

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 526. DENTAL SERVICES**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Oklahoma Dental Loan Repayment Program

310:526-3-2 [AMENDED]

310:526-3-3 [AMENDED]

310:526-3-4 [AMENDED]

SUMMARY:

310:526-3-2 The current Rule sets forth the description and general operation of the Oklahoma Dental Loan Repayment Program (Program). The proposed action expands the locations of practice sites and increases the maximum amount allowed of individual awards from \$25,000 to \$50,000. The circumstance for the rule change is compelled by legislation in SB 1664, effective November 1, 2014. The intended effect is to increase Program participation, allow a more competitive compensation, and better utilize available funding.

310:526-3-3 The current Rule establishes eligibility requirements to participate in the Program. The proposed action allows an exemption from the requirement to practice in a designated dental health professional shortage area for Pediatric Dentistry Specialists or any dentist practicing in a Federally Qualified Health Center (FQHC), FQHC look-alike, county health department, or city-county health department. The intended effect is to include participation by specialists trained to treat the younger Medicaid population and those practicing in specific public health facilities regardless of the practice site location.

310:526-3-4 The current Rule describes the procedures for administering the Program. The proposed action describes what is monitored to determine the dental health professional shortage areas for purposes of the Oklahoma Dental Loan Repayment Program instead of how the determination is calculated. This change is needed to resolve complicated, technical, and outdated language. The purpose is to improve the understanding of shortage area determinations while upholding the intent of the law. The description of annual shortage area calculations will be maintained in agency files to ensure consistency with the use of current available data, current advisory entities, and topical circumstances associated with Medicaid dental providers and enrollees.

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. Sections 1-104 and 1-2710 et seq. as amended by Senate Bill 1664, effective November 1, 2014.

COMMENT PERIOD:

October 1, 2014, through November 5, 2014. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through November 5, 2014, submit written comment to the contact person identified below; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303(A), the public hearing for the proposed rulemaking in this chapter shall be on November 5, 2014, at the Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, in room 1102 beginning at 10:00 a.m. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close

at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through November 5, 2014, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contact person identified below or via the agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available through the contact person identified.

CONTACT PERSON:

Susan Potter, ODLRP Manager, Dental Health Service, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1207, phone (405) 271-5502, email susanp@health.ok.gov.

INITIAL RULE IMPACT STATEMENT

(This document may be revised based on comment received during the public comment period.)

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 526. DENTAL SERVICES**

1. **DESCRIPTION:**

310:526-3-2 The current Rule sets forth the description and general operation of the Oklahoma Dental Loan Repayment Program (Program). The proposed action expands the locations of practice sites and increases the maximum amount allowed of individual awards from \$25,000 to \$50,000. The circumstance for the rule change is compelled by legislation in Senate SB 1664, effective November 1, 2014. The intended effect is to increase Program participation, allow a more competitive compensation, and better utilize available funding.

310:526-3-3 The current Rule establishes eligibility requirements to participate in the Program. The proposed action allows an exemption from the requirement to practice in a designated dental health professional shortage area for Pediatric Dentistry Specialists or any dentist practicing in a Federally Qualified Health Center (FQHC), FQHC look-alike, county health department, or city-county health department. The intended effect is to include participation by specialists trained to treat the younger Medicaid population and those practicing in specific public health facilities regardless of the practice site location.

310:526-3-4 The current Rule describes the procedures for administering the Program. The proposed action describes what is monitored to determine the dental health professional shortage areas for purposes of the Oklahoma Dental Loan Repayment Program instead of how the determination is calculated. This change is needed to resolve complicated, technical, and outdated language. The purpose is to improve the understanding of shortage area determinations while upholding the intent of the law. The description of annual shortage area calculations will be maintained in agency files to ensure consistency with the use of current available data, current advisory entities, and topical circumstances associated with Medicaid dental providers and enrollees.

2. **DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:**

The proposal will affect the applicants seeking participation in the Program; the recipients of Medicaid dental benefits; the patients, students, and faculty at the University of Oklahoma College of Dentistry; the Oklahoma Health Care Authority; and the Oklahoma State Department of Health. There is no expected adverse cost impact for the affected parties. Depending on appropriated funding, the possibility of increased compensation may provide an additional incentive over other federal programs for participants to serve Oklahoma's Medicaid population.

3. **DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:**

The proposal will benefit those affected by expanding the possibilities of Program operations and amending the Rule as compelled by legislation, SB 1664. A greater number of Medicaid children may be served due to the flexibility in selection of pediatric dentistry and specific public health facility participants. The proposed action is expected to enhance the value of the Program by increasing maximum participation thus improving the dental health and overall health of the Medicaid population.

4. **ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:**

There is no cost of compliance to the participants and no fees are involved. An increased number of Medicaid recipients may be served due to the flexibility in selection of pediatric dentistry and federally

qualified health center participants. This could reduce the need and expense of future dental care for the Medicaid population.

5. **COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:**
The cost to the Department to implement the amendments will be approximately \$4,000.00 to cover the costs of rule drafting, adoption, publication, distribution, and education. The proposed rules will be implemented and enforced by existing Department personnel and will have no anticipated effect on state revenues.
6. **IMPACT ON POLITICAL SUBDIVISIONS:**
There will be no impact on political subdivisions and it will not require their cooperation in implementing or enforcing the proposed amendment.
7. **ADVERSE EFFECT ON SMALL BUSINESS:**
There is no known adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.
8. **EFFORTS TO MINIMIZE COSTS OF RULE**
No less costly or nonregulatory methods have been identified.
9. **EFFECT ON PUBLIC HEALTH AND SAFETY:**
There are no significant risks known from promulgation of this proposed amendment. The proposal supports the core public health function of assurance by enhancing a competent workforce and providing care to vulnerable populations. The proposal contributes to improving the health status of Oklahomans by reducing health inequities and increasing access to dental care.
10. **DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:**
If this proposal is not adopted, the Program Rules will not be in compliance with state law.
11. This rule impact statement was prepared on July 28, 2014.

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 526. DENTAL SERVICES**

SUBCHAPTER 3. OKLAHOMA DENTAL LOAN REPAYMENT PROGRAM

310:526-3-2. Description and operation of the Program

(a) **Department's equal opportunity policies applicable.** The Department's Dental Service will administer the Oklahoma Dental Loan Repayment Program in accordance with the Department's policies governing equal opportunity and access to programs, services and activities.

(b) **General operation of the Program.** The Program will provide educational loan repayment assistance for a number not to exceed twenty-five (25) full time (or full time equivalent, or as designated by Advisory Committee or Department) dentists licensed to practice in Oklahoma. The Program will provide prorated educational loan repayment assistance based upon the percentage of time worked. Dentists entering the Program agree to teach at the University of Oklahoma College of Dentistry if applicable faculty positions are available, or provide dental care and services to Medicaid recipients in a designated dental health professional shortage area (DHPSA) or exempted facility according to state law.

(c) **Determining individual awards.** The amount of award, not to exceed ~~\$25,000~~50,000 per year for each participating full time equivalent dentist, shall be determined by the Department annually based upon the amount of funds appropriated to the Department. If the participating dentist's eligible loans are less than the cumulative repayment assistance total available over 5 years, that participating dentist shall be in the Program no longer than required to pay off the total eligible loans and shall not receive more funding assistance than the total eligible indebtedness.

(d) **Distributing the awards.** Each award shall be distributed in accordance with state law.

(e) **Default.** If the participating dentist does not fulfill the terms of the service obligation, the Department may collect from the participant the entire amount of loan repayment assistance extended to the participant under the Program, plus interest.

310:526-3-3. Eligibility to participate in the Program

(a) **Eligibility requirements common to both non-faculty and faculty participants.** Eligibility for repayment assistance for non-faculty and faculty participants requires compliance with the following requirements:

- (1) receipt or award of a dental degree from an accredited United States dental school within the previous five (5) years;
- (2) completion of all requirements to receive or be awarded an active unrestricted license to practice dentistry in the State of Oklahoma at the time the service obligation begins; and,
- (3) a financial need with outstanding eligible dental school loans.

(b) **Additional eligibility requirements for non-faculty participants.** Eligibility for repayment assistance for non-faculty participants requires compliance with the following additional requirements:

- (1) an established general or pediatric dental practice, or the commitment to establish such a practice, located in an Oklahoma DHPSA with the exception that any dentist licensed to practice as a pediatric dentistry specialist as defined by the State Dental Act or any dentist practicing in a Federally Qualified Health Center (FQHC), FQHC look-alike, county health

department, or city-county health department may be exempt from the requirement to practice in a DHPSA;

(2) fulfillment of all applicable requirements of the Oklahoma Health Care Authority to qualify as a Medicaid Dental Provider at the time the service obligation begins; and,

(3) agree that during the service obligation/contract period, a minimum 30% of patient visits are by Medicaid recipients.

(c) **Additional eligibility requirements for faculty participants.** Eligibility for repayment assistance for faculty participants requires compliance with the additional requirement of abiding by the rules and regulations for a faculty member, and the job duties assigned by the Dean of the University of Oklahoma College of Dentistry.

(d) **Limitations upon eligibility common to both non-faculty and faculty participants.** A non-faculty or faculty participant's eligibility may be rescinded or terminated if any of the following conditions occur:

(1) a breach of an obligation for service to a federal, state, or local government entity;

(2) an obligation for service to a federal, state, or local government entity that will interfere with the fulfillment of the requirements of the Program that remains unsatisfied; or,

(3) default or material breach of an agreement to repay a higher education loan or borrowing agreement.

(e) **Additional considerations.**

(1) Preference will be given to graduates of the University of Oklahoma College of Dentistry.

(2) Preference will be given to eligible practice sites that are not Medicaid/SoonerCare specific.

(3) Geographic diversity of the participants is an objective of the Program.

(4) An eligible practice site is a solo, group, or incorporated private practice, and any federal, state, local, or private for-profit or nonprofit dental facility.

(5) To qualify for the 30% minimum Medicaid recipient requirement the participant must use a count of patient visits during the service obligation. The 30% requirement will be monitored monthly, but the participant will be deemed to be compliant if the yearly average is 30% or greater.

(f) **Eligible loans.** Loans eligible for repayment assistance are any loans for educational expenses while attending dental school from a college, university, government, commercial source, or an organization, institution, association, society, or corporation that is exempt from taxation under 501(c)(3) or (4) of the Internal Revenue Code of 1986. The ODLRP participant must be able to provide, upon request, documentation that commercial loans were used for payment of educational expenses.

310:526-3-4. Procedures for administering the Program

The Program shall develop dental loan repayment procedures as may be necessary to carry out the administration of the Program. The Program shall delineate the following procedures:

(1) **Dental Health Professional Shortage Areas (DHPSA).** Dental health professional shortage areas for Oklahoma shall be established by the Commissioner using the following criteria.

(A) ~~Those counties with less than the federally recommended target for~~ The percentage of Medicaid enrollees who should receive dental services each year.

~~(B) Those counties for which~~ The ratio of the number of Medicaid enrollees under the age of 21 per Medicaid dental provider multiplied by the federally recommended target is equal to or greater than 30% of the average number of unduplicated patients in a general dentistry practice.

~~(C) Effective January 1, 2008, those counties for which~~ The ratio of the number of Oklahoma residents in the general population under age 21 per Oklahoma licensed general practice or pediatric dentist, multiplied by the federally recommended target, is equal to or greater than the number of patients under age 21 in an average dental practice.

(2) **Applications.** All interested new dental school graduates shall file an application with the Department. This application can be submitted at any time during the year. Applications may be printed from the internet or are available in the Dental Service office of the Oklahoma State Department of Health.

(3) **Approval by the Department.** Applications shall be reviewed by the Advisory Committee. Following this review, the Advisory Committee will forward their recommendations to the Department. Applications will be approved or declined as determined by the Department.

(4) **Renewal of loan repayment contracts.** The original loan repayment contract may be renewed for up to a total participation in the Program of five (5) years, contingent upon funding from the Legislature and continued approval of the Department based upon the dentist's performance and recommendations of the Advisory Committee if requested.

(5) **Advisory Committee.** The Department will appoint and convene an Advisory Committee to assist in the dental loan repayment process. The Advisory Committee shall include five (5) members with representation from the Oklahoma Dental Association, the University of Oklahoma College of Dentistry, the Oklahoma Health Care Authority, the Oklahoma Board of Dentistry, and the Oklahoma ~~Children's Oral Health~~ Children's Oral Health Coalition. The Advisory Committee is responsible for reviewing the eligible applicants, as determined by the Department, and making recommendations to the Department. The Department makes the final selection of Program participants.