

COMMENT DUE DATE: September 7, 2021

Date: August 26, 2021

Cherrilyn McLane, Chief Administrative Law Judge 405 763-8134
Holli Kyker, Policy Specialist 405-885-7805
Dena Thayer, Programs Administrator 405-693-6542

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 2. ADMINISTRATIVE COMPONENTS

Subchapter 28. Office of Administrative Hearings: Child Support
340:2-28-4.2 [AMENDED]
(Reference WF 21-08)

SUMMARY:

The proposed rule revision is necessary to update, streamline, and improve the rules which delineate, and provide transparency to certain functional aspects of the Oklahoma Human Services (OKDHS) Office of Administrative Hearings: Child Support (OAH) operations. The administrative rule in Subchapter 28, as referenced, is part of OAH's administrative court rules. The requested amendments reflect changes in technology by eliminating fax filing and authorizing filing of portable digital file or *.pdf formatted documents through email.

EMERGENCY APPROVAL:

Emergency rulemaking approval is requested to allow private attorneys and pro se parties to be on equal footing with Child Support Services with respect to being able to file directly with OAH through electronic means.

LEGAL AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. §§ 162 and 237). 12 O.S. §§ 32.1, 2101 through 3011, and 3224 through 3237; 12 O.S. §§ 683 through 688; 56 O.S. §§ 237 through 237.9a; and OAC 340:2-28-1, *et seq.*

**Oklahoma Human Services
Rule Impact Statement**

To: Programs Administrator
Legal Services

From: Ron Baze, General Counsel

Date: August 25, 2021

Re: CHAPTER 2. ADMINISTRATIVE COMPONENTS
Subchapter 28. Office of Administrative Hearings: Child Support
340:2-28-4.2 [AMENDED]
(Reference WF 21-08)

Contact: Cherrilyn McLane (405) 763-8134

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

Purpose.

The proposed rule revision is necessary to update, streamline, and improve the rules which delineate and provide transparency to certain functional aspects of the Oklahoma Human Services (OKDHS) Office of Administrative Hearings: Child Support (OAH) operations. Oklahoma Administrative Code (OAC) 340:2-28-4.2, is part of OAH's administrative court rules. The requested amendments reflect changes in technology by eliminating fax filing and authorizing filing of portable digital file or *.pdf formatted documents through email.

Strategic Plan Impact.

The proposed amendments are necessary to update OAH's court rules to refine OAH's procedures regarding documents, as well as further streamlining the rules.

Substantive changes.

OAC 340:2-28-4.2 is amended to eliminate fax filing and authorize the filing of portable digital file or *.pdf formatted documents through email, to reflect changes in technology.

Reasons.

The proposed amendment benefits OKDHS Child Support Services relieving them of doing "courtesy" electronic filings with OAH for other parties' filings and benefits private attorneys and pro se parties by allowing them to electronically file directly with OAH. OAH recently upgraded its case management software and can now offer this electronic filing option to litigants and their attorneys who are external OKDHS. The proposed amendments to OAH's court rules and operational

procedures are needed to enhance OAH's operational efficiency, reflect changes in technology, and further streamline the rules.

Repercussions.

No negative repercussions have been identified.

Legal authority.

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. §§ 162 and 237). 12 O.S. §§ 32.1, 2101 through 3011, and 3224 through 3237; 12 O.S. §§ 683 through 688; 56 O.S. §§ 237 through 237.9a; and OAC 340:2-28-1, *et seq.*

Emergency approval. Emergency rulemaking approval is requested to allow private attorneys and pro se parties to be on equal footing with Child Support Services with respect to being able to file directly with OAH through electronic means.

- 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 mostly affected are CSS staff, child support obligors, and custodial persons to whom child support is to be paid. There are no identifiable costs associated with implementing the proposed rule(s).
- C. A description of the classes of persons who will benefit from the proposed rule:** The classes of person who will benefit from the proposed amendments are CSS staff, child support obligors, and custodial persons to whom child support is to be paid.
- 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:** There are no identifiable costs nor fee changes associated with these proposed rules.
- 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:** There are no identifiable costs associated with the proposed rule revisions and repeals. The benefit to OKDHS and the classes of all affected persons is overall improved operational efficiency in OAH, and the plain language revisions streamline the rules, increase compliance, and avoid delays. There is no identifiable impact upon state revenues.
- 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: There are no identifiable impacts on any political subdivisions nor is cooperation from any political subdivisions required in implementation or enforcement of the rules.

- 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 is no identifiable adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.
- 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 identifiable costs associated with the proposed rules, and, therefore, there are no less costly nor nonregulatory methods nor less intrusive methods for achieving the purpose of the proposed rule.
- 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:** There is no qualitative, identifiable effect or impact by the proposed rules on the public health, safety, and environment, if the rule is implemented.
- J. A determination of any detrimental effect on the public health, safety, and environment if the proposed rule is not implemented:** There is no qualitative, identifiable effect or impact by the proposed rules on the public health, safety, and environment, if the rule is not implemented.
- K. The date the rule impact statement was prepared and, if modified, the date modified: Prepared:** August 25, 2021; **modified:** N/A.

SUBCHAPTER 28. OFFICE OF ADMINISTRATIVE HEARINGS: CHILD SUPPORT

340:2-28-4.2. Terms and location of Office of Administrative Hearings: Child Support

Revised ~~9-15-21~~10-15-21

(a) The Office of Administrative Hearings: Child Support (OAH) is in session whenever there is a regularly- or specially-scheduled docket with participating district child support offices on days designated for administrative hearings. Pleadings, other documents, and orders may be filed ~~with, or presented to, the administrative law judge (ALJ) at the participating district child support offices, if the ALJ is physically present, on administrative hearing docket days. On~~ on any business day, pleadings, other documents, and orders may also be filed at OAH located in the Sequoyah Building, 2400 North Lincoln Boulevard, Oklahoma City, Oklahoma. Filing may be accomplished through hand-delivery, postal or parcel delivery, ~~facsimile transmission,~~ and electronic transmission, if the available means are secure and compatible with OAH's docketing and case management software. A document filed through email is a portable digital file or *.pdf formatted and submitted to: Legal.OAH.Staff@okdhs.org. Electronic transmission, in this context, does not include ~~electronic messaging for example, email or text messaging.~~ The OAH mailing address is Oklahoma Department of Human Services, Attn: OAH, ~~PO~~ P.O. Box 25352, Oklahoma City, Oklahoma 73125-0352.

(b) Proceedings cannot commence unless and until an administrative case is opened through Oklahoma Department of Human Services Child Support Services.