

COMMENT DUE DATE: January 5, 2021

Date: December 23, 2020

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Nancy Kelly, Policy Specialist 405-885-7805
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It is important that you provide your comments regarding the **draft copy** of policy by the comment due date. Comments are directed to *STO.LegalServices.Policy@okdhs.org. The proposed policy is **EMERGENCY**.

SUBJECT:

**CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES
(TANF)**
Subchapter 1. General Provisions
340:10-1-3 [AMENDED]
(WF 20-08)

SUMMARY: The proposed amendments to Chapter 10, Subchapter 1 amend the rules to: (1) remove reference to the Temporary Assistance for Needy Families (TANF) State Plan and the components in this Section added specifically for State Plan purposes; (2) add a 60- month time limit; (3) rearrange, update, and simplify information for clarity; (4) update terminology; and (5) add rule citations.

EMERGENCY APPROVAL: Emergency rulemaking is requested to remove Oklahoma TANF State Plan rules so Oklahoma will not have two State Plan documents because a separate State Plan document was created December, 2020.

LEGAL AUTHORITY: Director of Human Services; Section 162 and 230.52 of Title 56 of the Oklahoma Statues (56 O.S. §§ 162 and 230.52); and Sections 602 and 608 of Title 42 of the United States Code.



OKLAHOMA DEPARTMENT OF HUMAN SERVICES



Rule Impact Statement

To: Programs administrator
Legal Services

From: Patrick Klein, Director
Adult and Family Services

Date: December 21, 2020

Re: **CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)**
Subchapter 1. General Provisions
340:10-1-3 [AMENDED]
(WF 20-08)
Contact: Laura Brown, 405-426-7206

A. Brief description of the purpose of the proposed rule:

Purpose.

The proposed amendments to Chapter 10, Subchapter 1 amend the rules to: (1) remove reference to the Temporary Assistance for Needy Families (TANF) State Plan and the components in this Section added specifically for State Plan purposes; (2) add a 60- month time limit; (3) rearrange, update, and simplify information for clarity; (4) update terminology; and (5) add rule citations.

Strategic Plan Impact.

The proposed amendments achieve Oklahoma Human Services (OKDHS) goals to improve the well-being of the people we serve, be engaged with communities to meet the needs of Oklahomans, and have a culture of continuous improvement.

Substantive changes.

Subchapter 1. General Provisions

Oklahoma Administrative Code (OAC) 340:10-1-3 is amended to: (1) remove reference to the Temporary Assistance for Needy Families (TANF) State Plan and the components in this Section added specifically for State Plan purposes; (2) add a 60-month time limit; (3) rearrange, update, and simplify information for clarity; (4) update terminology; and (5) add rule citations.

Reasons.

The proposed amendment removes TANF rules as the Oklahoma TANF State Plan because a separate State Plan document was created December, 2020. This

change aligns the OKDHS State Plan with all other state and territory TANF plans making it consistent nationwide. This format is the preferred format of the Administration for Children. It identifies the TANF Program's broad flexibility and allows OKDHS to make State Plan changes quicker than the rule process allows. The proposed amendment to add the 60-month time limit is made to reduce the number of TANF Sections.

Repercussions.

If the proposed amendment to remove Oklahoma TANF State Plan rules is not implemented, Oklahoma will have two State Plan documents.

Legal authority.

Director of Human Services; Section 162 and 230.52 of Title 56 of the Oklahoma Statutes (56 O.S. §§ 162 and 230.52); and Sections 602 and 608 of Title 42 of the United States Code.

Emergency rulemaking approval is requested.

Emergency rulemaking is requested to remove Oklahoma TANF State Plan rules so Oklahoma will not have two State Plan documents because a separate State Plan document was created December, 2020.

- B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the Agency from any private or public entities:** The classes of persons most likely to be affected by the proposed amendment are households applying for, or receiving TANF cash assistance benefits, and OKDHS staff. The affected classes of persons will bear no costs associated with implementation of the amendments.
- C. A description of the classes of persons who will benefit from the proposed rule:** The classes of persons who will benefit are households applying for, or receiving TANF, and OKDHS staff. The affected classes of persons will bear no costs associated with implementation of the rules.
- D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:** The proposed amendment does not have an economic impact on the affected entities. There are no fee changes associated with the proposed amendment.
- E. The probable costs and benefits to the Agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule and any anticipated effect on state revenues, including a projected net loss or gain in**

such revenues if it can be projected by the Agency: The probable cost to OKDHS includes the cost of printing and distributing the rules estimated to be less than \$20.

- F. A determination whether implementation of the proposed rule will have an impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:** The proposed amendment does not have an economic impact on any political subdivision, nor will the cooperation of any political subdivisions be required in implementation or enforcement of the amendment.
- G. A determination whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:** There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed amendment.
- H. An explanation of the measures the Agency has taken to minimize compliance costs and a determination whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:** There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed amendment.
- I. A determination of the effect of the proposed rule on the public health, safety, and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety, and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:** The proposed amendment is not expected to have an effect on public health, safety, or the environment.
- J. A determination of any detrimental effect on the public health, safety, and environment if the proposed rule is not implemented:** The proposed amendment is not expected to have a detrimental effect on public health, safety, or the environment.
- K. The date the rule impact statement was prepared and, if modified, the date modified:** Prepared: December 21, 2020; modified December 22, 2020.

SUBCHAPTER 1. GENERAL PROVISIONS

340:10-1-3. State Plan for Temporary Assistance for Needy Families (TANF) General Provisions

Revised 9-15-209-15-21

The State Plan covering TANF encompasses the requirements listed in paragraphs (1) through (14) of this Section.

(1) **State-wide operation.** The Plan is in effect in all counties of the state as a state-administered program.

(2) **Financing.** The Oklahoma State Legislature appropriates funds for financing the TANF program. Federal money is provided by block grant funding, per federal laws and regulations, relating to the TANF program. These state and federal funds are used for assistance and administration under the Plan.

(3) **Designated state agency.** The state TANF program is administered by the Oklahoma Department of Human Services (DHS), with at least one county office in each county in the state, operating under federal regulations, per Sections 261.1 through 261.80 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 261.1 through 261.80), Sections 230.50 through 230.78 of Title 56 of the Oklahoma Statutes (56 O.S. §§ 230.50 through 230.78), and DHS rules, per Oklahoma Administrative Code (OAC) 340:10 and 340:65.

(a) **Right to apply.** A person has the right to:

- (A) apply for TANF;
- (B) expect an eligibility investigation; and
- (C) receive a prompt decision regarding his or her application.

(4)(b) **Appeal rights.** Individuals applying Persons who apply for, or receiving receive, TANF cash assistance have the right to appeal any action relating to the application for or taken related to receipt of TANF benefits. An applicant may also appeal a delay in processing an application timely, per Oklahoma Administrative Code (OAC) 340:65-3-5. Refer to OAC 340:2-5 for fair hearing procedures. ■ 1

(5) **Proper and efficient administration.** DHS operates under the State Merit System, which establishes and maintains personnel standards on a merit basis for certain federal grant-in-aid agencies, including DHS. Employees engaged in TANF State Plan administration are covered by the State Merit System.

(6) **Required reports.** DHS Financial Services:

- (A) assists in fulfilling the requirements of state and federal laws by making necessary reports;
- (B) cooperates with various federal agencies by providing current and special reports; and
- (C) furnishes DHS with necessary data for the operation of its programs.

(7)(c) **Safeguarding of information.** Federal and state laws and DHS Oklahoma Human Services (OKDHS) rules restrict the use or disclosure of information concerning TANF applicants or recipients to purposes directly connected with Temporary Assistance for Needy Families (TANF) program administration. Refer to OAC 340:65-3-2 rules regarding safeguarding case information and information that may be disclosed. ■ 2

(8) **Right to apply.** An individual has the right to:

- (A) apply for TANF;
- (B) expect an investigation of eligibility; and
- (C) a prompt decision regarding his or her application.

(9)(d) Assistance under only one program. The needs of an An eligible person must only be included in one cash assistance program; the State Supplemental Payment (SSP) or TANF.

(10)(e) Standards for determining eligibility and amount of payment. Uniform standards for To promote uniformity and accuracy in determining eligibility, and refer to rules and procedures for such determination are provided in included in this Chapter and OAC 340:65, and this Chapter. As a means of promoting uniformity and accuracy in determining OKDHS uses a flat grant, per OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX, to meet the families' basic needs, such as for food, clothing, basic drugs medications, personal items, shelter, utilities, and household equipment of each TANF assistance unit, a flat grant consisting of these requirements is used. ■3

(11) Income and resources. The income and resources available to the assistance unit are considered in determining its eligibility for TANF unless they are required to be disregarded by federal or state law or by DHS rules. Income and resources received on behalf of a member of the assistance unit by another individual that include, but are not limited to, a guardian, or conservator, is considered available to the assistance unit.

(f) 60-calendar month time limit. Effective October 1, 1996, TANF cash assistance receipt is restricted to a lifetime limit of 60-calendar months, whether consecutive or not. The time limit may be extended when Adult and Family Services TANF Unit staff approves a hardship extension, per OAC 340:10-3-56(a)(2)(E).

(12)(g) Civil rights. The TANF program is administered, per the provisions of Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1975, as amended; the Age Discrimination Act of 1975; the Americans with Disabilities Act of 1990; and Title IX of the Education Amendments of 1972, as amended.

(13)(h) Electronic benefit transfer (EBT) restrictions. States are required to maintain policies and practices as necessary to prevent TANF cash assistance from being used in any EBT transaction in certain prohibited businesses, per Section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012, Section 608(a)(12) of Title 42 of the United States Code (42 U.S.C. § 608(a)(12)). 56 O.S. § 241.4 also restricts the use of EBT transactions in these businesses and adds one additional prohibited business.

(A) Prohibited businesses include any:

- (i) liquor store. The term liquor store means any establishment that sells exclusively or primarily intoxicating liquor. The term does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods, per 7 U.S.C. § 2012;
- (ii) casino, gambling casino, or gaming establishment except for:
 - (I) a grocery store that sells groceries, including staple foods, per 7 U.S.C. § 2012, and also offers, or is located within the same building or complex as an establishment offering casino, gambling, or gaming activities; or
 - (II) any other establishment offering casino, gambling, or gaming activities incidental to the principal purpose of the business;

- (iii) retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; or
 - (iv) retail establishment whose principal business is that of selling cigarettes, cigars, or tobacco products. This type of retail establishment is prohibited, per 56 O.S. § 241.4, but not by federal law.
- (B) EBT transaction means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or service.
- (C) ~~DHS OKDHS~~ informs applicants and recipients of this prohibition by including information about the prohibition in:
- (i) Form 08MP003E, Rights, Responsibilities, and Signature for Benefits, of the application;
 - (ii) posters displayed in county office lobbies;
 - (iii) the certification notice; and
 - (iv) a sign sent to identified prohibited businesses to educate staff and customers that the ~~DHS~~ issued OKDHS-issued debit card is not accepted at their businesses.
- (D) Refer to OAC 340:10-3-57(h) for recipient benefit reduction penalties when ~~DHS OKDHS~~ determines a recipient used his or her debit card in a prohibited business.
- (E) Refer to OAC 340:65-3-6 for debit card and direct deposit procedures, including information about accessing benefits, free services, and fees.

(14) Teen Pregnancy. ~~DHS OKDHS has youth mentoring contracts throughout Oklahoma. These programs provide a safe environment for at-risk and low-income youth and teens. Teens attending youth mentoring are less likely to become involved in risky behavior as their after school hours are filled with sponsored/monitored activities, life skills, mentoring, nutrition, and programs designed for the teen population to make smart decisions in every area of their lives, including relationship decisions that help the teen population learn how to prevent unwanted teen pregnancies.~~

INSTRUCTIONS TO STAFF 340:10-1-3

Revised 9-15-20

1. In regard to fair hearings, refer to:
 - (1) Oklahoma Administrative Code (OAC) 340:65-3-5 for application processing time limits and delayed application rules;
 - (2) OAC 340:65-3-7 for denial of application rules;
 - (3) OAC 340:65-5-1 for closure and case change rules; and
 - (4) OAC 340:65-9 for overpayment rules.
2. ~~Refer to OAC 340:65-1-2 for rules regarding safeguarding case information and information that may be disclosed.~~
3. ~~Refer to Oklahoma Department of Human Services Appendix C-1, Schedule of Maximum Income, Resource and Payment Standards, Schedule IX.~~