Secretary of State
Certificate and Order for Filing

TEMPORARY ADMINISTRATIVE RULES

A Statement of Need and Justification must accompany this form.

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on

December 1, 2015 by the

Department of Human Services, Office of Self-Sufficiency Programs — 461

Agency and Division — **Chapter Number**

Kris Skaro	Human Services Building 500 Summer St NE, E-48 Salem, OR 97301	503-945-6067
Rules Coordinator	**Address**	**Telephone**

to become effective December 15, 2015 through June 11, 2016.*

**Temporary rules are effective for a maximum of 180 days including the effective date.*

Rule Caption: *Changing the start date of benefits for the GAM, OSIPM, and QMB-DW programs*

AMEND: OAR 461-135-0750, 461-180-0010, 461-180-0090, 461-180-0140

ORS 409.050, 411.060, 411.070, 411.404

Stat. Auth.

42 CFR 435.914

Other Auth.

ORS 409.010, 411.060, 411.070, 411.404

Stats. Implemented

Rule Summary

Effective December 1, 2015, to align with changes to the State Medicaid Plan, the Department of Human Services is changing the start date for benefits in the GAM (General Assistance Medical), OSIPM (Oregon Supplemental Income Program Medical), and QMB-DW (Qualified Medical Beneficiaries - Disabled Worker) programs. Specifically:

- OAR 461-135-0750 about OSIPM eligibility for individuals in long-term care or home and community-based care is being amended to state that OSIPM eligibility is not effective prior to the first day of the month that includes the effective date for long-term care.
- OAR 461-180-0010 about effective dates and adding a new person to an open case is being amended to state that in the GAM and OSIPM programs, the effective date for adding an individual is the first day of the month that includes the client's date of request if the client was eligible on the date of request. If the client does not meet all eligibility requirements on the date of request, but meets them within 45 days after the date of request, it is the first day of the month in which all eligibility requirements are met.

- OAR 461-180-0090 about effective dates and the initial month of medical benefits is being amended to state that in the GAM, OSIPM, and QMB-DW programs, when a client meets all eligibility requirements on the date of request, the effective date for starting medical benefits is the first day of the month that includes the date of request. If the client does not meet all eligibility requirements on the date of request, the effective date of medical benefits is the first day of the month that includes the date all eligibility requirements are met, provided all eligibility requirements are met within 45 days of the date of the request.
- OAR 461-180-0140 about effective dates for retroactive medical benefits is being amended to state that in the OSIPM program, the earliest date the applicant can be eligible is the first day of the third month before the month that includes the date of request. After the earliest date is established, eligibility is determined on a month-by-month basis. The period starts on the earliest established date and ends on the last day of the month prior to the month that includes the date of request.

Secretary of State

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules must accompany this form.

Department of Human Service, Office of Self-Sufficiency Programs	461
Agency and Division	**Chapter Number**

In the Matter of: *Temporary amendment of OAR 461-135-0750, 461-180-0010, 461-180-0090, and 461-180-0140*

Rule Caption: *Changing the start date of benefits for the GAM, OSIPM, and QMB-DW programs*

Need for the Rules

These rules need to be amended because the State Medicaid Plan is being amended effective December 1, 2015, to change the start date for medical programs administered by the Oregon Health Authority. These changes are being made due to the implementation of a new automated eligibility system that is programmed to start eligibility on the first day of the month that eligibility requirements are met. It is anticipated that in the future eligibility for APD medical programs will be determined using the same automated eligibility system. Making this change now will reduce the administrative burden of amending the State Medicaid Plan in the future, it will reduce the administrative burden on staff responsible for determining eligibility, and it will keep medical start dates aligned which will reduce confusion and the possibility for error.

Documents Relied Upon

None.

Justification of Temporary Rules

The Department finds that failure to act promptly by amending OAR 461-135-0750, 461-180-0010, 461-180-0090, and 461-180-0140 will result in serious prejudice to the public interest, the Department, and medical assistance applicants and clients because it will necessitate future changes to the State Plan, and not aligning the medical start dates could result in staff applying the wrong start date. The Department needs to proceed by temporary rule to ensure support for future system changes and ensure consistent application of policy regarding medical start dates. This will immediately benefit the public interest, the Department, and medical assistance applicants and clients.

461-135-0750 ~~Eff. 4-1-14~~ Temp. Eff. 12-15-15 through 6-11-16
Eligibility for Individuals in Long-Term Care or Home and Community-Based Care; OSIPM

An individual who meets the requirements of all of the following sections is eligible for OSIPM:

(1) Meets the eligibility requirements for the OSIPM program except that income is above the OSIPM adjusted income standard for a one person need group (see OAR 461-155-0250(3)).

(2) Has countable income at or below 300 percent of the full SSI standard for a single individual; has established a qualifying trust as specified in OAR 461-145-0540(9)(c); or is eligible for the OSIPM-EPD program.

(3) Meets one of the following eligibility standards:

(a) The criteria in OAR 411-015-0100 (except subsection (1)(b)) regarding eligibility for nursing facility care or *home and community-based care* (see OAR 461-001-0030).

(b) The level-of-need criteria for an ICF/MR.

(c) The service eligibility standards for medically fragile children in OAR 411-350-0010.

(d) The service eligibility standards for the CIIS (Children's Intensive In-Home Services) behavioral program in OAR 411-300-0100 to 411-300-0220.

(e) The service eligibility standards for the Medically Involved Children's Waiver in Chapter 411, Division 355 of the Oregon Administrative Rules.

(4) Resides in or will reside in one of the following locations for a *continuous period of care* (see OAR 461-001-0030) and is applying for or receiving long-term care services authorized by the Department (effective December 1, 2015, eligibility for OSIPM is not effective prior to the first day of the month that includes the effective date for long-term care under OAR 461-180-0040):

(a) A Medicaid-certified nursing facility.

(b) An intermediate care facility for the mentally retarded (ICF/MR).

(c) A *home and community-based care* setting.

(5) An individual in a *home and community-based care* setting must receive Title 1915(c) waivered services.

Stat. Auth.: ORS 411.060, 411.070, 411.404
Stats. Implemented: ORS 411.060, 411.070, 411.404

461-180-0010 ~~Eff. 1-1-14~~ Temp. Eff. 12-15-15 through 6-11-16
Effective Dates; Adding a New Person to an Open Case

(1) In the following programs, the effective date for adding an individual (other than an assumed eligible newborn) to the *benefit group* (see OAR 461-110-0750) is one of the following:

(a) ~~In~~ Effective December 1, 2015, in the GAM~~,~~ and OSIPM~~, and REFM~~ programs, it is~~ whichever occurs first~~:

(A) ~~The date the client requests benefits,~~ The first day of the month that includes the client's *date of request* (see OAR 461-115-0030), if the client was eligible~~ as of that date~~ on the *date of request*.

(B) ~~The date all eligibility requirements are met.~~ If the client does not meet all eligibility requirements on the date of request, but meets all requirements within 45 days after the date of request, it is the first day of the month that includes the date that all eligibility requirements are met.

(b) In the REFM program, it is whichever occurs first:

(A) The date the client requests benefits, if the individual was eligible as of that date.

(B) The date all eligibility requirements are met.

(~~b~~c) In the SNAP program:

(A) If adding the individual increases benefits, it is the first of the month after the *filing group* (see OAR 461-110-0370) reports the person has joined the *household group* (see OAR 461-110-0210). If verification is requested, the effective date for the change is:

(i) The first of the month following the date the change was reported if verification is received by the Department no later than the due date for the verification.

(ii) The first of the month following the date the verification is received by the Department, if received after the verification due date.

(B) If adding the individual reduces benefits, it is the first of the month following the month in which the notice period ends (see OAR 461-175-0050).

(c) In the GA, OSIP, REF, SFPSS, and TANF programs, it is the date on which all eligibility requirements are met and verified. If benefits have been issued for the

month and adding the new person would reduce benefits, the person is added the first of the month following the month in which the notice period ends (see OAR 461-175-0050).

(d) In the QMB-BAS and QMB-DW programs, it is the first of the month after the new individual has been determined to meet all QMB eligibility criteria and the Department receives the required verification.

(e) In the QMB-SMB program, it is the first of the month in which the new individual has been determined to meet all QMB-SMB eligibility criteria and the Department receives the required verification.

(f) In the SFPSS and TANF programs, for adding a *child* (see OAR 461-001-0000) to be covered by a provider-direct child care payment, it is the first of the month in which the *child* is added to the *benefit group*.

(2) In the following programs, the effective date for adding an assumed eligible newborn to the *benefit group* is one of the following:

(a) In the GAM, OSIPM, and REFM programs, it is the date of birth if all the following paragraphs are true. If any of the following paragraphs is not true, the newborn is added to the *benefit group* in accordance with section (1) of this rule.

(A) A request for benefits is made within one year of the birth. For purposes of this paragraph, a telephone call from the attending physician, another licensed practitioner, a hospital, or the family is considered a request for benefits.

(B) The newborn has continuously lived with the mother since the date of birth.

(C) The mother was receiving GAM or OSIPM on the date of birth, even if she is not currently eligible for benefits.

(b) In the SFPSS and TANF programs, it is:

(A) The date of birth, if all eligibility requirements are met and verified within 45 days after the birth; or

(B) The date all eligibility factors are met and verified, if the verification is completed more than 45 days after the date of birth.

(3) In the ERDC program, the effective date for adding an individual to the *need group* (see OAR 461-110-0630) or *benefit group* is as follows:

(a) If adding the individual to the *need group* will decrease the copay, the effective date is the first of the month after the client reports the person has joined the household.

(b) If adding the individual to the *need group* increases the copay--for instance, because the individual receives income--the effective date is the first of the month following the end of the decision notice period (see OAR 461-175-0050).

(c) The effective date for adding a *child* to the *benefit group*--that is, covering the cost of the child's care--is the earliest of the following:

(A) For newborns, the date of birth, if all eligibility requirements are met and verified within 45 days after the birth.

(B) For all other children, the first of the month in which the change is reported, if all eligibility requirements are met and verified within 45 days.

(C) For newborns and other children, if eligibility cannot be verified within 45 days, the effective date is the first of the month in which all eligibility factors are met and verified.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049, 414.042
Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.049, 414.042

461-180-0090 ~~Eff. 7-1-14~~ Temp. Eff. 12-15-15 through 6-11-16

Effective Dates; Initial Month Medical Benefits

The effective date for starting medical benefits for an eligible client is as follows:

(1) ~~In~~ Effective December 1, 2015, in the GAM, OSIPM, and QMB-DW~~, and REFM~~ programs:

(a) Except as provided for in subsection (b) of this section:

(A) If the client meets all eligibility requirements on the *date of request* (see OAR 461-115-0030), it is the first day of the month that includes the *date of request*. An OSIPM program client who is *assumed eligible* under OAR 461-135-0010(~~7~~5) meets "all eligibility requirements" for the purposes of this section as follows:

(i) Effective the first day of the month of the initial SSI payment if the client is age 21 or older.

(ii) Effective the first day of the month prior to the month of the initial SSI payment if the client is under the age of 21.

(B) If the client does not meet all eligibility requirements on the *date of request*, but meets all requirements within 45 days after the *date of request*, it is the first day ~~following the *date of request*~~ of the month that includes the date that all eligibility requirements are met.

(b) If the client does not complete the application within the time period described in OAR 461-115-0190 (including the authorized extension), the determination of an effective date requires a new *date of request*.

(2) In the QMB-BAS program, it is the first of the month after the *benefit group* (see OAR 461-110-0750) has been determined to meet all QMB-BAS program eligibility criteria and the Department receives the required verification.

(3) In the QMB-SMB and QMB-SMF programs, it is --

(a) The first of the month in which the *benefit group* meets all program eligibility criteria and the Department receives the required verification; or

(b) The first of the month in which the Low Income Subsidy (LIS) information is received by the Social Security Administration (SSA), if the SMB or SMF program application was generated by the electronic transmission of LIS data from the SSA and the *benefit group* meets all program eligibility criteria.

(4) In the REFM program:

(a) Except as provided in subsection (b) of this section:

(A) If the individual meets all *eligibility* requirements on the *date of request* (see OAR 461-115-0030), it is the *date of request*.

(B) If the individual does not meet all *eligibility* requirements on the *date of request*, it is the first day following the *date of request* that all eligibility requirements are met.

(b) If the individual does not complete the application within the time period described in OAR 461-115-0190 (including the authorized extension), the determination of an effective date requires a new *date of request*.

(45) Retroactive eligibility is authorized under certain circumstances in some medical programs (see paragraph (1)(a)(A) of this rule, OAR 461-135-0875, and 461-180-0140).

Stat. Auth.: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 414.025, 414.231, 414.826, 414.831, 414.839
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 414.025, 414.231, 414.826, 414.831, 414.839

461-180-0140 ~~Eff. 1-1-14~~ Temp. Eff. 12-15-15 through 6-11-16
Effective Dates; Retroactive Medical Benefits

(1) ~~In~~ Effective December 1, 2015, in the OSIPM program:

(a) If an applicant requests and is eligible for retroactive medical benefits, the earliest date the applicant may be eligible is ~~three months~~ the first day of the third month before the month that includes the *date of request* (see OAR 461-115-0030). For example, if the applicant requests benefits on July 10th, eligibility may begin as early as April 1~~0~~.

(b) After the earliest date is established, eligibility is determined on a month-by-month basis. The period starts on the earliest established date and ends on the ~~date the applicant requests benefits~~ last day of the month prior to the month that includes the *date of request*. For example, if the applicant requests benefits on August 10th, the earliest date is May 1~~0~~. Eligibility is established separately for May 1~~0~~ through May 31, June 1 through June 30, and July 1 through July 31~~, and August 1 through August 9~~.

(2) If an applicant requests and is eligible for retroactive QMB-DW, the earliest date the applicant may be eligible is three months before the date of request.

(3) If a QMB-SMB or QMB-SMF applicant requests and is eligible for retroactive payment of Part B Medicare premiums, the earliest date the applicant may be eligible is three months before the date of request.

(4) If an applicant applying for REFM is eligible for retroactive medical benefits, the earliest the applicant may be eligible is the most recent of the following--

(a) The date the applicant arrived in the United States; or

(b) Three months before the *date of request*.

Stat. Auth.: ORS 409.050, 411.060, 411.404
Stats. Implemented: ORS 409.010, 411.060, 411.404