

OFFICE OF THE SECRETARY OF STATE

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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 461  
DEPARTMENT OF HUMAN SERVICES  
SELF-SUFFICIENCY PROGRAMS

**FILED**

04/29/2022 5:18 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Proposing Rules about General Assistance, OSIPM, Standards, Child Support Treatment, and Establishing Healthier Oregon Program

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/10/2022 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:  
Meorah Solar  
Rules Coordinator

HEARING(S)

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

DATE: 06/07/2022

TIME: 1:00 PM - 2:30 PM

OFFICER: Meorah Solar

ADDRESS: Virtual Hearing - No Physical Location

Phone: 971-277-2343, Code: 298 020 866#

Ask Hearings Officer for MS Teams link

No Physical Location, 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@dhsosha.state.or.us at least 48 hours before the meeting.

NEED FOR THE RULE(S)

OARs 461-101-0010 and 461-120-0110 need to be amended and OAR 461-135-1080 needs to be adopted, to establish the Healthier Oregon Program (HOP) which is being developed in response to Oregon 2021 House Bill 3352. House Bill 3352 (and HOP) extends medical eligibility to adults who would qualify for Medicaid funded state medical assistance except for their noncitizen status. In Chapter 461 rule changes, eligibility will be extended to those 19 through 25 years of age or who are age 55 or older to receive a full Oregon Health Plan (OHP) benefits package beginning July 1, 2022. Certain noncitizen populations are currently limited to emergent medical assistance only due to their noncitizen status. This change will increase equity among those eligible to receive state funded medical benefits and implement the House Bill requirements and expansions.

OAR 461-135-0700 about Specific Requirements; GA, needs to be amended to make clear what is required for the Supplemental Security Income (SSI) application of a General Assistance (GA) applicant to be considered "filed" and what an individual must do to actively pursue the SSI claim. It also needs to be amended to make clear what level of a judicial decision allows an individual's GA benefits to continue.

OAR 461-145-0080 about Child Support and Cash Medical Support, needs to be changed to clarify how child support income is treated when TANF program eligibility is determined and distinguish eligibility calculations from benefit amount calculations for different group types. It also needs to be changed to make clear, for the SNAP Program, that the Division of Child Support is the receiving agency for direct support payments. Lastly, the rule needs to align with Department policy and practice regarding child support income treatment in the OSIP, OSIPM, and QMB programs that began in July of 2020, which allows the one-third exclusion for all cash child support payment types and changes how child support paid in arrears is treated.

OAR 461-155-0270 about Room and Board Standard; Community-Based Care, needs to be changed because MAGI recipients receiving K-Plan services in a community-based care setting are also required to pay room and board. The requirement is not limited to individuals receiving OSIPM; however, one could interpret this rule to mean that recipients of MAGI Medicaid are under no such obligation. Removing the references to OSIPM clarifies that the Department's standing policy is and has been that all individuals must pay room and board, not just OSIPM recipients, and supports current practices.

OAR 461-160-0620 about Income Deductions and Patient Liability; Long-Term Care Services or Home and Community-Based Care; OSIPM, needs to be amended because the Department is required to adjust its post-eligibility treatment of income deduction amounts as a result of this congressionally approved change. This permanent amendment keeps Oregon in line with current federal standards for Department Medicaid programs and changes in the MMMNA and community spouse monthly housing allowance under the Spousal Impoverishment laws.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

No documents relied upon for changes to OARs 461-101-0010, 461-120-0110, and OAR 461-135-1080.

Documents relied upon for changes to OAR 461-135-0700:

Social Security Administration Program Operations Manual System (POMS), available here:

<https://secure.ssa.gov/poms.nsf/lnx/0200201005>

Social Security Administration Program Operations Manual System (POMS), available here:

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0200204001>

No documents relied upon for changes to OAR 461-145-0080.

No documents relied upon for changes to OAR 461-155-0270.

Documents relied upon for changes to OAR 461-160-0620:

2021 SSI and Spousal Impoverishment Standards, available here: <https://www.medicaid.gov/sites/default/files/2020-11/2021-ssi-and-spousal-impoverishment-standards.pdf>

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#### STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Department estimates the adoption of changes to OARs 461-135-0700, 461-145-0080, 461-155-0270, and 461-160-0620 will not affect racial equity in this state.

The Department estimates changes to and adoption of OARs 461-101-0010, 461-120-0110, and OAR 461-135-1080 will have a positive racial equity impact to Communities of Color in Oregon. The Department does not have data to specifically support this estimate as the sub-population of the impacted individuals for the Chapter 461 HOP program establishment is very specific: individuals who do not meet the citizenship requirements of the rule, do not meet the noncitizen requirements of the rule (this could include people with a USCIS permitted status, but not one that allows them to receive medical benefits yet), who are either between age 19 and 25 or age 55 and older, who also meet all the financial and non-financial requirements for OSIPM.

Although the Department does not have racial data for this very specific impacted group it draws its estimate from data within the last 10 years regarding who makes up Oregon's noncitizen population. "Although the immigrant population in Oregon and Washington is diverse, Mexico accounts for more than a third of Oregon's foreign-born population... More broadly, Latin America accounts for nearly half of all immigrants in Oregon... Asia is the next biggest sending region... Chinese and Vietnamese immigrants are among Oregon's largest non-Latino foreign-born populations... Canada ranks as one of the only major sending countries outside of Latin America and Asia. Both Oregon and Washington are also home to small but steadily growing communities from Africa and Eastern Europe, particularly Poland and Russia." (Grantmakers Concerned with Immigrants and Refugees report, "Immigrants in Oregon and Washington, Creating an Inclusive and Dynamic Future for All," May 2014; available here:

[https://www.gcir.org/sites/default/files/resources/GCIR\\_Report\\_on\\_OR\\_%26\\_WA\\_webversion\\_0.pdf](https://www.gcir.org/sites/default/files/resources/GCIR_Report_on_OR_%26_WA_webversion_0.pdf)

In addition, the Oregon Health Authority's 2017 study shows that Communities of Color are more often without medical insurance, "Oregon Health Insurance Survey," available here:

<https://www.oregon.gov/oha/HPA/ANALYTICS/InsuranceData/2017-OHIS-Uninsurance.pdf>

Given that a lesser amount of Oregon's noncitizens are arriving from Canada and Europe, and that Communities of Color are also less likely to have medical insurance, the Department estimates Communities of Color, and therefore Oregon racial equity, will be positively impacted due to the expansion of medical coverage and eligibility, which will allow resources of those families and individuals to support other necessities rather than uninsured medical costs, or other devastating losses that can occur when medical care is not sought after due to the inability to pay the uninsured cost.

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#### FISCAL AND ECONOMIC IMPACT:

The Department estimates that amending OARs 461-101-0010 and 461-120-0110 and adopting OAR 461-135-1080 may have a negative fiscal impact on the Department due to caseload growth in response to the removal of citizenship requirements for full Medicaid and long-term care eligibility for certain age groups. Federal funding to establish the Healthier Oregon Program is capped at \$100 million and the Department does not yet know how much the costs of HOP will exceed that amount. The Department estimates that individuals eligible for HOP effective July 1, 2022, will have a positive fiscal impact as they will receive full Medicaid benefits, including long-term care services, which will decrease their out of pocket medical costs for covered care. The Department is unable to estimate the exact amount of this change to each individual as no reports are available on the average costs incurred by this specifically impacted group. The Department estimates no fiscal impact to the public, other state agencies, local government except local government that assists with medical costs of the uninsured populations subject to this rule, and business, including small business except small business (especially non-profits) that assists with medical costs of the uninsured populations subject to this rule. There is no cost of compliance for small businesses. No small businesses are subject to this rule.

The Department estimates that amending OAR 461-135-0700, 461-145-0080, 461-155-0270, and 461-160-0620 will have no impact on the Department, those eligible or applying for benefits or services, the public, 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

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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.

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

A Rule Advisory Committee (RAC) was consulted for all rules except OARs 461-135-0700 and 461-160-0620. A RAC exception was granted for OAR 461-135-0700 as the provisions of the rule were recently changed with a RAC review and this amendment is a rewording of those same provisions to make them more clear. A RAC exception was granted for OAR 461-160-0620 as the amendment is an adjustment to standards in the rule based on Cost-of-Living Adjustment (COLA) amounts, required by the federal government to be updated every July.

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RULES PROPOSED:

461-101-0010, 461-120-0110, 461-135-0700, 461-135-1080, 461-145-0080, 461-155-0270, 461-160-0620

AMEND: 461-101-0010

RULE SUMMARY: OAR 461-101-0010 is being amended to put into Chapter 461 Oregon Administrative Rules the provisions for an individual to become eligible for the new Healthier Oregon Program (HOP) Medical as it pertains to those who would otherwise be eligible for Oregon Supplemental Income Program Medical (OSIPM) if not for their citizen or noncitizen status.

CHANGES TO RULE:

461-101-0010

Program Acronyms and Overview ¶¶

- (1) Acronyms are frequently used when referring to a program. There is an acronym for each umbrella program and acronyms for each subprogram.¶¶
- (2) When no program acronym appears in a rule in chapter 461 of these rules, the rule with no program acronym applies to all programs listed in this rule. If a rule does not apply to all programs, the rule uses program acronyms to identify the programs to which the rule applies.¶¶
- (3) Wherever an umbrella acronym appears, that means the rule covers all the subprograms under that code.¶¶
- (4) ABAWD; Able-Bodied Adults Without Dependents. The ABAWD employment program is one of the SNAP employment and training programs. Individuals who are identified as ABAWD are subject to the SNAP time limits (see OAR 461-135-0520).¶¶
- (5) ~~CAWEWM~~; Citizen/~~Alien~~-Waived Emergentship Waived Medical. Medicaid coverage of emergent medical needs for individuals who are not eligible for other medical programs solely because they do not meet citizenship or noncitizen status requirements.¶¶
- (6) DSNAP; Disaster Supplemental Nutrition Assistance Program. Following a presidential declaration of a major disaster in Oregon, DSNAP provides emergency DSNAP program benefits to victims. OAR 461-135-0491 to 461-135-0497 cover DSNAP eligibility and benefits.¶¶
- (7) EA; Emergency Assistance. Emergency cash to families without the resources to meet emergent needs.¶¶
- (8) ERDC or ERDC-BAS; Employment Related Day Care-Basic. Helps low-income working families pay the cost of child care.¶¶
- (9) GA; General Assistance. Cash assistance to certain low-income individuals with disabilities.¶¶
- (10) HOP; Healthier Oregon Program. An Oregon Health Plan (OHP) Plus equivalent benefit package (see OAR

410-120-1210) for eligible individuals identified under OAR 461-135-1080 not eligible for other medical programs solely because they do not meet citizenship or noncitizen status requirements.¶

(11) HSP; Housing Stabilization Program. A program that helps low-income families obtain stable housing. The program is operated through the Housing and Community Services Department through community-based, service-provider agencies. The Department's rules for the program (OAR 461-135-1305 to 461-135-1335) were repealed July 1, 2001.¶

(142) JOBS; Job Opportunity and Basic Skills. An employment program for TANF participants. JOBS helps these individuals attain self-sufficiency through training and employment. The program is part of Welfare Reform.¶

(123) JOBS Plus. JOBS Plus is a component of the JOBS Program. ¶Except as provided under OAR 461-190-0416, JOBS Plus provides subsidized jobs, rather than SNAP or TANF benefits, for individuals receiving TANF and determined JOBS eligible. Eligibility for the JOBS Plus component is determined by the Department. ¶

(134) JPI; Job Participation Incentive. An additional \$10 food benefit to help increase the ability of parents with children, who meet federal TANF participation rate, to meet the nutritional needs of their families.¶

(145) LIS; Low-Income Subsidy. The Low-Income Subsidy program is a federal assistance program for Medicare recipients who are eligible for extra help meeting their Medicare Part D prescription drug costs.¶

(156) OFSET. The Oregon Food Stamp Employment Transition Program, which helped SNAP program benefit recipients find employment. This program was mandatory for some SNAP program benefit recipients.¶

(167) OSIP; Oregon Supplemental Income Program. Cash supplements and special need payments to individuals who are blind, have a disability, or are 65 years of age or older. When used alone, OSIP refers to all OSIP programs. The following acronyms are used for OSIP subprograms:¶

(a) OSIP-AB; Oregon Supplemental Income Program - Aid to the Blind.¶

(b) OSIP-AD; Oregon Supplemental Income Program - Aid to the Disabled.¶

(c) OSIP-EPD; Oregon Supplemental Income Program - Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.¶

(d) OSIP-OAA; Oregon Supplemental Income Program - Old Age Assistance.¶

(178) OSIPM; Oregon Supplemental Income Program Medical. Medical coverage for individuals who are elderly or who have a disability. When used alone, OSIPM refers to all OSIP-related medical programs. The following codes are used for OSIPM subprograms:¶

(a) OSIPM-AB; Oregon Supplemental Income Program Medical - Aid to the Blind.¶

(b) OSIPM-AD; Oregon Supplemental Income Program Medical - Aid to the Disabled.¶

(c) OSIPM-EPD; Oregon Supplemental Income Program Medical - Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.¶

(d) OSIPM-OAA; Oregon Supplemental Income Program Medical - Old Age Assistance.¶

(e) OSIPM-ICP; Oregon Supplemental Income Program Medical - Independent Choices Program.¶

(189) The Post-TANF program provided a monthly transitional payment to employed individuals who were no longer eligible for the Pre-TANF or TANF programs due to earnings, and met the other eligibility requirements.¶

(1920) The Pre-TANF program is an up-front assessment and resource-search program for TANF applicant families. The intent of the program is to assess the individual's employment potential; determine any barriers to employment or family stability; develop an individualized case plan that promotes family stability and financial independence; help individuals find employment or other alternatives; and provide basic living expenses immediately to families in need.¶

(201) QMB; Qualified Medicare Beneficiaries. Programs providing payment of Medicare premiums and one program also providing additional medical coverage for Medicare recipients. Each of these programs also is considered to be a Medicare Savings Program (MSP). When used alone in a rule, QMB refers to all MSP. The following codes are used for QMB subprograms:¶

(a) QMB-BAS; Qualified Medicare Beneficiaries - Basic. The basic QMB program.¶

(b) QMB-DW; Qualified Medicare Beneficiaries - Disabled Worker. Payment of the Medicare Part A premium for individuals under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed.¶

(c) QMB-SMB; Qualified Medicare Beneficiaries - Specified Low-Income Medicare Beneficiary. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMB.¶

(d) QMB-SMF; Qualified Medicare Beneficiaries - Qualified Individuals. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMF. This program has a 100-percent federal match, but also has an allocation that, if reached, results in the closure of the program.¶

(212) REF; Refugee Assistance. Cash assistance to low-income refugee singles or married couples, without children, who are not eligible for the TANF program.¶

(223) REFm; Refugee Assistance Medical. Medical coverage for low-income refugees who are not eligible for

Medicaid.¶¶

(234) REP; Refugee Employment Program. Any self-sufficiency service, employment service, or case plan that is available to or developed for individuals in the REF program.¶¶

(245) The Repatriate Program helps Americans resettle in the United States if they have left a foreign land because of an emergency situation.¶¶

(256) SFDNP; Senior Farm Direct Nutrition Program. Food vouchers for low-income seniors. Funded by a grant from the United States Department of Agriculture.¶¶

(267) SFPSS; State Family Pre-SSI/SSDI Program. A voluntary program providing cash assistance and case management services to families when at least one TANF eligible adult in the household has an impairment (see OAR 461-125-0260) and is or will be applying for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).¶¶

(278) SNAP; Supplemental Nutrition Assistance Program. Helps low-income households maintain proper nutrition by giving them the means to purchase food. SNAP used to be known as FS or Food Stamps; any reference to SNAP also includes FS and Food Stamps.¶¶

(289) STEP; SNAP Training and Employment Program. A training and employment program for certain SNAP participants.¶¶

(2930) TA-DVS; Temporary Assistance for Domestic Violence Survivors. Assistance for families where there is a current or future risk of further domestic violence.¶¶

(301) TANF; Temporary Assistance for Needy Families. Cash assistance for families when children in those families are deprived of parental support because of continued absence, death, incapacity, or unemployment. Statutory/Other Authority: ORS 414.025, 414.826, ORS 413.085, 414.685, ORS 329A.500, 409.050, 411.060, 411.404, 411.706, 411.816, 412.014, 412.049

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 414.839, 409.050, 414.231, HB 3352 Oregon 2021 Reg. Sess.

AMEND: 461-120-0110

RULE SUMMARY: OAR 461-120-0110 is being changed to put into Chapter 461 Oregon Administrative Rules the provisions for an individual to become eligible for the new Healthier Oregon Program (HOP) Medical as it pertains to those who would otherwise be eligible for Oregon Supplemental Income Program Medical (OSIPM) if not for their citizen or noncitizen status.

CHANGES TO RULE:

461-120-0110

Citizenship and ~~Ali~~Noncitizen Status Requirements ¶¶

(1) Except as provided in section (5) of this rule, in all programs except the ~~CAW~~WM, ERDC, REF, and REFM programs, to be a member of a benefit group (see OAR 461-110-0750) an individual must meet the requirements of at least one of the following subsections:¶¶

(a) Be a citizen of the United States;¶¶

(b) Meet the ~~ali~~noncitizen status requirements in OAR 461-120-0125;¶¶

(c) Be a citizen of Puerto Rico, Guam, the Virgin Islands or Saipan, Tinian, Rota or Pagan of the Northern Mariana Islands; or¶¶

(d) Be a national from American Samoa or Swains Islands.¶¶

(2) In the ~~CAW~~WM program, to be a member of the benefit group an individual must meet the eligibility requirements of OAR 461-135-1070.¶¶

(3) In the HOP program, to be a member of the benefit group an individual must meet the eligibility requirements of OAR 461-135-1080.¶¶

(4) In the ERDC program, the need group (see OAR 461-110-0630) and benefit group must include a child who meets the requirements of section (1) of this rule except that:¶¶

(a) For children enrolled in programs that are subject to Head Start Performance Standards and are supported by both Head Start and CCDF funds, parents must submit verification of Head Start enrollment in lieu of other documentation; and¶¶

(b) For children in contracted programs, a Head Start eligibility checklist may be used as verification.¶¶

(45) In the REF and REFM programs, to be a member of the need group and the benefit group an individual must meet the ~~ali~~noncitizen status requirements of OAR 461-120-0125.¶¶

(56) In the TA-DVS and TANF programs, a ~~victim~~survivor of domestic violence (see OAR 461-001-0000) is not subject to section (1) of this rule when OAR 461-135-1200 applies.

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

Statutes/Other Implemented: ORS 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 409.050, 414.231, HB 3352 Oregon 2021 Reg. Sess.

AMEND: 461-135-0700

RULE SUMMARY: OAR 461-135-0700 is being changed to clarify that General Assistance (GA) will close once an administrative law judge recommended decision or decision has been made. It is also being changed to make clear what an applicant must do for the Department to consider a Supplemental Security Income application form to be considered "filed" and what "actively pursue the SSI claim" includes. It is also being changed to update the word "documentation."

CHANGES TO RULE:

461-135-0700

Specific Requirements; GA ¶

(1) For purposes of this rule, referring to an individual's living circumstances as "homeless" means any of the following:¶

(a) The individual does not have a fixed or regular nighttime residence.¶

(b) The individual provides the Department with verification, under OAR 461-115-0700, that they are required to leave their place of residence within the upcoming 90 days. If the individual is not able to provide documentation ~~or~~ verification, the Department will accept, on a case-by-case basis, self-attestation under the following circumstances:¶

(A) Documentation does not exist at application; or¶

(B) Documentation is not reasonably available at application, such as in the case of homelessness, domestic violence, or natural disaster.¶

(c) The individual's primary residence is one of the following:¶

(A) A supervised shelter that provides temporary accommodations.¶

(B) A halfway house or residence for individuals who may become institutionalized.¶

(C) A temporary accommodation in another individual's or family's residence for 90 days or less.¶

(D) A place not designed to be or ordinarily used as a place for individuals to sleep, such as a hallway, bus station, or similar place.¶

(E) A place lacking consistent and operational access to essential utilities.¶

(F) A temporary accommodation rented or leased by another person or entity, on behalf of the individual, for 90 or fewer days.¶

(2) To be eligible for GA, an individual must meet all of the following requirements:¶

(a) The individual must be 18 years of age or older.¶

(b) The individual must be an individual who is homeless (see section (1) of this rule).¶

(c) The individual may not be in the same OSIPM household group (see OAR 461-110-0210) with his or her child (see OAR 461-001-0000).¶

(d) The individual may not be receiving TANF benefits.¶

(e) The individual must be eligible for and receiving OSIPM with a basis of need established under OAR 461-125-0370(1)(c).¶

(f) The individual may not be in a nonstandard living arrangement (see OAR 461-001-0000) other than at home receiving in-home services (see OAR 411-030-0020).¶

(g) The individual must ~~complete the application process for~~ file a Supplemental Security Income (SSI); cooperate with the Department in applying to claim for benefits. The Department considers an SSI claim for benefits "filed" when all of the following criteria are met:¶

(A) An application form designated by the Social Security Administration for SSI; appeal all denials of SSI made below the Appeal's Council level; and attend all appointments designated by the Department relating to obtaining SSI. The Department must also receive verification from (SSA) to pursue an SSI claim for benefits is filled out.¶

(B) The application is submitted to the SSA or to another Federal office, State office, or person authorized to receive applications on behalf of the SSA.¶

(C) The Department receives verification the individual's application for SSI claim for benefits has been received by the SSA.¶

(h) The individual must actively pursue the SSI claim for benefits, including: ¶

(A) Cooperate with the Department in applying to the Social Security Administration that the individual for SSI; ¶

(B) Appeal all denial's applicatof SSI made prior to a decision for SSI benefits has been received recommended decision issued by an administrative law judge at the hearing level; and ¶

(C) Attend all appointments designated by the Department relating to obtaining SSI.¶

(hi) The individual must meet the non-financial, non-disability requirements for SSI.¶

(ij) The individual must complete and sign an interim assistance agreement authorizing the Department to recover interim GA benefits paid to the client (or paid to providers on the client's behalf) from the initial SSI payment or



initial post-eligibility payment. The Social Security Administration must also receive the interim assistance agreement. The following provisions are considered part of the interim assistance agreement:¶¶

(A) Interim GA benefits include only those GA cash benefits paid during the period of time that the SSI benefit covers.¶¶

(B) For any month in which SSI is prorated, the Department may recover only a prorated amount of the interim GA cash benefit.¶¶

(C) If the Department is unable to stop delivery of a GA benefit issued after the SSI payment is made, the GA payment will be included in the interim assistance to be reimbursed to the Department.¶¶

(3) Financial Eligibility.¶¶

(a) The OSIPM income and resource methodology are used to determine financial eligibility for the GA program.¶¶

(b) The GA benefit amount is determined according to OAR 461-155-0210 and 461-160-0500.¶¶

(4) If the Department determines that the individual no longer has an impairment that meets the criteria in OAR 461-125-0370, the individual is ineligible for GA.¶¶

(5) An individual found by the Social Security Administration (SSA) not to meet disability criteria at the initial, or reconsideration, or hearing level may continue receiving GA benefits until the disability claim is a decision or a recommended in a final decision decision is issued by a Social Security Administration administrative law judge at the hearing level, pursuant to 20 CFR ¶416.1453.

Statutory/Other Authority: ORS 411.060

Statutes/Other Implemented: ORS 411.710, OL 2016, ch 93, 20 CFR 416.310, 20 CFR 416.1453

ADOPT: 461-135-1080

RULE SUMMARY: OAR 461-135-1080 is being adopted to put into Chapter 461 Oregon Administrative Rules the provisions for an individual to become eligible for the new Healthier Oregon Program (HOP) Medical as it pertains to those who would otherwise be eligible for Oregon Supplemental Income Program Medical (OSIPM) if not for their citizen or noncitizen status.

CHANGES TO RULE:

461-135-1080

Specific Requirements: Healthier Oregon Program (HOP) Medical

(1) To be eligible for benefits under the Healthier Oregon Program (HOP) an individual must meet both of the following:¶

(a) Meet all financial and non-financial eligibility (see OAR 461-001-0000) requirements for OSIPM except citizen and noncitizen status requirements (see OAR 461-120-0110).¶

(b) Be age 19 through 25 or be age 55 and older.¶

(2) HOP recipients who no longer meet the age requirement of subsection (1)(b) of this rule:¶

(a) Shall maintain HOP eligibility so long as they continue to meet all other financial and non-financial eligibility criteria; or¶

(b) May regain eligibility if they respond within the 90-day reconsideration period (see OAR 410-200-0110) after closure due to failure to respond at renewal and meet all financial and non-financial eligibility criteria.¶

(3) Benefits of HOP are described in OAR 410-120-1210 of the Oregon Health Authority.

Statutory/Other Authority: ORS 409.050, 411.404, 414.231

Statutes/Other Implemented: ORS 411.060, 411.404, 414.231, HB 3352 Oregon 2021 Reg. Sess.

AMEND: 461-145-0080

RULE SUMMARY: OAR 461-145-0080 is being amended to reword the SNAP and TANF program sections to accurately describe the involvements of the Department and the Division of Child Support when it comes to child support. It is also being amended to reorganize and make clear provisions about TANF eligibility and benefit calculation; and update general language like "client" and "non-custodial parent." Lastly it is being amended to remove the exception to the one-third exclusion for child support that is paid in arrears for non-MAGI medical programs.

CHANGES TO RULE:

461-145-0080

Child Support and Cash Medical Support ¶

(1) Child support and cash medical support paid by a non-custodial parent for a dependent child (see OAR 461-001-0000) or minor parent (see OAR 461-001-0000) in the financial group (see OAR 461-110-0530) are considered income of the dependent child or minor parent, whether the support is paid voluntarily or in accordance with an order to pay child support.¶

(2) For the purposes of this rule:¶

(a) "Absent parent" means a parent (see OAR 461-001-0000) whose parental rights have not been legally severed or a stepparent currently legally married (see OAR 461-001-0000) to a parent of a child (see OAR 461-001-0000) who does not live in the same household as the child.¶

(b) "Disregard" means child support, up to \$50 per dependent child or minor parent per financial group per month and not to exceed \$200 per financial group per month, that is not counted as income of the client individual. "Disregard" includes current child support only.¶

(c) "Pass-through" means child support, up to \$50 per dependent child or minor parent per financial group per month and not to exceed \$200 per financial group per month, that is sent to the client individual before any remaining amount of current child support is withheld by the State. "Pass-through" includes current child support only.¶

(3) In the ERDC program, child support is considered countable (see OAR 461-001-0000) unearned income if it is received by the financial group or is countable under OAR 461-145-0280. Otherwise it is excluded.¶

(4) In the SNAP program, child support and cash medical support are treated as follows:¶

(a) Child support payments the group receives that ~~must be assigned to the Department~~ are subject to assignment of support rights under OAR 461-120-0310 in order to maintain TANF eligibility are excluded, even if the group fails to turn the payments over to the ~~Department~~ Division of Child Support (DCS).¶

(b) Child support payments received by a filing group (see OAR 461-110-0370) with at least one member working under a TANF JOBS Plus agreement are excluded, except:¶

(A) It is considered countable unearned income in the calculation of the wage supplement; and¶

(B) Any pass-through pursuant to section (2) of this rule is considered countable unearned income.¶

(c) All other child support, including any pass-through pursuant to section (2) of this rule, is considered countable unearned income.¶

(d) Cash medical support is considered countable unearned income except to the extent it is used to reimburse (see OAR 461-145-0440) an actual medical cost.¶

(e) Payments made by a ~~non-custodial parent~~ absent parent (see section (2) of this rule) to a third party for the benefit of the financial group are treated in accordance with OAR 461-145-0280.¶

(5) ~~Except as provided otherwise in section (8) of this rule, in the TANF program:~~¶

~~(a) In determining initial eligibility (see OAR 461-001-0000) In the TANF program:~~¶

~~(a) Cash medical support is excluded in determining countable income.~~¶

(b) Child support paid to a third party for the benefit of the financial group is considered countable unearned income. This includes but is not limited to payments made by an absent parent to a third party for rent, mortgage, utilities, or child care.¶

~~(c) Initial eligibility (see OAR 461-001-0000) and benefit amount -~~¶

(A) In determining initial eligibility for all households, child support payments, except for disregard pursuant to section (2) of this rule, child support received by the Oregon De are considered countable unearned income. This includes any child support payments that would be assigned to DCS if the TANF application is approved.¶

(B) In calculating initial benefit amount for single parent of Justice, Division of Cr single caretaker relative (see OAR 461-001-0000) households, child support (DCS) is considered countable unearned income, if continued repayments received after eligibility is determined and authorized are excluded, except of the certain child support is reasonably anticipated. These payments are excluded when determining the benefit amount.¶

~~(b) In determining on-going eligibility, except for clients working under a TANF JOBS Plus agreement and except~~

~~for child support passed through to the client and disregarded pursuant to section (2) of this rule arrear payments. Child support arrear payments that the Department reasonably determines will continue to be sent by DCS to the financial group are considered countable unearned income.~~

~~(C) In calculating initial benefit amount for two parent or two caretaker relative households, child support payments, except for disregard, are considered countable unearned income.~~

~~(d) Ongoing eligibility (see OAR 461-001-0000) and benefit amount, except households with an individual working under a TANF JOBS Plus agreement -~~

~~(A) In determining on-going eligibility for single parent or single caretaker relative households, child support payments received by the DCS or received directly and turned over to DCS is are considered countable unearned income, if continued receipt of the child support except disregard, which is excluded in determining countable income. No dis-reasonably anticipated. These gard is allowed for child support payments are excluded when determining the benefit amount.~~

~~(c) For clients working under a TANF JOBS Plus agreement:~~

~~(A) Child support ceived directly and not turned over to DCS.~~

~~(B) In determining ongoing eligibility for two parent or two caretaker relative households, child support payments are considered countable unearned income, except disregard which is excluded in determining countable income.~~

~~(B) Child support is excluded when calculating the TANF portion of the benefit equivalency standards. C) In calculating ongoing benefit amount for single parent or single caretaker relative households --~~

~~(Ei) All eChild support paid directly to the client is considered countable unearned income in the calculation of the wage supplement.~~

~~(d) All other eyments received by DCS and pass-through are excluded, except certain child support arrears payments. Child support arrear payments:~~

~~(A) Paid directly that are sent by DCS to the financial group that are turned over to the DCS and reasonably anticipated to continue are considered countable unearned income except for any amount of pass-through and disregard pursuant to section (2) of this rule.~~

~~(B) P.~~

~~(ii) Child support payments paid directly to the financial group that are not turned over to the DCS are considered countable unearned income. No disregard is allowed.~~

~~(E D) Paid to a third party for the benefi In calculating ongoing benefit amount for two parent ofr the financial group are considered countable unearned income. This includes but is not limited to payments made by a non-custodial parent to a two caretaker relative households, child support payments are considered countable unearned income, except for disregard which is excluded in determining countable income.~~

~~(c) Ongoing eligibility and benefit amount for households that include an individual working under a TANF JOBS Plus agreement:~~

~~(A) Child party for rent, mortgage, utilities, or child caresupport payments are excluded in determining countable income.~~

~~(B) Child support payments are excluded when calculating the TANF portion of the benefit equivalency standards (see OAR 461-190-0416).~~

~~(eC) Cash medical support is excluded in determining countable income.~~

~~(6) All child support payments paid directly to the financial group are is considered countable unearned income in the calculation of the wage supplement (see OAR 461-190-0416).~~

~~(6) Effective July 6, 2020, in the OSIP, OSIPM, and QMB programs:~~

~~(a) Child support and cash medical support paid to the financial group are considered countable unearned income, except as follows:~~

~~(A) One-third of all cash child support (including cash medical support) paid to an individual is excluded. This exclusion does not apply to child support paid in arrears.~~

~~(B) All in-kind child support paid to the financial group is excluded.~~

~~(C) Child support collected from an absent parent (see section (2) of this rule) by the State on behalf of a child in the custody of the State of Oregon (such as foster care) that is not given to the child or the custodial parent of the child is excluded.~~

~~(D) Child support payments collected by the State of Oregon that are given to the individual or to the custodial parent are counted in accordance with paragraph (A) or (E C) of this subsection.~~

~~(E) Child support paid in arrears is considered countable unearned income to the individual receiving the payments. If the individual gives the payments to the child, they are countable income to the child.~~

~~(b) Child support and cash medical support paid by the financial group are not deductible from income except as provided in OAR 461-160-0550, OAR 461-160-0551, and OAR 461-160-0552.~~

~~(7) In the SFPSS program, notwithstanding section (5) of this rule, for on-going eligibility and benefit determination:~~

~~(a) Except for disregard pursuant to section (2) of this rule, child support is considered countable unearned income.~~

~~(b) Cash medical support is excluded in determining countable income.~~

~~(c) Payments made by a non-custodial absent parent to a third party for the benefit of the financial group are considered countable unearned income. This includes but is not limited to payments made by a non-custodial parent to a third party for rent, mortgage, utilities, or child care.~~

~~(8) For on-going eligibility and benefit determination for TANF clients in a two-parent household:~~

~~(a) Except for disregard pursuant to section (2) of this rule, child support is considered countable unearned income.~~

~~(b) Cash medical support is excluded in determining countable income.~~

~~(c) Payments made by a non-custodial parent to a third party for the benefit of the financial group are considered countable unearned income. This includes but is not limited to payments made by a non-custodial parent to a third party for rent, mortgage, utilities, or child care.~~

~~(d) For a filing group (see OAR 461-110-0330) with at least one member working under a TANF JOBS Plus agreement:~~

~~(A) Child support is excluded in determining countable income.~~

~~(B) Child support is excluded when calculating the TANF portion of the benefit equivalency standards.~~

~~(C) All child support paid directly to the client is considered countable unearned income in the calculation of the wage supplement absent parent to a third party for rent, mortgage, utilities, or child care.~~

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049, 413.085, 414.685

AMEND: 461-155-0270

RULE SUMMARY: OAR 461-155-0270 is being amended to remove the reference to OSIPM (Oregon Supplemental Income Program Medical) in the title and in the body of the rule.

CHANGES TO RULE:

461-155-0270

Room and Board Standard; ~~OSIPM~~Community-Based Care ¶

For an ~~OSIPM program client~~individual residing in a community based care (see OAR 461-001-0000) facility, the room and board standard is \$654.00. A ~~client~~individual residing in a community based care facility must pay room and board.

Statutory/Other Authority: ORS 411.060, 411.070, 411.704, 411.706, ORS 409.050, 411.404, 413.085, 414.685

Statutes/Other Implemented: ORS 411.060, 411.070, 411.704, 411.706, ORS 409.010, 411.404, P.L. 92-336

AMEND: 461-160-0620

RULE SUMMARY: OAR 461-160-0620 is being amended to update the minimum community spouse income allowance (Minimum Monthly Maintenance Needs Allowance or MMMNA) and the community spouse monthly housing allowance which are published by the federal government each year. This amendment keeps Oregon in line with current federal standards for Department Medicaid programs and changes to the MMMNA and community spouse monthly housing allowance under the Spousal Impoverishment laws.

CHANGES TO RULE:

461-160-0620

Income Deductions and Patient Liability; Long-Term Care Services or Home and Community-Based Care; OSIPM ¶

THIS RULE WILL BE AMENDED TO REFLECT UPDATES TO THE FEDERAL SPOUSAL IMPOVERISHMENTS STANDARDS PUBLISHED ANNUALLY. In the OSIPM program:¶

(1) Deductions from income are made for an individual residing in or entering a long-term care facility or receiving home and community-based care (see OAR 461-001-0030) as explained in subsections (3)(a) to (3)(h) of this rule.¶

(2) The liability of an individual is determined according to subsection (3)(i) of this rule, except as provided otherwise in OAR 461-160-0610.¶

(3) Deductions are made in the following order:¶

(a) One standard earned income deduction of \$65 is made from the earned income in the OSIPM program.¶

(b) The deductions under the plan for self-support as allowed by OAR 461-145-0405.¶

(c) One of the following need standards:¶

(A) A \$68.77 personal needs allowance for an individual receiving long-term care services.¶

(B) A \$90 personal needs allowance for an individual receiving long-term care services who is eligible for VA benefits based on unreimbursed medical expenses. The \$90 allowance is allowed only when the VA benefit has been reduced to \$90.¶

(C) For an individual who receives home and community-based care:¶

(i) Except as provided in subparagraph (ii) of this paragraph, the OSIPM maintenance standard.¶

(ii) For an individual who receives in-home services, the OSIPM maintenance standard plus \$500.¶

(d) A community spouse (see OAR 461-001-0030) monthly income allowance is deducted from the income of the institutionalized spouse (see OAR 461-001-0030) to the extent that the income is made available to or for the benefit of the community spouse, using the following calculation.¶

(A) Step 1--Determine the maintenance needs allowance. \$2,177.50 is added to the amount over \$653.25 that is needed to pay monthly shelter expenses for the principal residence of the couple. This sum or \$3,435.00, whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the SNAP program (see OAR 461-160-0420). If an all-inclusive rate covers items that are not allowable shelter expenses, including meals or housekeeping in an assisted living facility, or the rate includes utilities, to the extent they can be distinguished, these items must be deducted from the all-inclusive rate to determine allowable shelter expenses.¶

(B) Step 2--Compare maintenance needs allowance with community spouse's countable income. The countable (see OAR 461-001-0000) income of the community spouse is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.¶

(C) Step 3--If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.¶

(e) A dependent income allowance as follows:¶

(A) For a case with a community spouse, a deduction is permitted only if the monthly income of the eligible dependent is below \$2,177.50. To determine the income allowance of each eligible dependent:¶

(i) The monthly income of the eligible dependent is deducted from \$2,177.50.¶

(ii) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the income allowance of the eligible dependent.¶

(B) For a case with no community spouse:¶

(i) The allowance is the TANF adjusted income standard (see OAR 461-155-0030) for the individual and eligible dependents.¶

(ii) The TANF standard is not reduced by the income of the dependent.¶

(f) Costs for maintaining a home if the individual meets the criteria in OAR 461-160-0630.¶

(g) Medical deductions allowed by OAR 461-160-0030 and 461-160-0055 are made for costs not covered under the state plan.¶

(h) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income (see OAR 461-001-0000).¶

(i) The individual's liability is determined as follows:¶

(A) For an individual receiving home and community-based care (except individuals identified in section (2) of this rule), the liability is the actual cost of the home and community-based care or the adjusted income of the individual, whichever is less. This amount must be paid to the Department or the home and community-based care facility each month as a condition of being eligible for home and community-based care.¶

(B) For an individual who resides in a nursing facility, the liability is the actual cost of services or the adjusted income of the individual, whichever is less. This amount must be paid to the facility each month as a condition of being eligible for nursing facility services.

Statutory/Other Authority: ORS 409.050, 413.085, 411.060, 411.070, 411.404, 414.065, 414.685, 411.706

Statutes/Other Implemented: ORS 409.010, 413.085, 411.060, 411.070, 411.404, 414.065, 414.685, 42 USC 1396r-5, 411.706, 42 CFR 435.725 - 435.735