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Authorized Signature

Number: SS-PT-08-001

Issue Date: 12/20/2007

Topic: CAF Self-Sufficiency Programs Administrative Rules Manual Updates (including some Seniors and People with Disabilities programs)

Transmitting (check the box that best applies):

- New Policy
 Policy Change
 Policy Clarification
 Executive Letter
 Administrative Rule
 Manual Update
 Other: _____

Applies to (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County Mental Health Directors |
| <input checked="" type="checkbox"/> Area Agencies on Aging | <input type="checkbox"/> Health Services |
| <input checked="" type="checkbox"/> Children, Adults and Families | <input checked="" type="checkbox"/> Seniors and People with Disabilities |
| <input type="checkbox"/> County DD Program Managers | <input checked="" type="checkbox"/> Other (please specify): All Users of the CAF Self-Sufficiency Programs Administrative Rules Manual |

Policy/Rule Title:	Various Self-Sufficiency and Seniors and People with Disabilities programs Administrative Rules		
Policy/Rule Number(s):	Various (see below)	Release No:	ARM-46
Effective Date:	January 1, 2008 (unless otherwise noted)	Expiration:	N/A
References:			
Web Address:	http://www.dhs.state.or.us/policy/selfsufficiency/ar_search.htm http://dhsmanuals.hr.state.or.us/Adminrules/ManualLetters/RulesMnl46.htm		

Discussion/Interpretation:

OAR 461-001-0000, 461-135-0835, and 461-140-0220 are being amended and OAR 461-160-0855 is being adopted to implement a Long Term Care Partnership Program in Oregon. Under this program, a client in the Oregon Supplemental Income Program Medical (OSIPM - providing services to the aged and people with disabilities) who has purchased a qualified long term care insurance partnership policy and has received payments under that policy will receive two additional benefits when he or she applies for Medicaid. First, the client will receive a resource exclusion in the amount of the long term care payments that he or she has received. Second, the client will have an amount equal to the long term payments that he or she had received at Medicaid application protected from estate administration collection when he or she passes away. OAR 461-001-0000 is being amended to add a definition for "Qualified Partnership Policy." OAR 461-135-0835 is being amended to prohibit collection on a deceased client's estate in the amount of total payments received from a Qualified Partnership Policy at the time of Medicaid application. OAR 461-140-0220 is being amended to

specify that the amount of resources excluded due to payments received from a Qualified Partnership Policy can be transferred by the client without causing a Medicaid disqualification. OAR 461-160-0855 is being adopted to require exclusion of an amount of resources equal to the total amount of payments received by the client from a Qualified Partnership Policy at Medicaid application, and to cross-reference to the prohibition on estate collection in OAR 461-135-0835.

OAR 461-001-0035, 461-135-0725 and 461-155-0250 are being amended to clarify the Department's policy and implement changes to the OSIP/OSIPM Employed Persons with Disabilities (EPD) program. The "employment" eligibility requirement will only cover a person who pays Federal Insurance Contribution Act (FICA) taxes, Self-Employment Contribution Act (SECA) taxes, or shows clear and convincing evidence of self-employment. The current rule included anyone receiving credit for employment toward Social Security benefits. These changes eliminate the definition and references to "attached to the workforce".

OAR 461-025-0350 about withdrawals of hearing requests is being amended to implement HB 2423, 2007 Or. Laws, ch. 288 and adjust the process that applies to a client withdrawal from contested case. This amendment specifies when an individual may withdraw a request for hearing, the actions taken after a withdrawal occurs, and how an individual may cancel a withdrawal of a request for hearing.

OAR 461-115-0700 about required verification in the General Assistance(GA), General Assistance Medical (GAM), Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM) and Qualified Medicare Beneficiary (QMB) Programs is being amended to change the policy regarding the requirement to verify countable liquid resources. The rule is being amended to state that if total countable liquid resources for the financial group do not exceed \$1,250, verification of the value of the resource is generally not required.

OAR 461-120-0310 about clients who are required to assign support rights is being amended to make changes to the temporary rule that became effective October 1, 2007. The changes to OAR 461-120-0310 state that in order to be eligible for EXT (Extended Medical Assistance), MAA (Medical Assistance Assumed), MAF (Medical Assistance to Families), OHP-OPC (Oregon Health Plan coverage for children who qualify under the 100 percent income standard), OHP-OP6 (Oregon Health Plan coverage for children under age 6 who qualify under the 133 percent income standard), and the OSIPM (Oregon Supplemental Income Program Medical) programs, clients must assign support rights pursuant to this rule. Cash medical support received by the Department will be retained by the Department as is necessary to reimburse the Department for program medical assistance payments made on behalf of the Medicaid-eligible child in the filing group. Once yearly the remainder of the amount retained will be paid to the Medicaid-eligible child. This temporary rule was amended effective December 1, 2007.

OAR 461-130-0320 and 461-145-0130 are being amended to correct a rule reference and grammatical mistake and OAR 461-135-0839, 461-155-0640, and 461-185-0010 are being amended to correctly cite references to the Department and Divisions within the Department. These technical rule changes are being made under ORS 183.335(7) and will retain their previous effective date.

OAR 461-135-0780 (eligibility for Pickle Amendment clients in the OSIPM program), 461-155-0250 (income and payment standard for OSIP and OSIPM), 461-155-0270 (payment standard for OSIP and OSIPM clients in nonstandard living arrangements), 461-155-0300 (shelter-in-kind standard for OSIP, OSIPM, QMB), 461-160-0580 (excluded resource - community spouse provision in the OSIP and OSIPM programs except OSIP-EPD and OSIPM-EPD), and 461-160-0620 (income deductions and client liability for Long Term Care Services and Waivered Services) are being amended to adjust these standard to reflect the annual federal cost of living adjustments that happen every January.

These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living. OAR 461-155-0250 is also being amended to indicate that the allowances for clothing and personal incidentals apply to individual in a nursing facility, not individuals in long-term care. This rule is being further amended to remove the earnings standard for the OSIP/OSIPM EPD program as part of other rule changes designed to comply with federal requirements that apply to this program.

OAR 461-145-0030 about bank accounts is being amended to change the treatment of interest and dividends earned on funds in bank accounts in the Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM) and Qualified Medicare Beneficiary (QMB) Programs. The rule is being amended to state that interest and dividends earned on funds in a bank account are excluded as income.

OAR 461-145-0108 about dividends, interest, and royalties is being amended to change the treatment of interest and dividends earned on funds in bank accounts in the Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), and Qualified Medicare Beneficiary (QMB) programs. This rule is being amended to state that interest and dividends earned on funds in a bank account are excluded as income. Previously, in most circumstances, this income was counted as unearned income.

OAR 461-145-0180 about the treatment of family support payments is being repealed because family support payments no longer exist as a distinct category. Many of the payments that might have been considered "family support payments" are covered in OAR 461-145-0410 about the treatment of program benefits.

OAR 461-145-0220 is being amended to change the treatment of the value of a home in the General Assistance (GA), General Assistance Medical (GAM), Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM) and Qualified Medicare Beneficiary (QMB) programs during temporary periods of absence. This rule is being amended to expand an exclusion of the value of a home to cover temporary periods of absence if the absent client has provided evidence that he or she will return to the home. Currently, this exclusion only applies to single adults.

OAR 461-145-0580 about the treatment of veterans' benefits in the eligibility process is being amended to state that OSIP (Oregon Supplemental Income Program, OSIPM (OSIP Medical), and Title XIX waived service clients who receive a payment covering a previous period of eligibility and fail to turn over the payment to the Department are liable for an overpayment. This rule is also being amended to state that the recovery of other reimbursements to clients in other programs is the recovery of an overpayment. This rule is being further amended to reorganize and clarify the rule, update citations to excluded Vietnam veterans payments, and make the excluded Vietnam Veterans benefits consistent with the Family Services Manual and current practice.

OAR 461-150-0047 about budgeting income for cases in the Simplified Reporting System (SRS) is being amended to clarify that self employment income that has been annualized is not automatically recalculated at the time an Interim Change Report form is processed.

OAR 461-155-0320 State Family Pre-SSI/SSDI (SFPSS) is being amended to increase the payment standards in the SFPSS program. This increase is a result of an increase in social security benefits on January 1, 2008.

OAR 461-160-0040 is being amended to list specific situations in which child care is not covered in the ERDC-BAS (child care for working families), REF (Refugee), and TANF programs. These situations concern clients who work from home, are self-employed, provide child care in a residence,

or work for a non-certified child care provider in the provider's residence. This rule is also being amended to correct a mistaken reference to the REFM (Refugee Medical) program when the rule should state the REF program.

OAR 461-160-0055 is being amended to clarify the programs to which the rule applies and to clarify that in order to allow costs of an animal as a medical deduction in the Food Stamp program, the animal must have received special training to provide a service to the client. The term companion animal is also being removed because most companion animals are pets with no special training and will not be eligible for this deduction.

OAR 461-160-0410 is being amended to correct policy about the proration of deductions for filing groups in the Food Stamp program that contain unqualified, ineligible noncitizens. Currently, this rule requires proration when utility costs are billed to the noncitizen. This rule will be amended to indicate that costs are not prorated when billed to a noncitizen if the income of a filing group member who meets the citizenship or alien status requirement is used to pay the cost. The filing group consists of the household members whose circumstances are considered in the Food Stamp eligibility process. This rule is also being amended to add cross-references and follow standard formatting.

OAR 461-160-0415 about medical deductions in the Food Stamp program is being amended to state that medical costs paid via credit card are treated the same way as medical costs paid in full and that the resulting ongoing credit card payments are not allowable as ongoing medical costs. This rule is also being amended to state that medical costs that have been paid in a previous eligibility certification period are not allowable medical deductions. This rule is also being amended to add cross-references.

OAR 461-160-0550 about determining adjusted income for clients in the GA (General Assistance, currently closed), GAM (General Assistance Medical, currently closed), QMB (Qualified Medicare Beneficiaries) programs and for clients in the Oregon Supplemental Income Program (except OSIP EPD) and Oregon Supplemental Income Program Medical Program (except OSIPM EPD) who live in the community, do not receive SSI, and do not receive Title XIX waived services is being amended to add the allocation and deeming mechanisms of the federal regulations. Under this amendment, when an adult individual applies for Oregon Supplemental Income Medical (OSIPM) or Qualified Medicare Beneficiary (QMB) programs and has an ineligible spouse and ineligible children in the household, some of the income is allocated and deemed from the ineligible spouse to those children before it is considered in the eligibility determination for the applying adult. Under this amendment, if a child is applying, some of the income from the ineligible parents must be deemed to the children in the house who are not applying before it is considered as potential income to the child applicant.

OAR 461-165-0180, 461-165-0410, 461-165-0420, and 461-165-0430 are being amended to update cross reference cites - some OARs in Chapter 410 have been moved to Chapter 407. These edits are considered "technical" changes by the Secretary of State's Office so the effective date of these rules was not changed.

OAR 461-170-0130 about acting on reported changes in several medical programs and OAR 461-180-0085 about the effective date for a redetermination of eligibility in several medical programs are being amended to more clearly identify the other medical programs for which eligibility is reviewed prior to a reduction or closure of medical benefits.

OAR 461-175-0200 about the types of decision notices that are required in certain circumstances is being amended to implement HB 2423, 2007 Or. Laws, ch. 288, and restate the Department's policy about amending a decision notice, when a decision notice becomes void, and when no decision notice is needed. This rule is also being amended to replace old terminology with new terminology, to

add cross-references to other rules and laws and to follow standard formatting.

OAR 461-175-0270 about the types of notices sent to clients who start or change specific reporting systems is being amended to state more clearly that the continuing benefit decision notice is sent when the Department changes a client's reporting system. A client who receives a continuing benefit hearing notice may request continuing benefits while a hearing request is pending.

OAR 461-175-0340 about the type of decision notice that is required when an individual makes a voluntary decision to withdraw the individual's application or make a voluntary withdrawal or reduction in benefit amount is being amended to implement HB 2423, 2007 Or. Laws, ch. 288 and clarify Department policy when an individual notifies the Department that the individual wishes to withdraw his or her application for benefits or wishes to reduce or to no longer receive benefits. This amendment specifies that the Department sends a basic decision when a client withdraws a request for benefits. Under this amendment, to voluntarily reduce or close benefits, the individual completes a voluntary agreement. This amendment also specifies that voluntary agreement is a final order and states the grounds and time limits to set aside the agreement.

OAR 461-195-0501 is being amended to expand the scope of what is considered an overpayment, pursuant to ORS 411.640 as amended by HB 2191. The expanded definition covers misspent and misappropriated payments and failure to reimburse the Department when required by law. This rule is also being amended to define a fraud overpayment.

OAR 461-195-0511 about child care overpayments is being amended to expand the scope of what is considered a child care overpayment pursuant to ORS 411.640 as amended by HB 2191. The expanded definition covers misspent and misappropriated payments.

OAR 461-195-0521 about special rules for the calculation of overpayments is being amended as part of the implementation of HB 2191 which amended ORS 411.640. This rule is being amended to cover overpayments incurred when a client receives assistance payments from the Department and is also compensated from another source for the same services. This amendment clarifies the calculation of these types of overpayments. This amendment also clarifies how cash medical child support is treated.

OAR 461-195-0551 is being amended (as part of the implementation of HB2191) to address the authority of the Department to issue a notice of garnishment upon issuance of a warrant for the recovery of overpayments.

Implementation/Transition Instructions: N/A

Training/Communication Plan: N/A

Local/Branch Action Required: Review changes with staff who determine eligibility.

Central Office Action Required: N/A

Field/Stakeholder review: Yes No

If yes, reviewed by:

Filing Instructions: Please file this material, dated January 1, 2008, in your CAF Administrative Rules Manual. Record the insertion date on the Manual Letter Record sheet. Verify Policy Transmittals are filed in Release Number order.

Remove

461-001-0000
461-001-0035
461-025-0350
461-115-0700
Division 120 TOC
461-120-0310
461-130-0320
461-135-0725
461-135-0780
461-135-0835
461-135-0839
461-140-0220
Division 145 TOC
461-145-0030
461-145-0108
461-145-0130
461-145-0180
461-145-0220
461-145-0580
Division 150 TOC
461-150-0047
Division 155 TOC
461-155-0250 and 461-155-0270
461-155-0300
461-155-0320
461-155-0640 and 461-155-650
Division 160 TOC
461-160-0040 and 461-160-0055
461-160-0410 and 461-160-0415
461-160-0550
461-160-0580
461-160-0620
N/A
461-165-0180
461-165-0410 through 461-165-0430
Division 170 TOC
461-170-0130
461-175-0200
461-175-0270
461-175-0340
Division 180 TOC
461-180-0085
461-185-0010
461-195-0501 through 461-195-0521
461-195-0551

Insert

461-001-0000
461-001-0035
461-025-0350
461-115-0700
Division 120 TOC
461-120-0310
461-130-0320
461-135-0725
461-135-0780
461-135-0835
461-135-0839
461-140-0220
Division 145 TOC
461-145-0030
461-145-0108
461-145-0130
N/A
461-145-0220
461-145-0580
Division 150 TOC
461-150-0047
Division 155 TOC
461-155-0250 and 461-155-0270
461-155-0300
461-155-0320
461-155-0640 and 461-155-650
Division 160 TOC
461-160-0040 and 461-160-0055
461-160-0410 and 461-160-0415
461-160-0550
461-160-0580
461-160-0620
461-160-0855
461-165-0180
461-165-0410 through 461-165-0430
Division 170 TOC
461-170-0130
461-175-0200
461-175-0270
461-175-0340
Division 180 TOC
461-180-0085
461-185-0010
461-195-0501 through 461-195-0521
461-195-0551

If you have any questions about this policy, contact:

Contact(s):	See the Contact List in the Family Services Manual (section C of the Introduction chapter) for the appropriate analyst to contact with policy questions (http://www.dhs.state.or.us/policy/selfsufficiency/em_firstpage.htm). (If you have questions about the filing instructions, please contact Annette Tesch at 503-945-6067)		
Phone:		Fax:	
E-mail:			