

Secretary of State
**CERTIFICATE AND ORDER FOR FILING TEMPORARY ADMINISTRATIVE RULES
and
STATEMENT OF NEED AND JUSTIFICATION**

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on
September 14, 2017 by the

Department of Human Services, Office of Self-Sufficiency Programs	461		
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Agency and Division	Chapter Number		
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Rules Coordinator	Address	Telephone	Email

to become effective October 1, 2017 through March 29, 2018.*

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

Rule Caption: Accommodation allowances for APD medical clients

In the Matter of: Amending OAR 461-155-0660

AMEND: 461-155-0660

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

Stat. Auth.

Other Auth.

ORS 409.010, 411.060, 411.070, 411.404, 411.704, 411.706

Stats. Implemented

Rule Summary

OAR 461-155-0660 about accommodation allowances is being amended to remove references to live-in services, and clarify the methodology the Department uses in calculating an accommodation allowance.

The rule text showing these changes is available
at http://www.dhs.state.or.us/policy/selfsufficiency/ar_temporary.htm.

Need for the Rules

OAR 461-155-0660 needs to be amended because live-in services are no longer authorized starting October 1, 2017. This amendment addresses that change by removing requirements that clients be receiving live-in services, and clarifying the methodology the Department uses in calculating an accommodation allowance.

Documents Relied Upon

None

Justification of Temporary Rules

The Department finds that failure to act promptly by amending OAR 461-155-0660 will result in serious prejudice to the public interest, the Department, and some clients receiving live-in services and accommodation allowances. The Department needs to proceed by temporary rule amended because live-in services are no longer authorized starting October 1, 2017. This amendment addresses that change by removing requirements that clients be receiving live-in services, and clarifying the methodology the Department uses in calculating an accommodation allowance.

An OSIPM recipient may receive an accommodation allowance as follows:

- (1) ~~An OSIP or OSIPM program client living in a nursing facility is not eligible for an accommodation allowance. An OSIP or OSIPM program client living in a *nonstandard living arrangement* (see OAR 461-001-0000) is not eligible for an accommodation allowance unless he or she is receiving, or is eligible to receive after a temporary absence, *home and community-based care* (see OAR 461-001-0030) in home services. An OSIP or OSIPM program client receiving SSI or having an adjusted income less than the OSIPM program income standard (except a client in a nursing facility) or eligible to receive or receiving *home and community-based care* in home services is allowed an accommodation allowance if the client is 18 years of age or older and meets the criteria in section (2) or (3) of this rule.~~
- (2) Temporary absence of client individual from home.
- (a) A temporary accommodation allowance may be authorized, ~~when permitted under section (1) of this rule, if a client meets the following criteria:~~
- (A) ~~The client leaves his or her home or rental property and enters an adult foster care facility, assisted living facility, group care home, hospital, nursing facility, residential care facility, specialized living facility, or state psychiatric institution;~~
- (B) ~~The client cannot afford to keep the home without the allowance;~~
- (C) ~~The client will be able to return home within six months of leaving, according to a written statement from a primary practitioner, RN, or PAS (pre-admission screening) RN; and~~
- (D) ~~The home will accommodate the service plan of the client when the client returns.~~
- if an individual meets all the following requirements:
- (A) The individual owns, rents or leases a primary residence.
- (B) The individual leaves his or her home or rental property and temporarily receives services in a hospital, nursing facility, residential care facility, assisted living facility, adult foster home, specialized living facility or state psychiatric institution.
- (C) Except for a temporary absence from the primary residence, the individual must be eligible to receive in-home services under OAR chapter 411 division 030.

- (D) The individual cannot afford to keep the home or rental property without the allowance.
 - (E) The individual will be able to return home or rental property within six months of leaving, according to a written statement from a primary practitioner, RN, or PAS (pre-admission screening) RN.
 - (F) The home or rental property will accommodate the service plan of the individual when the individual returns.
- (b) The allowance may be authorized for six months. If, after six months, the client individual continues to meet the criteria in subsection (a) of this section, an extension may be approved in writing by a supervisor.
 - (c) The accommodation allowance equals the total of the client's individual's housing cost, including taxes and insurance, plus the limited standard utility allowance for the SNAP program provided in OAR 461-160-0420.
- ~~(3) Additional cost for accommodation. A client meeting the criteria in section (1) of this rule may receive an accommodation allowance if the client's shelter cost exceeds \$451 for a one-person need group (see OAR 461-110-0630) or \$559 for a two-person need group, and the requirements of one of the following subsections are met:~~
- ~~(a) The client has a documented increase in rent associated with access by an individual with a disability; or~~
 - ~~(b) The client has been assessed to need a live-in provider, has accepted the services of a live-in provider, and requires an additional bedroom for the live-in provider.~~
- ~~(4) The accommodation allowance is determined as follows:~~
- ~~(a) For a client who receives an accommodation allowance based on increased costs associated with access by an individual with a disability, only the additional increase in cost for the accommodation is allowed.~~
 - ~~(b) For a client who receives an accommodation allowance based on the need for an additional bedroom for a live-in provider, the amount of the accommodation allowance is the limited standard utility allowance for the SNAP program under OAR 461-160-0420 plus—~~
 - ~~(A) One-third of the monthly rental cost; or~~
 - ~~(B) One-third of the monthly payment on the property agreement (including mortgage, trust deed, or land sale contract). The property agreement is the agreement existing at the time the client is approved for the accommodation allowance. The accommodation allowance for the housing~~

~~portion ends if the debt is refinanced, unless the refinancing was done only to reduce the original property agreement's interest rate or total monthly payment amount and the owner realized no direct or indirect payment of the home's equity value from the refinancing.~~

~~(i) If the refinancing requirement under this paragraph is met, the amount of the accommodation allowance is one-third of the refinanced property agreement amount plus the limited standard utility allowance under OAR 461-160-0420.~~

~~(ii) If the refinancing requirement under this paragraph is not met and the housing portion of the accommodation allowance ends, the client remains eligible only for the limited standard utility allowance portion under OAR 461-160-0420.~~

(2) Disability-associated accommodation allowance.

(a) In order to be eligible for an accommodation allowance under this section, an individual must meet the requirements of each of the following paragraphs:

(A) The individual must meet the requirements of at least one of the following subparagraphs:

(i) Receive SSI.

(ii) Have adjusted income less than the OSIPM program income standard.

(iii) Be receiving or be eligible to receive home and community-based care in-home services under OAR chapter 411 division 030 and be 18 years of age or older

(B) The individual's shelter costs exceed \$451 for a one-person need group or \$559 for a two-person need group; and

(C) The individual has a documented increase in rent associated with access by an individual with a disability.

(b) The amount of the accommodation allowance is limited to the amount of the increase in housing cost associated with the individual's access needs.

(3) Accommodation allowance based on increased costs associated with an individual's need for a home with an additional bedroom for a service provider.

- (a) In order to be eligible for an accommodation allowance under this section, an individual must meet the requirements of all of the following paragraphs:
 - (A) Receive in-home services under OAR Chapter 411 Division 030.
 - (B) Require full assistance in at least four of the six activities of daily living as determined by the assessment described in OAR Chapter 411 Division 015.
 - (C) Receive services from one or more homecare workers who routinely sleep at the individual's home as part of the individual's service plan.
- (b) The amount of the accommodation allowance is the limited standard utility allowance for the SNAP program under OAR 461-160-0420 plus:
 - (A) One-third of the monthly rental cost; or
 - (B) One-third of the monthly payment on the property agreement (including mortgage, trust deed, or land sale contract). The property agreement is the agreement existing at the time the individual is approved for the accommodation allowance. The accommodation allowance for the housing portion ends if the debt is refinanced, unless the refinancing was done only to reduce the original property agreement's interest rate or total monthly payment amount and the owner realized no direct or indirect payment of the home's equity value is from the refinancing.
 - (i) If the refinancing requirement is met under this paragraph, the amount of the accommodation allowance is one-third of the refinanced property agreement amount plus the limited standard utility allowance under OAR 461-160-0420.
 - (ii) If the refinancing requirement under this paragraph is not met and the housing portion of the accommodation allowance ends, the individual remains eligible only for the limited standard utility allowance portion under OAR 461-160-0420.

~~5~~(4) Special requirements.

- (a) ~~A client~~ An individual who rents and qualifies for an allowance under section (2) or (3) of this rule must take the steps necessary to obtain subsidized housing under any federal or state housing program. ~~A client~~ An individual who fails, at any time, to take the steps necessary to obtain reasonably available subsidized housing ~~reasonably available~~ is ineligible for the allowance. ~~A client,~~ An individual who

has been denied or revoked from participation in any rent subsidy program based on the ~~client's individual's~~ own actions is ineligible for benefits under this rule.

- (b) ~~A client~~An individual who rents housing and refuses subsidized housing will no longer be eligible for an accommodation allowance, except that if the housing that is offered is not suitable, related to accommodations, and the ~~client individual~~ continues to have increased costs related to accommodations in the ~~client's individual's~~ current living situation, the accommodation allowance may continue until such time as appropriate subsidized housing is found.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 413.085, 414.685
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.704, 411.706