

**CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND  
CHILDREN-ELIGIBILITY  
SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME  
PART 5. COUNTABLE INCOME AND RESOURCES**

**317:35-5-43. Third party resources; insurance, workers' compensation and Medicare**

Federal Regulations require that all reasonable measures to ascertain legal liability of third parties to pay for care and services be taken. In instances where such liability is found to exist after Title XIX has been made available, reimbursement to the extent of such legal liability must be sought. If the applicant or recipient has already received payments from a third party, OKDHS Form Adm-50 08AD050E, Third Party Liability Resources, is completed by ~~DHS~~ OKDHS staff and submitted to OHCA, Third Party Liability Unit. Certification or payment in behalf of an eligible individual may not be withheld because of the liability of a third party when such liability or the amount cannot be currently established or is not currently available to pay the individual's medical expense. The rules in this Section also apply when an individual categorically related to pregnancy-related services plans to put the child up for adoption. Any agreement with an adoption agency or attorneys for payment of medical care must be determined as possible third party liability, regardless of whether agreement is made during prenatal, delivery or postpartum periods.

(1) **Insurance.**

(A) **Private insurance.** An individual requesting ~~Title XIX services~~ SoonerCare is responsible for identifying and providing information on any private medical insurance. He/she is also responsible for reporting subsequent changes in insurance coverage. The worker must explain the necessity for applying benefits from private insurance to the cost of medical care.

(B) **Government benefits.** When an individual requesting ~~Title XIX~~ SoonerCare is eligible for Civilian Health and Medical Programs for Uniformed Services (CHAMPUS), payment is not made from ~~Title XIX~~ SoonerCare funds until the worker receives confirmation that other benefits are not available from this source. Payments from ~~Champus~~ CHAMPUS for medical care are not considered as income in determining eligibility. They are, however, considered as third party liability sources.

(2) **Workers' Compensation.** When an applicant for SoonerCare or ~~recipient of Title XIX~~ a SoonerCare member requires medical care because of work injury or

occupational disease, the worker immediately ascertains the facts related to the injury or disease (such as date, details of the accident, etc.) and sends OKDHS Form Adm-50 08AD050E to OHCA/TPL to be referred to the ~~DHS~~ OKDHS Audit Unit of OIG. The ~~DHS~~ OKDHS Legal Division clears periodically with the Industrial Court all cases under its jurisdiction. When any information regarding an applicant for SoonerCare or ~~recipient of Title XIX~~ a SoonerCare member is obtained, the ~~DHS~~ OKDHS Legal Division sends a memo to OHCA asking for an itemization of claims paid.

(3) **Third party liability (accident or injury).** When medical services are required for an applicant or a recipient of Title XIX as the result of an accident or injury known to the worker, the worker is responsible for determining the persons involved in the accident, date and details of the accident and possible insurance benefits which might be made available. If an automobile accident involves more than one car it is necessary to ~~clear~~ report liability insurance on all cars involved.

(A) The worker completes OKDHS Form Adm-50 08AD050E and submits it with any additional information available to the appropriate ~~DHS~~ OKDHS State Office Division where it is referred to ~~DHS~~ the OKDHS Audit and Review Division for determination of liability for medical care. A copy of this referral is sent to OHCA, Third Party Liability.

(B) If such report has not been received from the county but the OHCA receives a claim for payment from ~~Title XIX~~ SoonerCare funds and the diagnosis indicates the possibility the need for services resulted from an accident or injury involving third party liability, OHCA sends this information to ~~DHS~~ the OKDHS Office of Inspector General. The local office may be requested by the ~~DHS~~ OKDHS Audit and Review Division to submit OKDHS Form Adm-50. The worker completes this form and submits it to the ~~DHS~~ OKDHS State Office, where the ~~DHS~~ OKDHS Office of Inspector General will make any necessary follow-up and take the appropriate action.

(4) **Medicare eligibility.** If it appears the applicant may be eligible for Medicare but does not have a Medicare card or other verification, the worker clears with the Social Security Office and enters the findings and the date of the verification in the case record. If the applicant did not enroll for Part A or Part B at the time he/she became eligible for Medicare and is now subject to pay an escalated premium for Medicare enrollment, he/she is not required to do so. Payment can be made for services within the scope of Title XIX.

(5) Absent parent.

(A) Applicants are required to cooperate with the Oklahoma Department of Human Services in the assignment of child/spousal support rights. The families involved are those with a minor child(ren) in the home. The child(ren) must be related to AFDC, AB or AD and have a parent(s) absent from the home. Any support collected on behalf of these families will be paid to them as if they were receiving non-public assistance child support services, with one exception. The exception is regarding child support collected for foster care child(ren) in OKDHS temporary custody. This support is paid to OKDHS DCFS. The child support income continues to be counted in determining SoonerCare eligibility. The rules in OAC 317:10 are used, with the following exceptions:

(1) In the event the family already has an existing Child Support Enforcement case, the only action required is a memo to the appropriate Child Support Enforcement district office notifying them of the certification.

(2) Child/spousal support is always counted as income less any applicable income disregard. This income inclusion applies whether it is redirected to the CSED or retained by the member.

(3) Children who are in custody of OKDHS may be exempt from referral to CSED. Should the pursuit of the CSED services be determined to be detrimental to the OKDHS DCFS service plan, an exemption may be approved.

(B) Cash medical support may be ordered to be paid to the OHCA by the non-custodial parent if there is no access to health insurance at a reasonable cost or if the health insurance is determined not accessible to the child according to OKDHS Rules. Reasonable is deemed to be 5% or less of the non-custodial parent=s gross income. The administration and collection of cash medical support will be determined by OKDHS CSED and will be based on the income guidelines and rules that are applicable at the time. However, at no time will the non-custodial parent be required to pay more than 5% of his/her gross income for cash medical support unless payment in excess of 5% is ordered by the Court. The disbursement and hierarchy of payments will be determined pursuant to OKDHS-CSED guidelines.