

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

January 22, 2016 by the

Department of Human Services, Office of Self-Sufficiency Programs			461
Agency and Division			Chapter Number
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to become effective January 22, 2016 through June 11, 2016.*

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

Rule Caption: *Amending rules about the start date of some APD medical assistance benefits*

AMEND: 461-180-0010, 461-180-0090, 461-180-0140

SUSPEND: 461-180-0010(T), 461-180-0090(T), 461-180-0140(T)

ORS 409.010, 409.050, 410.070, 411.060, 411.070, 411.404, 411.704, 411.706, 413.085, 414.685

Stat. Auth.

45 CFR 435.915

Other Auth.

ORS 409.010, 409.050, 410.010, 410.020, 410.050, 411.060, 411.070, 411.121, 411.404, 411.704, 411.706, 413.085, 414.685

Stats. Implemented

Rule Summary

The Department of Human Services is adopting temporary rule changes described below to make clarifications to temporary rules originally adopted on December 15, 2015, relating to the start date for some APD assistance programs.

- OAR 461-180-0010 about the effective dates for adding a new person to an open case is being amended to state that the date benefits are requested for the individual establishes a date of request (DOR) for the individual and that the effective dates for OSIPM and General Assistance Medical (GAM) eligibility are determined in accordance with OAR 461-180-0090.
- OAR 461-180-0090 about the effective date for initial month medical benefits is being amended to clarify that if a client does not meet all eligibility requirements on the DOR but does meet all

requirements within the application processing time frames in OAR 461-115-0190, then the start date for GAM, OSIPM, and Qualified Medicare Beneficiary Disabled Worker (QMB-DW) medical benefits is the first day of the month that includes the date that all eligibility requirements are met. Currently if all eligibility requirements are not met on the DOR, eligibility is effective on the date that all eligibility requirements are met. The rule is also amended to describe limitations and exceptions to the rule for certain residents of public institutions and state psychiatric institutions, inmates (including inmates with suspended benefits), and individuals moving to Oregon from another state.

- OAR 461-180-0140 about the effective dates for retroactive medical benefits is being amended to add limitations and exceptions that apply to the start date of benefits for certain inmates and individuals moving to Oregon from another 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 461-180-0010, 461-180-0090, and 461-180-0140 and the suspension of OAR 461-180-0010(T), 461-180-0090(T), and 461-180-0140(T)*

Rule Caption: *Amending rules about the start date of some APD medical assistance benefits*

Need for the Rules

OAR 461-180-0010, 461-180-0090, and 461-180-0140 need to be amended because the current rules do not accurately reflect the policy for the effective date of medical programs for some applicants and clients. The amendments make clarifications and add limitations and exceptions to ensure the rules reflect current policy and align with the State Medicaid Plan.

Documents Relied Upon

The State Medicaid Plan amendment available at <https://www.medicaid.gov/State-resource-center/Medicaid-State-Plan-Amendments/Downloads/OR/OR-15-0006.pdf>.

Justification of Temporary Rules

The Department finds that failure to act promptly by amending OAR 461-180-0010, 461-180-0090, and 461-180-0140 will result in serious prejudice to the public interest, the Department, eligibility staff, and medical assistance applicants and clients because the rules will not accurately reflect the policy regarding the start date of medical assistance benefits for some clients. This could result in assistance starting on the wrong date. The Department needs to proceed by temporary rule because the public, the Department, eligibility staff, and medical assistance applicants and clients will immediately benefit because the correct policy will be reflected in rules and applied consistently and accurately.

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) Effective December 1, 2015, in the GAM and OSIPM programs, ~~it is:~~
 - ~~(A) The first day of the month that includes the *date of request* (see OAR 461-115-0030), if the individual was eligible on the *date of request*.~~
 - ~~(B) If the individual does not meet all eligibility requirements on the *date of request*, but meets all eligibility 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; the date benefits are requested for the individual establishes a *date of request* (see OAR 461-115-0030) for the individual. The effective date for the individual is determined in accordance with OAR 461-180-0090.~~
 - (b) In the REFM program, it is whichever occurs first:
 - (A) The date the individual requests benefits, if the individual was eligible as of that date.
 - (B) The date all eligibility requirements are met.
 - (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, 411.404, 411.816, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.049, 414.042

Effective Dates; Initial Month Medical Benefits

The effective date for starting medical benefits is as follows:

- (1) Effective December 1, 2015, in the GAM, OSIPM, and QMB-DW programs:
 - (a) Except as provided for in subsections (b) to (h) 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(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 after the date of request, within 45 days after the date of request the application processing time frames of OAR 461-115-0190, it is the first day 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*.
 - (c) Except as provided for in subsections (d) and (e) of this section, for a new applicant who is an inmate (see OAR 461-135-0950) on any day of the month during the month that the applicant is determined to meet all eligibility requirements, the effective date is determined in accordance with subsections (a) and (b) of this section, except that coverage is not in effect for any day during the month that the applicant is an inmate other than the date of incarceration and the date of release.
 - (d) The effective date for an individual residing in a public institution (see OAR 461-135-0950) meeting the requirements of OAR 461-135-0950 regarding applications received by individuals with a serious mental illness is determined in accordance with OAR 461-135-0950.
 - (e) The effective date for an individual meeting the eligibility requirements of OAR 461-135-0950 regarding residents of a state psychiatric institution is the date that

all eligibility requirements are met, including other chapter 461 eligibility requirements, if those requirements are met within the application processing time frames of OAR 461-115-0190. Otherwise the requirements of subsection (b) of this section apply.

(f) The effective date for an *inmate* or a resident of state hospital with suspended benefits that will be reinstated is determined in accordance with OAR 461-135-0950. If benefits will not be reinstated the *inmate* is considered a new applicant and the effective date is determined in accordance with subsection (c) of this section.

(g) The effective date for a new applicant who is receiving Medicaid in another state on the *date of request*, but meets the requirements of OAR 461-165-0030 regarding receipt of medical benefits in another state is:

(A) The *date of request* if all eligibility requirements are met on the *date of request* or after the *date of request*, but during the month that includes the *date of request*.

(B) If all eligibility requirements are not met during the month that includes the *date of request* the effective date is determined in accordance with paragraph (1)(a)(B) and subsection (b) of this section.

(h) The effective date for an applicant receiving Medicaid in another state prior to the *date of request*, but during the month that includes the *date of request*, is the day following the day that Medicaid benefits end in the other state if all eligibility requirements are met during the month that includes the *date of request*. If all requirements are not met in the month that includes the *date of request* the effective date is determined in accordance with paragraph (1)(a)(B) and subsection (b) of this section.

(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*.
- (5) 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

Effective Dates; Retroactive Medical Benefits

- (1) 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 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.
 - (b) ~~After~~ Except as provided for in subsections (c) and (d) of this section, 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*. For example, if the applicant requests benefits on August 10th, the earliest date is May 1. Eligibility is established separately for May 1 through May 31, June 1 through June 30, and July 1 through July 31.
 - (c) Retroactive eligibility is not available for any period that an individual is an inmate (see OAR 461-135-0950) except for the date of incarceration and the date of release, unless coverage would be available under OAR 461-135-0950 while an inmate.
 - (d) The earliest effective date of retroactive eligibility for an individual who was receiving medical benefits in another state during the retroactive period is the day following the date that benefits end in the other state.
- (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