Date: November 22, 2021

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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 40. Child Care Subsidy Program
Subchapter 7. Eligibility
340:40-7-5 [AMENDED]
(Reference WF 21-16)

SUMMARY:
The proposed amendment to Chapter 10 Subchapter 7 amend the rules to add: (1) recently admitted Afghans who are considered humanitarian parolees to qualified aliens eligible for Child Care Subsidy benefits; and (2) legal citations to reference the Afghanistan Supplemental Appropriations Act 2022.

Emergency rulemaking approval is requested to add recently admitted Afghans who are considered humanitarian parolees to be eligible for Child Care Subsidy benefits for a designated time period, per the recently passed Afghanistan Supplemental Appropriations Act 2022.

LEGAL AUTHORITY:
Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes; the Afghanistan Supplemental Appropriations Act 2022, and Policy Letter 22-01, Afghan Humanitarian Parolees and Unaccompanied Afghan Minors Eligible for ORR Benefits and Services.
Oklahoma Human Services
Rule Impact Statement

To: Programs administrator
Office of Intergovernmental Relations and Policy

From: Deborah Smith, Director
Adult and Family Services

Date: October 28, 2021

Re: Chapter 40. Child Care Subsidy Program
Subchapter 7. Eligibility
340:40-7-5 [AMENDED]
(Reference WF 21-16)

Contact: Linda Cavitt 405-317-0886

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

Purpose: The proposed amendment to Chapter 10 Subchapter 7 amend the rules to add: (1) recently admitted Afghans who are considered humanitarian parolees to qualified aliens eligible for Child Care Subsidy benefits; and (2) legal citations to reference the Afghanistan Supplemental Appropriations Act 2022.

Strategic Plan Impact.
The proposed amendment achieves Oklahoma Human Services (OKDHS) goals by continuously improving systems and processes and improving communication with OKDHS clients and staff as well as maintaining compliance with the Afghanistan Supplemental Appropriations Act 2022.

Substantive changes.
Subchapter 7. Eligibility
Oklahoma Administrative Code (OAC) 340:40-7-5 is amended to add: (1) recently admitted Afghans who are considered humanitarian parolees to qualified aliens eligible for Child Care Subsidy benefits; and (2) legal citations to reference the Afghanistan Supplemental Appropriations Act 2022.

Reasons.
The proposed amendment to add recently admitted Afghans who are considered humanitarian parolees to be eligible for Child Care Subsidy benefits for a designated time period, is made to comply with the Afghanistan Supplemental Appropriations Act 2022 that was effective September 30, 2021.
Repercussions.
If the proposed amendment to add humanitarian parolees to be eligible for Child Care Subsidy benefits for a designated time period is not implemented, OKDHS will be out of compliance with federal law.

Legal authority.
Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes; the Afghanistan Supplemental Appropriations Act 2022, and Policy Letter 22-01, Afghan Humanitarian Parolees and Unaccompanied Afghan Minors Eligible for ORR Benefits and Services.

Emergency rulemaking approval is requested to add recently admitted Afghans who are considered humanitarian parolees to be eligible for Child Care Subsidy benefits for a designated time period, per the recently passed Afghanistan Supplemental Appropriations Act 2022.

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 Afghan humanitarian parolees applying for or receiving Child Care Subsidy benefits and Adult and Family Services (AFS) staff. The affected classes of persons will bear no costs associated with implementation of the rules.

C. A description of the classes of persons who will benefit from the proposed rule: The classes of persons who will benefit are Afghan humanitarian parolees applying for or receiving Child Care Subsidy benefits and AFS staff.

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 persons or political subdivisions. There are no fee changes associated with the revised 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: The probable cost to OKDHS includes the cost of printing and distributing the rules and is estimated to be less than $20. Funding for this expansion in eligibility is provided under the Afghanistan Supplemental Appropriations Act 2022.

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 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 are no anticipated adverse effects 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 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 has a positive effect on the public health and safety of Afghan humanitarian parolees applying for and receiving Child Care Subsidy benefits by providing child care assistance while the parent(s) look for work.

J. A determination of any detrimental effect on the public health, safety, and environment if the proposed rule is not implemented: If the proposed amendment is not implemented, it will have a detrimental effect on Afghan humanitarian parolees public health and safety through lack of child care assistance while the parent(s) look for work.

K. The date the rule impact statement was prepared and, if modified, the date modified: Prepared October 28, 2021; modified N/A.
CHAPTER 10. CHILD CARE SUBSIDY PROGRAM
SUBCHAPTER 7. ELIGIBILITY

340:40-7-5. Resources, residence, and citizenship
Revised 40-1-1612-1-21
(a) Household resources must not exceed $1,000,000 for subsidized child care\textsuperscript{a} per Section 658P(4) of the Child Care and Development Block Grant Act of 2014, Public Law 113-186. Resources include, but are not limited to:\textsuperscript{b}
1. liquid resources, such as cash;
2. financial institution account balances;
3. certificates of deposit;
4. stocks;
5. bonds; and
6. real property other than home property.  ■ 1
(b) A parent or caretaker's statement that he or she lives in Oklahoma meets the residence requirement for child care.  ■ 2
(c) Only the child for whom child care is requested must meet the citizenship and alienage requirements.  ■ 3
1. A child eligible to be included in a child care benefit must be a:
   (A) citizen or a national of the United States (U.S.), including the 50 states, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and Northern Mariana Islands. The child may be a citizen of the U.S. by being born in the U.S. or by being born in some other country but moving to the U.S. and being granted U.S. citizenship through the U.S. Citizenship and Immigration Services (USCIS), a bureau of the Department of Homeland Security;  ■ 4 or
   (B) qualified alien:
      (i) who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);
      (ii) who is paroled into the U.S. per Section 212(d)(5) of INA, 8 United States Code (U.S.C.) 1182, for a period of at least one year;
      (iii) who is granted conditional entry\textsuperscript{a} per Section 203(a)(7) of INA, 8 U.S.C. 1153, as in effect prior to April 1, 1980;
      (iv) who is granted asylum\textsuperscript{a} per Section 208 of INA;
      (v) who is admitted to the U.S. as a refugee\textsuperscript{a} per Section 207 of INA, 8 U.S.C. 1157;
      (vi) whose deportation is withheld\textsuperscript{a} per Section 241(b)(3) of INA;
      (vii) who is a Cuban or Haitian entrant\textsuperscript{a} per Section 501(e) of the Refugee Education Assistance Act of 1980;
      (viii) who was battered or whose parent or caretaker was battered\textsuperscript{a} per Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act as amended\textsuperscript{a} per 8 U.S.C.1641(c); or
      (ix) who was a victim or whose parent or caretaker was a victim of a severe form of trafficking\textsuperscript{a} per Section 107(b) of the Trafficking Victims Protection Act of 2000 that was reauthorized and amended\textsuperscript{a} per Trafficking Victim's Protection Reauthorization Act of 2003.  ■ 5
(x) who is an Afghan non-special immigrant parolee, known as a humanitarian parolee, per the Afghanistan Supplemental Appropriations Act 2022 enacted on September 30, 2021, Section 2502 of P.L. 117-43, paroled into the U.S. between July 31, 2021 and September 30, 2022, and meets all other factors of eligibility from October 1, 2021 until March 31, 2023, or the term of parole, whichever is longer. 6

(2) A declaration of citizenship and alien status is required for all children included in the child care benefit. This requirement is met when an adult member of the household completes and signs the application or renewal attesting to the citizenship and alien status for all children included in the benefit. Refer to Oklahoma Administrative Code (OAC) 340:65-3-1(g) for additional citizenship requirements for persons 14 years of age and older, per Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes. 67

(3) The worker must verify the alien status of an alien child through the United States Citizenship and Immigration Services (USCIS) Systematic Alien Verification for Entitlements (SAVE). When SAVE indicates that the child’s alien status documents must be submitted to the USCIS, the worker must not delay, deny, close, or reduce benefits to an alien pending USCIS verification of submitted documentation. 78

INSTRUCTIONS TO STAFF 340:40-7-5
Revised 10-1-1612-1-21

1. (a) The worker must ask the applicant if his or her household resources exceed $1,000,000 and document the answer in FACS case notes.
(b) When the client is an adoptive parent who meets criteria per Oklahoma Administrative Code (OAC) 340:40-7-12(6) or a caretaker not legally and financially responsible for the child, resources are not considered.

2. When a non-custodial parent needs child care while his or her child is visiting from another state, the non-custodial parent’s Oklahoma residence meets the residency requirement for the child. Persons who maintain a residence out-of-state and commute to Oklahoma for work, school, or any other reason do not meet the residence requirement.

3. The parent or caretaker’s citizenship status is not a condition of eligibility. Refer to OAC 340:50-5-67 and 340:50-5-8.1 for food benefit citizenship requirements and OAC 317:35-5-25 for SoonerCare (Medicaid) citizenship requirements.

4. Persons born in the United States (U.S.) are, with rare exceptions, United States (U.S.) citizens.
   (1) When persons from certain U.S. territories or possessions do not have citizenship or national status documents in their possession, the worker may be able to determine their status by birth certificate, passport, or other official document.
   (2) Refer any questions regarding the acceptability of other official document status provided by the applicant to Adult and Family Services Child Care Subsidy staff.

5. The Office of Refugee Resettlement (ORR) provides a certification letter to a person 18 years of age or older and an eligibility letter to a person who has not attained 18 years of age. These persons are also provided T Visas that indicate
eligibility for federally-funded or administered benefits to the same extent as a refugee. The T Visas are T-2, T-3, T-4, and T-5 referred to collectively as derivative T Visas. To determine the validity of ORR issued letters and to inform ORR of the benefits applied for, the worker must call the toll-free trafficking verification number 1-866-401-5510.

6. **Documents verifying the Afghan humanitarian parolee's eligibility for Child Care Subsidy benefits include:**
   (1) I-94, Arrival/Departure Record, noting humanitarian parolee, per Section 212(d)(5) of the Immigration Nationality Act; or
   (2) foreign passport with Department of Homeland Security/Customs and Border Protection admission stamp noting:
      (i) Operation Allies Welcome Refugee or "OAR";
      (ii) Operations Allies Welcome or "OAW"; or
      (iii) "DT".

7. Refer to OAC 340:40-9-2 for additional requirements when adding a child to the benefit after certification.

78. Refer to OAC 340:65-3-4(5) and Instructions to Staff # 19 for information regarding the Systematic Alien Verification for Entitlements (SAVE).