

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 39. SKILLED NURSING SERVICES

317:30-5-391. Coverage for skilled nursing services

(a) All skilled nursing services must be ordered and prescribed by a physician, supported by a nursing plan of care, included in the individual plan as described in Oklahoma Administrative Code (OAC) 340:100-5-53 and reflected in the plan of care approved in accordance with OAC 340:100-3-33 and 340:100-3-33.1. For purposes of this Section, a physician is defined as all licensed medical and osteopathic physicians, physician assistants (PAs) and advanced practice registered nurses (APRNs) in accordance with the rules and regulations covering the OHCA's medical care program. Arrangements for waiver skilled nursing services are made through the personal support team with the specific involvement of the assigned Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services Division (DDSD) registered nurse (RN). ~~The DDSD RN develops a nursing service support plan subject to review and authorization by the DDSD state nursing director or designee.~~

(b) Skilled nursing services are rendered in such a manner as to provide the service recipient as much autonomy as possible.

(1) Skilled nursing services must be flexible and responsive to changes in the service recipient's needs.

(2) Providers are expected to participate in annual personal support team meetings and other team meetings as required.

(3) Appropriate supervision of skilled nursing services including services provided by licensed practical nurses (LPNs) is provided pursuant to State law and regulatory board requirements.

(4) Individual service providers must be RNs or LPNs currently licensed and in good standing in the state in which services are provided.

CHAPTER 40. DEVELOPMENTAL DISABILITIES

SUBCHAPTER 5. MEMBER SERVICES

PART 9. SERVICE PROVISIONS

317:40-5-100. Assistive technology (AT) devices and services

(a) **Applicability.** This Section applies to AT services and devices authorized by Oklahoma Human Services (OKDHS) Developmental Disabilities Services (DDS) through Home and Community-Based Services (HCBS) Waivers.

(b) **General information.**

(1) AT devices include the purchase, rental, customization, maintenance, and repair of devices, controls, and appliances. AT devices include:

(A) ~~Visual alarms~~ Talking computerized devices;

- ~~(B) Telecommunication devices~~ Devices for the protection of health and safety of members who are blind, visually impaired, deaf or hard of hearing;
- ~~(C) Telephone amplifying devices;~~
- ~~(D) Devices for the protection of health and safety of members who are deaf or hard of hearing;~~
- ~~(E) Tape recorders;~~
- ~~(F) Talking calculators;~~
- ~~(G) Specialized lamps;~~
- ~~(H) Magnifiers;~~
- ~~(I) Braille writers;~~
- ~~(J) Braille paper;~~
- ~~(K) Talking computerized devices;~~
- ~~(L) Devices for the protection of health and safety of members who are blind or visually impaired;~~
- ~~(M) Augmentative and alternative communication devices including language board and electronic communication devices;~~
- ~~(N) Competence-based cause and effect systems, such as switches;~~
- ~~(O)~~ (C) Mobility and positioning devices including:
- ~~(i) Wheelchairs;~~
 - ~~(ii) Travel chairs~~ Wedges;
 - ~~(iii) Walkers~~ Bed rail padding;
 - ~~(iv) Positioning systems~~ Specialized car seats;
 - ~~(v) Ramps~~ Adapted strollers;
 - ~~(vi) Seating systems~~ Specialized beds;
 - ~~(vii) Standers~~ Lifts; and
 - ~~(viii) Lifts;~~ Therapeutic indoor swings.
 - ~~(ix) Bathing equipment;~~
 - ~~(x) Specialized beds;~~
 - ~~(xi) Specialized chairs; and~~
- (P) Orthotic and prosthetic devices, including:
- (i) Braces;
 - (ii) Prescribed modified shoes;
 - (iii) Splints; and
 - (iv) Hearing aids.
- (Q) Environmental controls or devices;
- (R) Items necessary for life support, and devices necessary for the proper functioning of such items, including durable and non-durable medical equipment not available through SoonerCare (Medicaid);
- (S) Enabling technology (ET) devices to protect the member's health and safety or support increased independence in the home, employment site or community can include, but are not limited to:
- (i) Motion sensors Sensors for:
 - (I) Motion detection;
 - (II) Beds or chairs
 - (III) Doors and windows; or
 - (IV) Pressure detection in mats on floors.

- (ii) Smoke and carbon monoxide alarms;
 - (iii) ~~Bed or chair sensors~~ Cameras located outside the home or only in common areas inside the home;
 - ~~(iv) Door and window sensors;~~
 - ~~(v) Pressure sensors in mats on the floor;~~
 - ~~(vi)~~ (iv) Stove guards or oven shut off systems;
 - ~~(vii)~~ (v) Live web-based remote supports;
 - ~~(viii) Cameras;~~
 - ~~(ix) Medication~~ (vi) Automated medication dispenser systems per OAC 340:100-5-32;
 - ~~(x)~~ (vii) Software to operate accessories included for environmental control;
 - ~~(xi)~~ (viii) Software applications;
 - ~~(xii)~~ (ix) Personal Emergency Response Systems (PERS) or ~~mobile~~ Mobile PERS;
 - ~~(xiii)~~ (x) Emergency Response Systems;
 - ~~(xiv)~~ (xi) Global positioning system monitoring devices;
 - ~~(xv)~~ (xii) Radio frequency identification;
 - ~~(xvi)~~ (xiii) Computers, smart watches and tablets; and
 - ~~(xvii)~~ (xiv) Any other device approved by the DDS director or designee;
 - ~~(T) Eye glasses lenses, frames or visual aids.~~
- (2) AT services include:
- (A) Sign language interpreter services for members who are deaf;
 - (B) Reader services;
 - (C) Auxiliary aids;
 - (D) Training the member and provider in the use and maintenance of equipment and auxiliary aids;
 - (E) Repair of AT devices;
 - (F) Evaluation of the member's AT needs; and
 - ~~(G) Eye examinations.~~
- (3) AT devices and services must be included in the member's Individual Plan (Plan), prescribed by a ~~physician, or appropriate medical professional~~ licensed health care provider with an active SoonerCare (Medicaid) contract, and arrangements for this HCBS service must be made through the member's case manager.
- (4) AT devices are provided by vendors with a durable medical equipment or other appropriate contract with the Oklahoma Health Care Authority (OHCA).
- (5) AT devices and services are authorized per requirements of the Oklahoma Central Purchasing Act, other applicable statutory provisions, Oklahoma Administrative Code (OAC) 580:15 and OKDHS-approved purchasing procedures.
- (6) AT services are provided by an appropriate professional services or ET provider with a current HCBS contract with OHCA and current, unrestricted licensure and certification with their professional board, when applicable.
- (7) AT devices or services may be authorized when the device or service:
- (A) Has no utility apart from the needs of the person receiving services;
 - (B) Is not otherwise available through SoonerCare (Medicaid), Medicare or private insurances, ~~any~~ any AT retrieval program, the Oklahoma Rehabilitation Services, or any other third party or known community resource;
 - (C) Has no less expensive equivalent that meets the member's needs;

- (D) Is not solely for family or staff convenience or preference;
- (E) Is based on the assessment and Personal Support Team (Team) consideration of the member's unique needs;
- (F) Is of direct medical or remedial benefit to the member or will enhance the independence of the member;
- (G) Enables the member to maintain, increase, or improve functional capabilities;
- (H) Is supported by objective documentation included in a professional or ET assessment with a thorough justification, including drawings, diagrams, or pictures, when necessary, except as specified, per OAC 317:40-5-100;
- (I) Is within the scope of AT, per OAC 317:40-5-100;
- (J) Is the most appropriate and cost effective bid, when applicable; or
- (K) Exceeds a cost of seventy-five dollars (\$75) AT devices or services with a cost of seventy-five dollars (\$75) or less, are not authorized through DDS HCBS Waivers; or
- (L) Is denied through a Third Party Liability entity.

(8) The homeowner must sign a written agreement for any AT equipment that attaches to the home or property.

(c) **Assessments.** Recommendations for ~~enabling technology~~ ET devices are completed by ~~the DDS programs manager for remote supports or their designee~~ an HCBS ET contracted provider. Assessments for AT devices or services are performed by a licensed, professional service provider and reviewed by other providers whose services may be affected by the device selected. A licensed, professional service provider must:

- (1) Determine if the member's identified outcome can be accomplished through the creative use of other resources, such as:
 - (A) Household items or toys;
 - (B) Equipment loan programs;
 - (C) Low-technology devices or other less intrusive options; or
 - (D) A similar, more cost-effective device; and
- (2) Recommend the most appropriate AT based on the member's:
 - (A) Present and future needs, especially for members with degenerative conditions;
 - (B) History of use of similar AT, and his or her current ability to use the device; and
 - (C) Outcomes; and
- (3) Complete an assessment, including a decision making review and device trial that provides supporting documentation for purchase, rental, customization, or fabrication of an AT device. Supporting documentation must include:
 - (A) A device review;
 - (B) Availability of the device rental with discussion of advantages and disadvantages;
 - (C) How frequently and in what situations the device is used in daily activities and routines;
 - (D) How the member and caregiver(s) are trained to safely use the AT device; and
 - (E) The features and specifications of the device necessary for the member, including rationale for why other alternatives are not available to meet the member's needs; and
- (4) Upon DDS staff's request, provide a current, unedited video or photographs of the member using the device, including recorded trial time frames.

(d) **Repairs and placement/replacement part authorization.** AT device repairs or parts replacements, do not require a professional assessment or recommendation if the DDS waiver

purchased the item. DDS resource development staff ~~with AT experience~~ may authorize repairs and replacement of parts for previously recommended AT.

(e) **AT device retrieval.** When a member no longer needs an AT device, OKDHS DDS staff may retrieve the device or assist with procurement for other waiver recipients with similar critical health and safety needs.

(f) **Team decision-making process.** The member's Team reviews the licensed professional's or ET assessment and decision-making review. The Team ensures the recommended AT:

- (1) Is needed by the member to achieve a specific, identified functional outcome.
 - (A) A functional outcome, in this Section, means the activity is meaningful to the member, occurs on a frequent basis, and would require assistance from others, if the member could not perform the activity independently, such as self-care, assistance with eating, or transfers.
 - (B) Functional outcomes must be reasonable and necessary given a member's age, diagnosis, and abilities; and
- (2) Allows the member receiving services to:
 - (A) Improve or maintain critical health and safety needs;
 - (B) Participate in community life;
 - (C) Express choices; or
 - (D) Participate in vocational training or employment; and
- (3) Is used frequently or in a variety of situations;
- (4) Is easily fit into the member's lifestyle and work place;
- (5) Is specific to the member's unique needs; and
- (6) Is not authorized solely for family or staff convenience.

(g) **Requirements and standards for AT devices and service providers.**

- (1) Providers guarantee devices, work, and materials for one (1) calendar year, and supply necessary follow-up evaluation to ensure optimum usability.
- (2) Providers ensure a licensed occupational therapist, physical therapist, speech therapist, or rehabilitation engineer evaluates the need for AT, and individually customizes AT devices to the member's needs.

(h) **Services not covered through AT devices and services.** AT devices and services do not include:

- (1) Trampolines;
- (2) exercise equipment;
- ~~(2)~~(3) Hot tubs;
- (4) Swimming pools, including lifts and accessories;
- ~~(3)~~(5) Bean bag chairs;
- (6) Special needs chairs including, but not limited to, feeder and all positioning chairs;
- ~~(4)~~(7) Recliners with lift capabilities;
- ~~(5)~~(8) Computers, ~~except as adapted for individual needs~~ used as a primary means of oral communication, ~~and approved, per OAC 317:40-5-100;~~
- ~~(6)~~(9) Massage, therapy, bedside, and changing tables;
- ~~(7)~~(10) Educational and learning games and toys; ~~or~~
- ~~(8)~~(11) Generators;
- (12) Humidifiers;
- (13) Air purifiers;
- (14) Heating and air conditioning components;

- (15) Porch swings, swing sets, outdoor playground equipment;
- (16) Bicycles, tricycles, bicycle trailer, and all terrain equipment; or
- (17) Duplicate services or hypothetical situations such as secondary or back up devices.

(i) **AT approval or denial.** DDS approval, ~~conditional approval for pre-determined trial use, or denial of the purchase, rental, or lease or purchase of the AT is determined;~~ per OAC 317:40-5-100.

(1) The DDS case manager ~~sends~~submits the AT request to ~~designated DDS AT experienced resource development unit (RDU) staff for procurement.~~ The request must include:

- (A) The licensed professional's assessment and decision making review or a recommendation signed by a SoonerCare contracted health care provider when the request is for enabling technology;
- ~~(B) A copy of the Plan of Care;~~
- ~~(C)(B)~~ Documentation of the current Team consensus, including all consideration of pertinent issues, per OAC 317:40-5-100; and
- ~~(D)(C)~~ All additional documentation to support the AT device or service need.

(2) The designated AT ~~experienced resource development~~RDU staff approves or denies ~~procurement of the AT request when the device costs less than \$5000.~~

(3) The State Office programs manager for AT approves or denies the AT request when the device has a cost of \$5000 or more. When authorization of an AT device of \$5000 or more is requested, The RDU staff issues a letter of authorization, a written denial, or a request for additional information within five (5) business days of receipt of all required AT documentation.

- ~~(A) The AT experienced resource development staff:~~
 - ~~(i) Solicits three (3) AT bids; and~~
 - ~~(ii) Submits the AT request, bids, and other relevant information identified in (1) of this subsection to the State Office DDS AT programs manager or designee within five (5) business days of receipt of the required bids; and~~
- ~~(B) The State Office DDS AT programs manager or designee issues a letter of authorization, a written denial, or a request for additional information within five (5) business days of receipt of all required AT documentation.~~

(4) Authorization for purchase or a written denial is provided within ten (10) business days of receipt of a complete request.

- ~~(A) If the AT is approved, a letter of authorization is issued.~~
- ~~(B) If additional documentation is required by the AT experienced resource development RDU staff, to authorize the recommended AT, the request packet is returned to the case manager for completion.~~
- (C) When necessary, the case manager contacts the licensed professional or ET provider to request the additional documentation.

(j) **Vehicle approval adaptations.** Vehicle adaptations are assessed and approved, per OAC 317:40-5-100. In addition, the requirements in (1) through ~~(3)~~(5) of this subsection must be met.

- (1) The vehicle must be owned or in the process of being purchased by the member receiving services or his or her family ~~in order~~ to be adapted.
- (2) The AT request must include a certified mechanic's statement from a certified mechanic who owns or is employed by a business registered and in good standing with the Oklahoma Secretary of State that the vehicle and adaptations are mechanically sound.

(3) Vehicle adaptations are limited to ~~one vehicle~~ \$50,000.00 in a ten (10) year period per member. Authorization ~~for more than one vehicle adaptation to exceed \$50,000.00~~ in a ten (10) year period must be approved by the DDS director or designee.

(4) Once approved, the family must add the modifications performed by the DDS waiver to their insurance for coverage in case of an accident.

~~(k) **Eye glasses and eye exams.** Routine eye examination or the purchase of corrective lenses for members twenty one (21) years of age and older, not covered by SoonerCare (Medicaid), may be authorized for the purpose of prescribing glasses or visual aids, determination of refractive state, treatment of refractive errors, or purchase of lenses, frames, or visual aids. Payment can be made to a licensed optometrist who has a current contract on file with OHCA for services within the scope of Optometric practice as defined by the appropriate State law; provided, however, that services performed by out of state providers are only compensable to the extent that they are covered services.~~

~~(j)~~**(k) AT denial.** Procedures for denial of an AT device or service are described in (1) through (3) of this subsection.

(1) ~~The person~~RDU staff denying the AT request completes and provides a written denial OKDHS Form 06MP004E, DDS-4 Notice of Action to the case manager citing the reason for denial, per OAC 317:40-5-100.

(2) The case manager sends ~~OKDHS Form~~the completed form, 06MP004E, Notice of Action, to the member and his or her family or guardian.

(3) AT service denials may be appealed through the OKDHS hearing process, per OAC 340:2-5.

~~(m)~~**(l) AT device returns.** When, during a trial use period or rental of a device, the therapist or Team including the licensed professional who recommended the AT and, when available, determines the device is not appropriate, the licensed professional sends a brief report describing the change of device recommendation to the DDS case manager. The DDS case manager forwards the report to the designated resource development staff, who arranges for the equipment return to the vendor or manufacturer.

~~(n)~~**(m) AT device rental.** AT devices are rented when the licensed professional or AT-experienced resource development staff determines rental of the device is more cost effective than purchasing the device or the licensed professional recommends a trial period to determine if the device meets the member's needs.

(1) The rental period begins on the date the manufacturer or vendor delivers the equipment to the member, unless otherwise stated in advance by the manufacturer or vendor.

(2) AT-experienced resource development staff monitor use of equipment during the rental agreement for:

(A) Rental time frame cost effectiveness;

(B) Renewal conditions; and

(C) The Team's, including the licensed professional's re-evaluation of the member's need for the device, per OAC 317:40-5-100.

(3) Rental costs are applied toward the purchase price of the device when the option is available from the manufacturer or vendor.

(4) When a device is rented for a trial-use period, the Team including the licensed professional, decides within ninety (90) calendar days whether the device:

(A) Meets the member's needs; and

(B) Needs to be purchased or returned.

~~(e)~~(n) **AT committee.** The AT committee reviews equipment requests when deemed necessary by the OKDHS DDS State Office AT programs manager.

- (1) The AT committee is comprised of:
 - ~~(A)~~ ~~DDS professional staff members of the appropriate therapy;~~
 - ~~(B)~~(A) DDS State Office AT programs manager;
 - ~~(C)~~(B) The DDS ~~area~~regional field administrator or designee; and
 - ~~(D)~~(C) An AT expert, not employed by OKDHS.
- (2) The AT committee performs a ~~paper~~ review, providing technical guidance, oversight, and consultation.
- (3) The AT committee may endorse or recommend denial of a device or service, based on criteria provided in this Section. Any endorsement or denial includes a written rationale for the decision and, when necessary, an alternative solution, directed to the case manager within twenty (20) business days of the receipt of the request. Requests reviewed by the AT committee result in suspension of time frames specified, per OAC 317:40-5-100.

317:40-5-103. Transportation

(a) **Applicability.** The rules in this Section apply to transportation services provided through Oklahoma Human Services, Developmental Disabilities Services (DDS); Home and Community-Based Services (HCBS) Waivers.

(b) **General Information.** Transportation services include adapted, non-adapted, and public transportation.

- (1) Transportation services are provided to promote inclusion in the community, access to programs and services, and participation in activities to enhance community living skills. Members are encouraged to utilize natural supports or community agencies that can provide transportation without charge before accessing transportation services.
- (2) Services include, but are not limited to, transportation to and from medical appointments, work or employment services, recreational activities, and other community activities within the number of miles authorized in the Plan of Care (POC).
 - (A) Adapted or non-adapted transportation may be provided for each eligible person.
 - (B) Public transportation may be provided up to a maximum of ~~\$15,000~~\$25,000 per POC year. The DDS director or designee may approve requests for public transportation services totaling more than ~~\$\$15,000~~\$25,000 per year when public transportation promotes the member's independence, is the most cost-effective option or only service option available for necessary transportation. For the purposes of this Section, public transportation is defined as:
 - (i) Services, such as an ambulance when medically necessary, a bus, or a taxi; or
 - (ii) A transportation program operated by the member's employment services or day services provider.
- (3) Transportation services must be included in the member's Individual Plan (Plan) and arrangements for this service must be made through the member's case manager.
- (4) Authorization of Transportation Services is based on:
 - (A) Personal Support Team (Team) consideration, per Oklahoma Administrative Code (OAC) 340:100-5-52, of the unique needs of the person and the most cost effective type of transportation services that meets the member's need, per (d) of this Section; and
 - (B) The scope of transportation services as explained in this Section.

(c) **Standards for transportation providers.** All drivers employed by contracted transportation providers must have a valid and current Oklahoma driver license, and the vehicle(s) must meet applicable local and state requirements for vehicle licensure, inspection, insurance, and capacity.

- (1) The provider must ensure that any vehicle used to transport members:
 - (A) Meets the member's needs;
 - (B) Is maintained in a safe condition;
 - (C) Has a current vehicle tag; and
 - (D) Is operated per local, state, and federal law, regulation, and ordinance.
- (2) The provider maintains at least \$100,000.00 liability insurance in an amount sufficient to pay for injuries or loss to persons or property occasioned by negligence or malfeasance by the agency, its agents, or employees.
- (3) The provider ensures all members wear safety belts during transport.
- (4) Regular vehicle maintenance and repairs are the responsibility of the transportation provider. Providers of adapted transportation services are also responsible for maintenance and repairs of modifications made to vehicles. Providers of non-adapted transportation with a vehicle modification funded through HCBS assistive technology services may have repairs authorized per OAC 317:40-5-100.
- (5) Providers must maintain documentation, fully disclosing the extent of services furnished that specifies the:
 - (A) Service date;
 - (B) Location and odometer mileage reading at the starting point and destination; or trip mileage calculation from global positioning system software;
 - (C) Name of the member transported; and
 - (D) Purpose of the trip.
- (6) A family member, including a family member living in the same household of an adult member may establish a contract to provide transportation services to:
 - (A) Work or employment services;
 - (B) Medical appointments; and
 - (C) Other activities identified in the Plan as necessary to meet the needs of the member, per OAC 340:100-3-33.1.
- (7) Individual transportation providers must provide verification of vehicle licensure, insurance and capacity to the DDS area office before a contract may be established and updated verification of each upon expiration. Failure to provide updated verification of a current and valid Oklahoma driver license or vehicle licensure may result in cancellation of the contract.

(d) **Services not covered.** Services that cannot be claimed as transportation services include:

- (1) Services not approved by the Team;
- (2) Services not authorized by the POC;
- (3) Trips that have no specified purpose or destination;
- (4) Trips for family, provider, or staff convenience;
- (5) Transportation provided by the member;
- (6) Transportation provided by the member's spouse;
- (7) Transportation provided by the biological, step or adoptive parents of the member or legal guardian, when the member is a minor;
- (8) Trips when the member is not in the vehicle;

- (9) Transportation claimed for more than one (1) member per vehicle at the same time or for the same miles, except public transportation;
 - (10) Transportation outside Oklahoma unless:
 - (A) The transportation is provided to access the nearest available medical or therapeutic service; or
 - (B) Advance written approval is given by the DDS area manager or designee;
 - (11) Services that are mandated to be provided by the public schools pursuant to the Individuals with Disabilities Education Act;
 - (12) Transportation that occurs during the performance of the member's paid employment, even when the employer is a contract provider; or
 - (13) Transportation when a closer appropriate location was not selected.
- (e) **Assessment and Team process.** At least annually, the Team addresses the member's transportation needs. The Team determines the most appropriate means of transportation based on the:
- (1) Present needs of the member. When addressing the possible need for adapted transportation, the Team only considers the member's needs. The needs of other individuals living in the same household are considered separately;
 - (2) Member's ability to access public transportation services; and
 - (3) Availability of other transportation resources including natural supports, and community agencies.
- (f) **Adapted transportation.** Adapted transportation may be transportation provided in modified vehicles with wheelchair or stretcher-safe travel systems or lifts that meet the member's medical needs that cannot be met with the use of a standard passenger vehicle, including a van when the modification to the vehicle was not funded through HCBS assistive technology service and is owned or leased by the DDS HCBS provider agency, family of an adult member, agency companion provider or specialized foster care provider.
- (1) Adapted transportation is not authorized when a provider agency leases an adapted vehicle from a member or a member's family.
 - (2) Exceptions to receive adapted transportation services for modified vehicles other than those with wheelchair or stretcher safe travel systems and lifts may be authorized by the DDS programs manager for transportation services when documentation supports the need, and there is evidence the modification costs exceeded \$10,000. All other applicable requirements of OAC 317:40-5-103 must be met.
 - (3) Adapted transportation services do not include vehicles with modifications including, but not limited to:
 - (A) Restraint systems;
 - (B) Plexi-glass windows;
 - (C) Barriers between the driver and the passengers;
 - (D) Turney seats; and
 - (E) Seat belt extenders.
 - (4) The Team determines if the member needs adapted transportation according to:
 - (A) The member's need for physical support when sitting;
 - (B) The member's need for physical assistance during transfers from one surface to another;
 - (C) The portability of the member's wheelchair;
 - (D) Associated health problems the member may have; and

- (E) Less costly alternatives to meet the need.
- (5) The transportation provider and the equipment vendor ensure that the Americans with Disabilities Act requirements are met.
- (6) The transportation provider ensures all staff assisting with transportation is trained according to the requirements specified by the Team and the equipment manufacturer.
- (g) **Authorization of transportation services.** The limitations in this subsection include the total of all transportation units on the POC, not only the units authorized for the identified residential setting.
 - (1) Up to 12,000 units of transportation services may be authorized in a member's POC per OAC 340:100-3-33 and OAC 340:100-3-33.1.
 - (2) When there is a combination of non-adapted transportation and public transportation on a POC, the total cost for transportation cannot exceed the cost for non-adapted transportation services at the current non-adapted transportation reimbursement rate multiplied by 12,000 miles for the POC year.
 - (3) The DDS area manager or designee may approve:
 - (A) Up to 14,400 miles per POC year for people who have extensive needs for transportation services; and
 - (B) A combination of non-adapted transportation and public transportation when the total cost for transportation does not exceed the cost for non-adapted transportation services at the current, non-adapted transportation reimbursement rate multiplied by 14,400 miles for the POC year.
 - (4) The DDS division director or designee may approve:
 - (A) Transportation services in excess of 14,400 miles per POC year in extenuating situations when person-centered planning identified specific needs that require additional transportation for a limited period; or
 - (B) Any combination of public transportation services with adapted or non-adapted transportation when the total cost for transportation exceeds the cost for non-adapted transportation services at the current, non-adapted transportation reimbursement rate multiplied by 14,400 miles for the POC year; or
 - (C) Public transportation services in excess of \$25,000, when it promotes the member's independence, is the most cost effective or only service option available for necessary transportation.

SUBCHAPTER 7. EMPLOYMENT SERVICES THROUGH HOME AND COMMUNITY-BASED SERVICES WAIVER

317:40-7-2. Definitions

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

"Commensurate wage" means wages paid to a worker with a disability based on the worker's productivity in proportion to the wages and productivity of workers without a disability performing essentially the same work in the same geographic area. Commensurate wages must be based on the prevailing wage paid to experienced workers without disabilities doing the same job.

"Competitive integrated employment" means work in the competitive labor market performed on a full-time or part-time basis in integrated community settings. The individual is

compensated at or above minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities. Competitive employment is an individual placement.

"Employment assessment" **"Assessment"** means the evaluation that identifies the unique preferences, strengths, and needs of members in relation to work. The assessment determines work skills and work behaviors, is supplemented by personal interviews and behavioral observations, and incorporates information that addresses the member's desired medical, physical, psychological, social, cultural, and educational outcomes, as well as present and future employment options. The assessment is updated annually or more frequently as needed, and includes support needs, environmental preferences, and possible accommodations.

"Enhanced rate" means a differential rate established to provide an incentive to provider agencies to provide community employment services to members with significant needs.

"Group placement" means either two (2) to three (3) workers with disabilities making minimum wage or four (4) to five (5) workers with disabilities who may earn less than minimum wage situated close together, who are provided continuous, long-term training and support in an integrated job site. Members may be employed by the company or by the provider agency. The terms "work crew" and "enclave" also describe a group placement.

"Individual placement in community-based services" means the member is provided supports that enable him or her to participate in approved community-based activities per Oklahoma Administrative Code 317:40-7-5, individually and not as part of a group placement.

"Individual placement in job coaching services" means one member receiving job coaching services, who:

- (A) Works in an integrated job setting;
- (B) Receives minimum wage or more;
- (C) Does not receive services from a job coach who is simultaneously responsible for continuous job coaching for a group;
- (D) Is employed by a community employer or the provider agency; and
- (E) Has a job description that is specific to his or her work.

"Integrated employment site" means an activity or job that provides regular interaction with people without disabilities, excluding service providers, to the same extent that a worker without disabilities in a comparable position interacts with others.

"Job coach" means an individual who holds a DDS-approved training job coach certification and provides ongoing support services to eligible persons in supported employment placements. Services directly support the member's work activity including marketing and job development, job and work site assessment, training and worker assessment, job matching procedures, development of co-worker natural and paid supports, and teaching job skills.

"Job development" means the process of consulting with employers in a comprehensive professional manner for the purpose of identifying job opportunities. It also includes developing resumes, making job applications, interviewing, and job networking.

"Job discovery" means the process of determining a member's job strengths, weaknesses, likes and dislikes through completion of skills assessments, informal interviews, career exploration, job shadowing and job trials.

"Job sampling" means a paid situational assessment whereby a member performs a job at a prospective employer's integrated job site in order to determine the member's interests and abilities. Situational assessments adhere to the Department of Labor (DOL) regulations regarding

wages. The Personal Support Team determines the appropriate type and number of situational assessments for each member.

"On-site supports" means a situation in which the job coach is physically at the job site providing job training to a member.

"Self-Employment" or "Employment Based at Home" means the member works for themselves or a non-DDS provider agency in their own home with supports provided through job coaching services. The hourly rate is determined by dividing number of hours worked per calendar week by total dollar amount of sales of product or service during the same calendar week. An Employment Service Justification form that includes a business proposal for self-employment must be submitted to the DDS vocational program manager for approval. Members must:

- (A) have a designated space to work;
- (B) complete job tasks a non-disabled person performs;
- (C) provide a marketable product or service; and
- (D) perform at least 80% of their job in their home and 20% in community. An exception to this requirement may be approved by the DDS director or designee.

"Situational assessment" means a comprehensive community-based evaluation of the member's functioning in relation to the supported job including the job site, community through which the member must travel to and from the job, and those at the job site, such as the job coach, co-workers, and supervisors.

"Sub-contract with industry" means the provider agency enters into a sub-contract with an industry or business to pay industry employees to provide supports to members. When the industry agrees, the provider agency may contract directly with an industry employee(s) to provide the services. The state continues to pay the provider agency and the agency provides all pertinent information required for persons served by the agency. The Team determines what, if any, training is required for the employees of the industry providing services.

"Supported employment" means competitive work in an integrated work setting with ongoing support services for members for whom competitive employment has not traditionally occurred or was interrupted or intermittent as a result of the member's disabilities.

"Unpaid training" means unpaid experience in integrated employment sites per Sections 785.27 through 785.32 of Title 29 of the Code of Federal Regulations (29 C.F.R. §§ 785.27 through 785.32). Members do a variety of tasks that do not equal the full job description of a regular worker.

"Volunteer job" means an unpaid activity in which a member freely participates.

317:40-7-5. Community-based services

Community-based services are provided in sites and at times typically used by others in the community and promote independence, community inclusion, and the creation of natural supports. Community-based services must reflect the member's choice and values in typical age and cultural situations.

(1) Approved community-based services are individualized work-related supports targeting inclusion into integrated experiences and are pre-planned, pre-identified places, documented activities supported by a schedule relating to the member's identified employment outcomes. Approved community-based services activities include:

- (A) active participation in formalized volunteer activities;
- (B) active participation in paid or unpaid work experience sites in community settings;

- (C) training through generic entities such as trade schools, technology centers, community colleges, on-line training identified by team, or other community groups. The provider is paid for the time when direct supports are necessary and provided;
- (D) stamina-enhancing programs in integrated settings;
- (E) transportation to and from employment or community-based activities;
- (F) meals and breaks during the member's employment activities that occur in the community at a location used for the same purpose, with others without disabilities;
- (G) job tours or job shadowing scheduled with and provided by a community-business entity;
- (H) using Workforce OK services; and
- (I) attending job fairs.

(2) Any other work-related, community-based activities must be approved through the exception process, per Oklahoma Administrative Code (OAC) 317:40-7-21.

(3) Community-based services continue when the member goes to a center-based facility for support, such as repositioning or personal care, as long as when the member returns immediately to a planned community-based activity. The amount of time for the repositioning and personal care are based upon a Team-approved health care positioning plan.

(4) Community-based services are available for individual and group placements.

(A) Individual placement means the member is provided supports that enable him or her to participate in individual community-based activities described in this Section and not as part of a group placement.

(B) Group placement means two-to-five members are provided supports that enable participation in the approved community-based activities described in this Section.

317:40-7-8. Employment training specialist services

Employment training specialist (ETS) services include ~~evaluation~~, training, job development, job discovery, and supportive assistance that allow the member to obtain and engage in remunerative employment. ETS services are:

- (1) available only when not otherwise funded through another state or federal entity;
- ~~(1)~~(2) provided by a certified job coach;
- ~~(2)~~(3) not available when subcontracting;
- (4) not claimed during the same period of time another type of service is provided;
- ~~(3)~~(5) used to help a member with a new job in a generic employment setting.

(A) ETS services are:

- (i) not available if the member held the same job for the same employer in the past;
- (ii) available when the member requires 100% on-site intervention for up to the number of hours the member works per week for six weeks per Plan of Care year; and

~~(iii) used in training members employed in individual placements on new jobs when the:~~

- ~~(I) member receives at least minimum wage; and~~
- ~~(II) employer is not the employment services provider.~~

~~(B) If the member does not use all of the training units on the first job placement in the Plan of Care year, the balance of training units may be used on a subsequent job placement with the current provider, or with a new provider;~~

~~(4) used in assessment and outcome development for members residing in the community who are new to the provider agency, when determined necessary by the Personal Support Team (Team). The provider:~~

~~(A) may claim a documented maximum of 20 hours per member for initial assessment.~~

~~The projected units for the assessment and outcome development must:~~

~~(i) be approved in advance by the Team; and~~

~~(ii) relate to the member's desired outcomes; and~~

~~(B) cannot claim the same period of time for more than one type of service;~~

~~(5)(6) used infor Team meetings; when the case manager has requested requests participation of direct service employment staff in accordance with OAC 340:100-5-52, up to 20 hours per Plan of Care year;~~

~~(7) used for job discovery per OAC 317:40-7-2 when a member is new to vocational services, or the member wishes to obtain a new job. The member must be part of the conversation 100% of the time.~~

~~(A) Up to fifteen (15) hours may be authorized for assessment per plan of care (POC) year and may be reauthorized after two years if the member wishes to change jobs.~~

~~(B) The member's team and the DDS director or designee must approve services beyond the initial authorization.~~

~~(6)(8) used infor job development for a member on an individual job site upon the member's completion of three consecutive months on the job per OAC 317:40-7-2.~~

~~(A) Up to 40 hours may be used during a Plan of Care year after documentation of job development activities is submitted to the case manager. Vocational providers:~~

~~(i) must submit to the case manager a quarterly review of progress for job development per OAC 340:100-5-52. The member must be part of the job development at least 50% of the time; and~~

~~(ii) may claim a documented maximum of twenty five (25) hours per member for job development per POC year if obtaining a new job or changing jobs.~~

~~(B) The job must:~~

~~(i) be approved by the member's team and related to the member's desired outcomes or assessment findings.~~

~~(i)(ii) pay at least minimum wage;~~

~~(ii)(iii) employ each member at least 15 hours per week; and~~

~~(iii)(iv) be provided by an employer who is not the member's contract provider;~~

~~(7)(9) used infor development of a Plan for Achieving Self-Support (PASS) up to 40 hours per Plan of Care year after documentation of PASS development, if not developed by a Community Work Incentives Coordinator or the Department of Rehabilitation Services, and implementation of an approved PASS after documentation has been submitted to the case manager;~~

~~(8)(10) used infor development of an Impairment Related Work Expense (IRWE) up to 20 hours per Plan of Care year after documentation of IRWE development, if not developed by a Community Work Incentives Coordinator or Oklahoma Department of Rehabilitation, and implementation of an approved IRWE after documentation is submitted to the case manager; and~~

~~(9)(11) used infor interviewing for aan ETS eligible job that is eligible for ETS services; and~~

~~(10)(12) If are authorized when the member needs job coach services after expiration of Stabilization Services, Employment Training Specialist Services may be authorized for the hours necessary to provide direct support to the member or consultation to the employer as described in outcomes and methods in the Individual Plan. The plan should include the process for fading as the member's independence increases and progress documented on OKDHS form 06WP066E.~~

317:40-7-12. Enhanced rates

An enhanced rate is available for both community-based group services and group job-coaching services when necessary to meet a member's intensive personal needs in the employment setting(s). The need for the enhanced rate is identified through the Personal Support Team process and is supported by documentation in the Individual Plan (Plan) with consideration of risk assessment per Oklahoma Administrative Code (OAC) 340:100-5-56 and assessment of medical, nutritional, mobility needs, and the:

- (1) Team assessment of the member's needs per OAC 340:100-5-51, OAC 340:100-5-56, OAC 340:100-5-57, and OAC 340:100-5-26;
- (2) member must:
 - (A) have a protective intervention protocol (PIP) that:
 - (i) contains a restrictive or intrusive procedure per OAC 340:100-1-2 implemented in the employment setting; and
 - (ii) is approved by the State Behavior Review Committee (SHRBRC) per OAC 340:100-3-14 or by the Developmental Disabilities Services (DDS) staff per OAC 340:100-5-57;
 - (B) have procedures included in the Plan that address dangerous behavior that places the member or others at risk of serious physical harm but are neither restrictive or intrusive procedures per OAC 340:100-1-2. The Team submits documentation of this risk and the procedures to the positive support field specialist to ensure positive approaches are being used to manage dangerous behavior;
 - (C) have a visual or hearing impairment that requires assistance for mobility or safety;
 - (D) have nutritional needs requiring tube feeding or other dependency for food intake that must occur in the employment setting;
 - (E) have mobility needs, such that he or she requires two or more people for lifts, transfers, and personal care. Use of a mechanical lift or other assistive technology is evaluated for the current employment program and determined not feasible by the DDS division director or designee; or
 - (F) reside in alternative group home per OAC 317:40-5-152; and
- (3) enhanced rate can be claimed only when the person providing services fulfills all applicable training criteria specified in OAC 340:100-3-38. There are no exceptions for the enhanced rate other than as allowed in this Section.

317:40-7-15. Service requirements for employment services through Home and Community-Based Services (HCBS) Waivers

(a) The Oklahoma Human Services (OKDHS) Developmental Disabilities Services (DDS) case manager, the member, the member's family or, when applicable, the member's legal guardian, and the member's provider develop a preliminary plan of services including the:

- (1) Site and amount of the services offered;

- (2) Types of services to be delivered; and
 - (3) Expected outcomes.
- (b) To promote community integration and inclusion, employment services are delivered in non-residential sites.
- (1) Employment services through HCBS waivers cannot be reimbursed when those services occur in the residence or property of the member or provider-paid staff, including garages and sheds, whether or not the garage or shed is attached to the home.
 - (2) No exceptions to Oklahoma Administrative Code (OAC) 317:40-7-15(b) are authorized except when a home-based business is established and supported through Oklahoma Rehabilitation Services (DRS). Once DRS stabilization services end, DDS stabilization services are then utilized.
- (c) The service provider is required to notify the DDS case manager in writing ~~when the member:~~
- (1) ~~Is placed in a new job~~ Prior to when the member is placed in a new job, unless in an emergency, or when new goals and outcomes are needed;
 - (2) ~~Loses~~ When the member loses his or her job. A personal support team (Team) meeting must be held when the member loses the job;
 - (3) ~~Experiences~~ When the member experiences significant changes in the community-based or employment schedule; or
 - (4) ~~Is~~ When the member is involved in critical and non-critical incidents per OAC 340:100-3-34.
- (d) The provider submits a DHS Provider Progress Report, per OAC 340:100-5-52, for each member receiving services.
- (e) The cost of a member's employment services, excluding transportation and state-funded services cannot exceed limits set forth in OKDHS Appendix D-26, Developmental Disabilities Services Rates Schedule, per Plan of Care (POC) year.
- (f) Each member receiving HCBS is supported in opportunities to seek employment and work in competitive integrated settings. When the member is not employed in a competitive integrated job, the Team identifies pathways to include outcomes, action steps, or both, to create opportunities that move the member toward competitive integrated employment.
- (g) Each member receiving residential supports, per OAC 340:100-5-22.1, or group-home services is employed for thirty (30) hours per week or receives a minimum of thirty (30) hours of employment services each week, excluding transportation to and from his or her residence.
- (1) Thirty (30) hours of employment service each week may be a combination of community-based services, center-based services, employment training specialist (ETS) intensive training services, stabilization services, or job coaching services. Center-based services cannot exceed fifteen (15) hours per week for members receiving services through the Homeward Bound Waiver.
 - (2) When the member does not participate in thirty (30) hours per week of employment services, the Team:
 - (A) Documents the pathways with outcomes and/or action steps ~~to create a pathway~~ that moves toward employment activities;
 - (B) Describes a plan to provide a meaningful day including opportunities for integrated experiences in the community; or
 - (C) Increases the member's employment activities to thirty (30) hours per week.

~~(h) Adult members~~ Members receiving In-Home Supports waiver services who are at least sixteen (16) years old can access individual placement in job coaching, stabilization, and employment training specialist services not to exceed limits specified in OKDHS Appendix D-26, per POC year.

317:40-7-18. Contracts with industry

~~(a) The Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services Division (DDSD)(DDS)~~ may contract with an industry to provide job coaching services through a Natural Supports Initiative. The employer:

- (1) designates an existing employee to serve as job coach.
 - (A) The job coach completes ~~training as approved by the DDSD director of Human Resource Development~~ per Oklahoma Administrative Code 340:100-3-38.2.
 - (B) Training and support are available for members on the job; and
- (2) is reimbursed at the individual placement in job coaching rate based on the hours the member works for the first six months.

(A) After the first six months of employment, the employer is reimbursed at the stabilization rate based on the hours the member works.

(B) Stabilization services may be provided for up to one year per job.

~~(b) An employment provider may subcontract with an industry to provide job coaching services to members who are eligible.~~

~~(1) The subcontract with an industry must be reviewed and accepted by the Personal Support Team and member or legal guardian prior to the execution of the subcontract.~~

~~(2) Approval by OKDHS:~~

~~(A) of any subcontract does not relieve the primary employment provider of any responsibility for performance per OAC 317:40-7; and~~

~~(B) to subcontract with an industry is given only when it is determined the member's needs can best be met by additional natural supports provided by industry employees.~~

317:40-7-22. Value-Based Payments (VBP)

(a) **Purpose.** Oklahoma Human Services (OKDHS) Developmental Disabilities Services (DDS) provides incentive payments to support a member as he or she moves toward competitive integrated employment. VBPs are intended to further opportunities for Oklahomans with disabilities to live independently and work in competitive integrated employment. VBPs are included in the member's Individual Plan (Plan) and arrangements for this service are made through the DDS case manager. VBPs support members ~~eighteen (18)~~ sixteen (16) years of age and older who receive employment services through the:

- (1) In-Home Supports Waiver;
- (2) Homeward Bound Waiver; or
- (3) Community Waiver.

(b) **Payment criteria.** VBPs support a member as he or she progresses towards competitive employment per the OKDHS Appendix D-26, Developmental Disabilities Services Rates Schedule. VBPs are paid:

- (1) After a member is employed for fifteen (15) business days;
- (2) When the member is employed a minimum of fifteen (15) hours weekly; and
- (3) In accordance with the limits set forth in OKDHS Appendix D-26, Developmental Disabilities Services Rates Schedule.

SUBCHAPTER 9. SELF-DIRECTED SERVICES

317:40-9-1. Self-directed services (SDS)

(a) **Applicability.** This Section applies to SDS provided through Home and Community-Based Services (HCBS) Waivers operated by the Oklahoma Human Services (OKDHS) Developmental Disabilities Services (DDS).

(b) **Member option.** Traditional service delivery methods are available for eligible members who do not elect to self-direct services. Members may also choose to self-direct part or all of their services as permitted within this section.

(c) **General information.** SDS are an option for members receiving HCBS through the In-Home Supports Waiver (IHSW) for Adults, ~~In-Home Supports Waiver~~ IHSW for Children, and the Community Waiver when the member lives in a non-residential setting. SDS provides members the opportunity to exercise choice and control in identifying, accessing, and managing specific Waiver services and supports in accordance with his or her needs and personal preferences. SDS are Waiver services OKDHS DDS specifies may be directed by the member or representative using employer and budget authority.

(1) SDS may be directed by:

- (A) An adult member, when the member has the ability to self-direct;
- (B) A member's legal representative including a parent, spouse or legal guardian; or
- (C) A non-legal representative who the member or legal representative freely chooses.

(2) The person directing services:

- (A) Is eighteen (18) years of age or older;
- (B) Complies with DDS and Oklahoma Health Care Authority (OHCA) rules and regulations;
- (C) Completes required DDS training for self-direction;
- (D) Signs an agreement with DDS;
- (E) Is a member or legal representative approved to act in a representative capacity;
- (F) Demonstrates knowledge and understanding of the member's needs and preferences; ~~and~~
- (G) Does not serve as the Self-Directed (SD) habilitation training specialist (HTS) for the member when he or she is directing the member's services.
- (H) Must reside within sixty-miles of the Oklahoma state border when they reside in another state. Exceptions to this rule must be approved by the DDS Director or designee;
- (I) Participates in the Individual Planning process; and
- (J) Submits quarterly progress reports to the Case Manager according to OAC 340:100-5-52.

(d) **The SDS program includes:**

- (1) The SDS budget. ~~A Plan of Care (POC) is developed to meet the member's needs without SDS consideration. The member~~ Members who receive services through the IHSW may elect to self-direct part or the entire amount identified allowed for traditional HTS services. This amount is under the member's control and discretion in accordance with this policy and the approved POC, and is the allocated amount that may be used to develop the SDS budget. The SDS budget details the specific spending plan. ~~the IHSW. Members who receive services~~

through the community waiver may not exceed limits for SD-HTS services as described in OAC 340:100-5-35.

(A) The SDS budget is developed annually at the time of the annual plan and updated. Individuals who participate in the budget development include, the member, case manager, parent, legal guardian, and others the member invites to participate.

(B) Payment may only be authorized for goods and services (GS) not covered by SoonerCare, or other generic funding sources, and must meet service necessity criteria, per ~~Oklahoma Administrative Code (OAC)~~ OAC 340:100-3-33.1.

(C) The member's SDS budget includes the actual cost of administrative activities including fees for financial management services (FMS) subagent, ~~background checks~~, workers' compensation insurance, and the amount identified for SD-HTS, SD Job Coaching, SD-community based services, and Self-directed goods and services (SD-GS). The SDS budget may also include fees for background checks and CPR/First Aid training for SD-HTS, SD-Job Coach and prevocational staff providing SD-community-based vocational services.

~~(D) The SDS budget is added to the POC to replace any portion of traditional HTS services to be self directed.~~

~~(E)~~ (D) The member's employment services costs, excluding transportation services, cannot exceed limits set forth in OKDHS Appendix D-26, Developmental Disabilities Services Rates Schedule, per POC year.

(2) The SD-HTS supports the member's self-care and the daily living and leisure skills needed to reside successfully in the community. Services are provided in community-based settings in a manner that contributes to the member's independence, self-sufficiency, community inclusion, and well-being. SD-HTS services must be included in the approved SDS budget. Payment is not made for routine care and supervision that is typically provided by a family member or the member's spouse. SD-HTS services are provided only during periods when staff is engaged in purposeful activity that directly or indirectly benefits the member. ~~SD-HTS services are limited to a daily average of no more than nine (9) hours per day, per OAC 340:100-5-35. At no time are SD-HTS services authorized for periods when staff is allowed to sleep. Legally responsible persons~~ individuals may not provide services ~~serve as a paid SD-HTS, per OAC 340:100-3-33.2. Other family members providing services must be employed by provider agencies per OAC 340:100-3-33.2. For the purpose of this rule, family members include parents, siblings, step-parents, step-siblings, and anyone living in the same home as the member.~~ Payment does not include room and board, maintenance, or upkeep or improvements to the member's or family's residence. An SD-HTS:

- (A) Is eighteen (18) years of age and older;
- (B) Passes a background check, per OAC 340:100-3-39;
- (C) Demonstrates competency to perform required tasks;
- (D) Completes required training, per OAC 340:100-3-38 et seq.;
- (E) Signs an agreement with DDS and the member;
- (F) Is physically able and mentally alert to carry out the job's duties;
- (G) Does not work as an SD-HTS more than forty (40) hours in any week;
- (H) Does not implement prohibited procedures, per OAC 340:100-5-58;

- (I) Provides services to only one (1) member at any given time. This does not preclude providing services in a group setting where services are shared among group members; and
 - (J) Does not perform any job duties associated with other employment, including on-call duties, at the same time they are providing SD-HTS services.
- (3) SD-Job Coaching (SD-JC) services per OAC 317:40-7-7:
- (A) ~~Are pre-planned, documented activities related to the member's identified employment outcomes. This includes training at the work site and support by job coach staff who have completed DDS sanctioned training per OAC 340:100-3-38.2~~SD-JC services are only available for individual placements;
 - (B) ~~Promote the member's capacity to secure and maintain integrated employment at the member's chosen job, provided the job pays at or more than minimum wage, or the member is working to achieve minimum wage~~An SD-Job Coach signs an agreement with DDS and the member; and
 - (C) ~~Provide active participation in paid work. Efforts are made in cooperation with employers, and an active relationship with the business is maintained, to adapt normal work environments to fit the member's needs~~The SD-JC must complete training per 340:100-3-38.2.
 - (D) ~~Are available for individual placements. Individual placement is one member receiving job coaching services who:~~
 - (i) ~~Works in an integrated job setting;~~
 - (ii) ~~Is paid at or more than minimum wage;~~
 - (iii) ~~Does not receive services from a job coach who is simultaneously responsible for continuous job coaching for a group;~~
 - (iv) ~~Is employed by a community employer; and~~
 - (v) ~~Has a job description that is specific to the member's work; and~~
 - (E) ~~Is authorized when on-site supports by a certified job coach are provided more than twenty (20) percent of the member's compensable work time. Job coaching services rate continues until a member reaches twenty (20) percent or less job coach intervention for four (4) consecutive weeks, at which time stabilization services begin.~~
 - (F) ~~Are based on the amount of time the member is compensated by the employer, except per OAC 317:40-7-11;~~
 - (G) ~~For members in individual placements, the Personal Support Team (Team):~~
 - (i) ~~Evaluates the job coaching services need at least annually; and~~
 - (ii) ~~Documents a plan for fading job coaching services as the member's independence increases.~~
 - (H) ~~In order to participate in individual placement, the individual is found ineligible for services funded through the Department of Rehabilitation Services or have a closed case; and~~
 - (I) ~~An SD-Job Coach:~~
 - (i) ~~Is eighteen (18) years of age;~~
 - (ii) ~~Passes a background check per OAC 340:100-3-39;~~
 - (iii) ~~Demonstrates competency to perform required tasks;~~
 - (iv) ~~Completes required training per OAC 340:100-3-38 et seq.;~~
 - (v) ~~Signs an agreement with DDS and the member;~~
 - (vi) ~~Is physically able and mentally alert to carry out job duties;~~

- ~~(vii) Does not work more than forty (40) hours in any week as an SD Job Coach or SD-HTS;~~
- ~~(viii) Does not implement restrictive or intrusive procedures per OAC 340:100-5-57;~~
- ~~(ix) Provides services to only one member at any given time; and~~
- ~~(x) Does not perform any job duties associated with other employment including on-call duties at the same time he or she is providing SD Job Coaching services; and~~

(4) SD-Community Based (SD-CB) Services per OAC 317:40-7-5.

- (A) SD-CB services are only available for individual placements.
- (B) Prevocational staff who provide SD-CB signs an agreement with DDS and the member
- (C) Prevocational staff who provide SD-CB services must complete training per 340:100-3-38.2.

(5) SD-Transportation per OAC 317:40-5-103.

~~(4)~~(6) SD-GS are incidental, non-routine, and promote the member's self-care, daily living, adaptive functioning, general household activities, meal preparation, and leisure skills needed to reside successfully in the community. SD-GS do not duplicate other services authorized in the member's POC. These SD-GS must be included in the Individual Plan (Plan) and approved SDS budget. SD-GS must meet the requirements listed in (A) through (F) of this paragraph.

(A) The item or service is justified by a recommendation from a licensed professional's recommendation-professional that:

- (i) Is updated annually;
- (ii) Is dated;
- (iii) Includes a recommendation for all goods and services requested; and
- (iv) Identifies how all goods and services requested will directly benefit the individual.

(B) The item or service is not prohibited by federal or state statutes and regulations.

(C) The item or service meets one (1) or more of the criteria listed in (i) through (iii) of this subparagraph. The item or service:

- (i) Increases the member's functioning related to the disability;
- (ii) Increases the member's safety in the home environment; or
- (iii) Decreases dependence on other SoonerCare funded services.

(D) SD-GS may include, but are not limited to:

- (i) Fitness items that can be purchased at retail stores when accessing a gym in the community is not an option;
- (ii) Short duration camps lasting fourteen (14) consecutive calendar days or less;
- (iii) ~~A food catcher~~Adaptive bikes;
- (iv) A specialized swing set for outdoors;
- (v) ~~Toothettes or an electric toothbrush~~Sensory toys;
- (vi) A seat lift;
- (vii)(vi) Weight loss programs or gym memberships when:
 - (I) There is an identified weight loss or increased physical activityneed;
 - (II) Justified by outcomes related to weight loss, increased physical activity or stamina; and

(III) In subsequent POC year requests, documentation is provided that supports the member's progress toward weight loss, increased physical activity, or stamina; ~~or~~

~~(viii)~~ (vii) Swimming lessons;

(viii) Recreational classes such as equine therapy (horseback riding), music lessons, dance lessons, cheer classes, karate lessons, etc.;

(ix) Uniform, costume, recital fees required for authorized recreational classes or lessons;

(x) Enrollment fees or equipment costs for authorized gyms, recreational classes or lessons;

(xi) Adult Activity Centers for members 18 years of age and over; and

(xii) Gym memberships.

(E) SD-GS is not used for:

(i) Medical services co-payments;

(ii) Over-the-counter medications;

(iii) Items or treatments not approved by the Food and Drug Administration;

(iv) Homeopathic services;

(v) Services available through any other funding source, such as SoonerCare, Medicare, private insurance, the public school system, rehabilitation services, or natural supports;

(vi) Room and board including deposits, rent, and mortgage payments;

(vii) Personal items and services not directly related to the member's disability;

(viii) Vacation expenses;

(ix) Insurance;

(x) Vehicle maintenance or other transportation related expense;

(xi) Costs related to internet access;

(xii) Clothing;

(xiii) Tickets and related costs to attend recreational events;

(xiv) Services, goods, or supports ~~provided to the member or~~ benefiting persons other than the member;

(xv) Experimental goods or services;

(xvi) Personal trainers;

(xvii) Spa treatments or massage therapy; ~~or~~

(xviii) Goods or services with costs that significantly exceed community norms for the same or similar goods or services.

(xix) Any service available through a traditional DDS waiver, whether or not the service is included in the waiver in which the member is enrolled;

(xx) Daycare or after school care services for minor children;

(xxi) Educational programs and materials for members eligible for Individuals with Disabilities Education Act; or

(xxii) Medications.

(F) SD-GS are reviewed and approved by the DDS director or designee.

(e) **Member Responsibilities.** When the member chooses the SDS option, the member or member's representative who is the employer of record (EOR) and:

(1) ~~Within forty-five (45) calendar days of enrolling in SDS training, the member or member's representatives completes~~ Completes the DDS-sanctioned self-direction training

course before enrolling in SDS. ~~Exceptions to this timeframe may be approved by the DDS director or his/her designee. The training is completed prior to implementing SD.~~ The training covers:

- (A) Staff recruitment;
 - (B) Hiring of staff as an employer of record;
 - (C) Staff orientation and instruction;
 - (D) Staff supervision including scheduling and service provisions;
 - (E) Staff evaluation;
 - (F) Staff discharge;
 - (G) SD philosophy
 - (H) OHCA SD policy;
 - (I) Individual budgeting;
 - (J) SD support plan development;
 - (K) Cultural diversity; and
 - (L) Rights, risks, and responsibilities, and
- (2) Signs ~~an~~ the SDS agreement with DDS form;
 - (3) Agrees to utilize the FMS subagent services;
 - (4) Agrees to pay administrative costs for background checks, FMS subagent fees, and workers' compensation insurance from his or her SDS budget;
 - (5) Complies with federal and state employment laws and ensures no employee works more than forty (40) hours per week in an SD-HTS capacity;
 - (6) Ensures that each employee is qualified to provide the services for which he or she is employed to do and that all billed services are actually provided;
 - (7) Ensures that each employee complies with all DDS training requirements per OAC 340:100-3-38 et seq.;
 - (8) Recruits, hires, supervises, and discharges all employees providing SDS, when necessary;
 - (9) Verifies employee qualifications;
 - (10) Obtains background screenings on all employees providing SD-HTS services per OAC 340:100-3-39;
 - (11) Sends progress reports per OAC 340:100-5-52.
 - (12) Participates in the Plan and SDS budget process;
 - (13) Notifies the DDS case manager of any emergencies or changes in circumstances that may require modification of the type or amount of services provided for in the member's Plan or SDS budget;
 - (14) Waits for budget modification approval before implementing changes;
 - (15) Complies with DDS and OHCA administrative rules;
 - (16) Cooperates with DDS monitoring requirements per OAC 340:100-3-27;
 - (17) Cooperates with FMS subagent requirements to ensure accurate records and prompt payroll processing including:
 - (A) Reviewing and signing employee time cards;
 - (B) Verifying the accuracy of hours worked; and
 - (C) Ensuring the appropriate fund expenditures; and
 - (18) Completes all required documents within established timeframes, including submission of incident reports per OAC 340:100-3-34;
 - (19) Pays for services incurred in excess of the budget amount;

(20) Pays for services not identified and approved in the member's SDS budget. The EOR is responsible for any costs resulting when a vendor payment request is not submitted within five (5) months after the service is rendered;

(21) Pays for services provided by an unqualified provider or an unauthorized vendor;

(22) Determines staff duties and qualifications and specifies service delivery practices consistent with SD-HTS Waiver service specifications;

(23) Orients and instructs staff in duties;

(24) Evaluates staff performance;

(25) Identifies and trains back-up staff, when required;

(26) Determines amount paid for services within plan limits;

(27) Schedules staff and the services provisions;

(28) Ensures SD-HTS do not implement prohibited procedures per OAC 340:100-5-58; and

(29) Signs an agreement with the SD-HTS.

(f) **FMS.** The FMS subagent is an entity that DDS designates as an agent to act on a member's behalf who has employer and budget authority. The FMS subagent's purpose is to manage payroll tasks for the member's employee(s) and SD-GS payments as authorized in the member's plan.

FMS subagent duties include, but are not limited to:

(1) Compliance with all DDS and OHCA administrative rules and contract requirements;

(2) Compliance with DDS or OHCA random and targeted audits;

(3) Tracking individual expenditures and monitoring SDS budgets;

(4) Processing the member's employee payroll, withholding, filing and paying of applicable federal, state, and local employment-related taxes and insurance;

(5) Employee time sheets collection and processing and making payment to member's employees;

(6) SD-GS invoice collection and processing as authorized in the member's SDS budget;

(7) Providing each member with information that assists with the SDS budget management;

(8) Providing reports members and member representatives, as well as providing monthly reports to DDS and to OHCA upon request;

(9) Providing DDS and OHCA authorities access to individual member's accounts through a web-based program;

(10) Assisting members in verifying employee citizenship status;

(11) Maintaining separate accounts for each member's SDS budget;

(12) Tracking and reporting member funds, balances, and disbursements;

(13) Receiving and disbursing funds for SDS payment per OHCA agreement; and

(14) Executing and maintaining a contractual agreement between DDS and the SD-HTS (employee).

(g) **DDS case management responsibilities in support of SDS.**

(1) The DDS case manager develops the member's plan per OAC 340:100-5-50 through 340:100-5-58.

(2) The DDS case manager meets with the member or, when applicable, the member's representative or legal guardian to discuss the Waiver service delivery options in (A) and (B) of this paragraph:

(A) Traditional Waiver services; and

(B) SDS including information regarding scope of choices, options, rights, risks, and responsibilities associated with SDS.

(3) When the member chooses SDS, the DDS case manager:

- (A) Discusses the available amount in the budget with the member or the member's representative;
- (B) Assists the member or representative in developing and modifying the SDS budget;
- (C) Submits request for SD-GS to the DDS director or designee for review and approval;
- (D) Assists the member or representative developing or revising an emergency back-up plan;
- (E) Monitors plan implementation per OAC 340:100-3-27;
- (F) Ensures services are initiated within required time frames;
- (G) Conducts ongoing monitoring of plan implementation and of the member's health and welfare; and
- (H) Ensures the SD-HTS does not implement prohibited procedures, per OAC 340:100-5-58. If the Team determines restrictive or intrusive procedures are necessary to address behavioral challenges, requirements must be met, per OAC 340:100-5-57.

(h) **Government fiscal/employer agent model.** DDS serves as the Organized Health Care Delivery System (OHCDS) and FMS provider in a Centers for Medicare and Medicaid Services approved government fiscal/employer agent model. DDS has an interagency agreement with OHCA.

(i) **Voluntary termination of self-directed services.** Members may discontinue SDS without disruption at any time, provided traditional Waiver services are in place. Members or representatives may not choose the SDS option again until the next annual planning meeting, with services resuming no earlier than the beginning of the next POC. A member desiring to file a complaint must follow procedures per OAC 340:2-5-61.

(j) **SDS involuntary termination.**

(1) Members may be involuntarily terminated from SDS and offered traditional Waiver services when the DDS director or designee has determined that any of the criteria in (A) through (F) of this paragraph exist:

- (A) Immediate health and safety risks associated with self-direction, such as, imminent risk of death or irreversible or serious bodily injury related to Waiver services;
- (B) Intentional misuse of funds following notification, assistance and support from DDS;
- (C) Failure to follow and implement policies of self-direction after receiving DDS technical assistance and guidance;
- (D) Suspected fraud or abuse of funds;
- (E) A member no longer receives a minimum of one (1) SDS Waiver service per month and DDS is unable to monitor the member; or
- (F) Reliable information shows the employer of record or SD-HTS engaged in illegal activity.

(2) When action is taken to involuntarily terminate the member from SDS, the case manager assists the member in assessing needed and appropriate services through the traditional Waiver services option. The case manager ensures that no lapse in necessary services occurs for which the member is eligible.

(3) The Fair Hearing process, per OAC 340:100-3-13 applies.

(k) **Reporting requirements.** While operating as an OHCDS, DDS provides OHCA reports detailing provider activity in the format and at times OHCA requires.