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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 31-2022

CHAPTER 461

DEPARTMENT OF HUMAN SERVICES

SELF-SUFFICIENCY PROGRAMS

FILED

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Temporary Rule Change Extending APD Medical Program Post-Partum Coverage to 12 Months

EFFECTIVE DATE: 04/01/2022 THROUGH 09/27/2022

AGENCY APPROVED DATE: 03/09/2022

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NEED FOR THE RULE(S):

OAR 461-135-0010 about Assumed Eligibility for Medical Programs needs to be changed to align with Oregon's decision to increase the post-partum coverage timeline ahead of the anticipated enactment of the Build Back Better Act, which will make the change mandatory. Currently states have the option to increase the timeline established in 42 CFR 435.170 from 60 days to 12 months. This change supports that decision and will align non-MAGI medical programs with MAGI medical programs.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-135-0010 will result in serious prejudice to the public interest, the Department, and pregnant individuals receiving APD medical program benefits. The Department needs to proceed by temporary rule because the Department is determining eligibility for individuals on a continuous basis, including after a child is born to an individual receiving APD medical program benefits, and the new post-partum medical coverage as of April 1, 2022, must be in the rules of the program for decisions to be accurate under OAR. These temporary changes ensure the OAR remains in sync with Department policy and decision and extend medical coverage to impacted individuals by ten whole months.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Build Back Better Act: Health Coverage Provisions Explained, available here: <https://ccf.georgetown.edu/wp-content/uploads/2021/11/Build-Back-Better-FINAL-Nov19.pdf>

AMEND: 461-135-0010

RULE SUMMARY: OAR 461-135-0010 is being changed to extend the continuous eligibility for post-partum (after pregnancy) medical coverage from two months to twelve months.

CHANGES TO RULE:

461-135-0010

Assumed Eligibility for Medical Programs ¶

- (1) This rule sets out when a client individual is assumed eligible for certain medical programs because the client individual receives or is deemed to receive benefits of another program.¶
- (2) A pregnant woman individual who is eligible for and receiving benefits the day the pregnancy ends is assumed eligible for the OSIPM program until the last day of the calendar month in which the 60th day after twelfth month following the month in which the last day of the pregnancy falls.¶
- (3) A pregnant woman individual who was eligible for and receiving medical assistance under the OSIPM program or OCCS-MHSD medical Pprograms (see OAR 461-001-0000) and becomes ineligible while pregnant is assumed eligible for Medicaid and can continue to receive OSIPM or OCCS-MHSD medical Pprograms benefits until the last day of the calendar month in which the 60th day after twelfth month following the month in which the last day of the pregnancy falls.¶
- (4) A child (see OAR 461-001-0000) born to a mother individual eligible for and receiving OSIPM benefits is assumed eligible for medical benefits under this section until the end of the month the child turns one year of age.¶
- (5) The individuals described in subsection (a) and (b) of this section are assumed eligible for OSIPM (except OSIPM-EPD) unless subsection (c), ~~(d)~~, or (e) of this section applies:¶
 - (a) A recipient of SSI supplemental Security Income (SSI) benefits who meets all non-financial requirements for the OSIPM program except citizen and non-citizen status. SSI recipients are presumed to meet all citizen and non-citizen status requirements for the OSIP program. ¶
 - (b) An individual who meets all non-financial requirements for the OSIPM program except citizen and non-citizen status and is deemed eligible for SSI under Sections 1619(a) or (b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)), which cover individuals with disabilities whose impairments have not changed but who have become gainfully employed and have continuing need for OSIPM. Individuals deemed eligible for SSI under Sections 1619(a) or (b) of the Social Security Act are assumed to meet all citizen and non-citizen status requirements for the OSIPM program.¶
 - (c) An individual described in subsection (a) or (b) of this section who is in a nonstandard living arrangement (see OAR 461-001-0000) is not eligible for long-term care (see OAR 461-001-0000) services if the individual would otherwise be ineligible for OSIPM due to a disqualifying transfer of assets (OAR 461-140-0210 to 461-140-0300 regulate the effect of a transfer of assets on a client).¶
 - (d) An individual described in subsection (a) or (b) of the section who is in a nonstandard living arrangement is not assumed eligible for long-term care services if countable (see OAR 461-001-0000) resources exceed the limit after performing the calculation under OAR 461-160-0580.¶
 - (6) For the purposes of this section the definition of a "child" means an unmarried individual under age 19 and includes natural, step, and adoptive children. A child found eligible for OSIPM is assumed eligible until the end of the twelfth month following the determination of the child's OSIPM eligibility or redetermination of eligibility unless the child:¶
 - (a) No longer meets the definition of a child given in this section;¶
 - (b) Moves out of state;¶
 - (c) Voluntarily ends benefits; or¶
 - (d) Is eligible for any other Medicaid program that provides OHP Plus benefits.¶
- (7) A client individual who receives both benefits under Part A of Medicare and SSI benefits is assumed eligible for the QMB-BAS program unless the individual does not meet the requirements of OAR 461-120-0345 or the residency requirements (see OAR 461-120-0010).

Statutory/Other Authority: ORS 409.050, ORS 411.060, 411.070, 411.404, 413.085, 414.685

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.404