prohibit the use of cell phones in alternative group homes; and (3) specify training requirements.

OAC 340:100-5-22.5 is amended to: (1) clarify OKDHS provider payments and their approved use; (2) disallow the use of room and board funds to support a roommate who is not a recipient of DDS services; (3) provide clarification about the responsibility of any roommate in paying his or her fair share in the cost of operating a household; (4) disallow the use of room and board payments for supporting more than one household except when a transition is

occurring; (5) clarify the responsible party for paying for co-payments and over the counter medications; and (6) provide clarification for the approval process for the use of property replacement funds.

OAC 340:100-5-52 is amended to specify information to be included in the monthly report of progress and specify case management for recipients of state funded non-waiver services.

OAC 340:100-5-53 is amended to clarify planning requirements for the Individual Plan.

OAC 340:100-17-30 is amended to limit therapeutic leave in state funded employment services to a maximum of 10% of the authorized units with a maximum of 150 hours per service recipient per fiscal year.

Original signed on 4-14-10

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James M. Nicholson, Director  
Developmental Disabilities Services Division

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Sandra Harrison, Coordinator  
Office of Intergovernmental Relations and  
Policy

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WF # 09-20 (NAP)

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## **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.

<b><u>REMOVE</u></b>	<b><u>INSERT</u></b>
340:100-1-2	340:100-1-2, pages 1-12, revised 6-1-10
340:100-3-4	340:100-3-4, pages 1-6, revised 6-1-10
340:100-3-29	340:100-3-29, 1 page only, revised 6-1-10
340:100-3-38.5	340:100-3-38.5, pages 1-6, revised 6-1-10
340:100-5, Table of Contents	340:100-5, Table of Contents, pages 1-2, revised 6-1-10
340:100-5-3	340:100-5-3, pages 1-3, revised 6-1-10
-----	340:100-5-20, pages 1-3, issued 6-1-10
340:100-5-22	340:100-5-22, pages 1-2, revised 6-1-10
340:100-5-22.5	340:100-5-22.5, pages 1-6, revised 6-1-10
340:100-5-22.6	340:100-5-22.6, pages 1-10, revised 6-1-10
340:100-5-52	340:100-5-52, pages 1-4, revised 6-1-10
340:100-5-53	340:100-5-53, pages 1-2, revised 6-1-10
340:100-17-30	340:100-17-30, pages 1-3, revised 6-1-10

**340:100-1-2. Definitions**

Revised 6-1-10

The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

**"Active treatment"** means aggressive and consistent implementation of a program of specialized and generic training, treatment, and health services directed toward the service recipient's acquisition of skills necessary to function as independently as possible.

**"Advisory Committee on Services to Persons with Developmental Disabilities"** means the committee appointed by the Director of Oklahoma Department of Human Services (OKDHS) to review and make recommendations on rules and programs of Developmental Disabilities Services Division (DDSD) to the Director and Oklahoma Commission for Human Services.

**"Advocate"** means a person who speaks for or on behalf of a service recipient, especially when individual rights or interests are at risk.

**"Alternative appropriate setting"** means a setting, other than a nursing facility, in which needed habilitation services are provided, including an intermediate care facility for the mentally retarded (ICF/MR) or Home and Community-Based Services (HCBS).

**"Assessment"** means one or more processes that are used to obtain information about a service recipient, including his or her condition, personal goals and preferences, functional limitations, health status, or other factors relevant to the authorization or provision of services. Assessment information supports the determination that an individual requires services as well as the development of the Individual Plan.

**"Back-up-plan"** means provision for alternative arrangements for the delivery of services that are critical to the service recipient's well-being in the event the provider responsible for furnishing the service fails, is unable to deliver the services, or the home where the person lives is no longer available.

**"Capacity to give informed consent"** means the ability to make and express voluntary decisions, given correct and sufficient information about the nature, purpose, risks, and benefits of a proposed service or action, and has not been adjudicated incapacitated by a court for purposes of the decision.

**"Case manager"** means an OKDHS DDSD professional who is responsible for assisting a service recipient gain access to needed medical, social, educational, or other services per OAC 317:30-5-1010.1. Case management activities may include assessment, plan development, plan implementation and monitoring, as well as assistance in accessing services and other resources.

**"Challenging behavior"** means a behavior that, by its frequency or degree of intensity:

(A) places a service recipient's physical safety, environment, relationships, or participation in the community at risk; or

(B) creates a risk of involvement in civil or criminal processes.

**"Client Contact Manager (CCM)"** means a computer software system used by DDSD case managers to collect and monitor case management data for all service recipients.

**"Community Integrated Employment (CIE)"** means a service program that provides placement, job training, and short-term or long-term supports to assist service recipients in achieving and maintaining employment within the community.

**"Confidential information"** means:

(A) information related to a service recipient generated by OKDHS or contract providers; and

(B) observations of and discussions concerning service recipients, their families, guardians, or friends.

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**"Contract provider or agency"** means an agency or person rendering services to persons with developmental disabilities under a contractual agreement with OKDHS or Oklahoma Health Care Authority (OHCA).

**"Convalescent care"** means nursing facility care:

(A) following a person's release from an acute care hospital that is part of a medically prescribed period of recovery; and

(B) that is not expected to exceed an established number of days.

**"DDSD"** means Developmental Disabilities Services Division of OKDHS.

**"Developmental disability"** means a severe chronic disability of a person that:

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the person attains age 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the areas of major life activity that are:

(i) self-care;

(ii) receptive and expressive language;

(iii) learning;

(iv) mobility;

(v) self-direction;

(vi) capacity for independent living; and

(vii) economic self-sufficiency; and

(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

**"Family homes"** means residences maintained by persons biologically related to a person receiving services.

**"Family training"** means activities designed to equip family members, significant others, and persons with developmental disabilities with knowledge and skills that allow a family member with developmental disabilities to remain in or return to his or her home.

**"Goals"** means long-term categorical statements that describe what the service recipient is expected to achieve in a given time frame and are used synonymously with outcomes.

**"Guardian"** means a person appointed by a court as general or limited guardian of the person, general or limited guardian of property, special guardian, or temporary guardian as provided by state statutes to ensure the essential requirements for the health and safety of the ward are met, to manage the estate or financial resources of the ward, or both.

**"Guardian ad litem"** means a person appointed by a court to represent the interests of a person in a legal action.

**"Habilitation services"** means goal-directed services and therapy activities:

(A) designed to assist a service recipient to acquire a variety of skills including self-help, socialization, adaptive skills, and prevent loss of skills; and

(B) based on the service recipient's capacity to increase the level of physical, mental, and social functioning.

**"Human Rights Committee"** means the committee charged with the responsibility for external monitoring and advocacy to address protection of individual rights.

**"ICF/MR"** means an intermediate care facility for the mentally retarded that is:

(A) a residential facility licensed in accordance with Oklahoma law; and

(B) certified by the federal government as a provider of Medicaid services to persons who have mental retardation (MR) or related conditions.

**"Incapacitated"** means a determination made by the court that a person is unable to provide for and make decisions for the person's own needs and safety.

**"Individual Plan (Plan)"** means a written document developed by the Team based upon assessment of need. The Plan:

(A) specifies outcomes being pursued on behalf of the service recipient, steps being taken to achieve outcomes, and all services and supports necessary to achieve outcomes; and

(B) is a single, comprehensive plan that encompasses all relevant components

of the service recipient's life. Various aspects of the Plan are assigned to those persons or agencies designated by the Team to provide services.

**"Intake"** means the process by which a person gains access to DDSD services. Intake staff:

- (A) provides answers to specific service inquiries;
- (B) assists in the identification of needs in times of crisis;
- (C) supplies information regarding the range and means of accessing available services;
- (D) provides assistance as necessary in service application; and
- (E) facilitates eligibility determination.

**"Integrated employment site"** means a location or activity that provides regular interaction for service recipients with persons without disabilities, excluding service providers, to the same extent that a worker without disabilities in a comparable position interacts with others.

**"Intrusive procedure"** means a procedure that impinges upon the bodily integrity of the service recipient, per OAC 340:100-5-57 and OAC 340:100-5-58. Intrusive procedures include, but are not limited to:

- (A) use of injections or oral medications administered for the sole purpose of controlling behavior;
- (B) physical management or physical restraint; and
- (C) mechanical restraints for medical reasons.

**"Job coach"** means a person who holds an OKDHS approved job coach certification and provides ongoing support services to service recipients in supported employment placements. Services directly support the service recipient's work activity, including:

- (A) marketing and job development;
- (B) job and work site assessment;

- (C) training and assessment;
- (D) job matching procedures;
- (E) developing co-worker supports; and
- (F) teaching job skills.

**"Least restrictive "** means services and supports maximize the service recipient's independence and freedom and are provided in a manner that is the least restrictive and intrusive possible to meet the service recipient's needs.

**"Long-term resident"** means any resident of a nursing facility with mental retardation or related conditions who has continuously resided in a nursing facility for at least 30 consecutive months prior to the date of the first preadmission screening and resident review (PASRR) disposition.

**"Mental retardation (MR)"** means a condition, per Diagnostic and Statistical Manual of Mental Disorders (DSM), that:

- (A) refers to substantial limitations in present functioning;
- (B) manifests before age 18; and
- (C) is characterized by significantly subaverage intellectual functioning, existing concurrently with related limitations in two or more of the applicable adaptive skill areas of:
  - (i) communication;
  - (ii) self-care;
  - (iii) home living;
  - (iv) social skills;
  - (v) use of community resources;
  - (vi) self-direction;
  - (vii) health and safety;

- (viii) functional academics;
- (ix) leisure; and
- (x) work.

**"Monitoring"** means the ongoing observation and analysis of the provision of services to determine whether they are furnished according to the plan and effectively meet the service recipient's needs, including whether services adequately protect their health and welfare. Monitoring activities may include, but are not limited to telephone contact, observations and interviewing the service recipient, family, or service provider.

**"Natural supports"** means assistance provided by a person, such as a service recipient's family, friend, co-worker, or neighbor, or member of a service recipient's club, church, or interest group, or others in the service recipient's community, who:

- (A) is not paid specifically to provide assistance to the service recipient; and
- (B) provides assistance voluntarily.

**"Non-prescription medication"** means a pharmacological drug that is sold without a prescription, prepackaged for use by the service recipient, and labeled in accordance with requirements of state and federal statutes and regulations.

**"Nursing facility"** means an Oklahoma Medicaid-certified institution providing skilled nursing and related services, excluding a facility certified as ICF/MR.

**"Personal Support Team (Team)"** means the participants in the service recipient's assessment and planning process and includes:

- (A) the service recipient; and
- (B) service recipient's:
  - (i) case manager;
  - (ii) legal guardian; and
  - (iii) when applicable, advocate, who may be a parent, family member, friend, or another who knows the service recipient well; and
- (C) others, including service providers, whose participation is necessary to

achieve the outcomes desired by the service recipient.

**"Physical management"** means an intrusive procedure involving any physical guidance of a service recipient to overcome resistance or brief upper body hold to ensure safety per OAC 340:100-5-57.

**"Physical restraint"** means an intrusive procedure in which the service recipient is physically held to restrict movement.

**"Physical Status Review"** means Form 06HM007E, Physical Status Review, that is a written assessment identifying a service recipient's ability to attend to activities of daily living based on past and present health history and current treatment modalities. Completed Form 06HM007E assists the service recipient and Team in identifying the:

- (A) service recipient's health care level;
- (B) staff training requirements;
- (C) health care coordination needs; and
- (D) in-depth assessment needs.

**"Plan of Care (POC)"** means a summary listing of services requested as a result of needs identified within the Plan that indicates the amount, duration, and cost of each service recommended for funding through DDSD HCBS Waivers.

**"Preadmission screening and resident review (PASRR)"** means the process of evaluating, reviewing, and establishing the need for nursing facility services in contrast to other services for persons with MR and related conditions.

**"Prescription medication"** means any drug ordered by a practitioner of medicine, dentistry, osteopathy, optometry, or podiatry who is licensed by law to prescribe a drug intended to be filled, compounded, or dispensed by a pharmacist.

**"p.r.n."** means to take or administer a medication as needed.

**"Program coordinator"** means a person employed by a DDSD residential or group home contract provider agency who is responsible for the supervision, coordination, and monitoring of services provided by the contract agency to a service recipient.

**"Program manager"** means a person employed by a DDSD employment contract provider agency who is responsible for the supervision, coordination, and monitoring of

services provided by the contract agency to a service recipient.

**"Psychotropic medication"** means a pharmacological drug used to treat a mental disorder, or any drug prescribed to stabilize or improve mood, mental status, or behavior.

**"QMRP"** means a qualified mental retardation professional who meets ICF/MR regulations specified in Section 483.420 of Title 42 of the Code of Federal Regulations (42 CFR § 483.420). A QMRP must have a baccalaureate degree in a human services field, in addition to one year of experience serving persons with MR.

**"Related condition"** means a severe chronic disability, per 42 CFR § 435.1009, that:

(A) is attributable to:

(i) cerebral palsy;

(ii) epilepsy; or

(iii) any other condition, including autism. Any other condition excludes mental illness (MI) that is closely related to MR as it results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with MR and requires treatment or services similar to those required for persons with MR;

(B) is manifested before the person reaches age 21;

(C) is likely to continue indefinitely; and

(D) results in substantial functional limitations in three or more areas of major life activity, including:

(i) self-care;

(ii) understanding and use of language;

(iii) learning;

(iv) mobility;

(v) self-direction; and

(vi) independent living.

**"Restrictive procedure"** or **"restriction"** means a procedure that results in the limitation of the service recipient's rights, per OAC 340:100-5-57 and OAC 340:100-5-58, and includes:

(A) limiting communication with others;

(B) any limitation of access to:

(i) leisure activities;

(ii) the service recipient's own money or personal property; and

(iii) goods or services beyond normal budgetary considerations;

(C) any limitation of movement at home or in the community; or

(D) any direct observation procedures, specified as a result of challenging behavior, such as continuous one-to-one staffing during times or places that would otherwise be considered private.

**"Sheltered employment"** means a service that:

(A) assists service recipients toward achieving their vocational potential through a controlled work environment;

(B) provides worker reimbursement in accordance with individual production and Fair Labor Standards Act (FLSA); and

(C) includes assessment, training, and transitional programming leading to community job placements.

**"Sheltered workshop"** means a facility that contracts with DDSD to provide employment training and sheltered employment services for workers with disabilities.

**"Short-term resident"** means any resident with MR or related conditions who has resided in a nursing facility for less than 30 months prior to the date of the first PASRR disposition.

**"Specialized services"** means individualized services specified in PASRR evaluations completed by DDSD that, combined with services provided by the nursing

facility or other service providers, results in a treatment regimen leading to the continued and ongoing enhancement of independence.

**"Supplemental Security Income (SSI)"** means a federal income subsidy program administered by Social Security Administration.

**"Supported employment"** means competitive work in an integrated work setting with ongoing support services for service recipients with severe disabilities for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of severe disabilities.

**"Terminal illness"** means, as certified by a physician, a person has a medical prognosis of life expectancy of six months or less if the illness runs its natural course.

**"Transition"** means the planned movement of a service recipient from one service setting to another, occurring as a result of Team recommendation and informed consent of the service recipient.

**"Treatment team for specialized services"** means the team whose purpose is to develop a prescribed plan of specialized services for each service recipient. The team:

(A) is composed of the service recipient, guardian or advocate, nursing home representative, and other professionals and paraprofessionals as needed to develop a comprehensive plan of services; and

(B) may include a psychologist, physical therapist, speech pathologist, physician, and nurse's aide among others.

**"Vocational assessment"** means the employment service evaluation, whether standardized procedures are employed, that:

(A) identifies unique preferences, strengths, and needs of the service recipient;

(B) evaluates work skills and work behaviors;

(C) is supplemented by personal interviews and behavioral observations; and

(D) incorporates information that addresses the service recipient's:

(i) medical;

(ii) physical;

- (iii) psychological;
- (iv) social;
- (v) cultural;
- (vi) educational goals and objectives; and
- (vii) present and future employment options.

**"Volunteer guardian"** means a person unrelated to the service recipient who:

(A) serves as guardian for the service recipient and is trained and certified by the volunteer guardianship agency; and

(B) is appointed by and responsible to the court to ensure essential requirements for the health and safety of the service recipient are met.

**"Ward"** means a person for whom a guardian is appointed by the court.

**340:100-3-4. Service recipient personal funds**

Revised 6-1-10

(a) **General information.** Each service recipient receiving services from Developmental Disabilities Services Division (DDSD) is ensured access to his or her personal funds.

(1) Personal funds include income from all sources, earned or unearned, and assets.

(A) Income is money received in the current month.

(B) Any income not used to meet the service recipient's needs during the current month is a resource or asset of the service recipient in the following month(s).

(2) Services do not include the provision of room and board or personal spending. Each service recipient is responsible for meeting his or her room and board and personal spending needs including, but not limited to; healthcare, medications and co-pays not provided by Medicare, Medicaid or other health insurance, legal fees, vacation costs, recreation and social expenses, educational expenses, clothing, furniture or household items. After the service recipient's day-to-day needs for food and shelter are met, personal funds may be used for the service recipient's needs such as recreation, clothing, and other expenses. The provider agency staff and Personal Support Team (Team) work with the service recipient, as needed, to ensure that all needs are met.

(b) **Prohibited transactions.** Provider agency and DDSD employees are prohibited from engaging in any financial transaction with a service recipient, including:

(1) giving gifts to a service recipient with a cumulative annual value more than \$100;

(2) accepting gifts from a service recipient with a cumulative annual value more than \$20;

(3) selling, purchasing, leasing, or trading any item except:

(A) as part of an established business in which fair market value is received; or

(B) when approved in advance in writing by the Team;

(4) borrowing personal funds or any item of value from the service recipient; and

(5) loaning funds to a service recipient, except:

(A) loaning small amounts, such as money for a meal or a recreational activity, for periods of time less than 24 hours; or

(B) as part of a program authorized in advance in writing by the Team.

(c) **Living expenses.** The provider agency:

(1) may lend funds to a service recipient to cover the service recipient's living expenses in expectation that funds will be available in the future that enable the service recipient to repay the loan; and

(2) must submit ongoing written reports to the Team regarding the status of the service recipient's financial condition and the status of the loan or repayment.

(d) **Protection of personal funds.**

(1) Per OAC 340:100-3-1.2, each service recipient when not in conflict with a guardianship order or representative payee agreement, has the right to manage, be taught to manage, receive assistance in managing his or her financial affairs, and access all financial records regarding his or her personal funds.

(2) When a provider agency serves as representative payee, or when staff provide assistance in managing, or have access to personal funds for service recipients receiving community residential supports or group home services:

(A) the provider agency retains, safeguards, and accounts for the service recipient's personal funds when determined necessary by the service recipient's Team and as authorized by the service recipient, applicable guardian, or when the provider agency is the representative payee; and

(B) regular allowances or spending programs may be implemented on an individual basis, provided they are requested by the service recipient, guardian, or parent of a minor service recipient and reviewed by the service recipient's Team. The specific amount of the allowance is documented in the service recipient's Individual Plan (Plan). An allowance consists of a fixed amount of money regularly given to the service recipient to spend as he or she wishes.

(3) Staff who have access to or assist the service recipient with personal funds, ensures:

- (A) the service recipient's personal funds are not co-mingled with provider agency funds;
- (B) a separate financial record is maintained for each service recipient that includes receipts for all expenditures that are:
- (i) more than \$5; and
  - (ii) made with provider agency staff involvement;
- (C) a written accounting of the service recipient's personal funds is maintained; and
- (D) a summary of financial transactions is available to the service recipient, guardian, DDSD case manager, and the Office of Client Advocacy (OCA) advocate, if involved:
- (i) monthly; and
  - (ii) when the service recipient ceases receiving service from the provider agency;
- (E) copies of the written accounting and summary of financial transactions are provided to the service recipient, guardian, case manager, and OCA advocate if involved, upon request;
- (F) service recipient's personal funds account is reconciled at least monthly by provider agency staff who does not have authority to disburse funds from or responsibility to deposit funds to the account;
- (G) documentation is maintained to support all transactions involving the service recipient's personal funds that are not independently controlled by the service recipient;
- (H) service recipient's income is deposited to the service recipient's personal account within seven days of receipt;
- (I) when the service recipient's income is held in an interest bearing account, the interest accrues to the service recipient;
- (J) any personal cash not in the service recipient's possession is properly protected against theft;

(K) service recipient receives requested funds within one banking day of request;

(L) service recipient, parent of a minor service recipient, guardian, or representative payee, as applicable, and DDSD case manager are advised of eligibility requirements when the service recipient's account accumulates 1100; unless the IP includes specific provisions to maintain Medicaid eligibility;

(M) service recipient's personal funds are not used to supplement service rates or to purchase items that are part of the services that the service recipient is currently authorized to receive;

(N) prior to receiving services from a provider agency, a written agreement is executed between the service recipient, or guardian as applicable, and provider agency. Copies of the agreement are provided to each party and filed in the service recipient's record. The agreement includes:

(i) responsibilities of the provider agency to the service recipient in handling the service recipient's personal funds;

(ii) service recipient's fiscal responsibilities; and

(iii) services for which the service recipient's personal funds must be used;

(O) all requested financial information necessary for the maintenance of the service recipient's financial eligibility is provided to Oklahoma Department of Human Services and the Social Security Administration in a timely manner;

(P) service recipient receives choices in the selection of stores for the purchase of food, clothing, and personal items; and

(Q) except for minor repairs service recipient's personal funds are not used to make permanent modifications to a home not owned by the service recipient.

(4) For service recipients not receiving community residential supports or group home services that do not meet the criteria established in paragraph (2) of this subsection; the Team discusses and documents the party responsible for maintaining and planning for continued participation in Medicaid and other benefit programs for which the service recipient is eligible.

(5) Allegations of exploitation must be reported in accordance with OAC 340:2-3-33. When a provider agency is a service recipient's representative payee, it must fulfill its duties in accordance with applicable federal regulations that define those duties.

(e) **Team planning and assistance to manage personal funds.** The Team may limit, but not totally deny, a service recipient without a guardian access to or use of his or her personal funds only when a determination is made, per OAC 340:100-3-4, that the limitation is essential to prevent the service recipient from unreasonably or significantly dissipating his or her personal funds.

(1) The Team follows rules per OAC 340:100-3-1.2.

(2) Justification for limiting access to and use of personal funds is documented in the service recipient's Plan. The Team develops a Plan to remove the restriction and includes specific dates to review the Plan.

(3) The Team ensures the service recipient is afforded due process prior to implementation of any financial restrictions.

(4) When determining whether to limit a service recipient's access to personal funds, the Team addresses whether the service recipient:

(A) recognizes currency, coins, and value of such;

(B) does not lose money regularly;

(C) does not leave money unattended;

(D) does not give money away;

(E) has the ability to make change or knows when to wait for change;

(F) shows responsible behavior regarding his or her money, paying bills on time, writing checks only when he or she has sufficient funds, and saving or planning for special items;

(G) understands his or her responsibility to pay room and board expenses; and

(H) understands budgeting so money will last all month.

(f) **Payee responsibilities.** In addition to the requirements of OAC 340:100-3-4 persons and organizations serving as representative payee for a service recipient's personal funds are responsible for obtaining a copy of the dispersing agency's

regulations regarding representative payee responsibilities and adhering to the dispersing agency's requirements.

(1) The service recipient, guardian, or representative payee is responsible for paying for room and board from the service recipient's income.

(2) A provider agency serving as payee uses direct deposit of benefits, when available.

**340:100-3-29. Foster Grandparent Program**Revised 6-1-10

All foster grandparent volunteer activities and requests for volunteers 55 years of age or older are recorded and monitored through the Oklahoma Department of Human Services (OKDHS) Foster Grandparent Program Office, in accordance with the Domestic Volunteer Service Act (DVSA) of 1973, Public Law (P.L.) 93-113, as stated in the current Foster Grandparent Program Operations Handbook.

- (1) Foster Grandparent Program volunteers provide services to persons younger than age 22.
- (2) Volunteers receive an hourly stipend if total household income is within the National Senior Service Corps (NSSC) guideline.
- (3) Volunteers provide services no more than 2,088 hours per year.
- (4) Volunteers receive all benefits as stipulated in the Corporation for National and Community Service, CNCS Foster Grandparent Program Operations Handbook.
- (5) A background check is completed prior to a potential foster grandparent serving as a volunteer and every three years thereafter. The background check includes:
  - (A) the Sex Offender Registry;
  - (B) the Developmental Disabilities Services Division (DDSD) Community Services Worker Registry;
  - (C) an Oklahoma State Bureau of Investigation name and criminal records history search;
  - (D) the Mary Rippy Violent Crime Offenders Registry; and
  - (E) a Department of Public Safety history.
- (6) Prior to volunteering and annually thereafter, the foster grandparent must have an OKDHS vendor contract in force for the reimbursement of travel, meals, or stipends if applicable.
- (7) DDSD staff submits monthly expenditure reports to the OKDHS Finance Division federal programs accountant.



**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 6-1-10

(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 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. ■ 1 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) for implementation and consistency of supports and programs and to ensure the service recipient's health and welfare.

(1) 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.

(2) 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.

(3) 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 health and physical support issues or behavior support issues.

(1) If specialized health and physical support training courses are identified in the Plan, staff must complete the courses before working alone or with other untrained staff, but no later than 60 days after starting work with the service recipient. ■ 2

(2) Staff serving a service recipient with a protective intervention plan that includes non-restrictive intervention techniques must be trained on these techniques before use. ■ 3

(3) Completion of an approved behavior support course is required for direct support staff serving 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.

(4) 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. ■ 3

(5) Staff must complete the approved physical management course before using any technique of physical management identified in a protective intervention plan. If an approved protective intervention plan includes physical management procedures, the chief executive officer or designee of each provider agency verifies conditions per OAC 340:100-3-38.5(g) are met before securing training on the procedures. ■ 3

(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.

(6) If the DDSD director of psychological and behavioral supports or positive support field specialist grants emergency authorization per OAC 340:100-5-57 of a protective intervention plan that includes physical management procedures, training is provided only to staff who complete or enroll in the courses per OAC 340:100-3-8.5(g).

(7) Training regarding physical management procedures must be obtained from certified DDSD trainers.

(8) Staff must complete annual retraining on the specific procedures in the 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. Annual training may come from:

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

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

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

(4) individual-specific training; or

(5) agency-specific in-services.

(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.

**INSTRUCTIONS TO STAFF 340:100-3-38.5****Revised 5-15-09**

- 1. Effective teaching course. The effective teaching courses include either Effective Teaching and Learning I (ETL I), or Effective Teaching course available through the College of Direct Supports on-line training.**
- 2. Specialized training courses. Specialized health and physical support training courses are:**
  - (1) Physical Assistance I;**
  - (2) Physical Assistance II; and**
  - (3) Mealtime Challenges.**
- 3. Behavior support courses. The approved:**
  - (1) behavior support courses include either ETL II or Behavior Support course available through the College of Direct Supports on-line training.**
  - (2) course on non-restrictive techniques includes Methods of Protective Intervention I (MOPI I); and**
  - (3) course on physical management procedures is MOPI II.**

**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

#### **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

**340:100-5-3. Emergency Services**Revised 6-1-10

(a) **General information.** Emergency Services are support services that provide short-term relief to individuals and their families or caregivers to prevent out-of-home placement, and to ensure the health and welfare of the individual.

(1) Emergency Services are provided to resolve an emergency situation and only after all other resources have been exhausted.

(2) The use of Emergency Services is intended to eliminate identified issues that jeopardize health, safety, or continued home residence of the individual.

(3) The rules in this Section do not apply to individuals who receive services through a Home and Community-Based Waiver (HCBW).

(b) **Services provided.** Emergency Services include:

(1) habilitation training specialist (HTS) services;

(2) homemaker services;

(3) respite services;

(4) transportation services;

(5) adaptive equipment;

(6) medical supplies, medications, or food supplements;

(7) utilities; and

(8) other services as requested and approved on an individual basis.

(c) **Eligibility.** Emergency Services may be offered to an individual who:

(1) is an Oklahoma resident;

(2) has been determined to have mental retardation or a related condition per OAC 340:100-1-2;

(3) is age six or older;

(4) is not receiving services funded through the HCBW;

(5) is not residing in a nursing facility, or intermediate care facility for persons with mental retardation (ICF/MR); and

(6) has no financial resources or other means of resolution to the emergency.

(d) **Service requirements.** Emergency Services are:

(1) based on need;

(2) individualized; and

(3) flexible in meeting the needs of the person.

(e) **Administration.** Emergency Services are:

(1) authorized in writing prior to service delivery by the Developmental Disabilities Services Division (DDSD) programs administrator for Community Services or designee;

(2) funded through the State of Oklahoma without federal subsidy;

(3) initiated by DDSD area office intake staff who identify persons who:

(A) meet the eligibility requirements in this Section; and

(B) have needs that can be resolved through use of Emergency Services; ■ 1

(4) evaluated individually by the DDSD division administrator or designee;

(5) not an entitlement to services from the Oklahoma Department of Human Services;

(6) provided contingent upon availability of resources; and

(7) authorized for up to a 90-day period for a total amount not exceeding \$750. Extension of services beyond 90 days or in excess of \$750 may be authorized by the DDSD division administrator or designee on an individual basis upon receipt of a

written request that includes justification for the extension as set forth in subsection (a) of this Section.

**INSTRUCTIONS TO STAFF 340:100-5-3**

**Revised 6-1-10**

- 1. Intake staff assemble necessary information upon request by any interested person and submit the request to the Developmental Disabilities Services Division State Office.**



**340:100-5-20 Respite Voucher Program**

Issued 6-1-10

(a) **Applicability.** The rules in this Section apply to the respite voucher program operated by the Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services Division (DDSD). When funding resources are sufficient, DDSD may use funds for the provision of respite vouchers. For the purpose of this Section, respite is defined as temporary relief for caregivers and families who are caring for a family member with developmental disabilities.

**(b) Eligibility.**

(1) Respite vouchers may be issued for caregivers of persons who:

(A) do not receive services through a Home and Community- Based Services (HCBS) Waiver; and

(B) do not receive the Family Support Assistance Payment.

(2) The voucher applicant must:

(A) be an Oklahoma resident;

(B) care full-time for an eligible person with a developmental disability, demonstrated by any of the following:

(i) doctor's statement or diagnosis;

(ii) SoonerStart scores;

(iii) school test scores;

(iv) psychological evaluations; or

(v) statement from a licensed therapist; and

(C) have an adjusted gross income of \$60,000 or less.

**(c) Respite voucher application.**

(1) Applications for respite vouchers are available through the Oklahoma Areawide

Services and Information System (OASIS).

(2) Completed applications are submitted to OASIS. A completed application must include a copy of the most recent federal income tax return. When an applicant receives Supplemental Security Income, Temporary Assistance for Needy Families or SoonerCare, the federal income tax return is not required.

(3) Completed applications are sent by OASIS within seven working days to the DDSD respite programs manager for review and approval or denial within 30 days of receipt of the application.

(4) Incomplete applications are returned to the applicant for correction.

(5) The DDSD State Office considers respite voucher applications in chronological order of receipt.

(d) **Issuance of respite voucher.** When an application for a respite voucher is approved, a respite voucher is issued to the caregiver applicant.

(1) A respite voucher is approved for use from the date of issuance and is valid for 90 days from the date issued.

(2) A caregiver may request up to four, \$400 vouchers per year, not to exceed \$1600, based on available funding.

(e) **Caregiver responsibilities.** Caregivers are responsible for:

(1) interviewing and selecting the respite provider;

(2) setting an hourly rate;

(3) training the provider;

(4) ensuring proper payment for services; and

(5) tracking the number of respite hours used and total amount claimed against the voucher.

(f) **Submitting voucher for payment.** The caregiver and the respite care provider complete and sign the respite voucher and submit it to OKDHS Finance Division for payment.

(g) **Fair hearing.** Any person who has been denied a voucher; except for denials based on insufficient funding, may request a hearing per OAC 340:2-5.



**340:100-5-22. Residential services**Revised 6-1-10

Residential services are provided contingent upon the availability of funding and resources. Provision of services may be determined by government regulations or the judiciary. Service recipients who require residential supports are provided services determined by the Personal Support Team (Team), per OAC 340:100-5-52, to represent the least restrictive appropriate setting possible.

(1) All referrals for residential services are processed per OAC 317:30 and OAC 317:40 or OAC 340:100.

(2) All service recipients must meet eligibility requirements per OAC 340:100 for residential services.

(3) The service recipient, family member, and, if applicable, guardian are included as part of the Team to identify residential service needs.

(4) Residential services include:

(A) assisted living services per OAC 340:100-5-22.2;

(B) group home services per OAC 340:100-6;

(C) home- and community-based services options per OAC 340:100-5-22.1 and group home services per OAC 317:40-5-152;

(D) private intermediate care facility for the mentally retarded (ICF/MR);

(E) public ICF/MR programs at Northern Oklahoma Resource Center of Enid (NORCE) and Southern Oklahoma Resource Center (SORC) per OAC 317:30-5-122. Service recipients who meet ICF/MR level of care requirements may be admitted to public ICFs/MR for residential services when their individual circumstances indicate placement in a public ICF/MR is the least restrictive, most appropriate residential environment available.

(i) Service recipients who are able to receive services that meet their needs in less restrictive environments than a state-operated facility are not eligible for admission.

- (ii) This does not preclude the provision of respite services or other emergency interventions that may require service recipients reside at NORCE or SORC for a time-limited period; and
- (F) specialized public ICF/MR program at Robert M. Greer Center (Greer) per OAC 340:100-11.
- (5) No service recipient may move from NORCE or SORC without adequate supports in place as determined by the service recipient's Team.
- (6) Oklahoma Health Care Authority (OHCA) establishes eligibility and certifies level of care need for admission to private and public ICFs/MR per OHCA policy. Admission to public ICFs/MR must be approved by the Oklahoma Department of Human Services Director or designee.
- (7) Continued eligibility for appropriateness of services is addressed by the Team during annual development of the Individual Plan (Plan).
- (8) Specific residential support needs are determined through the Team process and documented in the service recipient's Plan. The services provided must be identified in the approved Plan.
- (9) The Developmental Disabilities Services Division (DDSD) case manager, agency program coordinator, or both ensure residential services are coordinated with all other services provided to the service recipient.
- (10) Contract providers are reimbursed for residential services at rates established by Oklahoma Commission for Human Services or OHCA.
- (11) Programs and facilities are monitored on a regular basis to ensure continued compliance with all applicable contract conditions, rules, and regulations. Monitoring reports documenting compliance with regulatory standards are maintained and used as a basis for contract renewal or termination.
- (12) Provider agencies are informed, and provided an opportunity to correct deficiencies that may result in contract termination per OAC 340:100-3-27.1.

### **340:100-5-22.5. Supported living services**

Revised 6-1-10

(a) **Eligibility.** To assure that the daily living requirements of the class members are met, the Oklahoma Department of Human Services (OKDHS) provides a payment to the contract residential provider agency serving each person who:

(1) is a member of the class certified in Case Number 85-C-437-E, United States District Court for the Northern District of Oklahoma; and

(2) receives Daily Living Supports services per OAC 317:40-5-153.

(b) **Service expectations.** The provider agency ensures that:

(1) all applicable rules of OKDHS and the Oklahoma Health Care Authority (OHCA) are met including:

(A) Community Residential Supports, OAC 340:100-5-22.1;

(B) Daily Living Supports, OAC 317:40-5-153;

(C) the Developmental Disabilities Services Division (DDSD) mission statement and guiding principles, OAC 340:100-1-3.1;

(D) community records rules, OAC 340:100-3-40;

(E) Individual Plan rules, OAC 340:100-5-50 through 100-5-58; and

(F) health services rules, OAC 340:100-5-26; and

(2) the class member's expenses for housing, food, clothing, recreation, utilities, medical services, property replacement, and transportation are met per OAC 340:100-5-22.5.

(c) **Room and board payment.** The room and board payments support the class member's housing, food, clothing, recreation, and utility costs in accordance with this subsection.

(1) Each class member contributes an amount determined annually by DDSD, not to exceed 90% of his or her income, up to a maximum of 90% of the current Supplemental Security Income (SSI) payment for a single individual.

(A) The maximum may be exceeded by prior written agreement between the individual served or his or her guardian and the provider agency with the written approval of the director of DDSD or designee.

(B) OKDHS pays a supplement, equal to 90% of the SSI monthly payment for a single individual minus 90% of the class member's income, on behalf of each class member whose income and resources are insufficient for the person to contribute the maximum room and board payment explained in this paragraph.

(2) To supplement the individual's funds for meeting daily living requirements, OKDHS provides:

(A) a room and board provider payment at \$14 per day; and

(B) a residence size supplement provider payment to support the cost of a home, based on the number of individuals living in the home.

(i) For an individual with no roommate, the residence size supplement is \$10 per day.

(ii) For an individual who has one roommate, the residence size supplement is \$6 per day.

(iii) There is no residence size supplement for an individual living with more than one roommate.

(iv) For the purposes of this subparagraph, an individual not listed in Case Number 85-C-437-E is not considered a roommate.

(3) The provider agency completes a written financial agreement with the class member and chosen advocate(s) or the legal guardian per OAC 340:100-5-22.1.

(4) Room and board revenues must be accounted for separately from other provider agency funds.

(A) Room and board revenues from OKDHS are managed by the provider to meet the needs of all individuals living in supported living arrangements.

(B) Payments from OKDHS mentioned in paragraph (2) of this subsection are provider payments. They are not income to the class member and must not be deposited in the class member's bank account; nor is the provider required to account to the class member or Team regarding their use.

(C) Room and board payments from individuals served are used only to meet the needs of that individual.

(5) Room and board revenues must be used, unless written approval is secured in advance from the DDS program administrator for community services, solely for:

- (A) housing costs and utilities;
- (B) groceries;
- (C) household maintenance;
- (D) recreation;
- (E) personal items and clothing;
- (F) household property insurance;
- (G) yard care; and
- (H) furnishings and appliances.

(6) Room and board payments are authorized as long as the provider agency supports the individual to maintain a household.

(7) Room and board payments cannot be used to support a roommate who does not receive DDS services, nor can the payment be used to modify or improve the home for the use or comfort of an existing or potential roommate that is not a recipient of DDS services. Any roommate must contribute a fair share to the cost of operating the household.

(8) Room and board payments are used only to support a service recipient in one household and residence at any given time, except for a timeframe not to exceed 45 days for a transition.

(d) **Medical supplement.** OKDHS reimburses the provider agency for the cost of necessary medical services that are not covered through Medicaid, Medicare, or other insurance; or for persons who are not Medicaid or Medicare eligible for any individual listed in Case Number 85-C-437-E. The medical supplement is not paid at a rate higher than allowed through the Oklahoma Medicaid Fee-for-Service Program unless approved by the DDS area manager in writing.

(1) Co-payments for medical services are not covered by the medical supplement. Co-payments are the responsibility of the class member.

(2) Non-prescription (over-the-counter) medications are not covered by the medical supplement. These are the responsibility of the class member.

**(e) Property replacement supplement.** A maximum of \$850 per class member per fiscal year is reimbursed for replacement of unusable furnishings or necessary furnishings or appliances. Necessary furnishings and appliances include: refrigerators, stoves, washers, dryers, dining tables and chairs, sofas or love seats, recliners, lamps when there is no fixed lighting in the room, beds, dressers or chests of drawers, bookshelves, telephones, and safety items per OAC 340:100-5-22.1.

(1) The provider agency submits a written property replacement request to the case manager that includes:

(A) the furnishing or appliance to be purchased;

(B) the reason the item is necessary; and

(C) the age of the furnishing or appliance to be replaced.

(2) The case manager reviews the written request, submits it to the area manager or designee within 14 days with a statement of their assessment of the need for the furnishing or appliance.

(3) The area manager or designee reviews and responds to the request and assessment, within five days after considering:

(A) whether the request includes necessary information;

(B) whether the case manager assessment indicates need;

(C) whether the household has or has disposed of usable items to meet the need; and

(D) that items less than five years old are repaired whenever feasible; with the exception of lamps, telephones, or safety items.

(4) Expenditures for property purchased with the property replacement supplement must not be reported as expenses against the room and board payment.

(5) No reimbursement for replacement of worn out furnishings may occur during the first year of service.

(6) The disposal of any furnishings purchased for class members under this supplement meets the requirements of this paragraph.

(A) Any furnishings purchased through this supplement become the property of the class member.

(B) Any funds received from the disposal of property belong to the class member.

(C) The provider must document the disposal of furnishings in detail.

(D) When the provider believes that the disposal of property is not in the best interest of the class member, the issue is referred to the Personal Support Team for resolution.

(E) The replacement of usable appliances and furnishings that have been disposed of is the class member's responsibility.

(f) **Transportation supplement.** OKDHS pays a transportation supplement only when the provider agency supplies a vehicle for the exclusive use of each household and the combined mileage for all persons residing in the household totals less than 30 miles per day.

(1) To calculate the authorization for the transportation supplement:

(A) for a class member who does not require adapted transportation, subtract from 30 the number of authorized miles per day supplied to the individual, and multiply by \$0.25; or

(B) for an individual who requires adapted transportation, subtract from 30 the number of authorized miles per day supplied to the individual, and multiply by \$0.70.

(2) Waiver transportation is authorized per OAC 317:40-5-103.

(g) **Fiscal accountability.** The provider agency follows fiscal accountability standards established in this subsection.

(1) The provider agency expends all payment supplied per OAC 340:100-5-22.5 on

the specific activities for which the payment was provided.

(A) Any funds expended for purposes other than the authorized activities are repaid to OKDHS.

(B) The room and board fund balance at the end of the fiscal year cannot exceed five percent of the total supported living revenues. Any fund balance in excess of five percent is repaid to OKDHS.

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

(3) Supported living expenditures must:

(A) be documented;

(B) not include administrative costs of the provider agency; and

(C) be audited annually per OAC 340:100-3-27.5.

**340:100-5-22.6. Alternative group homes**

Revised 6-1-10

(a) **Legal basis.** Authority to operate alternative group homes is found in Section 1020 of Title 56 of the Oklahoma Statutes (56 O.S. § 1020) and in Section 1175.6b of Title 22 of the Oklahoma Statutes (22 O.S. § 1175.6b). Administrative and program requirements for alternative group homes are described in OAC 317:40-5-152 and OAC 340:100-5-22.6 and 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 hours when service recipients are in the home.

(II) This requirement may be reduced to one awake staff, when there is only one service recipient 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 two awake staff must be on duty during hours when service recipients are asleep.

(I) The requirement for two awake staff may be reduced to one staff with the approval of the Team when there are only one or two service recipients in the home.

(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;

(5) written agency policies comply with OKDHS and OHCA rules;

(6) effective security and supervision of service recipients in the residence and community are provided;

(7) 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;

(8) legal and court requirements are followed, including adherence to Oklahoma laws governing registered sexual offenders;

(9) 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;

(10) specific offense patterns are considered and addressed when determining appropriate program locations;

(11) 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;

(12) 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 DDS State Office staff;

(13) door and window alarms are used;

(14) the yard is fenced with a locked gate, unless the requirement for a locked gate is waived in writing by the DDS director or designee; and

(15) 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.

**340:100-5-52. The Personal Support Team (Team)**Revised 6-1-10

(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

monthly summary of progress on assigned outcomes and action steps to the case manager by the tenth of each month, unless an alternative schedule is specified in the Plan. The monthly summary of progress includes:

(A) whether services were provided as specified in the Plan, and if not why; and

(B) if the outcomes have been achieved; or

(C) 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.

■ 2

(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.**

**340:100-5-53. Individual Plan**

Revised 6-1-10

(a) The Individual Plan (Plan) is a written document that describes the services necessary for the health and welfare, the outcomes desired by the service recipient and the services and supports necessary to achieve those outcomes. Each Plan includes:

- (1) basic demographic information, including emergency information and health and safety concerns;
- (2) assessment information;
- (3) description of services and supports identified by the Personal Support Team;
- (4) outcomes to be achieved;
- (5) action steps or methods to achieve the outcomes, including:
  - (A) means to assess progress; and
  - (B) names of persons or agency positions responsible for implementing each part of the Plan;
- (6) community participation strategies and activities;
- (7) identification of needed individual-specific staff training, with required time frames for completion, per OAC 340:100-3-38; and
- (8) medication support plan, per OAC 340:100-5-32.

(b) The Plan is updated as required by ongoing assessment of progress and needs.

(c) A copy of the service recipient's Plan is provided to the:

- (1) service recipient; and
- (2) service recipient's family, legal guardian, and designated advocate.

(d) Relevant portions of the Plan are provided to persons or agencies who provide support or services to the service recipient.

(e) The Developmental Disabilities Services Division case manager develops a Plan of Care that is consistent with the Plan to authorize payment for services.

**340:100-17-30. Other state funded employment services**Revised 6-1-10

State funded employment services may supplement employment services offered through the Community Waiver and Homeward Bound Waiver, per OAC 317:40-7.

(1) State funded employment services include:

(A) therapeutic leave, limited to 10% of authorized units with a maximum of 150 hours per service recipient each fiscal year.

(i) Each service recipient is eligible for up to 150 hours of therapeutic leave per fiscal year if the service recipient receives:

- (I) center-based prevocational services;
- (II) community-based prevocational services;
- (III) enhanced community-based prevocational services;
- (IV) individual placement in community-based services; or
- (V) supplemental supports.

(ii) Therapeutic leave may be used for:

- (I) legal holidays, maximum of 12 days per fiscal year;
- (II) service recipient or family initiated vacations;
- (III) service recipient medical appointment, concern, illness, or injury;
- (IV) severe weather conditions; or
- (V) service recipient refusal to attend the employment program.

(iii) When a service recipient is absent for more than five consecutive days due to illness, the service recipient's Team meets to discuss possible:

- (I) program interventions; and

(II) suspension of the service recipient's employment program to avoid exhausting all available therapeutic leave.

(iv) When a service recipient refuses to attend his or her employment program for three consecutive days, the Team, including residential staff, meets to discuss possible program changes. The employment provider cannot claim for therapeutic leave beyond the three consecutive days until the Team has met.

(v) Claims for therapeutic leave require supporting documentation that includes the date and length of absence and specific reason for absence.

(vi) The provider can claim for therapeutic leave only for the number of scheduled work hours the service recipient missed.

(vii) The provider cannot claim for therapeutic leave when the:

(I) provider agency is closed for reasons other than severe weather conditions;

(II) provider staff is absent, other than on legal holidays; or

(III) service recipient's absence is caused by the provider's inability to supply trained back-up staff.

(viii) The provider pays the direct support staff member the salary that the staff member would have earned if the:

(I) provider bills for therapeutic leave; and

(II) direct support staff member is unable to work due to the absence of the service recipient.

(B) center-based prevocational services;

(C) individual placement in community-based services;

(D) community-based prevocational services;

(E) enhanced community-based services;

(F) individual placement in job coaching services;

- (G) job coaching services;
- (H) enhanced job\_coaching services;
- (I) stabilization and extended services; and
- (J) employment training specialist services.

(2) State funded employment services are available to members of the Homeward Bound class who are not eligible for Developmental Disabilities Services Division waiver services.