

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 1. ADMINISTRATIVE OPERATIONS
SUBCHAPTER 1. ORGANIZATION AND ADMINISTRATION**

317:1-1-8. Administrator

The Administrator is the chief executive officer of the Oklahoma Health Care Authority and acts for the Authority in all matters provided by law [63:5008]. The Administrator determines the internal organization of the Health Care Authority and employs staff as may be necessary to perform the duties of the Authority as authorized by statute. The Administrator is responsible for the development of all internal policies and procedures necessary for the Authority to carry out its functions and to achieve all short-and long-term agency goals. The powers and duties of the Administrator include supervision of all activities of the Authority, formulation and recommendation of rules for approval or rejection by the Authority Board and enforcement of rules promulgated by the Board. The Administrator is also responsible for directing the preparation of all plans, reports and proposals necessary for the agency's function or as required by law.

317:1-1-9. Location for information and for filing

(a) Any person may obtain information from, make submission to, or make a request of the Authority by writing to: Oklahoma Health Care Authority, 4545 North Lincoln, Suite 124, Oklahoma City, Oklahoma 73105.

(b) Written submissions and requests may be submitted in person between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. or faxed to ~~The telephone number is~~ (405) 530-3439 530-3214.

(c) The date on which papers are actually received at the Authority will be recorded as the date of filing.

317:1-1-9.1 Compliance with the Open Records Act

Oklahoma Statutes require compliance with the Open Records Act found at 51 O.S. §§ 24A.3-24A.29. The administrative regulations that follow are meant to clarify OHCA procedure and interpretation of state law regarding open records.

(1) Records request.

(A) A form is provided on OHCA's website that may be electronically mailed to the agency to request records from the Oklahoma Health Care Authority. The form may also be downloaded, completed and mailed to the agency. An open records form can be obtained by writing to the Open Records Coordinator, OHCA Legal Division, PO Drawer, 18497, Oklahoma City, Oklahoma 73154-0497.

(B) The person requesting records may also provide a written narrative at the address noted in paragraph (A). The written request must provide enough detail to allow the agency to ascertain the needs of the requestor. For example, a request asking for "all data relating to provider "b"" is not sufficient for the agency to properly

answer the request. The reason the request in this example cannot be answered without further inquiry is that it has no time limitation nor any database information restriction. This type of request will be unavoidably delayed and eventually returned to the sender for additional information.

(C) In the event of any records request (electronic or otherwise) the agency will estimate the work involved in answering the request and bill the requestor either;

(i) the reasonable direct cost of record copying or mechanical reproduction; or

(ii) the reasonable cost of record search and the direct cost of record copying (or mechanical reproduction).

(D) The amount in paragraph (C)(i) is charged for all requests that are not solely for commercial purposes or requests that cause an excessive disruption of the essential functions of the public body.

(E) The amount in paragraph (C)(ii) is charged for all requests that are solely for commercial purposes or requests that cause an excessive disruption of the essential functions of the public body.

(F) OHCA generally waives the payment requirement from media searches and government agency searches because it considers these record requests to be matters of public interest.

(G) OHCA generally regards requests for pharmacy or other payment data as requests solely for commercial purposes.

(2) OHCA fees for copying and search.

(A) As required by law, OHCA posts its copying fees and search fees in the Oklahoma County Clerk's office and at its principal place of business.

(B) OHCA also posts its schedule on its public website at www.okhca.org. The legally recognized schedule however, is the schedule posted at its principal place of business and County Clerk's office.

(C) OHCA's fee schedule specifically takes into account the statutory limit of fees for copying and certified copies.

(D) OHCA's fee schedule minimizes costs by using electronic data transmission when possible. Its fee schedule takes into account charges for electronic search and data devices (such as storage media).

(E) OHCA must receive any fees associated with the fee request before the records will be provided.

(3) Open records request exceptions.

OHCA may deny record requests in anticipation of litigation against the agency. The Oklahoma Civil Discovery Code is properly used for these requests. OHCA may deny open records requests for the reasons stated in any of the exceptions provided in the Open Records Act. The use of the exceptions is not to thwart the accountability of state government.

(4) Timeliness of responses.

The agency endeavors to answer all record requests within a reasonable time as required by law. Generally a reasonable period of time is 30 days from receipt of a specific record request depending upon the following factors;

(A) the ability to communicate with the requestor regarding federal or state law redaction requirements;

(B) the workload within the agency regarding open record requests and program activity;

(C) the inability to produce the record with or without redaction;

(D) the specificity of the written request;

(E) payment of the fee; and

(F) the size and complexity of the data request.

317:1-1-10. Documents and records [REVOKED]

~~(a) Documents filed with or presented to the Authority will be retained in the files of the Authority for the length of time required by state and federal laws. Documents will be disposed of in a manner consistent with the Records Management Act, Sections 201 through 216 and 305 through 317 of Title 67 of the Oklahoma Statutes, and Sections 564 through 576 of Title 74 of the Oklahoma Statutes, which pertain to archives and records. The records disposition schedule for the Authority will be available for public inspection.~~

~~(b) Most records of the Authority are available for public inspection and release, but some are not. The records that are not available for general public access may include records described as confidential in this Section or in other Chapters in this Title, and other records that laws require or permit the Authority to keep confidential. The Authority normally keeps the following records confidential but may choose, in some cases, to make them public if law permits it:~~

~~(1) Records which relate to internal personnel investigations including examination and selection material for employment, hiring, appointment, promotion, demotion, discipline, or resignation [51:24A.7(A)(2)(1)];~~

~~(2) Before taking action, personal notes and personally created materials (other than the Authority's budget request) prepared by the Authority staff as an aid to memory [51:24A.9];~~

~~(3) Before taking action, research material leading to the adoption of a policy or the implementation of a project [51:24A.9];~~

~~(4) Records coming into the possession of the Authority from the federal government or records generated or gathered as a result of federal legislation may be kept confidential to the extent required by federal law [51:24A.13]; and~~

~~(5) Documents, such as medical records and records protected by the attorney-client privilege, that are exempt from the Oklahoma Open Records Act or are specifically required or permitted by law to be kept confidential;~~

~~(c) In order to avoid giving unfair advantage to competitors or bidders, the Authority will keep confidential records relating~~

to:-

- ~~(1) Specifications for competitive bidding prior to publication by the public body;~~
- ~~(2) Prior to the opening of bids by the Authority or its representatives, the contents of sealed bids solicited through requests for proposals or requests for information under Department of Central Services purchasing rules or those established by the Oklahoma Health Care Authority, with the exception of procurements of managed care Health Plans; and~~
- ~~(3) State-determined rates ranges established for the purpose of negotiating contract awards with qualified Health Plans for the Medicaid Managed Care program, including initial bid and subsequent bid offers prior to final contract awards.~~

~~(d) Except for the records described in this Section and records required by law to be kept confidential, all records of the Authority are available for public inspection in accordance with the Oklahoma Open Records Act, Sections 24A.1 through 24A.18 of Title 51 of the Oklahoma Statutes.~~

~~(e) Provisions for copying and search fees are contained in the statute, with these exceptions being noted; no copy fee is charged to other public entities, to applicants, recipients or their representatives, or employees or former employees seeking information from their case file or employment records; and no search fee is charged to news media, schools, authors, or "taxpayers seeking to determine whether those entrusted with the affairs of its government are honestly, faithfully, and competently performing their duties as public servants". The fees listed in (1)-(4) of this Subsection may stand alone or be charged in combination. For example, a person may be charged a search fee in addition to a fee for photocopying.~~

~~(1) **Fees for photocopying.** The Authority has established a fee schedule for photocopying documents having the dimensions of 8 1/2 x 14 inches or smaller:~~

~~(A) if less than 10 pages, 25 cents per page;~~

~~(B) if between 10 and 100 pages, 10 cents per page; and~~

~~(C) if over 100 pages, 5 cents per page, or a maximum of one dollar (\$1.00) per copied page for a certified copy.~~

~~(2) **Fees for search.** Requests that are for a commercial purpose or clearly would cause excessive disruption of office function will be charged a search fee of \$25.00 per hour for staff time spent in the search.~~

~~(3) **Fees for other types of reproduction.** Requests for computer runs, microfilming or reproduction other than photocopying, will be charged at the cost to the Authority of duplicating the information involved. Such requests are to be forwarded to the State Office where the fee will be developed with the appropriate division.~~

~~(4) **Payments of fees.** All fees are paid prior to delivering the copies, and if the request is for search only, the fee is paid before the person is allowed to review the material. All fees are paid by check or money order; cash is not accepted. The fee payment is transmitted to the State Office, Attention~~

~~Division of Finance and Central Services. In addition, a receipt is to be given upon payment. A copy of the manual material is maintained to explain the fee schedules to interested persons.~~

317:1-1-17. Purchasing department

The Purchasing Department is the department within the Oklahoma Health Care Authority responsible for the acquisition of goods, equipment and services for the operation of the Oklahoma Health Care Authority and for acquisition of goods, equipment and services necessary for implementation of the ~~Oklahoma Medicaid Health Care Options System~~ SoonerCare Program. All acquisitions of the Purchasing Department are purchased under guidelines approved by the Oklahoma Health Care Authority and in compliance with all applicable state statutes.

SUBCHAPTER 3. FORMAL AND INFORMAL PROCEDURES

317:1-3-3.1. Drug Utilization Review Board

(a) The ~~Oklahoma Medicaid~~ SoonerCare Drug Utilization Review (DUR) Board shall be responsible for advising the Chief Executive Officer (hereinafter referred to as the CEO) of the Oklahoma Health Care Authority on retrospective and prospective drug utilization programs and review of ~~formulary~~ pharmacy benefit issues including clinical guideline applications.

(b) The DUR Board Members shall be appointed, and may be reappointed, by the CEO as provided by law.

317:1-3-3.2. DUR responsibility for Health Plan proposals for modifying medication coverage [REVOKED]

~~(a) Coverage of a medication by Health Plans is to be the same or exceed the coverage of the Oklahoma Health Care Authority (OHCA) fee-for-service program except as provided in (b) (1)-(4) of this Section.~~

~~(b) The Health Plan must present in written text (See OAC 317:25-5-3) and the OHCA DUR Board will review as follows:~~

~~(1) The non-restricted covered medications per medication therapeutic category. Non-restricted covered medications refer to covered medications which may be received by a member with a prescription and no additional review process.~~

~~(2) The review process per medication therapeutic category by which restricted medications are approved. Restricted medications refer to medications which may be received by member with a prescription and an additional review process, such as prior authorization or case management.~~

~~(3) The brand name exception process.~~

~~(4) The non-covered medications. Non-covered medications refer to medications which may not be obtained by a member in a Health Plan.~~

~~(c) Approval or non-approval of a Health Plan medication coverage proposal will be based on the conditions listed in (1)-(5) of this subsection:~~

~~(1) Therapeutic appropriateness of proposed medication~~

coverage;

~~(2) Functionality of proposed medication coverage;~~

~~(3) Probable impact on patient's therapeutic outcome, and the role of the physician and the application of the guidelines;~~

~~(4) Potential cost impact on non-capitated or fee-for-services benefits;~~

~~(5) Inclusion of all therapeutic categories.~~

~~(d) The DUR Board may recommend the Health Plan's medication coverage proposal in its entirety, or limit the recommendation to specific components within the proposal. The Oklahoma Health Care Authority shall have final approval of all reviews by the DUR Board with regard to the medication coverage proposals submitted by Health Plans.~~

317:1-3-4. State Plan Amendment Rate Committee

(a) Definitions. Unless the context clearly indicates otherwise, the following words and terms when used in this section are defined as follows:

(1) "Public Process" means a process as defined by federal law under 42.U.S.C § 1396a(A)(13)(A).

(2) "State Plan Amendment" means the document described in the Federal Regulations at 42 C.F.R. § 430.10.

(3) "State Plan Amendment Rate Committee" (SPARC) means a committee comprised of administrative and executive level staff designated by the Chief Executive Officer for the Oklahoma Health Care Authority. The SPARC facilitates the rate setting process by conducting public hearings at which the public, vendors, and OHCA staff are afforded the opportunity to provide testimony and documented evidence in support of rate recommendations. The SPARC only operates to make recommendations for changes to rates that necessitate a State Plan Amendment. Rates that do not necessitate a State Plan Amendment do not require a hearing.

(4) "Rate Change" means a change that affects the numerical value of payment from the Medicaid agency to the provider including the application of pre-existing factors that increase or decrease a rate. A "Rate Change" is not a method change. Rates found in contracts are excluded from the definition of "rate change" because they are set consensually in a contract. A method or methodology change, as defined below, is not a rate change.

(5) "Method Change or Methodology Change" means a change to how the rate is calculated, not the end result of the rate. In Medicaid rate setting the application of pre-existing factors many times, results in rate changes. The application of pre-existing factors, even if it results in a different rate is not a method change. A method change occurs when OHCA adds, subtracts or alters the factors used to construct the rate.

(b) Meeting of the State Plan Amendment Rate Committee (SPARC).
In certain instances the SPARC meets to hold public hearings regarding rates set by the Oklahoma Health Care Authority. Under certain provisions of federal law, the agency is required to hold

a public hearing to gather public comment regarding proposed method changes or methodology changes regarding the rates it pays its medical providers.

(1) The SPARC only meets when a "method change" or "methodology change" occurs in a rate paid from OHCA to a medical provider.

(2) The SPARC does not meet to establish any contractually set rate to a contractor or a contractually bid rate nor does the SPARC meet to hear rate changes.

(c) SPARC public hearing process.

(1)The five person panel conducts an open meeting under the Oklahoma Open Meetings Act.

(2)The proceedings are recorded.

(3)The panel hears agency presentations of proposals for "method changes" or "methodology changes" and considers comments of any member of the public who desires to comment upon the rate. The Chairperson controls both the agency presentation of proposals and the presentation of comments on the proposed method change.

(4)The panel votes to approve or disapprove the proposed method change in the open meeting, but may adjourn the meeting to gather further information, if necessary. The panel also may adjourn for legal advice during the proceeding. The OHCA board will vote to approve or disapprove the rate methodology upon approval by the SPARC.

(d) Composition of the SPARC. The Chief Executive Office appoints OHCA officials to serve on the SPARC. Officials may consist of other state agency employees whose agencies assist in the administration of the Medicaid State Plan.

SUBCHAPTER 5. COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973 [REVOKED]

317:1-5-1. Purpose

~~Section 504 of the Rehabilitation Act of 1973 prohibits any entity receiving federal financial assistance from excluding any individual from participation in benefits or any other form of discrimination in any other program or activity. It is the policy of the Oklahoma Health Care Authority to actively work to ensure that discriminatory activities of any kind do not occur within any program or activity of the Authority.~~

317:1-5-2. General prohibitions against discrimination

~~Section 504 of the Rehabilitation Act of 1973, states in part: *no qualified individual with disabilities, shall, on the basis of disability, be excluded from participation in, be denied the benefits of, otherwise be subjected to discrimination under any program or activity that receives benefits from federal financial assistance.*~~

317:1-5-3. Qualified individuals with disabilities

~~Section 504 of the Rehabilitation Act, guarantees the civil rights of qualified individuals with disabilities and defines~~

~~qualified individuals with disabilities to mean: with respect to employment, an individual with disabilities who, with reasonable accommodation, can perform the essential functions of the job in questions question; and with respect to services, an individual with disabilities who meets the essential eligibility requirements for the receipt of such services.~~

317:1-5-4. Self evaluation by departments for compliance

~~Each division within the Authority will evaluate on an ongoing basis its current rules and practices to ensure compliance with Section 504 of the Rehabilitation Act of 1973. It is the responsibility of each division to evaluate their programs, activities and employment practices to assure that persons with disabilities have full access. Necessary modifications may be made with the assistance of interested persons, including persons with disabilities. Divisions which determine a problem exists in their area or which desire materials or resources to reasonably accommodate program or service participants or employees with disabilities will coordinate this with the Deputy Administrator or supervisor who administers their area.~~

317:1-5-5. Preemployment medical examinations

~~Preemployment medical examinations are not permitted by Section 504 of the Rehabilitation Act of 1973. However, offers of employment may be conditioned on the results of medical examinations, so long as all entering employees are subjected to such an examination, the results are not used in a discriminatory manner, and all medical records are collected and maintained on separate forms that are accorded strict confidentiality. Prohibitions against preemployment inquiries, or gathered medical or similar information prior to the conditional offering of a job include information solicited through interviews, application forms, letters of recommendation, or any other means. The confidentiality of medical records may not be breached except that:~~

- ~~(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped and regarding necessary accommodations;~~
- ~~(2) First aid and safety personnel may be informed, when appropriate, if the condition might require emergency treatment; and~~
- ~~(3) Government officials investigating compliance with Section 504 shall be provided relevant information upon request.~~

SUBCHAPTER 7. COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990 [REVOKED]

317:1-7-1. Purpose

~~The Americans with Disabilities Act of 1990 (ADA) extends the framework of federal civil rights laws to people with disabilities. It became effective January 26, 1992. The Act expressly prohibits discrimination by state or local agencies against individuals with disabilities, regardless of citizenship status or nationality, in employment, public services, public~~

transportation, public accommodations and telecommunications services. Requirements regarding accessibility to facilities for the disabled in the ADA were adopted from the Architectural Barriers Act of 1968. The ADA is divided into these components:

(1) **Title I - Employment.** Employers may not discriminate against qualified individuals with disabilities. Employers must reasonably accommodate the disabilities of qualified applicants or employees, including modifying work stations and equipment, unless undue hardship would result.

(2) **Title II - Public Services.** State and local governments may not discriminate against qualified individuals with disabilities. Newly constructed state and local government buildings, including transit facilities, must be accessible. Alterations to existing state and local government buildings must be done in an accessible manner. New buses and rail vehicles for fixed route systems must be accessible.

(3) **Title III - Public Accommodations.** Restaurants, hotels, theaters, shopping centers and malls, retail stores, museums, libraries, parks, private schools, day care centers, and other similar places of public accommodation may not discriminate on the basis of disability. Physical barriers in existing public accommodations must be removed if readily achievable. New construction in public accommodations and commercial facilities (non residential facilities affecting commerce) must be accessible.

(4) **Title IV - Telecommunications.** Telephone companies must provide telecommunications relay services for hearing-impaired and speech-impaired individuals 24 hours per day.

317:1-7-2. Definitions

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

"Disability" does not include:

- (A) sexual behavior disorders;
- (B) compulsive gambling, kleptomania or pyromania;
- (C) psychoactive substance abuse disorders resulting from current illegal use of drugs; or
- (D) homosexuality and bisexuality.

"Drug" means a controlled substance, as defined in Schedules I through V of Section 202 of the Controlled Substances Act [21 U.S.C. 812].

"Equal employment opportunity" means an opportunity to enjoy equal benefits and privileges of employment as are available to an average similarly situated employee without a disability.

"Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. The term does not include the marginal functions of the position.

"Has a record of such impairment" means the individual has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major

life activities.

~~"Illegal use of drugs" means the use of drugs whose possession or distribution is unlawful under the Controlled Substances Act, as periodically updated by the Food and Drug Administration.~~

~~"Is regarded as having such an impairment" means:~~

~~(A) has a physical or mental impairment that does not substantially limit major life activities but is treated by a covered entity as constituting such limitation;~~

~~(B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or~~

~~(C) has none of the impairments defined herein but is treated by a covered entity as having a substantially limiting impairment.~~

~~"Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.~~

~~"Physical or mental impairment" means:~~

~~(A) any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or~~

~~(B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.~~

~~"Qualified individual with a disability" means an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position. For purposes of organizational policy, the Authority differentiates between a qualified person with a disability in the area of employment and a qualified person with a disability in the area of DRS programs. A qualified individual with a disability is one who, with or without reasonable accommodation, can perform the essential functions of the position that the individual holds or desires. For the purposes of the ADA, consideration shall be given to the employer's judgement regarding what functions of a job are essential. If an employer has prepared a written job description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.~~

~~"Reasonable accommodation" means:~~

~~(A) modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or,~~

~~(B) modifications or adjustments to the work environment, or to the manner or circumstances under which the position held~~

~~or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or,~~
~~(C) modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly-situated employees.~~

"Substantially limits" means:

~~(A) unable to perform a major life activity that the average person in the general population can perform; or,~~
~~(B) significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner or duration under which the average person in the general population can perform the same life activity.~~

317:1-7-3. The Oklahoma Health Care Authority and the Americans with Disabilities Act

~~The Oklahoma Health Care Authority complies with the provisions of the ADA by prohibiting discrimination against individuals with disabilities. This prohibition applies to:~~

~~(1) Authority employees and individuals seeking employment. Qualified individuals with disabilities must receive equal consideration in:~~

~~(A) job application procedures;~~
~~(B) hiring advancement and discharge proceedings;~~
~~(C) employee compensation;~~
~~(D) job training; and~~
~~(E) other terms, conditions and privileges of employment.~~

~~(2) Authority clients and persons applying for services. Qualified individuals with disabilities must have equal access to all services, programs and activities offered or provided by the Authority.~~

~~(A) The Authority may comply with the Act by making its facility more accessible or by redesigning equipment or communication devices subject to the limitation in OAC 317:1-7-7.~~

~~(B) More specifically, the Authority may use the following mechanisms to comply with paragraph (2) of this subsection:~~

~~(i) Use auxiliary aids or services as designated in 28 C.F.R. §35.104 such as qualified interpreters, notetakers, transcription services, telephone handset amplifiers, telecommunications devices for deaf persons (TDD's), and brailled materials;~~
~~(ii) The use of assistive technology in the agency grievance process;~~
~~(iii) The availability of the grievance process in an alternate format;~~
~~(iv) The acquisition or modification of equipment or devices;~~
~~(v) The reassignment of services to accessible buildings, home visits, home hearings, or other ways to~~

~~make its services more deliverable;~~

~~(vi) The use of an advocate, if necessary, to speak for the client; and~~

~~(vii) Other services and actions.~~

317:1-7-4. Requirement for reasonable accommodation

~~All divisions and units within the Oklahoma Health Care Authority are required to make reasonable accommodation to the known physical and mental limitations of otherwise qualified disabled employees, applicants and clients unless it can be demonstrated that the accommodation requested would impose an undue hardship on the operations of the Authority. Employment opportunities may not be denied to qualified disabled individuals if the basis for denial is the need to make reasonable accommodations to that person's physical or mental limitations. An otherwise qualified disabled person who is an applicant or client is not discriminated against because he or she does not meet the eligibility requirements of the program. Reasonable accommodation does not require the creation of new positions or promotion for employees with disabilities. However, reassignment of employees to existing positions may be necessary. Such a reassignment should be at the same grade and salary level and one for which the employee is qualified with or without reasonable accommodation. Once it has been determined that no reasonable accommodation is possible and an employee can not perform his or her job satisfactorily, if a reassignment is not possible and the individual does not desire to apply for disability retirement, the employee may be removed from his or her position for failure to perform if:~~

~~(1) there are no positions available for reassignment or placement; or~~

~~(2) the employee refuses an offer of reassignment or placement.~~

317:1-7-5. Examples of reasonable accommodation

~~(a) Examples of reasonable accommodation include, but are not limited to:~~

~~(1) making facilities used by employees readily accessible to and usable by persons with disabilities, such as making common areas accessible including entrances, hallways, restrooms, cafeterias and lounges;~~

~~(2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment and devices and the provision of readers or interpreters;~~

~~(3) for blind and visually impaired employees — rearranging fixtures and supplies, labeling shelves in braille, avoiding clutter in corridors and passageways, use of writing and drawing aids, optical aids such as magnifiers;~~

~~(4) for deaf and hard-of-hearing employees — shifting of phone answering responsibilities to other employees, use of amplification devices, use of a co-worker for receiving and transmitting communications that require use of the telephone during office conferences;~~

~~(5) for the mentally-retarded employees -- breaking down other jobs into smaller, simple components and reassigning simple tasks; or reassigning simpler duties from higher-level employees; and~~

~~(6) for the physically less mobile -- making architectural and other physical accommodations as needed.~~

~~(b) Each reasonable accommodation for a disabled employee is to be documented and all documents will be maintained in an appropriate manner within the Personnel Department.~~

317:1-7-6. Requests for reasonable accommodation

~~(a) An employee who wishes to file a request for reasonable accommodation should do so through a supervisor who will secure the proper forms from the Human Resources Division. An employee who disagrees with the proposed resolution to the request should contact his or her supervisor and mechanisms for resolving the dispute will be instituted through the Human Resources Division. All steps in the process should be documented completely by involved personnel. All requests and records related to the request will be maintained in an appropriate manner by the Human Resources Division. If there is a dispute between the Oklahoma Health Care Authority and an employee regarding reasonable accommodation, the employee may file a complaint with any state or federal agency which has jurisdiction over ADA complaints.~~

~~(b) A client requesting reasonable accommodation should be directed to the Office of the General Counsel, Oklahoma Health Care Authority, Suite 124, 4545 N. Lincoln Blvd., Oklahoma City, OK, 73105, or such address in the future which is the official mailing address of the Authority. The General Counsel will confer with the appropriate Director regarding the client's request for accommodation and notify the client of the resolution.~~

317:1-7-6.1. Requests to make services accessible

~~In the case a client or applicant for OHCA is denied a request to OHCA to make services more accessible under the Americans with Disabilities Act, the client may appeal the denial to an OHCA Administrative Law Judge under OAC 317:2-1-2(c)(1)(A) or may appeal to the Department of Health and Human Services under 28 C.F.R. §35.190(3) or may seek any other remedy provided under law.~~

317:1-7-7. Undue hardship/undue burden

~~(a) **Employment.** The responsibility of the Authority to provide a reasonable accommodation to a job applicant or an employee is limited to those situations in which it would not be an undue hardship. Undue hardship means an action requiring significant difficulty or expense; one which is unduly, costly, extensive, substantial, disruptive or that will fundamentally alter the nature of the employment. The concept of undue hardship is not limited to financial difficulty, e.g., when an action would fundamentally alter the nature of the employment position.~~

~~Whether a particular accommodation will be an undue hardship is determined on a case-by-case basis. Factors to be considered include:~~

- ~~(1) the nature and cost of the accommodation needed or requested;~~
- ~~(2) the overall financial resources of the Authority;~~
- ~~(3) the overall size of the Authority with respect to the number of employees;~~
- ~~(4) the number, type and location of the Authority facilities;~~
- ~~(5) the type of operations of the Authority, including composition, structure and functions of the workforce; and~~
- ~~(6) the impact of the accommodation on the operation of the Authority.~~

~~(b) **Programs.** The Authority is required to make its programs accessible when viewed in their entirety. It is not required to provide program access when it would result in a fundamental alteration in the nature of the program or undue financial or administrative burdens. However, if measures to provide full program access would result in a fundamental alteration or undue burdens, the Authority is still required to provide as much program access as possible without resulting in fundamental alteration or undue burdens. Furthermore, the Authority has the obligation to prove that providing program access would result in a fundamental alteration or undue burden and all funding resources must be considered. The decision that fundamental alteration or undue burdens would result must be made by the Administrator of the Authority. The decision must be documented in a written statement including the reasons for reaching the conclusion that fundamental alteration or undue burdens would result.~~

317:1-7-8. Retaliation or coercion

~~Individuals who exercise their rights under the ADA, or who assist others in exercising their rights, are protected from retaliation or coercion. Prohibited activities include harassment, threats, intimidation, or interference in the exercises of rights under the law.~~

SUBCHAPTER 9. CIVIL RIGHTS AND NONDISCRIMINATION [REVOKED]

317:1-9-1. Purpose

~~Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, national origin, sex, age or disability. It is the policy of the Oklahoma Health Care Authority to actively work to ensure that the civil rights of all employees and program participants are protected.~~

317:1-9-2. Statement of compliance

~~The Oklahoma Health Care Authority will administer the programs and will conduct its business, either directly, indirectly or through contractual or other arrangements, in compliance with Title VI of the Civil Rights Act of 1964 and 1991, Title 45, Code of Federal Regulations, Parts 80 and 84 and the Age Discrimination Act of 1975, Part 90.~~

317:1-9-3. Practices prohibited

~~In addition to the prohibition of practices addressed under the ADA, the Authority and any members of its staff, employees, contractees, subcontractees or any other persons associated with the Authority shall not:~~

- ~~(1) discriminate nor allow any other person associated with the Authority to discriminate based on the grounds of race, color, national origin, sex, age or disability.~~
- ~~(2) issue or allow to be issued policies, regulations, directives or other public communication which will have the effect of subjecting individuals to discrimination because of their race, color, national origin, sex, age or disability.~~

317:1-9-4. Administration of programs

~~Prior to implementation of any new programs or new methods for providing existing services, the Authority will review all components of such programs or services and prepare a report which will show what impact, if any, the program or services shall have on persons protected by Subchapters 5, 7 and 9 of this Chapter. The Authority will take positive action, consistent with Title VI regulations, ADA, or Section 504 regulations, to overcome the effects of conditions which result or will result in limiting participation in any program by persons protected by these Subchapters.~~

317:1-9-5. Dissemination of nondiscriminatory information

~~The Authority will inform all employees, clients, applicants and the general public that all services, any and all other benefits under its programs are provided on a nondiscriminatory basis.~~

317:1-9-6. Assignment of responsibility

~~The Authority will take the following actions:~~

- ~~(1) The Administrator of the Authority will assume full responsibility for compliance with Title VI of the Civil Rights Act of 1964, and Section 504 of the Vocational Rehabilitation Act of 1973.~~
- ~~(2) The Authority has assigned full compliance responsibility to all department heads of every administrative unit.~~
- ~~(3) The department heads of every administrative unit will keep and maintain essential records and files relative to Title VI and Section 504.~~
- ~~(4) The Authority will take positive action, consistent with Title VI regulations or Section 504 regulations, to overcome the effects of conditions which result or have resulted in limited participation in any program by persons of a particular race, color, national origin, sex, age or handicap.~~

317:1-9-9. Complaints

~~(a) Any person who believes that he/she, or any specific class of person, has been subjected to discrimination in an Authority program subject to Title VI or Section 504 may, personally or by a~~

~~representative, file a written complaint. Authority personnel will assist the complainant in the writing of the complaint if such assistance is needed. Complaints may be filed with the Authority. The complaint will be brought to the attention of the Administrator or a designated Deputy Administrator. A complaint must be filed no later than 180 days from the date of an alleged discriminatory act. The time for filing may however, be extended by the Administrator or a designated Deputy Administrator.~~

~~(b) Following investigation of the complaint, if the responsible official for the Authority believes discrimination did, in fact occur, necessary action will be taken to correct the discriminatory practice, or to require it to be corrected, and to prevent any recurrence of such discrimination. The Authority will take follow-up action to determine that the corrective measures have eliminated the conditions that contributed to the discriminatory act.~~

~~(c) The complainant will be advised in writing within 30 days from the receipt of the complaint as to the findings of the Authority regarding the complaint. In the same written notice the complainant will be advised that if he/she is not satisfied with the decision they may appeal the decision (see OAC 317:2-1 for grievance procedures and process). The Authority will maintain records to show the nature of the complaint, the details of the investigation, and the action taken by the Authority. If the complaint has been found to be valid, the records will indicate the nature of the corrective action taken. All complaint records will be available for review by the Authority or other state or judicial entities to which the complainant may appeal as provided by law.~~

317:1-9-10. Employment practices

~~The Authority, in compliance with 45 CFR 84 Subpart B, affirms that no qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity of the Authority. The Authority, in compliance with Title VI of the Civil Rights Act of 1964 affirms that no qualified person shall, on the basis of race, color, national origin, sex, age or disability, be subjected to discrimination in employment under any program or activity of the Authority.~~