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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 30-2020

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

09/02/2020 5:00 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending a temporary rule regarding GA, OSIPM, and QMB programs during COVID-19

EFFECTIVE DATE: 09/02/2020 THROUGH 12/12/2020

AGENCY APPROVED DATE: 09/02/2020

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NEED FOR THE RULE(S):

OAR 461-135-0880 about GA, OSIPM, and QMB programs during COVID-19, needs to be amended to remove the GA program for the rule, in its entirety. It also needs to be amended to remove the provision that allowed liability to be increased due to service setting changes. The amendments align the rule with recent guidance from Centers for Medicare & Medicaid Services regarding their interpretation of CARES Act provisions. The amendments also allow the GA program to function as required and intended, and aligns the rule with current Department policy.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-135-0880 will result in serious prejudice to the public interest, the Department, and clients of its programs. The Department needs to proceed by temporary rule in order to put into rule recent federal and GA Program corrections regarding certain provisions in this rule. Failure to act immediately could place the State out of compliance with Federal and State requirements.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Presidential Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, located here: <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>

Centers for Medicare & Medicaid Services' "COVID-19 Frequently Asked Questions (FAQs) for State Medicaid and Children's Health Insurance Program (CHIP) Agencies" updated 6/30/20, available here:

<https://www.medicaid.gov/state-resource-center/downloads/covid-19-faqs.pdf>

ADOPT: 461-135-0880

SUSPEND: Temporary 461-135-0880 from SSP 14-2020

RULE SUMMARY: OAR 461-135-0880 about GA, OSIPM, and QMB Programs during COVID-19, is being amended to

remove the GA program from the rule. It is also being amended to remove the provision that an individual's liability can increase during the COVID-19 emergency period due to a change in service setting.

CHANGES TO RULE:

461-135-0880

OSIPM and QMB Programs; COVID-19

The provisions in this rule apply to the OSIPM and QMB programs. ¶

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

(a) OAR 461-115-0700. ¶

(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 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 requests a voluntary reduction. ¶

(c) Increases to client liability when restoring previous liability after a one-time medical deduction. ¶

(3) The Department shall accept "electronic signature" on all forms for the 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 461-115-0700, the Department will accept self-attestation (see OAR 461-115-0700(2)(b)) to verify all eligibility criteria, except citizenship and noncitizen 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: 409.050, 411.060, 411.070, 411.083, 412.006, ORS 84.001 to 84.061, 412.009, 412.024, 412.049, 412.064, 412.089

Statutes/Other Implemented: 411.060, 411.070, 411.083, 412.006, ORS 84.001 to 84.061, 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. 116-127, 42 CFR 435.907, 42 CFR 435.914