

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

11/21/2022 6:02 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Proposing Annual Income Standard Changes for Qualified Medicare Beneficiaries Programs

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/18/2023 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: 01/05/2023

TIME: 12:30 PM - 2:00 PM

OFFICER: Meorah Solar

ADDRESS: Virtual Hearing - No Physical Location

Phone 1-971-277-2343, code 316 180 092#

Ask Hearings Officer for MS Teams link

Microsoft Teams, 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)

OAR 461-155-0290 about Income Standard; QMB-BAS, OAR 461-155-0291 about Income Standard; QMB-DW, and OAR 461-155-0295 about Income Standard; QMB-SMB, QMB-SMF, need to be amended because the Department is required to adjust its eligibility standards as a result of these congressionally approved changes. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the Federal Poverty Level effective March 1, 2023.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

U.S. Department of Health and Human Services Poverty Guidelines for 2023 available in January of 2023, here:
<https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

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

The Department estimates that the changes to these rules will not affect racial equity in Oregon.

FISCAL AND ECONOMIC IMPACT:

The Department is unable to estimate the fiscal impact of amending OAR 461-155-0290, 461-155-0921, and 461-155-0295 on the Department or to those receiving benefits because the Federal Poverty Level (FPL) amounts are not published until late January or February. In 2013, 2016, and 2017 the overall percentage of the FPL increase exceeded the Cost-Of-Living Adjustment (COLA) increases. From 2019 through 2021, the results depended upon the household size. In 2022, the overall FPL levels increased less than the Social Security Administration (SSA) COLA increase. For these reasons it is unclear whether the amendments will result in individuals newly becoming eligible for a Medicare Savings Program (MSP), individuals becoming eligible for better MSP benefits, or benefits being closed or reduced. The fiscal impact to the Department and to individuals applying for or receiving these benefits will be opposite, with a negative fiscal impact to individuals (from benefit reduction and closure) likely resulting in a positive fiscal impact to the Department, and a positive fiscal impact to individuals (from new benefit eligibility or eligibility increases) likely resulting in a negative fiscal impact to the Department. In 2022, the overall FPL levels increased less than the SSA COLA increase. If that happens again in 2023, it would result in a negative fiscal impact on some individuals receiving benefits as some with QMB benefits could be reduced to payment of Part B premiums only (they would lose coverage for all other Medicare-related out-of-pocket costs) and individuals receiving SMF benefits could lose coverage altogether. Individuals applying for the first time maybe be ineligible in 2023 when they may have been eligible in 2021 or even 2022. In order for recipients and applicants to avoid a negative fiscal impact, the FPL levels will have to increase much more dramatically than they have in past years in order to exceed the COLA percentage. The Department estimates no fiscal impact to 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

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? NO IF NOT, WHY NOT?

No RAC was used for these rule changes because each of them are routine annual income standard adjustments.

RULES PROPOSED:

461-155-0290, 461-155-0291, 461-155-0295

AMEND: 461-155-0290

RULE SUMMARY: OAR 461-155-0290 is being amended to adjust these standards to reflect the annual updates to the Federal Poverty Level that happens every March. These amendments are proposed to take effect March 1, 2023.

CHANGES TO RULE:

461-155-0290

Income Standard; QMB-BAS ¶

THIS RULE WILL BE AMENDED TO REFLECT FEDERAL POVERTY LEVEL STANDARDS PUBLISHED ANNUALLY. The adjusted income standard for the QMB-BAS program is 100 percent of the 20223 federal poverty level.¶

QMB-BAS Adjusted Income Standard¶

No. in Need Group Amount¶

1 \$1,133¶

2 1,526¶

3 1,920¶

4 2,313¶

5 2,706¶

6 3,100¶

7 3,493¶

8 3,886¶

9 4,280¶

10 4,673¶

Each additional person + 394

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

Statutes/Other Implemented: ORS 411.060, 411.070, 411.404, ORS 409.010, 42 CFR 400.200, 42 USC 1396d(p)

AMEND: 461-155-0291

RULE SUMMARY: OAR 461-155-0291 is being amended to adjust these standards to reflect the annual updates to the Federal Poverty Level that happens every March. These amendments are proposed to take effect March 1, 2023.

CHANGES TO RULE:

461-155-0291

Income Standard; QMB-DW ¶¶

THIS RULE WILL BE AMENDED TO REFLECT FEDERAL POVERTY LEVEL STANDARDS PUBLISHED ANNUALLY AND NOT YET RELEASED. The adjusted income standard for the QMB-DW program is 200 percent of the 2022~~3~~ federal poverty level (see OAR 461-155-0290).¶¶

QMB-DW Adjusted Income Standard¶¶

No. in Need Group Amount¶¶

| | |
|----------|-----------|
| 1 | \$2,265¶¶ |
| 2 | 3,052¶¶ |
| 3 | 3,839¶¶ |
| 4 | 4,625¶¶ |
| 5 | 5,412¶¶ |
| 6 | 6,199¶¶ |
| 7 | 6,985¶¶ |
| 8 | 7,772¶¶ |
| 9 | 8,559¶¶ |
| 10 | 9,345¶¶ |

Each additional person + 787

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

Statutes/Other Implemented: ORS 411.060, 411.070, 411.404, ORS 409.010, 42 CFR 400.200, 42 USC 1396d(s)

AMEND: 461-155-0295

RULE SUMMARY: OAR 461-155-0295 is being amended to adjust these standards to reflect the annual updates to the Federal Poverty Level that happens every March. These amendments are proposed to take effect March 1, 2023.

CHANGES TO RULE:

461-155-0295

Income Standard; QMB-SMB, QMB-SMF ¶¶

THIS RULE WILL BE AMENDED TO REFLECT FEDERAL POVERTY LEVEL STANDARDS PUBLISHED ANNUALLY AND NOT YET RELEASED. ¶¶

(1) Eligibility for QMB-SMB requires income greater than 100 percent (see OAR 461-155-0290) but less than 120 percent of the federal poverty level. The adjusted income standard for QMB-SMB is 120 percent of the 2022~~3~~ federal poverty level.¶¶

QMB-SMB Adjusted Income Standard¶¶

(Case Descriptor SMB) ¶¶

| No. in Need Group | Amount¶¶ |
|-------------------------|-----------|
| 1 | \$1,359¶¶ |
| 2 | 1,831¶¶ |
| 3 | 2,303¶¶ |
| 4 | 2,775¶¶ |
| 5 | 3,247¶¶ |
| 6 | 3,719¶¶ |
| 7 | 4,191¶¶ |
| 8 | 4,663¶¶ |
| 9 | 5,135¶¶ |
| 10 | 5,607¶¶ |

Each additional person + 472¶¶

(2) Eligibility for QMB-SMF requires income equal to or greater than 120 percent (see section (1) of this rule) but less than 135 percent of the federal poverty level. The adjusted income standard for QMB-SMF is 135 percent of the 2022~~3~~ federal poverty level.¶¶

QMB-SMF Adjusted Income Standard¶¶

(Case Descriptor SMF) ¶¶

| No. in Need Group | Amount¶¶ |
|-------------------------|-----------|
| 1 | \$1,529¶¶ |
| 2 | 2,060¶¶ |
| 3 | 2,591¶¶ |
| 4 | 3,122¶¶ |
| 5 | 3,653¶¶ |
| 6 | 4,184¶¶ |
| 7 | 4,715¶¶ |
| 8 | 5,246¶¶ |
| 9 | 5,777¶¶ |
| 10 | 6,308¶¶ |

Each additional person + 531

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

Statutes/Other Implemented: ORS 411.060, 411.070, ORS 409.010, 42 USC 1396a(10)(E)(iii) and (iv)