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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 29-2021

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED
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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Making Temporary Amendments to the Refugee Medical (REFM) program in Three Rules.

EFFECTIVE DATE: 03/29/2021 THROUGH 09/24/2021

AGENCY APPROVED DATE: 03/29/2021

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NEED FOR THE RULE(S):

OARs 461-120-0330, 461-120-0350, and 461-135-0930 need to be amended to align rule with Department policy and Department eligibility systems programming. These amendments make clear that individuals who apply for or receive REFM are required to pursue other medical benefits for which they are eligible, and may not receive Medicare and REFM benefits. The amendments also make child support requirements clear for REFM.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OARs 461-120-0330, 461-120-0350, and 461-135-0930, 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 the immediate need to bring the rule into alignment with policy and system. The consequences for not making the change immediately are that the Department would not be able to properly support their actions with accurate rules. The public would also not be informed through rule of how REFM eligibility was determined, or of the requirement to pursue other types of Medicare if applying for or receiving REFM. This temporary rule change will bring the rule into alignment with policy and make the eligibility requirements transparent to the public.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

No documents relied upon.

RULES:

461-120-0330, 461-120-0350, 461-135-0930

AMEND: 461-120-0330

RULE SUMMARY: OAR 461-120-0330 about Requirement to Pursue Assets, is being amended to make clear that individuals who apply for or receive REFM must pursue other medical benefits to which they are entitled.

CHANGES TO RULE:

Requirement to Pursue Assets ¶¶

(1) In all programs except the ERDC, REFM, and SNAP programs, an individual must make a good faith effort to obtain any asset (other than support and medical coverage, which are covered in OAR 461-120-0340 and 461-120-0345, respectively) to which the individual has a legal right or claim, except as follows:¶¶

(a) A parent (see OAR 461-001-0000) or caretaker relative (see OAR 461-001-0000) who is exempt from participation in the JOBS program is not required to apply for unemployment insurance benefits.¶¶

(b) Except as specified by law, an individual applying for or receiving any program benefits from the Department is not required to apply for other programs it administers or for supplemental security income (SSI).¶¶

(c) An individual applying for the EA program is required to pursue, obtain, and use an asset only if the asset can be made available in time to meet the emergent need.¶¶

(d) An individual is not required to borrow money.¶¶

(e) An individual is not required to make a good faith effort to obtain any asset if the individual can show good cause for not doing so. Good cause means a circumstance beyond the ability of the individual to control.¶¶

(f) In the REF and REFM programs, a program, an individual is not required to pursue assets that remain in their country of origin.¶¶

(g) An individual is not required to make a good faith effort to obtain an asset if it will put the individual at further risk of current or future domestic violence (see OAR 461-001-0000).¶¶

(2) In the REFM program, an individual must make a good faith effort to obtain any asset (other than support and medical coverage, which is covered in OAR 461-120-0350) to which the individual has a legal right or claim, except as follows:¶¶

(a) Except as specified by law, an individual applying for or receiving REFM is not required to apply for other programs the Department administers or for supplemental security income (SSI).¶¶

(b) An individual is not required to borrow money.¶¶

(c) An individual is not required to make a good faith effort to obtain any asset if the individual can show good cause for not doing so. Good cause means a circumstance beyond the ability of the individual to control.¶¶

(d) An individual is not required to pursue assets that remain in their country of origin.¶¶

(ge) An individual is not required to make a good faith effort to obtain an asset if it will put the individual at further risk of current or future domestic violence (see OAR 461-001-0000).¶¶

(2f) An individual is not required to apply for, accept, and maintain employer-sponsored health insurance.¶¶

(3) In all programs except the ERDC, OSIP, OSIPM, QMB, and SNAP programs:¶¶

(a) The effect of failing to comply with this rule is that everyone in the filing group is ineligible. In addition, when a REF, SFPSS, or TANF program payment ends due to the penalty described in this subsection, eligibility for and the level of SNAP benefits are determined as if the individual were receiving benefits without the effects of this rule.¶¶

(b) The penalty provided by subsection (23)(a) of this rule is effective until all members of the filing group comply with the requirements of section (1) and (2) of this rule.¶¶

(34) In the OSIP, OSIPM, and QMB programs:¶¶

(a) An individual is ineligible for benefits if the individual fails to comply with the requirements of this rule.¶¶

(b) The penalty provided by subsection (a) of this section is effective until the individual complies with the requirements of section (1) of this rule.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 413.085, 414.231, 414.685

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 414.231

AMEND: 461-120-0350

RULE SUMMARY: OAR 461-120-0350 about Clients Excused for Good Cause from Compliance with Requirements to Pursue Child Support, Health Care Coverage, and Medical Support, is being amended to make clear that all individuals who apply for or receive REFM program benefits do not need to pursue child support or comply with the Division of Child Support.

CHANGES TO RULE:

461-120-0350

~~Client~~Individuals Excused for Good Cause from Compliance with Requirements to Pursue Child Support, Health Care Coverage, and Medical Support ¶¶

(1) In all programs except the OSIPM and QMB programs, a ~~client~~individual is excused from the requirements of OAR 461-120-0340(1) and 461-120-0345(1)(a) if:¶¶

(a) The ~~client~~individual's compliance would result in emotional or physical harm to the dependent child (see OAR 461-001-0000) or to the caretaker relative (see OAR 461-001-0000). The statement of the caretaker relative alone is prima facie evidence that harm would result;¶¶

(b) The child was conceived as a result of incest or rape and efforts to obtain support would be detrimental to the dependent child. The statement of the caretaker relative alone is prima facie evidence on the issues of conception and detrimental effect to the dependent child;¶¶

(c) Legal proceedings are pending for adoption of the needy child; or¶¶

(d) The parent is being helped by a public or licensed private social agency to resolve the issue of whether to release the child for adoption.¶¶

(2) In the OSIPM and QMB programs, an individual is excused from the requirements of OAR 461-120-0315 and 461-120-0345 if any of the following subsections are applicable:¶¶

(a) The individual's compliance would result in emotional or physical harm to the individual, the spouse, or any child on whose behalf cooperation is required. The statement of the individual or spouse serves as prima facie evidence that harm would result.¶¶

(b) The child was conceived as a result of incest or rape and efforts to cooperate would be detrimental to the child, the individual, or the spouse. The statement of the individual serves as prima facie evidence on the issues of conception and the detrimental effects on the child, individual, or spouse.¶¶

(c) Legal proceedings are pending for adoption of the child.¶¶

(d) The parent is being helped by a public or licensed private social agency to resolve the issue of whether to release the child for adoption.¶¶

(e) The individual is pregnant.¶¶

(3) In the REFM program, a ~~pregnant client~~individual is excused from the requirements of ~~OAR 461-120-0345 to pursue child support, including health care coverage and medical support, from a noncustodial parent or to cooperate with the Division of Child Support.~~

Statutory/Other Authority: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

Statutes/Other Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

AMEND: 461-135-0930

RULE SUMMARY: OAR 461-135-0930 about Medical Coverage for Refugees; REFM, is being amended to make clear when an individual receiving REFM, or their newborn child, may continue receiving REFM. It is also being amended to make clear that individuals who apply are receiving Medicare may not also receive REFM benefits.

CHANGES TO RULE:

461-135-0930

Medical Coverage for Refugees; REFM ¶¶

- (1) Benefits in the REFM program are the same medical coverage as any Medicaid or CHIP program, except the QMB and CAWEM programs.¶¶
- (2) An individual is not required to meet the financial eligibility criteria for the REFM program if the individual meets all the non-financial eligibility criteria for the REFM program and the requirements of at least one of the following subsections:¶¶
- (a) The individual loses eligibility for any Medicaid or CHIP program, except the QMB and CAWEM programs, due to income from employment.¶¶
- (b) The individual loses eligibility for any Medicaid or CHIP program, except the QMB and CAWEM programs, and is currently receiving benefits in the REF program.¶¶
- (c) The individual had medical assistance established in another state based on refugee status granted by the United States Citizenship and Immigration Services, and:¶¶
- (A) Moved to Oregon and is still within the individual's first eight months in the United States; and¶¶
- (B) Was found not eligible for any Medicaid or CHIP program other than the CAWEM and QMB programs.¶¶
- (3) An individual who is determined eligible for the REFM program will maintain eligibility for the REFM program for the remainder of their first eight months in the United States even if the individual loses eligibility for the REF program due to having income equal to or over the countable (see OAR 461-001-0000) income and adjusted income (see OAR 461-001-0000) limits (see OAR 461-155-0030).¶¶
- (4) An individual applying for the REFM program is not required to apply for or receive benefits in the REF program.¶¶
- (5) Except for the CAWEM and QMB programs, eligibility for all Medicaid and CHIP programs must be determined prior to determining eligibility for the REFM program.¶¶
- (6) ~~An~~When a newborn is born to a member of a REFM program benefit group (see OAR 461-110-0750):¶¶
- (a) Members of the benefit group, may continue to receive REFM program benefits for the remainder of the eight months, as stated in OAR 461-135-0900(4)-e, if this rule, if:¶¶
- (a) A newborn is born to a benefit group member while the benefit group member was a member is determined ineligible for all Medicaid and CHIP programs.¶¶
- (b) The newborn may receive REFM program benefits; and¶¶
- (b) The benefit group applied for the remainder of the eight months of the benefit group, if the newborn is determined ineligible for all Medicaid eligibility under MAGI rules (OAR 410-200) and was denied and CHIP programs.¶¶
- (7) To be eligible for the REFM program, an individual may not be enrolled in Medicare.
- Statutory/Other Authority: ORS 409.050, 411.060, 411.404, 413.085, 414.685
- Statutes/Other Implemented: ORS 409.010, 411.060, 411.404