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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**SSP 14-2020**

CHAPTER 461  
DEPARTMENT OF HUMAN SERVICES  
SELF-SUFFICIENCY PROGRAMS

**FILED**  
06/16/2020 5:00 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Adopting two COVID-related rules  
EFFECTIVE DATE: 06/16/2020 THROUGH 12/12/2020  
AGENCY APPROVED DATE: 06/16/2020

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**NEED FOR THE RULE(S):**

OAR 461-135-0880 about GA, OSIPM, QMB Programs; COVID-19 and OAR 461-145-0087 about Coronavirus Aid, Relief, and Economic Security (CARES) Act need to be adopted to put into rule Department policies related to COVID-19. OAR 461-135-0880 puts into rule amendments and adoptions of policies needed due to the COVID-19 pandemic. OAR 461-145-0087 puts into rule guidelines for the treatment of COVID-19-related income.

**JUSTIFICATION OF TEMPORARY FILING:**

The Department finds that failure to act promptly by adopting OAR 461-135-0880 and OAR 461-145-0087 will result in serious prejudice to the public interest, the Department, and clients of its programs. The Department needs to proceed by temporary rule due to needed adjustments following instruction from CMS and other federal agencies as well as to put current policies into rule. Failure to act immediately could make DHS subject to citation and create barriers for individuals needing to access benefits. This rule adoption creates clear guidance regarding treatment of new income types and allows for APD Medical programs to respond swiftly to the COVID-19 pandemic.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:**

Presidential Proclamation on Declaring a National Emergency, available here <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>

CMS FAQs dated 5/5/20 from Disaster Toolkit, available here <https://www.medicaid.gov/state-resource-center/downloads/covid-19-faqs.pdf>

CMS FAQs updated 4/13/20, available here <https://www.medicaid.gov/state-resource-center/downloads/covid-19-section-6008-faqs.pdf>

CMS FAQs updated 4/13/20, available here <https://www.medicaid.gov/state-resource-center/downloads/covid-19-section-6008-CARES-faqs.pdf>

USDA "Supplemental Nutrition Assistance Program – Questions and Answers, COVID-19, Set #1," available at <https://fns-prod.azureedge.net/sites/default/files/resource-files/SNAP-COVID-QA1.pdf>

Public Law 116-127 Families First Coronavirus Response Act, available at <https://www.congress.gov/116/plaws/publ127/PLAW-116publ127.htm>

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RULES:

461-135-0880, 461-145-0087

ADOPT: 461-135-0880

RULE SUMMARY: OAR 461-135-0880 about GA, OSIPM, QMB Programs; COVID-19 is being adopted to allow provisions regarding the cessation of adverse actions, blanket acceptance of self-attestation as verification of all eligibility factors except citizenship and immigration status, and the acceptance of alternate methods of obtaining signatures. This rule adoption implements temporary program eligibility and processing provisions per Centers for Medicare & Medicaid Services (CMS) requirements during the COVID-19 national emergency period established by the Federal Government on March 13, 2020.

CHANGES TO RULE:

461-135-0880

GA, OSIPM, QMB Programs; COVID-19

The provisions in this rule apply to the GA, OSIPM, and QMB programs and are retroactively effective March 18, 2020. ¶

(1) The Department amends the following rules or rule sections regarding the GA, OSIPM, and QMB programs. ¶

(a) OAR 461-115-0070 ¶

(b) OAR 461-180-0030 ¶

(c) OAR 461-180-0040(4) and (5). ¶

(d) OAR 461-180-0120(1), (2), and (3)(b). ¶

(2) Notwithstanding OAR 461-180-0030, OAR 461-180-0040(4) and (5), OAR 461-180-0120(1), (2), and (3)(b), the Department shall suspend the effective date for all actions that reduce or close GA, OSIPM, or QMB program benefits, except for: ¶

(a) Program closures when an individual: ¶

(A) Passes away. ¶

(B) Is confirmed to have moved out of state. ¶

(C) Requests a voluntary closure. ¶

(D) In the QMB programs, is no longer eligible for Medicare. ¶

(E) Is approved for a one-time cash payment, such as a special needs payment for home repairs, or ¶

(F) Is no longer eligible for an ongoing special needs payment, except when ineligibility is due to a change in service setting. ¶

(b) Benefit reductions, when an individual: ¶

(A) Requests a voluntary reduction, or ¶

(B) In the GA program, loses their housing arrangement. ¶

(c) Increases to client liability, when:¶

(A) There is a change in service setting.¶

(B) Restoring previous liability after a one-time medical deduction.¶

(3) The Department shall accept electronic signature on all forms for the GA, OSIPM, and QMB programs. For the purposes of this rule, electronic signature is defined as:¶

(a) A written signature submitted digitally via email, or fax.¶

(b) A signature submitted through a Department electronic application system.¶

(c) A signature submitted telephonically. For telephonic signatures:¶

(A) The Department will make an effort to authenticate the identity of the individual providing the telephonic signature. ¶

(B) The individual shall be made aware of the rights and responsibilities listed in the form.¶

(C) The individual shall be made aware that the statement of their full name is being accepted as their signature. ¶

(D) The Department shall send a copy of the telephonically signed document to the individual, and ¶

(E) The Department shall make record of the telephonic signature.¶

(4) Notwithstanding OAR 461-115-0070, the Department will accept self-attestation (see OAR 461-115-0700(2)(b)) to verify all eligibility criteria, except citizenship and immigration status.¶

(5) The provisions of this rule shall end on the last day of the month in which the public health emergency declaration by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) is lifted.

Statutory/Other Authority: ORS 84.001 to 84.061, 409.050, 411.060, 411.070, 411.083, 412.006, 412.009, 412.024, 412.049, 412.064, 412.089

Statutes/Other Implemented: ORS 84.001 to 84.061, 411.060, 411.070, 411.083, 412.006, 412.009, 412.024, 412.049, 412.064, 412.089, 409.010, 411.081, 411.087, 45 CFR 206.10, 45 CFR 263.2, 45 CFR 400.155, Pub. L. 166-127, 42 CFR 435.907, 42 CFR 435.914

ADOPT: 461-145-0087

RULE SUMMARY: OAR 461-145-0087 about Coronavirus Aid, Relief, and Economic Security (CARES) Act is being adopted to implement a rule that provides guidance to the Department in how to treat Recovery Rebate payments and pandemic unemployment compensations payments that were authorized by recent federal lawmaking.

CHANGES TO RULE:

461-145-0087

Coronavirus Aid, Relief, and Economic Security (CARES) Act

The provisions in this rule are effective March 27th, 2020:¶

(1) In all programs, Recovery Rebate payments authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) are: ¶

(a) An excluded asset (OAR 461-001-0000) in the month of receipt.¶

(b) An excluded asset for 12 full months starting with the month following the month of receipt, and¶

(c) After the 12-month period, the remainder is countable (OAR 461-001-0000) as a resource.¶

(2) Federal Pandemic Unemployment Compensation payments authorized by the CARES Act are treated as follows:¶

(a) In the GA and OSIPM programs, the payments are excluded as income and resources in the month of receipt. All funds remaining after the month of receipt are treated as a resource.¶

(b) In the QMB programs, the payments are excluded.¶

(c) In all other programs, the payments are treated as unemployment compensation benefits (see OAR 461-145-0550). Federal Pandemic Unemployment Compensation payments are not Disaster Unemployment Assistance (see OAR 461-145-0100).

Statutory/Other Authority: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049

Statutes/Other Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049