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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 37-2020

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Temporarily Amending Three Rules about Decision Notice Periods

EFFECTIVE DATE: 10/16/2020 THROUGH 04/13/2021

AGENCY APPROVED DATE: 10/16/2020

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NEED FOR THE RULE(S):

OAR 461-175-0050 about ODHS Decision Notice Periods, needs to be amended to bring the rule into alignment with current ODHS practices and make clear the notice periods for different ODHS systems and programs. The rule is being changed to add the notice period for a few programs, systems, and situations that were not previously mentioned. It is also being changed to absorb the rule provisions in OAR 461-175-0206, which the Department plans on repealing in the near future.

OAR 461-180-0040 about Effective Dates; Special and Service Needs, needs to be amended to make the rule more accurate and clear. The rule is being changed to update verbiage to include a defined term and rule reference.

OAR 461-180-0120 about Effective Dates; Removing an Individual, needs to be amended to use more inclusive language and to improve the rule's precision.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-175-0050, 461-180-0040, and 461-180-0120 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 immediate necessity to ensure decision notices are sent out in accordance with rule. Failure to act immediately could result in decision notices being sent out of alignment with rule, which could impact their validity. This rule amendment will create support for ODHS decision notice mailing requirements in the new ONE system as well as in the Mainframe system.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Documents available from the ODHS SSP Rules Coordinator.

RULES:

461-175-0050, 461-180-0040, 461-180-0120

AMEND: 461-175-0050

RULE SUMMARY: OAR 461-175-0050 about ODHS Decision Notice Periods is being amended to add the notice period for a few programs, systems, and situations that were not previously mentioned. It is also being amended to absorb the rule provisions in OAR 461-175-0206, which the Department plans on repealing in the future. This amendment brings the rule into alignment with current ODHS practices and makes clear the notice periods for different ODHS systems and programs.

CHANGES TO RULE:

461-175-0050

Notice Period ¶

The notice period is used to determine the effective date for taking action when a decision notice (see OAR 461-001-0000) is sent to the filing group. (see OAR 461-110-0310):¶

(1) For a basic decision notice (see OAR 461-001-0000), the notice period is the month in which the notice is mailed.¶

(2) For a continuing benefit decision notice (see OAR 461-001-0000), the notice period is the budget month from which information is used to initiate the decision notice.¶

(3) For a timely continuing benefit decision notice (see OAR 461-001-0000), the notice period is the month in which the mailing requirement ends.¶

(4) Except as provided in ~~OAR 461-175-0206~~, this mailing requirement is 15 under sections (5) and (6) of this rule, the timely continuing benefit decision notice mailing requirement is:¶

(a) No later than the first business day following the 15th day of the month:¶

(A) For cases maintained in the ONE system.¶

(B) In the GA, OSIP, OSIPM, and QMB programs.¶

(b) At least fifteen calendar days for ~~client~~ individuals in the Address Confidentiality Program (see OAR 461-001-0000) and 10 calendar days for all other ~~client~~ whose cases are maintained in the ODHS mainframe system.¶

(c) At least ten calendar days:¶

(A) For all other cases maintained in the ODHS mainframe system.¶

(B) In the following programs or services:¶

(i) Home and Community Based Services and Settings provided under OAR 411-004-0020,¶

(ii) Program of All-Inclusive Care for the Elderly (PACE) under 411-045-0000, and¶

(iii) Nursing facility services under 411-070-0010.¶

(5) In all programs except the SNAP program:¶

(a) If the basis for a decision to reduce, suspend, or close a grant of public assistance or medical assistance is a change to a benefit standard, the timely continuing benefit decision notice mailing requirement is:¶

(A) At least 30 calendar days before the effective date of the action, or ¶

(B) If the Department has fewer than 60 days before the effective date to implement a change to a benefit standard, the mailing requirement is as provided under section (4) of this rule.¶

(b) For purposes of this section, the term "change to a benefit standard" means a change to the applicable inflation-adjusted contribution, income, or payment standard. It does not include the annual adjustment to a standard based on a federal or state inflation rate.¶

(6) Effective July 6, 2020 through October 15, 2020, and excluding a change to a benefit standard; in all programs, for a timely continuing benefit decision notice, the mailing requirement is:¶

(a) At least 15 calendar days for individuals in the Address Confidentiality Program.¶

(b) For all other individuals, at the Department's discretion, no later than the first business day following the 15th of the month or no later than 10 calendar days.

Statutory/Other Authority: ORS 411.730, 411.816, 412.049, ORS 411.060, 409.050, 411.404, 412.014, 412.049
Statutes/Other Implemented: ORS 411.060, 411.730, 411.816, 412.049, 411.404, 412.014, 412.049, 192.856,
409.010, 411.095

AMEND: 461-180-0040

RULE SUMMARY: OAR 461-180-0040 about Effective Dates; Special and Service Needs is being amended to update the rule's verbiage to include a defined term and rule reference. These changes make the rule more accurate and clear.

CHANGES TO RULE:

461-180-0040

Effective Dates; Special and Service Needs ¶¶

- (1) The effective date for a special need is the later of the following:¶¶
 - (a) The date of request (see OAR 461-115-0030) for the special need item; or¶¶
 - (b) The effective date for OSIPM.¶¶
- (2) The effective date for in-home services (see OAR 411-030-0020) and independent choices program (ICP) benefits (see OAR 411-030-0020) is determined as follows:¶¶
 - (a) For individuals currently receiving Medicaid OHP Plus benefits, the effective date is the later of the following:¶¶
 - (A) The date of request for in-home services or ICP.¶¶
 - (B) The date the individual meets all eligibility requirements for in-home services or ICP in accordance with OAR 411-030-0040.¶¶
 - (C) The expiration date of a disqualification period resulting from a transfer of assets (see OAR 461-140-0296).¶¶
 - (b) For individuals not already receiving Medicaid OHP Plus benefits, the effective date is the later of the following:¶¶
 - (A) The effective date of the Medicaid OHP Plus benefit package (see OAR 411-015-0015).¶¶
 - (B) The date of the initial assessment.¶¶
 - (C) The date the individual meets all eligibility requirements for in-home services or ICP in accordance with OAR 411-030-0040.¶¶
 - (D) The expiration date of a disqualification period resulting from a transfer of assets (see OAR 461-140-0296).¶¶
- (3) The effective date for Title XIX services in a licensed community-based setting or Medicaid-certified nursing facility is the later of the following:¶¶
 - (a) The date of request for services.¶¶
 - (b) The date the individual begins residing in the community-based setting or nursing facility.¶¶
 - (c) The effective date of the Medicaid OHP Plus benefit package (see OAR 411-015-0015).¶¶
 - (d) The expiration date of a disqualification period resulting from a transfer of assets (see OAR 461-140-0296).¶¶
- (4) The effective date for a reduction or termination in services is the later of the following:¶¶
 - (a) The end of the ~~ten-day notice mailing period~~ timely continuing benefit decision notice (see OAR 461-001-0000) notice period under 461-175-0050; and¶¶
 - (b) The termination date of a service plan.¶¶
- (5) The effective date for a reduction or termination of an on-going special need is the end of the timely continuing benefit ~~notice period~~ decision notice, notice period under 461-175-0050.

Statutory/Other Authority: ORS 411.060, 409.050, 411.404, 413.085, 414.685

Statutes/Other Implemented: ORS 411.060, 409.010, 411.404

AMEND: 461-180-0120

RULE SUMMARY: OAR 461-180-0120 about Effective Dates; Removing an Individual is being amended to use more inclusive language and to improve the rule's precision.

CHANGES TO RULE:

461-180-0120

Effective Dates; Removing an Individual ¶¶

The effective date for removing an individual from a benefit group (see OAR 461-110-0750) is one of the following:¶¶

(1) If the individual has left the benefit group in the current budget month because ~~the or she is~~ are ineligible, is disqualified, or has ve left the household, the effective date is:¶¶

(a) The first of the month after the notice period (see OAR 461-175-0050) ends, if the change will reduce benefits.¶¶

(b) The last day of the month in which the notice period ends, if the change will end benefits.¶¶

(2) If the individual is reasonably expected to leave the household next month, the effective date is the later of the following:¶¶

(a) The first of the month following the month in which the individual leaves the household group (see OAR 461-110-0210), if the change will reduce benefits.¶¶

(b) The end of the month in which the individual is expected to leave the household group, if the change will end benefits.¶¶

(3) When an individual in a benefit group of more than one individual dies, the effective date of the closure or reduction in benefits is one of the following:¶¶

(a) In the ERDC, REF, REFM, SNAP, and TANF programs, the last day of the month in which the ~~10-day notice period ends~~ timely continuing benefit decision notice (see OAR 461-001-0000) notice period ends under 461-175-0050.¶¶

(b) For all programs not covered by subsection (a) of this section, the date of the individual's death.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.231, 414.685, 414.826

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826