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CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILING CAPTION: Rule Changes about GA, OSIPM, Standards, Child Support Treatment, and Establishing Healthier Oregon Medical Program

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RULES:

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

AMEND: 461-120-0110

NOTICE FILED DATE: 04/29/2022

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 medical program, 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 ~~CAWEWM~~W, 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 ~~CAWEWM~~W program, to be a member of the benefit group an individual must meet the eligibility requirements of OAR 461-135-1070.¶¶

(3) In the Healthier Oregon medical 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 alnoncitizen status requirements of OAR 461-120-0125.¶

(56) In the TA-DVS and TANF programs, a victimsurvivor 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

NOTICE FILED DATE: 04/29/2022

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; GAeneral Assistance (GA) ¶

(1) For purposes of this rule, referring to an individual's housing 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~~ any 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 GAeneral Assistance (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 ise housing circumstances qualify as 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~~ their 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 461-030-0020). ¶

(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 the Social Security Administration that the individual's application for SSI benefits has be(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 SSA for SSI; ¶

(B) Appeal all denials of SSI made prior to a decision or recommended decision issued by an administrative law judge at the hearing level; and ¶

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

~~(h)~~ (i) The individual must meet the non-financial, non-disability requirements for SSI.

(ii) 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~~ SA 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)~~ SA 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 an Social Security Administration SA 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

NOTICE FILED DATE: 04/29/2022

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 medical program 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 Medical Program

(1) To be eligible for benefits under the Healthier Oregon medical program 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) Healthier Oregon recipients who no longer meet the age requirement of subsection (1)(b) of this rule:¶

(a) Shall maintain 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 Healthier Oregon are described in Chapter 410, Division 134 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.

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 an 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 Deare 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 partment of Justice, Division of Cr single caretaker relative (see OAR 461-001-0000) households, child Ssupport (DCS) is considered countable unearned income, if continued repayments received after eligibility is determined and authorized are excluded, except of thecertain 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 guard 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 --¶~~

~~(C) 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.¶~~

~~(C) Paid to a third party for the benefiIn 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.¶~~

~~(e) 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 care support 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 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) 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

NOTICE FILED DATE: 04/29/2022

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 facility (see OAR 461-~~001-0000~~155-0630(1)), 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

NOTICE FILED DATE: 04/29/2022

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 ¶

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~~288.75 is added to the amount over ~~\$653.25~~86.63 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~~288.75. To determine the income allowance of each eligible dependent:¶

(i) The monthly income of the eligible dependent is deducted from ~~\$2,177.50~~288.75.¶

(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