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**Authorized Signature**

**Number:** SS-PT-08-017

**Issue Date:** 04/15/08

**Topic:** CAF Self-Sufficiency Programs Draft Administrative Rules

**Transmitting (check the box that best applies):**

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

**Applies to (check all that apply):**

- All DHS employees                     
  County Mental Health Directors  
 Area Agencies on Aging                     
  Health Services  
 Children, Adults and Families                     
  Seniors and People with Disabilities  
 County DD Program Managers                     
  Other (please specify):

Policy/Rule Title:	Draft Administrative Rules		
Policy/Rule Number(s):		Release No:	
Effective Date:	Planned to become eff. July 2008	Expiration:	
References:			
Web Address:	<a href="http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm">http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm</a>		

**Discussion/Interpretation:** This draft rule package is open for comment until 5:00p.m. on May 29, 2008.

OAR 461-001-0000 about the defined terms used in OAR Chapter 461 in the Department's public assistance, medical and food stamp programs is being amended to state how the term "initial month" is used in the General Assistance (GA), General Assistance Medical (GAM), Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) programs when calculating a disqualifying transfer of assets in OAR 461-140-0296.

OAR 461-025-0310 about hearing requests in the Department's public assistance, medical and food stamp programs and 461-025-0311 about continuing benefits pending a hearing in the Department's public assistance, medical and food stamp programs are being amended to comply with federal regulations by restating the Department's policy regarding when clients in the Refugee Assistance (REF) and Refugee Assistance Medical (REFM) are entitled to a hearing and entitled to continuing benefits pending a hearing.

OAR 461-025-0375 about the timeliness and effective date of final orders in contested cases involving the Department's public assistance, medical and food stamp programs is being amended to

restate the Department's policy regarding the timeliness and effective dates of final orders. This rule is also being amended to replace old terminology with new terminology, add cross-references to other rules and laws and follow standard formatting.

OAR 461-110-0410 about filing groups in the Department's Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM) and Qualified Medicare Beneficiaries, (QMB) programs is being amended to comply with federal Medicaid guidelines in the Social Security Administration's Program Operation Manual System SI 00501.010 by restating the Department's policy on who must be included in the filing group in the OSIP, OSIPM and QMB programs. Previously in the OSIP and OSIPM programs for applicants under the age of 18 in a standard living arrangement the filing group consisted of each parent in the household group, and for applicants age 18 and older the filing group consisted of the applicant and the spouse of the applicant. In the QMB program, in a standard and nonstandard living arrangement, the filing group consisted of the applicant and the spouse of the applicant, and children (under age 21) if the applicant chose to include them in the filing group, and for applicants under age 21 who were not assumed eligible, the filing group included the parents of the applicants. The rule is being amended to change the filing group composition by removing the reference to the age of the applicant in the OSIP and OSIPM programs and replacing it with the term "child" as defined in OAR 461-001-0000, and by removing the reference to the age of the child in the QMB program. The definition of a child (as per 461-001-0000) includes applicants under the age of 18, or under the age of 22 and attending full time secondary, post secondary or vocational-technical training designed to prepare the applicant for employment.

OAR 461-110-0530 about the financial group in the Department's public assistance, medical and food stamp programs is being amended to restate the Department's policy regarding financial group composition in the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) for nonstandard living situations when there is a community spouse. The rule change clarifies that the community spouse is not included in any other eligibility group.

OAR 461-115-0030 about the date of request in the Department's public assistance, medical and food stamp programs is being amended to restate Department policy regarding the date of request for the Oregon Health Plan (OHP) medical programs. This rule is being amended by removing the statement that a new date of request is established if the completed OHP application is received by the department more than 30 days after the original date of request.

OAR 461-115-0050 about when an application must be filed in the Department's public assistance, medical and food stamp programs is being amended to make permanent a temporary rule amended January 28, 2008 and to restate the Department's requirements related to applying for the Oregon Health Plan standard (OHP-OPU). This rule is being amended to require completion of an application in order to be considered for the OHP-OPU medical program. Currently OHP Standard program applicants whose children or spouse are already receiving medical benefits from the Department of Human Services are not required to complete a new application when requesting OHP Standard benefits for themselves. The rule is being amended to require completion of the "OHP Standard Reservation List Application - OHP Application" (OHP 7210R) in order to be considered for OHP Standard. The OHP 7210R will be mailed to individuals on the OHP Standard Reservation List. Depending upon their placement on the list and the funds available for new enrollees, individuals with a reservation may be mailed an OHP 7210R. Requesters who are mailed the OHP 7210R may be considered for the OHP Standard program.

OAR 461-115-0651 about required verification in the food stamp program is being amended to correctly state the Department's policy on required verification. This amendment removes the requirement to verify Oregon residency, and requires all countable income to be verified for reported

changes for cases in the change reporting system and at recertification for all food stamp cases. The amendment also corrects the policy for cases using the simplified reporting system by specifying that food stamp cases in which every member is elderly or disabled and has no earned income are not required to verify income in the sixth month of the certification period.

OAR 461-120-0120 about the alien status requirements in the (REF) Refugee Cash Assistance and (REFM) Refugee Medical Assistance programs; OAR 461-120-0125 about the alien status requirements in the public assistance, medical and food stamp programs other than Refugee Assistance (REF) and Refugee Assistance Medical (REFM); OAR 461-135-0082 about eligibility for Refugee Case Services, and 461-135-0900 about specific requirements for the Refugee Assistance (REF) and Refugee Assistance Medical (REFM) programs are being amended to make permanent temporary rules amended January 30, and February 22, 2008; to comply with Section 1244 of Public Law 110-181, National Defense Authorization Act for Fiscal Year 2008 by changing the eligibility period for Iraqi and Afghan special immigrants for REF, REFM, Employment- or Education-Related Day Care (ERDC), Temporary Aid for Needy Families (TANF), Medical benefits, and food stamp benefits and services. This rule is also being amended to replace old terminology with new terminology, add cross-references to other rules and laws and follow standard formatting.

OAR 461-120-0330 about the requirement to pursue asset in the Department's public assistance and medical programs is being amended to comply with 42 CFR 608 by adding an exception to the requirement to pursue assets when the client can show good cause.

OAR 461-120-0510 about the age requirements for clients to receive benefits in the Department's public assistance, medical and food stamp programs is being amended to restate the Department's age requirements to receive benefits in the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) programs and make the Department's rule consistent with agency practice by stating that clients under the age of 18 can receive OSIPM-AD even if they do not have SSI. This rule is also being amended to make the Department's rule consistent with agency practice by removing references to Oregon Food Stamp Employment Transition Program, (OFSET). This rule is also being amended to replace old terminology with new terminology, add cross-references to other rules and laws and follow standard formatting.

OAR 461-130-0325 about participation requirements in the Food Stamp, Refugee Assistance (REF) and Temporary Aid to Needy Families (TANF) programs is being amended to clarify that in the Food Stamp program, the job quit provisions do not apply when an employer reduces work hours.

OAR 461-135-0010 about assumed eligibility for medical programs is being amended to restate the Department's policy regarding individuals who are assumed eligible for the Department's Oregon Supplemental Income Program Medical (OSIPM) program. This rule is being amended to provide that individuals who receive SSI or are deemed eligible for SSI under Section 1619(a) or (b) of the Social Security Act are not assumed eligible for Medicaid if the individual is married and the couple's combined resources cause the client's countable resources to exceed the resource limit using the calculation in OAR 461-160-0580. This rule is also being amended to replace old terminology with new terminology, add cross-references to other rules and laws and follow standard formatting.

OAR 461-135-0400 about specific requirements in the Employment- or Education-Related Day Care (ERDC) program and OAR 461-165-0190 about payments for child care in the ERDC, Job Opportunity and Basic Skills (JOBS), OFSET and Temporary Aid for Needy Families (TANF) programs are being amended to make the Department's rules consistent with agency practice by removing reference to Oregon Food Stamp Employment Transition Program (OFSET) Child Care and OAR 461-001-0020 because OFSET Child Care funding was made obsolete in October of 2005.

OAR 461-135-0570 about the eligibility of students in the Food Stamp program is being amended to restate the Department's policy on eligibility for higher education students who live in a dormitory or other living situation with meal plans by treating all students who have meal plans similarly.

OAR 461-135-0750 about the eligibility for individuals in long-term care or waived services in the Oregon Supplemental Income Program (OSIPM) is being amended to clarify current policy regarding eligibility for OSIPM for individuals receiving long-term care or waived services. Additionally, the rule is being amended to add OSIPM eligibility for certain children who meet the service eligibility standards for the Medically Involved Children's Waiver, and certain individuals residing in a community-based setting covered by the Independent Choices Program. This rule is being amended to implement the requirements of HB 2406 (2007) and the Medically Involved Children's Waiver. This rule is also being amended to make permanent a temporary rule amended April 7, 2008. This rule is also being amended to replace old terminology with new terminology, add cross-references to other rules and laws and follow standard formatting.

OAR 461-135-0780 about eligibility for Oregon Supplemental Income Program Medical (OSIPM) program for clients who are eligible under the Pickle Amendment is being amended to clarify and correct the eligibility calculation. This amendment to this rule provides that after the client's current social security benefit amount is multiplied by the decimal in the rule, the result must be rounded down to the next whole dollar amount. This amendment to this rule also provides that adjusted earned income (after earned income deductions) and not countable earned income (gross before deductions) is used in the calculation. This amendment to this rule also provides that the income standard to be used is the Supplemental Security Income (SSI) standard, rather than the OSIP standard. This rule is also being amended to replace old terminology with new terminology, add cross-references to other rules and laws and follow standard formatting.

OAR 461-135-0811 regarding Oregon Supplemental Income Program Medical (OSIPM, aid to the elderly and people with disabilities) for disabled widows/widowers who lost their SSI because the actuarial reduction for people under the age of 60 increased their widow/widower's benefits and resulted in terminating the SSI, is being repealed.

OAR 461-135-1102 about the effective dates for the OHP-OPU (usually referred to as OHP Standard) is being amended to make permanent a temporary rule amended January 28, 2008 and to state that the program is open to new applicants who qualify under OAR 461-135-1125 (the reservation list process). OHP Standard has been closed to some new enrollees since June 30, 2004.

OAR 461-135-1110 about eligible and ineligible students in the OHP-OPU program (Oregon Health Plan coverage for adults who qualify under the 100 percent income standard) is being amended to update the expected contribution level that makes some students ineligible for OHP. OHP Standard eligibility for full time higher education students includes a provision that the OHP Standard applicant must be eligible for a Pell Grant or have a Pell Grant Expected Family Contribution (EFC) less than the federal maximum established by the U.S. Department of Education. This rule is being amended to show the federal maximum for the 2008-2009 school year. The EFC maximum amount for an OHP Standard applicant must be less than \$4,042 for the 2008-2009 school year, a decrease from the 2007-2008 school year maximum of \$4,111.

OAR 461-135-1125 about the reservation list and eligibility for the OPU category of the Oregon Health plan (OHP-OPU or OHP Standard) is being adopted in order to make permanent a temporary rule adopted January 28, 2008 and later amended, and to reopen OHP-OPU to a limited number of new applicants, by specifying the Department's procedures for placing individuals on and selecting individuals from a reservation list. A reservation is a list of individuals who may be considered for the OHP-OPU program as a new applicant at such times as the Department determines that new

applicants may be added to the program. The list would be used to manage enrollment of new applicants into the program within the limits of program authority and funding.

OAR 461-135-1175 about the Department's Senior Farm Direct Nutrition Program (SFDNP) is being amended to comply with clarifications received from the United States Department of Agriculture, Food and Nutrition Service by restating the eligibility criteria for SFDNP. OAR 461-135-1175 is being amended to provide that in order to be eligible for SFDNP, the Department must receive the client's letter of interest no later than September 30 of any given year.

OAR 461-140-0010 about the availability of assets in the Department's public assistance, medical and food stamp programs is being amended to restate the Department's policy regarding when an asset may be excluded by specifying that an excluded asset remains excluded only while being used in the manner consistent with the rule that provided the exclusion.

OAR 461-140-0040 about the availability of income in the Department's public assistance, medical and food stamp programs is being amended to resolve an inconsistency in the Department's rule and make the Department's rule consistent with the Department's policy manual and practice by adding QMB to this list of programs where moneys withheld from or returned to the source of the income to repay an overpayment from that source are countable, even if the client does not receive the income.

OAR 461-140-0220 about determining whether a transfer of an asset is disqualifying in the Department's public assistance, medical and food stamp programs is being amended to restate the Department's policy on which transfers are disqualifying by adding a cross-reference to OAR 461-145-0390 about personal belongings. This rule is also being amended to replace old terminology with new terminology, add cross-references to other rules and laws and follow standard formatting.

OAR 461-140-0242 about disqualifying transfers of assets in the General Assistance (GA), General Assistance Medical (GAM), Oregon Supplemental Income Program (OSIP), and Oregon Supplemental Income Program Medical (OSIPM) programs is being amended to change the definition of a child for the purposes of determining whether a transfer of assets is disqualifying in the GA, GAM, OSIP and OSIPM programs. Previously, the definition included a step child. The rule is being amended so that the definition only includes natural or adoptive children under age 21, or children of any age who have been determined to meet the Department's blindness or disability criteria. This rule is also being amended to clarify current policy regarding transfers to children who meet Social Security Administration criteria for blindness or disability and to clarify that the definition of "child" in OAR 461-001-0000 does not apply to this rule.

OAR 461-145-0020 and OAR 461-145-0022 provide for the treatment of annuities in all Department programs. The rules are being amended for the Oregon Supplemental Income Program (OSIP-- assistance to the elderly and persons with disabilities), OSIP-Medical (OSIPM), and Qualified Medicare Beneficiary (QMB) programs, to state that when monthly payments from annuities are counted as unearned income, the income is attributed to the payee. These rules are also being amended to state that qualifying annuities must be actuarially sound by paying out over a period of time within three months of the actuarial life expectancy of the annuitant. The current version of these rules attributes the unearned income to the annuitant, and states that the annuity must pay out "within" the actuarial life expectancy of the annuitant. In addition, OAR 461-145-0022 is being amended to restate the Department's policy on how to treat annuities purchased before January 1, 2006.

OAR 461-145-0080 is being amended to clarify how child support and cash medical support is counted for on-going eligibility and benefit determination for TANF clients in the State Family Pre-

SSI/SSDI Program (SFPSS) and for TANF clients for whom deprivation is based on the unemployment or underemployment of both parents.

OAR 461-145-0090 about the consideration of income from disability insurance benefits in the Department's public assistance, medical and food stamp programs is being amended to align the policy with federal law as provided in 20 CFR 416.1110, 20 CFR 404.1051 and POMS SI 00820.005 by stating how disability payments are treated in the Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), and Qualified Medicare Beneficiaries, (QMB) programs. This rule is being amended to state that for OSIP, OSIPM, and QMB, disability insurance payments can be counted as earned income if the income is received within six months of stopping work and the employer has contributed to the insurance.

OAR 461-145-0261 about the treatment of Individual Development Accounts in the Department's public assistance, medical and food stamp programs is being adopted to state the Department's policy on the treatment of Individual Development Accounts.

OAR 461-145-0310 is about the treatment of life estates in real property in the Department's public assistance, medical and food stamp programs. This rule is being amended to clarify the Department's policy and make the Department's policy consistent with the Department's practice regarding the treatment of life estates in the Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), and Qualified Medicare Beneficiary (QMB) programs. OAR 461-145-0310 is being amended to clarify the treatment of life estates that are not disqualifying in the OSIP, OSIPM, and QMB programs. The rule is also being amended to specify the circumstances under which the value of a life estate may be considered unavailable. For the QMB program only, the rule is being amended to reflect current policy regarding the transfer of assets for less than fair market value. QMB is being removed from the programs affected by transfers for less than fair market value.

OARs 461-145-0490 about the treatment of Social Security benefits in the Department's public assistance, medical and food stamp programs and OAR 461-145-0510 about the treatment of SSI in the Department's public assistance, medical and food stamp programs are being amended to make the Department's policy consistent with its practice and consistent with federal policy by adding Qualified Medicare Beneficiaries (QMB) to the programs for which SSI and SSB lump-sum payments are not counted for a nine-month timeframe. QMB was inadvertently left out of the section of rule that directed the exclusion.

OAR 461-145-0560 is about the treatment reimbursements from the Federal Uniform Relocation Assistance Act and the Real Property Acquisition Policies Act of 1970 in the Department's public assistance, medical and food stamp programs. This rule is being amended to restate the Department's policy regarding the treatment reimbursements from the Federal Uniform Relocation Assistance Act and the Real Property Acquisition Policies Act of 1970. This rule is also being amended to replace old terminology with new terminology, add cross-references to other rules and laws and follow standard formatting.

OAR 461-145-0582 is about the treatment of victims' assistance payments in the Department's public assistance, medical and food stamp programs. This rule is being amended to restate the Department's policy for treatment of certain victim assistance programs in the General Assistance (GA) and General Assistance Medical (GAM) programs. This rule is also being amended to replace old terminology with new terminology, add cross-references to other rules and laws and follow standard formatting.

OAR 461-155-0180 is about the poverty related income standards for the Department's programs that use a monthly income standard based on the federal poverty level and OAR 461-155-0235 is about the premium standards for the Oregon Health Plan standard (OHP-OPU). These rules are being amended to reflect the annual increase in the federal poverty guidelines and to make permanent temporary rules amended January 24, 2008. The Department converts the annual poverty guidelines published in the Federal Register to a monthly, rounded amount and uses the result to determine the new income limits and amount of premium billed for each OHP Standard client who is required to pay a monthly premium. Some OHP Standard clients are exempt from the premium requirement.

OAR 461-155-0250 about the income and payment standards in the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) programs is being amended to provide correct figures related to income limits for the Employed Persons with Disabilities (EPD) program as a result of new Federal Poverty Level figures for 2008.

OAR 461-155-0270 about the maintenance standard for room and board and personal needs for the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) program is being amended to restate the Department's policy regarding the maintenance standard and make the Department's policy consistent with agency practice by adding the room and board standard and personal needs standard for children under the age 18. This rule is also being amended to replace old terminology with new terminology, add cross-references to other rules and laws and follow standard formatting.

OAR 461-155-0500 is the overview rule about special needs payments in the General Assistance (GA), General Assistance Medical (GAM), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), Refugee Assistance (REF), Refugee Assistance Medical (REFM), and Temporary Aid for Needy Families (TANF) programs. This rule is being amended to delete references to the special needs covered by the repealed rules (OAR 461-155-0650 and OAR 461-155-0690). This rule is also being amended to replace old terminology with new terminology, add cross-references to other rules and laws and follow standard formatting.

OAR 461-155-0650 and OAR 461-155-0690 are about the Oregon Supplemental Income Program (OSIP, aid to the elderly and people with disabilities), OSIP-Medical (OSIPM), General Assistance (currently closed), and GA-Medical (currently closed) programs, and provide for special needs payments under certain circumstances. OAR 461-155-0650 provides for payments when a client purchases meals and shelter when the provider offers no other services. OAR 461-155-0690 provides for payments when the client is looking for work or has a bona fide job interview. Both of these rules are being repealed because there are no longer any OSIP, OSIPM, GA, or GAM clients who meet the circumstances and have these needs, and who are receiving payments under these rules.

OAR 461-160-0010 about how resources are used to determine financial eligibility in the Department's public assistance, medical and food stamp programs is being amended to align it with federal policy and state how to treat resources when a child is applying for benefits by adding provisions that state which assets of an adult may be deemed available to children. This rule is also being amended to replace old terminology with new terminology, add cross-references to other rules and laws and follow standard formatting.

OAR 461-160-0550 about income deductions in the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) for clients who do not receive SSI, do not receive Title XIX waived services and who live in the community is being amended to specify that this rule applies when there are no children in the household and to clarify deductions and deeming for adults and children in the OSIP and OSIPM programs.

OAR 461-160-0551 about income deductions in the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) for clients who do not receive SSI, do not receive Title XIX waived services and who live in the community is being adopted to specify that this rule applies when there are children in the household and to clarify deductions and deeming for adults and children in the OSIP and OSIPM programs.

OAR 461-160-0620 about income deductions and client liability for long-term care and waived services is being amended to make a required, annual adjustment to the income protection requirements for Oregon Supplemental Income Program Medical (OSIPM) program, offered to married couples when one spouse remains at home and the other receives long-term care or community-based waived services. The amount of protection is based on the federal poverty guidelines for a two-person household. This increase will apply to the minimum income allowance (150 percent of the federal poverty guidelines for a couple) and the monthly housing allowance amount (30 percent of the minimum income allowance). This rule is also being amended to correct the term "gross income" to "countable income", because countable income is the term used and defined in Department rules.

OAR 461-160-0800 is about determining the participant fee in the Oregon Supplemental Income Program Employed Persons with Disabilities program (OSIP-EPD) and Oregon Supplemental Income Program Medical Employed Persons with Disabilities program (OSIPM-EPD). OAR 461-160-0810 is about determining *cost share* and room and board payments for OSIPM-EPD clients residing in a community-based care facility. OAR 461-160-0820 is about determining *cost share* for OSIPM-EPD clients residing in a nursing facility. OAR 461-160-0850 is about determining the post-eligibility premium for clients in the OSIP-EPD and OSIPM-EPD programs. OAR 461-160-0800 is being amended and OAR 461-160-0810, 461-160-0820, and 461-160-0850 are being repealed to eliminate the current cost share/premium calculation for the OSIP-EPD and OSIPM-EPD programs and create a four-tiered participant fee structure based on the OSIP-EPD and OSIPM-EPD participant's combined earned and unearned income.

OAR 461-175-0200 about notice requirements in the Department's public assistance, medical and food stamp programs is being amended to include notice requirements to support the Multnomah County and Deschutes County Pre-natal CAWEM Expansion Pilot Program. Citizen/Alien Waived Emergent Medical (CAWEM) benefits are limited to emergent medical needs. The Pre-natal CAWEM Expansion Pilot Program provides pre-natal benefits under an amendment to Oregon's State Children's Health Insurance Program (SCHIP) to pregnant women who would not otherwise receive pre-natal medical benefits under CAWEM. Adding the approval notice situation for pilot participants will allow the Department to notify the pregnant CAWEM Medicaid recipient that the pre-natal SCHIP benefits provided under the pilot will end when the pregnancy ends and that she will be eligible for CAWEM Medicaid benefits after the pregnancy ends.

OAR 461-180-0040 about the effective date for changes in special and service needs is being amended to clarify the Department's policy and make the Department's policy consistent with the Department's practice regarding effective dates for services and special needs.

In addition, the above rules may also be changed to reflect new Department terminology and to correct formatting and punctuation.

### **Implementation/Transition Instructions:**

### **Training/Communication Plan:**

**Local/Branch Action Required:**

**Central Office Action Required:**

**Field/Stakeholder review:**     Yes     No

**If yes, reviewed by:**

**Filing Instructions:** N/A

*If you have any questions about these draft rules, contact:*

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