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

**SSP 78-2021**

CHAPTER 461

DEPARTMENT OF HUMAN SERVICES

SELF-SUFFICIENCY PROGRAMS

**FILED**

12/22/2021 8:19 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Temporary Change about Department Medical Overpayment Claims to One Rule

EFFECTIVE DATE: 12/22/2021 THROUGH 06/19/2022

AGENCY APPROVED DATE: 12/22/2021

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NEED FOR THE RULE(S):

OAR 461-195-0561 about (new title) Compromise or Adjustment of an Overpayment Claim needs to be changed in order to make clear which medical overpayment claims the Department may adjust, which collected monies the Department may retain, and to support the adjustments. The medical overpayments eligible for an adjustment to \$0.00 should have already been completed during 2021 and the rule needs to support these actions.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-195-0561 will result in serious prejudice to the public interest, the Department, and individuals who receive or have received medical assistance. The Department needs to proceed by temporary rule due to immediate necessity to ensure the Department's new policies regarding treatment of overpayment claims is clearly adopted into rule. These rule changes will align Oregon's rules with recent Department decisions, actions, and policies. If these revisions are not made, the public, Department staff, oversight agencies, and any directly impacted individuals might not be aware of or be able to clearly understand ODHS medical assistance overpayment policies or actions.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

AMEND: 461-195-0561

RULE SUMMARY: OAR 461-195-0561 is being amended to place into rule the adjustments that reduced many Department medical overpayment claim balances to \$0.00 during the fall of 2021.

CHANGES TO RULE:

461-195-0561

Compromise or Adjustment of an Overpayment Claim ¶¶

(1) This rule section specifies when and how the Department may compromise an overpayment (see OAR 461-195-0501) claim.¶¶

(1a) 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.¶

(2b) The following limitations apply to the compromise of an overpayment claim:¶

(aA) The authority of the Department to compromise may be limited by federal or state law.¶

(bB) The Department may compromise a claim only once it is a liquidated claim (see OAR 461-195-0551).¶

(cC) The Department may compromise a claim only if the requester has made a good faith effort to repay the overpayment.¶

(dD) 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) An overpayment claim if the debtor is a member, currently or in the previous 12 months, of a filing group or HSD medical programs 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.¶

(3c) The Department may allow a compromised claim to be paid in installments over a period not to exceed 90 days.¶

(4d) 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.¶

(2) The Department may adjust a medical assistance overpayment that as of April 21, 2021, was a liquidated claim, as follows:¶

(a) The liquidated claim may be adjusted so that on or after September 1, 2021 the balance owed is \$0.00, except for:¶

(A) A fraud overpayment claim.¶

(B) An overpayment claim caused by receipt of continuing benefits in a contested case, or¶

(C) A medical assistance provider overpayment claim.¶

(b) The Department may retain payments received before September 1, 2021.¶

(c) This rule section does not apply to estate administration (OAR 461-135-0832 to 461-135-0847).

Statutory/Other Authority: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049, 2013 HB 2089 Sect. 10, 409.040

Statutes/Other Implemented: ORS 409.010, 411.060, 411.404, 411.635, 411.816, 412.014, 412.049, 416.350, 409.040