

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

07/29/2022 9:40 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Proposing Rule Changes about Eligibility for APD Medical and Self-Sufficiency Programs

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/09/2022 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:
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HEARING(S)

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

DATE: 08/23/2022

TIME: 3:00 PM - 4:30 PM

OFFICER: Meorah Solar

ADDRESS: Virtual Hearing - No Physical Location

Phone: 971-277-2343, Code: 138544549

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. ODHS 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)

OAR 461-115-0700 about required verifications in the GA, OSIP, OSIPM, and QMB programs, needs to be amended to adopt into rule the process for income verification for those programs. Non-MAGI and MAGI programs currently have different income verification requirements, which creates unnecessary confusion to both applicants and eligibility staff as well as adding ONE system complexity. Except for verifying Social Security Administration income, this change aligns non-MAGI with the federal requirements to which MAGI is subject, regarding reasonable compatibility standards for income. It also otherwise broadens the ability of individuals to self-attest to income.

OAR 461-120-0125 about Noncitizen Status Requirements, needs to be amended to add provisions that make eligible for Self-Sufficiency and APD medical programs, individuals from Ukraine who are eligible under laws recently passed by the federal government. Humanitarian parolees from Ukraine who were paroled into the U.S. on or after February 24,

2022, did not meet the noncitizen criteria for ODHS programs in previous rule. On May 21, 2022, the President signed H.R. 7691, the Additional Ukraine Supplemental Appropriation Act 2022. With the new Act, this population will now be able to access services and supports that ODHS programs provide to individuals who meet the noncitizen criteria. These provisions are currently in temporary rule status and shall be adopted into permanent rule.

OAR 461-120-0345 about Requirement to Obtain Health Care Coverage and Cash Medical Support; OSIPM, QMB, needs to be changed to implement guidance from Center for Medicare and Medicaid Services (CMS) and align rule with Oregon's Medicaid State Plan. CMS has clarified that for any individual to be required to apply for Medicare as a condition of Medicaid eligibility, the state in which the individual is seeking Medicaid eligibility must have affirmatively elected under its state plan to require Medicare enrollment as a condition of such eligibility. Oregon has not made this election under its state plan; therefore, Supplemental Security Income beneficiaries in Oregon, or any other individuals, may not be required as a condition of Medicaid eligibility to apply for Medicare. The reference to Tricare is being removed because the Department can only require individuals to pursue cost-effective employer-sponsored health insurance, and that by definition includes Tricare for active military members; therefore, a specific reference is unnecessary as veterans cannot be required to enroll. The Department also needs to replace "penalty" language with eligibility-related language to make clear how not meeting this requirement impacts individuals. These changes are currently in temporary rule, filed July 18, 2022, and shall be adopted into permanent rule.

OAR 461-135-0010 about Assumed Eligibility for Medical Programs, needs to be changed to insert and correct continuous eligibility provisions where appropriate, including in the rule title (soon to be "Assumed and Continuous Eligibility for Medical Programs"). It also needs to be changes as federal regulations state that a child who loses eligibility for medical benefits remains enrolled until the end of the current renewal period for a maximum of 12 months. The current rule incorrectly states the child remains OSIPM eligible for 12 months following the determination of ineligibility, regardless of when the renewal period ends. This change aligns non-MAGI policy with federal rules and ONE system functionality.

OAR 461-135-0700 about Specific Requirements; General Assistance (GA), needs to be changed to adopt into permanent rule, temporary rule changes made effective July 18, 2022. These changes make GA eligibility more clear. Section (3) of the current rule states the Department must use OSIPM income and resource methodology but does not specify which OSIPM income and resource methodology. As the income and resource limits for OSIPM-EPD are higher than standard OSIPM, the Department needs to clarify that the OSIPM adjusted income and resource limits used to determine GA financial eligibility are solely based on the OSIPM standards listed in 461-155-0230 (3) and 461-160-0015(3)(a), which match the income and resource limits set by the Social Security Administration (SSA) for Supplemental Security Income (SSI).

OAR 461-135-0725 about Specific Requirements; OSIPM-EPD, needs to be changed as individuals who meet the income and resource requirements for OSIPM are currently excluded from EPD eligibility. This exclusion causes individuals who are receiving long-term care services, are employed, and are under the income and resource standards for OSIPM to pay a liability that is higher than the participant fee they would pay if allowed to enroll in EPD. This rule change is needed to allow these individuals to enroll in EPD and pay the lower out-of-pocket cost through the participant fee.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

No documents relied upon for changes to OARs 461-115-0700, 461-135-0010, 461-135-0700, or 461-135-0725.

OAR 461-120-0125

* Direction given in email and Policy Letter 22-13 on May 26, 2022, from the Office of Refugee Resettlement, available

here:

<https://www.acf.hhs.gov/sites/default/files/documents/orr/PL-22-13-Ukrainian-Humanitarian-Parolees-Eligible-for-ORR-Benefits-and-Services.pdf>

* SNAP Provisions in the Additional Ukraine Supplemental Appropriations Act, 2022 from FNS, available here:

<https://www.fns.usda.gov/snap/additional-ukraine-supplemental-appropriations-act-2022>

OAR 461-120-0345

* Oregon Medicaid State Plan available from APD Medical Policy Analyst team.

* Any written communication on this topic with CMS available from the APD Medical Policy Analyst team.

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

The Department estimates the changes to OAR 461-115-0700 will positively affect racial equity in Oregon, specifically those from Native American/Sovereign Tribal Nation communities, and communities with a disproportionate number of individuals who do not meet the noncitizen status necessary to be allowed a Social Security Number and therefore may have difficulty with obtaining income verification. There are types of tribal benefits or income that certain Native American individuals have right to receive in Oregon. The policy on how this income is treated is complex and requires very specific information about the source and type, and under what Public Law the income is paid. It is often difficult and time-consuming for individuals to request and obtain adequate verification from tribal offices, creating a barrier to income verification and therefore medical program eligibility. In addition, some individuals who have not been granted a noncitizen status by the federal government may be reluctant to ask employers for proof of income for fear of consequences to employee or employer. This rule change will allow these individuals to self-attest to income that is often extremely difficult to verify with documentation or third-party statements, removing a barrier to APD medical program benefits.

The Department estimates the changes to OAR 461-120-0125 will specifically beneficially impact the Ukrainian refugee community who will qualify for benefits under the rule changes. Without the rule changes, many of the recently arrived individuals would not be eligible for many program benefits without meeting other criteria, including waiting periods. ODHS has been and remains in ongoing communication with the community organizations who serve the refugee community to make them aware of these rule changes, and any other rule changes that may impact the communities they help us support. This rule change will improve disparities in the Ukrainian immigrant and refugee communities.

The Department has not evaluated if adoption of the changes to OAR 461-120-0345 will affect racial equity in Oregon. The changes to the rule are not expected to have a negative impact on any communities or individuals.

The Department was not able to gather necessary data to determine if adoption of the changes to OAR 461-135-0010 will affect racial equity in Oregon. The changes to the rule are not expected to have a negative impact on any communities or individuals.

The Department estimates the adoption of changes to OAR 461-135-0700 and 461-135-0725 will not affect racial equity in Oregon.

FISCAL AND ECONOMIC IMPACT:

The Department estimates that amending OARs 461-115-0700, 461-135-0010, and 461-135-0700 will have no fiscal impact on the Department, those who receive or apply for benefits, 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.

The Department estimates that amending OAR 461-120-0125 will have a negative fiscal impact on the Department of around approximately \$500,000 monthly (\$100,000 for REFC and \$400,000 for TANF). The Department estimates a positive fiscal impact on Ukrainian individuals who are eligible for benefits under the new rule changes. The specific monthly cumulative positive fiscal impact cannot be known as many benefit amounts are group-size based and based on other eligibility factors, and group sizes and other eligibility factors for all applying Ukrainian individuals and families cannot be known. The Department estimates a fiscal impact to local governments and non-profit organizations that provide services to individuals who are eligible for RCA and RMA, but is not able to provide a specific dollar amount as services and costs are unique to each agency or organization. The Department estimates no impact on those eligible or applying for benefits or services, the public, other state agencies, local government, and business, including small business; beyond impacts already mentioned. There is no cost of compliance for small businesses. No small businesses are subject to this rule.

The Department estimates that amending OAR 461-120-0345 will have a negative fiscal impact on the Department if individuals who are no longer required to enroll in Medicare choose not to do so when eligible. The Department calculated average capitation fees in 2022 for a sample of Coordinated Care Organizations from the tri-county area, northwest Oregon, central/eastern Oregon, and southwest Oregon. The average capitation rate for an OSIPM recipient not receiving Medicare was calculated at \$1,503.32 while the average capitation rate for Medicare beneficiaries was \$288.05. For every individual who chooses not to enroll in Medicare when eligible, the Department will pay an additional \$1,215.27 per month in capitation fees. Taking into consideration the current Federal Medical Assistance Percentage of 66.42%, the net negative impact to the Department in capitation fees alone is \$408.00 per individual per month. This does not take into account the reduction in total claims paid for a Medicare recipient versus a Medicaid-only recipient. The Department estimates no fiscal impact to out-of-pocket costs for recipients impacted by this change, other than slight variances in prescription costs between OHP Plus and Medicare Part D. Providers should experience little to no impact as Medicaid and Medicare reimbursement rates are generally equal. Other than what has been stated; the Department estimates no fiscal impact to those who receive or apply for benefits, 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.

The Department estimates that amending OARs 461-135-0725 will have a negative fiscal impact on the Department as individuals who were paying a liability in a higher amount than the EPD participant fee will now be paying the lower participant fee amount resulting in a higher share of the cost of care being paid by ODHS. The Department estimates a positive fiscal impact to those who are receiving long-term care services, are employed, and are under the income and resource standards for OSIPM as they will pay a lower amount for their Medicaid services. The Department is unable to provide an exact dollar amount for impact to the Department or impacted individuals as there is not a way to track how many cases are not currently considered for EPD under this rule. The Department anticipates no fiscal impact to those who are not already mentioned and receive or apply for benefits, 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).

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.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

461-115-0700, 461-120-0125, 461-120-0345, 461-135-0010, 461-135-0700, 461-135-0725

AMEND: 461-115-0700

RULE SUMMARY: OAR 461-115-0700 is being amended to support changes to how income will be verified for OSIPM and Medicare Savings Programs (non-MAGI medical programs) going forward. In general, the Department will accept self-attestation of income at initial application and only request additional verification post-eligibility under a limited set of circumstances.

CHANGES TO RULE:

461-115-0700

Required Verification; GA, OSIP, OSIPM, and QMB ¶¶

In the GA, OSIP, OSIPM, and QMB programs:¶¶

(1) All eligibility (see OAR 461-001-0000) factors, including identity, must be verified at initial application, when there is a change to any factor, and whenever eligibility for benefits becomes questionable. See OAR 461-115-0704 for the requirements to provide verification of citizenship and immigration status.¶¶

(2) Methods of verifying information include the following:¶¶

(a) Electronic. Information available and provided to the Department from an electronic source, including but not limited to:¶¶

(A) State Wage Information Collection Agency.¶¶

(B) Internal Revenue Service.¶¶

(C) Social Security Administration.¶¶

(D) State Unemployment Compensation Agency.¶¶

(E) State agencies administering programs under Title 1, 10, 14, or 16 of the Social Security Act.¶¶

(F) SNAP agencies.¶¶

(G) Other insurance affordability programs.¶¶

(H) The Department of Treasury.¶¶

(I) The Department of Homeland Security.¶¶

(J) Asset Verification System.¶¶

(b) Self-attestation. Information provided orally or in writing by or on behalf of an individual.¶¶

(c) Documentation. Documentary evidence provided by or on behalf of an individual, or obtained by the Department from a third party.¶¶

(3) If necessary, information needed to determine eligibility must be provided by or on behalf of the individual requesting benefits.¶¶

(4) The Department must allow a reasonable amount of time to provide additional information, if necessary.¶¶

(5) Financial eligibility.¶¶

(a) Resources.¶¶

~~(A)~~ In the OSIP, OSIPM, and QMB-DW programs, if the total self-attested value of gross "liquid resources" of the financial group (see OAR 461-110-0530) is less than \$400, further verification of the value of "liquid resources" is only required if questionable. For the purposes of this rule, "liquid resources" include cash as well as other resources that can be converted to cash within 20 business days, except that the cash surrender value of a life insurance policy is not considered a liquid resource.¶¶

~~(b)~~ Except as provided for in subsection (c) of this section, ~~(b)~~ The Department must request and use information from available electronic sources, without requiring additional documentation, to verify eligibility and for budgeting (see OAR 461-001-0000).¶¶

(c) The Department may request additional documentation from the individual if a resource, unless:

(A) The information is not available to the Department electronically.

(B) The information provided by self-attestation differs from the information received electronically and the individual or person acting on the individual's behalf could not provide a statement which reasonably explains the discrepancy.

(d) The Department must use the Asset Verification System when a resource or transfer of assets (see OAR 461-140-0210 to 461-140-0300) evaluation is necessary to determine eligibility. Consent to use the Asset Verification System is required and a condition of eligibility. If resource information is not available, or not returned, through the Asset Verification System, or differs from self-attested information, resource documentation may be requested directly from the individual, subject to the other requirements of this section.

(b) Income. The Department verifies income through electronic, self-attestation, and documentary methods. Except for as provided in paragraph (A) of this subsection, individuals may self-attest to income that is not subject to verification by the Federal Data Services Hub (FDSH), such as self-employment or private pension. Income subject to verification by the FDSH is compared to self-attested income to determine if further verification is needed. Self-attestation may otherwise be accepted subject to the provisions in paragraph (B) of this subsection.

(A) Supplemental Security Income (SSI) and all Social Security Title II income will be verified using electronic information available to the Department. The verified amounts shall be used to determine eligibility.

(B) FDSH check. Self-attested income is compared to information obtained through a match with the FDSH. In Step One, subparagraph (i), each individual in the financial group is evaluated. In Step Two, subparagraph (ii), the financial group as a whole is evaluated.

(i) Step One. The self-attested income of the individual is compared to their FDSH income to determine if it is considered "reasonably compatible," meaning no further verification is needed. The income is reasonably compatible if it meets any of the following:

(I) The total income amount obtained from the FDSH does not exceed the total amount of self-attested income of the same type by a threshold greater than 10% and both the self-attested and FDSH amounts are greater than \$0.

(II) The total amount of self-attested income is equal to or greater by any percentage than the total amount obtained from the FDSH of the same type and the amount obtained from FDSH is greater than \$0.

(III) Both the total amount of self-attested income and the total amount obtained from the FDSH of the same type is either \$0 or absent.

(ii) Step Two. The self-attested income of the financial group is compared to their FDSH income to determine if it is considered reasonably compatible, meaning no further verification is required. The income is reasonably compatible if it meets any of the following for all members of the financial group:

(I) The income obtained via the FDSH is more than 10% of the self-attested amount, but both amounts are within the income threshold for the benefit for which the financial group is evaluated.

(II) An individual attests to income greater than \$0.00, the FDSH returns \$0 or absent, but the self-attested amount is within the income threshold for the benefit for which the financial group is evaluated.

(iii) After Step Two is completed, if the total self-attested income of the financial group results in financial ineligibility, the Department shall accept the attested information and deny benefits.

(iv) If self-attested income is not reasonably compatible under Step One or Step Two and does not result in financial ineligibility:

(i) Self-attested income will be used for the initial eligibility determination and documentary verification will be requested post-eligibility.

(ii) Upon receipt of documentary verification, the Department will confirm or adjust ongoing eligibility as appropriate.

(iii) If documentary verification cannot be obtained, the individual must provide a reasonable explanation as to why, which the Department may accept.

(6) Identity.

(a) Except as provided for in subsections (c) and (d) of this section, individuals must provide documentation to verify identity.

(b) The Department must accept the following as proof of identity, provided such document has a photograph or other identifying information sufficient to establish identity, such as name, age, race, height, weight, eye color, or address:

(A) Driver's license issued by a state or territory.

(B) School identification card.

(C) U.S. military card or draft record.

(D) Identification card issued by the federal, state, or local government.

(E) Military dependent identification card.

(F) U.S. Coast Guard Merchant Mariner card.

(G) For children under the age 19, a clinic, doctor, hospital, or school record, including preschool or day care records.¶¶

(H) Two other documents containing consistent information that corroborates an applicant's identity. Such documents can include employer identification cards; high school, high school equivalency, and college diplomas; marriage certificates; divorce decrees; and property deeds or titles.¶¶

(c) The Department may accept the finding of identity from a federal or another state agency for the purposes of public assistance, law enforcement, internal revenue or tax bureau, or corrections, if the agency has verified and certified the identity of the individual.¶¶

(d) If the individual does not have any document specified in subsection (b) of this section, and identity cannot be verified under subsection (c) of this section, the Department must accept an affidavit signed, under penalty of perjury, by an individual other than the applicant who can reasonably attest to the applicant's identity. Such affidavit must contain the individual's name and other identifying information described in subsection (b) of this section.¶¶

(7) Social Security numbers. The Department must verify that the SSN furnished by an individual was issued to that individual. Acceptable sources of verification must show a correct Social Security number, including but not limited to:¶¶

(a) Social Security Card.¶¶

(b) Social Security award letters or other correspondence or forms bearing the individual's SSN.¶¶

(c) Medicare card, if the individual is receiving Medicare off their own record.¶¶

(d) Information provided electronically to the Department from the Social Security Administration.¶¶

(e) Wage stubs or unemployment records.¶¶

(f) IRS forms or letters.¶¶

(8) Pregnancy. The Department must accept self-attestation of pregnancy unless the Department has information that is not reasonably compatible with such attestation.¶¶

(9) Residency, age, date of birth, household size. The Department may accept self-attestation as verification of residency, age, date of birth, and household size, unless the statement differs from information available to the Department electronically or otherwise, in which case the Department may require the individual to provide documentation.¶¶

(10) If the Department is unable to verify information electronically or from a third party, the Department will accept, on a case-by-case basis, self-attestation to verify all eligibility criteria, except citizenship and immigration status, under the following circumstances:¶¶

(a) Documentation does not exist at initial application or redetermination; or¶¶

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

(11) The Department may not deny, close, or reduce benefits if verification available to the Department is incompatible or absent, and the Department did not request additional information from the individual.

Statutory/Other Authority: 411.070, 411.404, 411.706, 413.085, 414.685, ORS 409.050, 411.060, 411.402, 42 USC 1396W, 42 CFR 435.940 - 435.965

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685, 414.839, 411.402, 42 USC 1396W, 42 CFR 435.940 - 435.965

AMEND: 461-120-0125

RULE SUMMARY: OAR 461-120-0125 is being changed to adopt into permanent rule, provisions that make new groups of individuals eligible for Self-Sufficiency and APD medical programs if they meet certain noncitizen status requirements. Specifically Ukrainian citizens and those who habitually last resided in Ukraine, who were paroled into the U.S. between February 24, 2022 and September 30, 2023, as well as certain persons with specific relationships to those individuals.

It is being changed from the temporary rule currently in place to remove language about individuals who also have a Temporary Protected Status, which will reduce confusion about what status allows eligibility, as well as to correct the eligibility date for APD Medical Programs from May 21, 2022, to February 24, 2022.

CHANGES TO RULE:

461-120-0125

Noncitizen Status Requirements ¶¶

An individual who must meet noncitizen status requirements under OAR 461-120-0110, must meet the noncitizen status requirements of the program for which they are applying. The requirements are listed in sections (2) through (6) of this rule.¶¶

(1) For purposes of this chapter of rules,¶¶

(a) In all programs, an individual is a "qualified noncitizen" if the individual is any of the following:¶¶

(A) An individual who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq). ¶¶

(B) An Iraqi or Afghan individual granted special immigrant visa status (SIV) under section 101(a)(27) of the INA. These individuals are lawfully admitted for permanent residence under the INA.¶¶

(C) An individual who is an "Amerasian" who is granted immigration status under section 584 of Public Law 100-202; the Foreign Operations, Export Financing, and Related Program Appropriations Act of 1988; as amended by Public Law 100-461. These individuals are lawfully admitted for permanent residence under the INA.¶¶

(D) An individual who is admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157).¶¶

(E) An individual who is granted asylum under section 208 of the INA (8 U.S.C. 1158).¶¶

(F) An individual who is a "Cuban or Haitian entrant" (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).¶¶

(G) An individual who is a "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).¶¶

(H) An individual who is a family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).¶¶

(I) An individual whose deportation is being withheld under section 243(h) of the INA (8 U.S.C. 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 U.S.C. 1231(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).¶¶

(J) An individual who is paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) for a period of at least one year.¶¶

(K) An individual who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) as in effect prior to April 1, 1980.¶¶

(L) An individual who is a battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c), as determined by the U.S. Citizenship and Immigration Services (USCIS).¶¶

(b) In the OSIPM and QMB programs, in addition to subsection (a) of this section, an individual is a "qualified noncitizen" if the individual is from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau who lawfully reside in the United States in accordance with the Compacts of Free Association. The provisions in this subsection are retroactively effective December 28, 2020.¶¶

(2) In all programs except the REF and REFM programs, an individual meets the noncitizen status requirements if the individual is one of the following:¶¶

(a) An individual who is an "American Indian" born in Canada to whom the provisions of section 289 of the INA (8 U.S.C. 1359) apply.¶¶

(b) A member of an "Indian tribe," as defined in section 4(e) of the Indian Self-Determination and Education Act (25 U.S.C. 450b(e)).¶¶

(c) A qualified noncitizen (see section (1) of this rule) who is any of the following:¶¶

- (A) A veteran of the United States Armed Forces who was honorably discharged for reasons other than noncitizen status and who fulfilled the minimum active-duty service requirements described in 38 U.S.C. 5303A(d).¶
- (B) A member of the United States Armed Forces on active duty (other than active duty for training).¶
- (C) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in paragraphs (A) or (B) of this subsection.¶
- (3) In the ERDC, TA-DVS, and TANF programs, an individual meets the noncitizen status requirements if the individual is one of the following:¶
- (a) An individual who is a qualified noncitizen (see subsection (1)(a) of this rule).¶
- (b) An individual who is a noncitizen who is currently a victim of domestic violence or who is at risk of becoming a victim of domestic violence.¶
- (c) Effective October 1, 2021 until March 31, 2023, or through the end of their parole, whichever is later:¶
- (A) An individual who is a citizen or national of Afghanistan paroled into the U.S. between July 31, 2021 through September 30, 2022.¶
- (B) An unmarried child under the age of 21 or spouse of an individual listed in paragraph (A) of this subsection.¶
- (d) Effective May 21, 2022, through the end of their parole:¶
- (A) An individual who was paroled into the U.S. between February 24, 2022, and September 30, 2023, and meets one of the following:¶
- (i) Is a citizen or national of Ukraine. ¶
- (ii) Last habitually resided in Ukraine.¶
- (B) An individual who was paroled after September 30, 2023, and who is one of the following:¶
- (i) An unmarried child, defined in section 101(b) of the Immigration and Nationality Act (INA) (8 U.S.C. § 1101(b)), under the age of 21.¶
- (ii) The spouse of an individual listed in paragraph (A) of subsection (d).¶
- (C) An individual who was paroled into the U.S. after September 30, 2023, and is one of the following:¶
- (i) A parent, legal guardian, or primary caregiver of an unaccompanied refugee minor, as defined in section 412(d)(2)(B) of the INA (8 U.S.C. § 1522(d)(2)(B)).¶
- (ii) An unaccompanied child, as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. § 279(g)(2)).¶
- (4) In the OSIPM and QMB programs an individual meets the noncitizen status requirements if the individual meets any of the following:¶
- (a) The individual has been granted a USCIS status listed under paragraphs (1)(a)(B) through (1)(a)(I) or paragraph (1)(b) of this rule.¶
- (b) Effective October 1, 2009, the individual is a qualified noncitizen and is under 19 years of age.¶
- (c) The individual was a qualified noncitizen before August 22, 1996.¶
- (d) The individual has been granted a USCIS status listed under paragraphs (1)(a)(A), and (1)(a)(J) through (1)(a)(L) and meets one of the following:¶
- (A) Physically entered the United States or was granted the USCIS status on or after August 22, 1996; and has been in the U.S. for five years beginning on the date the USCIS status was granted.¶
- (B) Physically entered the United States before August 22, 1996 and was continuously present in the United States between August 22, 1996, and the date the USCIS status was granted. An individual is not continuously present in the United States if the individual is absent from the United States for more than 30 consecutive days or a total of more than 90 days between August 22, 1996 and the date the USCIS status was granted.¶
- (e) The individual is under the age of 19 and is one of the following:¶
- (A) An individual described in 8 CFR section 103.12(a)(4) who belongs to one of the following classes of noncitizens permitted to remain in the United States because the Attorney General has decided for humanitarian or other public policy reasons not to initiate deportation or exclusion proceedings or enforce departure:¶
- (i) An individual currently in temporary resident status pursuant to section 210 or 245A of the INA (8 USC 1160 and 1255a);¶
- (ii) An individual currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 USC 1229b);¶
- (iii) An individual who is a "Cuban or Haitian entrant," as defined in section 202(b) Pub. L. 99-603 (8 USC 1255a), as amended;¶
- (iv) Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649 (8 USC 1255a), as amended;¶
- (v) An individual currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;¶
- (vi) An individual currently in deferred action status pursuant to Department of Homeland Security Operating Instruction OI 242.1(a)(22); or¶
- (vii) An individual who is the spouse or child of a United States citizen whose visa petition has been approved and who has a pending application for adjustment of status.¶

- (B) An individual in non-immigrant classifications under the INA who is permitted to remain in the U.S. for an indefinite period, including those individuals as specified in section 101(a)(15) of the INA (8 USC 1101).¶
- (f) In the OSIPM program, is receiving SSI benefits.¶
- (g) In the QMB program, is receiving SSI and Medicare Part A benefits.¶
- (h) Effective July 31, 2021 until March 31, 2023, or through the end of their parole, whichever is later:¶
- (A) An individual who is a citizen or national of Afghanistan paroled into the U.S. between July 31, 2021 through September 30, 2022.¶
- (B) An unmarried child under the age of 21 or spouse of an individual listed in paragraph (A) of this subsection.¶
- (i) Effective February 24, 2022, through the end of their parole:¶
- (A) An individual who was paroled into the U.S. between February 24, 2022, and September 30, 2023, and meets one of the following:¶
- (i) Is a citizen or national of Ukraine. ¶
- (ii) Last habitually resided in Ukraine.¶
- (B) An individual who was paroled after September 30, 2023, and who is one of the following:¶
- (i) An unmarried child, defined in section 101(b) of the Immigration and Nationality Act (INA) (8 U.S.C. § 1101(b)), under the age of 21.¶
- (ii) The spouse of an individual listed in paragraph (A) of subsection (d).¶
- (C) An individual who was paroled into the U.S. after September 30, 2023, and is one of the following:¶
- (i) A parent, legal guardian, or primary caregiver of an unaccompanied refugee minor, as defined in section 412(d)(2)(B) of the INA (8 U.S.C. § 1522(d)(2)(B)).¶
- (ii) An unaccompanied child, as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. § 279(g)(2)).¶
- (5) In the REF and REFМ programs, an individual meets the noncitizen status requirements if the individual is admitted lawfully under any of the following provisions of law:¶
- (a) The individual has been granted a USCIS status listed under paragraphs (1)(a)(B) through (1)(a)(H), ~~or,~~¶
- (b) The individual has been paroled as a refugee or asylee under section 212(d)(5) of the Immigration and Nationality Act (INA) (8 USC 1182(d)(5)).¶
- (c) Effective October 1, 2021 until March 31, 2023, or through the end of their parole, whichever is later:¶
- (A) An individual who is a citizen or national of Afghanistan paroled into the U.S. between July 31, 2021 through September 30, 2022.¶
- (B) An unmarried child under the age of 21 or spouse of an individual listed in paragraph (A) of this subsection.¶
- (d) Effective May 21, 2022, through the end of their parole:¶
- (A) An individual who was paroled into the U.S. between February 24, 2022, and September 30, 2023, and meets one of the following:¶
- (i) Is a citizen or national of Ukraine. ¶
- (ii) Last habitually resided in Ukraine.¶
- (B) An individual who was paroled after September 30, 2023, and who is one of the following:¶
- (i) An unmarried child, defined in section 101(b) of the Immigration and Nationality Act (INA) (8 U.S.C. § 1101(b)), under the age of 21.¶
- (ii) The spouse of an individual listed in paragraph (A) of subsection (d).¶
- (C) An individual who was paroled into the U.S. after September 30, 2023, and is one of the following:¶
- (i) A parent, legal guardian, or primary caregiver of an unaccompanied refugee minor, as defined in section 412(d)(2)(B) of the INA (8 U.S.C. § 1522(d)(2)(B)).¶
- (ii) An unaccompanied child, as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. § 279(g)(2)).¶
- (6) In the SNAP program,¶
- (a) An individual meets the noncitizen status requirements if the individual:¶
- (A) Has been granted a USCIS status listed under paragraphs (1)(a)(B) through (1)(a)(I) of this rule.¶
- (B) Has been granted a qualified noncitizen USCIS status and is under age 18.¶
- (C) Has been granted a qualified noncitizen USCIS status and has a disability (see OAR 461-001-0015).¶
- (D) Was born on or before August 22, 1931, and on August 22, 1996, was lawfully residing in the United States.¶
- (E) Was a member of a Hmong or Highland Laotian Tribe at the time that the Tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in 38 U.S.C. 101), and is a noncitizen who is lawfully residing in the United States.¶
- (F) Is a spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in paragraph (E) of this subsection.¶
- (b) An individual meets the noncitizen status requirements when the individual has been granted a USCIS status listed under paragraph (1)(a)(A) or paragraphs (1)(a)(J) through (1)(a)(L) of this rule, and has completed one of the following:¶

(A) The individual has been residing in the United States for at least five years while a qualified noncitizen.¶
(B) The individual has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, or can be credited with such qualifying quarters as provided under 8 U.S.C. 1645, subject to the following provisions:¶

(i) No quarter beginning after December 31, 1996, is a qualifying quarter if the client received any federal, means-tested benefit during the quarter. Federal means-tested benefits include SNAP, TANF, and Medicaid (except emergency medical).¶

(ii) For the purpose of determining the number of qualifying quarters of coverage, a client is credited with all of the quarters of coverage worked by a parent of the client while the client was under the age of 18 and all of the qualifying quarters worked by a spouse of the client during their marriage, during the time the client remains married to such spouse or such spouse is deceased.¶

(iii) A lawful permanent resident who would meet the noncitizen status requirements, except for a determination by the Social Security Administration (SSA) that the individual has fewer than 40 quarters of coverage, may be provisionally certified for SNAP program benefits while SSA investigates the number of quarters creditable to the client. A client provisionally certified under this section who is found by SSA, in its final administrative decision after investigation, not to have 40 qualifying quarters is not eligible for SNAP program benefits received while provisionally certified. The provisional certification is effective according to the rule on effective dates for opening benefits, OAR 461-180-0080. The provisional certification cannot run more than six months from the date of original determination by SSA that the client does not have sufficient quarters.¶

(c) Effective October 1, 2021 until March 31, 2023, or through the end of their parole, whichever is later:¶

(A) An individual who is a citizen or national of Afghanistan paroled into the U.S. between July 31, 2021 through September 30, 2022.¶

(B) An unmarried child under the age of 21 or spouse of an individual listed in paragraph (A) of this subsection.¶

(d) Effective May 21, 2022, through the end of their parole:¶

(A) An individual who was paroled into the U.S. between February 24, 2022, and September 30, 2023, and meets one of the following:¶

(i) Is a citizen or national of Ukraine. ¶

(ii) Last habitually resided in Ukraine.¶

(B) An individual who was paroled after September 30, 2023, and who is one of the following:¶

(i) An unmarried child, defined in section 101(b) of the Immigration and Nationality Act (INA) (8 U.S.C. § 1101(b)), under the age of 21.¶

(ii) The spouse of an individual listed in paragraph (A) of subsection (d).¶

(C) An individual who was paroled into the U.S. after September 30, 2023, and is one of the following:¶

(i) A parent, legal guardian, or primary caregiver of an unaccompanied refugee minor, as defined in section 412(d)(2)(B) of the INA (8 U.S.C. § 1522(d)(2)(B)).¶

(ii) An unaccompanied child, as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. § 279(g)(2)).

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.231, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826, H.R. 133, 116th Cong. (2019-2020), Public Law 117-43, H.R. 7691, 117th Cong. (2021-2022)

AMEND: 461-120-0345

RULE SUMMARY: OAR 461-120-0345 is being amended to remove the OSIPM and QMB program eligibility requirement to pursue Medicare and Tricare. It is also being amended to make more clear that not meeting the remaining health care coverage and cash medical support requirements results in loss or denial of eligibility. This clarification is being made by replacing the term "penalty" with eligibility language.

CHANGES TO RULE:

461-120-0345

Clients Required to Obtain Health Care Coverage and Cash Medical Support; OSIPM, QMB ¶

This rule explains the obligation of individuals applying for or receiving benefits under the OSIPM or QMB programs to obtain health care coverage and cash medical support for any individual receiving Medicaid under the state plan for which the individual can legally assign rights (see OAR 461-120-0310).¶

(1) Unless excused from the requirements of subsection (d) of this section or for good cause defined in OAR 461-120-0350:¶

(a) Individuals must cooperate with the Department and the Division of Child Support of the Department of Justice in establishing the identity of the parents (see OAR 461-001-0000) of any child (see OAR 461-001-0000) receiving Medicaid under the state plan for which the individual can legally assign rights.¶

(b) Individuals must cooperate with obtaining cash medical support.¶

~~(c) Each individual must make a good faith effort to obtain available coverage under Medicare. In the OSIPM program, the applicant is not required to enroll in Medicare Part A coverage if all of the following are true:¶~~

~~(A) The applicant will incur a cost for the coverage.¶~~

~~(B) The applicant is otherwise ineligible for QMB-BAS.¶~~

~~(C) The applicant does not have a service liability in excess of the Part A premium.¶~~

~~(d) The Department may not refer a case for medical support enforcement when the referral is based solely on health care services provided through an Indian Health Program to a child who is eligible for health care services from the Indian Health Service.¶~~

~~(2) Each individual must make a good faith effort to obtain available coverage under Tri-Care.¶~~

~~(3) To be eligible for the OSIPM program, once informed of the requirement, an individual who is able to must apply for, accept, and maintain cost-effective, employer-sponsored health insurance (see OAR 461-155-0360). The individual is not required to incur a cost for the health insurance.¶~~

~~(4) An individual who fails to meet an applicable requirement in sections (1), (2), or (3) of this rule is ineligible.¶~~

~~(5a) In the case of an individual failing to meet the requirements of section (1) of this rule, the Department applies the penalty shall deny or close program benefits after providing the client individual with notice and an opportunity to show the provisions of good cause (see OAR 461-120-0350 apply).¶~~

~~(6b) The penalty provided by this rule ends when the individual meets the requirements of this rule.¶~~

~~(7) The penalty loss of eligibility does not apply to individuals who are not legally able to assign rights on behalf of themselves.~~

Statutory/Other Authority: ORS 411.060, 411.070, 412.024, 412.049, 414.042

Statutes/Other Implemented: ORS 411.060, 411.070, 412.001, 412.024, 412.049, 414.025, 414.042, 42 CFR 433.147, 42 CFR 435.610

AMEND: 461-135-0010

RULE SUMMARY: OAR 461-135-0010 about assumed eligibility for medical programs is being amended to align with federal policy and MAGI policy to change the continuous eligibility period from 12 months to the end of the current renewal period for children losing eligibility for OSIPM. It is also being amended to distinguish assumed eligibility and continuous eligibility and correct rule text accordingly.

CHANGES TO RULE:

461-135-0010

Assumed and Continuous Eligibility for Medical Programs ¶¶

(1) This rule sets out when an individual is assumed eligible for certain medical programs because the individual receives or is deemed to receive benefits of another program. This rule also sets out when the eligibility (see OAR 461-001-0000) of an individual shall continue after they become ineligible.¶¶

(2) A pregnant individual who is eligible for and receiving benefits the day the pregnancy ends is ~~assumed~~continuously eligible for the OSIPM program until the last day of the twelfth month following the month in which the last day of the pregnancy falls.¶¶

(3) A pregnant individual who was eligible for and receiving medical assistance under the OSIPM program and becomes ineligible while pregnant is ~~assumed~~continuously eligible for Medicaid and can continue to receive OSIPM benefits until the last day of the twelfth month following the month in which the last day of the pregnancy falls.¶¶

(4) A child (see OAR 461-001-0000) born to an 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) or (d) of this section applies:¶¶

(a) A recipient of Supplemental Security Income (SSI) benefits who meets all non-financial requirements for the OSIPM program except citizen and noncitizen status. SSI recipients are presumed to meet all citizen and noncitizen status requirements for the OSIP program .¶¶

(b) An individual who meets all non-financial requirements for the OSIPM program except citizen and noncitizen 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 noncitizen 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.~~When eligibility for a child is redetermined and would result in a loss of eligibility for OSIPM prior to the end of the renewal month, the child remains continuously eligible for OSIPM through the end of the renewal month, 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) An 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, 42 CFR 435.926

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.404, 42 CFR 435.926

AMEND: 461-135-0700

RULE SUMMARY: OAR 461-135-0700 is being changed by permanent filing to make clear, for GA program eligibility, an individual must have adjusted income below the OSIPM adjusted income amount from OAR 461-155-0250, which is currently \$841 for a need group of one and \$1261 for a need group of two. It's also being amended by permanent filing to make clear that for GA eligibility, an individual must have countable income below the OSIP and OSIPM resource limit, excluding the limit for EPD, which is currently \$2,000 for a one-person need group and \$3,000 for a two-person need group.

CHANGES TO RULE:

461-135-0700

Specific Requirements; General 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 documentary 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 General 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 whose 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 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 411-030-0020).¶¶

(g) The individual must file a Supplemental Security Income (SSI) 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 (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 relating to obtaining SSI.¶¶

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

(j) 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 SSA 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, with the following asset limitations: ¶¶

(A) Individuals must have an adjusted income (see OAR 461-001-0000) below the amount listed under section (3) of OAR 461-155-0250.¶¶

(B) Individuals must meet the countable (see OAR 461-001-0000) resource limit under subsection (3)(a) of OAR 461-160-0015.¶¶

(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 SSA not to meet disability criteria at the initial or reconsideration level may continue receiving GA benefits until a decision or a recommended decision is issued by an SSA 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

AMEND: 461-135-0725

RULE SUMMARY: OAR 461-135-0725 is being amended to update terminology in the rule to more respectful terms, to italicize and reference the OAR of any defined term, and to clarify that the exclusions in (1)(d)(A) & (B) of the October 1, 2018 version of the rule do not apply to individuals in a nonstandard living situation (receiving long-term care services). The current language restricts certain long-term care applicants from EPD that were not intended to be restricted.

CHANGES TO RULE:

461-135-0725

Specific Requirements; OSIPM-EPD ¶¶

(1) To be eligible for the ~~OSIPM-EPD~~Oregon Supplemental Income Program Medical - Employed Persons with Disabilities (OSIPM-EPD) program, an individual must ~~meet all of the following:~~¶

(a) Have a disability, as defined in OAR 461-125-0370;¶

(b) Have adjusted income (see OAR 461-001-0000) below the limit provided in OAR 461-155-0250(6);¶

(c) Have employment as defined in OAR 461-001-0035. Once found eligible, a ~~client~~individual remains eligible under this subsection for the OSIPM-EPD program while not working if the employer treats the ~~client~~individual as an employee, such as when the ~~client~~individual is absent from the job under the provisions of the Family Medical Leave Act; ~~and.~~¶

(d) Not be assumed eligible for OSIPM, as defined in OAR 461-135-0010(6), ~~and.~~¶

(e) Except for those in a nonstandard living arrangement (see OAR 461-001-0000), not meet one of the following:¶

(A) The income requirements for OSIPM under section (3) of OAR 461-155-0250.¶

(B) The resource limits for OSIPM under section (3)(a) of OAR 461-160-0015.¶

(2) If an OSIPM-EPD ~~client~~participant becomes unemployed and meets all financial and non-financial eligibility requirements for OSIPM except for resources, the ~~client~~individual may retain eligibility for OSIPM-EPD for up to 12 months in order to spend down to the OSIPM resource limit. The individual must continue to meet all financial and nonfinancial eligibility factors for OSIPM-EPD except employment. The 12-month period begins the first of the month following the loss of employment.

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

Statutes/Other Implemented: ORS 409.010, 411.060, 411.404