

COMMENT DUE DATE: August 25, 2024

Date: August 15, 2024

**Caleb Turner, Programs Supervisor
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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:

Subchapter 3. Eligibility for Benefits
340:65-3-2 [AMENDED]
(Reference WF 24-17)

SUMMARY:

The proposed amendments to Chapter 65, Subchapter 3 amend the rules to update the handling of applications received outside of Oklahoma Human Services (OKDHS) operating hours.

The proposed amendments achieve OKDHS goals by communicating updated eligibility information to applicants, recipients, OKDHS staff, and contracted partners; aligning eligibility standards with federal regulations; and ensuring effective and efficient program administration.

Emergency rulemaking approval is requested.

LEGAL AUTHORITY: Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162) and 7 C.F.R. § 273(c)(1)(iv).



OKLAHOMA DEPARTMENT OF HUMAN
SERVICES



Rule Impact Statement

To: Programs administrator
Legal Services - Policy

From: Deborah Smith, Adult and Family Services (AFS) Director
Adult and Family Services

Date: June 21, 2024

Re: Chapter 65. Public Assistance Procedures
Subchapter 3. Eligibility for Benefits
340:65-3-2 [AMENDED]
(Reference WF 24-17)

Contact: Caleb Turner, Programs Manager III, 405-982-3685

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

Purpose.

The proposed amendments to Chapter 65, Subchapter 3 amend the rules to update the handling of applications received outside of Oklahoma Human Services (OKDHS) operating hours.

Strategic Plan Impact.

The proposed amendments achieve OKDHS goals by communicating updated eligibility information to applicants, recipients, OKDHS staff, and contracted partners; aligning eligibility standards with federal regulations; and ensuring effective and efficient program administration.

Substantive changes.

Subchapter 3. Eligibility for Benefits

Oklahoma Administrative Code 340:65-3-2 is amended to: (1) update the handling of applications received outside OKDHS operating hours; (2) update language; (3) remove the requirement that staff record the verbal request date in red above the signature; (4) remove references to www.okdhslive.org; and (5) remove language tied to scheduling interviews.

Reasons.

OKDHS seeks emergency rulemaking to change the handling of applications submitted outside of operating hours. Supplemental Nutrition Assistance Program (SNAP) rules at Section 273(c)(1)(iv) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273(c)(1)(iv)) indicate that states must assign the next business day as an application date when an application is received outside of business hours. The current practice is to assign online and faxed applications an application date that reflects when OKDHS received the application electronically. The current practice does not differentiate between operating or business hours for these applications. This practice creates backlogs over weekends, holidays, or any other time outside of operating hours, which complicates meeting federally required processing times. To address these issues and to ensure conformity across all Adult and Family Services (AFS) programs, OKDHS is updating the handling of applications received outside of operating hours.

OKDHS is also updating its rules to anticipate agency system changes. Ongoing systems projects anticipate relocating the www.okdhslive.org and www.okbenefits.org to the OKDHS main page. OKDHS has incorporated this shift by removing specific references to these web addresses in the rules.

While making these changes, OKDHS is updating the rules to fix errors and ensure the rules accomplish the agency's intention.

Repercussions.

If the proposed amendments are not implemented: OKDHS rules will (1) conflict with SNAP regulations regarding applications received outside of operating hours; (2) create a situation where OKDHS may have findings for violating federal law; (3) make it difficult for agency staff to meet federal obligations; (4) prevent OKDHS from providing a more consistent customer experience; and (5) cause confusion and remain inaccurate and out of date.

Legal authority.

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162) and 7 C.F.R. § 273(c)(1)(iv).

Emergency rulemaking justification.

OKDHS SNAP rules conflict with the federal regulation at 7 C.F.R. § 273.2(c)(iv) that requires OKDHS to assign the next business day as the application date when OKDHS receives SNAP applications outside of business hours. The current practice creates administrative problems that are contrary to the public welfare. The current practice does not differentiate between operating or business hours for these applications. This practice creates backlogs over weekends, holidays, or any other time outside of operating hours. It complicates meeting the federally required seven-day expedited-service and 30-day application processing times and leads OKDHS to offer less than ideal customer service since staff must address this backlog. Making the change will enable OKDHS to better manage its federally required obligations and offer improved service delivery and customer service.

Food and Nutrition Services (FNS) has noted this inconsistency in the OKDHS Application Processing Timeliness (APT). On June 4, 2024, FNS escalated issues with our APT to ensure prompt action to improve state timeliness. FNS considers an APT rate of 95 percent and above acceptable performance. An APT below 90 percent may require corrective action. The Oklahoma APT rate for fiscal year 2023 is 89.54 percent. When the APT rate falls below 90 percent, states are subject to an escalation procedure that includes five steps that include Pre-escalation and Identification, APT Corrective Action Plan (CAP), Advanced Letter, Formal Warning Letter, and Sanction of Administrative funding. OKDHS expects to receive notification of an APT CAP soon.

- 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 class of persons most likely to be affected by the proposed amendments are OKDHS staff, contracted provider staff, applicants, and recipients.
- C. A description of the classes of persons who will benefit from the proposed rule:** The classes of persons who will benefit are OKDHS staff and contracted provider 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 amendments do 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 proposed amendments will result in more efficient delivery of services. The probable OKDHS cost of printing and distributing the rules is 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 amendments neither have an economic impact on any political subdivision nor require the cooperation of any political subdivisions 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 nonregulatory methods or less intrusive methods for achieving the purpose of the proposed amendments.

- 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:** OKDHS does not anticipate the rules to reduce significant risks to the public health, safety, and environment.

- J. A determination of any detrimental effect on the public health, safety, and environment if the proposed rule is not implemented:** If the proposed amendments are not implemented, there are no expected detrimental effects on public health, safety, and environment.

- K. The date the rule impact statement was prepared and, if modified, the date modified:** Prepared June 21, 2024; modified

SUBCHAPTER 3. ELIGIBILITY FOR BENEFITS

340:65-3-2. Definitions

Revised ~~9-15-21~~ 9-1-24

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

"Applicant" means a person who directly or through a person acting responsibly on the applicant's behalf, requests a formal eligibility determination for one or more programs administered by Oklahoma Human Services (OKDHS) Adult and Family Services (AFS).

"Application process" means the process by which the applicant requests benefits, completes program requirements, and provides necessary proof, and the worker determines eligibility. Any person who fraudulently represents facts, acts without authority, or exceeds his or her authority to perform a transaction may be prosecuted under all applicable criminal and civil laws.

"Client" means a person applying for or receiving services, cash assistance, or other benefits.

"Date of application" means: ■ 1

(A) the Child Care Subsidy Program does not define the application date, per Oklahoma Administrative Code (OAC) 340:40-3-1.

(i) "Request date" is the date the applicant requests subsidized child care benefits verbally or in writing. When the household requests child care outside of operating hours, the request date is the next day OKDHS is open.

(ii) "Certification date" is the date the applicant or the applicant's authorized representative completes the child care interview and provides all necessary verification to the OKDHS office, including the name of the child care provider the client chooses to use;

(B) for Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP) food benefits, SoonerCare (Medicaid), State Supplemental Payment (SSP), and the Low Income Home Energy Assistance Program (LIHEAP), the application date is the date the applicant or a person acting on the applicant's behalf signs the application.

(i) When the application is initiated outside of OKDHS, the application date is the ~~date the application is stamped in the day OKDHS office or received electronically through okdhslive.org~~ receives the application during operating hours. When the household applies outside of operating hours, the application date is the next day OKDHS is open.

(ii) Receipt of Form 08MA005E, Notification of Needed Medical Services, preserves the date of application for SoonerCare (Medicaid) eligibility groups for which OKDHS is responsible for determining eligibility, per OAC 317:35-5-63;

(C) when OKDHS staff receives a verbal request prior to the signature date on the application, staff ~~enters documents~~ enters documents the verbal request date in ~~red above the signature date~~ the case record. ■ 2 The verbal request date is the application date for TANF, SSP, and SoonerCare (Medicaid) eligibility groups for which OKDHS determines eligibility. ■ 3

(i) Per OAC 340:50-3-1, a verbal request for food benefits does not preserve the application date unless the applicant informs staff a hardship exists that prevents him or ~~he~~ her from signing a request on that date. A hardship may exist when the applicant states no one can come to an OKDHS office because of a situation beyond the applicant's control, such as illness, disability, or lack of transportation; and the applicant is unable to submit the application online at ~~www.okdhslive.org~~ or by ~~phoning an OKDHS office or the phone number on the www.okdhslive.org website~~ calling OKDHS to obtain help in submitting the application. ■ 4

(ii) A verbal request for LIHEAP does not preserve the application date as funding for the program is limited.

(iii) The verbal request date preserves the application date only when the applicant signs the application within 30-calendar days.

(I) When the applicant fails to sign the application within 30-calendar days, no application request is considered made. ■ 5

(II) When the applicant subsequently contacts OKDHS after 30-calendar days and completes the application process, the application date is the date the applicant completes and signs the application; and

(D) when the applicant comes to an OKDHS office to request benefits and cannot stay to complete the application with a worker ~~or no appointment times are available that day~~, the applicant must submit a completed and signed Form 08MP001E, Request for Benefits, to preserve the application date. When the applicant does not leave a completed and signed Form 08MP001E, an application date is not preserved and an appointment for an interview is not set.

"Inquiry" means a request for information but does not imply a request for assistance.

"Payee" means the person in the household in whose name benefits are issued. The person considered the payee varies depending on the requested programs. The payee may or may not be included in the benefit. ■ 6

(A) For the Child Care Subsidy Program, the payee must be the person responsible for the child for whom benefits are requested. The payee is not required to be related to the child. When the parent of the child is in the home, the parent must be the payee, per OAC 340:40-3-1(a)(2).

(B) For the TANF Program, the payee must have a certain degree of relationship to the child for whom benefits are requested, per OAC 340:10-3-56 and 340:10-9-1.

(C) For SNAP, the payee may be any responsible adult living in the home, per OAC 340:50-3-1.

(D) For the SoonerCare (Medicaid) Program, the payee is the person for whom benefits are requested or the person responsible for the minor child for whom benefits are requested. The payee is not required to be related to the child. When the parent of the child is in the home, the parent must be the payee.

(E) For the SSP Program, the payee is the person for whom benefits are requested. When the person for whom benefits are requested is a minor child, the child is coded as a payee with a guardian. ■ 7

(F) For LIHEAP, the payee may be any responsible adult living in the home. When the household receives other benefits, the payee is the same person shown as payee for the other benefits.

"Recipient" means a person who receives services, cash assistance, or other benefits.

INSTRUCTIONS TO STAFF 340:65-3-2

Revised ~~9-15-21~~ 9-15-25

1. The applicant or person acting on the applicant's behalf may sign the online application electronically ~~when using OKDHSLive.~~
2. The worker documents the date of the verbal request ~~using Family Assistance/Client Services (FACS) in~~ case notes.
3. A verbal request does not preserve the application date for a person in an eligibility group for which the Oklahoma Health Care Authority (OHCA) determines SoonerCare (Medicaid) eligibility.
4. The worker must document in **FACS** case notes why the verbal request date was used instead of the date the applicant signs the application.
5. When the person has an existing case record, the worker documents the applicant's contact with Oklahoma Human Services in **FACS** case notes. When a case record does not exist, the worker documents the contact as information and referral only.
6. The worker does not change the case name and number when a different household member signs the Supplemental Nutrition Assistance Program (SNAP) certification renewal or other program renewal unless the household specifically requests a change. Changing the case name and number when it is not necessary may create benefit access or retrieval problems when there are multiple case records for the same household.
7. (a) When capable, a 16 or 17 year old minor child may be the payee of his or her State Supplemental Payment (SSP) benefit.
(b) When the SSP recipient is a minor child or an adult in need of a substitute payee or a responsible adult, the worker must enter household information in the ~~FACS Interview Notebook Household tab~~ eligibility system for the person and the parent or other responsible adult. Information about the parent or other responsible adult must be added in order for his or her name to appear on the debit card.
 - (1) ~~For the child or the adult in need of a substitute payee, the worker:~~
 - (A) ~~selects "G, applicant or recipient with guardian, conservator, or substitute payee" in the "relationship to payee" field; and~~
 - (B) ~~enters the name of the child's guardian in the "guardian, substitute payee, conservator, authorized representative, other responsible person, or extra address line" field in the FACS Interview Notebook Case Information tab.~~
 - (2) ~~For the parent or other responsible adult, the worker selects the indicator of:~~
 - (A) ~~"P, applicant, recipient payee or head of household" in the "relationship to payee" field; and~~
 - (B) ~~"A, State Supplement to the aged"; "B, State Supplement to the blind"; or "D, State Supplement to the disabled" in the "benefit type" field; and "N, not included in benefit. Income and resources are not considered for~~

benefit computation" field. Refer to the ["How to Code SSP Cases with Guardians or Representatives"](#) Quest article.