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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED
01/29/2021 8:23 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Proposing Permanent Amendments to Eight Rules about Self-Sufficiency and APD Medical Programs

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 03/22/2021 11:55 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
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HEARING(S)

Auxilary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 02/22/2021
TIME: 4:00 PM - 5:00 PM
OFFICER: Meorah Solar
ADDRESS: No Physical Location due to COVID-19
Phone 1-971-277-2343, code 787124875#
Or Contact Meorah Solar for Teams Link
By Phone, OR 0
SPECIAL INSTRUCTIONS:
Everyone has a right to know about and use Oregon Department of Human Services (ODHS) programs and services. DHS provides free help. Some examples of the free help ODHS can provide are: sign language and spoken language interpreters, written materials in other languages, braille, large print, audio and other formats. If you need help or have questions, please contact Meorah Solar at (503) 602-7545, 711 TTY, or meorah.a.solar@dhsoha.state.or.us at least 48 hours before the meeting.

NEED FOR THE RULE(S):

OAR 461-135-0950 about Eligibility for Inmates and Residents of Public Institutions, needs to be amended to align with requirements set forth by Center for Medicare and Medicaid Services. The amendments make clear how eligibility is to be handled for residents of some supervised community residential facilities (also called halfway houses, transition centers, or other names), as they are often denied Medicaid due to these facilities not being included in rule. Adding the facilities and the eligibility requirements will give coverage to those who otherwise may have been denied.

OAR 461-175-0050 about Notice Period, needs to be amended to permanently adopt temporary rule changes. These rule changes add recent Department decisions regarding the notice period and mailing requirements for different systems and different programs. These amendments align the rule with system programming and make notice period clear.

OAR 461-180-0040 about Effective Dates; Special and Service Needs, needs to be amended to permanently adopt temporary rule changes that correct rule language. These changes make the rule more accurate and clear.

OAR 461-180-0070 about Effective Dates; Initial Month Benefits, needs to be amended to make the GA initial month rule provisions clear and accurate.

OARs 461-195-0501 about Definitions and Categories of Overpayments, 461-195-0541 about Liability for Overpayments, and 461-195-0561 about Compromise of an Overpayment Claim , need to be updated to align the rule with current language.

OAR 461-195-0521 about Definitions and Categories of Overpayments, needs to be updated to align the rule with current language and to align the rule with current ODHS policies regarding self-employment related and administrative error overpayment determination, calculation, and establishment. The rule also needs to be amended to remove the potential of SNAP categorical eligibility provision conflict, and Post-TANF program provisions.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

State Health Official Letter to facilitate successful re-entry for individuals transitioning from incarceration to their communities (with Q&A) located at https://www.medicaid.gov/federal-policy-guidance/downloads/sho16007.pdf
Documents regarding decision notice rule changes are available from the Self-Sufficiency Rules Coordinator.

FISCAL AND ECONOMIC IMPACT:

The Department estimates that amending OAR 461-135-0950 may have a negative fiscal impact on ODHS and County AAAs, as some residents of supervised community residential facilities will now be eligible for Medicaid. ODHS estimates a possible positive fiscal impact to some residents of supervised community residential facilities, as they may now be eligible for Medicaid. The exact fiscal impact cannot be provided as there is no data on the number of denials issued, based on this specific "inmate" status. The Department estimates no fiscal impact on the public, other state agencies, local government beyond what is listed above, or business, including small business. There is no cost of compliance for small businesses. No small businesses are subject to this rule.

The Department estimates that amending OAR 461-175-0050 will have no fiscal impact on clients, the public, the Department beyond programming cost avoidance if the rule had not been amended, other state agencies, local government, and business, including small business. There is no cost of compliance for small businesses. No small businesses are subject to this rule.

The Department estimates that amending OARs 461-180-0040, 461-180-0070, 461-195-0501, 461-195-0521, 461-195-0541, and 461-195-0561 will have no fiscal impact on clients, the public, the Department, other state agencies, local government, and business, including small business. There is no cost of compliance for small businesses. No small businesses are subject to this rule.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

See Fiscal and Economic Impact

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the development of these rules but are invited to provide input during the public comment period.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The Department was unable to hold a formal RAC previous to the February 1, 2021 publishing date due to rules added to this filing quite late. The Department is holding a meeting in early February, and inviting those who would have been invited to the RAC, to review all information and edits in this filing.

RULES PROPOSED:

461-135-0950, 461-175-0050, 461-180-0040, 461-180-0070, 461-195-0501, 461-195-0521, 461-195-0541, 461-195-0561

AMEND: 461-135-0950

RULE SUMMARY: OAR 461-135-0950 about Eligibility for Inmates and Residents of Public Institutions, is being amended to make general text corrections, and to change when an individual in a supervised community residential facility is considered an individual identified as an inmate. It may also be amended to update verbiage.

CHANGES TO RULE:

461-135-0950
Eligibility for Inmates and Residents of Public Institutions ¶

(1) This rule sets out additional restrictions on the eligibility of inmates and residents of state hospitals for programs covered by Chapter 461 of the Oregon Administrative Rules.¶
(2) Definition of an "inmate".¶
(a) An inmate is an individual living in a public institution (see section (3) of this rule) who is:¶
(A) Confined involuntarily in a local, state or federal prison, jail, detention facility, or other penal facility, including

an individual being held involuntarily in a detention center awaiting trial or an individual serving a sentence for a criminal offense;¶
(B) Residing involuntarily in a facility under a contract between the facility and a public institution where, under the terms of the contract, the facility is a public institution;¶
(C) Residing involuntarily in a facility that is under governmental control;¶
(D) Receiving care as an outpatient while residing involuntarily in a public institution; or¶
(E) In the OSIPM and QMB programs, released from the public institution during a temporary period of hospitalization in a medical institution outside of the correctional facility.¶
(b) An individual is not considered an inmate when:¶
(A) The individual is released on parole, probation, or post-prison supervision;¶
(B) The individual is on home- or work-release, unless the individual is required to report to a public institution for an overnight stay;¶
(C) The individual is voluntarily residing in a supervised community residential facility and all of the following are true:¶
(i) Residents are not precluded from working outside the facility in employment available to individuals who are not under justice system supervision;¶
(ii) Residents can use community resources such as libraries, grocery stores, recreation and education at will, notwithstanding any house rules such as a requirement to sign in and out, curfews, or hours during which the residence is closed or locked; and¶
(iii) Residents can seek health care treatment in the broader community to the same or similar extent as other Medicaid enrollees in the state.¶
(D) The individual is staying voluntarily in a detention center, jail, or county penal facility after his or her case has been adjudicated and while other living arrangements are being made for the individual; or¶
(~~D~~E) The individual is in a public institution pending other arrangements as defined in 42 CFR 435.1010.¶
(3) A "public institution" is any of the following:¶
(a) A state hospital (see ORS 162.135).¶
(b) A local correctional facility (see ORS 169.005): a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds individuals for more than 36 hours.¶
(c) A Department of Corrections institution (see ORS 421.005): a facility used for the incarceration of individuals sentenced to the custody of the Department of Corrections, including a satellite, camp, or branch of a facility.¶
(d) A youth correction facility (see ORS 162.135):¶
(A) A facility used for the confinement of youth offenders and other individuals placed in the legal or physical custody of the youth authority, including a secure regional youth facility, a regional accountability camp, a residential academy and satellite, and camps and branches of those facilities; or¶
(B) A facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youth, or youth offenders pursuant to a judicial commitment or order.¶
(4) Definition of serious mental illness. An individual has a serious mental illness if the individual has been diagnosed by a psychiatrist, a licensed clinical psychologist or a certified non-medical examiner as having dementia, schizophrenia, bipolar disorder, major depression or other affective disorder or psychotic mental disorder other than a substance abuse disorder and other than a disorder that is caused primarily by substance abuse.¶
(5) An individual who resides in a state hospital (see subsection (3)(a) of this rule) meets the definition of a serious mental illness (see section (4) of this rule), and applies for medical assistance between 90 and 120 days prior to the expected date of the person's release from the state hospital may be found eligible for medical assistance. If the individual is determined to be eligible, the effective date of the individual's medical assistance is the date the individual is released from the institution.¶
(6) In the OSIPM and QMB programs, except as provided for in section (7) of this rule, an individual who is at least 21 years of age and less than 65 years of age who becomes a resident of a state hospital has medical benefits suspended. When an individual with suspended medical benefits is no longer a resident of the state hospital, or

when the individual is admitted to a medical institution outside of the state hospital for a period of hospitalization, medical benefits are reinstated effective the first day the individual is no longer a resident, if the individual continues to meet eligibility for the medical program.¶
(7) An individual residing in a state hospital may be eligible for OSIPM and QMB program benefits if the individual meets the requirements of one of the following subsections:¶
(a) The individual is 65 years of age or older.¶
(b) The individual receives a Certificate of Need for Services from the State-authorized agency, and meets one of the following:¶
(A) The individual is under 21 years of age.¶
(B) The individual is 21 years of age, received a Certificate of Need for Services from the State-authorized agency, and received those services immediately before reaching age 21. Except as provided for in subsection (a) of this section, eligibility ends at age 22.¶
(8) For all programs covered under chapter 461 of the Oregon Administrative Rules:¶
(a) Except as provided otherwise in this rule, an inmate (see section (2) of this rule) of a public institution is not eligible for benefits.¶
(b) If a pregnant woman receiving medical assistance through the OSIPM program becomes an inmate of a public institution, her medical benefits are suspended. When the Department is informed the woman is no longer an inmate, her medical benefits are reinstated - effective on the first day she is no longer an inmate - if she is still in her protected period of eligibility under OAR 461-135-0010.¶
(c) If an individual receiving medical assistance through the OSIPM or QMB programs becomes an inmate of a correctional facility, medical benefits are suspended during the incarceration period.¶
(d) In the OSIPM and QMB programs, when the Department is notified that an individual with suspended benefits has been released or has been admitted to a hospital outside of the public institution for a period of hospitalization, medical benefits are reinstated effective the first day the client is no longer an inmate if both of the following are true:¶
(A) The client continues to meet eligibility for the medical program; and¶
(B) The notification takes place within ten calendar days of the release, or the notification takes place more than ten calendar days from the release date and there is good cause for the late reporting.¶
(9) In the GA and SNAP programs, in addition to the other provisions of this rule, an inmate released from a public institution on home arrest~~,~~ and required to wear an electronic device to monitor his or her activity, is ineligible for benefits if the correctional agency provides room and board to the individual.¶
(10) In the GA program, when an individual becomes an inmate of a public institution:¶
(a) Benefits may continue for the two calendar months following the month the Department is notified of the incarceration, if the individual will be released before the end of the second calendar month and the housing arrangement is still available.¶
(b) If the individual will be released after the end of the second calendar month following the month of notification, or if the release date is not known, benefits will be closed effective the end of the notice period (see OAR 461-175-0050) for a timely continuing benefit decision notice (see OAR 461-001-0000).
Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685, 412.014
Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.447, 411.816, 412.014, 412.049, 414.426, 42 CFR 435.1009

AMEND: 461-175-0050

RULE SUMMARY: OAR 461-175-0050 about Notice Period is being amended to permanently add the notice period for a few programs, systems, and situations that were previously excluded. It is also being amended to permanently absorb the rule provisions in OAR 461-175-0206, which the Department has repealed. These changes will make the rule more accurate. Lastly, it adopts temporary rule changes which made clear to which APD programs or services the ten calendar day timely continuing benefit decision notice provision in the rule refers. This amendment keeps the rule in 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 clients~~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) The State Plan Personal Care Services provided under OAR division 411-034,¶
(ii) Any Nursing Facility or Medicaid Home and Community-Based Services received for individuals determined eligible under OAR division 411-015, and¶
(iii) Program of All-Inclusive Care for the Elderly (PACE) under OAR division 411-045.¶
(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.
Statutory/Other Authority: ORS 411.~~060, 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 Needs and Services, is being amended to permanently adopt a temporary update of 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 t~~en-day notice mailing period~~imely continuing benefit decision notice (see OAR 461-001-0000) notice period under OAR 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 OAR 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: 461-180-0070

RULE SUMMARY: OAR 461-180-0070 about Effective Dates; Initial Month Benefits, is being amended to clarify how effective dates for GA initial month's benefits are determined for applicants.

CHANGES TO RULE:

461-180-0070
Effective Dates; Initial Month Benefits ¶

(1) In the EA program, the effective date for opening the case is the day benefits are issued to the benefit group (see OAR 461-110-0750). For a benefit group whose only eligible child is an unborn, the effective date cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.¶
(2) In the ERDC program, the effective date for starting benefits is one of the following:¶
(a) The first day of the month in which the request for benefits is made if - ¶
(A) All eligibility (see OAR 461-001-0000) requirements are met in that month; and¶
(B) Verification is provided within the application processing timeframes.¶
(b) If all eligibility requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification is provided within the application processing timeframes.¶
(c) For a benefit group that received TANF program benefits within the 30 days before applying for ERDC program benefits, the effective date is the first of the month following closure of their TANF program benefits.¶
(3) In the GA program, the effective date for the initial month (see OAR 461-001-0000) of benefits is - ¶
(a) The date the individual requests benefits, if the individual filed an application for SSI benefits ~~in any calendar month~~ prior to the ~~month i~~date on which the individual requested benefits and the individual meets all other eligibility requirements (see OAR 461-135-0700) on that date. If the individual is not otherwise eligible on the date of request, the effective date is the date the individual meets all eligibility requirements.¶
(b) The first of the month following the day all eligibility requirements are met (see OAR 461-135-0700) and verified, if the individual did not file an application for SSI benefits ~~in a calendar month~~ prior to the ~~month i~~date on which the individual requests benefits.¶
(4) In the OSIP program, the effective date for the initial month of benefits is whichever of the following occurs first:¶
(a) The date an individual requests benefits, if the individual was eligible as of that date.¶
(b) The date all eligibility requirements are met.¶
(5) In the REF program, when a filing group (see OAR 461-110-0430) makes an initial application, the effective date for starting benefits is:¶
(a) If all eligibility requirements, including an interview, are completed by the 30th day from the filing date (see OAR 461-115-0040), the effective date for starting benefits is the filing date.¶
(b) If all eligibility requirements are not met by the 30th day from the filing date, a new filing date must be established.¶
(6) In the TANF program, when a filing group (see OAR 461-110-0330) makes an initial application or applies after the end of the certification period (see OAR 461-001-0000), the effective date for starting TANF benefits is one of the following:¶
(a) Except as provided in subsections (b) to (d) of this section, if all eligibility requirements, including a TANF interview, are completed by the 30th day from the filing date, the effective date for starting benefits is the filing date. If all eligibility requirements are not met by the 30th day from the filing date, a new filing date must be established.¶
(b) If the only eligible child is an unborn, the effective date may not be earlier than the first day of the calendar month prior to the month in which the due date falls.¶
(c) For an individual in the Pre-TANF program, the effective date for the initial month of benefits is the date the Pre-TANF program ends as provided in OAR 461-135-0475.¶
(d) For a JOBS support service payment, the effective date is the date the individual meets all eligibility

requirements in OAR 461-190-0211.¶
(7) In the SFPSS program, when moving a TANF program recipient to SFPSS, the effective date for the initial month of SFPSS program benefits is:¶
(a) Except as provided in subsection (b) of this section, the first of the month following the day all eligibility requirements are met and verified.¶
(b) If the day all eligibility requirements are met and verified falls after the "compute deadline," the initial month of SFPSS program benefits will be the first of the month following the month after "compute deadline." For purposes of this rule, "compute deadline" means the Department computer system monthly deadline after which changes will not take effect until the month following the first of the next month.
Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 413.085, 414.685
Statutes/Other Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 412.064, 413.085, 414.685

AMEND: 461-195-0501

RULE SUMMARY: OAR 461-195-0501 about Definitions and Categories of Overpayments, is being amended to update the name of a medical program, certain eligibility group terms, and general language.

CHANGES TO RULE:

461-195-0501
Definitions and Categories of Overpayments ¶

This rule applies to benefits and services delivered under chapters 410, 411, and 461 of the Oregon Administrative Rules.¶
(1) "Overpayment" means:¶
(a) A benefit or service received by or on behalf of a client, or a payment made by the Department on behalf of a client, that exceeds the amount for which the client is eligible.¶
(b) A payment made by the Department and designated for a specific purpose which is spent by a person on an expense not approved by the Department.¶
(A) In the REF program, there is a rebuttable presumption that the full amount of cash benefits was improperly spent in violation of OAR 461-165-0010(8)(a) when cash benefits are used or accessed in Oregon, outside of Oregon, or on tribal lands at:¶
(i) Any liquor store (see OAR 461-165-0010);¶
(ii) Any casino, gambling casino, or gaming establishment (see OAR 461-165-0010);¶
(iii) Any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; or¶
(iv) Any marijuana dispensary.¶
(B) In the SFPSS and TANF programs, there is a rebuttable presumption that the full amount of cash benefits was improperly spent in violation of OAR 461-165-0010(9)(a) when cash benefits are used or accessed in Oregon, outside of Oregon, or on tribal lands at:¶
(i) Any liquor store;¶
(ii) Any casino, gambling casino, or gaming establishment;¶
(iii) Any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; or¶
(iv) Any marijuana dispensary.¶
(C) The rebuttable presumptions in paragraphs (A) and (B) of this section also apply when an individual in a location covered in paragraphs (A) or (B) uses or accesses cash benefits from a private bank account.¶
(c) A payment for child care made by the Department to, or on behalf of, a client that:¶
(A) Is paid to an ineligible provider;¶
(B) Exceeds the amount for which a provider is eligible;¶
(C) Is paid when the client was not engaged in an activity that made the client eligible for child care, such as an activity of the JOBS program (see OAR 461-001-0025 and 461-190-0151 to 461-190-0401);¶
(D) Is paid when the client was not eligible for child care benefits; or¶
(E) Has given an electronic benefit transfer (EBT) card, card number, or personal identification number (PIN) to a provider for the purpose of checking a child (see OAR 461-001-0000) in or out from the provider's child care.¶
(d) A misappropriated payment when a person cashes and retains the proceeds of a check from the Department on which that person is not the payee and the check has not been lawfully endorsed or assigned to the person.¶
(e) A benefit or service provided for a need when that person is compensated by another source for the same need and the person fails to reimburse the Department when required to do so by law.¶
(f) A cash benefit received by an individual in the GA or SFPSS programs for each month for which the client receives a retroactive SSI lump sum payment.¶
(g) In the TA-DVS program, a payment made by the Department to an individual or on behalf of an individual when the individual intentionally and without intimidation or coercion by an abuser:¶

(A) Makes a false or misleading statement or misrepresents, conceals, or withholds information for the purpose of establishing eligibility (see OAR 461-001-0000) for or receiving a benefit from the TA-DVS program; or¶
(B) Commits any act intended to mislead or misrepresent, conceal, or withhold information for the purpose of establishing eligibility for or receiving a benefit from the TA-DVS program.¶
(2) The Department may establish an overpayment for the initial month (see OAR 461-001-0000) of eligibility under circumstances including, but not limited to:¶
(a) The filing group (see OAR 461-110-0310), ineligible student, or authorized representative (see OAR 461-115-0090) withheld information;¶
(b) The filing group, ineligible student, or authorized representative provided inaccurate information;¶
(c) The Department failed to use income reported as received or anticipated in determining the benefits of the filing group; or¶
(d) The error was due to an error in computation or processing by the Department.¶
(3) In the ~~OCCS M~~HSD medical programs (see OAR 461-001-0000), the Department may establish an overpayment for the budget month (see OAR 410-200-0015) when the ~~OCCS~~HSD medical program ~~household~~ eligibility determination group (see OAR 410-200-0015) or authorized representative (see OAR 410-200-0015) withheld or provided inaccurate information.¶
(4) Overpayments are categorized as follows:¶
(a) An administrative error overpayment is an overpayment caused by any of the following circumstances:¶
(A) The Department fails to reduce, suspend, or end benefits after timely reporting by the filing group, ~~OCCS~~HSD medical program ~~household~~eligibility determination group, ineligible student, or authorized representative (see OAR 461-115-0090 and 410-200-0015) of a change covered under OAR 461-170-0011 or 410-200-0235 and that reported change requires the Department to reduce, suspend, or end benefits;¶
(B) The Department fails to use the correct benefit standard;¶
(C) The Department fails to compute or process a payment correctly based on accurate information timely provided by the filing group, ~~OCCS~~HSD medical program ~~household~~eligibility determination group, ineligible student, or authorized representative;¶
(D) In the GA and SFPSS programs, the Department fails to require a client to complete an interim assistance agreement; or¶
(E) The Department commits a procedural error that was no fault of the filing group, ~~OCCS~~HSD medical program ~~household~~eligibility determination group, ineligible student, or authorized representative.¶
(b) A client error overpayment is any of the following:¶
(A) An overpayment caused by the failure of a filing group, ~~OCCS~~HSD medical program ~~household~~eligibility determination group, ineligible student, or authorized representative to declare or report information or a change in circumstances as required under OAR 461-170-0011 or 410-200-0235, including information available to the Department, that affects the client's eligibility to receive benefits or the amount of benefits.¶
(B) A client's unreduced liability or receipt of unreduced benefits pending a contested case hearing decision or other final order favorable to the Department.¶
(C) A client's failure to return a benefit known by the client to exceed the correct amount.¶
(D) A client's use of a JOBS or SFPSS program support payment (see OAR 461-190-0211) for other than the intended purpose.¶
(E) A payment for child care when the client was not engaged in an activity that made the client eligible for child care, such as an activity of the JOBS program (see OAR 461-001-0025 and OAR 461-190-0151 to OAR 461-190-0401).¶
(F) A payment for child care when the client was not eligible for child care benefits.¶
(G) The failure of a client to pay his or her entire share of the cost of services or the participant fee (see OAR 461-160-0610 and 461-160-0800) in the month in which it is due.¶
(H) An overpayment caused by a client giving an electronic benefit transfer (EBT) card, card number, or personal identification number (PIN) to a provider for the purpose of checking a child in or out from the provider's child care.¶

(I) In the REF, SFPSS, and TANF programs, an overpayment caused by the client using or accessing cash benefits in any electronic benefit transaction in any liquor store; casino, gambling, or gaming establishment; retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; or marijuana dispensary (see OAR 461-165-0010).¶
(c) A fraud overpayment is an overpayment determined to be an intentional program violation (see OAR 461-195-0601 and 461-195-0611) or substantiated through a criminal prosecution.¶
(d) In the SNAP program, a provider error overpayment is an overpayment made to a drug or alcohol treatment center or residential care facility that acted as a client's authorized representative.¶
(e) In the child care program, a provider error overpayment is a payment made by the Department on behalf of a client to a child care provider when:¶
(A) Paid to an ineligible provider; or¶
(B) The payment exceeds the amount for which a provider is eligible.¶
(5) When an overpayment is caused by both an administrative and client error in the same month, the Department determines the primary cause of the overpayment and assigns as either an administrative or client error overpayment.¶
(6) In the TANF and TA-DVS programs, when an overpayment puts the client at greater risk of domestic violence (see OAR 461-001-0000), the overpayment is waived (see OAR 461-135-1200).¶
(7) Except as provided in section (8) of this rule, the Department establishes an overpayment when the following thresholds are exceeded:¶
(a) Administrative error overpayments concerning:¶
(A) Cash and child care programs, when the amount is greater than $200;¶
(B) SNAP open case, when the amount is greater than $100; and¶
(C) SNAP closed case, when the amount is greater than $200.¶
(b) Client error overpayments in:¶
(A) Cash and child care programs, when the amount is greater than $200;¶
(B) SNAP open case, when the amount is greater than $100;¶
(C) SNAP closed case, when the amount is greater than $200;¶
(D) Medical programs, when the amount is greater than $750.¶
(c) Provider error overpayments in:¶
(A) Cash and child care programs, when the amount is greater than $200;¶
(B) SNAP open case, when the amount is greater than $100;¶
(C) SNAP closed case, when the amount is greater than $200.¶
(8) There are no overpayment thresholds in all of the following situations:¶
(a) In SNAP program, if the overpayment was identified in a quality control review.¶
(b) In all programs, if the overpayment was caused by a client's receipt of continuing benefits in a contested case.¶
(c) In all programs, if the overpayment was caused by possible fraud by a client or provider.
Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.081, 411.404, 411.816, 412.001, 412.014, 412.049, HB 2089 (2013, Section 10)
Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.081, 411.117, 411.404, 411.620, 411.640, 411.690, 411.816, 411.892, 412.001, 412.014, 412.049, 414.025, 416.350

AMEND: 461-195-0521

RULE SUMMARY: OAR 461-195-0521 about Calculation of Overpayments, is being amended to update a program name, an eligibility group name, and general terminology. It is also being amended to put Department practice regarding overpayment establishment, self-employment related overpayment establishment and calculation, as well as administrative error overpayment establishment and calculation into rule. Lastly, it is being amended to make clear how being categorically eligible for SNAP impacts overpayments in the SNAP program and to remove the Post-TANF program from the rule. These changes bring the rule into alignment with current Department policy and terminology.

CHANGES TO RULE:

461-195-0521
Calculation of Overpayments ¶

This rule specifies how the Department calculates an overpayment (see OAR 461-195-0501).¶
(1) The Department calculates an overpayment by determining the amount the ~~client~~individual received, or the payment made by the Department on behalf of the ~~client~~individual that exceeds the amount for which the ~~client~~ individual was eligible.¶
(2) When a filing group, ~~OCCS M~~HSD medical programs ~~household~~(see OAR 461-001-0000) eligibility determination group (see OAR 410-200-0015), ineligible student, or authorized representative (see OAR 461-115-0090 and OAR 410-200-0015) fails to report income, the Department establishes, calculates and determines the overpayment by assigning unreported income to the applicable budget month without averaging the unreported income, except:¶
(a) A ~~client~~n individual's earned income reported quarterly from the Employment Department is considered received by the ~~client~~individual in equal amounts during the months identified in the report.¶
(b) In the ERDC, REF, SNAP, and TANF programs, a ~~client~~n individual's actual self-employment income is annualized retrospectively to calculate the overpayment.¶
(c) In the ~~OCCS M~~HSD medical programs, if actual income is not available for the months in which an overpayment occurred, a ~~client~~n individual's actual self-employment income (see OAR 410-200-0015) received during the year when an overpayment occurred is annualized to calculate an overpayment.¶
(~~3~~d) In all programs, if verification of self-employment income is not provided to the Department following the issuance of a subpoena, or is not yet available to the individual, self-employment income from a prior year is annualized prospectively to calculate an overpayment. There is a rebuttable presumption that self-employment income from the prior year is representative of actual self-employment income for the time of overpayment. The presumption may be rebutted only by clear and convincing evidence. ¶
(3) The Department establishes, calculates, and determines an administrative error overpayment (see OAR 461 195 0501) based on information initially provided by a filing group, HSD medical programs eligibility determination group, ineligible student, or authorized representative. The Department may calculate the administrative error overpayment by using any of the following:¶
(a) Correct prospective budgeting (see OAR division 461-150 and division 410-200) based on information initially provided; or if it results in a lower overpayment amount;¶
(b) Actual income; or¶
(c) Averaging an individual's earned income reported quarterly from the Employment Department.¶
(4) When using prospective budgeting (see OAR division 461-150) and the actual income differs from the amount determined under OAR 461-150-0020(2), there may be a client error overpayment (see OAR 461-195-0501) only when the filing group, ineligible student, or authorized representative withheld information, failed to report a change, or provided inaccurate information. In such a case, the Department uses the actual income to determine the amount of an overpayment.¶
(4~~5~~) When using anticipated income for the ~~OCCS M~~HSD medical programs and the actual income differs from the amount determined under OAR 410-200-0310, there may be a client error overpayment only when the ~~OCCS~~

~~M~~HSD medical programs ~~household group (see OAR 410-200-0015)~~eligibility determination group or authorized representative (see OAR 410-200-0015) knowingly withheld information, failed to report a change, or provided inaccurate information. In such a case, the Department uses the actual income to determine the amount of an overpayment.¶
(~~5~~6) When a filing group, ineligible student, or authorized representative fails to report all earned income within the reporting time frame, the earned income deduction (see OAR 461-160-0160, 461-160-0190, 461-160-0430, 461-160-0550, and 461-160-0552) is applied as follows:¶
(a) In the OSIP, OSIPM, QMB, and REFM programs, the Department allows the earned income deduction.¶
(b) In the REF and TANF programs, the Department allows the earned income deduction when good cause (see section (6) of this rule) exists.¶
(c) In the SNAP program, no deduction is applied to earned income if the amount or source of income was not timely reported.¶
(~~6~~7) For the purposes of OAR 461-195-0501 to 461-195-0561, "good cause" means circumstances beyond the ~~client~~individual's reasonable control that caused the ~~client~~individual to be unable to report income timely and accurately.¶
(~~7~~8) When support is retained:¶
(a) In the TANF program, the amount of support (other than cash medical support) the Department of Justice retains as a current reimbursement each month is added to other income to determine eligibility (see OAR 461-001-0000). When a ~~client~~n individual is not eligible for TANF program benefits, the overpayment is offset by the support the Department of Justice retains as a current reimbursement.¶
(b) In the medical programs, the amount of the cash medical support the Department retains each month is excluded income and not used to determine eligibility for medical program benefits. When a ~~client~~n individual has incurred a medical program overpayment, the overpayment is offset by the amount of the cash medical support the Department retains during each month of the overpayment.¶
(~~8~~9) In the REF and TANF programs, when a ~~client~~n individual directly receives support used to determine eligibility or calculate benefits, the overpayment is:¶
(a) If still eligible for REF or TANF program benefits, the amount of support the ~~client~~individual received directly; or¶
(b) If no longer eligible for REF or TANF program benefits, the amount of program benefits the ~~client~~individual received.¶
(~~9~~10) When an overpayment occurs due to the failure of an individual to reimburse the Department, when required by law to do so, for benefits or services (including cash medical support) provided for a need for which that individual is compensated by another source, the overpayment is limited to the lesser of the following:¶
(a) The amount of the payment from the Department;¶
(b) Cash medical support; or¶
(c) The amount by which the total of all payments exceeds the amount payable for such a need under the Department's rules.¶
(1~~0~~1) Benefits paid during a required notice period (see OAR 461-175-0050, OAR 410-200-0120) are included in the calculation of the overpayment when:¶
(a) The filing group, ~~OCCS M~~HSD medical programs ~~household group (see OAR 410-200-0015)~~eligibility determination group, ineligible student, or authorized representative (see OAR 461-115-0090 and OAR 410-200-0015) failed to report a change within the reporting time frame under OAR 461-170-0011 or OAR 410-200-0235; and¶
(b) Sufficient time existed for the Department to adjust the benefits to prevent the overpayment if the filing group, ~~OCCS M~~HSD medical program ~~household group (see OAR 410-200-0015)~~s eligibility determination group, ineligible student, or authorized representative (see OAR 461-115-0090 and OAR 410-200-0015) had reported the change at any time within the reporting time frame.¶
(1~~1~~2) In the SNAP program:~~¶~~
~~(a) I~~, if the benefit group (see OAR 461-110-0750) was categorically eligible under OAR 461-135-0505, there is no

overpayment based on resources.¶
(b) For a filing group (see OAR 461-110-0370) found eligible for SNAP program benefits under OAR 461-135-0505(1)(a) to (c), and the actual income made the group ineligible for the related program, the group remains categorically eligible for SNAP program benefits as long as the eligibility requirement under OAR 461-135-0505(1)(d) is met. A benefit group of one or two individuals would be entitled to at least the minimum SNAP program benefit allotment under OAR 461-165-0060.¶
(c) For a filing group found eligible for SNAP program benefits only under OAR 461-135-0505(1)(d), and the actual income equals or exceeds 185 percent of the Federal Poverty Level, the filing group is no longer categorically eligible. The overpayment is the amount of SNAP program benefits incorrectly received.¶
(12)3) In the OSIP and OSIPM programs, when a clientindividual does not pay his or her share of the cost of services (see OAR 461-160-0610) or the OSIP-EPD or OSIPM-EPD program participant fee (see OAR 461-160-0800) in the month in which it is due, an overpayment is calculated as follows:¶
(a) All payments made by the Department on behalf of the clientindividual during the month in question are totaled, including but not limited to any payment for:¶
(A) Capitation;¶
(B) Long term care services;¶
(C) Medical expenses for the month in question;¶
(D) Medicare buy-in (when not concurrently eligible for an MSP);¶
(E) Medicare Part D;¶
(F) Mileage reimbursement;¶
(G) Special needs under OAR 461-155-0500 to 461-155-0710; and¶
(H) Home and community-based care (see OAR 461-001-0030), including home delivered meals and non-medical transportation.¶
(b) Any partial or late liability payment made by a clientn individual receiving home and community-based care in-home services or participant fee paid by an OSIP-EPD or OSIPM-EPD program clieparticipant is subtracted from the total calculated under subsection (a) of this section. The remainder, if any, is the amount of the overpayment.¶
(13)4) When a clientn individual's liability is unreduced pending the outcome of a contested case hearing about that liability the overpayment is the difference between the liability amount determined in the final order and the amount, if any, the clientindividual has repaid.¶
(145) In the OCCS M4HSD medical programs, OSIPM, QMB, and REFM programs if the clientindividual was not eligible for one program, but during the period in question was eligible for another program:¶
(a) With the same benefit level, there is no overpayment.¶
(b) With a lesser benefit level, the overpayment is the amount of medical program benefit payments made on behalf of the clientindividual exceeding the amount for which the clientindividual was eligible.¶
(156) When an overpayment is caused by administrative error (see OAR 461-195-0501), any overpayment of GA, OSIP, REF, SFPSS, or TANF program benefits is not counted as income when determining eligibility for the OCCS M4HSD medical programs, OSIPM, and REFM programs.¶
(167) Credit against an overpayment is allowed as follows:¶
(a) In the GA, REF, and TANF programs, a credit is allowed for a clientn individual's payment for medical services made during the period covered by the overpayment, in an amount not to exceed the Department fee schedule for the service, but credit is not allowed for an elective procedure unless the Department authorized the procedure prior to its completion.¶
(b) In the SNAP program, if the overpayment was caused by unreported earned income, verified child care costs are allowed as a credit to the extent the costs would have been deductible under OAR 461-160-0040 and 461-160-0430.¶
(c) In the SFPSS and TANF programs, if the overpayment is caused by reported earned income, a credit is allowed for the Post-TANF grant if the client meets eligibility under OAR 461-135-1250 and the client has received less than 12 months of Post-TANF program benefits.¶
(d) In all programs, for an underpayment of benefits in the program in which the overpayment occurred.¶

(1~~7~~8) In the SNAP program, in compliance with the American Recovery and Reinvestment Act of 2009, effective April 1, 2009 through September 30, 2009, the amount between the normal Thrifty Food Plan (TFP) benefit amount under this section and the increased TFP benefit amount under OAR 461-155-0190 is not counted in the overpayment amount unless the filing group was ineligible for SNAP program benefits. [see attached table]¶
(1~~8~~9) In the REF program, when an individual used or accessed cash benefits in violation of OAR 461-165-0010(8)(a), the amount of the overpayment is the amount of cash benefits the ~~client~~individual used or accessed.¶
(~~19~~20) In the SFPSS and TANF programs, when an individual used or accessed cash benefits in violation of OAR 461-165-0010(9)(a), the amount of the overpayment is the amount of cash benefits the ~~client~~individual used or accessed.
Statutory/Other Authority: ORS 329A.500, 413.085, 414.685, ORS 409.050, 411.060, 411.070, 411.404, 411.660, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231
Statutes/Other Implemented: ORS 329A.500, ORS 409.010, 411.060, 411.070, 411.404, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231, 416.350

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

(18)

Normal TFP for October 1, 2008 - September 30, 2009

SNAP Payment Standard (TFP)

No. in Need Group	Monthly Amount
1	$ 176
2	323
3	463
4	588
5	698
6	838
7	926
8	1,058
Each additional individual	132

AMEND: 461-195-0541

RULE SUMMARY: In OAR 461-195-0541 about Liability for Overpayments, is being amended to update the name of a medical program and an eligibility group.

CHANGES TO RULE:

461-195-0541
Liability for Overpayments ¶

(1) In all programs except the ~~OCCS M~~HSD medical, OSIP, OSIPM, QMB, REFM, and SNAP programs or a child care program, the following persons are liable for repayment of an overpayment (see OAR 461-195-0501):¶
(a) Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who did not reside with and did not know he or she was included in the filing group.¶
(b) A caretaker relative (see OAR 461-001-0000) and his or her spouse (see OAR 461-001-0000) who were not part of, but resided with, the filing group when the overpayment was incurred.¶
(c) A parent (see OAR 461-001-0000) or caretaker relative of a child (see OAR 461-001-0000) in the benefit group (see OAR 461-110-0750) and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred.¶
(d) An individual determined liable for an overpayment remains liable when the individual becomes a member of a new filing group.¶
(e) An authorized representative (see OAR 461-115-0090) when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information resulting in the overpayment.¶
(2) In the ~~OCCS M~~HSD medical and REFM programs, the following persons are liable for repayment of an overpayment:¶
(a) Each individual in the filing group, the ~~OCCS M~~HSD medical programs ~~household~~eligibility determination group (see OAR 410-200-0015), or required to be in the filing group and the payee when the overpayment was incurred, except an individual who ---¶
(A) Was a child or dependent child (see OAR 461-001-0000) at the time of the overpayment; or¶
(B) Did not reside with and did not know he or she was included in the filing group.¶
(b) A caretaker relative and his or her spouse who were not part of, but resided with, the filing group or ~~OCCS M~~HSD medical programs ~~household group (see OAR 410-200-0015)~~eligibility determination group when the overpayment was incurred.¶
(c) A parent or caretaker relative of a child in the filing group or ~~OCCS M~~HSD medical programs ~~household group (see OAR 410-200-0015)~~eligibility determination group and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group or ~~OCCS M~~HSD medical programs ~~household~~eligibility determination group when the overpayment was incurred.¶
(d) An authorized representative (see OAR 461-115-0090 and OAR 410-200-0015) when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the overpayment.¶
(3) In a child care program:¶
(a) An overpayment caused by administrative error is collectible as follows:¶
(A) The provider is liable for a provider overpayment made on behalf of a client eligible for child care payments.¶
(B) Each adult in the filing group or required to be in the filing group is liable for an overpayment if the client was not eligible for the payment.¶
(b) Each adult in the filing group or required to be in the filing group is liable for a client overpayment, and a provider is liable for an overpayment caused by the provider. The client and provider are jointly and severally liable for an overpayment caused by both. In the case of an alleged provider overpayment, a provider's failure to provide contemporaneous records of care provided creates a rebuttable presumption that the care was not provided.¶

(c) An adult who cosigned an application with a minor provider applicant is liable for an overpayment incurred by the minor provider.¶
(d) An authorized representative (see OAR 461-115-0090) is liable for an overpayment when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the overpayment.¶
(4) In the GA, OSIP, OSIPM, and QMB programs, the following persons are liable for repayment of an overpayment:¶
(a) Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who ---¶
(A) Was a child or dependent child at the time of the overpayment; or¶
(B) Did not reside with and did not know they were included in the filing group.¶
(b) A caretaker relative and their spouse who were not part of, but resided with, the filing group when the overpayment was incurred.¶
(c) A parent or caretaker relative of a child in the filing group and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred.¶
(d) An authorized representative when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the overpayment.¶
(5) In the SNAP program, the following persons are liable for repayment of an overpayment or a claim that results from trafficking (see OAR 461-195-0601(2)) of SNAP benefits:¶
(a) The primary person (see OAR 461-001-0015) of any age, an ineligible student in the household, and all adults (see OAR 461-001-0015) who were members of or required to be in the filing group (see OAR 461-110-0370) when excess benefits were issued.¶
(b) A sponsor of a non-citizen household member if the sponsor is at fault, for payments prior to November 21, 2000.¶
(c) A drug or alcohol treatment center or residential care facility that acted as the authorized representative of the client.¶
(d) An authorized representative when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the overpayment.¶
(e) For a claim that results in trafficking, the payee and the authorized representative when they actually traffic the benefits.¶
(6) Except as provided otherwise in section (7) of this rule, in all programs, both a non-citizen and the sponsor of the non-citizen are liable for an overpayment incurred if the overpayment results from the failure of the sponsor to provide correct information (see OAR 461-145-0820 to 461-145-0840). If the sponsor had good cause (see OAR 461-195-0521(5)) for withholding the information, the sponsor is not liable for the overpayment.¶
(7) In the SNAP program, the sponsor of a non-citizen is not liable under section (6) of this rule for payments on or after November 21, 2000.¶
(8) In the ~~OCCS~~HSD medical programs, the November 2013 amendments to OAR 461-195-0501, 461-195-0521, 461-195-0541, and 461-195-0561 apply as of October 1, 2013.
Statutory/Other Authority: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049, 329A.500, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.087, 411.404, 411.630, 411.635, 411.640, 411.690, 411.816, 412.014, 412.049, 416.350, 329A.500

AMEND: 461-195-0561

RULE SUMMARY: OAR 461-195-0561 about Compromise of an Overpayment Claim, is being amended to update a medical program name and an eligibility group name.

CHANGES TO RULE:

461-195-0561
Compromise of an Overpayment Claim ¶

This rule specifies when and how the Department may compromise an overpayment (see OAR 461-195-0501) claim.¶
(1) The Department may consider a request to compromise an overpayment claim only if the estimated administration and collection costs necessary to collect the account in full likely exceed the current balance of the overpayment.¶
(2) The following limitations apply to the compromise of an overpayment claim:¶
(a) The authority of the Department to compromise may be limited by federal or state law.¶
(b) The Department may compromise a claim only once it is a liquidated claim (see OAR 461-195-0551).¶
(c) The Department may compromise a claim only if the requester has made a good faith effort to repay the overpayment.¶
(d) The Department may not compromise:¶
(A) A fraud overpayment claim;¶
(B) Any overpayment claim, unless 36 months have passed since the requester initially was notified of the overpayment;¶
(C) An overpayment claim if the debtor has the ability to repay the overpayment in full within 36 months of the request date.¶
(D) An overpayment claim for less than 75 percent of the total amount of the claim.¶
(E) A An overpayment claim if the debtor is a member, currently or in the previous 12 months, of a filing group or ~~OCCS~~HSD medical program ~~household~~s eligibility determination group (see OAR 410-200-0015) that received benefits under the program in which the overpayment occurred.¶
(F) A child care provider overpayment claim if the provider, currently or in the previous 12 months, received a direct provider payment for child care under division 165 of this chapter of rules.¶
(3) The Department may allow a compromised claim to be paid in installments over a period not to exceed 90 days.¶
(4) During the 12 months following the date of the compromise agreement, the Department reserves the right to collect the original unmitigated claim through benefit reduction under OAR 461-195-0551.
Statutory/Other Authority: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049, 2013 HB 2089 Sect. 10
Statutes/Other Implemented: ORS 409.010, 411.060, 411.404, 411.635, 411.816, 412.014, 412.049, 416.350