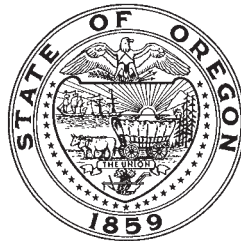


OREGON BULLETIN

Supplements the 2013 *Oregon Administrative Rules Compilation*

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Secretary of State
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INFORMATION ABOUT ADMINISTRATIVE RULES

General Information

The Administrative Rules Unit, Archives Division, Secretary of State publishes the Oregon *Administrative Rules Compilation* and the online *Oregon Bulletin*. The *Oregon Administrative Rules Compilation* is an annual print publication containing complete text of Oregon Administrative Rules (OARs) filed through November 15 of the previous year. The *Oregon Bulletin* is a monthly online supplement that contains rule text adopted or amended after publication of the print Compilation, as well as Notices of Proposed Rulemaking and Rulemaking Hearing. The Bulletin also includes certain non-OAR items when they are submitted, such as Executive Orders of the Governor, Opinions of the Attorney General and Department of Environmental Quality cleanup notices.

Background on Oregon Administrative Rules

ORS 183.310(9) defines “rule” as “any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.” Agencies may adopt, amend, repeal or renumber rules, permanently or temporarily (up to 180 days), using the procedures outlined in the *Oregon Attorney General’s Administrative Law Manual*. The Administrative Rules Unit assists agencies with the notification, filing and publication requirements of the administrative rulemaking process.

OAR Citations

Every Administrative Rule uses the same numbering sequence of a three-digit chapter number followed by a three-digit division number and a four-digit rule number (000-000-0000). For example, Oregon Administrative Rules, chapter 166, division 500, rule 0020 is cited as OAR 166-500-0020.

Understanding an Administrative Rule’s “History”

State agencies operate in an environment of ever-changing laws, public concerns and legislative mandates which necessitate ongoing rulemaking. To track changes to individual rules and organize the original rule documents for permanent retention, the Administrative Rules Unit maintains history lines for each rule, located at the end of the rule text. OAR histories contain the rule’s statutory authority, statutes implemented and dates of each authorized modification to the rule text. Changes are listed chronologically in abbreviated form, with the most recent change listed last. In the history line “OSA 4-1993, f. & cert. ef. 11-10-93,” for example, “OSA” is short for Oregon State Archives; “4-1993” indicates this was 4th administrative rule filing by the Archives in 1993; “f. & cert. ef. 11-10-93” means the rule was filed and certified effective on November 10, 1993.

Locating Current Versions of Administrative Rules

The online version of the OAR Compilation is updated on the first of each month to include all rule actions filed with the Administrative Rules Unit by the 15th of the previous month. The annual printed OAR Compilation volumes contain text for all rules filed through

November 15 of the previous year. Administrative Rules created or changed after publication in the print Compilation will appear in a subsequent edition of the online Bulletin. These are listed by rule number in the Bulletin’s OAR Revision Cumulative Index, which is updated monthly. The listings specify each rule’s effective date, rule-making action, and the issue of the Bulletin that contains the full text of the adopted or amended rule.

Locating Administrative Rule Publications

Printed volumes of the Compilation are deposited in Oregon’s Public Documents Depository Libraries listed in OAR 543-070-0000. Complete sets and individual volumes of the printed OAR Compilation may be ordered from the Administrative Rules Unit, Archives Division, 800 Summer Street NE, Salem, Oregon 97301, (503) 373-0701.

Filing Administrative Rules and Notices

All hearing and rulemaking notices, and permanent and temporary rules, are filed through the Administrative Rules Unit’s online filing system. To expedite the rulemaking process, agencies are encouraged to file a Notice of Proposed Rulemaking Hearing specifying hearing date, time and location, and to submit their filings early in the submission period. All notices and rules must be filed by the 15th of the month to be included in the next month’s Bulletin and OAR Compilation postings. Filings must contain the date stamp from the deadline day or earlier to be published the following month.

Administrative Rules Coordinators and Delegation of Signing Authority

Each agency that engages in rulemaking must appoint a rules coordinator and file an Appointment of Agency Rules Coordinator form with the Administrative Rules Unit. Agencies that delegate rule-making authority to an officer or employee within the agency must also file a Delegation of Rulemaking Authority form. It is the agency’s responsibility to monitor the rulemaking authority of selected employees and keep the forms updated. The Administrative Rules Unit does not verify agency signatures as part of the rulemaking process.

Publication Authority

The Oregon Bulletin is published pursuant to ORS 183.360(3). Copies of the original Administrative Orders may be obtained from the Archives Division, 800 Summer Street, Salem, Oregon, 97310; (503) 373-0701. The Archives Division charges for such copies.

The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division. Any discrepancies with the published version are satisfied in favor of the Administrative Order.

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OTHER NOTICES

NOTICE OF ROUTINE PROGRAM CHANGE FROM THE OREGON COASTAL MANAGEMENT PROGRAM

NOTICE: Pursuant to 15 CFR Section 923.84 (federal Coastal Zone Management Act regulations), notice is hereby given that the Oregon Department of Land Conservation & Development (DLCD) has submitted two routine program change requests to the federal Office of Ocean and Coastal Resources Management (OCRM). The requests seek to incorporate updates to the City of Coos Bay and City of North Bend Comprehensive Plans and zoning ordinances into the federally-approved Oregon Coastal Management Program (OCMP).

OCRM approved the incorporation of the City of Coos Bay plan and ordinance into the OCMP in 1986. OCRM approved the incorporation of the City of North Bend plan and ordinance into the OCMP in 1986. Since that time the cities have periodically approved updates to the plans and ordinances. DLCD is now submitting the current versions of these documents for OCRM's approval.

DLCD has determined that these updates constitute a routine program change to DLCD's federally-approved coastal management program because the actions do not make any substantial changes to any enforceable policies or authorities related to: (1) uses subject to management; (2) special management areas; (3) boundaries; (4) authorities and organization; or (5) coordination, public involvement and national interest. DLCD has requested that OCRM concur with this determination.

ADDITIONAL INFORMATION: Additional information and related documents are available on the OCMP website at: http://www.oregon.gov/LCD/OCMP/PublicNotice_Intro.shtml

COMMENTS: Comments regarding whether these program modification do or do not constitute routine program changes may be submitted to OCRM within three weeks of the date of this notice. Please send all notices to:

Ms. Joelle Gore
Coastal Programs Division
NOAA/OCRM/CPD
N/ORM3
1305 East-West Highway
Silver Spring, MD 20910

If you have questions regarding this notice, please contact DLCD at 503-934-0029.

REQUEST FOR COMMENTS DEQ PROPOSES PROSPECTIVE PURCHASER AGREEMENT CONSENT ORDER WITH 623 KLAMATH LLC

COMMENTS DUE: 5 p.m., Dec. 2, 2013

PROJECT LOCATION: Fashion Cleaners (former), 623 Klamath Ave., Klamath Falls

PROPOSAL: The Department of Environmental Quality proposes to enter into a prospective purchaser agreement consent order with 623 Klamath LLC to facilitate the sale and redevelopment of the property. 623 Klamath LLC will provide access to DEQ and its contractors and maintain the asphalt cap. The creation of additional downtown parking and redevelopment of the adjacent building has resulted in a substantial public benefit.

The consent order is a tool that facilitates the beneficial reuse of contaminated property and its cleanup and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing contaminated property. The prospective purchaser program was created in 1995 through amendments to the state's environmental cleanup law. DEQ has approved over 100 prospective purchaser agreements throughout the State.

HIGHLIGHTS: The site was a dry cleaning business from 1966 through September 1988 when a fire damaged the building. The dry cleaner used the solvent perchloroethylene (PCE) in their operations. PCE was detected in a monitoring well at an adjacent Unocal service station in August 1989. Samples were collected at Fashion Cleaners in 1990 and releases of PCE to soil and groundwater were documented. Investigations and cleanup actions have been per-

formed at the site by DEQ since the contamination was documented. The consent order will require 623 Klamath LLC to continue to allow DEQ access for on-going cleanup actions and to maintain the asphalt cap.

The proposed consent order will provide 623 Klamath LLC with a release from liability for claims by the State of Oregon under Oregon Revised Statute §465.255 relating to any historical releases of hazardous substances at or from the property. The proposed consent order will also provide 623 Klamath LLC with protection from potential contribution actions by third parties for recovery of remedial action costs associated with any historical releases at or from the property. DEQ retains all existing rights it may have as to all other parties potentially liable for any releases.

HOW TO COMMENT: Send comments by 5 p.m., Dec. 2, 2013, to DEQ Project Manager Katie Robertson by phone at 541-278-4620, by mail at 700 SE Emigrant, Suite 330, Pendleton, OR 97801, by e-mail at robertson.katie@deq.state.or.us or by fax at 541-278-0168. To access site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to www.deq.state.or.us/lq/ECSI/ecsi.htm, select "Search complete ECSI database" link, enter 1004 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 1004 in the Site ID/Info column. To review the project file, contact the project manager above for a file review appointment.

THE NEXT STEP: DEQ will consider all public comments received before making a final decision on the proposed consent order. DEQ will provide written responses to all public comments received.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. If you need information in another format, please contact DEQ toll free in Oregon at 800-452-4011, email at deqinfo@deq.state.or.us, or 711 for people with hearing impairments.

REQUEST FOR COMMENTS PROPOSED CLEANUP APPROVAL AT ALSCO IN NORTH PORTLAND

COMMENTS DUE: 5 p.m., Monday, Dec. 2, 2013

PROJECT LOCATION: 1441 N. Columbia Blvd., Portland

PROPOSAL: The Department of Environmental Quality proposes to issue a No Further Action determination based on results of site investigation and cleanup activities performed at the AlSCO site located at 1441 N. Columbia Blvd. in Portland. DEQ has determined that the cleanup is complete and residual solvent contamination does not pose risks to human health and the environment exceeding the acceptable levels defined in ORS 465.315. DEQ is also proposing to remove the facility from the CRL and Inventory lists as provided in ORS 465.230 and OAR 340-122-0070 through -0079.

HIGHLIGHTS: Oregon Laundry Services operated at the site from the early 1970s to 1986 and used a dry cleaning machine. AlSCO purchased the facility in 1986 and continued industrial laundry operations without dry cleaning. AlSCO was notified in an April 6, 2009 letter from DEQ that investigation at the adjacent Macadam Aluminum and Bronze Foundry property had detected the dry cleaning solvent tetrachloroethene, known as PCE, along the common property boundary, and that the AlSCO property would need to be investigated.

Investigation began in 2009 and a high concentration of PCE was found in soil gas, up to 5,900,000 micrograms per cubic meter and soil up to 2,680,000 micrograms per kilogram, in the area of the former Oregon Laundry Services dry cleaning machine. Building indoor air samples contained PCE at concentrations above DEQ risk levels. Groundwater monitoring wells were installed around the perimeter of the property but only minor groundwater contamination was found.

In 2011, a vapor extraction system was installed to remediate the shallow soil contamination. The system operated for one year and six months and confirmation samples of soil gas and indoor air were collected in 2012 and 2013. Final measured concentrations of ground-

OTHER NOTICES

water, soil gas, and indoor air contaminants were below risk levels for exposure to solvents from:

- Volatilization from groundwater to indoor air and inhalation by site workers
- Soil gas vapor intrusion to indoor air and inhalation by site workers
- Contact with groundwater by excavation workers
- Indoor air inhalation.

DEQ concludes that environmental conditions at the site do not pose an unacceptable risk to human health and the environment, and therefore, meet the requirements of the Oregon Environmental Cleanup Laws.

HOW TO COMMENT: The DEQ No Further Action Recommendation Memo and other project file information are available for public review, by appointment, at DEQ's Northwest Region Office, 2020 SW Fourth Avenue, Suite 400, Portland, Oregon, 97201. To schedule a file review appointment, fill out and submit the Records Request Form found at: <http://www.deq.state.or.us/records/RecordsRequestForm.pdf>. Summary information and documents mentioned above are available in DEQ's Environmental Cleanup Site Information database on the Internet; go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 5009 in the Site ID box and click submit" at the bottom of the page. Next, click the link labeled 5009 in the Site ID/Info column. Please send written comments to Project Manager Robert Williams, at the address listed above or to williams.robert.k@deq.state.or.us. To be considered, DEQ must receive written comments by 5 p.m., December 2, 2013. If DEQ receives a written request from ten or more people or from a group with a membership of 10 or more, DEQ will hold a public meeting to receive verbal comments.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above, before making a final decision regarding the No Further Action determination. In the absence of comments, DEQ will issue the No Further Action determination for the AlSCO site and remove it from the CRL and Inventory lists.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach 503-229-6488 or toll free in Oregon at (800) 452-4011; fax to 503-229-6945; or email to deqinfo@deq.state.or.us. People with hearing impairment may call 711.

A CHANCE TO COMMENT ON PROPOSED PARTIAL NO FURTHER ACTION DETERMINATION FOR THE AIR NATIONAL GUARD'S FORMER 104TH AIR CONTROL SQUADRON COOS BAY, OREGON

COMMENT PERIOD: November 1 to November 30, 2013

PROJECT LOCATION: Coos Head, ½ mile west of Charleston
PROPOSAL: Oregon Department of Environmental Quality (DEQ) invites public and Tribal Nation comment on the proposed No Further Action decision for cleanup of contaminated soil present at Area of Concern (AOC) B, AOC C - Outfall 1/Outfall 2/Building 13/Multiple Former Underground Storage Tanks (USTs), and AOC K.

BACKGROUND: The Former 104th Air Control Squadron (the Site) was located on 43 acres of land just north of the Cape Arago Highway about ½ mile east of Charleston, Oregon. The Site sits atop a bluff overlooking Coos Bay and Bastendorf Beach. The ANG occupied the property from 1987 to 1996. Prior to 1996, the property was used by the U.S. Navy and the U.S. Army. The property was transferred to the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians (CTCLUSI) in 2005.

During July and August of 2013, remedial action was taken on soil at the following locations:

1. AOC B – Wash Rack and Drain Line. Approximately 73 cubic yards of contaminated soil were excavated and transported to an off-site DEQ permitted landfill.

2. AOC C – Outfall 1 Approximately 18 cubic yards of contaminated soil would be excavated and transported to an offsite DEQ permitted landfill.

3. AOC C – Outfall 2. Approximately 284 cubic yards of contaminated soil were excavated and transported to an offsite DEQ permitted landfill.

4. AOC C – Building 13/Multiple Former USTs. Approximately 1,903 cubic yards of contaminated soil were excavated and transported to an offsite DEQ permitted landfill. Following excavation, contaminated groundwater underlying the excavation footprint was sparged (bubbled) with air to remove volatile organic contaminants.

5. AOC K – Fire Training Area. Approximately 116 cubic yards of contaminated soil were excavated and transported to an offsite DEQ permitted landfill.

Since 2005 the ANG has worked closely with representatives from the CTCLUSI, the DEQ, the Bureau of Indian Affairs (BIA), and the U.S. Navy to investigate soil and groundwater contamination at the Site.

Work continues at AOC C – Building 13/Multiple Former USTs and the area extending several hundred feet west to address groundwater contamination.

Project documents are available for review at:

DEQ – Eugene Office

Attn: Norman Read
165 E.7th Avenue
Eugene, OR 97401
Telephone: (541) 687-7348

HOW TO COMMENT: Please send written comments via letter or e-mail to:

Oregon DEQ
Attn: Norman Read
165 E.7th Avenue
Eugene, OR 97401
541-687-7348
Read.norm@deq.state.or.us

Oregon DEQ must receive written comments by November 30, 2013.

DEQ RECOMMENDS NO FURTHER ACTION FOR ASSESSMENT OR CLEANUP OF FORMER RAWLINSON DRY CLEANER SITE, SALEM, OREGON

PROJECT LOCATION: 1264 Broadway Street NE
Salem, Marion County, Oregon

SUMMARY: The Oregon Department of Environmental Quality is recommending No Further Action (NFA) for assessment or cleanup of historical contaminants at the former Rawlinson Dry Cleaner Site in Salem. DEQ is soliciting public comment on the recommendation. The following provides a short project summary and information on how to comment.

From the mid 1930's until 1991, the Rawlinson Dry Cleaner site operated as an industrial laundry facility. Stoddard solvent and Tetrachloroethene (PCE) was released to soil and groundwater from historical spills or inadequate handling practices. All dry cleaning equipment was removed from the site in 1993, after dry cleaning operations were terminated. Removal of several underground storage tanks (USTs) that contained solvents and petroleum and contaminated soil, followed in 1993.

Since about 2000, assessment and cleanup activities were performed during several events. Groundwater was monitored from about 2003 to 2012. A soil vapor extraction system was installed and operated for about 6 months in 2011 followed with several rebound monitoring events. The consultant for Rawlinson prepared a closure report in May 2013 presenting a residual risk assessment and supporting documentation for closure. DEQ agreed with the conclusions and prepared a staff report recommending No Further Action for assessment and cleanup. The report also supports DEQ's conclusions as to why residual contaminants at the site are below acceptable risk levels and that the site is protective of human health and the environment.

OTHER NOTICES

HOW TO COMMENT: The Closure Report and the Staff Report are available on line at <http://www.deq.state.or.us/lq/cu/index.htm> by entering the Site ID number 3312 in the Environmental Cleanup Site Inventory (ECSI) database. A file containing detailed information for the site is available for review in DEQ's office located in Suite 100 at 165 East 7th Avenue in Eugene. Comments need to be received by December 2nd at 5 pm by email or letter. Comments or questions should be directed to Bryn Thoms at DEQ's Eugene office at 541-687-7424 or toll-free in Oregon at 1-800-844-8467, extension 7424, or by email at thoms.bryn@deq.state.or.us.

DEQ RECOMMENDS NO FURTHER ACTION FOR ASSESSMENT OR CLEANUP OF FORMER UNOCAL TERMINAL NO. 0124, AREA 2, COOS BAY, OREGON

PROJECT LOCATION: 2315 North Bayshore Drive, Coos Bay, Coos County, Oregon

SUMMARY: The Oregon Department of Environmental Quality is recommending No Further Action (NFA) for assessment or cleanup of petroleum contamination in soil and groundwater at Area 2 of the Former Unocal Terminal in Coos Bay. DEQ is soliciting public comment on the recommendation. Area 2 is the shore area of the former terminal site. The following provides a short project summary and information on how to comment.

From 1935 to 2006 the terminal site was used for bulk petroleum distributio. Gasoline, Deisel, and Heavy Oil was historically released

to the subsurface at the terminal. Cleanup activities from 1998 to about 2009 were conducted across the site. In 2004, a sparge trench was installed in the bayshore soil in order to remediate contaminants migrating in groundwater towards the bay from the the main area of contamination west of the highway.

The upland area, designated as Area 1, received a No Further Action Determination in 2010 after excavation of contaminated soil. Additional assessment was conducted on Area 2. A closure request report was prepared by TRC for Area 2 in June 2012. The report requests a full NFA, but based on the potential for contaminated groundwater to discharge to the bay from a zone deeper than the shallow sparge trench, DEQ is not able to NFA potential discharge to the Bay. There is limited evidence either supporting or denying the issue. However, contaminants in soil and groundwater in Area 2 do not present an unacceptable risk to human health and the site can be issued a partial NFA. A staff memorandum was prepared by DEQ supporting the partial NFA recommendation.

HOW TO COMMENT: The Closure Report and the Staff Memo are available on line at <http://www.deq.state.or.us/lq/cu/index.htm> by entering the Site ID number 288 in the Environmental Cleanup Site Inventory (ECSI) database. A file containing detailed information for the site is available for review in DEQ's office located in Suite 100 at 165 East 7th Avenue in Eugene. Comments need to be received by December 2nd at 5 pm by email or letter. Comments or questions should be directed to Bryn Thoms at DEQ's Eugene office at 541-687-7424 or toll-free in Oregon at 1-800-844-8467, extension 7424, or by email at thoms.bryn@deq.state.or.us.

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

The following agencies provide Notice of Proposed Rulemaking to offer interested parties reasonable opportunity to submit data or views on proposed rulemaking activity. To expedite the rulemaking process, many agencies have set the time and place for a hearing in the notice. Copies of rulemaking materials may be obtained from the Rules Coordinator at the address and telephone number indicated.

Public comment may be submitted in writing directly to an agency or presented orally at the rulemaking hearing. Written comment must be submitted to an agency by 5:00 p.m. on the Last Day for Comment listed, unless a different time of day is specified. Oral comments may be submitted at the appropriate time during a rule-making hearing as outlined in OAR 137-001-0030.

Agencies providing notice request public comment on whether other options should be considered for achieving a proposed administrative rule's substantive goals while reducing negative economic impact of the rule on business.

In Notices of Proposed Rulemaking where no hearing has been set, a hearing may be requested by 10 or more people or by an association with 10 or more members. Agencies must receive requests for a public rulemaking hearing in writing within 21 days following notice publication in the Oregon Bulletin or 28 days from the date notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received by an agency, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

**Auxiliary aids for persons with disabilities are available upon advance request. Contact the agency Rules Coordinator listed in the notice information.*

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**Board of Nursing
Chapter 851**

Rule Caption: Removal of NLNAC acronym and minor edits

Date: 11-21-13 **Time:** 9 a.m. **Location:** 17938 SW Upper Boones Ferry Rd.
Portland, OR 97224

Hearing Officer: Kay Carnegie, Board President

Stat. Auth.: ORS 678.031, 678.150, 678.340, 678.360

Stats. Implemented: ORS 678.031, 678.150, 678.340, 678.360

Proposed Amendments: 851-021-0005, 851-021-0010, 851-021-0025, 851-021-0050, 851-021-0120

Last Date for Comment: 11-21-13, 5 p.m.

Summary: Name change by a national nursing accreditation agency specifically referenced in rule required removal of this name from the definitions and some rule sections. While making this needed change, minor edits were made to other sections including changes in position titles, rule reference numbers, and a line missing from one section since the last revision. No changes are considered substantive. Accreditation agencies are now referred to using a more generic term to prevent the need for rule changes when organizations make name changes.

Rules Coordinator: Peggy A. Lightfoot

Address: Board of Nursing, 17938 SW Upper Boones Ferry Rd., Portland, OR 97224

Telephone: (971) 673-0638

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Rule Caption: Correct accreditation agency language, standardize language with Division 56

Date: 11-21-13 **Time:** 9 a.m. **Location:** 17938 SW Upper Boones Ferry Rd.
Portland, OR 97224

Hearing Officer: Kay Carnegie, Board President

Stat. Auth.: ORS 678.150, 678.375, 678.380, 678.390

Stats. Implemented: ORS 678.150, 678.375, 678.380, 678.390

Proposed Amendments: 851-050-0000, 851-050-0001, 851-050-0002

Last Date for Comment: 11-21-13, 5 p.m.

Summary: Name change by a national nursing accreditation agency specifically referenced in rule required removal of this name from the definitions and some rule sections. Accreditation agencies are now referred to using a more generic term to prevent the need for rule changes when organizations make name changes. Work on a related Division showed need to standardize some definitions and language to provide clarity.

Rules Coordinator: Peggy A. Lightfoot

Address: Board of Nursing, 17938 SW Upper Boones Ferry Rd., Portland, OR 97224

Telephone: (971) 673-0638

.....

Rule Caption: Incorporation of rules to review/approved CNS education programs based on national standards and criteria

Date: 11-21-13 **Time:** 9 a.m. **Location:** 17938 SW Upper Boones Ferry Rd.
Portland, OR 97224

Hearing Officer: Kay Carnegie, Board President

Stat. Auth.: ORS 678.050, 678.150, 678.370, 678.372

Stats. Implemented: ORS 678.050, 678.150, 678.370, 678.372

Proposed Adoptions: 851-054-0030, 851-054-0035

Proposed Amendments: 851-054-0010, 851-054-0020, 851-054-0021, 851-054-0040

Last Date for Comment: 11-21-13, 5 p.m.

Summary: Rules for the review/approval of clinical nursing specialist programs are defined based on national standards and criteria for such programs at the graduate level. Name change by a national nursing accreditation agency specifically referenced in rule required removal of this name from the definitions and some rule sections. Accreditation agencies are now referred to using a more generic term to prevent the need for rule changes when organizations make name changes. Requirements for re-entry into this area of practice for those without an adequate number of practice hours were made more explicit.

Rules Coordinator: Peggy A. Lightfoot

Address: Board of Nursing, 17938 SW Upper Boones Ferry Rd., Portland, OR 97224

Telephone: (971) 673-0638

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Rule Caption: Incorporation of CRNAs and changes to dispensing rules based on statute changes from 2013 session

Date: 11-21-13 **Time:** 9 a.m. **Location:** 17938 SW Upper Boones Ferry Rd.
Portland, OR 97224

Hearing Officer: Kay Carnegie, Board President

Stat. Auth.: ORS 678.111, 678.113, 678.150, 678.285, 678.390

Stats. Implemented: ORS 678.111, 678.350, 678.370, 678.372, 678.375, 678.380, 678.385, 678.390

Proposed Amendments: 851-056-0000, 851-056-0004, 851-056-0006, 851-056-0008, 851-056-0010, 851-056-0012, 851-056-0014, 851-056-0016, 851-056-0018, 851-056-0020, 851-056-0022, 851-056-0026

Last Date for Comment: 11-21-13, 5 p.m.

Summary: Passage of two bills directly applicable to prescriptive authority for advanced practice nurses required changes in Division 56 Rules. New language is added to encompass the prescriptive authority granted by statute for certified registered nurse anesthetists (CRNAs). Specific criteria for dispensing authority were removed as they have been removed from statute. A few minor changes were made to correct dates and/or names of publications referred to in the rule.

Rules Coordinator: Peggy A. Lightfoot

Address: Board of Nursing, 17938 SW Upper Boones Ferry Rd., Portland, OR 97224

Telephone: (971) 673-0638

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Deletion of Department of Education exemption requirement and expanding Board options related to faculty qualifications

Date: 11-21-13 **Time:** 9 a.m. **Location:** 17938 SW Upper Boones Ferry Rd. Portland, OR

Hearing Officer: Kay Carnegie, Board President

Stat. Auth.: ORS 678.440, 678.442, 678.444 & 678.445

Stats. Implemented: ORS 678.440 & 678.444

Proposed Amendments: 851-061-0020, 851-061-0030, 851-061-0080, 851-061-0090

Last Date for Comment: 11-21-13, 5 p.m.

Summary: HB 2187A passed during the 2013 Legislative Session making the requirement for nursing assistant or medication aide training programs to apply for an exemption from the Department of Education no longer necessary. Thus this requirement is proposed to be removed from the current rules. Language is proposed to be added that gives the Board its full range of options related to approving licensed nurses for faculty positions. In addition, the program director's responsibility related to verifying student eligibility for medication aide or CNA 2 training is clarified.

Rules Coordinator: Peggy A. Lightfoot

Address: Board of Nursing, 17938 SW Upper Boones Ferry Rd., Portland, OR 97224

Telephone: (971) 673-0638

Rule Caption: Expanding Board options related to nursing assistant and medication aide applicants and updating references

Date: 11-21-13 **Time:** 9 a.m. **Location:** 17938 SW Upper Boones Ferry Rd. Portland, OR

Hearing Officer: Kay Carnegie, Board President

Stat. Auth.: ORS 678.440, 678.442, 678.444, & 678.445

Stats. Implemented: ORS 678.440 & 678.442

Proposed Amendments: 851-062-0010, 851-062-0050, 851-062-0080, 851-062-0130

Last Date for Comment: 11-21-13, 5 p.m.

Summary: Language is proposed to be added that gives the Board its full range of options related to approving applicants for a certified nursing assistant 1 (CNA 1), certified nursing assistant 2 (CNA 2), and certified medication aide (CMA). This proposed revision also removes the outdated reference to Senior and People with Disabilities and replaces it with the broader organizational name.

Rules Coordinator: Peggy A. Lightfoot

Address: Board of Nursing, 17938 SW Upper Boones Ferry Rd., Portland, OR 97224

Telephone: (971) 673-0638

Board of Pharmacy Chapter 855

Rule Caption: Adopt epinephrine and rules required by Legislature. Amend division 041, fee, pharmacist and RDF rules

Date: 11-21-13 **Time:** 9:30 a.m. **Location:** 800 NE Oregon St., Conference Rm. 1A Portland, OR 97232

Hearing Officer: Courtney Wilson

Stat. Auth.: ORS 291.055, 401.065, 433.441, 433.443, 475.035, 689.155, 689.205, 689.305, 689.315, OL 2013, Ch. 332, OL 2013, Ch. 340, OL 2013, Ch. 342, OL 2013, Ch. 367

Stats. Implemented: ORS 431.972, 676.200, 676.410, 689.135, 689.151, 689.155, 689.455, 689.645, 689.505, 689.515, 689.774, OL 2012, Ch. 34, OL 2013, Ch. 332, OL 2013, Ch. 340, OL 2013, Ch. 342, OL 2013, Ch. 367

Proposed Adoptions: 855-041-1001, 855-041-2300, 855-041-2310, 855-041-2320, 855-041-2330

Proposed Amendments: 855-007-0080, 855-011-0020, 855-019-0205, 855-019-0270, 855-019-0280, 855-041-1030, 855-041-1105, 855-041-4200, 855-110-0005, 855-110-0007

Last Date for Comment: 11-21-13, 4:30 p.m.

Summary: The 2013 Oregon Legislature required the Board of Pharmacy to adopt or amend rules relating to public health emergencies, bio similars, naloxone, and the Health Professional's Service Program (HPSP). For clarity, the Board is proposing to amend the name/title of Remote Dispensing Facility to be changed to Remote Distribution Facility. The Board is also proposing to adopt rules as they relate to epinephrine. Division 110 is being proposed for amendment to reflect the Remote Dispensing Facility name change and to reduce the score transfer and supervising physician dispensing outlet fees pursuant to ORS 291.055(3). Division 019 and 041 are being proposed for amendment to require a pharmacist and outlet to notify the Board within one business day in the event of significant drug losses or violations related to drug theft.

Copies of the full text of these rules can be obtained on the Board's website at www.pharmacy.state.or.us, or by calling the Board office at (971) 673-0001

Rules Coordinator: Karen MacLean

Address: Board of Pharmacy, 800 NE Oregon St., # 150, Portland, OR 97232

Telephone: (971) 673-0001

Board of Psychologist Examiners Chapter 858

Rule Caption: Modifies the foreign degree evaluation process.

Stat. Auth.: ORS 675.010-675.150

Stats. Implemented: ORS 675.030 & 675.110

Proposed Amendments: 858-010-0010, 858-010-0013, 858-010-0016, 858-010-0036

Last Date for Comment: 12-31-13, 5 p.m.

Summary: The proposed amendment changes the review process for applicants for licensure who possess a foreign degree. Evaluation will no longer be conducted by a Board approved credentialing body, but will instead be completed by the National Register of Health Service Psychologists. The amendment also makes other minor language changes to clarify that foreign training is accepted.

Rules Coordinator: LaRee Felton

Address: Board of Psychologist Examiners, 3218 Pringle Rd. SE, Suite 130, Salem, OR 97302

Telephone: (503) 373-1196

Bureau of Labor and Industries Chapter 839

Rule Caption: Amendments removing charge amendment restrictions, establishing procedural deadlines, conforming rules to Hearings Unit reorganization, clarifying

Stat. Auth.: ORS chapter 183; ORS 279C.817; 651.060(4); 658.407(3); 658.820; 659A.805

Other Auth.: SB 135, 77th Leg., Reg. Session (Or.2013) (abolishment of Wage and Hour Commission)

Stats. Implemented: ORS chapter 183; ORS 279C.815; 279C.860; 279C.860; 279C.885; 652.332(3); 653.065(1); 658.115; 659A.845; 659A.850

Proposed Amendments: 839-050-0000, 839-050-010, 839-050-0020, 839-050-0030, 839-050-0040, 839-050-0050, 839-050-0060, 839-050-0070, 839-050-0080, 839-050-0090, 839-050-0100, 839-050-0110, 839-050-0120, 839-050-0130, 839-050-0140, 839-050-0150, 839-050-0160, 839-050-0170, 839-050-0180, 839-050-0190, 839-050-0200, 839-050-0210, 839-050-0220, 839-050-0230, 839-050-0240, 839-050-0250, 839-050-0255, 839-050-0260, 839-050-0270, 839-050-0280, 839-050-0290, 839-050-0300, 839-050-0310, 839-050-0320, 839-050-0330, 839-050-0340, 0839-050-0350, 839-050-0360, 839-050-0370, 839-050-0380, 839-050-0400, 839-050-0410, 839-050-0420, 839-050-0430, 839-050-0440, 839-050-0445

Last Date for Comment: 11-21-13

Summary: The Agency proposes to amend OAR 839-050-0140 to mirror the rules of the Office of Administrative Hearings, which

NOTICES OF PROPOSED RULEMAKING

allow an agency to amend its charging document at any time prior to hearing without seeking the consent of the administrative law judge. Respondents would be permitted to respond to amendments.

The agency proposes to amend OAR 839-050-150, setting a deadline for filing motions for summary judgment at 21 days prior to hearing.

The amendments to OAR 839-050-0210 and OAR 839-050-0255 would set the deadline for filing case summaries at 14 days prior to the hearing date, providing uniformity among cases and clarity so that all participants may be aware of this important deadline.

During 2012, the agency's Hearings Unit was reorganized and renamed the Administrative Prosecution Unit. OAR 839 Division 50 rules still refer to the "Hearings Unit" and other terminology specific to the unit's former organization. The Agency proposes to define new terms and to otherwise amend the rules to reflect the unit reorganization and renaming.

The Agency proposes to amend rules to correct statutory references; to add clarifying language; to correct the source for obtaining Attorney General Model Rules; to clarify that declaratory ruling proceedings are governed by Attorney General Model Rules; to set out the types of cases brought by or on behalf of "aggrieved persons;" to delete references to the Wage and Hour Commission, which was abolished by SB 135.

Rules Coordinator: Marcia Ohlemiller

Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Telephone: (971) 673-0784

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Rule Caption: Implements legislation abolishing Wage and Hour Commission; modifies meal period requirement for minors

Stat. Auth.: ORS 651.060(4), 653.261

Stats. Implemented: SB 135, 77th Leg., Reg. Session (OL 2013); ORS Ch. 653

Proposed Amendments: 839-021-0006, 839-021-0067, 839-021-0070, 839-021-0072, 839-021-0087, 839-021-0097, 839-021-0102, 839-021-0104, 839-021-0175, 839-021-0220, 839-021-0221, 839-021-0246, 839-021-0248, 839-021-0255, 839-021-0265, 839-021-0280, 839-021-0290, 839-021-0292, 839-021-0294, 839-021-0297, 839-021-0315, 839-021-0320, 839-021-0325, 839-021-0330, 839-021-0335, 839-021-0340, 839-021-0345, 839-021-0350, 839-021-0355, 839-021-0360, 839-021-0365, 839-021-0370, 839-021-0490, Rules in 839-021.

Last Date for Comment: 11-22-13

Summary: The 2013 Regular Session of the Oregon Legislature abolished the Wage and Hour Commission and transferred its duties, functions, and powers to the Bureau of Labor and Industries. The proposed rule amendments would replace references to the Wage and Hour Commission with the Bureau of Labor and Industries. In addition, the proposed rule amendments would conform the meal period requirement for minor employees to that found in OAR 839-020-0050, which establishes the meal period requirement for adult employees.

Rules Coordinator: Marcia Ohlemiller

Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Telephone: (971) 673-0784

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Rule Caption: Implements legislation relating to direct deposit of wages and seasonal farmworker final wages

Stat. Auth.: ORS 651.060(4), 652.165

Stats. Implemented: HB 2683 & SB 677, 77th Leg., Reg. Session (OL 2013); ORS 652.110, 652.145

Proposed Amendments: 839-001-0440, 839-001-0450, Rules in 839-001

Last Date for Comment: 11-22-13

Summary: H.B. 2683 amended ORS 652.110 to permit an employer to pay an employee's wages without discount through the direct deposit of wages into the employee's account in a financial institu-

tion unless the employee requested to be paid by check. In addition, S.B. 677 amended ORS 652.145 to permit, under certain conditions, the payment of final wages to a seasonal farmworker by noon on the day after termination of employment. The proposed rule amendments would permit employers to make final payment of wages by direct deposit, unless an employee has requested to be paid by check, and to make payment of wages at termination for seasonal farmworkers at noon on the day following termination if conditions established by S.B. 677 are met.

Rules Coordinator: Marcia Ohlemiller

Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Telephone: (971) 673-0784

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Rule Caption: Removes references to the Wage and Hour Commission in rules governing child labor violations

Stat. Auth.: ORS 651.060(4), 653.525

Stats. Implemented: SB 135, 77th Leg., Reg. Session (OR 2013), ORS Ch. 653

Proposed Amendments: 839-019-0004, 839-019-0010, 839-019-0100, Rules in 839-019

Last Date for Comment: 11-22-13

Summary: S.B. 135, 77th Leg., Reg. Session (Or.2013) abolished the Wage and Hour Commission. The proposed amendments to rules governing civil penalties for violations of child labor regulations would be revised to remove references to the commission.

Rules Coordinator: Marcia Ohlemiller

Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Telephone: (971) 673-0784

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Rule Caption: Repeals rules governing the Wage and Hour Commission's gathering of information through subpoenas or testimony

Stat. Auth.: ORS 651.060(4), 653.525

Stats. Implemented: SB 135, 77th Leg., Reg. Session (OL 2013); ORS Ch. 653

Proposed Repeals: 839-022-0000, 839-022-0010, 839-022-0100, 839-022-0105, 839-022-0110, 839-022-0115, 839-022-0120, 839-022-0125, 839-022-0130, 839-022-0135, 839-022-0140, 839-022-0145, 839-022-0150, 839-022-0155, 839-022-0160, 839-022-0165, Rules in 839-022

Last Date for Comment: 11-22-13

Summary: S.B. 135, 77th Leg., Reg. Session (Or.2013) abolished the Wage and Hour Commission and repealed ORS 653.530, which authorized the commission to conduct investigations, issue subpoenas, obtain evidence, and take testimony in matters related to the commission's duties. OAR 839, division 22, implemented ORS 653.530 by establishing procedures for the issuance of subpoenas and the gathering of testimony through the commission. With the abolition of the Wage and Hour Commission and repeal of its authority to issue subpoenas and gather testimony, repeal of the related administrative rules is necessary. The proposed rule amendments would repeal procedures for the issuance of subpoenas and the gathering of testimony through the commission.

Rules Coordinator: Marcia Ohlemiller

Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Telephone: (971) 673-0784

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Rule Caption: Implements legislation related to prevailing wage law; clarifies fringe benefit contribution requirements

Stat. Auth.: ORS 651.060(4), 279C.808

Stats. Implemented: HB 2545 & HB 2646, 77th Leg., Reg. Session (OR 2013); ORS Ch. 279C

Proposed Amendments: 839-025-0004, 839-025-0010, 839-025-0013, 839-025-0020, 839-025-0035, 839-025-0043, 839-025-0085,

NOTICES OF PROPOSED RULEMAKING

839-025-0090, 839-025-0095, 839-025-0230, 839-025-0530, Rules in 839-025

Last Date for Comment: 11-22-13

Summary: The 2013 Regular Session of the Oregon Legislature enacted two pieces of legislation which require amendments to be made to the administrative rules governing the payment of prevailing wage rates on public works projects. First, the proposed rule amendments would add any member or manager of a limited liability company who is responsible for certain violations of the prevailing wage rate regulations to those persons who may be made ineligible to receive a public works contract. Second, the definition of a public works would be modified to include projects for the construction, reconstruction, major renovation or painting of a road, highway, building, structure, or improvement of any type that occurs, with or without using funds of a public agency, on real property that the Oregon University System or an institution of the Oregon University System owns. Additionally, revisions would be made to rules addressing the frequency of payments to fringe benefit plans. Under existing rule, contributions made by contractors to a bona fide fringe benefit plan are required to be made on a regular basis and not less often than quarterly. 839-025-0043 would be amended to define the terms “regular basis” and “not less often than quarterly;” 839-025-0530 would make clear that the failure to contribute fringe benefit wages timely to a plan on a “regular basis” and “not less often than quarterly” is a violation of the prevailing wage rate regulations for which a civil penalty may be assessed. 839-025-0035(8) would clarify that persons employed on a public works project for personal services, as that term is defined in ORS 279C.100(5), are not workers required to be paid the prevailing rate of wage.

Rules Coordinator: Marcia Ohlemiller

Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Telephone: (971) 673-0784

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Rule Caption: Removes references to the Wage and Hour Commission; clarifies timing of the meal period

Stat. Auth.: ORS 651.060(4), 653.040

Stats. Implemented: SB 135, 77th Leg., Reg. Session (OL 2013); ORS Ch. 653

Proposed Amendments: 839-020-0004, 839-020-0025, 839-020-0040, 839-020-0050, 839-020-0070, 839-020-1010, Rules in 839-020

Last Date for Comment: 11-22-13

Summary: S.B. 135, 77th Leg., Reg. Session (Or2013) abolished the Wage and Hour Commission, which necessitates the removal of references to the commission from OAR 839, division 20. In addition, 839-020-0050 would be amended to provide additional clarification concerning the timing of meal periods for employees subject to the provisions of the state’s minimum wage law.

Rules Coordinator: Marcia Ohlemiller

Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Telephone: (971) 673-0784

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Rule Caption: Amending and adopting rules to implement newly enacted whistleblower protection regarding election laws

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS SB 148, 77th Leg. Reg. Session (Or. 2013)

Proposed Adoptions: 839-010-0300, 839-010-0305, 839-010-0310

Proposed Amendments: 839-010-0000, Rules in 839-010

Last Date for Comment: 11-28-13

Summary: Proposed Amendments would clarify the purpose and scope of the rules in correctly stating the provisions of the Oregon Revised Statutes that are enforced. Newly adopted rules would implement newly enacted legislation extending whistleblower protections to disclosures regarding violations of election laws.

Rules Coordinator: Marcia Ohlemiller

Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Telephone: (971) 673-0784

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Rule Caption: Amendments to Division 839-003 reflecting commissioner complaint process and conforming civil action terms to statutes

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS Ch. 659A, ORS 654.062

Proposed Amendments: 839-003-0005, 839-003-0020, 839-003-0031, 839-003-0090, 839-003-0100, 839-003-0235, 839-003-0245

Last Date for Comment: 11-28-13

Summary: Currently OARs 839-003-0005, 839-003-0031, 839-003-0090, 839-003-0100 and 839-003-0245 include the term “complainant” but not the term “aggrieved person.” Proposed amendments to these rules would add “aggrieved person” to clarify that the Commissioner or the Attorney General, acting as the complainant, may bring complaints on behalf of aggrieved persons.

Currently OARs 839-003-0020 and 839-003-0235 use the term “civil suit” rather than “civil action” as used in the enabling statutes. Proposed amendments would conform the terminology of these rules with the statutes.

Rules Coordinator: Marcia Ohlemiller

Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Telephone: (971) 673-0784

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Rule Caption: Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS Ch. 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, 659A.320

Proposed Adoptions: 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

Proposed Amendments: 839-005-0003, 839-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0206, Rules in 839-005

Last Date for Comment: 11-28-13

Summary: Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term “complainant” with “aggrieved person” because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons.

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Career Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI’s standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee’s social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

NOTICES OF PROPOSED RULEMAKING

Rules Coordinator: Marcia Ohlemiller
Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232
Telephone: (971) 673-0784

Rule Caption: Amending, adopting and renumbering rules in Division 839-006 regarding disabilities

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103–659A.142; H.B. 2111, 77th Leg., Reg. Session (Or. 2013); HB 2668, 77th Leg., Reg. Session (Or. 2013); SB 610, 77th Leg., Reg. Session (Or. 2013)

Proposed Adoptions: 839-006-0291, 839-006-0292, 839-006-0345

Proposed Amendments: 839-006-0205, 839-006-0212, 839-006-0270, 839-006-0290, 839-006-0295, 839-006-0305, Rules in 839-006

Proposed Renumberings: 839-006-0332 to 839-006-0350

Proposed Ren. & Amends: 839-006-0307 to 839-006-0340

Last Date for Comment: 11-28-13

Summary: Proposed amendments to 839-006-0205 and 839-006-0212 would make the rules consistent with newly enacted legislation regarding substantial limitations.

Proposed amendments to 839-006-0270 and 839-006-0295 and adoption of 839-006-0292 would provide definitions for auxiliary aids and services for state government. Adoption of 839-006-0291 would provide clarification for reasonable modifications by state government. These are all consistent with the Americans with Disabilities Act and ORS 659A.139. Proposed amendments to 839-006-0290 would implement newly enacted legislation regarding places of public accommodation and state government.

Proposed amendments to 839-006-0305 would modify the definition of place of public accommodation consistent with newly enacted legislation.

Proposed amendments to and renumbering of 839-006-0307 to 839-006-0340 would reorganize the rule as theories of discrimination that apply to state government and places of public accommodation. The proposed amendments would also replace the term “complainant” with “individual” because the Commissioner and the Attorney General may bring complaints on behalf on individuals with disabilities

The proposed adoption of 839-006-0345 will provide information on assistance animals in places of public accommodation and state government, consistent with newly enacted legislation.

The proposed renumbering of 839-006-0332 to 839-006-0350, will move the existing rule without amendments, as the subject of the rule, requirements for transient lodging, is separate and not a part of the Oregon disability statutes.

Rules Coordinator: Marcia Ohlemiller
Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232
Telephone: (971) 673-0784

Rule Caption: Amending rules in Division 839-009 to add new statutory provisions, add a leave form, and make housekeeping edits

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.150-659A.186, 659A.043, 659A.046, HB 2950, 77th Leg., Reg. Session (Or. 2013), ORS 659A.270-659A.285, HB 2903, 77th Leg., Reg. Session (Or. 2013), ORS 659A.090- 659A.099, HB 3263, 77th Leg., Reg. Session (Or. 2013)

Proposed Amendments: 839-009-0210, 839-009-0230, 839-009-0240, 839-009-0250, 839-009-0325, 839-009-0340, 839-009-0362, 839-009-0363, 839-009-0430, Rules in 839-009

Last Date for Comment: 11-28-13

Summary: Proposed amendments to 839-009-0210, 839-009-0230, 839-009-0240, 839-009-0250 would implement newly enacted legislation on OFLA.

Further proposed amendments to 839-009-0210 would be for housekeeping and to make the definition of health care provider consistent with the statutes.

Proposed amendments to 839-009-0325, 839-009-0340, 839-009-0362, 839-009-0363 would implement newly enacted legislation regarding public employers with respect to victims under this section.

Proposed amendments to OAR 839-009-0325 would clarify what posting is required under newly enacted legislation. Currently 839-009-0325 does not include a posting requirement for ORS 659A.170 to 659A.285. Newly amended legislation creates this requirement.

Proposed amendments to 839-009-0340 would reflect newly enacted legislation and create consistency among the definitions of victim. Currently OAR 839-009-0340 includes definitions which are no longer consistent with newly enacted legislation. It also currently contains a definition of Victim of Harassment that is not consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Stalking.

Proposed amendments to 839-009-0430 would include an example request form for OMFLA which a covered employee may provide.

Rules Coordinator: Marcia Ohlemiller
Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232
Telephone: (971) 673-0784

Construction Contractors Board Chapter 812

Rule Caption: Implement 2013 Legislation, Housekeeping, New Endorsements, Contract Requirements, Home Energy Assessors, Worker Leasing Companies, EEAST

Date:	Time:	Location:
12-3-13	11 a.m.	West Salem Roths IGA Santiam Rm., 425 Glen Creek Rd., Salem, OR

Hearing Officer: Rob Yorke

Stat. Auth.: ORS 183.310 to 183.500, 183.310 to 183.545, 670.310, 670.605, 701.068, 701.088, 701.126, 701.235, 701.280, 701.305, 701.315, 701.320, 701.330, 701.335, 701.992

Other Auth.: Chapter 8 OR Laws 2013 (HB 2436), Chapter 168 OR Laws 2013 (SB 205), Chapter 196 OR Laws 2013 (HB 2268), Chapter 300 OR Laws 2013 (SB 207), Chapter 378 OR Laws 2013 (HB 2524)

Stats. Implemented: ORS 25.270, 25.785, 25.990, 470, 470.560, 670.310, 670.600, 670.605, 701.005, 701.035, 701.042, 701.046, 701.050, 701.056, 701.063, 701.068, 701.073, 701.081, 701.084, 701.088, 701.098, 701.100, 701.108, 701.119, 701.0122, 701.126, 701.131, 701.238, 701.305, 701.330, 701.335, 701.350, 701.355, 701.475 to 701.490, 701.480, 701.490, OR Laws ch. 753, OR Laws 2009 ch. 753, sections 42-46a, section 48 & section 49, OR Laws 2013, ch. 383.

Proposed Adoptions: Rules in 812-032, 812-032-0000, 812-032-0100, 812-032-0110, 812-032-0120, 812-032-0123, 812-032-0130, 812-032-0135, 812-032-0140, 812-032-0150

Proposed Amendments: 812-002-0120, 812-003-0131, 812-003-0152, 812-003-0153, 812-003-0171, 812-003-0175, 812-003-0180, 812-003-0221, 812-003-0240, 812-003-0250, 812-003-0260, 812-003-0290, 812-003-0310, 812-003-0320, 812-003-0390, 812-003-0400, 812-003-0430, 812-003-0440, 812-008-0030, 812-008-0040, 812-012-0110, 812-021-0005, 812-021-0021, 812-021-0045, 812-021-0047, 812-025-0000, 812-025-0005, 812-025-0010, 812-030-0000, 812-030-0240

Proposed Repeals: 812-003-0130, 812-003-0140, 812-003-0141, 812-003-0150, 812-003-0170, 812-003-0220

Last Date for Comment: 12-03-13, 11 a.m.

Summary: Amend rules to implement 2013 legislative changes.

NOTICES OF PROPOSED RULEMAKING

812-002-0120 is amended to implement OR Laws Ch. 378 (HB 2524) (2013) that increase the casual, minor or inconsequential work from \$500 to \$1,000.

812-003-0131 is amended to remove the reference to July 1, 2008, and to add the new endorsements Residential Locksmith Services Contractor, Home Inspector Services Contractor, Home Service Contractor, and Home Energy Performance Score Contractor to implement SB 207 and HB 2801.

812-003-0152 is amended to remove unnecessary references and to replace the reference to ordered with determined by the agency to reflect 2011 statute changes regarding the dispute resolution process.

812-003-0153 is amended to remove unnecessary references and to replace the reference to ordered with determined by the agency to reflect 2011 statute changes regarding the dispute resolution process.

812-003-0171 is amended to remove the reference to July 1, 2008, and to add the bond amounts for the new endorsements Residential Locksmith Services Contractor, Home Inspector Services Contractor, and Home Service Contractor to implement SB 207.

812-003-0175 is amended to remove a reference that has been repealed and to add reference to determination by the agency to reflect 2011 statute changes regarding the dispute resolution process, and updates cite references.

812-003-0180 is amended to add reference to determination by the agency to reflect changes made in 2011 to the statutes regarding the dispute resolution process.

812-003-221 is amended to remove the reference to July 1, 2008, and to add the new endorsements Residential Locksmith Services Contractor, Home Inspector Services Contractor, and Home Service Contractor to implement SB 207.

812-003-0240, 812-021-0021 are amended to implement OR Laws Ch. 196 (HB 2268) (2013) that changes the term licensed architect to registered.

812-003-0250 is amended to add reference to business entities that utilize one or more workers supplied by a worker leasing company to implement SB 207.

812-003-0260 is amended to add information required in new license applications for new contractor license endorsements created by SB 207 and HB 2801 (2013), and updates cite references.

812-003-0290 is amended to remove the reference to licenses renewing on or before July 1, 2008 since no such licenses remain.

812-003-0310 is amended to add reference to limited partnerships and conditions for entity to remain unchanged, hence qualifying for a valid license card. Implements SB 207 (2013).

812-003-0320 is amended to add reference to limited partnerships, which are a business entity that may operate as a contractor. Implements SB 207 (2013).

812-003-0390 is amended to add reference to determination by the agency to reflect changes made in 2011 to statutes regarding dispute resolution process.

812-003-0400 is amended to remove reference to ORS 701.085 which was renumbered to ORS 701.068.

812-003-0430 is amended to change the word claim to complaint and remove reference to commenced on or after January 1, 1998 since there are no longer any liens perfected or complaints subject to CCB jurisdiction that occurred before that date, and correct cite references.

812-003-0440 is amended to correct cite references.

812-008-0030 is amended to add reference to the new home inspection services contractor endorsement created by SB 207 (2013), adds provisions to clarify that persons who assign home energy performance scores are exempt from the rules governing home inspectors (SB 207) (2013), and adds provisions that home inspection services contractors are not required to complete continuing education (HB 2801) (2013).

812-008-0040 is amended to add the reference to the new home inspection services contractor endorsement created by SB 207

(2013), and adds the term individual before the word applicant to clarify that education is required of the individual, not the business.

812-012-0110 is amended to implement OR Laws Ch. 168 (SB 205) (2013) the agency, by rule, adopts the mandatory contract terms.

812-021-0005 is amended to add definition that employee includes leased workers from a licensed worker leasing company.

812-021-0045 is amended to allow contractor to claim continuing education complete by leased worker only if the leased worker completed the courses while leased to the contractor.

812-021-0047 is amended to allow only one contractor to claim continuing education credits earned by a leased worker.

812-025-0000 is amended to implement OR Laws Ch. 8 (HB 2436) (2013) changes that limit certification to primary contractors for EEAST certification.

812-25-0005 is amended to implement OR Laws Ch. 8 (HB 2436) (2013) by adding a definition for primary contractors in regard to EEAST certification.

812-025-0010 is amended provide that a licensed contractor may apply to CCB for certification to participate as a primary contractor in the construction of small scale local energy projects financed by the EEAST program. (HB 2436) (2013).

812-030-0240 is amended to remove reference to July 1, 2010 that is no longer necessary and to add reference to the new endorsement residential locksmith contractor created by SB 207 (2013).

Adopt rules to implement Ch. 383 OR Laws 2013 (HB 2801):

812-032-0000 is adopted to create definitions relating to home energy performance scores.

812-032-0100 is adopted to establish the application requirements to implement HB 2801.

812-032-0110 is adopted to establish the certificate requirements to implement HB 2801.

812-032-0120 is adopted to establish the requirements to issue certificates to individuals applying to renew a home energy assessor's certificate.

812-032-0123 is adopted to establish that CCB will issue a certificate and pocket card to qualified home energy assessors and establish a fee for replacement cards.

812-032-0130 is adopted to establish requirements for renewal of the home energy assessor certificates.

812-032-0135 is adopted to establish requirements for home energy assessors to keep CCB informed of their mailing and email address.

812-032-0140 is adopted to establish home energy assessor must be an owner or worker for a licensed contractor, and includes home energy performance score contractors.

812-032-0150 is adopted to establish fees for the initial application, initial issuance and renewal of home energy assessor certificates.

Repeal the following rules:

812-003-0130 is repealed because the rule is outdated CCB no longer has license categories.

812-003-0140 is repealed because it is no longer necessary as it applied to license applications, renewals and reissuance until June 30, 2010.

812-003-0141 is repealed because it is no longer necessary as it applied to four year licenses issued on or before July 1, 2008 and no such license exists.

812-003-0150 and 812-003-0170 are repealed because they are outdated and no longer necessary as it relates to bonds issued before July 1, 2008.

812-003-0220 is repealed because it is outdated, it relates to insurance amounts for licenses issued before July 1, 2008.

Rules Coordinator: Catherine Dixon

Address: Construction Contractors Board, 700 Summer St. NE, Suite 300, Salem, OR 97310

Telephone: (503) 934-2185

NOTICES OF PROPOSED RULEMAKING

Department of Administrative Services Chapter 125

Rule Caption: Amends and Repeals Department of Administrative Services Public Contracting Rules

Date:	Time:	Location:
11-15-13	1 p.m.	Conference Rm. B 155 Cottage St. NE, Salem, OR 97301

Hearing Officer: Jay Jackson

Stat. Auth.: ORS 184.305, 184.340, 279A.065, 279A.070, 279A.140

Other Auth.: OL 2013, Chapter 66; 42 USC 1320d-1320d-8; PL 104-191, sec. 262 & sec. 264

Stats. Implemented: ORS 192.519, 279A.020, 279A.025, 279A.030, 279A.050, 279A.055, 279A.065, 279A.070, 279A.075, 279A.140, 279A.180, 279A.200, 279A.205, 279A.210, 279A.215, 279A.220, 279A.225, 279A.990, 279B.005, 279B.025, 279B.050, 279B.065, 279B.070, 279B.270, 279B.280, 279C.100 -279C.125, 279C.110, 279C.307

Proposed Amendments: 125-055-0100, 125-055-0105, 125-055-0115, 125-055-0120, 125-055-0125, 125-055-0130, 125-246-0100, 125-246-0110, 125-246-0130, 125-246-0165, 125-246-0170, 125-246-0350, 125-246-0360, 125-246-0400, 125-246-0500, 125-246-0556, 125-246-0570, 125-246-0900, 125-247-0170, 125-247-0200, 125-247-0265, 125-247-0270, 125-247-0805, 125-248-0130

Proposed Repeals: 125-010-0005

Last Date for Comment: 11-15-13, 5 p.m.

Summary: Since 2005, the Department of Administrative Services (DAS) has developed and amended rules (Rules) to put into practice the Public Contracting Code, ORS 279 ABC (Code). The Rules apply to state agencies subject to DAS procurement authority (Agencies). In 2013, the Legislature made changes to select sections of the Code. In addition to the legislative changes to the Code, the Department of Justice and Agencies requested select Rule changes to streamline or reduce duplications. Now, in response to the legislative changes and requests for change from stakeholders, DAS needs to amend the select Rules listed above.

DAS also needs to amend the Rules to reflect the name change from State Procurement Office due to the reorganization of DAS effective July 1, 2012.

Rules Coordinator: Janet Chambers

Address: Department of Administrative Services, 155 Cottage St. NE, Salem, OR 97301

Telephone: (503) 378-5522

Department of Agriculture Chapter 603

Rule Caption: Adopts a quarantine for Rathayibacter Toxicus including methods for exclusion and for eradication if found.

Date:	Time:	Location:
11-21-13	10 a.m.	Oregon Dept. of Agriculture 151 Hawthorne St. Salem, OR

Hearing Officer: Gary McAninch

Stat. Auth.: ORS 561.190, 561.510-561.540, 561.990-561.995

Stats. Implemented: ORS 561.510-561.540

Proposed Adoptions: 603-052-1241

Last Date for Comment: 11-21-13, 5 p.m.

Summary: This rule establishes a quarantine against Rathayibacter Toxicus, the cause of bacterial gummosis of seed heads. This bacterium causes a disease that infects ryegrass and other grass species, severely limiting seed production. The bacterium also produces a toxin that can contaminate grass seeds, hay and other plant parts; the toxin can be fatal to mammals. Methods for exclusion of commodities potentially infected with this bacterium and procedures for eradication of incipient infections are prescribed in this quarantine.

Rules Coordinator: Sue Gooch

Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301

Telephone: (503) 986-4583

Department of Consumer and Business Services, Building Codes Division Chapter 918

Rule Caption: Creates additional requirements for municipality submitting a local amendment request

Stat. Auth.: ORS 455.030

Stats. Implemented: ORS 455.040

Proposed Amendments: 918-020-0370

Last Date for Comment: 11-22-13, 5 p.m.

Summary: Under the current rule, the division may approve requests from municipalities for ordinances that represent local amendments to the state building code. This proposed rule creates new provisions for a local amendment request when a municipality submits their request to the Building Codes Division.

Rules Coordinator: Richard J. Baumann

Address: Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309-0404

Telephone: (503) 373-7559

Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Update of Holding Company Rules Including Enterprise Report and Prior Notice of Acquisitions

Date:	Time:	Location:
11-25-13	2 p.m.*	Conference Rm. E Labor & Industries Bldg. 350 Winter St. NE Salem, OR

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 732.705

Other Auth.: Ch. 370, Oregon Laws 2013

Stats. Implemented: ORS 732.517-732.592

Proposed Adoptions: 836-027-0125, 836-027-0140

Proposed Amendments: 836-027-0005, 836-027-0010, 836-027-0030, 836-027-0035, 836-027-0045, 836-027-0050, 836-027-0100

Last Date for Comment: 12-2-13

Summary: * Note: The hearing will begin at 2 p.m. and end when all present who wish to testify have done so. If you wish to present testimony by telephone, please contact the Rules Coordinator at the number given at least 24 hours prior to the Hearing Date.

These proposed rules amend existing rules related to holding companies to incorporate changes necessary as a result of legislation passed by the 2013 Legislative Assembly. The major changes are to adopt the forms and requirements for an annual enterprise report for holding companies and the pre-acquisition notification required to be filed by a domestic insurer that is proposing a merger or acquisition or by a non-domiciliary insurer licensed to do business in this state. The rules are based on the National Association of Insurance Commissioners' Model Regulation #450, Insurance Holding Company System Model Regulation With Reporting Forms and Instructions. The proposed rules include the two new forms as exhibits.

Rules Coordinator: Victor Garcia

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Salem, OR 97301

Telephone: (503) 947-7260

Rule Caption: Revisions to Administrative Streamlining and Simplification Rules

Date:	Time:	Location:
11-25-13	10 a.m.*	Conference Rm. E Labor & Industries Bldg. 350 Winter St. NE, Salem, OR

NOTICES OF PROPOSED RULEMAKING

Hearing Officer: Jeannette Holman
Stat. Auth.: ORS 743.061, 731.244
Stats. Implemented: ORS 743.061
Proposed Amendments: 836-100-0100, 836-100-0105, 836-100-0110, 836-100-0115
Last Date for Comment: 12-2-13

Summary: * Note: The hearing will begin at 10 a.m. and end when all present who wish to testify have done so. If you wish to present testimony by telephone, please contact the Rules Coordinator at the number given at least 24 hours prior to the Hearing Date.

These rules adopt the newly developed Oregon Companion Guides X12N/005010X221 Health Care Payment/Advice (835) and X12N/005010X212 Claim Status Request and Response (276/277). The Oregon Health Authority has recommended adoption of these Companion Guides in furtherance of the state's goal of administrative streamlining in health care transactions as required under ORS 743.062. In addition to adding the new Companion Guide on Health Care Payment Advice, these proposed rules eliminate a waiver provision that becomes obsolete on January 1, 2014. The requirement to comply now specifies that use of the companion guides is required to the extent possible, thus eliminating the need for the waiver provision. The proposed rules also make minor, technical corrections to the rules.

The amendments to these rules will apply on and after January 1, 2014.

Rules Coordinator: Victor Garcia
Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Salem, OR 97301
Telephone: (503) 947-7260

Rule Caption: Limited License to Allow Owner of Self-Service Storage Facility to Sell Insurance to Occupants

Date:	Time:	Location:
12-12-13	10 a.m.*	Conference Rm. E, Labor & Industries Bldg. 350 Winter St. NE Salem, OR

Hearing Officer: Jeannette Holman
Stat. Auth.: ORS 731.244, 744.001, sect. 8, ch. 280, Oregon Laws 2013

Other Auth.: Sections 2 to 8, ch. 280, Oregon Laws 2013
Stats. Implemented: Sections 2 to 8, ch. 280, Oregon Laws 2013
Proposed Adoptions: 836-071-0405, 836-071-0410, 836-071-0415, 836-071-0420, 836-071-0425
Last Date for Comment: 12-16-13

Summary: * Note: The hearing will begin at 10 a.m. and end when all present who wish to testify have done so. If you wish to present testimony by telephone, please contact the Rules Coordinator at the number given at least 24 hours prior to the Hearing Date.

These proposed rules establish the application materials and requirements for a self-service storage owner to obtain a limited lines insurance license. The proposed rules also establish requirements for the maintenance of employee information and the required training program; and the limited license renewal process applicable to self-service storage facilities. The proposed rules are necessary to implement recent legislation enacted by the 2013 Legislative Assembly in House Bill 2845 (HB 2845).

Rules Coordinator: Victor Garcia
Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Salem, OR 97301
Telephone: (503) 947-7260

Rule Caption: Implementing State and Federal Health Insurance Reforms, Revise Reporting Mechanisms and Correct Obsolete Rule Language

Date:	Time:	Location:
12-4-13	9 a.m.*	Conference Room F 350 Winter St. NE Salem, OR

Hearing Officer: Jeannette Holman
Stat. Auth.: ORS 731.244, 731.296, 742.710, 743.018, 743.019, 743.020, 743.552, 743.526, 743.552, 743.560, 743.562, 743.566, 743.601, 743.610, 743.731, 743.751, 743.758, 743.766, 743.769, 743.790, 743.814, 743.818, 743.819, 743.822, 743.857, 743.858, 743.859, 743.861, 743.862, 743.893, 743.894, 743.911, 746.240 & 743A.168

Other Auth.: Chapter 681, Oregon Laws 2013 (Enrolled House Bill 2240)

Stats. Implemented: ORS 731.296, 732.820, 732.825, 737.205, 737.207, 737.710, 737.330, 742.001, 742.003, 742.005, 742.007, 743.015, 743.018, 743.019, 743.020, 743.499, 743.751, 743.522, 743.526, 743.552, 743.560, 743.562, 743.601, 743.610, 743.650, 743.652, 743.699, 743.730, 743.731, 743.734, 743.737, 743.745, 743.748, 743.751, 743.552, 743.754, 737.766, 743.767, 743.769, 743.733, 743.777, 743.801, 743.804, 743.806, 743.807, 743.814, 743.817, 743.818, 743.837, 743.857, 743.858, 743.859, 743.861, 743.862, 743.874, 743.876, 743.878, 743.782, 743.894, 743.911, 743.913, 746.015, 746.045, 746.055, 746.160, 746.240 & 743A.168, sect. 2, 3, 4, 5, 6 & 7, Ch. 681, OL 2013 (Enrolled House Bill 2240)

Proposed Adoptions: 836-010-0051, 836-053-0002, 836-053-0008, 836-053-0009, 836-053-0063, 836-053-0211, 836-053-0221, 836-053-0431, 836-053-0835, 836-053-1180, 836-075-0045

Proposed Amendments: 836-010-0011, 836-020-0770, 836-020-0775, 836-020-0780, 836-020-0785, 836-020-0806, 836-052-0676, 836-052-0800, 836-052-0860, 836-053-0001, 836-053-0003, 836-053-0005, 836-053-0007, 836-053-0021, 836-053-0030, 836-053-0050, 836-053-0065, 836-053-0070, 836-053-0410, 836-053-0415, 836-053-0465, 836-053-0471, 836-053-0475, 836-053-0825, 836-053-0830, 836-053-0851, 836-053-0900, 836-053-0910, 836-053-1000, 836-053-1020, 836-053-1030, 836-053-1035, 836-053-1070, 836-053-1080, 836-053-1100, 836-053-1110, 836-053-1130, 836-053-1140, 836-053-1170, 836-053-1190, 836-053-1200, 836-053-1315, 836-053-1320, 836-053-1325, 836-053-1330, 836-053-1335, 836-053-1340, 836-053-1342, 836-053-1345, 836-053-1350, 836-053-1355, 836-053-1360, 836-053-1365, 836-053-1400, 836-053-1410, 836-053-1415, 836-080-0050, 836-080-0055, 836-080-0080, 836-081-0005, 836-082-0050, 836-082-0055, 836-085-0001, 836-085-0005, 836-085-0010, 836-085-0825, 836-085-0035, 836-085-0045, 836-085-0050

Proposed Repeals: 836-052-0830, 836-053-0040, 836-053-0060, 836-053-0081, 836-043-0210, 836-053-0220, 836-053-0230, 836-053-0250, 836-053-0430, 836-053-0440, 836-053-0460, 836-053-0700, 836-053-0710, 836-053-0750, 836-053-0760, 836-053-0780, 836-053-0785, 836-053-0790, 836-053-0800, 836-053-1040, 836-053-1401, 836-100-0011, 836-100-0016, 836-100-0020, 836-100-0025, 836-100-0030, 836-100-0035, 836-100-0040, 836-100-0045

Proposed Renumberings: 836-053-0000 to 836-053-0472

Last Date for Comment: 12-9-13

Summary: * Note: The hearing will begin at 9 a.m. and end when all present who wish to testify have done so. If you wish to present testimony by telephone, please contact the Rules Coordinator at the number given at least 24 hours prior to the Hearing Date.

These rules implement changes to insurance regulation necessary to conform to state and federal health reform legislation including Enrolled House Bill 2240(2013 Legislative Session) and the federal Public Health Service Act as amended by the Affordable Care Act. The rules also implement changes to insurer communication requirements, reporting and external review processes. Finally the rules revise obsolete language to provide clarity. Some of the specific changes in, the rules include:

- Establish requirements for electronic reporting.
- Changes to coordination of benefits for individual coverage.
- Eliminate outdated insurer to insurer notice requirement.
- Define essential health benefits and make related changes.
- Establish modification requirements for health benefit plans.
- Changes to association, trust, and MEWA certification requirements.

NOTICES OF PROPOSED RULEMAKING

- Defining the Oregon Bronze and Standard plans.
- Streamline rules relating to underwriting and benefit design for small and large groups.
- Clarify rate filing requirements for grandfathered small group plans.
- Streamline rules relating to underwriting, enrollment, and benefit design for group health benefit plans including small group plans; to create new requirements for the crediting of creditable coverage; and to establish special enrollment provisions and effective dates of coverage.
- Revise creditable coverage requirements for individual and group health benefit plans.
- Provide for open and special enrollment provisions and effective dates of coverage for individual health benefit plans.
- Clarify distinctions between individual grandfathered and non-grandfathered health benefit plan rating requirements.
- Update various reporting requirements.
- Clarify grievance reporting requirements.
- Clarify and update provisions related to independent review requirements.
- Prohibit discrimination based on sexual orientation.
- Clarify the definition of “clean claim.”

The proposed rules also adopt changes to the rate filing rule that were previously adopted as a temporary rule on June 17, 2013. The temporary rules will expire on December 6, 2013, so the changes in these proposed rules will adopt that change permanently.

Rules Coordinator: Victor Garcia

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Salem, OR 97301

Telephone: (503) 947-7260

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Department of Consumer and Business Services, Oregon Occupational Safety and Health Division Chapter 437

Rule Caption: Propose to adopt federal amendments to consensus standards for signage in general industry and construction.

Stat. Auth.: 654.025(2) & 656.726(4)

Stats. Implemented: 654.001–654.295

Proposed Amendments: OAR 437-002-0005, 437-002-0080, 437-002-0140, 437-002-0300, 437-002-0312, 437-003-0001, 437-003-0420

Last Date for Comment: 11-29-13

Summary: This rulemaking is to keep Oregon OSHA in harmony with recent changes to Federal OSHA’s standards.

Oregon OSHA proposes to amend standards in Division 2, general industry, and Division 3, construction, to reflect federal OSHA updates published in the June 13, 2013 Federal Register. Federal OSHA updated its general industry and construction signage rules by adding references to the latest version of the American National Standards Institute (“ANSI”) standards on accident prevention signs and tags, ANSI Z535.1-2006 (R2011), Z535.2-2011 and Z535.5-2011. OSHA retained references to the earlier ANSI signage standards, ANSI Z53.1-1967, Z35.1-1968 and Z35.2-1968. This rulemaking provides employers the option to comply with either the earlier or updated standards.

Oregon-initiated rules will also be amended to reflect the newer ANSI references.

Please visit our web site www.orosha.org

Click ‘Rules’ in the left vertical column and view our proposed, adopted, and final rules.

Rules Coordinator: Sue C. Joye

Address: Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, 350 Winter St. NE, Salem, OR 97301-3882

Telephone: (503) 947-7449

Department of Energy Chapter 330

Rule Caption: Amends requirements for including green energy technology in new construction and renovation of public buildings.

Date:
12-11-13

Time:
9 a.m.

Location:
Oregon Department of Energy
625 Marion Street NE
Salem, OR 97301

Hearing Officer: Kacia Brockman

Stat. Auth.: ORS 469.040, 279C.528 & chapter 612, Oregon Laws 2013

Stats. Implemented: ORS 279C.527, 279C.528 & chapter 612, Oregon Laws 2013

Proposed Adoptions: 330-135-0060

Proposed Amendments: 330-135-0010 – 330-135-0045, 330-135-0050

Proposed Repeals: 330-135-0047

Last Date for Comment: 12-11-13, 5 p.m.

Summary: The primary purpose of these proposed rule amendments is to implement House Bill 3169, passed by the 2013 Oregon Legislative Assembly, which revised the requirements for public bodies to spend 1.5 percent of the total contract price for the construction, renovation or major remodel of a public building. Proposed amendments relate to requirements for installing green energy technology at an alternate site, deferring funds to a future project, and reporting project information. Additionally, the proposed amendments include editorial changes to clarify the roles and process for determining if green energy technology is appropriate at a site. A new section describing outreach to public bodies is also proposed.

The rules will become effective upon filing. Text of the proposed rules and hearing details can be found on the department website: <http://www.oregon.gov/energy/Pages/Rulemaking-Green-Energy-Technology.aspx>.

Rules Coordinator: Kathy Stuttaford

Address: Department of Energy, 625 Marion St. NE, Salem, OR 97301

Telephone: (503) 378-4040

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Rule Caption: Updates the list of state-regulated appliances, adds test methods and clarifies product certification process.

Date:
12-5-13

Time:
2 p.m.

Location:
Oregon Department of Energy
625 Marion Street NE
Salem, OR 97301

Hearing Officer: Kacia Brockman

Stat. Auth.: ORS 469.040, 469.225, 469.261 & chapter 418, Oregon Laws 2013

Stats. Implemented: ORS 469.229–469.261 & chapter 418, Oregon Laws 2013

Proposed Amendments: 330-092-0005 – 330-092-0055, 330-092-0070

Proposed Repeals: 330-092-0060, 330-092-0065

Last Date for Comment: 12-6-13, 5 p.m.

Summary: The primary purpose of these proposed rule amendments is to implement Senate Bill 692, passed by the 2013 Oregon Legislative Assembly, which established minimum energy efficiency standards for new televisions, battery charger systems and high light output double-ended quartz halogen lamps sold or installed in Oregon. Methods for testing the energy consumption of those three products are described in the proposed rules. The proposed rule amendments also update the list of products now subject to federal energy efficiency standards and therefore no longer subject to state regulation, and update and clarify the certification and compliance requirements for state-regulated equipment. Two sections regarding the department’s authority to postpone, adopt or update minimum energy efficiency standards are proposed to be repealed as they are redundant with statute.

NOTICES OF PROPOSED RULEMAKING

The rules will become effective January 1, 2014. Text of the proposed rules and hearing details can be found on the department website: <http://www.oregon.gov/energy/Pages/Rulemaking-Appliance-Standards.aspx>.

Rules Coordinator: Kathy Stuttaford

Address: Department of Energy, 625 Marion St. NE, Salem, OR 97301

Telephone: (503) 378-4040

Rule Caption: Residential Energy Tax Credit rule updating solar photovoltaic and stove incentives and other program aspects.

Date:	Time:	Location:
12-5-13	10 a.m.	Oregon Department of Energy 625 Marion Street NE Salem, OR 97301

Hearing Officer: Elizabeth Ross

Stat. Auth.: ORS 469.040, 469B.100, 469B.103, 469B.106, 469B.109; 469B.112, 316.116

Stats. Implemented: ORS 469B.100–469B.118, 316.116; 317.115

Proposed Amendments: 330-070-0014, 330-070-0020, 330-070-0021, 330-070-0022, 330-070-0025, 330-070-0026, 330-070-0029, 330-070-0064, 330-070-0073

Proposed Repeals: 330-070-0019

Last Date for Comment: 12-6-13, 5 p.m.

Summary: The proposed rule for the Residential Energy Tax Credit program assists and improves program administration, provides adjustments to the solar electric incentive rate and reworks the incentive calculation for wood and pellet stoves. The rule also clarifies pass-through requirements, updates rule language to disallow projects from receiving multiple incentives from the department, defines a single system and repeals and deletes sections of rule no longer applicable. For solar photovoltaic projects specifically, the proposed rule clarifies the itemized pricing needed for the application, adds a requirement for the department to verify the project's inverters and modules are listed on the California Electric Commission's list and adds an allowance for a third-party reservation to be transferred in limited situations. Lastly, the proposed rule includes housekeeping amendments to correct terminology, simplifies language and updates statutory references. The department requests public comment on the draft rule.

A call-in number is available for the public hearing, please see website for details and other materials: <http://www.oregon.gov/energy/CONS/Pages/Rulemaking-RETC.aspx>

Rules Coordinator: Kathy Stuttaford

Address: Department of Energy, 625 Marion St. NE, Salem, OR 97301

Telephone: (503) 378-4040

Rule Caption: Establishing Alternative Fuel Vehicle Revolving Fund program; revising Small Scale Local Energy Loan Program rules.

Date:	Time:	Location:
11-22-13	10 a.m.	Oregon Department of Energy 625 Marion Street NE Salem, OR 97301

Hearing Officer: Elizabeth Ross

Stat. Auth.: Oregon Laws 2013 ch. 774, sections 4 & 7; 469.040, 470.080, 470.140

Stats. Implemented: Oregon Laws 2013 ch. 774, sections 1–7; ORS 470.050–470.815

Proposed Adoptions: 330-110-0060

Proposed Amendments: 330-110-0010, 330-110-0040

Proposed Repeals: 330-110-0040(T)

Last Date for Comment: 11-25-13, 5 p.m.

Summary: Oregon Laws 2013, chapter 774, sections 1 through 7 (SB 583) establishes the Alternative Fuel Vehicle Revolving Fund to provide loans to Oregon's public bodies and federally recognized Indian tribes in Oregon. These loans assist in the purchase of new alternative fuel vehicles and help convert existing gasoline or diesel

vehicles to alternative fuels. The proposed rule provides the policies and procedures for the Alternative Fuel Vehicle Revolving Fund program. The proposed rules create procedures for the department to allocate monies for loans from the Alternative Fuel Vehicle Revolving Fund by outlining a prioritization process, if the program is oversubscribed. The rules adopt policies for establishing loan terms and interest rates to ensure that the objectives of SB 583 are met and adequate funds are maintained to meet future fund needs. The rules adopt procedures and standards necessary for the department to administer the Alternative Fuel Vehicle Revolving Fund program such as application contents, application processing procedures, reporting requirements and funding limits. The proposed rules amend the definition of "fleet" for the Small Scale Local Energy Loan Program to require a minimum of two (rather than three) vehicles. The proposed rules also adopt a temporary rule filed by the department on June 17, 2013 to clarify eligible uses of loan proceeds for Small Scale Local Energy Loan projects. The Agency requests public comment on these draft rules.

A call-in number is available for the public hearing, please see website for details: <http://www.oregon.gov/energy/pages/rulemaking-selp.aspx>

Rules Coordinator: Kathy Stuttaford

Address: Department of Energy, 625 Marion St. NE, Salem, OR 97301

Telephone: (503) 378-4040

Department of Environmental Quality Chapter 340

Rule Caption: Clean Water State Revolving Fund Longer-term Financing

Date:	Time:	Location:
11-19-13	11 a.m.	211 Stewart Ave. Suite 201 Medford ,OR
11-19-13	4 p.m.	211 Stewart Ave. Suite 201 Meford, OR
11-19-13	11 a.m.	475 NE Bellevue Dr., Ste. 110 Bend OR
11-19-13	4 p.m.	475 NE Bellevue Dr., Ste. 110 Bend OR
11-19-13	11 a.m.	811 SE Sixth Ave. Rm. EQC-A Portland OR
11-19-13	4 p.m.	811 SE Sixth Ave. Rm. EQC-A Portland OR
11-19-13	11 a.m.	700 SE Emigrant Ave., Ste. 330, Pendleton, OR
11-19-13	4 p.m.	700 SE Emigrant Ave., Ste. 330, Pendleton, OR
11-19-13	11 a.m.	165 East 7th Ave., McKenzie Rm., Eugene OR
11-19-13	4 p.m.	165 East 7th Ave., McKenzie Rm., Eugene OR
11-19-13	11 a.m.	381 N Second St., Conference Rm. Coos Bay, OR
11-19-13	4 p.m.	381 N Second St., Conference Rm. Coos Bay, OR

Hearing Officer: DEQ Staff

Stat. Auth.: ORS 468.020, 468.440

Stats. Implemented: ORS 468.423-468.440

Proposed Adoptions: 340-054-0071, 340-054-0072

Proposed Amendments: 340-054-0010, 340-054-0011

Last Date for Comment: 12-2-13, 5 p.m.

Summary: DEQ proposes new and amended rules for the Clean Water State Revolving Fund to allow public agencies a longer-term option for financing treatment works projects. The proposed financing option would allow DEQ to buy or refinance a public agency's debt obligation for treatment works projects in the form of a revenue bond for a term not to exceed 30 years.

The proposed option would benefit smaller and lower-income communities by spreading the debt repayment over a longer period, thereby decreasing the financial burden on residents.

NOTICES OF PROPOSED RULEMAKING

All new borrowers for new treatment works projects would have the option of the traditional CWSRF loan with terms up to 20 years or the new financing option of a bond purchase agreement with terms up to 30 years. Combining the two types of financing for new projects is not an option.

The proposed rules would limit refinancing of existing CWSRF treatment works loans to the most disadvantaged borrowers. Economic status and loan characteristic criteria would determine the borrower's eligibility. Refinancing would be a one-time, limited-period offer.

For both new and existing eligible borrowers, the proposed rules would add interest rate premiums to the current base rates for the longer-term financing option to protect the CWSRF fund's perpetuity. The proposed three-tiered interest rate premium ranges from 0 percent for the most disadvantaged communities to 0.5 percent for the least disadvantaged communities.

The proposed rules would not limit the amount of CWSRF funds allocated for longer-term financing. Prioritization for general longer-term financing allocation and for incentives and reserves such as green projects, small communities and principal forgiveness would not change from current rules.

Rules Coordinator: Maggie Vandehey

Address: Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204-1390

Telephone: (503) 229-6878

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Amendments to Rules for Commercial Recreational Groundfish Fisheries

Date:	Time:	Location:
12-6-13	8 a.m.	Sheraton Portland Airport 8235 NE Airport Way Portland OR 97220

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 596.138, 496.146, 496.162, 497.121, 506.036, 506.109, 506.119, 506.129, 508.530, 508.535, 508.550

Stats. Implemented: ORS 496.004, 496.009, 496.162, 506.109, 506.129, 508.025, 508.040, 508.550

Proposed Adoptions: Rules in 635-004, 006 & 039

Proposed Amendments: Rules in 635-004, 006 & 039

Proposed Repeals: Rules in 635-004, 006 & 039

Last Date for Comment: 12-6-13

Summary: These amended rules, as determined justified, will establish annual groundfish management measures and harvest limits for 2014 commercial and sport groundfish fisheries, and will require federal permit numbers to be recorded on fish receiving tickets for landings made in the commercial limited entry fixed gear sablefish fishery. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: Therese Kucera

Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 947-6033

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Rule Caption: Non Resident Uniformed Services Personnel Angling License Fees

Date:	Time:	Location:
12-6-13	8 a.m.	Sheraton Portland Airport 8235 NE Airport Way Portland, OR 97220

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.138, 496.146, 506.045, 506.119, 509.230

Stats. Implemented: ORS 496.162, 506.109, 506.129, 509.230, 2013 HB 2252

Proposed Adoptions: Rules in 635-011

Proposed Amendments: Rules in 635-011

Last Date for Comment: 12-6-13

Summary: These Oregon Administrative Rule amendments will implement changes to the fees charged for uniformed services members. The passage of HB 2252 (2013) allowed non-resident uniformed services personnel to pay the same rates as Oregon residents when purchasing angling and shellfish licenses from the Department. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: Therese Kucera

Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 947-6033

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Department of Geology and Mineral Industries
Chapter 632

Rule Caption: Amend OAR chapter 632, divisions 35 and 37 to Implement HB 2248 (2013)

Date:	Time:	Location:
12-5-13	10 a.m.	Albany Office 229 Broadalbin St. SW Albany, OR 97321

Hearing Officer: Gary Lynch

Stat. Auth.: ORS 516.090, 517.750-517.992

Stats. Implemented: ORS 517.750-517.992

Proposed Amendments: 632-035-0005 – 632-035-0060, 632-037-0005 – 632-037-0060, 632-037-0075 – 632-037-0085, 632-037-0095 – 632-037-0115

Last Date for Comment: 12-12-13

Summary: The proposed rule amendments implement HB 2248 (2013). The rules expand the application of the consolidated permitting process (in Division 37) to metal mines (other than placer mines) that use processing methods other than gravity separation and modify the fees and expense recovery provisions in the consolidate application process to be consistent with the statute. Also reflecting the changes from HB 2248, the proposed amendments (in Division 35) alter procedures for permitting of mines regulated under ORS 517.901 to 951 and make conforming amendments to provisions relating to fees and financial security for such mines. The proposed amendments in both rule divisions also address other relevant legislation enacted after the rules were adopted or last amended and make the rule language internally consistent and correct punctuation and grammar.

Rules Coordinator: Gary Lynch

Address: Department of Geology and Mineral Industries, 229 Broadalbin St. SW, Albany, OR 97321

Telephone: (541) 967-2053

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Department of Human Services,
Aging and People with Disabilities and
Developmental Disabilities
Chapter 411

Rule Caption: Homecare Workers Enrolled in the Consumer-Employed Provider Program

Date:	Time:	Location:
11-20-13	1:30 p.m.	500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020, 410.070, 410.612 & 410.614

Proposed Amendments: 411-031-0020, 411-031-0040, 411-031-0050

Proposed Repeals: 411-031-0020(T), 411-031-0040(T)

Last Date for Comment: 11-22-13, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to amend the rules in OAR chapter 411, division 031 relating to homecare workers enrolled in the Consumer-Employed Provider Program.

The proposed rules:

NOTICES OF PROPOSED RULEMAKING

- Make permanent the changes adopted by temporary rule that became effective on July 1, 2013;
- Permanently amend the definition of fiscal improprieties to protect a homecare worker employed by a relative from an allegation of fiscal improprieties;
- Remove references to waived services as appropriate, and as appropriate, replace the references with references to Medicaid home and community-based services in order to recognize services available through Medicaid waivers or under the Medicaid State Plan;
- Allow the Department to decide on a case-by-case basis whether to request a proposed order, final order, or proposed and final order when making referrals to the Office of Administrative Hearings when a homecare worker requests an administrative hearing based on the termination of his or her provider enrollment; and
- Reflect new Department terminology and correct formatting and punctuation.

Rules Coordinator: Christina Hartman
Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E-10, Salem, OR 97301-1074
Telephone: (503) 945-6398

Rule Caption: Long-Term Care Service Priorities
Date: 11-22-13 **Time:** 1 p.m. **Location:** 500 Summer St. NE Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.060, 410.070 & 414.065
Proposed Amendments: 411-015-0005, 411-015-0008, 411-015-0015, 411-015-0100
Proposed Repeals: 411-015-0005(T), 411-015-0008(T), 411-015-0015(T), 411-015-0100(T)
Last Date for Comment: 11-26-13, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to amend the rules for long-term care service priorities in OAR chapter 411, division 015.

- The proposed rules:
- Make permanent the changes adopted by temporary rule that became effective on July 1, 2013;
 - Clarify that natural supports are voluntary in nature, may not be assumed, and must have the skills and abilities to perform the services needed;
 - Remove references to waived services as appropriate, and as appropriate, replace the references with references to Medicaid home and community-based services in order to recognize services available through Medicaid waivers or under the Medicaid State Plan; and
 - Reflect new Department terminology and correct formatting and punctuation.

Rules Coordinator: Christina Hartman
Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E-10, Salem, OR 97301-1074
Telephone: (503) 945-6398

Rule Caption: Case Management Services for Older Adults and Adults with Disabilities
Date: 11-20-13 **Time:** 2 p.m. **Location:** Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070
Proposed Adoptions: 411-028-0000, 411-028-0010, 411-028-0020, 411-028-0030, 411-028-0040, 411-028-0050
Proposed Repeals: 411-028-0000(T), 411-028-0010(T), 411-028-0020(T), 411-028-0030(T), 411-028-0040(T), 411-028-0050(T)

Last Date for Comment: 11-22-13, 5 p.m.
Summary: The Department of Human Services (Department) is proposing to adopt rules for case management services for older adults and adults with disabilities in OAR chapter 411, division 028 to make permanent the temporary rules that became effective on July 1, 2013.

The proposed rules articulate who may provide case management services and to whom and how often case management services will be provided. The proposed rules ensure case management services support the independence, empowerment, dignity, and human potential of older adults and adults with disabilities with the purpose of helping them reside in their own home or in a community-based setting.

Rules Coordinator: Christina Hartman
Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E-10, Salem, OR 97301-1074
Telephone: (503) 945-6398

Rule Caption: Medicaid Home and Community-Based Services
Date: 11-20-13 **Time:** 4 p.m. **Location:** Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070
Proposed Amendments: 411-001-0510, 411-030-0070, 411-030-0100, 411-040-0000, 411-045-0010, 411-045-0050, 411-048-0150, 411-048-0160, 411-048-0170, 411-065-0000, 411-070-0033
Proposed Repeals: 411-001-0510(T), 411-030-0070(T), 411-030-0100(T), 411-040-0000(T), 411-045-0010(T), 411-045-0050(T), 411-048-0150(T), 411-048-0160(T), 411-048-0170(T), 411-065-0000(T), 411-070-0033(T)

Last Date for Comment: 11-22-13, 5 p.m.
Summary: The Department of Human Services (Department) is proposing to amend the rules for Aging and People with Disabilities in OAR chapter 411 to make permanent the changes adopted by temporary rule that became effective on July 1, 2013 as a result of a change in Medicaid funding for community-based services. Some community-based services that were previously funded through Medicaid waivers will now be funded under the State Medicaid Plan. These amendments remove references to waived services as appropriate, and as appropriate, replace the references with references to Medicaid home and community-based services. Removing references to waived services will allow the Department to provide community-based services under Medicaid waivers or under the Medicaid State Plan, as appropriate, to reflect the change in funding.

In addition, the amendments reflect current practice and new Department terminology and correct formatting and punctuation.

Rules Coordinator: Christina Hartman
Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E-10, Salem, OR 97301-1074
Telephone: (503) 945-6398

Rule Caption: State Plan Personal Care Services
Date: 11-20-13 **Time:** 3 p.m. **Location:** Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 410.020, 410.070, & 410.710
Proposed Amendments: 411-034-0000, 411-034-0010, 411-034-0020, 411-034-0030, 411-034-0035, 411-034-0040, 411-034-0050, 411-034-0055, 411-034-0070, 411-034-0090
Proposed Repeals: Temporary Rules 411-034-0000(T), 411-034-0010(T), 411-034-0020(T), 411-034-0030(T), 411-034-0035(T),

NOTICES OF PROPOSED RULEMAKING

411-034-0040(T), 411-034-0050(T), 411-034-0055(T), 411-034-0070(T), 411-034-0090(T)

Last Date for Comment: 11-22-13, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to amend the State Plan personal care services rules in OAR chapter 411, division 034.

The proposed rules —

- Make permanent the changes adopted by temporary rule that became effective on July 1, 2013;

- Permanently modify the authorization of State Plan personal care service hours to allow individuals with needs that exceed the current 20 hour per month payment limitation to request an exception for additional hours;

- Correctly reflect personal support workers as providers of State Plan personal care services;

- Update the definitions to provide consistency with terms used for services for older adults, adults with disabilities, and individuals with intellectual or developmental disabilities;

- Clarify provider qualifications, enrollment, employee-employer relationship, termination, and appeal rights;

- Remove references to waived services as appropriate, and as appropriate, replace the references with references to Medicaid home and community-based services in order to recognize services available through Medicaid waivers or under the Medicaid State Plan; and

- Reflect new Department terminology and correct formatting and punctuation.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E-10, Salem, OR 97301-1074

Telephone: (503) 945-6398

Rule Caption: Medicaid Long Term Care Quality and Reimbursement Advisory Council (MLTCQRAC)

Date:	Time:	Location:
11-22-13	2 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 410.070 & 410.555

Stats. Implemented: ORS 410.550 to 410.555

Proposed Amendments: 411-001-0100, 411-001-0110, 411-001-0118, 411-001-0120

Last Date for Comment: 11-26-13, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to amend the rules for the Medicaid Long Term Care Quality and Reimbursement Advisory Council (Council) in OAR chapter 411, division 001 to clarify the Council's role in advising the Department or the Oregon Health Authority (Authority) in changes or modifications to the Medicaid reimbursement system that affect the reimbursement or quality of long term care and community-based services administered by the Department.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E-10, Salem, OR 97301-1074

Telephone: (503) 945-6398

Rule Caption: 24-Hour Residential Services for Children and Adults with Intellectual or Developmental Disabilities

Date:	Time:	Location:
11-22-13	3 p.m.	Human Services Bldg. 500 Summer Street NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 410.070, 443.450, & 443.455

Other Auth.: 42 CFR 441

Stats. Implemented: ORS 443.400–443.455

Proposed Amendments: Rules in 411-325

Proposed Repeals: 411-325-0020(T), 411-325-0390(T), 411-325-0400(T), 411-325-0440(T)

Last Date for Comment: 11-26-13, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to amend the rules in OAR chapter 411, division 325 for 24-hour residential services for children and adults with intellectual or developmental disabilities.

The proposed rules:

- Make permanent the temporary rules that became effective on July 1, 2013 to implement the 1915(k) Community First Choice state plan option, comply with the Code of Federal Regulations, and implement corrective actions required by the Centers for Medicare and Medicaid Services (CMS);

- Bring definitions in alignment with the Community First Choice state plan option;

- Clarify the eligibility requirements for home and community-based waived services, Community First Choice state plan services, and 24-hour residential services;

- Specify that natural supports are voluntary by nature and are not paid for by the Department;

- Clarify the process, notice requirements, and hearing rights for an involuntary transfer or exit from services;

- Specify under what conditions a 24-hour residential provider may transfer or exit a child or adult involuntarily;

- Add definitions and requirements related to a comprehensive functional needs assessment;

- Address the roles and responsibilities of a designated representative;

- Reflect new Department terminology and current practice; and

- Correct formatting and punctuation.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E-10, Salem, OR 97301-1074

Telephone: (503) 945-6398

Rule Caption: Foster Homes for Children with Intellectual or Developmental Disabilities

Date:	Time:	Location:
11-22-13	4 p.m.	Human Services Bldg. 500 Summer Street NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 410.070, & 443.835

Other Auth.: 42 CFR 441

Stats. Implemented: ORS 430.215, 443.830, & 443.835

Proposed Amendments: Rules in 411-346

Proposed Repeals: 411-346-0110(T), 411-346-0180(T)

Last Date for Comment: 11-26-13, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to amend the rules in OAR chapter 411, division 346 for foster homes for children with intellectual or developmental disabilities.

The proposed rules —

- Make permanent the temporary rules that became effective on July 1, 2013 to implement the 1915(k) Community First Choice state plan option, comply with the Code of Federal Regulations, and implement corrective actions required by the Centers for Medicare and Medicaid Services (CMS);

- Bring definitions in alignment with the Community First Choice state plan option and clarify by definition that a child's support needs are identified through a functional needs assessment, that an individual support plan (ISP) reflects the manner in which services are delivered and the frequency of services, and that an ISP reflects whether services are purchased through a waiver, state plan, or provided through natural supports;

NOTICES OF PROPOSED RULEMAKING

- Clarify the process, notice requirements, and hearing rights for an involuntary transfer or exit from services;
- Specify under what conditions a foster provider may transfer or exit a child involuntarily;
- Clarify that an alternate caregiver, consultant, or volunteer may not be a child's parent or legal guardian;
- Reflect new Department terminology and current practice; and
- Correct formatting and punctuation.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E-10, Salem, OR 97301-1074

Telephone: (503) 945-6398

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**Department of Human Services,
Self-Sufficiency Programs
Chapter 461**

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients

Date:	Time:	Location:
11-21-13	10 a.m.	Rm. 254, 500 Summer St. NE, Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 409.050, 410.070, 410.075, 411.060, 411.070, 411.083, 411.087, 411.400, 411.404, 411.660, 411.704, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 413.033, 413.042, 414.025, 414.042, 414.231, 414.712, 414.826, 414.831, 414.839, 416.340, 416.350, 2013 Or Laws 14 Section 10, HB 2089 (2013, Section 10)

Other Auth.: Federal Affordable Care Act, P.L. 92-336, 42 USC 9902(2), 42 USC 1396a(a)(25), 42 USC 1396k(a)(1), 42 U.S.C. 1396r-5(e)(2)(C), 42 USC 1396p, 42 CFR 435.145, 42 CFR 433.146, 42 CFR 433.36, 42 CFR 435.610

Stats. Implemented: ORS 18.854, 18.900, 93.969, 113.085, 115.125, 409.010, 409.050, 410.070, 410.075, 411.010, 411.060, 411.070, 411.083, 411.087, 411.400, 411.404, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.700, 411.703, 411.704, 411.706, 411.708, 411.795, 411.816, 412.001, 412.006, 412.014, 412.024, 412.049, 412.124, 414.025, 414.231, 414.706, 414.712, 414.826, 414.831, 414.839, 416.310, 416.340, 416.350, 416.510-416.610, 420.014, 420.054, 2011 Or Laws 212 section 2, 2011 Or Laws 720 section 224, 2013 Or Laws 14 Section 10

Proposed Amendments: 461-001-0000, 461-001-0030, 461-101-0010, 461-110-0210, 461-115-0030, 461-115-0050, 461-120-0330, 461-135-0010, 461-135-0780, 461-135-0832, 461-135-0835, 461-135-0841, 461-135-0845, 461-135-0875, 461-140-0020, 461-145-0220, 461-145-0250, 461-145-0580, 461-150-0060, 461-155-0180, 461-155-0225, 461-155-0250, 461-155-0270, 461-155-0300, 461-160-0015, 461-160-0580, 461-160-0620, 461-160-0780, 461-165-0070, 461-180-0010, 461-180-0090, 461-180-0140, 461-185-0050, 461-195-0301, 461-195-0310, 461-195-0551

Proposed Repeals: 461-135-1125, 461-150-0055

Last Date for Comment: 11-22-13, 5 p.m.

Summary: OAR 461-001-0000 defining terms used in Chapter 461, OAR 461-101-0010 about program acronyms and overview, and OAR 461-155-0225 about income standards are being amended as part of the process to move policies about financial eligibility for medical assistance from OAR 461 (DHS) into the OAR 410-200 (under OHA), and as part of the implementation efforts for the federal Affordable Care Act (ACA). For applications for medical assistance starting on October 1, 2013, financial eligibility policies are changing and will be set out in OAR 410-200. These amendments make permanent temporary rule changes adopted October 1, 2013.

OAR 461-001-0030 about definitions for OSIP and OSIPM for long-term care or home and community-based care is being amended to modify the definition of an eligible dependent to clarify this rule.

OAR 461-110-0210 about household groups is being amended to clarify how to determine household groups in the QMB programs as well as in the OSIPM program for individuals in non-standard living situations.

OAR 461-115-0030 about dates of request for medical programs is being amended to correct an inadvertent omission of the Qualified Medicare Beneficiary (QMB) programs from the rule. QMB programs are subject to the same rules regarding dates of requests as for other medical programs; therefore, a reference to the QMB programs is being added to this rule.

OAR 461-115-0050 about when an application must be filed, OAR 461-180-0010 about effective dates for adding a new person to an open case, and OAR 461-180-0090 about effective dates for initial month of medical benefits are being amended as part of the process to move policies about financial eligibility for medical assistance from OAR 461 (DHS) into the OAR 410-200 (under OHA), and as part of the implementation efforts for the federal Affordable Care Act (ACA). For applications for medical assistance starting on October 1, 2013, financial eligibility policies are changing and will be set out in OAR 410-200. These amendments make permanent temporary rule changes adopted October 1, 2013.

OAR 461-120-0330 is being amended to indicate that any parent or caretaker relative that is exempt from JOBS (Jobs Opportunity and Basic Skills) is not required to apply unemployment benefits.

OAR 461-135-0010 about assumed eligibility for medical programs is being amended to indicate that medicaid eligibility for individuals receiving or deemed eligible for SSI is not absolute, and is subject to additional eligibility factors, aligning with federal policy consistent with clarification from the Centers for Medicare and Medicaid Services. Individuals receiving or deemed eligible for SSI are subject to additional eligibility requirements, such as residency, pursuit of assets and/or health care coverage prior to approval of Medicaid benefits. This rule is also being amended to include the policy about continuous eligibility for certain children because the current rule in which this policy appears (OAR 461-135-1149) is being repealed.

OAR 461-135-0780 about eligibility for Pickle Amendment clients in the OSIPM program, OAR 461-145-0220 about treatment of the home, OAR 461-155-0250 about income and payment standard for OSIPM, OAR 461-155-0270 about room and board standards for OSIPM, OAR 461-155-0300 about shelter-in-kind standard for OSIP, OSIPM and QMB, OAR 461-160-0015 about resource limits, OAR 461-160-0580 about excluded resources (community spouse provision) OSIPM program (except OSIP-EPD and OSIPM-EPD), and OAR 461-160-0620 and 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 461-135-0832 is being amended to change references of "public assistance" to "assistance." Oregon Laws 2013, Chapter 688, Section 32 has changed the statutory definition of "public assistance" to exclude "medical assistance." "Assistance" will be defined in OAR 461-135-0832 and includes "medical assistance."

OAR 461-135-0835 is being amended to change references of "public assistance" to "assistance." Oregon Laws 2013, Chapter 688, Section 32 has changed the statutory definition of "public assistance" to exclude "medical assistance." "Assistance" will be defined in OAR 461-135-0832 and includes "medical assistance."

OAR 461-135-0841 is being amended to change references of "public assistance" to "assistance." Oregon Laws 2013, Chapter 688, Section 32 has changed the statutory definition of "public assistance" to exclude "medical assistance." "Assistance" is now defined in OAR 461-135-0832 and includes "medical assistance."

OAR 461-135-0845 is being amended to change references of "public assistance" to "assistance." Oregon Laws 2013, Chapter 688, Section 32 has changed the statutory definition of "public assistance"

NOTICES OF PROPOSED RULEMAKING

to exclude “medical assistance.” “Assistance” will be defined in OAR 461-135-0832 and includes “medical assistance.”

OAR 461-135-0875 about specific requirements for retroactive medical benefits is being amended to correct an inadvertent omission of two of the Qualified Medicare Beneficiary (QMB) programs from the rule, specifically QMB-SMB and QMB-SMF. These particular QMB programs are subject to the same rules regarding retroactive benefits for other medical programs; therefore, a reference to the QMB-SMB and QMB-SMF programs is being added to this rule. This rule is also being amended to remove a redundant and potentially confusing reference to the QMB-BAS program, which is not subject to the same rules regarding retroactive benefits. This rule is being further amended to remove medical programs whose eligibility requirements are now covered in OAR 410-200, making permanent a temporary rule change adopted October 1, 2013.

OAR 461-135-1125 about reservation lists and eligibility is being repealed as part of the implementation of the Affordable Care Act because this policy is no longer necessary.

OAR 461-140-0020 about availability of resources is being amended to align Department policy with the Social Security Administration’s (SSA) Program Operations Manual System (POMS), setting forth the rebuttable assumption that jointly-held resources are assumed to be entirely available to the client. Currently the Department considers a jointly-owned resource available to the extent that the client owns the resource. As with the POMS, the Department is adding the provision to this amendment indicating that the assumption of full availability is rebuttable.

OAR 461-145-0250 about income-producing property is being amended to align with the Social Security Administration’s (SSA) Program Operations Manual System (POMS) and to clarify in the GA, GAM, OSIP, OSIPM, and QMB programs what types of property is excluded or exempt. Without these changes, this rule can be interpreted to apply trade or business definitions to non-business property, thus creating the potential for incorrect eligibility determinations. This amendment provides clearer guidelines for determining if property is used in a trade or business and gives examples of property types. This rule is also being amended to remove programs whose eligibility requirements are now covered under OAR 410-200, making permanent temporary rule changes adopted October 1, 2013.

OAR 461-145-0580 about veterans’ benefits is being amended to correct an inadvertent omission of the Oregon Supplemental Income Program Medical (OSIPM) program from the policy setting out how aid-and-attendance payments are treated in determining eligibility for clients in standard living situations. This rule is also being amended to removed eligibility requirements now set out in OAR 410-200, making permanent a temporary rule change adopted October 1, 2013.

OAR 461-150-0055 about eligibility and budgeting in the HKP and OHP programs is being repealed as part of the process to move policies about financial eligibility for medical assistance from OAR 461 (DHS) into the OAR 410-200 (under OHA), and as part of the implementation efforts for the federal Affordable Care Act (ACA). For applications for medical assistance starting on October 1, 2013, financial eligibility policies are changing and will be set out in OAR 410-200. This repeal makes permanent the temporary suspension of this rule that started October 1, 2013.

OAR 461-150-0060 about prospective budgeting and eligibility is being amended to clarify that actual income is used when there is a new or terminated source of income in the initial month of eligibility for the Temporary Assistance for Needy Families (TANF) and Refugee programs. This rule is also being amended as part of the process to move policies about financial eligibility for medical assistance from OAR 461 (DHS) into the OAR 410-200 (under OHA), and as part of the implementation efforts for the federal Affordable Care Act (ACA). For applications for medical assistance starting on October 1, 2013, financial eligibility policies are changing and will be set out in OAR 410-200. This amendment makes permanent temporary rule changes adopted on August 1, 2013 and October 1, 2013.

OAR 461-155-0180 about poverty-related income standards is being amended to reflect the 2014 poverty level standards. The poverty guidelines are updated each year by the Department of Health and Human Services. The poverty guidelines are adjusted based on the Consumer Price Index for All Urban Consumers (CPI-U). The poverty guidelines are then used to determine financial eligibility for the programs covered by this rule except OSIP, OSIPM and QMB. 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. This rule is also being amended to make permanent a temporary rule amendment adopted August 23, 2013 setting out the standards for 300 percent of the federal poverty level instead of 201 percent.

OAR 461-160-0580 is also being amended to change the manner of computing the amount necessary to raise the community spouse’s income to the monthly maintenance needs allowance. Instead of being an amount which, if invested, would raise the interest income of the community spouse to the allowance, it will be the amount required to purchase a single premium immediate annuity.

OAR 461-160-0620 about income deductions and client liability for long-term care services and home and community-based care in the Oregon Supplemental Income Program Medical (OSIPM) is also being amended to change the need standard deduction for home and community-based care in-home services from the OSIPM maintenance standard (currently \$710) to the OSIPM maintenance standard plus \$500.

OAR 461-160-0780 about determining adjusted income in the OSIP-EPD and OSIPM-EPD programs is being amended to remove a statement about a deduction from unearned income that is unnecessary as the only place that is available to deduct it from is earned income.

OAR 461-165-0070 about immediate issuance of benefits is being amended to remove the policy about temporary medical cards because these temporary cards are no longer issued by branch staff.

OAR 461-180-0140 about effective dates for retroactive medical benefits is being amended to clarify policy in the OSIPM, QMB, and REF programs. This rule is also being amended to remove medical program eligibility now addressed in OAR 410-200.

OAR 461-185-0050 about the client pay-in system is being amended to correct a rule reference, remove misleading language, and to clarify current policy. The rule would no longer be subject to being interpreted to instruct staff to apply a second income deduction based on an obsolete payment standard (which was removed in 2006 from OAR 461-155-0250(3)).

OAR 461-195-0301 is being amended to modify the definition of “assistance” include payments by coordinate care organizations. This rule is being amended to remove the definition of “net settlement”, update cross references, and clarify the rule.

OAR 461-195-0310 is being amended to add a requirement that an assistance applicant or recipient provide notice to the coordinated care organization providing benefits about any action or claim for a personal injury the individual may have against a third party. This rule is also being amended to replace phrase “public assistance” with “assistance”, to remove superfluous language, and to add that an applicant or recipient’s failure to notify the individual’s coordinated care organization about an action or claim against a third party for a personal injury may result in civil liability for the applicant or recipient. This amendment also adds a requirement that a coordinated care organization, a prepaid managed care plan, and the Personal Injury Lien Unit consult with each other prior to pursuing civil liability against an applicant or recipient.

OAR 461-195-0551 about methods of recovering overpayments is being amended to update its terminology consistent with HB 2859 (2013).

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

Written comments may be submitted until November 22, 2013 at 5:00 p.m. Written comments may be e-mailed to

NOTICES OF PROPOSED RULEMAKING

Annette.Tesch@state.or.us, faxed to 503-373-7032, or mailed to Annette Tesch, Rules Coordinator, DHS–Self-Sufficiency Programs, 500 Summer Street NE, E-48, Salem, Oregon, 97301. The Department provides the same consideration to written comment as it does to any oral or written testimony provided at the public hearing.

Rules Coordinator: Annette Tesch

Address: Department of Human Services, Self-Sufficiency Programs, 500 Summer St. NE, E-48, Salem, OR 97301

Telephone: (503) 945-6067

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Department of Revenue

Chapter 150

Rule Caption: Corporate tax; apportionment, time for adjustments, HOA income, conforming changes: HB 3477, SB 307 and minimum tax

Date:	Time:	Location:
11-25-13	10 a.m.	Fishbowl Conference Rm. Revenue Bldg. 955 Center St NE Salem, OR 97301

Hearing Officer: Cindy Test

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.280, 314.410, 317.010, 315.304, 317.067, 2013 SB 307

Proposed Amendments: 150-314.280(3), 150-314.410(4), 150-317.010, 150-315.304(9), 150-317.067

Proposed Repeals: 150-305.655

Last Date for Comment: 11-25-13, 5 p.m.

Summary: 150-314.400(4) provides instructions for time to adjust a return based on another taxing authority's correction that causes a change to the Oregon tax return.

150-315.304(9) makes conforming changes to the Pollution Control Facilities tax credit based on the Con-Way tax court case.

150-317.010 removes language made obsolete because of 2013 HB 3477

150-317.067 explains how homeowners' associations calculate income.

150-305.655 is repealed based on changes to MTC statute in 2013 SB 307.

Rules Coordinator: Deanna Mack

Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301

Telephone: (503) 947-2082

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Rule Caption: PIT: various credits and subtractions; adjustments; appeals; waivers; representation; Composite returns; waterway workers, military, seniors

Date:	Time:	Location:
11-25-13	10 a.m.–5 p.m.	Fishbowl Conference Rm. Revenue Bldg. 955 Center St NE Salem OR 97301

Hearing Officer: Cindy Test

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.792, 315.204, 316.102, 316.368, 305.145, 305.230, 314.380, 314.775, 314.778, 316.127, 315.068, 316.693

Proposed Adoptions: 150-316.792; 150-316.693

Proposed Amendments: 150-315.204-(A); 150-316.102; 150-316.368; 150-305.145(3); 150-305.230; 150-314.380(2)-(B); 150-314.775; 150-314.778; 150-316.127(10); 150-315.068

Proposed Repeals: 150-316.680(1)(c)-(A); 150-316.680(1)(c)-(B); 150-316.789; 150-316.791

Last Date for Comment: 11-25-13, 5 p.m.

Summary: 150-316.792 provides for instructions for all military pay subtractions in conformance with 2013 HB 2230.

150-316.693 provides guidance for calculating the senior medical subtraction based on 2013 HB 3601.

150-315.204-(A) updates name of agency and removes applicability language for dependent care credits for employers.

150-316.102 updates process with Secretary of State Elections Division for PAC filings for the political contribution credit.

150-316.368 clarifies that a taxpayer who requests a joint liability be split can appeal to the Magistrate Division of the Oregon Tax Court within normal 90-day time frame rather than 60-day listed in rules.

150-305.145(3) clarifies when interest will and will not be waived.

150-305.230 provides guidance for S-corporation shareholders who can represent the S-corporation.

150-314.380(2)-(B) clarifies procedures when another taxing authority makes a change to a tax return.

150-314.775 updates definitions for Composite Tax Returns and Pass-through Entity Withholding.

150-314.778 clarifies procedures for filing composite tax returns.

150-316.127(10) conforms rule to federal law related to nonresident waterway workers.

150-315.068 provides guidance for use of the claim of right tax credit.

150-316.680(1)(c)-(A); 150-316.680(1)(c)-(B); 150-316.789; and 150-316.791 are all repealed due to 2013 HB 2230 and consolidated into new rule 150-316.792

Rules Coordinator: Deanna Mack

Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301

Telephone: (503) 947-2082

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Rule Caption: Property tax, roll correction, BOPTA orders/petitions, ORMAP/OLIS advisory committee, urban renewal, appraiser continuing education; deferral

Date:	Time:	Location:
11-25-13	10 a.m.–5 p.m.	Fishbowl Conference Rm. Revenue Building 955 Center St NE Salem OR 97301

Hearing Officer: Cindy Test

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 305.285, 306.135, 308.010, 309.100, 309.110, 311.223, 457.440

Proposed Amendments: 150-309.100(3)-(B); 150-305.285; 150-306.135; 150-309.110(1)-(A); 150-311.223(4); 150-308.010; 150-457.440(9)

Proposed Repeals: 150-308A.724; 150-311.674; 150-311.689

Last Date for Comment: 11-25-13, 5 p.m.

Summary: 150-306.135 ORMAP/OLIS Advisory committees

150-308.010 Appraiser continuing education

150-309.100(3)-(B) BOPTA defective and amended petitions

150-309.110(1)-(A) BOPTA orders

150-311.223(4) Roll correction

150-457.440(9) Urban renewal

150-308A.724 repeals a special assessment program that is no longer in effect

150-311.674 and 150-311.689 relate to the Senior Property Tax Deferral program changes from 2013 HB 2489 and HB 2510.

Rules Coordinator: Deanna Mack

Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301

Telephone: (503) 947-2082

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Department of State Lands

Chapter 141

Rule Caption: Adopt revised Essential Indigenous Anadromous Salmonid Habitat (ESH) maps based on current data and standards

Date:	Time:	Location:
11-20-13	4–6 p.m.	Department of State Lands Land Board Rm. 775 Summer St. NE, Suite 100 Salem, OR 97301-1279

NOTICES OF PROPOSED RULEMAKING

Hearing Officer: Lori Warner-Dickason or Charles Redon
Stat. Auth.: ORS 196.810
Stats. Implemented: ORS 196.810
Proposed Amendments: 141-102-0020, 141-102-0030
Last Date for Comment: 11-30-13

Summary: Streams that are designated as ESH are those necessary to prevent the depletion of indigenous anadromous salmonid species during their life stages of spawning and rearing. ESH also includes off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to an ESH stream. According to OAR 141-102-0040, the Department must consult annually with the Oregon Department of Fish & Wildlife (ODFW) on the accuracy of the ESH designations and revise the maps to reflect the best available data and the newest version of Fish Habitat Distribution Data Standard. This update resulted in addition of new stream reaches and deletion of others. There was a net increase of 617 stream miles (or roughly 3%) over the current 2010 ESH designation.

The proposed 2013 ESH designation maps can be viewed online: <http://chetco-new.dsl.state.or.us/esh/index.html>

Rules Coordinator: Tiana Teeters
Address: Department of State Lands, 775 Summer St. NE, Suite 100, Salem, OR 97301
Telephone: (503) 986-5239

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Department of Transportation
Chapter 731

Rule Caption: Procedures for grants and loans under the Multimodal Transportation Fund program
Stat. Auth.: ORS 184.616, 184.619, 367.082, ch. 816 OL 2005
Stats. Implemented: ORS 367.080–367.086, ch. 816 OL 2005, ch. 723 OL 2013, ch. 765 OL 2013, ch. 786 OL 2013
Proposed Amendments: 731-035-0010, 731-035-0020, 731-035-0050, 731-035-0060, 731-035-0080
Last Date for Comment: 11-21-13

Summary: the proposed amendments are needed to implement Sections 1, 2, 3 and 5 of SB 260 (Ch. 765 OL 2013), to add language allowing bicycle and pedestrian projects as eligible projects for the Multimodal Transportation Fund. The proposed amendments would also make minor revisions to the disbursement of program funds that are paid out on a reimbursement basis as called for in the Budget Note to HB 5008 (Ch. 723 OL 2013).

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze
Address: Department of Transportation, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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Rule Caption: Procurement Rules Addressing 2013 Legislative Changes and DOJ Model Rules updates for Public Contracting
Stat. Auth.: ORS 184.616, 184.619, 279A.065
Stats. Implemented: ORS 279A.050, 279A.065, 279B, 279C
Proposed Amendments: 731-147-0010, 731-147-0040, 731-149-0010
Last Date for Comment: 11-21-13

Summary: The need for revisions to Chapter 731, Divisions 147 and 149 includes the following:

731-147-0010 — Revise the version of DOJ Model Rules ODOT is adopting and effective date.

731-147-0040 — Revise dollar amount in 147-0040 to reflect increase in small procurement threshold to \$10,000 (per 2013 HB 2212).

731-149-0010 — Revise the version of DOJ Model Rules ODOT is adopting and effective date. Delete subsection (2) because it includes a reference to a rule that was repealed in 2011 and no longer exists.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze
Address: Department of Transportation, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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Department of Transportation,
Driver and Motor Vehicle Services Division
Chapter 735

Rule Caption: Establishes Method of Notification of Certain Information to Oregon Department of Veterans' Affairs.

Stat. Auth.: ORS 184.616, 184.612, 802.010, 802.012, 802.179, 803.460 & ch. 647 OL 2013

Stats. Implemented: ORS 802.012, 803.050, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.050, 807.420, 807.560 & ch. 647 OL 2013

Proposed Adoptions: 735-010-0250, 735-018-0130

Proposed Amendments: 735-018-0010

Last Date for Comment: 11-21-13

Summary: This rulemaking is needed to implement legislation enacted by the 2013 Legislative Assembly.

Chapter 647, Oregon Laws 2013 requires:

1. The Director of Transportation (DMV) to notify the Director of Veterans' Affairs (ODVA), at least once a month, of the receipt of a written authorization from a member or veteran of a uniformed service to provide their name and address to ODVA. Written authorization may only be obtained in conjunction with an application for driving privileges, identification card, vehicle title or vehicle registration.

2. DMV to adopt administrative rules in consultation with ODVA to implement the provisions of the Act.

In consultation with ODVA, DMV proposes to adopt OAR 735-010-0250 to define terms and to specify procedures and requirements regarding the method of providing notification to ODVA as required under Chapter 647, Oregon Laws 2013.

In addition, DMV is amending OAR 735-018-0010 and adopting OAR 735-018-0130 to specify that DMV may accept *authorizations* [emphasis added] submitted to DMV by means of an electronic transaction through DMV's website. This includes an authorization to provide name and address information to the Director of Veterans' Affairs.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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Rule Caption: Ignition Interlock Device — Medical Exemption from Requirement and When Required With Hardship Permit

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.240 & 813.602

Stats. Implemented: ORS 813.602

Proposed Adoptions: 735-070-0082

Proposed Amendments: 735-064-0070

Last Date for Comment: 11-21-13

Summary: Chapter 315, Oregon Laws 2013 (House Bill 2116) amends ORS 813.602 to allow a court to exempt a person from the condition in a diversion agreement to install and use an ignition interlock device (IID) if the court determines that the person meets the requirements for a medical exemption in accordance with rules adopted by the department. HB 2116 prompted DMV to review OAR 735-064-0070, the current rule that contains the process for issuance of an IID medical exemption. DMV proposes to amend OAR 735 064-0070 by deleting the sections concerning the process for obtaining an IID medical exemption and to clarify current requirements related to issuance of a hardship, probationary and hardship/probationary permit when the person must have an IID. DMV also pro-

NOTICES OF PROPOSED RULEMAKING

poses to adopt a new rule, OAR 735-070-0082, to clarify in more detail the process for obtaining an IID medical exemption, including submission of a form completed by the applicant and the applicant's physician or health care provider, and clarifying the criteria for determining if the person qualifies for an IID medical exemption. It also differentiates between a DMV issued IID medical exemption and one issued by the court.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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Rule Caption: Drug and Alcohol test — Report of Positive Result, Entry to Employment Driving Record, Hearing Request

Stat. Auth.: ORS 184.616, 184.619, 802.010, 825.412 & OL 2013 ch. 163

Stats. Implemented: ORS 825.410, 825.412 & OL 2013 ch. 163

Proposed Amendments: 735-070-0185, 735-070-0190

Last Date for Comment: 11-21-13

Summary: Under Oregon Law 2013, Chapter 163 (SB 193) a school transportation provider must have an in-house drug and alcohol testing program, or be a member of a consortium that provides drug and alcohol testing that meets federal standards. A medical review officer of a school transportation provider's testing program must report a positive drug or alcohol test to DMV. DMV will notify a person who is the subject of such a report that he or she has the right to request a hearing. If the person does not request a hearing or if the hearing results in a finding that the test report was valid, the positive test will be noted on the person's employment driving record. DMV has existing rules that outline the reporting requirements and the process for requesting a hearing for motor carrier drug and alcohol programs. DMV will use the same process for school transportation provider reports and requests for hearing, and proposes to amend OAR 735-070-0185 and 735-070-0190 to include Chapter 163 Oregon Laws 2013 in the existing rules.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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Rule Caption: Driver Improvement Offenses

Stat. Auth.: ORS 184.616, 184.619, 802.010 and 809.480

Stats. Implemented: ORS 809.480

Proposed Amendments: 735-072-0035

Last Date for Comment: 11-21-13

Summary: ORS 809.480 authorizes the Oregon Department of Transportation, Driver and Motor Vehicle Services Division (DMV) to establish by administrative rule a Driver Improvement Program with the goal of reducing traffic convictions and especially accidents. The Driver Improvement Program uses two specific lists of traffic offenses under separate rules to determine whether a person meets the criteria for a restriction or suspension of driving privileges. OAR 735-072-0035 lists those traffic offenses, and requires five convictions to count as one driver improvement violation.

Chapter 361, Oregon Laws 2013 (Senate Bill 444) creates a new traffic offense to add to OAR 735-072-0035. The offense is smoking in a motor vehicle while a person under 18 years of age is in the motor vehicle. This proposed rulemaking adds this offense to the list of offenses in OAR 735-072-0035.

The only other changes to the rule are to replace references to 2011 laws with statute citation now that the laws are codified.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301

Telephone: (503) 986-3171

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Rule Caption: Implements 2013 Legislation; Amends Rules Relating to Vehicle Dealers and Vehicle Dismantlers

Stat. Auth.: ORS 184.616, 184.612, 802.010, 822.035, 822.040, 822.084 and Ch. 372 OL 2013

Stats. Implemented: ORS 822.084, 822.700, Ch. 372, & OL 2013
Proposed Amendments: 735-150-0045, 735-150-0105, 735-152-0037

Last Date for Comment: 11-21-13

Summary: This rulemaking is needed to implement legislation enacted by the 2013 Legislative Assembly.

Chapter 372, Oregon Laws 2013:

Section 1 of the Act repeals DMV's authority under ORS 822.084 to establish (by rule) a fee schedule for a recreational vehicle (RV) show license.

Section 2 amends ORS 822.700 in part to establish - for a certified vehicle dealer and certified dismantler - a late payment charge for the late renewal of 1) a certificate; 2) a duplicate certificate; 3) or issuance of a certificate for a supplemental a business location.

Consequently, DMV is amending the following rules:

1. OAR 735-150-0045(6) to remove reference to the RV show license fee. The fee is now established under ORS 822.700.

2. OAR 735-150-0105 and 735-152-0037 to remove reference to the fees for the late renewal of a vehicle dealer certificate and the late renewal of dismantler certificate. Those fees are now established under ORS 822.700.

Other non-substantive changes address consistency.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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Department of Transportation, Highway Division Chapter 734

Rule Caption: Establishment of Speed Limits on Interstate Highways (Except Variable Speed Zones, see OAR 734-020-0018)

Stat. Auth.: ORS 184.616, 184.619, 810-010, 810.180, Ch. 819 OL 2003

Stats. Implemented: ORS 810.180, Ch 819 OL 2013

Proposed Amendments: 734-020-0010

Last Date for Comment: 11-21-13

Summary: ORS 810.180 authorizes the Department of Transportation to conduct speed zone investigations and set speeds on most public roads, including interstate highways. As amended, 734-020-0010 will allow for making small changes to the locations of boundaries of current speeds (i.e. 55 mph and 60 mph sections) and to streamline the process for establishing new designations of lower speeds to improve safety. The process for increasing speed limits on the Interstate would remain the same.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Highway Division, 355 Capitol St. NE, MS 51, Salem, OR 97301

Telephone: (503) 986-3171

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Department of Transportation, Motor Carrier Transportation Division Chapter 740

Rule Caption: Annual re-adoption of IRP, HVUT and IFTA regulations

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 826.003
Stats. Implemented: ORS 803.370(5), 825.490, 825.494, 825.555, 826.005 & 826.007
Proposed Amendments: 740-200-0010, 740-200-0020, 740-200-0040

Last Date for Comment: 11-21-13

Summary: The proposed amendment constitutes an adoption of the rules of the International Registration Plan (IRP) to the date of January 1, 2014. Title 26 Code of Federal Regulations Part 41 (HVUT) requires the State to confirm proof of payment of the tax, and require proof of payment by the State as a condition of issuing a registration for a highway motor vehicle. The amendment of OAR 740-200-0020 adopts HVUT and amendments with the effective date of January 1, 2014, and ensures Oregon remains current with national commercial motor vehicle registration standards. International Fuel Tax Agreement (IFTA) and associated material are applicable to Oregon-based motor carriers who participate in IFTA as a way to report and pay fuel tax to other jurisdictions. The revision to OAR 740-200-0040 adopts the most recent version of IFTA and associated material as the procedures and guidelines for Oregon-based IFTA participants with the effective date of January 1, 2014 to ensure Oregon remains current with the international IFTA standards.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Motor Carrier Transportation Division, 355 Capitol St. NE, MS 51, Salem, OR 97301

Telephone: (503) 986-3171

.....
**Department of Transportation,
Rail Division
Chapter 741**

Rule Caption: Notification of Sale of Public Real Property Near Rail Infrastructure

Stat. Auth.: ORS 184.616, 184.619, 823.011, 271.310

Stats. Implemented: ORS 271.310

Proposed Amendments: 741-040-0040

Last Date for Comment: 11-21-13

Summary: Passage of SB 810 necessitates an amendment to this OAR. Section 32 of SB 810 eases the requirements for notification to private providers of rail service when nearby public property is to be sold, exchanged or conveyed by excluding transactions where the proposed sale is to a provider of rail service or when the transaction involves the sale, exchange or conveyance of easements.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Rail Division, 355 Capitol St. NE, MS 51, Salem, OR 97301

Telephone: (503) 986-3171

.....
**Land Conservation and Development Department
Chapter 660**

Rule Caption: Minor and technical changes to conform to recent legislation regarding agriculture and forest land

Date:	Time:	Location:
11-15-13	8:30 a.m.	Port of Tillamook 6018 Hangar Rd. Tillamook OR 97141

Hearing Officer: LCDC

Stat. Auth.: ORS 197.040, 197 & 215

Other Auth.: Statewide planning goals (OAR 660, div. 015)

Stats. Implemented: ORS 197 & 215

Proposed Amendments: 660-033-0030, 660-033-0120, 660-033-0130, 660-033-0140, 660-006-0025, 660-006-0026, 660-006-0055

Last Date for Comment: 11-5-13

Summary: The proposed amendments will modify rules to make minor and technical changes to conform to recent legislation and to correct references.

Rules Coordinator: Casaria Taylor

Address: Land Conservation and Development Department, 635 Capitol St. NE, Suite 150, Salem, OR 97301

Telephone: (503) 373-0050, ext. 322

.....
**Landscape Contractors Board
Chapter 808**

Rule Caption: Clarifies definition of compensation.

Stat. Auth.: ORS 183.325-183.410, 670.310 & 671.670

Stats. Implemented: ORS 671.510-671.720

Proposed Amendments: 808-002-0240

Last Date for Comment: 11-22-13, Close of Business

Summary: Clarifies compensation also includes value received, profit from the sale or lease of property where landscaping work was part of developing the property, and salary or wages where the employee's duties included landscaping work.

Rules Coordinator: Kim Gladwill-Rowley

Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301

Telephone: (503) 967-6291, ext. 223

.....
**Oregon Business Development Department
Chapter 123**

Rule Caption: This filing amends the rules for the Industry Competitiveness Fund.

Stat. Auth.: ORS 285A.075(5) & 285A.110

Stats. Implemented: ORS 285B.286 & 285B.290

Proposed Adoptions: 123-095-0035

Proposed Amendments: 123-095-0000, 123-095-0010, 123-095-0030, 123-095-0040

Proposed Repeals: 123-095-0020

Last Date for Comment: 11-22-13, 5 p.m.

Summary: These amendments expands entities eligible to receive grants and loans from the Fund, clarifies criteria for approving awards and clarifies contract requirements.

Rules Coordinator: Mindee Sublette

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

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**Oregon Department of Education
Chapter 581**

Rule Caption: Modifies rule relating to eligibility for regional educational services for children with disabilities.

Date:	Time:	Location:
11-22-13	9 a.m.	251A, 255 Capitol St. NE Salem, OR 97310

Hearing Officer: Cindy Hunt

Stat. Auth.: ORS 343.236

Stats. Implemented: ORS 343.236

Proposed Amendments: 581-015-2550

Last Date for Comment: 11-22-13, 5 p.m.

Summary: Allows more children with orthopedic impairments to be eligible for regional education services by removing requirement that child must be severely orthopedically impaired.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

.....
Rule Caption: Modifies rules relating to regional educational program for children with disabilities

NOTICES OF PROPOSED RULEMAKING

Date: 11-22-13
Time: 9 a.m.
Location: 251A, 255 Capitol St. NE
Salem, OR 97310

Hearing Officer: Cindy Hunt

Stat. Auth.: ORS 343.236

Stats. Implemented: ORS 343.236

Proposed Amendments: 581-015-2540, 581-015-2555

Last Date for Comment: 11-22-13, 5 p.m.

Summary: Allows more children with orthopedic impairments to be eligible for regional educational services by removing requirement that child must be severely orthopedically impaired.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: Strategic Investments-Guiding Principles

Date: 11-22-13
Time: 9 a.m.
Location: 251A, 255 Capitol St. NE
Salem, OR

Hearing Officer: Cindy Hunt

Stat. Auth.: Section 1, chapter 660, Oregon Laws 2013 (Enrolled House Bill 3232)

Stats. Implemented: Section 1, chapter 660, Oregon Laws 2013 (Enrolled House Bill 3232)

Proposed Adoptions: 581-017-0005, 581-017-0010, 581-017-0020

Last Date for Comment: 11-22-13, 5 p.m.

Summary: These rules establish common definitions to be used for grant programs established to implement three strategic investments in the provision of HB 3232: Oregon Early Reading Program, Guidance and Support for Postsecondary Aspirations Program and Connecting to the World of Work.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: Expanded reading opportunities grant.

Date: 11-22-13
Time: 9 a.m.
Location: 251A, 255 Capitol St. NE
Salem, OR 97310

Hearing Officer: Cindy Hunt

Stat. Auth.: Section 1, chapter 660, Oregon Laws 2013 (Enrolled House Bill 3232)

Stats. Implemented: Section 1, chapter 660, Oregon Laws 2013 (Enrolled House Bill 3232)

Proposed Adoptions: 581-017-0100, 581-017-0105, 581-017-0110, 581-017-0115

Last Date for Comment: 11-22-13, 5 p.m.

Summary: The rules establish the Expanded Reading Opportunities Grant. These grants are designated for focus and priority schools that serve students in grade kindergarten through 3.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: Network for Quality Teaching and Learning Guiding Principles

Date: 11-22-13
Time: 9 a.m.
Location: 251A, 255 Capitol St. NE
Salem, OR 97310

Hearing Officer: Cindy Hunt

Stat. Auth.: Section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233)

Stats. Implemented: Section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233)

Proposed Adoptions: 581-018-0005, 581-018-0010, 581-018-0020

Last Date for Comment: 11-22-13, 5 p.m.

Summary: The rules establish common definition to be used for grant programs established as part of the Network of Quality Teaching and Learning in HB 3233.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: Modifies school district collaboration grant rules

Date: 11-22-13
Time: 9 a.m.
Location: 251A, 255 Capitol St. NE
Salem, OR 97310

Hearing Officer: Cindy Hunt

Stat. Auth.: ORS 329.838

Stats. Implemented: ORS 329.838

Proposed Adoptions: 581-018-0100, 581-018-0105, 581-018-0110, 581-018-0115, 581-018-0120, 581-018-0125

Last Date for Comment: 11-22-13, 5 p.m.

Summary: The rules implement the collaborating grant as part of the Network on Quality Teaching and Learning established by HB 3233. The rules specify eligibility, award criteria, funding amounts and reporting.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: Establishes Dual Language/Two-Way Bilingual Grant program for school districts.

Date: 11-22-13
Time: 9 a.m.
Location: 251A, 255 Capitol St. NE
Salem, OR 97310

Hearing Officer: Cindy Hunt

Stat. Auth.: Section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233)

Stats. Implemented: Section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233)

Proposed Adoptions: 581-018-0200, 581-018-0205, 581-018-0210, 581-018-0215, 581-018-0220, 581-018-0225

Last Date for Comment: 11-22-13, 5 p.m.

Summary: The rules establish the Dual language/Two way bilingual grant program for school districts as part of the Network of Quality Teaching and Learning established under HB 3233.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: Establishes Closing Achievement Gap for African American Students Grant.

Date: 11-22-13
Time: 9 a.m.
Location: 251A, 255 Capitol St. NE
Salem, OR 97310

Hearing Officer: Cindy Hunt

Stat. Auth.: Section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233)

Stats. Implemented: Section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233)

Proposed Adoptions: 581-018-0300, 581-018-0305, 581-018-0310, 581-018-0315, 581-018-0320, 581-018-0325

Last Date for Comment: 11-22-13, 5 p.m.

Summary: Establishes the Closing the Achievement Gap for African American Students Grant Program for nonprofit organizations as part

NOTICES OF PROPOSED RULEMAKING

of the Network of Quality and Teaching and Learning. Specifies criteria, purpose and reporting.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: School District Continuous Improvement Plans

Date:	Time:	Location:
11-22-13	9 a.m.	251A, 255 Capitol St. NE Salem, OR

Hearing Officer: Cindy Hunt

Stat. Auth.: ORS 326.051 & 329.075

Stats. Implemented: ORS 326.051 & 329.075

Proposed Ren. & Amends: 581-022-0606 to 581-022-2250

Last Date for Comment: 11-22-13, 5 p.m.

Summary: The rule amendments change the frequency of the submission of district improvement plans. The amendments direct districts to submit once every three years unless there are substantial changes to the districts. The rules also add library plans to the goals.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: Restraint and Seclusion of students in public education programs

Date:	Time:	Location:
11-22-13	9 a.m.	251A, 255 Capitol St. NE Salem, OR 97310

Hearing Officer: Cindy Hunt

Stat. Auth.: ORS 326.051

Stats. Implemented: Chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939) & Section 2, chapter 650, Oregon Laws 2013 (Enrolled House Bill 2585); Chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939) & Section 1, chapter 30, Oregon Laws 2013 (Enrolled House Bill 2756)

Proposed Adoptions: 581-021-0568, 581-021-0569, 581-021-0570

Proposed Amendments: 581-021-0550, 581-021-0553, 581-021-0556, 581-021-0559, 581-021-0563, 581-021-0566

Last Date for Comment: 11-22-13, 5 p.m.

Summary: These rules implement legislation adopted by the 2013 legislature:

The rules prohibit public education programs from using seclusion cells.

The rules establish standards for seclusion rooms used by public education programs.

The rules establish a complaint procedure for individual or organizations relating to restraint and seclusion rules and statutes.

The rules require data to be submitted to the Department of Education.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: Employment Related Transition Services for transition age students.

Date:	Time:	Location:
11-22-13	9 a.m.	251A, 255 Capitol St. NE Salem, OR 97310

Hearing Officer: Cindy Hunt

Stat. Auth.: ORS 343.041, 343.045 & 343.055

Stats. Implemented: ORS 343.041, 343.045 & 343.055

Proposed Adoptions: 581-015-2930

Proposed Amendments: 581-015-2000, 581-015-2245

Last Date for Comment: 11-22-13, 5 p.m.

Summary: The rule implements the polices described in Executive Order 13-04 related to the Department of Education's involvement with integrated employment services. The rule directs the Department to establish the Statewide Transition Assistance Network to provide services related to employment related transition services for transition age students.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: Public charter school renewal process

Date:	Time:	Location:
11-22-13	9 a.m.	251A, 255 Capitol St. NE Salem, OR 97310

Hearing Officer: Cindy Hunt

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338.065

Proposed Amendments: 581-020-0359

Last Date for Comment: 11-22-13, 5 p.m.

Summary: Modifies renewal timeline to conform with recent legislation. Directs that charter remains effective until new charter is negotiated.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: Modifies small school weighting for purposes of State School Fund calculations.

Stat. Auth.: ORS 327.125

Stats. Implemented: ORS 327.077 & 327.125

Proposed Amendments: 581-023-0015

Last Date for Comment: 11-22-13, 5 p.m.

Summary: Modifies rule relating to small school weighting for purposes of State School Fund calculation. Rule amendment clarifies that there is remote small elementary school weighting and small high school weighting for State School Fund calculation. Implements SB 453 (2011).

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Oregon Department of Education, Early Learning Division Chapter 414

Rule Caption: Procedure for rule adoption by Early Learning Council

Date:	Time:	Location:
11-22-13	9 a.m.	Rm. 251A, 255 Capital St. Salem, OR 97310

Hearing Officer: Cindy Hunt

Stat. Auth.: ORS 183.335, 183.341

Stats. Implemented: ORS 183.335, 181.341

Proposed Adoptions: 414-002-0005, 414-002-0010

Last Date for Comment: 12-13-13, 5 p.m.

Summary: The rules establish the notice requirements for adoption of rules for the Early Learning Council (ELC). The rules adopted the Attorney General's model rules of procedure to govern rule adoptions.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, Early Learning Division, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Establishes purpose and function of Early Learning Hubs and selection criteria for Hubs

Date:	Time:	Location:
11-19-13	6:30 p.m.	Bend LaPine SD 520 NW Wall St, Bend, OR
12-2-13	6:30 p.m.	Cleveland High School 3400 SE 26th Ave, Portland, OR

Hearing Officer: Heidi McGowan

Stat. Auth.: Sect. 4, Ch. 519, Oregon Laws 2011

Stats. Implemented: Sect. 16, Ch. ____, Oregon Laws 2013 (Enrolled House Bill 2013)

Proposed Adoptions: 414-900-0005, 414-900-0010, 414-900-0015, 414-900-0020

Last Date for Comment: 12-13-13, 5 p.m.

Summary: The rules establish the early learning hubs to coordinate services for children ages zero through six in specific geographic areas or communities of interest. The rules specify functions, reporting and selection criteria for hubs.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, Early Learning Division, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

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Oregon Health Authority,
Division of Medical Assistance Programs
Chapter 410

Rule Caption: Statewide CHIP funded CAWEM prenatal program

Date:	Time:	Location:
11-15-13	10:30 a.m.	500 Summer St NE Rm. 137C Salem, OR 97301

Hearing Officer: Cheryl Peters

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025, 414.065

Proposed Amendments: 410-120-0030

Last Date for Comment: 11-18-13, 5 p.m.

Summary: The General Rules program administrative rules govern Division payments for services to clients. The Division needs to amend 410-120-0030 to include coverage statewide. The Division will amend this rule to include coverage for prenatal care; retroactive to October 1, 2013.

Rules Coordinator: Cheryl Peters

Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6527

.....
Rule Caption: Expand age for varnish in medical setting and update language for dental integration

Date:	Time:	Location:
11-15-13	10:30 a.m.	500 Summer St NE, Rm. 137C Salem, OR 97301

Hearing Officer: Cheryl Peters

Stat. Auth.: ORS 413.042, 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-123-1260

Last Date for Comment: 11-18-13, 5 p.m.

Summary: Revises language based on Health Evidence Review Commission's Prioritized List changes for October 1, 2013. Clarifies billing to avoid ambiguity regarding the responsibility of Coordinated Care Organizations (CCO).

Rules Coordinator: Cheryl Peters

Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6527

Oregon Health Authority,
Oregon Educators Benefit Board
Chapter 111

Rule Caption: Amendments made to implement new groups that are newly eligible due to House Bill 2279

Date:	Time:	Location:
11-20-13	10 a.m.	PEBB/OEBB Boardroom 1225 Ferry Street SE. Salem, OR 97301

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860–243.886

Stats. Implemented: ORS 243.864(1)(a)

Proposed Amendments: 111-010-0015

Last Date for Comment: 11-30-13

Summary: With the passage of House Bill 2279, new groups have the option of joining the Oregon Educators Benefit Board (OEBB). The amendments to Division 10 provide language for the implementation of new groups under House Bill 2279. In addition, an amendment is made related to the Affordable Care Act and new federal requirements related to Health Reimbursement Arrangements (HRAs).

Rules Coordinator: April Kelly

Address: Oregon Health Authority, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 378-6588

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Rule Caption: Amendments made to implement new groups that are newly eligible due to House Bill 2279

Date:	Time:	Location:
11-20-13	10 a.m.	PEBB/OEBB Boardroom 1225 Ferry Street SE. Salem, OR 97301

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860–243.886

Stats. Implemented: ORS 243.864(1)(a)

Proposed Adoptions: 111-020-0010

Proposed Amendments: 111-020-0001, 111-020-0005

Last Date for Comment: 11-30-13

Summary: With the passage of House Bill 2279, new groups have the option of joining the Oregon Educators Benefit Board (OEBB). The amendments to Division 20 provide language for the implementation of new groups under House Bill 2279.

Rules Coordinator: April Kelly

Address: Oregon Health Authority, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 378-6588

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Rule Caption: Amendments made to implement new groups that are newly eligible due to House Bill 2279

Date:	Time:	Location:
11-20-13	10 a.m.	PEBB/OEBB Boardroom 1225 Ferry Street SE. Salem, OR 97301

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860–243.886

Stats. Implemented: ORS 243.864(1)(a)

Proposed Amendments: 111-030-0050

Last Date for Comment: 11-30-13

Summary: With the passage of House Bill 2279, new groups have the option of joining the Oregon Educators Benefit Board (OEBB). The amendments to Division 30 provide language for the implementation of new groups under House Bill 2279.

Rules Coordinator: April Kelly

Address: Oregon Health Authority, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 378-6588

NOTICES OF PROPOSED RULEMAKING

Oregon Health Authority, Public Health Division Chapter 333

Rule Caption: Procedures and criteria for the certification, suspension and decertification of school-based health centers

Date: 11-19-13
Time: 1 p.m.
Location: Portland State Office Bldg.,
800 NE Oregon St. Rm. 221
Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: OL 2013, ch. 683

Stats. Implemented: OL 2013, ch. 683

Proposed Adoptions: 333-028-0200, 333-028-0210, 333-028-0220, 333-028-0230, 333-028-0240, 333-028-0250

Last Date for Comment: 11-22-13 5 p.m.

Summary: The Oregon Health Authority, Public Health Division is proposing to permanently adopt rules pertaining to the procedures and criteria for the certification, suspension and decertification of school-based health centers (SBHCs) as mandated by the passage of House Bill 2445 (OL 2013, ch. 683) by the 2013 Legislature. The proposed rules are intended to fulfill the mandates by prescribing certification requirements used for clinics to qualify as SBHCs, the reporting requirements for SBHCs, and the process to become a certified SBHC.

Rules Coordinator: Brittany Sande

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Rule Caption: Edits, amendments, and adoption of rules related to Radiation Protection Services

Date: 11-20-13
Time: 9 a.m.
Location: Portland State Office Bldg.,
800 NE Oregon St. Rm. 918
Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 413.042, 431.925–431.955, 453.605–453.807, & Oregon Laws 2013, chapter 411

Other Auth.: Nuclear Regulatory Commission's 10 CFR Parts 1–50, Food & Drugs CFR Title 21, Part 900, & Oregon Laws 2013, chapter 137

Stats. Implemented: ORS 431.925–431.955, 453.605–453.807, & Oregon Laws 2013, chapter 411

Proposed Adoptions: 333-106-0735

Proposed Amendments: 333-116-0660, 333-116-0680, 333-116-0683, 333-116-0687, 333-116-0690, 333-116-0700, 333-116-0715, 333-118-0040, 333-119-0010, 333-119-0090, 333-119-0110

Last Date for Comment: 11-22-13 5 p.m.

Summary: The Oregon Health Authority, Public Health Division, Center for Health Protection is proposing to permanently amend and adopt Oregon Administrative Rules related to the programs within the Radiation Protection Services.

The Radiation Materials Licensing program is proposing to amend rules to comply with the Nuclear Regulatory Commission's (NRC) 10 CFR Parts 1-50 by correcting rule cross referencing pertaining to the training requirements for the medical use of radioactive materials. OAR 333-118-0040 is being revised to correct an omission within the rule allowing physicians to transport radioactive materials. Proposed rule amendments do not impact current practices, but provides for clarity regarding rule referencing.

The X-ray program is adopting rules relating to the passage of Senate Bill 420 by the 2013 Legislative Assembly which requires facilities that perform mammography to notify the patient and health-care provider if results identify the presence of dense breast tissue and to inform the patient of the possibility of unrecognized breast cancer. The proposed rule also recommends the appropriateness of supplemental testing.

The Tanning program is adopting rules relating to the passage of House Bill 2896 by the 2013 Legislative Assembly. House Bill 2896 prohibits tanning facilities from allowing a person who is under 18 years of age to use a tanning device owned or operated by the facility except as directed by a licensed physician and to post a notice in a conspicuous space that communicates that persons under the age of 18 are not allowed to use a tanning device.

Rules Coordinator: Brittany Sande

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Rule Caption: Vital records modernization

Date: 11-19-13
Time: 10 a.m.
Location: 800 NE Oregon St., Rm. 1C,
Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 432.005, 432.010, 432.015, 432.030, 432.035, 432.115, 432.121, 432.140, 432.142, 432.146, 432.180, 432.206, 432.230, 432.235, 432.266, 432.287, 432.289, 432.307, 432.317, 432.327, 432.333, 432.337, 432.405, 432.408, 432.430, 441.750, OL 2013, ch. 366

Stats. Implemented: ORS 432.005, 432.010, 432.030, 432.035, 432.115, 432.121, 432.140, 432.142, 432.146, 432.180, 432.206, 432.230, 432.235, 432.266, 432.287, 432.289, 432.307, 432.317, 432.327, 432.333, 432.337, 432.405, 432.408, 432.430, 441.750, OL 2013, ch. 366

Proposed Adoptions: 333-011-0205, 333-011-0210, 333-011-0215, 333-011-0220, 333-011-0225, 333-011-0230, 333-011-0235, 333-011-0240, 333-011-0245, 333-011-0250, 333-011-0255, 333-011-0260, 333-011-0265, 333-011-0270, 333-011-0280, 333-011-0285, 333-011-0300, 333-011-0305, 333-011-0310, 333-011-0320, 333-011-0325, 333-011-0330

Proposed Repeals: 333-011-0006, 333-011-0011, 333-011-0016, 333-011-0021, 333-011-0043, 333-011-0048, 333-011-0061, 333-011-0067, 333-011-0072, 333-011-0073, 333-011-0096, 333-011-0116, 333-011-0155

Proposed Ren. & Amends: 333-011-0047 to 333-011-0275, 333-011-0076 to 333-011-0295, 333-011-0101 to 333-011-0335, 333-011-0106 to 333-011-0340, 333-011-0110 to 333-011-0315, 333-011-0200 to 333-011-0290

Last Date for Comment: 11-22-13, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division is proposing to permanently amend rules in chapter 333, division 11 pertaining to vital records. The rules are being revised to align with House Bill 2093 (Oregon Laws 2013, chapter 366), the vital records modernization bill, passed by the Oregon legislature in June 2013. House Bill 2093 reorganized and updated Oregon vital records and vital statistics law. The reorganization and modernization of the law was based on a model law that was written between 2009 and 2011 by the National Center for Health Statistics in collaboration with the National Association for Public Health Statistics and Information Systems. The last model law was in 1992, and Oregon implemented that model in 1997. House Bill 2093 updated laws to account for changes in technology, security and parentage.

The new law takes effect January 1, 2014 and requires additional rules as well as updates to current rules. The subjects of the rules includes reports of live birth, reports of death, reports of fetal death, marriages, Oregon registered domestic partnerships, dissolutions of marriage or domestic partnerships, amendments of records, and county vital records offices. The goal of these rules is to implement the new laws.

Rules Coordinator: Brittany Sande

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

NOTICES OF PROPOSED RULEMAKING

Rule Caption: New definitions and new disease reporting requirements

Date: 11-22-13
Time: 1 p.m.
Location: Portland State Office Bldg,
800 NE Oregon St. Rm. 1A
Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 413.042, 431.110, 431.120, 433.001, 433.004, 433.006, 433.010, 433.045–433.080, 433.329, 433.332, 437.010, 438.450, 459.395, 459.400, 616.010, 616.745, 616.750, 624.005 & 624.080

Other Auth.: Oregon Laws 2013, chapter 109

Stats. Implemented: ORS 431.110, 433.001, 433.004, 433.006, 433.010, 433.065, 433.106, 433.110, 433.260, 433.273, 433.360, 433.407, 433.411, 433.419, 437.010, 437.030, 438.310, 442.015, 443.400, 443.705, 443.850, 459.395, 459.400, 616.745 & 624.380

Proposed Adoptions: 333-019-0052, 333-056-0045

Proposed Amendments: 333-017-0000, 333-018-0005, 333-018-0010, 333-018-0015, 333-018-0018, 333-018-0020, 333-018-0035, 333-019-0010, 333-019-0014, 333-019-0031, 333-056-0020, 333-056-0030, 333-056-0040, 333-056-0050

Proposed Repeals: 333-019-0046

Last Date for Comment: 11-22-13, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division is proposing to permanently amend, adopt and repeal rules in chapter 333, divisions 17, 18, 19 and 56 relating to reportable diseases and infectious waste. The proposed changes will: add clarifying language regarding definitions in division 17; add *Vibrio* spp, *Grimontia* spp, and nontuberculous mycobacteria (NTM) to the list of reportable diseases in division 18; simplify Typhoid restrictions, add mumps to imposition of restrictions, and adopt a new rule regarding communication during patient transfer of multidrug-resistant organisms in division 19; and adopt a rule in division 56 to implement HB 2612 (Oregon Laws 2013, chapter 109), which entitles post-partum mothers, or their designees if they are incapacitated, to take their placenta with them after discharge from the health care facility wherein the mother had given birth if certain criteria are met.

Rules Coordinator: Brittany Sande

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Rule Caption: Health Care Acquired Infection Reporting and Public Disclosure

Date: 11-21-13
Time: 1 p.m.
Location: Portland State Office Bldg,
800 NE Oregon St., Rm. 1B
Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 442.420, 442.445 & OL 2007, Ch. 838 § 1-6 & 12

Other Auth.: Oregon Laws 2013, chapter 61

Stats. Implemented: ORS 179.505, 192.243, 192.245, 192.410, 192.496, 192.502, 441.015, 442.011, 442.400, 442.405, 442.445 & OL 2007, Ch. 838 § 1-6 & 12

Proposed Ren. & Amends: 409-023-0000 to 333-018-0100, 409-023-0005 to 333-018-0105, 409-023-0010 to 333-018-0110, 409-023-0012 to 333-018-0115, 409-023-0013 to 333-018-0120, 409-023-0015 to 333-018-0125, 409-023-0020 to 333-018-0130, 409-023-0025 to 333-018-0135, 409-023-0030 to 333-018-0140, 409-023-0035 to 333-018-0145

Last Date for Comment: 11-22-13, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division is proposing to permanently amend and renumber OAR 409-023-0000 through 409-023-0035 to 333-018-0100 through 333-018-0145 pertaining to health care acquired infection reporting and public disclosure. The HAI Reporting Program used to be housed in the Office for Oregon Health Policy and Research (chapter 409) but has since been moved to the Public Health Division (chapter 333). HB 2094, passed during the 2013 legislative session, was a technical fix bill for

the Public Health Division and one of the provisions of the bill was to amend statutes regarding the HAI Reporting Program to reference the Oregon Health Authority instead of the Office for Oregon Health Policy and Research. The renumbering of the rules from chapter 409 to chapter 333 is a result of this legislative change. Other minor housekeeping amendments are also being made to the rules.

In addition, the proposed amendments update references and add two new health care acquired infections (HAIs) to the list of reportable conditions — namely, catheter-associated urinary tract infections (CAUTIs) and methicillin-resistant *Staphylococcus aureus* infections (MRSA) as defined in the National Healthcare Safety Network (NHSN) Manual.

Rules Coordinator: Brittany Sande

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Oregon Health Licensing Agency Chapter 331

Rule Caption: Align earlobe piercing rules with changes from SB 107 and make general amendments to rules.

Date: 11-21-13
Time: 11 a.m.
Location: Oregon Health Licensing Agency
Rhoades Conference Rm.
700 Summer St NE, Suite 320
Salem, OR 97301-1287

Hearing Officer: Samantha Patnode

Stat. Auth.: OL 2013, Ch. 82, ORS 676.607, 676.615, 690.405

Stats. Implemented: OL 2013, Ch. 82, ORS 676.607, 690.350, 690.385, 690.405

Proposed Adoptions: 331-900-0077

Proposed Amendments: 331-900-0010, 331-900-0015, 331-900-0020, 331-900-0040, 331-900-0050, 331-900-0060, 331-900-0085, 331-900-0090, 331-900-0095, 331-900-0097, 331-900-0098, 331-900-0099, 331-900-0115, 331-905-0020, 331-905-0030, 331-905-0052, 331-905-0058, 331-905-0095, 331-910-0005, 331-910-0010, 331-910-0055, 331-910-0060, 331-915-0020, 331-915-0030, 331-915-0035, 331-915-0065, 331-915-0070, 331-915-0055, 331-915-0060, 331-915-0070, 331-925-0050, 331-940-0000, 331-950-0040

Last Date for Comment: 11-28-13, 5 p.m.

Summary: Passage of SB 107 by the 2013 Legislature created an earlobe piercing field of practice to the Board of Body Art Practitioners. Currently an individual can obtain a temporary earlobe piercing license which is valid for 2 years and cannot be renewed. The proposed rules establish application and renewal requirements to obtain a permanent earlobe piercing license. Individuals who currently hold a temporary earlobe piercing license will not be required to retake the board approved examination.

Amendments include general housekeeping and alignment with current agency standards related to continuing education.

The proposed amendments clarify application requirements for specialty genital piercing for individual licensed prior to January 1, 2012.

Changes streamline written examination requirements for tattooing.

Rules Coordinator: Samantha Patnode

Address: Oregon Health Licensing Agency, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287

Telephone: (503) 373-1917

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Rule Caption: Implement changes from SB 107 related polysomnography and align with agency standards.

Date: 11-21-13
Time: 9 a.m.
Location: Oregon Health Licensing Agency
Rhoades Conference Rm.
700 Summer Street NE, Suite 320,
Salem, Oregon 97301

Hearing Officer: Samantha Patnode

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: Ch.82 2013 Laws, ORS 676.607, 676.615, 688.819
Stats. Implemented: Ch.82 2013 Laws, ORS 688.815, 688.819
Proposed Amendments: 331-710-0050, 331-710-0060, 331-710-0070, 331-710-0080, 331-710-0090, 331-710-0100, 331-710-0110, 331-720-0010, 331-720-0015, 331-720-0020
Last Date for Comment: 11-28-13, 5 p.m.

Summary: Amend current administrative rules to recognize on the job training as a pathway for licensure as a polysomnographic technologist. As a newly regulated profession polysomnography many individuals received on-the-job training rather than post-secondary education. The proposed amendment allows on the job training to requirements to licensure in lieu of education.

Align continuing education rules with current agency standards.

Rules Coordinator: Samantha Patnode
Address: Oregon Health Licensing Agency, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287
Telephone: (503) 373-1917

Oregon Health Licensing Agency, Board of Cosmetology Chapter 817

Rule Caption: General administrative rule clean-up, requirements for natural hair care and align exemptions with statutory requirements.

Date:	Time:	Location:
11-21-13	1 p.m.	Oregon Health Licensing Agency Rhoades Conference Rm. 700 Summer St., Suite 320 Salem, OR 97301

Hearing Officer: Samantha Patnode

Stat. Auth.: 2013 OL Ch. 314, Ch. 290, Ch. 188, ORS 676.607, 676.615, 690.055, 690.105 & 690.123

Stats. Implemented: 2013 OL Ch. 314, Ch. 290, Ch. 188, ORS 690.025, 690.046, 690.055, 690.105, 690.123 & 690.165

Proposed Adoptions: 817-020-0325, 817-020-0350, 817-030-0028, 817-035-0093, 817-035-0095

Proposed Amendments: 817-005-0005, 817-010-0007, 817-010-0014, 817-010-0021, 817-010-0035, 817-010-0040, 817-010-0055, 817-010-0060, 817-010-0065, 817-010-0068, 817-010-0069, 817-010-0075, 817-010-0085, 817-010-0095, 817-010-0101, 817-010-0106, 817-010-0110, 817-015-0030, 817-015-0065, 817-020-0001, 817-020-0006, 817-020-0007, 817-020-0009, 817-020-0305, 817-030-0003, 817-030-0005, 817-030-0030, 817-030-0065, 817-030-0071, 817-030-0080, 817-035-0010, 817-035-0048, 817-035-0050, 817-035-0052, 817-035-0068, 817-035-0070, 817-035-0090, 817-035-0110, 817-060-0010, 817-060-0020, 817-060-0030, 817-060-0050, 817-090-0025, 817-090-0045, 817-090-0050, 817-090-0055, 817-090-0065, 817-090-0070, 817-090-0075, 817-090-0085, 817-090-0090, 817-090-0105, 817-090-0110, 817-090-0115, 817-100-0005, 817-120-0005

Proposed Repeals: 817-010-0009, 817-010-0300, 817-015-0010, 817-080-0005

Last Date for Comment: 12-13-13, 5 p.m.

Summary: Passage of HB 2101 by the 2013 Legislature enables the Oregon Health Licensing Agency (agency) to standardize authorization status for all agency programs and define "authorization" to be applied uniformly throughout agency statutes. Amendments were made to use the term "authorization" to mean certificate, license, registration, permit and freelance authorization when a rule is applicable to all of these authorization types.

General amendments have been made to align with current statute, agency and statewide rulemaking standards and principles.

Definitions have been further consolidated. Many definitions have been repealed and others were integrated into the relevant rule where the term is used.

Repeal rules related to communicable and blood borne disease as it is unlawful under the American with Disabilities Act (ADA) for

a state to prevent an individual from practicing cosmetology based on that individual's communicable and blood borne disease status.

Repeal rule which allows facilities to apply for a variance as it relates to safety and infection control rules. There is no statutory authority or agency process to accommodate this rule.

Amend client record requirements to require applicable certificate holders to collect and maintain the client information.

Revise rules related to requirements for facilities, independent contractors and freelance authorization holders to disclose information regarding Secretary of State Corporation Division business name and corporation requirements.

Clarify rule regarding exemptions for persons working within licensed health care facility in accordance with ORS 690.025. Specify the services which are prohibited under the exemption including chemical services and requirements for obtaining a facility license when the exemption requirements are not met or the person no longer qualifies for the exemption.

Adopt application requirements for individuals seeking a temporary facility permit or a demonstration permit.

Passage of HB 3409 by 2013 Legislature created natural hair care as a new field of practice under the Board of Cosmetology. Adopt application requirements for individuals seeking natural hair care certification. Requirements include completion of the board approved information training modules and passage of an examination at no cost. Individuals seeking certification for natural hair care will be required to come to the Oregon Health Licensing Agency to review the training module and take the examination, in order to confirm the identity of the individual. The learning objectives within the information training modules relate to safety, infection control, business practices/standards and general information regarding the art of natural hair care. Individuals seeking reciprocity will also be required to complete the information training module and pass the examination.

Amend rule which prescribes renewal requirements. Clarify that an independent contractor registration and freelance authorization do not become invalid but instead become dormant.

Require that facilities, independent contractors and freelance authorization holders post their most recent inspection certificate in public view.

Repeal all exemptions under rule, with the exception of defining domestic administration. Passage of SB 836 by 2013 Legislature (Grimm Bill) further clarified those persons exempt from certification when temporary makeup and spraying and combing of hair is being done solely for a professional photograph or for theatrical purposes. The legislative change makes several rule exemptions no longer applicable.

Rules Coordinator: Samantha Patnode

Address: Oregon Health Licensing Agency, Board of Cosmetology, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287

Telephone: (503) 373-1917

Oregon Health Licensing Agency, Board of Direct Entry Midwifery Chapter 332

Rule Caption: Align continuing education requirements with law regarding additional continuing education hours as a condition for renewal.

Date:	Time:	Location:
11-21-13	3 p.m.	Oregon Health Licensing Agency Rhoades Conference Rm. 700 Summer St NE, Suite 320 Salem OR 97301

Hearing Officer: Samantha Patnode

Stat. Auth.: ORS 676.606, 676.615, 687.425

Stats. Implemented: ORS 687.425

Proposed Amendments: 332-020-0010

Last Date for Comment: 11-28-13, 5 p.m.

NOTICES OF PROPOSED RULEMAKING

Summary: Amend continuing education rule to align with the intent and scope of the law. Require that at the time of renewal a licensed direct entry midwife (LDM) provide the number of births performed during the previous renewal cycle. If that number is fewer than five, then the LDM must obtain 10 additional continuing education hours and attest to those hours on the next renewal cycle.

See example below:

The LDM becomes inactive on July 31, 2013 on the renewal the LDM shows that during the previous renewal cycle July 2013 through July 2013 only three births were performed. When the LDM renews the license in 2014 the LDM will be required to attest to having received the additional 10 hours of continuing education.

Align other continuing education rules with current agency standards.

Rules Coordinator: Samantha Patnode

Address: Oregon Health Licensing Agency, Board of Direct Entry Midwifery, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287

Telephone: (503) 373-1917

Oregon Housing and Community Services Department Chapter 813

Rule Caption: Establishes the process for public contracts and procurements

Date:	Time:	Location:
12-2-13	10 a.m.	725 Summer St. Conference Rm. 124A, Salem, OR 97301

Hearing Officer: Sandy McDonnell

Stat. Auth.: ORS 90.800–90.840, 91.886, 317.097, 279A.025, 279A.065, 456.515–456.725 & 458.210–458.650

Stats. Implemented: ORS 90.800–90.840, 91.886, 279B, 317.097, 456.515–456.725, 307.651 & 458.005–458.740

Proposed Adoptions: 813-006-0040

Proposed Amendments: 813-006-0005, 813-006-0010, 813-006-0015, 813-006-0020, 813-006-0025, 813-006-0030, 813-006-0035

Proposed Repeals: 813-006-0005(T), 813-006-0010(T), 813-006-0015(T), 813-006-0020(T), 813-006-0025(T), 813-006-0030(T), 813-006-0035(T), 813-006-0040(T)

Last Date for Comment: 12-10-13, 5 p.m.

Summary: The rules establish the procedures for public contracts and procurements by the Department as well as its other contracting and procurement activities. The Department completed a significant reorganization as to how it solicits and administers funding awards for Department programs as part of the restructure. The rule changes are designed to reflect the significant reorganization of the Department.

Rules Coordinator: Sandy McDonnell

Address: Oregon Housing and Community Services Department, 725 Summer St. NE, Suite B, Salem, OR 97301

Telephone: (503) 986-2012

Rule Caption: Amends the process for soliciting and administering funding awards for the General Housing Account

Date:	Time:	Location:
12-2-13	10 a.m.	725 Summer St. Conference Rm. 124A Salem, OR 97301

Hearing Officer: Sandy McDonnell

Stat. Auth.: ORS 456.555, 458.665

Stats. Implemented: ORS 456.515–456.725, 458.665

Proposed Adoptions: 813-055-0065, 813-055-0095

Proposed Amendments: 813-055-0001, 813-055-0010, 813-055-0020, 813-055-0040, 813-055-0050, 813-055-0075, 813-055-0085, 813-055-0105, 813-055-0115

Proposed Repeals: 813-055-0060, 813-055-0100, 813-055-0110, 813-055-0001(T), 813-055-0010(T), 813-055-0020(T), 813-055-0040(T), 813-055-0050(T), 813-055-0065(T), 813-055-0075(T),

813-055-0085(T), 813-055-0095(T), 813-055-0105(T), 813-055-0115(T)

Last Date for Comment: 12-10-13, 5 p.m.

Summary: The General Housing Account carries out the allocation of monies deposited in the General Housing Account by meeting the critical housing needs, building the organizational capacity of affordable housing partners throughout the state, and requiring equitable distribution of resources over time based on objective measures of need. The department has completed a significant reorganization as to how it solicits and administers funding awards for this program. These rule changes are designed to reflect the significant reorganization of the department.

Rules Coordinator: Sandy McDonnell

Address: Oregon Housing and Community Services Department, 725 Summer St. NE, Suite B, Salem, OR 97301

Telephone: (503) 986-2012

Rule Caption: Amends the process for soliciting and administering funding awards for Oregon Affordable Housing Tax Credits

Date:	Time:	Location:
12-2-13	10 a.m.	725 Summer St. Conference Rm. 124A Salem, OR 97301

Hearing Officer: Sandy McDonnell

Stat. Auth.: ORS 317.097, 456.555

Stats. Implemented: ORS 317.097, 456.508, 456.510, 456.513, 456.559, 456.605, 456.625, 456.722

Proposed Adoptions: 813-110-0026, 813-110-0027, 813-110-0032, 813-110-0034, 813-110-0037, 813-110-0045

Proposed Amendments: 813-110-0005, 813-110-0010, 813-110-0015, 813-110-0020, 813-110-0021, 813-110-0022, 813-110-0025, 813-110-0030, 813-110-0035, 813-110-0040

Proposed Repeals: 813-110-0012, 813-110-0013, 813-110-0023, 813-110-0033, 813-110-0050, 813-110-0005(T), 813-110-0010(T), 813-110-0015(T), 813-110-0020(T), 813-110-0021(T), 813-110-0022(T), 813-110-0025(T), 813-110-0026(T), 813-110-0027(T), 813-110-0030(T), 813-110-0032(T), 813-110-0034(T), 813-110-0035(T), 813-110-0037(T), 813-110-0040(T), 813-110-0045(T)

Last Date for Comment: 12-10-13, 5 p.m.

Summary: The Oregon Affordable Housing Tax Credits Program encourages the creation or preservation of safe, sanitary and affordable housing for lower income Oregonians. The department has completed a significant reorganization as to how it solicits and administers funding awards for this program as part of the restructure. These rule changes are designed to reflect the significant reorganization of the department.

Rules Coordinator: Sandy McDonnell

Address: Oregon Housing and Community Services Department, 725 Summer St. NE, Suite B, Salem, OR 97301

Telephone: (503) 986-2012

Rule Caption: Amends the process for soliciting and administering funding awards for Low-Income Weatherization Assistance Program

Date:	Time:	Location:
12-2-13	10 a.m.	725 Summer St. Conference Rm. 124A Salem, OR 97301

Hearing Officer: Sandy McDonnell

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 757.612

Proposed Adoptions: 813-205-0082, 813-205-0145, 813-205-0150

Proposed Amendments: 813-205-0000, 813-205-0020, 813-205-0030, 813-205-0040, 813-205-0050, 813-205-0051, 813-205-0052, 813-205-0060, 813-205-0070, 813-205-0080, 813-205-0085, 813-205-0100, 813-205-0110, 813-205-0120, 813-205-0130

Proposed Repeals: 813-205-0010, 813-205-0140, 813-205-0000(T), 813-205-0020(T), 813-205-0030(T), 813-205-0040(T), 813-205-

NOTICES OF PROPOSED RULEMAKING

0050(T), 813-205-0051(T), 813-205-0052(T), 813-205-0060(T), 813-205-0070(T), 813-205-0080(T), 813-205-0082(T), 813-205-0085(T), 813-205-0100(T), 813-205-0110(T), 813-205-0120(T), 813-205-0130(T), 813-205-0145(T), 813-205-0150(T)

Last Date for Comment: 12-10-13, 5 p.m.

Summary: The Low-Income Weatherization Program carries out the department's role in administering state and federal weatherization assistance programs at the local level. The department has completed a significant reorganization as to how it solicits and administers funding awards for this program as part of the restructure. These rule change are designed to reflect the significant reorganization of the department.

Rules Coordinator: Sandy McDonnell

Address: Oregon Housing and Community Services Department, 725 Summer St. NE, Suite B, Salem, OR 97301

Telephone: (503) 986-2012

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Rule Caption: Amends the process for soliciting and administering funding awards for the HELP Program

Date:	Time:	Location:
12-2-13	10 a.m.	725 Summer St. Conference Room 124A Salem, OR 97301

Hearing Officer: Sandy McDonnell

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555, 456.559, 456.625

Proposed Adoptions: 813-130-0150

Proposed Amendments: 813-130-0000, 813-130-0010, 813-130-0020, 813-130-0030, 813-130-0040, 813-130-0050, 813-130-0060, 813-130-0070, 813-130-0080, 813-130-0090, 813-130-0100, 813-130-0110, 813-130-0120

Proposed Repeals: 813-130-0130, 813-130-0140, 813-130-0000(T), 813-130-0010(T), 813-130-0020(T), 813-130-0030(T), 813-130-0040(T), 813-130-0050(T), 813-130-0060(T), 813-130-0070(T), 813-130-0080(T), 813-130-0090(T), 813-130-0100(T), 813-130-0110(T), 813-130-0120(T), 813-130-0150(T)

Last Date for Comment: 12-10-13, 5 p.m.

Summary: The HELP program provides financial assistance for the construction, acquisition and/or rehabilitation of multifamily rental housing for individuals and families of very low income in order to expand the supply of affordable, decent, safe and sanitary housing in Oregon. The department has completed a significant reorganization as to how it solicits and administers funding awards for this program as part of the restructure. These rule changes are designed to reflect the significant reorganization of the department.

Rules Coordinator: Sandy McDonnell

Address: Oregon Housing and Community Services Department, 725 Summer St. NE, Suite B, Salem, OR 97301

Telephone: (503) 986-2012

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Oregon Liquor Control Commission Chapter 845

Rule Caption: Implements Senate Bill 795 (granting growler privileges to holders of Temporary Sales Licenses).

Date:	Time:	Location:
12-5-13	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Annabelle Henry

Stat. Auth.: ORS 471 including 471.030, 471.040, 471.190 & 471.730(1) & (5)

Stats. Implemented: ORS 471.190, 471.360 & 471.482

Proposed Amendments: 845-005-0440

Last Date for Comment: 12-19-13, 5 p.m.

Summary: Temporary Sales License privileges are set forth in ORS 471.190. OAR 845-005-0440 implements this statute. Under the current rule, the holder of a Temporary Sales License may sell wine, malt beverages, and cider for on-premises and off-premises con-

sumption. However, alcohol sold for off-premises consumption may only be sold in factory-sealed containers.

On June 26, 2013, the Governor signed Senate Bill 795 into law. Senate Bill 795 amends ORS 471.190 to allow the holder of a Temporary Sales License to also sell wine, malt beverages, and cider in securely-covered containers provided by the consumer, also known as growlers, provided that each growler holds no more than two gallons of liquid.

Because Senate Bill 795 contains an emergency clause making it effective upon passage, the Commission recently amended OAR 845-005-0440 on a temporary basis (effective October 1, 2013) to comply with the statutory language now in effect and initiated permanent rulemaking. The temporary rule will remain in effect until permanent amendments are adopted or until the temporary rule expires on March 30, 2014; whichever is first to occur.

Rules Coordinator: Annabelle Henry

Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222

Telephone: (503) 872-5004

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Rule Caption: Amends two rules to implement House Bill 3435 (expanding Distillery license tasting privileges).

Date:	Time:	Location:
12-3-13	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Annabelle Henry

Stat. Auth.: ORS 471, including 471.030, 471.040 & 471.730(1) & (5)

Stats. Implemented: ORS 471.230

Proposed Amendments: 845-005-0431, 845-006-0452

Last Date for Comment: 12-17-13, 5 p.m.

Summary: Distillery license privileges are set forth in ORS 471.230. The administrative rules in this package implement this statute and establish, among other things, the qualifications and requirements that apply to holders of Distillery licenses that choose to provide tastings of distilled liquor that they have manufactured.

Under ORS 471.230, a Distillery licensee may conduct tastings at its annually licensed premises and at one other premises that it owns or leases. However, effective January 1, 2014, House Bill 3435 amends this statute to allow the holder of a Distillery license to conduct tastings at its annually licensed premises and at up to five other premises that it owns or leases.

The proposed amendments reflect the revised statutory language.

Rules Coordinator: Annabelle Henry

Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222

Telephone: (503) 872-5004

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Rule Caption: Amends service permit application refusal bases and the good cause standards that may overcome them.

Date:	Time:	Location:
12-17-13	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Annabelle Henry

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.730(1) & (5)

Stats. Implemented: ORS 471.380

Proposed Amendments: 845-009-0020

Last Date for Comment: 12-31-13, 5 p.m.

Summary: Under ORS 471.380, the Commission may refuse to grant a service permit if, among other things, it has reasonable grounds to believe that the applicant habitually uses alcohol, or other controlled substances, to excess or has been convicted of a felony or the violation of any state or local liquor laws.

OAR 845-009-0020 defines and describes these three statutory refusal bases (i.e., habit, felony convictions, and liquor law violations) and the good cause, if any, that overcomes them.

NOTICES OF PROPOSED RULEMAKING

The proposed amendments substantively revise the rule to better align its provisions with current licensing standards and to clarify the eligibility and proof criteria necessary to establish a good cause exception to these service permit refusal bases. The proposed amendments also restructure the rule to improve readability and eliminate repetitive language.

Rules Coordinator: Annabelle Henry
Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222
Telephone: (503) 872-5004

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Oregon Medical Board
Chapter 847

Rule Caption: Compliance with Board investigations and agreements

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.190, 677.205, 677.270, 677.320
Proposed Adoptions: 847-001-0024
Last Date for Comment: 11-21-13

Summary: The proposed new rule states that failure to comply with a Board investigation or failure to comply with a Board Agreement violates ORS 677.190(17) and is grounds for disciplinary action.

Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

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Rule Caption: Recognizes continuing medical education in cultural competency

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265
Proposed Amendments: 847-008-0070
Last Date for Comment: 11-21-13

Summary: The proposed rule amendment allows participation in cultural competency education to be counted toward the mandatory continuing education required of all Board licensees.

Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

.....
Rule Caption: Eliminates the Limited License, Special

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.132, 677.535
Proposed Amendments: 847-010-0060
Proposed Repeals: 847-010-0053, 847-050-0026, 847-070-0036
Last Date for Comment: 11-21-13

Summary: The proposed rule amendment and the proposed rule repeals eliminate the Limited License, Special because this license is no longer offered and is specific to the former process of issuing licenses, which only occurred at the quarterly Board meetings. Licenses are now issued weekly, eliminating the need for the Limited License, Special.

Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

.....
Rule Caption: Compliance with personal interview requests

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.100, 677.190
Proposed Amendments: 847-020-0110
Last Date for Comment: 11-21-13

Summary: The proposed rule amendment states that failure to appear for a personal interview is a violation of ORS 677.190(17), and the applicant may be subject to disciplinary action.

Rules Coordinator: Nicole Krishnaswami

Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201

Telephone: (971) 673-2667

.....
Rule Caption: Compliance with personal interview requests

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265
Proposed Amendments: 847-050-0025
Last Date for Comment: 11-21-13

Summary: The proposed rule amendment allows personal interview for applications subsequent to initial licensure with the Board (such as reactivation) and states that failure to appear for a personal interview is a violation of ORS 677.190(17), and the applicant may be subject to disciplinary action.

Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

.....
Rule Caption: Changes name of the Limited License, Postgraduate to Limited License, Pending Examination

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.132, 677.265, 677.512, 677.535
Proposed Amendments: 847-050-0020, 847-050-0023
Last Date for Comment: 11-21-13

Summary: The proposed rule amendments change the name of the Limited License, Postgraduate to Limited License, Pending Examination to properly reflect that the limited licensee is not in a postgraduate training program but instead is awaiting the national certification exam before applying for a full, unlimited license.

Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

.....
Rule Caption: Compliance with personal interview requests

Stat. Auth.: ORS 667.265
Stats. Implemented: ORS 677.265, 677.759
Proposed Amendments: 847-070-0019
Last Date for Comment: 11-21-13

Summary: The proposed rule amendment allows personal interviews to occur at a time other than at the biannual Acupuncture Committee meetings and states that failure to appear for a personal interview is a violation of ORS 677.190(17), and the applicant may be subject to disciplinary action.

Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

.....
Rule Caption: Changes name of the Limited License, Postgraduate to Limited License, Pending Examination

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.759
Proposed Amendments: 847-070-0037
Last Date for Comment: 11-21-13

Summary: The proposed rule amendments change the name of the Limited License, Postgraduate to Limited License, Pending Examination to properly reflect that the limited licensee is not in a postgraduate training program, but instead is obtaining clinical training while awaiting the national certification exam before applying for a full, unlimited license.

Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Compliance with personal interview requests
Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.100, 677.190, 677.265, 677.810, 677.840
Proposed Amendments: 847-080-0002
Last Date for Comment: 11-21-13
Summary: The proposed rule amendment states that failure to appear for a personal interview is a violation of ORS 677.190(17), and the applicant may be subject to disciplinary action.
Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

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**Oregon Military Department,
Office of Emergency Management
Chapter 104**

Rule Caption: Guidance for employers to conduct mandatory annual earthquake drills for employees located within office buildings
Date: 12-3-13
Time: 6-7 p.m.
Location: Salem Public Library
Anderson Rm. B
585 Liberty St. SE
Salem, OR 97301

Hearing Officer: Althea Rizzo
Stat. Auth.:
Stats. Implemented: ORS 401.260
Proposed Amendments: Rules in 104-020
Last Date for Comment: 12-6-13

Summary: The purpose of the rule is to provide guidance for all private, state, local government agencies and non-governmental employers with 250 or more full-time employees to conduct mandatory annual earthquake drills for employees located within office buildings.
Rules Coordinator: Cherie Cline
Address: Oregon Military Department, Office of Emergency Management, PO Box 14370, Salem, OR 97309-5062
Telephone: (503) 378-2911, ext. 22221

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**Oregon Public Employees Retirement System
Chapter 459**

Rule Caption: Clarify administration of data verifications and Notices of Dispute.
Date: 11-26-13
Time: 3 p.m.
Location: PERS Boardroom
11410 SW 68th Pkwy
Tigard, OR 97223

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.650 & 238A.450
Stats. Implemented: ORS 183.413-183.470, 238.285
Proposed Amendments: 459-001-0030, 459-005-0040
Last Date for Comment: 12-6-13
Summary: Clarify administration of data verifications and Notices of Dispute.

Copies of the proposed rule are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml. Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us
Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
Telephone: (503) 603-7713

.....
Rule Caption: Clarify final average salary rules
Date: 11-26-13
Time: 3 p.m.
Location: PERS Boardroom
11410 SW 68th Parkway
Tigard, OR 97223

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.650 & 238A.450
Stats. Implemented: ORS 238.005, 238.705 & 238A.050
Proposed Amendments: 459-005-0001, 459-070-0100
Last Date for Comment: 12-6-13
Summary: Rule modifications are needed to clarify final average salary (FAS).
Copies of the proposed rule are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml. Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us
Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
Telephone: (503) 603-7713

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Rule Caption: Clarify participant eligibility and service time used in apportioning the health insurance premium
Date: 11-26-13
Time: 3 p.m.
Location: PERS Boardroom
11410 SW 68th Parkway
Tigard, OR

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.410, 238.650 & 238A.450
Stats. Implemented: ORS 238.410, 238.415, 238.420, 238A.050
Proposed Amendments: 459-035-0001, 459-035-0050
Last Date for Comment: 12-6-13

Summary: ORS 238.415 established the Retiree Health Insurance Premium Account (RHIPA) that pays a monthly subsidy that is applied toward the cost of healthcare coverage for eligible retired state employees who are not Medicare eligible. This subsidy applies only to PERS retirees who retire from a state employer and who immediately apply for their pension. The State of Oregon is the sole employer participating and funding the RHIPA program for their eligible state employees.

Participants of the RHIPA program are eligible state employees or a surviving spouse or dependent of a deceased eligible state employee who retired for service or disability and who must have 8 years or more of "qualifying service." The monthly premium subsidy is apportioned based on a retired state employee's "qualifying service" time, beginning with 8 years of service at 50 percent subsidy and incrementally increasing the service time to 30 years or more with the maximum subsidy paid to a career state employee.

There is confusion regarding the appropriate "qualifying service" that is used in determining eligibility and the amount of health insurance premium subsidy for a retired state employee. The revisions of these rules will clarify that RHIPA eligibility and subsidy is based on "qualifying service" from employment with a state employer only.

Copies of the proposed rules are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml. Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
Telephone: (503) 603-7713

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Rule Caption: Clarify provisions of Senate Bill 861
Date: 11-26-13
Time: 3 p.m.
Location: PERS Boardroom
11410 SW 68th Parkway,
Tigard, OR

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.465, 238.650, 238.715 & 238A.450
Stats. Implemented: ORS 238A.210, chapters 2 and 3, Oregon Laws 2013
Proposed Adoptions: 459-005-0510, 459-005-0520
Last Date for Comment: 12-6-13

NOTICES OF PROPOSED RULEMAKING

Summary: Clarify the provisions of Senate Bill 861 (enacted during the 2013 special legislative session).

Copies of the proposed rule are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml. Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281

Telephone: (503) 603-7713

Rule Caption: Clarify provisions of Senate Bill 862 relating to felony garnishments

Date:	Time:	Location:
11-26-13	3 p.m.	PERS Boardroom 11410 SW 68th Parkway Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650 & 238.715

Stats. Implemented: ORS 238.005–238.715

Proposed Amendments: 459-005-0600

Last Date for Comment: 12-6-13

Summary: OAR 459-005-0600 needs to be revised for felony garnishments under SB 862.

Copies of the proposed rule are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml. Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281

Telephone: (503) 603-7713

Oregon University System, Eastern Oregon University Chapter 579

Rule Caption: To amend Eastern Oregon University Student Code of Conduct.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 579-040-0005, 579-040-0007, 579-040-0010, 579-040-0013, 579-040-0015, 579-040-0030, 579-040-0035, 579-040-0045

Proposed Repeals: 579-040-0020

Last Date for Comment: 11-16-13, 5 p.m.

Summary: The revisions to the Eastern Oregon University Student Code of Conduct reflect institutional changes, current verbiage within the conduct filed, as well as current standards of practice as a result of federal mandates related to sexual misconduct.

The Suspension of 579-040-0020 is a result of its incorporation of disciplinary hearing process into 579-040-0015.

Rules Coordinator: Teresa Carson-Mastrude

Address: Oregon University System, Eastern Oregon University, One University Blvd., Inlow Hall 202A, La Grande, OR 97850

Telephone: (541) 962-3773

Oregon University System, Oregon State University Chapter 576

Rule Caption: Sets fees/charges at Oregon State University for the balance of fiscal year 2013–2014.

Date:	Time:	Location:
12-6-13	1 p.m.	Memorial Union, Rm. 206 Oregon State University 2501 SW Jefferson Way Corvallis, OR

Hearing Officer: Beth Giddens

Stat. Auth.: ORS 351.070, 352.360

Other Auth.: OAR 580-040-0010

Stats. Implemented: ORS 351.070, 352.360

Proposed Amendments: 576-010-0000

Last Date for Comment: 12-9-13, Close of Business

Summary: The proposed amendment will set fees and charges for designated services at Oregon State University for the balance of fiscal year 2013–2014. The rule states: “The University hereby adopts by reference a list of fees and charges for fiscal year 2013–2014. The list of fees and charges is available at Oregon State University’s Valley Library, and is hereby incorporated by reference in this rule.”

Rules Coordinator: Beth Giddens

Address: Oregon University System, Oregon State University, 638 Kerr Administration Bldg., Corvallis, OR 97331

Telephone: (541) 737-2449

Physical Therapist Licensing Board Chapter 848

Rule Caption: Update Division 35 Continuing Competency/CE Requirements

Date:	Time:	Location:
11-15-13	8:30 a.m.	PSOB 800 NE Oregon St., Suite 445 Portland, OR 97232

Hearing Officer: James D. Heider

Stat. Auth.: OAR 688.160(6)(c); OAR 688.160(6)(g)

Stats. Implemented: OAR 688.160(6)(g)

Proposed Amendments: 848-035-0015, 848-035-0020, 848-035-0030, 848-035-0035, 848-035-0040

Last Date for Comment: 11-14-13, 10 a.m.

Summary: Highlights of changes to CE rules include change in terminology from “continuing education (CE)” to “continuing competency (CC)” plus language broadening the scope of activities allowed to satisfy the requirement; change in the total number of CC credits required by a PTAs within the two year certification period from 12 to 24 the same requirement as PTs; new language allowing the Board to make CC exceptions under certain circumstances; new language closing loopholes and addressing areas of abuse and further clarification of existing rule language.

Rules Coordinator: James Heider

Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

Telephone: (971) 673-0203

Rule Caption: Existing Rules Clarification, Housekeeping, Updated Fee Schedule, Changes for Statutory Updates.

Date:	Time:	Location:
11-15-13	8:30 a.m.	PSOB 800 NE Oregon St. Ste. 445 Portland, OR 97232

Hearing Officer: James D. Heider

Stat. Auth.: OAR 688.160(6)(c)

Stats. Implemented: OAR 688.010 to 688.201

Proposed Amendments: 848-001-0005, 848-005-0020, 848-005-0030, 848-010-0015, 848-010-0020, 848-010-0026, 848-010-0033, 848-010-0035, 848-010-0044, Rules in 848-015, Rules in 848-020, 848-040-0110, 848-040-0117, 848-040-0147, Rules in 848-045

Last Date for Comment: 11-15-13, 10 a.m.

Summary: Most of the proposed changes are housekeeping and further clarification of existing rule language. The fee schedule is changing; lowering the fee for mailing lists, raising the fee for wall certificates and photocopy requests and adding a new fee for written application status requests. Rules were also updated to reflect the 2013 Legislative changes with regards to requirements to refer a patient.

Rules Coordinator: James Heider

Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

Telephone: (971) 673-0203

NOTICES OF PROPOSED RULEMAKING

Public Utility Commission Chapter 860

Rule Caption: In the Matter of Updates to Rules Regarding Portfolio Options.

Date: 12-11-13 **Time:** 10 a.m. **Location:** Public Utility Commission Hearing Rm.
3930 Fairview Industrial Dr. SE
Salem, OR 97302

Hearing Officer: Patrick Power & Sarah Rowe

Stat. Auth.: ORS Ch. 183, 756, 757

Stats. Implemented: ORS 756.040, 757.600–757.667

Proposed Amendments: 860-038-0005, 860-038-0300

Last Date for Comment: 12-18-13, 5 p.m.

Summary: The Portfolio Options program, associated Labeling, and customers have matured and evolved since implementation in 2000. This maturation and evolution necessitate updating the rules to reflect current conditions. Commission Order No. 11-245 opened a docket and directed Staff to explore options for and extent of updates to various aspects of Portfolio Options, as that subject is addressed in OAR 860-038-0220, and Labeling, as that subject is addressed in OAR 860-038-0300.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 555 on comments and file them by e-mail to the Commission's Filing Center at PUC. FilingCenter@state.or.us and also send a signed paper copy to the Filing Center at PO Box 1088, Salem, Oregon 97308-1088. For more information about the Commission's Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>. Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=16912>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_001.html.

Participants wishing to monitor the hearing by telephone must contact Diane Davis at diane.davis@state.or.us or (503) 378-4372 by close of business December 5, 2013, to request a dial -in number. The Commission strongly encourages those planning to present oral comment at the hearing to attend in person.

Rules Coordinator: Diane Davis

Address: Public Utility Commission of Oregon, PO Box 1088, Salem, OR 97308-1088

Telephone: (503) 378-4372

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Rule Caption: In the Matter of Telecommunications Service Standards Revisions — Repair Clearing Time

Date: 12-5-13 **Time:** 9:30 a.m. **Location:** Public Utility Commission
3930 Fairview Industrial Dr. SE
Salem, OR 97302

Hearing Officer: ALJ Allan Arlow

Stat. Auth.: ORS Ch. 183, 756, 759

Stats. Implemented: ORS 756.040, 759.020, 759.035, 759.050, 759.240, 759.450

Proposed Amendments: 860-023-0055, 860-032-0012, 860-034-0390

Last Date for Comment: 12-13-13, 5 p.m.

Summary: This rulemaking proposes changes to telecommunications service standards relating to time to complete weekend repairs as found in OAR 860-023-0055(6), 860-032-0012(6), and 860-034-0390(6). The changes are proposed to alleviate weekend repair reporting problems related to repair intervals and to align the standard more closely with the standard in Washington and Idaho. The proposed changes reduce the standard from 95 percent to 90 percent.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants

have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 575 on comments and file them by e-mail to the Commission's Filing Center at PUC. FilingCenter@state.or.us and also send a signed paper copy to the Filing Center at PO Box 1088, Salem, Oregon 97308-1088. For more information about the Commission's Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>. Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=18577>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_001.html.

Participants wishing to monitor the hearing by telephone must contact Diane Davis at diane.davis@state.or.us or (503) 378-4372 by close of business November 27, 2013, to request a dial -in number. The Commission strongly encourages those planning to present oral comment at the hearing to attend in person.

Rules Coordinator: Diane Davis

Address: Public Utility Commission of Oregon, PO Box 1088, Salem, OR 97308-1088

Telephone: (503) 378-4372

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Racing Commission Chapter 462

Rule Caption: Oregon Racing Commission intends to make permanent two, current temporary rules.

Date: 1-16-14 **Time:** 10:30 a.m. **Location:** Oregon Racing Commission
800 NE Oregon St., Suite 310
Portland, OR 97232

Hearing Officer: Charles Williamson

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.020 & 462.270(3)

Proposed Adoptions: 462-200-0635

Proposed Amendments: 462-120-0060

Last Date for Comment: 1-16-14, 12 p.m.

Summary: Amend: 462-120-0060 (Temporary Licenses): Amends rule to include a special event license.

Adopt: 462-200-0635 (Show Pick N with Unique Ticket Jackpot): Adopts rule with unique ticket jackpot.

Rules Coordinator: Nancy A. Artmann

Address: Oregon Racing Commission, 800 NE Oregon St., Suite 310, Portland, OR 97232

Telephone: (971) 673-0211

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Secretary of State, Corporation Division Chapter 160

Rule Caption: Oregon License Directory

Date: 11-18-13 **Time:** 1:30 p.m. **Location:** Corp. Conference Rm.
255 Capitol St. NE
Salem, OR 97310

Hearing Officer: Tom Wrosch

Stat. Auth.: ch. 580, 2013 Oregon Laws

Stats. Implemented: ch. 580, 2013 Oregon Laws

Proposed Adoptions: 160-010-0700 – 160-010-0750

Last Date for Comment: 11-21-13, 12 p.m.

Summary: These rules govern the maintenance of the Oregon License Directory, which contains information about licenses, permits and registrations for which fees are imposed on small businesses by local and state agencies in Oregon.

Rules Coordinator: Ginger Spotts

Address: Secretary of State, Corporation Division, 255 Capitol St. NE, Suite 151, Salem, OR 97310

Telephone: (503) 986-2333

ADMINISTRATIVE RULES

Board of Chiropractic Examiners Chapter 811

Rule Caption: Fees increased for license renewals; a grace period with related late fees was established

Adm. Order No.: BCE 3-2013

Filed with Sec. of State: 10-8-2013

Certified to be Effective: 11-1-13

Notice Publication Date: 9-1-2013

Rules Amended: 811-010-0086, 811-010-0110

Subject: SB 106 removed license fee maximums from statute. Doctor and Assistant fees are increasing slightly. SB 106 also creates a 30 day grace period for CA renewal similar to that which the DCs have

Rules Coordinator: Kelly J. Beringer—(503) 373-1573

811-010-0086

Annual Registration

The license period for chiropractic physicians in Oregon is a period equal to 12 months, expiring on the last day of the licensee's birth date month.

(1) At least 30 days prior to the renewal due date the board shall mail to the last-known professional address of each licensed chiropractor a notice of the requirements of ORS 684.090 and 684.092.

(2) Active licensees must meet the requirements of ORS 684.092 during the 12 months prior to the expiration of the Certificate of Registration and pay to the board the annual \$350 registration fee.

(3) Licensees may apply for a \$262.50 senior active license within 45 days prior to the expiration of the Certificate of Registration if the licensee meets all of the following requirements:

- (a) Is 60 years of age or older; and
- (b) Has held an active chiropractic license for at least 25 years.

(4) Senior active licensees shall fulfill the requirements of ORS 684.090, 684.092 and 684.094 except that continuing chiropractic education shall not be less than 6 hours per year.

(5) Senior active licensees shall show proof at the time of license renewal that the criteria of subsection (3)(a) and (b) of this rule have been met.

(6) Active licensees may apply for a \$175 inactive license within 45 days prior to the expiration of the Certificate of Registration if the licensee qualifies because of one of the following:

- (a) Military service;
- (b) Peace Corps or VISTA service;
- (c) Retirement; or
- (d) Licensee is not engaged in the practice of chiropractic in Oregon.

(7) Inactive licensees do not have to fulfill the requirements of ORS 684.092.

(8) Inactive licensees who want to reinstate their active license during the same fiscal year shall pay the full active annual registration fee and provide proof of compliance with ORS 684.092.

(9) Inactive licensees who apply for reinstatement after five or more years after the date of transfer to inactive license, or who cannot demonstrate to the satisfaction of the Board they have been in active practice during the preceding five years, may be required to establish their competency in the practice of chiropractic by

(a) Receiving a passing grade on all or part of an examination required by the Board; or

(b) Submitting a letter showing proof of active practice and any disciplinary actions from the state boards where licensure is maintained.

(10) A license that is not renewed on time may not be renewed except:

(a) Upon written application and payment to the board of the fee for the license category plus a delinquent fee of \$100 for each week or portion thereof, not to exceed \$500.

(b) Upon compliance with or exemption from the requirements of ORS 684.092.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.090 & 684.092

Hist.: 2CE 9, f. 10-16-70; 2CE 13(Temp), f. & ef. 4-13-76 through 8-10-76; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; 2CE 1-1986, f. 4-14-86, ef. 5-1-86; Suspended by CE 1-1989(Temp), f. & cert. ef. 7-28-89; CE 1-1993, f. 3-1-93, cert. ef. 4-1-93; CE 2-1995, f. & cert. ef. 10-30-95; BCE 3-2000, cert. ef. 8-23-00; BCE 2-2002, f. & cert. ef. 5-29-02; BCE 2-2004, f. & cert. ef. 6-7-04; BCE 1-2007, f. & cert. ef. 11-30-07; BCE 3-2013, f. 10-8-13, cert. ef. 11-1-13

811-010-0110

Chiropractic Assistants

(1) The license period for Chiropractic Assistants begins on August 1 and ends on July 31. A 30 day grace period will follow whereupon the Chiropractic Assistant may continue to practice. Any Chiropractic Assistant who has not renewed by September 1 must cease practice.

(2) Chiropractic Assistants may be certified upon compliance with the following standards and procedures:

(a) The Chiropractic Assistant applicant shall successfully complete a Board approved training course offered by an association, college or otherwise approved person. The initial training course shall be at least twelve hours in length, of which eight hours shall be didactic training and four hours shall be practical training.

(A) The practical training must be in physiotherapy, electrotherapy and hydrotherapy administered by a health care provider licensed to independently provide those therapies.

(B) A chiropractic physician may perform the initial practical training provided this is direct contact time.

(C) The initial training must have been completed within 60 days preceding the application submission date;

(b) The applicant shall complete an application form and an open book examination supplied by the Board;

(c) If an applicant has a certificate or license from another state and adequate documentation of training, the Board may waive the requirement for the initial training course; and

(d) A person initially certified between March 1st and May 31st is exempt from the continuing education requirement for renewal.

(3) The training course verification form, completed application form, completed examination, and fees in the following amounts shall be submitted to the Board:

(a) A non-refundable application fee — \$25;

(b) A non-refundable examination fee — \$35; and

(c) An initial certification fee — \$50. A refund of the certification fee will only be allowed when requested within 60 days of the initial application.

(d) In circumstances beyond the applicant's control (e.g. board review of criminal history) the Board may determine to refund the fees or portion thereof.

(e) In the event the Board requires the NBCE chiropractic assistant examination in lieu of the Board's examination, the fee in subsection (b) will be waived.

(4) The Board shall maintain an incomplete application file for six months from the date the application was received; afterward, applicants will need to re-apply.

(5) The applicant shall be at least 18 years of age.

(6) The Chiropractic Assistant shall not perform electrotherapy, hydrotherapy, or physiotherapy until he or she receives a certificate from the Board.

(7) A Chiropractic Assistant shall be directly supervised by the Chiropractor at all times. The supervising Chiropractor must be on the premises.

(8) The scope of practice does not include performing physical examinations, taking initial histories, taking X-rays, interpretation of postural screening, doing manual muscle testing or performing osseous adjustments or manipulations.

(9) Chiropractic Assistants shall report to the Board, in writing, his/her mailing address and place of employment. Notification of a change of mailing address or place of employment must be made within 10 days of the change.

(10) On or before each June 1, the Board of Examiners shall send the renewal notice to the Chiropractic Assistant at the last known mailing address.

(11) On or before each July 31 the Chiropractic Assistant shall mail to the Board of Examiners the renewal form with a renewal fee of \$75. A certificate that is not renewed on time may not be renewed except:

(a) Upon written application and payment to the board of the renewal fee plus a delinquent fee of \$25 for renewals submitted between August 1 and August 31 of each year; or

(b) Upon written application and payment to the board of the renewal fee plus a delinquent fee of \$50 for renewals submitted on September 1 or later; and

(c) Upon submission of proof of compliance with or exemption from the requirements of ORS 684.092.

(12) A Chiropractic Assistant has up to one year following their July 31 renewal date to renew and reinstate their certificate upon meeting the

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provisions of (11)(a) through (c) above. After 12 months a person must restart the application process.

(13) Continuing education programs may be comprised of subjects that are pertinent to clinical practices of chiropractic. Continuing education must meet the criteria outlined in OAR 811-015-0025 sections (8), (9) and (10). No continuing education hours may be carried over into the next renewal year. Evidence of successful completion of six hours of continuing education during the 12 months preceding the renewal must be submitted upon request by the board.

(14) The Chiropractic Assistant's certificate shall be displayed at all times in the Chiropractic Physician's office during the Chiropractic Assistant's employment.

(15) The Board may refuse to grant a certificate to any applicant, may suspend or revoke a certificate, or may impose upon an applicant for certification or Chiropractic Assistant a civil penalty not to exceed \$1,000 upon finding of any of the following:

(a) Cause, which is defined as, but not limited to, failure to follow directions, unprofessional or dishonorable conduct, injuring a patient, or unlawful disclosure of patient information. The supervising Chiropractic Physician is required to notify the Board, in writing, of any dismissal of a Chiropractic Assistant for cause within ten days. The Board shall determine if there is cause for action and shall be governed by the rules of the Board adopted pursuant to ORS Chapter 183;

(b) Conviction of a misdemeanor involving moral turpitude or a felony; or

(c) Failure to notify the Board of a change of location of employment as required by these rules.

(16) Unprofessional or dishonorable conduct is defined as: any unethical, deceptive, or deleterious conduct or practice harmful to the public; any departure from, or failure to conform to, the minimal standards of acceptable Chiropractic Assistant practice; or a willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a Chiropractic Assistant:

(a) Engaging in any conduct or verbal behavior with or towards a current patient that may reasonably be interpreted as sexual, seductive, sexually demeaning or romantic (also see ORS 684.100).

(b) A certificate holder shall not engage in sexual relations or have a romantic relationship with a current patient unless a consensual sexual relationship or a romantic relationship existed between them before the commencement of the Chiropractic Assistant-patient relationship.

(A) "Sexual relations" means:

(i) Sexual intercourse; or

(ii) Any touching of sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the Chiropractic Assistant for the purpose of arousing or gratifying the sexual desire of either Chiropractic Assistant or patient.

(B) A patient's consent to, initiation of or participation in sexual behavior or involvement with a Chiropractic Assistant does not change the nature of the conduct nor lift the prohibition.

(C) In determining whether a patient is a current patient, the Board may consider the length of time of the Chiropractic Assistant-patient contact, evidence of termination of the Chiropractic Assistant-patient relationship, the nature of the Chiropractic Assistant-patient relationship, and any other relevant information.

(c) Use of protected or privileged information obtained from the patient to the detriment of the patient.

(d) Practicing outside the scope of the practice of a Chiropractic Assistant in Oregon;

(e) Charging a patient for services not rendered;

(f) Intentionally causing physical or emotional injury to a patient;

(g) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques;

(h) Soliciting or borrowing money from patients;

(i) Possessing, obtaining, attempting to obtain, furnishing, or prescribing controlled drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs; illegally using or dispensing controlled drugs;

(j) Aiding, abetting, or assisting an individual to violate any law, rule or regulation intended to guide the conduct of Chiropractic Assistants or other health care providers; or

(k) Violating the rights of privacy or confidentiality of the patient unless required by law to disclose such information;

(l) Perpetrating fraud upon patients or third party payors, relating to the practice of chiropractic;

(m) Using any controlled or illegal substance or intoxicating liquor to the extent that such use impacts the ability to safely conduct the practice of a Chiropractic Assistant;

(n) Practicing as a Chiropractic Assistant without a current Oregon certificate;

(o) Allowing another person to use one's Chiropractic Assistant certification for any purpose;

(p) Resorting to fraud, misrepresentation, or deceit in applying for or taking the certificate examination or obtaining a certificate or renewal thereof;

(q) Impersonating any applicant or acting as a proxy for the applicant in any Chiropractic Assistant certificate examination;

(r) Disclosing the contents of the certificate examination or soliciting, accepting, or compiling information regarding the contents of the examination before, during, or after its administration;

(s) Failing to provide the Board with any documents requested by the Board;

(t) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to, waiver of confidentiality privileges, except attorney-client privilege;

(u) Claiming any academic degree not actually conferred or awarded;

(v) Disobeying a final order of the Board; and

(w) Splitting fees or giving or receiving a commission in the referral of patients for services.

(x) Receiving a suspension or revocation of a certificate or license for a Chiropractic Assistant, or other license or certificate, by another state based upon acts by the Chiropractic Assistant or applicant that describes acts similar to this section. A certified copy of the record of suspension or revocation of the state making that is conclusive evidence thereof.

(17) The service of the Chiropractic Assistant is the direct responsibility of the licensed Chiropractic Physician. Violations may be grounds for disciplinary action against the Chiropractic Physician under ORS 684.100(9).

Stat. Auth.: ORS 684.155

Stats. Implemented: ORS 684.054 & 684.155(c)(A)

Hist.: CE 1-1990, f. & cert. ef. 2-15-90; CE 5-1992(Temp), f. 10-21-92, cert. ef. 10-23-92; CE 2-1993, f. 3-1-93, cert. ef. 4-23-93; CE 4-1997, f. & cert. ef. 11-3-97; BCE 3-2000, cert. ef. 8-23-00; BCE 1-2001, f. 1-31-01, cert. ef. 2-1-01; BCE 1-2002, f. & cert. ef. 2-6-02; BCE 2-2008, f. & cert. ef. 10-9-08; BCE 2-2010, f. & cert. ef. 6-15-10; BCE 1-2012, f. & cert. ef. 5-31-12; BCE 3-2013, f. 10-8-13, cert. ef. 11-1-13

Board of Geologist Examiners Chapter 809

Rule Caption: Adding Proctored Examination Reviews to Services Offered to Geology and Certified Engineering Geology Examination Candidates

Adm. Order No.: BGE 2-2013

Filed with Sec. of State: 9-24-2013

Certified to be Effective: 9-24-13

Notice Publication Date: 7-1-2013

Rules Amended: 809-010-0001, 809-040-0021

Subject: The rule amendments add proctored reviews for Association of State Boards of Geologist (ASBOG) and Certified Engineering Geology (CEG) examinations to the services offered to the Board's examination applicants. The Board did not previously offer these services. ASBOG, the national examination provider for the Geology Fundamentals and Geology Practice examination sections, requires that a state board have an adopted policy specifying that proctored reviews are offered before it will accommodate such requests by applicants in the state. The Board also offers an equitable option to those taking the CEG examination. The Fee rule now specifies the charges for these newly offered services.

Rules Coordinator: Christine Valentine—(503) 566-2837

809-010-0001

Fees

Fees, as established by the Board of Geologist Examiners, are:

Examinations

(1) Fundamental Section of the national examination for Geologist registration — an amount equal to the actual cost of purchasing this portion of the exam from ASBOG.

(2) Practice Section of the national examination for Geologist registration — an amount equal to the actual cost of purchasing this portion of the exam from ASBOG.

(3) Examination for Engineering Geologist certification — \$200.00.

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(4) Manual rescoring or proctored review:

(a) For ASBOG manual rescoring request only — an amount equal to the actual cost charged by ASBOG for this service;

(b) For ASBOG proctored review request only — an amount equal to the actual cost charged by ASBOG for this service; and

(c) In addition to (a) & (b) and for all Certified Engineering Geology exam-related requests, an amount payable to the Board for the actual administrative costs of providing the service, including any costs for staff or Board member time, copies, postage, and other processing costs, up to a maximum of \$100.00 payable to the Board per request.

Registration and Renewal

(5) Geologist-in-Training initial registration and annual renewal — \$50.00.

(6) Geologist initial registration and annual renewal — \$100.00.

(7) Engineering Geologist initial certification and annual renewal — \$75.00. Engineering Geologist must have a current Geologist registration.

(8) Duplicate or replacement of lost, destroyed, or mutilated registration card — \$25.00; duplicate or replacement of lost, destroyed, or mutilated wall certificate — \$25.00.

(9) Restoration fee if postmarked:

(a) One to ninety days after due date: \$25.00;

(b) Ninety-one to one-hundred seventy-nine days after due date: \$50;

(c) Over one-hundred seventy-nine days after due date: \$100.

(10) Renewal of registration by Geologist, if applicant is 70 years of age or over by renewal date — \$15.00.

(11) Renewal of certification by Engineering Geologist, if applicant is 70 years of age or over by renewal date — \$15.00.

Miscellaneous

(12) Application Fee — \$75.00. This fee is to accompany any application for registration or examination and any reapplication for examination.

(13) Temporary Permit Fee — \$100.00. This fee is to accompany any notification per 672.545(3)(b).

(14) File Maintenance Fee — \$25.00 per request. This fee is to cover maintaining examination files for passing examinees who do not register in Oregon.

(15) Fee for a list of all registrants — \$50.00.

Stat. Auth.: ORS 182.466, 670.310 & 672.705

Stats. Implemented: ORS 672.705

Hist.: GE 1(Temp), f. & ef. 11-3-77; GE 2, f. & ef. 12-13-77; GE 2-1979, f. 10-2-79, ef. 10-3-79; GE 1-1981, f. & ef. 8-3-81; GE 1-1982, f. & ef. 5-14-82; GE 2-1983(Temp), f. 10-14-83, ef. 11-1-83; GE 1-1984, f. & ef. 2-1-84; GE 1-1985, f. & ef. 7-1-85; GE 2-1986, f. & ef. 3-5-86; GE 1-1989, f. 12-18-89, cert. ef. 1-1-90; GE 1-1993(Temp), f. 3-1-93, cert. ef. 3-2-93; GE 2-199; GE 2-1996, f. & cert. ef. 8-30-96; BGE 1-1999, f. & cert. ef. 6-17-99; BGE 2-2001, f. & cert. ef. 3-23-01; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 3-2002, f. & cert. ef. 7-9-02; BGE 6-2004, f. & cert. ef. 8-5-04; BGE 2-2005, f. & cert. ef. 9-28-05; BGE 3-2005, f. & cert. ef. 12-7-05; BGE 2-2007, f. 6-25-07, cert. ef. 7-1-07; BGE 1-2011, f. 6-21-11, cert. ef. 7-1-11; BGE 2-2013, f. & cert. ef. 9-24-13

809-040-0021

Proctored Review and Manual Rescoring

(1) Applicants who do not pass an examination prepared by the Association of State Boards of Geologists (ASBOG) and administered by the Board may request manual rescoring of the examination, a proctored review, or both.

(2) Applicants who do not pass a Certified Engineering Geology examination administered by the Board may request a proctored review.

(3) A “manual rescoring” occurs when the accuracy of exam results that had been scored by machine are checked by hand.

(4) A “proctored review” occurs when an applicant who took the exam is provided an opportunity to review what questions on the exam were answered correctly and incorrectly.

(5) Only one proctored review and manual rescoring is allowed for each applicant per exam or exam section.

(6) Fees: Applicants must pay the fees charged by the Board for the costs of these services. Separate fees for rescoring and proctored review services are charged by the Board in accordance with the Board’s fee rule, OAR 809-010-0001. These fees include the amount due to ASBOG that is collected by the Board to send to ASBOG with the applicant’s request.

(7) Procedures:

(a) When rescoring or proctored review is requested for an ASBOG examination, the Board follows the most current ASBOG procedures found in the ASBOG Professional Geologists Candidate Handbook, and the requirements of this rule (809-040-0021) apply.

(b) When a proctored review is requested for the Certified Engineering Geology examination, the requirements of this rule (809-040-0021) apply.

(c) Any written request for rescoring or proctored review and all associated fees must be received by the Board office no later than 10 days after the Board’s release of the examination score to the applicant unless otherwise authorized in writing by the Board Administrator.

Stat. Auth.: ORS 672.555 & 672.575

Stats. Implemented: ORS 672.555 & 672.575

Hist.: GE 1-1984, f. & ef. 2-1-84; GE 2-1984, f. & ef. 9-5-84; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 4-2002, f. & cert. ef. 10-17-02; BGE 2-2013, f. & cert. ef. 9-24-13

Board of Licensed Professional Counselors and Therapists Chapter 833

Rule Caption: Graduate degree standards correction.

Adm. Order No.: BLPCT 3-2013(Temp)

Filed with Sec. of State: 10-7-2013

Certified to be Effective: 10-8-13 thru 3-31-14

Notice Publication Date:

Rules Amended: 833-060-0012

Subject: Revises the requirements for graduate programs, correcting the current language to reflect that programs must be at least regionally accredited and be consistent with CACREP standards for degrees, program duration, academic credits, coursework, clinical experience.

Rules Coordinator: Becky Eklund—(503) 378-5499, ext. 3

833-060-0012

Comparable Full Standards

The Board shall determine which graduate degrees are comparable in content and quality to degrees from CACREP, COAMFTE, or CORE approved programs and consistent with the Board’s Code of Ethics. Degrees must meet the following standards. The degree was from an institution that:

(1) Was a fully accredited member of one of the regional institutional accreditation bodies at the time the degree was granted;

(2) Offered a minimum of a master’s degree;

(3) Was at least two years’ duration and at least:

(a) 48 semester credit hours or 72 quarter hours for graduate degrees granted before October 1, 2014; or

(b) 60 semester credit hours or 90 quarter credit hours for graduate degrees granted on or after October 1, 2014.

(4) Included all coursework requirements set forth in OAR 833-060-0042 or 833-060-0052.

(5) Included a required supervised clinical experience for all students of no less than:

(a) 600 total clock hours to include 240 direct client contact hours, for graduate degrees granted before October 1, 2014; or

(b) 700 total clock hours to include 280 direct client contact hours, for graduate degrees granted on or after October 1, 2014.

(6) Facilitated a practicum and/or internship experience that:

(a) Had supervisory staff with a minimum of a master’s degree in the program emphasis and with pertinent professional experience;

(b) Made provision for faculty monitoring of operations;

(c) Kept records of student-client contact hours including summary of student progress by the supervisor;

(d) Had a written agreement with the program and student specifying learning objectives; and

(e) Had a mechanism for program evaluation.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10; BLPCT 6-2010, f. 12-13-10, cert. ef. 1-1-11; BLPCT 2-2012, f. 9-5-12, cert. ef. 10-1-12; BLPCT 3-2013(Temp), f. 10-7-13, cert. ef. 10-8-13 thru 3-31-14

Board of Pharmacy Chapter 855

Rule Caption: Defines the procedures for distributing Naloxone to certain authorized individuals in opiate overdose circumstances.

Adm. Order No.: BP 6-2013(Temp)

Filed with Sec. of State: 9-23-2013

Certified to be Effective: 9-24-13 thru 3-23-14

Notice Publication Date:

Rules Adopted: 855-041-2300, 855-041-2310, 855-041-2320, 855-041-2330

Subject: Oregon Laws 2013, Chapter 340 amends Oregon Revised Statutes Chapter 689 and requires the Board of Pharmacy to estab-

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lish rules for the distribution of unit-of-use naloxone and the necessary medical supplies to administer it in opiate overdose emergency situations. Administration of naloxone may only take place by those who have successfully completed training or who have been identified in OL 2013, Chapter 340.

Rules Coordinator: Karen MacLean—(971) 673-0001

855-041-2300

Purpose and Scope

The purpose of OAR 855-041-2300 through 855-041-2330 is to define the procedures for distributing emergency medication to certain authorized individuals for the use in emergency health circumstances. The authorized person is someone who has been trained under the guidelines set forth in OAR 333-055-0110.

Stat. Auth: OL 2013, Ch. 340 & ORS 689.205

Stats. Implemented: OL 2013, Ch. 340 & ORS 689.155

Hist.: BP 6-2013(Temp), f. 9-23-13, cert. ef. 9-24-13 thru 3-23-14

855-041-2310

Definitions

The following words and terms, when used in OAR 855-041-2300 through 855-041-2330 shall have the following meanings, unless the context clearly indicates otherwise.

(1) "Allergic reaction" means a medical condition caused by exposure to an allergen, with physical symptoms that may be life threatening, ranging from localized itching to severe anaphylactic shock and death.

(2) Reserved

(3) "Authorization to Obtain Naloxone" means a certificate that contains the name, signature, and license number of the supervising professional authorizing an order for naloxone to be generated for the individual whose name appears on the Statement of Completion, it also contains a record of the number of naloxone orders filled to date.

(4) "Opiate" means a narcotic drug that contains: opium, any chemical derivative of opium, or any synthetic or semi-synthetic drug with opium-like effects.

(5) "Opiate overdose" means a medical condition that causes depressed consciousness and mental functioning, decreased movement, depressed respiratory function, and the impairment of vital functions as a result of ingesting opiates in any amount larger than can be physically tolerated.

(6) "Statement of Completion" means a certificate that states the specific type of emergency the trainee was trained to respond to, the trainee's name and address, the name of the authorized trainer and the date that the training was completed.

(7) "Supervising Professional" means a physician or nurse practitioner licensed to practice in this state who has prescription writing authority.

(8) "Trainee" means an individual who has attended and successfully completed the formal training pursuant to the protocols and criteria established by the Oregon Health Authority, Public Health Division.

(9) "Trainer" means an individual conducting the formal training as directed by the supervising professional and in accordance with the protocols and criteria established by the Oregon Health Authority, Public Health Division.

Stat. Auth: OL 2013, Ch. 340 & ORS 689.205

Stats. Implemented: OL 2013, Ch. 340 & ORS 689.155

Hist.: BP 6-2013(Temp), f. 9-23-13, cert. ef. 9-24-13 thru 3-23-14

855-041-2320

Reserved

Hist.: BP 6-2013(Temp), f. 9-23-13, cert. ef. 9-24-13 thru 3-23-14

855-041-2330

Naloxone

(1) Pharmacies may fill orders for unit-of-use naloxone to be used by trainees for opiate overdose emergencies. Individuals must successfully complete a training program approved by the Oregon Health Authority, Public Health Division. Upon successful completion, the trainee will receive the following certificates:

(a) Statement of Completion; and

(b) Authorization to Obtain Naloxone.

(2) Distribution of naloxone from a pharmacy to be used for opiate overdose emergencies may occur in the following ways:

(a) A supervising professional may obtain a supply of naloxone for a program pursuant to an order by the supervising professional and a pharmacy sale by invoice. The pharmacy shall keep the invoice on record for three (3) years.

(b) A trainee may obtain naloxone upon presentation of the Statement of Completion and Authorization to Obtain Naloxone certificate to a pharmacy which:

(A) A pharmacist may generate a prescription for, and dispense two (2) unit-of-use doses of naloxone as specified by the supervising professional whose name, signature, and license number appear on the Authorization to Obtain Naloxone certificate.

(B) The pharmacist who generates the hardcopy prescription for naloxone in this manner shall reduce the prescription to writing and file the prescription in a manner appropriate for a non-controlled substance.

(C) Once the pharmacist generates the naloxone prescription, the pharmacist shall write in the appropriate space provided on the Authorization to Obtain Naloxone certificate the date and the number of doses dispensed, and return the certificate to the trainee.

(3) The Statement of Completion and Authorization to Obtain Naloxone may be used to obtain naloxone up to six (6) times within three (3) years from the date of the initial training.

(a) Both the Statement of Completion and the Authorization to Obtain Naloxone expire three (3) years from the date of the trainee's last Oregon Health Authority, Public Health Division approved naloxone training.

(b) Upon completion of the training, the trainee will receive a new Statement of Completion and Authorization to Obtain Naloxone, with a valid duration of three (3) years.

(4) The naloxone container will be labeled with the following information:

(a) A statement that the naloxone is intended to be used for the Oregon Opiate Overdose Treatment program;

(b) Trainee name; and

(c) Trainer; or

(d) Supervising Professional.

Stat. Auth: OL 2013, Ch. 340 & ORS 689.205

Stats. Implemented: OL 2013, Ch. 340 & ORS 689.155

Hist.: BP 6-2013(Temp), f. 9-23-13, cert. ef. 9-24-13 thru 3-23-14

Rule Caption: Amends certain licensure fees to implement revenue surplus reduction pursuant to ORS 291.055(3)

Adm. Order No.: BP 7-2013

Filed with Sec. of State: 9-23-2013

Certified to be Effective: 9-23-13

Notice Publication Date: 8-1-2013

Rules Amended: 855-110-0005, 855-110-0007, 855-110-0010

Rules Repealed: 855-110-0005(T), 855-110-0007(T), 855-110-0010(T)

Subject: These rules implement revenue surplus reductions pursuant to ORS 291.055(3) for certain licensing fees as approved in the Board's 2013-15 Legislatively Approved Budget. The following fees are included: Pharmacist, Reciprocity, County Health Clinics, Family Planning, Clinics, Drug Rooms, Correctional Facilities, Prophylactic/Contraceptive Outlets, Retail and Institutional Drug Outlets, Home Dialysis Drug Outlets and all Controlled Substance registration fees.

Copies of the full text of these rules can be obtained on the Board's web site at www.pharmacy.state.or.us, or by calling the Board office (971) 673-0001.

Rules Coordinator: Karen MacLean—(971) 673-0001

855-110-0005

Licensing Fees

(1) Pharmacist license examination (NAPLEX) and re-examination fee — \$50.

(2) Pharmacist jurisprudence (MPJE) re-examination fee — \$25.

(3) Pharmacist licensing by reciprocity fee — \$200*. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

(4) Pharmacist licensing by score transfer fee — \$300.

(5) Intern license fee. Expires November 30 every two years — \$50.

(6) Pharmacist:

(a) License fee. Expires June 30 annually — \$120*. Delinquent renewal fee, (postmarked after May 31) — \$50. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

(b) Electronic Prescription Monitoring Fund fee. Due by June 30 annually — \$25. (This is a mandatory fee, required by ORS 431.972 that must be paid with the pharmacist license renewal fee).

(c) Workforce Data Collection fee. Due by June 30 biennially — \$5. (This is a mandatory fee, it may be charged annually at \$2.50 per year as

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required by OAR 409-026-0130 that must be paid with the pharmacist license renewal fee.

(7) Certification of approved provider of continuing education course fee, none at this time.

(8)(a) Pharmacy Technician license fee. (This is a one year non-renewable license unless under the age of 19) — \$50.

(b) Under 19 years of age expires September 30 annually — \$50. Delinquent renewal fee, (postmarked after August 31) — \$20.

(9) Certified Pharmacy Technician:

(a) License fee. Expires September 30 annually — \$50. Delinquent renewal fee, (postmarked after August 31) — \$20.

(b) Workforce Data Collection fee. Due by June 30 biennially — \$5. (This is a mandatory fee, it may be charged annually at \$2.50 per year as required by OAR 409-026-0130 that must be paid with the Certified Pharmacy Technician license renewal fee.

Stat. Auth.: ORS 689.205 & 291.055

Stats. Implemented: ORS 689.135, 431.972, 676.410 & 2013 OL Ch. 503

Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; 1PB 3-1980, f. 5-3-80, ef. 5-3-80 & 7-1-80; 1PB 2-1982, f. 3-8-82, ef. 4-1-82; 1PB 1-1984, f. & ef. 2-16-84; 1PB 3-1985, f. & ef. 12-2-85; 1PB 3-1988, f. & cert. ef. 5-23-88; 1PB 7-1989, f. & cert. ef. 5-1-89; 1PB 15-1989, f. & cert. ef. 12-26-89; 1PB 10-1990, f. & cert. ef. 12-5-90; 1PB 3-1991, f. & cert. ef. 9-19-91; 1PB 1-1992, f. & cert. ef. 1-31-92 (and corrected 2-7-92); 1PB 4-1992, f. & cert. ef. 8-25-92; 1PB 1-1994, f. & cert. ef. 2-2-94; 1PB 1-1996, f. & cert. ef. 4-5-96; 1PB 2-1997(Temp), f. 10-2-97, cert. ef. 10-4-97; 1PB 2-1998, f. & cert. ef. 3-23-98; 1PB 1-2001, f. & cert. ef. 3-5-01; 1PB 2-2001(Temp), f. & cert. ef. 7-26-01 thru 1-22-02; 1PB 1-2002, f. & cert. ef. 1-8-02; 1PB 1-2003, f. & cert. ef. 1-14-03; 1PB 1-2006, f. & cert. ef. 6-9-06; 1PB 5-2006(Temp), f. & cert. ef. 8-25-06 thru 1-20-07; 1PB 9-2006, f. & cert. ef. 12-19-06; 1PB 5-2009, f. & cert. ef. 12-24-09; 1PB 5-2010(Temp), f. 5-3-10, cert. ef. 5-4-10 thru 10-30-10; 1PB 6-2010, f. & cert. ef. 6-29-10; 1PB 5-2011(Temp), f. 6-24-11, cert. ef. 7-1-11 thru 12-27-11; 1PB 8-2011, f. & cert. ef. 12-15-11; 1PB 2-2013(Temp), f. 4-4-13, cert. ef. 4-5-13 thru 9-28-13; 1PB 3-2013(Temp), f. 6-27-13, cert. ef. 7-1-13 thru 12-28-13; 1PB 4-2013(Temp), f. & cert. ef. 7-9-13 thru 1-5-14; 1PB 7-2013, f. & cert. ef. 9-23-13

855-110-0007

Fees for Registration, Renewal, and Reinspection of Drug Outlets

(1) County Health Clinic (including family planning clinics). Expires March 31 annually — \$75*. Delinquent renewal fee (postmarked after February 28) — \$25. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

(2) Drug Distribution Agent. Expires September 30 annually — \$400. Delinquent renewal fee (postmarked after August 31) — \$100.

(3) Drug Room (including correctional facility). Expires March 31 annually — \$75*. Delinquent renewal fee (postmarked after February 28) — \$75. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

(4) Manufacturer. Expires September 30 annually — \$400. Delinquent renewal fee (postmarked after August 31) — \$100.

(5) Medical Device, Equipment & Gas Class C. Expires January 31 annually — \$50. Delinquent renewal fee (postmarked after December 31) — \$25.

(6) Nonprescription Class A. Expires January 31 annually — \$50. Delinquent renewal fee (postmarked after December 31) — \$25.

(7) Nonprescription Class B. Expires January 31 annually — \$50. Delinquent renewal fee (postmarked after December 31) — \$25.

(8) Nonprescription Class D. Expires January 31 annually — \$100. Delinquent renewal fee (postmarked after December 31) — \$25.

(9) Prophylactic and/or Contraceptive Wholesaler and/or Manufacturer — \$50*. Expires December 31 annually. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

(10) Re-inspection fee — \$100. Applies to any re-inspection of a drug outlet occasioned to verify corrections of violations found in an initial inspection.

(11) Retail or Institutional Drug Outlet. Expires March 31 annually — \$175*. Delinquent renewal fee (postmarked after February 28) — \$75. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

(12) Wholesaler Class I. Expires September 30 annually — \$400. Delinquent renewal fee (postmarked after August 31) — \$100.

(13) Wholesaler Class II. Expires September 30 annually — \$400. Delinquent renewal fee (postmarked after August 31) — \$100.

(14) Remote Dispensing Machine/Facility. Expires March 31 annually — \$100. Due by February 28 annually.

(15) Charitable Pharmacy. Expires March 31 annually — \$75. Delinquent renewal fee (postmarked after February 28) — \$25.

(16) Home Dialysis. Expires March 31 annually — \$175*. Delinquent renewal fee (postmarked after February 28) — \$75. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

(17) Supervising Physician Dispensing Outlet. Expires March 31 annually — \$300. Delinquent renewal fee (postmarked after February 28) — \$75.

Stat. Auth.: ORS 689.205 & 291.055

Stats. Implemented: ORS 689.135, 689.774, 2012 OL Ch. 34 & 2013 OL Ch. 503

Hist.: 1PB 1-1996, f. & cert. ef. 4-5-96; 1PB 1-1997, f. & cert. ef. 9-22-97; 1PB 3-1998, f. & cert. ef. 3-23-98; 1PB 2-2001(Temp), f. & cert. ef. 7-26-01 thru 1-22-02; 1PB 1-2002, f. & cert. ef. 1-8-02; 1PB 4-2002, f. 6-27-02, cert. ef. 7-1-02; 1PB 2-2005, f. 2-14-05, cert. ef. 3-1-05; 1PB 2-2009(Temp), f. 6-22-09, cert. ef. 6-26-09 thru 12-23-09; 1PB 5-2009, f. & cert. ef. 12-24-09; 1PB 6-2010, f. & cert. ef. 6-29-10; 1PB 5-2011(Temp), f. 6-24-11, cert. ef. 7-1-11 thru 12-27-11; 1PB 8-2011, f. & cert. ef. 12-15-11; 1PB 5-2012(Temp), f. & cert. ef. 6-19-12 thru 12-16-12; 1PB 6-2012, f. & cert. ef. 12-13-12; 1PB 3-2013(Temp), f. 6-27-13, cert. ef. 7-1-13 thru 12-28-13; 1PB 4-2013(Temp), f. & cert. ef. 7-9-13 thru 1-5-14; 1PB 7-2013, f. & cert. ef. 9-23-13

855-110-0010

Fees for Registration for Controlled Substances under ORS 475.095

(1) Animal Euthanasia controlled substance registration fee — \$50 annually.

(2) Drug Distribution Agent controlled substance registration fee — \$50* annually. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

(3) Drug Room (including correctional facility) controlled substance registration fee — \$50* annually. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

(4) Manufacturer controlled substance registration fee — \$50* annually. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

(5) Retail or Institutional Drug Outlet controlled substance registration fee — \$50* annually. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

(6) Schedule II Precursor registration fee — \$50* annually. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

(7) Wholesaler controlled substance registration fee — \$50* annually. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

(8) Remote Dispensing Facility controlled substance registration fee — \$50* annually. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

Stat. Auth.: ORS 689.205 & 291.055

Stats. Implemented: ORS 689.135 & 2013 OL Ch. 503

Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; 1PB 6-1982, f. & ef. 8-6-82; 1PB 2-1984, f. & ef. 3-7-84; 1PB 15-1989, f. & cert. ef. 12-26-89; 1PB 10-1990, f. & cert. ef. 12-5-90; 1PB 3-1991, f. & cert. ef. 9-19-91; 1PB 1-1996, f. & cert. ef. 4-5-96; 1PB 2-2005, f. 2-14-05, cert. ef. 3-1-05; 1PB 2-2009(Temp), f. 6-22-09, cert. ef. 6-26-09 thru 12-23-09; 1PB 5-2009, f. & cert. ef. 12-24-09; 1PB 5-2011(Temp), f. 6-24-11, cert. ef. 7-1-11 thru 12-27-11; 1PB 8-2011, f. & cert. ef. 12-15-11; 1PB 3-2013(Temp), f. 6-27-13, cert. ef. 7-1-13 thru 12-28-13; 1PB 4-2013(Temp), f. & cert. ef. 7-9-13 thru 1-5-14; 1PB 7-2013, f. & cert. ef. 9-23-13

Rule Caption: Amends customized patient medication packages rules to incorporate a waiver clause.

Adm. Order No.: BP 8-2013

Filed with Sec. of State: 9-25-2013

Certified to be Effective: 9-25-13

Notice Publication Date: 6-1-2013

Rules Amended: 855-041-1140

Subject: The customized patient medication packages rules are amended to incorporate a waiver clause. The amendment allows the Board to waive any of the requirements of the customized patient medication packages rules if a waiver will further public health or safety or the health and safety of a patient.

Rules Coordinator: Karen MacLean—(971) 673-0001

855-041-1140

Customized Patient Medication Packages

In lieu of dispensing two or more prescribed drug products in separate containers, a pharmacist may, with the consent of the patient, the patient's caregiver, or a prescriber, provide a customized patient medication package (patient med pak). A patient med pak is a package prepared by a pharmacist for a specific patient comprising a series of containers and containing two or more prescribed solid oral dosage forms. The patient med pak is so designed for each container is so labeled as to indicate the day and time, or period of time, that the contents within each container are to be taken:

(1) Label:

(a) The patient med pak shall bear a label stating:

(A) The name of the patient;

(B) A serial number for each patient med pak itself and a separate identifying serial number for each of the prescription orders for each of the drug products contained therein;

(C) The name, strength, physical description or identification, and total quantity of each drug product contained therein;

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(D) The directions for use and cautionary statements, if any, contained in the prescription order for each drug product therein;

(E) Any storage instructions or cautionary statements required by the official compendia;

(F) The name of the prescriber of each drug product;

(G) The date of preparation of the patient med pak and the beyond-use date assigned to the patient med pak (such beyond-use date shall be no later than 60 days from the date of preparation);

(H) The name, address, and telephone number of the dispenser and the dispenser's registration number where necessary; and

(I) Any other information, statements, or warnings required for any of the drug products contained therein.

(b) If the patient med pak allows for the removal or separation of the intact containers therefrom, each individual container shall bear a label identifying each of the drug products contained therein.

(2) Labeling: The patient med pak shall be accompanied by a patient package insert, in the event that any medication therein is required to be dispensed with such insert as accompanying labeling. Alternatively, such required information may be incorporated into a single, overall education-insert provided by the pharmacist for the total patient med pak.

(3) Packaging:

(a) In the absence of more stringent packaging requirements for any of the drug products contained therein, each container of the patient med pak shall comply with the moisture permeation requirements for a Class B single-unit or unit-dose container. Each container shall be either not reclosable or so designed as to show evidence of having been opened;

(b) There is no special exemption for patient med paks from the requirements of the Poison Prevention Packaging Act. Thus the patient med pak, if it does not meet child-resistant standards shall be placed in an outer package that does comply, or the necessary consent of the purchaser or physician, to dispense in a container not intended to be child-resistant, shall be obtained.

(4) Guidelines: It is the responsibility of the dispenser, when preparing a patient med pak, to take into account any applicable compendia requirements or guidelines and the physical and chemical compatibility of the dosage forms placed within each container, as well as any therapeutic incompatibilities that may attend the simultaneous administration of the medications. In this regard, pharmacists are encouraged to report to USP headquarters any observed or report incompatibilities.

(5) Recordkeeping: In addition to any individual prescription filing requirements, a record of each patient med pak shall be made and filed. Each record shall contain, as a minimum:

(a) The name and address of the patient;

(b) The serial number of the prescription order for each drug product contained therein;

(c) The name of the manufacturer or labeler and lot number for each drug product contained therein;

(d) Information identifying or describing the design, characteristics, or specifications of the patient med pak sufficient to allow subsequent preparation of an identical patient med pak for the patient;

(e) The date of preparation of the patient med pak and the beyond-use date that was assigned;

(f) Any special labeling instructions; and

(g) The name or initials of the pharmacist who prepared the patient med pak.

(4) Upon written request, the Board may waive any of the requirements of this rule if a waiver will further public health or safety or the health and safety of a patient. A waiver granted under this section shall only be effective when it is issued by the Board in writing.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: PB 1-1989, f. & cert. ef. 1-3-89; Renumbered from 855-041-0057, BP 7-2012, f. & cert. ef. 12-17-12; BP 8-2013, f. & cert. ef. 9-25-13

Board of Psychologist Examiners Chapter 858

Rule Caption: Definitions, application procedure, inactive status, supervised work experience and applied psychology requirements.

Adm. Order No.: BPE 3-2013

Filed with Sec. of State: 9-30-2013

Certified to be Effective: 9-30-13

Notice Publication Date: 9-1-2013

Rules Amended: 858-010-0001, 858-010-0005, 858-010-0010, 858-010-0012, 858-010-0013, 858-010-0016, 858-010-0017, 858-010-0020, 858-010-0025, 858-010-0030, 858-010-0036, 858-010-0037,

858-010-0050, 858-010-0060, 858-010-0080, 858-020-0015, 858-020-0025, 858-020-0035, 858-020-0045, 858-020-0055, 858-020-0085, 858-020-0105, 858-030-0005

Rules Repealed: 858-010-0011

Subject: The amendment reorganizes and adds general definitions; makes various clarifying language and grammar housekeeping changes; makes some clarifying changes to the supervised work experience requirements; creates a retention period of three years for a residency supervisor's records and notes; adds a requirement that the residency supervisor notify the board within fourteen days of any significant interruption or expected termination of a resident supervision contract; modifies and adds definitions to the process for application review; updates the examination procedures; adds a clear definition of inactive status; specifies that a license will revert to inactive status if a licensee fails to pay the prorated reactivation fee in 30 days. It also repeals the applied psychology education requirements and all references to the "applied track" to licensure as a psychologist.

Rules Coordinator: LaRee Felton—(503) 373-1196

858-010-0001

Definitions

(1) The practice of psychology is defined to include:

(a) "Evaluation" means assessing or diagnosing mental disorders or mental functioning, including administering, scoring, and interpreting tests of mental abilities or personality;

(b) "Therapy" means, but is not limited to, treating mental disorders as defined by the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association;

(c) "Consultation" means conferring or giving expert advice on the diagnosis or treatment of mental disorders;

(d) "Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual consultation, guidance and instruction with respect to the skills and competencies of the person supervised.

(2) "ABPP" means the American Board of Professional Psychology.

(3) "APA" means the American Psychological Association.

(4) "Applicant" means a person who submits a complete application for licensure with the appropriate fees.

(5) "ASPPB" means the Association of State and Provincial Psychology Boards.

(6) "Board" means the Oregon Board of Psychologist Examiners.

(7) "Candidate for Licensure" means a person who has satisfactorily completed the appropriate educational and experience requirements for licensure and has been deemed eligible by the Board to sit for the required examinations.

(8) "CE" means continuing education.

(9) "Client" or "patient" means direct recipients of psychological services, which may include child, adolescent, adult, older adult, couple, family, group, organization, community, or any other individual.

(10) "CPQ" means the Certificate of Professional Qualification in Psychology issued by the Association of State and Provincial Psychology Boards.

(11) "Demonstrable areas of competence" means those therapeutic and assessment methods and techniques, and populations served, for which one can document adequate graduate training, workshops, or appropriate supervised experience.

(12) "Developed Areas of Practice" means:

(a) National recognition of the practice area by a national organization(s) whose purpose includes recognizing or representing and developing the practice area, by relevant divisions of the APA, or by involvement in similar umbrella organizations;

(b) An accumulated body of knowledge in the professional literature that provides a scientific basis for the practice area including empirical support for the effectiveness of the services provided;

(c) Representation by or in a national training council that is recognized, functional, and broadly accepted;

(d) Development and wide dissemination by the training council of doctoral educational and training guidelines consistent with the Accreditation Guidelines & Principles;

(e) Existence of the practice area in current education and training programs; and

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(f) Geographically dispersed psychology practitioners who identify with the practice area and provide such services.

(13) "EPPP" means the Examination for Professional Practice in Psychology developed and owned by the Association of State and Provincial Psychology Boards.

(14) "Full-time graduate study" means six semester hours or nine quarter hours.

(15) "HIPDB" means the Healthcare Integrity and Protection Data Bank maintained by the U.S. Department of Health and Human Services.

(16) "HSPP" means the Health Service Provider in Psychology credential issued by the National Register of Health Service Providers in Psychology.

(17) "Internship" means an ongoing, supervised and organized practical experience obtained in an integrated training program identified as a psychology internship. Other supervised experience or on-the-job training does not constitute an internship.

(18) "NPDB" means the National Practitioner Data Bank maintained by the U.S. Department of Health and Human Services.

(19) "OPA" means the Oregon Psychological Association.

(20) "Practicum" means a formal, pre-degree organized training experience designed to develop a foundation of clinical skills and professional competence with diverse client populations, and to prepare for more substantial responsibilities required in internship.

(21) "Psychology program" means an integrated program of doctoral study designed to train professional psychologists to deliver services in psychology.

(22) "Regional accrediting agency" means one of the six regional accrediting agencies recognized by the United States Secretary of Education established to accredit senior institutions of higher education.

(23) "Residency" means a post-terminal degree, supervised experience approved by the board.

(24) "Specialty" means a defined area of psychological practice that requires advanced knowledge and skills acquired through an organized sequence of education and training. The advanced knowledge and skills specific to a specialty are obtained subsequent to the acquisition of core scientific and professional foundations in psychology.

(25) "Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual and group consultation, guidance and instruction with respect to the skills and competencies of the person supervised.

(26) "Supervisor" means an individual who assumes full responsibility for the education and training activities of a person and provides the supervision required by such a person.

(27) "Treatment" means services provided to an individual, group or organization for the purpose of improving mental health and/or alleviating behavioral, emotional or mental disorders.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.110

Hist.: BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2013, f. & cert. ef. 9-30-13

858-010-0005

Board Duties and Procedure

(1) Board Meetings. The Board shall meet as necessary at a time and place specified by the Board and at such other times and places as specified by the chair of the Board, a majority of members of the Board or by the Governor. The time and place of all meetings shall be posted on the Board's website.

(2) Board Members. Board members shall receive a per diem of \$50 a day for board meetings, conference attendance, presentations and Board committee meetings when acting in their official capacity.

(3) Internal Organization. At the last meeting in each fiscal year, the first order of business shall be organizational matters, including election of Board chair and vice-chair and the assignment of standing responsibilities to Board members. The term of the chair, vice-chair or any standing assigned responsibility can be changed or terminated at any meeting where the proposal has been placed on the agenda and sent to the members one week in advance of the meeting, or by unanimous consent of the Board.

(4) Chair and Vice Chair Responsibilities:

(a) The chair is authorized to take emergency action between Board meetings, subject to ratification by the Board. However, in the case of actions significant enough to normally require Board decisions, the chair shall first attempt to get authorization for such decisions from the Board members through telephone or email communication. All emergency

actions of any kind shall be noted in the agenda for the next meeting and shall become the first order of business at that next meeting;

(b) The vice-chair shall perform the duties of the chair when the chair is unable to do so.

(5) Board Communications. Only the Board chair shall write other than routine or form letters in the name of the Board unless members are specifically authorized in a Board meeting to do so. The Board should approve in advance any correspondence that may materially affect Board policies and procedures. When a delay might render the Board's functioning ineffective, the chair may be required to take immediate action that shall be reviewed at the next meeting of the Board.

(6) Board Files. All Board files shall be assembled in the Board's official office. The Board administrator shall maintain the Board's files under the direction of the chair. The Board Administrator shall maintain a master record of any files that are checked out of the Board office by Board members. The Board Administrator shall be notified whenever any Board file is transferred from the possession of one person to another, and shall so note in the Board's records. Individuals who have in their possession documents or files pertaining to Board affairs are responsible for their protection and privacy.

(7) Minutes and Agendas

(a) The minutes of a meeting shall be distributed to all Board members at least one week in advance of the next meeting;

(b) The agenda shall be prepared by the Board chair or Board administrator and distributed to all Board members at least one week before each meeting. The agenda items shall include reports by the Board administrator, the chair and each Board member who has received a specific assignment at the previous meeting or has a report to make regarding standing assignments. If there is insufficient time to inform the Board chair, the Board administrator shall make additional scheduling at the direct request of Board members. The Board may at its discretion, revise the agenda or limit it to a particular topic under special circumstances. Reports may be added as an addendum to the minutes of any meeting; and

(c) The agenda shall be distributed to all licensees and applicants for licensure.

(8) The Attorney General's Model Rules of Procedure under the Administrative Procedure Act, printed and promulgated by the Attorney General shall be the rules of procedure before the Board under ORS 183.310 to 183.500.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.110 & 675.130

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 8, f. 12-5-74, ef. 12-25-74; PE 12, f. & ef. 3-5-76; PE 13, f. & ef. 9-15-76; PE 1-1979, f. & ef. 9-5-79; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 1-1987(Temp), f. & ef. 3-6-87; PE 1-1988, f. & cert. ef. 7-25-88; PE 1-1991, f. & cert. ef. 4-3-91; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 3-2013, f. & cert. ef. 9-30-13

858-010-0010

Education Requirements — Clinical Psychology

To meet the education requirement of ORS 675.030(1), applicants for licensure must:

(1) Possess a doctoral degree in psychology from a program accredited by the American Psychological Association or the Canadian Psychological Association as of the date the degree was awarded; or

(2) Possess a doctoral degree in psychology from:

(a) A program at an institution of higher learning that was accredited by a regional accrediting agency as of the date the degree was awarded;

(b) For Canadian universities, an institution of higher education that is provincially or territorially chartered; or

(c) A foreign program evaluated to be equivalent to American Psychological Association accreditation as of the date the degree was awarded. Evaluation must be completed by a credentialing body recognized by the Board. Submission of proof of foreign degree equivalency and cost of the foreign degree equivalency determination are the responsibility of the applicant.

(3) An applicant who possesses a degree under section (2) must show that his or her doctoral program in psychology meets all of the following requirements:

(a) A minimum of three academic years of full-time graduate study.

(b) A minimum of one continuous year in residence at the institution from which the degree is granted.

(A) One continuous year means two consecutive semesters or three consecutive quarters.

(B) In residence means physical presence, in person, at an educational institution or training facility in a manner that facilitates acculturation into the profession, the full participation and integration of the individual in

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the educational and training experience, and includes faculty and student interaction.

(C) The doctoral program may include distance education, but a minimum of one continuous year of the program shall be in-residence. Programs that use physical presence, including face-to-face contact for durations of less than one continuous year, (e.g., multiple long weekends and/or summer intensive sessions) or that use video teleconferencing or other electronic means as a substitute for physical presence at the institution in order to meet the residency requirement are deemed not to be acceptable for licensure.

(D) Training models that rely exclusively on physical presence for periods of less than one continuous year (e.g., multiple long weekends and/or summer intensive sessions) or that use video teleconferencing or other electronic means as a substitute for physical presence at the institution do not meet the in residence requirement.

(E) Effective through August 12, 2015, applicants who can verify that they enrolled in their program prior to August 12, 2011 may apply under the "old rule" definition of in-residence. Under this provision, one continuous year means a minimum of 500 hours of student-faculty contact involving face-to-face individual or group educational meetings. Such educational meetings must include both faculty-student and student-student interaction, be conducted by the psychology faculty of the institution at least 90 percent of the time, be documented by the applicant and the institution, and relate substantially to the program components specified. Items such as receptions, meals, group socials and library tours may not count towards the minimum 500 hours of educational meetings. Applicants applying under this provision shall submit full documentation that they have met this requirement, which must include a detailed description of the content of the 500 hours of educational meetings and be verified by the administration of the doctoral program.

(c) The program, wherever it may be administratively housed, must be clearly identified and labeled as a program in psychology. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(d) The psychology program must stand as a recognizable, coherent organizational entity within the institution.

(e) There must be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.

(f) The program must be an integrated, organized sequence of study.

(g) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities and a psychologist responsible for the program.

(h) The program must have an identifiable body of students who are matriculated in that program for a degree.

(i) The program must include a coordinated, sequential and supervised practicum appropriate to the practice of psychology as described in OAR 858-010-0012.

(j) The program must include a coordinated, sequential and supervised internship, field or laboratory training appropriate to the practice of psychology as described in OAR 858-010-0013.

(k) The curriculum of the program must:

(A) Encompass a minimum of three academic years of full time graduate study, including a minimum of one continuous year in residence at the educational institution granting the doctoral degree;

(B) Require an original dissertation or equivalent that was psychological in nature that meets the requirement for an approved doctoral program; and

(C) Include at least 30 semester hours or 45 quarter hours of credit in graded (not "pass-no pass") courses.

(l) The core program shall include a minimum of three graduate semester hours or 4.5 or more graduate quarter hours (when an academic term is other than a semester, credit hours will be evaluated on the basis of 15 hours of classroom instruction per semester hour) in each of the following substantive content areas:

(A) Scientific and professional ethics and standards;

(B) Research design and methodology;

(C) Statistics;

(D) Psychometric theory;

(E) Biological bases of behavior such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, physical ergonomics, or psychopharmacology;

(F) Cognitive-affective bases of behavior such as learning, thinking, motivation, emotion, memory, cognitive information processing, or social cognition;

(G) Social bases of behavior such as social psychology, group processes, organizational and systems theory; and

(H) Individual differences in behavior such as personality theory, human development, personnel psychology or abnormal psychology.

(m) All professional education programs in psychology must include course requirements in developed practice areas/specialties.

(n) The program must demonstrate that it provides training relevant to the development of competence to practice in a diverse and multicultural society.

(o) Demonstration of competence in clinical psychology shall be met by a minimum of 18 semester hours or 27 quarter hours in the following areas: personality and intellectual assessment, diagnosis, therapeutic intervention, and evaluating the efficacy of intervention.

(p) If the doctoral program does not meet the core and/or clinical coursework requirements of (l) and (o), the applicant for licensure may remedy a deficiency of up to 6 semester hours or 9 quarter hours by completing graduate level coursework in the deficient content area(s) at a regionally accredited institution.

(4) Provide syllabi or other documentation regarding course content upon the Board's request.

Stat. Auth.: ORS 675.030

Stats. Implemented: ORS 675.030(1)(b)(c)

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1992, f. & cert. ef. 1-16-92; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1996, f. & cert. ef. 6-25-96; PE 1-1997, f. & cert. ef. 6-17-97; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2012(Temp), f. & cert. ef. 10-15-12 thru 4-13-13; BPE 1-2013, f. & cert. ef. 2-5-13; BPE 2-2013, f. & cert. ef. 7-15-13; BPE 3-2013, f. & cert. ef. 9-30-13

858-010-0012

Practicum

(1) The degree program required in OAR 858-010-0010 or 858-010-0015 must include an organized practicum of at least two semesters (or three quarters) and at least 300 hours of supervised psychological services as defined in OAR 858-010-0036(1)(b).

(2) Supervision must include the following:

(a) Discussion of services provided by the student;

(b) Selection of service plan for and review of each case or work unit of the student;

(c) Discussion of and instruction in theoretical concepts underlying the work;

(d) Discussion of the management of professional practice and other administrative or business issues;

(e) Evaluation of the supervisory process by the student and the supervisor;

(f) Discussion of coordination of services among the professionals involved in the particular cases or work units;

(g) Discussion of relevant state laws and rules;

(h) Discussion of ethical principles including principles applicable to the work;

(i) Review of standards for providers of psychological services; and

(j) Discussion of reading materials relevant to cases, ethical issues and the supervisory process.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.030 & 675.110

Hist.: BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2013, f. & cert. ef. 9-30-13

858-010-0013

Internship

(1) Applicants must successfully complete an organized internship as part of the degree program required in OAR 858-010-0010 or 858-010-0015.

(2) The internship must include at least 1,500 hours of supervised experience and be completed within twenty-four months.

(3) The internship program must meet the following requirements:

(a) The internship must have a written statement or brochure describing the goals and content of the internship, stating clear expectations and quality of student work, and made available to prospective interns.

(b) A psychologist licensed by the appropriate state or provincial licensing authority must be clearly designated as responsible for the integrity and quality of the internship program.

(c) Interns must use titles indicating their training status.

(d) The internship must be designed to provide a planned sequence of training experiences focusing on breadth and quality of training. Supervision and training related to ethics must be ongoing.

ADMINISTRATIVE RULES

(e) At least twenty-five percent of the internship experience must be in direct client contact providing assessment and intervention services.

(f) For every 40 hours of internship experience, the student must receive:

(A) At least 2 hours of regularly scheduled, formal, face-to-face in person individual supervision that addresses the direct psychological services provided by the intern; and

(B) At least 2 hours of other learning activities such as case conferences, seminars on applied issues, conducting co-therapy with a staff person including discussion of the case, and group supervision.

(3) Supervision of the internship experience.

(a) The internship setting must have two or more psychologists available as supervisors, at least one of whom is licensed as a psychologist.

(b) The internship experience must be supervised by the person(s) responsible for the assigned casework.

(c) At least seventy-five percent of the supervision must be by a licensed psychologist with two years post-license experience.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.030 & 675.110

Hist.: BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2013, f. & cert. ef. 9-30-13

858-010-0016

Standard Application Procedure

(1) Filing of Applications. Applicants must submit a complete application for licensure to the Board. The Board shall process each submitted application to determine if the application file is ready for review. Applications are considered ready for review for completeness when the following items have been received:

(a) Final graduate level transcript(s) imprinted with date degree was awarded;

(b) Reference forms;

(c) Social Security Number Authorization form;

(d) For non-APA accredited schools only:

(A) University Accredited form;

(B) Educational Record in Psychology form; and

(C) Verification of pre-degree supervised work.

(e) Verification of post-degree supervised work experience (if completed);

(f) National written examination (EPPP) score (if taken);

(g) Verification of licensure in good standing in other states (if any);

(h) Application fee;

(i) Fingerprinting fee and results of the criminal background check;

and

(j) Other clarifying information requested by the Board.

(2) The Board may issue a license if the candidate for licensure:

(a) Meets the education requirements of OAR 858-010-0010 or 858-010-0015;

(b) Completes the supervised work experience requirements of OAR 858-010-0036 or 858-010-0037.

(c) Passes the national written examination (EPPP); and

(d) Passes the Oregon jurisprudence examination.

Stat. Auth.: ORS 675.030

Stats. Implemented: ORS 675.030(1)(a), (b), (c), (d), (e) & (2)

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 6-2012(Temp), f. & cert. ef. 11-20-12 thru 4-13-13; BPE 1-2013, f. & cert. ef. 2-5-13; BPE 3-2013, f. & cert. ef. 9-30-13

858-010-0017

Licensure by Endorsement

Applicants that possess and have maintained an active license to practice psychology issued by a board that is a member jurisdiction of the Association of State and Provincial Psychology Boards based on a doctoral degree may be licensed by endorsement.

(1) Applicants who have maintained an active psychologist license based on a doctoral degree in psychology for less than 15 years must comply with the requirements set forth below:

(a) Filing of Applications: Applicants must submit a complete Licensure by Endorsement Application to the Board. The Board shall process each submitted application to determine if the application file is ready for review. Applications are considered ready for review for completeness when the following items have been received:

(A) Final graduate level transcript(s) imprinted with date degree was awarded;

(B) Social Security Number Authorization form;

(C) An official verification of licensure in good standing from each health care professional license or registration, current or expired;

(D) A copy of the applicant's:

(i) Licensure file from the state(s) in which the applicant is licensed;

(ii) CPQ file from ASPPB;

(iii) Certification file from ABPP; or

(iv) HSPP file from the National Register.

(E) Endorsement Reference forms from three mental health professionals;

(F) National written examination (EPPP) score;

(G) Application fee; and

(H) Fingerprinting fee and results of criminal background check.

(b) The Board may issue a license if the candidate for licensure:

(A) Has met the educational requirements for licensure of OAR 858-010-0010;

(B) Has complied with the post-doctoral supervised work experience requirements of OAR 858-010-0036;

(C) Passes the Oregon jurisprudence examination; and

(D) Has received a passing score on the national written examination (EPPP).

(2) Applicants who have maintained an active psychologist license for 15 years or more must comply with the requirements set forth below:

(a) Filing of Applications: Applicants must submit a complete Licensure by Endorsement Application to the Board. The Board shall process each submitted application to determine if the application file is ready for review. Applications are considered ready for review for completeness when the following items have been received:

(A) Social Security Number Authorization form;

(B) An official verification of licensure in good standing from each health care professional license or registration, current or expired;

(C) A copy of the applicant's:

(i) Licensure file from the state(s) in which the applicant is licensed;

(ii) CPQ file from ASPPB;

(iii) Certification file from ABPP; or

(iv) HSPP file from the National Register.

(D) Endorsement Reference forms from three mental health professionals;

(E) National written examination (EPPP) score;

(F) Application fee; and

(G) Fingerprinting fee and results of criminal background check.

(b) The Board may issue a license if the candidate for licensure passes the Oregon jurisprudence examination.

(c) An applicant who meets the standard of section (2) above is not required to fulfill the EPPP exam requirement.

Stat. Auth.: ORS 675.030

Stats. Implemented: ORS 675.030

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2012(Temp), f. & cert. ef. 10-15-12 thru 4-13-13; BPE 6-2012(Temp), f. & cert. ef. 11-20-12 thru 4-13-13; BPE 1-2013, f. & cert. ef. 2-5-13; BPE 3-2013, f. & cert. ef. 9-30-13

858-010-0020

Process and Disposition of Application for License

(1) Application Review Procedure. When the application and all of the required supporting documents have been received, the application file shall be reviewed for eligibility. The reviewer shall either:

(a) Approve the application. When the reviewer determines the application is complete, a letter of approval shall be sent notifying the applicant of eligibility to take the EPPP and the Jurisprudence examination and to enter into a Resident Supervision Contract.

(b) Deny the application. If the application is denied, the reviewer shall send the applicant a letter stating the reason.

(c) Board review. Under unusual circumstances, the application will be reviewed by the full Board for determination of disposition.

(d) Incomplete Application. If the application is incomplete, the reviewer shall notify the applicant.

(e) Request for Review. Applicants for licensure may request, in writing, that any decision by the reviewer be reconsidered by the Board.

(2) Active Application Period.

(a) An incomplete application is missing one or more of the items required under the applicable application procedure of OAR 858-010-0016 or 858-010-0017. The Board shall maintain an incomplete application file for one year from the date the application was received.

(b) A complete application has been approved by the reviewer, but the candidate for licensure has not completed the remaining requirements for licensure: the post-degree supervised work experience, the EPPP, and/or the Oregon Jurisprudence Exam. The Board shall maintain a complete application file for two years from the date the application was approved.

ADMINISTRATIVE RULES

(c) A file shall be presumed inactive and archived if correspondence from the Board is returned by the post office for reasons other than post office error.

(3) The Board may extend the active application period upon written request of the applicant, which must be received or postmarked prior to the expiration date. Failure to receive a courtesy reminder notice from the Board shall not relieve an applicant of the responsibility to timely request an extension.

(4) Reapplication. If an application for licensure has been denied by the Board for any reason, the Board will not review a second application until at least one year has elapsed from the date of the previous denial.

(5) Information Changes. An applicant must notify the Board immediately if any information submitted on the application changes, including but not limited to: name; address, email address, and telephone number; complaints; disciplinary actions; and, civil, criminal, or ethical charges and employment investigations which lead to termination or resignation. Failure to do so may be grounds for denial of the application or revocation of the license, once issued.

Stat. Auth.: ORS 675.040, 675.045 & 675.050

Stats. Implemented: ORS 675.040(1)(2)(3), 675.045(1)(2)(a)(b), 675.050(1)(a)(b)(2)

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 2-1989, f. & cert. ef. 5-24-89; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2013, f. & cert. ef. 9-30-13

858-010-0025

Procedure for National Written Examination

(1) The Board shall utilize the Examination for Professional Practice in Psychology (EPPP) as the national written exam.

(a) Candidates for licensure who are prepared to take the EPPP must submit a written request to the Board.

(b) Candidates for licensure who have taken the EPPP prior to April 20, 1990, must have passed the examination by achieving a score at or above the national mean of doctoral candidates taking the examination for the first time on that day. Candidates who have taken the EPPP prior to April 1993 must have passed the examination by achieving a score at or above the national mean of doctoral candidates taking the examination for the first time on that day or 75 percent, whichever is lower. The passing score for the EPPP from April 1993 to April 2001 shall be 140 or 70 percent. For computer administered forms of the EPPP, the Board requires a scaled score of 500.

(c) Special Accommodations. The Board shall review a request for special accommodations for a verified disability or for English as a second language upon written request by the candidate as described in OAR 858-010-0030(5).

(2) Re-examination. Any candidate who fails to achieve a passing score on the EPPP shall be allowed to take the examination a second time. If the examination is failed twice, the candidate must submit a written study plan for the Board to review and approve. If a candidate fails to pass a third examination, the candidate's application for licensure shall be denied.

Stat. Auth.: ORS 675.040 & 675.045

Stats. Implemented: ORS 675.040 & 675.045

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & cert. ef. 9-5-79; PE 1-1980, f. & cert. ef. 3-10-80; PE 1-1981(Temp), f. & cert. ef. 12-9-81; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & cert. ef. 2-23-82; PE 2-1989, f. & cert. ef. 5-24-89; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 3-1993, f. & cert. ef. 4-13-93; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2013, f. & cert. ef. 9-30-13

858-010-0030

Procedures for Oregon Jurisprudence Examination

(1) Jurisprudence Examination. The purpose of the examination is to measure the candidate's knowledge and application of state laws and regulations related to the professional practice of psychology, including the American Psychological Association's ethical principles incorporated by Board statute and rule.

(a) Candidates whose education credentials, training and references have been accepted by the Board shall be notified in writing of their eligibility take the jurisprudence examination.

(b) The jurisprudence examination shall be administered at least twice a year.

(2) Eligible candidates prepared to take the jurisprudence examination must submit a written request to the Board postmarked at least 30 days prior to the examination date and pay the examination fee.

(3) The jurisprudence examination fee is not refundable except in extraordinary circumstances.

(4) The applicant shall be given notice of the date, time and place of the applicant's scheduled examination. Appearance at the scheduled examination shall constitute a waiver of the prior written notice.

(5) Special Accommodations. Requests for special accommodations for a disability or for English as a second language must be made at the time the written request to sit for the examination is made, or when the disability becomes known to the applicant. The request must include:

(a) Written verification of the disability from a qualified care provider (i.e. a person certified or licensed by the state to provide such services) detailing:

(A) Nature, extent and duration of disability; and

(B) Recommendation(s) for accommodation.

(b) English as a Second Language: Written request for reasonable accommodation detailing:

(A) Level of proficiency in English including, but not limited to, number of years speaking and/or writing English;

(B) History of special accommodations granted in similar testing circumstances;

(C) Other information to support request for special accommodation; and

(D) Recommendation(s) for accommodation.

(6) Administration.

(a) The Board shall determine the questions on each examination and shall determine the passing score.

(b) The Board shall provide to each candidate a Candidate Handbook that includes a copy of the Board's examination rules, an explanation of the Board requirements related to scheduling and conduct during the examination, and current examination study materials. The Candidate Handbook shall be available on the Board's website.

(c) Disqualification. A candidate sitting for the jurisprudence examination may be disqualified during or after the examination for conduct which affects the integrity of the candidate's performance or the examination. Disqualification will result in denial of the candidate's application.

(7) Scoring. Candidates shall be assigned an identification number. The Board shall notify each candidate in writing regarding the result of the examination

(8) Reconsideration, Review and Reexamination.

(a) Within thirty days after notice of the examination results, a candidate who does not pass the examination may appeal in writing to have their examination rescored.

(b) Review. A candidate who does not pass the examination may review the examination record of incorrect questions and answers at the Board's office within a period of ninety days following the date of the examination and upon written request to the Board. The purpose of the review is to assist the candidate prepare to retake the examination. No more than one review shall be allowed.

(c) Reexamination. A candidate who does not pass the examination may be reexamined. If a candidate does not pass the second examination and wishes to take a third examination the candidate must submit a study plan for the Board's review and approval prior to sitting for the third examination. If a candidate fails to pass the third examination, the candidate's application for licensure shall be denied.

(d) A candidate for licensure who was formerly licensed in Oregon must re-take and pass the examination if their application for licensure is received more than 2 years after their license expired.

(e) A candidate for licensure must re-take and pass the examination if the candidate does not become licensed within 2 years of passing the exam.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050 & 675.065

Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050 & 675.065

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & cert. ef. 9-5-79; PE 1-1981(Temp), f. & cert. ef. 12-9-81; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & cert. ef. 7-23-82; PE 1-1985(Temp), f. & cert. ef. 12-20-85; PE 1-1986, f. & cert. ef. 7-1-86; PE 1-1988, f. & cert. ef. 7-25-88; PE 3-1988(Temp), f. & cert. ef. 11-30-88; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 3-1992(Temp), f. & cert. ef. 12-10-91; PE 1-1992, f. & cert. ef. 1-16-92; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; PE 1-1997, f. & cert. ef. 6-17-97; BPE 1-2000(Temp), f. 3-8-00, cert. ef. 3-8-00 thru 9-4-00; BPE 3-2000, f. & cert. ef. 9-7-00; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 1-2004(Temp), f. & cert. ef. 3-2-04 thru 8-29-04; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2006, f. 8-29-06, cert. ef. 9-1-06; BPE 1-1995, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2012(Temp), f. & cert. ef. 10-15-12 thru 4-13-13; BPE 1-2013, f. & cert. ef. 2-5-13; BPE 3-2013, f. & cert. ef. 9-30-13

858-010-0036

Guidelines for Post-Doctoral Supervised Work Experience

(1) Policy. One year of post-doctoral supervised work experience is required for licensure. The required work experience must take place after the doctorate degree is conferred.

ADMINISTRATIVE RULES

(a) One year of supervised work experience is defined as 1,500 hours of psychological services performed over a period not less than twelve months.

(b) Psychological services are defined as direct psychological services to an individual or group; diagnosis and assessment; completing documentation related to services provided; client needs meetings and consultation; psychological testing; research related to client services; report writing; and receiving formal training including workshops and conferences.

(c) For the purposes of licensure, psychological services do not include business development; credentialing activities; marketing; purchasing; creating forms; administrative billing or other business management activities.

(2) The following guidelines shall be used by the Board to define supervised employment.

(a) While obtaining postdoctoral supervised work experience in Oregon, the candidate for licensure must be in a Board approved Resident Supervision Contract:

(A) Working under the supervision of an Oregon licensed psychologist licensed in Oregon for at least two years; or

(B) Working under the supervision of an Oregon licensed psychologist licensed for at least two years in a state with licensing standards comparable to Oregon.

(b) To receive supervised work experience credit from other jurisdictions, the experience must be a formal arrangement under the supervision of a psychologist who has been licensed for at least two years in a state with licensing standards comparable to Oregon.

(3) Candidates for licensure shall be eligible to enter into a Resident Supervision Contract as described in subsection (2)(a) of this rule.

(a) Resident status shall begin the date the Board approves the Resident Supervision Contract.

(b) Duration. The resident status is a transitional step toward licensure and is not intended as a means to avoid licensure. A Resident Supervision Contract shall be effective for a period not to exceed two years from the date of Board approval. The Board may extend the contract beyond two years for good cause upon a written request from the resident and the supervisor prior to the expiration of the contract. Failure to receive a courtesy reminder notice from the Board shall not relieve the resident of the responsibility to timely request an extension.

(c) Termination of a Resident Supervision Contract will be granted by the Board at the written request of the supervisor or the resident. The termination shall be effective at the time the Board approves the request in writing, or on the date indicated by the supervisor in the final residency evaluation, whichever is later.

(d) If the supervisor is to be paid for supervision payment must be in the form of a per-hour fee.

(e) Supervision of more than three residents concurrently shall require prior approval by the Board.

(4) Resident's Responsibilities. The resident's conduct must conform to the following standards:

(a) Title. The resident must be designated at all times by the title "psychologist resident." All signed materials, letterhead, business cards, telephone directory listings, internet postings, brochures, insurance billing and any other public or private representation must include the individual's title as "psychologist resident" and the supervisor's name and designation "supervisor."

(b) Scope of Practice. The resident will only offer services in those areas that the supervisor is competent.

(c) Nature of Supervision. The resident must obtain frequent and regular supervision meetings throughout the duration of the Resident Supervision Contract. The resident must provide the supervisor with a periodic evaluation of all cases and psychological activities in which the resident is engaged. The resident's practice must comply with Oregon laws and administrative rules.

(d) The supervisor is not required to be working on-site with the resident.

(e) Non-routine individual supervision may occur by electronic means when geographical distance, weather or emergency prohibit a face-to-face meeting.

(f) Frequency:

(A) If a resident works 1–20 hours in a week the resident must at least one hour of individual supervision every week.

(B) If a resident works more than 20 hours in a week the resident must receive at least two hours of supervision every week. One hour must be individual and one hour may be group supervision. Group supervision must be:

(i) A formal and on-going group of at least three mental health professionals;

(ii) Facilitated by a licensed psychologist; and

(iii) Approved by the resident's supervisor.

(C) On a non-routine basis individual supervision may be delayed up to 14 days to accommodate vacations, illness, travel or inclement weather.

(D) If a resident's work in a particular week does not comply with these requirements, then it may not be counted towards the supervised work experience requirement.

(g) In the absence of the primary supervisor, not to exceed fourteen days, one-on-one supervision hours may be conducted retroactively.

(h) Confidentiality. The resident must advise all clients orally and in their informed consent policy that the supervisor may have access to all information and material relevant to the client's case.

(i) Promptly communicate to the Board any significant interruption or expected termination of the Resident Supervision Contract.

(j) The resident must discuss with their supervisor the Supervisor Evaluation Report at the conclusion or termination of the Resident Supervision Contract.

(5) The supervisor's responsibilities are:

(a) Review, supervise and evaluate representative and problem cases with attention to diagnostic evaluation, treatment planning, ongoing case management, emergency intervention, recordkeeping and termination;

(b) Countersign all psychological reports and professional correspondence produced by the resident; and ensure that letterhead, business cards, telephone directory listings, internet postings, brochures, insurance billing and any other public or private representation includes the appropriate title of "psychologist resident" or "psychologist associate resident" and the supervisor's name and designation as "supervisor."

(c) Review with the resident, Oregon laws and administrative rules related to the practice of psychology, including the current APA "Ethical Principles of Psychologists and Code of Conduct," professional relationships and referrals, protection of records, billing practices, recordkeeping and report writing;

(d) Assist the psychologist resident in developing a plan to prepare for the national written exam and the Oregon jurisprudence examination;

(e) Promptly communicate to the Board any professional or ethical concerns regarding the resident's conduct or performance;

(f) Notify the Board within fourteen days and explain any significant interruption or expected termination of the Resident Supervision Contract;

(g) Ensure that the resident has access to supervision by telephone to discuss urgent matters, if the supervisor is unavailable during a period not to exceed fourteen days;

(h) Create and maintain for at least three years a record of hours of supervision and notes for each supervision session contemporaneously as supervision occurs, and provide it to the Board within fourteen days of request;

(i) Provide the Board with an interim Resident Evaluation Report upon request; and

(j) Provide the Board with a final Resident Evaluation Report at the conclusion or termination of the Resident Supervision Contract.

(6) Associate Supervisor. Any supervision of the resident by a person other than the primary supervisor must be identified in the Resident Contract and approved by the Board.

(a) The associate supervisor is responsible for providing supervision as described in section (5) of this rule in the event that the primary supervisor is unavailable for any reason; and

(b) The associate supervisor is responsible for reporting professional or ethical concerns regarding the resident's conduct or performance to the primary supervisor and the Board.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050, 675.065 & 675.110

Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050, 675.065, 675.110

Hist.: PE 1-1988, f. & cert. ef. 7-25-88; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2013, f. & cert. ef. 9-30-13

858-010-0037

Supervised Work Experience — Psychologist Associate

(1) Applicants must complete a one year full-time internship or one year of other supervised learning practicum deemed equivalent by the Board. The internship or practicum must meet the requirements of OAR 858-010-0012 or 858-010-0013.

ADMINISTRATIVE RULES

(2) Applicants must complete three years of full-time post-masters degree supervised work experience in accordance with OAR 858-010-0036, except that:

(a) The resident shall be designated at all times by the title “psychologist associate resident”; and

(b) A Resident Supervision Contract will be effective for a period not to exceed four years. The Board may extend the contract beyond four years.

Stat. Auth.: ORS 675.065 & 675.110

Stats. Implemented: ORS 675.065 & 675.110

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2013, f. & cert. ef. 9-30-13

858-010-0050

Inactive Status

(1) Inactive status may be granted to licensees who have made a request in writing to the Board. Inactive licensees may not practice psychology in the State of Oregon, and are required to reactivate to active or semi-active status in order to practice.

(2) To reactivate a license from inactive status to active or semi-active status, the licensee shall request in writing and report professional and continuing education activities sufficient to maintain professional competence, which must at a minimum meet the basic requirements for continuing education, as described in OAR 858-040-0015, within the 24 month period immediately preceding the date of request. The residual licensure fee and continuing education requirements from the date of reactivation to the end of the renewal period shall be calculated on a prorated basis. If the licensee fails send the fee postmarked within 30 days immediately following the license reactivation, the license shall revert to inactive status.

(3) Reactivation Request. If the written request to reactivate a licensee from inactive status to active or semi-active status occurs within five years the Board may, at its discretion, reactivate the license.

(4) If the Board determines that the licensee has not engaged in professional and continuing education activities sufficient to maintain professional competence, or if the written request to reactivate the license is not received within five years, the licensee must re-take the Oregon jurisprudence examination and obtain a passing score.

(5) If the inactive licensee does not pass the Oregon jurisprudence examination, the Board may require the submission of a study plan designed to correct deficiencies in the licensee’s examination performance and/or require that the licensee establish a Board approved consultation relationship as described in OAR 858-010-0036, the duration of which may be specified by the Board.

(6) The Board may reactivate the license upon receipt of documentation that the proposed study plan and/or period of consultation has been successfully completed and the deficiencies rectified, or at its discretion, may require the re-take and successful passing of the Oregon jurisprudence examination.

Stat. Auth.: ORS 675.110

Stats. Implemented: ORS 675.110

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & ef. 9-5-79; PE 3-1980, f. & ef. 12-12-80; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 2-1988, f. & cert. ef. 10-7-88; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1992, f. & cert. ef. 1-16-92; PE 3-1992, f. & cert. ef. 7-14-92; PE 3-1993, f. & cert. ef. 4-13-93; Renumbered to 858-040-0010; PE 1-1996, f. & cert. ef. 6-25-96; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 5-2012, f. & cert. ef. 11-19-12; BPE 3-2013, f. & cert. ef. 9-30-13

858-010-0060

Psychological Records

(1) Maintenance and retention of records. The psychologist or psychologist associate rendering professional services to an individual client or services billed to a third party payer, shall maintain professional records for a client for a minimum of seven years from the date of last service. The records shall include:

(a) The name of the client and other identifying information;

(b) The presenting problem(s) or purpose or diagnosis;

(c) The fee arrangement;

(d) The date and substance of each billed or service-count contact or service;

(e) Any test results or other evaluative results obtained and any basic test data from which they were derived;

(f) Notation and results of formal consults with other providers;

(g) A copy of all test or other evaluative reports prepared as part of the professional relationship;

(h) Any releases executed by the client;

(i) Any signed informed consents.

(2) Disposition in case of death or incapacity of the licensee. Psychologists and psychologist associates shall make necessary arrange-

ments for maintenance of and access to client records to ensure confidentiality in case of death or incapacity of the licensee.

(3) Oregon licensees shall name a qualified person to intercede for client welfare and to make necessary referrals, when appropriate, and shall keep the Board notified of the name of the qualified person. The Board shall not release the name of the qualified person except in the case of the death or incapacity of the licensee or if the licensee is inactive or has resigned and the former client is unable to locate the licensee.

(4) A “qualified person” under this rule means an active or semi-active Oregon licensed psychologist.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050, 675.065 & 675.110

Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050, 675.065, 675.110

Hist.: PE 1-1996, f. & cert. ef. 6-25-96; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2013, f. & cert. ef. 9-30-13

858-010-0080

Repeal of Prior Rules

Upon the effective date of adoption of these rules, the prior existing rules of the Board as contained in OAR 858-010-0005 to 858-010-0075 shall be repealed.

Stat. Auth.:

Stats. Implemented:

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; BPE 3-2013, f. & cert. ef. 9-30-13

858-020-0015

Management of Complaints

(1) Consumer Protection Committee. The Board chair may appoint a Consumer Protection Committee comprised of one public member and two professional members. The Consumer Protection Committee shall:

(a) Provide direction and consultation to the Board’s investigator and the Board’s Administrator; and

(b) Make recommendations to the Board when necessary.

(2) Any Board member or Board staff member who has a conflict of interest with respect to any complaint shall declare the conflict and shall not participate in the investigation, disposition, or any other activity concerning the complaint.

Stat. Auth.: ORS 675.020 & 675.110

Stats. Implemented: ORS 675.110(8)

Hist.: BPE 2-1999, f. & cert. ef. 7-16-99; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2013, f. & cert. ef. 9-30-13

858-020-0025

Complaints on Which the Board Can Act

Any complaint submitted to the Board must be specific as to the conduct upon which the complaint is based and why this conduct is cause for a complaint. The Board will review and accept for consideration complaints that might affect the licensure of psychologists and psychologist associates who are already licensed or are candidates for licensure, or that concern the possible practice of psychology by non-psychologists or unlicensed psychologists. A complaint concerning a licensed psychologist associate or psychologist resident may be regarded as a complaint against the supervisor. A complaint will be rejected if it does not allege a violation for which the Board has the grounds to impose sanctions pursuant to ORS 675.070. If authorized by ORS 676.160 to 676.180, a complaint may be referred to appropriate individuals or groups with the consent of the complainant.

Stat. Auth.: ORS 675.070

Stats. Implemented: ORS 675.070(2)

Hist.: BPE 3-1999, f. & cert. ef. 7-6-99; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2012(Temp), f. & cert. ef. 10-15-12 thru 4-13-13; BPE 1-2013, f. & cert. ef. 2-5-13; BPE 3-2013, f. & cert. ef. 9-30-13

858-020-0035

Form of Complaints

(1) If the complaint is first made in verbal form, is tentative, or undocumented, the Board shall require a statement in writing, accompanied by documentation and a signed complaint form. The Board will advise a complainant about the nature and form of documentation required. The Board shall provide all complainants with copy of ORS 676.160, Processing of Complaints Against Health Professionals.

(2) If the complainant is a client or former client of the respondent, the complainant must sign a waiver of confidentiality allowing the Board and its legal counsel access to records and other materials that are the ethical and legal responsibility of the respondent. Refusal by a complainant to comply with this requirement may result in dismissal of the complaint.

(3) If a Board member becomes a complainant or a respondent, the same procedures will apply as in any other case. The Board member will abstain from any participation in discussion and deliberations of the Board regarding the complaint.

Stat. Auth.: ORS 675.020 & 675.110

Stats. Implemented: ORS 675.110

ADMINISTRATIVE RULES

Hist.: BPE 2-1999, f. & cert. ef. 7-6-99; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2013, f. & cert. ef. 9-30-13

858-020-0045

Notice and Investigation Process

(1) Notice to Respondent. The Board's administrator shall notify the respondent by letter when a complaint is filed, or an investigation has been initiated, into respondent's conduct or practice. The notice letter shall provide respondent with a citation to the laws and regulations that apply to the investigation. The notice letter shall also set out the general allegations to be investigated. The investigator may modify the scope of the investigation as needed. The Board Administrator may delegate this notification procedure to the Board's investigator.

(2) Notice to Supervisors. When a complaint is filed against an individual acting under the supervision of a licensed psychologist, the supervising psychologist(s) shall be notified that any investigation into the conduct of the supervisee may affect the licensure of the supervisor(s). The Board may open a companion investigation naming the supervisor(s).

(3) Purpose of Investigation. The purpose of the investigation shall be to determine whether sufficient credible evidence exists of violation of rules or laws administered by the Board to justify issuance of a Notice of Intent to Impose sanctions against a person licensed by the Board or such other action as the circumstances may warrant.

(4) Scope of Investigation. The investigator shall seek guidance as appropriate and necessary from individual Board members, the full Board, agency legal counsel, and the Board's administrator. If the Board decides to operate with a Consumer Protection Committee structure, that committee shall serve as the primary source of guidance for the investigator.

(5) Cooperation. Failure by respondent to cooperate with a board investigation constitutes unprofessional conduct per ORS 675.070(2). Cooperation by respondent includes:

(a) Submitting client records to the Board's investigator, with or without a signed release by the client, for a full investigation of the allegations presented in the notice letter;

(b) Sending a complete case file to the Board's investigator;

(c) Being available for a personal interview with the Board's investigator; and

(d) Responding to questions presented by the Board's investigator.

(6) Duty of the Investigator. The investigator shall collect evidence, interview witnesses and make a written report to the Board.

(7) The Board may delay approving a licensure application or issuing a license to a candidate for licensure if the person has a complaint under investigation until the complaint has been resolved.

Stat. Auth.: ORS 675.020 & 675.110

Stats. Implemented: ORS 675.110

Hist.: BPE 3-1999, f. & cert. ef. 7-6-99; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; Suspended by BPE 4-2012(Temp), f. & cert. ef. 10-18-12 thru 4-16-13; BPE 3-2013, f. & cert. ef. 9-30-13

858-020-0055

Investigator's Report to the Board

(1) When the investigation is complete, the investigator will make an investigation report to the Board, in accordance with the timeline and procedures outlined in ORS 183.310 to 183.500 and 676.160 to 676.180, and shall clearly set forth the issues on which the Board should consider possible action.

(2) The Board shall consider the investigator's report and the standards for disciplinary actions under its statutes and OAR 858-010-0075. The Board may:

(a) Dismiss the complaint;

(b) Continue the investigation; or

(c) Issue a Thirty-Day Letter. The Board administrator shall notify the respondent of the specific allegations of conduct that the Board may consider to be violations of APA Ethical Principles or Oregon statutes and administrative rules. The letter shall require a response from the respondent within 30 days from the date of mailing and provide warning that failure to respond may result in Board disposition of the complaint without the response.

Stat. Auth.: ORS 675.110

Stats. Implemented: ORS 675.110

Hist.: BPE 2-1999, f. & cert. ef. 7-6-99; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 4-2012(Temp), f. & cert. ef. 10-18-12 thru 4-16-13; Administrative correction, 5-22-13; BPE 3-2013, f. & cert. ef. 9-30-13

858-020-0085

Board Records

If the Board determines to take disciplinary action in accordance with ORS 675.070 to restrict, suspend, or revoke a license, notice to this effect

will be published in a Board publication and published on the Board's website. Final disciplinary actions will also be reported to the National Practitioner Databank and the Association of State and Provincial Psychology Boards' Disciplinary Databank.

Stat. Auth.: ORS 675.110

Stats. Implemented: ORS 675.110

Hist.: BPE 2-1999, f. & cert. ef. 7-6-99; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2013, f. & cert. ef. 9-30-13

858-020-0105

Board's Responsibility to the Public

The Board shall take responsibility for informing the public and the profession as to the ethics and nature of psychological activities. The Board shall provide psychologists in the state, the general public, and interested other groups with information about the nature of the licensure law, what may constitute violations of the law, and how inquiry about possible violations or complaints may appropriately be made. When inquiry is made, the Board may informally comment on the probable legal status of an activity that falls or might fall under ORS Chapter 675, but it shall refrain from any statement or action which might be construed as an official opinion.

Stat. Auth.: ORS 675.110

Stats. Implemented: ORS 675.110

Hist.: BPE 2-1999, f. & cert. ef. 7-6-99; BPE 3-2013, f. & cert. ef. 9-30-13

858-030-0005

Application, Examination and Licensing Fees

(1) Application: \$300

(2) Jurisprudence Examination: \$150

(3) License Fees

(a) The license renewal fee for an active psychologist and psychologist associate shall be calculated on an annual amount of \$375 and paid on a biennial amount of \$750.

(b) The license renewal fee for a semi-active psychologist and psychologist associate shall be calculated on an annual amount of \$187.50 and paid on a biennial amount of \$375.

(c) The license renewal fee for an inactive psychologist and psychologist associate shall be calculated on an annual amount of \$50 and paid on a biennial amount of \$100.

(d) Effective for the renewal periods beginning January 1, 2010, the Board will phase in the implementation of a two year license on a birth month renewal schedule.

(e) The Board shall impose a delinquency fee of \$200 for licenses renewed within thirty days after the stated due date.

(f) The Board shall have discretion to waive the delinquency fee in hardship cases.

(4) Limited Permit: \$100

(5) Miscellaneous Fees. Most materials and information are available through the Board website at www.oregon.gov/obpe or may be purchased in accordance with ORS 192.440(2).

(a) Certified verification of licensure: \$5

(b) Certified transfer of application information: \$20

(c) Student loan deferment letter: \$5

(d) Duplicating request: \$2.50 for the first five copies; \$.25 for each copy thereafter

(e) Laws and administrative rules: \$5

(f) Electronic file of mailing labels: \$35

(g) Application packet, including laws and administrative rules: \$10

(h) Duplicate wall display certificate of licensure: \$12

(i) Certified duplicate license: \$10

(j) Cumulative disciplinary report: \$7.50

Stat. Auth.: ORS 675.110 & 675.115

Stats. Implemented: ORS 675.110 & 675.115

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 7, f. 10-21-74, ef. 11-11-74; PE 9, f. 2-3-75, ef. 2-25-75; PE 1-1978, f. & ef. 9-5-78; PE 1-1979, f. & ef. 9-5-79; PE 2-1980, f. & ef. 9-23-80; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 1-1983, f. & ef. 11-1-83; PE 2-1989, f. & cert. ef. 5-24-89; PE 3-1992, f. & cert. ef. 7-14-92; PE 2-1993(Temp), f. & cert. ef. 3-18-93; PE 4-1993, f. & cert. ef. 7-19-93; Renumbered from 858-010-0060; PE 5-1993, f. & cert. ef. 10-6-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-1999(Temp), f. & cert. ef. 3-2-99 thru 7-1-99; BPE 2-1999, f. & cert. ef. 7-6-99; BPE 2-2000, f. 9-7-00, cert. ef. 10-15-00; BPE 2-2001(Temp), f. 8-31-01, cert. ef. 10-12-01 thru 2-27-02; BPE 3-2001(Temp), f. & cert. ef. 10-12-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2009(Temp), f. 9-29-09, cert. ef. 10-1-09 thru 12-31-09; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 3-2013, f. & cert. ef. 9-30-13

Bureau of Labor and Industries Chapter 839

Rule Caption: Amends the prevailing rates of wage for the period beginning July 1, 2013

ADMINISTRATIVE RULES

Adm. Order No.: BLI 2-2013
Filed with Sec. of State: 9-20-2013
Certified to be Effective: 9-20-13
Notice Publication Date: 9-1-2013
Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning July 1, 2013.
Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in the publication of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon* dated July 1, 2013, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning July 1, 2013, and the effective dates of the applicable special wage determination and rates amendments:

(2) Copies of Prevailing Wage Rates on Public Works Contracts in Oregon dated July 1, 2013, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Portland and Salem. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815, 651.060

Stats. Implemented: ORS 279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007, f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007, f. 9-25-07 cert. ef. 9-26-07; BLI 27-2007, f. 9-25-07 cert. ef. 10-1-07; BLI 28-2007, f. 9-26-07 cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08; BLI 32-2008, f. & cert. ef. 10-8-08; BLI 36-2008, f. & cert. ef. 10-29-08; BLI 41-2008, f. & cert. ef. 11-12-08; BLI 42-2008, f. & cert. ef. 12-1-08; BLI 44-2008, f. & cert. ef. 12-29-08; BLI 45-2008, f. 12-31-08, cert. ef. 1-1-09; BLI 1-2009, f. & cert. ef. 1-6-09; BLI 2-2009, f. & cert. ef. 1-12-09; BLI 4-2009, f. & cert. ef. 2-11-09; BLI 6-2009, f. & cert. ef. 3-17-09; BLI 7-2009, f. & cert. ef. 3-24-09; BLI 8-2009, f. 3-31-09, cert. ef. 4-1-09; BLI 10-2009, f. 6-9-09, cert. ef. 6-10-09; BLI 11-2009, f. 6-29-09, cert. ef. 6-30-09; BLI 12-2009, f. 6-29-09, cert. ef. 7-1-09; BLI 13-2009, f. & cert. ef. 7-1-09; BLI 14-2009, f. & cert. ef. 7-10-09; BLI 15-2009, f. & cert. ef. 7-16-09; BLI 16-2009, f. & cert. ef. 7-22-09; BLI 17-2009, f. & cert. ef. 7-29-09; BLI 19-2009, f. & cert. ef. 8-18-09; BLI 20-2009, f. & cert. ef. 9-14-09; BLI 21-2009, f. & cert. ef. 9-21-09; BLI 22-2009, f. 9-30-09, cert. ef. 10-1-09; BLI 23-2009, f. & cert. ef. 10-8-09; BLI 24-2009, f. & cert. ef. 11-12-09; BLI 25-2009, f. & cert. ef. 11-23-09; BLI 29-2009, f. 12-31-09, cert. ef. 1-1-10; BLI 1-2010, f. 1-8-10, cert. ef. 1-12-10; BLI 2-2010, f. 1-11-10, cert. ef. 1-13-10; BLI 3-2010, f. & cert. ef. 1-19-10; BLI 4-2010, f. & cert. ef. 1-27-10; BLI 13-2010, f. & cert. ef. 4-1-10; BLI 17-2010, f. 6-29-10, cert. ef. 7-1-10; BLI 20-2010, f. & cert. ef. 10-1-10; BLI 24-2010, f. 12-30-10, cert. ef. 1-1-11; BLI 2-2011, f. 3-25-11, cert. ef. 4-1-11; BLI 4-2011, f. 6-30-11, cert. ef. 7-1-11; BLI 7-2011, f. & cert. ef. 10-12-11; BLI 10-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 4-2012, f. & cert. ef. 3-29-12; BLI 6-2012, f. &

cert. ef. 7-2-12; BLI 10-2012, f. 9-26-12, cert. ef. 10-1-12; BLI 13-2012, f. 12-28-12, cert. ef. 1-1-13; BLI 1-2013, f. & cert. ef. 3-25-13; BLI 2-2013, f. & cert. ef. 9-20-13

Rule Caption: Amends the prevailing rates of wage for the period beginning October 1, 2013.

Adm. Order No.: BLI 3-2013
Filed with Sec. of State: 9-30-2013
Certified to be Effective: 10-1-13
Notice Publication Date: 9-1-2013
Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing rate of wages as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning October 1, 2013.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in the publication of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon* dated July 1, 2013, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning July 1, 2013, and the effective dates of the applicable special wage determination and rates amendments: Amendments to Oregon Determination 2013-02 (effective October 1, 2013).

(2) Copies of *Prevailing Wage Rates on Public Works Contracts in Oregon* dated July 1, 2013, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Portland and Salem. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815, 651.060

Stats. Implemented: ORS 279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007, f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007, f. 9-25-07 cert. ef. 9-26-07; BLI 27-2007, f. 9-25-07 cert. ef. 10-1-07; BLI 28-2007, f. 9-26-07 cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08; BLI 32-2008, f. & cert. ef. 10-8-08; BLI 36-2008, f. & cert. ef. 10-29-08; BLI 41-2008, f. & cert. ef. 11-12-08; BLI 42-2008, f. & cert. ef. 12-1-08; BLI 44-2008, f. & cert. ef. 12-29-08; BLI 45-2008, f. 12-31-08, cert. ef. 1-1-09; BLI 1-2009, f. & cert. ef. 1-6-09; BLI 2-2009, f. & cert. ef. 1-12-09; BLI 4-2009, f. & cert. ef. 2-11-09; BLI 6-2009, f. & cert. ef. 3-17-09; BLI 7-2009, f. & cert. ef. 3-24-09; BLI 8-2009, f. 3-31-09, cert. ef. 4-1-09; BLI 10-2009, f. 6-9-09, cert. ef. 6-10-09; BLI 11-2009, f. 6-29-09, cert. ef. 6-30-09; BLI 12-2009, f. 6-29-09, cert. ef. 7-1-09; BLI 13-2009, f. & cert. ef. 7-1-09; BLI 14-2009, f. & cert. ef. 7-10-09; BLI 15-2009, f. & cert. ef. 7-16-09; BLI 16-2009, f. & cert. ef. 7-22-09; BLI 17-2009, f. & cert. ef. 7-29-09; BLI 19-2009, f. & cert. ef. 8-18-09; BLI 20-2009, f. & cert. ef. 9-14-09; BLI 21-2009, f. & cert. ef. 9-21-09; BLI 22-2009, f. 9-30-09, cert. ef. 10-1-09; BLI 23-2009, f. & cert. ef. 10-8-09; BLI 24-2009, f. & cert. ef. 11-12-09; BLI 25-2009, f. & cert. ef. 11-23-09; BLI 29-2009, f. 12-31-09, cert. ef. 1-1-10; BLI 1-2010, f. 1-8-10, cert. ef. 1-12-10; BLI 2-2010, f. 1-11-10, cert. ef. 1-13-10; BLI 3-2010, f. & cert. ef. 1-19-10; BLI 4-2010, f. & cert. ef. 1-27-10; BLI 13-2010, f. & cert. ef. 4-1-10; BLI 17-2010, f. 6-29-10, cert. ef. 7-1-10; BLI 20-2010, f. & cert. ef. 10-1-10; BLI 24-2010, f. 12-30-10, cert. ef. 1-1-11; BLI 2-2011, f. 3-25-11, cert. ef. 4-1-11; BLI 4-2011, f. 6-30-11, cert. ef. 7-1-11; BLI 7-2011, f. & cert. ef. 10-12-11; BLI 10-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 4-2012, f. & cert. ef. 3-29-12; BLI 6-2012, f. &

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& cert. ef. 9-21-09; BLI 22-2009, f. 9-30-09, cert. ef. 10-1-09; BLI 23-2009, f. & cert. ef. 10-8-09; BLI 24-2009, f. & cert. ef. 11-12-09; BLI 25-2009, f. & cert. ef. 11-23-09; BLI 29-2009, f. 12-31-09, cert. ef. 1-1-10; BLI 1-2010, f. 1-8-10, cert. ef. 1-12-10; BLI 2-2010, f. 1-11-10, cert. ef. 1-13-10; BLI 3-2010, f. & cert. ef. 1-19-10; BLI 4-2010, f. & cert. ef. 1-27-10; BLI 13-2010, f. & cert. ef. 4-1-10; BLI 17-2010, f. 6-29-10, cert. ef. 7-1-10; BLI 20-2010, f. & cert. ef. 10-1-10; BLI 24-2010, f. 12-30-10, cert. ef. 1-1-11; BLI 2-2011, f. 3-25-11, cert. ef. 4-1-11; BLI 4-2011, f. 6-30-11, cert. ef. 7-1-11; BLI 7-2011, f. & cert. ef. 10-12-11; BLI 10-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 4-2012, f. & cert. ef. 3-29-12; BLI 6-2012, f. & cert. ef. 7-2-12; BLI 10-2012, f. 9-26-12, cert. ef. 10-1-12; BLI 13-2012, f. 12-28-12, cert. ef. 1-1-13; BLI 1-2013, f. & cert. ef. 3-25-13; BLI 2-2013, f. & cert. ef. 9-20-13; BLI 3-2013, f. 9-30-13, cert. ef. 10-1-13

Citizens' Initiative Review Commission Chapter 710

Rule Caption: Administration of the Citizens' Initiative Review Commission

Adm. Order No.: CIRC 1-2013(Temp)

Filed with Sec. of State: 9-24-2013

Certified to be Effective: 9-24-13 thru 3-22-14

Notice Publication Date:

Rules Adopted: 710-005-0010

Subject: This rule allows the Chair of the Citizens' Initiative Review Commission, in consultation with the Commission, to appoint an Administrator or hire a Contractor to perform administrative services for the Commission, to assist with its transition from an independent to a semi-independent state agency, so long as the cost of such services do not exceed \$10,000.

Rules Coordinator: Jerry Hudson—(503) 203-1132

710-005-0010

Administration of the Citizens' Initiative Review Commission

The Chair of the Citizens' Initiative Review Commission, in consultation with the Commission, may appoint an Administrator or hire a Contractor to perform administrative services for the Commission, to assist with its transition from an independent to a semi-independent state agency, so long as the cost of such services do not exceed \$10,000. Such an Administrator or Contractor shall be defined as the Designee. In addition to the duties defined in ORS 250.137 to 250.149, in 182.456 to 182.472, and in any other rules or policies adopted by the Commission, the Designee shall officially represent the Commission and shall perform other duties including but not limited to:

- (1) Preparing the biennial budget for review by the public and adoption or modification by the Commission;
- (2) Ensuring that the activities and records of the CIR are available for review by the public and that all of the activities of the CIR meet public meeting requirements of the ORS;
- (3) Presenting to the Commission all matters requiring Commission action;
- (4) Implementing Commission rules, policies and decisions;
- (5) Reviewing and resolving complaints from the public related to the work of the Commission;
- (6) Overseeing the administration of the Commission and the appointment of, and administrative support for, Panels;
- (7) Informing the Commission of the status of Panels under its jurisdiction;
- (8) Providing fundraising services;
- (9) Performing other duties as authorized or requested by the Commission.

Stat. Auth.: ORS 250.137(3)(b) & 182.454

Stats. Implemented: ORS 250.137(3)(b) & 182.454

Hist.: CIRC 1-2013(Temp), f. & cert. ef. 9-24-13 thru 3-22-14

Commission for the Blind Chapter 585

Rule Caption: Modify the Public Records Rule

Adm. Order No.: CFTB 1-2013

Filed with Sec. of State: 10-10-2013

Certified to be Effective: 10-10-13

Notice Publication Date: 9-1-2013

Rules Amended: 585-001-0007, 585-001-0008

Rules Repealed: 585-001-0009

Subject: 585-001-0007 Requests for Release of Department Public Records: amending this rule will provide additional detail in regards to its public records requests. 585-001-0008 Fees for Public Records

and Other Services: amending this rule will provide additional detail in regards to its public records requests.

585-001-0009 Release of Public Records: this rule will be repealed.

Rules Coordinator: Dacia Johnson—(971) 673-1588

585-001-0007

Definitions

The following definitions shall apply to all Oregon Administrative Rules contained in OAR chapter 585, Division I, unless the context requires otherwise:

(1) "Custodian" refers to a public body mandated, directly or indirectly, to create, maintain, care for or control a public record. "Custodian" does not include a public body that has custody of a public record as an agent of another public body that is the custodian, unless the public record is not otherwise available.

(2) "Agency" refers to the Oregon Commission for the Blind.

(3) "Designee" refers to any officer or employee of the Agency, appointed by the Director to respond to requests for public records of the Oregon Commission for the Blind.

(4) "Executive Director" refers to the Executive Director of the Oregon Commission for the Blind.

(5) "Duplication or Duplicating" refers to the process of reproducing a public record or writing in any format.

(6) "Person" includes any natural person, corporation, partnership, firm or association.

(7) "Photocopy(ing)" includes a photograph, microphotograph and any other reproduction on paper or film in any scale, or the process of reproducing, in the form of a photocopy, a public record or writing.

(8) "Public body" includes every state officer, agency, department, division, bureau, board and commission; every county and city governing body, school district, municipal corporation, and any board, department, commission, council, or agency thereof; and any other public agency of this state.

(9) "Public record or writing" includes a document, book, paper, photograph, file, sound recording, machine readable electronic record or other material regardless of physical form or characteristics, made, received, filed or recorded in pursuance of law or in connection with the transaction of public business, whether or not confidential or restricted in use.

(10) "Requestor" refers to the person requesting inspection, copies, or other reproduction of a public record of the Agency. Requests to Inspect or Obtain Copies of Public Records.

(11) A request to inspect or obtain copies of a public record of the Agency shall be made in writing to the Executive Director, and shall include:

(a) The name, address and telephone number and e-mail address of the requestor;

(b) Identification of the records from which information is requested, if known.

(c) The time period the records were produced and officials involved in producing the records or other relevant information, if known;

(d) The format in which the information is needed (i.e. photocopies, audio or video cassette, machine readable, or electronic format, etc.);

(e) The number of copies needed, if copies are requested; and

(f) Instruction to the Agency to certify copies, if necessary.

(12) The Executive Director or designee may waive the requirement, under paragraph (1) of this rule, for a request to be in writing, if it is determined that effective administration is aided by the waiver.

(13) A review of the requested records will be conducted by the Agency as necessary to determine whether the records are exempt from disclosure, in accordance with ORS 192.410 to 192.505 and any other references establishing an exemption to disclosure of public records.

(14) The Executive Director or designee will advise the requestor, within a reasonable amount of time, whether the records may be disclosed, the date, time, and place they may be inspected or obtain copies of the records, and the estimated cost of inspection, duplication, and other related fees as described in OAR 585-001-0008.

(15) If the requested records contain information exempt from disclosure, the requestor will be furnished a copy of the record with the exempt material removed.

(16) The Executive Director or designee may require and designate an Agency employee to supervise the inspection of requested records. Applicability of Rules.

(17) The Administrative Rules set forth in chapter 585, division 1 shall apply to all public records for which the Agency is custodian. Access

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to Public Records The Executive Director or designee, in carrying out responsibilities of ORS 192.430, as custodian of public records:

(a) Shall allow access to and disclosure of the public records subject to ORS 192.410 to 192.505.

(b) Shall make restrictions and take precautions necessary to protect the integrity of the records and prevent interference with the regular discharge of the Agency's duties; and

(c) Shall allow for inspection of the Agency's public records during normal working days and hours at the location which the records reside, or any other reasonable location designated by the Executive Director or designee.

Stat. Auth.: ORS 346.150 & 183.341

Stats. Implemented: ORS 346.150

Hist.: CFTB 2-2012, f. & cert. ef. 12-17-12; CFTB 1-2013, f. & cert. ef. 10-10-13

585-001-0008

Fees for Public Records and Other Services

(1) The Agency will establish fees and miscellaneous charges, for providing access to or copies of public records in paper, electronic, or other format, based on the Agency's actual costs of preparing and providing the records. Costs associated with a request for public records may include per page copy and facsimile fees, postage when applicable, staff time to locate, review, remove information exempt from disclosure, and/or transfer the material to a requested electronic or other necessary format appropriate for releasing the public record(s).

(2) No additional fee will be charged for providing records in an alternative format when required by the Americans with Disabilities Act.

(3) The Executive Director or designee may reduce or waive fees when:

(a) Time spent making the records available for inspection or preparation for photocopying was negligible; or

(b) Supplying the requested records is within the normal scope of an Agency activity; or

(c) Making the record available primarily benefits the general public.

(4) All fees and charges must be paid in advance of releasing the requested public records for inspection or before photocopies are provided. Payments must be made by check or money order and made payable to the Oregon Commission for the Blind.

(5) Consistent with ORS 279.550, to conserve and protect the State's resources, photocopies will be produced on recycled paper in double-sided print format whenever feasible to reduce costs and paper waste.

(6) Due to the threat of computer virus, the Agency will not permit requestors to provide diskettes for electronic reproduction of computer records. Requests for other electronic reproduction will be evaluated at the time of the request and a determination made as to the feasibility and accessibility of the requested electronic format. The Agency may require the requestor to provide the electronic media to which the record(s) will be copied.

(7) The Agency limits the transmission of facsimile copies for public record requests to 30 pages.

(8) Fees:

(a) Photocopies (single or double-sided): 25 cents per page;

(b) Facsimile: \$5 1st page, \$1 per page thereafter;

(c) CD — \$2 each;

(d) Audio Cassette — 90 min.: \$2 each;

(e) Video Cassette — 2 hrs.: \$6 each;

(f) Postage/Freight: First Class or Bulk rate based on weight;

(g) Staff Time: Calculated based on employee(s) hourly rate of pay;

(h) Indirect Costs/Third Party Charges: Based on actual/invoiced fees;

(i) Publications: Fees for specific publications will be based on actual costs of development, printing and distribution, and determined by the Division distributing or releasing the publication;

(j) Certification of Public Record: \$5

Stat. Auth.: ORS 346.150

Stats. Implemented: ORS 346.150

Hist.: CFTB 1-1999, f. & cert. ef. 4-15-99; CFTB 1-2013, f. & cert. ef. 10-10-13

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Department of Agriculture Chapter 603

Rule Caption: Harmonizes Oregon's hop disease quarantine with Washington's and adds civil penalties for quarantine violations.

Adm. Order No.: DOA 10-2013

Filed with Sec. of State: 10-10-2013

Certified to be Effective: 10-10-13

Notice Publication Date: 9-1-2013

Rules Amended: 603-052-1020

Subject: Harmonizes Oregon's hop disease quarantine with Washington's and adds civil penalties for quarantine violations.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-052-1020

Quarantine Against Powdery Mildew of Hops

(1) Establishing Quarantine: A quarantine is established against the powdery mildew disease of hops caused by the fungus *Podosphaera macularis* (Wallr.) U. Braun & S. Takam. (= *Sphaerotheca humuli* (DC.) Burr. and *Podosphaera humuli* (DC) Burrill), arabis mosaic viruses, hop stunt viroid, ilarviruses, and *Verticillium* wilt caused by hop strains of *Verticillium albo-atrum*.

(2) Area under Quarantine: All states and districts of the United States, except those counties in the states of Washington and Idaho covered by a comparable quarantine.

(3) Commodities Covered: Plants and all plant parts of hops, *Humulus lupulus*, excepting kiln dried cones of hops are prohibited entry into this state directly, indirectly, diverted or reconsigned. All used hop farming equipment entering the state from the area under quarantine (see Section (2)) must be pressure-washed or similarly cleaned to remove all plant debris and soil prior to entry.

(4) Conditions: Covered commodities from the area under quarantine are prohibited.

(5) Special Permits: Persons wishing to import covered commodities from the area under quarantine must apply in writing for a Special Permit as authorized by OAR 603-052-0020. Applications for Special Permits must list the prospective buyer and seller; the number, and origin of stock; location of proposed planting site; and any other relevant information. Special Permits, when granted, will list required safeguards to prevent disease establishment.

(6) Disposition of Commodities in Violation of the Quarantine: All covered commodities described in section (3) of this rule found to be in violation of this quarantine shall be returned immediately to point of origin by the Oregon receiver, or at the receiver's option be destroyed under the supervision of the Oregon Department of Agriculture without expense to or indemnity paid by the Oregon Department of Agriculture. Violation of this quarantine may result in a fine, if convicted, of not less than \$500 no more than \$5,000, as provided by ORS 561.990. In addition, violators may be subject to civil penalties of up to \$10,000 as provided by 561.995.

Stat. Auth.: ORS 561 & 570.305

Stats. Implemented: ORS 561.190, 561.510 - 561.600 & 570.305

Hist.: AD 7-1993(Temp), f. & cert. ef. 5-26-93; AD 20-1993, f. & cert. ef. 12-14-93; AD 10-1996, f. & cert. ef. 9-5-96; DOA 4-1998, f. & cert. ef. 5-11-98; DOA 12-1999, f. & cert. ef. 6-4-99; DOA 4-2009, f. & cert. ef. 4-9-09; DOA 17-2012, f. & cert. ef. 6-6-12; DOA 10-2013, f. & cert. ef. 10-10-13

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Department of Agriculture, Oregon Dairy Products Commission Chapter 617

Rule Caption: Establishes Commission fiscal year as commencing on January 1 and ending on December 31.

Adm. Order No.: ODDC 1-2013

Filed with Sec. of State: 10-11-2013

Certified to be Effective: 10-11-13

Notice Publication Date: 5-1-2013

Rules Adopted: 617-020-0010

Subject: Establishes Oregon Dairy Products Commission's fiscal year as the 12-month period beginning January 1 and ending on December 31.

Commission will file required annual reports based on the fiscal year needs as defined by the State of Oregon.

Rules Coordinator: Pete Kent—(503) 229-5033

617-020-0010

Fiscal Year Defined

For the purpose of this rule, the Oregon Dairy Products Commission fiscal year means the 12-month period commencing on January 1 and ending on December 31. The Commission will file required annual reports based on the fiscal year needs as defined by the State of Oregon.

Stat. Auth.: ORS 576.304; Chapter 12, 2013 Laws (SB 348), effective March 21, 2013

Stats. Implemented: ORS 576.416 to 576.445

Hist.: ODDC 1-2013, f. & cert. ef. 10-11-13

ADMINISTRATIVE RULES

Department of Community Colleges and Workforce Development Chapter 589

Rule Caption: GED Fees

Adm. Order No.: DCCWD 5-2013

Filed with Sec. of State: 9-20-2013

Certified to be Effective: 9-20-13

Notice Publication Date: 7-1-2013

Rules Amended: 589-007-0500

Rules Repealed: 589-007-0500(T)

Subject: In 2014, the General Educational Development (GED) test will transition from paper-based testing (PBT) to computer-based testing (CBT). In anticipation of this change, several Oregon GED testing centers have already transitioned to computer-based testing. The current rule addresses PBT testing information only. The Department is amending its current rule to coincide with the revised CBT testing process and new fee structure.

Rules Coordinator: Linda Hutchins — (503) 947-2456

589-007-0500

State GED Fees

The State Board of Education authorizes the Department of Community Colleges and Workforce Development (CCWD) to charge the following fees for the General Educational Development tests:

(1) For paper-based GED tests through December 31, 2013:

(a) All persons taking the GED tests shall be required to pay a \$35 state administration fee at the time they begin testing;

(b) Persons seeking a GED equivalency certificate shall be issued that certification upon verification that the state fee has been paid and the requirements of OAR 589-007-0400 have been met;

(c) The \$35 state fee shall cover the cost of state administration for each test-taker until the transition to a new GED test which will occur on January 1, 2014.

(2) For computer-based GED tests through December 31, 2013:

(a) All persons taking the GED tests shall be required to pay a \$7 state administration fee for each of five subtests that comprise the GED test and any retaken tests;

(b) State fees will be collected by GEDTS at the time a GED candidate registers online for the GED tests and will be distributed to CCWD on a monthly basis;

(c) A GED high school equivalency certificate will be issued upon successful completion of the five subtests.

(3) For computer-based GED tests beginning on January 1, 2014 through December 31, 2015:

(a) All persons taking the GED tests shall be required to pay a \$8 state administration fee for each of four subtests that comprise the GED tests and any retaken tests;

(b) State fees will be collected by GED Testing Service at the time a GED candidate registers online for GED tests and will be distributed to CCWD on a monthly basis;

(c) A GED high school equivalency certificate will be issued upon successful completion of the four subtests.

(d) Effective January 1, 2014, the state retaken test fee of \$8 will be waived for up to two retaken tests per failed content area provided the retaken tests occur within 12 calendar months.

Stat. Auth.: ORS 326.051 & 326.550

Stats. Implemented: ORS 192.440 & 326.550

Hist.: 1EB 130, f. 5-5-72, ef. 10-15-72; 1EB 258, f. 1-31-77, ef. 2-1-77; 1EB 6-1984(Temp), f. & ef. 3-7-84; 1EB 10-1984, f. & ef. 4-13-84; EB 12-1991, f. & cert. ef. 7-19-91; Renumbered from 581-046-0005; ODE 1-2001, f. 1-25-01, cert. ef. 1-26-01; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0011; DCCWD 1-2009, f. & cert. ef. 7-6-09; DCCWD 1-2013(Temp), f. & cert. ef. 5-31-13 thru 11-27-13; DCCWD 5-2013, f. & cert. ef. 9-20-13

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**Department of Consumer and Business Services,
Building Codes Division
Chapter 918**

Rule Caption: Creates additional requirements for municipality submitting a local amendment request

Adm. Order No.: BCD 8-2013(Temp)

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 10-1-13 thru 3-30-14

Notice Publication Date:

Rules Amended: 918-020-0370

Subject: Under the current rule, the division may approve requests from municipalities for ordinances that represent local amendments to the state building code. This temporary rule creates new provisions for local amendment requests when a municipality submits the request to the division.

Rules Coordinator: Richard J. Baumann — (503) 373-7559

918-020-0370

Local Amendment Requests

(1) A local municipality may request under ORS 455.040 a local amendment relating to matters covered under the building code, by submitting to the division, in writing, a local amendment application. The application must include:

(a) The reason for the request;

(b) The name of, and contact information for, the building official responsible for submitting the request and enforcing and interpreting the local amendment if approved;

(c) A copy of the municipality's proposed local ordinance or administrative rule; and

(d) A copy of the report required by section (2)(b) of this rule.

(2) Prior to submitting a request for a local amendment under ORS 455.040, a municipality must:

(a) Provide for a public hearing or public meeting in the manner required by applicable municipal or state law; and

(b) Submit a report to the division. The report must:

(A) Summarize comments received;

(B) Outline the impacts of the local amendment;

(C) Explain how the municipality responded to the substantive concerns and issues raised during the public input period;

(D) Identify the financial or regulatory incentives provided by the municipality to businesses or contractors impacted by the local amendment request;

(E) Estimate the fiscal impact of the local amendment. If the proposed amendment impacts residential construction, identify the specific cost to develop a 6,000 square foot parcel and to construct a 1,200 square foot detached single family dwelling on that parcel;

(F) Describe the stakeholder outreach, summarize groups communicated with and the result of that communication; and

(G) Identify any other communities the municipality discussed the proposed amendment with and whether a regional solution was considered.

(3) Local amendments shall not contain a severance clause. The content of the local amendment as interpreted and approved by the division represents the terms and conditions of the approval. Where one or more provisions are deemed invalid, the entire local amendment is invalidated.

(4) Once the local amendment request is received, the division will review the request and the municipality's proposed amendment, and either approve the proposed local amendment in whole or in part, or deny the request. The division may approve the local amendment with conditions.

(5) Once the local amendment's provisions are approved by the division they cannot be changed. If a municipality wishes to change the provisions, they must submit a new amendment request for the division's approval.

(6) The building official for the municipality, identified in subsection (1)(b) of this rule, requesting the local amendment will be responsible for enforcing and interpreting the amendment once it is approved.

(7) The division may, upon written request, issue a directive to the building official to ensure that the local amendment is being administered according to the terms and conditions of the approval.

(8) A local amendment may be reviewed occasionally by the division to determine if it continues to be viable.

(9) The division reserves the right to terminate approval of the local amendment based on new information, including but not limited to, changes in technology, conflicts with model codes, changes in accepted practices under the applicable model codes, and failure of the building official to uphold the terms, conditions, or any directives related to the local amendment.

Stat. Auth. ORS 455.030

Stat. Implemented: ORS 455.040

Hist.: BCD 28-2008, f. 12-31-08, cert. ef. 1-1-09; BCD 8-2013(Temp), f. 9-27-13, cert. ef. 10-1-13 thru 3-30-14

ADMINISTRATIVE RULES

Department of Consumer and Business Services, Director's Office Chapter 440

Rule Caption: 2014 Workers' Compensation Premium Assessment Rates

Adm. Order No.: DO 1-2013

Filed with Sec. of State: 10-2-2013

Certified to be Effective: 1-1-14

Notice Publication Date: 9-1-2013

Rules Amended: 440-045-0020, 440-045-0025

Subject: The director adopts by rule the workers' compensation premium assessment rate that is paid by all employers based on their workers' compensation premium and is collected by the insurer at the time the employer pays the premium. This assessment is used to fund workers' compensation related programs and workplace safety and health programs that serve Oregon employers and workers. In addition, the rule adopts the rate for an additional assessment percentage amount that is collected from all self-insured employers as well as all self-insured employer groups to fund the Self-Insured Employer Adjustment Reserve and the Self-Insured Employer Group Adjustment Reserve. These reserves are established to assure benefits are available in the event of a financial failure of a self-insured employer or self-insured employer group. These rules establish the following assessment rates for calendar year 2014:

The assessment to be levied against insurers, self-insured employers and self-insured employer groups for Calendar Year 2014 shall be 6.2 percent of direct earned premium and the direct earned premium self-insured employers and self-insured employer groups would have paid had they been insured employers.

In addition to the assessment outlined above, self insured employers for the Calendar Year 2014 shall be assessed an additional 0.2 percent to fund the Self-Insured Employer Adjustment Reserve. Self-insured employer groups for the Calendar Year 2014 shall be assessed an additional 1.0 percent to fund the Self-Insured Employer Group Adjustment Reserve.

Rules Coordinator: Jenny Craig—(503) 947-7866

440-045-0020

Assessment Rate

The assessment to be levied against insurers, self-insured employers and self-insured employer groups for Calendar Year 2014 shall be 6.2 percent of direct earned premium and the direct earned premium self-insured employers and self-insured employer groups would have paid had they been insured employers.

Stat. Auth.: ORS 656.612, 656.726, 705.135

Stats. Implemented: ORS 656.612 & 656.614

Hist.: DO 2-1999, f. 10-1-99, cert. ef. 1-1-00; DO 1-2000, f. 10-11-00; DO 3-2001, f. 10-22-01, cert. ef. 1-1-02; DO 4-2002, f. 10-17-02 cert. ef. 1-1-03; DO 3-2003, f. 10-22-03, cert. ef. 1-1-04; DO 1-2004 f. 10-21-04 cert. ef. 1-1-05; DO 1-2005, f. 10-20-05, cert. ef. 1-1-06; DO 3-2006, f. 10-19-06, cert. ef. 1-1-07; DO 1-2007, f. 10-4-07, cert. ef. 1-1-08; DO 2-2008, f. 10-1-08, cert. ef. 1-1-09; DO 1-2009, f. 10-7-09 cert. ef. 1-1-10; DO 3-2010, f. 9-24-10, cert. ef. 1-1-11; DO 1-2011, f. 10-14-11, cert. ef. 1-1-12; DO 1-2012, f. 9-28-12, cert. ef. 1-1-13; DO 1-2013, f. 10-2-13, cert. ef. 1-1-14

440-045-0025

Adjustment Reserve Rate

In addition to the assessments established in OAR 440-045-0020, self insured employers for the Calendar Year 2014 shall be assessed an additional 0.2 percent to fund the Self-Insured Employer Adjustment Reserve. Self self-insured employer groups for the Calendar Year 2014 shall be assessed an additional 1.0 percent to fund the Self-Insured Employer Group Adjustment Reserve.

Stat. Auth.: ORS 656.612, 656.726, 705.135

Stats. Implemented: ORS 656.612 & 656.614

Hist.: DO 2-1999, f. 10-1-99, cert. ef. 1-1-00; DO 1-2000, f. 10-11-00, cert. ef. 1-1-01; DO 3-2001, f. 10-22-01, cert. ef. 1-1-02; DO 4-2002, f. 10-17-02 cert. ef. 1-1-03; DO 3-2003, f. 10-22-03, cert. ef. 1-1-04; DO 1-2004 f. 10-21-04 cert. ef. 1-1-05; DO 1-2005, f. 10-20-05, cert. ef. 1-1-06; DO 3-2006, f. 10-19-06, cert. ef. 1-1-07; DO 1-2007, f. 10-4-07, cert. ef. 1-1-08; DO 2-2008, f. 10-1-08, cert. ef. 1-1-09; DO 1-2009, f. 10-7-09 cert. ef. 1-1-10; DO 3-2010, f. 9-24-10, cert. ef. 1-1-11; DO 1-2011, f. 10-14-11, cert. ef. 1-1-12; DO 1-2012, f. 9-28-12, cert. ef. 1-1-13; DO 1-2013, f. 10-2-13, cert. ef. 1-1-14

Department of Consumer and Business Services, Division of Finance and Corporate Securities Chapter 441

Rule Caption: Clarifies first time loans of \$500 or less are subject to a grace period.

Adm. Order No.: FCS 4-2013(Temp)

Filed with Sec. of State: 9-17-2013

Certified to be Effective: 9-17-13 thru 3-16-14

Notice Publication Date:

Rules Adopted: 441-740-0017

Subject: This temporary rule clarifies that pawnbrokers shall offer a grace period on all first time pledge loans, specifically those in the amount of \$500 or less. At present, pawnbrokers provide a grace period by statute for first time pledge loans in excess of \$500. Industry has a long-standing practice of offering a 30-day grace period on all pledge loans, regardless of the amount. An ambiguity exists as to whether the 30-day grace period exists on first time pledge loans in the amount of \$500 or below. As consumers may be harmed by the ambiguity, and industry does not have clear guidance as to how to apply grace periods, the division has opted to adopt this rule. A temporary rule is necessary because there is an immediate harm to consumers if the ambiguity is used to omit a grace period on loans of \$500 or less.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-740-0017

Grace Period on Certain Pledge Loans

A pledgor of a loan of \$500 or less has a grace period of 30 days after the expiration of the 60-day loan in which to redeem the pledge or to renew the loan by paying any renewal fee and all the accrued interest and fees to date. There is no grace period after a renewal expires.

Stat. Auth.: ORS 726.260 Stats.

Implemented: ORS 726.400

Hist.: FCS 4-2013(Temp), f. & cert. ef. 9-17-13 thru 3-16-14

Department of Consumer and Business Services, Oregon Occupational Safety and Health Division Chapter 437

Rule Caption: Adopt federal OSHA amendments to Cranes and Derricks in Construction: Underground Construction and Demolition.

Adm. Order No.: OSHA 6-2013

Filed with Sec. of State: 10-9-2013

Certified to be Effective: 10-9-13

Notice Publication Date: 9-1-2013

Rules Amended: 437-003-0001

Rules Repealed: 437-003-0080

Subject: This rulemaking is to keep Oregon OSHA in harmony with recent changes to Federal OSHA's standards.

Oregon OSHA amended 29 CFR 1926.800 Underground Construction, in Division 3/S; 1926.856 Removal of walls, floors, and material with equipment, in Division 3/T; and 1926.858 Removal of steel construction, also in Division 3/T, with changes as published in the April 23, 2013 Federal Register. With this rulemaking, Federal OSHA has clarified text in the demolition standard and applies the cranes and derricks standard to underground construction work and demolition work.

Oregon OSHA repealed 437-003-0080 Wind Velocity Device. We inadvertently left this rule in the former Division 3/DD. Subdivision DD was removed in Oregon earlier this year with rulemaking from the August 17, 2012 Federal Register. The substance of 437-003-0080 is addressed now in Cranes and Derricks in Construction, subdivision CC.

Oregon OSHA makes the amendments from the April 23, 2013 Federal Register in construction, Division 3/S and 3/T.

Please visit our web site www.orosha.org

Click 'Rules/Compliance' in the left vertical column and view our proposed, adopted, and final rules.

Rules Coordinator: Sue C. Joye—(503) 947-7449

ADMINISTRATIVE RULES

437-003-0001

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, in the Federal Register:

(1) Subdivision A – GENERAL

(a) 29 CFR 1926.1 Purpose and Scope, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.2 Variances from safety and health standards, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.3 Inspections – right of entry, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.4 Rules of practice for administrative adjudications for enforcement of safety and health standards, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.6 Incorporation by reference, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(2) Subdivision B – GENERAL INTERPRETATIONS

(a) 29 CFR 1926.10 Scope of subpart, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.11 Coverage under section 103 of the act distinguished, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.12 Reorganization plan No. 14 of 1950, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.13 Interpretation of statutory terms, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.14 Federal contracts for ‘mixed’ types of performance, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.15 Relationship to the service contract act; Walsh-Healey Public Contracts Act, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.16 Rules of construction, published 4/6/79, FR vol. 44, p. 20940.

(3) Subdivision C – GENERAL SAFETY AND HEALTH PROVISIONS

(a) 29 CFR 1926.20 General safety and health provisions, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(b) 29 CFR 1926.21 Safety training and education, published 4/6/79, FR vol. 44, p. 20940; amended with Oregon OSHA AO 6-2012, repealed (b)(6), f. 9/28/12, ef. 4/1/13.

(c) 29 CFR 1926.22 Recording and reporting of injuries (Reserved)

(d) 29 CFR 1926.23 First aid and medical attention, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.24 Fire protection and prevention, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.25 Housekeeping, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.26 Illumination, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.27 Sanitation, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.28 Personal protective equipment. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(j) 29 CFR 1926.29 Acceptable certifications, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.30 Shipbuilding and ship repairing, published 3/7/96, FR vol. 61, no. 46, p. 9249.

(l) 29 CFR 1926.31 (Reserved).

(m) 29 CFR 1926.32 Definitions, published 6/30/93, FR vol. 58, no. 124, p. 35078.

(n) 29 CFR 1926.33 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, no. 46, p. 31427.

(o) 29 CFR 1926.34 Means of egress, published 6/30/93, Federal Register, vol. 58, no. 124, p. 35083.

(4) Subdivision D – OCCUPATIONAL HEALTH AND ENVIRONMENTAL CONTROLS

(a) 29 CFR 1926.50 Medical services and first aid, published 6/18/98, FR vol. 63, no. 117, p. 33469.

(b) 29 CFR 1926.51 Sanitation, published 6/30/93, FR vol. 58, no. 124, p. 35084.

(c) 29 CFR 1926.52 Occupational noise exposure, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.53 Ionizing radiation, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.54 Nonionizing radiation, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.55 Gases, vapors, fumes, dusts, and mists, published 1/10/97, FR vol. 62, no. 7, p. 1619.

(g) 29 CFR 1926.56 Illumination, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.57 Ventilation, published 1/8/98, FR vol. 63, no. 5, p. 1295.

(i) 29 CFR 1926.58 Reserved, §1926.58, Asbestos, tremolite, anthophyllite and actinolite is redesignated as §1926.1101, Asbestos, and §1926.58 is reserved (8/10/94, FR vol. 59, no. 153, pp. 41131-62).

(j) 29 CFR 1926.59 Hazard Communication, published 6/20/96, FR vol. 61, p. 31427.

(k) 29 CFR 1926.60 Methylenedianiline (MDA), published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(l) 29 CFR 1926.61 Retention of DOT markings, placards and labels, published 6/20/96, FR vol. 61, p. 31427.

(m) 29 CFR 1926.62 Lead, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

NOTE: Cadmium has been redesignated as §1926.1127.

(n) 29 CFR 1926.65 Hazardous Waste Operations and Emergency Response

NOTE: Division 2/H, 1910.120, Hazardous Waste Operations and Emergency Response, applies to Construction.

(5) Subdivision E – PERSONAL PROTECTIVE AND LIFE SAVING EQUIPMENT

(a) 29 CFR 1926.95 Criteria for personal protective equipment. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(b) 29 CFR 1926.100 Head protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(c) 29 CFR 1926.101 Hearing protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(d) 29 CFR 1926.102 Eye and face protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(e) 29 CFR 1926.103 Respiratory protection, published 1/8/98, FR vol. 63, no. 5, p. 1297.

NOTE: 29 CFR 1926.104 Removed, 8/9/94, FR vol. 59, no. 152, p. 40729.

(f) 29 CFR 1926.105 Reserved, 8/9/94, FR vol. 59, no. 152, p. 40729.

(g) 29 CFR 1926.106 Working over or near water, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.107 Definitions applicable to this subpart, published 8/9/94, FR vol. 59, no. 152, p. 40729.

(6) Subdivision F – FIRE PROTECTION AND PREVENTION

(a) 29 CFR 1926.150 Fire protection, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.151 Fire prevention, published 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.152 Flammable and combustible liquids, published 6/30/93, FR vol. 58, no. 124, p. 35162.

(d) 29 CFR 1926.153 Liquefied petroleum gas (LP-Gas), published 6/30/93, FR vol. 58, no. 124, p. 35170.

(e) 29 CFR 1926.154 Temporary heating devices, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.155 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(7) Subdivision G – SIGNS, SIGNALS, AND BARRICADES

(a) 29 CFR 1926.200 Accident prevention signs and tags, published 6/30/93, FR vol. 58, no. 124, p. 35173; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(b) 29 CFR 1926.201 Signaling, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(c) 29 CFR 1926.202 Barricades, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(d) 29 CFR 1926.203 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(8) Subdivision H – MATERIALS HANDLING, STORAGE, USE AND DISPOSAL

(a) 29 CFR 1926.250 General requirements for storage, published 6/30/93, FR vol. 58, no. 124, p. 35173.

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- (b) 29 CFR 1926.251 Rigging equipment for material handling, published 6/30/93, FR vol. 58, no. 124, p. 35173.
- (c) 29 CFR 1926.252 Disposal of waste materials, published 4/6/79, FR vol. 44, p. 20940.
- (9) Subdivision I – TOOLS – HAND AND POWER
- (a) 29 CFR 1926.300 General requirements, published 3/7/96, FR vol. 61, no. 46, p. 9250.
- (b) 29 CFR 1926.301 Hand tools, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.302 Power operated hand tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.
- (d) 29 CFR 1926.303 Abrasive wheels and tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.
- (e) 29 CFR 1926.304 Woodworking tools, published 3/7/96, FR vol. 61, no. 46, p. 9251.
- (f) 29 CFR 1926.305 Jacks - lever and ratchet, screw, and hydraulic, published Federal Register vol. 58, no. 124, p. 35176.
- (10) Subdivision J – WELDING AND CUTTING
- (a) 29 CFR 1926.350 Gas welding and cutting, published 6/30/93, FR vol. 58, no. 124, p. 35179.
- (b) 29 CFR 1926.351 Arc welding and cutting, published 7/11/86, FR vol. 51, p. 25318.
- (c) 29 CFR 1926.352 Fire prevention, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.353 Ventilation and protection in welding, cutting, and heating, published 6/30/93, FR vol. 58, no. 124, p. 35179.
- (e) 29 CFR 1926.354 Welding, cutting, and heating in way of preservative coatings, published 4/6/79, FR vol. 44, p. 20940.
- (11) Subdivision K – ELECTRICAL
- (a) 29 CFR 1926.400 Introduction, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (b) 29 CFR 1926.401 (Reserved)
- (c) 29 CFR 1926.402 Applicability, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (d) 29 CFR 1926.403 General requirements, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (e) 29 CFR 1926.404 Wiring design and protection, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335; amended with AO 5-2002, repeal (b)(1), f. 6/28/02, ef. 10/1/03.
- (f) 29 CFR 1926.405 Wiring methods, components, and equipment for general use, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (g) 29 CFR 1926.406 Specific purpose equipment and installations, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (h) 29 CFR 1926.407 Hazardous (classified) locations, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
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- (l) 29 CFR 1926.416 General requirements, published 8/12/96, FR vol. 61, no. 156, p. 41738.
- (m) 29 CFR 1926.417 Lockout and tagging of circuits, published 8/12/96, FR vol. 61, no. 156, p. 41739.
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- (p) 29 CFR 1926.431 Maintenance of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (q) 29 CFR 1926.432 Environmental deterioration of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
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- (s) 29 CFR 1926.441 Battery locations and battery charging, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
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- (12) Subdivision L – SCAFFOLDING
- (a) 29 CFR 1926.450 Scope, application and definitions applicable to this subpart, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (b) 29 CFR 1926.451 General requirements, published 11/25/96, FR vol. 61, no. 228, p. 59831.
- (c) 29 CFR 1926.452 Additional requirements applicable to specific types of scaffolds, published 8/30/96, FR vol. 61, no. 170, p. 46113.
- (d) 29 CFR 1926.453 Aerial lifts, published 11/25/96, FR vol. 61, no. 228, p. 59832.
- (e) 29 CFR 1926.454 Training, published 8/30/96, FR vol. 61, no. 170, p. 46117.
- (f) Appendix A to Subpart L Scaffold Specifications, published 8/30/96, FR vol. 61, no. 170, p. 46117.
- (g) Appendix B to Subpart L Criteria for determining the feasibility of providing safe access and fall protection for scaffold erectors and dismantlers (Reserved), published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (h) Appendix C to Subpart L List of National Consensus Standards, published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (i) Appendix D to Subpart L List of training topics for scaffold erectors and dismantlers, published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (j) Appendix E to Subpart L Drawing and illustrations, published 11/25/96, FR vol. 61, no. 228, p. 59832.
- (13) Subdivision M – FALL PROTECTION
- (a) 29 CFR 1926.500 Scope, application, and definitions applicable to this subpart, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (b) 29 CFR 1926.501 Duty to have fall protection, published 8/9/94, FR vol. 59, no. 152, p. 40732-40733; amended with AO 6-2002, f. and ef. 7/19/02.
- (c) 29 CFR 1926.502 Fall protection systems criteria and practices, published 8/9/94, FR vol. 59, no. 152, p. 40733-40738; amended with AO 6-2002, f. and ef. 7/19/02.
- (d) 29 CFR 1926.503 Training requirements. REPEALED with AO 6-2002, f. and ef. 7/19/02, replaced with OI.
- (e) Appendix A to Subpart M Determining Roof Widths, published 8/9/94, FR vol. 59, no. 152, p. 40738-40742.
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- (h) Appendix D to Subpart M Positioning Device Systems, published 8/9/94, FR vol. 59, no. 152, p. 40746.
- (14) Subdivision N – HELICOPTERS, HOISTS, ELEVATORS, AND CONVEYORS
- (a) 29 CFR 1926.550 (Reserved).
- (b) 29 CFR 1926.551 Helicopters, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.552 Material hoists, personnel hoists, and elevators, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.553 Base-mounted drum hoist, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (e) 29 CFR 1926.554 Overhead hoists, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.555 Conveyors, published 4/6/79, FR vol. 44, p. 20940.
- (15) Subdivision O – MOTOR VEHICLES, MECHANIZED EQUIPMENT, AND MARINE OPERATIONS
- (a) 29 CFR 1926.600 Equipment, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (b) 29 CFR 1926.601 Motor vehicles, REPEALED by OR-OSHA Admin. Order 6-2007, f. 9/26/07, ef. 9/26/07.
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- (d) 29 CFR 1926.603 Pile driving equipment, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.604 Site clearing, published 7/22/77, FR vol. 42, p. 37674.
- (f) 29 CFR 1926.605 Marine operations and equipment, published 4/6/79, FR vol. 44, p. 20940.
- (g) 29 CFR 1926.606 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.
- (16) Subdivision P – EXCAVATIONS
- (a) 29 CFR 1926.650 Scope, application, and definitions applicable to this subdivision, published 10/31/89, FR vol. 54, no. 209, pp. 45959-45961.
- (b) 29 CFR 1926.651 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.
- (c) 29 CFR 1926.652 Requirements for protective systems, published 10/31/89, FR vol. 54, no. 209, pp. 45961-45962.
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- (17) Subdivision Q – CONCRETE AND MASONRY CONSTRUCTION
- (a) 29 CFR 1926.700 Scope, application and definitions applicable to this subpart, published 10/18/90, FR vol. 55, no. 202, p. 42326.

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- (b) 29 CFR 1926.701 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.
- (c) 29 CFR 1926.702 Requirements for equipment and tools, published 6/16/88, FR vol. 53, p. 22612.
- (d) 29 CFR 1926.703 Requirements for cast-in-place concrete, published 6/16/88, FR vol. 53, p. 22612.
- (e) 29 CFR 1926.704 Requirements for precast concrete, published 10/5/89, FR vol. 54, no. 192, p. 41088.
- (f) 29 CFR 1926.705 Requirements for lift-slab construction operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (g) Appendix A to 1926.705 Lift-slab operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (h) 29 CFR 1926.706 Requirements for masonry construction, published 6/16/88, FR vol. 53, p. 22612; amended with OR-OSHA Admin. Order 1-2003, f. 1/30/03, ef. 4/30/03.
- (18) Subdivision R – STEEL ERECTION
- (a) 29 CFR 1926.750 Scope, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (b) 29 CFR 1926.751 Definitions, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (c) 29 CFR 1926.752 Site layout, site-specific erection plan and construction sequence, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (d) 29 CFR 1926.753 Hoisting and rigging, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (e) 29 CFR 1926.754 Structural steel assembly, published 4/3/06, FR vol. 71, no. 63, p. 16669.
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- (l) 29 CFR 1926.761 Training, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (m) Appendix A to Subpart R Guidelines for establishing the components of a site-specific erection plan: Nonmandatory Guidelines for Complying with §1926.752(e), published 7/17/01, FR vol. 66, no. 137, p. 37137.
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- (s) Appendix G to Subpart R Fall protection systems criteria and practices from §1926.502: Nonmandatory Guidelines for Complying with Complying with §1926.760(d), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
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- (19) Subdivision S – UNDERGROUND CONSTRUCTION, CAISSONS, COFFERDAMS, AND COMPRESSED AIR
- (a) 29 CFR 1926.800 Underground construction, published 4/23/13, FR vol. 78, no. 78, p. 23837.
- (b) 29 CFR 1926.801 Caissons, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.802 Cofferdams, published 4/6/79, FR vol. 44, p. 20940.
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- (f) Appendix A to Subpart S Decompression Tables, published 4/6/79, FR vol. 44, p. 20940.
- (20) Subdivision T – DEMOLITION
- (a) 29 CFR 1926.850 Preparatory operations, published 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.851 Stairs, passageways, and ladders, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.852 Chutes, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.853 Removal of materials through floor openings, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.854 Removal of walls, masonry sections, and chimneys, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.855 Manual removal of floors, published 4/6/79, FR vol. 44, p. 20940.
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- (k) 29 CFR 1926.860 Selective demolition by explosives, published 4/6/79, FR vol. 44, p. 20940.
- (21) Subdivision U – BLASTING AND USE OF EXPLOSIVES
- (a) 29 CFR 1926.900 General provisions, published 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.901 Blaster qualifications, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.902 Surface transportation of explosives, published 6/30/93, FR vol. 58, no. 124, p. 35311.
- (d) 29 CFR 1926.903 Underground transportation of explosives, published 4/6/79, FR vol. 44, p. 20940.
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- (g) 29 CFR 1926.906 Initiation of explosive charges – electric blasting, published 6/18/98, FR vol. 63, no. 117, p. 33469.
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- (j) 29 CFR 1926.909 Firing the blast, published 4/6/79, FR vol. 44, p. 20940.
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- (m) 29 CFR 1926.912 Underwater blasting, published 4/6/79, FR vol. 44, p. 20940.
- (n) 29 CFR 1926.913 Blasting in excavation work under compressed air, published 4/6/79, FR vol. 44, p. 20940.
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- (b) 29 CFR 1926.951 Tools and protective equipment, published 8/9/94, FR vol. 59, no. 152, p. 40730.
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- (e) 29 CFR 1926.954 Grounding for protection of employees, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.955 Overhead lines, published 4/6/79, FR vol. 44, p. 20940.
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(i) 29 CFR 1926.958 External load helicopters, published 4/6/79, FR vol. 44, p. 20940.

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(23) Subdivision W – ROLLOVER PROTECTIVE STRUCTURES: OVERHEAD PROTECTION

(a) 29 CFR 1926.1000 Rollover protective structures (ROPS) for material handling equipment, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.1001 Minimum performance criteria for rollover protective structure for designated scrapers, loaders, dozers, graders, and crawler tractors, published 4/6/79, FR vol. 44, p. 20940.

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(25) Subdivision Z – TOXIC AND HAZARDOUS SUBSTANCES

(a) 29 CFR 1926.1101 Asbestos, published 2/8/13, FR vol. 78, no. 27, p. 9311.

(b) 29 CFR 1926.1126 Chromium (VI), published 3/17/10, FR vol. 75, no. 51, pp. 12681-12686.

(c) 29 CFR 1926.1127 Cadmium, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(d) 29 CFR 1926.1152 Methylene Chloride, published 12/18/97, FR vol. 62, no. 243, p. 66275.

(26) Subdivision AA – (Reserved)

(27) Subdivision BB – (Reserved)

(28) Subdivision CC – Cranes and Derricks in Construction

(a) 29 CFR 1926.1400 Scope, published 5/29/13, FR vol. 78, no. 103, p. 32110.

(b) 29 CFR 1926.1401 Definitions, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(c) 29 CFR 1926.1402 Ground conditions, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

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(ii) 29 CFR 1926.1434 Equipment modifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(jj) 29 CFR 1926.1435 Tower cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

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(rr) Appendix A to Subdivision CC of 1926 – Standard Hand Signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

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(tt) Appendix C to Subdivision CC of 1926 – Operator Certification – Written Examination – Technical Knowledge Criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295

Hist.: APD 5-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; APD 14-1989(Temp), f. 7-20-89, ef. 8-1-89; APD 15-1989, f. & ef. 9-13-89; OSHA 3-1990(Temp), f. & cert. ef. 1-19-90; OSHA 7-1990, f. & cert. ef. 3-2-90; OSHA 8-1990, f. & cert. ef. 3-30-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & cert. ef. 8-31-90; OSHA 27-1990, f. 12-12-90, cert. ef. 2-1-91; OSHA 6-1991, f. 3-18-91, cert. ef. 4-15-91; OSHA 7-1991, f. & cert. ef. 4-25-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 16-1991, f. 12-16-91, cert. ef. 1-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 16-1993, f. & cert. ef. 11-1-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 6-1995, f. & cert. ef. 4-18-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 2-1997, f. & cert. ef. 3-12-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1997, f. & cert. ef. 9-15-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 6-1998, f. & cert. ef. 10-15-98; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 3-2000, f. & cert. ef. 2-8-00; OSHA 3-2001, f. & cert. ef. 2-5-01; OSHA 3-2002, f. 4-15-02, cert. ef. 4-18-02; OSHA 5-2002, f. 6-28-02 cert. ef. 10-1-03; OSHA 6-2002, f. & cert. ef. 7-19-02; OSHA 1-2003, f. 1-30-03 cert. ef. 4-30-03; OSHA 2-2003, f. & cert. ef. 1-30-03; OSHA 7-2003, f. & cert. ef. 12-5-03; OSHA 8-2003, f. 12-30-03 cert. ef. 1-1-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 2-2006, f. & cert. ef. 4-28-06; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 5-2006, f. 8-7-06, cert. ef. 1-1-07; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 6-2007, f. & cert. ef. 9-26-07; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10; OSHA 1-2011, f. & cert. ef. 2-9-11; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 5-2011, f. 12-8-11, cert. ef. 7-1-12; OSHA 1-2012, f. & cert. ef. 4-10-12; OSHA 3-2012, f. & cert. ef. 8-20-12; OSHA 5-2012, f. & cert. ef. 9-25-12; OSHA 6-2012, f. 9-28-12, cert. ef. 4-1-13; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 1-2013, f. & cert. ef. 2-14-13; OSHA 2-2013, f. 2-15-13, cert. ef. 4-1-13; OSHA 4-2013, f. & cert. ef. 7-19-13; OSHA 5-2013, f. & cert. ef. 9-13-13; OSHA 6-2013, f. & cert. ef. 10-9-13

**Department of Consumer and Business Services,
Workers' Compensation Division
Chapter 436**

Rule Caption: Amendment of rules governing electronic data interchange (EDI) for reporting medical bill data

Adm. Order No.: WCD 6-2013

Filed with Sec. of State: 10-10-2013

Certified to be Effective: 7-1-14

Notice Publication Date: 9-1-2013

Rules Amended: 436-160-0001, 436-160-0004, 436-160-0005, 436-160-0040, 436-160-0060, 436-160-0405, 436-160-0410, 436-160-0415, 436-160-0420, 436-160-0430, 436-160-0440, 436-160-0445

Rules Repealed: 436-160-0002, 436-160-0003, 436-160-0006, 436-160-0010, 436-160-0020, 436-160-0030, 436-160-0050, 436-160-0070, 436-160-0090

Subject: Revised OAR 436-160, "Electronic Data Interchange; Medical Bill Data":

- Consolidates rules regarding authority, application, purpose, and administration;

- Adopts the

- International Association of Industrial Accident Boards and Commissions, EDI Implementation Guide for Medical Bill Payment Records, Release 2.0, dated Feb 1, 2013, and the

- ASC (Accredited Standards Committee) X12 Implementation Acknowledgment for Health Care Insurance (999), dated February 2011;

- Defines terms relevant to existing and updated reporting standards;

- Repeals obsolete reporting standards and standards applicable to proof-of-coverage reporting;

- Requires use of Form 4015, the Medical Billing Data EDI Trading Partner Profile;

- Prescribes criteria for successful testing, to include an acceptance rate of 90%;

- Explains that a list of insurers required to report medical bill data is published in Bulletin 359 and that other insurers may voluntarily report medical bill data;

- Expands tables of data elements and reporting criteria; and

- Makes plain-wording changes to improve clarity and consistency.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-160-0001

Authority, Applicability, Purpose, and Administration of these Rules

(1) These rules are promulgated under the director's authority contained in ORS 656.726(4).

(2) These rules apply to workers' compensation related transactions filed with the director by electronic data interchange (EDI) on or after July 1, 2014.

(3) The purpose of these rules is to require workers' compensation medical bill data reporting by electronic data interchange.

(4) Orders issued by the division in carrying out the director's authority to enforce ORS chapter 656 are considered orders of the director.

(5) The director may waive procedural rules as justice requires, unless otherwise obligated by statute.

Stat. Auth.: ORS 656.264 & 656.726(4)

Stats. Implemented: ORS Ch. 84, 656.264

Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 7-2010, f. 10-1-10, cert. ef. 1-1-11; WCD 6-2013, f. 10-10-13, cert. ef. 7-1-14

436-160-0004

Adoption of Standards

(1)(a) The director adopts, by reference, IAIABC EDI Implementation Guide for Medical Bill Payment Records, Release 2.0, dated Feb 1, 2013.

(b) The director adopts, by reference, the ASC X12 Implementation Acknowledgment for Health Care Insurance (999), dated February 2011.

(2) The form, format, and delivery of data elements reported and definitions will conform to the standards adopted under section (1), unless otherwise provided in these rules.

(3) Copies of the guides in section (1) are available for review during regular business hours at the Workers' Compensation Division, Operations Section, 350 Winter Street NE, Salem OR 97301, 503-947-7742.

(a) IAIABC members may view a copy of the Release 2.0 guide, or non-members may purchase a copy at the IAIABC website: <http://www.iaiaabc.org>.

(b) The ASC X12 999 guide is available for purchase at the X12 online store: <http://store.x12.org/store/healthcare-5010-consolidated-guides>.

Stat. Auth.: ORS 656.264

Stats. Implemented: ORS 656.264

Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09; WCD 2-2009, f. 10-5-09 cert. ef. 1-1-10; WCD 7-2010, f. 10-1-10, cert. ef. 1-1-11; WCD 6-2013, f. 10-10-13, cert. ef. 7-1-14

436-160-0005

General Definitions

For the purpose of these rules, unless it conflicts with statute or rule:

(1) "ANSI" means the American National Standards Institute.

(2) "ASC X12" means the Accredited Standards Committee chartered by the American National Standards Institute (<http://www.x12.org/x12org/index.cfm>).

(3) "Director" means the Director of the Department of Consumer and Business Services or the director's designee for the matter.

(4) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.

(5) "Electronic data interchange" or "EDI" means a computer to computer exchange of information in a standardized electronic format.

(6) "Electronic record" means information created, generated, sent, communicated, received, or stored by electronic means.

(7) "Exclude (not applicable to the transaction)" means the data element must not be sent or cannot be sent.

(8) "Fatal Technical" means the transaction set or item structurally requires the data element.

(9) "FEIN" means the federal employer identification number or other federal reporting number used by the insurer, insured, or employer for federal tax reporting purposes.

(10) "Header record" means the record that precedes each transmission for the purpose of identifying a sender, the date and time of the transmission, and the transaction set within the transmission.

(11) "Health Care Provider" has the same meaning as "medical provider," under OAR 436-010-0005(28).

(12) "IAIABC" means the International Association of Industrial Accident Boards and Commissions, a professional trade association comprised of state workers' compensation regulators and insurance representatives (www.iaiaabc.org).

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(13) "If Applicable/Available with Item Accept if Invalid" means the data element must be sent if appropriate for the item record. Even if the item record has an invalid value, the transaction set or item record will not be rejected.

(14) "If Applicable/Available with Item Reject if Invalid" means the data element must be sent if appropriate for the item record. If the item record has an invalid value, then the transaction set or item record will be rejected.

(15) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(16) "Insurer" means the State Accident Insurance Fund Corporation, an insurer authorized under ORS chapter 731 to transact workers' compensation insurance in Oregon, an assigned claims agent selected by the director under ORS 656.054, or a self-insured employer.

(17) "Mandatory data element" means an element that will cause a rejection of a transaction if the data element is omitted or submitted in an invalid format, or with an improper value.

(18) "Mandatory Conditional" means the data element is required when certain conditions are present.

(19) "Medical Bill" means a statement of charges for medical services, specified as "compensable medical services," under ORS 656.245.

(20) "Not Applicable" means the data element is not relevant, appropriate, or doesn't apply, although if present with an improper value will not cause a rejection of a transaction.

(21) "Record" means electronic record.

(22) "Trading partner" means the entity sending electronic data interchange (EDI) transactions to the division. Trading partners may include vendors or insurers.

(23) "Trailer record" means the record that designates the end of a transmission and provides a count of transactions contained within the transmission, not including the header and trailer records.

(24) "Transaction" means a set of EDI records, defined according to standards in OAR 436-160-0004.

(25) "Transmission" means a defined set of transactions, including both header and trailer records to be sent to the division or sender by EDI.

Stat. Auth.: ORS 656.264, 656.726(4)

Stats. Implemented: ORS 84.004 & 656.264

Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09; WCD 7-2010, f. 10-1-10, cert. ef. 1-1-11; WCD 6-2013, f. 10-10-13, cert. ef. 7-1-14

436-160-0040

Recognized Filing Date

An electronic record is received when:

(1) The record enters the division's designated information processing system;

(2) All the required data elements and electronic records are in the form and format specified in these rules in the proper sequence; and

(3) The record can be fully processed by the division's information processing system.

Stat. Auth.: ORS 656.264 & 656.726(4)

Stats. Implemented: ORS 84.013 & 656.264

Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09; WCD 6-2013, f. 10-10-13, cert. ef. 7-1-14

436-160-0060

Testing Procedures and Requirements

Testing and transition to production:

(1) Before testing can begin, or the division can accept medical billing data, the trading partner must submit a completed Medical Billing Data EDI Trading Partner Profile (Form 4015) to the division's EDI Coordinator. Form 4015 is available on the division's website: <http://wcd.oregon.gov/operations/edi/ediindex.html#bill>.

(2) For test purposes each transmission must conform to the standards specified in OAR 436-160-0004.

(3) Test files will be evaluated in terms of whether the data sent was received in the correct standardized format and fully processed by the division's information processing system.

(4) The EDI Coordinator will determine the number of required transactions per test submission based on the anticipated volume of production transactions.

(5) To be approved to send production transmissions, the sender must:

(a) Accomplish secure file transfer protocol (SFTP) uploads and downloads;

(b) Demonstrate the ability to send transmissions to the division that are in the correct format and can be processed through the division's information processing system;

(c) Resolve any consistently recurring errors, and demonstrate the ability to correct and resubmit corrections to errors identified by the division;

(d) Send transmissions to the division that do not result in a 999 acknowledgment indicating a rejection;

(e) Send transmissions to the division without transaction level technical errors;

(f) Demonstrate the ability to receive and process acknowledgement transactions; and

(g) Achieve an acceptance rate of at least 90 percent.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 84.013 & 656.264

Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09; WCD 7-2010, f. 10-1-10, cert. ef. 1-1-11; WCD 6-2013, f. 10-10-13, cert. ef. 7-1-14

436-160-0405

Insurers' Reporting Responsibilities

(1) Insurers with an average of at least 100 accepted disabling claims per year, based on the average accepted disabling claim volume for the previous three calendar years, are required to electronically submit detailed medical bill payment data to the Department of Consumer and Business Services under OAR 436-160-0415.

(2) The director will notify an insurer when the insurer has reached a three-year average accepted disabling claim count of at least 100. The insurer is required to report medical bill payment data beginning with the date specified in the notice and must continue to report in subsequent years.

(3) If the insurer's claim count drops below an average of 50 accepted disabling claims, based on the average accepted disabling claim volume for the previous three calendar years, insurers may apply to the director for an exemption from the reporting requirement.

(4) The list of insurers required to report medical bill data is published in Bulletin 359.

(5) Insurers that do not meet the requirement to submit medical data under (1) of this rule may voluntarily submit medical billing data.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.264

Hist.: WCD 7-2010, f. 10-1-10, cert. ef. 1-1-11; WCD 6-2013, f. 10-10-13, cert. ef. 7-1-14

436-160-0410

Electronic Medical Bill Data Transmission and Format Requirements

(1) The transmission data and format requirements are included in the IAIABC EDI Implementation Guide for Medical Bill Payment Records, Release 2.0, dated Feb 1, 2013, and Appendices A and B of these rules. Oregon-specific information can be found on the division's Electronic Data EDI webpage: <http://www.cbs.state.or.us/wcd/operations/edi/ediindex.html>.

(2) Data elements are listed in Appendices A and B:

(a) Appendix A shows all medical bill data elements accepted by EDI in Oregon, and whether the data element is "Fatal Technical" (F), "Mandatory" (M), "Mandatory Conditional" (MC), "If Applicable/Available with Item Reject if Invalid" (AR), or "If Applicable/Available with Item Accept if Invalid" (AA) for each transaction type.

(b) Appendix B lists mandatory conditional data elements that are mandatory under specific conditions.

(3) Unless otherwise provided in these rules, the data elements must have the meaning provided in the IAIABC EDI Implementation Guide for Medical Bill Payment Records, Release 2.0, dated Feb. 1, 2013, Section 2; Health Care Claim (837).

(4) Transactions will be rejected if "Fatal Technical," "Mandatory," or "Mandatory Conditional" data elements are omitted, or include invalid values.

(5) Transactions will be rejected if "If Applicable/Available with Item Reject if Invalid" data elements include invalid values.

(6) Invalid "If Applicable/Available with Item Accept if Invalid" data elements will be ignored if they are included in a transaction.

[ED. NOTE: Appendices are available from the agency.]

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.264

Hist.: WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09; WCD 2-2009, f. 10-5-09 cert. ef. 1-1-10; WCD 7-2010, f. 10-1-10, cert. ef. 1-1-11; WCD 6-2013, f. 10-10-13, cert. ef. 7-1-14

436-160-0115

Oregon ASC X12 837 Medical Bill Data Reporting Requirements

(1) Event reporting requirements:

(a) Medical bills, including interpreter bills under OAR 436-009, must be reported within 60 days of the date paid.

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(b) Denied medical bills for accepted claims must be reported within 60 days of date of denial. Denied bills are defined as any bills in which there is a non-zero charge and a zero payment.

(c) Transactions must be received and accepted by the division within 60 days of either the date paid or the date denied to be considered timely reported. If a transaction is initially rejected it must be corrected, resubmitted, and accepted within the original 60 day time period to be considered timely reported.

(d) Cancellations must be reported as soon as the payer knows that a medical bill was sent in error.

(e) Corrections/Replacements must be reported within 60 days of changes to any of the "Fatal Technical," "Mandatory," or "Mandatory Conditional" data elements in Appendices A and B.

(f) Bills received by the insurer before July 1, 2014, may be reported to the Division using the IAIABC reporting standard version 1.1.

(2) Data reporting requirements are described in Appendices A and B.

(3) Technical requirements are described on the division's Electronic Data EDI webpage for specifications on the Secure File Transfer Protocol (SFTP) requirements.

(4) Data Quality: The director will conduct electronic edits for blank or invalid data. Affected insurers are responsible for pre-screening the data they submit to check that all the required information is reported and is formatted correctly. OAR 436-160-0420 describes the acceptance or rejection protocol for all reported medical bills. The insurer is responsible for timely correcting and resubmitting all rejected transactions for which law or rule require filing, reporting, or notice to the director.

(5) An insurer must request and receive authorization from the director to stop submitting a previously rejected transaction when the division determines the transaction is uncorrectable.

(6) The director will periodically review reported bill data to monitor insurer performance. If the director finds repeated or egregious violations of the reporting requirements of these rules the director may issue civil penalties under OAR 436-160-0445 and ORS 656.745.

(a) Medical bills must be reported timely. "Timely" means that an insurer reports medical bills as required by OAR 436-160-0415(1).

(b) Medical bills must be reported accurately. "Accurately" means that the reported medical bill data accepted by the division conforms to the reporting requirements of the Appendices A and B.

(c) The insurer may be subject to penalties for any reported medical bills that have not been accepted by the division or designated as uncorrectable under OAR 436-160-0415(5) within 180 days of the date of bill payment or denial.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.264

Hist.: WCD 7-2010, f. 10-1-10, cert. ef. 1-1-11; WCD 6-2013, f. 10-10-13, cert. ef. 7-1-14

436-160-0420

Medical Bill Acknowledgement

(1)(a) The sender is expected to retrieve both TA1 and 999 interchange and functional acknowledgements (as defined by ASC X12) for each medical bill batch submitted, unless technical errors in the file prevent 999 processing. In addition, the sender is expected to retrieve the 824 detailed acknowledgement (as defined by IAIABC Release 2.0) for each medical bill batch submitted, if the batch has successfully passed the 999 edits.

(b) The detailed acknowledgement will indicate either an item accepted (IA) or an item rejected (IR) acknowledgement for each individual transaction.

(2) A TA1, 999 or 824 acknowledgement will be available for all transactions the division is unable to process, including but not limited to:

(a) An omitted mandatory data element;

(b) An improperly populated data element field, e.g., numeric data element field is populated with alpha or alphanumeric data, or is not a valid value according to the standards adopted in 436-160-0004;

(c) Transactions or electronic records within the transaction that require matching, and cannot be matched to the division's database, e.g., cancellation of an original bill that does not match the Unique Bill ID;

(d) Illogical data in mandatory or required conditional field, e.g., payment date is after reporting date;

(e) Duplicate transmission or duplicate transaction within the transmission;

(f) Invalid bill submission reason code; or

(g) Illogical event sequence relationship between transactions, e.g., cancellation transaction submitted before an original bill is accepted.

(3) A transaction accepted acknowledgement will be available for all transactions that are in a format capable of being processed by the divi-

sion's information processing system and that are not rejected under section (2) of this rule.

(4) An insurer's obligation to report medical bill data for the purposes of this rule is not satisfied unless the division acknowledges acceptance of the transaction.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.264

Hist.: WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 2-2009, f. 10-5-09 cert. ef. 1-1-10; WCD 7-2010, f. 10-1-10, cert. ef. 1-1-11; WCD 6-2013, f. 10-10-13, cert. ef. 7-1-14

436-160-0430

Medical Bill Data Changes

(1) Changes to medical bill information must be submitted according to the standards referenced in OAR 436-160-0004.

(2) The Unique Bill ID will be used to match cancellations, corrections, and replacements to the original bill. Failure to match on this data element will result in a rejected transaction.

(3) The insurer must correct and resubmit any transactions rejected for which law or rule requires filing, reporting, or notice to the director.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.264

Hist.: WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 6-2013, f. 10-10-13, cert. ef. 7-1-14

436-160-0440

Monitoring and Auditing Insurers

(1) The director may monitor and conduct periodic audits of medical bill data to ensure compliance with ORS chapter 656 and these rules.

(2) All records maintained or required to be maintained must be disclosed upon request by the director.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.264

Hist.: WCD 7-2010, f. 10-1-10, cert. ef. 1-1-11; WCD 6-2013, f. 10-10-13, cert. ef. 7-1-14

436-160-0445

Assessment of Civil Penalties

(1) Under ORS 656.745, the director may assess a civil penalty against an insurer that fails to comply with ORS chapter 656 or the director's rules and orders.

(2) The insurer is responsible for its own actions as well as the actions of others acting on the insurer's behalf. If an insurer or someone acting on the insurer's behalf violates any provisions of these rules, the director may impose a civil penalty against the insurer.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.254, 656.745

Hist.: WCD 7-2010, f. 10-1-10, cert. ef. 1-1-11; WCD 6-2013, f. 10-10-13, cert. ef. 7-1-14

Department of Energy

Chapter 330

Rule Caption: Amending EIP rules to increase the application fee, final review fee and pass-through fee.

Adm. Order No.: DOE 3-2013

Filed with Sec. of State: 10-2-2013

Certified to be Effective: 10-2-13

Notice Publication Date: 9-1-2013

Rules Amended: 330-090-0150, 330-200-0040, 330-210-0040, 330-220-0040, 330-225-0040

Subject: These permanent rule amendments implement changes in the application, final review and pass-through fees for the renewable energy development grant, energy conservation tax credit and transportation tax credits. The rule amendments also remove the re-inspection fee for tax credits and grants, including the re-inspection fee for the Business Energy Tax Credit. The above referenced statutes direct the Oregon Department of Energy to estimate the total cost of the energy incentive programs and set fees to recover the anticipated cost of administering and enforcing the program. The fees are designed not to exceed the total cost estimated by the department. Recently with changes in the program and complexity of applications, the department has not collected fees sufficient to recover the actual cost of the program. These energy incentive program fee increases were explained and included in the budget approved by the legislature as part of the 2013-2015 budget process.

Rules Coordinator: Kathy Stuttaford—(503) 373-2127

ADMINISTRATIVE RULES

330-090-0150

Budget Limits and Payments for BETC

(1) Amount of Credits Allowed for a Facility:

(a) During any calendar year, a BETC preliminary certification will not be issued for more than:

(A) \$20 million in maximum eligible facility costs for a renewable energy resource facility or high efficiency combined heat and power facility, not including wind facilities with an installed capacity of more than 10 megawatts;

(B) \$7 million in maximum eligible facility costs for a wind facility with an installed capacity of more than 10 megawatts issued a preliminary certification during 2010.

(C) \$5 million in maximum eligible facility costs for a wind facility with an installed capacity of more than 10 megawatts issued a preliminary certification during 2011.

(D) \$3 million in maximum eligible facility costs for a wind facility with an installed capacity of more than 10 megawatts issued a preliminary certification on or after January 1, 2012.

(E) \$10 million in maximum eligible facility costs for any other facility, not including homebuilder-installed renewable energy facility and high performance home BETC subject to subsection (b).

(b) A final certification for a BETC will not be issued for more than 50 percent of the cost not to exceed \$9,000 for a homebuilder-installed renewable energy facility or \$12,000 if the facility also constitutes a high performance home.

(2) Return of Review Charge for Returned Incomplete Applications: This section does not apply to applications subject to the tiered priority system under OAR 330-090-0350. If under 330-090-0130, the Department does not accept and returns an incomplete application for preliminary certification, the Department will also return the review charge submitted by the applicant.

(3) Cost of Reviews: ORS 469B.164 requires applicants to pay all costs for the review of their applications. In order to meet this statutory requirement the Department has established the following schedule for payments to accompany an application.

(a) Included with each application for preliminary certification must be a payment payable to the Department, except for facilities qualifying under OAR 330-090-0130(2), for which a charge must be paid with the application for final certification.

(A) Applicants within tier two or three of the tiered priority system under OAR 330-090-0350 shall include with their initial application a payment to the department of \$500 for the costs of step one. Applicants who are notified that their application is approved for step two will be required to submit an additional fee as calculated under (B) prior to review.

(B) For all facilities except Sustainable Building Facilities or facilities qualifying under OAR 330-090-0130(2), the payment will be 0.0060 multiplied by the facility eligible cost, or \$30 whichever is greater. The maximum payment amount is \$35,000.

(C) For Sustainable Building Facilities, the payment will be 0.0035 multiplied by the eligible cost calculated as required under these rules.

(D) For facilities that qualify under OAR 330-090-0130(2), the payment will be 0.0035 multiplied by the eligible cost as requested in the final certification application.

(b) A refund of up to 75 percent of this payment may be granted up to 730 days (2 years) from the date the preliminary certification application was received by the Department. Under no circumstances will an amount over 75 percent be refunded. Conditions for which a refund may be granted are:

(A) Denial of an application for preliminary certification or for facilities that qualify under OAR 330-090-0130(2) of final certification; or

(B) Denial of a portion of costs requested in an application for preliminary certification or for facilities that qualify under OAR 330-090-0130(2) of final certification; or,

(C) A request to amend a preliminary certification resulting in decreased eligible costs. A refund will not be granted for any costs that are included in a pending certification.

(c) Requests for amendments or changes to a preliminary certification must be accompanied by a payment. The payment is the lesser of \$300 or the preliminary certification application fee for the project. If a request to amend a preliminary certification results in facility re-certification with increased eligible cost then additional application payments will be paid for the additional cost as specified in (3)(a) of this rule.

(d) Requests for extension of a preliminary certification under ORS 469B.145 must be accompanied by a payment. The payment is the lesser of \$300 or the preliminary certification application fee for the project.

(e) No facilities will be exempt from these requirements including applications for BETC pass-through under OAR 330-090-0140.

(f) The payment is a required part of a completed preliminary certification application per 330-090-0130, except for facilities that qualify under 330-090-0130(2). Preliminary certifications will only be issued if the application is complete. In addition, the applicant may be required to pay for costs incurred in connection with the application that exceed these payments and which the Director of the Department determines are incurred solely in connection with processing the application. The applicant will be advised of any additional costs the applicant must pay before the costs are incurred.

(4) Cost of Pass-through: Applicants that transfer their tax credit to a pass-through partner must pay a pass-through fee. The fee is due after a pass-through partner has been identified and before the department can issue a tax credit certificate.

(a) If the department assists the applicant in obtaining a pass-through partner or partners, the fee for that assistance is 0.25 percent of the tax credit amount, up to \$25,000 maximum, but no less than \$100 minimum.

(b) If the department does not assist the applicant in obtaining a pass-through partner, the fee is \$100 per tax credit certificate issued.

(5) Cost of Transfer: Applicants issued a tax credit certificate that choose to have their tax credit re-issued to a transferee must pay a transfer fee, the fee for that service is \$200, plus \$100 per tax credit certificate issued. In this section, a transferee means an individual or business that pays the pass-through amount to an applicant, that previously was issued the tax credit certificate, and receives a re-issued tax credit certificate in place of the original applicant. The transfer must occur within 24 months of the issuance of the original tax credit certificate and after the applicable sunset date for the related facility in ORS 315.357. Prior to the applicable sunset date for the related facility, applicants may use the pass-through to transfer their tax credit.

Stat. Auth.: ORS 469.040, 469B.161 & 469B.164

Stats. Implemented: ORS 469B.130 – 469B.171 & 315.354 – 315.357

Hist.: DOE 7-1985, f. 12-31-85, ef. 1-1-86; DOE 3-1986, f. & ef. 8-29-86; DOE 3-1989, f. 12-28-89, cert. ef. 1-1-90; DOE 4-1991, f. & cert. ef. 12-31-91; DOE 2-1992(Temp), f. 12-14-92, cert. ef. 12-15-92; DOE 2-1993, f. & cert. ef. 1-28-93; DOE 5-1993, f. & cert. ef. 12-14-93; DOE 2-1995, f. 12-12-95, cert. ef. 12-15-95; DOE 3-1996, f. & cert. ef. 11-27-96; DOE 2-1997, f. 12-15-97, cert. ef. 1-1-98; DOE 4-1998, f. 12-14-98, cert. ef. 12-15-98; DOE 2-1999, f. 12-22-99, cert. ef. 1-1-00; DOE 1-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 2-2004, f. & cert. ef. 1-21-04; DOE 3-2004, f. & cert. ef. 7-1-04; DOE 3-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 3-2008, f. & cert. ef. 3-21-08; DOE 4-2008, f. 6-19-08, cert. ef. 6-20-08; DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 3-2010, f. & cert. ef. 4-30-10; DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10; Administrative correction 11-23-10; DOE 14-2010, f. & cert. ef. 11-23-10; DOE 7-2011, f. & cert. ef. 10-25-11; DOE 8-2012, f. & cert. ef. 7-10-12; DOE 1-2013, f. & cert. ef. 5-13-13; DOE 3-2013, f. & cert. ef. 10-2-13

330-200-0040

Fees

The department adopts the following schedule of fees as provided by ORS 469B.259 for applicants. All fee payments are non-refundable, despite the results of the department's review.

(1) Applicants must submit a fee of \$500 with their initial application.

(2) Applicants selected for technical review will be required to pay an additional technical review fee prior to that review. The fee amount is equal to the qualifying system cost multiplied by 1.05 percent.

(3) Applicants requesting amendments must submit a fee of \$300 with their amendment request.

(4) If an applicant fails to pay fees timely as required by this rule, the department may reject the pending application and discontinue the review.

Stat. Auth.: ORS 469.040, 469B.259 & 469B.265

Stats. Implemented: ORS 469B.250 – 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12; DOE 10-2012, f. & cert. ef. 8-15-12; DOE 3-2013, f. & cert. ef. 10-2-13

330-210-0040

Fees

The department adopts the following schedule of fees as provided by ORS 469B.294 for applicants. All fee payments are non-refundable, despite the results of the department's review.

(1) Applicants, except those applying through the small premium project process, must submit an application fee of \$500 with their preliminary certification application.

(2) Applicants applying through the small premium project process must submit a fee of \$100 with their informational filing.

(3) Applicants selected for technical review will be required to pay an additional technical review fee prior to that review. The fee amount is equal to the qualifying project cost multiplied by 0.55 percent. Small premium projects are not subject to the technical review fee.

(4) Applicants requesting amendments to preliminary certifications must submit a fee of \$300 with their amendment request.

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(5) Applicants for final certification must submit with their application a final review fee. This fee amount is equal to the qualifying project cost multiplied by 0.55 percent. All applicants seeking final certification for a project, including small premium projects, are required to apply for final review and pay the final review fee.

(6) Applicants that transfer their tax credit to a pass-through partner must pay a pass-through fee. The fee is due after a pass-through partner has been identified and before the department will issue a tax credit certificate.

(a) If the department assists the applicant in obtaining a pass-through partner or partners, the fee for that assistance is 1.25 percent of the tax credit amount plus \$100 per tax credit certificate issued.

(b) If the department does not assist the applicant in obtaining a pass-through partner, the fee is \$200 per tax credit certificate issued.

(7) Applicants issued a tax credit certificate that choose to have their tax credit re-issued to a transferee must pay a transfer fee of \$200 plus \$100 per tax credit certificate issued.

(8) If an applicant fails to pay fees timely as required by this rule, the department may reject the pending application and discontinue the review.

Stat. Auth.: ORS 469.040, 469B.294 & 469B.306
Stats. Implemented: ORS 469B.270 - 469B.306 & 315.331
Hist.: DOE 12-2011(Temp), f. & cert. ef. 12-23-11 thru 6-19-12; DOE 6-2012, f. & cert. ef. 6-19-12; DOE 3-2013, f. & cert. ef. 10-2-13

330-220-0040

Application Fees

The department adopts the following schedule of fees as provided by ORS 469B.335. All fee payments are non-refundable, despite the results of the department's review.

(1) Applicants must submit a fee of \$500 with their preliminary certification application.

(2) Applicants selected for technical review will be required to pay an additional technical review fee prior to that review. The fee amount is equal to the qualifying project cost multiplied by 0.55 percent.

(3) Applicants requesting amendments to preliminary certifications must submit a fee of \$300 with their amendment request.

(4) Applicants for final certification must submit with their application a final review fee. This fee amount is equal to the qualifying project cost multiplied by 0.55 percent. All applicants seeking final certification for a project are required to apply for final review and pay the final review fee.

(5) Applicants that choose to transfer their tax credit to a pass-through partner, pursuant to OAR 330-230-0110 to 330-230-0140, must pay a pass-through fee. The fee is due after a pass-through partner has been identified and before the department will issue a tax credit certificate.

(a) If the department assists the applicant in obtaining a pass-through partner, or partners, the fee for that assistance is 1.25 percent of the tax credit amount plus \$100 per tax credit certificate issued.

(b) If the department does not assist the applicant in obtaining a pass-through partner, the fee is \$200 per tax credit certificate issued.

(6) Applicants issued a tax credit certificate that choose to have their tax credit certificate re-issued to a transferee must pay a transfer fee of \$200 plus \$100 per tax credit certificate issued.

(7) If an applicant fails to pay fees timely as required by this rule, the department may reject the pending application and discontinue the review.

Stat. Auth.: ORS 469.040, 469B.335 & 469B.347
Stats. Implemented: ORS 315.336 & 469B.320 - 469B.347
Hist.: DOE 2-2012(Temp), f. & cert. ef. 2-7-12 thru 8-3-12; DOE 9-2012, f. 7-31-12, cert. ef. 8-1-12; DOE 3-2013, f. & cert. ef. 10-2-13

330-225-0040

Fees

The department adopts the following schedule of fees as provided by ORS 469B.335 for applicants. All fee payments are non-refundable, despite the results of the department's review.

(1) Applicants must submit an application fee of \$500 with their preliminary certification application.

(2) Applicants selected for technical review will be required to pay a technical review fee prior to that review. The fee amount is equal to the allocated project cost multiplied by 0.55 percent.

(3) Applicants requesting amendments to preliminary certifications must submit a fee of \$300 with their amendment request.

(4) Applicants for final certification must submit with their application a final review fee. This fee amount is equal to the allocated project cost multiplied by 0.55 percent. All applicants seeking final certification for a project are required to apply for final review and pay the final review fee.

(5) Applicants that transfer their tax credit to a pass-through partner must pay a pass-through fee. The fee is due after a pass-through partner has been identified and before the department can issue a tax credit.

(a) If the department assists the applicant in obtaining a pass-through partner or partners, the fee for that assistance is 1.25 percent of the tax credit amount plus \$100 per tax certificate issued.

(b) If the department does not assist the applicant in obtaining a pass-through partner, the fee is \$200 per tax credit certificate issued.

(6) Applicants issued a tax credit that choose to have their tax credit re-issued to a transferee must pay a transfer fee of \$200 plus \$100 per tax credit certificate issued.

(7) If an applicant fails to pay fees timely as required by this rule, the department may reject the pending application and discontinue the review.

Stat. Auth.: ORS 469.040, 469B.335 & 469B.347
Stats. Implemented: ORS 469B.320-469B.347, 315.336
Hist.: DOE 5-2012, f. & cert. ef. 6-11-12; DOE 3-2013, f. & cert. ef. 10-2-13

Department of Energy, Energy Facility Siting Council Chapter 345

Rule Caption: Amend CO2 Emissions Standard and CO2 Offset Standard for Power Plants

Adm. Order No.: EFSC 2-2013

Filed with Sec. of State: 9-30-2013

Certified to be Effective: 9-30-13

Notice Publication Date: 8-1-2013

Rules Amended: 345-024-0550, 345-024-0590

Subject: Carbon Dioxide Standard for Non-Base Load Power Plants

The rule amendments will amend OAR 345-024-0590(5) Carbon Dioxide Standard for Non-Base Load Power Plants. The amendments restore language that was unintentionally removed by changes to the rules that were adopted in May 2012.

Rule amendments were initially proposed pursuant to a petition submitted by Portland General Electric (PGE) on July 22, 2009. The proposed rule amendments provided an alternate means of measuring "actual gross carbon dioxide emissions" every five years during the operation of a non-base load power plant. Those rule amendments allowed a certificate holder for a non-base load power plant to report actual carbon dioxide emissions consistent with any mandatory carbon dioxide emissions report required by either the Oregon Department of Environmental Quality or the United States Environmental Protection Agency. After a rulemaking process, the Council adopted amendments to OAR 345-024-0590(5) on November 20, 2009. Those rule amendments remained in effect until May 2012 when the language was unintentionally removed with the new rule amendments that were adopted. The rule amendments restore the language that was unintentionally removed by the rule changes in May 2012.

Carbon Dioxide Offset Standard for Power Plants

The rule amendments will amend the standard under OAR 345-024-0550(2) for base load gas plants and OAR 345-024-0590(2) for non-base load power plants. The rule amendments are needed in order to be consistent with new international standards. The United States Environmental Protection Agency is currently amending its rules to update the standards. The amount of greenhouse gas emissions means the pounds of carbon dioxide and the carbon dioxide equivalent of other greenhouse gases. The standard will increase the standard for methane so that one pound of methane is equivalent to 25 pounds of carbon dioxide, and for nitrous oxide so that one pound of nitrous oxide is equivalent to 298 pounds of carbon dioxide.

Rules Coordinator: Lee Willeman—(503) 373-0214

345-024-0550

Standard for Base Load Gas Plants

To issue a site certificate for a base load gas plant, the Council must find that the net carbon dioxide emissions rate of the proposed facility does not exceed 0.675 pounds of carbon dioxide per kilowatt-hour of net electric power output, with carbon dioxide emissions and net electric power output measured on a new and clean basis. For a base load gas plant designed with power augmentation technology as defined in OAR 345-001-0010, the Council shall apply the standard for a non-base load power plant, as described in OAR 345-024-0590, to the incremental carbon dioxide emissions from the designed operation of the power augmentation technology. The Council shall determine whether the base load carbon dioxide emissions standard is met as follows:

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(1) The Council shall determine the gross carbon dioxide emissions that are reasonably likely to result from the operation of the proposed energy facility. The Council shall base such determination on the proposed design of the energy facility. The Council shall adopt site certificate conditions to ensure that the predicted carbon dioxide emissions are not exceeded on a new and clean basis.

(2) For any remaining emissions reduction necessary to meet the applicable standard, the applicant may elect to use any of the means described in OAR 345-024-0560, or any combination thereof. The Council shall determine the amount of carbon dioxide or other greenhouse gas emissions reduction that is reasonably likely to result from the applicant's offsets and whether the resulting net carbon dioxide emissions meet the applicable carbon dioxide emissions standard. The amount of greenhouse gas emissions means the pounds of carbon dioxide and the carbon dioxide equivalent of other greenhouse gases. For methane, one pound of methane is equivalent to 25 pounds of carbon dioxide. For nitrous oxide, one pound of nitrous oxide is equivalent to 298 pounds of carbon dioxide.

(3) If the applicant elects to comply with the standard using the means described in OAR 345-024-0560(2), the Council shall determine the amount of greenhouse gas emissions reduction that is reasonably likely to result from each of the proposed offsets. In making this determination, the Council shall not allow credit for offsets that have already been allocated or awarded credit for greenhouse gas emissions reduction in another regulatory setting. The fact that an applicant or other parties involved with an offset may derive benefits from the offset other than the reduction of greenhouse gas emissions is not, by itself, a basis for withholding credit for an offset. The Council shall base its determination of the amount of greenhouse gas emission reduction on the following criteria and as provided in OAR 345-024-0680:

(a) The degree of certainty that the predicted quantity of greenhouse gas emissions reduction will be achieved by the offset.

(b) The ability of the Council to determine the actual quantity of greenhouse gas emissions reduction resulting from the offset, taking into consideration any proposed measurement, monitoring and evaluation of mitigation measure performance.

(c) The extent to which the reduction of greenhouse gas emissions would occur in the absence of the offsets.

(4) Before beginning construction, the certificate holder shall notify the Department of Energy in writing of its final selection of a gas turbine vendor and shall submit a written design information report to the Department sufficient to verify the facility's designed new and clean heat rate and its nominal electric generating capacity at average annual site conditions for each fuel type. In the report, the certificate holder shall include the proposed limits on the annual average number of hours of facility operation on distillate fuel oil, if applicable. In the site certificate, the Council may specify other information to be included in the report. The Department shall use the information the certificate holder provides in the report as the basis for calculating, according to the site certificate, the amount of greenhouse gas emissions reductions the certificate holder must provide under OAR 345-024-0560.

Stat. Auth.: ORS 469.470 & 469.503

Stats. Implemented: ORS 469.503

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12; EFSC 2-2013, f. & cert. ef. 9-30-13

345-024-0590

Standard for Non-Base Load Power Plants

To issue a site certificate for a non-base load power plant, the Council must find that the net carbon dioxide emissions rate of the proposed facility does not exceed 0.675 pounds of carbon dioxide per kilowatt-hour of net electric power output, with carbon dioxide emissions and net electric power output measured on a new and clean basis. For a base load gas plant designed with power augmentation technology as defined in OAR 345-001-0010, the Council shall apply this standard to the incremental carbon dioxide emissions from the designed operation of the power augmentation technology. The Council shall determine whether the carbon dioxide emissions standard is met as follows:

(1) The Council shall determine the gross carbon dioxide emissions that are reasonably likely to result from the operation of the proposed energy facility. The Council shall base such determination on the proposed design of the energy facility, the limitation on the hours of generation for each fuel type and the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate. For a base load gas plant designed with power augmentation technology, the Council shall base its determination of the incremental carbon dioxide emissions on the proposed design of the facility, the

proposed limitation on the hours of generation using the power augmentation technology and the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate with power augmentation technology. The Council shall adopt site certificate conditions to ensure that the predicted carbon dioxide emissions are not exceeded on a new and clean basis; however, the Council may modify the parameters of the new and clean basis to accommodate average conditions at the times when the facility is intended to operate and technical limitations, including operational considerations, of a non-base load power plant or power augmentation technology or for other cause.

(2) For any remaining emissions reduction necessary to meet the applicable standard, the applicant may elect to use any of the means described in OAR 345-024-0600 or any combination thereof. The Council shall determine the amount of carbon dioxide or other greenhouse gas emissions reduction that is reasonably likely to result from the applicant's offsets and whether the resulting net carbon dioxide emissions meet the applicable carbon dioxide emissions standard. The amount of greenhouse gas emissions means the pounds of carbon dioxide and the carbon dioxide equivalent of other greenhouse gases. For methane, one pound of methane is equivalent to 25 pounds of carbon dioxide. For nitrous oxide, one pound of nitrous oxide is equivalent to 298 pounds of carbon dioxide.

(3) If the applicant elects to comply with the standard using the means described in OAR 345-024-0600(2), the Council shall determine the amount of greenhouse gas emissions reduction that is reasonably likely to result from each of the proposed offsets. In making this determination, the Council shall not allow credit for offsets that have already been allocated or awarded credit for greenhouse gas emissions reduction in another regulatory setting. The fact that an applicant or other parties involved with an offset may derive benefits from the offset other than the reduction of greenhouse gas emissions is not, by itself, a basis for withholding credit for an offset. The Council shall base its determination of the amount of greenhouse gas emission reduction on the following criteria and as provided in OAR 345-024-0680:

(a) The degree of certainty that the predicted quantity of greenhouse gas emissions reduction will be achieved by the offset.

(b) The ability of the Council to determine the actual quantity of greenhouse gas emissions reduction resulting from the offset, taking into consideration any proposed measurement, monitoring and evaluation of mitigation measure performance.

(c) The extent to which the reduction of greenhouse gas emissions would occur in the absence of the offsets.

(4) Before beginning construction, the certificate holder shall notify the Department of Energy in writing of its final selection of an equipment vendor and shall submit a written design information report to the Department sufficient to verify the facility's designed new and clean heat rate and its nominal electric generating capacity at average annual site conditions for each fuel type. For a base load gas plant designed with power augmentation technology, the certificate holder shall include in the report information sufficient to verify the facility's designed new and clean heat rate, tested under parameters the Council orders pursuant to section (1), and the nominal electric generating capacity at average site conditions during the intended use for each fuel type from the operation of the proposed facility using the power augmentation technology. The certificate holder shall include the proposed limit on the annual average number of hours for each fuel used, if applicable. The certificate holder shall include the proposed total number of hours of operation for all fuels, subject to the limitation that the total annual average number of hours of operation per year is not more than 6,600 hours. In the site certificate, the Council may specify other information to be included in the report. The Department shall use the information the certificate holder provides in the report as the basis for calculating, according to the site certificate, the gross carbon dioxide emissions from the facility and the amount of greenhouse gas emissions reductions the certificate holder must provide under OAR 345-024-0600.

(5)(a) Every five years after commencing commercial operation, the certificate holder shall report to the Council the facility's actual gross carbon dioxide emissions. The certificate holder shall calculate actual gross carbon dioxide emissions using the new and clean heat rate and the actual hours of operation on each fuel during the five-year period or shall report to the Council the actual measured or calculated carbon dioxide emissions as reported to either the Oregon Department of Environmental Quality or the U.S. Environmental Protection Agency pursuant to a mandatory carbon dioxide emissions reporting requirement.

(b) The certificate holder shall specify its election of method used to measure or calculate carbon dioxide emissions in the notification report described at section (4) of this rule. That election, once made, shall apply

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for each five year period unless the site certificate is amended to allow a different election. If the certificate holder calculates actual carbon dioxide emissions using the new and clean heat rate and the actual hours of operation by fuel type. If the actual gross carbon dioxide emissions exceed the projected gross carbon dioxide emissions for the five-year period calculated under section (4), the certificate holder shall offset any excess emissions for that period and shall offset estimated future excess carbon dioxide emissions using the monetary path as described in OAR 345-024-0600(3) and (4) or as approved by the Council.

(6) For a base load gas plant designed with power augmentation technology, every five years after commencing commercial operation, the certificate holder shall report to the Council the facility's actual hours of operation using the power augmentations technology for each fuel type. If the actual gross carbon dioxide emissions, calculated using the new and clean heat rate, tested under parameters the Council orders pursuant to section (1), and the actual hours of operation using the power augmentation technology on each fuel during the five-year period exceed the projected gross carbon dioxide emissions for the five-year period calculated under section (4), the certificate holder shall offset any excess emissions for that period and shall offset estimated future excess carbon dioxide emissions using the monetary path as described in OAR 345-024-0600(3) and (4) or as approved by the Council.

Stat. Auth.: ORS 469.470 & 469.503
Stats. Implemented: ORS 469.501 & 469.503
Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2009, f. & cert. ef. 11-24-09; EFSC 1-2012, f. & cert. ef. 5-15-12; EFSC 2-2013, f. & cert. ef. 9-30-13

Rule Caption: Amend CO2 Emissions Standard and CO2 Offset Standard for Power Plants

Adm. Order No.: EFSC 3-2013

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Rules Amended: 345-024-0590

Subject: Carbon Dioxide Standard for Non-Base Load Power Plants

The rule amendments will amend OAR 345-024-0590(5) Carbon Dioxide Standard for Non-Base Load Power Plants. The amendments restore language that was unintentionally removed by changes to the rules that were adopted in May 2012.

Rule amendments were initially proposed pursuant to a petition submitted by Portland General Electric (PGE) on July 22, 2009. The proposed rule amendments provided an alternate means of measuring "actual gross carbon dioxide emissions" every five years during the operation of a non-base load power plant. Those rule amendments allowed a certificate holder for a non-base load power plant to report actual carbon dioxide emissions consistent with any mandatory carbon dioxide emissions report required by either the Oregon Department of Environmental Quality or the United States Environmental Protection Agency. After a rulemaking process, the Council adopted amendments to OAR 345-024-0590(5) on November 20, 2009. Those rule amendments remained in effect until May 2012 when the language was unintentionally removed with the new rule amendments that were adopted. The rule amendments restore the language that was unintentionally removed by the rule changes in May 2012.

Carbon Dioxide Offset Standard for Power Plants

The rule amendments will amend the standard under OAR 345-024-0590(2) for non-base load power plants. The rule amendments are needed in order to be consistent with new international standards. The United States Environmental Protection Agency is currently amending its rules to update the standards. The amount of greenhouse gas emissions means the pounds of carbon dioxide and the carbon dioxide equivalent of other greenhouse gases. The standard will increase the standard for methane so that one pound of methane is equivalent to 25 pounds of carbon dioxide, and for nitrous oxide so that one pound of nitrous oxide is equivalent to 298 pounds of carbon dioxide.

Rules Coordinator: Lee Willeman—(503) 373-0214

345-024-0590

Standard for Non-Base Load Power Plants

To issue a site certificate for a non-base load power plant, the Council must find that the net carbon dioxide emissions rate of the proposed facility does not exceed 0.675 pounds of carbon dioxide per kilowatt-hour of net electric power output, with carbon dioxide emissions and net electric power output measured on a new and clean basis. For a base load gas plant designed with power augmentation technology as defined in OAR 345-001-0010, the Council shall apply this standard to the incremental carbon dioxide emissions from the designed operation of the power augmentation technology. The Council shall determine whether the carbon dioxide emissions standard is met as follows:

(1) The Council shall determine the gross carbon dioxide emissions that are reasonably likely to result from the operation of the proposed energy facility. The Council shall base such determination on the proposed design of the energy facility, the limitation on the hours of generation for each fuel type and the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate. For a base load gas plant designed with power augmentation technology, the Council shall base its determination of the incremental carbon dioxide emissions on the proposed design of the facility, the proposed limitation on the hours of generation using the power augmentation technology and the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate with power augmentation technology. The Council shall adopt site certificate conditions to ensure that the predicted carbon dioxide emissions are not exceeded on a new and clean basis; however, the Council may modify the parameters of the new and clean basis to accommodate average conditions at the times when the facility is intended to operate and technical limitations, including operational considerations, of a non-base load power plant or power augmentation technology or for other cause.

(2) For any remaining emissions reduction necessary to meet the applicable standard, the applicant may elect to use any of the means described in OAR 345-024-0600 or any combination thereof. The Council shall determine the amount of carbon dioxide or other greenhouse gas emissions reduction that is reasonably likely to result from the applicant's offsets and whether the resulting net carbon dioxide emissions meet the applicable carbon dioxide emissions standard. The amount of greenhouse gas emissions means the pounds of carbon dioxide and the carbon dioxide equivalent of other greenhouse gases. For methane, one pound of methane is equivalent to 25 pounds of carbon dioxide. For nitrous oxide, one pound of nitrous oxide is equivalent to 298 pounds of carbon dioxide.

(3) If the applicant elects to comply with the standard using the means described in OAR 345-024-0600(2), the Council shall determine the amount of greenhouse gas emissions reduction that is reasonably likely to result from each of the proposed offsets. In making this determination, the Council shall not allow credit for offsets that have already been allocated or awarded credit for greenhouse gas emissions reduction in another regulatory setting. The fact that an applicant or other parties involved with an offset may derive benefits from the offset other than the reduction of greenhouse gas emissions is not, by itself, a basis for withholding credit for an offset. The Council shall base its determination of the amount of greenhouse gas emission reduction on the following criteria and as provided in OAR 345-024-0680:

(a) The degree of certainty that the predicted quantity of greenhouse gas emissions reduction will be achieved by the offset.

(b) The ability of the Council to determine the actual quantity of greenhouse gas emissions reduction resulting from the offset, taking into consideration any proposed measurement, monitoring and evaluation of mitigation measure performance.

(c) The extent to which the reduction of greenhouse gas emissions would occur in the absence of the offsets.

(4) Before beginning construction, the certificate holder shall notify the Department of Energy in writing of its final selection of an equipment vendor and shall submit a written design information report to the Department sufficient to verify the facility's designed new and clean heat rate and its nominal electric generating capacity at average annual site conditions for each fuel type. For a base load gas plant designed with power augmentation technology, the certificate holder shall include in the report information sufficient to verify the facility's designed new and clean heat rate, tested under parameters the Council orders pursuant to section (1), and the nominal electric generating capacity at average site conditions during the intended use for each fuel type from the operation of the proposed facility using the power augmentation technology. The certificate holder shall include the proposed limit on the annual average number of hours for each

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fuel used, if applicable. The certificate holder shall include the proposed total number of hours of operation for all fuels, subject to the limitation that the total annual average number of hours of operation per year is not more than 6,600 hours. In the site certificate, the Council may specify other information to be included in the report. The Department shall use the information the certificate holder provides in the report as the basis for calculating, according to the site certificate, the gross carbon dioxide emissions from the facility and the amount of greenhouse gas emissions reductions the certificate holder must provide under OAR 345-024-0600.

(5)(a) Every five years after commencing commercial operation, the certificate holder shall report to the Council the facility's actual gross carbon dioxide emissions. The certificate holder shall calculate actual gross carbon dioxide emissions using the new and clean heat rate and the actual hours of operation on each fuel during the five-year period or shall report to the Council the actual measured or calculated carbon dioxide emissions as reported to either the Oregon Department of Environmental Quality or the U.S. Environmental Protection Agency pursuant to a mandatory carbon dioxide emissions reporting requirement.

(b) The certificate holder shall specify its election of method used to measure or calculate carbon dioxide emissions in the notification report described at section (4) of this rule. That election, once made, shall apply for each five year period unless the site certificate is amended to allow a different election. If the certificate holder calculates actual carbon dioxide emissions using the new and clean heat rate and the actual hours of operation, the certificate holder shall also report to the Council the facility's actual annual hours of operation by fuel type. If the actual gross carbon dioxide emissions exceed the projected gross carbon dioxide emissions for the five-year period calculated under section (4), the certificate holder shall offset any excess emissions for that period and shall offset estimated future excess carbon dioxide emissions using the monetary path as described in OAR 345-024-0600(3) and (4) or as approved by the Council.

(6) For a base load gas plant designed with power augmentation technology, every five years after commencing commercial operation, the certificate holder shall report to the Council the facility's actual hours of operation using the power augmentations technology for each fuel type. If the actual gross carbon dioxide emissions, calculated using the new and clean heat rate, tested under parameters the Council orders pursuant to section (1), and the actual hours of operation using the power augmentation technology on each fuel during the five-year period exceed the projected gross carbon dioxide emissions for the five-year period calculated under section (4), the certificate holder shall offset any excess emissions for that period and shall offset estimated future excess carbon dioxide emissions using the monetary path as described in OAR 345-024-0600(3) and (4) or as approved by the Council.

Stat. Auth.: ORS 469.470 & 469.503

Stats. Implemented: ORS 469.501 & 469.503

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2009, f. & cert. ef. 11-24-09; EFSC 1-2012, f. & cert. ef. 5-15-12; EFSC 2-2013, f. & cert. ef. 9-30-13; EFSC 3-2013, f. & cert. ef. 10-10-13

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Department of Fish and Wildlife Chapter 635

Rule Caption: Fall Commercial Drift Gill Net Season Set for the Mainstem Columbia River

Adm. Order No.: DFW 105-2013(Temp)

Filed with Sec. of State: 9-19-2013

Certified to be Effective: 9-19-13 thru 9-30-13

Notice Publication Date:

Rules Amended: 635-042-0031

Rules Suspended: 635-042-0031(T)

Subject: This amended rule authorizes three 10-hour commercial drift gill net fishing periods in Zones 4-5 of the Columbia River from 8:00 p.m. through 6:00 a.m. the following mornings on Thursday September 19, Sunday September 22, and Tuesday September 24, 2013. Authorized sales include salmon and white sturgeon. Modifications are consistent with action taken September 18, 2013 by the Columbia River Compact agencies of the states of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0031

Early Fall Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 4 5, as identified in OAR 635-042-0001. The deadline at the lower end of Zone 4 is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore.

(a) Authorized fishing period is as follows: 8:00 p.m. Thursday, September 19 to 6:00 a.m. Friday, September 20, 2013 (10 hours); 8:00 p.m. Sunday, September 22 to 6:00 a.m. Monday, September 23, 2013 (10 hours); and 8:00 p.m. Tuesday, September 24 to 6:00 a.m. Wednesday, September 25, 2013 (10 hours).

(b) Sanctuaries include: Washougal, and Sandy rivers as applicable.

(2) Gear is restricted to drift gill nets only with 8 inch minimum and 9.75 inch maximum mesh sizes. The multiple net rule is in effect and nets not authorized for this fishery are authorized to be onboard the vessel if properly stored in accordance with OAR 635-042-0010(2)(e)(C).

(3) Allowable sales include: Salmon and white sturgeon from 43-54 inches in fork length.

(a) A maximum of two (2) white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) in the open periods.

(b) The white sturgeon possession and sales limit includes mainstem fisheries only.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & cert. ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. & cert. ef. 8-28-89, cert. ef. 8-29-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 85-1991, f. & cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. & cert. ef. 8-20-97, cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. ef. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. ef. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. & cert. ef. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. & cert. ef. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. & cert. ef. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. & cert. ef. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. & cert. ef. 8-24-05, cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. & cert. ef. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. & cert. ef. 8-11-06, cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. & cert. ef. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. & cert. ef. 8-24-06, cert. ef. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. & cert. ef. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. & cert. ef. 8-17-07, cert. ef. 8-23-07 thru 8-31-07; Administrative correction 9-16-07; DFW 85-2008(Temp), f. & cert. ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. ef. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. & cert. ef. 8-22-08, cert. ef. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. ef. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. & cert. ef. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. & cert. ef. 8-7-09, cert. ef. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. ef. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. ef. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. ef. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. & cert. ef. 7-30-10, cert. ef. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. & cert. ef. 8-18-10, cert. ef. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. & cert. ef. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. ef. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. & cert. ef. 8-2-11, cert. ef. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. & cert. ef. 8-26-11, cert. ef. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. & cert. ef. 9-14-11, cert. ef. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. & cert. ef. 9-21-11, cert. ef. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. ef. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. & cert. ef. 10-4-11, cert. ef. 10-5-11 thru 10-12-11; DFW 144-2011(Temp), f. & cert. ef. 10-11-11, cert. ef. 10-13-11 thru 10-31-11; DFW 147-2011(Temp), f. & cert. ef. 10-17-11, cert. ef. 10-18-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 98-2012(Temp), f. & cert. ef. 7-31-12, cert. ef. 8-5-12 thru 10-31-12; DFW 112-2012(Temp), f. & cert. ef. 8-24-12, cert. ef. 8-26-12 thru 10-31-12; DFW 121-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; Administrative correction 11-23-12; DFW 83-2013(Temp), f. & cert. ef. 7-29-13, cert. ef. 8-11-13 thru 8-31-13; DFW 97-2013(Temp), f. & cert. ef. 8-27-13, cert. ef. 8-28-13 thru 8-31-13; DFW 101-2013(Temp), f. & cert. ef. 9-13-13, cert. ef. 9-15-13 thru 9-30-13; DFW 105-2013(Temp), f. & cert. ef. 9-19-13 thru 9-30-13

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Rule Caption: Columbia River Treaty Indian Fall Commercial Gill Net Salmon Season Set

Adm. Order No.: DFW 106-2013(Temp)

Filed with Sec. of State: 9-19-2013

ADMINISTRATIVE RULES

Certified to be Effective: 9-24-13 thru 10-31-13

Notice Publication Date:

Rules Amended: 635-041-0075

Rules Suspended: 635-041-0075(T)

Subject: Rule amendments allow commercial sales of fish caught during a Treaty Indian fall commercial salmon gill net fishery set for the Columbia River and its Washington tributaries. The authorized fishing period (3.5 days) is scheduled to begin at 6:00 a.m. Tuesday, September 24 and run through 6:00 p.m. Friday, September 27, 2013. Modifications are consistent with action taken September 18, 2013 by the Columbia River Compact agencies of the states of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0075

Late Fall Salmon Season

(1) Effective 6:00 a.m. Monday, August 12, 2013 commercial sales of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River are allowed.

(a) Chinook, sockeye, steelhead, coho, walleye, shad, carp, bass, catfish and yellow perch landed during an open commercial fishing period may be sold at any time or retained for subsistence purposes. Sturgeon may not be sold. However, white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools and white sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be kept for subsistence use.

(b) Gear is restricted to subsistence fishing gear: hoopnets, dipnets and rod and reel with hook-and-line are allowed.

(c) Closed areas described in OAR 635-041-0045 that apply to gear types listed in 1(b) above remain in effect.

(2) Commercial sales of gill net caught fish from Zone 6 of the mainstem Columbia River is allowed: 1) 6:00 a.m. on Monday, August 19 through 6:00 p.m. Wednesday, August 21, 2013 (2.5 days); 2) 6:00 a.m. Monday, August 26 through 6:00 p.m. Friday, August 30, 2013 (4.5 days); 3) 6:00 a.m. Tuesday, September 3 through 6:00 p.m. Saturday, September 7, 2013 (4.5 days); 4) 6:00 a.m. Tuesday, September 10 through 6:00 p.m. Saturday, September 14, 2013 (4.5 days); 5) 6:00 a.m. Monday, September 16 through 6:00 p.m. Friday, September 20, 2013 (4.5 days); and 6) 6:00 a.m. Tuesday, September 24 through 6:00 p.m. Friday, September 27, 2013 (3.5 days).

(a) Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp landed during any open gill net fishing period may be sold at any time or retained for subsistence purposes. Sturgeon may not be sold. However, white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools and white sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be kept for subsistence purposes.

(b) Gear is restricted to gill nets with an 8-inch minimum mesh size.

(c) Closed areas in Zone 6, including the standard Spring Creek sanctuary, are in effect as set forth in OAR 635-041-0045. The Spring Creek sanctuary was reduced to a 150 foot radius around the hatchery ladder effective September 16, 2013.

(3) Effective 6:00 a.m. Monday, August 12, 2013 fish caught in Yakama Nation tributary fisheries in the Klickitat, Little White Salmon, and Wind rivers; and Drano Lake, may be sold by Yakama Nation members during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods. Sturgeon may not be sold but sturgeon 38-54 inches in fork length may be kept for subsistence purposes.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. & cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989

(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. & cert. ef. 9-7-90; FWC 99-1990(Temp), f. & cert. ef. 9-14-90; FWC 85-1991, f. & cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. & cert. ef. 9-17-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. & cert. ef. 9-1-92; FWC 92-92; FWC 87-1992(Temp), f. & cert. ef. 9-7-92; FWC 91-1992(Temp), f. & cert. ef. 9-16-92; FWC 92-92; FWC 96-1992(Temp), f. & cert. ef. 9-23-92; FWC 105-1992(Temp), f. & cert. ef. 10-2-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. & cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. & cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. & cert. ef. 8-26-94; FWC 61-1994(Temp), f. & cert. ef. 9-7-94; FWC 84-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. & cert. ef. 8-25-95; FWC 82-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. & cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. & cert. ef. 9-2-96; FWC 51-1996(Temp), f. & cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. & cert. ef. 9-29-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. & cert. ef. 9-17-97; FWC 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; FWC 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; FWC 77-1998(Temp), f. & cert. ef. 9-14-98; FWC 91-1998 thru 9-25-98; FWC 79-1998(Temp), f. & cert. ef. 9-22-98 thru 9-25-98; FWC 80-1998(Temp), f. & cert. ef. 9-23-98; FWC 92-98 thru 9-25-98; FWC 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; FWC 62-1999(Temp), f. & cert. ef. 9-3-99 thru 9-11-99; FWC 65-1999(Temp), f. & cert. ef. 9-14-99; FWC 67-99 thru 9-17-99; FWC 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; FWC 72-1999(Temp), f. & cert. ef. 9-22-99 thru 10-22-99; FWC 74-1999(Temp), f. & cert. ef. 9-28-99; FWC 99 thru 10-22-99; Administrative correction 11-17-99; FWC 50-2000(Temp), f. & cert. ef. 8-21-00 thru 9-9-00; FWC 60-2000(Temp), f. & cert. ef. 9-11-00; FWC 9-12-00 thru 12-31-00; FWC 61-2000(Temp), f. & cert. ef. 9-15-00; FWC 61-2000; Administrative correction 6-19-01; FWC 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; FWC 87-2001(Temp), f. & cert. ef. 9-10-01; FWC 91-01 thru 9-15-01; FWC 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; FWC 94-2001(Temp), f. & cert. ef. 9-27-01 thru 12-31-01; FWC 100-2001(Temp), f. & cert. ef. 10-17-01 thru 12-31-01; FWC 89-2002(Temp), f. & cert. ef. 8-16-02; FWC 88-102 thru 12-31-02; FWC 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; FWC 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; FWC 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; FWC 113-2002(Temp), f. & cert. ef. 10-14-02; FWC 10-15-02 thru 12-31-02; FWC 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; FWC 81-2003(Temp), f. & cert. ef. 8-25-03; FWC 82-03 thru 12-31-03; FWC 91-2003(Temp), f. & cert. ef. 9-12-03; FWC 9-16-03 thru 12-31-03; FWC 97-2003(Temp), f. & cert. ef. 9-22-03; FWC 10-12-03 thru 12-31-03; FWC 101-2003(Temp), f. & cert. ef. 9-26-03; FWC 10-1-03 thru 12-31-03; FWC 103-2003(Temp), f. & cert. ef. 10-8-03 thru 12-31-03; FWC 104-2003(Temp), f. & cert. ef. 10-10-03; FWC 10-11-03 thru 12-31-03; FWC 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; FWC 95-2004(Temp), f. & cert. ef. 9-17-04; FWC 9-19-04 thru 12-31-04; FWC 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; FWC 104-2004(Temp), f. & cert. ef. 10-13-04 thru 12-31-04; FWC 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; FWC 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; FWC 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; FWC 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; FWC 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; FWC 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; FWC 71-2006(Temp), f. & cert. ef. 7-31-06; FWC 8-1-06 thru 12-31-06; FWC 86-2006(Temp), f. & cert. ef. 8-18-06; FWC 8-21-06 thru 12-31-06; FWC 94-2006(Temp), f. & cert. ef. 9-8-06; FWC 9-11-06 thru 12-31-06; FWC 101-2006(Temp), f. & cert. ef. 9-15-06; FWC 9-18-06 thru 12-31-2006; FWC 107-2006(Temp), f. & cert. ef. 9-28-06; FWC 10-3-06 thru 12-31-06; FWC 115-2006(Temp), f. & cert. ef. 10-13-06; FWC 10-15-06 thru 12-31-06; Administrative correction 1-16-07; FWC 60-2007(Temp), f. & cert. ef. 7-30-07; FWC 8-1-07 thru 12-31-07; FWC 77-2007(Temp), f. & cert. ef. 8-17-07; FWC 8-22-07 thru 12-31-07; FWC 88-2007(Temp), f. & cert. ef. 9-10-07; FWC 9-11-07 thru 12-31-07; FWC 95-2007(Temp), f. & cert. ef. 9-25-07 thru 12-31-07; FWC 100-2007(Temp), f. & cert. ef. 9-28-07; FWC 10-3-07 thru 12-31-07; FWC 110-2007(Temp), f. & cert. ef. 10-16-07; FWC 10-20-07 thru 12-31-07; FWC 106-2008(Temp), f. & cert. ef. 9-4-08; FWC 9-6-08 thru 10-31-08; FWC 109-2008(Temp), f. & cert. ef. 9-15-08 thru 10-31-08; FWC 112-2008(Temp), f. & cert. ef. 9-17-08; FWC 9-18-08 thru 10-31-08; FWC 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08; FWC 122-2008(Temp), f. & cert. ef. 9-29-08 thru 10-31-08; FWC 125-2008(Temp), f. & cert. ef. 10-6-08; FWC 10-7-08 thru 10-31-08; FWC 134-2008(Temp), f. & cert. ef. 10-17-08 thru 10-31-08; FWC 141-2008(Temp), f. & cert. ef. 11-10-08; FWC 11-12-08 thru 11-30-08; FWC 88-2009(Temp), f. & cert. ef. 7-31-09; FWC 8-1-09 thru 12-31-09; FWC 95-2009(Temp), f. & cert. ef. 8-24-09 thru 12-31-09; FWC 111-2009(Temp), f. & cert. ef. 9-11-09; FWC 9-13-09 thru 9-30-09; FWC 114-2009(Temp), f. & cert. ef. 9-18-09; FWC 9-21-09 thru 10-31-09; FWC 119-2009(Temp), f. & cert. ef. 9-29-09 thru 10-31-09; FWC 129-2009(Temp), f. & cert. ef. 10-13-09; FWC 10-14-09 thru 10-31-09; Administrative correction 11-19-09; FWC 111-2010(Temp), f. & cert. ef. 7-30-10; FWC 8-1-10 thru 10-31-10; FWC 120-2010(Temp), f. & cert. ef. 8-18-10; FWC 8-24-10 thru 10-31-10; FWC 128-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; FWC 136-2010(Temp), f. & cert. ef. 9-24-10; FWC 9-27-10 thru 10-31-10; FWC 142-2010(Temp), f. & cert. ef. 10-8-10; FWC 10-9-10 thru 10-31-10; FWC 149-2010(Temp), f. & cert. ef. 10-19-10 thru 10-31-10; Administrative correction 11-23-10; FWC 103-2011(Temp), f. & cert. ef. 7-29-11; FWC 8-1-11 thru 10-31-11; FWC 119-2011(Temp), f. & cert. ef. 8-29-11 thru 10-31-11; FWC 124-2011(Temp), f. & cert. ef. 9-8-11; FWC 9-12-11 thru 10-31-11; FWC 130-2011(Temp), f. & cert. ef. 9-15-11; FWC 9-19-11 thru 10-31-11; FWC 133-2011(Temp), f. & cert. ef. 9-21-11; FWC 9-22-11 thru 10-31-11; FWC 138-2011(Temp), f. & cert. ef. 10-3-11 thru 10-31-11; FWC 142-2011(Temp), f. & cert. ef. 10-6-11; FWC 10-8-11 thru 10-31-11; Administrative correction, 11-18-11; FWC 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12; FWC 107-2012(Temp), f. & cert. ef. 8-15-12; FWC 8-21-12 thru 10-31-12; FWC 119-2012(Temp), f. & cert. ef. 9-10-12; FWC 9-11-12 thru 10-31-12; FWC 120-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; FWC 124-2012(Temp), f. & cert. ef. 9-25-12; FWC 9-26-12 thru 10-31-12; FWC 127-2012(Temp), f. & cert. ef. 10-2-12 thru 10-31-12; FWC 143-2012(Temp), f. & cert. ef. 11-7-12; FWC 11-8-12 thru 1-29-13; Administrative correction, 2-25-13; FWC 88-2013(Temp), f. & cert. ef. 8-12-13 thru 12-31-13; FWC 89-2013(Temp), f. & cert. ef. 8-14-13; FWC 8-19-13 thru 12-31-13; FWC 98-2013(Temp), f. & cert. ef. 9-6-13; FWC 9-10-13 thru 10-31-13; FWC 102-2013(Temp), f. & cert. ef. 9-13-13; FWC 9-16-13 thru 10-31-13; FWC 106-2013(Temp), f. & cert. ef. 9-19-13; FWC 9-24-13 thru 10-31-13

Rule Caption: 2013 Columbia River Fall Recreational Seasons Modified

Adm. Order No.: DFW 107-2013(Temp)

Filed with Sec. of State: 9-25-2013

ADMINISTRATIVE RULES

Certified to be Effective: 9-26-13 thru 12-31-13

Notice Publication Date:

Rules Amended: 635-023-0130

Rules Suspended: 635-023-0130(T)

Subject: This amended rule modifies the 2013 fall recreational Chinook salmon and steelhead season regulations for the Columbia River, effective Thursday, September 26, 2013. Fall fisheries in 2013 are structured to optimize the harvest of Chinook, coho and steelhead within Endangered Species Act (ESA) limits and to provide a balanced opportunity for the fishers. Modifications are consistent with action taken by the Columbia River Compact agencies of the states of Oregon and Washington on September 24, 2013.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0130

Fall Sport Fishery

(1) The 2013 Oregon Sport Fishing Regulations provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the 2013 Oregon Sport Fishing Regulations.

(2) Notwithstanding all other specifications and restrictions in the 2013 Oregon Sport Fishing Regulations:

(a) Buoy 10 (Buoy 10 upstream to the Warrior Rock Line):

(A) Effective Thursday, September 26 through Tuesday, December 31, 2013 in the mainstem Columbia River from a north-south line through Red Buoy #10 near the mouth of the Columbia River, upstream to a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to the orange marker atop the dolphin on the Washington shore is open to retention of Chinook, coho, and steelhead. The combined bag limit for adult Chinook salmon, adipose fin-clipped coho salmon, and adipose fin-clipped steelhead is two fish per day. Jacks (Chinook less than or equal to 24 inches in length and coho less than or equal to 16 inches in length) may not be retained downstream of the Tongue Point-Rocky Point line until October 1, 2013.

(b) Lower Columbia (Warrior Rock Line upstream to Bonneville Dam):

(A) Effective Friday, September 13 through Tuesday, December 31, 2013 retention of Chinook, adipose fin-clipped coho and adipose fin-clipped steelhead is allowed in the mainstem Columbia River from a line projected from the Warrior Rock Lighthouse on the Oregon shore through Red Buoy #4 to the orange marker atop the dolphin on the Washington shore upstream to Bonneville Dam.

(B) The combined daily bag limit for adult salmon and adipose fin-clipped steelhead is two fish per day.

(C) Effective Friday September 13 through Tuesday December 31, 2013 each angler aboard a vessel may continue to deploy angling gear until the daily bag limit of salmon/steelhead for all anglers aboard has been achieved when fishing in the mainstem Columbia River from a line at Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank upstream to the Oregon-Washington border upstream of McNary Dam.

(c) All coho retained downstream of the Hood River Bridge must be adipose fin-clipped.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162

Hist.: DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 108-2005(Temp), f. 9-15-05, cert. ef. 9-17-05 thru 12-31-05; DFW 112-2005(Temp), f. 9-28-05, cert. ef. 9-30-05 thru 12-31-05; DFW 123-2005(Temp), f. 10-18-05, cert. ef. 10-20-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 100-2006(Temp), f. & cert. ef. 9-14-06 thru 12-31-06; DFW 109-2006(Temp), f. 9-29-06, cert. ef. 9-30-06 thru 12-31-06; DFW 113-2006(Temp), f. 10-12-06, cert. ef. 10-13-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 92-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 96-2007(Temp), f. 9-21-07, cert. ef. 9-22-07 thru 12-31-07; DFW 101-2007(Temp), f. 9-28-07, cert. ef. 9-29-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 99-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 12-31-08; DFW 104-2008(Temp), f. 8-29-08, cert. ef. 8-31-08 thru 12-31-08; DFW 115-2008(Temp), f. & cert. ef. 9-18-08 thru 12-31-08; DFW 118-2008(Temp), f. 9-24-08, cert. ef. 9-25-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 133-2009(Temp), f. 10-20-09, cert. ef. 10-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10, DFW 131-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 145-2010(Temp), f. 10-13-10, cert. ef. 10-15-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 100-2011(Temp), f. 7-27-11, cert. ef. 8-1-11 thru 12-31-11; DFW 127-2011(Temp), f. 9-14-11, cert. ef. 9-16-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 100-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 81-

2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 12-31-13; DFW 92-2013, f. 8-22-13, cert. ef. 8-23-13 thru 12-31-13; DFW 100-2013(Temp), f. 9-12-13, cert. ef. 9-13-13 thru 12-31-13; DFW 107-2013(Temp), f. 9-25-13, cert. ef. 9-26-13 thru 12-31-13

Rule Caption: Fall Commercial Drift Gill Net Season Set for the Mainstem Columbia River

Adm. Order No.: DFW 108-2013(Temp)

Filed with Sec. of State: 9-25-2013

Certified to be Effective: 9-26-13 thru 9-30-13

Notice Publication Date:

Rules Amended: 635-042-0031

Rules Suspended: 635-042-0031(T)

Subject: This amended rule authorizes two 10-hour commercial drift gill net fishing periods in Zones 1-5 of the Columbia River from 8:00 p.m. through 6:00 a.m. the following mornings on Thursday September 26 and Sunday September 29, 2013. Authorized sales include salmon and white sturgeon. Modifications are consistent with action taken September 24, 2013 by the Columbia River Compact agencies of the states of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0031

Early Fall Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 1 5, as identified in OAR 635-042-0001.

(a) Authorized fishing periods are as follows: 8:00 p.m. Thursday, September 26 to 6:00 a.m. Friday, September 27, 2013 (10 hours) and 8:00 p.m. Sunday, September 29 to 6:00 a.m. Monday, September 30, 2013 (10 hours).

(b) Sanctuaries include: Elokom-B, Cowlitz River, Kalama-B, Lewis-B, Washougal, and Sandy rivers as applicable.

(2) Gear is restricted to drift gill nets only with 8 inch minimum and 9.75 inch maximum mesh sizes. The multiple net rule is in effect and nets not authorized for this fishery are authorized to be onboard the vessel if properly stored in accordance with OAR 635-042-0010(2)(e)(C).

(3) Allowable sales include: Salmon and white sturgeon from 43-54 inches in fork length.

(a) A maximum of two (2) white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) in the open periods.

(b) The white sturgeon possession and sales limit includes mainstem fisheries only.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & cert. ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. 8-28-89, cert. ef. 8-29-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. 8-20-97, cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. 8-24-05, cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. 8-11-06, cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. 8-24-06, cert. ef. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. 8-17-07, cert. ef. 8-23-07 thru 8-31-07; Administrative correction 9-16-07; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. ef. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. ef. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. 8-7-09, cert. ef. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. ef. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. ef. 8-25-09 thru 8-31-09;

ADMINISTRATIVE RULES

DFW 100-2009(Temp), f. & cert. ef. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. 7-30-10, cert. ef. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. 8-18-10, cert. ef. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. ef. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. 8-2-11, cert. ef. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. 8-26-11, cert. ef. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. 9-14-11, cert. ef. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. ef. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. 10-4-11, cert. ef. 10-5-11 thru 10-12-11; DFW 144-2011(Temp), f. 10-11-11, cert. ef. 10-13-11 thru 10-31-11; DFW 147-2011(Temp), f. 10-17-11, cert. ef. 10-18-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 98-2012(Temp), f. 7-31-12, cert. ef. 8-5-12 thru 10-31-12; DFW 112-2012(Temp), f. 8-24-12, cert. ef. 8-26-12 thru 10-31-12; DFW 121-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; Administrative correction 11-23-12; DFW 83-2013(Temp), f. 7-29-13, cert. ef. 8-11-13 thru 8-31-13; DFW 97-2013(Temp), f. 8-27-13, cert. ef. 8-28-13 thru 8-31-13; DFW 101-2013(Temp), f. 9-13-13, cert. ef. 9-15-13 thru 9-30-13; DFW 105-2013(Temp), f. & cert. ef. 9-19-13 thru 9-30-13; DFW 108-2013(Temp), f. 9-25-13, cert. ef. 9-26-13 thru 9-30-13

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Rule Caption: Youngs Bay Salmon Season Amended for Allowable Sales

Adm. Order No.: DFW 109-2013(Temp)

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 9-30-13 thru 10-31-13

Notice Publication Date:

Rules Amended: 635-042-0145

Rules Suspended: 635-042-0145(T)

Subject: This rule amends allowable sales to exclude chum salmon. Modifications are consistent with action taken September 26, 2013 by the Columbia River Compact agencies of the states of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0145

Youngs Bay Salmon Season

(1) Chinook, sockeye, coho, white sturgeon and shad may be taken for commercial purposes in those waters of Youngs Bay.

(a) Fall seasons are as follows:

7:00 a.m. Wednesday, July 31 to 7:00 p.m. Thursday, August 1, 2013 (36 hours);
7:00 a.m. Wednesday, August 7 to 7:00 p.m. Thursday, August 8, 2013 (36 hours);
7:00 a.m. Wednesday, August 14 to 7:00 p.m. Thursday, August 15, 2013 (36 hours);
7:00 a.m. Wednesday, August 21 to 7:00 p.m. Thursday, August 22, 2013 (36 hours);
7:00 p.m. Monday, August 26 to 7:00 a.m. Friday, August 30, 2013 (3.5 days);
7:00 p.m. Monday, September 2 to Noon Thursday, October 31, 2013 (59 days)

(b) Area: Youngs Bay fishing area includes all waters from the new Highway 101 Bridge upstream to the upper boundary markers at Battle Creek Slough; including the lower Walluski River upstream to the Highway 202 Bridge and the lower Lewis and Clark River upstream to the overhead power lines immediately upstream of Barrett slough. All waters are under State of Oregon jurisdiction and are open to Oregon and Washington fishers who possess the appropriate licenses.

(c) Gear: Legal gear is restricted to 9.75-inch maximum mesh size through August 22 and 6-inch maximum mesh size thereafter; 250 fathoms maximum net length and weight on the leadline not to exceed two pounds on any one fathom. Use of additional weights or anchors attached directly to the leadline is allowed between markers located approximately 200 yards upstream of the mouth of the Walluski River and the upper deadline at Battle Creek Slough, and in the lower Lewis and Clark River from the Alternate Highway 101 Bridge upstream to the powerlines, upstream of Barrett Slough and in the lower Walluski River from Fastabend's Dock upstream to the Highway 202 Bridge. Red corks are required at 25-fathom intervals and red corks must be in contrast to corks used in the remainder of the net. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net away from the boat is required.

(d) Allowable sales include: Chinook, sockeye, coho, white sturgeon and shad.

(2) A maximum of two (2) white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fisheries are open. During the fishing periods identified in subsection (1)(a) the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 883.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81;

FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; DFW 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; DFW 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; DFW 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; DFW 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; DFW 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; DFW 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; DFW 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; DFW 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; DFW 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12; DFW 36-2012(Temp), f. 4-16-12, cert. ef. 4-19-12 thru 7-31-12; DFW 82-2012(Temp), f. 6-29-12, cert. ef. 7-2-12 thru 7-31-12; DFW 96-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 22-2013(Temp), f. 3-12-13, cert. ef. 3-13-13 thru 7-31-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 36-2013(Temp), f. & cert. ef. 5-22-13 thru 7-31-13; DFW 44-2013(Temp), f. & cert. ef. 5-29-13 thru 7-31-13; DFW 82-2013(Temp), f. 7-29-13, cert. ef. 7-31-13 thru 10-31-13; DFW 87-2013(Temp), f. & cert. ef. 8-9-13 thru 10-31-13; DFW 109-2013(Temp), f. 9-27-2013, cert. ef. 9-30-13 thru 10-31-13

ADMINISTRATIVE RULES

Rule Caption: Select Area Salmon Fisheries Amended for Allowable Sales

Adm. Order No.: DFW 110-2013(Temp)

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 9-30-13 thru 10-31-13

Notice Publication Date:

Rules Amended: 635-042-0160, 635-042-0170, 635-042-0180

Rules Suspended: 635-042-0160(T), 635-042-0170(T), 635-042-0180(T)

Subject: This amended rule excludes allowable sales for Chum Salmon. Modifications are consistent with action taken September 26, 2013 by the Columbia River Compact agencies of the states of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Chinook, sockeye, coho, and white sturgeon may be taken for commercial purposes during open fishing periods described in subsection (1)(a) of this rule in those waters of Blind Slough and Knappa Slough

(a) The open fishing periods are: Monday, Tuesday, Wednesday, and Thursday nights from 7:00 p.m. to 7:00 a.m. (12 hours) beginning Monday August 26 and ending Friday September 13, 2013 (12 nights); and Monday, Tuesday, Wednesday, and Thursday nights from 6:00 p.m. to 8:00 a.m. (14 hours) beginning Monday September 16 and ending Thursday October 31, 2013 (27 nights);

(b) The fishing areas are defined as:

(A) Blind Slough are those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore. The area within a 100 foot radius at the mouth of Big Creek is closed.

(c) Gear restrictions are as follows:

(A) During the fishery, outlined above in subsection (1)(a) gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is greater than 9.75-inches.

(B) Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(C) Nets (or parts of nets) not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(2) A maximum of two white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in subsection (1)(a) above, the weekly aggregate sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp), f. & cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. & cert. ef. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. & cert. ef. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. & cert. ef. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. & cert. ef. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. & cert. ef. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW

16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. & cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. ef. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. & cert. ef. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. & cert. ef. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. & cert. ef. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. & cert. ef. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. & cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. & cert. ef. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. & cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. & cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-23-09; DFW 6-2008(Temp), f. & cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. & cert. ef. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. & cert. ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 103(Temp), f. & cert. ef. 8-26-08, cert. ef. 9-2-08 thru 10-31-08; DFW 108-2008(Temp), f. & cert. ef. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. & cert. ef. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. & cert. ef. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. & cert. ef. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. & cert. ef. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. & cert. ef. 2-19-10, cert. ef. 2-21-10 thru 6-11-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. & cert. ef. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. & cert. ef. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. & cert. ef. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. & cert. ef. 8-15-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. & cert. ef. 2-12-12 thru 7-31-12; DFW 104-2012(Temp), f. & cert. ef. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. & cert. ef. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 24-2013(Temp), f. & cert. ef. 3-21-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. & cert. ef. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. & cert. ef. 9-27-13, cert. ef. 9-30-13 thru 10-31-13

635-042-0170

Tongue Point Basin and South Channel

(1) Tongue Point fishing area includes all waters bounded by a line from a marker midway between the red USCG navigation light #2 at the tip of Tongue Point and the downstream (northern most) pier (#8) at the Tongue Point Job Corps facility, to the flashing green USCG navigation light #3 on the rock jetty at the west end of Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the north-west tip of Lois Island, and a line from a marker on the southwest end of Lois Island westerly to a marker on the Oregon shore.

(2) South Channel fishing area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy #7 thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker #10 northwesterly to a marker on Burnside Island defining the terminus of South Channel.

(3) Chinook, sockeye, coho and white sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. Open fishing periods are:

Monday, Tuesday, Wednesday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning Monday, August 26 and ending Friday, September 13, 2013 (12 nights); and 4:00 p.m. to 10:00 a.m. (18 hours) beginning Monday, September 16, and ending Thursday October 31, 2013 (27 nights).

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is unlawful to use a gill net having a mesh size that is more than 6-inches. While fishing during the seasons described in this rule, gillnets legal for the South Channel fishing area may be onboard.

(b) In waters described in section (2) as South Channel, nets are restricted to 250 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is more than 6-inches

(c) Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

ADMINISTRATIVE RULES

(d) Nets (or parts of nets) not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(5) A maximum of two white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in section (3)(a) above, the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 76-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 44-2008(Temp), f. 4-25-08, cert. ef. 4-28-08 thru 10-24-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 29-2010(Temp), f. 3-9-10, cert. ef. 4-19-10 thru 6-12-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; DFW 122-2011(Temp), f. 8-29-11, cert. ef. 9-19-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 41-2012(Temp), f. 4-24-12, cert. ef. 4-26-12 thru 6-30-12; Administrative correction, 8-1-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13

635-042-0180

Deep River Select Area Salmon Season

(1) Chinook, sockeye, coho and white sturgeon may be taken for commercial purposes from all waters downstream of the town of Deep River to the mouth defined by a line from the US Coast Guard navigation marker #16 southwest to a marker on the Washington shore.

(2) Open fishing periods are 7:00 p.m. to 7:00 a.m. (12 hours) nightly on the following dates:

(a) Monday, August 26 and Thursday, August 29, 2013 (2 nights);

(b) Monday, Tuesday, Wednesday and Thursday beginning September 2 through September 13, 2013 (8 nights);

(c) Sunday, Monday, Tuesday, Wednesday and Thursday beginning September 15 through September 27, 2013 (10 nights);

(d) Monday, Tuesday, Wednesday and Thursday beginning September 30 through October 11, 2013 (8 nights); and

(e) Monday, October 14 and Thursday, October 17, 2013 (2 nights).

(3) Gear restrictions are as follows:

(a) Gill nets restricted to 9.75-inch maximum mesh size from August 26 through September 13 and 6-inch maximum mesh size thereafter. Maximum net length may not exceed 100 fathoms in length and there is no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. Nets may not be tied off to stationary structures and may not fully cross navigation channel.

(b) It is unlawful to operate in any river, stream or channel any gill net longer than three-fourths the width of the stream. It is unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net

or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area.

(c) Nets (or parts of nets) not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(d) Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(4) A maximum of two white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in subsection (2) above the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 77-2006(Temp), f. 8-8-06, cert. ef. 9-4-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 23-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 4-30-09; DFW 35-2009(Temp), f. 4-7-09, cert. ef. 4-8-09 thru 4-30-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; DFW 112-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 10-30-09; DFW 121-2009(Temp), f. & cert. ef. 9-30-09 thru 10-31-09; Administrative correction 11-19-09; DFW 16-2010(Temp), f. 2-19-10, cert. ef. 2-22-10 thru 6-10-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 24-2013(Temp), f. & cert. ef. 3-21-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13

Rule Caption: Columbia River Treaty Indian Fall Commercial Gill Net Salmon Season Set

Adm. Order No.: DFW 111-2013(Temp)

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 9-30-13 thru 10-31-13

Notice Publication Date:

Rules Amended: 635-041-0075

Rules Suspended: 635-041-0075(T)

Subject: Rule amendments allow commercial sales of fish caught during a Treaty Indian fall commercial salmon gill net fishery set for the Columbia River and its Washington tributaries. The authorized fishing period (3.5 days) is scheduled to begin at 6:00 a.m. Monday,

ADMINISTRATIVE RULES

September 30 and run through 6:00 p.m. Thursday, October 3, 2013. Modifications are consistent with action taken September 26, 2013 by the Columbia River Compact agencies of the states of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.
Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0075

Late Fall Salmon Season

(1) Effective 6:00 a.m. Monday, September 30, 2013 through 6:00 p.m. Thursday, October 3, 2013 commercial sales of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River are allowed.

(a) Chinook, sockeye, steelhead, coho, walleye, shad, carp, bass, catfish and yellow perch landed during an open commercial fishing period may be sold at any time or retained for subsistence purposes. Sturgeon may not be sold. However, white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools and white sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be kept for subsistence use.

(b) Gear is restricted to subsistence fishing gear: hoopnets, dipnets and rod and reel with hook-and-line are allowed.

(c) Closed areas described in OAR 635-041-0045 that apply to gear types listed in 1(b) above remain in effect.

(2) Commercial sales of gill net caught fish from Zone 6 of the mainstem Columbia River is allowed: 6:00 a.m. Monday, September 30 through 6:00 p.m. Thursday, October 3, 2013 (3.5 days).

(a) Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp landed during any open gill net fishing period may be sold at any time or retained for subsistence purposes. Sturgeon may not be sold. However, white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools and white sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be kept for subsistence purposes.

(b) Gear is restricted to gill nets with an 8-inch minimum mesh size.

(c) Closed areas in Zone 6, including the standard Spring Creek sanctuary, are in effect as set forth in OAR 635-041-0045. The Spring Creek sanctuary was reduced to a 150 foot radius around the hatchery ladder effective September 16, 2013.

(3) Effective 6:00 a.m. Monday, September 30, 2013 fish caught in Yakama Nation tributary fisheries in the Klickitat, Little White Salmon, and Wind rivers; and Drano Lake, may be sold by Yakama Nation members during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods. Sturgeon may not be sold but sturgeon 38-54 inches in fork length may be kept for subsistence purposes.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & cert. 8-2-79; FWC 36-1979(Temp), f. & cert. 8-22-79; FWC 47-1979(Temp), f. & cert. 9-21-79; FWC 44-1980(Temp), f. & cert. 8-22-80; FWC 46-1980(Temp), f. & cert. 9-13-80; FWC 33-1981(Temp), f. & cert. 9-15-81; FWC 58-1982(Temp), f. & cert. 8-27-82; FWC 62-1982(Temp), f. & cert. 9-7-82; FWC 63-1982(Temp), f. & cert. 9-14-82; FWC 75-1982(Temp), f. & cert. 10-29-82; FWC 36-1983, f. & cert. 8-18-83; FWC 49-1983(Temp), f. & cert. 9-26-83; FWC 51-1983(Temp), f. & cert. 9-30-83; FWC 55-1983(Temp), f. & cert. 10-4-83; FWC 46-1984, f. & cert. 8-30-84; FWC 55-1984(Temp), f. & cert. 9-10-84; FWC 58-1984(Temp), f. & cert. 9-17-84; FWC 61-1984(Temp), f. & cert. 9-21-84; FWC 70-1984(Temp), f. & cert. 10-9-84; FWC 47-1985, f. & cert. 8-23-85; FWC 60-1985(Temp), f. & cert. 9-13-85; FWC 63-1985(Temp), f. & cert. 9-24-85; FWC 42-1986, f. & cert. 8-15-86; FWC 53-1986(Temp), f. & cert. 9-4-86; FWC 54-1986(Temp), f. & cert. 9-5-86; FWC 57-1986(Temp), f. & cert. 9-11-86; FWC 60-1986(Temp), f. & cert. 9-26-86; FWC 62-1986(Temp), f. & cert. 10-2-86; FWC 63-1987, f. & cert. 8-7-87; FWC 74-1987(Temp), f. & cert. 9-4-87; FWC 75-1987(Temp), f. & cert. 9-1-87; FWC 78-1987(Temp), f. & cert. 9-15-87; FWC 80-1987(Temp), f. & cert. 9-18-87; FWC 87-1987(Temp), f. & cert. 10-9-87; FWC 89-1987(Temp), f. & cert. 10-12-87; FWC 67-1988, f. & cert. 8-15-88; FWC 72-1988(Temp), f. & cert. 8-19-88; FWC 77-1988(Temp), f. & cert. 9-2-88; FWC 91-1988(Temp), f. & cert. 9-16-88; FWC 95-1988(Temp), f. & cert. 9-27-88; FWC 92-88; FWC 54-1989(Temp), f. & cert. 8-7-89; FWC 87-1989(Temp), f. & cert. 9-1-89; FWC 95-1989(Temp), f. & cert. 9-19-89; FWC 96-1989(Temp), f. & cert. 9-21-89; FWC 99-1989(Temp), f. & cert. 9-27-89; FWC 100-1989(Temp), f. & cert. 9-28-89; FWC 80-1990(Temp), f. & cert. 8-8-90; FWC 90-1990, f. & cert. 8-31-90; FWC 96-1990(Temp), f. & cert. 9-10-90; FWC 98-1990(Temp), f. & cert. 9-14-90; FWC 85-1991, f. & cert. 8-7-91; FWC 8-12-91; FWC 96-1991, f. & cert. 9-9-91; FWC 101-1991(Temp), f. & cert. 9-10-91; FWC 103-1991(Temp), f. & cert. 9-17-91; FWC 9-18-91; FWC 110-1991(Temp), f. & cert. 9-27-91; FWC 73-1992(Temp), f. & cert. 8-10-92; FWC 86-1992(Temp), f. & cert. 9-1-92; cert. 9-2-92; FWC 87-1992(Temp), f. & cert. 9-4-92; cert. 9-7-92; FWC 91-1992(Temp), f. & cert. 9-16-92; cert. 9-17-92; FWC 96-1992(Temp), f. & cert. 9-22-92; cert. 9-23-92; FWC 105-1992(Temp), f. & cert. 10-2-92; cert. 10-5-92; FWC 107-1992(Temp), f. & cert. 10-9-92; FWC 47-1993, f. & cert. 8-6-93; cert. 8-9-93; FWC 52-1993, f. & cert. 8-30-93; FWC 57-1993(Temp), f. & cert. 9-13-93; FWC 59-1993(Temp), f. & cert. 9-17-93; cert. 9-20-93; FWC 61-1993(Temp), f. & cert. 9-24-93; FWC 55-1994(Temp), f. & cert. 8-26-94; cert. 8-29-94; FWC 61-1994(Temp), f. & cert. 9-7-94; cert. 9-8-94; FWC 74-1994(Temp), f. & cert. 10-12-94; FWC 68-1995(Temp), f. & cert. 8-25-95; cert. 8-29-95; FWC 72-1995(Temp), f. & cert. 9-1-95; FWC 75-1995(Temp), f. & cert. 9-12-95; cert. 9-13-95; FWC 46-1996, f. & cert. 8-23-96; FWC 48-1996(Temp), f. & cert. 8-29-96; cert. 9-2-96; FWC 51-1996(Temp), f. & cert. 9-6-96; cert. 9-9-96; FWC 53-1996(Temp), f. & cert. 9-26-96; FWC 54-1996(Temp), f. & cert. 9-23-96; FWC 48-1997, f. & cert. 8-25-97; FWC 52-1997(Temp), f. & cert. 8-29-97; cert. 9-2-97; FWC

57(Temp), f. & cert. 9-9-97; FWC 60-1997(Temp), f. & cert. 9-16-97; cert. 9-17-97; FWC 68-1998(Temp), f. & cert. 8-25-98; FWC 9-25-98; FWC 76-1998(Temp), f. & cert. 8-9-98; FWC 79-1998; FWC 77-1998(Temp), f. & cert. 9-14-98; cert. 9-15-98; cert. 9-25-98; FWC 79-1998(Temp), f. & cert. 9-22-98; FWC 80-1998(Temp), f. & cert. 9-23-98; cert. 9-24-98; FWC 59-1999(Temp), f. & cert. 8-23-99; FWC 9-11-99; FWC 62-1999(Temp), f. & cert. 9-2-99; cert. 9-3-99; FWC 9-11-99; FWC 65-1999(Temp), f. & cert. 9-14-99; cert. 9-15-99; FWC 69-1999(Temp), f. & cert. 9-17-99; FWC 9-18-99; FWC 72-1999(Temp), f. & cert. 9-21-99; cert. 9-22-99; FWC 74-1999(Temp), f. & cert. 9-28-99; cert. 9-29-99; Administrative correction 11-17-99; FWC 50-2000(Temp), f. & cert. 8-18-00; cert. 8-21-00; FWC 60-2000(Temp), f. & cert. 9-11-00; cert. 9-12-00; FWC 12-31-00; FWC 61-2000(Temp), f. & cert. 9-15-00; cert. 9-19-00; FWC 12-31-00; Administrative correction 6-19-01; FWC 75-2001(Temp), f. & cert. 8-20-01; FWC 9-8-01; FWC 87-2001(Temp), f. & cert. 9-10-01; cert. 9-11-01; FWC 9-15-01; FWC 91-2001(Temp), f. & cert. 9-19-01; FWC 12-31-01; FWC 94-2001(Temp), f. & cert. 9-26-01; cert. 9-27-01; FWC 12-31-01; FWC 100-2001(Temp), f. & cert. 10-16-01; cert. 10-17-01; FWC 89-2002(Temp), f. & cert. 8-16-02; cert. 8-18-02; FWC 98-2002(Temp), f. & cert. 8-30-02; FWC 102-2002(Temp), f. & cert. 9-13-02; FWC 104-2002(Temp), f. & cert. 9-19-02; FWC 12-31-02; FWC 113-2002(Temp), f. & cert. 10-14-02; cert. 10-15-02; FWC 77-2003(Temp), f. & cert. 8-13-03; FWC 12-31-03; FWC 81-2003(Temp), f. & cert. 8-25-03; cert. 8-26-03; FWC 91-2003(Temp), f. & cert. 9-12-03; cert. 9-16-03; FWC 97-2003(Temp), f. & cert. 9-22-03; cert. 9-24-03; FWC 101-2003(Temp), f. & cert. 9-26-03; cert. 10-1-03; FWC 103-2003(Temp), f. & cert. 10-3-03; cert. 10-8-03; FWC 104-2003(Temp), f. & cert. 10-10-03; cert. 10-11-03; FWC 88-2004(Temp), f. & cert. 8-23-04; FWC 12-31-04; FWC 95-2004(Temp), f. & cert. 9-17-04; cert. 9-19-04; FWC 99-2004(Temp), f. & cert. 9-24-04; FWC 104-2004(Temp), f. & cert. 10-12-04; cert. 10-13-04; FWC 12-31-04; FWC 110-2004(Temp), f. & cert. 10-29-04; FWC 12-31-04; Administrative correction 2-18-05; FWC 96-2005(Temp), f. & cert. 8-22-05; FWC 104-2005(Temp), f. & cert. 9-12-05; FWC 109-2005(Temp), f. & cert. 9-19-05; FWC 12-31-05; FWC 113-2005(Temp), f. & cert. 9-28-05; FWC 120-2005(Temp), f. & cert. 10-11-05; FWC 12-31-05; Administrative correction 1-19-06; FWC 71-2006(Temp), f. & cert. 7-31-06; cert. 8-1-06; FWC 86-2006(Temp), f. & cert. 8-18-06; cert. 8-21-06; FWC 94-2006(Temp), f. & cert. 9-8-06; cert. 9-11-06; FWC 101-2006(Temp), f. & cert. 9-15-06; cert. 9-18-06; FWC 12-31-06; FWC 107-2006(Temp), f. & cert. 9-28-06; cert. 10-3-06; FWC 115-2006(Temp), f. & cert. 10-13-06; cert. 10-15-06; FWC 12-31-06; Administrative correction 1-16-07; FWC 60-2007(Temp), f. & cert. 7-30-07; cert. 8-1-07; FWC 77-2007(Temp), f. & cert. 8-17-07; cert. 8-22-07; FWC 88-2007(Temp), f. & cert. 9-10-07; cert. 9-11-07; FWC 95-2007(Temp), f. & cert. 9-21-07; cert. 9-25-07; FWC 100-2007(Temp), f. & cert. 9-28-07; cert. 10-3-07; FWC 12-31-07; FWC 110-2007(Temp), f. & cert. 10-16-07; cert. 10-20-07; FWC 106-2008(Temp), f. & cert. 9-4-08; cert. 9-6-08; FWC 109-2008(Temp), f. & cert. 9-12-08; cert. 9-15-08; FWC 112-2008(Temp), f. & cert. 9-17-08; cert. 9-18-08; FWC 117-2008(Temp), f. & cert. 9-22-08; FWC 103-08; FWC 122-2008(Temp), f. & cert. 9-29-08; FWC 125-2008(Temp), f. & cert. 10-6-08; cert. 10-7-08; FWC 134-2008(Temp), f. & cert. 10-17-08; FWC 141-2008(Temp), f. & cert. 11-10-08; cert. 11-12-08; FWC 88-2009(Temp), f. & cert. 7-31-09; cert. 8-1-09; FWC 95-2009(Temp), f. & cert. 8-19-09; cert. 8-24-09; FWC 111-2009(Temp), f. & cert. 9-11-09; cert. 9-13-09; FWC 9-30-09; FWC 114-2009(Temp), f. & cert. 9-18-09; cert. 9-21-09; FWC 119-2009(Temp), f. & cert. 9-29-09; FWC 129-2009(Temp), f. & cert. 10-13-09; cert. 10-14-09; FWC 103-09; Administrative correction 11-19-09; FWC 111-2010(Temp), f. & cert. 7-30-10; cert. 8-1-10; FWC 120-2010(Temp), f. & cert. 8-18-10; cert. 8-24-10; FWC 128-2010(Temp), f. & cert. 9-10-10; FWC 136-2010(Temp), f. & cert. 9-24-10; cert. 9-27-10; FWC 142-2010(Temp), f. & cert. 10-8-10; cert. 10-9-10; FWC 149-2010(Temp), f. & cert. 10-18-10; cert. 10-19-10; FWC 12-31-10; Administrative correction 11-23-10; FWC 103-2011(Temp), f. & cert. 7-29-11; cert. 8-1-11; FWC 119-2011(Temp), f. & cert. 8-26-11; cert. 8-29-11; FWC 124-2011(Temp), f. & cert. 9-8-11; cert. 9-12-11; FWC 130-2011(Temp), f. & cert. 9-15-11; cert. 9-19-11; FWC 133-2011(Temp), f. & cert. 9-21-11; cert. 9-22-11; FWC 130-11; FWC 138-2011(Temp), f. & cert. 10-3-11; FWC 131-11; FWC 142-2011(Temp), f. & cert. 10-6-11; cert. 10-8-11; FWC 10-11; Administrative correction 11-18-11; FWC 94-2012(Temp), f. & cert. 7-27-12; FWC 107-2012(Temp), f. & cert. 8-15-12; cert. 8-21-12; FWC 119-2012(Temp), f. & cert. 9-11-12; FWC 120-2012(Temp), f. & cert. 9-18-12; FWC 124-2012(Temp), f. & cert. 9-25-12; cert. 9-26-12; FWC 127-2012(Temp), f. & cert. 10-2-12; FWC 143-2012(Temp), f. & cert. 11-7-12; cert. 11-8-12; FWC 1-29-13; Administrative correction 2-25-13; FWC 88-2013(Temp), f. & cert. 8-9-13; cert. 8-12-13; FWC 89-2013(Temp), f. & cert. 8-14-13; cert. 8-19-13; FWC 98-2013(Temp), f. & cert. 9-6-13; cert. 9-10-13; FWC 102-2013(Temp), f. & cert. 9-13-13; cert. 9-16-13; FWC 106-2013(Temp), f. & cert. 9-19-13; cert. 9-24-13; FWC 101-2013(Temp), f. & cert. 9-27-13; cert. 9-30-13; FWC 10-31-13

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Rule Caption: Allow Retention of Cabezon In the Oregon Ocean Boat and Estuary Boat Sport Fisheries

Adm. Order No.: DFW 112-2013(Temp)

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 9-27-13 thru 12-31-13

Notice Publication Date:

Rules Amended: 635-039-0090

Subject: Amended rule opens the sport ocean boat and estuary boat fisheries to retention of cabezon from Friday, September 27 to Tuesday, December 31, 2013 to allow the Oregon recreational ocean boat and estuary boat anglers more opportunity to harvest the pre-season cap of 15.8 metric tons.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-039-0090

Inclusions and Modifications

(1) The 2013 Oregon Sport Fishing Regulations provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates

ADMINISTRATIVE RULES

in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2013 Oregon Sport Fishing Regulations.

(2) For the purposes of this rule, a "sport harvest cap" is defined as the amount that may be impacted (combined landings and other fishery related mortality) by the Oregon sport fishery in a single calendar year. For 2013 the sport harvest caps are:

- (a) Black rockfish, 440.8 metric tons.
- (b) Cabezon, 16.8 metric tons.

(3) For the purposes of this rule, "Other nearshore rockfish" means the following rockfish species: black and yellow (*Sebastes chrysomelas*); brown (*S. auriculatus*); calico (*S. dalli*); China (*S. nebulosus*); copper (*S. caurinus*); gopher (*S. carnatus*); grass (*S. rastelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. serripes*).

(4) For the purposes of this rule a "sport landing cap" is defined as the total landings for a given species, or species group, that may be taken in a single calendar year by the ocean boat fishery. For 2013 the sport landing caps are:

- (a) Black rockfish and blue rockfish combined, 481.8 metric tons.
- (b) Other nearshore rockfish, 13.6 metric tons.
- (c) Greenling, 5.2 metric tons.

(5) In addition to the regulations for Marine Fish in the 2013 Oregon Sport Fishing Regulations, the following apply for the sport fishery in the Marine Zone in 2013:

(a) Lingcod (including green colored lingcod): 2 fish daily bag limit.

(b) All rockfish ("sea bass" "snapper"), greenling ("sea trout"), cabezon, skates, and other marine fish species not listed in the 2013 Oregon Sport Fishing Regulations in the Marine Zone, located under the category of Species Name, Marine Fish: 7 fish daily bag limit in aggregate (total sum or number), of which no more than one be a cabezon from April 1 through December 31, 2013. Retention of the following species is prohibited:

- (A) Yelloweye rockfish;
- (B) Canary rockfish; and
- (C) Cabezon from January 1 through June 30.

(c) Flatfish (flounder, sole, sanddabs, turbot, and all halibut species except Pacific halibut): 25 fish daily bag limit in aggregate (total sum or number).

(d) Retention of all marine fish listed under the category of Species Name, Marine Fish, except Pacific cod, sablefish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species (excluding leopard shark and soupfin shark), is prohibited when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut north of Humbug Mountain. Persons must also consult all publications referenced in OAR 635-039-0080 to determine all rules applicable to the taking of Pacific halibut.

(e) Harvest methods and other specifications for marine fish in subsections (5)(a), (5)(b) and (5)(c) including the following:

- (A) Minimum length for lingcod, 22 inches.
- (B) Minimum length for cabezon, 16 inches.
- (C) Minimum length for greenling, 10 inches.

(D) May be taken by angling, hand, bow and arrow, spear, gaff hook, snag hook and herring jigs.

(E) Mutilating the fish so the size or species cannot be determined prior to landing or transporting mutilated fish across state waters is prohibited.

(f) Sport fisheries for species in subsections (5)(a), (5)(b) and (5)(c) and including leopard shark and soupfin shark are open January 1 through December 31, twenty-four hours per day, except as provided in subsections (5)(a) and (5)(d), and ocean waters are closed for these species during April 1 through September 30, outside of the 30-fathom curve (defined by latitude and longitude) as shown on Title 50 Code of Federal Regulations Part 660 Section 71. A 20-fathom, 25-fathom, or 30-fathom curve, as shown on Title 50 Code of Federal Regulations Part 660 Section 71 may be implemented as the management line as in-season modifications necessitate. In addition, the following management lines may be used to set area specific regulations for inseason action only:

- (A) Cape Lookout (45°20'30" N latitude); and
- (B) Cape Blanco (42°50'20" N latitude).

(g) The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) is defined by coordinates specified in Title 50 Code of Federal Regulations Part 660 Section 70 (October 1, 2011 ed.). Within the YRCA, it is unlawful to fish for, take, or retain species listed in subsections (5)(a), (5)(b) and (5)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut using recreational fishing gear. A vessel engaged in recreational fish-

ing within the YRCA is prohibited from possessing any species listed in subsections (5)(a), (5)(b) and (5)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut. Recreational fishing vessels in possession of species listed in subsections (5)(a), (5)(b) and (5)(c) and including leopard shark, soupfin shark, and Pacific halibut may transit the YRCA without fishing gear in the water.

(h) Effective April 1, 2013, the annual bag and possession limit for white sturgeon is two (2) fish and catch-and-release angling for white sturgeon is allowed year-round. Effective January 1, 2014, all waters within the Marine Zone are closed to the retention of white sturgeon and catch-and-release angling is allowed year-round.

(6) Razor clams may be taken by hand, shovel, or cylindrical gun or tube. The opening of the gun/tube must be either circular or elliptical with the circular gun/tube opening having a minimum outside diameter of 4 inches and the elliptical gun/tube opening having minimum outside diameter dimensions of 4 inches long and 3 inches wide.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119
Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 22-1994, f. 4-29-94, cert. ef. 5-2-94; FWC 29-1994(Temp), f. 5-20-94, cert. ef. 5-21-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 43-1994(Temp), f. & cert. ef. 7-19-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 25-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 26-1995, 3-29-95, cert. ef. 4-2-95; FWC 36-1995, f. 5-3-95, cert. ef. 5-5-95; FWC 43-1995(Temp), f. 5-26-95, cert. ef. 5-28-95; FWC 46-1995(Temp), f. & cert. ef. 6-2-95; FWC 58-1995(Temp), f. 7-3-95, cert. ef. 7-5-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 28-1996(Temp), f. 5-24-96, cert. ef. 5-26-96; FWC 30-1996(Temp), f. 5-31-96, cert. ef. 6-2-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 68-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 114-2003(Temp), f. 11-18-03, cert. ef. 11-21-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 83-2004(Temp), f. 8-17-04, cert. ef. 8-18-04 thru 12-31-04; DFW 91-2004(Temp), f. 8-31-04, cert. ef. 9-2-04 thru 12-31-04; DFW 97-2004(Temp), f. 9-22-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 34-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 75-2005(Temp), f. 7-13-05, cert. ef. 7-16-05 thru 12-31-05; DFW 87-2005(Temp), f. 8-8-05, cert. ef. 8-11-05 thru 12-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; DFW 129-2005(Temp), f. & cert. ef. 11-29-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 141-2005(Temp), f. 12-12-05, cert. ef. 12-30-05 thru 12-31-05; Administrative correction 1-19-06; DFW 61-2006, f. 7-13-06, cert. ef. 10-1-06; DFW 65-2006(Temp), f. 7-21-06, cert. ef. 7-24-06 thru 12-31-06; DFW 105-2006(Temp), f. 9-21-06, cert. ef. 9-22-06 thru 12-31-06; DFW 134-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 10-2007, f. & cert. ef. 2-14-07; DFW 66-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 73-2008(Temp), f. 6-30-08, cert. ef. 7-7-08 thru 12-31-08; DFW 97-2008(Temp), f. 8-18-08, cert. ef. 8-21-08 thru 12-31-08; DFW 105-2008(Temp), f. 9-4-08, cert. ef. 9-7-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 7-2009(Temp), f. & cert. ef. 2-2-09 thru 7-31-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 110-2009(Temp), f. 9-10-09, cert. ef. 9-13-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 103-2010(Temp), f. 7-21-10, cert. ef. 7-23-10 thru 12-31-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 97-2011(Temp), f. & cert. ef. 7-20-11 thru 12-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. ef. 10-1-11 thru 12-31-11; DFW 155-2011(Temp), f. 11-18-11, cert. ef. 12-1-11 thru 12-31-11; DFW 156-2011(Temp), f. 12-9-11, cert. ef. 12-15-11 thru 1-31-12; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 90-2012(Temp), f. 7-17-12, cert. ef. 9-20-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 155-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 112-2013(Temp), f. & cert. ef. 9-27-13 thru 12-31-13

Rule Caption: Fall Commercial Drift Gill Net Season Set for the Mainstem Columbia River

Adm. Order No.: DFW 113-2013(Temp)

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 10-1-13 thru 10-16-13

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Rules Amended: 635-042-0031

Rules Suspended: 635-042-0031(T)

Subject: This amended rule authorizes seven 10-hour commercial drift gill net fishing periods in Zones 4-5 of the Columbia River from 8:00 p.m. through 6:00 a.m. the following mornings on Tuesday October 1, Thursday October 3, Sunday October 6, Tuesday October 8, Thursday October 10, Sunday October 13 and Tuesday October 15, 2013. Authorized sales include Chinook, coho, and pink salmon. Modifications are consistent with action taken September 26, 2013 by the Columbia River Compact agencies of the states of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

ADMINISTRATIVE RULES

635-042-0031

Early Fall Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 4 5, as identified in OAR 635-042-0001 except the lower deadline is defined as a straight line projected from the Warrior Rock Lighthouse of the Oregon Shore easterly through the green navigation buoy #1 and continuing to the Washington shore.

(a) Authorized fishing periods are as follows: 8:00 p.m. Tuesday, October 1 to 6:00 a.m. Wednesday, October 2, 2013 (10 hours) and 8:00 p.m. Thursday, October 3 to 6:00 a.m. Friday, October 4, 2013 (10 hours) and 8:00 p.m. Sunday, October 6 to 6:00 a.m. Monday, October 7, 2013 (10 hours) and 8:00 p.m. Tuesday, October 8 to 6:00 a.m. Wednesday, October 9, 2013 (10 hours) and 8:00 p.m. Thursday, October 10 to 6:00 a.m. Friday, October 11, 2013 (10 hours) and 8:00 p.m. Sunday, October 13 to 6:00 a.m. Monday, October 14, 2013 (10 hours) and 8:00 p.m. Tuesday, October 15 to 6:00 a.m. Wednesday, October 16, 2013 (10 hours).

(b) Sanctuaries include: Washougal and Sandy rivers as applicable.

(2) Gear is restricted to drift gill nets only with 8 inch minimum and 9.75 inch maximum mesh sizes. The multiple net rule is in effect and nets not authorized for this fishery are authorized to be onboard the vessel if properly stored in accordance with OAR 635-042-0010(2)(c)(C).

(3) Allowable sales include: Chinook, coho and pink salmon.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & cert. 8-7-87; FWC 67-1988, f. & cert. 8-15-88; FWC 68-1988(Temp), f. & cert. 8-15-88; FWC 54-1989(Temp), f. & cert. 8-7-89; FWC 56-1989(Temp), f. & cert. 8-11-89; FWC 58-1989(Temp), f. & cert. 8-14-89; FWC 80-1989(Temp), f. & cert. 8-28-89, cert. 8-29-89; FWC 80-1990(Temp), f. & cert. 8-8-90; FWC 85-1991, f. & cert. 8-7-91, cert. 8-12-91; FWC 91-1991(Temp), f. & cert. 8-29-91; FWC 73-1992(Temp), f. & cert. 8-10-92; FWC 46-1996, f. & cert. 8-23-96; FWC 53-1996(Temp), f. & cert. 9-16-96; FWC 49-1997, f. & cert. 8-24-97; DFW 74-1998(Temp), f. & cert. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. 9-29-99, cert. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. 8-18-00, cert. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. 8-23-00, cert. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. 8-7-01, cert. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. 8-4-01 thru 12-31-01; DFW 81-2002(Temp), f. & cert. 8-2-02, cert. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. & cert. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. & cert. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. & cert. 8-1-05, cert. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. & cert. 8-11-05, cert. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. & cert. 8-24-05, cert. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. & cert. 8-1-06, cert. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. & cert. 8-11-06, cert. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. & cert. 8-18-06, cert. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. & cert. 8-24-06, cert. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. & cert. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. & cert. 8-17-07, cert. 8-23-07 thru 8-31-07; Administrative correction 9-16-07; DFW 85-2008(Temp), f. & cert. 7-24-08, cert. 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. & cert. 8-22-08, cert. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. & cert. 8-3-09, cert. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. & cert. 8-7-09, cert. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. & cert. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. & cert. 8-18-10, cert. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. & cert. 9-21-10, cert. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. & cert. 8-2-11, cert. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. & cert. 8-26-11, cert. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. & cert. 9-14-11, cert. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. & cert. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. & cert. 10-4-11, cert. 10-5-11 thru 10-12-11; DFW 144-2011(Temp), f. & cert. 10-11-11, cert. 10-13-11 thru 10-31-11; DFW 147-2011(Temp), f. & cert. 10-17-11, cert. 10-18-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 98-2012(Temp), f. & cert. 7-31-12, cert. 8-5-12 thru 10-31-12; DFW 112-2012(Temp), f. & cert. 8-24-12, cert. 8-26-12 thru 10-31-12; DFW 121-2012(Temp), f. & cert. 9-18-12 thru 10-31-12; Administrative correction 11-23-12; DFW 83-2013(Temp), f. & cert. 7-29-13, cert. 8-11-13 thru 8-31-13; DFW 97-2013(Temp), f. & cert. 8-27-13, cert. 8-28-13 thru 8-31-13; DFW 101-2013(Temp), f. & cert. 9-13-13, cert. 9-15-13 thru 9-30-13; DFW 105-2013(Temp), f. & cert. 9-19-13 thru 9-30-13; DFW 108-2013(Temp), f. & cert. 9-25-13, cert. 9-26-13 thru 9-30-13; DFW 113-2013(Temp), f. & cert. 9-27-13, cert. 10-1-13 thru 10-16-13

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Rule Caption: Coho Tangle Net Season Set for the Mainstem Columbia River

Adm. Order No.: DFW 114-2013(Temp)

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 10-2-13 thru 10-15-13

Notice Publication Date:

Rules Amended: 635-042-0032

Subject: This rule authorizes eight 12-hour commercial coho tangle net fishing periods in Zones 1-3 of the Columbia River from 6:00 a.m. through 6:00 p.m. the following evenings on Wednesday October 2, Thursday October 3, Monday October 7, Tuesday October 8, Wednesday October 9, Thursday October 10, Monday October 14, and Tuesday October 15, 2013. Authorized sales include Chinook, Adipose fin-clipped Coho Salmon, Pink, Salmon and shad. Modifications are consistent with action taken September 26, 2013 by the Columbia River Compact agencies of the states of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0032

Coho Target Fishery

(1) Chinook, adipose fin-clipped coho salmon, pink salmon, and shad may be taken in the Columbia River by tangle net for commercial purposes in all of, or portions of Zones 1 3 from the mouth of the Columbia River upstream to a line projected from Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation buoy #1 and continuing to the Washington shore. An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(2) Authorized Fishing Periods are as follows:

6:00a.m. to 6:00p.m. Wednesday, October 2, 2013 (12 Hours);
6:00a.m. to 6:00p.m. Thursday, October 3, 2013 (12 hours);
6:00a.m. to 6:00p.m. Monday, October 7, 2013 (12 hours);
6:00a.m. to 6:00p.m. Tuesday October 8, 2013 (12 hours);
6:00a.m. to 6:00p.m. Wednesday, October 9, 2013 (12 hours);
6:00a.m. to 6:00p.m. Thursday October 10, 2013 (12 hours);
6:00a.m. to 6:00p.m. Monday, October 14, 2013 (12 hours); and
6:00a.m. to 6:00p.m. Tuesday, October 15, 2013 (12 hours)

(3) During the fall coho tangle net fishery:

(a) It is unlawful to use other than a single-wall multi-filament floater net. Monofilament nets are not allowed. Maximum mesh size is 3-3/4 inches determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one knot to the outside of the opposite knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(4) Nets shall not exceed 900 feet (150 fathoms) in length. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25 fathom intervals must be in color contrast to the corks used in the remainder of the net.

(5) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(6) The use of slackers or stringers to slacken the net vertically is prohibited. Rip lines are allowed providing they do not vertically slacken the net.

(7) Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(8) Nets shall be fished for no longer than 30 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(9) All non-legal fish must be released unharmed immediately to the river or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) All non-legal salmon and all steelhead that are bleeding, in lethargic condition, or appearing lifeless (condition 2-5) must be placed in the recovery box prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife

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enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(10) At least one fisher on each boat engaged in the fishery must have completed training provided by the Oregon or Washington Department of Fish and Wildlife (Departments) to educate fishers on regulations and best methods for conducting live capture fisheries.

(11) Owners or operators of commercial fishing vessels must cooperate with State fishery observers, or observers collecting data for the Departments, when asked by the Departments to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(12) Closed areas include the following sanctuaries: Elokomin-A, Cowlitz River, Kalama-A, and the Lewis-A.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991 (Temp), f. & cert. ef. 9-10-91; FWC 102-1991, f. & cert. ef. 9-17-91; Suspended by FWC 92-1992(Temp), f. & cert. ef. 9-16-92; FWC 46-1996, f. & cert. ef. 8-23-96; DFW 71-1999(Temp), f. & cert. ef. 9-20-99 thru 10-22-99; DFW 75-1999(Temp), f. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 62-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 65-2000(Temp) f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 66-2000(Temp) f. 9-29-00, cert. ef. 10-2-00 thru 12-31-00; DFW 68-2000(Temp) f. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp) f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03 cert. ef. 9-15-03 thru 12-31-03; Administrative correction, 2-23-05; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 114-2013(Temp), f. 9-27-13, cert. ef. 10-2-13 thru 10-15-13

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Rule Caption: Allow permitless take of wolves caught in the act of depredating livestock or working dogs.

Adm. Order No.: DFW 115-2013(Temp)

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13 thru 3-29-14

Notice Publication Date:

Rules Amended: 635-110-0010

Subject: These rules implement 2013 Oregon Laws Ch. 626 (HB 3452), which amended ORS 498.012 and authorized in certain circumstances take of a wolf or wolves caught in the act of biting, wounding, killing or chasing livestock or working dogs without a permit.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-110-0010

Harassment and Take of Wolves during Phase I (Conservation)

NOTE: As of October 1, 2010, these rules are pre-empted by the endangered status of the gray wolf under the federal Endangered Species Act. Once federal protections are reduced to a level below that of Oregon law, these rules will govern harassment and take of wolves in Oregon.

(1) This rule describes the types of harassment and take of wolves allowed by persons outside ODFW (or ODFW or Wildlife Services acting as their agent) during Phase I — (Conservation: 0–4 breeding pairs) as called for in chapter III of the Oregon Wolf Conservation and Management Plan. Other chapters of the Plan authorize ODFW to take wolves for other specified wildlife management purposes. For OAR 635-110-0010, 635-110-0020 and 635-110-0030, “livestock” means horses, jackasses, cattle, llamas, alpacas, sheep, goats, swine, domesticated fowl, any fur-bearing animal bred and maintained (commercially or otherwise) within pens, cages and hutches, bison and working dogs. “Working dogs” means guard-dogs and herding dogs.

(2) Non-injurious harassment.

(a) Subject to the conditions specified in paragraph (c), the following persons may use non-injurious harassment against wolves without a permit:

(A) Livestock producers (or their agents) on land they own or lawfully occupy; or

(B) Grazing permittees legally using public land under valid livestock grazing allotments.

(b) Non-injurious harassment means scaring off a wolf (or wolves) without doing bodily harm, and includes (but is not limited to) firing shots in the air, making loud noises or otherwise confronting the wolf (or wolves).

(c) Non-injurious harassment is allowed without a permit under this rule only if:

(A) The wolf (or wolves) is in the act of testing or chasing livestock, is attempting to test or chase livestock or is in close proximity of livestock;

(B) The person encounters the wolf (or wolves) unintentionally (i.e., the person is not stalking or searching for wolves);

(C) The harassment in fact does not result in injury to the wolf (or wolves); and

(D) The harassment is reported to ODFW within 48 hours.

(d) Any non-injurious harassment that does not meet each requirement of this rule requires a permit in advance from ODFW.

(3) Non-lethal injurious harassment.

(a) Subject to the conditions specified in paragraph (c), in addition to state or state authorized agents, the following persons may use non-lethal injurious harassment against wolves by permit:

(A) Livestock producers (or their agents) on land they own or lawfully occupy;

(B) Grazing permittees legally using public land under valid livestock grazing allotments.

(b) Non-lethal injurious harassment means scaring off a wolf (or wolves) without killing but with some injury to the wolf. Wolves may be pursued (unintentional encounters are not required).

(c) Non-lethal injurious harassment is allowed by permit from ODFW only if:

(A) ODFW confirms wolf depredation on livestock or other wolf-livestock conflict in the area. “Other wolf-livestock conflict” means loitering near, testing, chasing, or otherwise disrupting livestock;

(B) The applicant confers with ODFW to determine the most effective harassment method;

(C) ODFW considers the location of known den sites;

(D) The harassment in fact does not result in the death of a wolf;

(E) No identified circumstance exists that attracts wolf/livestock conflict; and

(F) The harassment is reported to ODFW within 48 hours.

(d) Permits for non-lethal injurious harassment remain valid for the livestock grazing season in which issued, provided the livestock operator complies with all applicable laws, including permit conditions. The agency shall inform harassment permit holders of non-lethal methods for minimizing wolf-livestock conflict and provide assistance upon request. Receiving future lethal control permits is contingent upon documentation of efforts to use non-lethal methods.

(4) Relocation. ODFW will authorize relocation by state personnel when a wolf (or wolves) becomes inadvertently involved in a situation, or is present in an area, that could result in conflict with humans or harm to the wolf, provided that ODFW has no reason to believe that the wolf actually attacked or killed livestock or pets. The relocation will be designed to prevent conflict with humans or reduce the possibility of harm to the wolf. The wolf (or wolves) would be relocated to suitable habitat at the direction of ODFW.

(5) Lethal take of wolves in the act of biting, wounding, killing or chasing livestock or working dogs.

(a) A person, or an agent as described in paragraph (b), may lethally take a wolf on land the person owns or lawfully occupies only if:

(A) The wolf is caught in the act of:

(a) Biting, wounding or killing livestock or working dogs; or

(b) Chasing livestock or working dogs, if the person has first undertaken nonlethal actions as specified in 8(b)(C) and 8(c) of this rule, and the taking occurs during a time period in which ODFW has determined a situation of chronic depredation exists; and

(B) No person has used bait or taken other intentional actions to attract wolves.

(b) A landowner or lawful occupant of land may authorize an agent to enter the land for the purpose of taking wolves pursuant to 5(a) on the landowner or occupant’s behalf. The authorization must be in writing, be carried by the agent when wolves are taken, and must include:

(A) The date of issuance of the authorization;

(B) The name, address, telephone number and signature of the person granting authorization;

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(C) The name, address, and telephone number of the person to whom authorization is granted; and

(D) The expiration date of the authorization, which may not be later than one year from the issuance date.

(c) Any person who takes a wolf pursuant to 5(a) and 5(b) of these rules must make all reasonable efforts to preserve the scene, not remove or disturb the wolf carcass, and report the take to ODFW within 24 hours.

NOTE: The Oregon Wolf Conservation and Management Plan calls for allowing lethal take of wolves in this situation without a permit on private land. However, the Plan recognizes that because current statute requires a permit, implementing this portion of the Plan depends upon amendment of the statute by the legislature. Should the legislature make that statutory change, the Commission will amend this rule to allow for take without permit.

(6) Lethal take to address chronic livestock depredation. ODFW may authorize its personnel or authorized agents to use lethal force on a wolf or wolves it reasonably believes are responsible for chronic depredation upon livestock where each of the conditions in subsections (7) through (10) of this rule is satisfied. ODFW shall limit lethal force to the wolf or wolves it deems necessary to address the chronic depredation situation

(7) Conditions for Lethal Take by ODFW. ODFW's discretionary authority for use of lethal force pursuant to this rule may be exercised if ODFW:

(a) Designates an Area of Known Wolf Activity, the boundary of which may be adjusted as new data or information become available;

(b) Upon the designation of an Area of Known Wolf Activity, coordinates in a timely manner with potentially affected livestock producers and other relevant interests to provide information on:

(A) The provisions of the Oregon Wolf Conservation & Management Plan and associated rules,

(B) The current state of knowledge of wolf behavior, management, and conservation,

(C) Procedures for documenting and reporting wolf activity to ODFW, including depredations upon livestock, and

(D) Non-lethal measures, incentives and available assistance aimed at minimizing conflicts between wolves and livestock or domestic animals in the area of known wolf activity;

(c) Confirms an incident of depredation of livestock by a wolf or wolves;

(d) Within 14 working days of ODFW's confirmation of the first incident of depredation in an area:

(A) Designates an Area of Depredating Wolves, the boundary of which may be adjusted as new data or information become available;

(B) Concurrent with the designation of an Area of Depredating Wolves, prepares and publicly discloses an area-specific wolf-livestock conflict deterrence plan in coordination with potentially affected landowners, livestock producers and other relevant interests. The plan shall identify appropriate non-lethal measures according to which measures are likely to be most effective in a given circumstance, including the nature of the livestock operations, habitat, and landscape conditions specific to the area, as well as particular times of the year or period of livestock production. The plan shall be based on information compiled by ODFW before and/or during the planning effort on potentially successful conflict deterrence techniques, scientific research, and available financial resources and/or partnerships that may aid in the successful implementation of the plan. ODFW may update an area-specific conflict deterrence plan as new data become available.

(e) Confirms a total of at least 4 qualifying incidents of depredation of livestock within the previous 6 months by the same wolf or wolves.

(f) Issues and makes publicly available, prior to the exercise of lethal force, a written determination by the ODFW Director or director's designee to use lethal force to address a specified situation of chronic depredation, along with supporting findings that:

(A) The conditions of Sections 7, 8, and 9 of this rule have been satisfied;

(B) Livestock producers in the Area of Depredating Wolves have worked to reduce wolf-livestock conflict and are in compliance with wolf protection laws and the conditions of any harassment or take permits.

(C) The situation of wolf depredation upon livestock in the Area of Depredating Wolves is likely to remain chronic despite the use of additional non-lethal conflict deterrence measures; and

(D) The wolf or wolves identified for removal are those ODFW believes to be associated with the qualifying depredations, the removal of which ODFW believes will decrease the risk of chronic depredation in the Area of Depredating Wolves.

(8) Qualifying Contingencies and Counting Incidents:

(a) An incident of depredation is a single event resulting in the injury or death of one or more lawfully present livestock that is reported to ODFW

for investigation, and upon investigation by ODFW or its agent(s), ODFW confirms to have been caused by a wolf or group of wolves.

(b) A qualifying incident of depredation is a confirmed incident of depredation for the purposes of this rule if:

(A) The depredation is outside of an Area of Known Wolf Activity or Area of Depredating Wolves. Only the first confirmed depredation by a wolf or wolves may count as a qualifying depredation,

(B) In an Area of Known Wolf Activity, the landowner or lawful occupant of the land where the depredation occurred had:

(i) At least seven days prior to the incident of depredation, removed, treated or disposed of all intentionally placed or known and reasonably accessible unnatural attractants of potential wolf-livestock conflict, such as bone or carcass piles or disposal sites, and

(ii) Prior to and on the day of the incident of depredation, been using at least one measure ODFW deems most appropriate from non-lethal deterrence measures identified pursuant to section (7)(b)(D) to protect calving operations, nursing cattle, sheep operations, or other reasonably protectable situations, not including open range situations. Once a confirmed depredation has occurred in an Area of Known Wolf Activity and while ODFW is in the process of designating an Area of Depredating Wolves and creating an area-specific conflict deterrence plan, only one additional confirmed depredation in an area may count as a qualifying depredation under this subsection.

(C) In an Area of Depredating Wolves, the landowner or lawful occupant of the land where the depredation occurred had:

(i) Complied with subsection (B) of this section, and

(ii) Prior to and on the day of the incident of depredation was implementing at least one non-lethal measure identified in the area-specific conflict deterrence plan developed under subsection (7)(d)(B) that is specific to the location, type of livestock operation, time of the year, and/or period of livestock production associated with the depredation. The conflict deterrence plan measure implemented by a landowner or lawful occupant must address wolf-livestock conflict in open range situations when that situation exists.

(c) Human presence, when used as a non-lethal measure under this rule, is presence which could reasonably be expected to deter wolf-livestock conflict under the circumstances and, regardless of the temporal requirements of sections (7)(b)(B) and (C) of this rule, may be considered an appropriate non-lethal measure if it:

(A) Occurs at a proximate time prior to and in an area proximate to a confirmed depredation as determined by ODFW, and

(B) Indicates a timely response to wolf location information in situations of potential wolf-livestock conflict.

(9) Transparency and Public Disclosure.

(a) Except as provided in section (c) below, prior to using lethal force to address chronic wolf depredation, and in a timely fashion, ODFW shall document and make publicly available on at least its website:

(A) The determinations and supporting findings referenced in section (7)(f) of this rule;

(B) Information including but not limited to summaries of confirmed incidents of depredation and associated depredation investigation reports, maps of areas of known wolf activity and areas of depredating wolves, including changes and amendments to those maps, and area specific conflict deterrence plans; and

(C) Documentation of measures implemented pursuant to Section 8 of this rule. In documenting the removal of unnatural attractants and implementation of conflict deterrence measures, the Department may rely upon documented personal observation and/or written statements by the owner or lawful occupant of the land where qualifying incidents of depredation have occurred that confirm the non-lethal deterrence measures being utilized prior to and at the time of the qualifying depredation.

(b) In any signed statements and other information publicly disclosed pursuant to this section, the Department shall redact from public disclosure the personal information of landowners, lawful occupants, or other relevant individuals consistent with the Oregon public records law, ORS Chapter 192.

(c) In the case where the conditions in Section 7(f) of this rule have been met but strict compliance with the public disclosure requirements of this section cannot be accomplished without a delay that impedes ODFW's ability to pursue an immediately available opportunity to remove the wolf or wolves it reasonably believes responsible for chronic depredation prior to another depredation event on livestock, this section is deemed satisfied if, prior to the use of lethal force, ODFW:

(A) Provides email or phone notification from the ODFW Director or designee to a list of interested stakeholders communicating the findings in

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Section 7(f) of this rule and the Department's intent to pursue immediate lethal action based on those findings,

(B) Has previously documented and disclosed, on at least the agency's website, the information referenced in subsections (a)(A)-(C) of this section with respect to all but the most recent qualifying depredation that resulted in ODFW's determination to pursue lethal action, and

(C) Provides the remaining information referenced in subsections (a)(A)-(C) of this rule in a timely manner with respect to the most recent qualifying incident that ODFW pursues with immediate lethal action.

(10) Duration of chronic depredation lethal take authority. Take authority issued pursuant to subsection (7) expires:

(a) When the wolf or wolves identified for lethal removal have been removed by ODFW or any other party.

(b) ODFW may reinstate its take authority if ODFW confirms one additional qualifying incident of depredation within two months after the last confirmed qualifying depredation by what it believes to be a member or members of the same wolf pack and non-lethal efforts specified in Section 8 have continued to be implemented by the owner or lawful occupant of land where the additional depredation occurs;

(c) 45 days after issuance of the take authority and determination referenced in Section 7(f), unless ODFW confirms, within that time period, another qualifying incident of depredation on livestock by what it believes to be the same wolf or wolves identified for lethal removal and non-lethal efforts specified in Section 8 have continued to be implemented by the owner or lawful occupant of land where the additional depredation occurs; or

(d) If ODFW determines the wolf or wolves identified for lethal removal have left the Area of Depredating Wolves. To support this determination, data must show more than just a short-term or seasonal movement outside the area's boundary.

(e) Except as allowed under subsections (b) and (c) of this Section, any subsequent authorization or reinstatement of take authority by the Department must comply with Sections 7 through 9 of this rule, and must be based upon at least one additional qualifying depredation.

(11) Lethal take in the case of extreme circumstances. Notwithstanding sections (7) and (8) of this rule, ODFW may authorize the use of lethal force in extreme circumstances.

(a) Extreme circumstances means:

(A) Four or more confirmed incidents of depredation of livestock by what ODFW reasonably believes to be the same wolf or wolves within seven days;

(B) ODFW determines, based on evidence it makes publicly available, that there were no intentionally placed or known and reasonably accessible unnatural attractants such as bone or carcass piles or disposal sites that contributed to the incidents of depredation, and that non-lethal measures are and will likely remain ineffective; and

(C) ODFW finds that depredation has rapidly escalated beyond the reasonable, available means of ODFW and affected livestock owners to stop additional livestock losses from occurring.

(b) A decision to utilize lethal force authority due to extreme circumstances shall be made by the ODFW director or director's designee, accompanied by the findings and determinations required in section 11(a) made publically available on ODFW's website, and exercised within 14 days of the determination to exercise lethal force authority under this section, or of the last confirmed depredation, whichever comes later.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.171 - 496.192, 497.298, 497.308, 498.002, 498.006, 498.012 & 498.026

Hist.: DFW 12-2005, f. & cert. ef. 3-9-05; DFW 92-2010(Temp), f. & cert. ef. 6-29-10 thru 12-25-10; DFW 144-2010, f. & cert. ef. 10-11-10; DFW 42-2013(Temp), f. & cert. ef. 5-23-13 thru 11-17-13; DFW 73-2013, f. & cert. ef. 7-12-13; DFW 115-2013(Temp), f. & cert. ef. 10-1-13 thru 3-29-14

Rule Caption: Columbia River Mainstem and Tributary Treaty Indian Fall Commercial Fisheries Amended

Adm. Order No.: DFW 116-2013(Temp)

Filed with Sec. of State: 10-8-2013

Certified to be Effective: 10-9-13 thru 12-31-13

Notice Publication Date:

Rules Amended: 635-041-0045, 635-041-0075

Rules Suspended: 635-041-0045(T), 635-041-0075(T)

Subject: These amended rules close the Columbia River mainstem Treaty Indian fall commercial platform hook-and-line fisheries in zone 6 and below Bonneville Dam, with the exception of Yakama Nation tributary fisheries in the Klickitat River, effective at 6:00 p.m.

Wednesday, October 9, 2013. Modifications are consistent with action taken October 7, 2013 by the Columbia River Compact agencies of the states of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0045

Closed Commercial Fishing Areas

Unless otherwise specified in this rule and OAR 635-041-0063, the following waters are closed to commercial fishing:

(1) All Oregon tributaries of the Columbia River.

(2) The Columbia River westerly and downstream of the Bridge of the Gods except:

(a) Fisheries conducted by the Yakama, Warm Springs and Umatilla tribes downstream of Bonneville Dam (bank fishing only) under provisions of the agreements with the states of Oregon and Washington are open until further notice.

(A) Effective 6:00 p.m. Wednesday, October 9, 2013 commercial sales of Salmon, steelhead, walleye, shad, yellow perch, catfish, bass and carp are prohibited. Sturgeon caught in the tribal fisheries below Bonneville Dam may not be retained or sold.

(B) Gear is restricted to bank fishing with hoopnets, dipnets, set bag nets, and rod and reel with hook-and-line.

(b) Platform and hook-and-line fisheries from the Bridge of the Gods downstream to the subsistence fishing deadline as described in OAR 635-041-0020(1) are open to commercial sales whenever sales are authorized for platform and hook-and-line fisheries in the remainder of Bonneville Pool.

(3) The Columbia River easterly and upstream of a line extending at a right angle across the thread of the river from a deadline marker one mile downstream of McNary Dam.

(4) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at the west end of 3-Mile Rapids located approximately 1.8 miles below The Dalles Dam, upstream to a line from a deadline marker on the Oregon shore located approximately 3/4 mile above The Dalles Dam east fishway exit, thence at a right angle to the thread of the river to a point in midriver, thence downstream to Light "1" on the Washington shore; except that dip nets, bag nets, and hoop nets are permitted during commercial salmon and shad fishing seasons at the Lone Pine Indian fishing site located immediately above The Dalles Interstate Bridge.

(5) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at Preachers Eddy light below the John Day Dam and a line approximately 4.3 miles upstream extending from a marker on the Oregon shore approximately one-half mile above the upper easterly bank of the mouth of the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, thence turning downstream to a marker located on the Washington shore approximately opposite the mouth of the John Day River.

(6) The Columbia River within areas at and adjacent to the mouths of the Deschutes River and the Umatilla River. The closed areas are along the Oregon side of the Columbia River and extend out to the midstream from a point one-half mile above the intersection of the upper bank of the tributary with the Columbia River to a point one mile downstream from the intersection of the lower bank of the tributary with the Columbia River. All such points are posted with deadline markers.

(7) The Columbia River within an area and adjacent to the mouth of the Big White Salmon River. The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

(8) The Columbia River within an area at and adjacent to the mouth of Drano Lake (Little White Salmon River). The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upriver of the outlet of Drano Lake.

(9) The Columbia River within an area and adjacent to the mouth of the Wind River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(10) The Columbia River within areas at and adjacent to the mouth of Hood River. The closed area is along the Oregon side of the Columbia River and extends to midstream at right angles to the thread of the

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Columbia River between markers located approximately 0.85 miles downriver from the west bank at end of the breakwall at the west end of the Port of Hood River and 1/2 mile upriver from the east bank.

(11) The Columbia River within a radius of 150 feet of the Spring Creek Hatchery fishway, except that during the period of August 25-September 20 inclusive the closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between a marker located 1 1/2 miles downriver of the Spring Creek Hatchery fishway up to the downstream marker of the Big White Salmon sanctuary located approximately 1/2 mile upriver of the Spring Creek Hatchery fishway.

(12) Herman Creek upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(13) The Columbia River within an area and adjacent to the mouth of the Klickitat River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1 1/8 miles downstream from the west bank.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & cert. 1-28-77; FWC 133, f. & cert. 8-4-77; FWC 149(Temp), f. & cert. 9-21-77 thru 1-18-78; FWC 2-1978, f. & cert. 1-31-78; FWC 7-1978, f. & cert. 2-21-78; FWC 2-1979, f. & cert. 1-25-79, Renumbered from 635-035-0045; FWC 6-1980, f. & cert. 1-28-80; FWC 4-1980(Temp), f. & cert. 8-22-80; FWC 1-1981, f. & cert. 1-19-81; FWC 6-1982, f. & cert. 1-28-82; FWC 49-1983(Temp), f. & cert. 9-26-83; FWC 4-1984, f. & cert. 1-31-84; FWC 55-1985(Temp), f. & cert. 9-6-85; FWC 4-1986(Temp), f. & cert. 1-28-86; FWC 25-1986(Temp), f. & cert. 6-25-86; FWC 42-1986, f. & cert. 8-15-86; FWC 2-1987, f. & cert. 1-23-87; FWC 10-1988, f. & cert. 3-4-88; FWC 54-1989(Temp), f. & cert. 8-7-89; FWC 90-1989, f. & cert. 9-6-89; FWC 80-1990(Temp), f. & cert. 8-8-90; DFW 142-2008, f. & cert. 11-21-08; DFW 23-2011, f. & cert. 3-21-11; DFW 40-2011(Temp), f. & cert. 5-5-11 thru 10-31-11; DFW 43-2011(Temp), f. & cert. 5-10-11 thru 10-31-11; DFW 60-2011(Temp), f. & cert. 6-2-11, cert. 6-6-11 thru 10-31-11; DFW 63-2011(Temp), f. & cert. 6-8-11, cert. 6-9-11 thru 10-31-11; DFW 66-2011(Temp), f. & cert. 6-14-11, cert. 6-16-11 thru 10-31-11; DFW 88-2011(Temp), f. & cert. 7-10-11 thru 10-31-11; DFW 119-2011(Temp), f. & cert. 8-26-11, cert. 8-29-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 5-2012(Temp), f. & cert. 1-30-12, cert. 2-1-12 thru 3-31-12; DFW 18-2012(Temp), f. & cert. 2-28-12, cert. 2-29-12 thru 6-15-12; DFW 46-2012(Temp), f. & cert. 5-14-12, cert. 5-15-12 thru 6-30-12; DFW 74-2012(Temp), f. & cert. 7-1-12 thru 10-31-12; DFW 87-2012(Temp), f. & cert. 7-11-12, cert. 7-12-12 thru 8-31-12; DFW 94-2012(Temp), f. & cert. 7-27-12 thru 10-31-12; DFW 119-2012(Temp), f. & cert. 9-10-12, cert. 9-11-12 thru 10-31-12; DFW 143-2012(Temp), f. & cert. 11-7-12, cert. 11-8-12 thru 1-29-13; DFW 8-2013(Temp), f. & cert. 1-31-13, cert. 2-1-13 thru 3-31-13; DFW 18-2013(Temp), f. & cert. 3-5-13, cert. 3-6-13 thru 6-15-13; DFW 57-2013(Temp), f. & cert. 6-12-13, cert. 6-16-13 thru 7-31-13; DFW 88-2013(Temp), f. & cert. 8-9-13, cert. 8-12-13 thru 12-31-13; DFW 116-2013(Temp), f. & cert. 10-9-13 thru 12-31-13

635-041-0075

Late Fall Salmon Season

(1) Effective 6:00 p.m. Wednesday, October 9, 2013 the platform and hook-and-line fisheries in Zone 6 of the mainstem Columbia River are closed. Chinook, sockeye, steelhead, coho, walleye, shad, carp, bass, catfish and yellow perch landed prior to 6:00 p.m. Wednesday, October 9, 2013 may be sold at any time or retained for subsistence purposes. Sturgeon may not be sold. However, white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools and white sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be kept for subsistence use.

(2) Effective 6:00 p.m. Wednesday, October 9, 2013 fish caught by Yakama Nation members in all Yakama Nation tributary fisheries are prohibited except the Klickitat River where sales remain open during those days and hours when the fishery is open under lawfully enacted tribal fishing periods. Sturgeon may not be sold but sturgeon 38-54 inches in fork length may be kept for subsistence purposes.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & cert. 8-2-79; FWC 36-1979(Temp), f. & cert. 8-22-79; FWC 47-1979(Temp), f. & cert. 9-21-79; FWC 44-1980(Temp), f. & cert. 8-22-80; FWC 46-1980(Temp), f. & cert. 9-13-80; FWC 33-1981(Temp), f. & cert. 9-15-81; FWC 58-1982(Temp), f. & cert. 8-27-82; FWC 62-1982(Temp), f. & cert. 9-7-82; FWC 63-1982(Temp), f. & cert. 9-14-82; FWC 75-1982(Temp), f. & cert. 10-29-82; FWC 36-1983, f. & cert. 8-18-83; FWC 49-1983(Temp), f. & cert. 9-26-83; FWC 51-1983(Temp), f. & cert. 9-30-83; FWC 55-1983(Temp), f. & cert. 10-4-83; FWC 46-1984, f. & cert. 8-30-84; FWC 55-1984(Temp), f. & cert. 9-10-84; FWC 58-1984(Temp), f. & cert. 9-17-84; FWC 61-1984(Temp), f. & cert. 9-21-84; FWC 70-1984(Temp), f. & cert. 10-9-84; FWC 47-1985, f. & cert. 8-23-85; FWC 60-1985(Temp), f. & cert. 9-13-85; FWC 63-1985(Temp), f. & cert. 9-24-85; FWC 42-1986, f. & cert. 8-15-86; FWC 53-1986(Temp), f. & cert. 9-4-86; FWC 54-1986(Temp), f. & cert. 9-5-86; FWC 57-1986(Temp), f. & cert. 9-11-86; FWC 60-1986(Temp), f. & cert. 9-26-86; FWC 62-1986(Temp), f. & cert. 10-2-86; FWC 63-1987, f. & cert. 8-7-87; FWC 74-1987(Temp), f. & cert. 9-4-87; FWC 75-1987(Temp), f. & cert. 9-1-87; FWC 78-1987(Temp), f. & cert. 9-15-87; FWC 80-1987(Temp), f. & cert. 9-18-87; FWC 87-1987(Temp), f. & cert. 10-9-87; FWC 89-1987(Temp), f. & cert. 10-12-87; FWC 67-1988, f. & cert. 8-15-88; FWC 72-1988(Temp), f. & cert. 8-19-88; FWC 77-1988(Temp), f. & cert. 9-2-88; FWC 91-1988(Temp), f. & cert. 9-16-88; FWC 95-1988(Temp), f. & cert. 9-27-88, cert. 9-28-88; FWC 54-1989(Temp), f. & cert. 8-7-89; FWC 87-1989(Temp), f. & cert. 9-1-89; FWC 95-1989(Temp), f. & cert. 9-19-89; FWC 96-1989(Temp), f. & cert. 9-21-89; FWC 99-1989(Temp), f. & cert. 9-27-89; FWC 100-1989(Temp), f. & cert. 9-28-89; FWC 80-1990(Temp), f. & cert. 8-8-90; FWC

90-1990, f. & cert. 8-31-90; FWC 96-1990(Temp), f. & cert. 9-10-90; FWC 98-1990(Temp), f. & cert. 9-14-90, cert. 9-17-90; FWC 85-1991, f. & cert. 8-7-91, cert. 8-12-91; FWC 96-1991, f. & cert. 9-9-91; FWC 101-1991(Temp), f. & cert. 9-10-91; FWC 103-1991(Temp), f. & cert. 9-17-91, cert. 9-18-91; FWC 110-1991(Temp), f. & cert. 9-27-91; FWC 73-1992(Temp), f. & cert. 8-10-92; FWC 86-1992(Temp), f. & cert. 9-1-92, cert. 9-2-92; FWC 87-1992(Temp), f. & cert. 9-9-92, cert. 9-7-92; FWC 91-1992(Temp), f. & cert. 9-16-92, cert. 9-17-92; FWC 96-1992(Temp), f. & cert. 9-22-92, cert. 9-23-92; FWC 105-1992(Temp), f. & cert. 10-2-92, cert. 10-5-92; FWC 107-1992(Temp), f. & cert. 10-9-92; FWC 47-1993, f. & cert. 8-6-93, cert. 8-9-93; FWC 52-1993, f. & cert. 8-30-93; FWC 57-1993(Temp), f. & cert. 9-13-93; FWC 59-1993(Temp), f. & cert. 9-17-93, cert. 9-20-93; FWC 61-1993(Temp), f. & cert. 9-24-93; FWC 55-1994(Temp), f. & cert. 8-26-94, cert. 8-29-94; FWC 61-1994(Temp), f. & cert. 9-7-94, cert. 8-9-94; FWC 74-1994(Temp), f. & cert. 10-12-94; FWC 68-1995(Temp), f. & cert. 8-25-95, cert. 8-29-95; FWC 72-1995(Temp), f. & cert. 9-1-95; FWC 75-1995(Temp), f. & cert. 9-12-95, cert. 9-13-95; FWC 46-1996, f. & cert. 8-23-96; FWC 48-1996(Temp), f. & cert. 8-29-96, cert. 9-2-96; FWC 51-1996(Temp), f. & cert. 9-6-96, cert. 9-9-96; FWC 53-1996(Temp), f. & cert. 9-26-96; FWC 54-1996(Temp), f. & cert. 9-23-96; FWC 48-1997, f. & cert. 8-25-97; FWC 52-1997(Temp), f. & cert. 8-29-97, cert. 9-2-97; FWC 57(Temp), f. & cert. 9-9-97; FWC 60-1997(Temp), f. & cert. 9-17-97; DFW 68-1998(Temp), f. & cert. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. & cert. 9-14-98, cert. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. & cert. 9-21-98, cert. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. & cert. 9-23-98, cert. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. & cert. 9-2-99, cert. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. & cert. 9-14-99, cert. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. & cert. 9-21-99, cert. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. & cert. 9-28-99, cert. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. 8-18-00, cert. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. & cert. 9-11-00, cert. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. & cert. 9-15-00, cert. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. & cert. 9-10-01, cert. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. & cert. 9-26-01, cert. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. & cert. 10-16-01, cert. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. & cert. 8-16-02, cert. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. & cert. 10-14-02, cert. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. & cert. 8-25-03, cert. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. & cert. 9-12-03, cert. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. & cert. 9-22-03, cert. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. & cert. 9-26-03, cert. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. & cert. 10-3-03, cert. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. & cert. 10-10-03, cert. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. 9-17-04, cert. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. & cert. 10-12-04, cert. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. & cert. 7-31-06, cert. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. & cert. 8-18-06, cert. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. & cert. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. & cert. 9-15-06, cert. 9-18-06 thru 12-31-06; DFW 107-2006(Temp), f. & cert. 9-28-06, cert. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. & cert. 10-13-06, cert. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. & cert. 7-30-07, cert. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. & cert. 8-17-07, cert. 8-22-07 thru 12-31-07; DFW 88-2007(Temp), f. & cert. 9-10-07, cert. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. & cert. 9-21-07, cert. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. & cert. 9-28-07, cert. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. & cert. 10-16-07, cert. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. & cert. 9-4-08, cert. 9-6-08 thru 10-31-08; DFW 109-2008(Temp), f. & cert. 9-12-08, cert. 9-15-08 thru 10-31-08; DFW 112-2008(Temp), f. & cert. 9-17-08, cert. 9-18-08 thru 10-31-08; DFW 117-2008(Temp), f. & cert. 9-22-08 thru 10-31-08; DFW 122-2008(Temp), f. & cert. 9-29-08 thru 10-31-08; DFW 125-2008(Temp), f. & cert. 10-6-08, cert. 10-7-08 thru 10-31-08; DFW 134-2008(Temp), f. & cert. 10-17-08 thru 10-31-08; DFW 141-2008(Temp), f. & cert. 11-10-08, cert. 11-12-08 thru 11-30-08; DFW 88-2009(Temp), f. & cert. 7-31-09, cert. 8-1-09 thru 12-31-09; DFW 95-2009(Temp), f. & cert. 8-19-09, cert. 8-24-09 thru 12-31-09; DFW 111-2009(Temp), f. & cert. 9-11-09, cert. 9-13-09 thru 9-30-09; DFW 114-2009(Temp), f. & cert. 9-18-09, cert. 9-21-09 thru 10-31-09; DFW 119-2009(Temp), f. & cert. 9-29-09 thru 10-31-09; DFW 129-2009(Temp), f. & cert. 10-13-09, cert. 10-14-09 thru 10-31-09; Administrative correction 11-19-09; DFW 111-2010(Temp), f. & cert. 7-30-10, cert. 8-1-10 thru 10-31-10; DFW 120-2010(Temp), f. & cert. 8-18-10, cert. 8-24-10 thru 10-31-10; DFW 128-2010(Temp), f. & cert. 9-10-10 thru 10-31-10; DFW 136-2010(Temp), f. & cert. 9-24-10, cert. 9-27-10 thru 10-31-10; DFW 142-2010(Temp), f. & cert. 10-8-10, cert. 10-9-10 thru 10-31-10; DFW 149-2010(Temp), f. & cert. 10-18-10, cert. 10-19-10 thru 10-31-10; Administrative correction 11-23-10; DFW 103-2011(Temp), f. & cert. 7-29-11, cert. 8-1-11 thru 10-31-11; DFW 119-2011(Temp), f. & cert. 8-26-11, cert. 8-29-11 thru 10-31-11; DFW 124-2011(Temp), f. & cert. 9-8-11, cert. 9-12-11 thru 10-31-11; DFW 130-2011(Temp), f. & cert. 9-15-11, cert. 9-19-11 thru 10-31-11; DFW 133-2011(Temp), f. & cert. 9-21-11, cert. 9-22-11 thru 10-31-11; DFW 138-2011(Temp), f. & cert. 9-30-11, cert. 10-3-11 thru 10-31-11; DFW 142-2011(Temp), f. & cert. 10-6-11, cert. 10-8-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 94-2012(Temp), f. & cert. 7-27-12 thru 10-31-12; DFW 107-2012(Temp), f. & cert. 8-15-12, cert. 8-21-12 thru 10-31-12; DFW 119-2012(Temp), f. & cert. 9-10-12, cert. 9-11-12 thru 10-31-12; DFW 120-2012(Temp), f. & cert. 9-18-12 thru 10-31-12; DFW 124-2012(Temp), f. & cert. 9-25-12, cert. 9-26-12 thru 10-31-12; DFW 127-2012(Temp), f. & cert. 10-2-12 thru 10-31-12; DFW 143-2012(Temp), f. & cert. 11-7-12, cert. 11-8-12 thru 1-29-13; Administrative correction, 2-25-13; DFW 88-2013(Temp), f. & cert. 8-9-13, cert. 8-12-13 thru 12-31-13; DFW 89-2013(Temp), f. & cert. 8-14-13, cert. 8-19-13 thru 12-31-13; DFW 98-2013(Temp), f. & cert. 9-6-13, cert. 9-10-13 thru 10-31-13; DFW 102-2013(Temp), f. & cert. 9-13-13, cert. 9-16-13 thru 10-31-13; DFW 106-2013(Temp), f. & cert. 9-19-13, cert. 9-24-13 thru 10-31-13; DFW 111-2013(Temp), f. & cert. 9-27-13, cert. 9-30-13 thru 10-31-13; DFW 116-2013(Temp), f. & cert. 10-8-13, cert. 10-9-13 thru 12-31-13

Rule Caption: Iplement HB 2252 and Establish 2014 Regulations for Game Mammals

Adm. Order No.: DFW 117-2013

Filed with Sec. of State: 10-10-2013

ADMINISTRATIVE RULES

Certified to be Effective: 10-10-13

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Rules Amended: 635-010-0004, 635-010-0007, 635-010-0015, 635-010-0050, 635-045-0002, 635-060-0030, 635-060-0040, 635-060-0046, 635-060-0055

Subject: Amend rules to implement HB 2252 and establish 2014 regulations for game mammals.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-010-0004

Definitions

(1) "Commission" means the Oregon Fish and Wildlife Commission.
(2) "Department" means the Oregon Department of Fish and Wildlife.
(3) "Licensing Document" means any license, tag, validation, permit, raffle ticket, application or contribution sold by the Oregon Department of Fish and Wildlife.

(4) "License Agent" means any individual, partnership or corporation approved by the Department for the sale of its documents.

(5) "Mail Order Application" means a request for documents on the form provided in the big game, angling or bird regulations, or a hand written request for documents.

(6) "Uniformed Services" means Army, Navy, Air Force, Marine Corps and Coast Guard, or their reserve components; the National Guard or Oregon National Guard, commissioned corps of the National Oceanic and Atmospheric Administration, and the Public Health Service of the United States Department of Health and Human Services detailed with the Army or Navy.

Stat. Auth.: ORS 496 & 497

Stats. Implemented: ORS 496 & 497

Hist.: FWC 124-1990, f. 11-28-90, cert. ef. 1-1-91; DFW 99-1999(Temp), f.12-22-99, cert. ef. 1-1-00 thru 6-27-00; DFW 33-2000, f. & cert. ef. 6-19-00; DFW 117-2013, f. & cert. ef. 10-10-13

635-010-0007

Computerized Licensing System Agents

(1) All agents must use the Department's computerized licensing system for issuing documents, except for issuing Prepaid Daily Angling Licenses.

(2) All Agents must issue documents according to the "Point-of Sale License Agent User Manual" provided by the Department.

(3) Agents may retain a fee of \$1.00 for regular licensing documents and \$2.50 for a sportsman's license. Exception: Agents may retain a fee of \$7.50 for each nonresident annual hunting license, nonresident annual deer tag, nonresident annual elk tag, nonresident annual black bear tag, nonresident annual mountain goat tag, nonresident annual mountain sheep tag and nonresident annual antelope tag. Agents may not charge or accept any additional service or processing fees. Agents must deposit in the bank account identified in the Agreement all other monies collected from the sale of licensing documents.

(4) For the purposes of this rule, the Department may determine Agents having more than one location and owned by a single entity are one agent.

Stat. Auth.: ORS 497.022

Stats. Implemented: ORS 497.022

Hist.: FWC 12-1994, f. & cert. ef. 3-1-94; DFW 99-1999(Temp), f.12-22-99, cert. ef. 1-1-00 thru 6-27-00; DFW 33-2000, f. & cert. ef. 6-19-00; DFW 66-2002(Temp), f. & cert. ef. 6-28-02 thru 12-20-02; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 117-2013, f. & cert. ef. 10-10-13

635-010-0015

Issuing Documents

(1) Licensing documents may be obtained by mail, FAX or Internet. A legible copy of the mail order application form printed in the Oregon Big Game, Game Bird, and Sport Fishing Regulations or a copy of that form may be mailed or Faxed to the Oregon Department of Fish and Wildlife, Licensing Section, 3406 Cherry Avenue NE, Salem, OR, 97303. License documents may be obtained from the Internet from the ODFW website (<http://www.dfw.state.or.us/>).

(a) Requests for mail-ordered documents must be postmarked on or before any deadlines established for issuing such documents;

(b) The Department may require additional information if necessary to complete the ordered documents;

(c) The Department will not issue any document until it receives the required fee by check, money order, or a valid debit or credit card authorization.

(2)(a) With the exceptions noted in paragraph (d) below, a resident is one who has physically dwelled in Oregon continuously for the six months

prior to applying for a license. Temporary absences from Oregon during that time period do not defeat a person's residency so long as such absences were not for the purpose of establishing residency outside Oregon. This is the legal standard for purchasing a resident license.

(b) To implement the legal standard, the applicant must sign this certification for all but resident senior citizen licenses: "I, the undersigned, hereby certify and declare that the information provided to obtain this license/tag is true. To acquire an Oregon resident license/tag I certify that I have resided continuously within Oregon no less than six months immediately prior to applying for this license/tag. I have resided in Oregon for _____ Years _____ Months. I acknowledge this license was issued as requested and understand that no refund will be made."

(c) For a resident senior citizen license, the applicant must sign this certification: "I, the undersigned, hereby certify that the information provided to obtain this license is true. To acquire a resident senior citizen license, I hereby certify that I have reached the age of 70 and have resided in Oregon no less than five years. I further certify that I have resided continuously within Oregon no less than six months immediately prior to applying for this license. I have resided in Oregon since Month ____ Year____. I acknowledge this license/tag was issued as requested and understand that no refund will be made."

(d) The legislature has waived the six month requirement for certain classes of persons:

(1) Active members the uniformed services permanently assigned to active duty in Oregon (and their spouses and dependent children). This includes, but is not limited to, those who serve as crew members of ships that have an Oregon port or shore establishment as their home port or permanent station;

(2) Active members of the uniformed services who reside outside Oregon but paid Oregon resident income taxes no later than 12 months before leaving active duty; and

(3) Aliens attending an Oregon school as foreign exchange students.

(4) A non-resident member of the uniformed services may purchase licenses, tags, and permits at resident rates.

(5) Agents must supply all the information requested on the data screen. If the person applying for the licensing document fails to supply the necessary information, the agent may not issue the requested licensing document. All daily angling licenses must show the date they become valid.

(6) Agents must obtain social security numbers for any person who purchases a license. The Department will use this number to comply with collection of the social security numbers pursuant to the child support enforcement laws as required by Section 117, Chapter 746, Oregon Laws 1997. The Department will issue a system-generated number to persons who are not citizens of this country or who do not have a social security number. If the social security number provided by an applicant is in use by another individual, the agent will not issue the license until the applicant provides proof that the social security number is, in fact, the applicant's social security number. An official document such as a social security card, payroll document, or health insurance identification card with the social security number printed on it must be presented to the agent as proof. An individual's social security number is not subject to disclosure to members of the public under the Oregon Public Records Law.

(7) Any employee of the agent may issue documents, provided that the employee is instructed as to all applicable statutes and regulations. An agent is responsible for employee training and for any violation of applicable statutes and regulations committed by the employees.

Stat. Auth.: ORS 496, 497 & 498

Stats. Implemented: ORS 496, 497 & 498

Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-010-0021; FWC 124-1990, f. 11-28-90, cert. ef. 1-1-91; FWC 122-1992, f. & cert. ef. 11-23-92; FWC 4-1994, f. & cert. ef. 1-25-94; DFW 99-1999(Temp), f.12-22-99, cert. ef. 1-1-00 thru 6-27-00; DFW 33-2000, f. & cert. ef. 6-19-00; DFW 30-2002, f. & cert. ef. 4-11-02; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 129-2008, f. & cert. ef. 10-14-08; DFW 117-2013, f. & cert. ef. 10-10-13

635-010-0050

Licensing Provisions Applicable to Members of the Uniformed Services

Members of the uniformed services of the United States, as defined in ORS 497.006, may purchase resident documents by presenting to the agent military identification showing the person is a member of the uniformed services stationed in Oregon. Spouses and dependent children, as defined in ORS 497.006, are residents for licensing purposes.

Stat. Auth.: ORS 496, 497 & 498

Stats. Implemented: ORS 496, 497 & 498

Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-010-0046; FWC 124-1990, f. 11-28-90, cert. ef. 1-1-91; FWC 122-1992, f. & cert. ef. 11-23-92; DFW 99-1999(Temp), f.12-22-99, cert. ef. 1-1-00 thru 6-27-00; DFW 33-2000, f. & cert. ef. 6-19-00; DFW 30-2002, f. & cert. ef. 4-11-02; DFW 117-2013, f. & cert. ef. 10-10-13

ADMINISTRATIVE RULES

635-045-0002

Definitions

(1) "Adult hunting license" is a resident or nonresident hunting license, resident combination angling and hunting license, disabled veteran's angling and hunting license, pioneer's angling and hunting license or senior citizen's angling and hunting license.

(2) "Agricultural lands" are lands that are not less than ten acres in extent that have been cultivated and planted or irrigated to domestic crops that are currently in use. Isolated home gardens, abandoned farmsteads, logged lands, rangelands, and tree farms, are not included in this definition.

(3) "Antler Point" is a point at least one inch in length measured from tip of point to nearest edge of beam. This definition applies only to the three-point elk and spike only elk bag limits.

(4) "Antlerless deer" means doe or fawn deer.

(5) "Antlerless elk" means cow or calf elk.

(6) "Application" means the electronic form completed and purchased to apply for a hunt where the number or distribution of hunters is limited through a public drawing or other means. Mail order applications sent to the Department along with the proper remittance are used to generate the electronic form.

(7) "Bait" for hunting game mammals means any substance placed to attract an animal by its sense of smell or taste, including but not limited to food items or minerals (such as salt). Applying a scent or attractant to one's body or clothing while worn, is not baiting.

(8) "Baited Area" means an area where baiting has taken place.

(9) "Baiting" means the placing, exposing, depositing, distributing, or scattering of corn, wheat, salt or other feed to constitute a lure or enticement to, on, or over an area where hunters are attempting to take game birds.

(10) "Brace" is defined as an orthosis that is prescribed by a physician and fabricated by an orthotist certified by the American Board for Certification in Orthotics and Prosthetics, Inc.

(11) "Brace Height" is the distance from the back of the bow's riser at the handgrip to the string when the bow is at rest.

(12) "Buck Deer" means a male deer with at least one visible antler.

(13) "Buck Pronghorn" means a male pronghorn antelope with visible horns and a dark cheek patch below the ear.

(14) "Bull elk" for the purposes of a bag limit definition, means a male elk with at least one visible antler.

(15) "Calendar year" means from January 1 through December 31.

(16) "Carcass" is the skinned or unskinned body, with or without entrails, of a game bird or game mammal.

(17) "Cascade elk" means any live elk occurring in the Dixon, Evans Creek, Indigo, Keno, McKenzie, Metolius, Rogue, Santiam and Upper Deschutes units and those parts of Fort Rock and Sprague units west of Highway 97, and that part of Grizzly Unit west of Hwy 97 and south of Hwy 26.

(18) "Closed season" is any time and place when it is not authorized to take a specific species, sex or size of wildlife.

(19) "Coast elk" means any live elk occurring in the Alsea, Applegate, Chetco, Melrose, Powers, Saddle Mountain, Scappoose, Siuslaw, Sixes, Stott Mountain, Tioga, Trask, Willamette, and Wilson units.

(20) "Commission" means the Oregon Fish and Wildlife Commission.

(21) "Controlled hunt" is a season where the number or distribution of hunters is limited through a public drawing or other means.

(22) "Department" means the Oregon Department of Fish and Wildlife.

(23) "Director" means the Oregon Fish and Wildlife Director.

(24) "Doe or fawn pronghorn" means a female pronghorn antelope without a dark cheek patch below the ear or a pronghorn fawn (young of the year) of either sex.

(25) "Domestic partner" means, as provided in section 3 of the Oregon Family Fairness Act of 2007 (ORS Chapter 106), "an individual who has, in person, joined into a civil contract with another individual of the same sex, provided that each individual is at least 18 years of age and is otherwise capable, and that at least one of the individuals is a resident of Oregon."

(26) "Eastern Oregon" means all counties east of the summit of the Cascade Range including all of Klamath and Hood River counties.

(27) "Eastern Oregon deer" means any live deer occurring east of the east boundaries of the Santiam, McKenzie, Dixon, Indigo and Rogue units.

(28) "Eligible Hunter" means someone who will be 12 years of age by the time they hunt.

(29) "Entry permit" means a permit issued by the Department to be in an area where entry is restricted by regulation.

(30) "Established airport" is one that the Oregon Department of Aviation has licensed as a public-use airport, registered as a personal-use airport, or specifically exempted from either licensing or registration.

(31) "Feral Swine" means animals of the genus *Sus* as defined by the Oregon Department of Agriculture in OAR 603-010-0055.

(32) "Fiscal year" means from July 1 through June 30.

(33) "Furbearers" are beaver, bobcat, fisher, marten, mink, muskrat, otter, raccoon, red fox, and gray fox.

(34) "Game Birds" are any waterfowl, snipe, band-tailed pigeon, mourning dove, pheasant, quail, partridge, grouse, or wild turkey.

(35) "Game mammals" are pronghorn antelope, black bear, cougar, deer, elk, moose, Rocky Mountain goat, bighorn sheep, and western gray squirrel.

(36) "General season" is any season open to the holder of a valid hunting license and appropriate game mammal tag without restriction as to the number of participants.

(37) "Hunter certification" means to have met educational, safety or other requirements designated by administrative rule for participation in a hunt.

(38) "Hunt" means to take or attempt to take any wildlife by means involving the use of a weapon or with the assistance of any mammal or bird.

(39) "Husbandry" means the care given animals directly by their owners and managers, including but not limited to:

- (a) Nutrition;
- (b) Breeding program;
- (c) Veterinary medical care;
- (d) Environmental cleanliness; and
- (e) Humane handling.

(40) "Immediate family" for the purpose of Landowner Preference, means a landowner's spouse, children, father, mother, brother, sister, stepchildren, and grandchildren.; for all other purposes, it means spouse, domestic partner, children, father, mother, brother, sister, stepchildren, and grandchildren.

(41) "Inedible" means unfit for human consumption.

(42) "Juvenile hunting license" is a resident, nonresident hunting license or resident combination angling and hunting license for persons 9 to 17 years of age to hunt wildlife.

(43) "Landowner", as used in OAR chapter 635, division 075, means:

- (a) A person who holds title in trust or in fee simple to 40 or more contiguous acres of land; provided however that a recorded deed or contract of ownership shall be on file in the county in which the land is located; and/or
- (b) A corporation or Limited Liability Company (LLC) holding title in fee simple to 40 or more contiguous acres of land; provided however that the corporation or LLC shall be registered with the State of Oregon; and/or
- (c) A partnership holding title in fee simple to 40 or more contiguous acres of land; and/or
- (d) Persons who hold title as part of a time share are not eligible for landowner preference.

(44) "Low Income" means a person who is "economically disadvantaged" as defined in Section 4(8) of the Federal Job Training Partnership Act of 1982.

(45) "Mounted Wildlife" means any hide, head or whole body of wildlife prepared by a licensed taxidermist for display.

(46) "Muzzleloader" is any single-barreled (shotguns may be double barreled) long gun meant to be fired from the shoulder and loaded from the muzzle with an open ignition system and open or peep sights.

(47) "On or within" means a straight line distance measured on a map.

(48) "One deer" means a buck, doe, or fawn deer.

(49) "One elk" means a bull, cow, or calf elk.

(50) "Open Ignition" is an ignition system where the percussion cap, or frizzen, or flint is visible and exposed to the weather at all times and is not capable of being closed or covered by any permanent piece of the weapon.

(51) "Partner" means a person in an association of two or more persons formed to carry on as co-owners for profit.

(52) "Point-of-Sale" (POS) is a computerized licensing system available at locations that sell Oregon's hunting and angling licenses. Licenses and tags are generated and issued directly to customers from a POS machine at the time of sale.

(53) "Possession" means to have physical possession or to otherwise exercise dominion or control over any wildlife or parts thereof, and any per-

ADMINISTRATIVE RULES

son who counsels, aids or assists another person holding such wildlife is deemed equally in possession.

(54) "Postmark" means the date of mailing as stated in a mark applied by the U.S. Postal Service to a piece of mail. Office postal machine meter marks are not valid application deadline postmarks.

(55) "Predatory animals" means coyotes, rabbits, rodents, and feral swine which are or may be destructive to agricultural crops, products and activities.

(56) "Protected wildlife" means "game mammals" as defined in OAR 635-045-0002(34) "game birds" as defined in 635-045-0002(33), "furbearers" as defined in 635-045-0002(32), "threatened and endangered species" as defined in 635-100-0125, and "nongame wildlife protected" as defined in 635-044-0130.

(57) "Pursue" means the act of trailing, tracking, or chasing wildlife in an attempt to locate, capture, catch, tree, or kill any game mammal or furbearer.

(58) "Raw pelt" means any pelt that has not been processed or converted to any usable form beyond initial cleaning, stretching, and drying.

(59) "Resident" is any person who

(a) Has resided in Oregon for a period of at least six consecutive months immediately prior to the date of making application for a license, tag, or permit.

(b) Members of the uniformed services of the United States who:

(A) Are permanently assigned to active duty in this state, and their spouse and dependent children.

(B) Reside in this state while assigned to duty at any base, station, shore establishment or other facility in this state.

(C) Reside in this state while serving as members of the crew of a ship that has an Oregon port or shore establishment as its home port or permanent station.

(D) Aliens attending school in Oregon under a foreign student exchange program.

(E) All other persons are nonresidents.

(60) "Resident juvenile" is any "Resident" of Oregon 14 through 17 years of age.

(61) "River" is that portion of a natural water body lying below the level of bankfull stage. Bankfull stage is the stage or elevation at which overflow of the natural banks of a stream or body of water begins to inundate the upland.

(62) "Rocky Mountain elk" is any live elk occurring east of the following described line: Beginning at the California line on Highway 97; north on Highway 97 to State Highway 26 at Madras; northwest on Highway 26 to east boundary of Santiam Unit; north along east boundary of Santiam Unit to the Columbia River.

(63) "Sabot" A carrier, bushing or device in which a projectile of a smaller caliber is centered so as to permit firing the projectile within a larger caliber weapon. Cloth, paper or felt patches used with round balls are not considered a sabot.

(64) "Shotgun" is a smoothbore firearm, designed for firing birdshot, and intended to be fired from the shoulder, with a barrel length of 18 inches or more, and with an overall length of 26 inches or more. Exception: Shotguns equipped with rifled slug barrels are considered shotguns when used for hunting pronghorn antelope, black bear, cougar, deer, or elk when centerfire rifles or shotguns are legal weapons.

(65) "Sight bait" is exposed flesh bait within 15 feet of any foothold trap set for carnivores.

(66) "Spike deer" is a deer with spike (unbranched) antlers.

(67) "Spike-only bull elk" means a bull elk with at least one visible unbranched antler (a brow tine is not considered an antler branch under spike-only regulations).

(68) "Stockholder" is a person who owns stock within a corporation as defined in OAR 635-045-0002(42)(b).

(69) "Tag" is a document authorizing the taking of a designated kind of mammal at a specified time and place.

(70) "Take" means to kill or obtain possession or control of any wildlife.

(71) "Three point plus elk" for the purposes of a bag limit definition, means a bull elk having 3 points or more on one antler including the brow tine.

(72) "Unbarbed broadhead" is a fixed position arrowhead where the rear edge of the blade(s) forms an angle with the arrow shaft to which it is attached of 90° or greater.

(73) "Uniformed Services" means Army, Navy, Air Force, Marine Corps and Coast Guard, or their reserve components; the National Guard or Oregon National Guard, commissioned corps of the National Oceanic and

Atmospheric Administration, and the Public Health Service of the United States Department of Health and Human Services detailed with the Army or Navy.

(74) "Unprotected Mammals and Birds" are European starling, house sparrow, Eurasian collared-dove and any mammal species for which there are no closed seasons or bag limits.

(75) "Valid certification permit" is a permit for the current season that has not become invalid after taking a season limit or illegal game bird.

(76) "Visible Antler" means a velvet or hardened antler that is visible above the hairline on the skullcap and is capable of being shed.

(77) "Wait period" means the length of time a successful controlled hunt applicant must wait before reapplying for the species for which he was successful in drawing.

(78) "Waste" means to allow any edible portion of any game mammal (except cougar) or game bird to be rendered unfit for human consumption, or, to fail to retrieve edible portions, except internal organs, of such game mammals or game birds from the field. Entrails, including the heart and liver, are not considered edible.

(79) "Waterfowl" means ducks, geese, mergansers and coots.

(80) "Weapon" is any device used to take or attempt to take wildlife.

(81) "Western Oregon" means all counties west of the summit of the Cascade Range except Klamath and Hood River counties.

(82) "Western Oregon deer" is any live deer except the Columbian white-tailed deer occurring west of the east boundaries of the Santiam, McKenzie, Dixon, Indigo, and Rogue units.

(83) "Wildlife" means fish, wild birds, amphibians, reptiles, wild mammals, and feral swine.

(84) "Wildlife" means for the purposes of harassment to relieve damage described in OAR 635-043-0096 through 635-043-0115, game mammals, game birds except migratory birds protected by Federal law, furbearing mammals and wildlife declared protected by the commission.

(85) "Wildlife" means for the purposes of scientific taking described in OAR 635-043-0023 through 635-043-0045, wild birds, wild mammals, amphibians and reptiles, including nests, eggs, or young of same.

(86) "Wildlife" means, for the purposes of the Wildlife Diversity Plan described in OAR 635-100-0001 through 635-100-0194, fish, shellfish, amphibians, reptiles, feral swine, wild mammals, wild birds, and animals living intertidally on the bottom as defined by ORS 506.011.

(87) "Wildlife unit" is a geographic area described in OAR 635-080-0000 through 635-080-0077.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 47-1989, f. & cert. ef. 7-25-89; FWC 104-1989, f. & cert. ef. 9-29-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 22-1990, f. & cert. ef. 3-21-90; FWC 17-1991, f. & cert. ef. 3-12-91; FWC 33-1991, f. & cert. ef. 3-25-91; FWC 50-1991, f. & cert. ef. 5-13-91; FWC 57-1991, f. & cert. ef. 6-24-91; FWC 9-1993, f. & cert. ef. 2-8-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 20-1995, f. & cert. ef. 3-6-95; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 50-1996, f. & cert. ef. 8-30-96; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 53-1997, f. & cert. ef. 9-3-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 142-2005, f. & cert. ef. 12-16-05; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 52-2008, f. & cert. ef. 5-28-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 108-2009, f. & cert. ef. 9-8-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 103-2012, f. & cert. ef. 8-6-12; DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 117-2013, f. & cert. ef. 10-10-13

635-060-0030

Issuing Tags

(1) The Department may, except for bighorn sheep and Rocky Mountain goat, issue tags or permits in excess of the quantity authorized by the commission to resolve documented errors made by the Department. The quantity shall not exceed an amount consistent with the management goals of the hunt.

(2) The number of controlled deer and controlled elk tags issued to nonresident applicants shall not exceed five percent of the tags authorized for each hunt. Exception: one nonresident tag may be issued for each hunt when the number of authorized tags is fewer than 35. This number does not affect the tags issued under the Landowner Preference Program (OAR chapter 635, division 075).

(3) Tags will not be issued to a party (residents or nonresidents) when, during the drawing process, the party size exceeds the number of remaining tags.

(4) Youths age 12-17 who are unsuccessful in the first controlled hunt drawing for 100, 200, or 600 series hunts may apply for one guaranteed "first time" tag per series, provided that:

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(a) Youths are limited to only one "first time" tag per series in a life-time.

(b) Within the 200 series, only hunts with antlerless only bag limits are available as "first time" tags.

(c) Hunts are only available as "first time" opportunities as follows: 100 series hunts must have had more than 200 tags available in the first drawing; 200 and 600 series hunts must have had more than 50 tags available in the first drawing.

(d) Applicants shall use forms available in the Oregon Big Game Regulations beginning July 1 of each year.

(e) Persons who were successful in any controlled hunt drawing for 100, 200, or 600 series hunts are never again eligible for "first time" tags in the respective hunt series.

(f) Successful "first time" applicants shall purchase tags at POS vendors by the day before the assigned season begins.

(g) Youths may not receive a "First Time" youth hunt tag in a hunt series if they applied for a point saver option in the primary big game drawing.

(5) Incentive tags for compliance with Mandatory Harvest Reporting requirements. The Fish and Wildlife Commission authorizes the Department to issue hunting tags as incentives to encourage hunters to comply with requirements for harvest reporting. Any hunter who complies with harvest reporting requirements by the specified deadline will be automatically entered in a controlled hunt draw for one Mandatory Hunter Reporting Incentive Tag valid for the upcoming hunting season. Obtaining and using such tags is governed by OAR 635-065-0015(7).

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 18-1991, f. & cert. ef. 3-12-91; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 108-2002(Temp), f. & cert. ef. 9-26-02 thru 12-31-02; DFW 86-2003(Temp), f. & cert. ef. 8-29-03 thru 9-4-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 58-2010(Temp), f. & cert. ef. 5-12-10 thru 11-8-10; Administrative correction 11-23-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 117-2013, f. & cert. ef. 10-10-13

635-060-0040

Active Member of the Uniformed Services Controlled Hunt Tags

(1) Each Oregon Department of Fish and Wildlife (Department) Wildlife District office is authorized to issue, for hunts at least partially within their Wildlife District, up to 20 controlled hunt tags for deer, 20 controlled hunt tags for elk, and 20 controlled hunt or limited spring bear tags to Oregon residents who are active members of the Armed Forces currently stationed outside of Oregon, but in Oregon on Temporary Leave.

(2) Active members of the uniformed services Controlled Hunt Tags or Limited Tags will be issued first come first served until the authorized number has been issued.

(3) To purchase the tag the active members of the uniformed services must provide the following information to the Department District office responsible for issuing the tag:

(a) A copy of an active duty military ID.

(b) A copy of current leave papers to document they are currently stationed outside of Oregon.

(c) A valid Oregon resident hunting license.

(4) Controlled or limited hunts for which active members of the uniformed services controlled hunt tags can be issued include:

(a) Controlled or limited spring bear hunts, controlled deer or elk hunts with a bag limit of "antlerless", or "spike only", or "antlerless or spike", that have a minimum of 20 tags authorized by the Commission.

(b) Controlled deer or elk hunts with a bag limit that allows buck deer or bull elk with two or more points on one antler, not counting the brow tine, to be harvested, that have a minimum of 60 tags authorized by the Commission.

(c) Additional tags for active members of the uniformed services for each controlled hunt will not exceed 10% of the tag number authorized by the Commission.

(5) Active members of the uniformed services Controlled Hunt Tags cannot be authorized for

(a) Controlled hunts occurring on the Starkey Experimental Forest, Hart Mountain NAR, or Umatilla NWR.

(6) All hunt specific regulations adopted by the Commission for hunts where tags are issued (dates, bag limits, boundaries, etc.) will apply.

(7) Tag recipients must pay the standard resident price for the tag. Any additional fee for purchasing a tag after the tag sale deadline will be waived.

(8) The hunter must provide harvest and effort information to the issuing office within five business days after the closing date of the hunt printed on the tag.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: DFW 125-2012, f. & cert. ef. 9-26-12 thru 3-15-13; DFW 132-2012, f. & cert. ef. 10-11-12; DFW 20-2013(Temp), f. & cert. ef. 3-11-13 thru 9-6-13; DFW 117-2013, f. & cert. ef. 10-10-13

635-060-0046

Lost Tags and Tag Exchanges

(1) A fee of \$15.00 (plus a \$2.00 license agent fee) is charged to replace a tag or permit. However, a \$10.00 license agent fee will be charged for each nonresident annual hunting license, nonresident annual deer tag, nonresident annual elk tag, nonresident annual black bear tag, nonresident annual mountain goat tag, nonresident annual mountain sheep tag and nonresident annual antelope tag issued. If the fee paid for the tag or permit that was lost, destroyed or stolen was less than \$15, the same fee shall be charged for the duplicate tag or permit. A fee of \$5.00 (plus a \$2.00 license agent fee) is charged to exchange a tag or permit. However, a \$10.00 license agent fee will be charged for nonresident deer and elk tags. Duplicates and exchanges may be obtained only through the Salem headquarters, regional offices of the Department, and designated district offices.

Exception: Replacement controlled hunt tags or permits will be issued at no charge only through the Salem headquarters or regional office of the Department if the Department determines that the person never received the original controlled tag or permit mailed from the Salem headquarters office.

(2) A Controlled Buck Deer Tag or Controlled Elk Tag may be exchanged for a general season tag before the opening date of the season for which either tag is valid.

(3) No controlled hunt tag shall be exchanged for another controlled hunt tag, except as described in 635-060-0008(5) and 635-075-0015(3).

(4) A Controlled Antlerless Deer Tag shall not be exchanged.

(5) In the event of the death of a successful controlled hunt applicant before the start of the season for which the tag or permit was issued, the tags of the deceased may be issued to a family member as defined by OAR 635-045-0002. Tag or permit transfer shall require a copy of the death certificate and the original controlled hunt tag or permit, and must be requested by the legal heir to the deceased which shall be presumed by possession of the tag or permit and death certificate.

(6) A "leftover" controlled hunt tag may only be exchanged for a general season tag, but only if the person does not already possess a tag authorized by OAR 635-065-0015(4)(a), (b) or (c) or 635-0065-0015(5)(a), (b), (c), (d), (e), (f) or (g).

(7) The Commission shall accommodate Oregon residents who have lost preference points because of being called to active military service after June 1, 2002.

(a) The Commission shall accommodate the following individuals called to service at any location: Oregon National Guard.

(b) The Commission shall accommodate the following Oregon residents with military operational commitments: regular members of the United States Armed Forces (Army, Navy, Air Force, Marines, and Coast Guard), members of the United States military reserves, and members of the National Guard.

(c) The Commission authorizes the Director to make such accommodations by:

(A) Reinstating preference points existing for a series, plus an additional point for participating in the draw.

(B) Reinstating preference points lost after two consecutive years of not applying for a controlled hunt in that series.

(d) Individuals seeking accommodation pursuant to this rule (or immediate family members acting on their behalf) must make a request in writing or in person to the Salem headquarters office. Each request must include a letter from a supervising officer on official unit letterhead verifying operational commitments.

(8)(a) The Director may reinstate the preference points of a person who the Director determines did not or will not participate in a controlled hunt because of:

(A) Circumstances beyond the person's control; or

(B) Tragic personal circumstances.

(b) "Tragic personal circumstances" means:

(A) Death or life-threatening injury or illness in the person's immediate family; or

(B) The person's own serious injury or illness, which results in the person's hospitalization. The person need not be hospitalized during the hunt; this rule also applies if preparation for surgery or recovery after hospitalization renders the person incapable of participating in the hunt.

(c) To apply for reinstatement, the person must provide a sworn affidavit providing adequate details and must return the unused tag if it was purchased or a signed affidavit stating the tag was not used. When relying

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upon tragic personal circumstances, the person must also provide a sworn affidavit by a physician. When relying upon circumstances beyond the person's control, the person must also provide documentation of the circumstances (such as an accident report or affidavit from an employer).

(d) "Circumstances beyond the person's control" excludes complaints about the quality of a hunt (including, but not limited to, road closures, inclement weather and work being conducted in the hunt area).

(e) If the Director decides that the person does not qualify for reinstatement, the person may appeal that decision to the Oregon Fish and Wildlife Commission (Commission). The Commission must review the Director's decision within 60 days after receipt of appeal. The Commission will not take verbal testimony from the person, and the Commission's decision is final.

(f) If the Director or Commission reinstates a person's preference point under this subsection, the person will be awarded a new point as when classified as "unsuccessful" in the draw and is not entitled to a refund of license or tag fees.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 118, f. & ef. 6-3-77; FWC 32-1978, f. & ef. 6-30-78; FWC 29-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 7-1981, f. 2-18-81, ef. 6-1-81; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 21-1982, f. & ef. 3-31-82; FWC 38-1982, f. & ef. 6-25-82; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 40-1987, f. & ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 18-1991, f. & cert. ef. 3-12-91; FWC 55-1992(Temp), f. 7-22-92, cert. ef. 7-24-92; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 94-1994, f. & cert. ef. 12-22-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 52-2001(Temp), f. & cert. ef. 6-27-01 thru 12-24-01; DFW 13-2002, f. & cert. ef. 2-12-02; DFW 34-2002, f. & cert. ef. 4-18-02; DFW 36-2002(Temp), f. & cert. ef. 4-22-02 thru 10-19-02; DFW 50-2002(Temp), f. & cert. ef. 5-16-02 thru 11-12-02; DFW 29-2003(Temp), f. & cert. ef. 4-9-03 thru 10-1-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04; DFW 107-2004(Temp), f. & cert. ef. 10-18-04 thru 11-27-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 26-2005, f. & cert. ef. 4-20-05; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 93-2007(Temp), f. & cert. ef. 9-26-07 thru 3-23-08; Administrative correction 4-23-08; DFW 126-2008(Temp), f. & cert. ef. 10-6-08 thru 4-4-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 14-2012(Temp), f. & cert. ef. 2-10-12 thru 8-7-12; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 117-2013, f. & cert. ef. 10-10-13

635-060-0055

Documents Required in Field

(1) A person hunting in any controlled game mammal hunt shall have on his or her person a valid hunting license, Hunter Education Certificate or a Department document which includes their Hunter Education Certificate Number (for persons less than 18 years old), and a controlled hunt tag (if applicable) for the area and season being hunted. The hunting license number shall be the same as that indicated on the controlled hunt tag.

Exception: Controlled hunts continuing or occurring after December 31, 2014 may have a 2015 hunting license number on the controlled hunt tag.

(2) A tag or permit holder for a hunt after December 31, 2014 shall have on his or her person a valid 2015 hunting license.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 32-1978, f. & ef. 6-30-78; FWC 29-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 7-1981, f. 2-18-81, ef. 6-1-81; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 38-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 14-1989, f. & cert. ef. 3-28-89; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 23-1990, f. & cert. ef. 3-21-90; FWC 18-1991, f. & cert. ef. 3-12-91; FWC 14-1992, f. 3-10-92, cert. ef. 3-13-92 (and corrected 3-13-92); FWC 36-1993, f. & cert. ef. 6-14-93; FWC 51-1993, f. & cert. ef. 8-25-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 45-1994(Temp), f. & cert. ef. 7-29-94; FWC 94-1994, f. & cert. ef. 12-22-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 4-2003, f. 1-17-03, cert. ef. 4-1-03; DFW 119-2003, f. 12-4-03, cert. ef. 4-1-04; DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 132-2005, f. 12-1-05, cert. ef. 4-1-06; DFW 126-2006, f. 12-7-06, cert. ef. 4-1-07; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 117 2010, f. & cert. ef. 8-13-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 117-2013, f. & cert. ef. 10-10-13

Rule Caption: Amend Rule for Closed Commercial Dungeness Crab Season In Pacific Ocean and Columbia River

Adm. Order No.: DFW 118-2013

Filed with Sec. of State: 10-11-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 9-1-2013

Rules Amended: 635-005-0465

Subject: The amended rule incorporates by reference sections of the Pre-season Testing Protocol for the Tri-State Coastal Dungeness Crab Commercial Fishery. In the event that crab quality tests do not meet the criteria for opening the season on December 1, the Director shall adopt temporary rules delaying the season in accordance with the Tri-State Protocol.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-005-0465

Closed Season in Pacific Ocean and Columbia River

(1) It is *unlawful* to take, land or possess Dungeness crab for commercial purposes from the Pacific Ocean or Columbia River from August 15 through November 30.

(2) The season opening for the commercial Ocean Dungeness crab fishery may be delayed in one or more fishing zones based on the results of crab quality testing. The Pre-season Testing Protocol for the Tri-State Coastal Dungeness Crab Commercial Fishery (hereafter, "Tri-State Protocol") specifies the process for establishing fishing zones (section VI) and coordinating the opening of the fishery in Washington, Oregon, and California north of Point Arena (sections IV and V). Therefore, the following sections of the Tri-State Protocol (Revised September 2013) are hereby incorporated into Oregon Administrative Rule by reference:

(a) Section IV — Season Opening Criteria.

(b) Section V — Test Fishing and Process for Setting the Season Opening Date.

(c) Section VI — Procedure for Establishing Fishing Zones. In the event that crab quality tests do not meet the criteria for opening the season on December 1, the Director shall adopt temporary rules delaying the season in accordance with the Tri-State Protocol.

(3) It is *unlawful* to land, receive or buy, Dungeness crab in the first thirty days of the ocean Dungeness crab fishery from a vessel that has not been certified by officials of the State of Oregon, Washington, or California to have been free of Dungeness crab before fishing in the ocean Dungeness crab fishery. In the event the area between Gray's Harbor, Washington and Point Arena, California is divided into zones with different season opening dates, the ocean Dungeness crab fishery refers to the fishery in that zone for the purposes of this rule.

(4) In the event the area between Gray's Harbor, Washington and Point Arena, California is divided into zones with different season opening dates, the transfer of a permit from one vessel to another is suspended from the earliest season opening date through thirty days after the latest season opening date, except in the event a vessel is unintentionally destroyed due to fire, capsizing, sinking, or other event.

(5) Upon a determination by the Department that catch in Oregon's ocean Dungeness crab fishery after May 31 is greater than ten percent of the catch in the previous December 1 through May 31 period, the Director shall adopt a temporary rule closing the commercial season until the following December 1.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 285(74-20), f. 11-27-74, ef. 12-25-74; FC 293(75-6), f. 6-23-75, ef. 7-11-75; FWC 30, f. & ef. 11-28-75; FWC 132, f. & ef. 8-4-77; FWC 30-1985, f. 6-27-1985, ef. 7-1-85, Renumbered from 625-010-0155, Renumbered from 635-036-0125; FWC 56-1982, f. & ef. 8-27-82; FWC 13-1983, f. & ef. 3-24-83; FWC 39-1983(Temp), f. & ef. 8-31-83; FWC 11-1984, f. 3-30-84, ef. 9-16-84, except section (1) per FWC 45-1984, f. & ef. 8-30-84; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 78-1986(Temp), f. & ef. 12-1-86; FWC 36-1987, f. & ef. 7-1-87; FWC 97-1987(Temp), f. & ef. 11-17-87; FWC 102-1988, f. 11-29-88, cert. ef. 12-29-88; FWC 119-1989(Temp), f. 11-29-89, cert. ef. 12-1-89; FWC 135-1991(Temp), f. 12-10-91, cert. ef. 12-11-91; FWC 136-1991(Temp), f. & cert. ef. 12-19-91; FWC 112-1992, f. 10-26-92, cert. ef. 11-1-92; FWC 70-1993, f. 11-9-93, cert. ef. 11-11-93; FWC 88-1994(Temp), f. 11-30-94, cert. ef. 12-1-94; FWC 89-1994(Temp), f. & cert. ef. 12-1-94; FWC 89-1995(Temp), f. 11-28-95, cert. ef. 12-1-95; FWC 1-1996(Temp), f. 1-11-96, cert. ef. 1-13-96; DFW 51-1998(Temp), f. 6-29-98, cert. ef. 7-1-98 thru 9-15-98; DFW 54-1998(Temp), f. & cert. ef. 7-24-98 thru 9-15-98; DFW 40-1999, f. & cert. ef. 5-26-99; DFW 70-2000, f. & cert. ef. 10-23-00; DFW 77-2000(Temp), f. 11-27-00, cert. ef. 12-1-00 thru 12-14-00; DFW 39-2002, f. & cert. ef. 4-26-02; DFW 128-2002(Temp), f. & cert. ef. 11-15-02 thru 1-31-03; DFW 129-2002(Temp), f. & cert. ef. 11-20-02 thru 1-31-03; DFW 132-2002(Temp), f. & cert. ef. 11-25-02 thru 1-31-03 (Suspended by DFW 133-2002(Temp)); DFW 133-2002(Temp), f. & cert. ef. 12-6-02 thru 1-31-03; DFW 117-2003(Temp), f. 11-25-03, cert. ef. 12-1-03 thru 2-29-04; Administrative correction 10-26-04; DFW 113-2004(Temp), f. 11-23-04, cert. ef. 12-1-04 thru 3-1-05; DFW 116-2004(Temp), f. & cert. ef. 12-8-04 thru 3-1-05; DFW 126-2004(Temp), f. & cert. ef. 12-21-04 thru 3-1-05; DFW 132-2004(Temp), f. & cert. ef. 12-30-04 thru 3-1-05; Administrative correction, 3-18-05; DFW 129-2005(Temp), f. & cert. ef. 11-29-05 thru 12-31-05; DFW 140-2005(Temp), f. 12-12-05, cert. ef. 12-30-05 thru 5-31-06; Administrative correction 7-20-06; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 161-2010(Temp), f. 12-9-10, cert. ef. 12-10-10 thru 2-16-11; Administrative correction, 3-29-11; DFW 155-2011(Temp), f. 11-18-11, cert. ef. 12-1-11 thru 12-31-11; DFW 156-2011(Temp), f. 12-9-11, cert. ef. 12-15-11 thru 1-31-12; Administrative correction 4-24-12; DFW 37-2012, f. 4-24-12, cert. ef. 5-1-12; Renumbered from 635-005-0045, DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 145-2012(Temp), f. 11-14-12, cert. ef. 12-1-12 thru 12-31-12; DFW 146-2012(Temp), f. 12-11-12, cert. ef. 12-12-12 thru 6-9-13; Administrative correction, 6-27-13; DFW 118-2013, f. 10-11-13, cert. ef. 10-15-13

ADMINISTRATIVE RULES

Rule Caption: Late Fall Commercial Drift Gill Net Seasons for the Mainstem Columbia River

Adm. Order No.: DFW 119-2013(Temp)

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-16-13 thru 10-31-13

Notice Publication Date:

Rules Amended: 635-042-0060

Subject: Amended rule authorizes fishing periods for the 2013 late fall commercial salmon drift gill net fishery in the Columbia River mainstem. The first fishery authorizes three 12 hour night time fishing periods in Zones 1 through 3, the first fishing period beginning at 6:00 a.m. Wednesday, October 16, 2013. The second fishery authorizes four night fishing periods in Zones 4 and 5, the first authorized fishing period beginning at 7 p.m. October 17, 2013. Modifications are consistent with action taken October 15, 2013 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0060

Late Fall Salmon Season

(1) Late Fall Salmon Fishery Zones 1-3.

(a) Salmon may be taken for commercial purposes from the Columbia River in Zones 1 through 3, upper deadline defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore during the following fishing periods:

(A) 6:00 a.m. to 6:00 p.m. Wednesday October 16, 2013 (12 hours);

(B) 6:00 a.m. to 6:00 p.m. Friday October 18, 2013 (12 hours); and

(C) 6:00 a.m. to 6:00 p.m. Monday October 21, 2013 (12 hours)

(b) For the fishing periods described in section (1)(a) above, gear is restricted to drift gill nets with a 6-inch maximum mesh size. Mesh size is determined as described in OAR 635-042-0010(3) except the mesh size for nets with a maximum mesh size of 3-3/4 inches or less is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one knot to the outside of the opposite knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact. The multiple net rule is in effect for all authorized fishing periods. Nets not authorized for a specific fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(c) For the fishing periods described in section (1)(a) above white sturgeon and chum salmon may not be possessed or sold by participating vessels. Allowable sales are Chinook, coho and pink salmon and shad.

(d) For the fishing periods described in section (1)(a) above, Elokomina-A, Cowlitz River, Kalama-A, Lewis-A sanctuaries are in effect.

(2) Late Fall Salmon Fishery Zones 4-5.

(a) Salmon may be taken for commercial purposes from the Columbia River in Zones 4 through 5, lower deadline defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore during the following fishing periods:

(A) 7:00 p.m. Thursday October 17 to 7 a.m. Friday October 18, 2013 (12 hours);

(B) 7:00 p.m. Sunday October 20 to 7 a.m. Monday October 21, 2013 (12 hours);

(C) 7:00 p.m. Tuesday October 22 to 7 a.m. Wednesday October 23, 2013 (12 hours); and

(D) 7:00 p.m. Thursday October 24 to 7 a.m. Friday October 25, 2013 (12 hours)

(b) For the fishing periods described in section (2)(a) above, gear is restricted to drift gill nets with an 8-inch minimum mesh size. The multiple net rule is in effect for all authorized fishing periods. Nets not authorized for a specific fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(c) For the fishing periods described in sections (2)(a) above white sturgeon and chum salmon may not be possessed or sold by participating vessels. Allowable sales are Chinook, coho and pink salmon and shad.

(d) For the fishing periods described in section (2)(a) above, Washougal and Sandy River sanctuaries are in effect.

(3) Sales of white sturgeon from fall Select Area fisheries are prohibited.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984(Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985(Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986(Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-1987(Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. & cert. ef. 10-24-88; FWC 94-1989(Temp), f. & ef. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989(Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991(Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. & cert. ef. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. & cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992(Temp), f. & cert. ef. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. & cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. & cert. ef. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. & cert. ef. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. & cert. ef. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; FWC 79-1999(Temp), f. & cert. ef. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. & cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-at2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. & cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. & cert. ef. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. & cert. ef. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. & cert. ef. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. & cert. ef. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106-2002(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. & cert. ef. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. & cert. ef. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. & cert. ef. 9-12-03, cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. & cert. ef. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. & cert. ef. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. & cert. ef. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & cert. ef. 9-22-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 101-2004(Temp), f. & cert. ef. 9-29-04 thru 12-31-04; DFW 102-2004(Temp), f. & cert. ef. 10-1-04, cert. ef. 10-4-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; DFW 126-2005(Temp), f. & cert. ef. 10-21-05, cert. ef. 10-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 102-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-19-06 thru 12-31-06; DFW 106-2006(Temp), f. & cert. ef. 9-22-06, cert. ef. 9-25-06 thru 12-31-06; DFW 111-2006(Temp), f. & cert. ef. 9-29-06, cert. ef. 10-2-06 thru 12-31-06; DFW 112-2006(Temp), f. & cert. ef. 10-4-06, cert. ef. 10-8-06 thru 12-31-06; DFW 114-2006(Temp), f. & cert. ef. 10-12-06 thru 12-31-06; DFW 120-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 91-2007(Temp), f. & cert. ef. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 94-2007(Temp), f. & cert. ef. 9-24-07 thru 12-31-07; DFW 97-2007(Temp), f. & cert. ef. 9-25-07, cert. ef. 9-26-07 thru 12-31-07; DFW 98-2007(Temp), f. & cert. ef. 9-26-07, cert. ef. 9-27-07 thru 12-31-07; DFW 99-2007(Temp), f. & cert. ef. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 104-2007(Temp), f. & cert. ef. 10-3-07 thru 12-31-07; DFW 107-2007(Temp), f. & cert. ef. 10-10-07 thru 12-31-07; DFW 109-2007(Temp), f. & cert. ef. 10-16-07, cert. ef. 10-17-07 thru 12-31-07; DFW 111-2007(Temp), f. & cert. ef. 10-22-07, cert. ef. 10-23-07 thru 12-31-07; DFW 112-2007(Temp), f. & cert. ef. 10-24-07, cert. ef. 10-25-07 thru 12-31-07; DFW 113-2008(Temp), f. & cert. ef. 9-17-08, cert. ef. 9-18-08 thru 12-31-08; DFW 119-2008(Temp), f. & cert. ef. 9-24-08 thru 12-31-08; DFW 127-2008(Temp), f. & cert. ef. 10-7-08, cert. ef. 10-8-08 thru 12-31-08; DFW 132-2008(Temp), f. & cert. ef. 10-14-08, cert. ef. 10-15-08 thru 12-31-08; DFW 136-2008(Temp), f. & cert. ef. 10-21-08 thru 12-31-08; DFW 117-2009(Temp), f. & cert. ef. 9-23-09, cert. ef. 9-24-09 thru 10-31-09; DFW 120-2009(Temp), f. & cert. ef. 9-30-09 thru 10-31-09; DFW 122-2009(Temp), f. & cert. ef. 10-5-09 thru 10-31-09; DFW 124-2009(Temp), f. & cert. ef. 10-7-09 thru 10-31-09; DFW 130-2009(Temp), f. & cert. ef. 10-13-09 thru 10-31-09; DFW 134-2009(Temp), f. & cert. ef. 10-20-09 thru 10-31-09; DFW 135-2009(Temp), f. & cert. ef. 10-27-09 thru 10-31-09; Administrative correction 11-19-09; DFW 139-2010(Temp), f. & cert. ef. 10-5-10 thru 11-30-10; DFW 146-2010(Temp), f. & cert. ef. 10-13-10, cert. ef. 10-14-10 thru 11-30-10; DFW 150-2010(Temp), f. & cert. ef. 10-18-10, cert. ef. 10-19-10 thru 11-30-10; Administrative correction 12-28-10; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 126-2012(Temp), f. & cert. ef. 9-27-12 thru 10-31-12; DFW 128-2012(Temp), f. & cert. ef. 10-3-12, cert. ef. 10-4-12 thru 10-31-12; DFW 133-2012(Temp), f. & cert. ef. 10-15-12, cert. ef. 10-16-12 thru 10-31-12; Administrative correction 11-23-12; DFW 119-2013(Temp), f. & cert. ef. 10-15-13, cert. ef. 10-16-13 thru 10-31-13

ADMINISTRATIVE RULES

Department of Human Services,
Administrative Services Division and Director's Office
Chapter 407

Rule Caption: Adoption of Integrated Employment Services to Individuals with Intellectual and Developmental Disabilities

Adm. Order No.: DHSD 4-2013

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 9-1-2013

Rules Adopted: 407-025-0000, 407-025-0010, 407-025-0020, 407-025-0030, 407-025-0040, 407-025-0050, 407-025-0060, 407-025-0070, 407-025-0080, 407-025-0090, 407-025-0100, 407-025-0110, 407-025-0120

Subject: On April 16, 2013, Governor Kitzhaber issued Executive Order No. 13-04 (EO 13-04), Providing Employment Services to Individuals with Intellectual and Developmental Disabilities (I/DD). Executive Order 13-04 prescribes an array of strategies and desired outcomes related to improving employment services for individuals with I/DD. These rules (OAR 407-025-0000 to 407-025-0120) effectuate the Executive Order and describe the strategies the Department shall implement to support achieving desired outcomes related to improving employment services for individuals with I/DD.

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-025-0000

Purpose and Scope

(1) The purpose of these rules (OAR 407-025-0000 through 407-025-0120) is to effectuate:

(a) Executive Order 13-04, which outlines detailed strategies and requires the Oregon Department of Human Services (Department) to work with the Oregon Department of Education (ODE) to further improve Oregon's systems of designing and delivering employment systems to those with intellectual and developmental disabilities toward fulfillment of Oregon's Employment First Policy, including a significant reduction over time of state support of sheltered work and an increased investment in employment services

(b) ORS 427.007(1)(a), as added by 2013 Senate Bill 22 Enrolled, Chapter 36, 2013 Laws, which provides that individuals with intellectual and other developmental disabilities and society as a whole benefit when the individuals exercise choice and self-determination, living and working in the most integrated community settings appropriate to their needs, with supportive services that are designed and implemented consistent with the choice of the individuals regarding services, providers, goals and activities.

(c) ORS 427.007(1)(b), as added by 2013 Senate Bill 22 Enrolled, Chapter 36, 2013 Laws, which provides that the employment of individuals with developmental disabilities in fully integrated work settings is the highest priority over unemployment, segregated employment, facility-based employment or day habilitation.

(2) Consistent with Executive Order 13-04, the Department finds that:

(a) Individuals with disabilities persistently face higher rates of unemployment than their non-disabled fellow citizens.

(b) Oregon is a leader in providing supported employment services to individuals with intellectual and developmental disabilities. In 2008, Oregon adopted an Employment First Policy, which makes integrated employment the goal for all Oregonians with intellectual and developmental disabilities.

(c) While the state cannot guarantee a job to any Oregonian, the state can and should consistently work to continue to improve its provision of employment services to provide the best possible opportunities for success and choice for individuals receiving those services. This requires new approaches and partnerships with government, the non-profit services sector, and potential employers in the business community.

(d) Improving Oregon's delivery of employment services, with the goal of achieving integrated employment for individuals with intellectual and developmental disabilities, consistent with their abilities and choices, will benefit individuals with disabilities, their families, our communities, the economy, and the state.

(3) The Department is not directed by the Department's integrated employment rules to act in a way that would jeopardize the Department's federal funding, such as funding from United States Department of Education, Centers for Medicare and Medicaid Services, or Rehabilitation Services Administration, or that would violate federal law or regulations.

Wherever possible, the Department's integrated employment rules shall be read as consistent with federal law.

(4) The State of Oregon's obligations under the Department's integrated employment rules are conditioned upon Department's receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Department, in the exercise of its reasonable administrative discretion, to meet its payment obligations under the Department's integrated employment rules. The Department's integrated employment rules do not obligate any part of Oregon state government other than the Department. Nothing in the Department's integrated employment rules is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. The Department shall employ good-faith efforts to request and seek funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Department to perform its payment obligations throughout the term of the Department's integrated employment rules.

(5) The Department's integrated employment rules do not provide a right to any person to claim that he or she has not received services required under any other state or federal statute or regulation.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13

407-025-0010

Definitions

As used in OAR 407-025-0000 through 407-025-0120 the following definitions apply:

(1) "Career development plan" means part of an Individual Support Plan (ISP) regarding Office of Developmental Disability Services' (ODDS) services and an Individual Plan for Employment (IPE) regarding Office of Vocational Rehabilitation Services' (OVRS) services. A career development plan identifies the individual's employment goals and objectives, the services and supports needed to achieve those goals, the individuals, agencies, and providers assigned to assist the individual to attain those goals, the obstacles to the individual working in an individualized job in an integrated employment setting, and the services and supports necessary to overcome those obstacles.

(2) "Department" means the Department of Human Services.

(3) "Department integrated employment rules" means this rule and any ODDS rule or OVRS rule that expressly describes itself as falling under this definition.

(4) "Discovery" means the time-limited process (up to six months) by which an individual's planning team assists an individual to identify his or her interests, strengths, and abilities relating to employment, with the goal of attaining and maintaining employment in an integrated employment setting, including self-employment.

(5) "Employment services" provided by ODDS or OVRS mean services that are intended to assist an individual with an intellectual or developmental disability (I/DD) to choose, get, learn, and keep work in an integrated employment setting.

(6) "Evidence-based practices" means well-defined best practices, which have been demonstrated to be effective with the I/DD population or the relevant subset of that population, such as youth 16 or older, by multiple peer-reviewed research studies that are specific to the I/DD population or subset of that population.

(7) "I/DD" mean intellectual or developmental disability.

(8) "Individuals with I/DD" are individuals found eligible for publicly-funded I/DD services provided by ODDS.

(9) "Integrated employment setting" means an employment setting that allows an individual to interact with non-disabled persons in a typical community work environment, including self-employment or small business models. An integrated employment setting may include a group enclave or mobile crew but must allow an individual to interact with non-disabled persons in the employment setting. An integrated employment setting does not mean facility-based work in a sheltered workshop or non-work activities, such as Alternatives to Employment (ATE).

(10) "Intellectual disability" and "developmental disability" have the meaning given those terms in OAR chapter 411, division 320.

(11) "ODDS" means the Department's Office of Developmental Disability Services.

(12) "OVRS" means the Department's Office of Vocational Rehabilitation Services.

(13) "Person-centered planning" means the process by which an individual, with the assistance of the individual's planning team, identifies the direction of his or her future vocational and employment related activities

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based on his or her skills, interests, strengths, and abilities, regardless of whether the individual has the verbal ability to express such information.

(14) "Policy group" means a group consisting of representatives of the Oregon Department of Education (ODE) and the Department, legislators, and stakeholders formed to make recommendations to the Department's Director and the Deputy Superintendent of Public Instruction regarding design and implementation on issues including but not limited to education, outreach, development of provider capacity, training, and processes for assessment and discovery.

(15) "Qualified employment services provider" means a provider of employment services that meets the qualification requirements to deliver employment services consistent with OAR 411-323-0010 through 411-323-0070 and OAR 411-345-030.

(16) "Sheltered workshop" means a facility-based service that congregates more than eight adults with I/DD. Sheltered workshops are operated by service provider entities. In general, a sheltered workshop employs only individuals with I/DD or other disabilities except for service support staff. However, assessments, instruction, and activities that typically occur in public schools and that are provided either directly or by contract by the public school districts, public charter schools, educational service districts, or ODE in a school setting are not considered sheltered workshops.

(17) "Situational assessment" means an assessment that maintains the qualities of a vocational assessment but is administered on-site in an integrated employment setting, where an individual is evaluated in the performance of work activities that are typical to the setting where the assessment is administered.

(18) "Transition age" means individuals at least 16 years of age for OVRS services and at least 18 years of age for ODDS services, and no older than two years after an individual has ceased receiving public school services in the Oregon secondary schools.

(19) "Transition age target population" means transition age individuals with I/DD who receive employment services on or after July 1, 2013.

(20) "Target populations" means the transition age target population and the working age target population.

(21) "Vocational assessment" means an assessment administered to provide employment-related information essential to the development of, or revision of, an individual's employment-related planning documents, including the IPE and ISP, where applicable.

(22) "Working age individuals" means adults with I/DD between the ages of 21 and 60, individuals with I/DD younger than 21 and no longer receive public school services, and those with I/DD over 60 who choose to continue employment.

(23) "Working age target population" means working age individuals with I/DD who receive sheltered workshop services on or after July 1, 2013.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13

407-025-0020

Sheltered Workshops

(1) Effective July 1, 2014, ODDS and OVRS shall no longer purchase or fund vocational assessments for individuals with I/DD that occur in sheltered workshop settings.

(2) Effective July 1, 2015, ODDS and OVRS shall no longer purchase or fund sheltered workshop placements for:

(a) Transition-age youth with I/DD;

(b) Any working age adult with I/DD newly eligible for ODDS or OVRS services; and

(c) Any working age adult with I/DD already utilizing ODDS or OVRS services who is not already working in a sheltered workshop.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13

407-025-0030

Employment Services Provided through ODDS and OVRS

(1) ODDS and OVRS combined shall provide employment services to at least 2000 individuals in accordance with the following schedule:

(a) By July 1, 2014, to at least 50 individuals.

(b) By July 1, 2015, to at least an additional 100 individuals.

(c) By July 1, 2016, to at least an additional 200 individuals.

(d) By July 1, 2017, to at least an additional 275 individuals.

(e) By July 1, 2018, to at least an additional 275 individuals.

(f) By July 1, 2019, to at least an additional 275 individuals.

(g) By July 1, 2020, to at least an additional 275 individuals.

(h) By July 1, 2021, to at least an additional 275 individuals.

(i) By July 1, 2022, to at least an additional 275 individuals.

(2) The requirement in this section that additional individuals receive employment services by a given date refers to a cumulative number of additional individuals.

(3) Over the nine years from July 1, 2013 and each one year period thereafter through July 1, 2022, approximately half of the individuals receiving employment services under these rules shall be those in the transition age target population, and half shall be those in the working age target population. Due to the fact that numbers and percentages may change each year based on changing demographics, demand, and the choices of consumers, ODDS and OVRS may deviate from strict compliance in a given one year period with this approximate half and half division.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13

407-025-0040

General Policies

ODDS and OVRS shall establish and implement a policy that employment services shall be evidence-based and individualized. Employment services shall be individualized and services shall be individually planned, based on person-centered planning principles and evidence-based practices, where applicable. Employment services shall be based on an individual's capabilities, choices, and strengths and shall be individualized.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13

407-025-0050

Career Development Planning

(1) No later than January 1, 2014, ODDS shall adopt and implement policies and procedures for developing career development plans. The policies must include a presumption that all individuals in the target populations are capable of working in an integrated employment setting.

(2) Career development plans shall be based on individually-centered planning principles. Career development plans are created through various strategies and tools, must include vocational assessments, and may also include situational assessments, discovery, and other strategies and tools.

(3) The career development plan shall prioritize employment in integrated settings. The career development process shall focus on the strengths of the individual and be conducted with the goal of maximizing the number of hours spent working, consistent with an individual's abilities and choices. The primary purpose of all vocational assessments shall be to determine an individual's interests, strengths, and abilities, in order to identify a suitable match between the person and an integrated employment setting. If an individual has an existing vocational assessment that is current, accurate and relevant to establishing individual goals and services, it need not be redone or revised.

(4) Working age individuals in sheltered workshops in the target population shall receive a career development plan as part of the employment services they receive under OAR 407-025-0030. The transition-age target population should have a career development plan no later than the date of their anticipated departure from the Oregon public schools, but no later than one year after their departure. The provision of employment services by ODDS may not be delayed or denied due to the lack of a career development plan.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13

407-025-0060

Training

(1) Effective January 1, 2014, ODDS and OVRS shall establish competencies for providing employment services, and shall adopt and implement competency-based training standards for career development plans, job creation, job development, job coaching, and coordination of those services.

(2) Effective July 1, 2016, ODDS and OVRS shall purchase employment services for individuals with I/DD only from agencies or individual providers licensed, certified, credentialed or otherwise qualified as required by Department rules. The requirements for providing employment services shall be competency-based and may include such national credentialing programs as the APSE Certified Employment Support Professional exam or a substantial equivalent.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13

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407-025-0070

Outreach and Awareness

Effective January 1, 2014, ODDS and OVRS shall develop an outreach and informational education program for all individuals in the target population that explains the benefits of employment, addresses concerns of families and perceived obstacles to participating in employment services, and is designed to encourage individuals with I/DD and their families to seek employment services.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13

407-025-0080

Provider Capacity

The Department shall make good faith efforts, within available budgetary resources, to ensure that there are a sufficient number of qualified employment providers to deliver the services and supports necessary for individuals in the target population to receive employment services consistent with the terms of the Department's integrated employment rules.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13

407-025-0090

Director Actions

(1) Effective January 1, 2014, the Department shall designate a statewide employment coordinator to oversee and coordinate its employment services program and all activities required by the Department, ODDS, or OVRS under the Department's integrated employment rules.

(2) Effective January 1, 2014, the Department shall support new or existing technical assistance provider(s) or use other available training resources to provide leadership, training and technical assistance to employment providers and to provider, county, support services brokerage, and vocational rehabilitation staff to support the performance of the Department's integrated employment rules.

(3) Effective November 1, 2013, the Department shall adopt an integrated employment plan to further carry out the goals of the Department's integrated employment rules.

(4) ODDS shall include specific provisions in its contracts with each support services brokerage and each community developmental disability program (CDDP) to accomplish the full implementation of the Department's integrated employment rules.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13

407-025-0100

Quality Assessment and Improvement

Effective July 1, 2014, the Department shall develop and implement a quality improvement initiative that is designed to promote employment services developed in accordance with the Department's integrated employment rules and to evaluate the quality of employment services provided to persons with I/DD under the Department's integrated employment rules statewide.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13

407-025-0110

Data Collection and Reporting

(1) Effective January 1, 2014, and semi-annually thereafter, the employment coordinator shall monitor the progress of implementation of the Department's integrated employment rules through data collection, data analysis, and quality improvement activities.

(2) Effective January 1, 2014, and semi-annually thereafter, ODDS and OVRS shall collect data and report to the employment coordinator and the policy group the following data for working age individuals in the target populations:

- (a) The number of individuals receiving employment services;
- (b) The number of persons working in the following settings: individual integrated employment, self-employment, sheltered employment, and group employment (8 or fewer);
- (c) The number of individuals working in an integrated employment setting;
- (d) The number of hours worked per week and hourly wages paid to those persons;
- (e) The choices made by individuals between integrated work, sheltered work, and not working; and
- (f) Complaints and grievances.

(3) Effective January 1, 2014, and semi-annually thereafter, OVRS and ODDS shall report to the employment coordinator on the progress made on the terms of the Department's integrated employment rules and the results of the data collected under this rule.

(4) ODDS and OVRS shall begin a program of regularly collecting and analyzing data described in this rule, and shall identify problems or barriers to placement in or retaining jobs in an integrated employment setting, as well as service gaps, and shall recommend to the Department's Director's actions to improve services. The Department shall review this information on a semi-annual basis and develop and implement measures to improve services with respect to the problems and barriers identified.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13

407-025-0120

Sunset Provision

These rules shall be effective through July 1, 2022.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13

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Department of Human Services, Aging and People with Disabilities and Developmental Disabilities Chapter 411

Rule Caption: Adult Foster Homes for Individuals with Intellectual or Developmental Disabilities AFH-DD

Adm. Order No.: SPD 34-2013

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 9-27-13

Notice Publication Date: 9-1-2013

Rules Adopted: 411-360-0055

Rules Amended: 411-360-0010, 411-360-0020, 411-360-0030, 411-360-0040, 411-360-0050, 411-360-0060, 411-360-0070, 411-360-0080, 411-360-0090, 411-360-0110, 411-360-0120, 411-360-0130, 411-360-0140, 411-360-0160, 411-360-0170, 411-360-0180, 411-360-0190, 411-360-0200, 411-360-0210, 411-360-0220, 411-360-0230, 411-360-0240, 411-360-0250, 411-360-0260, 411-360-0270, 411-360-0275, 411-360-0280, 411-360-0290, 411-360-0300, 411-360-0310

Rules Repealed: 411-360-0090(T), 411-360-0100, 411-360-0150

Subject: The Department of Human Services (Department) is permanently updating the rules for adult foster homes for individuals with intellectual or developmental disabilities (AFH-DD) in OAR chapter 411, division 360.

The permanent rules —

- Align the background check requirements with the annual background check requirements for foster homes for children with intellectual or developmental disabilities and foster homes for older adults and adults with disabilities;

- Clarify Medicaid Provider Enrollment Agreements, the circumstances for denial or termination of enrollment, and the service requirements for individuals who are or become eligible for Medicaid services;

- Specify that any providers may not be listed on the Office of Inspector General's or General Services Administration's Exclusion Lists;

- Define ownership interest and indirect ownership interest;

- Clarify access to an AFH-DD and resident records by the Centers for Medicare and Medicaid Services (CMS);

- Require carbon monoxide alarms and CPR and First Aid certification;

- Comply with Oregon Fire Code requirements related to fire and life safety;

- Comply with ORS 305.385 relating to the effect of the Department of Revenue's determination on taxpayer status; and

- Include changes to the definitions, financial information required by an applicant or licensee, classification and capacity of a home, portability of background check approvals, qualification and training requirements, respite services, and correction of violations

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to provide clarification, reflect current practices, improve readability, and establish consistency with other Department rules.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-360-0010

Statement of Purpose

(1) The rules in OAR chapter 411, division 360 prescribe the standards and procedures for the licensure of adult foster homes for individuals with intellectual or developmental disabilities (AFH-DD) and the provision of care and services to support individuals with intellectual or developmental disabilities in a homelike environment that is safe and secure.

(2) An AFH-DD supports individuals by providing necessary care and services through a cooperative relationship between the AFH-DD provider, the individual, the individual's legal representative (if applicable), and the community developmental disability program.

(3) An AFH-DD protects and encourages an individual's independence, dignity, choice, and decision making while addressing an individual's needs in a manner that supports and enables the individual to maximize his or her ability to function at the highest level of independence possible.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0020

Definitions

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 360:

(1) "Abuse" means:

(a) Abuse of a child as defined in ORS 419B.005; and

(b) Abuse of an adult as defined in OAR 407-045-0260.

(2) "Abuse Investigation and Protective Services" means reporting and investigation activities as required by OAR 407-045-0300 and any subsequent services or supports necessary to prevent further abuse as required by OAR 407-045-0310.

(3) "Activities of Daily Living (ADL)" mean those personal functional activities required by an individual for continued well-being which are essential for health and safety.

(4) "Administration of Medication" means the act of placing a medication in, or on, an individual's body by a caregiver who is responsible for the individual's care and services.

(5) "Adult" means a person 18 years or older applying for or determined eligible for Department services.

(6) "Adult Foster Home (AFH)" means any family home or facility licensed by the Department in which residential care and services are provided in a home-like environment for compensation to five or fewer adults who are not related to the provider by blood, marriage, or adoption. An adult foster home does not include any house, institution, hotel, or other similar living situation that supplies room or board only, if no individual thereof requires any element of care.

(7) "Adult Foster Home for Individuals with Intellectual or Developmental Disabilities (AFH-DD)" means an adult foster home licensed by the Department to provide residential care and services to support individuals with intellectual or developmental disabilities.

(8) "Advance Directive" or "Advance Directive for Health Care" means the legal document signed by an individual or the individual's legal representative that provides health care instructions in the event the individual is no longer able to give directions regarding his or her wishes. The Advance Directive gives the individual the means to control his or her own health care in any circumstance. An Advance Directive for Health Care does not include Physician Orders for Life-Sustaining Treatment (POLST).

(9) "Advocate" means a person other than a paid caregiver who has been selected by an individual or the individual's legal representative to help the individual understand and make choices in matters relating to identification of needs and choices of services, especially when rights are at risk or have been violated.

(10) "AFH" means "adult foster home" as defined in this rule.

(11) "AFH-DD" means an "adult foster home for individuals with intellectual or developmental disabilities" as defined in this rule.

(12) "Aid to Physical Functioning" means any special equipment prescribed for an individual by a physician, therapist, or dietician that maintains or enhances the individual's physical functioning.

(13) "Applicant" means a person who completes an application for an adult foster home license who is also the owner of the business or a person who completes an application to become a resident manager. The term applicant includes a co-applicant (if applicable).

(14) "Background Check" means a criminal records and abuse check as defined in OAR 407-007-0210 (Criminal Records and Abuse Check for Providers).

(15) "Bill of Rights" means civil, legal, or human rights afforded to individuals in an adult foster home that are in accordance with those rights afforded to all other U.S. citizens including but not limited to those rights delineated in the Adult Foster Home Bill of Rights for individuals with intellectual or developmental disabilities described in OAR 411-360-0170.

(16) "Board of Nursing Rules" means the standards for registered nurse teaching and delegation to unlicensed persons according to the statutes and rules of the Oregon State Board of Nursing, ORS 678.010 to 678.445 and OAR chapter 851, division 047.

(17) "Care" means supportive services that encourage maximum individual independence and enhance an individual's quality of life including, but not limited to:

(a) Provision of 24-hour supervision, being aware of an individual's whereabouts, and ensuring an individual's health, safety, and welfare;

(b) Assistance with activities of daily living such as bathing, dressing, grooming, eating, money management, transportation, socialization, recreation, and medication management; and

(c) Monitoring the activities of an individual to ensure the individual's health, safety, and welfare.

(18) "Caregiver" means any person responsible for providing care and services to support individuals. A caregiver includes a provider, resident manager, and any temporary, substitute, or supplemental caregiver or other person designated to provide care and service to support individuals in an adult foster home for individuals with intellectual or developmental disabilities.

(19) "Case Management" means an organized service to assist individuals to select, obtain, and utilize resources and services.

(20) "Centers for Medicare and Medicaid Services (CMS)" means the federal agency within the United States Department of Health and Human Services responsible for the administration of Medicaid and the Health Insurance Portability and Accountability Act (HIPAA) and overseeing Medicaid programs administered by the states through survey and certification.

(21) "CDDP" means "Community Developmental Disability Program" as defined in this rule.

(22) "Chemical Restraint" means the use of a psychotropic drug or other drugs for punishment or to modify behavior in place of a meaningful behavior or treatment plan.

(23) "Choice" means an individual's expression of preference, opportunity for, and active role in decision-making related to services received and from whom, including but not limited to case management, service providers, and service settings. Personal outcomes, goals, and activities are supported in the context of balancing an individual's rights, risks, and personal choices. Individuals are supported in opportunities to make changes when so expressed. Choice may be communicated verbally, through sign language, or by other communication methods.

(24) "CMS" means "Centers for Medicare and Medicaid Services" as defined in this rule.

(25) "Community Developmental Disability Program (CDDP)" means the entity that is responsible for the planning and delivery of services for individuals with intellectual or developmental disabilities according to OAR chapter 411, division 320. A CDDP operates in a specific geographic service area of the state under a contract with the Department, local mental health authority, or other entity as contracted by the Department.

(26) "Community First Choice State Plan" means Oregon's state plan amendment authorized under section 1915(k) of the Social Security Act.

(27) "Compensation" means monetary or in-kind payments by or on behalf of an individual to a provider in exchange for room and board, care, and services as indicated in the individual's Individual Support Plan. Compensation does not include the voluntary sharing of expenses between or among roommates.

(28) "Complaint" means an allegation that a licensee or caregiver has violated these rules or an expression of dissatisfaction with a service provider, the services provided, or the condition of an adult foster home.

(29) "Complaint Investigation" means the investigation of any complaint that has been made to a proper authority that is not covered by an abuse investigation.

(30) "Condition" means a provision attached to a new or existing license that limits or restricts the scope of the license or imposes additional requirements on the licensee.

(31) "Controlled Substance" means any drug classified as schedules one through five under the Federal Controlled Substance Act.

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(32) "Crisis" means:

(a) A situation as determined by a qualified services coordinator that may result in civil court commitment under ORS 427.215 to 427.306 and for which no appropriate alternative resources are available; or

(b) Risk factors described in OAR 411-320-0160 are present for which no appropriate alternative resources are available.

(33) "Day Care" means care, assistance, and supervision of an individual who does not stay overnight. Individuals receiving day care services are included in the licensed capacity of a home as described in OAR 411-360-0060.

(34) "Delegation" means that a registered nurse authorizes a provider, resident manager, or substitute caregiver to perform tasks of nursing care in selected situations and indicates that authorization in writing.

(a) The delegation process includes:

(A) Assessing an individual in a specific situation;

(B) Evaluating the ability of the provider, resident manager, or substitute caregiver;

(C) Teaching the task;

(D) Ensuring supervision of the provider, resident manager, or substitute caregiver; and

(E) Re-evaluating the nursing care task at regular intervals.

(b) The provider, resident manager, or substitute caregiver performs tasks of nursing care under the registered nurse's delegated authority.

(35) "Denial" means the refusal of the Department to issue a license to operate an adult foster home for individuals with intellectual or developmental disabilities because the Department has determined that an applicant or the home is not in compliance with one or more of these rules.

(36) "Department" means the Department of Human Services or the Department's designee.

(37) "Developmental Disability" means a neurological condition that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional as described in OAR 411-320-0080.

(38) "Direct Nursing Services" means the provision of individual-specific advice, plans, or interventions by a nurse at a home based on the nursing process as outlined by the Oregon State Board of Nursing. Direct nursing service differs from administrative nursing services. Administrative nursing services include non-individual-specific services, such as quality assurance reviews, authoring health related agency policies and procedures, or providing general training for caregivers.

(39) "Director" means the Director of the Department or the Director's designee.

(40) "Disaster" means an occurrence beyond the control of a licensee, whether natural, technological, or man made that renders a home uninhabitable on a temporary, extended, or permanent basis.

(41) "Domestic Animals" means the animals domesticated so as to live and breed in a tame condition. Examples of domestic animals include but are not limited to dogs, cats, and domesticated farm stock.

(42) "Enjoin" means to prohibit by judicial order.

(43) "Entity" means a person, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation.

(44) "Entry" means admission to a licensed adult foster home for individuals with intellectual or developmental disabilities.

(45) "Exempt Area" means a county where there is a county agency that provides similar programs for licensing and inspection of adult foster homes that the Director finds are equal to or superior to the requirements of ORS 443.705 to 443.825 and that the Director has exempted from the license, inspection, and fee provisions described in ORS 443.705 to 443.825. Exempt area county licensing rules require review and approval by the Director prior to implementation.

(46) "Exit" means termination or discontinuance of:

(a) Services from a provider; or

(b) Department-funded developmental disability services.

(47) "Facility" means the physical structure of an adult foster home for individuals with intellectual or developmental disabilities.

(48) "Family Member" means husband or wife, domestic partner, natural parent, child, sibling, adopted child, adoptive parent, adopted sibling, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or first cousin.

(49) "Founded Reports" means the Department's or Law Enforcement Authority's (LEA) determination, based on the evidence, that there is reasonable cause to believe that conduct in violation of the child

abuse statutes or rules has occurred and such conduct is attributable to a person alleged to have engaged in the conduct.

(50) "Functional Needs Assessment (FNAT)" means an assessment that documents the level of need, accommodates an individual's participation in service planning, and includes:

(a) Completing a comprehensive and holistic assessment;

(b) Surveying physical, mental, and social functioning; and

(c) Identifying risk factors, choices, and preferences, and service needs.

(51) "Guardian" means a parent for an individual less than 18 years of age or a person or agency appointed and authorized by the courts to make decisions about services for an individual who is not a paid provider for the individual to whom they are appointed.

(52) "Hearing" means the formal process following an action that would terminate, suspend, or deny a license or terminate, suspend, reduce, or deny a service. This is a formal process required by ORS chapter 183.

(53) "Home" means the physical structure of an adult foster home for individuals with intellectual or developmental disabilities.

(54) "Home and Community-Based Waivered Services" means the services approved by the Centers for Medicare and Medicaid Services in accordance with Section 1915(c) and 1115 of the Social Security Act.

(55) "Homelike" means an environment that promotes the dignity, security, and comfort of individuals through the provision of personalized care and services to support and encourage independence, choice, and decision making by the individuals.

(56) "House Rules" means the written and posted statements governing house activities in an adult foster home that do not conflict with the Adult Foster Home Bill of Rights.

(57) "Incident Report" means the written report of any injury, accident, acts of physical aggression, use of protective physical interventions, or unusual incident involving an individual.

(58) "Independence" means the extent to which individuals exert control and choice over their own lives.

(59) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in the disclosing entity.

(60) "Individual" means an adult residing in an adult foster home for individuals with intellectual or developmental disabilities regardless of source of compensation.

(61) "Individual Support Plan (ISP)" means the written details of the supports, activities, and resources required for an individual to achieve personal outcomes. Individual support needs are identified through a Functional Needs Assessment. The manner in which services are delivered, service providers, and the frequency of services are reflected in an ISP. The ISP is developed at minimum annually to reflect decisions and agreements made during a person-centered process of planning and information gathering. The ISP includes an individual's Plan of Care for Medicaid purposes and reflects whether services are purchased through a waiver, state plan, or provided through an individual's natural supports.

(62) "Individual Support Plan Team (ISP) Team" means a team composed of an individual receiving services and the individual's legal representative, services coordinator or personal agent, and others chosen by the individual. Others chosen by the individual may include providers, family members, or other persons requested by the individual.

(63) "Instrumental Activities of Daily Living (IADL)" mean those activities other than activities of daily living, required to continue independent living.

(64) "Intellectual Disability" has the meaning set forth in OAR 411-320-0020 and described in 411-320-0080.

(65) "Involuntary Transfer" means a provider has made the decision to transfer an individual and the individual or the individual's legal representative has not given prior approval.

(66) "ISP" means "Individual Support Plan" as defined in this rules.

(67) "Legal Representative" means a person who has the legal authority to act for an individual. The term "legal representative" includes an individual's guardian as defined in this rule as well as:

(a) For health care decisions, a court-appointed guardian, a health care representative under an Advance Directive for Health Care, or a power of attorney for health care.

(b) For financial decisions, a court-appointed conservator, an agent under a power of attorney, or a representative payee.

(68) "Level of Care" means an assessment completed by a services coordinator has determined an individual meets institutional level of care. An individual meets institutional level of care for an intermediate care facility for individuals with intellectual or developmental disabilities if:

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(a) The individual has a condition of an intellectual disability or a developmental disability as defined in OAR 411-320-0020 and meets the eligibility criteria for developmental disability services as described in OAR 411-320-0080; and

(b) The individual has a significant impairment in one or more areas of adaptive functioning. Areas of adaptive functioning include self direction, self care, home living, community use, social, communication, mobility, or health and safety.

(69) "License" means a document granted by the Department to applicants who are in compliance with the requirements of these rules.

(70) "Licensed Health Care Provider" means a person who possesses a professional medical license that is licensed, certified, or otherwise authorized or permitted by Oregon law to administer health care in the ordinary course of business or practice of a profession. Examples include but are not limited to a registered nurse (RN), nurse practitioner (NP), licensed practical nurse (LPN), medical doctor (MD), osteopathic physician (DO), chiropractor, respiratory therapist (RT), physical therapist (PT), physician assistant (PA), dentist, or occupational therapist (OT).

(71) "Licensee" means the person who is issued a license, whose name is on the license, and who is responsible for the operation of an adult foster home. The licensee of an adult foster home does not include the owner or lessor of the building in which the adult foster home is situated unless the owner or lessor of the building is the provider.

(72) "Limited License" means a license is issued to a licensee who intends to provide care and services for compensation to a specific individual who is unrelated to the licensee but with whom the licensee has an established relationship of no less than one year.

(73) "Liquid Resource" means cash or those assets that may readily be converted to cash such as a life insurance policy that has a cash value, stock certificates, or a guaranteed line of credit from a financial institution.

(74) "Mandatory Reporter" means any public or private official as defined in OAR 407-045-0260 who:

(a) Is a provider, resident manager, caregiver, or volunteer working with an individual 18 years and older who, while acting in an official capacity, comes in contact with and has reasonable cause to believe an adult with an intellectual or developmental disability has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused an adult with an intellectual or developmental disability. Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by this section of this rule except that a psychiatrist, psychologist, clergy, or attorney is not required to report if the communication is privileged under ORS 40.225 to 40.295.

(b) Is a provider, resident manager, caregiver, or volunteer working with a child birth to 17 years of age who, comes in contact with and has reasonable cause to believe a child with or without an intellectual or developmental disability has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused a child with or without an intellectual or developmental disability, regardless of whether or not the knowledge of the abuse was gained in the reporter's official capacity. Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by this section, except that a psychiatrist, psychologist, clergy, attorney, or guardian ad litem appointed under ORS 419B.231 is not required to report if the communication is privileged under ORS 40.225 to 40.295.

(75) "Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or not, the resin extracted from any part of the plant, and every compound, manufacture, salt derivative, mixture, or preparation of the plant or its resin. Marijuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Legal medical marijuana" refers to the use of marijuana authorized under the Oregon Medical Marijuana Act (OMMA), ORS 475.300 to ORS 475.346.

(76) "Mechanical Restraint" means any mechanical device, material, object, or equipment that is attached or adjacent to an individual's body that the individual cannot easily remove or easily negotiate around that restricts freedom of movement or access to the individual's body.

(77) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by any person.

(78) "Mental Health Assessment" means the determination of an individual's need for mental health services by interviewing the individual and

obtaining all pertinent biopsychosocial information, as identified by the individual, the individual's family, and collateral sources that --

(a) Addresses the current complaint or condition presented by the individual;

(b) Determines a diagnosis; and

(c) Provides treatment direction and individualized services and supports.

(79) "Modified Diet" means the texture or consistency of food or drink is altered or limited. Examples include but are not limited to, no nuts or raw vegetables, thickened fluids, mechanical soft, finely chopped, pureed, or bread only soaked in milk.

(80) "Monitoring" means the periodic review of the implementation of services and supports identified in an Individual Support Plan and the quality of services delivered by other organizations.

(81) "Natural Supports" or "Natural Support System" means the resources available to an individual from the individual's relatives, friends, significant others, neighbors, roommates, and the community. Services provided by natural supports are resources that are not paid for by the Department.

(82) "Nurse" means a person who holds a current license from the Oregon Board of Nursing as a registered nurse (RN) or licensed practical nurse (LPN) pursuant to ORS chapter 678.

(83) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions relating to the provision of nursing care that are taught or delegated under specified conditions by a registered nurse to a person other than licensed nursing personnel, as governed by ORS Chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR chapter 851.

(84) "Nursing Care Plan" means a plan of care developed by a registered nurse that describes the medical, nursing, psychosocial, and other needs of an individual and how those needs are to be met. The Nursing Care Plan includes the tasks that are taught or delegated to the provider, resident manager, and substitute caregiver.

(85) "Occupant" means any person residing in or using the facilities of an adult foster home including the individuals, licensee, resident manager, friends, family members, a person receiving day care services, and room and board tenants.

(86) "OIS" means the Oregon Intervention System of providing training to people who work with designated individuals to provide elements of positive behavior support and non-aversive behavior intervention. OIS uses principles of pro-active support and describes approved protective physical intervention techniques that are used to maintain health and safety.

(87) "OSIP-M" means Oregon Supplemental Income Program-Medical as defined in OAR 461-101-0010. OSIP-M is Oregon Medicaid Insurance coverage for an individual who meets eligibility criteria as described in OAR chapter 461.

(88) "Over the Counter Topical" means a medication that is purchased without a prescription and is applied to the skin and not in an orifice.

(89) "Ownership Interest" means the possession of equity in the capital, stock, or profits of an adult foster home. Persons with an ownership or control interest mean a person or corporation that:

(a) Has an ownership interest totaling 5 percent or more in a disclosing entity;

(b) Has an indirect ownership interest equal to 5 percent or more in a disclosing entity;

(c) Has a combination of direct and indirect ownership interests equal to 5 percent or more in a disclosing entity;

(d) Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least 5 percent of the value of the property or assets of the disclosing entity;

(e) Is an officer or director of a disclosing entity that is organized as a corporation; or

(f) Is a partner in a disclosing entity that is organized as a partnership.

(90) "Personal Agent" means a person who works directly with an individual and the individual's family to provide or arrange for support services as described in OAR chapter 411, division 340.

(91) "Prescription Medication" means any medication that requires a licensed health care provider's prescription before the medication may be obtained from a pharmacist.

(92) "PRN (pro re nata)" means the administration of a medication to an individual on an 'as needed' basis.

(93) "Protection" and "Protective Services" means necessary actions taken as soon as possible to prevent subsequent abuse or exploitation of an

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individual, to prevent self-destructive acts, or to safeguard an individual's person, property, and funds.

(94) "Protective Physical Intervention" means any manual physical holding of, or contact with, an individual that restricts the individual's freedom of movement.

(95) "Provider" means any person operating an adult foster home (i.e. licensee or resident manager). "Provider" does not include caregivers or the owner or lessor of the building in which the adult foster is situated unless the owner or lessor of the building is also the operator of the adult foster home.

(96) "Provider Enrollment" means an agreement between a Medicaid provider and the Department to provide room and board and care and services for compensation to support a Medicaid eligible individual in an adult foster home.

(97) "Provisional License" means a 60-day license issued in an emergency situation when a licensed provider is no longer overseeing the operation of an adult foster home. A provisional license is issued to a qualified person who meets the standards of OAR 411-360-0070 and 411-360-0110.

(98) "Psychotropic Medication" means a medication the prescribed intent of which is to affect or alter thought processes, mood, or behavior including but not limited to, anti-psychotic, antidepressant, anxiolytic (anti-anxiety), and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed.

(99) "Qualified Entity Initiator (QEI)" has the meaning set forth in OAR 407-007-0210 (Criminal Records and Abuse Checks for Providers).

(100) "Qualified Mental Health Professional" means a licensed, medical practitioner or any other person who meets both of the following:

- (a) Holds at least one of the following educational degrees:
 - (A) Graduate degree in psychology;
 - (B) Bachelor's degree in nursing and licensed in Oregon;
 - (C) Graduate degree in social work;
 - (D) Graduate degree in a behavioral science field;
 - (E) Graduate degree in recreational, art, or music therapy; or
 - (F) Bachelor's degree in occupational therapy and licensed in Oregon;

and

- (b) Whose education and experience demonstrates the competencies

to:

- (A) Conduct a mental health assessment;
- (B) Identify precipitating events;
- (C) Gather histories of mental and physical disabilities, alcohol and drug use, past mental health services, and criminal justice contacts;
- (D) Assess family, cultural, social, and work relationships;
- (E) Conduct a mental health examination;
- (F) Document a multi-axial DSM diagnosis;
- (G) Write and supervise the implementation of an Individual Support

Plan; and

- (H) Provide individual, family, or group therapy within the scope of his or her practice.

(101) "Reside" means for a person to live in an adult foster home for a permanent or extended period of time. For the purpose of a background check, a person is considered to reside in a home if the person's visit is four weeks or greater.

(102) "Resident Manager" means an employee of the licensee approved by the Department, who resides in the adult foster home, and is directly responsible for the care and services to support individuals on a day-to-day basis.

(103) "Respite" means intermittent services provided on a periodic basis, but not more than 14 consecutive days, for the relief of, or due to the temporary absence of a person normally providing care and services to support the individual. Respite services may include either day or overnight care. Individuals receiving respite are included in the licensed capacity of a home as described in OAR 411-360-0060.

(104) "Revocation" means the action taken by the Department to rescind an adult foster home license after the Department has determined that the provider is not in compliance with one or more of these rules.

(105) "Room and Board" means receiving compensation for the provision of meals, a place to sleep, laundry, basic utilities, and housekeeping to a person that does not need assistance with activities of daily living. Room and board facilities for two or more persons are required to register with the Department as described in OAR chapter 411, division 068, unless registered with the local authority having jurisdiction. Room and board does not include provision of care.

(106) "Self-Administration of Medication" means an individual manages and takes his or her own medication, identifies his or her own medication and the times and methods of administration, places the medication

internally in or externally on his or her own body without caregiver assistance upon the written order of a physician, and safely maintains the medication without supervision.

(107) "Self-Preservation" in relation to fire and life safety means the ability of an individual to respond to an alarm without additional cues and reach a point of safety without assistance.

(108) "Services" means those activities and supports that assist individuals to develop appropriate skills to increase or maintain their level of functioning. Services available in the community and arranged for by the provider may include mental health services, habilitation services, rehabilitation services, social services, activities of daily living, medical, dental, and other health care services, educational services, financial management services, legal services, vocational services, transportation, recreational and leisure activities, and other services required to meet an individual's needs as defined in the individual's Individual Support Plan.

(109) "Services Coordinator" means an employee of a community developmental disability program or other agency that contracts with the county or the Department, who is selected to:

(a) Plan, procure, coordinate, and monitor Individual Support Plan services; and

(b) Act as a proponent for individuals with intellectual or developmental disabilities.

(110) "Skills Training" means activities intended to increase an individual's independence through training, coaching, and promoting the individual to accomplish activities of daily living, instrumental activities of daily living, and health-related skills.

(111) "Special Diet" means that the amount, type of ingredients, or selection of food or drink items is limited, restricted, or otherwise regulated under a physician's order. Examples include but are not limited to low calorie, high fiber, diabetic, low salt, lactose free, or low fat diets. A special diet does not include a diet where extra or additional food is offered without physician's orders but may not be eaten, for example, offering prunes each morning at breakfast or including fresh fruit with each meal.

(112) "Subject Individual" means:

(a) Any person 16 years of age or older including:

(A) All licensed adult foster home providers and provider applicants;

(B) All persons intending to work in or currently working in an adult foster home including but not limited to substitute caregivers and potential substitute caregiver's in training;

(C) Volunteers if allowed unsupervised access to individuals; and

(D) Occupants, excluding individuals, residing in or on the premises of a proposed or currently licensed adult foster home including:

(i) Household members;

(ii) Room and board tenants; and

(iii) A person visiting for four consecutive weeks or greater.

(b) Subject individual does not apply to:

(A) Individuals of the adult foster home or the individuals' visitors;

(B) A person who resides or works in the adult foster home who does not have:

(i) Regular access to the home for meals;

(ii) Regular use of the adult foster home's appliances or facilities; or

(iii) Unsupervised access to the individuals or the individuals' personal property.

(C) A person providing services to an individual that is employed by a private business not regulated by the Department.

(113) "Substantiated" means an abuse investigation has been completed by the Department and the preponderance of the evidence establishes the abuse occurred.

(114) "Substitute Caregiver" means any person who provides care and services in an adult foster home under the jurisdiction of the Department that is left in charge of the individuals for any period of time and has access to the individuals' records.

(115) "Support" means the assistance that an individual requires, solely because of the effects of an intellectual or developmental disability, to maintain or increase independence, achieve community presence and participation, and improve productivity. Support is subject to change with time and circumstances.

(116) "Suspension" means an immediate, temporary withdrawal of the approval to operate an adult foster home after the Department determines a provider or home is not in compliance with one or more of these rules or there is a threat to the health, safety, or welfare of individuals.

(117) "Tenant" means an individual who resides in an adult foster home and receives services such as meal preparation, laundry, and housekeeping.

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(118) "These Rules" mean the rules in OAR chapter 411, division 360.

(119) "Transfer" means movement of an individual from one home to another home administered or operated by the same service provider.

(120) "Transition Plan" means the written plan of care and services for the period of time between an individual's entry into an adult foster home and the development of the individual's Individual Support Plan (ISP). The Transition Plan is approved by the individual's services coordinator and includes a summary of the services necessary to facilitate adjustment to the adult foster home, the supports necessary to ensure health and safety, and the assessments and consultations necessary for ISP development.

(121) "Unusual Incident" means any incident involving an individual that includes acts of physical aggression, serious illness or accidents, injury or illness requiring inpatient or emergency hospitalization, suicide attempts, death, when an individual contacts the police or is contacted by the police, a fire requiring the services of a fire department, or any incident requiring an abuse investigation.

(122) "Urgent Medical Need" means the onset of psychiatric or medical symptoms requiring attention within 48 hours to prevent a serious deterioration in an individual's mental or physical condition.

(123) "Variance" means the temporary exception from a regulation or provision of these rules that may be granted by the Department upon written application by the provider.

(124) "Young Adult" means a young individual age 18 through 21 who resides in an adult foster home under the custody of the Department, voluntarily, or under guardianship. A young adult may include an individual who is less than 18 years of age.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.705 - 443.825
Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0030

Variance

(1) A provider or applicant may apply to the Department for a variance from a provision of these rules. The provider must justify to the Department that such a variance does not jeopardize the health, safety, or welfare of the individuals. If the variance applies to an individual's care and services, the provider must provide evidence that the variance is consistent with the individual's currently approved ISP.

(2) A variance is granted in writing on a Department-approved form. A variance granted to one AFH-DD provider does not constitute a precedent for any other AFH-DD provider. A variance is specific to a licensed site.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.705 - 443.825
Hist.: SPD 3-2005 f. 1-10-05 cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0040

License Required

(1) Any home that meets the definition of an AFH-DD as defined in OAR 411-360-0020 must first apply for and obtain a license from the Department or an exempt area county before providing care and services for compensation to an individual.

(2) A person or entity may not represent themselves as operating an AFH-DD or accept placement of an individual without being licensed as an AFH-DD.

(3) No person, employed and requiring a background check may be a provider, resident manager, substitute caregiver, or otherwise be in training, employed by the provider, a volunteer for the AFH-DD, or reside in or on the property of an AFH-DD who --

(a) Has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275;

(b) Has not complied with Department rules for review of background checks in accordance with OAR 407-007-0200 to 407-007-0370; or

(c) Has been disapproved to work based on current Department policy and procedures for background checks in accordance with OAR 407-007-0200 to 407-007-0370.

(4) Section (3) of this rule does not apply to individual service recipients of the AFH-DD.

(5) Section (3)(a) of this rule does not apply to employees hired prior to July 28, 2009.

(6) LIMITED LICENSE. Any home that meets the definition of a limited license AFH-DD as defined in OAR 411-360-0020 must apply for and obtain a license from the Department before providing care and services to an individual for compensation.

(a) To qualify for a limited license and for compensation from the Department, the provider must:

(A) Submit a completed provider enrollment agreement, application for a limited license, appropriate licensing fee, physician's statement, and a background check in regards to criminal records, founded abuse of children, and substantiated abuse of an adult;

(B) Demonstrate a clear understanding of the individual's care, service, and support needs;

(C) Acquire any additional training necessary to meet the specific care, service, and support needs of the individual;

(D) Meet the standards of an AFH-DD;

(E) Meet minimal fire safety compliance including the installation of smoke alarms, carbon monoxide alarms, and fire extinguishers; and

(F) Obtain any training deemed necessary by the Department to provide adequate care and services to support the individual.

(b) A limited license is limited to the care and services of the individual named on the license only and may not be transferred to another individual.

(7) PROVISIONAL LICENSE. Any AFH-DD that meets the definition of a provisional license, due to an emergency situation in which the licensed provider is no longer able to oversee the operation of the AFH-DD, must be licensed by the Department. The applicant for the provisional license must meet the standards in OAR 411-360-0070 and 411-360-0110.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 2-2010(Temp), f. & cert. ef. 3-18-10 thru 6-30-10; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0050

License Application and Fees

(1) An applicant for an AFH-DD license must complete a written application on forms supplied by the Department and submit the application to the Department with the non-refundable fee.

(a) The application is not complete until the required information is submitted to the Department with the required non-refundable fee. Incomplete applications are void after 60 days from the date the application form is received by the Department.

(b) Failure to provide accurate information may result in the denial of the application.

(2) A separate application is required for each location where an AFH-DD is to be operated.

(3) An application for an AFH-DD that has a resident manager must include a completed application for the resident manager on the form supplied by the Department.

(4) The application for an AFH-DD license must include:

(a) The maximum capacity as described in OAR 411-360-0060;

(b) A list of all persons that reside in the home that receive care including family members that reside in the home that require care and persons receiving respite and day care services;

(c) A list of all other occupants that reside in the home or on the home's property including family members, friends, and room and board tenants;

(d) A physician's statement on the form supplied by the Department regarding the applicant's ability to provide care and services;

(e) Financial information including:

(A) A completed Financial Information Sheet on the form supplied by the Department;

(i) An applicant must have the financial ability and maintain sufficient liquid resources to pay the operating costs of an AFH-DD for at least two months without solely relying on potential income from individuals and room and board payments.

(ii) If an applicant is applying to operate more than one AFH-DD, the applicant must demonstrate the financial ability and maintain sufficient liquid resources to pay the operating costs of all the homes for at least two months without solely relying on potential income from individuals and room and board payments.

(iii) If an applicant is unable to demonstrate the financial ability and resources required by this section of this rule, the Department may require the applicant to furnish a financial guarantee such as a line of credit or guaranteed loan to fulfill the requirements of this rule.

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(B) Documentation of all unsatisfied judgments, liens, and pending lawsuits in which a claim for money or property is made against the applicant;

(C) Documentation of all bankruptcy filings by the applicant;

(D) Documentation of all unpaid taxes due from the applicant including but not limited to, property taxes, employment taxes, and state and federal income taxes;

(E) Copies of bank statements from the last three months demonstrating banking activity in both checking and savings accounts as applicable or demonstration of cash on hand may be requested; and

(F) A copy of a complete and current credit report for the applicant may be requested.

(f) If the home is leased or rented, a copy of the signed and dated lease or rental agreement. The agreement must be a standard lease or rental agreement for residential use and include the following:

(A) The owner and landlord's name;

(B) Verification that the rent is a flat rate; and

(C) Signatures and date signed by the landlord and applicant;

(g) If the applicant is purchasing or owns the home, verification of purchase or ownership;

(h) A current and accurate floor plan for the home that indicates:

(A) The size of the rooms;

(B) The size of the windows;

(C) Which bedrooms are to be used by individuals, the licensee, caregivers, room and board tenants (as applicable), and for day care and respite services;

(D) The location of all the exits on each level of the home including emergency exits such as windows;

(E) The location of any wheelchair ramps;

(F) The location of all fire extinguishers, smoke alarms, and carbon monoxide alarms;

(G) Planned evacuation routes; and

(H) Any designated smoking areas in or on the premises of the home.

(i) If requesting a license to operate more than one AFH-DD, a plan covering administrative responsibilities and staffing qualifications for each home;

(j) Three personal references for the applicant. The personal references may not be family members, current or potential licensees, or co-workers of current or potential licensees;

(k) A written description of the daily operation of the AFH-DD including:

(A) The schedule of the provider, resident manager, and substitute caregivers; and

(B) A plan of coverage for the absence of the provider, resident manager, and substitute caregivers.

(l) Written information describing the operational plan for the AFH-DD including:

(A) The use of a substitute caregiver, if applicable; and

(B) A plan of coverage for the absence of the resident manager, if applicable;

(m) A signed background check and if needed, the mitigating information and fitness determination form for each person who is to have regular contact with the individuals, including the provider, the resident manager, caregivers, and other occupants of the home over the age of 16 (excluding individual service recipients);

(n) A signed consent form for a background check with regards to abuse of children;

(o) Founded reports of child abuse or substantiated abuse allegations with dates, locations, and resolutions of those reports for all persons that reside in the home, as well as all applicant or provider employees, independent contractors, and volunteers;

(p) The classification being requested with information and supporting documentation regarding qualifications, relevant work experience, and training of caregivers as required by the Department;

(q) A \$20.00 per bed non-refundable fee for each individual service recipient (includes all private pay and publicly funded individuals, but does not include day care and family members);

(r) A copy of the house rules for the AFH-DD; and

(s) A mailing address if different from the address of the home and a business address for electronic mail.

(5) After receipt of the completed application materials, including the non-refundable fee, the Department investigates the information submitted and inspects the home. Compliance with these rules is determined upon submission and completion of the application and the process described.

(a) The applicant is given a copy of the inspection form identifying any areas of noncompliance and specifying a timeframe for correction, but no later than 60 days from the date of inspection.

(b) Deficiencies noted during an inspection of the home must be corrected in the timeframe specified by the Department. Applicants must be in compliance with these rules before a license is issued. An application is denied if cited deficiencies are not corrected within the timeframes specified by the Department.

(6) Applicants must attend a local orientation offered by the local CDDP prior to being licensed.

(7) An applicant may withdraw a new or renewal application at any time during the application process by notifying the Department in writing.

(8) An applicant whose license has been revoked, non-renewed, or voluntarily surrendered during a revocation or non-renewal process, or whose application has been denied, may not be permitted to make a new application for one year from the date that the action is final, or for a longer period of time if specified in the final order.

(9) All monies collected under these rules are to be paid to the Quality of Care Fund.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0055

Provider Enrollment Agreements and Contracts

(1) MEDICAID PROVIDER ENROLLMENT AGREEMENT.

(a) An applicant or licensee who intends to provide care and services to support individuals who are or become eligible for Medicaid services must enter into a Medicaid Provider Enrollment Agreement with the Department, follow Department rules, and abide by the terms of the Agreement. A Medicaid Provider Enrollment Agreement is not approved unless the Department has determined that the applicant, licensee, co-licensee, or any owner or officer of the corporation, as applicable, is not listed on the Office of Inspector General's or the U.S. General Services Administration's (System for Award Management) Exclusion Lists.

(b) An approved Medicaid Provider Enrollment Agreement does not guarantee the placement of individuals eligible for Medicaid services in an AFH-DD.

(c) An approved Medicaid Provider Enrollment Agreement is valid for the length of the license unless earlier terminated by the licensee or the Department. A Medicaid Provider Enrollment Agreement must be completed, submitted, approved, and renewed with each licensing cycle.

(d) An individual eligible for Medicaid services may not be admitted into an AFH-DD unless and until the Department has approved a Medicaid Provider Enrollment Agreement. Medicaid payment is not issued to a licensee without a current license and an approved Medicaid Provider Enrollment Agreement in place.

(e) The rate of compensation established by the Department is considered payment in full. The licensee may not request or accept additional funds or in-kind payment from any source.

(f) The Department does not issue payment for the date of the exit of an individual or for any time period thereafter.

(g) The licensee or the Department may terminate a Medicaid Provider Enrollment Agreement according to the terms of the Agreement.

(h) The Department may terminate a Medicaid Provider Enrollment Agreement under the following circumstances:

(A) The licensee fails to maintain substantial compliance with all related federal, state, and local laws, ordinances, and regulations; or

(B) The license to operate the AFH-DD has been voluntarily surrendered, revoked, or not renewed.

(i) The Department must terminate a Medicaid Provider Enrollment Agreement under the following circumstances:

(A) The licensee fails to permit access by the Department or CMS to any AFH-DD licensed to and operated by the licensee;

(B) The licensee submits false or inaccurate information;

(C) Any person with five percent or greater direct or indirect ownership in the AFH-DD did not submit timely and accurate information on the Medicaid Provider Enrollment Agreement form or fails to submit fingerprints if required under the background check rules in OAR 407-007-0200 to 407-007-0370;

(D) Any person with five percent or greater direct or indirect ownership interest in the AFH-DD has been convicted of a criminal offense related to the person's involvement with Medicare, Medicaid, or Title XXI programs in the last 10 years; or

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(E) Any person with an ownership or control interest, or who is an agent or managing employee of the AFH-DD fails to submit timely and accurate information on the Medicaid Provider Enrollment Agreement form.

(j) If a licensee submits notice of termination of the Medicaid Provider Enrollment Agreement, the licensee must concurrently issue a Notice of Involuntary Move or Transfer to each individual eligible for Medicaid services residing in the licensee's AFH-DD.

(k) If either a licensee or the Department terminates the Medicaid Provider Enrollment Agreement, the licensee may not re-apply for a new Medicaid Provider Enrollment Agreement for a period of no less than 180 days from the date the licensee or the Department terminated the Agreement.

(l) A licensee must forward all of the personal incidental funds (PIF) of an individual who is a recipient of Medicaid services within 10 business days of the death of the individual to the Estate Administration Unit, PO Box 14021, Salem, Oregon 97309-5024.

(2) PRIVATE CONTRACT. A licensee who provides care and services to support individuals who pay with private funds or individuals receiving only day care services must enter into a written contract with the individual or the person paying for the individual's care and services. The written contract is the admission agreement. The written contract must be signed by all parties prior to the admission of the individual and updated as needed. A copy of the contract is subject to review by the Department prior to licensure and prior to the implementation of any changes to the contract.

(a) The contract must include but not be limited to:

(A) An Individual Support Plan;

(B) A schedule of rates; and

(C) Conditions under which the rates may be changed.

(b) The provider must give a copy of the signed contract to the individual or the individual's legal representative and retain the original contract in the individual's record.

(c) The licensee must give written notice to a private pay individual or the person paying for the individual's care and services 30 days prior to any general rate increases, additions, or other modifications of the rates unless the change is due to a medical emergency resulting in a greater level of care in which case the notice must be given within 10 days of the change.

Stat. Auth.: ORS 409.050, & 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0060

Capacity

(1) The maximum capacity of an AFH-DD is limited to five individuals who require care and services who are unrelated to the provider by blood, marriage, or adoption.

(2) The number of individuals permitted to reside in an AFH-DD is determined by the ability of the caregiver to meet the care, service, and support needs of the individuals, fire safety standards, physical structure standards, and the standards of these rules.

(a) Determination of maximum capacity includes consideration of total household composition including all children, adult relatives, and older adults.

(b) In determining maximum capacity, consideration is given to whether children over the age of 5 have a bedroom separate from their parents and the number and age of children or others that reside in the AFH-DD requiring care.

(3) Children under the age of 10 living in the AFH-DD, individuals receiving respite services, and individuals receiving day care services are included in the licensed capacity of the AFH-DD.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0070

Classification

A provisional, limited, level 1, level 2B, or level 2M license may be issued by the Department only if the qualifications of the applicant, resident manager (if applicable), and substitute caregiver fulfill the requirements of these rules.

(1) PROVISIONAL LICENSE.

(a) A provisional license may be issued by the Department if:

(A) There is an emergency situation where the current licensed provider is no longer overseeing the operation of the AFH-DD; and

(B) An applicant meets the qualifications described in OAR 411-360-0110(1)(a-f)(h-m).

(b) A provisional license is valid for 60 days from the date of issue and is not renewable.

(2) LIMITED LICENSE.

(a) A limited license may be issued by the Department if:

(A) An applicant intends to provide care and services to a specific individual who is unrelated to the applicant but with whom the applicant has an established relationship of no less than one year;

(B) The applicant meets the qualifications described in OAR 411-360-0110(1);

(C) The home meets the facility standards described in OAR 411-360-0130; and

(D) The applicant acquires any additional training necessary to meet the specific needs of the individual.

(b) The license is limited to only the care of the individual named on the license.

(3) LEVEL 1 LICENSE. A Level 1 license may be issued by the Department if:

(a) The home and applicant are in compliance with OAR 411-360-0080; and

(b) An applicant and resident manager (if applicable):

(A) Meets the qualifications described in OAR 411-360-0110;

(B) Complete the training requirements described in OAR 411-360-0120;

(C) Has the equivalent of one year of full-time experience in providing direct care and services to support individuals with intellectual or developmental disabilities; and

(D) Has current CPR and First Aid certification.

(i) Accepted CPR and First Aid courses must be provided or endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(ii) CPR or First Aid courses conducted online are only accepted by the Department when an in-person skills competency check is conducted by a qualified instructor endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(4) LEVEL 2B LICENSE.

(a) A provider must be licensed as a Level 2B AFH-DD if the provider serves or intends to serve more than one individual who exhibits behavior that poses a significant danger to the individual or others. Examples of behaviors that may pose a significant danger to the individual or others include but are not limited to:

(A) Acts or history of acts that have caused injury to self or others requiring medical treatment;

(B) Use of fire or items to threaten injury to persons or damage to property;

(C) Acts that cause significant damage to homes, vehicles, or other properties; or

(D) Actively searching for opportunities to act out thoughts that involve harm to others.

(b) A Level 2B license may be issued by the Department only if the applicant and resident manager (if applicable) has met the requirements described in section (3) of this rule for a Level 1 license and meets the following additional criteria:

(A) Has two years of full time experience providing care and services to support individuals who exhibit the behavior described in subsection (a) of this section that poses significant risk to the individual or others;

(B) Has completed OIS-G, OIS-IF, or OIS-C certification by a state approved OIS trainer; and

(C) If available from the Department, has completed additional hours of advanced behavior intervention training per year based on the support needs of the individual.

(c) A provider of a Level 2B AFH-DD must have a Transition Plan for each individual upon entry that addresses the individual's support and service needs.

(d) A Behavior Support Plan, if needed, must be implemented within 120 days of the individual's placement that:

(A) Emphasizes the development of functional, alternative, and positive approaches to behavior intervention;

(B) Uses the least intervention possible;

(C) Ensures that abusive or demeaning intervention is never used; and

(D) Is evaluated by an ISP Team through review of specific data at least every six months to assess the effectiveness of the Plan.

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(e) A provider of a Level 2B AFH-DD may not employ a resident manager or substitute caregiver who does not meet or exceed the qualifications and training standards described in subsection (b) of this section.

(f) A provider of a Level 2B AFH-DD may not admit an individual whose care and service needs exceed the licensed classification of the Level 2B AFH-DD and may not admit an individual without prior approval of the CDDP.

(5) LEVEL 2M LICENSE.

(a) A provider must be licensed as a Level 2M AFH-DD if the provider serves or intends to serve more than one individual who has a medical condition that is serious and may be life threatening. Examples of medical conditions that are serious and may be life threatening include but are not limited to:

(A) Brittle diabetes or diabetes not controlled through medical or physical interventions;

(B) Significant risk of choking or aspiration;

(C) Physical, intellectual, or mental limitations that render the individual totally dependent on others for access to food or fluids;

(D) Mental health or alcohol or drug problems that are not responsive to treatment interventions; or

(E) A terminal illness that requires hospice care.

(b) A Level 2M license may be issued by the Department only if the applicant and resident manager (if applicable) has met the requirements described in section (3) of this rule for a Level 1 license and meets the following additional criteria:

(A) Is a licensed health care provider such as a registered nurse or licensed practical nurse or has the equivalent of two years of full-time experience providing care and services to support individuals who have a medical condition described in subsection (a) of this section that is serious and may be life-threatening;

(B) Has current satisfactory references from at least two licensed health care providers, such as a physician, physician's assistant, nurse practitioner, or registered nurse, who have direct knowledge of the applicant's ability and past experiences as a caregiver; and

(C) Has fulfilled a minimum 6 of the 12 hours of annual training requirements in specific medical training.

(c) A provider of a Level 2M AFH-DD must have a Transition Plan for each individual upon entry that addresses the individual's support and service needs.

(d) A provider must develop, with an individual's ISP Team, a Medical Support Plan within 30 days of the individual's placement or whenever there is a change in the individual's health status.

(e) A provider of a Level 2M AFH-DD may not employ a resident manager or substitute caregiver who does not meet or exceed the qualification and training standards described in subsection (b) of this section.

(f) A provider of a Level 2M AFH-DD may not admit an individual whose care and service needs exceed the licensed classification of the Level 2M AFH-DD and may not admit an individual without prior approval of the CDDP.

Stat. Auth.: ORS 410.070 & 409.050

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 22-2010(Temp), f. & cert. ef. 8-27-10 thru 2-22-11; SPD 29-2010, f. 12-29-10, cert. ef. 1-1-11; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0080

Issuance of a License

(1) The Department issues a license within 60 days after the Department has received the completed application materials, if the home and applicant are found to be in compliance with these rules. The license specifies the type of license and includes the name of the licensee and resident manager (if applicable), address of the premises to which the license applies, the maximum capacity, expiration date, and classification level. The licensee must visibly post the license in the AFH-DD and the license must be available for inspection at all times.

(2) LIMITED LICENSE. A limited license is issued to a provider for the care of a specific individual. A provider with a limited license may not accept other placements. A provider with a limited license must meet the standards of an AFH-DD and acquire any additional training necessary to meet the specific support needs of the individual and may be subject to the requirements of:

(a) OAR 411-360-0140, Standards and Practices for Health Care;

(b) OAR 411-360-0160, Behavior Supports;

(c) OAR 411-360-0170, Documentation and Record Requirements;

(d) OAR 411-360-0180, General Practices; and

(e) OAR 411-360-0190, Standards for Admission, Transfers, Respite, Crisis Placements, Exits, and Closure.

(3) PROVISIONAL LICENSE.

(a) The Department may issue a 60-day provisional license to a qualified person if the Department determines that an emergency situation exists after being notified that the licensed provider is no longer overseeing the operation of the AFH-DD. A person is considered qualified if he or she is at least 21 years of age and meets the qualifications of a provider described in OAR 411-360-0110(1)(a-f)(h-m).

(b) A provisional license may be extended one time for a period of 30 days if an applicant has demonstrated a good faith effort to complete the application process and obtain the required qualifications and trainings.

(4) The Department may attach conditions to a license that limit, restrict, or specify other criteria for operation of the AFH-DD. The conditions must be posted with the license in the AFH-DD and be available for inspection at all times.

(5) A condition may be attached to a license that restricts admissions to the AFH-DD.

(6) A license for an AFH-DD is not transferable or applicable to any location or persons other than those specified on the license.

(7) When an AFH-DD is to be sold or otherwise transferred, the new provider must apply for, and obtain, a license prior to the transfer of operation of the AFH-DD.

(8) A license is valid for one year unless revoked or suspended.

(9) The Department does not issue a license to operate an additional AFH-DD to a provider who has failed to achieve and maintain substantial compliance with the rules and regulations while operating any existing home or homes.

(10) The Department does not issue an initial license unless:

(a) An applicant and home are in compliance with ORS 443.705 to 443.825 and these rules;

(b) The Department has completed an inspection of the home;

(c) The Department has completed a background check on the applicant, resident manager (if applicable), and any subject individual as defined in OAR 411-360-0020;

(d) The Department has determined that the applicant has the financial ability and maintains sufficient liquid resources to pay the operating costs of the home for at least two months without solely relying on potential income from individuals and room and board payments;

(e) The Department has checked the record of sanctions available from the Department's files, including the list of nursing assistants who have been found responsible for abuse and whose names have been added to the registry pursuant to ORS 441.678; and

(f) The Department has conducted a background check of the provider or resident manager with regard to founded abuse of children or substantiated abuse of adults.

(11) CHANGE OF RESIDENT MANAGER. If a resident manager changes during the period of time the license covers, the provider must notify the Department within 24 hours and identify who is to be providing care.

(a) The provider must submit a request for a change of resident manager to the Department with:

(A) A completed application for the resident manager applicant on the form supplied by the Department;

(B) A background check and a current consent form to conduct a background check for child abuse for the resident manager applicant; and

(C) A non-refundable payment fee of \$10.00.

(b) A revised license with the name of the new resident manager is issued upon the Department's determination that the applicant meets the requirements of a resident manager and the applicant has received the Department's required AFH-DD training and passed the test.

(12) In seeking an initial license, the burden of proof to establish compliance with ORS 443.705 to 443.825 and these rules is upon the applicant.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0090

Renewal of a License

(1) The licensee must submit a renewal application and fee prior to the expiration date of the current license to keep the license in effect until a new license or a final order of non-renewal is issued by the Department. If the renewal application and fee are not submitted prior to the expiration date of the current license, the AFH-DD is treated as an unlicensed home subject to administrative sanctions.

(2) The renewal application must include the same information and fee as described in OAR 411-360-0050. A physician's statement, financial

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information, house rules, and floor plan are not required if the Department reasonably determines that the information has not changed.

(3) The Department may investigate any information in the renewal application and is to conduct an inspection of the home.

(a) The licensee is given a copy of the inspection form citing any deficiencies and a timeframe for correction, but no longer than 30 days from the date of inspection.

(b) The Department may require the AFH-DD to correct deficiencies prior to issuing a license renewal. The Department may deny a renewal application if cited deficiencies are not corrected within the timeframe specified by the Department.

(4) The Department does not renew a license unless:

(a) The provider and the home are in compliance with ORS 443.705 to 443.825 and these rules;

(b) The Department has completed an inspection of the home; and

(c) The Department has completed an annual background check as required by ORS 181.534 and 443.735 on the provider, resident manager (if applicable), and any subject individual as defined in OAR 411-360-0050.

(5) In seeking the renewal of a license when an AFH-DD has been licensed for less than 24 months, the burden of proof to establish compliance with ORS 443.705 to 443.825 and these rules is upon the licensee.

(6) In proceedings for renewal of a license when an AFH-DD has been licensed for at least 24 continuous months, the burden of proof to establish noncompliance with ORS 443.705 to 443.825 and these rules is upon the Department.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 2-2010(Temp), f. & cert. ef. 3-18-10 thru 6-30-10; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 5-2013(Temp), f. & cert. ef. 4-1-13 thru 9-27-13; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0110

Qualifications for Providers, Resident Managers, and Caregivers

(1) PROVIDER QUALIFICATIONS. An AFH-DD provider must meet the level requirements of the AFH-DD license as described in OAR 411-360-0070 and the following qualifications:

(a) Be at least 21 years of age;

(b) Reside in the home that is to be licensed as the AFH-DD or if the provider does not reside in the home there must be a resident manager who resides in the home. A provider or resident manager resides in the home when the provider or resident manager sleeps in the home four nights per week;

(c) Provide evidence satisfactory to the Department regarding experience, training, knowledge, interest, and concern in providing care and services to support individuals with intellectual or developmental disabilities. Such evidence may include but not be limited to:

(A) Certified nurse's aide training;

(B) Nursing home, hospital, or institutional work experience;

(C) Licensed practical nurse or registered nurse training and experience;

(D) Training approved by the Department; or

(E) Experience providing care and services and home management skills to individuals with intellectual or developmental disabilities.

(d) Possess the physical health, mental health, good judgment, and good personal character determined necessary by the Department to provide 24-hour care and services to support individuals with intellectual or developmental disabilities. A provider must have a statement from a physician, on a form provided by the Department, indicating that the provider is physically and mentally capable of providing care and services. A provider with a documented history or substantiated complaints of substance abuse or mental illness must provide evidence satisfactory to the Department of successful treatment and rehabilitation and references regarding current condition;

(e) Have an approved background check annually as required in section (2) of this rule and maintain that approval as required;

(f) Have no founded reports of child abuse or a substantiated abuse allegation;

(g) Have the financial ability and maintain sufficient liquid resources to pay the operating costs of the AFH-DD for at least two months without solely relying on potential income from individuals and room and board payments. If a provider operates more than one AFH-DD, the provider must have the financial ability and maintain sufficient liquid resources to pay the operating costs of all the AFH-DDs for at least two months without solely relying on potential income from individuals and room and board payments;

(A) Upon application, documentation of the following must be provided to the Department:

(i) All unsatisfied judgments, liens, and pending lawsuits in which a claim for money or property is made against the applicant;

(ii) All bankruptcy filings by the applicant; and

(iii) All unpaid taxes due from the applicant including but not limited to property taxes, employment taxes, and state and federal income taxes.

(B) The Department may require or permit the applicant to provide a current credit report to satisfy this financial requirement.

(C) The Department may not issue an initial license to an applicant who has been adjudged bankrupt more than once.

(D) If an applicant has any unpaid judgments (other than a current judgment for support), pending lawsuits, liens, or unpaid taxes, proof that the applicant has the amount of resources necessary to pay those claims must be provided to the Department as required.

(E) If an applicant is unable to demonstrate the financial ability and resources as required, the Department may require the applicant to furnish a financial guarantee such as a line of credit or guaranteed loan as a condition of initial licensure.

(h) Be literate in the English language and demonstrate the ability to comprehend and communicate in English orally and in writing with the individuals, licensed health care providers, services coordinators, and others involved in the care of the individuals;

(i) Be able to respond appropriately to emergency situations at all times;

(j) If transporting individuals by motorized conveyance, have a current driver's license in compliance with the laws of the Department of Motor Vehicles and vehicle insurance as required by the state of Oregon;

(k) Document annual review of responsibility for mandatory reporting of abuse or neglect of an individual on forms provided by the Department;

(l) Have a clear understanding of the job responsibilities, knowledge of the individuals' ISPs, and the ability to provide the care and services specified for each individual; and

(m) Not be listed on the Office of Inspector General's or General Services Administration's Exclusion lists.

(2) BACKGROUND CHECKS.

(A) In accordance with OAR 407-007-0200 to 407-007-0370 and under ORS 181.534, all subject individuals as defined in OAR 411-360-0020 must have an approved background check prior to operating, working, training in, or residing in an AFH-DD:

(A) Annually;

(B) Prior to a subject individual's change in position (i.e. changing from a caregiver to resident manager); and

(C) Prior to working in another AFH-DD regardless of whether the employer is the same or not unless subsection (b) of this section applies.

(b) PORTABILITY OF BACKGROUND CHECK APPROVAL. A subject individual, excluding licensees, may be approved to work in multiple homes within a county only when the subject individual is working in the same employment role. The indication of worksite location must be included by a qualified entity initiator for each subject individual to show the subject individual's intent to work at various AFH-DDs within the licensing jurisdiction of the county.

(c) Effective July 28, 2009, public funds may not be used to support, in whole or in part, a provider, a resident manager, providers' employees, alternate caregivers, volunteers, or any other subject individual under OAR 407-007-0200 to 407-007-0370 who is subject to background checks, who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275. This rule does not apply to caregivers of the AFH-DD hired prior to July 28, 2009.

(d) Effective July 28, 2009, a person may not be authorized as a provider or meet qualifications as described in this rule if the person is subject to background checks and has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275. This rule does not apply to caregivers of the AFH-DD hired prior to July 28, 2009.

(e) A weighing test is applied to background checks for occupants who do not provide care in the AFH-DD but require a background check on or after July 28, 2009 for approval purposes.

(3) RESIDENT MANAGER REQUIREMENTS. A resident manager must meet the provider qualifications listed in section (1) of this rule and the level requirements of the AFH-DD license as described in OAR 411-360-0070.

(4) SUBSTITUTE CAREGIVER REQUIREMENTS. A substitute caregiver must meet the level requirements of the AFH-DD license as described in OAR 411-360-0070 and the following qualifications:

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(a) Be at least 18 years of age;
(b) Have an approved background check annually as required in section (2) of this rule and maintain that approval as required. A person may not be authorized as a substitute caregiver or meet qualifications as described in this rule if the person has been hired on or after July 28, 2009, or is subject to a background check beginning July 28, 2009 as required by administrative rule, and the person has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275;

(c) Be notified annually of the substitute caregiver's responsibility as a mandatory reporter of abuse or neglect. Annual mandatory reporter notification must be documented on forms provided by the Department;

(d) Be literate in the English language and demonstrate the ability to comprehend and communicate in English orally and in writing with the individuals, licensed health care providers, services coordinators, and others involved in the care of the individuals;

(e) Be able to respond appropriately to emergency situations at all times;

(f) Know fire safety and emergency procedures;

(g) Have a clear understanding of the job responsibilities, knowledge of the individuals' ISPs, and the ability to provide the care and services specified for each individual's needs;

(h) Be able to meet the qualifications of a resident manager described in section (4) of this rule when left in charge of an AFH-DD for 30 days or longer;

(i) Not be an individual service recipient of the AFH-DD;

(j) If transporting individuals by motorized conveyance, have a current driver's license in compliance with the laws of the Department of Motor Vehicles and vehicle insurance as required by the state of Oregon;

(k) Possess the physical health, mental health, good judgment, and good personal character determined necessary by the Department to provide care and services to support individuals with intellectual or developmental disabilities. A substitute caregiver with a documented history or substantiated complaints of substance abuse or mental illness must provide evidence satisfactory to the Department of successful treatment and rehabilitation and references regarding current condition;

(l) Must meet the training requirements of the level of the AFH-DD license in OAR 411-360-0120; and

(m) Must disclose on an application for employment if they have been found to have committed abuse,

(5) A licensee may not hire or continue to employ a resident manager or substitute caregiver that does not meet the requirements stated in this rule.

(6) The licensee is responsible for the operation of the AFH-DD and the quality of care and services rendered in the AFH-DD.

(7) The licensee is responsible for the supervision and training of resident managers and substitute caregivers and their general conduct when acting within the scope of their employment or duties.

(8) A licensee, resident manager, caregiver, volunteer, or other subject individual must self report any potentially disqualifying condition as described in OAR 407-007-0280 and 407-007-0290. The person must notify the Department within 24 hours.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760,

443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 2-2010(Temp), f. & cert. ef. 3-18-10 thru 6-30-10; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0120

Training Requirements for Providers

(1) A provider must complete the Department's Basic Training Course that includes but is not limited to taking and passing an examination on course work and necessary skills. Failure to obtain a passing score on the Basic Training Examination may result in the denial or non-renewal of a license pursuant to OAR 411-360-0270. If an applicant fails the first Examination, a second Examination may be taken. If the applicant fails the second Examination, the application may be denied.

(2) All resident manager applicants must complete the Department's Basic Training Course and pass the Basic Training Examination prior to becoming a resident manager. If the applicant fails the first Examination, a second Examination may be taken. If the applicant fails the second Examination, the application may be denied.

(3) All substitute caregivers must complete the Department's Basic Training Course and pass the Basic Training Examination prior to providing care and services. If a substitute caregiver fails the first Examination, a second Examination may be taken. If the substitute caregiver fails the second Examination, the substitute caregiver must wait 14 days to retake the

Examination. Each subsequent test failure requires a 14-day waiting period until the substitute caregiver passes the Examination.

(4) The provider or resident manager must keep documentation of the completion of the Department's Basic Training Course and annual training of substitute caregivers including the date of the training, subject content, name of the agency or organization providing the training, and the number of training hours.

(5) Prior to placement of individuals in an AFH-DD, the provider must complete an AFH-DD orientation provided by the local CDDP that at a minimum covers the requirements of the rules governing AFH-DD services.

(6) Prior to providing care and services to any individual, a resident manager and substitute caregiver must be oriented to the AFH-DD and to the individuals by the provider. Orientation must be clearly documented in the AFH-DD records. Orientation includes but is not limited to:

(a) The location of the fire extinguishers;

(b) Demonstration of evacuation procedures;

(c) Instruction on the emergency preparedness plan;

(d) Location of the individuals' records;

(e) Location of telephone numbers for the individuals' physicians, the provider, and other emergency contacts;

(f) Location of medication and key for medication cabinet;

(g) Introduction to individuals;

(h) Instructions for caring for each individual;

(i) Delegation by a registered nurse for nursing tasks if applicable; and

(j) Instructions related to any Advance Directives.

(7) All provider and resident manager applicants must have current certification in first aid and CPR by a training agency approved by the Department.

(a) Accepted CPR and First Aid courses must be provided or endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(b) CPR or First Aid courses conducted online are only accepted by the Department when an in-person skills competency check is conducted by a qualified instructor endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(8) The Department requires at least 12 hours of Department-approved training annually for the provider, resident manager, and substitute caregivers. Training must be documented in the records of the AFH-DD.

(9) If a provider, resident manager, or substitute caregiver is not in compliance with these rules, the Department may require additional training in the deficient area, whether or not the 12-hour approved annual training requirement has already been met.

(10) Providers, resident managers, or substitute caregivers who perform tasks of care that are delegated by a registered nurse or taught by a physician must receive appropriate training and monitoring from a registered nurse or physician on performance and implementation of the task of care. The delegated tasks of care must be addressed as part of an individual's ISP.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760,

443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0130

Facility Standards

In order to qualify for or renew a license, an AFH-DD must meet the following provisions.

(1) GENERAL CONDITIONS.

(a) Each AFH-DD must maintain up-to-date documentation verifying the AFH-DD meets applicable local business license, zoning, building, and housing codes, and state and local fire and safety regulations for a single-family residence. General buildings must be of sound construction and meet all applicable state and local fire and safety regulations in effect at the time of construction. It is the duty of the provider to check with local government to be sure all applicable local codes have been met. A current floor plan of the house must be on file with the local CDDP.

(b) Mobile homes must have been built since 1976 and designed for use as a home rather than a travel trailer. The mobile home must have a manufacturer's label permanently affixed to the home that states the mobile home meets the requirements of the Department of Housing and Urban Development (HUD) or authority having jurisdiction.

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(c) The building, patios, decks, walkways, and furnishings must be clean and in good repair. The interior and exterior must be well maintained and accessible according to the needs of the individuals. Walls, ceilings, and floors must be of such character to permit frequent washing, cleaning, or painting, as appropriate. There must be no accumulation of garbage, debris, rubbish, or offensive odors.

(d) Stairways (interior and exterior) must have handrails and be adequately lighted. Yard and exterior steps must be accessible and appropriate to the needs of the individuals.

(e) Adequate lighting must be provided in each room, internal and external stairways, and internal and external exit ways. Incandescent light bulbs and fluorescent tubes must be protected and installed per manufacturer's directions.

(f) The heating system must be in working order. Areas of the AFH-DD used by individuals must be maintained at a comfortable temperature. Minimum temperatures during the day (when individuals are home) must be no less than 68 degrees F and no less than 60 degrees at night when individuals are sleeping. During times of extreme summer heat, the provider must make every reasonable effort to make the individuals comfortable and safe using ventilation, fans, or air conditioners. The temperature may not exceed 85 degrees in the house.

(g) There must be at least 150 square feet of common space and sufficient comfortable furniture in the AFH-DD to accommodate the recreational and socialization needs of the occupants at one time. Common space may not be located in the basement or in garages unless such space was constructed for that purpose or has otherwise been legalized under permit. Additional space may be required if wheelchairs are to be accommodated.

(h) Providers must not permit individuals to access or use swimming or other pools, hot tubs, saunas, or spas on the AFH-DD premise without supervision. Swimming pools, hot tubs, spas, or saunas must be equipped with sufficient safety barriers or devices designed to prevent accidental injury or unsupervised access.

(i) Hallways and exit ways must be a minimum of 36 inches wide or as approved by the authority having jurisdiction. Interior doorways used by individuals must be wide enough to accommodate wheelchairs and walkers if used by individuals.

(j) Only ambulatory individuals capable of self-preservation may be housed on a second floor or in a basement.

(k) Split level homes must be evaluated according to accessibility, emergency egress, and evacuation capability of the individuals.

(l) Ladders, rope, chain ladders, and other devices may not be used as a secondary means of egress.

(m) Marijuana must not be grown in or on the premises of the AFH-DD. Individuals with Oregon Medical Marijuana Program (OMMP) registry cards must arrange for and obtain their own supply of medical marijuana from a designated grower as authorized by OMMP. The licensed provider, the caregiver, other employee, or any occupant in or on the premises of the AFH-DD must not be designated as the individual's grower and must not deliver marijuana from the supplier.

(2) SANITATION.

(a) A public water supply must be utilized if available. If a non-municipal water source is used, the water source must be tested for coliform bacteria by a certified agent yearly and records must be retained for two years. Corrective action must be taken to ensure potability.

(b) If a septic tank or other non-municipal sewage disposal system is used, it must be in good working order.

(c) Garbage and refuse must be suitably stored in readily cleanable, rodent proof, covered containers, pending weekly removal.

(d) Prior to laundering, soiled linens and clothing must be stored in containers in an area separate from food storage, kitchen, and dining area. Special pre-wash attention must be given to soiled and wet bed linens.

(e) Sanitation for household pets and other domestic animals must be adequate to prevent health hazards. Proof of rabies or other vaccinations as required by a licensed veterinarian must be maintained on the premises of the AFH-DD for household pets. Pets not confined in enclosures must be under control and must not present a danger to individuals or guests.

(f) There must be adequate control of insects and rodents, including screens in good repair on doors and windows used for ventilation.

(g) Universal precautions for infection control must be followed in care to individuals. Hands and other skin surfaces must be washed immediately and thoroughly if contaminated with blood or other body fluids.

(h) All caregivers must take precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures. After they are used, disposable syringes and needles, scalpel blades, and other sharp items must be placed in puncture-resistant containers for dis-

posal. The puncture-resistant containers must be located as close as practical to the use area. Disposal must be according to local regulations and resources (ORS 459.386 to 459.405).

(3) BATHROOMS. Bathrooms must:

(a) Provide for individual privacy and have a finished interior, a mirror, a window capable of being opened or other means of ventilation, and a window covering. No person must have to walk through another person's bedroom to access a bathroom;

(b) Be clean and free of objectionable odors;

(c) Have tubs or showers, toilets, and sinks in good repair. A sink must be located near each toilet. A toilet and sink must be provided on each floor where rooms of non-ambulatory individuals or individuals with limited mobility are located. There must be at least one toilet, one sink, and one tub or shower for each six household occupants, including the provider and the provider's family;

(d) Have hot and cold water in sufficient supply to meet the needs of the individuals for personal hygiene. Hot water temperature sources for bathing areas may not exceed 120 degrees F;

(e) Have shower enclosures with nonporous surfaces. Glass shower doors must be tempered safety glass. Shower curtains must be clean and in good condition. Non-slip floor surfaces must be provided in tubs and showers;

(f) Have grab bars for toilets, tubs, and showers for the safety of individuals as required by the individuals' disabilities;

(g) Have barrier-free access to toilet and bathing facilities with appropriate fixtures if there are non-ambulatory individuals in the AFH-DD. Alternative arrangements for non-ambulatory individuals must be appropriate to individual needs for maintaining good personal hygiene;

(h) Have adequate supplies of toilet paper for each toilet and soap for each sink; and

(i) Individuals must be provided with individual towels and wash cloths that are laundered in hot water at least weekly or more often if necessary. Individuals must have appropriate racks or hooks for drying bath linens. If individual hand towels are not provided, individuals must be provided with individually dispensed paper towels.

(4) BEDROOMS.

(a) Bedrooms for all household occupants must:

(A) Have been constructed as a bedroom when the home was built or remodeled under permit;

(B) Be finished with walls or partitions of standard construction that go from floor to ceiling and a door that opens directly to a hallway or common use room without passage through another bedroom or common bathroom;

(C) Be adequately ventilated, heated, and lighted with at least one window capable of being opened that meets the fire regulations described in subsection (h) of this section;

(D) Have at least 70 square feet of usable floor space for each individual or 120 square feet of usable floor space for two individuals; and

(E) Have no more than two persons per room.

(b) Providers, resident managers, or family members must not sleep in areas designated as common use living areas or share bedrooms with individuals.

(c) There must be a bed for each individual including a frame unless otherwise documented by an ISP Team decision with a clean and comfortable mattress, a waterproof mattress cover if an individual is incontinent, and a pillow.

(d) Each bedroom must have sufficient, separate, private dresser and closet space for each individual's clothing and personal effects, including hygiene and grooming supplies. Individuals must be allowed to keep and use reasonable amounts of personal belongings and to have private, secure storage space.

(e) Drapes or shades for windows must be in good condition and allow privacy for individuals.

(f) Bedrooms must be on ground level for individuals who are non-ambulatory or have impaired mobility.

(g) Individual bedrooms must be in close enough proximity to the provider to alert the provider to nighttime needs or emergencies, or be equipped with an intercom or audio monitor as approved by an ISP team.

(h) Bedrooms must have at least one window or exterior door that readily opens from the inside without special tools and that provides a clear opening of not less than 821 square inches (5.7 sq. ft.), with the least dimensions not less than 22 inches in height or 20 inches in width. Sill height must not be more than 44 inches from the floor level or there must be approved steps or other aids to window egress that may be used by individuals. Windows with a clear opening of not less than 5.0 square feet or

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720 square inches with sill heights of 48 inches may be accepted when approved by the State Fire Marshal or the State Fire Marshal's designee.

(5) MEALS.

(a) Three nutritious meals must be served daily at times consistent with those in the community.

(A) Each daily menu must include food from the four basic food groups and fresh fruit and vegetables in season unless otherwise specified in writing by a physician.

(B) There must be no more than a 14-hour span between the evening meal and breakfast unless snacks and liquids are served as supplements.

(C) Food preparation must include consideration of cultural and ethnic backgrounds, as well as, the food preferences of individuals. Special consideration must be given to individuals with chewing difficulties and other eating limitations.

(D) Food may not be used as an inducement to control the behavior of an individual.

(b) Menus for the coming week that consider individual preferences must be prepared and posted weekly in a location that is accessible to individuals and the individuals' families. Menu substitutions in compliance with subsection (a) of this section are acceptable.

(c) MODIFIED OR SPECIAL DIETS. For individuals with modified or special diets ordered by a physician or licensed health care provider, the provider must:

(A) Have menus for the current week that provide food and beverages that consider the individual's preferences and are appropriate to the modified or special diet; and

(B) Maintain documentation that identifies how modified or special diets are prepared and served to individuals.

(d) Adequate storage must be available to maintain food at a proper temperature, including a properly working refrigerator. Food storage must be such that food is protected from dirt and contamination and maintained at proper temperatures to prevent spoilage.

(e) Utensils, dishes, glassware, and food supplies must not be stored in bedrooms, bathrooms, or living areas.

(f) Meals must be prepared and served in the AFH-DD where individuals reside. Payment for meals eaten away from the AFH-DD for the convenience of the provider (e.g. restaurants, senior meal sites) is the responsibility of the provider. Meals and snacks as part of an individual recreational outing are the responsibility of the individual.

(g) Utensils, dishes, and glassware must be washed in hot soapy water, rinsed, and stored to prevent contamination.

(h) Food storage and preparation areas and equipment must be clean, free of obnoxious odors, and in good repair.

(i) Home-canned foods must be processed according to the guidelines of the Oregon Extension Service. Freezing is the most acceptable method of food preservation. Milk must be pasteurized.

(6) TELEPHONE.

(a) A telephone must be provided in the AFH-DD that is available and accessible for individuals' use for incoming and outgoing calls. Telephone lines must be unblocked to allow for access.

(b) Emergency telephone numbers for the local CDDP, police, fire, medical if not served by 911, an emergency number to reach a provider who does not reside in the AFH-DD, and any emergency physician and additional persons to be contacted in the case of an emergency, must be posted in close proximity to all phones utilized by the licensee, resident manager, individuals, and caregivers.

(c) Telephone numbers for making complaints or a report of alleged abuse to the Department, the local CDDP, and Disability Rights Oregon must also be posted.

(d) Limitations on the use of the telephone by individuals are to be specified in the written house rules. Individual restrictions must be specified in the individual's ISP. In all cases, a telephone must be accessible to individuals for outgoing calls (emergencies) 24 hours a day.

(e) AFH-DD telephone numbers must be listed in the local telephone directory.

(f) The licensee must notify the Department, individuals, and individuals' families, legal representatives, and service coordinators, as applicable, of any change in the AFH-DDs telephone number within 24 hours of the change.

(7) SAFETY.

(a) Buildings must meet all applicable state and local building, mechanical, and housing codes for fire and life safety. The AFH-DD may be inspected for fire safety by the State Fire Marshal's office at the request of the Department using the standards in these rules as appropriate.

(b) Heating in accordance with manufacturer's specifications and electrical equipment, including wood stoves, must be installed in accordance with all applicable fire and life safety codes. Such equipment must be used and maintained properly and be in good repair.

(A) Providers who do not have a permit verifying proper installation of an existing wood stove must have the wood stove inspected by a qualified inspector, Certified Oregon Chimney Sweep Association member, or Oregon Hearth Products Association member and follow the recommended maintenance schedule.

(B) Fireplaces must have protective glass screens or metal mesh curtains attached to the top and bottom of the fireplace.

(C) The installation of a non-combustible heat resistant safety barrier may be required to be installed 36 inches around wood stoves to prevent individuals with ambulation or confusion problems from coming in contact with the stove.

(D) Un-vented portable oil, gas, or kerosene heaters are prohibited. Sealed electric transfer heaters or electric space heaters with tip-over shut-off capability may be used when approved by the authority having jurisdiction.

(c) Extension cord wiring and multi-plug adaptors must not be used in place of permanent wiring. UL-approved, re-locatable power tabs (RPTs) with circuit breaker protection are permitted for indoor use only and must be installed and used in accordance with the manufacturer's instructions. If RPTs are used, the RPTs must be directly connected to an electrical outlet, never connected to another RPT (known as daisy-chaining or piggy-backing), and never connected to an extension cord.

(d) All exit doors and interior doors used for exit purposes must have simple hardware that cannot be locked against exit and must have an obvious method of single action operation. Hasps, sliding bolts, hooks and eyes, and double key deadbolts are not permitted. Homes with one or more individuals who have impaired judgment and are known to wander away from their place of residence must have a functional and activated alarm system to alert a caregiver of an unsupervised exit by the individual.

(e) CARBON MONOXIDE ALARMS. Carbon monoxide alarms must be listed as complying with ANSI/UL 2034 and must be installed and maintained in accordance with the manufacturer's instructions. Carbon monoxide alarms must be installed within 15 feet of each bedroom at the height recommended by the manufacturer.

(A) Carbon monoxide alarms may be hard wired, plug-in, or battery operated. Hard wired and plug-in alarms must be equipped with battery back-up. Battery operated alarms must be equipped with a device that warns of a low battery.

(B) Bedrooms used by hearing-impaired occupants who may not hear the sound of a regular carbon monoxide alarm must be equipped with an additional carbon monoxide alarm that has visual or vibrating capacity.

(f) SMOKE ALARMS. Smoke alarms must be installed in accordance with the manufacturer's instructions in each bedroom, hallways or access areas that adjoin bedrooms, the family room or main living area where occupants congregate, laundry rooms, office rooms, and basements. In addition, smoke alarms must be installed at the top of all stairways in multi-level homes.

(A) Ceiling placement of smoke alarms is recommended. If wall mounted, smoke alarms must be between 6 inches and 12 inches from the ceiling and not within 12 inches of a corner.

(B) Smoke alarms must be equipped with a device that warns of low battery when battery operated or with a battery back-up if hard wired.

(C) Smoke alarms when activated must be audible in all sleeping rooms.

(D) Bedrooms used by hearing-impaired occupants who may not hear the sound of a regular smoke alarm must be equipped with an additional smoke alarm that has visual or vibrating capacity.

(g) All carbon monoxide alarms and smoke alarms must contain a sounding device or be interconnected to other alarms to provide, when actuated, an alarm that is audible in all sleeping rooms. The alarms must be loud enough to wake occupants when all bedroom doors are closed.

(h) The licensee must test all carbon monoxide alarms and smoke alarms in accordance with the manufacturer's instructions at least monthly (per NFPA 72). Testing must be documented in the AFH-DD records.

(i) FIRE EXTINGUISHERS. At least one 2A-10BC rated fire extinguisher must be in a visible and readily accessible location on each floor, including basements. Fire extinguishers must be inspected at least once a year by a qualified person that is well versed in fire extinguisher maintenance. All recharging and hydrostatic testing must be completed by a qualified agency properly trained and equipped for this purpose and documentation must be maintained in the AFH-DD records.

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(j) The licensee must maintain carbon monoxide alarms, smoke alarms, and fire extinguishers in functional condition. If there are more than two violations in maintaining battery operated alarms in working condition, the Department may require the licensee to hard wire the alarms into the electrical system.

(8) EMERGENCY PROCEDURES AND PLANNING.

(a) EVACUATION DRILLS.

(A) The provider must conduct unannounced evacuation drills when individuals are present, once every quarter with at least one drill per year occurring during the hours of sleep. Drills must occur at different times of the day, evening, and night, with exit routes being varied based on the location of a simulated fire. All occupants must participate in the evacuation drills.

(B) Written documentation must be made at the time of the drill and kept by the provider for at least two years following the drill. Evacuation drill documentation must include:

- (i) The date and time of the drill or simulated drill;
- (ii) The location of the simulated fire and exit route;
- (iii) The last names of all individuals, the provider, caregivers, and all other occupants present on the premises at the time of the drill;
- (iv) The type of evacuation assistance provided by the provider to individuals;

- (v) The amount of time required by each individual to evacuate; and
- (vi) The signature of the provider or caregiver conducting the drill.

(b) The provider must document that, within 24 hours of arrival, each new individual receives an orientation to basic safety and is shown how to respond to a fire and carbon monoxide alarm and how to exit from the AFH-DD in an emergency.

(c) The provider must demonstrate the ability to evacuate all individuals from the AFH-DD within three minutes. If there are problems in demonstrating this evacuation time, the Department may apply conditions to the license that include but are not limited to reduction of individuals under care, additional staffing, increased fire protection, or revocation of the license.

(d) The provider must provide, keep updated, and post, a floor plan on each floor. The floor plan must contain room sizes, the location of each individual's bed, windows, exit doors, resident manager or provider's sleeping room, smoke and carbon monoxide alarms, fire extinguishers, escape routes, and wheelchair ramps. A copy of the floor plan must be updated to reflect any change and a copy of the updated floor plan must be submitted to the Department.

(e) There must be at least one plug-in rechargeable flashlight available for emergency lighting in a readily accessible area on each floor including the basement.

(f) If an individual accesses the community independently, the provider must provide the individual information about appropriate steps to take in an emergency, such as emergency contact telephone numbers, contacting police or fire personnel, or other strategies to obtain assistance.

(g) WRITTEN EMERGENCY PLAN. Providers must develop, maintain, update, and implement a written Emergency Plan for the protection of all the individuals in the event of an emergency or disaster. The Emergency Plan must:

(A) Be practiced at least annually. The Emergency Plan practice may consist of a walk-through of the duties or a discussion exercise dealing with a hypothetical event, commonly known as a tabletop exercise;

(B) Consider the needs of the individuals being served and address all natural and human-caused events identified as a significant risk for the AFH-DD such as a pandemic or an earthquake;

(C) Include provisions and sufficient supplies, such as sanitation and food supplies, to shelter in place, when unable to relocate, for a minimum of three days under the following conditions:

- (i) Extended utility outage;
- (ii) No running water;
- (iii) Inability to replace food supplies; and
- (iv) Caregivers unable to report as scheduled.

(D) Include provisions for evacuation and relocation that identifies:

(i) The duties of caregivers during evacuation, transporting, and housing of individuals including instructions to caregivers to notify the Department and local CDDP of the plan to evacuate or the evacuation of the AFH-DD as soon as the emergency or disaster reasonably allows;

(ii) The method and source of transportation;

(iii) Planned relocation sites that are reasonably anticipated to meet the needs of the individuals in the AFH-DD;

(iv) A method that provides persons unknown to the individual the ability to identify each individual by the individual's name, and to identify the name of the individual's supporting provider; and

(v) A method for tracking and reporting to the Department and the local CDDP the physical location of each individual until a different entity resumes responsibility for the individual.

(E) Address the needs of the individuals including provisions to provide:

(i) Immediate and continued access to medical treatment with the evacuation of the individual summary sheet and the individual's emergency information identified in OAR 411-360-0170, and other information necessary to obtain care, treatment, food, and fluids for individuals;

(ii) Continued access to life sustaining pharmaceuticals, medical supplies, and equipment during and after an evacuation and relocation;

(iii) Behavior support needs anticipated during an emergency; and

(iv) Adequate staffing to meet the life-sustaining and safety needs of the individuals.

(F) Providers must instruct and provide training to all caregivers about the caregivers' duties and responsibilities for implementing the Emergency Plan.

(i) Documentation of caregiver training must be kept on record by the provider.

(ii) The provider must re-evaluate the Emergency Plan at least annually or when there is a significant change in the AFH-DD.

(G) Applicable parts of the Emergency Plan must coordinate with each applicable Employment, Alternative to Employment, or Day Program provider to address the possibility of an emergency or disaster during day time hours.

(9) SPECIAL HAZARDS.

(a) Flammable and combustible liquids and hazardous materials must be safely and properly stored in original, properly labeled containers or safety containers, and secured to prevent tampering by individuals and vandals.

(b) Oxygen and other gas cylinders in service or in storage must be adequately secured to prevent cylinders from falling or being knocked over. No smoking signs must be visibly posted where oxygen or other gas cylinders are present. Oxygen and other gas cylinders may not be used or stored in rooms where a wood stove, fireplace, or open flames are located.

(c) To protect the safety of an individual in an AFH-DD, the provider must store hunting equipment and weapons in a safe and secure manner inaccessible to the individuals in the AFH-DD. Ammunition must be secured in a locked area separate from the firearms.

(d) For AFH-DDs with one or more employees, smoking regulations in compliance with Oregon's Indoor Clean Air Act must be adopted to allow smoking only in outdoor designated areas. Signs must be posted prohibiting smoking in the workplace per OAR 333-015-0040.

(e) Smoking is prohibited in sleeping rooms. Ashtrays of noncombustible material and safe design must be provided in areas where smoking is permitted. Designated smoking areas must be at least 10 feet from any entrance, exit, window that opens, ventilation intake, or accessibility ramp. Smoking is prohibited in vehicles when individuals or employees occupy the vehicle.

(f) Cleaning supplies, poisons, and insecticides must be properly stored in original, properly labeled containers in a safe area away from food, food preparation and storage, dining areas, and medications and in a manner to prevent tampering by individuals.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 25-2011(Temp), f. & cert. ef. 12-1-11 thru 5-29-12; SPD 5-2012, f. & cert. ef. 5-29-12; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0140

Standards and Practices for Health Care

(1) INDIVIDUAL HEALTH CARE. An individual must receive care and services that supports and promotes the individual's health and well-being as follows:

(a) The AFH-DD must ensure each individual has a primary physician or primary licensed health care provider whom the individual or the individual's legal representative has chosen from among qualified providers.

(b) The AFH-DD must ensure each individual receives a medical evaluation by a licensed health care provider no less than every two years or as recommended by the licensed health care provider.

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(c) The AFH-DD must monitor the health status and physical conditions of each individual and take action in a timely manner in response to identified changes or conditions that may lead to deterioration or harm.

(d) A written and signed order from a physician or licensed health care provider is required prior to the use or implementation of any of the following:

- (A) Prescription medications;
- (B) Non-prescription medications except over the counter topicals;
- (C) Treatments other than basic first aid;
- (D) Modified or special diets;
- (E) Adaptive equipment; and
- (F) Aids to physical functioning.

(e) The provider must implement a physician's or licensed health care provider's order.

(f) Injections may be self-administered by the individual or administered by a relative of the individual, a currently licensed registered nurse, a licensed practical nurse under registered nurse supervision, or the provider, resident manager, or substitute caregiver who has been trained and is monitored by a physician or delegated by a registered nurse in accordance with the rules of the Board of Nursing in OAR chapter 851, division 047. Documentation regarding the training or delegation must be maintained in the individual's record.

(2) REQUIRED DOCUMENTATION.

(a) A provider must maintain and keep current, records on each individual to aid physicians, licensed health care providers, the CDDP, and the Department in understanding an individual's medical history. Such documentation must include:

(A) A list of known health conditions, medical diagnoses, any known allergies, immunizations, Hepatitis B status, previous TB tests, incidents or injuries affecting the health, safety, or emotional well-being of the individual, and history of emotional or mental health status that may be pertinent to current care and services;

(B) A record of visits and appointments to licensed health care providers that includes documentation of the consultation, any treatment provided, and any follow-up reports provided to the provider;

(C) A record of known hospitalizations and surgeries;

(D) Current signed orders for all medications, treatments, therapies, special diets, and adaptive equipment;

(E) Medication administration records (MARs);

(F) Documentation of a legal representative's consent for medical treatment that is not routine including surgery and anesthesia; and

(G) Copies of previous mental health assessments and assessment updates including multi-axial DSM diagnosis, treatment recommendations, and progress records for mental health treatment services.

(b) When requested, copies of medical records and MARs must be provided to a young adult's legal guardian, Department caseworker, or services coordinator.

(3) MEDICATION PROCUREMENT AND STORAGE. All medications must be:

(a) Kept in the original containers;

(b) Labeled by the dispensing pharmacy, product manufacturer, or physician, as specified by the written order of a physician or licensed health care provider; and

(c) Kept in a secured, locked container and stored as indicated by the product manufacturer.

(4) MEDICATION ADMINISTRATION.

(a) All medications and treatments must be recorded on an individualized MAR. The MAR must include:

(A) The name of the individual;

(B) A transcription of the physician's or licensed health care provider's written order including the brand or generic name of the medication, prescribed dosage, frequency, and method of administration;

(C) For over the counter topical medications without a written order from a physician or licensed health care provider, a transcription of the printed instructions from the topical medication package;

(D) Times and dates of administration or self-administration of the medication;

(E) Signature of the person administering the medication or the person monitoring the self-administration of the medication;

(F) Method of administration;

(G) An explanation of why a PRN (as needed) medication was administered;

(H) Documented effectiveness of any PRN (as needed) medication administration;

(I) An explanation of all medication administration or documentation irregularities; and

(J) Documentation of any known allergy or adverse drug reaction.

(b) Any errors in the MAR must be corrected with a circle of the error and the initials of the person making the correction.

(5) SELF-ADMINISTRATION OF MEDICATION.

(a) For individuals who independently self-administer medications, there must be a plan as determined by the ISP team for the periodic monitoring and review of the self-administration of medications.

(b) The AFH-DD must ensure that individuals able to self-administer medications keep the medications in a place unavailable to other individuals residing in the AFH-DD and store the medications as recommended by the product manufacturer.

(6) USE OF MEDICAL MARIJUANA.

(a) Prior to using medical marijuana in an AFH-DD, an individual must:

(A) Possess a valid OMMP registry card. A copy of the individual's current OMMP registry card must be made available to the provider and maintained in the individual's record;

(B) Provide a copy of the physician's written statement that indicates medical marijuana may mitigate the symptoms of the individual's qualifying condition and includes instructions for the use of medical marijuana;

(C) Be responsible for obtaining the marijuana from an OMMP approved third party grower who is not the provider, caregiver, resident manager, or any other occupant in or on the premises of the AFH-DD; and

(D) Sign an agreement that the individual understands that:

(i) Marijuana is not allowed to be grown by any person in or on the premises of the AFH-DD;

(ii) A participant in the OMMP may not possess more than one ounce of marijuana at any one time while in or on the premises of the AFH-DD;

(iii) Medical marijuana may only be administered by ingesting it with food and by a vaporizer. If assistance with administration is necessary, the individual must agree to arrange for a "designated primary caregiver". The designated primary caregiver must be authorized by the OMMP and identified on the individual's OMMP registry card;

(iv) A provider, caregiver, resident manager, or any occupants of the AFH-DD cannot be designated as the individual's OMMP-approved designated primary caregiver and identified on the individual's OMMP registry card;

(v) A provider, caregiver, resident manager, or any occupants of the AFH-DD cannot assist with the preparation, administration, or delivery of medical marijuana;

(vi) The individual must maintain any equipment used to administer marijuana;

(vii) Marijuana must be kept in locked storage in the individual's bedroom when not being administered;

(viii) The individual must immediately notify the OMMP of any change in status such as a change in address, designated primary caregiver, or person responsible for the marijuana grow site. A copy of the individual's updated OMMP registry card must be made available to the provider for the individual's record; and

(ix) Failure to comply with Oregon laws, Oregon rules, or the house rules of the AFH-DD may result in additional action.

(b) An individual must comply with the Oregon Medical Marijuana Act, the rules for the OMMP in OAR chapter 333, division 008, these rules, and any other requirements for the OMMP.

(c) An individual must self-administer medical marijuana by ingesting the marijuana or inhaling the marijuana with a vaporizer. Smoking marijuana in or on the premises of the AFH-DD is prohibited. Marijuana must be administered privately in a room that is not shared with another person. The individual may not have visitors, other individuals, or any other person in this private space while self-administering the marijuana.

(d) An individual must designate a grower to provide the marijuana as necessary. The grower must not be the provider, resident manager, caregiver, or any occupant in or on the premises of the AFH-DD. The grower designated by the individual must be authorized by OMMP and identified on the individual's OMMP registry card.

(A) The designated grower for individuals being served in the foster care system must accommodate the specific needs related to the dispensation and tracking of the controlled substance. Not more than 28 grams at a time may be stored on the property of the AFH-DD per card holder. The remainder of the OMMP card holder's marijuana must be stored at the grower's site.

(B) Each 28 grams, as needed, must be packaged in an airtight container clearly dated and labeled as to the total amount in grams with the

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OMMP card holder's name. The container must be stored in a locked cabinet as is done with all controlled medications. Each administration must be tracked on the individual's MAR as to dosage in grams as weighed on a scale, date, and time of day.

(e) A provider, caregiver, resident manager, or any other occupants in or on the premises of the AFH-DD must not prepare or in any way assist with the administration or procurement of an individual's marijuana. The provider must monitor the individual's usage of medical marijuana to ensure safety and to document that the individual's use of medical marijuana is in compliance with the physician's instructions for using marijuana as documented in the individual's ISP.

(f) If a provider, resident manager, or caregiver also has an OMMP card for medical purposes, a substitute caregiver must be available to support the individuals when the provider, resident manager, or caregiver is under the influence of the medical marijuana. Any OMMP card holder in or on the premises of the AFH-DD must not smoke marijuana in or on the premises of the AFH-DD but may ingest the marijuana or inhale the marijuana with a vaporizer.

(7) PSYCHOTROPIC MEDICATIONS.

(a) Psychotropic medications and medications for behavior must be:

(A) Prescribed by a physician or licensed health care provider through a written order; and

(B) Monitored by the prescribing physician, licensed health care provider, ISP team, and provider for desired responses and adverse consequences.

(b) A provider, resident manager, or any caregiver may not discontinue, change, or otherwise alter the prescribed administration of a psychotropic medication for an individual without direction from a licensed health care provider.

(c) A provider, resident manager, or any caregiver may not use alternative medications intended to alter or affect mood or behavior, such as herbals or homeopathic remedies, without direction and supervision of a licensed health care provider.

(d) PRN (as needed) psychotropic medication orders are not allowed.

(e) PSYCHOTROPIC MEDICATIONS FOR YOUNG ADULTS. A qualified mental health professional or a licensed health care provider must provide a mental health assessment prior to any young adult being prescribed one or more psychotropic medications or any antipsychotic medication.

(A) A mental health assessment is not required in the following situations:

- (i) In case of urgent medical need;
- (ii) For a change in the delivery system of the same medication;
- (iii) For a change in medication within the same classification;
- (iv) A one-time medication order given prior to a medical procedure;

or

(v) An anti-epileptic medication prescribed for a seizure disorder.

(B) When a mental health assessment is required, the provider must notify and inform the following of the need for a mental health assessment:

- (i) The young adult's parent who retains legal guardianship or the young adult's legal guardian; or
- (ii) The Department's caseworker when the Department is the legal guardian of the young adult; and
- (iii) The services coordinator.

(C) The required mental health assessment --

- (i) Must be completed within three months prior to the prescription of a psychotropic medication; or
- (ii) May be an update of a prior mental health assessment that focuses on a new or acute problem.

(D) Information from the mental health assessment must be provided to the licensed health care provider prior to the issuance of a prescription for a psychotropic medication.

(E) Within one business day after receiving a new prescription or knowledge of a new prescription for psychotropic medication for the young adult, the provider must notify:

- (i) The young adult's parent who retains legal guardianship or the young adult's legal guardian; or
- (ii) The Department's caseworker when the Department is the legal guardian of the young adult; and
- (iii) The services coordinator.

(F) The notification described in subsection (E) of this section must contain:

- (i) The name of the prescribing physician or licensed health care provider;
- (ii) The name of the medication;

(iii) The dosage, any change of dosage, or suspension or discontinuation of the current psychotropic medication;

(iv) The dosage administration schedule prescribed; and

(v) The reason the medication was prescribed.

(G) The provider must get a written informed consent prior to filling a prescription for any new psychotropic medication from one of the following except in case of urgent medical need:

(i) The young adult's parent who retains legal guardianship or the young adult's legal guardian; or

(ii) The Department when the Department is the legal guardian of the young adult.

(H) When a young adult has more than two prescriptions for psychotropic medications, an annual review of the psychotropic medications must occur by a licensed health care provider or a qualified mental health professional who has the authority to prescribe drugs, such as the Oregon Medicaid Drug Use Review Program.

(f) BALANCING TEST. When a psychotropic medication is first prescribed and annually thereafter, the provider must obtain a signed balancing test from the prescribing licensed health care provider using the Department's Balancing Test Form, or by inserting the required form content into the provider's form.

(a) The provider must present the physician or licensed health care provider with a full and clear description of the behavior and symptoms to be addressed, as well as any side effects observed; and

(b) The provider must keep signed copies of the balancing test in the individual's medical record for seven years.

(8) MEDICATION SAFEGUARDS.

(a) Safeguards to prevent adverse effects or medication reactions must be utilized and include:

(A) Whenever possible, obtaining all prescription medication for an individual, except samples provided by the licensed health care provider, from a single pharmacy that maintains a medication profile for the individual;

(B) Maintaining information about each medication's desired effects and side effects; and

(C) Ensuring that medications prescribed for one individual are not administered to, or self-administered by, another individual or caregiver,

(b) An individual's record must include documentation of the reason when all medications may not be provided through a single pharmacy.

(9) MEDICATION DISPOSAL. All unused, discontinued, outdated, recalled, and contaminated medications including over-the-counter medications may not be kept in the AFH-DD and must be disposed of within 10 days of expiration, discontinuation, or the provider's knowledge of recall or contamination. A provider may contact the local DEQ waste management company in the area for instructions on proper disposal of medications. Disposal of all controlled medications must be documented and witnessed by at least one other person who is 18 years of age or older. A written record of the disposal of the medication must be maintained that includes documentation of:

(a) Date of disposal;

(b) Description of the medication, including dosage, strength, and amount being disposed;

(c) Name of the individual for whom the medication was prescribed;

(d) Reason for disposal;

(e) Method of disposal;

(f) Signature of the person disposing of the medication; and

(g) For controlled medications, the signature of a witness to the disposal.

(10) DIRECT NURSING SERVICES. When direct nursing services are provided to an individual the provider must:

(a) Coordinate with the nurse and the ISP team to ensure that the nursing services being provided are sufficient to meet the individual's health needs; and

(b) Implement the Nursing Care Plan, or appropriate portions therein, as agreed upon by the ISP team and registered nurse.

(11) DELEGATION AND SUPERVISION OF TASKS OF NURSING CARE. Tasks of nursing care may be delegated by a registered nurse to providers and other caregivers only in accordance with the rules of the Oregon State Board of Nursing in OAR chapter 851, division 047.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

ADMINISTRATIVE RULES

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Behavior Support

(1) A decision to develop a plan to alter an individual's behavior must be made by the individual's ISP team. The provider must maintain documentation of the ISP team's decision.

(2) **FUNCTIONAL BEHAVIORAL ASSESSMENT.** Prior to the development of a formal Behavior Support Plan, as agreed to by an individual's ISP team, a functional behavioral assessment must be conducted. The functional behavioral assessment must be based upon information provided by one or more persons who know the individual and include:

(a) A clear, measurable description of the behavior including (as applicable) frequency, duration, and intensity of the behavior;

(b) A clear description and justification of the need to alter the behavior;

(c) An assessment of the meaning of the behavior including the possibility that the behavior is one or more of the following:

(A) An effort to communicate;

(B) The result of a medical condition;

(C) The result of a psychiatric condition; or

(D) The result of environmental causes or other factors.

(d) A description of the context in which the behavior occurs; and

(e) A description of what currently maintains the behavior.

(3) **BEHAVIOR SUPPORT PLAN.**

(a) A Behavior Support Plan must include:

(A) An individualized summary of the individual's needs, preferences, and relationships;

(B) A summary of the function of the behavior (as derived from the functional behavioral assessment);

(C) Strategies that are related to the function of the behavior and are expected to be effective in reducing challenging behaviors;

(D) Prevention strategies including environmental modifications and arrangements;

(E) Early warning signals or predictors that may indicate a potential behavioral episode and a clearly defined plan of response;

(F) A general crisis response plan that is consistent with OIS;

(G) A plan to address post crisis issues;

(H) A procedure for evaluating the effectiveness of the Behavior Support Plan including a method of collecting and reviewing data on frequency, duration, and intensity of the behavior;

(I) Specific instructions for caregivers who provide support to follow regarding the implementation of the Behavior Support Plan; and

(J) Positive behavior supports that includes the least intrusive intervention possible.

(b) A provider must maintain written evidence that an individual, the individual's legal representative (if applicable), and the individual's ISP team are aware of the development of a Behavior Support Plan and any objections or concerns must be documented.

(4) **PROTECTIVE PHYSICAL INTERVENTION.**

(a) The AFH-DD must only employ protective physical intervention techniques that are included in the current approved OIS curriculum or as approved by the OIS Steering Committee.

(b) Protective physical intervention techniques must only be applied:

(A) When the health and safety of an individual or others is at risk and the individual's ISP team has authorized the procedures as documented by the ISP team's decision, the procedures are documented in the individual's ISP, and the procedures are intended to lead to less restrictive intervention strategies;

(B) As an emergency measure, if absolutely necessary to protect the individual or others from immediate injury; or

(C) As a health related protection prescribed by a physician if absolutely necessary during the conduct of a specific medical or surgical procedure or for the individual's protection during the time that a medical condition exists.

(c) **TRAINING.** Providers, resident managers, and substitute caregivers who support individuals who have behavior support needs that may require the application of protective physical intervention must be trained by an instructor certified in OIS when an ISP team has determined that there is probable cause for future application of protective physical intervention. Documentation verifying OIS training must be maintained in the personnel file of the provider, resident manager, and substitute caregiver.

(d) **MODIFICATION OF TECHNIQUES.** A provider must obtain the approval of the OIS Steering Committee for any modification of standard OIS protective physical intervention techniques. The request for modification of protective physical intervention techniques must be submitted to the OIS Steering Committee and must be approved in writing by the OIS

Steering Committee prior to the implementation of the modification. The provider must maintain documentation of the OIS Steering Committee's approval in the individual's record.

(e) **USE IN EMERGENCY SITUATIONS.**

(A) Use of protective physical intervention techniques in emergency situations that are not part of an approved Behavior Support Plan must:

(i) Be reviewed by the provider, resident manager, or designee within one hour of application; and

(ii) Be used only until the individual is no longer an immediate threat to self or others.

(B) No later than one working day after the use of protective physical intervention techniques in an emergency situation, an incident report as described in subsection (f) of this section must be submitted to the services coordinator, personal agent (if applicable), or other Department designee.

(C) An individual's ISP must meet if an emergency protective physical intervention is used more than three times in a six-month period.

(f) **INCIDENT REPORT.**

(A) Any use of protective physical intervention must be documented in an incident report. The report must include:

(i) The name of the individual to whom the protective physical intervention was applied;

(ii) The date, type, and length of time the protective physical intervention was applied;

(iii) A description of the incident precipitating the need for the use of the protective physical intervention;

(iv) Documentation of any injury;

(v) The name and position of the caregiver applying the protective physical intervention;

(vi) The name and position of the caregivers witnessing the protective physical intervention; and

(vii) The name and position of the person conducting the review of the incident that includes the follow-up to be taken to prevent a recurrence of the incident.

(B) Within five working days of the incident, a copy of the incident report must be forwarded to the services coordinator or other Department designee (if applicable).

(C) If the protective physical intervention results in an injury, a copy of the incident report must be forwarded within one working day of the incident to the services coordinator or other Department designee (if applicable).

(D) A copy of an incident report not associated with a protective service investigation must be provided to the individual's personal agent (if applicable) and the individual's legal representative (if applicable) within the timeframes specified in this rule.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0170

Documentation and Record Requirements

(1) **INDIVIDUAL RECORDS.** A record must be developed, kept current, and available on the premises of the AFH-DD for each individual admitted to the AFH-DD.

(a) The provider must maintain a summary sheet for each individual in the AFH-DD. The summary sheet must include:

(A) The individual's name, current and previous address, date of entry into the AFH-DD, date of birth, gender, marital status, religious preference, preferred hospital, Medicaid prime and private insurance number if applicable, and guardianship status; and

(B) The name, address, and telephone number of:

(i) The individual's legal representative, family, advocate, or other significant person;

(ii) The individual's preferred primary licensed health care provider and designated back up licensed health care provider or clinic;

(iii) The individual's preferred dentist;

(iv) The individual's day program or employer (if any);

(v) The individual's services coordinator; and

(vi) Other representatives providing care and services to the individual.

(b) **EMERGENCY INFORMATION.** The provider must maintain emergency information for each individual receiving care and services in the AFH-DD in addition to the individual summary sheet identified in subsection (a) of this section. The emergency information must be kept current and must include:

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- (A) The individual's name;
- (B) The provider's name, address, and telephone number;
- (C) The address and telephone number of the AFH-DD where the individual resides if different from that of the provider;

(D) The individual's physical description, which may include a picture of the individual with the date the picture was taken, and identification of:

(i) The individual's race, gender, height, weight range, hair, and eye color; and

(ii) Any other identifying characteristics that may assist in identifying the individual such as marks or scars, tattoos, or body piercings.

(E) Information on the individual's abilities and characteristics including:

(i) How the individual communicates;

(ii) The language the individual uses and understands;

(iii) The ability of the individual to know how to take care of bodily functions; and

(iv) Any additional information that may assist a person not familiar with the individual to understand what the individual can do for him or herself.

(F) The individual's health support needs including:

(i) Diagnosis;

(ii) Allergies or adverse drug reactions;

(iii) Health issues that a person needs to know when taking care of the individual;

(iv) Special dietary or nutritional needs such as requirements around textures or consistency of foods and fluids;

(v) Food or fluid limitations due to allergies, diagnosis, or medications the individual is taking that may be an aspiration risk or other risk for the individual;

(vi) Additional special requirements the individual has related to eating or drinking, such as special positional needs or a specific way foods or fluids are given to the individual;

(vii) Physical limitations that may affect the individual's ability to communicate, respond to instructions, or follow directions; and

(viii) Specialized equipment needed for mobility, positioning, or other health related needs.

(G) The individual's emotional and behavioral support needs including:

(i) Mental health or behavioral diagnosis and the behaviors displayed by the individual; and

(ii) Approaches to use when dealing with the individual to minimize emotional and physical outbursts.

(H) Any court ordered or guardian authorized contacts or limitations;

(I) The individual's supervision requirements and why; and

(J) Any additional pertinent information the provider has that may assist in the care and services to support the individual if a natural or man-made disaster occurs.

(c) Individual records must be made available to representatives of the Department conducting inspections or investigations as well as to individuals to whom the information pertains, the individual's legal representative, or other legally authorized persons.

(d) Individual records must be kept by the provider for a period of at least three years. When an individual moves or an AFH-DD closes, copies of pertinent information must be transferred to the individual's new place of residence.

(e) Providers must comply with ORS 179.505 in all other matters pertaining to confidential records and release of information.

(2) **INDIVIDUAL ACCOUNT RECORDS.** For those individuals not yet capable of managing money as determined by the individual's ISP Team or legal representative, the provider must prepare, maintain, and keep current a separate and accurate written record of all money received or disbursed on behalf of or by the individual.

(a) The account record must include:

(A) The date, amount, and source of income received;

(B) The date, amount, and purpose of funds disbursed; and

(C) The signature of the provider or caregiver making each entry.

(b) Purchases of \$10.00 or more made on behalf of an individual must be documented by receipts unless an alternate amount is otherwise specified by the individual's ISP team.

(c) Personal Incidental Funds (PIF) are to be used at the discretion of the individual for such things as clothing, video games, and snacks (not part of daily diet) as addressed in the individual's ISP.

(d) Each account record must include the disposition of the room and board fee that the individual pays to the provider at the beginning of each month.

(e) **REIMBURSEMENT TO INDIVIDUAL.** The provider must reimburse the individual any funds that are missing due to theft or mismanagement on the part of the provider, resident manager, or caregiver of the AFH-DD, or for any funds within the custody of the provider that are missing. Such reimbursement must be made within 10 working days of the verification that funds are missing.

(f) Financial records must be maintained for at least seven years.

(3) **INDIVIDUALS' PERSONAL PROPERTY RECORD.** A provider must prepare and maintain an accurate individual written record of personal property that has significant emotional or monetary value to each individual as determined by a documented ISP team or legal representative decision. The personal property record must include:

(a) The description and identifying number, if any;

(b) Date of inclusion in the record;

(c) Date and reason for removal from record;

(d) Signature of provider making each entry; and

(e) A signed and dated annual review of the personal property record for accuracy.

(4) **INDIVIDUAL SUPPORT PLAN.** A health and safety transition plan must be developed for an individual at the time of the individual's admission for the first 60 days of care and service. A complete ISP must be developed by the end of 60 days. The ISP must be updated at a minimum annually, and more often when the individual's support needs change.

(a) A completed ISP must be documented on the Department-mandated Foster Care ISP Form and include the following:

(A) What is most important to the individual and what works and doesn't work;

(B) The individual's care, services, and support needs as identified by a Functional Needs Assessment;

(C) The type and frequency of care, services, and supports to be provided; and

(D) The person responsible for carrying out the care, services, and supports.

(b) For an individual in an employment, alternatives to employment, or other Department-funded day service, a copy of the employment, alternatives to employment, or day program service provider's plan for the individual must be integrated or attached to the individual's AFH-DD ISP.

(c) The ISP must include at least six hours of activities each week that are of interest to the individual that do not include television or movies made available by the provider. Activities are those available in the community and made available or offered by the provider or the CDDP.

(A) Activities may include:

(i) Recreational and leisure activities; and

(ii) Other activities required to meet an individual's needs as described in the individual's ISP.

(B) Activities may not include:

(i) Habilitation services;

(ii) Rehabilitation;

(iii) Educational services; or

(iv) Employment services.

(5) **HOUSE RULES.**

(a) A provider must establish house rules regarding hours, visitors, designated smoking areas, alcohol, use and presence of medical marijuana, meal times, use of telephones and kitchen, monthly charges and services to be provided, and policies on refunds in case of departure, hospitalization, or death. The house rules must also include: (A) House rules specific to the immediate notification of substantiated abuse as described in OAR 411-360-0210; and

(B) Any restrictions the AFH-DD may have on the use and presence of alcohol, tobacco, medical marijuana (if applicable), pets, visiting hours, dietary restrictions, or religious preference.

(i) Use of tobacco must be in compliance with Oregon's Indoor Clean Air Act and OAR 411-360-0130.

(ii) Use and presence of medical marijuana must be in compliance with the Oregon Medical Marijuana Act and OAR 411-360-0140. The house rules for medical marijuana must be reviewed and approved by the Department. If an individual intends to use medical marijuana in the AFH-DD, the house rules for medical marijuana must be signed and dated by the individual or the individual's legal representative and included in the individual's record.

(b) House rules may not violate the individual's rights as stated in ORS 430.210, 443.739, and described in section (9) of this rule.

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(c) House rules may not be in conflict with the family atmosphere of the AFH-DD or any of these rules.

(d) House rules are subject to review and approval by the Department prior to the issuance of a license and prior to implementing changes.

(e) A provider must discuss and provide a copy of the house rules to each individual and the individual's legal representative at the time of admission and annually or as changes occur. The provider must document in the individual's file that a copy of the house rules was provided.

(f) House rules must be posted in a conspicuous location in the AFH-DD that is accessible to individuals and visitors.

(6) UNUSUAL INCIDENTS. A written report of all unusual incidents relating to an individual must be sent to the CDDP within five working days of the incident. The report must include how and when the incident occurred, who was involved, what action was taken by the provider or caregiver, the outcome to the individual, and what action is being taken to prevent the reoccurrence of the incident.

(7) GENERAL INFORMATION. The provider must maintain all other information or correspondence pertaining to the individual.

(8) MONTHLY PROGRESS NOTES. The provider must maintain and keep current monthly progress notes for each individual residing in the AFH-DD that include, at a minimum, the progress of the ISP supports, any medical, behavioral, or safety issues, or any other events that are significant to the individual.

(9) INDIVIDUAL'S BILL OF RIGHTS.

(a) The provider must abide by the individual's Bill of Rights.

(b) The individual's Bill of Rights must be posted in a conspicuous location in the AFH-DD that is accessible to individuals and individuals' legal representatives and include the name and phone number of the office to call in order to report a complaint.

(c) The provider must explain and provide a copy of the individual's Bill of Rights along with a description of how to exercise these rights to each individual and the individual's legal representative at admission and document in the individual's file that a copy of the individual's Bill of Rights was provided.

(d) The provider must review the individual's Bill of Rights with each individual and the individual's legal representative annually or as changes occur.

(e) The individual's Bill of Rights states each individual has the right to:

(A) Be treated as an adult with respect and dignity;

(B) Be encouraged and assisted to exercise constitutional and legal rights as a citizen including the right to vote;

(C) Receive appropriate care and services and prompt health care as needed;

(D) Have adequate personal privacy and privacy to associate and communicate privately with any person of choice, such as family members, friends, advocates, and legal, social service, and medical professionals;

(E) Send and receive personal mail unopened and engage in telephone conversations as explained in OAR 411-360-0130;

(F) Have access to and participate in activities of social, religious, and community groups;

(G) Be able to keep and use personal clothing and possessions as space permits;

(H) Be free of discrimination in regard to race, color, national origin, gender, sexual orientation, or religion;

(I) Manage his or her financial affairs unless determined unable by the ISP team or legally restricted;

(J) Have a safe and secure environment;

(K) Have a written agreement regarding the services to be provided;

(L) Voice grievance without fear of retaliation;

(M) Have freedom from training, treatment, or chemical or protective physical interventions except as agreed to, in writing, in an individual's ISP;

(N) Be allowed and encouraged to learn new skills, to act on their own behalf to their maximum ability, and to relate to others in an age appropriate manner;

(O) Have an opportunity to exercise choices including such areas as food selection, personal spending, friends, personal schedule, leisure activities, and place of residence;

(P) Be free from punishment. Behavior intervention programs must be approved in writing in an individual's ISP;

(Q) Be free from abuse and neglect;

(R) Have the opportunity to contribute to the maintenance and normal activities of the household;

(S) Have access and opportunity to interact with persons with or without disabilities; and

(T) Have the right to not be transferred or moved without advance notice as provided in ORS 443.739(18) and OAR 411-088-0070 and the opportunity for a hearing as provided in ORS 443.738(11)(c) and OAR 411-088-0080.

(10) AFH-DD records must be kept current and maintained by the provider and be available for inspection upon request.

(11) EMPLOYMENT RECORDS. AFH-DD records must include proof that the provider, resident manager, and any other caregivers have met the minimum qualifications as required by OAR 411-360-0110. The following documentation must be included in the AFH-DD record and made available for review upon request:

(a) Completed employment applications including the names, addresses, and telephone numbers of all caregivers employed by the provider. An application for employment in any capacity in an AFH-DD must include a question asking whether the person applying for employment has ever been found to have committed abuse;

(b) Proof that the provider has the Department's approval for each subject individual, as defined in OAR 411-360-0020, to have contact with older adults, adults with disabilities, or adults with intellectual or developmental disabilities as a result of a background check as defined in OAR 407-007-0210;

(c) Proof of required training according to OAR 411-360-0120. Documentation must include the date of each training, subject matter, name of agency or organization providing the training, and number of training hours;

(d) A certificate to document completion of the Department's Basic Training Course for the provider, resident manager, and substitute caregivers;

(e) Proof of mandatory abuse report training for the provider, resident manager, and substitute caregivers;

(f) Proof of any additional training required for the specific classification of an AFH-DD or the provider, resident manager, and all caregivers; and

(g) Documentation of caregiver orientation to the AFH-DD, training of emergency procedures, training on an individual's ISP, and training on behavior supports and Nursing Care Plan (if applicable).

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 25-2011(Temp), f. & cert. ef. 12-1-11 thru 5-29-12; SPD 29-2011(Temp), f. & cert. ef. 12-30-11 thru 5-29-12; SPD 5-2012, f. & cert. ef. 5-29-12; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0180

General Practices

The provider must:

(1) Post the license for the AFH-DD in a conspicuous location in the AFH-DD that is accessible to individuals and visitors;

(2) Cooperate with Department personnel in complaint investigation procedures, abuse investigations and protective services, planning for individual care and services, application procedures, and other necessary activities, and allow access of Department personnel to the AFH-DD, the individuals, and all records;

(3) Give care and services as appropriate to the age and condition of the individuals and as identified in the individuals' ISP. The provider must be responsible for ensuring that physician orders and those of other medical or health professionals are followed and that the individual's physicians and other health professionals are informed of changes in health status and if the individual refuses care and services;

(4) In the provider's absence, have a substitute caregiver on the premises that is capable of providing care and services as required by the age and condition of the individuals. An AFH-DD service recipient may not be a substitute caregiver. For provider absences beyond 72 hours, the CDDP must be notified of the name of the substitute caregiver and the plan of operation in the provider's absence;

(5) A provider, resident manager, or caregiver must be present in the AFH-DD at all times individuals are present, unless specifically stated in an individual's ISP and granted as a variance by the Department;

(6) Allow individuals to exercise all civil and human rights accorded to other citizens;

(7) Not allow or tolerate physical, sexual, or emotional abuse or punishment, exploitation, or neglect of individuals;

(8) Provide care and services as agreed to in an individual's ISP;

(9) Keep information related to individuals confidential as required under ORS 179.505;

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(10) Assure that the number of individuals requiring nursing care does not exceed the provider's capability as determined by the Department;

(11) Not admit individuals without developmental or intellectual disabilities prior to the express permission of the Department. The provider must notify the CDDP prior to admitting an individual not referred for placement by the CDDP;

(12) Exercise reasonable precautions against any conditions that may threaten the health, safety, or welfare of individuals;

(13) Immediately notify the appropriate ISP team members (in particular the services coordinator and an individual's legal representative) of any unusual incidents that include the following:

- (a) Any significant change in medical status;
- (b) An unexplained or unanticipated absence from the AFH-DD;
- (c) Any alleged or actual abuse of the individual;
- (d) Any major behavioral incident, accident, illness, or hospitalization;

(e) If the individual contacts or is contacted by the police; or
(f) The individual dies.

(14) Write an incident report for any unusual incident and forward a copy of the incident report to the CDDP within five working days of the incident unless the incident must be referred immediately for a protective services investigation. Copies of incident reports not involving a protective services investigation must be provided to the individual's legal representative or personal agent, when applicable; and

(15) Notify the Department within 24 hours upon a change in the business address for electronic mail and the telephone number for the provider and the AFH-DD.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.705 - 443.825
Hist.: SPD 3-2005, f. 1-10-05, cert. of 2-1-05; SPD 13-2010, f. 6-30-10, cert. of. 7-1-10; SPD 5-2012, f. & cert. of. 5-29-12; SPD 34-2013, f. & cert. of. 9-27-13

411-360-0190

Standards for Admission, Transfers, Respite, Crisis Placements, Exit, and Closures

(1) NON-DISCRIMINATION. An individual considered for Department-funded services may not be discriminated against because of race, color, creed, age, disability, gender, sexual orientation, national origin, duration of Oregon residence, method of payment, or other forms of discrimination under applicable state or federal law.

(2) QUALIFICATIONS FOR DEPARTMENT-FUNDED SERVICES ON OR AFTER JULY 1, 2013. An individual who enters an AFH-DD on or after July 1, 2013 is subject to eligibility as described in this section.

(a) To be eligible for home and community-based waived services or Community First Choice State Plan services, an individual must:

- (A) Be an Oregon resident;
- (B) Be eligible for OSIP-M;
- (C) Be determined eligible for developmental disability services by the CDDP of the individual's county of residence as described in OAR 411-320-0080; and

(D) After completion of an assessment, meet the level of care as defined in OAR 411-360-0020.

(b) To be eligible for care and services in an AFH-DD, an individual must:

- (A) Be an Oregon resident;
- (B) Be determined eligible for developmental disability services by the CDDP of the individual's county of residence as described in OAR 411-320-0080;

(C) Be an individual who is not receiving other Department-funded in-home or community living support; and

(D) Be eligible for home and community-based waived services or Community First Choice state plan services as described in subsection (a) of this section; or

(E) Be determined to meet crisis eligibility as defined in OAR 411-320-0160.

(3) ENTRY. All individuals considered for entry into the AFH-DD must:

(a) Be referred by the CDDP or have prior written approval of the CDDP or Department if the individual's services are paid for by the Department; or

(b) Be placed with the agreement of the CDDP if the individual is either private pay or not eligible for developmental disability services.

(4) DOCUMENTATION UPON ENTRY.

(a) At the time of the CDDP's referral, the provider must be given:

- (A) A copy of the individual's eligibility determination document;

(B) A statement indicating the individual's safety skills including the individual's ability to evacuate from a building when warned by a signal device and adjust water temperature for bathing and washing;

(C) A brief written history of any behavioral challenges including supervision and support needs;

(D) The individual's medical history and information on health care support that includes when available:

- (i) The results of a physical exam made within 90 days prior to entry;
- (ii) The results of any dental evaluation;
- (iii) A record of immunizations;
- (iv) A record of known communicable diseases and allergies; and
- (v) A record of major illnesses and hospitalizations.

(E) A written record of the individual's current or recommended medications, treatments, diets, and aids for physical functioning;

(F) Copies of documents relating to the individual's guardianship or conservatorship, health care representation, or any other legal restrictions on the rights of the individual (if applicable); and

(G) A copy of the individual's most recent Functional Behavioral Assessment, Behavior Support Plan, ISP, and Individual Education Plan (if applicable).

(b) If an individual is being admitted from the individual's family home and the information required in subsection (a) of this section is not available, the provider must assess the individual upon entry for issues of immediate health or safety and document a plan to secure the remaining information no later than 30 days after entry. Documentation of the assessment must include a written justification as to why the information is not available.

(5) ADMISSION MEETING. An ISP team meeting must be conducted prior to an individual entering an AFH-DD. The findings of the ISP team meeting must be recorded in the individual's file and include at a minimum:

- (a) The name of the individual proposed for services;
- (b) The date of the ISP team meeting and the date determined to be the individual's date of entry;

(c) The name and role of each participant at the meeting;

(d) Documentation of the pre-admission information required by section (5) of this rule;

(e) Documentation of the decision to serve or not serve the individual requesting entry including the reason for the determination to not serve the individual; and

(f) If the decision was made to serve the individual, a written Transition Plan for no longer than 60 days that includes all medical, behavior, and safety supports needed by the individual.

(6) The provider retains the right to deny the entry of any individual if the provider feels the individual's support needs may not be met by the provider, or for any other reason specifically prohibited by these rules.

(7) An AFH-DD may not be used as a site for foster care for children, adults from other agencies, or any other type of shelter or day care without the written approval of the Department.

(8) TRANSFERS.

(a) An individual may not be transferred by a provider to another AFH-DD or moved out of the AFH-DD without 30 days advance written notice to the individual, the individual's legal representative, and the CDDP stating reasons for the transfer as provided in ORS 443.739(18) and OAR 411-088-0070, and the individual's right to a hearing as provided in ORS 443.738(11)(c) and OAR 411-088-0080, except for a medical emergency, or to protect the welfare of the individual or other individuals. Individuals may only be transferred by a provider for the following reasons:

(A) Behavior that poses a significant danger to the individual or others;

(B) Failure to make payment for care and services;

(C) The AFH-DD has had its license suspended, revoked, not renewed, or the provider voluntarily surrendered the license;

(D) The individual's care and service needs exceed the ability of the provider; or

(E) There is a mutual decision made by the individual, the individual's legal representative, and the individual's ISP team that a transfer is in the individual's best interest and all ISP team members agree.

(b) Individuals who object to the transfer by the AFH-DD provider must be given the opportunity for a contested case hearing as provided in ORS 443.738(11)(c) and OAR 411-088-0080. Participants may include the individual, and at the individual's request, the provider, a family member, and the CDDP. If a contested case hearing is requested to appeal a transfer, the individual must continue to receive the same services until the appeal is resolved.

(9) RESPITE.

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(a) Respite services for no longer than 14 days duration may be provided to one or more individuals if the addition of the individual receiving respite services in the AFH-DD does not cause the capacity of the AFH-DD as determined by OAR 411-360-0060 to exceed five. A provider may exceed the licensed capacity of the AFH-DD by one or more individuals receiving respite services for 14 days or less if:

(A) Approved by the Department;

(B) The capacity of the AFH-DD as determined by OAR 411-360-0060 does not exceed five; and

(C) There is adequate bedroom and living space available in the AFH-DD for the individuals receiving respite services.

(b) The provider must have information sufficient to provide for the health and safety of an individual receiving respite services that includes the following:

(A) Medications provided in a container labeled from a pharmacy or in the original container labeled from the manufacturer;

(B) A list of medications, administration times, and self-administration information as needed. Administration of medication must be documented on a MAR;

(C) Basic summary sheet for the individual that includes the following:

(i) The name of the individual's physician and the physician's phone number;

(ii) The name of the individual's emergency contact person and the emergency contact's phone number;

(iii) List of supports related to food and drink (textures, special diets, allergies, preferences);

(iv) List of supports related to health supports;

(v) List of supports related to safety including ability to adjust water temperature; and

(vi) List of supports related to challenging behaviors.

(c) On an individual's first respite visit, the provider must practice and document a fire drill immediately upon the arrival of the individual. For subsequent respite visits, the provider must review the fire evacuation procedures with the individual and document the review.

(d) No use of PRN psychotropic medications is allowed.

(10) CRISIS SERVICES.

(a) All individuals considered for crisis services received in an AFH-DD must:

(A) Be referred by the CDDP or Department;

(B) Be determined eligible for developmental disability services by the CDDP of the individual's county of residence as described in OAR 411-320-0080; and

(C) Have a written Crisis Plan developed by the CDDP or Regional Crisis Diversion Program that serves as the justification for, and the authorization of, care, services, and supports and expenditures pertaining to an individual receiving crisis services provided under this rule.

(b) SUPPORT SERVICES PLAN OF CARE AND CRISIS ADDENDUM REQUIRED. An individual receiving support services under OAR chapter 411, division 340, and receiving crisis services in an AFH-DD must have a Support Services Plan of Care and a Crisis Addendum upon admission to the AFH-DD.

(c) PLAN OF CARE. Individuals not enrolled in support services receiving crisis services for less than 90 consecutive days must have a Transition Plan on admission that addresses any critical information relevant to the individual's health and safety including current physicians' orders.

(d) ADMISSION MEETING REQUIRED. An admission meeting as described in section (4) of this rule is required for an individual receiving crisis services in an AFH-DD.

(e) EXIT MEETING REQUIRED. An exit meeting as described in section (11) of this rule is required for an individual receiving crisis services in an AFH-DD.

(f) WAIVER OF APPEAL RIGHTS FOR EXIT. Individuals receiving crisis services in an AFH-DD do not have appeal rights regarding exit upon completion of the individual's Crisis Plan.

(11) EXIT.

(a) A provider may only exit an individual for valid reasons equivalent to those for transfers stated in section (9)(a) of this rule. The provider must give at least 30 days written notice to an individual, the individual's services coordinator, and the Department before termination of residency, except where undue delay might jeopardize the health, safety, or well-being of the individual or others. If an individual requests a contested case hearing to appeal the exit from an AFH-DD, the individual must receive the same services until the appeal is resolved.

(b) The provider must promptly notify the CDDP in writing if an individual gives notice or plans to leave the AFH-DD or if an individual abruptly leaves. An individual is not required to give notice to an AFH-DD provider if the individual chooses to exit the AFH-DD.

(12) EXIT MEETING. An individual's ISP team must meet before any decision to exit is made. Findings of such a meeting must be recorded in the individual's file and include at a minimum:

(a) The name of the individual considered for exit;

(b) The date of the exit meeting;

(c) Documentation of the participants included in the meeting;

(d) Documentation of the circumstances leading to the proposed exit;

(e) Documentation of the discussion of strategies to prevent the individual's exit from the AFH-DD (unless the individual or the individual's legal representative is requesting the exit);

(f) Documentation of the decision regarding the individual's exit including verification of the voluntary decision to exit or a copy of the notice of involuntary transfer or exit; and

(g) Documentation of the proposed plan for services for the individual after the exit.

(13) WAIVER OF EXIT MEETING. Requirements for an exit meeting may be waived if an individual is immediately removed from the AFH-DD under the following conditions:

(a) The individual or the individual's legal representative requests an immediate move from the AFH-DD; or

(b) The individual is removed by legal authority acting pursuant to civil or criminal proceedings.

(14) CLOSURE. Providers must notify the Department and CDDP in writing prior to announcing a voluntary closure of the AFH-DD to individuals and the individual's legal representatives.

(a) The provider must give each individual, the individual's legal representative, and the CDDP 30 day's written notice of the planned closure except in circumstances where undue delay might jeopardize the health, safety, or welfare of the individuals, provider, or caregivers.

(b) If a provider has more than one AFH-DD, the individuals may not be shifted from one AFH-DD to another AFH-DD without providing each individual, the individual's legal representative, and the CDDP 30 days written notice of the planned closure unless prior approval is given and agreement obtained from the individuals, the individuals' legal representative, and the CDDP or when undue delay might jeopardize the health, safety, or well-being of the individuals, provider, or caregivers.

(c) A provider must return the AFH-DD license to the Department if the AFH-DD closes prior to the expiration of the license.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 25-2011(Temp), f. & cert. ef. 12-1-11 thru 5-29-12; SPD 29-2011(Temp), f. & cert. ef. 12-30-11 thru 5-29-12; SPD 5-2012, f. & cert. ef. 5-29-12; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0200

Adjustment, Suspension or Termination of Payment

(1) The Department may adjust, suspend, or terminate payment to a provider when any of the following conditions occur:

(a) The provider's AFH-DD license is revoked, suspended, or terminated;

(b) Upon finding that the provider is failing to deliver any care or service as agreed to in an individual's ISP;

(c) When funding, laws, regulations, or the Department's priorities change such that funding is no longer available, redirected to other purposes, or reduced;

(d) An individual's care and service needs change;

(e) An individual is absent without providing notice to the provider for five or more consecutive days;

(f) An individual is determined to be ineligible for services; or

(g) An individual moves, with or without notice, from the AFH-DD. The provider is paid only through the last night the individual slept in the AFH-DD.

(2) The Department is under no obligation to maintain the AFH-DD at its licensed capacity or to provide payments to potential providers.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0210

Inspections and Abuse Investigations

(1) The Department conducts an inspection of an AFH-DD:

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- (a) Prior to the issuance of an AFH-DD license;
- (b) Prior to the annual renewal of an AFH-DD license;
- (c) Upon receipt of an oral or written complaint of violations that threaten the health, safety, or welfare of individuals; or
- (d) Anytime the Department has probable cause to believe that an AFH-DD violated a regulation or provision of these rules or is operating without an AFH-DD license.

(2) The Department may conduct inspections of an AFH-DD:

(a) Anytime inspections are authorized by these rules and any other time the Department considers an inspection necessary to determine if an AFH-DD is in compliance with these rules or with conditions placed upon the license of the AFH-DD;

(b) To determine if cited deficiencies have been corrected; and

(c) For the purpose of monitoring an individual's care and services.

(3) State or local fire inspectors must be permitted access to inspect an AFH-DD for fire safety upon request of the Department.

(4) Department staff must have full access and authority to:

(a) Examine the physical premises of the AFH-DD including the buildings, grounds, equipment, and any vehicles; and

(b) Examine and copy facility, individual, and account records (as applicable).

(5) Department staff has authority to interview the provider, resident manager, caregivers, and individuals. Interviews are conducted in private and are confidential except as considered public record under ORS 430.763.

(6) Providers must authorize resident managers and substitute caregivers to permit entrance by Department staff for the purpose of inspection and investigation.

(7) Department staff has authority to conduct inspections with or without advance notice to the provider, substitute caregiver, or an individual of the AFH-DD. The Department may not give advance notice of any inspection if the Department believes that advance notice may obstruct or seriously diminish the effectiveness of the inspection or enforcement of these rules.

(8) The inspector must respect the private possessions and living area of individuals, providers, and caregivers while conducting an inspection.

(9) A copy of the inspection report must be given to the licensee within 10 working days of completion of the final report.

(10) Completed reports on inspections, except for confidential information, are available to the public during business hours, upon request of the Department.

(11) ABUSE INVESTIGATIONS.

(a) The Department investigates allegations of abuse as defined in OAR 407-045-0260 for individuals receiving services authorized or funded by the Department.

(b) When abuse is alleged or death of an individual has occurred and a law enforcement agency or the Department has determined to initiate an abuse investigation, the provider may not conduct an internal investigation without prior authorization from the Department. For the purpose of this section, an internal investigation is defined as:

(A) Conducting interviews of the alleged victim, witness, the accused person, or any other person who may have knowledge of the facts of the abuse allegation or related circumstances;

(B) Reviewing evidence relevant to the abuse allegation other than the initial report; or

(C) Any other actions beyond the initial actions of determining:

(i) If there is reasonable cause to believe that abuse has occurred;

(ii) If the alleged victim is in danger or in need of immediate protective services;

(iii) If there is reason to believe that a crime has been committed; and

(iv) What, if any, immediate personnel actions must be taken.

(c) When an abuse investigation has been initiated, the Department must provide notice to the provider according to OAR 407-045-0290.

(d) The Department conducts investigations as described in OAR 407-045-0250 to 407-045-0360.

(e) When an abuse investigation has been completed, the outcome of the Abuse Investigation and Protective Services Report is provided by the Department according to OAR 407-045-0320.

(f) NOTIFICATION OF SUBSTANTIATED ABUSE.

(A) When a provider receives notification of a substantiated allegation of abuse, the provider must provide immediate written notification:

(i) To the person found to have committed abuse;

(ii) Each individual of the AFH-DD;

(iii) Each individual's services coordinator; and

(iv) Each individual's legal representative.

(B) The provider's written notification of a substantiated allegation of abuse must include:

(i) The type of abuse as defined in OAR 407-045-0260;

(ii) When the allegation was substantiated; and

(iii) How to request a copy of the Abuse Investigation and Protective Services Report.

(g) When a provider has been notified of the completion of the abuse investigation, a provider may conduct an internal investigation to determine if any other personnel actions are necessary.

(h) According to OAR 407-045-0330, the sections of the Abuse Investigation and Protective Services Report that are public records and not exempt from disclosure under the public records law must be provided to the provider upon completion of the Report. The provider must implement the actions necessary within the deadlines listed to prevent further abuse as stated in the Report.

(i) RETALIATION. A provider may not retaliate against any person who reports in good faith suspected abuse, or against the individual with respect to the report. An accused person may not self-report solely for the purpose of claiming retaliation.

(A) According to ORS 430.755, any provider who retaliates against any person because of a report of suspected abuse or neglect is liable in a private action to that person for actual damages and, in addition, is subject to a penalty up to \$1,000, not withstanding any other remedy provided by law.

(B) Any adverse action creates a presumption of retaliation if taken within 90 days of a report of abuse. For the purpose of this section, "adverse action" means any action taken by a community facility, community program, or person involved in a report of suspected abuse against the person making the report or against the individual because of the report. Adverse action may include but is not limited to:

(i) Discharge or transfer from the AFH-DD, except for clinical reasons;

(ii) Discharge from or termination of employment;

(iii) Demotion or reduction in remuneration for services; or

(iv) Restriction or prohibition of access to the AFH-DD or the individuals served by the AFH-DD.

(C) Adverse action may also be evidence of retaliation after 90 days even though the presumption of retaliation no longer applies.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0220

Complaints

(1) The Department furnishes each AFH-DD with a Complaint Notice. The Complaint Notice must be posted in a conspicuous location in the AFH-DD, stating the telephone number of the Department and the CDDP, and the procedure for making complaints.

(2) Any person who believes these rules have been violated may file a complaint with the Department or CDDP.

(3) The Department investigates any complaint regarding the AFH-DD.

(4) Copies of all AFH-DD complaints are maintained by the Department. All complaints and action taken on the complaint, indexed by the name of the provider, must:

(a) Be placed into the public file at the Department. (Information regarding the investigation of the complaint may not be filed in the public file until the investigation has been completed);

(b) Protect the privacy of the complainant and the individual; and

(c) Treat the names of the witnesses as confidential information.

(5) Providers who receive substantiated complaints pertaining to the health, safety, or welfare of individuals may have their AFH-DD licenses suspended, revoked, or not renewed, or may have conditions placed on the AFH-DD license.

(6) The provider, resident manager, or caregiver must not retaliate in any way against any individual after a complaint has been filed with the Department. Retaliation may include but is not limited to:

(a) Increasing charges;

(b) Decreasing care or services, rights, or privileges;

(c) Threatening to increase charges or decrease care or services, rights, or privileges;

(d) Taking or threatening to take any action to coerce or compel the individual to leave the AFH-DD; or

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(e) Abusing, harassing, or threatening to harass or abuse an individual in any manner.

(7) A complainant, witness, or caregiver of an AFH-DD must not be subject to retaliation by a provider or resident manager for making a report, being interviewed about a complaint, or being a witness. Retaliation may include but is not limited to caregiver dismissal or harassment or restriction of access to either the AFH-DD or an individual.

(8) Any person has the right to inspect and receive a photocopy of the public complaint files, including protective services files, maintained by the Department upon request subject to the Department's procedures, ORS 192.410 through 192.505, and photocopy charges for public record requests subject to federal and state confidentiality laws.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0230

Procedures for Correction of Violations

(1) If an inspection or investigation results in a violation of these rules other than abuse, the Department notifies the provider in writing of violations of these rules.

(2) The notice of violation includes the following:

(a) A description of each conduct or condition that constitutes a violation;

(b) Each rule that has been violated; and

(c) A specific timeframe for correction, not to exceed 30 calendar days after receipt of the notice of violations.

(A) The Department may approve a reasonable timeframe in excess of 30 calendar days if correction of the violation within that timeframe is not practical.

(B) If the licensee requests more than 30 calendar days to correct the violation, such time must be specified in the licensee's plan of correction and must be found acceptable by the Department.

(3) The provider must notify the Department in writing of the correction of violations no later than the date specified in the notice of violation.

(4) The Department may conduct a re-inspection of the AFH-DD after the date the Department receives the report of compliance or after the date by which violations must be corrected as specified in the notice of violation.

(5) For violations that present an imminent danger to the health, safety, or welfare of individuals, the licensee must correct the violations and abate the conditions no later than 24 hours after receipt of the notice of violation. The Department inspects the AFH-DD after the 24-hour period to determine if the violations are corrected as specified in the notice of violation.

(6) If individuals are in immediate danger, the AFH-DD license may be suspended immediately and arrangements made to move the individuals.

(7) If, after inspection of the AFH-DD, the violations have not been corrected by the date specified in the notice of violation or if the Department has not received a report of compliance, the Department may institute one or more of the following actions:

(a) Imposition of an administrative sanction; or

(b) Filing of a criminal complaint.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0240

Administrative Sanction

(1) An administrative sanction may be imposed for non-compliance with these rules. An administrative sanction may include one or more of the following actions:

(a) Attachment of conditions to an AFH-DD license;

(b) Civil penalties;

(c) Denial, suspension, revocation, or non-renewal of the AFH-DD license; or

(d) Reclassification of the AFH-DD license.

(2) If the Department imposes an administrative sanction, the notice of administrative sanction is served upon the licensee either personally or by certified mail.

(3) The notice of administrative sanction includes:

(a) Each sanction imposed;

(b) A reference to the particular sections of the statute, rule, standard, or order involved;

(c) A short and plain statement of each condition or act that constitutes a violation;

(d) A statement of the administrative sanction imposed;

(e) A statement of the licensee's right to a contested case hearing;

(f) A statement of the authority and jurisdiction under which the contested case hearing is to be held;

(g) A statement that the Department's files on the subject of the contested case automatically become part of the contested case record upon default for the purpose of proving a prima facie case; and

(h) A statement that the Department's notice of administrative sanction serves as the final order by default if the licensee fails to request a contested case hearing within the specified time or fails to appear for a contested case hearing.

(4) The licensee must comply with the final order of the Department.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0250

Conditions

(1) The Department may attach conditions to a license that take effect immediately upon notification by the Department or the delivery of the notice of condition whichever is sooner. The type of conditions attached to an AFH-DD license must directly relate to a risk of harm or potential risk of harm to individuals. The Department may attach a condition to a certificate upon a finding that:

(a) Information on the application or initial inspection requires a condition to protect the health, safety, or welfare of individuals;

(b) A threat to the health, safety, or welfare of an individual exists;

(c) There is reliable evidence of abuse of an individual; or

(d) The AFH-DD is not being operated in compliance with these rules.

(2) Conditions that the Department may impose on a license include but are not limited to:

(a) Restricting the total number of individuals in the AFH-DD based upon the ability of the licensee to meet the health and safety needs of the individuals;

(b) Restricting the number and impairment level of individuals allowed, based upon the capacity of the caregivers, to meet the health and safety needs of all individuals;

(c) Requiring additional caregivers to meet the needs of the individuals;

(d) Requiring additional qualifications or training of the licensee and caregivers to meet specific individual care and service needs;

(e) Requiring additional documentation;

(f) Restricting a provider from opening an additional AFH-DD;

(g) Restricting admissions:

(A) When there is a threat of harm to the individuals of the AFH-DD and admitting new individuals compounds that threat; or

(B) When the Department has issued a notice of intent to revoke or not renew the license; and

(h) Restricting a licensee from allowing persons on the premises who may be a threat to an individual's health, safety, or welfare.

(3) The provider is notified in writing of any conditions imposed, the reason for the conditions, and the opportunity to request a hearing under ORS Chapter 183.

(4) The licensee may request a contested case hearing in accordance with ORS chapter 183 and this rule upon written notice of the imposition of conditions.

(a) The licensee must request a contested case hearing within 21 calendar days after the receipt of the Department's notice of conditions. Conditions take effect immediately and are a final order of the Department unless later rescinded through the contested case hearings process.

(b) In addition to, or in lieu of a contested case hearing, a licensee may request an administrative review by the Director of the Department of conditions imposed by the Department. The administrative review does not diminish the licensee's right to a contested case hearing.

(5) Conditions imposed remain in effect until the Department has sufficient cause to believe the situation that warranted the condition has been remedied. If the licensee believes the situation that warranted the condition has been remedied, the licensee may request, in writing, that the condition be removed.

(6) Conditions must be posted with the AFH-DD license in a prominent location in the AFH-DD and be available for inspection at all times.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.705 - 443.825
Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0260

Civil Penalties

(1) A civil penalty of not less than \$100 and not more than \$250 per violation, except as otherwise provided in this rule, is imposed on a licensee for a general violation of these rules.

(2) A civil penalty of up to \$500, unless otherwise required by law, is imposed for falsifying individual or AFH-DD records or causing another to falsify individual or AFH-DD records.

(3) A civil penalty of \$250 is imposed on a licensee for failure to have either the provider, resident manager, or other qualified caregiver on duty 24 hours per day in the AFH-DD per ORS 443.725(3), unless permitted under OAR 411-360-0180(7).

(4) A civil penalty of \$250 is imposed for dismantling or removing the battery from any required smoke alarm or failing to install any required smoke alarm.

(5) A civil penalty of not less than \$250 and not more than \$500, unless otherwise required by law, is imposed on a licensee who admits knowing that an individual's care or service needs exceed the license classification of the AFH-DD if the admission places the individual or other individuals at grave risk of harm.

(6) Civil penalties of up to \$1,000 per occurrence may be assessed for substantiated abuse.

(7) If the Department conducts an abuse investigation and the substantiated abuse resulted in the death, serious injury, rape, or sexual abuse of an individual, a civil penalty of not less than \$2,500 is imposed for each violation.

(a) To impose the civil penalty in section (7) of this rule, the Department must establish that:

(A) The abuse arose from deliberate or other than accidental action or inaction;

(B) The conduct resulting in the abuse was likely to cause death, serious injury, rape, or sexual abuse of an individual; and

(C) The person with the substantiated finding of abuse had a duty of care and services toward the individual.

(b) For the purpose of the civil penalty in section (7) of this rule, the following definitions apply:

(A) "Serious injury" means a physical injury that creates a substantial risk of death or that causes serious disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(B) "Rape" means rape in the first, second, or third degree as described in ORS 163.355, 163.365, and 163.375.

(C) "Sexual abuse" means any form of nonconsensual sexual contact including but not limited to unwanted or inappropriate touching, sodomy, sexual coercion, sexually explicit photographing, or sexual harassment. The sexual contact must be in the form of any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

(D) "Other than accidental" means failure on the part of the licensee, or the licensee's employees, agents, or volunteers for whose conduct licensee is responsible, to comply with applicable Oregon Administrative Rules.

(8) In addition to any other liability or penalty, the Department may impose a civil penalty for any of the following:

(a) Operating the AFH-DD without a license;

(b) The number of individuals exceeds the licensed capacity for the AFH-DD;

(c) The licensee fails to achieve satisfactory compliance with the requirements of these rules within the time specified or fails to maintain such compliance;

(d) The AFH-DD is unable to provide an adequate level of care and services to support individuals in the AFH-DD;

(e) There is retaliation or discrimination against an individual, family member, employee, or any other person for making a complaint against the AFH-DD;

(f) The licensee fails to cooperate with the Department, physician, registered nurse, or other health care professional in carrying out an individual's ISP;

(g) The licensee fails to obtain an approved background check from the Department on a subject individual as defined in OAR 411-360-0020 prior to the subject individual operating, working, training in, or residing in an AFH-DD;

(h) Violations are found on two consecutive inspections of an AFH-DD after a reasonable amount of time prescribed for elimination of the violations has passed; or

(i) Violations other than those involving the health, safety, or welfare of an individual if the licensee fails to correct the violation as required when a reasonable timeframe for correction was given.

(9) In imposing a civil penalty pursuant to this rule, except for a civil penalty imposed pursuant to section (7) of this rule, the following factors are considered by the Department:

(a) The past history of the licensee incurring a civil penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(b) Any prior violations of statutes or rules pertaining to AFH-DD;

(c) The economic and financial conditions of the licensee incurring the civil penalty; and

(d) The immediacy and extent to which the violation threatens or threatened the health, safety, and welfare of the individuals.

(10) The notice of civil penalty is delivered in person or sent by registered or certified mail and includes:

(a) A reference to the particular sections of the statute, rule, standard, or order involved;

(b) A short and plain statement of the matter asserted or charged;

(c) A statement of the amount of the civil penalty or penalties imposed; and

(d) A statement of the licensee's right to request a contested case hearing.

(11) The licensee has 10 calendar days after the receipt of the notice of civil penalty in which to make a written application for a contested case hearing before the Department. A final order by default is issued by the Department if a written request for a contested case hearing is not timely received.

(12) All contested case hearings are conducted pursuant to the applicable provisions of ORS Chapter 183.

(13) Except as may be prohibited by state law, a civil penalty imposed under ORS 443.455 or 441.710 may be remitted or reduced upon such terms and conditions as the Director of the Department considers proper and consistent with individual health and safety.

(14) If a final order is not appealed, the amount of the civil penalty is payable within 10 days after the final order is entered. If the final order is appealed and is sustained, the amount of the civil penalty is payable within 10 days after the court decision. The final order, if not appealed or sustained on appeal, constitutes a judgment and may be filed in accordance with provisions of ORS Chapter 18. Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(15) A violation of any general order or final order pertaining to an AFH-DD issued by the Department is subject to a civil penalty in the amount of not less than \$5 and not more than \$500 for each and every violation.

(16) Judicial review of civil penalties imposed under ORS 441.710 is provided under ORS 183.480, except that the court may, in its discretion, reduce the amount of the penalty.

(17) All penalties recovered under ORS 443.455 and 441.710 to 441.740 are to be paid into the Quality Care Fund.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760,

443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 5-2012, f. & cert. ef. 5-29-12; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0270

Denial, Revocation or Non-renewal of License

(1) The Department denies, revokes, or refuses to renew a license where it finds:

(a) There has been imminent danger to the health or safety of individuals or substantial failure to comply with these rules;

(b) There is substantial non-compliance with local codes and ordinances, or any other state or federal law or rule applicable to the health and safety of individuals in an AFH-DD;

(c) The Department has conducted a background check and determined the applicant or licensee is not approved in accordance with OAR 411-360-0110;

(d) The applicant or licensee is listed on the Office of Inspector General's or the U.S. General Services Administration's (System for Award Management) Exclusion Lists;

(e) The licensee allows a caregiver, or any other subject individual as defined in OAR 411-360-0020, excluding individuals who are receiving

ADMINISTRATIVE RULES

care and services in the AFH-DD, to operate, work, train in, or reside in the AFH-DD that:

(A) Have been convicted of any of the disqualifying crimes listed in OAR 407-007-0275;

(B) Are not approved by the Department as the result of a background check; or

(C) Refused to cooperate with the Department for a background check in accordance with OAR 407-007-0200 to 407-007-0370;

(f) The applicant or licensee falsely represents that he or she has not been convicted of a crime;

(g) The licensee fails to implement a plan of correction or comply with a final order of the Department imposing an administrative sanction;

(h) When a background check is required on or after July 28, 2009, a subject individual as defined in OAR 411-360-0020 has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275;

(i) The Department of Revenue has sent the Department a notice in accordance with ORS 305.385;

(j) The applicant or licensee has had a previous certificate or license to operate a foster home, or any other setting involving residential care, denied, suspended, revoked, or not renewed within three years preceding the present action or is associated with a person whose certificate or license was denied, suspended, revoked, or not renewed within three years preceding the present action due to the abuse of an individual or failure to possess the physical or mental health, or good personal character necessary, unless the applicant or licensee demonstrates to the Department by clear and convincing evidence that the applicant or licensee, or the person associated with the applicant or licensee, does not pose a threat to the individuals.

(A) For the purpose of this subsection, an applicant or licensee is "associated with" a person as described above, if the applicant or licensee:

(i) Resides with the person;

(ii) Employs the person in the AFH-DD;

(iii) Receives financial backing from the person for the benefit of the AFH-DD;

(iv) Receives managerial assistance from the person for the benefit of the AFH-DD; or

(v) Allows the person to have access to the AFH-DD.

(B) For the purpose of this subsection only, "present action" means the date of the notice of denial, suspension, revocation, or refusal to renew.

(2) The Department may deny, revoke, or refuse to renew an AFH-DD license if the applicant or licensee:

(a) Has a history of, or demonstrates financial insolvency, such as filing for bankruptcy, foreclosure, eviction due to failure to pay rent, or disruption of utility services due to failure to pay bills;

(b) Has threatened the health, safety, or welfare of any individual;

(c) Has a founded report of abuse of a child or has a substantiated finding of abuse of an individual;

(d) Has a medical or psychiatric problem that interferes with the applicant's or licensee's ability to provide care and services;

(e) Has had a previous certificate or license to operate a foster home, or any other setting involving residential care, denied, suspended, revoked, or not renewed more than three years from the present action or the licensee or applicant is associated with a person whose certificate or license was denied, suspended, revoked, or not renewed more than three years from the present action due to the abuse of an individual or failure to possess the physical or mental health, or good personal character necessary, unless the applicant or licensee demonstrates to the Department by clear and convincing evidence that the applicant or licensee, or the person associated with the applicant or licensee, does not pose a threat to the individuals.

(A) For the purpose of this subsection, an applicant or licensee is "associated with" a person as described above, if the applicant or licensee:

(i) Resides with the person;

(ii) Employs the person in the AFH-DD;

(iii) Receives financial backing from the person for the benefit of the AFH-DD;

(iv) Receives managerial assistance from the person for the benefit of the AFH-DD; or

(v) Allows the person to have access to the AFH-DD.

(B) For the purpose of this subsection only, "present action" means the date of the notice of denial, suspension, revocation, or refusal to renew.

(f) Has failed to pass the second AFH-DD Basic Training Examination;

(g) Has failed to disclose requested information on the application or submits untrue information to the Department;

(h) Has previously been cited for the operation of an unlicensed AFH;

(i) Does not possess the good judgment or character deemed necessary by the Department;

(j) Fails to correct a violation within the specified timeframe allowed;

(k) Refuses to allow access to the AFH-DD and inspection of the AFH-DD;

(l) Fails to comply with a final order of the Department to correct a violation of the rules for which an administrative sanction has been imposed, such as a license condition;

(m) Fails to obtain an approved background check for subject individuals according to OAR 411-360-0110; or

(n) Fails to operate any AFH-DD licensed to the licensee in substantial compliance with ORS 443.705 to 443.825 and these rules.

(3) DENIAL. When the Department denies an applicant an AFH-DD license, the applicant has 60 calendar days after receipt of the notice of denial to make a written application for a contested case hearing before the Department.

(4) NON-RENEWAL. When an administrative sanction is to not renew an AFH-DD license, the licensee has 21 calendar days after the receipt of the notice of administrative sanction to make a written application for a contested case hearing before the Department.

(5) REVOCATION. When an administrative sanction is to revoke a license, the licensee has 10 calendar days after the receipt of the notice of administrative sanction to make a written application for a contested case hearing before the Department.

(6) All hearings are conducted pursuant to the applicable provisions of ORS chapter 183.

(7) If the applicant or licensee fails to request a contested case hearing within the timeframe specified in the notice of denial, refusal to renew, or revocation, a default order may be entered by the Department.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-10 thru 6-30-10; SPD 2-2010(Temp), f. & cert. ef. 3-18-10 thru 6-30-10; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0275

Suspension

(1) The Department may suspend a license for reasons of abuse, neglect, or exploitation of an individual if:

(a) An immediate threat to the health, safety, or welfare of any individual exists;

(b) There is reliable evidence of abuse, neglect, or exploitation of any individual;

(c) The AFH-DD is not operated in compliance with ORS 443.705 to 443.825 or the rules adopted there under; or

(d) The provider has been found to have been convicted of a crime that would have resulted in a denied fitness determination of a background check.

(2) The licensee may request an administrative review of the Department's decision to suspend an AFH-DD license by submitting a request in writing to the Director of the Department within 10 calendar days after the receipt of the notice and order of suspension.

(a) Within 10 calendar days after the receipt of the licensee's request for an administrative review, all material relating to the allegation of abuse, neglect, or exploitation and the suspension of the AFH-DD license, including any written documentation submitted by the licensee within that timeframe, is reviewed by the Director of the Department. Based on review of the material, the Director determines whether to sustain the decision to suspend the AFH-DD license.

(b) A suspension is rescinded immediately if the Director does not sustain the decision to suspend the AFH-DD license.

(c) The decision of the Director is subject to a contested case hearing under ORS Chapter 183 if requested within 90 calendar days from the date of the decision of the administrative review.

(3) In the event the license to maintain an AFH-DD is ordered immediately suspended, the Department withholds service payments until the license is reinstated.

(4) For the protection of the individuals, the Department arranges for the individuals in the AFH-DD to move when the AFH-DD license is suspended.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

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411-360-0280

Criminal Penalties

(1) Operating an AFH-DD without a license is punishable as a Class C misdemeanor pursuant to ORS 443.991(5).

(2) Refusing to allow the Department access and inspection to the AFH-DD or access to the AFH-DD regarding fire safety by state and local fire inspector, is punishable as a Class B misdemeanor pursuant ORS 443.991(6).

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.705 - 443.825
Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0290

Enjoinment of Operation

The Department may commence an action to enjoin operation of an AFH pursuant to ORS 443.775(8):

(1) When an AFH-DD is operated without a valid license; or

(2) After notice of revocation or suspension has been given, a reasonable time for placement of individuals in other homes has been allowed, and such placement has not been accomplished.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.705 - 443.825
Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0290

Enjoinment of Operation

The Department may commence an action to enjoin operation of an AFH pursuant to ORS 443.775(8):

(1) When an AFH-DD is operated without a valid license; or

(2) After notice of revocation or suspension has been given, a reasonable time for placement of individuals in other homes has been allowed, and such placement has not been accomplished.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.705 - 443.825
Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0300

Zoning

An AFH-DD is a residential use of property for zoning purposes. An AFH-DD is a permitted use in any residential zone, including a residential zone that allows a single family dwelling, and in any commercial zone that allows a single-family dwelling. No city or county may impose any zoning requirement on the establishment and maintenance of an AFH-DD in these zones that is more restrictive than a single-family dwelling in the same zone.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.705 - 443.825
Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

411-360-0310

Public Information

(1) The Department maintains current information on all licensed AFH-DD's and makes that information available to prospective individuals, the individuals' families, and other interested members of the public.

(2) The information includes:

(a) The location of the AFH-DD;

(b) A brief description of the physical characteristics of the AFH-DD;

(c) The name and mailing address of the provider;

(d) The license classification of the AFH-DD and the date the provider was first licensed to operate the AFH-DD;

(e) The date of the last inspection of the AFH-DD, the name and telephone number of the office that performed the inspection, and a summary of the findings of the inspection;

(f) Copies of all complaint investigations involving the AFH-DD, together with the findings of and actions taken by the Department;

(g) Any license conditions, suspensions, denials, revocations, civil penalties, exceptions, or other actions taken by the Department involving the AFH-DD; and

(h) Whether care and services are provided primarily by the provider, a resident manager, or other arrangement.

(3) Any list of adult foster homes maintained or distributed by the Department includes notification to the reader of the availability of public records concerning the AFH-DD's.

Stat. Auth.: ORS 409.050, 410.070, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.705 - 443.825
Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 34-2013, f. & cert. ef. 9-27-13

Rule Caption: Hospice Services in Medicaid Nursing Facilities

Adm. Order No.: SPD 35-2013

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 9-1-2013

Rules Amended: 411-070-0140

Rules Repealed: 411-070-0140(T)

Subject: The Department of Human Services (Department) is permanently amending OAR 411-070-0140 to change the rate paid to Medicare certified hospice providers for services provided in Medicaid certified nursing facilities to be in compliance with 42 USC 1396A and 1905.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-070-0140

Hospice Services

(1) CONTRACT.

(a) The Department enters into a contract (provider agreement) to reimburse Medicare certified hospice providers in Oregon for services provided in Medicaid certified nursing facilities under the following conditions:

(A) The Medicare-certified hospice provider must have a written contract with the nursing facility; and

(B) A copy of the completed contract must be made available to the Department upon request.

(b) The hospice provider must have a completed, written contract (provider agreement) with the Department for nursing facility-based hospice services prior to being determined eligible for reimbursement.

(2) REIMBURSEMENT.

(a) The Department pays the hospice provider a rate equal to 100 percent of the rate that the nursing facility would otherwise receive.

(b) The hospice provider is solely responsible for reimbursing the nursing facility.

(c) Reimbursement for services provided under this rule is available only if the recipient of such services is Medicaid-eligible, Medicare hospice eligible, and been found to need nursing facility services through the Pre-Admission Screening process.

Stat. Auth.: ORS 410.070 & 414.065

Stats. Implemented: ORS 410.070 & 414.065

Hist.: SSD 13-1993, f. 12-30-93, cert. ef. 1-1-94; SPD 9-2006, f. 1-26-06, cert. ef. 2-1-06; SPD 9-2013(Temp), f. 4-29-13, cert. ef. 5-1-13 thru 10-28-13; SPD 35-2013, f. & cert. ef. 10-1-13

Rule Caption: Nursing Facility Staffing

Adm. Order No.: SPD 36-2013(Temp)

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13 thru 3-30-14

Notice Publication Date:

Rules Amended: 411-086-0100

Subject: The Department of Human Services (Department) is immediately amending OAR 411-086-0100 to implement the operational application of the increased nursing assistant staffing ratio from 2.31 to 2.46 hours per resident day and ensure that appropriate forms for public information about the staffing responsibilities of the nursing facility are displayed.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-086-0100

Nursing Services: Staffing

(1) STAFFING PLAN.

(a) The facility must have and implement a written plan that:

(A) Ensures staffing sufficient to meet the minimum staffing requirements described in sections (3), (4), and (5) of this rule;

(B) Ensures staffing sufficient to meet the needs of each resident; and

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(C) Identifies procedures to obtain required staff when absences occur.

(b) The facility must maintain a written, weekly staffing schedule showing the number and category of staff assigned to each shift and the person to be called in the event of any absence.

(2) DAILY STAFF PUBLIC POSTING.

(a) The facility must have the number of on-duty nursing staff publicly posted 24 hours each day using form SDS 0717 and the Nursing Assistant (NA) Staff Ratio Chart form SDS 0717A.

(A) The posted forms must be prominently displayed in a public area and readily accessible to residents and visitors as described in OAR 411-085-0030(1)(b).

(B) The posted forms must be at least 8.5 x 14 inches and printed in a minimum font size of 16.

(C) The staffing information must be an accurate reflection of the actual staff working each shift.

(b) The posted staffing forms must include:

(A) Facility name;

(B) Current date;

(C) Current resident census per shift;

(D) The total number and actual hours worked by registered nurses (RNs), licensed practical nurses (LPNs), and nursing assistants (CNAs and NAs) directly responsible for resident services per shift; and

(E) The minimum staffing standard, nursing assistant to resident ratio, referenced at sections (5)(c) and (d) of this rule.

(c) The facility must, upon oral or written request, make direct care staffing data available to the public for review at a cost not to exceed the community standard.

(d) The facility must maintain the posted nurse staffing data for a minimum of 18 months.

(3) MINIMUM STAFFING, GENERALLY. Resident service needs must be the primary consideration in determining the number and categories of nursing personnel needed. Nursing staff must be sufficient in quantity and quality to provide nursing services for each resident as needed, including restorative services that enable each resident to achieve and maintain the highest practicable degree of function, self-care, and independence, as determined by the resident's care plan. Such staffing must be provided even though it exceeds other requirements specified by this rule or specified in any waiver.

(4) MINIMUM LICENSED NURSE STAFFING.

(a) Licensed nurse hours must include no less than one RN hour per resident per week.

(b) When an RN serves as the administrator in the temporary absence of the administrator, the RN's hours may not be used to meet minimum nursing hours.

(c) In facilities with 41 or more beds, the hours of a licensed nurse who serves as facility administrator may not be included in any licensed nurse coverage required by this rule.

(d) The licensed nurse serving as a charge nurse may not be counted toward the minimum staffing requirement under sections (5)(c) and (d) of this rule.

(e) The facility must have a licensed charge nurse on each shift, 24 hours per day.

(A) An RN must serve as the licensed charge nurse for no less than eight consecutive hours between the start of day shift and the end of evening shift, seven days a week.

(B) The Director of Nursing Services may serve as the charge nurse only when the facility has 60 or fewer residents.

(C) Section (4)(e) of this rule may be waived by the Department of Human Services (Department). The request for waiver must comply with OAR 411-085-0040 and must be reviewed annually. The waiver shall be considered by the Department if the facility certifies that:

(i) The facility has been unable to recruit appropriate personnel despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities);

(ii) The waiver does not endanger the health or safety of residents; and

(iii) An RN or physician is available and obligated to immediately respond to telephone calls from the facility.

(5) MINIMUM CERTIFIED NURSING ASSISTANT STAFFING.

(a) The facility must determine the specific time frame for beginning and ending each consecutive eight-hour shift using one of the following options:

(A) Option 1.

(i) Day shift from 5:30 a.m. to 1:30 p.m.

(ii) Evening shift from 1:30 p.m. to 9:30 p.m.

(iii) Night shift from 9:30 p.m. to 5:30 a.m.

(B) Option 2.

(i) Day shift from 6 a.m. to 2 p.m.

(ii) Evening shift from 2 p.m. to 10 p.m.

(iii) Night shift from 10 p.m. to 6 a.m.

(C) Option 3.

(i) Day shift from 6:30 a.m. to 2:30 p.m.

(ii) Evening shift from 2:30 p.m. to 10:30 p.m.

(iii) Night shift from 10:30 p.m. to 6:30 a.m.

(D) Option 4.

(i) Day shift from 7 a.m. to 3 p.m.

(ii) Evening shift from 3 p.m. to 11 p.m.

(iii) Night shift from 11 p.m. to 7 a.m.

(b) Each resident must have assigned and be informed of the nursing assistant responsible for his or her care and services on each shift. The numbers listed in this rule represent the minimum staffing requirement. The numbers do not represent sufficient nursing staff. The number of staff necessary to meet the needs of each resident determines sufficient nursing staff.

(c) The number of residents per nursing assistant must not exceed the following ratios:

(A) DAY SHIFT: 1 nursing assistant per 7 residents.

(B) EVENING SHIFT: 1 nursing assistant per 11 residents.

(C) NIGHT SHIFT: 1 nursing assistant per 18 residents.

(d) Effective October 1, 2013, each facility must, in addition to the nursing assistant staff to resident ratios listed in subsection (c) of this section, increase nursing assistant staffing to the minimum standard of 2.46 hours per resident day in a 24-hour period of time from the start of day shift until the end of night shift seven days a week.

(e) Each facility must submit a quarterly staffing report to the Department, using the Department's approved method and format. The report must provide an accurate daily account of resident census and nursing assistant staffing levels for each shift.

(A) The facility must submit the report to the Department no later than the end of the month immediately following the end of each calendar quarter.

(Example: For the calendar quarter ending March 31, the report must be received no later than April 30.)

(B) The report must specify the shifts in which the minimum staffing standards, as set forth in sections (5)(c) and (d) of this rule, were not met.

(C) The facility must provide documents to support the quarterly staffing report, including payroll records, upon request of the Department.

(f) This rule does not prohibit nursing assistants from providing services to a resident to whom they are not assigned.

(g) The facility must ensure that nursing assistants only perform those tasks for which they are competent and qualified to perform and that are permitted by ORS chapter 678 and OAR 851-063-0030.

(h) Nursing assistants with a restricted duty status may be counted toward meeting the minimum staffing ratio, as set forth in sections (5)(c) and (d) of this rule, if the nursing assistant is able to perform 90 percent of the authorized duties and responsibilities, with or without accommodation, required by a certified nursing assistant as determined by the Oregon State Board of Nursing (OAR 851-063-0030(1)(a)(A) through 851-063-0030(1)(g)(H)).

(i) The facility must ensure that nursing assistants are not assigned more residents than the number for which they are able to meet the individual service needs.

(j) The facility must have a minimum of two nursing staff on duty within the facility at all times.

(k) Nursing staff must be present at all times, in each detached building, distinct and segregated area, including those separated by closed doors, and on each level or floor where residents are housed.

(l) Nursing assistants do not include dining assistants.

(m) Nursing assistants serving as restorative aides must not be counted toward the minimum staffing requirement under sections (5)(c) and (d) of this rule.

(n) A facility may not employ any person as a nursing assistant for longer than four months from the date of hire, without an Oregon State Board of Nursing issued CNA 1 certification.

(o) The facility must ensure no more than 25 percent of the nursing assistants assigned to residents per shift, pursuant to sections (5)(c) and (d) of this rule, are uncertified nursing assistants.

(6) CERTIFIED MEDICATION AIDES.

(a) The facility must ensure that all nursing assistants administering non-injectable medications are certified as nursing assistants and as med-

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ication aides. Documentation of these two certifications must be maintained in the facility.

(b) The certified medication aide assigned to administer medications must not be counted toward meeting the minimum staffing requirements for direct service of residents, referenced at sections (5)(c) and (d) of this rule.

Stat. Auth.: ORS 410.070, 410.090, 441.055, 441.073 & 441.615
Stats. Implemented: ORS 410.070, 410.090, 441.055, 441.073 & 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SPD 23-2004, f. 7-30-04, cert. ef. 8-1-04; SPD 1-2008(Temp), f. 2-8-08, cert. ef. 3-1-08 thru 8-28-08; SPD 10-2008, f. & cert. ef. 8-28-08; SPD 36-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

Rule Caption: Nursing Facility Capacity Reduction

Adm. Order No.: SPD 37-2013(Temp)

Filed with Sec. of State: 10-4-2013

Certified to be Effective: 10-7-13 thru 4-5-14

Notice Publication Date:

Rules Adopted: 411-070-0437

Rules Amended: 411-070-0005, 411-070-0300, 411-070-0442

Subject: The Department of Human Services (Department) is immediately updating the rules for Medicaid nursing facilities in OAR chapter 411, division 070 to implement HB 2216 (2013) which directs the Department to implement a nursing facility capacity reduction.

The temporary rules:

- Establish a statewide bed reduction target for nursing facilities to bring Oregon's occupancy rate closer to the national level;
- Provide an augmented rate for nursing facilities that purchase beds from nursing facilities that are no longer needed;
- Reduce nursing facility reimbursement rates if identified reduction targets are not achieved;
- Authorize annual rebasing of the nursing facility rate; and
- Extend the Nursing Facility Financial Statement deadline to October 31 of each year with no extensions.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-070-0005

Definitions

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-085-0005 apply to the rules in OAR chapter 411, division 070:

(1) "Accrual Method of Accounting" means a method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

(2) "Active Treatment" means the implementation of an individualized care plan developed under and supervised by a physician and other qualified mental health professionals that prescribes specific therapies and activities.

(3) "Activities of Daily Living" means activities usually performed in the course of a normal day in an individual's life such as eating, dressing/grooming, bathing/personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), and cognition/behavior.

(4) "Addictions and Mental Health (AMH) Division" means the Division, within the Oregon Health Authority, responsible for addictions and mental health services.

(5) "Alternative Services" mean individuals or organizations offering services to persons living in a community other than a nursing facility or hospital.

(6) "Area Agency on Aging (AAA)" means the Department of Human Services designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to seniors and individuals with disabilities in a planning and service area. For the purpose of these rules, the term Area Agency on Aging is inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 and described in 410.210 to 410.300.

(7) "Augmented Rate" means the additional compensation to a nursing facility who qualifies for the Quality and Efficiency Incentive Program described in OAR 411-070-0437. The augmented rate is a daily rate of \$9.75 and is in addition to the rate that a nursing facility would otherwise receive. The Department may pay the augmented rate to a qualifying facility for a period not to exceed four years from the date that the facility purchases bed capacity under the Quality and Efficiency Incentive Program.

(8) "Basic Flat Rate Payment" and "Basic Rate" means the statewide standard payment rate for all long term services provided to a Medicaid resident of a nursing facility except for services reimbursed through another Medicaid payment source. The "Basic Rate" is the bundled payment rate unless the resident qualifies for the complex medical add-on rate (in addition to the basic rate) or the bundled pediatric rate (instead of the basic rate).

(9) "Capacity" means licensed nursing beds multiplied by number of days in operation.

(10) "Case Manager" means a Department of Human Services or Area Agency on Aging employee who assesses the service needs of an applicant, determines eligibility, and offers service choices to the eligible individual. The case manager authorizes and implements the service plan and monitors the services delivered.

(11) "Cash Method of Accounting" means a method of accounting in which revenues are recognized only when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for them.

(12) "Categorical Determinations" mean the provisions in the Code of Federal Regulations {42 CFR 483.130} for creating categories that describe certain diagnoses, severity of illness, or the need for a particular service that clearly indicates that admission to a nursing facility is normally needed or that the provision of specialized services is not normally needed.

(a) Membership in a category may be made by the evaluator only if existing data on the individual is current, accurate, and of sufficient scope.

(b) An individual with mental illness or developmental disabilities may enter a nursing facility without PASRR Level II evaluation if criteria of a categorical determination are met as described in OAR 411-070-0043(2)(a)-(2)(c).

(13) "Certification" and "Certification for the Categorical Determination of Exempted Hospital Discharge" means that the attending physician has written orders for the individual to receive skilled services at the nursing facility.

(14) "Certified Program" means a hospital, private agency, or an Area Agency on Aging certified by the Department of Human Services to conduct private admission assessments in accordance with ORS 410.505 through 410.530.

(15) "Change of Ownership" means a change in the individual or legal organization that is responsible for the operation of a nursing facility. Change of ownership does not include changes that are merely changes in personnel, e.g., a change of administrators. Events that change ownership include but are not limited to the following:

(a) The form of legal organization of the owner is changed (e.g., a sole proprietor forms a partnership or corporation);

(b) The title to the nursing facility enterprise is transferred to another party;

(c) The nursing facility enterprise is leased or an existing lease is terminated;

(d) Where the owner is a partnership, any event occurs which dissolves the partnership;

(e) Where the owner is a corporation, it is dissolved, merges with another corporation that is the survivor, or consolidates with one or more other corporations to form a new corporation; or

(f) The facility changes management via a management contract.

(16) "Compensation" means the total of all benefits and remuneration, exclusive of payroll taxes and regardless of the form, provided to or claimed by an owner, administrator, or other employee. Compensation includes but is not necessarily limited to:

(a) Salaries paid or accrued;

(b) Supplies and services provided for personal use;

(c) Compensation paid by the facility to employees for the sole benefit of the owner;

(d) Fees for consultants, directors, or any other fees paid regardless of the label;

(e) Key man life insurance;

(f) Living expenses, including those paid for related persons; or

(g) Gifts for employees in excess of federal Internal Revenue Service reporting guidelines.

(17) "Complex Medical Add-On Payment" and "Medical Add-On" means the statewide standard supplemental payment rate for a Medicaid resident of a nursing facility whose service is reimbursed at the basic rate if the resident needs one or more of the medication procedures, treatment procedures, or rehabilitation services listed in OAR 411-070-0091, for the

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additional licensed nursing services needed to meet the resident's increased needs.

(18) "Continuous" means more than once per day, seven days per week. Exception: If only skilled rehabilitative services and no skilled nursing services are required, "continuous" means at least once per day, five days per week.

(19) "Costs Not Related to Resident Services" means costs that are not appropriate or necessary and proper in developing and maintaining the operation of a nursing facility. Such costs are not allowable in computing reimbursable costs. Costs not related to resident services include, for example, cost of meals sold to visitors, cost of drugs sold to individuals who are not residents, cost of operation of a gift shop, and similar items.

(20) "Costs Related to Resident Services" mean all necessary costs incurred in furnishing nursing facility services, subject to the specific provisions and limitations set out in these rules. Examples of costs related to resident services include nursing costs, administrative costs, costs of employee pension plans, and interest expenses.

(21) "CPI" means the consumer price index for all items and all urban consumers.

(22) "Day of Admission" means an individual being admitted, determined as of 12:01 a.m. of each day, for all days in the calendar period for which an assessment is being reported and paid. If an individual is admitted and discharged on the same day, the individual is deemed present on 12:01 a.m. of that day.

(23) "Department" or "DHS" means the Department of Human Services.

(24) "Developmental Disability" means a disability that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional. Developmental disabilities include mental retardation, autism, cerebral palsy, epilepsy, or other neurological disabling conditions that require training or support similar to that required by individuals with mental retardation, and the disability:

(a) Originates before the individual reaches the age of 22 years, except that in the case of mental retardation, the condition must be manifested before the age of 18;

(b) Originates and directly affects the brain and has continued, or must be expected to continue, indefinitely;

(c) Constitutes a significant impairment in adaptive behavior; and

(d) Is not primarily attributed to a mental or emotional disorder, sensory impairment, substance abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder (ADHD).

(25) "Direct Costs" mean costs incurred to provide services required to directly meet all the resident nursing and activity of daily living service needs. Direct costs are further defined in OAR 411-070-0359 and 411-070-0465. Examples: The person who feeds food to the resident is directly meeting the resident's needs, but the person who cooks the food is not. The person who is trained to meet the resident's needs incurs direct costs whereas the person providing the training is not. Costs for items that are capitalized or depreciated are excluded from this definition.

(26) "Division of Medical Assistance Programs (DMAP)" means a Division, within the Oregon Health Authority, responsible for coordinating the medical assistance programs within the State of Oregon including the Oregon Health Plan Medicaid demonstration, the State Children's Health Insurance Program, and several other programs.

(27) "DRI Index" means the "HCFA or CMS Nursing Home Without Capital Market Basket" index, which is published quarterly by DRI/McGraw-Hill in the publication, "Global Insight Health Care Cost Review".

(28) "Essential Nursing Facility" means a nursing facility that serves predominantly rural and frontier communities as designated by the Office of Rural Health that is located more than 32 miles from another nursing facility or from a hospital that has received a formal notice of Critical Access Hospital (CAH) designation from the Centers for Medicare and Medicaid Services and that is currently contracted to provide swing bed services for Medicaid-eligible individuals.

(29) "Exempted Hospital Discharge" for PASRR means an individual seeking temporary admission to a nursing facility from a hospital as described in OAR 411-070-0043(2)(a).

(30) "Facility" or "Nursing Facility" means an establishment that is licensed and certified by the Department of Human Services as a nursing facility. A nursing facility also means a Medicaid certified nursing facility only if identified as such.

(31) "Fair Market Value" means the price for which an asset would have been purchased on the date of acquisition in an arms-length transac-

tion between a well-informed buyer and seller, neither being under any compulsion to buy or sell.

(32) "Generally Accepted Accounting Principles" mean the accounting principles approved by the American Institute of Certified Public Accountants.

(33) "Goodwill" means the excess of the price paid for a business over the fair market value of all other identifiable, tangible, and intangible assets acquired, or the excess of the price paid for an asset over its fair market value.

(34) "Historical Cost" means the actual cost incurred in acquiring and preparing a fixed asset for use. Historical cost includes such planning costs as feasibility studies, architects' fees, and engineering studies. Historical cost does not include "start-up costs" as defined in this rule.

(35) "Hospital-Based Facility" means a nursing facility that is physically connected and operated by a licensed general hospital.

(36) "Indirect Costs" mean the costs associated with property, administration, and other operating support (real property taxes, insurance, utilities, maintenance, dietary (excluding food), laundry, and housekeeping). Indirect costs are further described in OAR 411-070-0359 and 411-070-0465.

(37) "Individual" means a person who receives or expected to receive nursing facility services.

(38) "Interrupted-Service Facility" means an established facility recertified by the Department of Human Services following decertification.

(39) "Level I" means a component of the federal PASRR requirement. Level I refers to the identification of individuals who are potential nursing facility admissions who have indicators of mental illness or developmental disabilities (42 CFR 483.128(a)).

(40) "Level II" means a component of the federal PASRR requirement. Level II refers to the evaluation and determination of whether nursing facility services and specialized services are needed for individuals with mental illness or developmental disability who are potential nursing facility admissions, regardless of the source of payment for the nursing facility service (42 CFR 483.128(a)). Level II evaluations include assessment of the individual's physical, mental, and functional status (42 CFR 483.132).

(41) "Level of Care Determination" means an evaluation of the intensity of a person's health service needs. The level of care determination may not be used to require that the person receive services in a nursing facility.

(42) "Medicaid Occupancy Percentage" means the total Medicaid bed days divided by total resident days.

(43) "Medical Add-On" or "Complex Medical Add-On Payment" has the meaning provided in section (16) of this rule.

(44) "Mental Illness" means a major mental disorder as defined in the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (DSM IV-TR) limited to schizophrenic, paranoid and schizoaffective disorders, bipolar (manic-depressive), and atypical psychosis. "Mental Illness" for pre-admission screening means having both a primary diagnosis of a major mental disorder (schizophrenic, paranoid, major affective and schizoaffective disorders, or atypical psychosis) and treatment related to the diagnosis in the past two years. Diagnoses of dementia or Alzheimers are excluded.

(45) "Mental Retardation" means significantly sub-average general intellectual functioning defined as IQ's under 70 as measured by a qualified professional and existing concurrently with significant impairment in adaptive behavior that are manifested during the developmental period, prior to 18 years of age. Individuals of borderline intelligence, IQ's 70-75, may be considered to have mental retardation if there is also significant impairment of adaptive behavior as diagnosed and measured by a qualified professional. The adaptive behavior must be directly related to the issues of mental retardation. Definitions and classifications must be consistent with the "Manual of Terminology and Classification in Mental Retardation" by the American Association on Mental Deficiency, 1977 Revision.

(a) Mild mental retardation is used to describe the degree of retardation when intelligence test scores are 50 to 69. Individuals with IQ's in the 70 to 75 range may be considered as having mental retardation if there is significant impairment in adaptive behavior as defined in OAR 411-320-0020.

(b) Moderate mental retardation is used to describe the degree of retardation when intelligence test scores are 35 to 49.

(c) Severe mental retardation is used to describe the degree of retardation when intelligence test scores are 20 to 34.

(d) Profound mental retardation is used to describe the degree of retardation when intelligence test scores are below 20.

(46) "Necessary Costs" mean costs that are appropriate and helpful in developing and maintaining the operation of resident facilities and activi-

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ties. Necessary costs are usually costs that are common and accepted occurrences in the field of long term nursing services.

(47) "New Admission" for PASRR purposes means an individual admitted to any nursing facility for the first time. It does not include individuals moving within a nursing facility, transferring to a different nursing facility, or individuals who have returned to a hospital for treatment and are being admitted back to the nursing facility. New admissions are subject to the PASRR process (42 CFR 483.106(b)(1), (3), (4)).

(48) "New Facility" means a nursing facility commencing to provide services to individuals.

(49) "Nursing Aide Training and Competency Evaluation Program (NATCEP)" means a nursing assistant training and competency evaluation program approved by the Oregon State Board of Nursing pursuant to ORS chapter 678 and the rules adopted pursuant thereto.

(50) "Nursing Facility Financial Statement (NFFS)" means Form SPD 35, or Form SPD 35A (for hospital-based facilities), and includes an account number listing of all costs to be used by all nursing facility providers in reporting to the Department of Human Services for reimbursement.

(51) "Occupancy Rate" means total resident days divided by capacity.

(52) "Official Bed Count Measurement" means the number of licensed nursing facility beds as of October 7, 2013 and the beds being developed by facilities that either applied to the Oregon Health Authority for a certificate of need between August 1, 2011 and December 1, 2012 or submitted a letter of intent under ORS 442.315(7) between January 15, 2013 and January 31, 2013.

(53) "Ordinary Costs" mean costs incurred that are customary for the normal operation.

(54) "Oregon Medical Professional Review Organization (OMPRO)" means the organization that determines level of services, need for services, and quality of services.

(55) "Pediatric Rate" means the statewide standard payment rate for all long term services provided to a Medicaid resident under the age of 21 who is served in a pediatric nursing facility or a self-contained pediatric unit.

(56) "Perquisites" mean privileges incidental to regular wages.

(57) "Personal Incidental Funds" mean resident funds held or managed by the licensee or other person designated by the resident on behalf of a resident.

(58) "Placement" means the location of a specific place where health services can be adequately provided to meet the service needs.

(59) "Pre-Admission Screening (PAS)" means the assessment and determination of a potential Medicaid-eligible individual's need for nursing facility services, including the identification of individuals who can transition to community-based service settings and the provision of information about community-based alternatives. This assessment and determination is required when potentially Medicaid-eligible individuals are at risk for admission to nursing facility services. PAS may include the completion of the federal PASRR Level I requirement (42 CFR, Part 483, (C)-(E)), to identify individuals with mental illness or mental retardation or developmental disabilities.

(60) "Pre-Admission Screening and Resident Review (PASRR)" means the federal requirement, (42 CFR, Part 483, (C)-(E)), to identify individuals who have mental illness or developmental disabilities and determine if nursing facility service is required and if specialized services are required. PASRR includes Level I and Level II functions.

(61) "Prior Authorization" means the local Seniors and People with Disabilities Division/Area Agency on Aging office participates in the development of proposed nursing facility care plans to assure that the facility is the most suitable service setting for the individual. Nursing facility reimbursement is contingent upon prior-authorization.

(62) "Private Admission Assessment (PAA)" means the assessment that is conducted for non-Medicaid residents as established by ORS 410.505 to 410.545 and OAR chapter 411, division 071, who are potential admissions to a Medicaid-certified nursing facility. Service needs are evaluated and information is provided about long-term service choices. A component of private admission assessment is the federal PASRR Level I requirement, (42 CFR, Part 483.128(a)), to identify individuals with mental illness or developmental disabilities.

(63) "Provider" means an entity, licensed by the Seniors and People with Disabilities Division, responsible for the direct delivery of nursing facility services.

(64) "Provider Preventable Condition (PPC)" means a condition listed below caused by the provider:

- (a) Foreign object retained after treatment;
- (b) Stage III and IV pressure ulcers;
- (c) Falls and trauma;
- (d) Manifestations of poor glycemic control;
- (e) Catheter-associated urinary tract infection;
- (f) Medication error; or
- (g) Surgical site or wound site infection.

(65) "Quality and Efficiency Incentive Program" means the program described in OAR 411-070-0437 designed to reimburse quality nursing facilities that voluntarily reduce bed capacity that increases occupancy levels and enhances efficiency with the goal of slowing the growth of system-wide costs.

(66) "Reasonable Consideration" means an inducement that is equivalent to the amount that would ordinarily be paid for comparable goods and services in an arms-length transaction.

(67) "Related Organization" means an entity that is under common ownership or control with, or has control of, or is controlled by the contractor. An entity is deemed to be related if it has 5 percent or more ownership interest in the other. An entity is deemed to be related if it has capacity derived from any financial or other relationship, whether or not exercised, to influence directly or indirectly the activities of the other.

(68) "Resident" means a person who receives nursing facility services.

(69) "Resident Days" mean the number of occupied bed days.

(70) "Resident Review" means a review conducted by the Addictions and Mental Health Division for individuals with mental illness or by the Seniors and People with Disabilities Division for individuals with developmental disabilities who are residents of nursing facilities. The findings of the resident review may result in referral to PASRR Level II (42 CFR 483.114).

(71) "Restricted Fund" means a fund in which the use of the principal or principal and income is restricted by agreement with or direction by the donor to a specific purpose. Restricted fund does not include a fund over which the owner has complete control. The owner is deemed to have complete control over a fund that is to be used for general operating or building purposes.

(72) "Seniors and People with Disabilities (SPD) Division" means the Department.

(73) "Specialized Services for Mental Illness" means mental health services delivered by an interdisciplinary team in an inpatient psychiatric hospital for treatment of acute mental illness.

(74) "Specialized Services for Mental Retardation or Developmental Disabilities" means:

- (a) For individuals with mental retardation or developmental disabilities under age 21, specialized services are equal to school services; and
- (b) For individuals with mental retardation or developmental disabilities over age 21, specialized services mean:

(A) A consistent and ongoing program that includes participation by the individual in continuous, aggressive training and support to prevent loss of current optimal function;

(B) Promotes the acquisition of function, skills, and behaviors necessary to increase independence and productivity; and

(C) Is delivered in community-based or vocational settings at a minimum of 25 hours a week.

(75) "Start-Up Costs" mean one-time costs incurred prior to the first resident being admitted. Start-up costs include administrative and nursing salaries, utility costs, taxes, insurance, mortgage and other interest, repairs and maintenance, training costs, etc. Start-up costs do not include such costs as feasibility studies, engineering studies, architect's fees, or other fees that are part of the historical cost of the facility.

(76) "Supervision" means initial direction and periodic monitoring of performance. Supervision does not mean that the supervisor is physically present when the work is performed.

(77) "These Rules" mean the rules in OAR chapter 411, division 070.

(78) "Title XVIII" and "Medicare" means Title XVIII of the Social Security Act.

(79) "Title XIX," "Medicaid," and "Medical Assistance" means Title XIX of the Social Security Act.

(80) "Uniform Chart of Accounts (Form SPD 35)" means a list of account titles identified by code numbers established by the Department of Human Services for providers to use in reporting their costs.

[ED. NOTE: Forms referenced are available from the agency.]

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070 & 414.065

Hist.: PWC 847(Temp), f. & ef. 7-1-77; PWC 859, f. 10-31-77, ef. 11-1-77; PWC 866(Temp), f. 12-30-77, ef. 1-1-78; AFS 19-1978, f. & ef. 5-1-78; AFS 58-1981, f. & ef. 9-

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1-81; Renumbered from 461-017-0010, AFS 69-1981, f. 9-30-81, ef. 10-1-81; SSD 6-1985, f. 5-31-85, ef. 6-1-85; SSD 20-1990, f. & cert. ef. 10-4-90; SSD 6-1993, f. 6-30-93, cert. ef. 7-1-93; SSD 8-1994, f. & cert. ef. 12-1-94; SSD 1-1997, f. 6-30-97, cert. ef. 7-1-97; SPD 9-2006, f. 1-26-06, cert. ef. 2-1-06; SPD 12-2007, f. 8-30-07, cert. ef. 9-1-07; SPD 15-2007(Temp), f. & cert. ef. 9-10-07 thru 3-8-08; SPD 2-2008, f. 2-29-08, cert. ef. 3-1-08; SPD 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SPD 15-2009, f. 11-30-09, cert. ef. 12-1-09; SPD 12-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; SPD 2-2013, f. & cert. ef. 3-1-13; SPD 37-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-5-14

1985, f. 5-31-85, ef. 6-1-85; SSD 10-1986, f. & ef. 7-1-86; SSD 8-1988, f. & cert. ef. 7-1-88; SSD 8-1991, f. & cert. ef. 4-1-91; SSD 14-1991(Temp), f. 6-28-91, cert. ef. 7-1-91; SSD 18-1991, f. 9-27-91, cert. ef. 10-1-91; SSD 6-1993, f. 6-30-93, cert. ef. 7-1-93; SSD 8-1994, f. & cert. ef. 12-1-94; SSD 1-1997, f. 6-30-97, cert. ef. 7-1-97; SPD 9-2006, f. 1-26-06, cert. ef. 2-1-06; SPD 15-2009, f. 11-30-09, cert. ef. 12-1-09; SPD 37-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-5-14

411-070-0300

Filing of Financial Statement

(1) The provider must file annually with the Department, Financial Audit Unit, the Nursing Facility Financial Statement (NFFS) covering actual costs based on the facility's fiscal reporting period for the period ending June 30. A NFFS must be filed for other than a year only when necessitated by termination of a provider agreement with the Department, or by a change in ownership, or when directed by the Department. Financial reports containing up to 15 months of financial data are accepted for the reasons above or with the Department's permission prior to filing.

(2) A NFFS is due on or before October 31 or within three months of a change of ownership or withdrawal from the program.

(a) A NFFS must be postmarked on or before the due date to be considered timely. An extension may not be obtained.

(b) A penalty is assessed and collected when a NFFS is not postmarked within the due date. The amount of the penalty is \$5 per licensed nursing facility bed per day for each State of Oregon business day the NFFS is late. The total penalty may not exceed \$50,000 per fiscal reporting period. For purposes of this section, the number of licensed nursing facility beds is the number of beds licensed on the last day of the fiscal reporting period that the facility failed to submit a NFFS.

(c) The Department may assess interim penalties and deduct the amount of the interim penalties from the next Medicaid payment payable to the facility. Each interim penalty is the amount of the penalty that has accrued under subsection (2)(b) of this section to the date of assessment, and has not already been assessed as an interim penalty.

(d) A facility may request an informal conference or contested case hearing pursuant to ORS 183.413 through 183.470 within 30 days of receiving a letter from the Department informing the facility of assessment of an interim penalty or a penalty under this rule. OAR 411-070-0435 applies to such requests and sets forth the procedures to be followed. If no request for an informal conference or contested case hearing is made within 30 days of receiving such a letter, the interim penalty or penalty becomes final in all respects, including liability for payment of and the amount of the interim penalty or penalty.

(3) An improperly completed or incomplete NFFS is returned to the facility for proper completion.

(4) FORMS.

(a) Form SPD 35 is a uniform cost report to be used by all nursing facility providers except those that are hospital based.

(b) Form SPD 35A is a uniform cost report to be used by all nursing facility providers that are hospital based.

(c) Forms SPD 35 and SPD 35A must be completed in accordance with the Medicaid Nursing Facility Services Provider Guide and Audit Manual.

(5) If a provider knowingly or with reason to know files a NFFS containing false information, such action constitutes cause for termination of its agreement with the Department. Providers filing false reports may be referred for prosecution under applicable statutes.

(6) Each required NFFS must be signed by a company or corporate officer or a person designated by the corporate officers to sign. If a NFFS is prepared by someone other than an employee of the provider, the individual preparing the NFFS must also sign and indicate his or her status with the provider.

(7) Facilities with fewer than 1000 Medicaid resident days during a twelve-month reporting period or fewer than 2.74 Medicaid resident days per calendar day, for facilities with reporting periods of less than a year, are not required to submit a SPD 35 or SPD 35A but must submit a letter to the Department indicating the nursing facility is not submitting a NFFS. This letter is due the same day a NFFS would have been due.

(8) A NFFS must be filed annually by each facility for the fiscal reporting period that ends June 30. The NFFS filed for the period that ends June 30 is required to cover actual costs during the previous state fiscal year from July 1 through June 30.

[ED. NOTE: Forms referenced are available from the agency.]

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 414.070

Stats. Implemented: ORS 410.070

Hist.: PWC 866(Temp), f. 12-30-77, ef. 1-1-78; AFS 19-1978, f. & ef. 5-1-78; Renumbered from 461-017-0300 by Ch. 784, OL 1981 & AFS 69-1981, f. 9-30-81, ef. 10-1-81; SSD 6-

411-070-0437

Quality and Efficiency Incentive Program

(1) ESTABLISHMENT. Effective October 7, 2013 through December 31, 2015, the Department establishes the Quality and Efficiency Incentive Program (Program) in order to implement Enrolled House Bill 2216 (Chapter 608, 2013 Oregon Laws). The Program is designed to reimburse quality nursing facilities that voluntarily reduce bed capacity that increases occupancy levels and enhances efficiency with the goal of slowing the growth of system-wide costs. The Department may provide additional compensation to nursing facilities who qualify for the legislatively approved Program. Such compensation may not exceed \$9.75 per resident day and may not exceed four years from the date of eligibility. Eligibility to participate in this Program sunsets on December 31, 2015.

(2) CAPACITY REDUCTION DISCUSSIONS. If two or more providers wish to initiate discussions concerning reduction of bed capacity in a community, the providers must notify the Department. The notice must identify the community and state that the parties wish to discuss reduction of bed capacity in that market pursuant to the Program.

(a) Upon receipt of a notice to discuss reduction of bed capacity, the Department shall review the notice and either approve or disapprove the proposed preliminary discussion. The Department shall approve the preliminary discussion if the community is one in which the proposed capacity reduction is consistent with the goals of the Program.

(b) If the Department approves the preliminary discussion, the Department shall notify the providers who requested approval and shall schedule a meeting at which a Department representative shall be made available to supervise the discussion. Providers in the affected market may attend the meeting and may discuss capacity reduction for that market under the supervision of the Department.

(c) The Department shall determine the time, place, and mechanism to discuss the reduction of bed capacity. The discussions may be held in-person or by means of conference call, video conference, or such other means that allow for each participant to hear and be heard by the other participant at the same time.

(d) Notice to the Department is not required for two providers who wish to discuss a specific transfer of bed capacity.

(3) CAPACITY REDUCTION TRANSACTIONS. Prior to any purchase of bed capacity under the Program, the parties to the transaction must notify the Department.

(a) The notice must describe the parties, the specific facilities, the proposed transaction, and the acquisition plan for the transaction.

(b) The acquisition plan must include documentation demonstrating that:

(A) The purchasing operator is able to meet or arrange for the needs of the individuals residing in the selling facility and meet all change of ownership or operator and closure criteria as described in OAR 411-085-0025;

(B) The selling operator meets the eligibility criteria described in section (5) of this rule and meets the criteria for nursing facility closure described in OAR 411-085-0025;

(C) Bed capacity in the community shall be reduced as a result of the transaction; and

(D) The transaction does not compromise care or health status of residents.

(c) The Department may approve the acquisition plan, disapprove the acquisition plan, or request further information or changes in the acquisition plan. The Department shall approve the transaction upon finding that the acquisition plan is expected to satisfy conditions (A) through (D) in subsection (b) of this section. If the Department approves or disapproves the transaction, the Department shall issue an order approving or disapproving the transaction and explaining how conditions (A) through (D) in subsection (b) of this section are satisfied or not satisfied.

(d) The purchasing operator may receive incentives under the Program only if the Department approves the transaction and the purchasing and selling operators complete the transaction as described in the acquisition plan. The purchasing operator and selling operator are entitled to state action antitrust immunity for the transaction only if the Department approves the transaction.

(e) Once approved for participation in the Program, the selling facility must provide all notices and meet the other requirements of a facility clo-

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sure under OAR 411-085-0025, including limiting admissions of residents to the facility.

(4) COMMUNITY TRANSITION MEETING.

(a) The Department, in consultation with the Long Term Care Ombudsman, shall convene a regional planning meeting in communities in which a facility plans to surrender the facility's license under these rules. The meeting shall engage the community in:

(A) Planning to promote the safety and dignity of residents who shall be impacted by the surrender;

(B) A discussion regarding the local need for more home and community-based settings; and

(C) Assessing opportunities for more residential programs and supporting residential capacity.

(b) The Community Transition Meeting is initiated by the Department upon approval of an acquisition as described in this rule.

(5) ELIGIBILITY. The eligibility requirements for participation in the Program are:

(a) The nursing facility bed capacity being sold (the "selling facility") is not from an Essential Nursing Facility or from a facility operated on behalf of the Oregon Department of Veteran's Affairs; and

(b) The selling facility's entire bed capacity is purchased and the seller agrees to surrender the nursing facility's license on the earlier of the date that:

(A) The last resident is transferred from the facility; or

(B) 180 days after the effective date of the sale of the facility bed capacity.

(c) A Program applicant (the "purchasing operator") must meet all of the following criteria at the time of the acquisition plan submission:

(A) Operate one or more facilities licensed by the Department as a nursing facility;

(B) Must be determined to be in substantial compliance from the annual licensing and recertification survey at the date of the acquisition plan submission; and

(C) Have no substantial facility abuse meeting the criteria in ORS 441.715(2)(c) within six months of the date of the acquisition plan submission.

(d) The selling facility must provide all notices and meet the requirements of a facility closure under OAR 411-085-0025.

(6) ANTITRUST PROVISION.

(a) The Department declares its intent to exempt from state antitrust laws and provide state action immunity from federal antitrust laws individuals and entities that engage in transactions, meetings, or surveys described in sections (2) and (3) of this rule that might otherwise be constrained by such laws.

(b) The following activities are not immunized from antitrust liability:

(A) Agreements among competing providers to reduce the number of beds they operate outside of a sale;

(B) Provider meetings to discuss bed reduction strategies outside of the negotiation of a specific sale and where no Department representative is in attendance; or

(C) Collateral agreements between competing providers that involve their pricing strategies, how to respond to requests for proposals, or other discussions outside the sale of facilities.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070 & OL 2013 Ch. 608

Hist.: SPD 37-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-5-14

411-070-0442

Calculation of the Basic Rate and Complex Medical Add-on Rate

(1) The rates are determined annually and referred to as the Rebasing Year.

(a) The basic rate is based on the statements received by the Department by October 31 for the fiscal reporting period ending on June 30 of the previous year. For example, for the biennium beginning July 1, 2013, statements for the period ending June 30, 2012 are used. The Department desk reviews or field audits these statements and determines the allowable costs for each nursing facility. The costs include both direct and indirect costs. The costs and days relating to pediatric beds are excluded from this calculation. The Department only uses financial reports of facilities that have been in operation for at least 180 days and are in operation as of June 30.

(b) For each facility, its allowable costs are applied, less the costs of its self-contained pediatric unit (if any) is inflated from the mid-point of its fiscal reporting period to the mid-point of the first year of the biennium, hereafter referred to as the base year (e.g., for the biennium beginning July

1, 2013, the base year is the fiscal period ending June 30, 2014) by the annual change in the DRI Index, or its successor index, as measured in the previous 4th quarter.

(c) For each facility, its allowable costs per Medicaid day is determined using the allowable costs as inflated and resident days, excluding pediatric days as reported in the statement.

(d) The facilities are ranked from highest to lowest by the facility's allowable costs, per Medicaid day.

(e) The basic rate is determined by ranking the allowable costs per Medicaid day by facility and identifying the allowable cost per day at the applicable percentage. If there is no allowable cost per day at the applicable percentage, the basic rate is determined by interpolating the difference between the allowable costs per day that are just above and just below the applicable percentage to arrive at a basic rate at the applicable percentage. The applicable percentage for the period beginning July 1, 2013 is at the 63rd percentile.

(2) The Department provides an augmented rate to nursing facilities who qualify under the Quality and Efficiency Incentive Program as described in OAR 411-070-0437. To receive the augmented rate, the bed capacity must be purchased on or after October 7, 2013 and on or before December 31, 2015. The qualifying nursing facility is paid the augmented rate for each Medicaid-eligible resident.

(3) Nursing facility bed capacity in Oregon shall be reduced by 1,500 beds by December 31, 2015, except for bed capacity in nursing facilities operated by the Department of Veteran's Affairs and facilities that either applied to the Oregon Health Authority for a certificate of need between August 1, 2011 and December 1, 2012, or submitted a letter of intent under ORS 442.315(7) between January 15, 2013 and January 31, 2013. An official bed count measurement shall be determined and issued by the Department prior to July 1, 2016 and each quarter thereafter if the goal of reducing the nursing facility bed capacity in Oregon to 1,500 beds is not achieved.

(a) For the period beginning July 1, 2013 and ending June 30, 2016, the Department shall reimburse costs as set forth in section (1) of this rule at the 63rd percentile.

(b) For each three-month period beginning on or after July 1, 2016 and ending June 30, 2020, in which the reduction in bed capacity in licensed facilities is less than the goal described in this section, the Department shall reimburse costs at a rate not lower than the percentile of allowable costs according to the following schedule:

(A) 63rd percentile for a reduction of 1,500 or more beds.

(B) 62nd percentile for a reduction of 1,350 or more beds but less than 1,500 beds.

(C) 61st percentile for a reduction of 1,200 or more beds but less than 1,350 beds.

(D) 60th percentile for a reduction of 1,050 or more beds but less than 1,200 beds.

(E) 59th percentile for a reduction of 900 or more beds but less than 1,050 beds.

(F) 58th percentile for a reduction of 750 or more beds but less than 900 beds.

(G) 57th percentile for a reduction of 600 or more beds but less than 750 beds.

(H) 56th percentile for a reduction of 450 or more beds but less than 600 beds.

(I) 55th percentile for a reduction of 300 or more beds but less than 450 beds.

(J) 54th percentile for a reduction of 150 or more beds but less than 300 beds.

(K) 53rd percentile for a reduction of 1 to 149 beds.

(4) The complex medical add-on rate is 40 percent of the basic rate.

(5) The Department shall add a standard payment to fund implementation of certified nursing assistant staffing requirements contained in OAR 411-086-0100 in accordance with the Legislatively Adopted Budget.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070, 2003 OL Ch. 736, 2007 OL Ch. 780, 2009 OL Ch. 827 & 2011 OL Ch. 630

Hist.: SPD 36-2004, f. 12-23-04, cert. ef. 12-28-04; SPD 15-2007(Temp), f. & cert. ef. 9-10-07 thru 3-8-08; SPD 2-2008, f. 2-29-08, cert. ef. 3-1-08; SPD 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SPD 15-2009, f. 11-30-09, cert. ef. 12-1-09; SPD 17-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SPD 22-2011, f. 10-7-11, cert. ef. 11-1-11; SPD 10-2012, f. 7-31-12, cert. ef. 8-1-12; SPD 37-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-5-14

Rule Caption: Nursing Facility Closure

Adm. Order No.: SPD 38-2013(Temp)

Filed with Sec. of State: 10-4-2013

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Certified to be Effective: 10-7-13 thru 4-4-14

Notice Publication Date:

Rules Amended: 411-085-0025, 411-085-0210, 411-088-0070

Subject: The Department of Human Services (Department) is immediately amending the nursing facility rules set forth in OAR chapter 411, divisions 085 and 088 to align with final rules issued by the Centers for Medicare and Medicaid Services (CMS) that implements Section 6113 of the Patient Protection and Affordable Care Act (PPACA). The proposed rules ensure that, in the case of a facility closure, individuals serving as administrators provide written notification of the impending closure to the residents and other required individuals at least 60 days prior to impending closure and create a plan for the relocation of the residents.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-085-0025

Change of Ownership or Operator/Cessation of Business

(1) CHANGE OF OWNERSHIP OR OPERATOR.

(a) When a change of ownership or a change of operator is contemplated, a licensee and a prospective licensee must each notify the Department in writing of the contemplated change. The notice of change of ownership or operator must be received by the Department at least 45 days prior to the proposed date of transfer. A shorter timeframe may be allowed at the sole discretion of the Department. The notice of change of ownership or operator must be in writing and must include the following:

- (A) Name and signature of the current licensee;
- (B) The name of the prospective licensee;
- (C) The proposed date of the transfer;
- (D) Type of transfer (e.g., sale, lease, rental, etc.); and
- (E) A complete, signed nursing facility application from the prospective licensee.

(b) A prospective licensee may not assume possession or control of a facility until after the prospective licensee has been notified by the Department that the prospective licensee's application has been approved.

(c) The current licensee is responsible for the operation of the facility and resident care provided therein until a new license is issued to a new owner or operator or the facility operation is closed.

(2) FACILITY CLOSURE. In accordance with 42 CFR 483.75(r) and (s) and 42 CFR 483.12(a)(8), a nursing facility administrator must assure satisfactory completion of the following:

(a) WRITTEN NOTICE IN ADVANCE OF FACILITY CLOSURE.

(A) DEPARTMENT NOTICE. Before a licensee ceases operation of and closes a facility, the licensee must notify the Department of the impending closure in writing at least 90 days prior to the proposed date of closure. The notice of facility closure sent to the Department must include the following:

(i) Department-approved resident transition plan:

(I) Resident-specific transition plans based on current and accurate assessments of each resident's needs, preferences, and best interests and assurances that each resident's transition setting shall be appropriate in terms of quality, services, and location;

(II) Identification of potential transition settings that are available and appropriate; and

(III) Description of the resident transition process addressing the rate that residents shall transfer from the facility, days and times that transfers shall be scheduled, transportation resources available for resident transfers, and a sample communication tool to be used to specify tasks, responsible person, and completion dates for resident transition plans.

(ii) Department-approved facility closure plan:

(I) Department-approved letter to residents, residents' representatives, and other required parties;

(II) Department-approved Family Meeting agenda;

(III) Plan for staff communication, retention, and employment support;

(IV) Description of operations assuring service and supply provision during closure period;

(V) Identification of the primary contact responsible for daily facility operations during the closure period;

(VI) Identification of the primary contact responsible for the oversight of those managing the facility during the closure period; and

(VII) Identification of any and all sources of supplemental funding to assure operations.

(iii) Department-approved estimated date of closure.

(B) NOTICE TO RESIDENTS AND OTHER REQUIRED PARTIES.

(i) VOLUNTARY CLOSURE. A facility administrator must notify the residents, the residents' representatives or other responsible parties, and the Office of the State Long-Term Care Ombudsman of an impending closure in writing, using a Department-approved letter, at least 60 days prior to the proposed date of closure.

(ii) INVOLUNTARY CLOSURE. A facility administrator must notify the residents, the residents' representatives or other responsible parties, and the Office of the State Long-Term Care Ombudsman of impending closure on a date determined by the Department when closure or termination of the facility's Medicare and/or Medicaid provider agreement is determined by the Centers for Medicare and Medicaid Services or the Department.

(iii) Notification to the residents, the residents' representatives, and the Office of the Long-Term Care Ombudsman of impending closure must include the following:

(I) Department-approved summary of the resident transition and facility closure plans;

(II) Department-approved estimated date of closure; and

(III) Assurances that resident transition planning shall consider resident needs, choice, and best interests and that each resident's transition setting shall be appropriate in terms of quality, services, and location.

(b) ADMISSIONS.

(A) A facility may not admit new residents on or after the date on which the 60-day written notification of facility closure has been issued.

(B) A resident who is eligible to return to a facility following hospitalization per OAR 411-088-0050 may return to the facility that is closing.

(C) A resident who is eligible to readmit to a facility following discharge per OAR 411-088-0060 may readmit to the facility that is closing.

(D) A resident who is temporarily absent from a facility per OAR 411-070-0110 may return to the facility that is closing.

(c) SERVICES AND OPERATION DURING CLOSURE. The licensee is responsible for operation of the facility and for the resident care provided therein until all residents are transferred and the facility is closed.

(d) RESIDENT RECORDS. Clinical records must be transferred and retained according to OAR 411-086-0300.

(e) ADMINISTRATOR RESPONSIBILITY. In accordance with 42 CFR 488.446, civil monetary penalties shall be imposed on the individual administrator that fails to comply with 42 CFR 483.75(r).

Stat. Auth.: ORS 410.070, 441.055, & 441.615

Stats. Implemented: ORS 441.055 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; SPD 38-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-4-14

411-085-0210

Facility Policies

(1) POLICIES REQUIRED. A Quality Assessment and Assurance Committee must develop and adopt facility policies. The policies must be followed by the facility staff and evaluated annually by the Quality Assessment and Assurance Committee and rewritten as needed. Policies must be adopted regarding:

(a) Admission, fees, and services;

(b) Transfer and discharge, including discharge planning;

(c) Physician services;

(d) Nursing services;

(e) Dietary services;

(f) Rehabilitative services and restorative services;

(g) Pharmaceutical services, including self administration;

(h) Care of residents in an emergency;

(i) Activities;

(j) Social services;

(k) Clinical records;

(l) Infection control;

(m) Diagnostic services;

(n) Oral care and dental services;

(o) Accident prevention and reporting of incidents;

(p) Housekeeping services and preventive maintenance;

(q) Employee orientation and inservice;

(r) Laundry services;

(s) Possession of firearms and ammunition;

(t) Consultant services;

(u) Resident grievances; and

(v) Facility closure. The administrator must assure compliance with 42 CFR 483.75(s) and OAR 411-085-0025.

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(2) DOCUMENTATION. Each policy must be in writing and must specify the last date at which such policy was reviewed by the Quality Assessment and Assurance Committee.

Stat. Auth.: ORS 410.070, 441.055, & 441.615

Stats. Implemented: ORS 441.055 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; SPD 38-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-4-14

411-088-0070

Notice Requirements

(1) NOTICE LENGTH:

(a) Any person transferred must be provided a minimum of 30 days prior written notice (Exhibit 1) by the facility unless otherwise provided under this section.

(b) Any person may be transferred under OAR 411-088-0020(1)(b) (Life or Safety Threat) or OAR 411-088-0020(1)(c) (Behavior Problem) with fewer than 30 days prior written notice (Exhibit 1) if the reason for such transfer constitutes an emergency. However, the facility must give as much prior written notice (Exhibit 1) as the emergency permits.

(c) Any resident may be involuntarily transferred under OAR 411-088-0020(1)(d) (Medical Emergency) with no prior notice. However, the facility must give notice (Exhibit 1 or 2) before giving the resident's bed to another person.

(d) Any person involuntarily transferred under OAR 411-088-0020(1)(g) (Post-Hospital Extended Care Services or Specialized Services) and cared for in the facility for less than 30 days may be transferred with fewer than 30 days prior written notice.

(A) In such cases the person must be provided with notice no shorter than the length of current stay in the nursing facility.

(B) The notice must be issued at the time of admission or as soon as the length of time for projected course of treatment is estimated.

(C) Section (1)(d) of this rule does not apply if the resident had a right of readmission to the same facility prior to the hospital, surgical, or emergency department services.

(e) Any resident involuntarily transferred under OAR 411-088-0020(1)(b) or (e) (Governmental Action) must be provided a minimum of 14 days prior written notice (Exhibit 1).

(f) Any person denied the right of return or the right of readmission must be notified by the facility immediately and provided written notice (Exhibit 2), mailed (registered or certified), or delivered in person within five days from the date of request for return or readmission. A denial of right of return or readmission is allowable only if there is good cause to believe the resident lacks such right (see OAR 411-088-0050, OAR 411-088-0060, and OAR 411-088-0080).

(g) Any resident may voluntarily transfer from a facility. However, the facility must provide notice (Exhibit 1) pursuant to this rule and must maintain the signed consent form in the resident's medical record.

(h) In the case of a facility closure, notice must be provided to the resident according to OAR 411-085-0025.

(2) NOTIFICATION LIST. The facility must maintain and keep current in the resident's record the name, address, and telephone number of the resident's legal representative, if any, and of any person designated by the resident or the resident's legal representative to receive notice of the transfer. The facility must also record the name, address, and telephone number of any person who has demonstrated consistent concern for the resident if the resident has no one who is currently involved and who has been designated by the resident.

(3) NOTICE DISTRIBUTION. Notice must be provided to:

(a) The resident or former resident, as appropriate;

(b) All persons required to be listed in the resident's medical record under section (2) of this rule;

(c) The local unit of the Aging and People with Disabilities Division or Type B Area Agency on Aging. The notice does not need to be provided to the local unit of the Aging and People with Disabilities Division or Type B Area Agency on Aging if the resident is private pay and the resident's stay in the facility total 30 days or less; and

(d) The Long-Term Care Ombudsman if there is no one currently involved and designated by the resident.

(4) NOTICE FORMAT. Each notice must be in the same format and must have the same content as that provided in Exhibit 1 (Notice of Transfer) or Exhibit 2 (Denial of Readmission/Return) as appropriate.

(a) Each notice provided to residents, and persons required to be listed in the resident's medical record under section (2) of this rule must be accompanied by a copy of the Aging and People with Disabilities Division's brochure, "Leaving the Nursing Facility".

(b) If the person is a resident at the facility, the notice must be served personally to the resident. All other notices required by this rule, including notices to persons who are no longer residents, must be either served personally or delivered by registered or certified mail.

(c) Both exhibits are incorporated by reference as a part of this rule.

[ED. NOTE: Exhibits referenced are available from the agency.]

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 441.055 & 441.615

Stats. Implemented: ORS 441.055, 441.600, 441.605, & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SSD 2-1995, f. & cert. ef. 2-15-95; SPD 3-2008, f. & cert. ef. 3-6-08; SPD 38-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-4-14

Rule Caption: Correction - Nursing Facility Capacity Reduction

Adm. Order No.: SPD 39-2013(Temp)

Filed with Sec. of State: 10-4-2013

Certified to be Effective: 10-7-13 thru 4-5-14

Notice Publication Date:

Rules Amended: 411-070-0442

Rules Suspended: 411-070-0442(T)

Subject: The Department of Human Services (Department) is immediately amending OAR 411-070-0442 and suspending the temporary amendment of OAR 411-070-0442 to correct a scrivener's error. The Department inadvertently stated that the nursing facility bed capacity in Oregon must be reduced to 1,500 beds. The intent of the rule is to reduce nursing facility bed capacity in Oregon by 1,500 beds.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-070-0442

Calculation of the Basic Rate and Complex Medical Add-on Rate

(1) The rates are determined annually and referred to as the Rebasing Year.

(a) The basic rate is based on the statements received by the Department by October 31 for the fiscal reporting period ending on June 30 of the previous year. For example, for the biennium beginning July 1, 2013, statements for the period ending June 30, 2012 are used. The Department desk reviews or field audits these statements and determines the allowable costs for each nursing facility. The costs include both direct and indirect costs. The costs and days relating to pediatric beds are excluded from this calculation. The Department only uses financial reports of facilities that have been in operation for at least 180 days and are in operation as of June 30.

(b) For each facility, its allowable costs are applied, less the costs of its self-contained pediatric unit (if any) is inflated from the mid-point of its fiscal reporting period to the mid-point of the first year of the biennium, hereafter referred to as the base year (e.g., for the biennium beginning July 1, 2013, the base year is the fiscal period ending June 30, 2014) by the annual change in the DRI Index, or its successor index, as measured in the previous 4th quarter.

(c) For each facility, its allowable costs per Medicaid day is determined using the allowable costs as inflated and resident days, excluding pediatric days as reported in the statement.

(d) The facilities are ranked from highest to lowest by the facility's allowable costs, per Medicaid day.

(e) The basic rate is determined by ranking the allowable costs per Medicaid day by facility and identifying the allowable cost per day at the applicable percentage. If there is no allowable cost per day at the applicable percentage, the basic rate is determined by interpolating the difference between the allowable costs per day that are just above and just below the applicable percentage to arrive at a basic rate at the applicable percentage. The applicable percentage for the period beginning July 1, 2013 is at the 63rd percentile.

(2) The Department provides an augmented rate to nursing facilities who qualify under the Quality and Efficiency Incentive Program as described in OAR 411-070-0437. To receive the augmented rate, the bed capacity must be purchased on or after October 7, 2013 and on or before December 31, 2015. The qualifying nursing facility is paid the augmented rate for each Medicaid-eligible resident.

(3) Nursing facility bed capacity in Oregon shall be reduced by 1,500 beds by December 31, 2015, except for bed capacity in nursing facilities operated by the Department of Veteran's Affairs and facilities that either applied to the Oregon Health Authority for a certificate of need between August 1, 2011 and December 1, 2012, or submitted a letter of intent under ORS 442.315(7) between January 15, 2013 and January 31, 2013. An official bed count measurement shall be determined and issued by the

ADMINISTRATIVE RULES

Department prior to July 1, 2016 and each quarter thereafter if the goal of reducing the nursing facility bed capacity in Oregon by 1,500 beds is not achieved.

(a) For the period beginning July 1, 2013 and ending June 30, 2016, the Department shall reimburse costs as set forth in section (1) of this rule at the 63rd percentile.

(b) For each three-month period beginning on or after July 1, 2016 and ending June 30, 2020, in which the reduction in bed capacity in licensed facilities is less than the goal described in this section, the Department shall reimburse costs at a rate not lower than the percentile of allowable costs according to the following schedule:

(A) 63rd percentile for a reduction of 1,500 or more beds.

(B) 62nd percentile for a reduction of 1,350 or more beds but less than 1,500 beds.

(C) 61st percentile for a reduction of 1,200 or more beds but less than 1,350 beds.

(D) 60th percentile for a reduction of 1,050 or more beds but less than 1,200 beds.

(E) 59th percentile for a reduction of 900 or more beds but less than 1,050 beds.

(F) 58th percentile for a reduction of 750 or more beds but less than 900 beds.

(G) 57th percentile for a reduction of 600 or more beds but less than 750 beds.

(H) 56th percentile for a reduction of 450 or more beds but less than 600 beds.

(I) 55th percentile for a reduction of 300 or more beds but less than 450 beds.

(J) 54th percentile for a reduction of 150 or more beds but less than 300 beds.

(K) 53rd percentile for a reduction of 1 to 149 beds.

(4) The complex medical add-on rate is 40 percent of the basic rate.

(5) The Department shall add a standard payment to fund implementation of certified nursing assistant staffing requirements contained in OAR 411-086-0100 in accordance with the Legislatively Adopted Budget.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070, OL 2003 ch 736, OL 2007 ch 780, OL 2009 ch 827, OL 2011 ch 630, & OL 2013 ch 608

Hist.: SPD 36-2004, f. 12-23-04, cert. ef. 12-28-04; SPD 15-2007(Temp), f. & cert. ef. 9-10-07 thru 3-8-08; SPD 2-2008, f. 2-29-08, cert. ef. 3-1-08; SPD 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SPD 15-2009, f. 11-30-09, cert. ef. 12-1-09; SPD 17-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SPD 22-2011, f. 10-7-11, cert. ef. 11-1-11; SPD 10-2012, f. 7-31-12, cert. ef. 8-1-12; SPD 37-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-5-14; SPD 39-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-5-14

Rule Caption: Pediatric Nursing Facilities - Annual Rebasing

Adm. Order No.: SPD 40-2013(Temp)

Filed with Sec. of State: 10-4-2013

Certified to be Effective: 10-7-13 thru 12-28-13

Notice Publication Date:

Rules Amended: 411-070-0452

Rules Suspended: 411-070-0452(T)

Subject: The Department of Human Services (Department) is immediately amending OAR 411-070-0452 for pediatric nursing facilities to implement annual rebasing of the pediatric nursing facility rate in accordance with HB 2216 (2013).

Rules Coordinator: Christina Hartman—(503) 945-6398

411-070-0452

Pediatric Nursing Facilities

(1) PEDIATRIC NURSING FACILITY.

(a) A pediatric nursing facility is a licensed nursing facility at least 50 percent of whose residents entered the facility before the age of 14 and all of whose residents are under the age of 21.

(b) A nursing facility that meets the criteria of subsection (1)(a) of this section is reimbursed as follows:

(A) The pediatric rate is a prospective rate and is not subject to settlement. The Department uses financial reports of facilities that have been in operation for at least 180 days and are in operation as of June 30.

(B) The facility specific pediatric cost per resident day is inflated by the annual change in the DRI Index as measured in the previous 4th quarter. The Oregon Medicaid pediatric days are multiplied by the inflated facility specific cost per resident day for each pediatric facility. The totals are summed and divided by total Oregon Medicaid days to establish the weighted average cost per pediatric resident day. The rebase relationship

percentage of 93 percent is applied to the weighted average cost to determine the pediatric rate.

(c) Even though pediatric facilities are reimbursed in accordance with subsection (1)(b) of this section, pediatric facilities must comply with all requirements relating to the timely submission of Nursing Facility Financial Statements.

(2) LICENSED NURSING FACILITY WITH A SELF-CONTAINED PEDIATRIC UNIT.

(a) A nursing facility with a self-contained pediatric unit is a licensed nursing facility that provides services for pediatric residents (individuals under the age of 21) in a separate and distinct unit within or attached to the facility with staffing costs separate and distinct from the rest of the nursing facility. All space within the pediatric unit must be used primarily for purposes related to the services of pediatric residents and alternate uses may not interfere with the primary use.

(b) A nursing facility that meets the criteria of subsection (2)(a) of this section is reimbursed for pediatric residents served in the pediatric unit as described in section (1) of this rule.

(c) Licensed nursing facilities with a self-contained pediatric unit must comply with all requirements relating to the timely submission of Nursing Facility Financial Statements and must file a separate attachment, on forms prescribed by the Department, related to the costs of the self-contained pediatric unit.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070, OL 2011 ch.r 630, & OL 2013 ch. 608

Hist.: SSD 4-1988, f. & cert. ef. 6-1-88; SSD 8-1991, f. & cert. ef. 4-1-91; SSD 14-1991(Temp), f. 6-28-91, cert. ef. 7-1-91; SSD 18-1991, f. 9-27-91, cert. ef. 10-1-91; SSD 6-1993, f. 6-30-93, cert. ef. 7-1-93; SSD 6-1995, f. 6-30-95, cert. ef. 7-1-95; SSD 6-1996, f. & cert. ef. 7-1-96; SDSD 10-1999, f.11-30-99, cert. ef. 12-1-99; SPD 9-2006, f. 1-26-06, cert. ef. 2-1-06; SPD 15-2007(Temp), f. & cert. ef. 9-10-07 thru 3-8-08; SPD 2-2008, f. 2-29-08, cert. ef. 3-1-08; SPD 15-2009, f. 11-30-09, cert. ef. 12-1-09; SPD 17-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SPD 22-2011, f. 10-7-11, cert. ef. 11-1-11; SPD 10-2012, f. 7-31-12, cert. ef. 8-1-12; SDP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SPD 40-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 12-28-13

Rule Caption: Long Term Care Assessment

Adm. Order No.: SPD 41-2013(Temp)

Filed with Sec. of State: 10-7-2013

Certified to be Effective: 10-7-13 thru 4-5-14

Notice Publication Date:

Rules Amended: 411-069-0000, 411-069-0010, 411-069-0020, 411-069-0030, 411-069-0040, 411-069-0050, 411-069-0060, 411-069-0070, 411-069-0080, 411-069-0090, 411-069-0100, 411-069-0110, 411-069-0120, 411-069-0130, 411-069-0140, 411-069-0150, 411-069-0160, 411-069-0170

Subject: The Department of Human Services (Department) is immediately amending the long term care assessment rules in OAR chapter 411, division 069 to implement HB 2216 (2013) which directs the Department to reauthorize the long term care assessment and eliminate all long term care assessment exemptions except for nursing facilities operated by the Department of Veteran's Affairs.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-069-0000

Definitions

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 069:

(1) "Assessment Rate" means the rate established by the Director of the Department of Human Services.

(2) "Assessment Year" means a 12-month period, beginning July 1 and ending the following June 30, for which the assessment rate being determined is to apply.

(3) "Deficiency" means the amount by which the assessment as correctly computed exceeds the assessment, if any, reported by the facility. If, after the original deficiency has been assessed, subsequent information shows the correct amount of assessment to be greater than previously determined, an additional deficiency arises.

(4) "Delinquency" means the facility failed to pay the assessment as correctly computed when the assessment was due.

(5) "Department" means the Department of Human Services.

(6) "Director" means the Director of the Department of Human Services.

(7) "Gross Revenue" means the revenue paid to a long term care facility for patient care, room, board, and services, less contractual adjustments. It does not include:

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(a) Revenue derived from sources other than long term care facility operations, including but not limited to donations, interest, guest meals, or any other revenue not attributable to patient care; and

(b) Hospital revenue derived from hospital operations.

(8) "Long Term Care Facility" means a facility with permanent facilities that includes inpatient beds and provides medical services, including nursing services but excluding surgical procedures except as may be permitted by the rules of the Director. A long term care facility provides treatment for two or more unrelated patients and includes licensed skilled nursing facilities and licensed intermediate care facilities, but does not include facilities licensed and operated pursuant to ORS 443.400 to 443.455. A long term care facility does not include any intermediate care facility for the mentally retarded.

(9) "Medicaid Patient Days" means patient days attributable to patients who receive medical assistance under a plan described in 42 U.S.C. 1396a et seq.

(10) "Patient Days" means the total number of patients occupying beds in a long term care facility for all days in the calendar period for which an assessment is being reported and paid. For purposes of this subsection, if a long term care facility patient is admitted and discharged on the same day, the patient shall be deemed to occupy a bed for one day.

(11) "Waivered Long Term Care Facility" means:

(a) A long term care facility operated by a Continuing Care Retirement Community (CCRC) that is registered under ORS 101.030 and that admits:

(A) Residents of the CCRC; or

(B) Residents of the CCRC and nonresidents; or

(b) A long term care facility that is annually identified by the Department as having a Medicaid recipient census that exceeds the census level established by the Department for the year for which the facility is identified.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0401, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0010

General Administration

(1) The purpose of these rules is to implement the long term care facility assessment imposed on long term care facilities in Oregon.

(2) The Department shall administer, enforce, and collect the long term care facility assessment.

(3) The Department may assign employees, auditors, and other agents as designated by the Director to assist in the administration, enforcement, and collection of the assessments.

(4) The Department may establish rules and regulations, not inconsistent with legislative enactments, that it considers necessary to administer, enforce, and collect the assessments.

(5) The Department may prescribe forms and reporting requirements and change the forms and reporting requirements, as necessary, to administer, enforce, and collect the assessments.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0411, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0020

Disclosure of Information

(1) Except as otherwise provided by law, the Department may not publicly divulge or disclose the amount of income, expense, or other particulars set forth or disclosed in any report or return required in the administration of the assessments. Particulars include but are not limited to social security numbers, employer numbers, or other facility identification numbers, and any business records required to be submitted to or inspected by the Department or its designee to allow it to determine the amounts of any assessments, delinquencies, deficiencies, penalties, or interest payable or paid, or otherwise administer, enforce, or collect a health care assessment to the extent that such information shall be exempt from disclosure under ORS 192.501(5).

(2) The Department may:

(a) Furnish any facility, or its authorized representative, upon request of the facility or representative, with a copy of the facility's report filed with the Department for any quarter, or with a copy of any report filed by the facility in connection with the report, or with a copy with any other information the Department considers necessary;

(b) Publish information or statistics so classified as to prevent the identification of income or any particulars contained in any report or return; and

(c) Disclose and give access to an officer or employee of the Department or its designee, or to the authorized representatives of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), the Controller General of the United States, the Oregon Secretary of State, the Oregon Department of Justice, the Oregon Department of Justice Medicaid Fraud Control Unit, and other employees of the state or federal government to the extent the Department deems disclosure or access necessary or appropriate for the performance of official duties in the Department's administration, enforcement, or collection of these assessments.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.225, 409.230, 410.140, 410.150, 411.300 & 411.320

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0421, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0030

Entities Subject to the Long Term Care Facility Assessment

(1) Each long term care facility in Oregon is subject to the long term care facility assessment except the Oregon Veterans' Home and long term care facilities that have received written notice from the Department that they are exempt under the terms of a waiver. For these facilities, the exemption from the long term care facility assessment only applies for the specific period of time described in the notice from the Department.

(2) The Director shall determine on or before April 1 of each year those long term care facilities that meet the criteria of a waived long term care facility as defined by OAR 411-069-0000 that are exempt from the long term care facility assessment for the assessment year commencing July 1 of that year.

(3) A long term care facility that believes it meets the criteria of a waived long term care facility that has not received notice of exempt status or disagrees with the Department's decision, may request an administrative review from the Department.

(a) A request for an administrative review must be sent to: Administrator DHS Budget and Policy Analysis 500 Summer Street NE Salem, OR 97301.

(b) A request for administrative review must be received by the Department by April 15 prior to the assessment year.

(4) Effective January 1, 2014, each long term care facility in Oregon is subject to the long term care facility assessment, except nursing facilities operated by the Department of Veteran's Affairs. A waived long term care facility as defined in OAR 411-069-0000(11) is no longer exempt from the long term care facility assessment.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750, OL 2003 Ch. 736, OL 2013 ch. 608

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; OMAP 31-2006(Temp), f. & cert. ef. 8-7-06 thru 2-2-07; Administrative correction, 2-16-07; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0431, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0040

Long Term Care Facility Assessment: Calculation, Report, Due Date

(1) The assessment is assessed upon each patient day, including Medicaid patient day, at a long term care facility. The amount of the assessment equals the assessment rate times the number of patient days, including Medicaid patient days, at the long term care facility for the calendar quarter. The current rate of the assessment shall be determined in accordance with these rules.

(2) The facility must pay the assessment and file the report on a form approved by the Department on or before the last day of the month following the end of the calendar quarter for which the assessment is being reported, unless the Department permits a later payment date. If a facility requests an extension, the Department, in its sole discretion, shall determine whether to grant an extension.

(3) Each long term care facility must submit a revenue report on a form prescribed by the Department by September 30 of each year and pay any assessment amount due. Long term care facilities with a Medicaid contract with the Department that provide more than 1,000 Medicaid patient days must submit the nursing facility financial statement (cost report) annually as required by OAR 411-070-0300 which contains the revenue report. Long term care facilities that are not required to submit the annual cost report must submit the revenue report. Either a revenue report or a nursing facility financial statement, where applicable, must be filed by October 31 of each year regardless of whether any additional assessment is owed as a result of that filing.

ADMINISTRATIVE RULES

(4) Revenue reports submitted late are subject to penalty as set forth in OAR 411-069-0080. Nursing facility financial statements submitted late are subject to a penalty as set forth in OAR 411-070-0300, where applicable.

(5) Any assessment amount due based on the cost report or revenue report as a reconciliation of the previously filed quarterly reports must be paid by the due date specified. Payments submitted late are subject to penalty as set forth in OAR 411-069-0080.

(6) Any refund due to the provider based on the cost report or revenue report may be requested in writing with the submission of the report.

(7) Any report, statement, or other document required to be filed under any provision of these rules shall be certified by the chief financial officer of the facility or an individual with delegated authority to sign for the facility's chief financial officer. The certification must attest, based on best knowledge, information, and belief, to the accuracy, completeness, and truthfulness of the document.

(8) Payments may be made electronically and the accompanying report may either be faxed to the Department at the fax number provided on the report form or mailed to the Department at the address provided on the report form.

(9) The Department may charge the facility a fee of \$100 if, for any reason, the check, draft, order, or electronic funds transfer request is dishonored. This charge is in addition to any penalty for nonpayment of the assessments that may also be due.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0451, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0050

Filing an Amended Report

(1) Claims for refunds or payments for additional assessment must be submitted by the facility on a form approved by the Department. The facility must provide all information required on the report. The Department may audit the facility, request additional information, or request an informal conference prior to granting a refund or as part of its review of a payment of a deficiency.

(2) Claim for refund.

(a) If the amount of the assessment due is less than the amount paid by the facility and the facility does not then owe an assessment for any other calendar period, the overpayment may be refunded by the Department to the facility. The facility may request a refund by amending their quarterly report and submitting a written request for refund to the Department, or the facility may request a refund when filing their nursing facility financial statement or revenue report.

(b) If there is an amount due from the facility for any past due assessments or penalties, the refund otherwise allowable shall be applied to the unpaid assessments and penalties and the facility so notified.

(3) Payment of deficiency.

(a) If the amount of the assessment is more than the amount paid by the facility, the facility may file a corrected report on a form approved by the Department and pay the deficiency at any time. The penalty under OAR 411-069-0080 shall stop accruing after the Department receives payment of the total deficiency for the calendar quarter; and

(b) If there is an error in the determination of the assessment due, the facility may describe the circumstances of the late additional payment with the late filing of the amended report. The Department, at its sole discretion, may determine that a late additional payment does not constitute a failure to file a report or pay an assessment giving rise to the imposition of a penalty. In making this determination, the Department shall consider the circumstances, including but not limited to nature and extent of error, facility explanation of the error, evidence of prior errors, and evidence of prior penalties (including evidence of informal dispositions or settlement agreements). This provision only applies if the facility has filed a timely original return and paid the assessment identified in the return.

(4) If the Department discovers or identifies information in the administration of these assessment rules that it determines may give rise to the issuance of a notice of proposed action or the issuance of a refund, the Department shall issue notification pursuant to OAR 411-069-0100.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0461, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0060

Determining the Date Filed

For the purpose of these rules, any reports, requests, appeals, payments, or other response by the facility must be either received by the Department before the close of business on the date due, or if mailed, post-marked before midnight of the due date. When the due date falls on a Saturday, Sunday, or legal holiday, the return is due on the next business day following the Saturday, Sunday, or legal holiday.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0471, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0070

Assessing Tax on Failure to File

In the case of a failure by the facility to file a report or to maintain necessary and adequate records, the Department shall determine the assessment liability of the facility according to the best of its information and belief. Best of its information and belief means the Department shall use evidence on which a reasonable person may rely in determining the assessment, including but not limited to estimating the days of patient days based upon the number of licensed beds in the facility. The Department's determination of assessment liability shall be the basis for the assessment due in a notice of proposed action.

Stat. Auth.: ORS 409.050, 410.070, & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0481, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0080

Consequence of Failure to File a Report or Failure to Pay Assessment When Due

(1) A long term care facility that fails to file a quarterly report or pay a quarterly assessment when due under OAR 411-069-0040 is subject to a penalty of \$500 per day of delinquency. The penalty accrues from the date of deficiency, notwithstanding the date of any notice under these rules.

(2) A long term care facility that is exempt from paying provider assessments is not required to file a quarterly report, but is required to file an annual cost or revenue report. Even if exempt, a long term care facility that fails to file annual cost or revenue reports when due under OAR 411-069-0040 is subject to a penalty of up to \$500 per day of delinquency. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(3) A long term care facility that fails to file an annual cost report or revenue report when due under OAR 411-069-0040 is subject to a penalty of up to \$500 per day of delinquency. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(4) A long term care facility that files a cost report or annual revenue report, but fails to pay a fiscal year reconciliation assessment payment when due under OAR 411-069-0040 is subject to a penalty of up to \$500 per day of delinquency up to a maximum of five percent of the amount due. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(5) The total amount of penalty imposed under this section for each reporting period may not exceed five percent of the assessment for the reporting period for which the penalty is being imposed.

(6) Penalties imposed under this section shall be collected by the Department and deposited in the Department's account established under ORS 409.060.

(7) Penalties paid under this section are in addition to the long term care facility assessment.

(8) If the Department determines that a facility is subject to a penalty under this section, the Department shall issue a notice of proposed action as described in OAR 411-069-0100.

(9) If a facility requests a contested case hearing pursuant to OAR 411-069-0120, the Director, at the Director's sole discretion, may waive or reduce the amount of penalty assessed.

(10) If a facility fails to report or pay the provider assessment after the Department issues a final order described in OAR 411-069-0130, then the Department shall pursue remedies described in OAR 411-069-0140 that may include:

(a) A final order leading to collection activities;

(b) Nursing facility license denial, suspension, or revocation;

(c) Admission restrictions; or

(d) Terminating provider contracts.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

ADMINISTRATIVE RULES

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; DMAP 29-2008, f. 8-29-08, cert. ef. 9-1-08; Renumbered from 410-050-0491, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0090

Departmental Authority to Audit Records

(1) The facility must maintain clinical and financial records sufficient to determine the actual number of patient days for any calendar period for which an assessment may be due.

(2) The Department or its designee may audit the facility's records at any time for a period of three years following the date the assessment is due to verify or determine the number of patient days at the facility.

(3) The Department may issue a notice of proposed action or issue a refund based upon its findings during the audit.

(4) Any audit, finding, or position may be reopened if there is evidence of fraud, malfeasance, concealment, misrepresentation of material fact, omission of income, or collusion either by the facility or by the facility and a representative of the Department.

(5) The Department may issue a refund and otherwise take such actions as it deems appropriate based upon the audit findings.

Stat. Auth.: ORS 409.050, 410.070 & 411.060
Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; DMAP 29-2008, f. 8-29-08, cert. ef. 9-1-08; Renumbered from 410-050-0501, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0100

Notice of Proposed Action

(1) Prior to issuing a notice of proposed action, the Department shall notify the facility of a potential deficiency or failure to report that may give rise to the imposition of a penalty. The Department shall issue a 30 day notification letter within 30 calendar days of the report or payment due date. The facility shall have 30 calendar days from the date of the notice to respond to the notification. The Department may consider the response, if any, and any amended report under OAR 411-069-0050 in its notice of proposed action. In all cases that the Department has determined that a facility has a deficiency or failure to report, the Department shall issue a notice of proposed action. The Department does not issue a notice of proposed action if the issue is resolved satisfactorily within 59 days from the date of mailing the 30 day notification letter.

(2) The Department shall issue a notice of proposed action within 60 calendar days from the date of mailing the 30 day notification letter.

(3) Contents of the notice of proposed action must include:

(a) The applicable calendar quarter;

(b) The basis for determining the corrected amount of assessment for the quarter;

(c) The corrected assessment due for the quarter as determined by the Department;

(d) The amount of assessment paid for the quarter by the facility;

(e) The resulting deficiency, which is the difference between the amount received by the Department for the calendar quarter and the corrected amount due as determined by the Department;

(f) Statutory basis for the penalty;

(g) Amount of penalty per day of delinquency;

(h) Date upon which the penalty began to accrue;

(i) Date the penalty stopped accruing or circumstances under which the penalty shall stop accruing;

(j) The total penalty accrued up to the date of the notice;

(k) Instructions for responding to the notice; and

(l) A statement of the facility's right to a hearing.

Stat. Auth.: ORS 409.050, 410.070 & 411.060
Stats. Implemented: ORS 409.750, OL 2003 Ch. 736
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; DMAP 29-2008, f. 8-29-08, cert. ef. 9-1-08; Renumbered from 410-050-0511, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0110

Required Notice

(1) Any notice required to be sent to the facility shall be sent to the current licensee and any former licensee who was occupying the property during the time period to which the notice relates.

(2) Any notice required to be sent from the facility to the Department under these rules shall be sent to the point of contact identified on the communication from the Department to the facility.

Stat. Auth.: ORS 409.050, 410.070 & 411.060
Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0511, SDP 3-2021, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0120

Hearing Process

(1) Any facility that receives a notice of proposed action may request a contested case hearing as provided under ORS chapter 183.

(2) The written request must be received by the Department within 20 days of the date of the notice.

(3) Prior to the hearing, the facility shall meet with the Department for an informal conference.

(a) The informal conference may be used to negotiate a written settlement agreement.

(b) If the settlement agreement includes a reduction or waiver of penalties, the agreement must be approved and signed by the Director.

(4) Nothing in this section shall preclude the Department and the facility from agreeing to an informal disposition of the contested case at any time, consistent with ORS 183.417.

(5) If the case proceeds to a hearing, the administrative law judge shall issue a proposed order with respect to the notice of proposed action.

Stat. Auth.: ORS 409.050, 410.070 & 411.060
Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0551, SDP 3-2021, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0130

Final Order of Payment

The Department shall issue a final order of payment for deficiencies and/or penalties when:

(1) Any part of the deficiency or penalty is upheld after a hearing;

(2) The facility did not make a timely request for a hearing; or

(3) Upon the stipulation of the facility and the Department.

Stat. Auth.: ORS 409.050, 410.070 & 411.060
Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0541, SDP 3-2021, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0140

Remedies Available after Final Order of Payment

(1) Any amounts due and owing under the final order of payment and any interest thereon may be recovered by Oregon as a debt to the state, using any available legal and equitable remedies. These remedies include, but are not limited to:

(a) Collection activities including but not limited to deducting the amount of the final deficiency and penalty from any sum then or later owed to the facility or its owners or operators by the Department, CMS, or their designees to the extent allowed by law;

(b) Nursing facility license denial, suspension, or revocation under OAR 411-089-0040;

(c) Restrictions of admissions to the facility under OAR 411-089-0050; and

(d) Terminating the provider contract with the owners or operators of the facility under OAR 411-070-0015.

(2) Every payment obligation shall bear interest at the statutory rate of interest in ORS 82.010 accruing from the date of the final order of payment and continuing until the payment obligation, including interest, has been discharged.

Stat. Auth.: ORS 409.050, 410.070 & 411.060
Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0551, SDP 3-2021, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0150

Calculation of Long Term Care Facility Assessment

(1) The amount of the assessment is based on the assessment rate determined by the Director multiplied by the number of patient days at the long term care facility for a calendar quarter.

(2) The Director shall establish an annual assessment rate for long term care facilities that applies for each 12-month period beginning July 1. The Director shall establish the assessment rate on or before June 15 preceding the 12-month period for which the rate applies.

(3) On or before October 31, the Department shall refund any overages from the prior fiscal year. For example, by October 31, 2013, the Department shall refund any overages from fiscal year 2012. Overages are defined as any amount of provider assessment that exceeds the federal maximum provider assessment limit in effect for the fiscal year.

Stat. Auth.: ORS 409.050, 410.070 & 411.060
Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

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Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0561, SDP 3-2021, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0160

Limitations on the Imposition of the Long Term Care Facility Assessment

The long term care facility assessment may be imposed only in a calendar quarter for which the long term care facility reimbursement rate that is part of the Oregon Medicaid reimbursement system was calculated according to the methodology described in Oregon Laws 2003, chapter 736, section 24.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0591, SDP 3-2021, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14

411-069-0170

Sunset Provision

The long term care assessment applies to long term care facility gross revenue received on or after June 2003 and before July 1, 2020.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0601, SDP 3-2021, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-13

Department of Human Services, Child Welfare Programs Chapter 413

Rule Caption: 1 Changing OARs affecting Child Welfare programs

Adm. Order No.: CWP 2-2013

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 9-1-2013

Rules Repealed: 413-200-0000, 413-200-0010, 413-200-0020, 413-200-0030, 413-200-0040, 413-200-0050

Subject: OAR 413-200-0000 about the purpose of response to assessment of child abuse reports in private child care agencies and private residential schools, OAR 413-200-0010 about the definitions used in these rules, OAR 413-200-0020 about the assessment of abuse, OAR 413-200-0030 about the reports of assessment of findings of abuse, OAR 413-200-0040 about protective actions during assessment of abuse, and OAR 413-200-0050 about maintaining confidentiality during the course of assessment of an allegation of abuse in licensed child caring agencies are being repealed because these assessments are no longer completed by branch caseworkers, but are conducted through the Office of Adult Abuse Prevention and Investigation under OAR 407-045-0800 through 407-045-0970.

Rules Coordinator: Annette Tesch—(503) 945-6067

Rule Caption: 2 Changing OARs affecting Child Welfare programs

Adm. Order No.: CWP 3-2013

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 9-1-2013

Rules Repealed: 413-050-0000, 413-050-0005, 413-050-0010, 413-050-0020, 413-050-0030, 413-050-0040, 413-050-0050, 413-050-0200, 413-050-0210, 413-050-0220, 413-050-0230, 413-050-0235, 413-050-0280, 413-060-0100, 413-060-0110, 413-060-0120, 413-060-0130, 413-060-0140, 413-060-0150, 413-060-0200, 413-060-0210, 413-060-0220, 413-060-0230, 413-060-0240, 413-060-0300, 413-060-0310, 413-060-0320, 413-060-0330, 413-060-0340, 413-060-0350, 413-060-0360, 413-060-0370

Subject: The Department is repealing OAR 413-050-0000, 413-050-0005, 413-050-0010, 413-050-0020, 413-050-0030, 413-050-0040, and 413-050-0050 about housekeeper services; OAR 413-050-0200, 413-050-0210, 413-050-0220, 413-050-0230, 413-050-0235, and 413-050-0280 about supportive or remedial day care; OAR 413-060-0100, 413-060-0110, 413-060-0120, 413-060-0130, 413-060-0140, and 413-060-0150 about family treatment services; OAR 413-060-0200, 413-060-0210, 413-060-0220, 413-060-0230, and 413-060-

0240 about parenting program/parent training services; and OAR 413-060-0300, 413-060-0310, 413-060-0320, 413-060-0330, 413-060-0340, 413-060-0350, 413-060-0360, and 413-060-0370 about family sexual abuse treatment. These rules are being repealed because service eligibility is covered in other rules that set out eligibility for Child Protective Services and Family Support Services, some items are procedural, and do not need to be in rules, and some items are outdated, including specific services (Supportive Remedial Day Care and Housekeeper Services) no longer utilized.

Rules Coordinator: Annette Tesch—(503) 945-6067

Rule Caption: 3 Changing OARs affecting Child Welfare programs

Adm. Order No.: CWP 4-2013

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 9-1-2013

Rules Repealed: 413-080-0200, 413-080-0205, 413-080-0210, 413-080-0220, 413-080-0240, 413-080-0250, 413-080-0260, 413-080-0270

Subject: OAR 413-080-0200 about the purpose of Residential Services and OAR 413-080-0205 about the definitions used in these rules are being repealed because the Department no longer limits its placement services to residential agencies when making decisions for children and young adults in the Department's custody.

OAR 413-080-0210 about the decision and timing of residential placements is being repealed because the process and procedures followed by Department staff no longer follows these rules, as contracted placement services have greatly expanded to use therapeutic foster care as an alternative to residential care.

OAR 413-080-0220 about the requirements for referral to residential placement is being repealed because the Department uses a variety of placement settings and intervention services to allow a child to remain in the community prior to residential care, and placement in residential care requires additional identification of a child's debilitating behaviors.

OAR 413-080-0240 about the process for referral to a residential service is being repealed as these forms are no longer utilized in the Department and the referral process has changed.

OAR 413-080-0250 about service planning is being repealed because service plans as described in this rule no longer apply, the services of the residential provider are guided by Medicaid requirements for behavioral rehabilitation services, and case planning for the child is the primary responsibility of the caseworker. In addition contact and review requirements have been changed both in federal law for caseworkers and in the Medicaid requirements for the various types of service planning for behavioral rehabilitation services.

OAR 413-080-0260 about the caseworker's role is being repealed because the casework responsibilities for comprehensive case and service planning for the child and family are contained in other child welfare rules.

OAR 413-080-0270 about responsibilities for handling disagreements is being repealed as the process for addressing such problems is outlined in the contract with the residential provider.

Rules Coordinator: Annette Tesch—(503) 945-6067

Rule Caption: 4 Changing OARs affecting Child Welfare programs

Adm. Order No.: CWP 5-2013

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 7-1-2013

Rules Amended: 413-120-0246

Subject: OAR 413-120-0246 about standards for an adoptive home is being amended to permit the Department to approve a foster home study or relative study as an adoption home study in the case of an individual or individuals residing in a state that does not complete an adoption home study prior to a child being placed with the indi-

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vidual or individuals or prior to the child being legally free for adoption.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-120-0246

Standards for an Adoptive Home and Release of an Adoption Home Study

(1) Except to the extent provided otherwise in section (2) of this rule, to be approved to adopt a child in the legal custody of the Department, an individual must complete all of the following:

(a) Have an adoption home study recommending the applicant as a potential adoptive resource written, amended, or updated within the 12 months prior to the adoption placement selection, completed by:

(A) The Department under Child Welfare Policy II-B.1, "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents" OAR 413-200-0301 to 413-200-0396;

(B) An Oregon licensed private agency for an Oregon resident when the home study is prepared by a private agency for an Oregon resident under Child Welfare Policy II-C.1.3, "Licensing Adoption Agencies", OAR 413-215-0401 to 413-215-0481;

(C) An out-of-state agency under Child Welfare Policy I-B.3.4.2, "Interstate Compact on the Placement of Children", OAR 413-040-0200 to 413-040-0330; or

(D) An agency in another country under Child Welfare Policy I-G.1.14, "Intercountry Adoption Pursuant to the Hague Convention and Intercountry Adoption Act", OAR 413-120-0900 to 413-120-0970.

(b) Meet the Department's standards for adoptive homes by demonstrating the knowledge, skills, and ability to meet, without agency oversight, the current and lifelong needs of the child for all of the following:

- (A) Physical and emotional safety and well-being;
- (B) Developing and maintaining connections to the child's family;
- (C) Continuity and familiarity;
- (D) Appropriate social, educational, developmental, emotional, and physical support;
- (E) Integration into the family;
- (F) Stability and permanency; and
- (G) Maintaining his or her identity, cultural, religious, and spiritual heritage.

(c) Provide evidence of successful completion of a training program approved by the Department, unless the Adoption Program Manager has approved an alternate training program.

(2) In the case of an individual or individuals residing in a state that does not complete an adoption home study prior to a child being placed with the individual or individuals or prior to the child being legally free for adoption:

(a) The Child Permanency Program may approve a foster home study or a relative study as an adoption home study for the purpose of adoption placement selection only as long as all other requirements of subsections (1)(a), (b) and (c) of this rule are met.

(b) An approved adoption home study must be completed prior to designation of the child's placement for the purpose of adoption.

(3) Release of an adoption home study. An adoption home study is considered confidential information and, when released under this rule must have a signed, valid release of information from each applicant who is a subject of the adoption home study.

(a) The Department may release a copy of the adoption home study to:

(A) An adoption applicant who is a subject of the adoption home study;

(B) Individuals involved in the adoption placement selection process, under Child Welfare Policy I-G.1.5, Adoption Placement Selection, OAR 413-120-0021 and 413-120-0035;

(C) The court for the purposes of finalizing an adoption; and

(D) A public agency upon the written request of an applicant who is a subject of the adoption home study.

(b) A Child Welfare Program Manager must approve the release of an adoption home study requested for a purpose other than those listed in subsection (a) of this rule.

(c) An individual receiving a copy of an adoption home study must keep the information contained therein confidential.

(d) Before releasing an adoption home study, the Department must redact or summarize information, when necessary, to prevent the identification of individuals, other than the applicants, who provided information for the adoption home study.

(e) When an agency or entity other than the Department completes the adoption home study, the Department must receive approval from the agency or entity that completed the adoption home study before release.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: CWP 15-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 33-2010, f. & cert. ef. 12-29-10; CWP 5-2013, f. & cert. ef. 10-1-13

Rule Caption: 5 Changing OARs affecting Child Welfare programs
Adm. Order No.: CWP 6-2013

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 7-1-2013

Rules Amended: 413-120-0810

Rules Repealed: 413-120-0835, 413-120-0850

Subject: OAR 413-120-0810 about definitions used in rules concerning supervision and support of an adoptive placement is being amended to redefine the term "disruption" to be consistent with the disruption process outlined in OAR 413-120-0870. This rule is also being amended to remove the definition of a "legal risk adoptive placement" because OAR 413-120-0835 is being repealed and this topic is covered in OAR 413-110-0000 through 413-110-0060.

OAR 413-120-0835 about adoption transition is being repealed because this rule is unnecessary and the topic is covered in OAR 413-120-0830.

OAR 413-120-0850 about legal risk adoptive placement is being repealed because this topic is covered in OAR 413-110-0000 through 413-110-0060.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-120-0810

Definitions

The following definitions apply to OAR 413-120-0800 to 413-120-0880:

(1) "Adoption home study" means a written report documenting the result of an assessment conducted by the Department, a licensed adoption agency, or another public agency to evaluate the suitability of an individual or individuals to adopt and make a lifelong permanent commitment to a child or children.

(2) "Adoption placement selection" means a decision made by the Department that an individual or individuals have been identified as the adoptive resource for the child.

(3) "Adoption transition" means activities related to the placement of a child or sibling group under consideration in the home of the family selected as the adoptive resource.

(4) "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a child where no administrative review was requested within the timeframe allowed for such a request or, if a review was requested, the selection was sustained by that review and the review is complete.

(5) "Child" means a person under 18 years of age.

(6) "Department" means the Department of Human Services, Child Welfare.

(7) "Disruption" means an approval by the Adoption Program Manager to end an adoption process after adoption placement selection but before the adoption is legally finalized.

(8) "Post-placement supervision" means the supervision of a child following placement with an adoptive resource.

(9) "Substitute caregiver" means a relative caregiver, foster parent, or provider who is authorized to provide care to a child or young adult who is in the legal or physical custody of the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280 & 418.285

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 24-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 32-2003, f. & cert. ef. 10-1-03; CWP 14-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 6-2013, f. & cert. ef. 10-1-13

Rule Caption: 6 Changing OARs affecting Child Welfare programs
Adm. Order No.: CWP 7-2013

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 9-1-2013

Rules Adopted: 413-215-0918, 413-215-0992

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Rules Amended: 413-215-0911, 413-215-0916, 413-215-0921, 413-215-0926, 413-215-0931, 413-215-0936, 413-215-0941, 413-215-0946, 413-215-0951, 413-215-0961, 413-215-0976, 413-215-0981, 413-215-0996, 413-215-1006, 413-215-1011, 413-215-1016, 413-215-1026, 413-215-1031

Subject: These rules about licensing outdoor youth programs are being amended to recognize the treatment value of the outdoor youth wilderness experience and ensure additional safety elements are in place, including gathering additional information about each youth as well as recognizing and treating issues which may arise. OAR 413-215-0911 about definitions is being amended to modify the definition of an outdoor youth program. OAR 413-215-0916 about administration is being amended to modify what is required to be in the file on each youth in the program. OAR 413-215-0918 about consents, disclosures, and authorizations is being adopted to establish consent, disclosure, and authorization requirements for outdoor youth programs. OAR 413-215-0921 about participant clothing, equipment, and supplies is being amended to take a more pragmatic approach to the change of clothing requirements. OAR 413-215-0926 about water requirements is being amended to require documentation when water from a natural source is sanitized and set out requirements for use of electrolytes. OAR 413-215-0931 about nutritional requirements is being amended to establish restrictions on the use of food must not be used for behavior modification purposes and requirements about uninterrupted time for each meal. OAR 413-215-0936 about safety is being amended to require outdoor youth programs to follow their safety policies and procedures, and to have and follow policies and procedures about health, nutrition, hydration, and physical stress management. OAR 413-215-0941 about potential weapons is being amended to revise the supervision requirements when youth are using potential weapons. OAR 413-215-0946 about contraband is being amended to revise the requirements concerning possession of these items by staff of an outdoor youth program. OAR 413-215-0951 about searches is being amended so the rule does not regulate searches of staff members nor set requirements unique to initial intake inspections. OAR 413-215-0961 about health services is being amended to revise its requirements concerning the required physical examination to participate in outdoor youth program activities, the required medical information staff in the field must have with them, the storage requirements for medications in the field, and to require policies and procedures about contingency planning in the event of medications being lost or destroyed in the field. OAR 413-215-0976 about physical activity limits and requirements is being amended to add additional requirements to ensure that physical activity does not exceed the physical capability of a youth and additional requirements concerning acclimation to the environment. OAR 413-215-0981 about staff training is being amended to provide more specific training requirements for behavior management and wilderness health issues. OAR 413-215-0992 about referral and initial evaluation of youth is being adopted to establish the requirements of outdoor youth programs for policies about referral and exclusion, and incorporate the policy about initial evaluation which is being relocated from OAR 413-215-0996. OAR 413-215-0996 about program services is being amended to revise its requirements for admissions assessments of youth with mental health issues, remove requirements being relocated to OAR 413-215-0992, and set out additional requirements for service planning. OAR 413-215-1006 about field outdoor youth program activities is being amended to include additional requirements about debriefing of outdoor youth program staff after they return from the field. OAR 413-215-1011 about communication is being amended to reduce the amount of time a field group from an outdoor youth program may be away from the ability to make contact with emergency services. OAR 413-215-1016 about work is being amended to place additional restrictions on outdoor youth programs on their use of non-vocational work assignments. OAR 413-215-1026 about solo experiences in outdoor youth programs is being amended to revise its requirements about emergency plans for these experiences. OAR 413-215-1031 about behav-

ior management is being amended to place additional requirements on the use of time outs by outdoor youth programs.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-215-0911

Definitions

The following definitions apply to OAR 413-215-0901 to 413-215-1031:

(1) “Contraband” means items the possession of which is prohibited by the outdoor youth program such as but not limited to weapons or drugs.

(2) “Debrief” means to interview a person (such as a youth or staff member) usually upon return (as from an expedition) in order to obtain useful information.

(3) “Department” means the Department of Human Services.

(4) “Outdoor living setting” means an outdoor field setting in which services are provided to youth either more than ten days per month for each month of the year or for longer than 48 hours at a location more than two hours from community-based medical services.

(5) “Outdoor youth program” means a program that provides, in an outdoor living setting, services to youth who are enrolled in the program because they have behavioral problems, mental health problems or problems with abuse of alcohol or drugs. “Outdoor youth program” does not include any program, facility or activity operated by a governmental entity, operated or affiliated with the Oregon Youth Conservation Corps, or licensed by the Department as a child caring agency under other authority of the Department. It does not include outdoor activities for youth designed to be primarily recreational.

(6) “Outdoor youth program activity” means an outdoor activity, provided to youth for the purpose of behavior management or treatment, which requires specially trained staff or special safety precautions to reduce the possibility of an accident or injury. Outdoor youth activities include, but are not limited to: hiking, adventure challenge courses, climbing and rappelling, winter camping, soloing, expeditioning, orienteering, river and stream swimming, and whitewater activities.

(7) “Over the counter medication” means any medication that does not require a written prescription for purchase or dispensing.

(8) “Service plan” means an individualized plan of services to be provided to each youth based on his or her identified needs and designed to help him or her reach mutually agreed upon goals. The service plan must address, at a minimum, the youth’s physical and medical needs, behavior management issues, mental health treatment methods, education plans, and any other special needs.

(9) “Sole supervision” means being alone with a youth or being temporarily the only staff in charge of a youth or subgroup of youth.

(10) “Stationary outdoor youth program” means an outdoor youth program which remains in a stationary location that houses youth.

(11) “Wilderness first responder” means a medical training course and certification for outdoor professionals.

(12) “Youth” means a child aged 10 through 17 years of age who may be admitted to or is a participant in an outdoor youth program.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0803, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0916

Administration

(1) Base of operations. An outdoor youth program (defined in OAR 413-215-0911) providing outdoor youth program services in Oregon must have a base of operation or field office in Oregon. The base of operation or field office at a minimum must have the following information immediately available upon the request of the Department licensing coordinator:

(a) Current list of the names of staff and youth in each field group;

(b) Master map of all outdoor youth program activity (defined in OAR 413-215-0911) areas used by the program in Oregon, copies of which must be made available to the Department licensing coordinator, the land managing agency, and local law enforcement and emergency services upon request;

(c) Copies of each group’s expeditionary route with its schedule and itinerary, copies of which must be made available to the Department, the land managing agency and local law enforcement and emergency services upon request;

(d) Current logs of communications with each field group away from the base of operations; and

(e) Emergency response plan that is reviewed annually (as described in OAR 413-215-0936(2)(c)).

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(2) Youth file requirements. The base of operations for an outdoor youth program must have a file on each youth in the program, which includes:

- (a) Legal guardian identification, contact information, and status of child custody;
- (b) Emergency contact information for the legal guardian or guardians of the youth which provides for contact with the parent or legal guardian at any time, twenty four hours a day, seven days a week;
- (c) Demographics including but not limited to name, gender, date of birth, and previous address;
- (d) Eligibility and exclusionary criteria, including the basis for admission of the youth into the program;
- (e) Medical forms;
- (f) Authorization for medical treatment; and
- (g) Legal guardian consent for the outdoor youth program to treat the youth with the specific interventions used by the program and to confiscate contraband (defined in OAR 413-215-0911) found in the youth's possession.

(3) Proof of compliance. An outdoor youth program which operates in Oregon must comply with the federal, state, local, and land managing agency regulations in the operations area and must maintain proof of compliance at the base of operations.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998
Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0809, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0918

Consents, Disclosures, and Authorizations

(1) Consents. For each youth in placement with an outdoor youth program (defined in OAR 413-215-0911), the outdoor youth program must ensure that the legal guardian signs a consent that authorizes the outdoor youth program to undertake each of the following:

- (a) To provide routine and emergency medical care.
- (b) To use the behavior management system of the outdoor youth program, including the point, level, or other behavior management techniques utilized by the outdoor youth program.
- (c) If applicable, to use restraint in the management of the youth. The consent for the use of physical restraint must be limited to the requirements outlined in OAR 413-215-0076(8).
- (d) If applicable, to use time outs. The consent for the use of time outs must be limited to the requirements outlined in OAR 413-215-0076(9).
- (e) If applicable, to use seclusion. The consent for the use of seclusion must be limited to the requirements outlined in OAR 413-215-0076(10).

(2) Disclosures to parent or legal guardian. At the time an outdoor youth program takes a youth into placement, the outdoor youth program must ensure that each legal guardian of the youth receives and acknowledges in writing the receipt of each of the following:

- (a) Information regarding any personal searches and protocols for confiscation of contraband items, including the notification of law enforcement if illegal contraband is discovered. This information will include the procedures and rationales of the outdoor youth program for any program-initiated pat down searches.
- (b) A statement concerning the rights of youth and legal guardians served by the outdoor youth program. The statement must be written in a manner that is easy to understand, and the outdoor youth program must ensure that the youth and the parent or legal guardian understand the statement. The statement must explain the following rights belonging to youth and, in some cases, legal guardians:

(A) Private and uncensored communications by mail, telephone, and visitation, subject to both of the following restrictions.

(i) This right may be restricted only if the provider documents in the individual's record that there is a court order to the contrary, or that in the absence of this restriction, significant physical or clinical harm will result to the individual or others. The nature of the harm must be specified in reasonable detail, and any restriction of the right to communicate must be no broader than necessary to prevent this harm.

(ii) The individual and his or her guardian, if applicable, must be given specific written notice of each restriction of the individual's right to private and uncensored communication. The provider must ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible and allow for confidential communication, and that space is available for visits. Reasonable times for the use of telephones and visits may be established in writing by the provider.

- (B) The youth's right to reasonable privacy.
- (C) The youth's right to meaningfully participate in service planning.

(D) The youth's right to fair and equitable treatment.

(E) The right to be free from unauthorized treatment.

(F) The right of the youth or guardian to file a grievance for any reason, including, if the youth or legal guardians believe that they have been treated unfairly, or, if they are not in agreement with the services provided.

(G) The youth's right to have and wear personally exclusive clothing of their choosing unless the type of clothing has been prohibited in writing on the basis that significant physical or clinical harm would result.

(H) The youth's right to have personal belongings unless they are prohibited by storage limits, or because the item is prohibited in writing on the basis that significant physical or clinical harm would result.

(I) The youth's right to receive an appropriate education, and if the youth has not yet graduated, to stay on course for graduation.

(J) The youth's right to participate in recreation and leisure activities unless the program restricts the youth's participation in recreation or leisure activities due to serious behavior or safety issues.

(K) The youth's right to have timely access to physical and behavioral health care services.

(L) The right of the youth, or legal guardians, to promptly review the program policies and procedures regarding program services.

(c) An outdoor youth program shall provide a copy of transportation policies and procedures to the legal guardians at the time of admission to the program.

(d) An outdoor youth program will disclose orientation procedures to the client and legal guardians at the time of admission to the program and prior to transporting the youth to the field.

(3) Authorizations. An outdoor youth program must follow the following requirements:

(a) Written authorizations to exchange information with others must be filled out prior to signatures being requested.

(b) All youth-specific visitors must be approved or authorized by the legal guardians, except Department personnel, child abuse investigators, Court Appointed Special Advocates, and attorneys appointed to represent the child.

(c) All other visitors must be pre-approved by the youth's legal guardians.

(d) Activity-specific authorizations must be pre-approved by the youth's legal guardians to allow children to participate in potentially hazardous activities, such as rock climbing, swimming, and horseback riding.

(e) All other required authorizations must be pre-approved by the youth's legal guardians.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998
Hist.: CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0921

Participant Clothing, Equipment and Supplies

An *outdoor youth program* (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Participant requirements. Each program participant must have appropriate clothing, equipment, and supplies for each type of outdoor youth program activity (defined in OAR 413-215-0911) and for the weather conditions likely to be encountered.

(2) Clothing, equipment, and supply requirements. Clothing, equipment, and supplies must include at a minimum the applicable items in each of the following subsections:

(a) Sunscreen if appropriate for the environmental conditions generally expected for the area and season.

(b) Insect repellent if appropriate for the environmental conditions generally expected for the area and season.

(c) A commercial backpack or the materials to construct a safe backpack or bedroll.

(d) Personal hygiene items necessary for cleansing.

(e) Appropriate feminine hygiene supplies.

(f) When the average nighttime temperature is expected to be 40 degrees Fahrenheit or higher:

(A) Wool blankets or an appropriate sleeping bag; and

(B) A tarp or poncho.

(g) Shelter from precipitation, appropriate sleeping bag, and ground pad when the average nighttime temperature is expected to be 39 degrees Fahrenheit or lower.

(h) Clothing appropriate for the temperature changes generally expected for the area.

(i) Each youth must be provided a clean change of undergarments and socks at least once a week or an opportunity to wash his or her clothing at

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least once a week; and all other clothing must be reasonably clean and in good repair.

(3) Denial of clothing, equipment, and supplies. An outdoor youth program must not remove, deny, or make unavailable for any reason the appropriate clothing, equipment, or supplies required by section (2) of this rule.

(4) Monitoring. Field staff are responsible for maintaining the safety and well-being of youth and must monitor each youth to make sure that clothing, equipment, and supplies are maintained in a manner adequate to ensure each youth's safety.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0868, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0926

Water Requirements

An outdoor youth program (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Written policy. An outdoor youth program must have and follow written policy and procedures on water requirements.

(2) Water. Youth must have access to potable water while engaged in hiking. Staff of the outdoor youth program must ensure that youth drink a sufficient amount of water to provide adequate hydration. Staff must encourage youth to consume at least three quarts of potable water a day.

(3) Water caches. When water caches are used, field staff must place each water cache and verify its location in advance of a group's arrival.

(4) Water from a natural source. Water from a natural source used for drinking or cooking must be treated for sanitation to eliminate health hazards. Staff must document what methods were used to sanitize the water.

(5) Electrolytes. Each group must have and use when appropriate a supply of electrolyte replacement, quantities to be determined by group size and environment conditions.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0864, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0931

Nutritional Requirements

An outdoor youth program (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Written policy. An outdoor youth program must have and follow written policy and procedures on nutritional requirements.

(2) Menu. There must be a written menu approved by a qualified dietitian or nutritionist with knowledge of program activity levels, listing the food supplies for each group.

(3) Calories. An outdoor youth program must provide each youth a level of nutrition which will supply the youth's individual caloric need; but no youth may be offered less than 3,000 calories a day. When heat is not available for cooking, an outdoor youth program must provide sufficient food of sufficient caloric value which does not require cooking.

(4) Hygiene procedures. The outdoor youth program must have reasonable hygiene procedures to prevent infection which are consistent with the particular program risk of infection.

(a) Cleansing of hands must occur after each latrine use.

(b) Means of cleansing the hands must be available to youth prior to food preparation and prior to food consumption.

(c) A weekly opportunity for total body hygiene.

(5) Fasting. There must be no imposed fasting.

(6) Monitoring. Field staff are responsible for maintaining the safety and well being of clients and must monitor each youth's food intake to ensure that the youth has adequate nutrition.

(7) Food must not be used for behavior modification purposes, including reward or punishment.

(8) Youth must be permitted a reasonable amount of uninterrupted time for each meal.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0866, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0936

Safety

(1) Written policies and procedures. An outdoor youth program (defined in OAR 413-215-0911) must have and follow written policies and procedures on all of the following:

(a) Equipment Safety Procedures, including appropriate instruction and maintenance of equipment.

(b) Environmental Hazards.

(c) Risk Management Procedures.

(d) Health, nutrition, hydration, and physical stress management.

(2) Emergency plan. An outdoor youth program must have and follow a written emergency plan for disasters, medical emergencies, hostage situations, casualties and missing youth, and other critical incidents identified by the program. The plan must at a minimum include:

(a) Designation of authority and staff assignments;

(b) Plans for evacuation;

(c) An emergency evacuation system that is on standby;

(d) Transportation and relocation of program youth when necessary;

(e) Supervision of program youth after an evacuation or a relocation;

(f) Arrangements for medical care and notification of a program participant's physician and nearest relative, parents, or legal guardian; and

(g) A procedure for a review of the emergency plan by the local law enforcement and emergency services agencies from the area in which the outdoor youth program is operating.

(3) Emergency instruction. An outdoor youth program must instruct youth on what to do in case of an emergency prior to any outdoor youth program activity (defined in OAR 413-215-0911).

(4) Emergency plan response review. In the case of the activation of an emergency plan response, the outdoor youth program must subsequently review the response in the context of the emergency plan to determine if changes need to be made to improve safety and efficiency. If local law enforcement and emergency services agencies have been involved in an emergency response on behalf of an outdoor youth program, the outdoor youth program must invite them to participate in the review of the emergency plan response.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0852, 413-210-0855, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0941

Potential Weapons

(1) Written policy. An outdoor youth program (defined in OAR 413-215-0911) must have and follow written policy and procedures on management of weapons and potential weapons.

(2) Inventory required. Staff of an outdoor youth program must inventory knives, hatchets, other edged tools, or any item which might reasonably pose a danger to self or others and complete a daily count of these items against the inventory.

(3) Supervision required. Staff of an outdoor youth program must have line of sight supervision of a youth who is in possession of and using knives, hatchets, other edged tools, or any item which might pose a danger to self or others.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0870, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0946

Contraband

(1) Written policy. An outdoor youth program (defined in OAR 413-215-0911) must have and follow written policy and procedures on contraband (defined in OAR 413-215-0911).

(2) Confiscation. Staff must confiscate contraband found in the possession of youth in an outdoor youth program and, if stored, secure it in a location inaccessible to youth.

(3) Disposal. It is the responsibility of the outdoor youth program to store or dispose of all contraband not confiscated by or turned over to law enforcement, in accordance with the contraband policy.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0880, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0951

Searches

(1) Written policy. If an outdoor youth program (defined in OAR 413-215-0911) conducts searches of youth or visitors, it must have and follow written policies and procedures. The program must obtain the appropriate consents for searches.

(2) Searches. An outdoor youth program must complete searches in the least intrusive manner possible for the type of search being conducted.

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The policies and procedures at a minimum must address all of the following:

(a) Pat down searches. An outdoor youth program may conduct pat down searches of youth only when the outdoor youth program judges that it is necessary to discourage the introduction of contraband (defined in OAR 413-215-0911), or to promote the safety of staff and other youth. An outdoor youth program may only conduct pat down searches as follows:

(A) By staff trained in proper search techniques;

(B) By a staff member of the same sex as the youth being searched, and in the presence of another staff member;

(C) The youth must be told he or she is about to be searched;

(D) The youth must be asked to remove all outer clothing (gloves, coat, hat, and shoes) and empty all pockets;

(E) The staff member must then pat the clothing of the youth using only enough contact to conduct an appropriate search;

(F) If the staff detects anything unusual, the youth must be asked to identify the item and appropriate steps must be taken to remove the item for inspection;

(G) If the youth refuses to comply, the executive director or designee must be notified immediately and be responsible to resolve the matter; and

(H) All searches must be documented in writing.

(b) Strip searches. An outdoor youth program may not perform strip searches.

(c) Body cavity searches. An outdoor youth program may not perform body cavity searches.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0883, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0961

Health Services

(1) Required physical examination. Prior to a youth engaging in an outdoor youth program activity (defined in OAR 413-215-0911), an outdoor youth program (defined in OAR 413-215-0911) must review and place in the file a physical examination report for the youth. This information must be shared with the field staff prior to any outdoor youth program activity. The youth's health history must be provided by a physician prior to admission, and this history plus a new physical examination must be recorded on a form provided by the program, which clearly documents the type and extent of outdoor youth program activity in which the youth will be engaged. The examination must cover areas required by the Department and, after the appropriate consents are obtained from the youth or youth's legal guardian, must be completed by a licensed physician, physician's assistant or nurse practitioner, who signs the form.

(a) In addition to any other areas required by the Department, the examination must include a physical assessment based on the climate, temperature, and altitude the youth will be participating in given the participant's age, weight, sex, physical condition, and recent use of drugs or alcohol, if any. The physician must state in the examination report any restrictions on the youth engaging in strenuous exercise based on these or any other factors;

(b) If a youth is currently taking or has been receiving prescribed medication within the past six months, a specific notation must be made on the physical examination form, by the clearing medical professional, which must include clearance for participation in an outdoor, high impact environment and a description of any possible special needs due to use of the medication in the field environment; and

(c) If a youth is in a risk group for strenuous exercise or extreme conditions due to medical issues, written clearance must be noted on the physical examination form, stating that the youth may participate in an outdoor youth program activity, which may:

(A) Occur in altitudes over 5,000 feet;

(B) Include strenuous exercise; and

(C) Expose youth to cold or hot temperatures.

(d) Youth may not participate in an outdoor youth program activity until all blood work and other laboratory work has been received and reviewed by the physician, and the physician has found that the youth is qualified to start the program.

(2) Health information availability. An outdoor youth program must copy the health history and physical exam form and authorization to obtain medical care, maintain the original at the base of operations, and field staff must carry the copy in a waterproof container when the youth is away from the base of operations. All medications must be listed, including dose and frequency.

(3) Appropriate health care. An outdoor youth program must ensure — through staff assignments, training, and program providers — that injuries, illness, or physical complaints by youth will be promptly and accurately assessed; and that appropriate care is provided.

(4) Prompt first aid treatment. An outdoor youth program must provide first aid treatment in as prompt a manner as the location and circumstances allow.

(5) First aid. An outdoor youth program must have a first aid kit with sufficient supplies available at all times. The first aid kit must:

(a) Meet the standards of an appropriate national organization for the activity being conducted and the location and environment being used;

(b) Be reviewed with new staff for contents and use;

(c) Be reviewed at least annually with all staff for contents and use; and

(d) Be inventoried after each expedition and restocked as needed.

(6) Field treatment. An outdoor youth program must immediately transport to appropriate medical care any youth with an illness or physical complaint needing care or treatment beyond what can be provided in the field.

(7) Documentation of reports and treatment. An outdoor youth program must document complaints or reports by a youth of illness and injuries in a daily log along with any treatment provided.

(8) Negative consequences. An outdoor youth program may impose no negative consequence on a youth for reporting an injury or illness or for requesting to see a health care professional.

(9) Daily physical assessment. Field staff for an outdoor youth program must monitor and document youth's hydration, skin condition, extremities, and general physical condition on a daily basis.

(10) Weekly physical assessment. A Wilderness First Responder (WFR) or equivalent, an Emergency Medical Technician (EMT), or qualified medical professional must assess each youth's physical condition in an outdoor youth program at least every seven days. The assessment must be documented and shall at a minimum include:

(a) Heart rate;

(b) Check of extremities;

(c) Condition of skin;

(d) Allergies if any;

(e) General physical condition;

(f) Any health issues specific to the individual youth; and

(g) Provision of appropriate medical treatment if needed.

(11) Medication storage and administration policies and procedures.

An outdoor youth program must have and follow policies and procedures on the storage and administration of prescription and non-prescription medication. The policies and procedures must include contingency planning in the case of medications being lost or destroyed in the field.

(12) Medication storage. An outdoor youth program must store prescription and over-the-counter medication under lock and key safeguarded from youth. For medications taken in the field, medication must be in the possession of a staff member and stored at required temperatures.

(13) Documentation of medications. Prescription medication in an outdoor youth program must be issued by a qualified medical professional's valid order that includes the dosage to be given. Senior field staff must administer all medication. Administration of medication must be documented and include:

(a) The youth's name;

(b) The name of the medication;

(c) The date and time;

(d) The amount of dosage given and whether the youth did not take the medication; and

(e) The person who administered or assisted in self-administration of the medication.

(14) Medication changes. An outdoor youth program may not stop or change dosage or administration of prescribed medication nor discontinue any prescription without consulting with a qualified medical professional and documenting the consultation and the change.

(15) Disposal of unused medication.

(a) For purposes of this rule, "unused medication" means any medication which has not been used for 60 days, or a medication held by the facility which has been prescribed for a resident who has been released from the facility.

(b) For purposes of this rule, "expired medication" means any medication whose designated period of potency, as indicated on the label, has expired.

(c) An outdoor youth program must return all unused or expired medication to the base of operations and dispose of it so it is not available to

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youth. A field director or senior field staff must witness and document the disposal of the unused medication.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998
Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0815, 413-210-0839, 413-210-0862, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0976

Physical Activity Limits and Requirements

An outdoor youth program (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Physical capability. Physical activity may not exceed the physical capability of a youth. Field staff must monitor the physical capability and condition of each youth to ensure that the outdoor youth program activity (defined in OAR 413-215-0911) does not exceed the youth's capability.

(a) The program may not assign extremely strenuous exercise at any time.

(b) A youth when hiking may not carry a backpack and other equipment which exceeds their physical abilities.

(c) Staff shall assist youth in ensuring that backpacks are packed in a manner that allows them to be comfortably worn.

(d) Youth shall have breaks prior to becoming weary to avoid risk of injury. Breaks shall be frequent and long enough to recover and return to the outdoor youth program activity.

(e) All youth in a group shall hike at the speed at which the slowest member is capable.

(2) Environmental conditions. Staff of the outdoor youth program must consider environmental conditions including but not limited to temperature, humidity, and precipitation, when planning an outdoor youth program activity so as to minimize the risk of harm (such as heatstroke, frostbite, and hypothermia) to participants.

(3) Acclimation to environment. Staff must closely monitor youth for acclimation to the elevation and temperature of the environment for the first 72 hours of each youth's stay in the program to ensure safe assessment of fitness.

(a) Staff must monitor and document each youth's physical assessment at least three times per day, and more often if the youth is exhibiting signs of exhaustion or fatigue. Youth physical assessment must meet the same criteria as described in OAR 413-215-0961(10).

(b) Staff shall assess each youth's level of overall fitness, and readiness mentally and physically to engage in more demanding exercise during this time period.

(4) Log. There must be a common daily log, which is signed and dated by the participating senior staff daily. The log must:

(a) Contain information on health problems, accidents, injuries, illnesses, medications used, behavioral problems, and unusual occurrences; and

(b) Include notation of environmental factors such as weather, temperature, and terrain.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998
Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0858, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0981

Staff Training

An outdoor youth program (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Written policies, procedures, and training curriculum. An outdoor youth program must have written policies, procedures, and training curriculum regarding minimum requirements for orientation, field training, and ongoing training.

(2) Orientation. Each employee must complete orientation before having any contact with clients or prospective clients (youth or their legal guardians). The orientation training must include at a minimum:

(a) Outdoor youth program mission and goals, including admissions criteria and services provided.

(b) Personnel structure of the outdoor youth program, including an organizational chart and job descriptions which accurately reflect the responsibilities of staff positions involved in the care and management of youth, and the management and supervision of field staff;

(c) Overview of the quality improvement program, including the critical incident program;

(d) Risk management procedures and safety precautions;

(e) Instruction in behavior management policies and procedures of the outdoor youth program, including de-escalation and the use of physical restraint, if applicable;

(f) Instruction in physical assist policies and procedures of the outdoor youth program;

(g) Review and discussion of all other policies relevant to field staff responsibilities, such as clothing, nutrition, vehicle use, communication methods, cooking and camping equipment, and their use; and

(h) Emergency plan.

(3) Field training. Each field staff must receive a minimum of seven days of field training and must be assessed by the field director or designee for each of the following minimum required field skills before assuming sole supervision of youth:

(a) Water, food, and shelter procurement, preparation, and conservation.

(b) "Leave No Trace Principles" for outdoor youth program activity (defined in OAR 413-215-0911). For purposes of this rule, "Leave No Trace Principles" mean wilderness and land use ethics which are designed to minimize the impact of visitors to back country areas. The principles include: Plan Ahead and Prepare, Travel and Camp on Durable Surfaces; Pack it in, Pack it Out; Properly Dispose What You Can't Pack Out; Leave What You Find; and Minimize Use and Impact of Fire.

(c) Recognition and management of the presenting issues of the youth served, including mental health and substance abuse issues.

(d) Instruction in safety procedures and safe use of fuel, fire, and life protection equipment.

(e) Sanitation procedures related to food, water, and waste.

(f) Special instruction to ensure proficiency in each specific outdoor youth program activity for staff who conduct and staff who supervise an outdoor youth program activity.

(g) Wilderness medicine, including health issues related but not limited to:

(A) Acclimation.

(B) Exposure to the environment and environmental elements.

(C) Signs, symptoms, and treatment of water intoxication and dehydration.

(D) Foot blisters.

(E) Diarrhea.

(F) Recognizing differences between symptoms of a health concern and behavioral issues.

(G) Bites and Stings.

(H) Allergic reactions.

(I) Gender specific health issues.

(h) First aid kit contents and use.

(i) Basic navigation skills including understanding of contour maps, use of compass, and navigation using the positions of sun, moon, and stars to determine direction.

(j) Local environmental precautions, including terrain, weather, insects, poisonous plants, wildlife, and proper response to adverse situations.

(k) Critical incident prevention, identification, and response.

(l) Knowledge of and ability to implement the emergency plan of the outdoor youth program.

(m) Report writing, including development and maintenance of logs, journals, and incident reports.

(n) Other skills as required by the outdoor youth program.

(4) Sole supervision. No staff member of an outdoor youth program may provide sole supervision of program youth prior to ---

(a) Successful completion of orientation and field training; and

(b) Documented assessment by a senior field staff member of:

(A) Effective understanding of the supervision structure of the outdoor youth program, who is responsible, and to whom staff can refer questions or problems; and

(B) Understanding, knowledge, and compliance with the behavior management policies of the outdoor youth program.

(5) Ongoing training. An outdoor youth program must provide ongoing training for field staff to maintain and upgrade their skills.

(6) Documentation of training. An outdoor youth program must document the training received by each staff member and volunteer in their personnel file. For each training session, the documentation shall include the name and qualifications of the person providing the training, date of training, training content, and the number of hours of the training.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0830, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

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413-215-0992

Referral and Initial Evaluation of Youth

(1) Affirmative duty to gather sufficient information. An outdoor youth program (defined in OAR 413-215-0911) has an affirmative duty to make reasonable efforts to gather sufficient information to determine the appropriateness of the youth for the outdoor youth program.

(2) Referral. An outdoor youth program must have a policy that addresses the process by which youth are referred to the outdoor youth program. The policy must include all of the following:

(a) From whom referrals are accepted and whether the program has any type of relationship with the source of referral, including payment for any services provided by the source of the referral to the program.

(b) On what basis youth are accepted by the outdoor youth program.

(c) How information necessary to provide for the safety and care of youth will be provided to the appropriate care staff.

(3) Exclusionary policy.

(a) An outdoor youth program must have a written policy that describes any exclusionary criteria for the program.

(b) The outdoor youth program must exclude or have a written policy and must document in the youth's service plan describing how the program will provide safe and effective treatment specific to each of the following:

(A) Youth with current risk of fire setting behaviors.

(B) Youth with active psychosis.

(C) Youth with current risk of suicide.

(D) Youth with current risk of harm to self or others.

(E) Youth with any significant mental health diagnosis.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0996

Program Services

(1) Admissions assessments. An outdoor youth program (defined in OAR 413-215-0911) must perform an admission assessment on each youth.

(a) Admissions process. An assigned staff member with documented experience in the area of admissions screening and assessment, who is familiar with the outdoor youth program, must complete an individual admissions assessment for each youth prior to enrollment.

(b) Admissions to be based on admissions assessment. The outdoor youth program must base admission of each youth on the individual admissions assessment. The assessment must be the basis for the youth's individual service plan. The assessment must include the following components:

(A) Social history including home, community, and environment;

(B) Health history, including current prescriptions and over the counter medication (defined in OAR 413-215-0911);

(C) Psychological history, including behavior problems, aggression, substance abuse, family dynamics, prior evaluations, and any previous treatment;

(D) For a youth with indications of a mental health diagnosis, the assessment must include a determination by a licensed, certified, or registered mental health professional whether the outdoor youth program is appropriate and how the program activities will address the youth's needs, or whether another type of mental health treatment is indicated for the youth before the youth enters the field portion of the outdoor youth program.

(i) If the program has reasonable grounds to believe that a youth for whom admission is sought has a mental health diagnosis, the program must require the submission of an evaluation, completed not more than 90 days previously, of the youth's mental health condition by a clinical psychologist or psychiatrist.

(ii) The evaluation described in subparagraph (i) of this paragraph and other available evaluations and relevant documentation must be reviewed by a qualified mental health professional who must describe in writing how the treatment to be provided at the outdoor youth program is appropriate for the identified mental health diagnosis. This description must include how the activities of the program will address the needs of the youth and relate to the youth's service plan.

(E) For a youth with indications of substance abuse, the assessment must include a determination by a professional in chemical dependency whether detoxification is indicated for the youth before the youth enters the field portion of the outdoor youth program.

(c) Consultation and additional information. If after a review of the components required by the Admissions Assessment, there is any question as to the appropriateness of admission of a youth, the assigned staff member must consult with the Multidisciplinary Team and document the deci-

sion. If the information available about the youth is inadequate for the determination of appropriateness for the outdoor youth program, the outdoor youth program must require additional necessary information which may include evaluations by consulting professionals.

(d) Evaluation of appropriateness of admission. Each admissions assessment must include a summary evaluation of the appropriateness of the admission of the youth into the outdoor youth program.

(e) Field entry.

(A) An outdoor youth program must conduct an interview and orientation with each youth before the youth leaves for the field portion of the program away from the main base of operations.

(B) The field director or senior field staff assigned to the youth's field experience must conduct an interview with the youth prior to entrance into the field; and

(C) The medically trained field staff assigned to the youth's field experience must conduct a review of the youth's health history and physical examination report.

(2) Service planning. Each youth must be served according to an individual service plan (defined in OAR 413-215-0911), developed by the outdoor youth program staff and including, whenever possible, the program director, child-care workers, other involved professionals, the youth, and his or her family. The program must make every effort to secure the participation of the legal guardians in planning, and, if they do not participate, must document the reasons why. An outdoor youth program has an affirmative responsibility to provide competent individualized service planning for each youth to include ongoing evaluation and change as needed. Service planning time lines must be as follows:

(a) Initial service plan. An outdoor youth program must write the initial service plan based on the admission assessments, all referral documents, and the youth's individual needs on or before admission, and provide a copy to the senior field staff upon the youth's entry into the outdoor youth program.

(b) Updated service plan. Within 14 days of the date the youth enters the field, the outdoor youth program must write an updated service plan based on field observations and additional information received (family information, medical reports, and youth disclosures). If a youth has a significant mental health diagnosis, the service plan must specify how and by whom the treatment related to the diagnosis will be addressed.

(c) Monthly review. The outdoor youth program must review and update the service plan monthly, and document the review. Changes in the service plan must be promptly shared with the youth and the youth's legal guardian.

(d) Discharge summary. The discharge summary must include a written summary of the youth's participation and progress achieved, results of evaluations, conditions of the youth, interactions of youth and staff, briefings and debriefings, compliance with program policies and procedures, and recommendations. The discharge summary must be retained in the youth's file and a copy provided to the youth's legal guardians.

(3) Areas of emphasis in the service plan and planning process. It is the intent of the Department that an outdoor youth program must make every reasonable effort to ensure participation by the youth's family in all aspects of the service and service planning process. To that end, the outdoor youth program staff must:

(a) Encourage parent participation in the intake process;

(b) If the youth's parent or legal guardian cannot participate in the intake process, ensure participation in the intake process by those responsible for the environment in which the youth resides prior to placement with the outdoor youth program;

(c) Support the family and those responsible for the environment in which the youth lives during intervention activities, including alternate suggestions for any youth not accepted at intake;

(d) Consider the family's responsibility, needs, and values in the planning and service process;

(e) Provide an orientation procedure for the youth and his or her family;

(f) Ensure that information regarding significant events in the youth's family is passed on to appropriate staff members;

(g) Review service plans, activities, and progress with the family monthly; and

(h) Ensure that the educational needs of the child are an integral part of the service plan. Youth who have not graduated from high school must have access to an appropriate education that affords sufficient transferable credits for the youth to stay on course to graduate.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

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Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0812, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-1006

Field Outdoor Youth Program Activities

An outdoor youth program (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Written description. There must be a written description of each field outdoor youth program activity (defined in OAR 413-215-0911) and a schedule, including a detailed itinerary.

(2) Staff briefing. The executive director, field director, or designee must brief staff entering the field. The briefing at a minimum must include:

(a) The planned route, terrain, time schedule, weather forecast, and any potential hazards;

(b) Any procedures unique to that field experience; and

(c) Youth background and any potential problems.

(3) Itinerary. Field staff must carry map routes, anticipated schedules, and times when a group is in the field.

(4) Supervision. The field director or designee must conduct and document supervisory evaluation of each youth and staff in a field group at least every seven days, either in person or through Department approved procedures. If the planned itinerary is longer in duration than three weeks, the field director or designee must make onsite visits at minimum increments of three weeks.

(5) Staff debriefing. The field director or designee must debrief (defined in OAR 413-215-0911) staff after they return from the field.

(a) An outdoor youth program must document the debriefing of staff (whether individual or group) received by each staff member in his or her personnel file.

(b) For each debriefing session, the documentation must include the name and qualifications of the person providing the debriefing, the date of the debriefing, any performance issues, and the length of time of the session.

(6) Youth debriefing. The field director or designee must debrief youth after returning from the field. The debriefing must at a minimum:

(a) Include a written summary of the youth's participation and progress achieved;

(b) Be provided in written form to the youth's parents or guardian; and

(c) Legal guardians and youth must be given the opportunity and encouraged to submit a written evaluation of the outdoor youth experience, to be maintained by the outdoor youth program.

(7) Documentation. An outdoor youth program must document results of the evaluation of the conditions of the youth, interactions of youth and staff, briefings, debriefings, and compliance with program policies and procedures, and include them in the youth's record and discharge summary.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0833, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-1011

Communication

(1) For purposes of this rule, a "Global Positioning System receiver" means a receiver which receives signals from a network of 24 satellites known as the Global Positioning System (GPS) and identifies the receiver's location: latitude, longitude, and altitude to within a few hundred feet.

(2) Communication and support system. An outdoor youth program must maintain a communication system that includes the use of Global Positioning System receivers, two way radio communication, and cell phone communication; or follows the applicable land managing agency requirement and includes:

(a) Reliable communication between each group and the base of operations; and

(b) A back up plan for re-establishing communication to be implemented in the event regular communication fails.

(3) Communication requirements. An outdoor youth program must have a reasonable communication plan which is sufficient to provide routine and emergency care and takes into consideration individual youth needs and terrain considerations.

(a) There must be oral communication between each field group and the base of operations on a regularly scheduled basis according to program procedures, unless special documented arrangements have been made;

(b) In no case may the absence of oral communication between a field group and the base of operations exceed 72 hours, unless the Department has approved an exception for alternate program procedures for communication; and

(c) In no case may a field group be more than one hour away from the ability to make contact with emergency services.

(4) Emergencies. The base of operations support personnel for an outdoor youth program must have immediate access to emergency telephone numbers, contact personnel, and procedures for an emergency evacuation or critical incident requiring emergency medical support.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0836, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-1016

Work

In compliance with child labor laws, an outdoor youth program (defined in OAR 413-215-0911) may as a constructive experience give youth non-vocational work assignments, which are age appropriate and within the youth's capabilities. The primary purpose of work may not be to substitute for paid labor for the benefit of the outdoor youth program, nor may it be to discipline youth.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0841, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-1026

Solo Experiences in Outdoor Youth Programs

If an outdoor youth program (defined in OAR 413-215-0911) conducts individual or separate components for youth (solo experiences) as part of the therapeutic process, the program must have and follow written policies and procedures. The policies and procedures at a minimum must require all of the following:

(1) Individual solo plan. Each youth participating in a solo experience must have a plan which includes goals, methods, techniques, time frames, and takes into consideration the maturity, health, and physical ability of the youth.

(a) The youth must be instructed on the solo experience and individual plan including expectations, restrictions, communication, environment, and emergency procedures;

(b) Each youth must have and receive instruction on a back-up plan in case the primary plan does not work; and

(c) A designated staff member must be responsible for coordination and implementation of the plan.

(2) Environmental requirement. Staff must be familiar with the site chosen to conduct solo experiences and must pre-investigate the site to ensure the terrain is appropriate for the skill level of the youth and that hazardous conditions are considered. Staff must make arrangements for medication, food, and water drops if needed.

(3) Supervision. Plans for supervision must be in place during the solo experience, including the assignment of a staff member responsible for the supervision of the solo participant, and procedures for placement, supervision, and observation of the participant. Supervision must include communication systems, visual checks, and regular checks of the youth's emotional and physical condition.

(4) Emergency procedures. In addition to the requirements of the Emergency Plan section of these rules (OAR 413-215-0936), solo emergency plans must include but are not limited to: instructing the youth on the safety and emergency procedures, establishing an effective system for emergency communication available at all times, instruction of other youth on how to respond if the emergency notification system is put into use, and a check-in system should an emergency occur.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0849, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-1031

Behavior Management

An outdoor youth program (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) If the policies of an outdoor youth program allow for disciplining a youth or group of youth for actions of one youth, the organization's policies and procedures for behavior management and discipline must clearly prescribe the circumstances and safeguards under which disciplining the group is allowed.

(2) If a youth refuses or is unable to hike, a contingency plan must be developed based on Department approved policies and procedures. The contingency plan must ensure that if the group is split, there is proper staff

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coverage for each group, and communication between the groups is maintained.

(3) Physical assist.

(a) "Physical assist" means action by staff members to physically aid, support, or redirect youth who are not resisting. A physical assist includes staff leading youth along the trail, moving the youth to his or her campsite by gently pulling on a backpack strap, guiding him or her by the hand or elbow, or placing a hand on the youth's back. The youth may not want to be physically assisted but he or she does not offer resistance.

(b) Appropriate use of a physical assist occurs when staff members physically aid, support, or redirect youth who are not physically resisting. If a youth resists reasonable staff direction, staff must assess whether the use of physical restraint is warranted based on the written nonviolent physical restraint policy of the outdoor youth program. An intervention becomes a physical restraint when the youth resists, has "dug in his or her heels", and is propelled or held still against that resistance. Staff members must comply with all applicable physical restraint regulations, including OAR 413-215-0076.

(4) Time out.

(a) For purposes of this rule, "time out" means imposed separation of a youth from any group activity or contact as a means of behavior management.

(b) An outdoor youth program may use time out only when a youth's behavior is disruptive to the youth's ability to learn, to participate appropriately, or to function appropriately with other youth or the activity.

(c) The outdoor youth program must designate a staff member to be responsible for visually observing the youth at random intervals at least every fifteen minutes.

(d) If the duration of a time out exceeds one hour, or there is visual separation of the youth, the outdoor youth program must write an incident report in sufficient detail to provide a clear understanding of the incident or behavior which resulted in the youth being placed in time out, and staff's attempts to help the youth avoid time out. The youth's legal guardians must be provided with a copy of the documentation of each time out under this subsection within 72 hours.

(e) The outdoor youth program must reintroduce a youth to the group in a sensitive and non-punitive manner as soon as control is regained.

(f) If there are timeouts equaling more than 3 hours within a 24 hour period, the executive director or designee must conduct a review to determine the suitability of the youth remaining in the outdoor youth program, whether modifications to the youth's plan are warranted, and whether staff need additional training in alternative therapeutic behavior management techniques. The outdoor youth program must take appropriate action as a result of the review.

(g) Time outs may be assigned by staff or self imposed.

(h) Youth may not be physically restrained because the youth leaves an assigned time-out.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0872, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

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Rule Caption: 7 Changing OARs affecting Child Welfare programs

Adm. Order No.: CWP 8-2013

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 9-1-2013

Rules Repealed: 413-210-0300, 413-210-0310, 413-210-0320, 413-210-0330, 413-210-0340

Subject: OAR 413-210-0300 about the purpose of the Department's rules to consider rate classification requests and OAR 413-210-0310 definition of key terms used in these rules are being repealed because the Department no longer utilizes a rate classification committee in making rate structure decisions for payments to licensed child caring agencies. OAR 413-210-0320 about the policy to consider rate classification requests is being repealed as the Department no longer utilizes a Rate Committee to determine payments to licensed child caring agencies. OAR 413-210-0330 about the procedures to present a request for a rate classification and OAR 413-210-0340 about exceptions to the procedures to request a rate classification are being repealed as the Department no longer utilizes a Rate Committee and sets payment rates for contracts with licensed child caring agencies through contracts with the agencies for a particular type of behavior rehabilitation service (BRS) in conjunction with the Medicaid

state plan and in alignment with other state agencies who utilize residential BRS services.

Rules Coordinator: Annette Tesch—(503) 945-6067

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Department of Human Services, Self-Sufficiency Programs Chapter 461

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients

Adm. Order No.: SSP 23-2013

Filed with Sec. of State: 9-20-2013

Certified to be Effective: 9-20-13

Notice Publication Date: 8-1-2013

Rules Amended: 461-195-0501, 461-195-0541, 461-195-0601, 461-195-0621

Rules Repealed: 461-195-0501(T), 461-195-0541(T), 461-195-0601(T), 461-195-0621(T)

Subject: OAR 461-195-0501 about definitions and categories of overpayments is being amended to make permanent temporary rule changes effective March 25, 2013 that remove its definition of trafficking (trading) for the SNAP program in conjunction with other rule changes that expand this definition based on federal law changes, and relocate the definition (to OAR 461-195-0601) to make it easier to locate.

OAR 461-195-0541 about liability for overpayments is being amended to make permanent the temporary rule amendment of March 25, 2013 that clarified the policy for SNAP overpayment liability due to SNAP benefit trafficking, consistent with federal law. This amendment also supports implementation of additional federal SNAP trafficking definitions. Under this amendment, there is overpayment liability for the buying, selling, stealing or other exchange of SNAP benefits for cash or consideration other than eligible food; the exchange of firearms, ammunition, explosives or controlled substances for SNAP benefits; purchasing a product with SNAP benefits that has a container return deposit with the intent of obtaining cash by intentionally discarding the product and returning the container for the deposit return; purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by intentionally reselling the product purchased with SNAP benefits; and intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food.

OAR 461-195-0601 about Intentional Program Violation definitions is being amended to make permanent the temporary rule amendment of March 25, 2013, incorporating the expanded federal SNAP trafficking definitions that went into effect March 25, 2013. The current SNAP trafficking definition is moved from OAR 461-195-0501 to OAR 461-195-0601 to support intent of federal regulations by making the definition easier to locate. The amended SNAP trafficking definition now includes: the buying, selling, stealing or other exchange of SNAP benefits for cash or consideration other than eligible food either directly or indirectly, in complicity or collusion with others or acting alone; the exchange of firearms, ammunition, explosives, or controlled substances for SNAP benefits; the intentional disposing of product from containers with the intent to exchange the container solely for the cash refund; Intentionally reselling or exchanging food purchased with SNAP benefits for cash or other non-SNAP eligible items; and Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food.

OAR 461-195-0621 about Intentional Program Violation penalties and liability for overpayments is being amended to make permanent the March 25, 2013 temporary rule amendment implementing changes in federal law for the Supplemental Nutrition Assistance Program (SNAP), under which disqualifications from the Food Distribution Program on Indian Reservations (FDPIR) to continue in effect in Oregon. This rule is also being amended to clarify when an

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Intentional Program Violation is established against a person in the SNAP and TANF programs. This amendment also implements the expanded federal definition of SNAP trafficking in the context of what triggers a permanent disqualification.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-195-0501

Definitions and Categories of Overpayments

This rule applies to benefits and services delivered under chapters 410, 411, and 461 of the Oregon Administrative Rules.

(1) "Overpayment" means:

(a) A benefit or service received by or on behalf of a client, or a payment made by the Department on behalf of a client, that exceeds the amount for which the client is eligible.

(b) A payment made by the Department and designated for a specific purpose which is spent by a person on an expense not approved by the Department.

(c) A payment for child care made by the Department to, or on behalf of, a client that:

(A) Is paid to an ineligible provider;

(B) Exceeds the amount for which a provider is eligible;

(C) Is paid when the client was not engaged in an activity that made the client eligible for child care, such as an activity of the JOBS program (see OAR 461-001-0025 and 461-190-0151 to 461-190-0401);

(D) Is paid when the client was not eligible for child care benefits; or

(E) Has given an electronic benefit transfer (EBT) card, card number, or personal identification number (PIN) to a provider for the purpose of checking a child in or out from the provider's child care.

(d) A misappropriated payment when a person cashes and retains the proceeds of a check from the Department on which that person is not the payee and the check has not been lawfully endorsed or assigned to the person.

(e) A benefit or service provided for a need when that person is compensated by another source for the same need and the person fails to reimburse the Department when required to do so by law.

(f) A cash benefit received by an individual in the GA or SFPSS programs for each month for which the client receives a retroactive SSI lump sum payment.

(g) In the TA-DVS program, only when an IPV in the TA-DVS program is established.

(2) The Department may establish an overpayment for the initial month (see OAR 461-001-0000) of eligibility under circumstances including but not limited to:

(a) The filing group, ineligible student, or authorized representative (see OAR 461-115-0090) withheld information;

(b) The filing group, ineligible student, or authorized representative provided inaccurate information;

(c) The Department fails to use income reported as received or anticipated in determining the benefits of the filing group; or

(d) The error was due to an error in computation or processing by the Department.

(3) Overpayments are categorized as follows:

(a) An administrative error overpayment is an overpayment caused by any of the following circumstances:

(A) The Department fails to reduce, suspend, or end benefits after timely reporting by the filing group, ineligible student, or authorized representative of a change covered under OAR 461-170-0011 and that reported change requires the Department to reduce, suspend, or end benefits;

(B) The Department fails to use the correct benefit standard;

(C) The Department fails to compute or process a payment correctly based on accurate information timely provided by the filing group, ineligible student, or authorized representative;

(D) In the GA and SFPSS programs, the Department fails to require a client to complete an interim assistance agreement; or

(E) The Department commits a procedural error that was no fault of the filing group, ineligible student, or authorized representative.

(b) A client error overpayment is any of the following:

(A) An overpayment caused by the failure of a filing group, ineligible student, or authorized representative to declare or report information or a change in circumstances as required under OAR 461-170-0011, including information available to the Department, that affects the client's eligibility to receive benefits or the amount of benefits.

(B) A client's unreduced liability or receipt of unreduced benefits pending a contested case hearing decision or other final order favorable to the Department.

(C) A client's failure to return a benefit known by the client to exceed the correct amount.

(D) A client's use of a JOBS or SFPSS program support payment (see OAR 461-190-0211) for other than the intended purpose.

(E) A payment for child care when the client was not engaged in an activity that made the client eligible for child care, such as an activity of the JOBS program (see OAR 461-001-0025 and 461-190-0151 to 461-190-0401).

(F) A payment for child care when the client was not eligible for child care benefits.

(G) The failure of a client to pay his or her entire share of the cost of services or the participant fee (see OAR 461-160-0610 and 461-160-0800) in the month in which it is due.

(H) An overpayment caused by a client giving an electronic benefit transfer (EBT) card, card number, or personal identification number (PIN) to a provider for the purpose of checking a child in or out from the provider's child care.

(c) A fraud overpayment is an overpayment determined to be an intentional program violation (see OAR 461-195-0601 and 461-195-0611) or substantiated through a criminal prosecution.

(d) In the SNAP program, a provider error overpayment is an overpayment made to a drug or alcohol treatment center or residential care facility that acted as a client's authorized representative.

(e) In the child care program, a provider error overpayment is a payment made by the Department on behalf of a client to a child care provider when:

(A) Paid to an ineligible provider;

(B) The payment exceeds the amount for which a provider is eligible.

(4) When an overpayment is caused by both an administrative and client error in the same month, the Department determines the primary cause of the overpayment and assigns as either an administrative or client error overpayment.

(5) In the TANF program, when an overpayment puts the client at greater risk of domestic violence (see OAR 461-001-0000), the overpayment is waived (see OAR 461-135-1200).

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.404, 411.816, 412.001, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.117, 411.404, 411.620, 411.640, 411.690, 411.816, 411.892, 412.001, 412.049, 414.025 & 416.350

Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 7-2001(Temp), f. & cert. ef. 4-4-01 thru 6-30-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 7-2013(Temp), f. & cert. ef. 3-25-13 thru 9-21-13; SSP 23-2013, f. & cert. ef. 9-20-13

461-195-0541

Liability for Overpayments

(1) In all programs except the BCCM, CEC, CEM, EXT, GA, GAM, MAA, MAF, OHP, OSIP, OSIPM, QMB, REFM, SAC and SNAP programs or a child care program, the following persons are liable for repayment of an overpayment (see OAR 461-195-0501):

(a) Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who did not reside with and did not know he or she was included in the filing group.

(b) A caretaker relative (see OAR 461-001-0000) and his or her spouse (see OAR 461-001-0000) who were not part of, but resided with, the filing group when the overpayment was incurred.

(c) A parent (see OAR 461-001-0000) or caretaker relative of a child (see OAR 461-001-0000) in the benefit group (see OAR 461-110-0750) and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred.

(d) An individual determined liable for an overpayment remains liable when the individual becomes a member of a new filing group.

(e) An authorized representative (see OAR 461-115-0090) when the authorized representative gave incorrect or incomplete information or withheld information resulting in the overpayment.

(2) In the BCCM, CEC, CEM, EXT, MAA, MAF, OHP, REFM, and SAC programs, the following persons are liable for repayment of an overpayment:

(a) Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who:

(A) Was a child or dependent child (see OAR 461-001-0000) at the time of the overpayment; or

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(B) Did not reside with and did not know he or she was included in the filing group.

(b) A caretaker relative and his or her spouse who were not part of, but resided with, the filing group when the overpayment was incurred.

(c) A parent or caretaker relative of a child in the filing group and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred.

(d) An authorized representative when the authorized representative gave incorrect or incomplete information or withheld information that resulted in the overpayment.

(3) In a child care program:

(a) An overpayment caused by administrative error is collectible as follows:

(A) The provider is liable for a provider overpayment made on behalf of a client eligible for child care payments.

(B) Each adult in the filing group or required to be in the filing group is liable for an overpayment if the client was not eligible for the payment.

(b) Each adult in the filing group or required to be in the filing group is liable for a client overpayment, and a provider is liable for an overpayment caused by the provider. The client and provider are jointly and severally liable for an overpayment caused by both. In the case of an alleged provider overpayment, a provider's failure to provide contemporaneous records of care provided creates a rebuttable presumption that the care was not provided.

(c) An adult who cosigned an application with a minor provider applicant is liable for an overpayment incurred by the minor provider.

(4) In the GA, GAM, OSIP, OSIPM, and QMB programs, the following persons are liable for repayment of an overpayment:

(a) Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who:

(A) Was a child or dependent child at the time of the overpayment; or

(B) Did not reside with and did not know he or she was included in the filing group.

(b) A caretaker relative and his or her spouse who were not part of, but resided with, the filing group when the overpayment was incurred.

(c) A parent or caretaker relative of a child in the filing group and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred.

(d) An authorized representative when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the overpayment.

(5) In the SNAP program, the following persons are liable for repayment of an overpayment or a claim that results from trafficking (see OAR 461-195-0601(2)) of SNAP benefits:

(a) The primary person (see OAR 461-001-0015) of any age, an ineligible student in the household, and all adults (see OAR 461-001-0015) who were members of or required to be in the filing group (see OAR 461-110-0370) when excess benefits were issued.

(b) A sponsor of a non-citizen household member if the sponsor is at fault, for payments prior to November 21, 2000.

(c) A drug or alcohol treatment center or residential care facility that acted as the authorized representative of the client.

(6) Except as provided otherwise in section (7) of this rule, in all programs, both a non-citizen and the sponsor of the non-citizen are liable for an overpayment incurred if the overpayment results from the failure of the sponsor to provide correct information (see OAR 461-145-0820 to 461-145-0840). If the sponsor had good cause (see OAR 461-195-0521(5)) for withholding the information, the sponsor is not liable for the overpayment.

(7) In the SNAP program, the sponsor of a non-citizen is not liable under section (6) of this rule for payments on or after November 21, 2000.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.087, 411.404, 411.630, 411.635, 411.640, 411.690, 411.816, 412.014, 412.049, 416.350
Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 7-2013(Temp), f. & cert. ef. 3-25-13 thru 9-21-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 14-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 23-2013, f. & cert. ef. 9-20-13

461-195-0601

Intentional Program Violations; Defined

(1) In the child care programs, a provider commits an intentional program violation (IPV) by intentionally making a false or misleading statement or misrepresenting, concealing or withholding information related to

his or her request to be eligible for a child care payment under OAR 461-165-0180 or a claim for a child care payment.

(2) In the SNAP program:

(a) An individual commits an intentional program violation by:

(A) Making a false or misleading statement or misrepresenting, concealing or withholding a fact relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking of SNAP benefits; or

(B) Committing any act that constitutes a violation of the Food Stamp Act, the SNAP program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking of SNAP benefits.

(b) "Trafficking" means any of the following:

(A) The buying, selling, stealing, or other exchange of SNAP benefits for cash or consideration other than eligible food, either directly or indirectly, in complicity or collusion with others or acting alone.

(B) The exchange of firearms, ammunition, explosives, or controlled substances (as defined in section 802 of title 21, United States Code), for SNAP benefits.

(C) Purchasing a product with SNAP benefits that has a container return deposit with the intent of obtaining cash by intentionally discarding the product and returning the container for the deposit amount.

(D) Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by intentionally reselling the product purchased with SNAP benefits.

(E) Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food.

(3) In the SFPSS program, an individual commits an intentional program violation by intentionally:

(a) Making a false or misleading statement or misrepresenting, concealing, or withholding a fact for the purpose of establishing or maintaining eligibility for SFPSS or increasing, or preventing a reduction in, the amount of the SFPSS grant; or

(b) Committing any act intended to mislead or to conceal or withhold information for the purpose of establishing or maintaining eligibility for SFPSS or increasing, or preventing a reduction in, the amount of the SFPSS grant.

(4) In the TA-DVS program, an individual commits an IPV by intentionally and without intimidation or coercion by an abuser--

(a) Making a false or misleading statement or misrepresenting, concealing, or withholding a fact for the purpose of establishing eligibility for or receiving a benefit from the TA-DVS program; or

(b) Committing any act intended to mislead or to conceal or withhold information for the purpose of establishing eligibility for or receiving a benefit from the TA-DVS program.

(5) In the TANF program, an individual commits an intentional program violation by intentionally:

(a) Making a false or misleading statement or misrepresenting, concealing, or withholding a fact for the purpose of establishing or maintaining eligibility for TANF or increasing, or preventing a reduction in, the amount of the TANF grant; or

(b) Committing any act intended to mislead or to conceal or withhold information for the purpose of establishing or maintaining eligibility for TANF or increasing, or preventing a reduction in, the amount of the TANF grant.

Stat. Auth.: ORS 411.060, 411.660, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.630, 411.635, 411.660, 411.816, 412.014, 412.049
Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 7-2013(Temp), f. & cert. ef. 3-25-13 thru 9-21-13; SSP 23-2013, f. & cert. ef. 9-20-13

461-195-0621

Intentional Program Violations; Penalties and Liability for Overpayments

(1) Disqualification penalties resulting from intentional program violations and other violations of law are listed in this rule. A person may be subject to disqualification for an IPV only if the person was advised of the disqualification penalties prior to committing the IPV. A disqualification established in another state or established in the Food Distribution Program on Indian Reservations continues in effect in Oregon.

(2) In the ERDC program, if an IPV is established against a person through a contested case hearing, a waiver of the right to hearing, or by a state or federal court, that person is liable for repayment to the Department of the full amount of overpayment the Department has established. The amount of restitution to the Department ordered by a court as part of a criminal proceeding does not lower the amount owed to the Department. Payments of restitution to the Department are credited against the amount

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owed. A client is not subject to an IPV disqualification but is still required to repay overpayment amounts.

(3) A child care provider found to have committed an intentional program violation (IPV) is ineligible for payment for child care as follows:

(a) A child care provider with an IPV established between April 1, 2001 and September 30, 2005 is permanently disqualified to receive payment.

(b) A child care provider who has incurred an overpayment established as an IPV claim after September 30, 2005 is ineligible for payment:

(A) For six months and until the full amount of the overpayment is paid; or

(B) Permanently, if the Child Care Program Manager finds that such ineligibility is in the public interest. The following is a non-exclusive list of reasons that support a determination of permanent ineligibility: safety concerns; or, the likelihood of future violations; or, the degree of egregiousness of any of the established IPV's; or, the degree of primary involvement in the violation by the provider.

(4) In the SNAP and TANF programs, when an IPV is established against a person through a contested case hearing, a waiver of the right to hearing, or by a state or federal court:

(a) That person is liable for repayment to the Department of the full amount of overpayment the Department has established, regardless of any restitution ordered by a court.

(b) Except as otherwise set forth in this section, the client is disqualified from receiving benefits in the program in which the IPV was committed for a period of 12 calendar months for the first IPV, 24 calendar months for the second IPV, and permanently for the third IPV.

(c) A person found by a federal, state, or local court to have traded a controlled substance for SNAP benefits is disqualified from participation in the SNAP program as follows:

(A) For a period of two years upon the first occasion.

(B) Permanently upon the second occasion.

(d) A person found by a federal, state, or local court to have traded firearms, ammunition, or explosives for SNAP benefits is permanently disqualified from participation in the SNAP program.

(e) A person convicted of trafficking (see OAR 461-195-0601) benefits for a value of \$500 or more is permanently disqualified from participation in the SNAP program.

(f) A person is disqualified for a 10-year period, except if permanently disqualified under subsection (b) of this section, from receiving benefits in the program in which the person committed fraud if the person:

(A) In TANF program:

(i) Is convicted in state or federal court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two or more states under programs that are funded under Title IV or XIX of the Social Security Act; or

(ii) Is found in an IPV hearing or admits, in a written waiver of the right to an IPV hearing, to having made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive benefits simultaneously from two or more states.

(B) In the SNAP program, is found to have or admits to having made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple SNAP benefits simultaneously.

(5) If the TANF grant is affected by the IPV penalty imposed under this rule, eligibility for and the level of SNAP benefits are determined in accordance with OAR 461-145-0105.

(6) In the TA-DVS program, when an IPV is established against a person through a contested case hearing, a waiver of the right to hearing, or by a state or federal court:

(a) That person is liable for repayment to the Department of the full amount of overpayment the Department has established, regardless of any restitution ordered by a court. The Department will seek repayment from the client only if seeking repayment would not place the client at greater risk of domestic violence.

(b) Subsequent applications for TA-DVS that meet the eligibility criteria set forth in OAR 461-135-1215 and 461-135-1225 must be staffed with the Department's central office.

(7) The Department issues notice of disqualification in accordance with OAR 461-175-0220. The disqualification provided for in this rule begins the first of the month following the month in which the notice period ends.

(8) Once a disqualification period begins, it continues uninterrupted until completed, regardless of the eligibility of the filing group of the disqualified person.

Stat. Auth.: ORS 409.050, 411.060, 411.816, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.816, 412.049

Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 7-2013(Temp), f. & cert. ef. 3-25-13 thru 9-21-13; SSP 23-2013, f. & cert. ef. 9-20-13

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients

Adm. Order No.: SSP 24-2013

Filed with Sec. of State: 10-1-2013

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Rules Amended: 461-001-0000, 461-025-0310, 461-110-0370, 461-110-0430, 461-120-0210, 461-130-0310, 461-135-0010, 461-135-0405, 461-135-0407, 461-135-0570, 461-135-0920, 461-135-0930, 461-150-0060, 461-155-0190, 461-160-0010, 461-160-0420, 461-160-0430, 461-170-0011, 461-190-0211

Rules Repealed: 461-025-0310(T), 461-110-0430(T), 461-120-0210(T), 461-135-0407(T), 461-135-0570(T), 461-160-0010(T), 461-190-0211(T)

Subject: OAR 461-001-0000 about definitions for Chapter 461 is being amended to clarify the definitions of "parent" and "spouse" for the SNAP program and the definition of "household members" and "family members" under the definition of domestic violence.

OAR 461-025-0310 about hearing requests is being amended to clarify what constitutes good cause for a late hearing request, to clarify and correct the rule text about how late overpayment hearing requests are treated, and to place additional limits on when the Department may dismiss hearing requests that are less than 120 days late. OAR 461-025-0310 is also being amended to make permanent temporary rule changes effective July 1, 2013 as a result of a change in Medicaid funding for community-based care. Some community-based care that was previously funded through Medicaid waivers will now be funded under the State Medicaid Plan. This amendment replaces the reference to waived care with home and community-based care.

OAR 461-110-0370 about filing groups, 461-155-0190 about income and payment standards, and 461-160-0430 about income deductions are being amended to implement the annual increase in the standards for the SNAP Program. OAR 461-160-0420 is being amended to reflect the annual change in the Standard Utility Allowances. Each year Oregon surveys utility companies and the general public about increases in utility costs. The utility allowances are derived from these surveys and approved by the Food and Nutrition Service in the SNAP Program State Plan. There are four utility allowances. The full utility allowance (FUA) is for those households that have heating and cooling costs. The limited utility allowance (LUA) is for those households with more than one non-heating/cooling utility cost. The individual utility allowance (IUA) is for those households with a single non-heat cost. The single utility allowance (TUA) is for those households with only a telephone cost.

OAR 461-110-0430 about filing groups is being amended to make permanent temporary rule changes adopted April 10, 2013 and further revise which individuals are considered part of the filing group to determine eligibility in the Refugee and Refugee Medical programs. These filing groups identify the group of individuals whose combined circumstances are considered in making an eligibility determination.

OAR 461-120-0210 is being amended to make permanent a temporary rule change effective May 29, 2013 that added an exception to the requirement to provide or apply for a social security number for various medical programs (CCM, CEC, CEM, EXT, HKC, MAA, MAF, OHP, OSIPM, QMB and SAC) for individuals who do

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not have an SSN and may only be issued an SSN for a valid non-work reason.

OAR 461-130-0310 about the participation classifications is being amended to allow SNAP clients in receipt of REF or TANF program benefits to be exempt from SNAP employment program (OFSET) participation requirements (and disqualification) without being required to be in JOBS or NAES. This rule is also being amended to add exemptions for individuals who are in at least one of the following Employment Department training programs: 1) The Trade Readjustment Allowance (TRA) program serving displaced workers under the Trade Act; 2) The Training Unemployment Insurance (TUI) program; 3) The Self-Employment Insurance (SEA) program; 4) The Apprenticeship Program (APT).

OAR 461-135-0010 about assumed eligibility for medical programs is being amended to remove Refugee Medical (REFM) from the list of programs that have assumed eligibility. Assumed eligibility is a Medicaid term. REFM is not Medicaid. The relevant REFM eligibility policy will be covered instead in OAR 461-135-0930.

OAR 461-135-0405 about clients in the Employment Related Day Care (ERDC) program receiving child care under a contract between a Head Start program and the Department is being amended to adjust the protected eligibility requirements. Under this amendment, protected eligibility is expanded to include caretakers who become self-employed or students who are continuing to actively seek employment during the hours the Head Start child care program is operating and are available to work during the operating hours of the Head Start provider. This amendment also extends protected eligibility to caretakers whose loss of employment meets good cause criteria. Under this amendment, protected eligibility for the child will not cover child care when the child no longer attends a Head Start provider.

OAR 461-135-0407 about child care in the Employment Related Day Care (ERDC) program provided under a contract between an Oregon Program of Quality (OPQ) provider and the Department is being amended to make permanent a temporary rule adopted May 15, 2013 and adjust the protected eligibility requirements. Under this amendment, protected eligibility is expanded to include self-employed caretakers and caretakers who become students who are continuing to actively seek employment during the hours the OPQ contracted child care program is operating and are available to work during the operating hours of the OPQ provider. This amendment also extends protected eligibility to caretakers whose loss of employment meets good cause criteria. Under this amendment, protected eligibility for the child will not cover child care when the child no longer attends an OPQ provider. This amendment also clarifies that TANF clients do not make a co-payment when TANF covers their child care.

OAR 461-135-0570 about eligible and ineligible students for the Supplemental Nutrition Assistance (SNAP) Program is being amended to make permanent a temporary rule amendment adopted May 1, 2013 modifying and clarifying the eligibility requirements to reduce staff workload and errors in applying the policy. Under the revised student eligibility criteria, students are not eligible on the basis that no work study positions are available. This amendment also clarifies student ineligibility when the student withdraws from classes or reduces credit hours to less than half time.

OAR 461-135-0920 about refugees applying for SSI is being amended to limit references to the Refugee Medical program, which is not a cash program, remove references to OSIP because the OSIP payment ended in 2010, and remove reference to the interim assistance agreement for SSI applicants, which no longer exists. Under the amendment, Refugee program benefits will simply end when SSI begins.

OAR 461-135-0930 about medical coverage for refugees in the Refugee Medical program is being amended to broaden the list of medical programs REFM must mirror in terms of medical benefits. This rule is also being amended to include policies previously in OAR 461-135-0010 under which some clients may continue receive medical coverage through REFM, even though they may lose med-

ical coverage from other Oregon medical programs or due to moving from another state; and that once a client is determined eligible, the client will maintain that eligibility until the end of the first eight months in the U.S. even if the client becomes ineligible for REF due to income.

OAR 461-150-0060 about prospective or retrospective eligibility and budgeting is being amended to clarify how the eligibility and budgeting policy applies to the Refugee Medical program.

OAR 461-160-0010 about the use of resources in determining financial eligibility is being amended to make permanent temporary rule changes made on April 10, 2013 that removed the Refugee Medical (REFM) program from the programs listed countable resource limits. This rule is also being amended to remove the resource limit as an eligibility requirement for the MAA, MAF, SAC, and OHP-OPU medical programs as part of early implementation of federal changes that expand medical eligibility.

OAR 461-170-0011 about changes that must reported is being amended as part of early implementation of federal changes in medical eligibility that eliminate the resource limit as an eligibility requirement for the MAA, MAF, and SAC programs. This rule is also being amended to revise what needs to be reported in the REF, SFPSS, and TANF programs.

OAR 461-190-0211 about case plan activities and standards for support service payments for the Department's Temporary Assistance for Needy Families Job Opportunity and Basic Skills (JOBS) program is being amended to make permanent a temporary rule change adopted July 1, 2013, modifying program restrictions implemented July 1, 2011 as a result of budget reductions from the 2011 legislative session. This amendment promotes local JOBS service delivery in a way that better responds to local service and client needs. The changes expand the JOBS contracted services array to add crisis intervention family stability activities. High School and GED services are no longer limited only to teen parents. Support services payments will be allowed for life skills, on-the-job training, adult basic education, and SSI application process. Support services child care will be available for two-parent families.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-001-0000

Definitions for Chapter 461

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:

(1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDS), or any other agency formerly part of the Department of Human Services shall be taken to mean the Department of Human Services (DHS), except that the rule in which reference occurs only regulates programs covered by Chapter 461 of the Oregon Administrative Rules.

(2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence, sexual assault, or stalking.

(3) "Adjusted income" means the amount determined by subtracting income deductions from countable income (see OAR 461-140-0010). Specific rules on the deductions are found in division 461-160.

(4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. Adoption assistance may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.

(5) "Assets" mean income and resources.

(6) "Basic decision notice" means a decision notice mailed no later than the date of action given in the notice.

(7) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.

(8) "Budgeting" means the process of calculating the benefit level.

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(9) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine eligibility and benefit level for the payment month.

(10) "Cafeteria plan" means a written benefit plan offered by an employer in which:

- (a) All participants are employees; and
- (b) Participants can choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Services does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:

(A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);

(B) Group term life insurance plans (up to \$50,000);

(C) Dependent care assistance plans; and

(D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).

(11) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a microenterprise, either directly or indirectly. A capital asset generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.

(12) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child. The status of caretaker ends once the individual no longer exercises care, control, and supervision of the child for 30 days.

(13) "Caretaker relative" means:

(a) In the Pre-TANF, REF, SFPSS, and TANF programs, a dependent child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece who lives in a residence maintained by one or more of the relatives as the child's or the relative's own home.

(b) In all programs not covered under subsection (a) of this section, a caretaker who meets the requirements of one of the following paragraphs:

(A) Is one of the following relatives of the dependent child:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.

(ii) Stepfather, stepmother, stepbrother, and stepsister.

(iii) An individual who legally adopts the child and any individual related to the individual adopting the child, either naturally or through adoption.

(B) Is or was a spouse of an individual listed in paragraph (A) of this subsection.

(C) Met the definition of caretaker relative under paragraph (A) or (B) of this subsection before the child was adopted (notwithstanding the child's subsequent adoption).

(14) "Certification period" means the period for which a client is certified eligible for a program.

(15) "Child" includes natural, step, and adoptive children. The term child does not include an unborn.

(a) In the ERDC program, a child need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:

(A) Under the age of 18; or

(B) Under the age of 19 and in secondary school or vocational training at least half time.

(b) In the GA, GAM, and OSIP programs, a child is an individual under the age of 18.

(c) In the OHP program, child means an individual, including a minor parent, under the age of 19.

(d) In the OSIPM and QMB programs, child means an unmarried individual living with a parent who is:

(A) Under the age of 18; or

(B) Under the age of 22 and attending full time secondary, post secondary or vocational-technical training designed to prepare the individual for employment.

(16) "Community based care" is any of the following:

(a) Adult foster care — Room and board and 24 hour care and services for the elderly or for disabled people 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.

(b) Assisted living facility — A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services — People living in their home receiving services determined necessary by the Department.

(d) Residential care facility — A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.

(e) Specialized living facility — Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices — In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).

(17) "Continuing benefit decision notice" means a decision notice that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.

(18) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.

(19) "Custodial parents" mean parents who have physical custody of a child. Custodial parents may be receiving benefits as dependent children or as caretaker relatives for their own children.

(20) "Decision notice" means a written notice of a decision by the Department regarding an individual's eligibility for benefits in a program.

(21) "Department" means the Department of Human Services (DHS).

(22) "Dependent child", in the EXT, MAA, MAF, REF, REFM, and TANF programs, means the following:

(a) An individual who is not a caretaker relative of a child in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(b) A minor parent whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.

(23) "Disability" means:

(a) In the SNAP program, see OAR 461-001-0015.

(b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining eligibility:

(A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or

(B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

(24) "Domestic violence" means the occurrence of one or more of the acts described in subsections (a) to (d) of this section between family members, intimate partners, or household members:

(a) Attempting to cause or intentionally, knowingly or recklessly causing physical injury or emotional, mental or verbal abuse.

(b) Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury.

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(d) Using coercive or controlling behavior.

(e) As used in this section, "family members" and "household members" mean any of the following:

(A) Spouse;

(B) Former spouse;

(C) Individuals related by blood, marriage, or adoption;

(D) Individuals who are cohabitating or have cohabited with each other;

(E) Individuals who have been involved in a sexually intimate or dating relationship; or

(F) Unmarried parents of a child.

(25) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to victims of domestic violence. If the facility serves other people, a portion must be used solely for victims of domestic violence.

(26) ELA means Express Lane Agency: A public agency identified in the State Medicaid Plan or State CHIP Plan as an agency capable of making determinations regarding one or more eligibility requirements in the OHP-OPC, OHP-CHP, or HKC programs.

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(27) ELE means Express Lane Eligibility: In the HKC, OHP-CHP, and OHP-OPC programs, the Department's option to rely on a determination, made within a reasonable period, by an ELA finding that a child satisfies the requirements for OHP-CHP or OHP-OPC program eligibility. ELE qualifies a child for medical assistance benefits based on a finding from another public agency, even when the other agency's eligibility methodology differs from that ordinarily used by the Department to determine HKC, OHP-CHP, and OHP-OPC program eligibility.

(28) "Electronic application" is an application electronically signed and submitted through the internet.

(29) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

(30) "Equity value" means fair market value minus encumbrances.

(31) "Fair market value" means the amount an item is worth on the open market.

(32) "Family stability" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.

(33) "Family stability activity" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by the client, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain family stability.

(34) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.

(35) "HPN" means a health plan new/noncategorical client eligible under OHP-OPU.

(36) "Income producing property" means any real or personal property that generates income for the financial group. Examples of income producing property are:

(a) Livestock, poultry, and other animals.

(b) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, condominiums.

(37) "Initial month" of eligibility means any of the following:

(a) In all programs, the first month a benefit group (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.

(b) In all programs except the SNAP program, the first month a benefit group is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.

(c) In the SNAP program:

(A) The first month for which the benefit group is certified following any period during which they were not certified to participate, except for migrant and seasonal farm workers (see OAR 461-001-0015).

(B) For migrant and seasonal farmworkers, the first month for which the benefit group is certified following any period of one month or more during which they were not certified to participate.

(d) In the OHP program, the first month of a redetermination or recertification period.

(e) For a new applicant to the GA, GAM, OSIP, or OSIPM program living in a nonstandard living arrangement, for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the client would have been eligible had it not been for the disqualifying transfer of assets.

(38) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

(39) "Legally married" means a marriage uniting a man and a woman according to the provisions of either:

(a) The statutes of the state where the marriage occurred;

(b) The common law of the state in which the man and woman previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the man and woman previously resided while meeting the requirements for legal or cultural marriage in that country.

(40) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a life estate enables the owner of the life estate to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A life

estate is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of his or her life, certain rights to that property. In addition, a life estate is established when a member of the financial group (see OAR 461-110-0530) purchases a life estate interest in the home of another individual.

(41) "Lodger" means a member of the household group (see OAR 461-110-0210) who---

(a) Is not a member of the filing group; and

(b) Pays the filing group for room and board.

(42) "Long term care" means the system through which the Department provides a broad range of social and health services to eligible adults who are aged, blind, or have disabilities for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(43) "Lump-sum income" means income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. Lump-sum income includes:

(a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.

(b) Income from inheritance, gifts, winnings, and personal injury claims.

(44) "Marriage" means the union of a man and a woman who are legally married.

(45) "Microenterprise" means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than \$35,000.

(46) "Minor parent", in the ERDC, EXT, MAA, MAF, REF, REFM, and TANF programs, means a parent under the age of 18.

(47) "Nonstandard living arrangement" is defined as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs, a client is considered to be in a nonstandard living arrangement when the client is applying for or receiving services in any of the following locations:

(A) A nursing facility in which the client receives long-term care services paid with Medicaid funding, except this subsection does not apply to a Medicare client in a skilled-stay nursing facility.

(B) An intermediate care facility for the mentally retarded (ICF/MR).

(C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.

(D) A community based care (see section (16) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a nonstandard living arrangement.

(b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, nonstandard living arrangement means each of the following locations:

(A) Foster care.

(B) Residential Care facility.

(C) Drug or alcohol residential treatment facility.

(D) Homeless or domestic violence shelter.

(E) Lodging house if paying for room and board.

(F) Correctional facility.

(G) Medical institution.

(48) "Ongoing month" means one of the following:

(a) For all programs except the OHP and SNAP programs, any month following the initial month of eligibility, if there is no break in the program benefit of one or more calendar months.

(b) For the OHP and SNAP programs, any month in the certification period following the initial month of eligibility.

(49) "Parent" for all programs except the SNAP program, means the biological or legal (step or adoptive) mother or father of an individual or unborn child. For the SNAP program, a parent means the biological or legal (step or adoptive) mother or father of an individual.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) A stepparent relationship exists if:

(A) The individual is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce, or death.

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:

(A) The child lives with the biological parent; and

(B) The legal parent (the adoptive parent) has given up care, control, and supervision of the child.

ADMINISTRATIVE RULES

(50) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.

(51) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.

(52) "Periodic income" means income received on a regular basis less often than monthly.

(53) "Primary person" for all programs except the SNAP program, means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The primary person for individual programs is as follows:

(a) For the EXT, MAA, MAF, and TANF programs, the parent or caretaker relative.

(b) For the ERDC program, the caretaker.

(c) For SNAP, see OAR 461-001-0015.

(d) For the GA, GAM, OSIP, OSIPM, and QMB programs, the client or client's spouse.

(e) For the OHP, REF, and REFM programs, the applicant, caretaker, caretaker relative, or parent.

(54) "Qualified Partnership Policy" means a long term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:

(a) Issued while the client was a resident in Oregon on January 1, 2008 or later; or

(b) Issued in another state while the client was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.

(55) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as real property.

(56) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(57) "Safe homes" mean private homes that provide a few nights lodging to victims of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(58) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.

(59) "Shelter in kind" means an agency or person outside the financial group (see OAR 461-110-0530) provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs of the financial group. Shelter-in-kind does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.

(60) "Sibling" means the brother or sister of an individual. "Blood related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the marriage of their parents.

(61) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the financial group (see OAR 461-110-0530).

(62) "Spouse" means an individual who is legally married to another individual. In the ERDC program, spouse includes an individual who is not legally married to another, but is presenting themselves to the community as the husband or wife by:

(a) Representing themselves as husband and wife to relatives, friends, neighbors, or tradespeople; and

(b) Sharing living expenses or household duties.

(63) "Stable income" means income that is the same amount each time it is received.

(64) "Standard living arrangement" means a location that does not qualify as a nonstandard living arrangement.

(65) "Teen parent" means, for TANF and JOBS, a parent under the age of 20 who has not completed a high school diploma or GED.

(66) "Timely continuing benefit decision notice" means a decision notice that informs the client of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.

(67) "Trust funds" mean money, securities, or similar property held by a person or institution for the benefit of another person.

(68) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

(69) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Stat. Auth: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.001, 412.006, 412.014 & 412.049

Hist.: AFS 28-1978, f. & ef. 7-13-78; AFS 54-1984, f. 12-28-84, ef. 1-1-85; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; Administrative correction 4-21-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 24-2013, f. & cert. ef. 10-1-13

461-025-0310

Hearing Requests

(1) A claimant (see OAR 461-025-0305) has the right to a contested case hearing in the following situations upon the timely completion of a request for hearing:

(a) Except as provided in subsection (o) of this section, the Department has not approved or denied a request or application for public assistance within 45 days of the application.

(b) The Department has not acted timely on an application as follows:

(A) An application for SNAP program benefits — within 30 days of the filing date.

(B) An application for a JOBS support service payment — within the time frames established in OAR 461-115-0190(3).

(c) The Department acts to deny, reduce, close, or suspend SNAP program benefits, a grant of public assistance, a grant of aid, a support service payment authorized in the JOBS program by OAR 461-190-0211, medical assistance, or child care benefits authorized under Division 160 or 165 of this chapter of rules in the ERDC or TANF child care programs. When used in this subsection, grant of public assistance and grant of aid mean the grant of cash assistance calculated according to the client's need.

(d) The Department claims that an earlier public assistance payment was an overpayment, or that an earlier issuance of SNAP program benefits was an overissuance.

(e) The Department modifies a grant of public assistance or a grant of aid; or the claimant claims that the Department previously underissued public assistance or SNAP program benefits and the Department denies, or denies in part, that claim.

(f) The household disputes its current level of SNAP program benefits.

(g) The filing group (see OAR 461-110-0370) is aggrieved by any action of the Department that affects the participation of the filing group in the SNAP program.

(h) The claimant asks for a hearing to determine if the waiver of an Intentional Program Violation hearing was signed under duress.

(i) The Department establishes or changes the client's premium for the Oregon Health Plan.

(j) In the Pre-TANF program, the Department denies payment for a basic living expense (see OAR 461-135-0475) or other support service payment in the JOBS program (see subsection (c) of this section).

(k) In the TA-DVS program, when OAR 461-135-1235 provides a right to a hearing.

(l) A service re-assessment of a client conducted in accordance with OAR Division 411-015 has resulted in a reduction or termination of nursing facility services or home and community-based care (see OAR 461-001-0030).

(m) The claimant's benefits are changed to vendor, protective, or two-party payments.

(n) Department has issued a notice seeking repayment under ORS 411.892 to an employer participating in the JOBS program.

(o) In the OSIP and OSIPM programs, when the Department has not approved or denied an application within the time frames established in OAR 461-115-0190.

(p) The right to a hearing is otherwise provided by statute or rule.

(2) A client is not entitled to a hearing on the question of the contents of a case plan (defined in OAR 461-190-0151) unless the right to hearing is specifically authorized by the Department's rules. For a dispute about an activity in the JOBS program, the client is entitled to use the Department's re-engagement process (see OAR 461-190-0231). In the TA-DVS program, a dispute about the contents of a TA-DVS case plan (see OAR 461-135-1205) is resolved through re-engagement if there is no right to a hearing under OAR 461-135-1235.

(3) A request for hearing is complete:

ADMINISTRATIVE RULES

(a) In public assistance and SNAP programs, when the Department's Administrative Hearing Request form (form DHS 443) is:

(A) Completed;

(B) Signed by the claimant, the claimant's attorney, or the claimant's authorized representative (see OAR 461-115-0090); and

(C) Received by the Department. OAR 137-003-0528(1)(a) (which allows hearing requests to be treated as timely based on the date of the post-mark) does not apply to hearing requests contesting a decision notice (see OAR 461-001-0000). The Department has adopted the exception to the Attorney General's model rules set out in this paragraph due to operational conflicts.

(b) In the SNAP program, when the Department receives an oral or written statement from the claimant, the claimant's attorney, or the claimant's authorized representative that the claimant wishes to appeal a decision affecting the claimant's SNAP program benefits to a higher authority.

(c) In the case of a provider of child care, when a written request for hearing from the provider is received by the Department.

(4) In the event a request for hearing is not timely, the Department may issue an order of dismissal if there is no factual dispute about whether sections (7) and (10) of this rule provide a right to a hearing. The Department may refer an untimely request to the Office of Administrative Hearings for a hearing on the question of timeliness.

(5) In the event the claimant has no right to a contested case hearing on an issue, the Department may enter an order accordingly. The Department may refer a hearing request to the Office of Administrative Hearings for a hearing on the question of whether the claimant has the right to a contested case hearing.

(6) To be timely, a completed hearing request must be received by the Department not later than:

(a) Except as provided in subsection (b) of this section, the 45th day following the date of the decision notice (see OAR 461-001-0000) in public assistance and medical programs.

(b) The 90th day following the effective date of the reduction or termination of benefits in a public assistance program if the reduction or termination of aid is a result of a JOBS disqualification (see OAR 461-130-0330) or a penalty for failure to seek treatment for substance abuse or mental health (see OAR 461-135-0085).

(c) The 90th day following the date of the decision notice in the SNAP program, except:

(A) A filing group may submit a hearing request at any time within a certification period (see OAR 461-001-0000) to dispute its current level of benefits.

(B) A filing group may submit a hearing request within 90 days of the denial of a request for restoration of benefits if not more than twelve months has expired since the loss of benefits.

(d) The 30th day following the date of notice from the Oregon Department of Revenue in cases covered by ORS 293.250.

(e) In a case described in subsection (1)(h) of this rule, the request must be made within 90 days of the date the waiver was signed.

(7) When the Department receives a completed hearing request that is not filed within the timeframe required by section (6) of this rule but is filed no later than 120 days after a decision notice became a final order:

(a) The Department refers the hearing request to the Office of Administrative Hearings for a contested case hearing on the merits of the Department's action described in the notice --

(A) If the Department finds that the claimant and claimant's representative did not receive the decision notice and did not have actual knowledge of the notice; or

(B) If the Department finds that the claimant did not meet the timeframe required by section (6) of this rule due to excusable mistake, surprise, excusable neglect (which may include neglect due to significant cognitive or health issues), good cause (see OAR 461-025-0305), reasonable reliance on the statement of a Department employee relating to procedural requirements, or due to fraud, misrepresentation, or other misconduct of the Department.

(b) The Department refers the request for a hearing to the Office of Administrative Hearings for a contested case proceeding to determine whether the claimant is entitled to a hearing on the merits if there is a dispute between the claimant and the Department about either of the following paragraphs.

(A) The claimant or claimant's representative received the decision notice or had actual knowledge of the decision notice. At the hearing, the Department must show that the claimant or claimant's representative had actual knowledge of the notice or that the Department mailed or electroni-

cally mailed the notice to the correct address of the claimant or claimant's representative, as provided to the Department.

(B) The claimant qualifies for a contested case hearing on the merits under paragraph (a)(B) of this section.

(c) The Department may only dismiss such a request for hearing as untimely without a referral to the Office of Administrative Hearings if the following requirements are met:

(A) The undisputed facts show that the claimant does not qualify for a hearing under this section; and

(B) The decision notice was served personally or by registered or certified mail.

(8) In computing the time periods provided by this rule, see OAR 461-025-0300(1).

(9) In the REF and REFM programs, a client is not eligible for a contested case hearing when assistance is terminated because the eligibility time period imposed by OAR 461-135-0900 has been reached. If the issue is the date of entry into the United States the Department provides for prompt resolution of the issue by inspection of the individual's documentation issued by the US Citizenship and Immigration Services (USCIS) or by information obtained from USCIS, rather than by contested case hearing.

(10) If the Department receives a hearing request more than 120 days after an overpayment notice became a final order by default:

(a) The Department verifies whether its records indicate that the liable adult requesting the hearing was sent the overpayment notice.

(b) If no overpayment notice was sent to that liable adult, the overpayment hearing request is timely. The Department will send the claimant a decision notice or a contested case notice.

(c) If the Department determines that an overpayment notice was sent to the liable adult, there is no hearing right based on the issue of whether or not the overpayment notice was received.

(d) Any hearing request is treated as timely when required under the Servicemembers Civil Relief Act.

(e) The Department may dismiss a request for hearing as untimely if the claimant does not qualify for a hearing under this section.

(11) If the Department receives a hearing request more than 120 days after a decision notice (other than an overpayment notice) became a final order by default:

(a) Any hearing request is treated as timely when required under the Servicemembers Civil Relief Act.

(b) The Department may dismiss a request for hearing as untimely if the claimant does not qualify for a hearing under subsection (a) of this section.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 411.060, 411.095, 411.103, 411.404, 411.408, 411.816, 411.892, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.095, 411.103, 411.117, 411.404, 411.408, 411.816, 411.892, 412.009, 412.014, 412.049, 412.069

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 4-1995, f. & ef. 2-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-2000, f. 1-31-2000, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 4-2012(Temp), f. & cert. ef. 1-31-12 thru 7-29-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 24-2013, f. & cert. ef. 10-1-13

461-110-0370

Filing Group; SNAP

In the SNAP program:

(1) Except as provided in this rule, the filing group consists of members of a household group (see OAR 461-110-0210) who choose to apply together or customarily purchase and prepare meals together.

(2) Except as provided in sections (3) and (8) of this rule, the following household group members must be in the same filing group, even if they do not customarily purchase and prepare meals together:

(a) Each spouse (see OAR 461-001-0000).

(b) A parent (see OAR 461-001-0000) and his or her child under age 22 living with the parent.

(c) A household group member and any child under age 18 who lives with and is under parental control of that household group member. For the purposes of this subsection, "parental control" means the adult is responsible for the care, control, and supervision of the child or the child is financially dependent on the adult.

(3) In the following specific situations, the Department forms a filing group as indicated:

ADMINISTRATIVE RULES

(a) An individual is not included in the filing group if, during the month the group applied for SNAP program benefits, the individual received SSI benefits through the state of California. This exclusion applies only in the month the group applied and, if necessary to meet notice requirements, in the month following the month the group applied.

(b) An individual is not included in the filing group if during the month the group applied for SNAP program benefits the individual received SNAP program benefits in another household and was not the head of household in the prior household. This exclusion applies only in the month the group applied and, if necessary to meet notice requirements, in the month following the month the group applied.

(c) An elderly (see OAR 461-001-0015) individual and his or her spouse may be considered a separate filing group from others with whom the elderly individual purchases and prepares meals, if:

(A) The elderly individual is unable to purchase or prepare food because of a permanent and severe disabling condition; and

(B) The combined income of the other members of the household group does not exceed the following limit: [Table not included. See ED. NOTE]

(4) A paid live-in attendant may choose not to be in the filing group with the recipient of the services provided, unless required by section (2) of this rule to be in the same filing group.

(5) An individual in foster care, the individual's spouse, and each child under age 22 living with the individual are not eligible to participate in the SNAP program independently of the care or service provider's filing group, but may be included in the provider's filing group if the provider applies for benefits.

(6) Unless required under section (2) of this rule, the following household group members may form a separate filing group from other members of the household group:

(a) A resident of an alcohol or drug treatment and rehabilitation program certified by the Department for which an employee of the facility is the authorized representative (see OAR 461-135-0550). A resident's spouse in the same facility may be in a separate filing group, but a child of a resident must be in the same filing group as the resident.

(b) A resident in group living (see OAR 461-001-0015).

(c) A resident of a public or private non-profit homeless or domestic violence shelter (see OAR 461-135-0510).

(d) An individual who is a resident of federally subsidized housing for the elderly, an individual with a disability, or blind recipient of benefits under Title I, II, X, XIV, or XVI of the Social Security Act.

(7) A member of the household group who pays the filing group for room and board (lodger) is treated as follows:

(a) A lodger cannot participate in the SNAP program independently of the household group when the lodger pays a reasonable amount for room and board. A reasonable amount is:

(A) An amount that equals or exceeds the Thrifty Food Plan for the individual and anyone in that individual's filing group (see OAR 461-155-0190(2)), if more than two meals per day are provided; or

(B) An amount that equals or exceeds two-thirds of the Thrifty Food Plan for the individual and anyone in the individual's filing group, if two or fewer meals per day are provided.

(b) A lodger may participate in the SNAP program independently of the household group when the lodger pays less than a reasonable amount for room and board.

(8) A household group member is not included in the filing group, if the member is:

(a) A resident of a commercial boarding house; or

(b) An ineligible student, as defined in OAR 461-135-0570.

(9) A household group member may be included in two filing groups in the same month, if the member:

(a) Is a resident of a domestic violence shelter (see OAR 461-001-0000) or safe home (see OAR 461-001-0000); and

(b) Recently left the household group containing the member's abuser.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816, 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, F. & cert. ef. 10-1-01; AFS 13-2002,

f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2013, f. & cert. ef. 10-1-13

461-110-0430

Filing Group; REF, REFM

In the REF and REFM programs:

(1) The filing group consists of:

(a) A single *adult* (see section (6) of this rule) who has no spouse (see OAR 461-001-0000) or *dependent child* (see OAR 461-001-0000) in the *household group* (see OAR 461-110-0210); or

(b) A legally married (see OAR 461-001-0000) couple who is in the same household group and has no dependent child.

(2) A TANF program filing group (see OAR 461-110-0330) that has at least one adult and is ineligible for TANF program benefits may form an REF filing group.

(3) An MAA or MAF program filing group (see OAR 461-110-0330 and 461-110-0340) that has at least one adult and is ineligible for MAA or MAF program benefits may form an REFM filing group.

(4) A separate REF program filing group may be formed within a household group consisting of only newly arrived (see section (6) of this rule) refugees, if there is at least one adult in the newly formed filing group, and the requirements of at least one of the following subsections is met:

(a) The newly arrived refugee adult is rejoining a spouse who has been more than eight consecutive months in the United States, and there are no minor children in the household group.

(b) The newly arrived refugee adult is rejoining a spouse whose income is equal to or over the REF countable (see OAR 461-001-0000) income and adjusted income (see OAR 461-001-0000) limits (see OAR 461-155-0030). There are also no minor children in the household group.

(c) The newly arrived refugee adult is rejoining a spouse or a parent (see OAR 461-001-0000) of a common child (see OAR 461-001-0000) in the household group who does not meet the REF program eligibility requirement under OAR 461-135-0900(2).

(d) The previously arrived spouse or parent of a common child is working, and the individual's income is equal to or exceeds both the REF and TANF program countable income and adjusted income limits (see OAR 461-155-0030).

(5) A separate REFM program filing group may be formed within a household group consisting of only newly arrived refugees, if there is at least one adult in the newly formed filing group, and the requirements of at least one of the following subsections is met:

(a) The newly arrived refugee adult is rejoining a spouse who has been more than eight consecutive months in the United States, and there are no minor children in the household group.

(b) The newly arrived refugee adult is rejoining a spouse whose income is equal to or over the income standard of any other program that provides OHP Plus benefits. There are also no minor children in the household group.

(c) The newly arrived refugee adult is rejoining a spouse or a parent of a common child in the household group who does not meet the REFM program eligibility requirement under OAR 461-135-0900(2).

(d) The previously arrived spouse or parent of a common child in the household group is working, and the individual's income is equal to or exceeds the income standard of any other program that provides OHP Plus benefits.

(6) For purposes of this rule:

(a) "Adult" means an individual 18 years of age or older.

(b) "Newly arrived" means an individual who meets the requirements of OAR 461-120-0125(8) and has been in the United States for no more than eight consecutive months.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 412.006 & 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 412.006 & 412.049

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 412.006 & 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 412.006 & 412.049

Hist.: AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 9-2013(Temp), f. & cert. ef. 4-10-13 thru 10-7-13; SSP 24-2013, f. & cert. ef. 10-1-13

461-120-0210

Requirement to Provide Social Security Number (SSN)

(1) In the CAWEM, ERDC, REF, and REFM programs, a member of a need group (see OAR 461-110-0630) or a benefit group (see OAR 461-

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110-0750) is not required to provide or apply for a social security number (SSN). In these programs, the Department may request that a member of the filing group or need group provide an SSN on a voluntary basis.

(2) In the EA and TA-DVS programs, an individual must provide his or her SSN if the individual can.

(3) Except as provided in section (5) of this rule, in the BCCM, CEC, CEM, EXT, HKC, MAA, MAF, OHP, OSIPM, QMB, and SAC programs:

(a) An individual is not required to apply for or provide an SSN:

(A) If the individual does not have an SSN; and

(B) May only be issued an SSN for a valid non-work reason in accordance with 20 CFR 422.104.

(b) When subsection (a) does not apply, to be included in the benefit group, an individual must:

(A) Provide a valid SSN for the individual; or

(B) Apply for a number if the individual does not have a valid one and provide the SSN when it is received.

(4) Except as provided in sections (5) to (7) of this rule, in the SNAP and TANF programs, to be included in the need group, an individual (other than an unborn) must:

(a) Provide a valid SSN for the individual; or

(b) Apply for a number if the individual does not have one and provide the SSN when it is received.

(5) In the BCCM, CEC, CEM, EXT, GA, GAM, HKC, MAA, MAF, OHP, OSIPM, QMB, SAC, and SNAP programs, an individual is not required to apply for or provide an SSN if the individual is:

(a) A member of a religious sect or division of a religious sect that has continuously existed since December 31, 1950; and

(b) Adheres to its tenets or teachings that prohibit applying for or using an SSN.

(6) The requirement to apply for or provide the SSN is delayed as follows:

(a) In the BCCM, CEC, CEM, EXT, MAA, MAF, OHP, and SAC programs, a newborn who is assumed eligible based on the eligibility of the mother of the newborn may receive benefits until one year of age without meeting the SSN requirements of section (4) of this rule.

(b) In the SNAP program:

(A) An applicant eligible for expedited services may receive his or her first full month's allotment without meeting the SSN requirement but must meet the requirement before receiving a second full month's allotment.

(B) Before applying for or providing an SSN, a newborn may be included in a benefit group (see OAR 461-110-0750) for six months following the date the child is born or until the group's next recertification, whichever is later.

(c) In the TANF program, without meeting the SSN requirements of section (4) of this rule, a newborn child born in Oregon may be added to the benefit group for six months following the child's date of birth or until the next redetermination of eligibility of the filing group (see OAR 461-110-0330), whichever is sooner.

(7) In the SNAP program:

(a) An individual who refuses or fails without good cause to provide or apply for an SSN when required by this rule is ineligible to participate. This period of ineligibility continues until the individual provides the SSN to the Department.

(b) An individual may participate in SNAP for one month in addition to the month of application, if the individual can show good cause why the application for an SSN has not been completed. To continue to participate, the individual must continue to show good cause each month until the application for an SSN is complete with Social Security Administration.

(c) An individual meets the good cause requirement in subsections (a) and (b) of this section if the individual provides evidence or collateral information that the individual applied for or made every effort to supply the Social Security Administration with the necessary information to complete the application process. Delays due to illness not associated with a disability (see OAR 461-001-0015), lack of transportation, or temporary absence do not qualify as good cause under this rule.

(8) This rule authorizes or requires the collection of an SSN for each of the following purposes.

(a) The determination of eligibility for benefits. The SSN is used to verify income and other assets, and match with other state and federal records such as the Internal Revenue Service (IRS), Medicaid, child support, Social Security benefits, and unemployment benefits.

(b) The preparation of aggregate information and reports requested by funding sources for the program providing benefits.

(c) The operation of the program applied for or providing benefits.

(d) Conducting quality assessment and improvement activities.

(e) Verifying the correct amount of payments, recovering overpaid benefits, and identifying any individual receiving benefits in more than one household.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 414.831, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 12-2013(Temp), f. & cert. ef. 5-29-13 thru 11-25-13; SSP 24-2013, f. & cert. ef. 10-1-13

461-120-0310

Assignment of Support Rights; Not BCCM, CEC, OHP-CHP, OHP-OPP, SNAP

(1) In the Post-TANF, Pre-TANF, REF, SNAP, and TANF programs:

(a) The Department assigns a client to one or more employment program participation classifications — exempt, mandatory, and volunteer (see OAR 461-130-0305 for definitions of all three terms).

(b) In the Post-TANF program, a client is classified as a volunteer.

(2) In the Pre-TANF, REF, and TANF programs:

(a) A *client* is exempt from employment program participation and disqualification if the client meets the requirements of at least one of the following paragraphs. The client is:

(A) Pregnant and in the month before the month in which the due date of the pregnancy falls.

(B) A parent (see OAR 461-001-0000) during the first six months after the birth of the parent's *dependent child* (see OAR 461-001-0000) except that the Department may require the parent to participate in parenting classes or a family stability activity (see OAR 461-001-0000). An exemption allowed under this paragraph may apply only to one mandatory participant in each filing group.

(C) Under 20 years of age during the first 16 weeks after giving birth except that the client may be required to participate in suitable activities with a preference for educational activities, parenting classes, and family stability activity.

(D) A parent providing care for a family member who is an individual with a disability (see OAR 461-001-0000) and is in the household group (see OAR 461-110-0210) with the parent. Medical documentation to support the need for the care is required.

(E) An REF client 65 years of age or older.

(F) A TANF client 60 years of age or older.

(G) A noncitizen who is not authorized to work in the United States.

(H) An individual who is eligible for and receives supplemental security income (SSI) from the Social Security Administration.

(I) A caretaker relative (see OAR 461-001-0000) who is non-needy.

(J) A client whose participation is likely to cause undue hardship or is contrary to the best interests of the dependent child or needy caretaker relative.

(K) A pregnant client who participates more than 10 hours per week during the two months before the month in which the pregnancy due date falls.

(L) A VISTA volunteer.

(b) A caretaker relative of a dependent child or unborn who receives REF or TANF program benefits is mandatory if the caretaker relative is in the same filing group (see OAR 461-110-0330) with the dependent child or unborn (even if the caretaker relative is not in the REF or TANF program benefit group under OAR 461-110-0750), unless the caretaker relative is otherwise exempt from participation under subsection (a) of this section.

(3) In the SNAP program:

(a) A client is exempt from employment program participation and disqualification if the client meets the requirements of one of the following paragraphs. The client is:

(A) Working a minimum of 30 hours a week or earning money equal to at least the federal minimum wage multiplied by 30 hours per week multiplied by 4.3 weeks. A self-employed client with allowable costs must meet the earnings threshold after allowing the 50 percent deduction. This includes migrant and seasonal farm workers (see OAR 461-001-0015) who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days.

(B) An individual with a physical or mental condition that prevents performance of any work.

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(C) Responsible for the care of a child in the household under 6 years of age or an individual in the household with a disability (see OAR 461-001-0015) that substantially reduces or eliminates the individual's ability to care for himself or herself.

(D) Providing care for at least 30 hours a week for an individual in another household with a disability (see OAR 461-001-0015) that substantially reduces or eliminates the individual's ability to care for himself or herself.

(E) Enrolled at least half-time, as defined by the school, in any high school or equivalent program recognized by a school district or enrolled at least half-time in any school, training program, or institution of higher education. Clients remain exempt during normal periods of class attendance, vacation and recess but no longer qualify for the student exemption when a break in enrollment occurs due to graduation, suspension or expulsion or when the student drops out of school or does not enroll in classes for the next regular school term (excluding summer term).

(F) Receiving REF or TANF program benefits.

(G) In receipt of unemployment insurance benefits, has completed an application for unemployment insurance benefits and is waiting for an initial decision on the claim, or is participating in at least one of the following Employment Department training programs.

(i) The Trade Readjustment Allowance (TRA) program serving displaced workers under the Trade Act.

(ii) The Training Unemployment Insurance (TUI) program.

(iii) The Self-Employment Insurance (SEA) program.

(iv) The Apprenticeship Program (APT).

(H) Participating in a drug or alcohol treatment and rehabilitation program.

(I) Pregnant.

(J) Lacking adequate dependent care.

(K) Without adequate transportation available.

(L) Experiencing a barrier to employment, such as being homeless or having a short-term physical or mental limitation or a serious family problem.

(b) A mandatory client is an individual in the need group (see OAR 461-110-0630); who is 16 or 17 years of age and a primary person (see OAR 461-001-0015), or 18 years of age and older and 59 years of age and younger; and who is not exempt under subsection (a) of this section.

Stat. Auth.: ORS 411.060, 411.070, 414.024, 412.049 & 414.042

Stats. Implemented: ORS 411.060, 411.070, 412.001, 412.024, 412.049, 414.025 & 414.042
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 12-2007(Temp), f. 11-30-07, cert. ef. 12-1-07 thru 3-29-07; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 24-2013, f. & cert. ef. 10-1-13

461-135-0010

Assumed Eligibility for Medical Programs

(1) This rule sets out when a client is assumed eligible for certain medical programs because the client receives or is deemed to receive benefits of another program.

(2) A pregnant woman who is eligible for and receiving benefits the day the pregnancy ends is assumed eligible for the EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM, or SAC program until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.

(3) A pregnant woman who was eligible for and receiving medical assistance under any Medicaid program and becomes ineligible while pregnant is assumed eligible for Medicaid until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.

(4) A child (see OAR 461-001-0000) born to a mother eligible for and receiving EXT, MAA, MAF, OHP, OSIPM, or SAC 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 following children are assumed eligible for SAC:

(a) A child who is the subject of an adoption assistance agreement with another state.

(b) A child in a state subsidized, adoptive placement, if an adoption assistance agreement is in effect between a public agency of the state of Oregon and the adoptive parents that indicates the child is eligible for Medicaid.

(6) 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 SSI benefits.

(b) An individual 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.

(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 resources exceed the limit after performing the calculation under OAR 461-160-0580.

(7) A client who receives both benefits under Part A of Medicare and SSI benefits is assumed eligible for the QMB BAS program.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404 & 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 412.049 & 414.025

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 12-1999(Temp), f. & cert. ef. 10-1-99 thru 1-31-00; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 12-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 10-2009(Temp), f. & cert. ef. 5-6-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-11-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 24-2013, f. & cert. ef. 10-1-13

461-135-0405

ERDC; Children in the Head Start Program

(1) Initial eligibility for the ERDC program (see OAR 461-135-0400) must be met prior to receiving child care under a contract between a Head Start agency and the Department.

(2) The following subsections apply when a child (see OAR 461-001-0000) in the ERDC program receives child care under a contract between a Head Start agency and the Department.

(a) The Head Start agency is considered the provider of child care.

(b) If the Head Start agency uses another provider for the child care, that provider must meet the requirements in OAR 461-165-0160 and following.

(c) The payment made by the Department on behalf of the child is made only to the Head Start agency. The child is ineligible for child care payments for care not provided under the contract between the Head Start agency and the Department.

(d) Once the Department makes a child care payment for the child under the contract, the child is presumed to meet the ERDC program eligibility requirements until the next August 31, unless any of the following paragraphs apply:

(A) The child's caretaker (see OAR 461-001-0000) has been found ineligible for ERDC program benefits under OAR 461 135 0415 for failure to make a copayment.

(B) The caretaker was found eligible because of inaccurate information provided to the Department or because information was withheld from the Department when eligibility was determined.

(C) The caretaker fails to meet the requirements of the locally-prepared agreement among the client and the Head Start program.

(D) The caretaker is found ineligible for ERDC program benefits under OAR 461-160-0040(6) unless the caretaker is:

(i) Continuing to actively seek employment (other than self-employment) during the hours the contracted Head Start program is operating; and

(ii) Available to work (other than self-employment) during the operating hours of the contracted Head Start program.

(E) The child is no longer attending a Head Start contracted program.

(F) The caretaker of the child voluntarily quits their job or causes their own dismissal and does not meet the "good cause" criteria set out in OAR 461-135-0070(3).

(G) The caretaker of the child enrolls in school, unless the caretaker is:

(i) Continuing to actively seek employment during the hours the contracted Head Start program is operating; and

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(ii) Available to work during the operating hours of the contracted Head Start program.

(e) For any month in which the child is eligible to be served under a contract and the client complies with a plan developed jointly by the client, the Head Start agency, and the Department (plan), the Department waives the client's copayment for the child, in whole or in part, if the waiver is provided for in the contract.

(f) For any month in which the client's child is eligible to be served under a contract and the client complies with a plan, the Department waives the copayment with respect to the child's siblings, in whole or in part, if the waiver is provided for in the contract.

(3) The Department will not make a child care payment for a child in a Head Start program if the child's caretaker has been found ineligible for ERDC program under OAR 461-135-0415 for failure to make a copayment.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 33-2000(Temp), f. 12-22-00, cert. ef. 1-1-01 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 24-2013, f. & cert. ef. 10-1-13

461-135-0407

ERDC; Children in Oregon Program of Quality Contracted Child Care

(1) Prior to receiving child care under a contract between an Oregon Program of Quality (OPQ) provider and the Department, an ERDC filing group (see OAR 461-110-0350) must have met the eligibility requirements for the ERDC program (see OAR 461-135-0400).

(2) Each of the following subsections apply when a child (see OAR 461-001-0000) in the ERDC program receives child care under a contract between an Oregon Program of Quality (OPQ) provider and the Department.

(a) The payment made by the Department on behalf of the child is made only to the OPQ provider. The child is ineligible for child care payments for care not provided under the contract between the OPQ provider and the Department.

(b) Once the Department makes a child care payment for the child under the contract, the child is presumed to meet the ERDC program eligibility requirements until the next August 31, unless any of the following paragraphs apply:

(A) The child is no longer attending an OPQ contracted provider.

(B) The caretaker (see OAR 461-001-0000) of the child has been found ineligible for ERDC program benefits under OAR 461-135-0415 for failure to make a copayment.

(C) The filing group (see OAR 461-110-0350) was found eligible because of inaccurate information provided to the Department or because information was withheld from the Department when eligibility was determined.

(D) The filing group fails to meet the requirements of the agreement between the client and the OPQ provider.

(E) The caretaker of the child is found ineligible for ERDC program benefits under OAR 461-160-0040(6), unless the caretaker is:

(i) Continuing to actively seek employment (other than self-employment) during the hours the OPQ contracted child care program is operating; and

(ii) Available to work (other than self-employment) during the operating hours of the OPQ provider.

(F) The caretaker of the child voluntarily quits their job or causes their own dismissal, and does not meet the "good cause" criteria set out in OAR 461-135-0070(3).

(G) The caretaker of the child enrolls in school, unless the caretaker is:

(i) Continuing to actively seek employment during the hours the OPQ contracted child care program is operating; and

(ii) Available to work during the operating hours of the OPQ provider.

(3) Except as provided in section (4) of this rule, for any month in which a child is eligible to be served under a contract covered by this rule, the client's copayment is established under OAR 461-155-0150(12)(a).

(4) For any month in which a child in an OPQ contracted slot is eligible for and receiving TANF, the copay is zero.

Stat. Auth.: ORS 409.050, 411.060 & 411.116
Stats. Implemented: ORS 409.010, 409.610, 411.060, 411.116, 411.122 & 411.135
Hist.: SSP 29-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 11-2013(Temp), f. & cert. ef. 5-15-13 thru 11-11-13; SSP 24-2013, f. & cert. ef. 10-1-13

461-135-0570

Eligible and Ineligible Students; SNAP

In the SNAP program:

(1) For the purposes of this rule and OAR 461-001-0015, "higher education" refers to the following:

(a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL and high school equivalency programs at those institutions are not considered higher education.

(b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered higher education.

(2) Except to the extent provided otherwise in section (4) of this rule, an individual is considered a "student of higher education" if all of the following subsections apply:

(a) The individual is attending higher education (see section (1) of this rule) at least half time or more as determined by the school.

(b) The individual is 18 years of age or older, but under 50 years of age.

(3) To be eligible for SNAP benefits, a student of higher education (see section (2) of this rule) must meet the requirements of one of the following subsections:

(a) Subject to section (6) of this rule, the student of higher education is:

(A) A paid employee (see OAR 461-001-0015) working an average of 20 hours or more per week except as excluded by section (6) of this rule; or

(B) Self-employed for a minimum of 20 hours per week and receives weekly earnings at least equal to the federal minimum wage multiplied by 20 hours.

(b) The student of higher education is awarded a state or federally funded work-study and has been assigned to a work-study position, and will perform work in a work-study job in the current term or semester. The period of eligibility for a student eligible because of this subsection:

(A) Begins with the month in which school begins or with the month that work study is approved, whichever is later.

(B) Continues for the duration of the term or semester, unless the student refuses a work-study job.

(C) Continues through breaks of less than a month. For breaks of a month or longer, eligibility continues only if the student performs work in a work-study job during the break.

(c) The student of higher education is responsible for the care of a child in the filing group (see OAR 461-110-0370), and the child is:

(A) Under six years of age; or

(B) Six years of age or older, but under the age of 12 years, and adequate child care is not available to enable the student to both attend class and meet the employment requirements of sub-section (a) of this section or the work-study requirements of sub-section (b) of this section.

(d) The student of higher education is enrolled full time in higher education and is a single parent (meaning there is only one parent in the filing group) or a single adult who has parental control, with the responsibility of caring for a child under 12 years of age.

(e) The student of higher education is in a TANF benefit group (see OAR 461-110-0750).

(f) The student of higher education is physically or mentally unfit for employment.

(g) The student of higher education is in job training classes under the Workforce Investment Act of 1998 (Pub. L. 105-220).

(h) The student of higher education is enrolled as a result of participation in the higher education component of the JOBS program.

(i) The student of higher education is enrolled as a result of employer-sponsored on-the-job training.

(j) The student of higher education is receiving Unemployment Compensation (UC).

(k) The student of higher education is participating in at least one of the following Employment Department training programs:

(A) The Trade Readjustment Allowance (TRA) program serving displaced workers under the Trade Act.

(B) The Training Unemployment Insurance (TUI) program.

(C) The Self-Employment Assistance (SEA) program.

(D) The Apprenticeship Program (APT).

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(4) An individual's status as a student of higher education continues during school vacation and breaks. An individual's status as a student of higher education ends when the student of higher education does any of the following:

- (a) Graduates.
- (b) Drops out.
- (c) Withdraws from the individual's classes.
- (d) Reduces credit hours to less than half time.
- (e) Is suspended or expelled.
- (f) Does not intend to register for the next school term (excluding summer term).

(5) A student of higher education residing in a dormitory or other living situation with meal plans is ineligible for SNAP program benefits.

(6) The following situations do not earn the student of higher education hours toward the 20 hours per week requirement in section (3) of this rule:

- (a) Income that is considered educational income under OAR 461-145-0150, including income from work in the following:
 - (A) An externship (see OAR 461-001-0015);
 - (B) A *graduate assistantship* (see OAR 461-001-0015);
 - (C) A *graduate fellowship* (see OAR 461-001-0015); or
 - (D) An internship (see OAR 461-001-0015).
- (b) Receiving in-kind payments in lieu of actual wages.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816 & 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 3-2002(Temp), f. 2-26-02, cert. ef. 3-1-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 2-2010(Temp), f. & cert. ef. 2-5-10 thru 8-4-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 6-2010(Temp), f. & cert. ef. 4-1-10 thru 8-4-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 10-2013(Temp), f. & cert. ef. 5-1-13 thru 10-28-13; SSP 24-2013, f. & cert. ef. 10-1-13

461-135-0920

Refugees Applying for SSI

(1) REF applicants who are age 65 or older or who are blind or have a disability (see OAR 461-001-0000) are referred to Social Security to apply for SSI. REF applicants who are found eligible for the REF program receive REF program benefits until SSI benefits begin or until passage of the eight-month time limit for the REF program, whichever occurs first.

(2) Refugees eligible for SSI are eligible for the OSIPM program.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.706

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 24-2013, f. & cert. ef. 10-1-13

461-135-0930

Medical Coverage for Refugees; REFM

(1) REFM benefits are the same medical coverage as any other program that provides OHP Plus benefits.

(2) A client is not required to meet the financial eligibility criteria for REFM if the client meets all the non-financial eligibility criteria for REFM and:

(a) The client loses eligibility for any other program that provides OHP Plus benefits; or

(b) The client had refugee-related medical assistance established in another state based on refugee status granted by the United States Citizenship and Immigration Services, and moved to Oregon within the client's first eight months in the United States.

(3) A client who is determined eligible for REFM will maintain eligibility for REFM for the remainder of their first eight months in the United States even if the client loses eligibility for REF due to having income equal to or over the REF countable (see OAR 461-001-0000) income and adjusted income (see OAR 461-001-0000) limits (see OAR 461-155-0030).

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 24-2013, f. & cert. ef. 10-1-13

461-150-0060

Prospective or Retrospective Eligibility and Budgeting; ERDC, MAA, MAF, REF, REFM, SNAP, TANF

In the ERDC, MAA, MAF, REF, REFM, SNAP, and TANF programs, the Department determines how and when to use prospective or retrospective eligibility (see OAR 461-001-0000) and budgeting (see OAR 461-001-0000) as follows:

(1) For the initial month (see OAR 461-001-0000):

(a) In the ERDC program, income is budgeted so the anticipated amount is the same for each month, including the initial month.

(b) For an MAA and MAF case, or a SNAP case in CRS, the Department uses actual income (see subsection (h) of this section) in the initial month.

(c) For a SNAP program case in SRS, actual income is used in the initial month if that income is not reflective of ongoing monthly income due to a new or terminated source or a significant change in ongoing income. All other income is processed under section (3) of this rule.

(d) In the REF and TANF programs, actual income is used in the initial month except when actual income does not reflect ongoing monthly income. All other income is processed under section (2) of this rule.

(e) In the REFM program, the Department uses only the initial month for eligibility and budgeting.

(f) The Department uses prospective eligibility and budgeting under OAR 461-150-0020 for cases not covered under subsections (a) to (e) of this section, including for a client who leaves a filing group because of domestic violence (see OAR 461-001-0000) and enters a domestic violence shelter (see OAR 461-001-0000) or safe home (see OAR 461-001-0000).

(g) No supplement is issued based on incorrectly anticipated information.

(h) "Actual income" is the income already received in the initial month plus all the income that reasonably may be expected to be received within the initial month.

(2) Income is budgeted so that the anticipated amount is the same for each month. The type of income is determined and calculated as follows:

(a) Income that must be annualized is calculated under OAR 461-150-0090 to arrive at a monthly figure.

(b) Educational income (see OAR 461-145-0150) is assigned to the months it is intended to cover, regardless of when it is received. The income is prorated over these months.

(c) Ongoing stable income (see OAR 461-001-0000) is anticipated under OAR 461-150-0070.

(d) Ongoing variable income (see OAR 461-001-0000) is anticipated under OAR 461-150-0080.

(e) Periodic income (see OAR 461-001-0000) is anticipated under OAR 461-140-0100 and 461-140-0110.

(f) Lump-sum income (see OAR 461-001-0000) is anticipated under OAR 461-140-0100, 461-140-0200, and 461-140-0123.

(g) In the ERDC program, for temporary income and other situations when the child care need will last two consecutive months or less, the income is anticipated to be received in the months of child care need and calculated under OAR 461-150-0080.

(3) For an ongoing month (see OAR 461-001-0000):

(a) For a benefit group (see OAR 461-110-0750), the Department uses prospective eligibility and budgeting. The type of income is determined and calculated under section (2) of this rule.

(b) If the budgeting method changes from prospective to retrospective, the Department treats income from a terminated source that was counted prospectively as follows:

(A) If the actual amount received was less than or equal to the anticipated amount, the income is excluded.

(B) If the actual amount received was greater than the anticipated amount, the Department counts the difference between actual and anticipated amounts.

(4) When an individual is added to an ongoing filing and benefit group, prospective budgeting is used to determine eligibility.

(5) In the ERDC and SNAP programs, income reported on the Interim Change Report form under OAR 461-170-0011 and 461-170-0102 is used to determine eligibility and benefit level. Income for the fifth month of the SNAP program certification period (see OAR 461-001-0000) is used to determine the income for the seventh and following months in the certification period if the client anticipates it will remain the same throughout the period. If the client anticipates the income will change, the client and the Department jointly estimate the income for the remaining months of the certification period. For a client who had self-employment income annual-

ADMINISTRATIVE RULES

ized, no change is made unless there is a substantial change in the revenue of the business.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816 & 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816 & 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 19-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 1-28-14; SSP 24-2013, f. & cert. ef. 10-1-13

461-155-0190

Income and Payment Standards; SNAP

(1) The monthly SNAP Countable and Adjusted Income Limits are as follows: [Table not included. See ED. NOTE.]

(2) The SNAP Payment Standard (Thrifty Food Plan) is: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816, 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98; cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2013, f. & cert. ef. 10-1-13

461-160-0010

Use of Resources in Determining Financial Eligibility

Countable (see OAR 461-001-0000) resources are used to determine eligibility as follows:

(1) In the EA program, the countable resources of a financial group (see OAR 461-110-0530) are used to reduce benefits.

(2) In the GA, GAM, QMB, REF, SNAP, and TANF programs, a need group (see OAR 461-110-0630) is not eligible for benefits if the financial group has countable resources above the resource limit (OAR 461-160-0015).

(3) In the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs, a need group (see OAR 461-110-0630) is not eligible for benefits if the financial group has countable resources above the resource limit.

(a) When a child (see OAR 461-001-0000) is applying, the parental resources are deemed available to the child. The amount deemed available to the child is the amount the parental resources exceed the resource limit (OAR 461-160-0015) of:

(A) A one person need group, if one parent lives in the child's household; or

(B) A two person need group, if two parents (or one parent and the spouse of that parent) live in the child's household.

(b) As used in this section, parental resources mean the countable resources of:

(A) Each parent in the child's financial group, and

(B) Each spouse of a parent in the child's financial group.

(c) If more than one child is applying, the value of the deemed resources is divided evenly between the applying children.

(d) The parental resources are not deemed available to an ineligible child.

(e) The value of the parental resources is subject to deeming whether or not those resources are available to the child.

(4) In the OSIP-EPD and OSIPM-EPD programs:

(a) A need group (see OAR 461-110-0630) is not eligible for benefits if the financial group has countable resources above the resource limit (OAR 461-160-0015).

(b) Any money in an approved account (see OAR 461-001-0035) is excluded during the determination of eligibility.

(c) Assets purchased from moneys in an approved account are excluded, provided they meet the requirements of OAR 461-145-0025.

(d) Assets purchased as employment and independence expenses (see OAR 461-001-0035) are excluded, provided they meet the requirements of OAR 461-145-0025.

Stat. Auth.: ORS 411.060, 411.400, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.117, 411.400, 411.816 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 9-2013(Temp), f. & cert. ef. 4-10-13 thru 10-7-13; SSP 24-2013, f. & cert. ef. 10-1-13

461-160-0420

Shelter Cost; SNAP

(1) This rule explains how to calculate the client's shelter cost. The shelter cost is used to determine the shelter deduction (see OAR 461-160-0430). The shelter cost is the sum of the filing group's cost of housing plus an allowance for utilities, if the client incurs a utility cost. The shelter deduction is based on the shelter cost but is subject to a limitation described in OAR 461-160-0430.

(2) Cost of housing.

(a) The following comprise the cost of housing if they are incurred with respect to the filing group's current residence or the home described in section (5) of this rule:

(A) Regular, periodic charges for the shelter of the filing group (see OAR 461-110-0370), such as rent, mortgage payments, and condominium or association fees. Late fees charged because a mortgage or rent payment was made late are not deductible.

(B) Property taxes, state and local assessments, and property insurance on the structure.

(C) Costs for repairing a home substantially damaged or destroyed by a natural disaster (such as a fire or flood), if such costs are not reimbursed.

(D) If the filing group is homeless and living in a vehicle — vehicle payments and collision and comprehensive insurance premiums for the vehicle.

(b) If housing costs are billed on a weekly or biweekly basis, the monthly cost is the weekly cost multiplied by 4.3 or the biweekly cost multiplied by 2.15.

(c) The filing group has the following choices about housing costs:

(A) The group may choose to apply the cost in the month it is billed or becomes due.

(B) The group may choose to have periodic costs averaged.

(C) For expenses that are billed less often than monthly, the group may choose to have them averaged over the period they are intended to cover.

(3) Shared housing. If the filing group shares housing costs with an individual in the dwelling who is not in the filing group, only the housing costs incurred by the filing group are included in the calculation. If the portion paid by a person outside the filing group cannot be ascertained, the cost is apportioned among the people contributing to the cost. The pro rata share of those not in the filing group is deducted from the total, and the balance is considered a housing cost of the filing group.

(4) Cost for utilities.

(a) A filing group has a cost for utilities if it incurs a cost for heating or cooling; cooking fuel; electricity; water and sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; service for a telephone, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes; or initial installation fees charged by a utility provider.

(b) If the group incurs no cost for utilities in either its current home or in the home described in section (5) of this rule, then the shelter cost is calculated without an allowance for utilities.

(c) If a homeless filing group uses a vehicle for shelter, the cost of fuel for the vehicle is considered a utility cost.

(d) If a filing group incurs a cost for utilities, then the utility allowance is one of the following:

(A) Allowance with heating or cooling. A full standard utility allowance of \$441 per month is used if the household group (see OAR 461-110-0210) is billed for heating or cooling costs for its dwelling. Charges for any fuel and for electricity are considered heating costs if they are used for heating. A filing group who receives an energy assistance payment for the dwelling provided through the Low Income Energy Assistance Act of 1981 is eligible for the utility allowance established by this paragraph (A).

(B) Allowance without heating or cooling.

(i) A limited standard utility allowance of \$318 per month is used if the filing group is not billed for heating or cooling costs but is billed for at least two other costs enumerated in subsection (4)(a) of this rule.

(ii) An individual standard utility allowance of \$52 per month is used if the filing group is not billed for heating or cooling costs but is billed for

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only one of the costs enumerated in subsection (4)(a) of this rule other than the service cost for a telephone, including the related taxes or fees.

(iii) A telephone standard utility allowance of \$57 per month is used if the filing group is billed only for telephone service, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes.

(5) Housing costs for a home not occupied by the filing group. Housing and utility costs with respect to a home not currently occupied may be considered in calculating the shelter cost if:

(a) The home is temporarily unoccupied because of employment or training away from home, illness, or abandonment caused by casualty or natural disaster;

(b) The filing group intends to return to the home;

(c) No other, current occupant is claiming a deduction for shelter costs in the SNAP program; and

(d) The home is not leased during the household's absence.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816 & 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1991(Temp), f. & cert. ef. 1-2-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 21-1998(Temp), f. 10-15-98 & cert. ef. 11-1-98 thru 12-31-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 24-2013, f. & cert. ef. 10-1-13

461-160-0430

Income Deductions; SNAP

(1) Deductions from income are subtracted from countable income (see OAR 461-140-0010) in the following order to determine adjusted income (see OAR 461-001-0000) for the SNAP program:

(a) An earned income deduction of 20 percent of countable earned income. The 20 percent deduction is not taken from the wages funded by grant diversions such as Work Supplementation wages.

(b) A standard deduction of:

(A) \$152 per month for a benefit group (see OAR 461-110-0750) of one, two, or three individuals.

(B) \$163 per month for a benefit group of four individuals.

(C) \$191 per month for a benefit group of five individuals.

(D) \$219 per month for a benefit group of six or more individuals.

(c) A dependent care deduction for dependent care costs billed to a member of the filing group (see OAR 461-110-0370) and not paid for through any other program of the Department. For the cost to be deductible under this section, the care must be necessary to enable a member of the filing group to go to:

(A) Accept or continue employment;

(B) Seek employment, including a job search that meets the requirements of a case plan (see OAR 461-001-0020); or

(C) Attend vocational or educational training. A student receiving educational income is entitled to a deduction only for costs not excluded from educational income by OAR 461-145-0150.

(d) The medical deduction for elderly clients and clients who have a disability (see OAR 461-001-0015) in the filing group. The deduction is calculated by determining the total of their deductible medical costs (see OAR 461-160-0415) and subtracting \$35. The remainder is the medical deduction.

(e) A deduction for child support payments (including cash medical support) a member of the filing group makes under a legal obligation to a child not a member of the filing group, including payments for the current month and for payments on arrearages. Child support is not deductible if collected by setoff through the Oregon Department of Revenue or by interception of a federal tax refund.

(f) A shelter deduction, calculated as follows:

(A) For SNAP filing group members required to pay room and board in a nonstandard living arrangement (see OAR 461-001-0000), the shelter deduction is:

(i) The cost of room and board, minus the payment standard for the benefit group; or

(ii) The actual room cost, if the client can prove that the room cost exceeds the cost described in subparagraph (i) of this paragraph.

(B) For all other filing group members, the shelter deduction is calculated as follows:

(i) The standard deduction and the deductions of earned income, dependent care, court-ordered child support, and medical expenses are subtracted from countable income. Fifty percent of the remainder is subtracted from the shelter cost calculated in accordance with OAR 461-160-0420.

(ii) The rounded balance is the deduction, except the deduction is limited if the filing group has no member who has a disability or is elderly (see OAR 461-001-0015). The limit is \$478 per month.

(2) If a filing group member cannot verify a medical or court-ordered child-support expense or cannot verify any other expense when asked to do so, the unverified expense is not used to calculate the deduction. If the client provides verification, the deduction is applied when calculating the next month's benefits. If verification is provided within the period authorized for processing applications (see OAR 461-115-0210), the benefits for the initial month (see OAR 461-001-0000) are recalculated using the deduction.

Stat. Auth.: ORS 411.816

Stat. Implemented: ORS 411.816 & 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 31-1996, f. & cert. ef. 9-23-96; AFS 41-1996(Temp), f. & cert. ef. 12-31-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 23-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 12-31-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 23-2000(Temp) Suspended by AFS 28-2000(Temp), f. 10-31-00, cert. ef. 11-1-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 3-2001, f. 2-27-01, cert. ef. 3-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 39-2010(Temp), f. & cert. ef. 11-4-10 thru 5-31-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 43-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 4-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 24-2013, f. & cert. ef. 10-1-13

461-170-0011

Changes That Must Be Reported

(1) A change in employment status is considered to occur as follows:

(a) For a new job, the change occurs the first day of the new job.

(b) For a job separation, the change occurs on the last day of employment.

(2) A change in source of income is considered to occur as follows:

(A) For earned income, the change occurs upon the receipt by the client of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.

(b) For unearned income, the change occurs the day the client receives the new or changed payment.

(3) A client must report, orally or in writing, the following changes:

(a) In the BCCM program, a client must report either of the following changes within 10 days of occurrence:

(A) A change in health care coverage.

(B) A change in residence.

(b) In the ERDC program:

(A) A client not participating in SRS in the SNAP program must report the following changes within 10 days of occurrence:

(i) A change in child care provider.

(ii) A change in employment status.

(iii) A change in mailing address or residence.

(iv) A change in membership of the filing group (see OAR 461-110-0350).

(v) A change in source of income expected to continue.

(B) A client participating in SRS in the SNAP program must report the following changes by the tenth day of the month following the month of occurrence:

(i) A change in child care provider.

(ii) Loss of employment.

(iii) Monthly income exceeding the SNAP countable income limit.

(iv) A parent (see OAR 461-001-0000) of a child or unborn or the spouse of the caretaker moves into the residence.

(C) The ERDC case may continue to follow the reporting requirements in paragraph (3)(b)(B) of this rule without a companion SNAP case in SRS when:

(i) The ERDC case was certified in the fifth or sixth month of the SNAP certification period (see OAR 461-001-0000); and

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(ii) The SNAP companion case automatically closes because the Interim Change Report (see OAR 461-170-0010) was not received.

(c) In the EXT program, a client must report any of the following changes within 10 days of occurrence:

(A) A change in health care coverage.

(B) A change in name.

(C) A change in pregnancy status of any member of the filing group (see OAR 461-110-0330).

(D) A change in residence.

(E) A member in filing group is no longer a dependent child (see OAR 461-001-0000).

(d) In the SNAP program:

(A) A client assigned to CRS must report any of the following changes within 10 days of occurrence:

(i) A change in earned income of more than \$100.

(ii) A change in unearned income of more than \$50.

(iii) A change in source of income.

(iv) A change in membership of the filing group (see OAR 461-110-0370) and any resulting change in income.

(v) A change in residence and the shelter costs in the new residence.

(vi) A change in the legal obligation to pay child support.

(vii) When the sum of cash on hand, stocks, bond, and money in a bank or savings institution account reaches or exceeds program resource limits.

(viii) Acquisition or change in ownership of a non-excluded vehicle.

(B) A client assigned to SRS must report when the filing group's monthly income exceeds the SNAP countable income limit by the tenth day of the month following the month of occurrence.

(C) A client assigned to TBA is not required to report any changes.

(e) For JPI (see OAR 461-135-1260), a client must follow the same reporting requirements as a SNAP client assigned to SRS or TBA reporting systems (see OAR 461-170-0010).

(f) In the GA, GAM, OSIP, OSIPM, and QMB programs a client must report all changes that may affect eligibility within 10 days of occurrence, including any of the following changes:

(A) A change in employment status.

(B) A change in health care coverage.

(C) A change in membership of the household group (see OAR 461-110-0210).

(D) A change in marital status.

(E) A change in residence.

(F) A change in resources.

(G) A change in source or amount of income.

(g) In the REF, SFPSS, and TANF programs, clients assigned to CRS must report any of the following changes within 10 days of occurrence:

(A) Acquisition or change in ownership of a non-excluded vehicle.

(B) A change in earned income more than \$100.

(C) A change in employment status.

(D) A change in membership of the household group (see OAR 461-110-0210).

(E) A change in marital status or other changes in membership of the filing group.

(F) A change in mailing address or residence.

(G) A change in pregnancy status of any member of the filing group.

(H) A change in source of income.

(I) A change in unearned income more than \$50.

(J) A change in who pays the shelter costs if the costs will be paid by a non-custodial parent.

(K) Sale or receipt of a resource that causes total resources to exceed program resource limits.

(h) In the HKC and OHP programs, a client must report any of the following changes within 10 days of occurrence:

(A) A change in availability of employer-sponsored health insurance.

(B) A change in health care coverage.

(C) A change in mailing address or residence.

(D) A change in name.

(E) A change in pregnancy status of any member of the filing group (see OAR 461-110-0400).

(i) In the MAA, MAF, and SAC programs, clients must report any of the following changes within 10 days of occurrence:

(A) A change in earned income more than \$100.

(B) A change in employment status.

(C) A change in membership of the household group (see OAR 461-110-0210).

(D) A change in marital status or other changes in membership of the filing group.

(E) A change in mailing address or residence.

(F) A change in pregnancy status of any member of the filing group.

(G) A change in source of income.

(H) A change in unearned income more than \$50.

(I) A change in who pays the shelter costs if the costs will be paid by a non-custodial parent.

(j) In the REFM program, clients must report the following changes within 10 days of occurrence:

(A) A change in membership of the household group (see OAR 461-110-0210).

(B) A change in residence.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049 & 414.231
Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826 & 414.831

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SPP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; Renumbered from 461-170-0015, 461-170-0020, 461-170-0025, 461-170-0030, 461-170-0035 by SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 7-2010(Temp), f. & cert. ef. 4-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 10-2012, f. 3-29-12, cert. ef. 3-30-12; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2013, f. & cert. ef. 10-1-13

461-190-0211

Case Plan Activities and Standards for Support Service Payments; JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, TANF

In the JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, and TANF programs, notwithstanding any other administrative rule in Chapter 461 and subject to the limitations of state funding, the following special provisions apply:

(1) Participation in an activity (see OAR 461-001-0025) is limited as provided in each of the following subsections:

(a) An individual who is determined to be a work-eligible individual according to federal definition (45 CFR 261.2(n)(1)). Unless section (10) of this rule applies, no other individual may participate in and access JOBS contract activities and support services (see OAR 461-001-0025).

(b) An individual who is an applicant in the Pre-TANF program or a recipient of TANF or Post-TANF program benefits.

(2) For eligible individuals, subject to the requirements and limitations in sections (1), (5), (6), and (7) of this rule, the following activities will be available, and include support services payments if needed:

(a) Job search (see OAR 461-001-0025).

(b) JOBS Plus (see OAR 461-001-0025 and OAR 461-101-0010) is limited to six months per individual, unless circumstances unique to the employment situation are identified and warrant the Department to approve a limited number of additional months.

(c) Work experience (see OAR 461-001-0025).

(d) Sheltered or supported work (see OAR 461-001-0025).

(e) High School or GED Completion Attendance (see OAR 461-001-0025).

(f) Parents as Scholars (see OAR 461-001-0025).

(g) Limited family stability (see OAR 461-001-0000).

(A) Drug and alcohol services (see OAR 461-001-0025).

(B) Mental health services (see OAR 461-001-0025).

(C) Attending medical appointments or services.

(D) Rehabilitative activities (see OAR 461-001-0025).

(E) Crisis Intervention (see OAR 461-001-0025).

(F) SSI application process.

(h) Vocational training (see OAR 461-001-0025).

(i) Life Skills (see OAR 461-001-0025).

(j) On-the-job training (see OAR 461-001-0025).

(k) Unsubsidized employment (work).

(l) Adult Basic Education (see OAR 461-001-0025).

(3) The following activities will not include support services payments:

ADMINISTRATIVE RULES

- (a) Domestic Violence Intervention.
- (b) Family Support & Connections.
- (c) Microenterprise (see OAR 461-001-0025).
- (d) Post-TANF.
- (e) Program entry (see OAR 461-001-0025).
- (f) Self Initiated Training (see OAR 461-001-0025).

(4) Participation in an activity is based on whether an individual is Job Ready, Near Job Ready, Not Job Ready, or a teen parent (see OAR 461-001-0000 and 461-001-0025).

(a) Job Ready means the individual has no barrier (see OAR 461-001-0025) or current barriers do not impact participation or employment. In addition, the individual has all of the following:

- (A) Prior stable work history, either paid or unpaid.
- (B) Had not voluntarily quit or been dismissed from their most recent employment (see OAR 461-135-0070), without good cause (see OAR 461-135-0070).
- (C) Reliable or available transportation.
- (D) No outstanding legal issues that would impact or prevent employment.

(E) Access to reliable child care within support services limits, or does not need help to pay for child care, or does not need child care.

(b) Near Job Ready means the individual has minimal barriers to participation or employment and the individual is addressing the barriers. In addition, the individual has all of the following:

- (A) Limited or no work history, either paid or unpaid.
- (B) Reliable or available transportation.
- (C) No outstanding legal issues that would impact or prevent employment, or such legal issues are identified and are being addressed.

(D) Access to reliable child care within support services limits, or does not need help to pay for child care, or does not need child care.

(c) Not Job Ready means the individual has one or more barriers to participation or employment or is in crisis, and the individual is not addressing the barriers. For example, the individual has one or more of the following:

- (A) Lack of stable housing that is preventing participation in an activity or employment.
- (B) Domestic violence, mental health or alcohol and drug issues, and the individual is not addressing the issue.

(C) Medical issues that prevent participation in an activity or employment.

- (D) Outstanding legal issues that would impact or prevent employment.
- (E) Literacy issues that impact the ability for the individual to participate in an activity or obtain employment.

(5) In approving JOBS program support services payments, the Department must consider lower cost alternatives. It is not the intent of the Department or of this rule to supplant Department funding with other funding that is available in the community. It is the Department's expectation that case managers and clients will work collaboratively to seek resources that are reasonably available to the client in order to participate in activities.

- (6) Payments for support services are only provided when:
 - (a) Necessary to participate in activities in a signed case plan;
 - (b) Authorized in advance; and
 - (c) All other provisions of this rule are met.
- (7) Payments for support services are subject to the following limitations:

(a) Child Care. Payments for child care may be authorized, as limited by OAR 461-160-0040, if necessary to enable Job Ready or Near Job Ready individuals or teen parents to participate in an approved JOBS program activity specified in the individual's case plan, or a Not Job Ready individual approved by the district to complete a family stability activity. If authorized, payment for child care will be:

(A) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150.

(B) The minimum hours necessary, including meal and commute time, for the individual to participate in an approved JOBS program activity.

(b) Transportation. The Department may provide payments for a Job Ready or Near Job Ready individual or teen parent for transportation costs incurred in travel to and from an approved JOBS program activity or a Not Job Ready individual approved by the district to complete a family stability activity. Payment is made only for the cost of public transportation or the cost of fuel. Payments are subject to the following considerations:

(A) Payment for public transportation is a priority over payment for a privately owned vehicle.

(B) Payment for fuel costs for a privately-owned vehicle is only provided if the client or individual providing the transportation has a valid driver's license and vehicle insurance and either of the following is true:

(i) No public transportation is available or the client is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.

(ii) Public transportation is available but is more costly than the cost of fuel.

(c) Housing and Utilities. Payments for housing and utilities are not allowed.

(d) Other Payments. When the need is identified by the district and no other sources are available, the Department may provide other payments needed:

- (A) To look for work.
- (B) To accept a job offer.
- (C) To attain a high school diploma or GED.
- (D) For books and supplies for a participant to complete a district-approved vocational training.
- (E) Other payments with manager approval that are not otherwise restricted by rule.

(e) None of the following payments are allowed:

- (A) Non-essential items.
- (B) Television, cable, and internet.
- (C) Fines, reinstatement fees, restitution, legal fees, civil fees, court costs, or other costs associated with a penalty.
- (D) Purchase of a car, recreational vehicle, or motor home.
- (E) Support services for exempt individuals.
- (F) Pet-related costs.
- (G) ERDC co-payments.

(8) The Department may require an individual to provide verification of a need for, or costs associated with, support services prior to approval and issuance of payment if verification is reasonably available.

(9) The Department may reduce, close, or deny in whole or in part an individual's request for a support services payment in the following circumstances:

(a) The individual is disqualified for failing to comply with a case plan, unless the payment in question is necessary for the individual to demonstrate cooperation with his or her case plan.

(b) The purpose for the payment is not related to the individual's case plan.

(c) The individual disagrees with a support services payment offered or made by the Department as outlined in the individual's case plan.

(d) The individual is not determined to be a Job Ready or Near Job Ready individual, a Not Job Ready individual in a family stability activity, or a teen parent.

(10) An individual who has gone over-income for the TANF program due to earnings and needs to increase activity hours to meet Post-TANF federally required participation rates (see OAR 461-001-0025) may be a volunteer and participate.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.009, 412.014, 412.049, 412.124 & 2011 OL 604

Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.001, 412.006, 412.009, 412.014, 412.049, 412.124 & 2011 OL 604

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2005(Temp), f. & cert. ef. 9-1-05 thru 12-31-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 19-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; SSP 11-2012, f. & cert. ef. 4-6-12; SSP 12-2012(Temp), f. & cert. ef. 4-6-12 thru 9-30-12; SSP 18-2012(Temp), f. & cert. ef. 5-23-12 thru 9-30-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 34-2012(Temp), f. & cert. ef. 11-6-12 thru 5-5-13; SSP 38-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 5-5-13; SSP 2-2013(Temp), f. & cert. ef. 1-23-13 thru 5-5-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 15-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 24-2013, f. & cert. ef. 10-1-13

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients

Adm. Order No.: SSP 25-2013

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13

ADMINISTRATIVE RULES

Notice Publication Date: 8-1-2013

Rules Amended: 461-160-0620

Rules Repealed: 461-160-0620(T)

Subject: OAR 461-160-0620, relating to the liability calculation for clients in the Oregon Supplemental Income Program Medical (OSIPM, assistance to seniors and people with disabilities) receiving long-term care services, is being amended to make permanent changes adopted by temporary rule on July 1, 2013. These changes reflect the annual federal increase to the minimum maintenance need standard and shelter standard that are used to calculate how much of the client's income can be diverted to the community spouse. This rule is also being amended due to changes in Medicaid funding for community-based care. Some community-based care that was previously funded through Medicaid waivers will now be funded under the State Medicaid Plan. This amendment removes references to waived care, and as appropriate, replaces the references with references to home and community-based care. Removing references to waived care will allow the Department to provide community-based care services under Medicaid waivers or under the Medicaid State Plan, as appropriate, to reflect the change in funding.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-160-0620

Income Deductions and Client Liability; Long-Term Care Services or Home and Community-Based Care; OSIPM

In the OSIPM program:

(1) Deductions from income are made for a client residing in or entering a long-term care facility or receiving home and community-based care (see OAR 461-001-0030) as explained in subsections (3)(a) to (3)(h) of this rule.

(2) Except as provided otherwise in OAR 461-160-0610, the liability of the client is determined according to subsection (3)(i) of this rule.

(3) Deductions are made in the following order:

(a) One standard earned income deduction of \$65 is made from the earned income in the OSIPM-AD and OSIPM-OAA programs. The deduction is \$85 in the OSIPM-AB program.

(b) The deductions under the plan for self-support as allowed by OAR 461-145-0405.

(c) One of the following need standards:

(A) A \$30 personal needs allowance for a client receiving long-term care services.

(B) A \$90 personal needs allowance for a client receiving long-term care services who is eligible for VA benefits based on unreimbursed medical expenses. The \$90 allowance is allowed only when the VA benefit has been reduced to \$90.

(C) The OSIPM maintenance standard for a client who receives home and community-based care.

(d) A community spouse monthly income allowance is deducted from the income of the institutionalized spouse to the extent that the income is made available to or for the benefit of the community spouse, using the following calculation.

(A) Step 1 — Determine the maintenance needs allowance. \$1,939 is added to the amount over \$582 that is needed to pay monthly shelter expenses for the principal residence of the couple. This sum or \$2,898 whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the SNAP program (see OAR 461-160-0420).

(B) Step 2 — Compare maintenance needs allowance with community spouse's countable income. The countable income of the community spouse is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.

(C) Step 3 — If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.

(e) A dependent income allowance as follows:

(A) For a case with a community spouse, a deduction is permitted only if the monthly income of the eligible dependent is below \$1,939. To determine the income allowance of each eligible dependent:

(i) The monthly income of the eligible dependent is deducted from \$1,939.

(ii) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the income allowance of the eligible dependent.

(B) For a case with no community spouse:

(i) The allowance is the TANF adjusted income standard for the client and eligible dependents.

(ii) The TANF standard is not reduced by the income of the dependent.

(f) Costs for maintaining a home if the client meets the criteria in OAR 461-160-0630.

(g) Medical deductions allowed by OAR 461-160-0030 and 461-160-0055 are made for costs not covered under the state plan. This includes the public and private health insurance premiums of the community spouse and the client's dependent.

(h) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income.

(i) The client liability is determined as follows:

(A) For a client receiving home and community-based care (except a client identified in OAR 461-160-0610(4)), the liability is the actual cost of the home and community-based care or the adjusted income of the client, whichever is less. This amount must be paid to the Department each month as a condition of being eligible for home and community-based care. In OSIPM-IC, the liability is subtracted from the gross monthly benefit.

(B) For a client who resides in a nursing facility, a state psychiatric hospital, an Intermediate Care Facility for the Mentally Retarded, or a mental health facility, there is a liability as described at OAR 461-160-0610.

(4) The deduction used to determine adjusted income for a GA and GAM client receiving long-term care services or home and community-based care is as follows:

(a) One standard earned income deduction of \$65 is made from the earned income for a client who is not blind; or

(b) One standard earned income deduction of \$85 is made from the earned income for a client who is blind.

Stat. Auth.: ORS 411.060, 411.070 & 411.706

Stats. Implemented: ORS 411.060, 411.070 & 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 6-1999, f. & cert. ef. 4-22-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 9-2005(Temp), f. & cert. ef. 7-6-05 thru 10-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 23-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 12-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 16-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 25-2013, f. & cert. ef. 10-1-13

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Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients

Adm. Order No.: SSP 26-2013

Filed with Sec. of State: 10-1-2013

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Notice Publication Date: 8-1-2013

Rules Amended: 461-001-0030, 461-025-0315 461-110-0210, 461-135-0726, 461-135-0750, 461-135-0832, 461-135-0835, 461-140-0296, 461-145-0540, 461-145-0580, 461-155-0020, 461-155-0270, 461-155-0530, 461-155-0575, 461-155-0580, 461-155-0630, 461-155-0640, 461-155-0660, 461-160-0055, 461-160-0540, 461-160-0550, 461-160-0551, 461-160-0610, 461-165-0100, 461-175-0230, 461-180-0044, 461-185-0050, 461-195-0521

Rules Repealed: 461-001-0030(T), 461-025-0315(T), 461-110-0210(T), 461-135-0726(T), 461-135-0750(T), 461-135-0832(T), 461-135-0835(T), 461-140-0296(T), 461-145-0540(T), 461-145-0580(T), 461-155-0020(T), 461-155-0270(T), 461-155-0530(T),

ADMINISTRATIVE RULES

461-155-0575(T), 461-155-0580(T), 461-155-0630(T), 461-155-0640(T), 461-155-0660(T), 461-160-0055(T), 461-160-0540(T), 461-160-0550(T), 461-160-0551(T), 461-160-0610(T), 461-165-0100(T), 461-175-0230(T), 461-180-0044(T), 461-185-0050(T), 461-195-0521(T)

Subject: OAR 461-001-0030, 461-025-0315, 461-110-0210, 461-135-0726, 461-135-0750, 461-135-0832, 461-135-0835, 461-140-0296, 461-145-0540, 461-145-0580, 461-155-0020, 461-155-0270, 461-155-0530, 461-155-0575, 461-155-0580, 461-155-0630, 461-155-0640, 461-155-0660, 461-160-0055, 461-160-0540, 461-160-0550, 461-160-0551, 461-160-0610, 461-165-0100, 461-175-0230, 461-180-0044, 461-185-0050, and 461-195-0521 are being amended to make permanent temporary rule changes effective July 1, 2013 as a result of a change in Medicaid funding for community-based care. Some community-based care that was previously funded through Medicaid waivers will now be funded under the State Medicaid Plan. These amendments remove references to waived care as appropriate, and as appropriate, replace the references with references to home and community-based care. Other clarifying changes are also being made. Removing references to waived care will allow the Department to provide community-based care services under Medicaid waivers or under the Medicaid State Plan, as appropriate, to reflect the change in funding. OAR 461-155-0575 about in-home supplementation in the Oregon Supplemental Income Program Medical (OSIPM) is also being amended to reduce the in-home monthly supplemental payment authorized from \$30 to \$15. OAR 461-165-0100 is also being amended to remove obsolete references concerning medical cards and special needs cases.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-001-0030

Definitions; OSIP, OSIPM Long-Term Care or Home and Community-Based Care

These terms apply to rules in Chapter 461 about OSIP and OSIPM long-term care and home and community-based care clients:

(1) *Community spouse:* An individual who is *legally married* (see OAR 461-001-0000) to an institutionalized spouse and is not in a medical institution or nursing facility.

(2) Continuous period of care: Reside for a period of at least 30 consecutive days or until death in a long term care facility, home and community-based care setting, or an acute care hospital. There must be sufficient evidence to show there is a reasonable expectation that the client will remain in care for at least 30 consecutive days. For the purposes of this policy, an interruption in care (for example, leaving and then returning to a nursing home, or switching from one type of care to another) that lasts less than 30 days is not considered a break in the 30 consecutive days of care. A new period of care begins if care is interrupted for 30 or more days.

(3) Eligible dependent:

(a) For cases with a community spouse, an eligible dependent is a minor (under the age of 21) or dependent child, dependent parent, or dependent sibling of the institutionalized or community spouse who is residing with the community spouse and claimed as a tax dependent by either spouse.

(b) For cases without a community spouse, an eligible dependent is a minor (under the age of 21) or dependent child residing with and claimed as a tax dependent by the client.

(4) Home and community-based care: Title XIX services needed to keep an individual out of a long-term care facility. These services are:

(a) In-home services except for state plan personal care services.

(b) Residential care facility services.

(c) Assisted living facility services.

(d) Adult foster care services.

(e) Home adaptations to accommodate a client's physical condition.

(f) Home-delivered meals provided in conjunction with in-home services.

(g) Specialized living facility services.

(h) Adult day care services.

(i) Community transition services.

(5) Home and community-based care client: A client receiving home and community-based care for a continuous period.

(6) Institutionalized spouse: An individual who is in long-term care or receiving home and community-based care for a continuous period and is married to a community spouse.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.700

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; Renumbered from 461-160-0560, SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-025-0315

Expedited Hearings

(1) A claimant has the right to an expedited hearing in each of the following situations:

(a) The Department denies or fails to issue a timely decision on claimant's request for:

(A) Emergency assistance; or

(B) TA-DVS (see OAR 461-135-1235).

(b) The claimant contests the form or amount of a TA-DVS or an emergency assistance payment.

(c) The claimant has the right to a hearing over a reduction, suspension, or closure and disagrees with the Department's decision to deny the continuation of one or more of the following pending a requested hearing:

(A) Cash benefits.

(B) Supplemental Nutrition Assistance Program benefits.

(C) Medical benefits.

(D) Nursing Home services or home and community-based care (see OAR 461-001-0030) that have been reduced or closed as a result of a service re-assessment conducted in accordance with OAR Division 411-015.

(d) The claimant's request for expedited SNAP service or DSNAP is denied, or the claimant is aggrieved by an action of the Department that affects the expedited participation of the household in the SNAP program.

(e) In the JOBS program, the Department denies an application for a support service payment or a payment for a basic living expense authorized by OAR 461-190-0211, or the Department reduces or closes a support service payment authorized by OAR 461-190-0211, or the Department does not issue a JOBS support service payment within the time frames required under OAR 461-115-0190.

(2) Public Assistance programs: An expedited hearing is a telephone hearing held within five working days of the Department's receipt of the written hearing request, unless the claimant requests more time. The claimant is entitled to reasonable notice of the hearing either through personal service, by overnight mail, or if the claimant agrees by electronic mail. The final order must be issued within three working days from the date the hearing closes.

(3) Supplemental Nutrition Assistance Program: An expedited hearing is a telephone hearing held within five working days of the receipt of a verbal or written hearing request, unless the claimant requests more time. The claimant is entitled to reasonable notice of the hearing either through personal service, by overnight mail, or if the claimant agrees by electronic mail. Following the expedited hearing, a final order must be issued not later than the ninth working day after the hearing was requested.

(4) If the Office of Administrative Hearings grants a face-to-face hearing, the hearing may be postponed or continued as necessary to accommodate the claimant. However, the hearing must be held not later than 21 days following the receipt by the Department of the request for hearing if the claimant lives within 100 miles of Salem, Oregon, and not later than 35 days in all other cases.

Stat. Auth.: ORS 411.060, 411.095, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.095, 411.099, 411.103, 411.117, 411.404, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 21-1990(Temp), f. 8-28-90, cert. ef. 9-1-90; AFS 2-1991, f. 1-15-91, cert. ef. 2-1-91; AFS 4-1995, f. & ef. 2-1-95; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-110-0210

Household Group

(1) This rule describes who is included in the household group. The household group generally consists of the individuals who live together with or without the benefit of a dwelling. For homeless people, the household group consists of the individuals who consider themselves living together.

ADMINISTRATIVE RULES

(2) A separate dwelling is not recognized for the purpose of determining the members of a household group unless the living space has, separate from any other dwelling, an access to the outside that does not pass through another dwelling, a functional sleeping area, bathroom, and kitchen facility.

(3) Each individual in the household group who applies for benefits is an applicant. The household group and applicants form the basis for determining who is in the remaining eligibility groups.

(4) For all programs except the SNAP program, a separate household group is established for individuals who live in the same dwelling as another household group, if all the following subsections are true:

(a) There is a landlord-tenant relationship between the two household groups in which the tenant is billed by the landlord at fair market value (see OAR 461-001-0000) for housing.

(b) The tenant lives independently from the landlord.

(c) The tenant:

(A) Has and uses sleeping, bathroom, and kitchen facilities separate from the landlord; or

(B) Shares bathroom or kitchen facilities with the landlord, but the facilities are in a commercial establishment that provides room or board or both for compensation at fair market value.

(5) Individuals who live with more than one household group during a calendar month are members of the household group in which they spend more than half of their time, except as follows:

(a) In the ERDC program, if a child (see OAR 461-001-0000) lives with different caretakers during the month, the child is considered a member of both household groups.

(b) In the MAA, MAF, and TANF programs:

(A) If a parent (see OAR 461-001-0000) sleeps at least 30 percent of the time during the calendar month in the home of the dependent child (see OAR 461-001-0000), the parent is in the same household group as the dependent child.

(B) A dependent child is included in the household group with the caretaker relative (see OAR 461-001-0000), who usually has the major responsibility for care and control of the dependent child, if the dependent child lives with two household groups in the same calendar month for at least one of the following reasons:

(i) Education.

(ii) The usual caretaker relative is gone from the household for part of the month because of illness.

(iii) A family emergency.

(c) In the SNAP program:

(A) The individual is a member of the household group that provides the individual more than half of his or her 21 weekly meals. If the individual is a child, the child is a member of the household group credited with providing the child more than half of his or her 21 weekly meals. A household group is credited with providing breakfast and lunch for each day the child departs that group's home for school, even if the child eats no breakfast or lunch at that home.

(B) During the month in which a resident of a domestic violence shelter (see OAR 461-001-0000) enters the domestic violence shelter, the resident may be included both in the household group he or she left and in a household group in the domestic violence shelter.

(6) In the OSIPM program, individuals receiving home and community-based care (see OAR 461-001-0030) or nursing facility care are each an individual household group.

(7) In the QMB program, the household group consists of the client and the client's spouse (see OAR 461-001-0000), even if the spouse does not meet all nonfinancial eligibility requirements.

(8) Individuals absent from the household for 30 days or more are no longer part of the household group, except for the following:

(a) In all programs except the SNAP program, an individual in an acute care medical facility remains in the household group unless the individual enters long-term care.

(b) In the CEC, CEM, ERDC, EXT, HKC, MAA, MAF, OHP, REF, REFM, SAC, and TANF programs:

(A) A caretaker relative who is absent for up to 90 days while in a residential alcohol or drug treatment facility is in the household group.

(B) A child who is absent for 30 days or more is in the household group if the child is:

(i) Absent for illness (unless the child is in a long-term care Title XIX facility), social service, or educational reasons;

(ii) In foster care, but expected to return to the household within the next 30 days; or

(iii) For the OHP program only, in a residential alcohol or drug treatment facility. If the household group of the child in a residential alcohol or drug treatment facility is ineligible because of income, the child is a separate household group.

(c) In the ERDC, HKC, and OHP programs, an individual in the household group who is absent because of education, training, or employment, including long-haul truck driving, fishing, or active duty in the U.S. armed forces.

(d) In the MAA, MAF, and REFM programs, in a two-parent household, a parent remains in the household group if the requirements of both of the following paragraphs are met:

(A) The parent is absent because of education, training or employment — including absence while working or looking for work outside the area of his or her residence, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces; and

(B) The other parent remains in the home.

(e) In the REF and TANF programs when a filing group includes more than one caretaker relative (see OAR 461-001-0000), a caretaker relative in the household group who is absent because of education, training, or employment — including absence while working or looking for work outside the area of his or her residence, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces.

(9) In the OSIP-EPD and OSIPM-EPD programs, the household group consists only of the individual applying for or receiving benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.001, 412.049, 414.025, 414.231, 414.826, 414.831, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 5-1999(Temp), f. & cert. ef. 4-1-99 thru 6-30-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-135-0726

Specific Requirements; OSIP-IC and OSIPM-IC

To be eligible for OSIP-IC or OSIPM-IC, a person must meet criteria for In-Home Services and the Independent Choices program contained in OAR chapter 411, division 030.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-135-0750

Eligibility for Individuals in Long-Term Care or Home and Community-Based Care; OSIPM

An individual who meets the requirements of all of the following sections is eligible for OSIPM:

(1) Meets the eligibility requirements for the OSIPM program except that income is above the OSIPM adjusted income standard for a one person need group (see OAR 461-155-0250(3)).

(2) Has countable income at or below 300 percent of the full SSI standard for a single individual; has established a qualifying trust as specified in OAR 461-145-0540(9)(c); or is eligible for the OSIPM-EPD program.

(3) Meets one of the following eligibility standards:

(a) The criteria in OAR 411-015-0100 (except subsection (1)(b)) regarding eligibility for nursing facility care or home and community-based care (see OAR 461-001-0030).

(b) The level-of-need criteria for an ICF/MR.

(c) The service eligibility standards for medically fragile children in OAR 411-350-0010.

(d) The service eligibility standards for the CIIS (Children's Intensive In-Home Services) behavioral program in OAR 411-300-0100 to 411-300-0220.

(e) The service eligibility standards for the Medically Involved Children's Waiver in Chapter 411, Division 355 of the Oregon Administrative Rules.

(4) Resides in one of the following locations for a continuous period of care (see OAR 461-001-0030) and receives long-term care services (see OAR 461-180-0040 regarding the effective date for long-term care) authorized by the Department:

(a) A Medicaid-certified nursing facility.

(b) An intermediate care facility for the mentally retarded (ICF/MR).

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(c) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65 or older.

(d) A home and community-based care setting.

(5) An individual in a home and community-based care setting must receive Title 1915(c) waived services.

Stat. Auth.: ORS 411.060, 411.070, 411.404

Stats. Implemented: ORS 411.060, 411.070, 411.404

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 10-2008(Temp), f. & cert. ef. 4-7-08 thru 9-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-135-0832

Estate Administration; Definitions

Effective July 18, 1995, for purposes of these rules (OAR 461-135-0832 to 461-135-0847) and ORS 93.268, 410.075, 411.694, 411.708, 411.795, 416.310, 416.340, and 416.350 the terms listed below have the meanings ascribed to them herein; provided, however, as used in these rules, any term has the same meaning as when used in a comparable context in the laws of the United States in effect on June 1, 1996, relating to the recovery of medical assistance paid by a state pursuant to 42 USC 1396 et. seq. relating to Grants to States for Medical Assistance Programs, unless a different meaning is clearly required or the term is specifically defined herein. The Department applies the definitions and procedures set forth in these rules to recoveries and claims made pursuant to ORS 411.708, 411.795, 416.310, 416.340, and 416.350.

(1) "Assets" means all income and resources of an individual, including any income or resources that an individual is entitled to at the time of death, including any income or resources to which the individual is entitled, but does not receive, because of action: by the individual; the individual's spouse; by a person, including a court or administrative body with legal authority to act in place of or on behalf of the individual; or by any person, including any court or administrative body, acting at the direction or upon the request of the individual.

(2) "Assign" means a person who acquires an interest in real or personal property or an asset pursuant to a written or oral assignment of such real or personal property or asset from a person with the legal right to assign it.

(3) "Blind child" means the deceased recipient's natural or adopted son or daughter, of any age, who, within two years after the Department initially asserts its claim, substantiates blindness throughout the time the Department seeks to enforce its claim by presenting evidence of:

(a) Vision of 20/200 or less in the better eye with a corrective lens; or

(b) A limitation in vision field to an angle of 20 degrees or less; or

(c) Meeting any other SSI criteria for blindness.

(4) "Bona fide purchaser for value" means any person who provides consideration, including money or property, to a seller or transferor of real property or personal property equal to the fair market value of the real or personal property sold or transferred.

(5) "Child under age 21" means the deceased recipient's natural or adopted son or daughter who is under 21 years of age throughout the time the Department seeks to enforce its claim.

(6) "Consideration furnished test" means the method by which the ownership of real or personal property is traced to its economic origin. The fractional share of the property considered owned by a co-owner shall be that fractional share to have originally belonged to or to be attributable to the monetary consideration furnished by the co-owner. The fractional share is based on the proportion the original ownership share or monetary consideration bore to the acquisition cost and, if applicable, capital additions for the property. The fractional share is not based on the dollar amount of contribution compared to the current market value of the property. For example, if one co-owner contributed \$2,500 and the other \$7,500 to the purchase price of a \$10,000 property in 1960; in 1995, the property is appraised at \$50,000. The co-owner who contributed \$2,500 is considered to own 25% of the property in 1995.

(7) "Convincing evidence" includes, but is not limited to:

(a) Recorded documents of title.

(b) Unrecorded documents of title executed contemporaneously with the transaction or transfer at issue.

(c) Tax statements or returns.

(d) Records of banking, financial or other similar institutions.

(e) Written receipts, bills of sale or other writings or documents executed contemporaneously with the transaction or transfer at issue.

(f) Such other reliable, probative evidence, including oral, of a similar nature and authenticity that accurately reflects the true facts of the transaction or transfer at issue.

(8) "Date of request" means the date an individual or someone authorized on behalf of the individual contacts the Department or uses another appropriate method to request benefits (see OAR 461-115-0150). The request may be oral or in writing. It starts the application process.

(9) "Disabled child" means the deceased recipient's natural or adopted son or daughter of any age, who meets SSI disability criteria throughout the time the Department seeks to enforce its claim, and who presents evidence to the Department substantiating the disability within two years after the Department initially asserts its claim.

(10) "Estate" means:

(a) With respect to the collection of payments made for public assistance provided prior to July 18, 1995, or for exclusively state funded public assistance, all real property, personal property, or other assets included within a recipient's estate, or the estate of the recipient's spouse, as such estate is defined by applicable state probate law.

(b) With respect to the collection of payments made for public assistance provided on or after July 18, 1995:

(A) For recipients who die prior to October 1, 2008, all real property, personal property, or other assets, wherever located, in which a recipient had any legal title or ownership or beneficial interest at the time of death, including real property, personal property, or other assets conveyed by the recipient to, subsequently acquired by, or traceable to, a person, including the recipient's surviving spouse and any successor-in-interest to the recipient's surviving spouse, through:

(i) Tenancy by the entirety;

(ii) Joint tenancy;

(iii) Tenancy in common;

(iv) Not as tenants in common, but with the right of survivorship;

(v) Life estate;

(vi) Transfer on death deed;

(vii) Living trust;

(viii) Annuity purchased on or after April 1, 2001; or

(ix) Other similar arrangement.

(B) For recipients who die on or after October 1, 2008, all real property, personal property, or other assets, wherever located, in which a recipient had any legal title or ownership or beneficial interest at the time of death of the recipient, including real property, personal property, or other assets conveyed by the recipient to, subsequently acquired by, or traceable to, a person, including the recipient's spouse and any successor-in-interest to the recipient's spouse, through:

(i) Tenancy by the entirety;

(ii) Joint tenancy;

(iii) Tenancy in common;

(iv) Not as tenants in common, but with the right of survivorship;

(v) Life estate;

(vi) Transfer on death deed;

(vii) Living trust;

(viii) Annuity purchased on or after April 1, 2001; or

(ix) Other similar arrangement, such as an interspousal transfer of assets, including one facilitated by a court order, which occurred no earlier than 60 months prior to the first date of request established from the recipient's and the recipient's spouse's applications, or at any time thereafter, whether approved, withdrawn, or denied, for the public assistance programs referenced in OAR 461-135-0835(2).

(11) "Heir" means any individual, including the surviving spouse, who is entitled under intestate succession to the real property, personal property, and assets of a decedent who died wholly or partially intestate.

(12) "Interest" means any form of legal, beneficial, equitable or ownership interest.

(13) "Interspousal transfer" means any transfer, or chain of transfers, that effectively transfers title or control of an asset, or an interest in an asset, from one spouse to another, including: direct transfers between spouses, transfers from one or both spouses to a trust, and transfers from one trust to another trust.

(14) "Intestate" means one who dies without leaving a valid will, or the circumstance of dying without leaving a valid will, effectively disposing of all of a decedent's estate.

(15) "Intestate succession" means succession to real property, personal property or assets of a decedent who dies intestate or partially intestate.

(16) "Joint tenancy" means ownership of property held under circumstances that entitle one or more owners to the whole of the property on

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the death of the other owner(s), including, but not limited to, joint tenants with right of survivorship and tenants by the entirety.

(17) "Legal title" means legal ownership by a person.

(18) "Life estate" means an interest in real or personal property that terminates upon the death of a measuring life.

(19) "Living trust" means a revocable or irrevocable inter vivos trust funded with assets to which the recipient is legally entitled.

(20) "Medical institution" means a facility that provides care and services equivalent to those received in a nursing facility. Medical Institution does not apply to home and community-based care (see OAR 461-001-0030) in-home services, adult foster home (AFH) care, residential care facility (RCF) services, or assisted living facility (ALF) care.

(21) "Ownership documents" mean any applicable documents, certificates or written evidence of title or ownership such as, but not limited to, recorded deeds, stock certificates, certificates of title, bills of sale or other similar documents evidencing ownership or legal title held by a person.

(22) "Permanently institutionalized" means an individual, regardless of age, who, at the time of his or her death, had resided in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, for 180 days or more.

(23) "Person" means any individual, corporation, association, firm, partnership, trust, estate or other form of entity.

(24) "Personal property" means all tangible and intangible personal property wherever located, including, but not limited to, chattels and movables, boats, vehicles, furniture, personal effects, livestock, tools, farming implements, cash, currency, negotiable papers, securities, contracts, and contract rights.

(25) "Real property" means all land wherever situated, including improvements and fixtures thereon, and every estate, interest, and right, whether legal or equitable, therein including, but not limited to, fee simple, terms for years, life estates, leasehold interests, condominiums or time share properties. Real property includes property conveyed by the individual to, subsequently acquired by, or traceable to, a person, including the individual's surviving spouse and any successor-in-interest to the individual's surviving spouse, if the real property may be included in the individual's, or the individual's surviving spouse's, estate, as defined in this rule.

(26) "Recipient of property" means:

(a) Any survivor, heir, assign, devisee under a will, beneficiary of a trust, transferee or other person to whom real property, personal property or other assets pass upon the death of the decedent either by law, intestate succession, contract, will, trust instrument or otherwise; and

(b) Any subsequent transferee of such real property, personal property, or asset, or proceeds from the sale thereof, through any form of conveyance, that is not a bona fide purchaser for value.

(27) "Survivor" means any person who, as a co-tenant, is automatically entitled to an expanded share of real or personal property upon the death of a fellow co-tenant.

(28) "Survivorship" means an interest in real or personal property that expires upon the death of an individual whereby the interest of the individual's co-owners automatically expands to the same extent without necessity for any act of transfer or distribution.

(29) "Tenancy in common" means ownership of real or personal property by an individual together with one or more other persons which ownership interest shall not pass by survivorship upon the death of the individual.

(30) "Time of death" means the instant of death, the time and date of which shall be established in the place of the decedent's residence; in no case shall time of death be construed to mean a time after which an interest in real or personal property or other assets may:

(a) Pass by survivorship or other operation of law due to the death of the decedent; or

(b) Terminate by reason of the decedent's death.

(31) "Transfer on death deed" has the meaning set out in Oregon Laws 2011, chapter 212, section 2.

(32) "Value" means the fair market value. Fair market value is the price at which real or personal property would change hands between a willing buyer and a willing seller. In the event the real or personal property was not reported to the Department by the deceased Medicaid recipient, the value would be established based on its fair market value at the time of discovery.

Stat. Auth.: ORS 93.268, 410.070, 410.075, 411.060, 411.070, 416.340, 416.350
Stats. Implemented: ORS 93.268, 410.070, 410.075, 411.010, 411.060, 411.694, 411.708, 411.795, 416.310, 416.340, 416.350, 2011 OL 212 sec. 2, 2011 OL 720 sec. 224
Hist.: AFS 29-1996, f. & cert. ef. 8-28-96; AFS 30-2000, f. & cert. ef. 12-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 6-2006, f. 3-31-06,

cert. ef. 4-1-06; SSP 16-2008, f. 7-1-08, cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-135-0835

Limits on Estate Claims

(1) In the BCCM, GA, GAM, OHP, OSIP, OSIPM, and QMB programs:

(a) The Department has a priority claim against the property or any interest therein belonging to the estate of any deceased person as provided in ORS Chapters 411 and 416. The Estate Administration Unit of the Department (EAU) is authorized to present and file such claim against the estate. It will be treated as a preferred claim and filed in a like manner as the claims of other creditors.

(b) In determining the extent of the estate resources subject to the Department's claim, except as provided in subsection (c) of this section, the Department must disregard resources in an amount equal to the value of resources excluded in the most recent eligibility determination under OAR 461-160-0855, based on payments received under a qualified partnership policy (see OAR 461-001-0000). The disregard of resources specific to the estate recovery claim applies to Medicaid benefits received after the effective date of the Medicaid eligibility determination in which a qualified partnership policy was considered and approved. The amount of any Medicaid assistance incurred in a prior Medicaid eligibility period where qualified partnership policy benefits were not considered would not be subject to the estate resource disregard.

(c) There is no disregard of resources under subsection (b) of this section if the client, or the spouse of the client, at any time transferred the value of the qualified partnership policy excluded resource amount to another individual for less than fair market value prior to the death of the client or the client's surviving spouse, or exhausted the disregarded resource amount by purchasing things of value to the client or the client's surviving spouse while either was living.

(d) For a recipient who died prior to October 1, 2008:

(A) If there is a surviving spouse, the Department has a claim against the estate of the surviving spouse for public assistance paid to the surviving spouse.

(B) In addition, the Department has a claim against the estate of the surviving spouse for public assistance paid to the pre-deceased spouse, but only to the extent that the surviving spouse received property or other assets from the pre-deceased spouse through any of the following:

(i) Probate.

(ii) Operation of law.

(C) If estate recovery is deferred until the surviving spouse dies, the fair market value of the property subject to the Department's claim is determined based on the current value (see OAR 461-135-0832) of the property in the surviving spouse's estate.

(D) However, neither claim is enforceable until after the death of the surviving spouse (if any) and only when there is no surviving child under age 21 (see OAR 461-135-0832), no surviving blind child (see OAR 461-135-0832) of any age, and no surviving disabled child (see OAR 461-135-0832) of any age.

(e) For a recipient who died on or after October 1, 2008:

(A) If there is a surviving spouse, the Department has a claim against the estate of the surviving spouse for public assistance paid to the surviving spouse.

(B) In addition, the Department has a claim against the estate of the recipient's spouse for public assistance paid to the recipient, but only to the extent that the recipient's spouse received property or other assets from the recipient through any of the following:

(i) Probate.

(ii) Operation of law.

(iii) An interspousal transfer, including one facilitated by a court order, which occurs:

(I) Before, on, or after October 1, 2008; and

(II) No earlier than 60 months prior to the first date of request (see OAR 461-135-0832) established from the applications of the recipient and the recipient's spouse, or at any time thereafter, whether approved, withdrawn, or denied, for the public assistance programs referenced in section (2) of this rule.

(C) If estate recovery is deferred until the recipient's spouse dies, the fair market value of the property subject to the Department's claim is determined based on the current value of the property in the estate of the recipient's spouse.

(D) However, neither claim is enforceable until after the death of the recipient's spouse (if any) and only when there is no surviving child under

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age 21, no surviving blind child of any age, and no surviving disabled child of any age.

(E) The October 1, 2010 amendment to paragraph (B) of this subsection applies to claims asserted on or after April 1, 2010.

(2) The amount of the claim is as follows:

(a) Any payments made at any age under the General Assistance provisions of ORS Chapter 411, categorized as GA, are recoverable from the estate of any deceased recipient or the estate of the recipient's spouse. In the GA and GAM programs, the amount of the claim will not exceed the total amount of cash and medical benefits paid. The claim will include home and community-based care (see OAR 461-001-0030) benefits. This applies to all General Assistance programs, even those that are no longer active.

(b) In the BCCM, OSIP AD, OSIP OAA, OSIPM AD, OSIPM OAA, and QMB programs, the amount of the claim includes all GA category benefits paid at any age and all Title XIX benefits provided after the recipient reached age 55, except any QMB program payment. If the recipient was permanently institutionalized (see OAR 461-135-0832), the claim includes the total amount of all GA category benefits and Title XIX benefits paid at any age. This applies to all Old Age Assistance and Aid to the Disabled recipients, including recipients of home and community-based care. It also includes recipients covered by programs that are no longer active.

(c) In the OHP, OSIP AB, and OSIPM AB programs, the claim includes the total amount of GA category benefits paid at any age and all Title XIX benefits provided after the recipient reached age 55. If the recipient was permanently institutionalized, the claim includes the total amount of GA category and Title XIX benefits paid at any age. The claim includes home and community-based care benefits.

(d) In the OSIP, OSIPM-AB, OSIPM AD, and OSIPM-OAA programs, the amount of the claim also includes the total amount of GA category and Title XIX benefits provided to recipients who were age 55 to 64 on the date the GA category and Title XIX benefits were provided if the benefits were provided after July 18, 1995. GA category and Title XIX benefits will be considered to have been provided to a recipient on the day of provision of medical services for which medical assistance payments are made.

(3) The priority for payment of claims against the estate will be as established under ORS 115.125.

(4) EAU may nominate a personal representative for an estate if the Department has a claim and it appears that no person with a higher preference, as established in ORS 113.085, is willing to be the representative.

(5) Property disposal will be in accordance with OAR 461-135-0838. Stat. Auth.: ORS 410.070, 411.060 & 416.350
Stats. Implemented: ORS 410.070, 411.060, 411.708, 411.795, 416.310, 416.340, 416.350
Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 16-2008, f. 7-1-08, cert. ef. 10-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 16-2010(Temp), f. & cert. ef. 5-27-10 thru 11-23-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-140-0296

Length of Disqualification Due to An Asset Transfer; GA, GAM, OSIP, OSIPM

(1) This rule applies to clients in the GA, GAM, OSIP, and OSIPM programs who live in a nonstandard living arrangement (see OAR 461-001-0000).

(2) A financial group containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the initial month (see OAR 461-001-0000) is prior to October 1, 1998 — \$2,595.

(b) If the initial month is on or after October 1, 1998 and prior to October 1, 2000 — \$3,320.

(c) If the initial month is on or after October 1, 2000 and prior to October 1, 2002 — \$3,750.

(d) If the initial month is on or after October 1, 2002 and prior to October 1, 2004 — \$4,300.

(e) If the initial month is on or after October 1, 2004 and prior to October 1, 2006 — \$4,700.

(f) If the initial month is on or after October 1, 2006 and prior to October 1, 2008 — \$5,360.

(g) If the initial month is on or after October 1, 2008 and prior to October 1, 2010 — \$6,494.

(h) If the initial month is on or after October 1, 2010—\$7,663.

(3) For transfers by a client and the spouse of a client that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month, and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a nonstandard living arrangement and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by a client and the spouse of a client that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(9)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule:

(a) If there are multiple transfers by the client and the spouse of the client, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. The remaining decimal or fraction of the quotient is used to calculate an additional partial month disqualification. This remaining decimal or fraction is converted to an additional number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For a client who transfers an asset while he or she is already receiving Department-paid long-term care (see OAR 461-001-0000) or home and community-based care (see OAR 461-001-0030) in a nonstandard living arrangement, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for a client who transfers an asset while he or she is already receiving benefits in a standard living arrangement (see OAR 461-001-0000), the date of request (see OAR 461-115-0030) for long-term care or home and community-based care as long as the applicant or client would otherwise be eligible but for this disqualification period. If the applicant or client is not otherwise eligible on the date of request, the disqualification begins the first date following the date of request that the applicant or client would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a nonstandard living arrangement and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the asset.

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(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the uncompensated value as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If a client or the spouse of a client purchases an annuity on or before December 31, 2005 and the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(8) A single transfer of an asset may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

Stat. Auth.: ORS 411.060, 411.704, 411.706

Stats. Implemented: ORS 411.060, 411.704, 411.706

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 26-2000, f. & cert. ef. 10-4-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-145-0540

Trusts

(1) This section applies to all trust funds (see OAR 461-001-0000) in the MAA, MAF, OHP, REF, REFM, SAC, SNAP, and TANF programs. It also applies to GA, GAM, OSIP, OSIPM, and QMB for trust funds established before October 1, 1993:

(a) Trust funds are counted as a resource if the fund is legally available for use by a member of the financial group (see OAR 461-110-0530) for items covered by program benefits. In the OSIP, OSIPM, and QMB programs, the amount of the trust that is considered legally available is the maximum amount that could be distributed to the beneficiary under the terms of the trust, regardless of whether the trustee exercises his or her authority to actually make a distribution.

(b) Trust funds are excluded if the fund is not available for use by a member of the financial group. The financial group must try to remove legal restrictions on the trust, unless that would cause an expense to the group.

(c) The part of the fund available for use for medical expenses covered by the medical program for which the financial group is eligible is counted.

(2) In the ERDC program, all trust funds are excluded.

(3) In the OSIP, OSIPM, and QMB programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (4) to (10) of this rule. In the GA and GAM programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (4) to (8) of this rule.

(4) A trust is considered established if the financial group used their resources to form all or part of the trust and if any of the following established a trust, other than by a will:

- (a) The client.
- (b) The client's spouse.

(c) Any other person, including a court or administrative body, with legal authority to act in place of or on behalf of the client or the client's spouse.

(d) Any other person, including a court or administrative body, acting at the direction or upon the request of the client or the client's spouse.

(5) If the trust contains resources or income of another person, only the share attributable to the client is considered available.

(6) Except as provided in section (9) of this rule, the following factors are ignored when determining how to treat a trust:

- (a) The purpose for which the trust was established.
- (b) Whether or not the trustees have or exercise any discretion under the trust.

(c) Any restrictions on when or if distributions may be made from the trust.

(d) Any restrictions on the use of distributions from the trust.

(7) If the trust is revocable, it is treated as follows:

(a) The total value of the trust is considered a resource available to the client.

(b) A payment made from the trust to or for the benefit of the client is considered unearned income.

(c) A payment from the trust other than to or for the benefit of the client is considered a transfer of assets covered by OAR 461-140-0210 and following.

(8) If the trust is irrevocable, it is treated as follows:

(a) If, under any circumstances, the funds transferred into the trust are unavailable to the client and the trustee has no discretion to distribute the funds to or for the benefit of the client, the client is subject to a transfer-of-resources penalty as provided in OAR 461-140-0210 and following.

(b) If, under any circumstances, payments could be made to or on behalf of the client, the share of the trust from which the payment could be made is considered a resource. A payment from the trust other than one to or for the benefit of the client is considered a transfer of assets that may be covered by OAR 461-140-0210.

(c) If, under any circumstances, income is generated by the trust and could be paid to the client, the income is unearned income. Payments made for any reason other than to or for the benefit of the client are considered a transfer of assets subject to disqualification per OAR 461-140-0210.

(d) If any change in circumstance makes assets (income or resources) from the trust unavailable to the client, the change is a disqualifying transfer as of the date of the change.

(9) Notwithstanding the provisions in sections (1) and (3) to (8) of this rule, the following trusts are not considered in determining eligibility for OSIPM and QMB:

(a) A trust containing the assets of a client determined to have a disability that meets the SSI criteria that was created before the client reached age 65, if the trust was established by one of the following and the state will receive all funds remaining in the trust upon the death of the client, up to the amount of medical benefits provided on behalf of the client:

- (A) The client's parent.
- (B) The client's grandparent.
- (C) The client's legal guardian or conservator.
- (D) A court.

(b) A trust established between October 1, 1993 and March 31, 1995 for the benefit of the client and containing only the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical benefits provided on behalf of the client. The trust is the total income in excess of the income standard for OSIPM. The remaining income not deposited into the trust is available for the following deductions in the order they appear prior to applying the patient liability:

- (A) Personal-needs allowance.
- (B) Community spouse monthly maintenance needs allowance.
- (C) Medicare and other private medical insurance premiums.
- (D) Other incurred medical.

(c) A trust established on or after April 1, 1995 for the benefit of the client whose income is above 300 percent of the full SSI standard and containing the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical assistance provided on behalf of the client. The trust contains all of the client's income. The income deposited into the trust is distributed monthly in the following order with excess amounts treated as income to the individual subject to the rules on transfer of assets in division 140 of this chapter of rules:

(A) Personal needs allowance and applicable room and board standard.

(B) Reasonable administrative costs of the trust, not to exceed a total of \$50 per month, including the following:

- (i) Trustee fees.
- (ii) A reserve for administrative fees and costs of the trust, including bank service charges, copy charges, postage, accounting and tax preparation fees, future legal expenses, and income taxes attributable to trust income.
- (iii) Conservatorship and guardianship fees and costs.

(C) Community spouse and family monthly maintenance needs allowance.

(D) Medicare and other private medical insurance premiums.

(E) Other incurred medical costs as allowed under OAR 461-160-0030 and 461-160-0055.

(F) Contributions to reserves or payments for child support, alimony, and income taxes.

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(G) Monthly contributions to reserves or payments for the purchase of an irrevocable burial plan with a maximum value of \$5,000.

(H) Contributions to a reserve or payments for home maintenance if the client meets the criteria of OAR 461-155-0660 or OAR 461-160-0630.

(I) Patient liability not to exceed the cost of home and community-based care (see OAR 461-001-0030) or nursing facility services.

(10) This section of the rule applies to a trust signed on or after July 1, 2006.

(a) Notwithstanding the provisions of sections (1) and (3) to (8) of this rule, a trust that meets the requirements of subsection (b) of this section is not considered in determining eligibility for OSIPM and QMB, except that if the client is age 65 or older when the trust is funded or a transfer is made to the trust, the transfer may constitute a disqualifying transfer of assets under OAR 461-140-0210 and following.

(b) This section of the rule applies to a trust that meets all of the following conditions:

(A) The trust is established and managed by a non-profit association.

(B) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.

(C) The trust is established by the client, client's parent, grandparent, or legal guardian or a court for clients who have disabilities.

(D) Upon the death of the beneficiary or termination of the trust, the trust pays to the State an amount equal to the total medical assistance paid on behalf of the beneficiary under the State plan for Medicaid. The amount paid to the state may be reduced by administrative costs directly related to administering the sub-trust account of the beneficiary.

(E) The trust contains the resources or income of a client who has a disability that meets the SSI criteria.

(11) In the GA, GAM, OSIP, OSIPM, and QMB programs, the provisions of this rule may be waived for an irrevocable trust if the Department determines that denial of benefits would create an undue hardship on the client if, among other things:

(a) The absence of the services requested may result in a life-threatening situation.

(b) The client was a victim of fraud or misrepresentation.

Stat. Auth.: ORS 411.060, 411.070, 411.700, 411.816, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 18-2002(Temp), f. & cert. ef. 11-19-02 thru 5-18-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 16-2006(Temp), f. 12-29-06, cert. ef. 1-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-145-0580

Veterans' Benefits

(1) Veterans' benefits, other than the educational and training and rehabilitation program benefits, are treated as follows:

(a) Except as specified in sections (2) and (5) of this rule, monthly payments are counted as unearned income.

(b) Other payments are counted as periodic or lump sum income (see OAR 461-140-0110 and 461-140-0120).

(2) Veterans' benefits that include aid-and-attendance payments are treated as follows:

(a) For OSIP and OSIPM clients receiving long-term care or home and community-based care (see OAR 461-001-0030):

(A) When determining eligibility, the entire veterans' benefit payment is excluded.

(B) When calculating monthly benefits or patient liability, the entire veterans' benefit payment is counted as unearned income.

(C) Payments for services not covered by the Department's programs are excluded.

(D) If the client receives a payment covering a previous period of eligibility, the client is required to turn over to the Department the full amount of the payment up to the cost of institutional and home and community-based care provided to the client during the months covered by the payment. A client's failure to reimburse the Department in this instance constitutes an overpayment of public assistance in accordance with OAR 461-195-0501 and 461-195-0521 and ORS 411.640 and 411.690. Any excess veterans' benefit payment made to the client is counted as lump sum or periodic income.

(b) For all other clients not covered under subsection (a) of this section:

(A) In the SNAP program, aid-and-attendance payments used to pay for an attendant are treated as a reimbursement and excluded (see OAR 461-145-0440). The remaining benefits, if any, are counted as unearned income.

(B) In the OHP and QMB programs, the aid-and-attendance payments are excluded. The remaining benefits are counted unless excluded under another rule or another section of this rule.

(C) Reimbursements paid to the client for costs and services already paid for by the Department are third-party resources and may be recovered from the client as an overpayment of public assistance pursuant to OAR 461-195-0501, 461-195-0521, and 461-195-0551. Any unrecovered third-party resource or payment above the actual cost is counted as lump-sum or periodic income (see OAR 461-140-0110 and 461-140-0120).

(3) Educational benefits from the United States Veterans Administration are treated in accordance with OAR 461-145-0150.

(4) A subsistence allowance from a training and rehabilitation program of the United States Veterans Administration is treated ---

(a) In the SNAP program, as earned income (see OAR 461-145-0130).

(b) In all other programs, as unearned income.

(5) The following payments are excluded:

(a) Payments under 38 USC 1805 to biological children of Vietnam veterans who are born with spina bifida.

(b) Payments under 38 USC 1815 to children with birth defects born to female Vietnam veterans.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.620, 411.640, 411.690, 411.700, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 26-2012(Temp), f. & cert. ef. 7-11-12 thru 1-7-13; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-155-0020

Prorated Standards; Adjusted Number in Household

(1) Prorated standards are used only in the no-adult tables and the non-SSI OSIP and OSIPM table.

(2) In the OSIP and OSIPM programs:

(a) Prorated standards only apply when an individual or a couple receives free food and shelter from others living in the household, and the individual or couple does not have an ownership interest or rental liability in the residence.

(b) Prorated standards are not applied to cases in which a client receives services described in OAR chapter 411, division 015.

(c) Shelter-in-kind (see OAR 461-145-0470) may apply when prorated standards are not used.

(3) In the TANF program, the no-adult tables are used when there are no adults in TANF need group (see OAR 461-110-0630).

(4) Prorated standards are based on the number of people in the need group, compared to the adjusted number in the household group (see OAR 461-110-0210). The adjusted number in the household is determined by taking the total number of individuals in the household, minus the following individuals unless they are included in the need group:

(a) Unborns.

(b) Clients receiving long-term care or home and community-based care (see OAR 461-001-0030).

(c) Foster children.

(d) Children receiving adoption assistance.

(e) Live-in attendants who live with the filing group solely to provide necessary medical or housekeeping services and are paid to provide these services.

(f) Landlords and tenants. A landlord-tenant relationship exists if one person pays another at fair market value for housing and if--

(A) The filing group lives independently from the landlord or tenant;

(B) The filing group has and uses sleeping, bathroom, and kitchen facilities that are separate from the landlord or tenant; and

(C) If bathroom or kitchen facilities are shared, the housing must be a commercial establishment that provides either room, board, or both for fair market value compensation.

(g) In the OSIP and OSIPM programs only:

(A) The biological and adoptive children of either spouse.

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(B) Recipients of EXT, GA, MAA, MAF, OHP, OSIP, OSIPM, or QMB.

Stat. Auth.: ORS 411.060, 411.070, 412.049, 414.042
Stats. Implemented: ORS 411.060, 411.070, 412.049, 414.042
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 17-1998, f. & cert. ef. 10-1-98; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-155-0270

Room and Board Standard; OSIPM

For an OSIPM program client in a community based care (see OAR 461-001-0000) facility, the room and board standard is \$552.70. A client residing in a community based care facility must pay room and board.

Stat. Auth.: ORS 411.060, 411.070, 411.704 & 411.706
Stats. Implemented: ORS 411.060, 411.070, 411.704 & 411.706
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 13-2000, f. & cert. ef. 5-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 1-2013(Temp), f. & cert. ef. 1-8-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-155-0530

Special Need; Food for Guide Dogs and Special Assistance Animals

(1) For an OSIP or OSIPM program client receiving SSI, having an adjusted income less than the OSIPM program standard under OAR 461-155-0250, or receiving home and community-based care (see OAR 461-001-0030), a food allowance is allowed for guide dogs and special assistance animals that are individually trained to:

(a) Meet the client's specific medical needs by performing tasks, such as alerting and protecting a client who is having a seizure; or

(b) Perform specific physical tasks that the client is unable to do, such as picking up items that are dropped, turning on light switches, and pulling a wheelchair.

(2) The maximum amount the Department authorizes for this special need is \$50 per month.

(3) Authorization of this special need must be based on a proven medical need to sustain the client's independence.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060, 411.706
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-155-0575

Special Need; In-home Supplement; OSIPM

In the OSIPM program:

(1) The Department may provide a monthly supplementary payment for a client who meets the requirements of all of the following subsections:

(a) The client must receive SSI as his or her only source of income.

(b) The client must receive home and community-based care (see OAR 461-001-0030) in-home services or State Plan Personal Care Services authorized under chapter 411, division 034 of Oregon Administrative Rules.

(2) An eligible client (under section (1) of this rule) receives a \$15 monthly payment. The payment is considered reimbursement for uncovered assistance needs.

Stat. Auth.: ORS 411.060, 411.070, 411.404 & 411.706
Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.704 & 411.706
Hist.: SSP 11-2011(Temp), f. 3-31-11, cert. ef. 4-1-11 thru 9-28-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 21-2011(Temp), f. & cert. ef. 7-15-11 thru 1-11-12; SSP 31-2011(Temp), f. & cert. ef. 12-1-11 thru 1-11-12; Administrative correction, 2-6-12; SSP 33-2012(Temp), f. 10-31-12, cert. ef. 11-1-12 thru 4-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 18-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-155-0580

Special Need; Laundry Allowances

(1) OSIP and OSIPM clients who are receiving SSI or home and community-based care (see OAR 461-001-0030) or have adjusted income less than the OSIPM program income standard under OAR 461-155-0250, and

GA and GAM clients, are eligible for a laundry allowance if they have proven, excessive, coin-operated laundry facility costs and do not:

(a) Have their own laundry facilities; or

(b) Reside in an adult foster care home, assisted living facility, nursing facility, residential care facility, or specialized living facility, unless the specialized living facility is apartment based.

(2) This allowance may not exceed the amount required to wash and dry the laundry.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060, 411.706
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-155-0630

Special Need; Community Based Care; OSIPM

In the OSIPM program:

(1) A client is considered living in a community based care facility (see OAR 461-001-0000) if the client resides at one of the following care settings licensed by the Department:

(a) Adult Foster Care.

(b) Residential Care.

(c) Assisted Living.

(d) Specialized Living.

(e) Group Care Home.

(2) In determining eligibility for OSIPM for an individual receiving care in a 24-hour mental health residential care setting, such as an adult foster home, residential treatment home, residential treatment facility, or a secure treatment facility, the special need (see OAR 461-155-0010) is the amount of the service payment authorized by the Department and is added to the OSIP maintenance standard.

(3) If a client who meets the applicable income requirements begins living in a community based care facility:

(a) Payment for room and board may be authorized during the month of admission at the initial placement, limited to the approved rate.

(b) Room and board payments may be paid to the community based care facility during the temporary absence of a client if all of the following criteria are met:

(A) The absence occurs because the client is admitted to a hospital or nursing home.

(B) The Department determines the intent of the client to return to the community based care facility.

(C) The community based care facility is willing to accept the room and board payment.

(D) The client returns one month following the month in which the absence began.

(4) Spouses who each receive SSI and receive services in a community based care facility, are eligible for a payment in the amount that equals the difference between the OSIPM standard for a one-person need group and the individual's total countable income. If one spouse has income above the OSIPM standard, the excess income is applied to the other spouse's countable income.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 13-1994, f. & cert. ef. 7-1-94; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-155-0640

Special Need; Restaurant Meals

(1) To receive the restaurant meals special need payment, OSIP and OSIPM clients who are receiving SSI, home and community-based care (see OAR 461-001-0030), or have adjusted income less than the OSIPM program income standard under OAR 461-155-0250 — and GA and GAM clients — must have proven medical and nutritional needs that cannot be met with meals purchased with SNAP program benefits.

(2) A client living in his or her own home who is unable to prepare his or her own meals, but is eligible for SNAP program benefits, may have his or her meals prepared by attendants that volunteer or are compensated by the Seniors and People with Disabilities Division In-Home Services program. A client also may receive, if eligible, Meals on Wheels services to supplement his or her diet.

(3) The payment standard for restaurant meals is \$60 per month.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060, 411.706

ADMINISTRATIVE RULES

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-155-0660

Special Need; Accommodation Allowance

(1) An OSIP or OSIPM program client living in a nursing facility is not eligible for an accommodation allowance. An OSIP or OSIPM program client living in a nonstandard living arrangement (see OAR 461-001-0000) is not eligible for an accommodation allowance unless he or she is receiving, or is eligible to receive after a temporary absence, home and community-based care (see OAR 461-001-0030) in-home services. An OSIP or OSIPM program client receiving SSI or having an adjusted income less than the OSIPM program income standard (except a client in a nursing facility) or eligible to receive or receiving home and community-based care in-home services is allowed an accommodation allowance if the client is 18 years of age or older and meets the criteria in section (2) or (3) of this rule.

(2) Temporary absence of client from home.

(a) A temporary accommodation allowance may be authorized, when permitted under section (1) of this rule, if a client meets the following criteria:

(A) The client leaves his or her home or rental property and enters an adult foster care facility, assisted living facility, group care home, hospital, nursing facility, residential care facility, specialized living facility, or state psychiatric institution;

(B) The client cannot afford to keep the home without the allowance;

(C) The client will be able to return home within six months of leaving, according to a written statement from a primary practitioner, RN, or PAS (pre-admission screening) RN; and

(D) The home will accommodate the service plan of the client when the client returns.

(b) The allowance may be authorized for six months. If, after six months, the client continues to meet the criteria in subsection (a) of this section, an extension may be approved in writing by a supervisor.

(c) The accommodation allowance equals the total of the client's housing cost, including taxes and insurance, plus the limited standard utility allowance for the SNAP program provided in OAR 461-160-0420.

(3) Additional cost for accommodation. A client meeting the criteria in section (1) of this rule may receive an accommodation allowance if the client's shelter cost exceeds the shelter standard in OAR 461-155-0250(2) and the requirements of one of the following subsections are met:

(a) The client has a documented increase in rent associated with access by an individual with a disability; or

(b) The client has been assessed to need a live-in provider, has accepted the services of a live-in provider, and requires an additional bedroom for the live-in provider.

(4) The accommodation allowance is determined as follows:

(a) For a client who receives an accommodation allowance based on increased costs associated with access by an individual with a disability, only the additional increase in cost for the accommodation is allowed.

(b) For a client who receives an accommodation allowance based on the need for an additional bedroom for a live-in provider, the amount of the accommodation allowance is the limited standard utility allowance for the SNAP program under OAR 461-160-0420 plus --

(A) One-third of the monthly rental cost; or

(B) One-third of the monthly payment on the property agreement (including mortgage, trust deed, or land sale contract). The property agreement is the agreement existing at the time the client is approved for the accommodation allowance. The accommodation allowance for the housing portion ends if the debt is refinanced, unless the refinancing was done only to reduce the original property agreement's interest rate or total monthly payment amount and the owner realized no direct or indirect payment of the home's equity value from the refinancing.

(i) If the refinancing requirement under this paragraph is met, the amount of the accommodation allowance is one-third of the refinanced property agreement amount plus the limited standard utility allowance under OAR 461-160-0420.

(ii) If the refinancing requirement under this paragraph is not met and the housing portion of the accommodation allowance ends, the client remains eligible only for the limited standard utility allowance portion under OAR 461-160-0420.

(5) Special requirements.

(a) A client who rents and qualifies for an allowance under section (3) of this rule must take the steps necessary to obtain subsidized housing under any federal or state housing program. A client who fails, at any time,

to take the steps necessary to obtain subsidized housing reasonably available is ineligible for the allowance. A client, who has been denied or revoked from participation in any rent subsidy program based on the client's own actions is ineligible for benefits under this rule.

(b) A client who rents housing and refuses subsidized housing will no longer be eligible for an accommodation allowance, except that if the housing that is offered is not suitable, related to accommodations, and the client continues to have increased costs related to accommodations in the client's current living situation, the accommodation allowance may continue until such time as appropriate subsidized housing is found.

Stat. Auth.: ORS 411.060, 411.070, 411.704, 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.704, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-160-0055

Medical Costs That are Deductible; GA, GAM, OSIP, OSIPM, SNAP

(1) This rule applies only to SNAP filing group (see OAR 461-110-0370) members who are elderly (see OAR 461-001-0015) or who have a disability (see OAR 461-001-0015), and to clients in the GA, GAM, OSIP, and OSIPM programs.

(2) Medical costs are deductible to the extent a deduction is authorized in OAR 461-160-0415 and 461-160-0430 and in this rule.

(3) Health and hospitalization insurance premiums and coinsurance are deductible. In the OSIPM and SNAP programs, health insurance premiums paid less frequently than monthly may be prorated over the period covered by the premium.

(4) In the OSIPM and SNAP programs:

(a) Long-term care insurance premiums are deductible if the insurance pays for services while an individual is:

(A) Receiving home and community-based care (see OAR 461-001-0030);

(B) Receiving nursing facility services; or

(C) In an intermediate care facility for the mentally retarded (ICF/MR).

(b) A policy that is set up to pay a lump sum, similar to life insurance, is not deductible.

(5) The cost of a medical service is deductible if it is:

(a) Provided by, prescribed by, or used under the direction of a licensed medical practitioner; or

(b) Except in the SNAP program, a medical necessity approved by the Department.

(6) Medical deductions are also allowed for, among other things, the cost of:

(a) Medical and dental care, including psychotherapy, rehabilitation services, hospitalization, and outpatient treatment.

(b) Prescription drugs and over-the-counter medications prescribed by a licensed practitioner, the annual fee for a drug prescription card, medical supplies and equipment, dentures, hearing aids, prostheses, and prescribed eyeglasses.

(c) In the SNAP program, such items as the following:

(A) Nursing care, nursing home care, and hospitalization, including payments for an individual who was a member of the filing group immediately prior to entering a hospital or a nursing home certified by the state. Deduction of these payments is also allowed for an individual who was a member of the filing group immediately prior to death if the remaining filing group members are legally responsible for payment of the expenses.

(B) Services of an attendant, home health aid, housekeeper, or provider of dependent care necessary due to the client's age or illness, including an amount equal to a one-person SNAP benefit group (see OAR 461-110-0750) if the client furnishes the majority of an attendant's meals.

(C) Prescribed assistance animals (such as a Seeing Eye Dog, Hearing Dog, or Housekeeper Monkey) that have received special training to provide a service to the client. This deduction includes the cost of acquiring these animals, their training, food, and veterinarian bills.

(D) Reasonable costs for transportation and lodging needed to obtain medical treatment or services.

(E) Installment plan arrangements made before a bill becomes past due. The expense is not deducted if the client defaults and makes a second agreement.

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(7) In the SNAP program, the costs for and related to medical use of marijuana, including registry identification cards, are not deductible.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404 & 411.816
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404 & 411.816
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 23-2004(Temp), f. & cert. ef. 10-1-04 thru 12-31-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 27-2012(Temp), f. & cert. ef. 7-12-12 thru 1-8-13; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-160-0540

Determining Financial Eligibility and Benefits; QMB and OSIPM (except OSIPM-EPD) Living in the Community

(1) This rule is used to determine financial eligibility for QMB program clients and OSIPM (except OSIPM-EPD) program clients who:

- (a) Live in the community;
- (b) Do not receive SSI; and
- (c) Do not receive home and community-based care (see OAR 461-001-0030).

(2) In the OSIPM program, to determine eligibility for clients residing in a 24-hour mental health residential care setting, such as an adult foster home, residential treatment home, residential treatment facility, or a secure treatment facility, the amount of the service payment is added to the adjusted income standard defined in 461 155 0250(3). The sum of the service payment and the OSIPM program adjusted income standard must be greater than the client's adjusted income. If the sum of the service payment and the OSIPM program standard is less than the adjusted income, the client is not eligible. For all other OSIPM program clients, they are eligible if their adjusted income is less than the OSIPM program standard.

(3) In the QMB-BAS program, a client is eligible if his or her adjusted income is equal to or less than the QMB program adjusted income standard.

(4) In the QMB-SMB program, a client is eligible if his or her adjusted income is less than the adjusted income standard.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-160-0550

Income Deductions; Non-SSI OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) in the Community When There Are No Children in the Household Group

(1) For purposes of this rule, "child" means a natural or adopted child of an individual or a natural or adopted child of either member of a married couple.

(2) This rule is used to determine adjusted income (see OAR 461-001-0000) for all clients in the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs who:

- (a) Live in the community;
- (b) Are not assumed eligible (see OAR 461-135-0010);
- (c) Do not receive home and community-based care (see OAR 461-001-0030); and

(d) Do not have at least one child in the household group (see OAR 461-110-0210).

(3) To determine adjusted income for clients described in section (2) of this rule, deductions from the countable (see OAR 461-001-0000) income of the financial group (see OAR 461-110-0530) are made in the following order:

(a) One standard deduction of \$20 from unearned income. This deduction may be taken from earned income if the client has less than \$20 in unearned income.

(b) One standard earned income deduction of:

(A) \$65 for OSIP-AD, OSIP-OAA, OSIPM-AD, and OSIPM-OAA clients who are not blind; or

(B) \$85 for OSIP-AB and OSIPM-AB clients who are blind.

(c) An income deduction for documented impairment-related work expenses or blind work expenses.

(d) One half of the remaining earned income.

(e) Deductions under a plan for self-support.

Stat. Auth.: ORS 411.060, 411.070 & 414.042
Stats. Implemented: ORS 411.060, 411.070 & 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 25-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-30-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-160-0551

Income Deductions; Non-SSI OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) in the Community When There Are Children in the Household Group

(1) For purposes of this rule:

(a) Ineligible person means an individual who is not eligible to receive either SSI or TANF benefits.

(b) Child means a natural or adopted child of an individual or a natural or adopted child of either member of a married couple.

(2) This rule is used to determine adjusted income (see OAR 461-001-0000) for clients in the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs who:

(a) Live in the community;

(b) Are not assumed eligible (see OAR 461-135-0010);

(c) Do not receive home and community-based care (see OAR 461-001-0030); and

(d) Have children in the household group (see OAR 461-110-0210).

(3) To determine adjusted income for clients described in section (2) of this rule, deductions from the countable (see OAR 461-001-0000) income of the financial group (see OAR 461-110-0530) are made in the following order:

(a) An allocation as described below:

(A) When an adult is applying, income is allocated (see paragraph (C) of this subsection) from an ineligible spouse included in the financial group to each ineligible child of the couple.

(B) When a child is applying:

(i) Income from ineligible parents is first allocated to each ineligible child in the household.

(ii) Second, the remaining income from subparagraph (i) of this paragraph is reduced as provided in subsections (b) through (f) of this section.

(iii) Third, the remaining income is reduced by the non-SSI OSIP and OSIPM adjusted income standard of the:

(I) Couple if both parents live with the child; or

(II) Individual if only one ineligible parent lives with the child.

(iv) Fourth, the remainder is deemed equally to each child applicant in the household.

(v) The income deemed to the child is added to the other income of the child and deductions are taken as described in subsections (b) through (f) of this section to calculate the child's adjusted income.

(C) The maximum amount of each allocation under paragraphs (A) and (B) of this subsection is the difference between the couple and the individual SSI Standard. The allocation for paragraphs (A) and (B) of this subsection is reduced by the other countable income of each ineligible child. An allocation is taken from unearned income first, and any remaining allocation is then taken from earned income.

(b) One standard deduction of \$20 from unearned income. This deduction may be taken from earned income if the client has less than \$20 in unearned income.

(c) One standard earned income deduction of:

(A) \$65 for clients in the OSIP-AD, OSIP-OAA, OSIPM-AD, and OSIPM-OAA programs; or

(B) \$85 for clients in the OSIP-AB and OSIPM-AB programs.

(d) An income deduction for documented impairment-related work expenses or blind work expenses.

(e) One half of the remaining earned income.

(f) Deductions under a plan for self-support for clients in the OSIP-AB, OSIP-AD, OSIPM-AB, and OSIPM-AD programs.

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 25-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-30-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-160-0610

Client Liability; OSIPM (except OSIPM-EPD)

(1) A client in the OSIPM (except OSIPM-EPD) program who receives long-term care (see OAR 461-001-0000) services must, in order to

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remain eligible, make the payment required by this rule, except as provided in sections (2) to (6) of this rule. The client must apply his or her adjusted income to the cost of the care or service. This amount is the client liability. If the client's adjusted income exceeds the cost of care or service, the client must pay the full cost of care but has no additional liability.

(2) A client who receives SSI, or is deemed to receive SSI under section 1619(b) of the Social Security Act (42 U.S.C. § 1382h(b)), is eligible for OSIPM program benefits without having to make a payment.

(3) The IC service payment of a client in the OSIPM-IC program is reduced by the amount of his or her liability.

(4) The following clients, if they receive the services described in section (5) of this rule, are exempt from payments required by this rule:

(a) A disabled adult child under OAR 461-135-0830.

(b) A widow or widower under OAR 461-135-0820.

(c) A Pickle amendment client under OAR 461-135-0780.

(5) A client identified in section (4) of this rule is exempt from payments required by this rule if the client receives:

(a) Home and community-based care (see OAR 461-001-0030); or

(b) Mental health services and lives in a mental health residential treatment facility. For purposes of this rule, only the following types of treatment centers qualify as a mental health residential treatment facility:

(A) A mental health adult foster home.

(B) A mental health residential treatment home.

(C) A mental health residential treatment facility.

(D) A mental health secure residential treatment facility.

(6) In the initial month of placement, a client may be exempt from payments required under this rule if the Department determines that the client's income has been exhausted prior to placement. If any income remains, the client must contribute to the cost of care or service.

(7) A client residing in an acute care hospital is exempt from payments required by this rule while residing in the acute care hospital. If a service benefit was received prior to admission to the acute care hospital, payment must be made for that service.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 9-2005(Temp), f. & cert. ef. 7-6-05 thru 10-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-165-0100

Issuance Date of Benefit

(1) For all programs except the EA and SNAP programs:

(a) An authorized cash payment check is dated on the first day of the payment period or as soon as practicable thereafter.

(b) Checks are mailed so they can be delivered to the client on the first day of each month except in the following cases:

(A) Initial month benefits for cases that are new, reopened, or restored.

(B) If the first day of the month falls on Sunday or a holiday, the check is mailed in time for the client to receive it on Saturday or the mail day preceding the holiday.

(C) Checks redirected to the branch office may be released during the last workday preceding a weekend or holiday.

(c) Benefits issued by EBT will be available on the first day of each month, except for the following:

(A) Initial month benefits for cases that are new, reopened, or restored.

(B) Benefits held by the branch office.

(2) EA clients must receive their checks, either direct or vendor, in time to meet their emergent needs.

(3) SNAP benefits are available as follows:

(a) SNAP benefits issued by EBT are available in the EBT account on the day of the month corresponding to the last digit of the client's case number except for the following:

(A) The benefits for the initial month of eligibility for a new or reopened case.

(B) The benefits for the seventh month of the certification period for a case in the semi-annual reporting system.

(b) SNAP benefits issued through the SNAP cash-out are available as follows:

(A) Benefits accessed through an EBT account are available on the first day of the month.

(B) Checks are mailed on the first day of the month.

(C) Direct-deposit funds are available on the third working day of the month.

(4) For SNAP changes that could not be made in time to adjust the monthly allotment, a supplement is issued within 10 days of the date the change was reported.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-175-0230

Notice Situation; Nonstandard Living Situations

(1) In the SNAP program:

(a) A timely continuing benefit decision notice (see OAR 461-001-0000) is sent to terminate, suspend, or reduce benefits if the notice occurs as a result of any of the following situations:

(A) A client has been admitted or committed to an institution.

(B) A client has been placed in foster care, skilled nursing care, intermediate care, or long term hospitalization.

(C) A client is placed in official custody or a correctional facility.

(D) A client enters a drug or alcohol residential treatment facility.

(E) A client leaves a drug or alcohol residential treatment facility without reapplying for SNAP benefits.

(b) No decision notice (see OAR 461-001-0000) is required if the Department determines that a resident of a group living (see OAR 461-001-0015) facility or a drug or alcohol treatment center is ineligible as a result of one of the following actions taken against the center or facility:

(A) Disqualification by Food and Nutrition Services (FNS) as an authorized representative.

(B) Loss of certification with the Department.

(c) A resident of a facility that is disqualified or loses its certification as described in subsection (b) of this section may still qualify for SNAP benefits through a separate application.

(2) Except as provided in section (3) of this rule, for all programs except the SNAP program, a basic decision notice (see OAR 461-001-0000) is sent to terminate, suspend, or reduce benefits in each of the following situations:

(a) The client has been admitted or committed to an institution.

(b) The client has been placed in skilled nursing care, intermediate care, or long-term hospitalization.

(c) The client is placed in official custody or a correctional facility.

(3) In the OSIPM program, a client receiving home and community-based care (see OAR 461-001-0030) or long term care services is sent:

(a) A timely continuing benefit decision notice in each of the following situations:

(A) A reduction or closure of services occurs as the result of a process of reevaluating both the functional impairment levels of a client and the requirements of a client for assistance in performing activities of daily living.

(B) Services are closing because the client has not paid the client liability.

(C) The client receives benefits in the OSIP-IC or OSIPM-IC program, and benefits will end under OAR 411-030-0100.

(D) There is a change in special needs as described in OAR 461-180-0040.

(b) A continuing benefit decision notice (see OAR 461-001-0000) when there is an increase in the client liability.

(c) A basic decision notice when there is a decrease in the client liability.

Stat. Auth.: ORS 411.060, 411.101, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.095, 411.099, 411.101, 411.111, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

ADMINISTRATIVE RULES

461-180-0044

Effective Dates; Income Cap Trust

The effective date for an income cap trust that makes a client income-eligible for long term care or home and community-based care (see OAR 461-001-0030) under 461-135-0750 and 461-145-0540(9)(c) is the first day of the month in which the trust document is signed.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 16-2006(Temp), f. 12-29-06, cert. ef. 1-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-185-0050

Client Pay-In System

(1) Except as provided in sections (2) and (3) of this rule, a client who receives home and community-based care (see OAR 461-001-0030) in-home services and has countable income above the payment standard for the benefit group must pay to the Department the lesser of the following amounts as a condition of being eligible for home and community-based care in-home services:

(a) The difference between their adjusted income and the payment standard for the number in the benefit group.

(b) The actual cost of home and community-based care in-home services.

(2) The service liability of clients in the OSIP-IC and OSIPM-IC programs is calculated in accordance with section (1) of this rule. Clients in the OSIP-IC and OSIPM-IC programs do not pay the Department directly. The IC service payment of these clients will be reduced by the amount of their liability.

(3) A client exempt from payments under OAR 461-160-0610(2) is exempt from the payment required by this rule.

(4) Each month, the Department will send the client an invoice requesting payment based on the calculation in section (1) of this rule.

(5) Payments must be received by the Department in the month of service.

Stat. Auth.: ORS 411.060, 411.070, 411.404

Stats. Implemented: ORS 411.060, 411.070, 411.404

Hist.: AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-195-0521

Calculation of Overpayments

This rule specifies how the Department calculates an overpayment (see OAR 461-195-0501).

(1) The Department calculates an overpayment by determining the amount the client received or the payment made by the Department on behalf of the client that exceeds the amount for which the client was eligible.

(2) When a filing group, ineligible student, or authorized representative (see OAR 461-115-0090) fails to report income, the Department calculates and determines the overpayment by assigning unreported income to the applicable budget month without averaging the unreported income, except:

(a) A client's earned income reported quarterly from the Employment Department is considered received by the client in equal amounts during the months identified in the report.

(b) In the ERDC, MAA, MAF, REF, SNAP, and TANF programs, a client's actual self-employment income is annualized retrospectively to calculate the overpayment.

(3) When using prospective budgeting (see OAR Division 461-150) and the actual income differs from the amount determined under OAR 461-150-0020(2), there may be a client error overpayment (see OAR 461-195-0501) only when the filing group, ineligible student, or authorized representative withheld information, failed to report a change, or provided inaccurate information. In such a case, the Department uses the actual income to determine the amount of an overpayment.

(4) When a filing group, ineligible student, or authorized representative fails to report all earned income within the reporting time frame, the earned income deduction (see OAR 461-160-0160, 461-160-0190, 461-160-0430, 461-160-0550, and 461-160-0552) is applied as follows:

(a) In the OSIP, OSIPM, QMB, and REFM programs, the Department allows the earned income deduction.

(b) In the MAA, MAF, REF, and TANF programs, the Department allows the earned income deduction when good cause (see section (5) of this rule) exists.

(c) In the SNAP program, no deduction is applied to earned income not timely reported.

(5) For the purposes of OAR 461-195-0501 to 461-195-0561, "good cause" means circumstances beyond the client's reasonable control that caused the client to be unable to report income timely and accurately.

(6) When support is retained:

(a) In the TANF program, the amount of support (other than cash medical support) the Department of Justice retains as a current reimbursement each month is added to other income to determine eligibility. When a client is not eligible for TANF program benefits, the overpayment is offset by the support the Department of Justice retains as a current reimbursement.

(b) In the medical programs, the amount of the cash medical support the Department retains each month is excluded income and not used to determine eligibility for medical program benefits. When a client has incurred a medical program overpayment, the overpayment is offset by the amount of the cash medical support the Department retains during each month of the overpayment.

(7) In the REF and TANF programs, when a client directly receives support used to determine eligibility or calculate benefits, the overpayment is:

(a) If still eligible for REF or TANF program benefits, the amount of support the client received directly; or

(b) If no longer eligible for REF or TANF program benefits, the amount of program benefits the client received.

(8) When an overpayment occurs due to the failure of an individual to reimburse the Department, when required by law to do so, for benefits or services (including cash medical support) provided for a need for which that individual is compensated by another source, the overpayment is limited to the lesser of the following:

(a) The amount of the payment from the Department;

(b) Cash medical support; or

(c) The amount by which the total of all payments exceeds the amount payable for such a need under the Department's rules.

(9) Benefits paid during a required notice period (see OAR 461-175-0050) are included in the calculation of the overpayment when:

(a) The filing group, ineligible student, or authorized representative failed to report a change within the reporting time frame under OAR 461-170-0011; and

(b) Sufficient time existed for the Department to adjust the benefits to prevent the overpayment if the filing group, ineligible student, or authorized representative had reported the change at any time within the reporting time frame.

(10) In the SNAP program:

(a) If the benefit group (see OAR 461-110-0750) was categorically eligible, there is no overpayment based on resources.

(b) For a filing group (see OAR 461-110-0370) found eligible for SNAP program benefits under OAR 461-135-0505(1)(a) to (c), and the actual income made the group ineligible for the related program, the group remains categorically eligible for SNAP program benefits as long as the eligibility requirement under OAR 461-135-0505(1)(d) is met. A benefit group of one or two individuals would be entitled to at least the minimum SNAP program benefit allotment under OAR 461-165-0060.

(c) For a filing group found eligible for SNAP program benefits only under OAR 461-135-0505(1)(d), and the actual income equals or exceeds 185 percent of the Federal Poverty Level, the filing group is no longer categorically eligible. The overpayment is the amount of SNAP program benefits incorrectly received.

(11) In the OSIP and OSIPM programs, when a client does not pay his or her share of the cost of services (see OAR 461-160-0610) or the OSIP-EPD or OSIPM-EPD program participant fee (see OAR 461-160-0800) in the month in which it is due, an overpayment is calculated as follows:

(a) All payments made by the Department on behalf of the client during the month in question are totaled, including but not limited to any payment for:

(A) Capitation;

(B) Long term care services;

(C) Medical expenses for the month in question;

(D) Medicare buy-in (when not concurrently eligible for an MSP);

(E) Medicare Part D;

(F) Mileage reimbursement;

(G) Special needs under OAR 461-155-0500 to 416-155-0710; and

(H) Home and community-based care (see OAR 461-001-0030), including home delivered meals and non-medical transportation.

ADMINISTRATIVE RULES

(b) Any partial or late liability payment made by a client receiving home and community-based care in-home services or participant fee paid by an OSIP-EPD or OSIPM-EPD program client is subtracted from the total calculated under subsection (a) of this section. The remainder, if any, is the amount of the overpayment.

(12) When a client's liability is unreduced pending the outcome of a contested case hearing about that liability the overpayment is the difference between the liability amount determined in the final order and the amount, if any, the client has repaid.

(13) In the BCCM, CEC, CEM, EXT, MAA, MAF, OHP-CHP, OHP-OPC, OHP-OPP, OHP-OPU, OHP-OP6, OSIPM, QMB, REFM, and SAC programs if the client was not eligible for one program, but during the period in question was eligible for another program:

(a) With the same benefit level, there is no overpayment.

(b) With a lesser benefit level, the overpayment is the amount of medical program benefit payments made on behalf of the client exceeding the amount for which the client was eligible.

(14) When an overpayment is caused by administrative error (see OAR 461-195-0501), any overpayment of GA, OSIP, REF, SFPSS, or TANF program benefits is not counted as income when determining eligibility for the EXT, GAM, MAA, MAF, OSIPM, REFM, and SAC programs.

(15) Credit against an overpayment is allowed as follows:

(a) In the GA, REF, and TANF programs, a credit is allowed for a client's payment for medical services made during the period covered by the overpayment, in an amount not to exceed the Department fee schedule for the service, but credit is not allowed for an elective procedure unless the Department authorized the procedure prior to its completion.

(b) In the SNAP program, if the overpayment was caused by unreported earned income, verified child care costs are allowed as a credit to the extent the costs would have been deductible under OAR 461-160-0040 and 461-160-0430.

(c) In the SFPSS and TANF programs, if the overpayment is caused by reported earned income, a credit is allowed for the Post-TANF grant if the client meets eligibility under OAR 461-135-1250 and the client has received less than 12 months of Post-TANF program benefits.

(d) In all programs, for an underpayment of benefits.

(16) In the SNAP program, in compliance with the American Recovery and Reinvestment Act of 2009, effective April 1, 2009 through September 30, 2009, the amount between the normal Thrifty Food Plan (TFP) benefit amount under this section and the increased TFP benefit amount under OAR 461-155-0190 is not counted in the overpayment amount unless the filing group was ineligible for SNAP program benefits. [Table not included. See ED. NOTE]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.660, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231, 416.350
Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

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Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients

Adm. Order No.: SSP 27-2013

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 8-1-2013

Rules Amended: 461-110-0340, 461-125-0010, 461-125-0030, 461-125-0050, 461-125-0060, 461-125-0090, 461-125-0110, 461-125-0120, 461-125-0130, 461-125-0170, 461-125-0230, 461-125-0250, 461-135-1100, 461-135-1101, 461-140-0210, 461-140-0300, 461-160-0015

Rules Repealed: 461-135-1100(T), 461-135-1101(T)

Subject: OAR 461-110-0340, 461-125-0010, 461-125-0030, 461-125-0050, 461-125-0060, 461-125-0090, 461-125-0110, 461-125-0120, 461-125-0130, 461-125-0170, 461-125-0230, and 461-125-0250 are being amended to revise medical eligibility policies so that

deprivation will no longer be an eligibility requirement for the MAA (Medical Assistance Assumed) and MAF (Medical Assistance to Families) programs. These rules are also being amended to add and clarify cross references to defined terms for the TANF program.

OAR 461-135-1100 about Oregon Health Plan (OHP) eligibility requirements and OAR 461-135-1101 about Healthy KidsConnect (HKC) eligibility requirements are being amended to make permanent temporary rule changes adopted July 1, 2013 that identify the standards by which private major medical health insurance (or Third Party Liability – TPL) may be considered inaccessible and thus does not preclude eligibility for OHP-OPU, OHP-CHP, and Healthy KidsConnect (HKC) programs. OAR 461-135-1100 is also being amended to remove the resource limit as an eligibility requirement for the OHP-OPU medical program as part of early implementation of federal changes that expand medical eligibility.

OAR 461-140-0210, 461-140-0300, and 461-160-0015 are being amended to remove the resource limit as an eligibility requirement for the MAA, MAF, SAC, and OHP-OPU medical programs as part of early implementation of federal changes that expand medical eligibility.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-110-0340

Filing Group; MAF and SAC

(1) In the MAF program, a filing group must include a dependent child (see OAR 461-001-0000) or unborn child and the following household group (see OAR 461-110-0210) members:

(a) Each applicant who meets all nonfinancial eligibility requirements.

(b) Each of the following household group members, even if the member did not apply or does not meet nonfinancial eligibility requirements:

(A) Each parent (see OAR 461-001-0000) of a dependent child in the filing group.

(B) Each parent of an unborn child, as follows:

(i) If there is no other dependent child in the filing group, only the mother and the unborn are in the filing group.

(ii) The father is in the filing group if he is the father of a dependent child in the filing group or is legally married (see OAR 461-001-0000) to the mother.

(C) A needy caretaker relative (see OAR 461-001-0000) of a dependent child.

(D) Except as provided in subsection (2)(a) of this rule, each sibling (see OAR 461-001-0000) of a dependent child if the sibling meets all of the following nonfinancial eligibility requirements:

(i) The age requirement in OAR 461-120-0510.

(ii) The requirement to live with a caretaker relative under OAR 461-120-0630.

(iii) The citizenship or alien status requirements in OAR 461-120-0110.

(2) Notwithstanding the requirements of section (1) of this rule, in the MAF program:

(a) In a two-parent household with common and uncommon children in which the parents are not married, each parent may form their own MAF filing group with their uncommon children.

(b) A father of the unborn is excluded from the MAF filing group if there is no other eligible dependent child in the filing group and he is not legally married to the mother of the unborn.

(c) One or more ineligible noncitizens with income may be excluded from the MAF filing group.

(d) The spouse (see OAR 461-001-0000) and any dependent child of a needy caretaker relative may be excluded from the MAF filing group.

(e) A sibling of a dependent child may be excluded from the MAF filing group if the sibling is receiving adoption assistance (see OAR 461-001-0000) or guardianship assistance (see OAR 461-145-0001 and 461-145-0200) and if counting the sibling's income causes the filing group to be ineligible for benefits.

(f) A dependent child is not included in the MAF filing group if the dependent child is or will be receiving foster care payments for more than 30 days.

(3) In the SAC program, the filing group includes each household group member who meets all nonfinancial eligibility requirements.

Stat. Auth.: ORS 411.060, 411.070, 411.404 & 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 414.025 & 414.231

ADMINISTRATIVE RULES

Hist.: AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0010

Deprivation as an Eligibility Requirement

(1) To be eligible for the TANF program, a dependent child (see OAR 461-001-0000) must be deprived.

(2) Deprivation is the loss of parental support or care because of the absence, death, incapacity, unemployment, or underemployment of a parent (see OAR 461-001-0000).

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.006 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 412.006 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1993, f. & cert. ef. 2-1-93; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0030

Determining Deprivation of a Child

(1) In the TANF program, determination of deprivation for a child (see OAR 461-001-0000) who lives with one parent (see OAR 461-001-0000) or does not live with a parent is based on the continued absence or death of a parent.

(2) Determination of deprivation for a child who lives with two parents is based on:

(a) The unemployment or underemployment of the parent who is the primary wage earner (PWE); or

(b) The incapacity of a parent.

(3) If a child meets deprivation on more than one basis, the branch office (see OAR 461-001-0000) may choose which reason to use. However, the choice cannot adversely affect the child's eligibility.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.006 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 412.006 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0050

Determining Deprivation for Child/Unborn without Legal Paternity

In the TANF program, deprivation is based only on incapacity, underemployment, or unemployment if:

(1) The mother and alleged father of the dependent child (see OAR 461-001-0000) or unborn are living together; and

(2) Either the mother or the alleged father claim the alleged father is, in fact, the father, and no other man has been identified as the father.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 411.300, 411.404, 411.632, 412.006 & 412.024

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 411.300, 411.404, 411.632, 412.006, 412.024 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0060

Deprivation Based on Death

If either *parent* (see OAR 461-001-0000) of a child (see OAR 461-001-0000) is deceased and the other parent has not remarried, or has remarried but the stepparent is not living in the home, the child meets TANF deprivation based on death.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0090

Deprivation Based on Continued Absence of a Parent

In the TANF program, there is deprivation based on continued absence if all the following are true:

(1) The child (see OAR 461-001-0000) lives with only one parent (see OAR 461-001-0000) or does not live with any parent.

(2) The nature of the parent's absence interrupts or ends their function as a provider of maintenance, physical care, or guidance for the dependent child (see OAR 461-001-0000).

(3) The known or indefinite duration of the absence precludes counting on the parent's performance of the functions of planning for the present support and care of the dependent child.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0110

Situations of Deprivation Based on Continued Absence

In the TANF program, if the child (see OAR 461-001-0000) lives with only one parent (see OAR 461-001-0000) or does not live with any parent,

deprivation based on continued absence exists if any of the following is true:

(1) The absent parent is confined to an institution and the confinement is anticipated to last more than 30 days.

(2) The absent parent is living at home only to serve a court-imposed sentence by performing unpaid public work and unpaid community service during the workday.

(3) The dependent child (see OAR 461-001-0000) is adopted by a single parent and the parent is not living with a spouse (see OAR 461-001-0000).

(4) The identity of the absent parent is not known or more than one individual is identified as the child's father and legal paternity has not been established.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0120

Situations of No Deprivation Based on Continued Absence

In the TANF program, deprivation based on continued absence does not exist if any of the following is true:

(1) The absence is due solely to the parent's participation in the uniformed services of the United States.

(2) Both parents share care, control, and supervision of the child (see OAR 461-001-0000) within each calendar month. This means:

(a) Each parent (see OAR 461-001-0000) makes significant decisions about their child's life; and

(b) The child sleeps at least 30 percent of the time during the calendar month in the home of each parent.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0130

Evidence of Deprivation Based on Continued Absence; MAA, MAF, TANF

In the TANF program:

(1) There is deprivation based on continued absence (except as specified in OAR 461-125-0120) if the absent parent (see OAR 461-001-0000) is not living in the same home as the dependent child (see OAR 461-001-0000), per section (2) of this rule, and the visits of the absent parent with the dependent child in the child's home do not exceed four times per week or a total of 30 hours per week.

(2) The Department uses the following guidelines in deciding whether the absent parent is living in the same home as the dependent child:

(a) The absent parent is not living in the same home as the dependent child if either of the following is true:

(A) The absent parent and the dependent child have been living in separate homes for 30 days or more; or

(B) The absent parent and the dependent child have been living in separate homes for less than 30 days, but at least one of the following is true:

(i) The filing group was receiving TANF when the absent parent and dependent child began living in separate homes.

(ii) The client is a victim of domestic violence (see OAR 461-001-0000).

(iii) The parents have filed for divorce or legal separation.

(iv) The absent parent and dependent child have established separate verifiable residences.

(b) The absent parent is considered to be living in the same home as the dependent child if the absent parent sleeps at least 30 percent of the time during the calendar month in the child's home.

(c) If the absent parent is living on the same property as the dependent child, they are considered to be living in the same home as the dependent child, unless all the following are true:

(A) The absent parent is the owner of the property, or is a tenant on the property. To be a tenant, the absent parent must be billed for rent.

(B) The absent parent lives independently from the dependent child and caretaker relative (see OAR 461-001-0000).

(C) The absent parent:

(i) Has and uses sleeping, bathroom and kitchen facilities separate from the dependent child and caretaker relative; or

(ii) Shares bathroom or kitchen facilities with the dependent child and caretaker relative, but the facilities are in a commercial establishment that provides room or board or both at a fair market rate.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.049, 412-114

ADMINISTRATIVE RULES

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.404, 412.049, 412.114
Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 11-1999, f. & cert. ef. 10-1-99; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0170

Deprivation Based on Unemployment or Underemployment of the Primary Wage Earner (PWE); TANF

In the TANF program, deprivation based on the unemployment or underemployment of the PWE exists if all the following are true:

- (1) A child (see OAR 461-001-0000) lives with two parents.
 - (2) The PWE is unemployed or underemployed.
 - (3) The PWE is not participating in a labor dispute.
- Stat. Auth.: ORS 411.060, 411.070, 411.400, 412.006, 412.016, 412.049
Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.016, 412.049, 412.064, 2011 Or. Laws 604, 2012 Or. Laws 107
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; SSP 18-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 1-28-10; SSP 32-2009(Temp), f. & cert. ef. 10-29-09 thru 1-28-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0230

Deprivation Based on the Incapacity of a Parent

In the TANF program, deprivation based on incapacity exists if a child (see OAR 461-001-0000) lives with two parents and:

- (1) At least one parent (see OAR 461-001-0000) is receiving SSI and/or SSB based on disability or blindness; or
- (2) Medical documentation establishes that the parent has a physical or mental condition that:
 - (a) Is expected to last for at least 30 days from the date of request (see OAR 461-115-0030) for TANF; and
 - (b) Substantially reduces or eliminates the parent's ability to support or care for their dependent child (see OAR 461-001-0000), taking into consideration the following:
 - (A) The limited job market opportunities of incapacitated individuals; and
 - (B) The parent's education, training, work history, age and other related factors.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0250

Criteria for Determining the Incapacity of a Parent

In the TANF program, a condition is considered to substantially reduce or eliminate the parent's ability to support or care for their dependent child (see OAR 461-001-0000) if, as a result of the condition, one of the following criteria is met:

- (1) The parent (see OAR 461-001-0000) is unable to provide adequate care for the dependent child without help from others. Adequate care includes feeding, cleaning and supervising the dependent child.
- (2) The parent is unable to perform any type of employment.
- (3) The parent is able to perform work only in a job that is rehabilitative or in a sheltered workshop.
- (4) The parent is unable to work at least 30 hours a week at employment paying at least state or federal minimum wage, whichever is greater.
- (5) The number of hours the parent is able to work is substantially reduced.
- (6) The parent is unable to work at their customary employment, but is able to work at employment for which they are equipped by education, training, or experience, that pays substantially less than their customary employment.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; SSP 27-2013, f. & cert. ef. 10-1-13

461-135-1100

Specific Requirements; OHP

In addition to eligibility requirements applicable to the OHP program in other rules in chapter 461 of the Oregon Administrative Rules, this rule sets out specific eligibility requirements for the OHP program.

(1) For purposes of this rule, OAR 461-135-1101, and 461-135-1149, the term private major medical health insurance refers to a comprehensive major medical insurance plan that at a minimum provides physician services; hospitalization (inpatient and outpatient); outpatient lab, x-ray, immu-

nizations; and prescription drug coverage. This term does not include coverage under the Kaiser Child Health Program or Kaiser Transition Program but does include policies that are purchased privately or are employer-sponsored.

- (2) To be eligible for the OHP program, an individual cannot:
 - (a) Be receiving, or deemed to be receiving, SSI benefits;
 - (b) Be eligible for Medicare, except that this requirement does not apply to the OHP OPP program;
 - (c) Be receiving Medicaid through another program; or
 - (d) Be enrolled in a health insurance plan subsidized by the Family Health Insurance Assistance program (FHIAP, see ORS 735.720 to 735.740).

(3) To be eligible for the OHP-OPU program, an individual must be 19 years of age or older and may not be pregnant. An individual eligible for the OHP-OPU program is referred to as a health plan new/noncategorical (HPN) client. In addition to all other OHP program eligibility requirements, an HPN client:

(a) May not be covered by private major medical health insurance that is accessible to the HPN client. For the purposes of this rule, an individual may be eligible for OHP-OPU if they have private major medical health insurance that is not accessible for one or more of the following reasons:

- (A) The travel time or distance to available providers exceeds:
 - (i) In urban areas — 30 miles, 30 minutes, or the community standard, whichever is greater;
 - (ii) In rural areas — 60 miles, 60 minutes, or the community standard, whichever is greater.

(B) Accessing the private major medical health insurance would place a filing group member at risk of harm.

(b) May not have been covered by private major medical health insurance during the six months preceding the effective date for starting medical benefits. The six-month waiting period is waived if:

- (A) The criteria in subsection (a) of this section are met.
- (B) The individual has a condition that, without treatment, would be life-threatening or would cause permanent loss of function or disability;
- (C) The individual's private health insurance premium was reimbursed under the provisions of OAR 461-135-0990;
- (D) The individual's private health insurance was subsidized through FHIAP or the Office of Private Health Partnerships (OPHP) in accordance with ORS 414.231, 414.826, 414.831, and 414.839; or
- (E) A member of the individual's filing group was a victim of domestic violence.

(c) Must meet the following eligibility requirements:

- (A) Payment of premiums determined in accordance with OAR 461-155-0235 and paid in accordance with OAR 461-135-1120; and
- (B) The requirements in OAR 461-120-0345 related to obtaining medical coverage for members of the benefit group through the Family Health Insurance Assistance Program (FHIAP), if applicable.

(4) To be eligible for the OHP-OPC program, an individual must be less than 19 years of age.

(5) To be eligible for the OHP-OP6 program, a child must be less than six years of age and not eligible for OHP-OPC.

(6) To be eligible for the OHP-OPP program, an individual must be pregnant or must be a newborn assumed eligible under OAR 461-135-0010(4).

(7) To be eligible for the OHP-CHP program, an individual must be under 19 years of age and must:

(a) Not be eligible for the OHP-OPC, OHP-OPP, or OHP-OP6 programs;

(b) Meet budgeting requirements of OAR 461-160-0700;

(c) For eligibility decisions prior to August 16, 2010, select a medical, dental and mental health managed health care plan (MHCP) or primary care case manager (PCCM) if available, unless the client is exempted by OAR 410-141-0060; and

(d) Not be covered by any private major medical health insurance. For the purposes of this rule, an individual may be eligible for OHP-CHP if they have private major medical health insurance that is not accessible for one or more of the following reasons:

- (A) The travel time or distance to available providers exceeds:
 - (i) In urban areas — 30 miles, 30 minutes, or the community standard, whichever is greater;
 - (ii) In rural areas — 60 miles, 60 minutes, or the community standard, whichever is greater.

(B) Accessing the private major medical health insurance would place a filing group member at risk of harm.

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(e) Not be covered by private major medical health insurance during the two months preceding the effective date for starting medical benefits. The two-month waiting period is waived if:

(A) The criteria in subsection (d) of this section are met.

(B) The individual has a condition that, without treatment, would be life threatening or cause permanent loss of function or disability;

(C) The loss of health insurance was due to the loss of or a change in employment;

(D) The individual's private health insurance premium was reimbursed under OAR 461 135 0990;

(E) The individual's private health insurance was subsidized through FHIAP or the Office of Private Health Partnerships (OPHP) in accordance with ORS 414.231, 414.826, 414.831, and 414.839; or

(F) A member of the individual's filing group was a victim of domestic violence.

(8) A child who becomes ineligible for the OHP program because of age while receiving in patient medical services remains eligible until the end of the month in which he or she no longer receives those services if he or she is receiving in-patient medical services on the last day of the month in which the age requirement is no longer met.

(9) In the HKC, OHP-CHP, and OHP-OPC programs, for the Department to enroll a child in the program based on a determination made by an ELA, the child's parent or guardian must give consent in writing, by telephone, orally, or through electronic signature for the child to be enrolled in the program.

(10) The Department only may use ELE for a child in a filing group in which no member is already receiving benefits through the CEC, CEM, EXT, HKC, MAA, MAF, OHP-CHP, OHP-OPP, OHP-OP6, OSIPM, or SAC program.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 414.115, 414.231
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.704, 411.706, 414.025, 414.115, 414.231, 414.826, 414.831, 414.839
Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 13-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 36-2009(Temp), f. & cert. ef. 12-1-09 thru 12-31-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 9-2010(Temp), f. & cert. ef. 4-21-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 21-2010(Temp), f. & cert. ef. 7-1-10 thru 10-18-10; SSP 24-2010(Temp), f. & cert. ef. 7-15-10 thru 10-18-10; SSP 27-2010(Temp), f. & cert. ef. 8-16-10 thru 10-18-10; SSP 30-2010(Temp), f. & cert. ef. 8-25-10 thru 10-18-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 35-2010(Temp), f. & cert. ef. 10-1-10 thru 3-30-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 36-2011(Temp), f. 12-27-11, cert. ef. 1-1-12 thru 6-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 15-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 20-2013(Temp), f. & cert. ef. 8-23-13 thru 12-28-13; SSP 20-2013(Temp), f. & cert. ef. 8-23-13 thru 12-28-13; SSP 27-2013, f. & cert. ef. 10-1-13

461-135-1101

Specific Requirements; Healthy KidsConnect (HKC)

In addition to eligibility requirements applicable to the OHP program in other rules in chapter 461 of the Oregon Administrative Rules, this rule sets out specific eligibility requirements for the OHP program.

(1) For purposes of this rule, OAR 461-135-1101, and 461-135-1149, the term private major medical health insurance refers to a comprehensive major medical insurance plan that at a minimum provides physician services; hospitalization (inpatient and outpatient); outpatient lab, x-ray, immunizations; and prescription drug coverage. This term does not include coverage under the Kaiser Child Health Program or Kaiser Transition Program but does include policies that are purchased privately or are employer-sponsored.

(2) To be eligible for the OHP program, an individual cannot:

(a) Be receiving, or deemed to be receiving, SSI benefits;

(b) Be eligible for Medicare, except that this requirement does not apply to the OHP OPP program;

(c) Be receiving Medicaid through another program; or

(d) Be enrolled in a health insurance plan subsidized by the Family Health Insurance Assistance program (FHIAP, see ORS 735.720 to 735.740).

(3) To be eligible for the OHP-OPU program, an individual must be 19 years of age or older and may not be pregnant. An individual eligible for the OHP-OPU program is referred to as a health plan new/noncategorical (HPN) client. In addition to all other OHP program eligibility requirements, an HPN client:

(a) May not be covered by private major medical health insurance that is accessible to the HPN client. For the purposes of this rule, an individual

may be eligible for OHP-OPU if they have private major medical health insurance that is not accessible for one or more of the following reasons:

(A) The travel time or distance to available providers exceeds:

(i) In urban areas — 30 miles, 30 minutes, or the community standard, whichever is greater;

(ii) In rural areas — 60 miles, 60 minutes, or the community standard, whichever is greater.

(B) Accessing the private major medical health insurance would place a filing group member at risk of harm.

(b) May not have been covered by private major medical health insurance during the six months preceding the effective date for starting medical benefits. The six-month waiting period is waived if:

(A) The criteria in subsection (a) of this section are met.

(B) The individual has a condition that, without treatment, would be life-threatening or would cause permanent loss of function or disability;

(C) The individual's private health insurance premium was reimbursed under the provisions of OAR 461-135-0990;

(D) The individual's private health insurance was subsidized through FHIAP or the Office of Private Health Partnerships (OPHP) in accordance with ORS 414.231, 414.826, 414.831, and 414.839; or

(E) A member of the individual's filing group was a victim of domestic violence.

(c) Must meet the following eligibility requirements:

(A) Payment of premiums determined in accordance with OAR 461-155-0235 and paid in accordance with OAR 461-135-1120; and

(B) The requirements in OAR 461-120-0345 related to obtaining medical coverage for members of the benefit group through the Family Health Insurance Assistance Program (FHIAP), if applicable.

(4) To be eligible for the OHP-OPC program, an individual must be less than 19 years of age.

(5) To be eligible for the OHP-OP6 program, a child must be less than six years of age and not eligible for OHP-OPC.

(6) To be eligible for the OHP-OPP program, an individual must be pregnant or must be a newborn assumed eligible under OAR 461-135-0010(4).

(7) To be eligible for the OHP-CHP program, an individual must be under 19 years of age and must:

(a) Not be eligible for the OHP-OPC, OHP-OPP, or OHP-OP6 programs;

(b) Meet budgeting requirements of OAR 461-160-0700;

(c) For eligibility decisions prior to August 16, 2010, select a medical, dental and mental health managed health care plan (MHCP) or primary care case manager (PCCM) if available, unless the client is exempted by OAR 410-141-0060; and

(d) Not be covered by any private major medical health insurance. For the purposes of this rule, an individual may be eligible for OHP-CHP if they have private major medical health insurance that is not accessible for one or more of the following reasons:

(A) The travel time or distance to available providers exceeds:

(i) In urban areas — 30 miles, 30 minutes, or the community standard, whichever is greater;

(ii) In rural areas — 60 miles, 60 minutes, or the community standard, whichever is greater.

(B) Accessing the private major medical health insurance would place a filing group member at risk of harm.

(e) Not be covered by private major medical health insurance during the two months preceding the effective date for starting medical benefits. The two-month waiting period is waived if:

(A) The criteria in subsection (d) of this section are met.

(B) The individual has a condition that, without treatment, would be life threatening or cause permanent loss of function or disability;

(C) The loss of health insurance was due to the loss of or a change in employment;

(D) The individual's private health insurance premium was reimbursed under OAR 461 135 0990;

(E) The individual's private health insurance was subsidized through FHIAP or the Office of Private Health Partnerships (OPHP) in accordance with ORS 414.231, 414.826, 414.831, and 414.839; or

(F) A member of the individual's filing group was a victim of domestic violence.

(8) A child who becomes ineligible for the OHP program because of age while receiving in patient medical services remains eligible until the end of the month in which he or she no longer receives those services if he or she is receiving in-patient medical services on the last day of the month in which the age requirement is no longer met.

ADMINISTRATIVE RULES

(9) In the HKC, OHP-CHP, and OHP-OPC programs, for the Department to enroll a child in the program based on a determination made by an ELA, the child's parent or guardian must give consent in writing, by telephone, orally, or through electronic signature for the child to be enrolled in the program.

(10) The Department only may use ELE for a child in a filing group in which no member is already receiving benefits through the CEC, CEM, EXT, HKC, MAA, MAF, OHP-CHP, OHP-OPP, OHP-OP6, OSIPM, or SAC program.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 414.025, 414.231, 414.826, 414.831, 414.839
Stats. Implemented: ORS 411.060, 411.070, 411.404, 414.025, 414.231, 414.826, 414.831, 414.839
Hist: SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 15-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 20-2013(Temp), f. & cert. ef. 8-23-13 thru 12-28-13; SSP 27-2013, f. & cert. ef. 10-1-13

461-140-0210

Asset Transfer; General Information and Timelines

(1) OAR 461-140-0210 to 461-140-0300 regulate the effect of a transfer of an asset on a client.

(2) If an asset is transferred during the periods of time listed in section (4) or (5) of this rule and if the transfer is made in whole or in part for the purpose of establishing or maintaining eligibility for benefits:

(a) In the REFM program, the filing group is disqualified if:

(A) A member of the financial group (see OAR 461-110-0530) transferred the asset; and

(B) The client is an inpatient in a nursing facility, or is an inpatient in a medical institution in which payment for the client is based on a level of care provided in a nursing facility.

(b) In the REF, SNAP, and TANF programs, the filing group is disqualified if:

(A) The asset was a resource; and

(B) A member of the financial group transferred the resource.

(c) In the GA, GAM, OSIP, and OSIPM programs, a client in a non-standard living arrangement (see OAR 461-001-0000) is disqualified if the client or the spouse of the client transferred the asset.

(3) In all programs except the ERDC, EXT, MAA, MAF, OHP, and SAC programs, clients in financial groups whose members transfer an asset covered under section (2) of this rule within the time periods listed in section (4) or (5) of this rule must report the transfer as soon as practicable and must provide information requested by the Department concerning the transfer.

(4) In the REF, REFM, SNAP, and TANF programs, a transfer of an asset may be disqualifying if the transfer occurs:

(a) In the REFM program, during the three years preceding the date of request (see OAR 461-115-0030).

(b) In the SNAP program, during the three months preceding the filing date or during a certification period (see OAR 461-001-0000) if the asset was a resource.

(c) In the REF and TANF programs, during the three years preceding the date of request (see OAR 461-115-0030) if the asset was a resource.

(5) In the GA, GAM, OSIP, and OSIPM programs, for a client in a nonstandard living arrangement, a transfer of an asset may be disqualifying if the transfer occurs:

(a) On or before June 30, 2006 and as described in one of the following paragraphs:

(A) On or after the date that is 60 months prior to the date of request — for assets that are transferred without compensation equal to or greater than fair market value from a revocable trust (see OAR 461-145-0540(7)(c)).

(B) On or after the date that is 60 months prior to the date of request — for assets that are transferred without compensation equal to or greater than fair market value to an irrevocable trust (see OAR 461-145-0540(8)(a)).

(C) On or after the date that is 60 months prior to the date of request — when there is a change in circumstances that makes assets in an irrevocable trust unavailable to the client (see OAR 461-145-0540(8)(d)).

(D) On or after the date that is 36 months prior to the date of request — for assets transferred without compensation equal to or greater than fair market value from an irrevocable trust (see OAR 461-145-0540(8)(b) and (c)).

(E) On or after the date that is 36 months prior to the date of request — for other asset transfers made without compensation equal to or greater than fair market value.

(b) On or after:

(A) July 1, 2006; and

(B) The date that is 60 months prior to the date of request.

(6) The duration of the period of disqualification or ineligibility is set out in OAR 461-140-0260 to 461-140-0300.

Stat. Auth.: ORS 411.060, 411.710, 412.049, 418.816

Stats. Implemented: ORS 411.060, 411.710, 412.049, 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 27-2013, f. & cert. ef. 10-1-13

461-140-0300

Adjustments to the Disqualification for Asset Transfer

(1) The disqualification imposed under OAR 461-140-0260 is not adjusted once applied in the SNAP program.

(2) In all other programs, the disqualification ends if the transfer that caused the disqualification is rescinded. The duration of the disqualification is recalculated if the terms of the transfer are modified.

(3) In the GA, GAM, OSIP, OSIPM, and REFM programs, the Department may waive the disqualification if the disqualification would create an undue hardship on the client. For purposes of this section, the disqualification would create an undue hardship if the requirements of subsections (a) and (b) of this section are met:

(a) The client has no other means for meeting his or her needs. The client has the burden of proving that no other means exist by:

(A) Exploring and pursuing all reasonable means to recover the assets to the satisfaction of the Department, including legal remedies and consultation with an attorney; and

(B) Cooperating with the Department to take action to recover the assets.

(b) The disqualification would deprive the client of:

(A) Medical care such that the client's health or life would be endangered; or

(B) Food, clothing, shelter, or other necessities of life without which the health or life of the client would be endangered.

(4) As authorized by ORS 411.620, the Department retains the authority to bring a civil suit or action to set aside a transfer of assets for less than fair market value and may seek recovery of all costs associated with such an action.

(5) Notwithstanding the granting of an undue hardship waiver under section (3) of this rule, the Department is not precluded from recovering public assistance from any assets in which the client held an interest, or in which the client previously held an interest, at the time the undue hardship waiver was granted.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.632

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 26-2000, f. & cert. ef. 10-4-00; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 27-2013, f. & cert. ef. 10-1-13

461-160-0015

Resource Limits

(1) In the EA program, all countable (see OAR 461-001-0000) resources must be used to meet the emergent need.

(2) In the ERDC, EXT, HKC, MAA, MAF, OHP, REFM, and SAC programs, there is no resource limit.

(3) In the GA, GAM, OSIP, and OSIPM programs, the resource limit is as follows:

(a) \$2,000 for a one-person need group (see OAR 461-110-0630) and \$3,000 for a two-person need group.

(b) \$1,000 for an OSIP need group eligible under OAR 461 135 0771. The total cash resources may not exceed \$500 for a one-person need group or \$1,000 for a two-person need group.

(c) \$5,000 is the limit for the OSIP-EPD and OSIPM-EPD programs (see OAR 461-001-0035 and 461-145-0025 for funds that may be excluded as approved accounts).

(4) In the REF and TANF programs, the resource limit is:

(a) \$2,500 for any of the following:

(A) A new REF or TANF applicant for benefits.

(B) REF and TANF need groups which do not have at least one caretaker relative or parent who is receiving TANF.

(C) REF and TANF need groups which have at least one JOBS participant who is:

(i) Receiving TANF and not progressing in an activity (see OAR 461-001-0025) of an open JOBS case plan (see OAR 461-001-0025); or

(ii) Serving a current JOBS disqualification.

ADMINISTRATIVE RULES

(b) \$10,000 for a need group not covered under subsection (a) of this section.

(5) In the QMB program, the resource limit is amended in January of each year based on the low income subsidy for Medicare Part D as published by the Health Resources and Services Administration of the U.S. Department of Health and Human Services. Effective January 1, 2013 the resource limit is \$7,080 for a one-person need group and \$10,620 for a need group containing two or more individuals.

(6) In the SNAP program, the resource limit is:

(a) \$3,250 for a financial group (see OAR 461-110-0530) with at least one member who is elderly (see OAR 461-001-0015) or an individual with a disability (see OAR 461-001-0015).

(b) \$2,000 for all other financial groups.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.706, 411.816, 412.049, 414.231
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.831, 414.839
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 17-2003, f. & cert. ef. 7-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 27-2013, f. & cert. ef. 10-1-13

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients

Adm. Order No.: SSP 28-2013(Temp)

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13 thru 1-28-14

Notice Publication Date:

Rules Amended: 461-115-0050, 461-150-0060, 461-180-0010, 461-180-0090

Rules Suspended: 461-115-0050(T), 461-135-1102, 461-150-0055, 461-150-0060(T), 461-180-0010(T), 461-180-0090(T)

Subject: OAR 461-135-1102 and OAR 461-150-0055, which were amended by temporary rule on August 1, 2013, are being suspended; and OAR 461-115-0050, OAR 461-150-0060, OAR 461-180-0010, and OAR 461-180-0090 which were also amended by temporary rule on August 1, 2013 — are being further amended as part of the process to move MAGI medical program policy from OAR 461 (DHS) into the OAR 410-200 (under OHA) and as part of the ACA implementation efforts. OAR 461-150-0060 about prospective budgeting and eligibility is also being amended to continue — as a temporary amendment to the rule as amended by permanent rule on October 1, 2013 — the language originally adopted by temporary rule on August 1, 2013, clarifying that actual income is used when there is a new or terminated source of income in the initial month of eligibility for the Temporary Assistance for Needy Families (TANF) and Refugee programs.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-115-0050

When an Application Must Be Filed

(1) A client must file an application, or may amend a completed application, as a prerequisite to receiving benefits as follows:

(a) A client may apply for the TA-DVS program as provided in OAR 461-135-1220.

(b) In all programs except the TA-DVS program:

(A) Except as provided otherwise in this rule, a client wishing to apply for program benefits must submit a complete application on a form approved by the Department.

(B) An application is complete if all of the following requirements are met:

(i) All information necessary to determine the individual's eligibility and benefit amount is provided on the application for each individual in the filing group.

(ii) The applicant, even if homeless, provides a mailing address.

(iii) The application is signed. An individual required but unable to sign the application may sign with a mark, witnessed by another individual.

(iv) The application is received by the Department, except an electronic application (see OAR 461-001-0000) meets the requirements of this paragraph only when submitted to and received by the Department with an electronic signature.

(2) A new application is not required in the following situations:

(a) In the SNAP program, when a single application can be used both to determine a client is ineligible in the month of application and to determine the client is eligible the next month. This can be done when:

(A) Anticipated changes make the filing group (see OAR 461-110-0370) eligible the second month; or

(B) The filing group provides verification between 30 and 60 days following the filing date (see 461-115-0040), under OAR 461-180-0080.

(b) In all programs except the SNAP program, when a single application can be used both to determine a client is ineligible on the date of request (see OAR 461-115-0030) and to determine the client is eligible when anticipated changes make the filing group eligible within 45 days from the date of request.

(c) When the case is closed and reopened during the same calendar month.

(d) When benefits were suspended for one month because of the level of income, and the case is reopened the month following the month of suspension.

(e) When reinstating medical benefits for a pregnant woman covered by OAR 461-135-0950, notwithstanding subsection (g) of this section.

(f) In the GAM, OSIPM, and QMB programs, when a client's medical benefits are suspended because the client lives in a public institution (see OAR 461-135-0950), if the inmate is released within 12 months of admission and the inmate provides notification to the Department within 10 days of the release.

(3) When a client establishes a new date of request (see OAR 461-115-0030) prior to the end of the month following the month of case closure, unless the Department determines a new application is required, a new application is not required in the following situations:

(a) In the OSIPM program, when the client's case closed due to failure to make a liability payment required under OAR 461-160-0610.

(b) In the OSIPM-EPD program, when the client's case closed due to failure to make a participant fee payment required under OAR 461-160-0800.

(4) A new application is required to add a newborn child to a benefit group (see OAR 461-110-0750) according to the following requirements:

(a) For the REF and TANF programs:

(A) A new application is not required if the child is listed on the application as "unborn" and there is sufficient information about the child to establish its eligibility.

(B) A new application is required if the child is not included on the application as "unborn."

(b) In the REFM program, no additional application is required to add a newborn to a benefit group receiving benefits from one of the listed programs if eligibility can be determined without submission of a new application.

(c) In the GAM, OSIPM, QMB, and REFM programs, no additional application is required to add an assumed eligible newborn to a benefit group currently receiving Department medical program benefits.

(d) In the ERDC and SNAP programs, an application is not required to add the child to the benefit group.

(e) In all programs other than ERDC, GAM, QMB, REF, REFM, SNAP, and TANF, an application is required.

(5) A new application is required to add an individual, other than a newborn child, to a benefit group according to the following requirements:

(a) In the ERDC and SNAP programs, a new application is not required.

(b) In the REF, REFM, and TANF programs, an individual may be added by amending a current application if the information is sufficient to determine eligibility; otherwise a new application is required.

(c) In all programs other than the ERDC, REF, REFM, SNAP, and TANF programs, a new application is required.

(6) A client whose TANF grant is closing may request ERDC orally or in writing.

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(7) Except for an applicant for the SNAP program, a client may change between programs administered by the Department using the current application if the following conditions are met:

- (a) The client makes an oral or written request for the change.
- (b) The Department has sufficient evidence to determine eligibility and benefit level for the new program without a new application.
- (c) The program change can be effected while the client is eligible for the first program.

(8) In the OSIP, OSIPM, and QMB programs, a new application is not required to redetermine eligibility if the following conditions are met:

- (a) The client currently is receiving benefits from one of these programs; and
- (b) The Department has sufficient evidence to redetermine eligibility for the same program or determine eligibility for the new program without a new application or by amending the current application.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.839
Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.839
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 3-1991(Temp), f. & cert. ef. 1-17-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 27-1996, f. 6-27-1996, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 21-2001(Temp), f. & cert. ef. 10-1-01 thru 12-31-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 2-2008(Temp), f. & cert. ef. 1-28-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 17-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 1-28-10; SSP 22-2009(Temp), f. & cert. ef. 8-28-09 thru 1-28-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 19-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 1-28-14; SSP 28-2013(Temp), f. & cert. ef. 10-1-13 thru 1-28-14

461-150-0060

Prospective or Retrospective Eligibility and Budgeting; ERDC, REF, REFM, SNAP, TANF

In the ERDC, REF, REFM, SNAP, and TANF programs, the Department determines how and when to use prospective or retrospective eligibility (see OAR 461-001-0000) and budgeting (see OAR 461-001-0000) as follows:

- (1) For the initial month (see OAR 461-001-0000):
 - (a) In the ERDC program, income is budgeted so the anticipated amount is the same for each month, including the initial month.
 - (b) For a SNAP case in CRS, the Department uses actual income (see subsection (h) of this section) in the initial month.
 - (c) For a SNAP program case in SRS, actual income is used in the initial month if that income is not reflective of ongoing monthly income due to a new or terminated source or a significant change in ongoing income. All other income is processed under section (3) of this rule.

(d) In the REF and TANF programs, ongoing income, processed under section (2) of this rule, is used in the initial month, except when the source of income is a new or terminated source. When there is a new or terminated source of income, actual income is used in the initial month.

(e) In the REFM program, the Department uses only the initial month for eligibility and budgeting.

(f) The Department uses prospective eligibility and budgeting under OAR 461-150-0020 for cases not covered under subsections (a) to (e) of this section, including for a client who leaves a filing group because of domestic violence (see OAR 461-001-0000) and enters a domestic violence shelter (see OAR 461-001-0000) or safe home (see OAR 461-001-0000).

(g) No supplement is issued based on incorrectly anticipated information.

(h) "Actual income" is the income already received in the initial month plus all the income that reasonably may be expected to be received within the initial month.

(2) Income is budgeted so that the anticipated amount is the same for each month. The type of income is determined and calculated as follows:

- (a) Income that must be annualized is calculated under OAR 461-150-0090 to arrive at a monthly figure.
- (b) Educational income (see OAR 461-145-0150) is assigned to the months it is intended to cover, regardless of when it is received. The income is prorated over these months.

(c) Ongoing stable income (see OAR 461-001-0000) is anticipated under OAR 461-150-0070.

(d) Ongoing variable income (see OAR 461-001-0000) is anticipated under OAR 461-150-0080.

(e) Periodic income (see OAR 461-001-0000) is anticipated under OAR 461-140-0100 and 461-140-0110.

(f) Lump-sum income (see OAR 461-001-0000) is anticipated under OAR 461-140-0100, 461-140-0200, and 461-140-0123.

(g) In the ERDC program, for temporary income and other situations when the child care need will last two consecutive months or less, the income is anticipated to be received in the months of child care need and calculated under OAR 461-150-0080.

(3) For an ongoing month (see OAR 461-001-0000):

(a) For a benefit group (see OAR 461-110-0750), the Department uses prospective eligibility and budgeting. The type of income is determined and calculated under section (2) of this rule.

(b) If the budgeting method changes from prospective to retrospective, the Department treats income from a terminated source that was counted prospectively as follows:

(A) If the actual amount received was less than or equal to the anticipated amount, the income is excluded.

(B) If the actual amount received was greater than the anticipated amount, the Department counts the difference between actual and anticipated amounts.

(4) When an individual is added to an ongoing filing and benefit group, prospective budgeting is used to determine eligibility.

(5) In the ERDC and SNAP programs, income reported on the Interim Change Report form under OAR 461-170-0011 and 461-170-0102 is used to determine eligibility and benefit level. Income for the fifth month of the SNAP program certification period (see OAR 461-001-0000) is used to determine the income for the seventh and following months in the certification period if the client anticipates it will remain the same throughout the period. If the client anticipates the income will change, the client and the Department jointly estimate the income for the remaining months of the certification period. For a client who had self-employment income annualized, no change is made unless there is a substantial change in the revenue of the business.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 19-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 1-28-14; SSP 28-2013(Temp), f. & cert. ef. 10-1-13 thru 1-28-14

461-180-0010

Effective Dates; Adding a New Person to an Open Case

(1) In the following programs, the effective date for adding an individual (other than an assumed eligible newborn) to the benefit group (see OAR 461-110-0750) is one of the following:

(a) In the GAM, OSIPM, and REFM programs, it is whichever occurs first:

(A) The date the client requests benefits, if the client was eligible as of that date.

(B) The date all eligibility requirements are met.

(b) In the SNAP program:

(A) If adding the individual increases benefits, it is the first of the month after the filing group (see OAR 461-110-0370) reports the person has joined the household group (see OAR 461-110-0210). If verification is requested, the effective date for the change is:

(i) The first of the month following the date the change was reported if verification is received by the Department no later than the due date for the verification.

(ii) The first of the month following the date the verification is received by the Department, if received after the verification due date.

(B) If adding the individual reduces benefits, it is the first of the month following the month in which the notice period ends (see OAR 461-175-0050).

(c) In the GA, OSIP, REF, SFPSS, and TANF programs, it is the date on which all eligibility requirements are met and verified. If benefits have been issued for the month and adding the new person would reduce benefits, the person is added the first of the month following the month in which the notice period ends (see OAR 461-175-0050).

ADMINISTRATIVE RULES

(d) In the QMB-BAS and QMB-DW programs, it is the first of the month after the new individual has been determined to meet all QMB eligibility criteria and the Department receives the required verification.

(e) In the QMB-SMB program, it is the first of the month in which the new individual has been determined to meet all QMB-SMB eligibility criteria and the Department receives the required verification.

(f) In the SFPSS and TANF programs, for adding a child to be covered by a provider-direct child care payment, it is the first of the month in which the child is added to the benefit group.

(2) In the following programs, the effective date for adding an assumed eligible newborn to the benefit group is one of the following:

(a) In the GAM, OSIPM, and REFM programs, it is the date of birth if all the following paragraphs are true. If any of the following paragraphs is not true, the newborn is added to the benefit group in accordance with section (1) of this rule.

(A) A request for benefits is made within one year of the birth. For purposes of this paragraph, a telephone call from the attending physician, another licensed practitioner, a hospital, or the family is considered a request for benefits.

(B) The newborn has continuously lived with the mother since the date of birth.

(C) The mother was receiving GAM or OSIPM on the date of birth, even if she is not currently eligible for benefits.

(b) In the SFPSS and TANF programs, it is:

(A) The date of birth, if all eligibility requirements are met and verified within 45 days after the birth; or

(B) The date all eligibility factors are met and verified, if the verification is completed more than 45 days after the date of birth.

(3) In the ERDC program, the effective date for adding an individual to the need group (see OAR 461-110-0630) or benefit group is as follows:

(a) If adding the individual to the need group will decrease the copay, the effective date is the first of the month after the client reports the person has joined the household.

(b) If adding the individual to the need group increases the copay--for instance, because the individual receives income--the effective date is the first of the month following the end of the decision notice period (see OAR 461-175-0050).

(c) The effective date for adding a child to the benefit group--that is, covering the cost of the child's care--is the earliest of the following:

(A) For newborns, the date of birth, if all eligibility requirements are met and verified within 45 days after the birth.

(B) For all other children, the first of the month in which the change is reported, if all eligibility requirements are met and verified within 45 days.

(C) For newborns and other children, if eligibility cannot be verified within 45 days, the effective date is the first of the month in which all eligibility factors are met and verified.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049, 2007 OL 861
Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049, 2007 OL 861
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 19-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 1-28-14; SSP 28-2013(Temp), f. & cert. ef. 10-1-13 thru 1-28-14

461-180-0090

Effective Dates; Initial Month Medical Benefits

The effective date for starting medical benefits for an eligible client is as follows:

(1) In the GAM, OSIPM, QMB-DW, and REFM programs:

(a) Except as provided for in subsections (b) and (c) of this section:

(A) If the client meets all eligibility requirements on the date of request (see OAR 461-115-0030), it is the date of request. An OSIPM program client who is assumed eligible under OAR 461-135-0010(7) meets "all eligibility requirements" for the purposes of this section as follows:

(i) Effective the first day of the month of the initial SSI payment if the client is age 21 or older.

(ii) Effective the first day of the month prior to the month of the initial SSI payment if the client is under the age of 21.

(B) If the client does not meet all eligibility requirements on the date of request, it is the first day following the date of request that all eligibility requirements are met.

(b) If the client does not complete the application within the time period described in OAR 461-115-0190 (including the authorized extension), the determination of an effective date requires a new date of request.

(c) Except for OSIPM long-term care services eligibility, if an HKC program client meets all eligibility requirements for the OSIPM program, it is the first of the month following the month in which the Department makes the eligibility determination.

(2) In the QMB-BAS program, it is the first of the month after the benefit group (see OAR 461-110-0750) has been determined to meet all QMB-BAS program eligibility criteria and the Department receives the required verification.

(3) In the QMB-SMB and QMB-SMF programs, it is:

(a) The first of the month in which the benefit group meets all program eligibility criteria and the Department receives the required verification; or

(b) The first of the month in which the Low Income Subsidy (LIS) information is received by the Social Security Administration (SSA), if the SMB or SMF program application was generated by the electronic transmission of LIS data from the SSA and the benefit group meets all program eligibility criteria.

(4) Retroactive eligibility is authorized under certain circumstances in some medical programs (see paragraph (1)(a)(A) of this rule, OAR 461-135-0875, and 461-180-0140).

Stat. Auth.: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 414.025, 414.231, 414.826, 414.831, 414.839

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 414.025, 414.231, 414.826, 414.831, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 5-2003, f. 2-26-03, cert. ef. 3-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 1-2010(Temp), f. & cert. ef. 1-26-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 20-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 19-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 1-28-14; SSP 28-2013(Temp), f. & cert. ef. 10-1-13 thru 1-28-14

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Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients

Adm. Order No.: SSP 29-2013(Temp)

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13 thru 2-19-14

Notice Publication Date:

Rules Amended: 461-001-0000, 461-101-0010, 461-155-0225

Rules Suspended: 461-001-0000(T), 461-101-0010(T), 461-135-1125, 461-155-0225(T)

Subject: OAR 461-001-0000, which was amended by temporary rule on August 23, 2013 and by permanent rule on October 1, 2013, is being amended; OAR 461-135-1125, which was amended by temporary rule on August 23, 2013, is being suspended; OAR 461-101-0010 and OAR 461-155-0225 — which were also amended by temporary rule on August 23, 2013 — are being further amended as part of the process to move MAGI medical program policy from OAR 461 (DHS) into the OAR 410-200 (under OHA) and as part of the implementation efforts for the federal Affordable Care Act (ACA).
Rules Coordinator: Annette Tesch—(503) 945-6067

461-001-0000

Definitions for Chapter 461

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:

(1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDS), or any other agency formerly part of the Department of Human Services shall be taken to mean the Department of Human Services (DHS), except:

(a) The rule in which reference occurs only regulates programs covered by chapter 461 of the Oregon Administrative Rules.

(b) OCCS medical program eligibility rules are set out in the 410-200 division of Oregon Administrative Rules.

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(2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence, sexual assault, or stalking.

(3) "Adjusted income" means the amount determined by subtracting income deductions from countable income (see OAR 461-140-0010). Specific rules on the deductions are found in division 461-160.

(4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. Adoption assistance may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.

(5) "Assets" mean income and resources.

(6) "Basic decision notice" means a decision notice mailed no later than the date of action given in the notice.

(7) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.

(8) "Budgeting" means the process of calculating the benefit level.

(9) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine eligibility and benefit level for the payment month.

(10) "Cafeteria plan" means a written benefit plan offered by an employer in which:

(a) All participants are employees; and

(b) Participants can choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Service does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:

(A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);

(B) Group term life insurance plans (up to \$50,000);

(C) Dependent care assistance plans; and

(D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).

(11) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a microenterprise, either directly or indirectly. A capital asset generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.

(12) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child. The status of caretaker ends once the individual no longer exercises care, control, and supervision of the child for 30 days.

(13) "Caretaker relative" means:

(a) In the Pre-TANF, REF, SFPSS, and TANF programs, a dependent child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece who lives in a residence maintained by one or more of the relatives as the child's or the relative's own home.

(b) In all programs not covered under subsection (a) of this section, a caretaker who meets the requirements of one of the following paragraphs:

(A) Is one of the following relatives of the dependent child:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.

(ii) Stepfather, stepmother, stepbrother, and stepsister.

(iii) An individual who legally adopts the child and any individual related to the individual adopting the child, either naturally or through adoption.

(B) Is or was a spouse of an individual listed in paragraph (A) of this subsection.

(C) Met the definition of caretaker relative under paragraph (A) or (B) of this subsection before the child was adopted (notwithstanding the child's subsequent adoption).

(14) "Certification period" means the period for which a client is certified eligible for a program.

(15) "Child" includes natural, step, and adoptive children. The term child does not include an unborn.

(a) In the ERDC program, a child need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:

(A) Under the age of 18; or

(B) Under the age of 19 and in secondary school or vocational training at least half time.

(b) In the GA, GAM, and OSIP programs, a child is an individual under the age of 18.

(c) In the OSIPM and QMB programs, child means an unmarried individual living with a parent who is:

(A) Under the age of 18; or

(B) Under the age of 22 and attending full time secondary, post secondary or vocational-technical training designed to prepare the individual for employment.

(16) "Community based care" is any of the following:

(a) Adult foster care — Room and board and 24 hour care and services for the elderly or for disabled people 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.

(b) Assisted living facility — A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services — People living in their home receiving services determined necessary by the Department.

(d) Residential care facility — A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.

(e) Specialized living facility — Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices — In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).

(17) "Continuing benefit decision notice" means a decision notice that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.

(18) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.

(19) "Cover Oregon" means Oregon Health Insurance Exchange Corporation.

(20) "Custodial parents" mean parents who have physical custody of a child. Custodial parents may be receiving benefits as dependent children or as caretaker relatives for their own children.

(21) "Decision notice" means a written notice of a decision by the Department regarding an individual's eligibility for benefits in a program.

(22) "Department" means the Department of Human Services (DHS).

(23) "Dependent child", in the REF, REFM, and TANF programs, means the following:

(a) An individual who is not a caretaker relative of a child in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(b) A minor parent whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.

(24) "Disability" means:

(a) In the SNAP program, see OAR 461-001-0015.

(b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining eligibility:

(A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or

(B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

(25) "Domestic violence" means the occurrence of one or more of the acts described in subsections (a) to (d) of this section between family members, intimate partners, or household members:

(a) Attempting to cause or intentionally, knowingly or recklessly causing physical injury or emotional, mental or verbal abuse.

(b) Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury.

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(d) Using coercive or controlling behavior.

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(e) As used in this section, “family members” and “household members” mean any of the following:

- (A) Spouse;
- (B) Former spouse;
- (C) Individuals related by blood, marriage, or adoption;
- (D) Individuals who are cohabitating or have cohabited with each other;

(E) Individuals who have been involved in a sexually intimate or dating relationship; or

- (F) Unmarried parents of a child.

(26) “Domestic violence shelters” are public or private nonprofit residential facilities providing services to victims of domestic violence. If the facility serves other people, a portion must be used solely for victims of domestic violence.

(27) “Electronic application” is an application electronically signed and submitted through the internet.

(28) “Eligibility” means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

- (29) “Equity value” means fair market value minus encumbrances.

(30) “Fair market value” means the amount an item is worth on the open market.

(31) “Family stability” in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.

(32) “Family stability activity” in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by the client, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain family stability.

(33) “Financial institution” means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.

(34) “Income producing property” means any real or personal property that generates income for the financial group. Examples of income producing property are:

- (a) Livestock, poultry, and other animals.

(b) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, condominiums.

- (35) “Initial month” of eligibility means any of the following:

(a) In all programs, the first month a benefit group (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.

(b) In all programs except the SNAP program, the first month a benefit group is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.

- (c) In the SNAP program:

(A) The first month for which the benefit group is certified following any period during which they were not certified to participate, except for migrant and seasonal farm workers (see OAR 461-001-0015).

(B) For migrant and seasonal farmworkers, the first month for which the benefit group is certified following any period of one month or more during which they were not certified to participate.

(d) For a new applicant to the GA, GAM, OSIP, or OSIPM program living in a nonstandard living arrangement, for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the client would have been eligible had it not been for the disqualifying transfer of assets.

(36) “In-kind income” means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

(37) “Legally married” means a marriage uniting a man and a woman according to the provisions of either:

- (a) The statutes of the state where the marriage occurred;

(b) The common law of the state in which the man and woman previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the man and woman previously resided while meeting the requirements for legal or cultural marriage in that country.

(38) “Life estate” means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a life estate enables the owner of the life estate to possess, use, and

obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A life estate is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of his or her life, certain rights to that property. In addition, a life estate is established when a member of the financial group (see OAR 461-110-0530) purchases a life estate interest in the home of another individual.

(39) “Lodger” means a member of the household group (see OAR 461-110-0210) who:

- (a) Is not a member of the filing group; and

- (b) Pays the filing group for room and board.

(40) “Long term care” means the system through which the Department provides a broad range of social and health services to eligible adults who are aged, blind, or have disabilities for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(41) “Lump-sum income” means income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. Lump-sum income includes:

(a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.

(b) Income from inheritance, gifts, winnings, and personal injury claims.

(42) “Marriage” means the union of a man and a woman who are legally married.

(43) “Microenterprise” means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than \$35,000.

(44) “Minor parent”, in the ERDC, REF, REFM, and TANF programs, means a parent under the age of 18.

- (45) “Nonstandard living arrangement” is defined as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs, a client is considered to be in a nonstandard living arrangement when the client is applying for or receiving services in any of the following locations:

(A) A nursing facility in which the client receives long-term care services paid with Medicaid funding, except this subsection does not apply to a Medicare client in a skilled-stay nursing facility.

- (B) An intermediate care facility for the mentally retarded (ICF/MR).

(C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.

(D) A community based care (see section (16) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a nonstandard living arrangement.

(b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, nonstandard living arrangement means each of the following locations:

- (A) Foster care.

- (B) Residential Care facility.

- (C) Drug or alcohol residential treatment facility.

- (D) Homeless or domestic violence shelter.

- (E) Lodging house if paying for room and board.

- (F) Correctional facility.

- (G) Medical institution.

(46) “OCCS” is the Office of Client and Community Services, part of the Medical Assistance Programs under the Oregon Health Authority responsible for OCCS medical program eligibility policy, community outreach, OCCS Medical Program eligibility determinations, and the OHA Customer Service Call Center.

(47) “OCCS Medical Programs” refers to programs for which eligibility policy can be found in division 410-200 of Oregon Administrative Rule, and includes CEC, CEM, MAA, MAF, EXT, OHP, SAC, BCCTP and MAGI Medicaid/CHIP programs, including:

- (a) MAGI Child

- (b) MAGI Parent or Other Caretaker Relative

- (c) MAGI Pregnant Woman

- (d) MAGI CHIP

- (e) MAGI SAC

- (48) “Ongoing month” means one of the following:

(a) For all programs except SNAP, any month following the initial month of eligibility, if there is no break in the program benefit of one or more calendar months.

(b) For the SNAP program, any month in the certification period following the initial month of eligibility.

(49) “Parent” for all programs except the SNAP program, means the biological or legal (step or adoptive) mother or father of an individual or

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unborn child. For the SNAP program, a parent means the biological or legal (step or adoptive) mother or father of an individual.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) A stepparent relationship exists if:

(A) The individual is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce, or death.

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:

(A) The child lives with the biological parent; and

(B) The legal parent (the adoptive parent) has given up care, control, and supervision of the child.

(50) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.

(51) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.

(52) "Periodic income" means income received on a regular basis less often than monthly.

(53) "Primary person" for all programs except the SNAP program, means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The primary person for individual programs is as follows:

(a) For the TANF program, the parent or caretaker relative.

(b) For the ERDC program, the caretaker.

(c) For SNAP, see OAR 461-001-0015.

(d) For the GA, GAM, OSIP, OSIPM, and QMB programs, the client or client's spouse.

(e) For the REF and REFM programs, the applicant, caretaker, caretaker relative, or parent.

(54) "Qualified Partnership Policy" means a long term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:

(a) Issued while the client was a resident in Oregon on January 1, 2008 or later; or

(b) Issued in another state while the client was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.

(55) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as real property.

(56) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(57) "Safe homes" mean private homes that provide a few nights lodging to victims of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(58) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.

(59) "Shelter in kind" means an agency or person outside the financial group (see OAR 461-110-0530) provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs of the financial group. Shelter-in-kind does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.

(60) "Sibling" means the brother or sister of an individual. "Blood related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the marriage of their parents.

(61) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the financial group (see OAR 461-110-0530).

(62) "Spouse" means an individual who is legally married to another individual. In the ERDC program, spouse includes an individual who is not legally married to another, but is presenting themselves to the community as the husband or wife by:

(a) Representing themselves as husband and wife to relatives, friends, neighbors, or tradespeople; and

(b) Sharing living expenses or household duties.

(63) "Stable income" means income that is the same amount each time it is received.

(64) "Standard living arrangement" means a location that does not qualify as a nonstandard living arrangement.

(65) "Teen parent" means, for TANF and JOBS, a parent under the age of 20 who has not completed a high school diploma or GED.

(66) "Timely continuing benefit decision notice" means a decision notice that informs the client of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.

(67) "Trust funds" mean money, securities, or similar property held by a person or institution for the benefit of another person.

(68) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

(69) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Stat. Auth: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.001, 412.006, 412.014 & 412.049

Hist.: AFS 28-1978, f. & ef. 7-13-78; AFS 54-1984, f. 12-28-84, ef. 1-1-85; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; Administrative correction 4-21-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 29-2013(Temp), f. & cert. ef. 10-1-13 thru 2-19-14

461-101-0010

Program Acronyms and Overview

(1) Acronyms are frequently used when referring to a program. There is an acronym for each umbrella program and acronyms for each subprogram.

(2) When no program acronym appears in a rule in chapter 461 of these rules, the rule with no program acronym applies to all programs listed in this rule. If a rule does not apply to all programs, the rule uses program acronyms to identify the programs to which the rule applies.

(3) Wherever an umbrella acronym appears, that means the rule covers all the subprograms under that code.

(4) CAWEM; Citizen/Alien-Waived Emergent Medical. Medicaid coverage of emergent medical needs for clients who are not eligible for other medical programs solely because they do not meet citizenship and alien status requirements.

(5) DSNAP; Disaster Supplemental Nutrition Assistance Program. Following a presidential declaration of a major disaster in Oregon, DSNAP provides emergency DSNAP program benefits to victims. OAR 461-135-0491 to 461-135-0497 cover DSNAP eligibility and benefits.

(6) EA; Emergency Assistance. Emergency cash to families without the resources to meet emergent needs.

(7) ERDC or ERDC-BAS; Employment Related Day Care-Basic. Helps low-income working families pay the cost of child care.

(8) GA; General Assistance. Cash assistance to low-income individuals with disabilities who do not have dependent children.

(9) GAM; General Assistance Medical. Medical assistance to clients who are eligible for the GA program but have not been found eligible for OSIPM benefits.

(10) HSP; Housing Stabilization Program. A program that helps low-income families obtain stable housing. The program is operated through the Housing and Community Services Department through community-based, service-provider agencies. The Department's rules for the program (OAR 461-135-1305 to 461-135-1335) were repealed July 1, 2001.

(11) JOBS; Job Opportunity and Basic Skills. An employment program for REF, REFM, and TANF clients. JOBS helps these clients attain self-sufficiency through training and employment. The program is part of Welfare Reform.

(12) JOBS Plus. Provides subsidized jobs rather than SNAP or TANF benefits. For TANF clients, JOBS Plus is a component of the JOBS Program; for SNAP clients and noncustodial parents of children receiving TANF, it is a separate employment program. Eligibility for TANF clients, SNAP clients, and noncustodial parents of children receiving TANF is determined by the Department. Eligibility for UI recipients is determined by the Oregon State Employment Department. When used alone, JOBS Plus includes only clients whose JOBS Plus program participation is

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through the Department of Human Services. JOBS Plus administered through the Oregon State Employment Department is known in chapter 461 of the Oregon Administrative Rules as Oregon Employment Department UI JOBS Plus. The following acronyms are used for specific categories:

- (a) TANF-PLS; Clients eligible for JOBS Plus based on TANF.
- (b) SNAP-PLS; Clients eligible for JOBS Plus based on SNAP.
- (c) NCP-PLS; Noncustodial parents of children receiving TANF.

(13) JPI; Job Participation Incentive. An additional \$10 food benefit to help increase the ability of single parents with small children, that meet federal TANF participation rate, to meet the nutritional needs of their families.

(14) LIS; Low-Income Subsidy. The Low-Income Subsidy program is a federal assistance program for Medicare clients who are eligible for extra help meeting their Medicare Part D prescription drug costs.

(15) OFSET. The Oregon Food Stamp Employment Transition Program, which helps SNAP program benefit recipients find employment. This program is mandatory for some SNAP program benefit recipients.

(16) OSIP; Oregon Supplemental Income Program. Cash supplements and special need payments to persons who are blind, disabled, or 65 years of age or older. When used alone, OSIP refers to all OSIP programs. The following acronyms are used for OSIP subprograms:

(a) OSIP-AB; Oregon Supplemental Income Program — Aid to the Blind.

(b) OSIP-AD; Oregon Supplemental Income Program — Aid to the Disabled.

(c) OSIP-EPD; Oregon Supplemental Income Program — Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.

(d) OSIP-OAA; Oregon Supplemental Income Program — Old Age Assistance.

(17) OSIPM; Oregon Supplemental Income Program Medical. Medical coverage for elderly and disabled individuals. When used alone, OSIPM refers to all OSIP-related medical programs. The following codes are used for OSIPM subprograms:

(a) OSIPM-AB; Oregon Supplemental Income Program Medical — Aid to the Blind.

(b) OSIPM-AD; Oregon Supplemental Income Program Medical — Aid to the Disabled.

(c) OSIPM-EPD; Oregon Supplemental Income Program Medical — Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.

(d) OSIPM-OAA; Oregon Supplemental Income Program Medical — Old Age Assistance.

(e) OSIPM-IC; Oregon Supplemental Income Program Medical — Independent Choices

(18) The Post-TANF program provides a monthly transitional payment to employed clients who are no longer eligible for the Pre-TANF or TANF programs due to earnings, and meet the other eligibility requirements.

(19) The Pre-TANF program is an up-front assessment and resource-search program for TANF applicant families. The intent of the program is to assess the individual's employment potential; determine any barriers to employment or family stability; develop an individualized case plan that promotes family stability and financial independence; help individuals find employment or other alternatives; and provide basic living expenses immediately to families in need.

(20) QMB; Qualified Medicare Beneficiaries. Programs providing payment of Medicare premiums and one program also providing additional medical coverage for Medicare recipients. Each of these programs also is considered to be a Medicare Savings Program (MSP). When used alone in a rule, QMB refers to all MSP. The following codes are used for QMB subprograms:

(a) QMB-BAS; Qualified Medicare Beneficiaries — Basic. The basic QMB program.

(b) QMB-DW; Qualified Medicare Beneficiaries — Disabled Worker. Payment of the Medicare Part A premium for people under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed.

(c) QMB-SMB; Qualified Medicare Beneficiaries — Specified Limited Medicare Beneficiary. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMB.

(d) QMB-SMF; Qualified Medicare Beneficiaries — Qualified Individuals. Payment of the Medicare Part B premium only. There are no

medical benefits available through QMB-SMF. This program has a 100-percent federal match, but also has an allocation that, if reached, results in the closure of the program.

(21) REF; Refugee Assistance. Cash assistance to low-income refugee singles or married couples without children.

(22) REFM; Refugee Assistance Medical. Medical coverage for low-income refugees.

(23) The Repatriate Program helps Americans resettle in the United States if they have left a foreign land because of an emergency situation.

(24) SAC; Medical Coverage for Children in Substitute or Adoptive Care.

(25) SFDNP; Senior Farm Direct Nutrition Program. Food vouchers for low income seniors. Funded by a grant from the United States Department of Agriculture.

(26) SFPSS; State Family Pre-SSI/SSDI Program. A voluntary program providing cash assistance and case management services to families when at least one TANF eligible adult in the household has an impairment (see OAR 461-125-0260) and is or will be applying for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).

(27) SNAP; Supplemental Nutrition Assistance Program. Helps low-income households maintain proper nutrition by giving them the means to purchase food. SNAP used to be known as FS or Food Stamps, any reference to SNAP also includes FS and Food Stamps.

(28) TA-DVS; Temporary Assistance for Domestic Violence Survivors. Addresses the needs of clients threatened by domestic violence.

(29) TANF; Temporary Assistance for Needy Families. Cash assistance for families when children in those families are deprived of parental support because of continued absence, death, incapacity, or unemployment.

Stat. Auth.: ORS 411.060, 411.404, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231

Stats. Implemented: ORS 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826, 414.831, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 1999, f. 4-27-99, cert. ef. 5-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 29-2013(Temp), f. & cert. ef. 10-1-13 thru 2-19-14

461-155-0225

Income Standard; REFM

In the REFM program, the income standard is 200 percent of the federal poverty level, as listed in OAR 461-155-0180(7), based on the size of the need group.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404 & 414.231

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 414.231

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 2-2004(Temp), f. & cert. ef. 2-13-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 2-2005, f. & cert. ef. 2-18-05; SSP 1-2006, f. & cert. ef. 1-24-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 31-2010(Temp), f. & cert. ef. 9-15-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 29-2013(Temp), f. & cert. ef. 10-1-13 thru 2-19-14

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients

ADMINISTRATIVE RULES

Adm. Order No.: SSP 30-2013(Temp)

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13 thru 3-30-14

Notice Publication Date:

Rules Amended: 461-110-0210, 461-110-0330, 461-110-0340, 461-110-0530, 461-110-0630, 461-115-0030, 461-115-0071, 461-115-0150, 461-115-0430, 461-120-0030, 461-120-0050, 461-120-0125, 461-120-0210, 461-120-0310, 461-120-0315, 461-120-0345, 461-120-0350, 461-120-0510, 461-120-0630, 461-125-0150, 461-130-0328, 461-135-0010, 461-135-0070, 461-135-0080, 461-135-0875, 461-135-0900, 461-135-0930, 461-135-0950, 461-135-1070, 461-140-0040, 461-140-0120, 461-140-0210, 461-140-0270, 461-145-0040, 461-145-0050, 461-145-0080, 461-145-0086, 461-145-0090, 461-145-0110, 461-145-0120, 461-145-0130, 461-145-0150, 461-145-0220, 461-145-0230, 461-145-0250, 461-145-0300, 461-145-0330, 461-145-0340, 461-145-0360, 461-145-0365, 461-145-0380, 461-145-0410, 461-145-0420, 461-145-0430, 461-145-0433, 461-145-0440, 461-145-0455, 461-145-0460, 461-145-0470, 461-145-0505, 461-145-0510, 461-145-0540, 461-145-0580, 461-145-0590, 461-145-0600, 461-145-0820, 461-145-0830, 461-145-0860, 461-145-0910, 461-145-0920, 461-145-0930, 461-150-0020, 461-150-0070, 461-150-0080, 461-150-0090, 461-155-0030, 461-155-0350, 461-155-0670, 461-160-0015, 461-160-0040, 461-160-0060, 461-160-0100, 461-160-0160, 461-160-0630, 461-165-0030, 461-165-0120, 461-170-0011, 461-170-0130, 461-170-0200, 461-175-0200, 461-175-0210, 461-175-0270, 461-175-0305, 461-180-0020, 461-180-0050, 461-180-0065, 461-180-0085, 461-180-0100, 461-180-0105, 461-180-0120, 461-180-0140

Rules Suspended: 461-110-0400, 461-115-0530, 461-115-0705, 461-135-0095, 461-135-0096, 461-135-0170, 461-135-1060, 461-135-1100, 461-135-1101, 461-135-1120, 461-135-1149, 461-145-0870, 461-155-0235, 461-160-0120, 461-160-0125, 461-160-0190, 461-160-0200, 461-160-0700, 461-175-0203, 461-180-0097

Subject: These rules about eligibility for medical programs are being amended (and for 20 rules suspended) as part of the process to move policies about financial eligibility for medical assistance from OAR 461 (DHS) into the OAR 410-200 (under OHA), and as part of the implementation efforts for the federal Affordable Care Act (ACA). For applications for medical assistance starting on October 1, 2013, financial eligibility policies are changing and will be set out in OAR 410-200.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-110-0210

Household Group

(1) This rule describes who is included in the household group. The household group generally consists of the individuals who live together with or without the benefit of a dwelling. For homeless people, the household group consists of the individuals who consider themselves living together.

(2) A separate dwelling is not recognized for the purpose of determining the members of a household group unless the living space has, separate from any other dwelling, an access to the outside that does not pass through another dwelling, a functional sleeping area, bathroom, and kitchen facility.

(3) Each individual in the household group who applies for benefits is an applicant. The household group and applicants form the basis for determining who is in the remaining eligibility groups.

(4) For all programs except the SNAP program, a separate household group is established for individuals who live in the same dwelling as another household group, if all the following subsections are true:

(a) There is a landlord-tenant relationship between the two household groups in which the tenant is billed by the landlord at fair market value (see OAR 461-001-0000) for housing.

(b) The tenant lives independently from the landlord.

(c) The tenant:

(A) Has and uses sleeping, bathroom, and kitchen facilities separate from the landlord; or

(B) Shares bathroom or kitchen facilities with the landlord, but the facilities are in a commercial establishment that provides room or board or both for compensation at fair market value.

(5) Individuals who live with more than one household group during a calendar month are members of the household group in which they spend more than half of their time, except as follows:

(a) In the ERDC program, if a child (see OAR 461-001-0000) lives with different caretakers during the month, the child is considered a member of both household groups.

(b) In the TANF program:

(A) If a parent (see OAR 461-001-0000) sleeps at least 30 percent of the time during the calendar month in the home of the dependent child (see OAR 461-001-0000), the parent is in the same household group as the dependent child.

(B) A dependent child is included in the household group with the caretaker relative (see OAR 461-001-0000), who usually has the major responsibility for care and control of the dependent child, if the dependent child lives with two household groups in the same calendar month for at least one of the following reasons:

(i) Education.

(ii) The usual caretaker relative is gone from the household for part of the month because of illness.

(iii) A family emergency.

(c) In the SNAP program:

(A) The individual is a member of the household group that provides the individual more than half of his or her 21 weekly meals. If the individual is a child, the child is a member of the household group credited with providing the child more than half of his or her 21 weekly meals. A household group is credited with providing breakfast and lunch for each day the child departs that group's home for school, even if the child eats no breakfast or lunch at that home.

(B) During the month in which a resident of a domestic violence shelter (see OAR 461-001-0000) enters the domestic violence shelter, the resident may be included both in the household group he or she left and in a household group in the domestic violence shelter.

(6) In the OSIPM program, individuals receiving home and community-based care (see OAR 461-001-0030) or nursing facility care are each an individual household group.

(7) In the QMB program, the household group consists of the client and the client's spouse (see OAR 461-001-0000), even if the spouse does not meet all nonfinancial eligibility requirements.

(8) Individuals absent from the household for 30 days or more are no longer part of the household group, except for the following:

(a) In all programs except the SNAP program, an individual in an acute care medical facility remains in the household group unless the individual enters long-term care.

(b) In the ERDC, REF, REFM, SAC, and TANF programs:

(A) A caretaker relative who is absent for up to 90 days while in a residential alcohol or drug treatment facility is in the household group.

(B) A child who is absent for 30 days or more is in the household group if the child is:

(i) Absent for illness (unless the child is in a long-term care Title XIX facility), social service, or educational reasons;

(ii) In foster care, but expected to return to the household within the next 30 days.

(c) In the ERDC program, an individual in the household group who is absent because of education, training, or employment, including long-haul truck driving, fishing, or active duty in the U.S. armed forces.

(d) In the REFM program, in a two-parent household, a parent remains in the household group if the requirements of both of the following paragraphs are met:

(A) The parent is absent because of education, training or employment — including absence while working or looking for work outside the area of his or her residence, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces; and

(B) The other parent remains in the home.

(e) In the REF and TANF programs when a filing group includes more than one caretaker relative (see OAR 461-001-0000), a caretaker relative in the household group who is absent because of education, training, or employment -- including absence while working or looking for work outside the area of his or her residence, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces.

(9) In the OSIP-EPD and OSIPM-EPD programs, the household group consists only of the individual applying for or receiving benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.001, 412.049, 414.025, 414.231, 414.826, 414.831, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru

ADMINISTRATIVE RULES

7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 5-1999(Temp), f. & cert. ef. 4-1-99 thru 6-30-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-110-0330

Filing Group; TANF

(1) In the TANF program, a *filing group* must include a *dependent child* or unborn child and the following household group members (even if the member is not an applicant or does not meet nonfinancial eligibility requirements):

- (a) Each parent of a dependent child in the filing group.
- (b) Each parent of an unborn child in the filing group.
- (c) Each sibling of a dependent child in the filing group, except as specified in paragraph (3)(b)(B) of this rule. The sibling must be less than 18 years of age, or 18 years of age and attending school full time.
- (d) A caretaker relative of the dependent child in the filing group, and the spouse and each dependent child of the caretaker relative.

(2) In the TANF program:

(a) A dependent child is not included in the filing group if he or she:

(A) Is or will be receiving foster care payments for more than 30 days (see OAR 461-145-0200);

(B) Is receiving adoption assistance (see OAR 461-145-0001); or

(C) Is receiving Title IV-E subsidized guardianship assistance payments (see OAR 461-145-0200).

(b) A parent of a minor parent (see OAR 461-001-0000) is not in the filing group of the minor parent if:

(A) The minor parent does not reside with his or her parent; or

(B) The *parent* of the minor parent is in the household group of the minor parent but is not applying for the TANF program for the minor parent or any sibling of the minor parent.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 412.064, 412.124, 418.005

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 412.064, 418.005

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-110-0340

Filing Group; SAC

In the SAC program, the filing group includes each household group (see OAR 461-110-0210) member who meets all nonfinancial eligibility requirements.

Stat. Auth.: ORS 411.060, 411.070, 411.404 & 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 414.025 & 414.231

Hist.: AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 27-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-110-0530

Financial Group

(1) Except as provided in section (5) of this rule, a “financial group” consists of the filing group members whose income and resources the Department considers in determining eligibility (see OAR 461-001-0000) and benefits.

(2) In the ERDC, GA, OSIPM-EPD, QMB, and SNAP programs, the financial group consists of each individual in the filing group.

(3) In the REF and REFM programs, the financial group consists of each individual in the filing group, except the following:

(a) A caretaker relative (see OAR 461-001-0000) other than a parent (see OAR 461-001-0000) who chooses not to be included in the need group (see OAR 461-110-0630); and

(b) An individual who is eligible for and receives an SSI cash payment.

(4) In the OSIPM (except OSIPM-EPD) program:

(a) For the purposes of this section of this rule, “ineligible” means an individual not eligible to receive either SSI or TANF program benefits.

(b) When an individual lives in a standard living arrangement (see OAR 461-001-0000):

(A) Except as provided in paragraph (B) of this subsection, each member of the filing group is in the financial group.

(B) When an individual is not assumed eligible (see OAR 461-135-0010) for OSIPM:

(i) The individual’s spouse (see OAR 461-001-0000) who is ineligible and in the filing group is not in the financial group if the individual’s adjusted income (see OAR 461-001-0000) using the deductions allowed under OAR 461-160-0550(3) is greater than the OSIPM program adjusted income standard for a need group of one under OAR 461-155-0250. The financial group consists only of the individual.

(ii) If the ineligible spouse’s remaining income after allocation (see OAR 461-160-0551) to each ineligible child is equal to or less than the difference between the couple and the individual SSI standards: the spouse who is ineligible is not considered to be in the financial group when determining income eligibility; however, the spouse is considered to be in the financial group when determining resource eligibility.

(c) When an individual lives in a nonstandard living arrangement (see OAR 461-001-0000), the financial group consists only of the individual applying for benefits, except that the community spouse (see OAR 461-001-0030) is included in the financial group to determine initial eligibility. At initial eligibility, the resources of the community spouse are considered and the provisions of OAR 461-160-0580 apply. The income of the community spouse is not considered in determining initial eligibility, and the community spouse is not included in any other eligibility group.

(5) In the TANF program, the financial group consists of each individual in the filing group except the following:

(a) A caretaker relative, other than a parent, who chooses not to be included in the need group and has income less than the non-needy countable income limit standard (see OAR 461-155-0030) for the filing group of the caretaker relative;

(b) The spouse of a caretaker relative, when the caretaker relative meets the requirements under subsection (a) of this section;

(c) A dependent child of a caretaker relative when the caretaker relative meets the requirements under subsection (a) of this section;

(d) An individual in the filing group solely due to the requirements of OAR 461-110-0310(2)(b); and

(e) An individual who is eligible for and receives an SSI cash payment.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 412.064, 412.124, 414.231 & 414.712

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 412.064, 412.124, 414.025, 414.231, 414.712, 414.826, 414.831 & 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 1-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 14-2009(Temp), f. & cert. ef. 7-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-110-0630

Need Group

(1) The “need group” consists of the individuals whose basic and special needs are used in determining eligibility (see OAR 461-001-0000) and benefit level.

(2) In the EA, REF, and REFM programs, the need group consists of the members of the financial group (see OAR 461-110-0530) who meet all nonfinancial eligibility requirements, except that members disqualified for an intentional program violation are not in the need group.

(3) In the ERDC, OSIPM-EPD, and QMB programs, the need group consists of each member of the financial group.

(4) In the SNAP program, the need group consists of the members of the financial group who meet all nonfinancial eligibility requirements, except the following individuals are not in the need group:

(a) A member disqualified for an intentional program violation (see OAR 461-195-0601).

(b) A fleeing felon under OAR 461-135-0560.

(c) An individual violating a condition of state or federal parole, probation, or post-prison supervision under OAR 461-135-0560.

(5) In the GA and GAM programs, the need group consists of each member of the financial group except that the following individuals may not be in the need group:

(a) A fleeing felon under OAR 461-135-0560.

(b) An individual in violation of a condition of state or federal parole, probation, or post-prison supervision under OAR 461-135-0560.

ADMINISTRATIVE RULES

(c) An individual not complying with social security number requirements under OAR 461-120-0210.

(6) In the TANF program, the need group is formed as follows:

(a) Except as provided in subsection (b) of this section, the need group consists of the members of the financial group who meet all nonfinancial eligibility requirements other than the citizenship and alien status requirements of OAR 461-120-0110 or the citizenship documentation requirements of OAR 461-115-0705.

(b) The need group may not include:

(A) A parent (see OAR 461-001-0000) who is in foster care and for whom foster care payments are being made.

(B) An unborn child.

(C) In the TANF program:

(i) An individual who may not be in the need group because of a disqualification penalty.

(ii) An individual who may not be in the need group because the individual has exceeded the 60-month time limit and does not meet any of the exceptions listed in OAR 461-135-0075.

(iii) A fleeing felon under OAR 461-135-0560.

(iv) An individual violating a condition of state or federal parole, probation, or post-prison supervision under OAR 461-135-0560.

(7) In the OSIPM (except OSIPM-EPD) program:

(a) If a child is applying, the need group consists of the child.

(b) In all other situations, the need group consists of each member of the financial group.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.049 & 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.831 & 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 6-1991(Temp), f. & cert. ef. 2-8-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-110-0400

Filing Group; HKC, OHP

In the HKC and OHP programs, filing groups are formed from the household group (see OAR 461-110-0210) as follows:

(1) A filing group consists of one individual, if that individual is not required by this rule to be in a filing group with another individual.

(2) The following individuals must be in the same filing group, even if they are not applicants or do not meet all nonfinancial eligibility requirements:

(a) Individuals *legally married* (see OAR 461-001-0000) to each other and each child of either spouse (see OAR 461-001-0000).

(b) With respect to a child or unborn, each *parent* (see OAR 461-001-0000) of the child or unborn and the children of each *parent*.

(c) Each *sibling* (see OAR 461-001-0000) under 19 years of age.

(3) A child whose *caretaker relative* (see OAR 461-001-0000) is not the child's *parent* may constitute a separate filing group or may be in a filing group with the *caretaker relative*, at the option of the *caretaker relative*.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 414.025, 414.231, 414.826, 414.831
Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-115-0030

Date of Request

(1) For all programs covered by Chapter 461 of the Oregon Administrative Rules, the client or someone authorized to act on behalf of the client must contact the Department or use another appropriate method to request benefits (see OAR 461-115-0150). The request may be oral or in writing. The request starts the application process.

(2) The date of request is one of the following:

(a) In the EA, ERDC, GA, OSIP, REF, and TANF programs and for support service payments in the JOBS program authorized by OAR 461-

190-0211, the date of request is the day the request for benefits is received by the Department.

(b) In the SNAP program, this section does not apply. See OAR 461-115-0040.

(c) In the GAM, OSIPM, REFM, and SAC programs, for a new applicant, the date of request is determined as follows:

(A) The day the request for medical benefits is received by a Department representative, except as described in paragraphs (B) and (C) of this subsection.

(B) If the request for medical benefits is received by a Department representative no later than the next business day after medical services are received, the date of request is the day these medical services were received.

(d) In the OSIPM, REFM, and SAC programs, for a current recipient, the date of request is one of the following:

(A) The date the client reports a change requiring a redetermination of eligibility.

(B) The date the Department initiates a review.

(C) The date the client establishes a date of request by contacting the Department orally or in writing or by submitting an application.

(e) In the SFPSS program:

(A) Except as provided in paragraph (B) of this subsection, the date of request is the day the client signs the program's Interim Assistance Agreement.

(B) The date of request for support service payments is the day the request for benefits is received by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 414.831, 414.839

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 414.831, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 12-2008(Temp), f. & cert. ef. 4-17-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 22-2009(Temp), f. & cert. ef. 8-28-09 thru 2-21-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 23-2011(Temp), f. & cert. ef. 8-1-11 thru 1-27-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-115-0071

Who Must Sign the Application and Complete the Application Process

(1) In the ERDC, REF, REFM, and TANF programs, the following individuals must sign the application and complete the application process:

(a) In the REF, REFM, and TANF programs, at least one caretaker relative (see OAR 461-001-0000).

(b) In the ERDC program, a caretaker (see OAR 461-001-0000).

(2) In the EA program:

(a) A caretaker relative must sign the application and complete the application process for a child (see OAR 461-001-0000). If the child is not living with a caretaker relative, another adult may act on behalf of the child.

(b) If the caretaker relative lives with a spouse (see OAR 461-001-0000), both must sign the application.

(c) A dependent child 18 years of age who applies must sign the application and complete the application process.

(3) In the GA, GAM, OSIPM, and QMB programs, at least one adult requesting assistance must complete the application process and sign the application, if able. If there is no adult who is able to sign the application and complete the application process, this can be done by the authorized representative (see OAR 461-115-0090). If the applicant dies prior to the determination of eligibility for OSIPM, the application may be processed if the Department receives the required verification.

(4) In the SNAP program, the primary person, the spouse of the primary person, or another adult member of the filing group (see OAR 461-110-0370) must sign the application and complete the application process.

(5) An individual required to sign the application but unable to sign may sign with a mark, witnessed by an employee of the field office.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.087, 411.400, 411.404, 411.816, 412.049

Hist.: SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 23-2010(Temp), f. & cert. ef. 7-15-10 thru 1-11-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

ADMINISTRATIVE RULES

461-115-0150

Offices Where Clients Apply

(1) For all programs, applicants must apply at the branch office serving the area in which they live or work. Applicants temporarily in another area of the state should apply at the branch office serving that area. Applicants may also apply at other locations for the following programs:

(a) Homeless clients may apply with a Community Action Agency for the Housing Stabilization program.

(b) Applicants may apply for health coverage by:

(A) Calling the Cover Oregon toll-free number;

(B) Applying through the Cover Oregon online portal; or

(C) Contacting a federally qualified health center, a qualified hospital, a disproportionate-share hospital, or another entity authorized by rule.

(2) The Department has designated liaison branch offices for some groups of applicants (such as patients in state medical institutions and refugees). Those applicants must apply at the designated liaison branch office.

(3) SNAP applicants may apply at an office of the Social Security Administration if all members of the filing group are applying for or are receiving SSI, and the filing group has not applied for or received SNAP benefits during the previous 30 days.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816 & 411.404

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.816 & 411.404

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-115-0430

Periodic Redeterminations; Not EA, ERDC, EXT, OHP, REF, REFM, SNAP, or TA-DVS

The Department periodically redetermines the eligibility of clients for benefits and assigns a redetermination date by which the next determination is required. The Department selects the redetermination date based on the client's circumstances and according to the following requirements:

(1) In the GA and GAM programs, the Department determines eligibility each 12 months.

(2) In the SAC program, the Department redetermines eligibility at least once every 12 months.

(3) In the OSIP and OSIPM programs, the Department determines eligibility each 12 months for clients who are not eligible for SSI. No redetermination is required for clients who are eligible for SSI.

(4) In the QMB program, the Department determines eligibility each 12 months for clients who are not eligible for SSI. For QMB recipients who are also eligible for OSIPM, a redetermination for QMB is completed with the redetermination of OSIPM.

(5) In the SFPSS program, the Department redetermines eligibility at least once every 12 months. The Department redetermines program eligibility by redetermining eligibility for the TANF program.

(6) In the TANF program, benefits will end the last day of the certification period (see OAR 461-001-0000). The Department redetermines eligibility according to the following schedule:

(a) At least once every six months for each of the following:

(A) Clients not participating in an activity (see OAR 461-001-0025) of an open case plan (see OAR 461-001-0025).

(B) Clients who are currently serving a JOBS disqualification.

(b) At least once every 12 months for all other clients.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 414.025, 414.231, 414.826, 414.831, 414.839

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 414.025, 414.231, 414.826, 414.831, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 7-2010(Temp), f. & cert. ef. 4-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-115-0530

Certification Period; HKC, OHP

(1) For an HKC, OHP-CHP, OHP-OPC, OHP-OPU, or OHP-OP6 program applicant not currently receiving BCCM, EXT, HKC, MAA,

MAF, OHP, OSIPM, REFM, SAC, or child welfare medical program benefits, the initial certification period (see OAR 461-001-0000) begins on the effective date for starting medical benefits (described in OAR 461-180-0090) and includes the following twelve calendar months. Any other HKC, OHP-CHP, OHP-OPC, OHP-OPU, or OHP-OP6 program certification period is for twelve months.

(2) A client's HKC or OHP program benefits end before the end of the certification period if the client no longer meets the program eligibility requirements or the program ends.

(3) To establish a new certification period, an HKC or OHP program benefit group (see OAR 461-110-0750) must complete a redetermination of eligibility and be found eligible.

(4) When an individual wishes to be added to an OHP program benefit group already certified for OHP program, the entire group must establish a new certification period. If, as a result of the new redetermination process, the new filing group (see OAR 461-110-0400) is ineligible, the original benefit group remains eligible for the remainder of its certification period.

(5) When an HKC program certification period is established, the HKC program subsidy may not be reduced or eliminated during the certification period.

(6) When an individual wishes to be added to an HKC program benefit group already certified for HKC program benefits, the entire benefit group must be redetermined.

(a) If as a result of the new redetermination process, the new HKC program countable (see OAR 461-001-0000) income of the filing group increases from less than 251 percent of the Federal Poverty Level (FPL) and is equal to or greater than 251 percent of the FPL, the original HKC program certification period and subsidy is not affected. The individual is added to the existing benefit group. The new benefit group remains eligible at the same subsidy level for the remainder of the original certification period.

(b) If as a result of the new redetermination process, the new HKC program countable income of the filing group decreases to less than 251 percent of the FPL, a new certification period is established for the new benefit group.

(7) If a member leaves an HKC or OHP program benefit group, that individual and other members of the benefit group remain eligible for the remainder of the certification period.

(8) If a current OHP program client moves into another current OHP program filing group, that client and the members of that filing group who are OHP program eligible are combined into one benefit group if the client is required to be in the current household's OHP program filing group. The certification period for the new benefit group ends the later of the date the current client's certification period or the filing group's period was set to end.

(9) If a current HKC program client moves into another current HKC program filing group, that client and the members of that filing group who are HKC program eligible are combined into one benefit group if the client is required to be in the current household's HKC program filing group. The certification period for the new benefit group ends the later of the date the current client's certification period or the filing group's period was set to end.

(10) A pregnant woman found eligible for the OHP OPP program is not assigned a certification period — she is eligible for the period described in OAR 461-135-0010.

Stat. Auth.: ORS 409.050, 411.060, 411.404 & 414.231

Stats. Implemented: ORS 409.010, 411.060, 411.404, 414.065 & 414.231

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 5-2003, f. 2-26-03, cert. ef. 3-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 9-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 20-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 8-2011(Temp), f. & cert. ef. 3-1-11 thru 8-28-11; SSP 17-2011, f. & cert. ef. 7-1-11; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-115-0705

Required Verification; BCCM, HKC, MAA, MAF, OHP, SAC

(1) This rule establishes verification requirements for the BCCM, EXT, HKC, MAA, MAF, OHP, and SAC programs in addition to the requirements of OAR 461-115-0610.

(2) Except as provided in section (3) of this rule, each client declaring U.S. citizenship must provide acceptable documentation of citizenship and identity. For purposes of this rule, acceptable documentation consists of any of the documents permitted under section 1903(x) of the Social Security Act (42 U.S.C. 1396b).

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(a) A new applicant must provide acceptable documentation as a condition of eligibility (see OAR 461-001-0000). Except for an applicant whose medical benefits previously were closed after March 31, 2009 for not providing acceptable documentation, an applicant's medical assistance may not be delayed for citizenship documentation while the eligibility decision is pending if all other medical assistance eligibility requirements have been met.

(b) A current recipient who has not already provided acceptable documentation must provide acceptable documentation as a condition of eligibility when requested by the Department.

(c) A client who already has provided acceptable documentation is not required to provide additional evidence during a subsequent application for benefits or redetermination of eligibility.

(3) Each of the following clients is exempt from the requirements of section (2) of this rule, a client who is:

- (a) Assumed eligible under OAR 461-135-0010(5);
- (b) Eligible for or receiving Medicare;
- (c) Presumptively eligible for the BCCM program;
- (d) Receiving Social Security Disability Income (SSDI); or
- (e) Receiving Title IV-E benefits.

(4) At initial application and at any other time it affects the client, the following must be verified:

(a) The requirement in OAR 461-120-0210 to have or apply for a social security number.

(b) Alien status for an applicant who indicates he or she is not a U.S. citizen, and for a client who meets the alien status requirement under OAR 461-120-0125(4)(b) the client's alien status must be verified at each certification.

(5) When the pregnancy of a client is first reported, it must be verified by a medical practitioner, health department, clinic, or crisis pregnancy center or similar facility.

(6) In the HKC, MAA, MAF, OHP, and SAC programs, at initial application, recertification, and at any other time it affects the client, the Department must verify the client's statement of income. If no verification is available, the Department accepts the client's statement.

(7) In the OHP-OPU program, to allow a premium exemption, the Department must verify that a client is:

- (a) A member of a federally recognized Indian tribe, band, or group;
- (b) An Eskimo, Aleut, or other Alaska native enrolled by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act; or
- (c) An individual eligible for benefits through an Indian Health Program.

(8) In the EXT, MAA, MAF, OHP-OPC, and OHP-OP6 programs, the amount of the premium for cost-effective employer-sponsored health insurance must be verified.

(9) A client must provide verification for any eligibility requirement in sections (4) to (8) of this rule questioned by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 414.231
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.400, 411.404, 414.025, 414.231, 414.428, 414.826, 414.831, 414.839
Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 12-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06; Suspended by SSP 13-2006(Temp), f. & cert. ef. 9-25-06 thru 12-31-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 10-2009(Temp), f. & cert. ef. 5-6-09 thru 9-28-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 17-2010(Temp), f. & cert. ef. 5-28-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 19-2010(Temp), f. & cert. ef. 7-1-10 thru 11-24-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 37-2010(Temp), f. & cert. ef. 11-1-10 thru 4-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 36-2011(Temp), f. 12-27-11, cert. ef. 1-1-12 thru 6-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-120-0030

State of Residence for an Individual in a Medical Facility

In the GAM, OSIPM, QMB, REFM, and SAC programs, the residency of an individual living in a state or private medical facility such as a hospital, mental hospital, nursing home, or convalescent center is determined as follows:

(1) An individual 21 years of age or older who is capable of indicating intent to reside is considered to be --

(a) A resident of the state where the individual is living with the intention to remain permanently or for an indefinite period, except when subsection (b) of this section indicates otherwise.

(b) When a state agency of another state places the individual (other than a child funded under Title IV-E), the individual is considered to be a resident of the state that makes the placement.

(2) An individual 21 years of age or older who became incapable of indicating intent to reside after attaining 21 years of age is considered to be a resident of the state where the facility is located unless the individual was placed in the facility by a state agency of another state. When a state agency of another state places an individual, the individual is considered to be a resident of the state that makes the placement.

(3) For an individual less than 21 years of age who is incapable of forming an intent to reside, or an individual of any age who became incapable of forming that intent before attaining 21 years of age (see OAR 461-120-0050), the state of residence is one of the following:

(a) The state of residence of the individual's parent or legal guardian at the time of application.

(b) The state of residence of the party who applies for benefits on the individual's behalf if there is no living parent or the location of the parent is unknown, and there is no legal guardian.

(c) Oregon, if the individual has been receiving medical assistance in Oregon continuously since November 1, 1981, or is from a state with which Oregon has an interstate agreement that waives the residency requirement.

(d) When a state agency of another state places the individual, the individual is considered to be a resident of the state that makes the placement.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-120-0050

Incapable of Stating Intent to Reside; OSIPM, QMB, REFM, and SAC

In the OSIPM, QMB, REFM, and SAC programs, an individual is presumed to be incapable of forming an intent to reside if the individual meets the requirements of one or more of the following sections:

(1) The individual is assessed with an IQ of 49 or less, based on a test acceptable to the Department.

(2) The individual has a mental age of seven years or less, based on tests acceptable to the Department.

(3) The individual is judged legally incompetent by a court of competent jurisdiction.

(4) The individual is found incapable of indicating intent to reside based on documentation provided by a physician, psychologist or other professional licensed by the state of Oregon in the field of intellectual disabilities.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 414.231
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 414.231
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-120-0125

Alien Status

(1) For purposes of this chapter of rules, an individual is a "qualified non-citizen" if the individual is any of the following:

(a) A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq).

(b) A refugee who is admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157).

(c) A non-citizen who is granted asylum under section 208 of the INA (8 U.S.C. 1158).

(d) A non-citizen 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)).

(e) A non-citizen 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.

(f) A non-citizen 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.

(g) A non-citizen who is a "Cuban and Haitian entrant" (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).

(h) An Afghan or Iraqi alien granted Special Immigration Status (SIV) under section 101(a)(27) of the INA.

(i) In all programs except the SNAP program--a battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c) and is in

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the United States on a conditional resident status, as determined by the U.S. Citizenship and Immigration Services.

(j) In the SNAP program—a non-citizen who has been battered or subjected to extreme cruelty in the United States by a spouse or parent or by a member of the spouse or parent's family residing in the same household as the non-citizen at the time of the abuse; a non-citizen whose child has been battered or subjected to battery or cruelty; or a non-citizen child whose parent has been battered.

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

(a) 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)).

(3) In the ERDC, TA-DVS, and TANF programs, an individual meets the alien status requirements if the individual is one of the following:

(a) An individual who is a qualified non-citizen.

(b) A non-citizen who is currently a victim of domestic violence or who is at risk of becoming a victim of domestic violence.

(c) 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).

(d) 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).

(4) In the OSIPM, QMB, and SAC programs:

(a) A qualified non-citizen meets the alien status requirements if the individual satisfies one of the following situations:

(A) Effective October 1, 2009, is an individual under 19 years of age.

(B) Was a qualified non-citizen before August 22, 1996.

(C) Physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date qualified non-citizen status was obtained. 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 qualified non-citizen status was obtained.

(D) Is an individual granted any of the following alien statuses:

(i) Refugee — under section 207 of the INA.

(ii) Asylum — under section 208 of the INA.

(iii) Deportation being withheld under section 243(h) of the INA.

(iv) Cubans and Haitians who are either public interest or humanitarian parolees.

(v) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(vi) 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).

(vii) 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).

(viii) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(E) Meets the alien status requirements in section (2), (6), or (7) of this rule.

(F) In the OSIPM program, is receiving SSI benefits.

(G) In the QMB program, is receiving SSI and Medicare Part A benefits.

(b) A non-citizen meets the alien status requirements if the individual is under the age of 19 and is one of the following:

(A) A citizen of a Compact of Free Association State (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) who has been admitted to the U.S. as a non-immigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the U.S.

(B) An individual described in 8 CFR section 103.12(a)(4) who belongs to one of the following classes of aliens 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 alien currently in temporary resident status pursuant to section 210 or 245A of the INA (8 USC 1160 and 1255a);

(ii) An alien currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 USC 1229b);

(iii) Cuban-Haitian entrants, 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 alien currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;

(vi) An alien currently in deferred action status pursuant to Department of Homeland Security Operating Instruction OI 242.1(a)(22); or

(vii) An alien 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.

(C) 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).

(5) In the GA and GAM programs, an individual meets the alien status requirement if the individual is one of the following:

(a) An individual who is blind or has a disability was lawfully residing in the United States on August 22, 1996, and is now a qualified non-citizen.

(b) An individual granted one of the following statuses, but only for seven years following the date the status is granted:

(A) Refugee — under section 207 of the INA.

(B) Asylum — under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(E) Cubans and Haitians who are either public interest or humanitarian parolees.

(F) 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).

(G) 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).

(c) An individual who meets one of the alien status requirements in section (2) or (6) of this rule.

(d) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(6) In all programs except the ERDC, REF, REFM, and TANF programs, a qualified non-citizen meets the alien status requirement if the individual is:

(a) A veteran of the United States Armed Forces who was honorably discharged for reasons other than alien 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 or a dependent child of an individual described in subsection (a) or (b) of this section.

(d) In the SNAP program, a qualified non-citizen who meets the requirement in section (10) of this rule.

(7) Except as provided in section (2), subsection (4)(a), and sections (5) and (6) of this rule, a non-citizen who entered the United States or was given qualified non-citizen status on or after August 22, 1996:

(a) Is ineligible for the OSIPM, QMB, and SAC programs for five years beginning on the date the non-citizen received his or her qualified non-citizen status.

(b) Meets the alien status requirement following the five-year period.

(8) In the REF and REFM programs, an individual meets the alien status requirements if the individual is admitted lawfully under any of the following provisions of law:

(a) An individual admitted as a refugee under section 207 of the INA (8 USC 1157).

(b) An individual granted asylum under section 208 of the INA (8 USC 1158).

(c) Cuban and Haitian entrants, in accordance with requirements in 45 CFR part 401.

(d) An individual paroled as a refugee or asylee under section 212(d)(5) of the Immigration and Nationality Act (INA) (8 USC 1182(d)(5)). For purposes of this section, "Lautenberg" parolees, humanitarian interest parolees, and other public interest parolees do not qualify.

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(e) An Amerasian from Vietnam who is admitted to the U.S. as an immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Pub. L. No. 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100-461 as amended)).

(f) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(g) 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, Pub. L. 108-193, 117 Stat. 2875 (2003).

(h) Iraqi and Afghan aliens granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act.

(9) In the SNAP program, an individual meets the alien status requirement if the individual meets the requirements of one or more of the following subsections:

(a) An individual granted any of the following alien statuses--

(A) Refugee — under section 207 of the INA.

(B) Asylum — under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) 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).

(G) 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).

(H) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(b) A qualified non-citizen under 18 years of age.

(c) A non-citizen who has been residing in the United States for at least five years while a qualified non-citizen.

(d) A non-citizen who is lawfully residing in the United States and who 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).

(e) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in subsection (d) of this section.

(f) A qualified non-citizen who has a disability, as defined in OAR 461-001-0015.

(10) A client who is lawfully admitted to the United States for permanent residence under the INA and 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, meets the alien status requirements for the SNAP program, subject to the following provisions:

(a) 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).

(b) 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.

(c) A lawful permanent resident who would meet the alien status requirement, 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 provi-

sional certification cannot run more than six months from the date of original determination by SSA that the client does not have sufficient quarters.

Stat. Auth.: ORS 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.231
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826, 414.831

Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 36-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 10-2004(Temp), f. & cert. ef. 4-9-04 thru 6-30-04; SSP 14-2004(Temp), f. & cert. ef. 5-11-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08; SSP 4-2008(Temp), f. & cert. ef. 2-22-08 thru 7-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 25-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-30-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-120-0210

Requirement to Provide Social Security Number (SSN)

(1) In the CAWEM, ERDC, REF, and REFM programs, a member of a need group (see OAR 461-110-0630) or a benefit group (see OAR 461-110-0750) is not required to provide or apply for a social security number (SSN). In these programs, the Department may request that a member of the filing group or need group provide an SSN on a voluntary basis.

(2) In the EA and TA-DVS programs, an individual must provide his or her SSN if the individual can.

(3) Except as provided in section (5) of this rule, in the OSIPM, QMB, and SAC programs:

(a) An individual is not required to apply for or provide an SSN :

(A) If the individual does not have an SSN; and

(B) May only be issued an SSN for a valid non-work reason in accordance with 20 CFR 422.104.

(b) When subsection (a) does not apply, to be included in the benefit group, an individual must:

(A) Provide a valid SSN for the individual; or

(B) Apply for a number if the individual does not have a valid one and provide the SSN when it is received.

(4) Except as provided in sections (5) to (7) of this rule, in the SNAP and TANF programs, to be included in the need group, an individual (other than an unborn) must:

(a) Provide a valid SSN for the individual; or

(b) Apply for a number if the individual does not have one and provide the SSN when it is received.

(5) In the GA, GAM, OSIPM, QMB, SAC, and SNAP programs, an individual is not required to apply for or provide an SSN if the individual is:

(a) A member of a religious sect or division of a religious sect that has continuously existed since December 31, 1950; and

(b) Adheres to its tenets or teachings that prohibit applying for or using an SSN.

(6) The requirement to apply for or provide the SSN is delayed as follows:

(a) In the SAC program, a newborn who is assumed eligible based on the eligibility of the mother of the newborn may receive benefits until one year of age without meeting the SSN requirements of section (4) of this rule.

(b) In the SNAP program:

(A) An applicant eligible for expedited services may receive his or her first full month's allotment without meeting the SSN requirement but must meet the requirement before receiving a second full month's allotment.

(B) Before applying for or providing an SSN, a newborn may be included in a benefit group (see OAR 461-110-0750) for six months following the date the child is born or until the group's next recertification, whichever is later.

(c) In the TANF program, without meeting the SSN requirements of section (4) of this rule, a newborn child born in Oregon may be added to the benefit group for six months following the child's date of birth or until the next redetermination of eligibility of the filing group (see OAR 461-110-0330), whichever is sooner.

ADMINISTRATIVE RULES

(7) In the SNAP program:

(a) An individual who refuses or fails without good cause to provide or apply for an SSN when required by this rule is ineligible to participate. This period of ineligibility continues until the individual provides the SSN to the Department.

(b) An individual may participate in SNAP for one month in addition to the month of application, if the individual can show good cause why the application for an SSN has not been completed. To continue to participate, the individual must continue to show good cause each month until the application for an SSN is complete with Social Security Administration.

(c) An individual meets the good cause requirement in subsections (a) and (b) of this section if the individual provides evidence or collateral information that the individual applied for or made every effort to supply the Social Security Administration with the necessary information to complete the application process. Delays due to illness not associated with a disability (see OAR 461-001-0015), lack of transportation, or temporary absence do not qualify as good cause under this rule.

(8) This rule authorizes or requires the collection of an SSN for each of the following purposes.

(a) The determination of eligibility for benefits. The SSN is used to verify income and other assets, and match with other state and federal records such as the Internal Revenue Service (IRS), Medicaid, child support, Social Security benefits, and unemployment benefits.

(b) The preparation of aggregate information and reports requested by funding sources for the program providing benefits.

(c) The operation of the program applied for or providing benefits.

(d) Conducting quality assessment and improvement activities.

(e) Verifying the correct amount of payments, recovering overpaid benefits, and identifying any individual receiving benefits in more than one household.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 414.831, 414.839
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 12-2013(Temp), f. & cert. ef. 5-29-13 thru 11-25-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-120-0310

Assignment of Support Rights; Not SNAP

In all programs except the SNAP program:

(1) To be eligible for any program funded in whole or in part with federal grants under Title IV-A (TANF) of the Social Security Act, the filing group must assign to the state its right to receive, from any other person, child support that accrues during any time period that the group receives assistance, not to exceed the total amount of assistance paid.

(2) To be eligible for any program funded in whole or in part with federal grants under Title IV-E of the Social Security Act, the filing group must assign to the state its right to receive, from any other person, child support that has accrued or that accrues during any time period that the group receives assistance, not to exceed the total amount of assistance paid.

(3) To be eligible for the OSIPM program, a filing group must assign to the state the right of any Medicaid-eligible child in the filing group to receive any cash medical support that accrues while the group receives assistance, not to exceed the total amount of assistance paid.

(4) Cash medical support received by the Department will be retained by the Department as is necessary to reimburse the Department for OSIPM program medical assistance payments made on behalf of an individual with respect to whom such assignment was executed. Once yearly, the remainder of such amount retained will be paid to such individual.

(5) When the Department provides benefits or services for the support of a child who is in a filing group in any program funded in whole or in part with a federal grant under Title IV-A (TANF) or IV-E of the Social Security Act, the right to child support for that child that any individual may have is deemed to be assigned to the state by operation of law.

Stat. Auth.: ORS 411.060, 411.070, 414.024, 412.049 & 414.042
Stats. Implemented: ORS 411.060, 411.070, 412.001, 412.024, 412.049, 414.025 & 414.042
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 12-2007(Temp), f. 11-30-07, cert. ef. 12-1-07 thru 3-29-07; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-

1-10; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-120-0315

Medical Assignment

In the GAM, OSIPM, QMB, REFM, and SAC programs:

(1) By signing the application for assistance, a client agrees to turn over the rights of each member of the benefit group (see OAR 461-110-0750) to reimbursement for medical care costs to the Department.

(a) If a client or the client's authorized representative (see OAR 461-115-0090) refuses to assign the rights to reimbursement for medical care costs to the Department, the filing group is ineligible until the client complies with this requirement. This includes a client eligible for long term care (see OAR 461-001-0000) insurance payments who fails to comply as described in subsection (b) of this section.

(b) When a client has long term care insurance, the client complies with the requirements of this rule by reducing the Department's share of the long term care service costs by taking the following actions for the entire period of time that the client is eligible for Department-covered long term care services:

(A) For a client in a nursing facility:

(i) Submitting the necessary paperwork to receive the long term care insurance payments and designating the long term care facility as the payee for the long term care insurance benefits; or

(ii) When the insurance company will not pay the long term care insurance benefits directly to the long term care facility, submitting the necessary paperwork to receive insurance payments and then promptly turning over the long term care insurance payments to the long term care facility upon receipt.

(B) For a client in community based care (see OAR 461-001-0000):

(i) Submitting the necessary paperwork to receive the long term care insurance payments and designating the Department as the payee for the long term care insurance benefits; or

(ii) When the insurance company will not pay the long term care insurance benefits directly to the Department, submitting the necessary paperwork to receive the insurance payments and then promptly turning over the long term care insurance payments to the Department upon receipt.

(2) The Department may refuse to pay medical expenses for anyone in the benefit group when another party or resource should pay first.

(3) The amount the Department may collect in reimbursement is limited to the amount of medical services paid by the Department on the client's behalf.

(4) The Department establishes an overpayment if it is discovered after-the-fact that during any period of time a client or another individual submitting a long term care insurance claim on the client's behalf received a long term care insurance payment that was not turned over to the long term care facility or Department as required by subsection (1)(b) of this rule.

Stat. Auth.: ORS 411.060, 411.404, 411.706, 414.231
Stats. Implemented: ORS 411.060, 411.404, 411.706, 414.231
Hist.: AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-120-0345

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

This rule explains the obligation of clients to obtain health care coverage and cash medical support for members of the benefit group (see OAR 461-110-0750) in the GAM and OSIPM programs.

(1) Unless excused from the requirements of this section for good cause defined in OAR 461-120-0350, each adult client must assist the Department and the Division of Child Support of the Department of Justice in establishing paternity for each of his or her children and obtaining an order directing the non-custodial parent (see OAR 461-001-0000) of a child (see OAR 461-001-0000) in the benefit group to provide:

(a) Cash medical support for that child; and

(b) Health care coverage for that child.

(2) Each adult client must make a good faith effort to obtain available coverage under Medicare.

(3) To be eligible for the GAM and OSIPM programs, 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). In the GAM and OSIPM programs, the client is not required to incur a cost for the health insurance.

ADMINISTRATIVE RULES

(4) An individual who fails to meet an applicable requirement in sections (1), (2), or (3) of this rule is removed from the need group (see OAR 461-110-0630) except that in the OHP program the individual is removed from the benefit group (see OAR 461-110-0750).

(5) In the case of an individual failing to meet the requirements of section (1) of this rule, the Department applies the penalty after providing the client with notice and opportunity to show the provisions of OAR 461-120-0350 apply.

(6) The penalty provided by this rule ends when the client meets the requirements of this rule.

Stat. Auth.: ORS 411.060, 411.070, 412.024, 412.049, 414.042
Stats. Implemented: ORS 411.060, 411.070, 412.001, 412.024, 412.049, 414.025, 414.042
Hist.: AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 30-1996, f. & cert. ef. 9-23-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-120-0350

Clients Excused for Good Cause from Compliance with Requirements to Pursue Child Support, Health Care Coverage, and Medical Support

(1) A client is excused from the requirements of OAR 461-120-0340(1) and 461-120-0345(1)(a) if:

(a) The client's compliance would result in emotional or physical harm to the dependent child (see OAR 461-001-0000) or to the caretaker relative (see OAR 461-001-0000). The statement of the caretaker relative alone is prima facie evidence that harm would result;

(b) The child was conceived as a result of incest or rape and efforts to obtain support would be detrimental to the dependent child. The statement of the caretaker relative alone is prima facie evidence on the issues of conception and detrimental effect to the dependent child;

(c) Legal proceedings are pending for adoption of the needy child; or

(d) The parent is being helped by a public or licensed private social agency to resolve the issue of whether to release the child for adoption.

(2) In the GAM and REFM programs, a pregnant client is excused from the requirements of OAR 461-120-0345.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-120-0510

Age Requirements for Clients to Receive Benefits

(1) If the year of an individual's birth is known but the month is unknown, the month of birth is presumed to be July. If the date of birth is unknown, the date of birth is presumed to be the first of the month.

(2) To be eligible for the TANF program:

(a) A dependent child (see OAR 461-001-0000) must be:

(A) Under 18 years of age; or

(B) Under 19 years of age and regularly attending school (see subsection (c) of this section) full time, as determined by the school.

(b) A caretaker relative (see OAR 461-001-0000) may be any age.

(c) "Regularly attending school" means enrolled in and attending any of the following:

(A) A school in grade 12 or below, including home schooling approved by the local school district.

(B) GED classes in lieu of high school.

(C) A course of vocational or technical training, including Job Corps, in lieu of high school.

(D) The Oregon School for the Deaf.

(E) The student's full-time status is defined by the school.

(e) Regular attendance continues when a student misses school because of an illness, family emergency, or vacation, as long as the student intends to return to school. Students are considered to be in attendance for the full month in which they complete or discontinue school or training.

(3) To be eligible for payment of child care costs for the ERDC or TANF program, a child must be:

(a) Under 12 years of age for the ERDC program or under 13 years of age for the TANF program; or

(b) Under 18 years of age and:

(A) Physically or mentally incapable of selfcare;

(B) Under court supervision;

(C) Receiving foster care;

(D) Eligible for the special need rate for child care in OAR 461-155-0150; or

(E) Subject to circumstances that significantly compromise the child's safety or the caretaker's ability to work or participate in an assigned activity if child care is not available.

(4) To be eligible for the OSIP-AB, OSIPM-AB, QMB-BAS, QMB-SMB, REFM, or SNAP programs, a client may be any age.

(5) To be eligible for the GA and GAM programs, a client must be--

(a) Eighteen years of age or older and less than 65 years of age; or

(b) Sixty-five years of age or older and must be a non-citizen who meets the requirements of OAR 461-120-0125.

(6) To be eligible for the OSIP-AD (except OSIP-EPD), OSIPM-AD (except OSIPM-EPD), and QMB-DW programs, a client must be under 65 years of age.

(7) To be eligible for the OSIP-EPD and OSIPM-EPD programs, the client must be 18 years of age or older or be legally emancipated.

(8) To be eligible for the OSIP-OAA or OSIPM-OAA programs, a client must be 65 years of age or older.

(9) To be eligible for the REF program, a client must be:

(a) 18 years of age or older;

(b) A legally emancipated minor; or

(c) Part of a TANF filing group (see OAR 461-110-0310) that is ineligible for the TANF program.

(10) To be eligible for the SAC program, an individual must be under 21 years of age.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 18-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 12-31-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-120-0630

Requirement to Live with a Caretaker or Caretaker Relative

(1) Except as provided otherwise in OAR 461-135-1200, to be eligible for the TANF program, a *dependent child* (see OAR 461-001-0000) must live with a caretaker relative (see OAR 461-001-0000). Documentary evidence is required to show that an individual is the father of a dependent child.

(2) To be eligible for the EA program, a child must either live with a caretaker relative or have lived with a caretaker relative within the last six months.

(3) To be eligible for the ERDC program, a child must live with a caretaker (see OAR 461-001-0000).

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 30-1992(Temp), f. & cert. ef. 10-14-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-125-0150

Determining Primary Wage Earner (PWE); TANF

(1) For TANF, the primary wage earner (PWE) is the parent who earned the most money in the 24 months before requesting assistance.

(2) Once a parent is determined to be the PWE, their status cannot change while the family remains continuously eligible for cash assistance, unless:

ADMINISTRATIVE RULES

(a) The other parent later provides evidence that they should have been the PWE at the time of application; OR

(b) The parent who is the PWE is out of the household group for at least one full calendar month. If so, the branch office must redetermine the PWE.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.116, 411.404, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 11-1999, f. & cert. ef. 10-1-99; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-130-0328

Effect of Strikes

(1) For the purposes of this rule, "striker" means anyone participating in a strike or concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) or any concerted slowdown or other concerted interruption of operations by employees. An individual is not a striker if the individual is:

(a) An employee affected by a lockout;

(b) An individual who goes on strike but who is exempt (see OAR 461-130-0305) from participating in an employment program under this division of rules the day prior to the strike, unless exempt solely on the ground that the individual is employed; or

(c) A client who is not part of a bargaining unit on strike and does not want to cross a picket line due to fear of personal injury or death.

(2) In the EA, REF, and TANF programs, a filing group is ineligible for program benefits during any month in which a parent (see OAR 461-001-0000) in the filing group is a striker. If any other member of the filing group is a striker, only that individual is ineligible.

(3) In the SNAP program:

(a) A household containing a striker is not eligible to participate in the program unless the household was eligible for benefits the day prior to the date the member became a striker.

(b) An eligible household is not entitled to an increased allotment as the result of a decrease in the income of a need group (see OAR 461-110-0630) member on strike.

(c) The eligibility of a filing group (see OAR 461-110-0370) containing a striker is determined by adding to the income of the group's members who are not strikers the greater of the striker's current income or the striker's income immediately before the strike. Deductions used to determine benefits and eligibility for a household subject to the net income eligibility standard are calculated for the month of application as for any other household.

(d) A striker is subject to the registration requirements of this division of rules unless exempt from participating in an employment program on the day of application.

Stat. Auth.: ORS 411.060, 411.404, 411.816
Stats. Implemented: ORS 411.060, 411.404, 411.816
Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-0010

Assumed Eligibility for Medical Programs

(1) This rule sets out when a client is assumed eligible for certain medical programs because the client receives or is deemed to receive benefits of another program.

(2) A pregnant woman who is eligible for and receiving benefits the day the pregnancy ends is assumed eligible for the OSIPM or SAC program until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.

(3) A pregnant woman who was eligible for and receiving medical assistance under any Medicaid program and becomes ineligible while pregnant is assumed eligible for Medicaid until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.

(4) A child (see OAR 461-001-0000) born to a mother eligible for and receiving OSIPM or SAC 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 following children are assumed eligible for SAC:

(a) A child who is the subject of an adoption assistance agreement with another state.

(b) A child in a state subsidized, adoptive placement, if an adoption assistance agreement is in effect between a public agency of the state of Oregon and the adoptive parents that indicates the child is eligible for Medicaid.

(6) 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 SSI benefits.

(b) An individual 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.

(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 resources exceed the limit after performing the calculation under OAR 461-160-0580.

(7) A client who receives both benefits under Part A of Medicare and SSI benefits is assumed eligible for the QMB BAS program.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404 & 412.049
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 412.049 & 414.025
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 12-1999(Temp), f. & cert. ef. 10-1-99 thru 1-31-00; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 12-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 10-2009(Temp), f. & cert. ef. 5-6-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-1-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-0070

Specific Requirements; TANF

(1) To be eligible for TANF program benefits, a client must be one of the following:

(a) A dependent child (see OAR 461-001-0000). However, a dependent child for whom foster care payments are made for more than 30 days is not eligible while the payments are being made for the dependent child.

(b) A caretaker relative (see OAR 461-001-0000) of an eligible dependent child. However, a caretaker relative to whom foster care payments are made for more than 30 days is not eligible while the payments are being made to the caretaker relative.

(c) A caretaker relative of a dependent child, when the dependent child is ineligible for TANF program benefits because of one of the following reasons:

(A) The child is receiving SSI.

(B) The child is in foster care, but is expected to return home within 30 days.

(d) An essential person. An essential person is a member of the household group (see OAR 461-110-0210) who:

(A) Is not required to be in the filing group;

(B) Provides a service necessary to the health or protection of a member of the benefit group (see OAR 461-110-0750) who has a mental or physical disability; and

(C) Is less expensive to include in the benefit group than the cost of purchasing this service from another source.

(e) A parent (see OAR 461-001-0000) of an unborn, as follows:

(A) For the TANF program, any parent whose only child is an unborn child once the mother's pregnancy has reached the calendar month before the month in which the due date falls.

(B) For the TANF program, the parent of an unborn child, if there is another dependent child in the filing group (see OAR 461-110-0330).

(2) As used in this rule and OAR 461-125-0170:

(a) Except as provided otherwise in this section, "good cause" means a reasonable person of normal sensitivity, exercising ordinary common sense under similar circumstances, would have:

(A) Left work; or

(B) Participated in behavior leading to the individual's discharge or to the individual quitting work in anticipation of discharge.

(b) For an individual with a physical or mental impairment (as defined at 29 CFR 1630.2(h)), except as provided otherwise in subsection (c) of this section, "good cause" for leaving work means that a reasonable person with

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the characteristics and qualities of such individual under similar circumstances would have:

- (A) Left work;
 - (B) Participated in behavior leading to the individual's discharge; or
 - (C) Quit work in anticipation of a discharge.
- (c) There is no "good cause" if the reason for separation from employment is a labor dispute.

(3) Except as provided under section (4) of this rule, a need group (see OAR 461-110-0630) is not eligible for TANF program benefits for 120 days from the date a caretaker relative was separated from his or her last employment in which the caretaker relative in the need group was hired to work 100 or more hours per month or worked or was scheduled to work 100 or more hours in the last full calendar month of employment.

(4) A need group (see OAR 461-110-0630) may not be denied TANF program benefits based on section (3) of this rule, or based on not meeting OAR 461-125-0170(1)(c) or (d), if the caretaker relative is one of the following:

- (a) A Parents as Scholars (PAS) participant who temporarily becomes ineligible for TANF program benefits for four months or less due to income from a paid work experience (see OAR 461-190-0199).
- (b) A teen parent (see OAR 461-001-0000) returning to high school or equivalent.
- (c) An individual fleeing from or at risk of domestic violence (see OAR 461-001-0000).
- (d) An individual in the ninth month of pregnancy or experiencing a medical complication due to the pregnancy which is documented by a qualified and appropriate professional.

(e) An individual unable to work due to a disability or medical condition documented by a qualified and appropriate professional, and which is expected to last for 30 days or more from the date of request (see OAR 461-115-0030) for TANF program benefits.

(f) An individual who was separated from employment for a reason the Department determines is good cause.

(g) An individual who was separated from employment as a result of a layoff.

(5) A family is ineligible for TANF program benefits if the family meets the requirements of all of the following subsections:

- (a) The family lives in Klamath County.
- (b) The family meets any of the following conditions:

(A) The family has a single custodial parent who is a member of the Klamath Tribes, or the single custodial parent is not a Klamath Tribes member and at least 50 percent of the dependent children are Klamath Tribes members;

(B) The family has two custodial parents (see OAR 461-001-0000) who are members of the Klamath Tribes, or only one of the two custodial parents is a Klamath Tribes member and at least 50 percent of the dependent children are Klamath Tribes members; or

(C) The family has a caretaker relative who is not the custodial parent and at least 50 percent of the dependent children are Klamath Tribes members.

(c) The family is eligible for the Klamath Tribes TANF program or would be eligible for the Klamath Tribes TANF program if not for the failure of the family to cooperate with program requirements.

(6) A family is ineligible for TANF program benefits if all of the following subsections apply to the family:

(a) A parent, caretaker relative, or child is a member of the Siletz Tribe (Confederated Tribes of Siletz Indians of Oregon) and lives in one of the eleven service area counties: Benton, Clackamas, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, or Yamhill counties.

(b) The family includes members who are living in the same household and at least one of the following paragraphs applies:

- (A) A two-parent family with one enrolled Siletz tribal member with a shared dependent.
- (B) A single-parent family with one enrolled Siletz tribal member.
- (C) A non-needy caretaker relative or essential person with one enrolled Siletz tribal member who is a minor.
- (D) A pregnant enrolled Siletz tribal member in her eighth month of pregnancy.

(c) The family is eligible for the Siletz Tribes TANF program or would be eligible for the Siletz Tribes TANF program if not for the failure of the family to cooperate with Siletz TANF program requirements.

(7) If a parent or caretaker relative covered by section (8) or (9) of this rule fails to follow through with a Department referral to the Klamath or Siletz Tribal TANF program, the entire filing group is ineligible for TANF program benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.400, 411.404, 412.006, 412.016, 412.049 & 412.124

Stats. Implemented: ORS 411.060, 411.070, 411.400, 411.404, 412.006, 412.016, 412.049, 412.064, 412.124 & 2011 OL 604 & 2012 OL 107
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-1997(Temp), f. 12-31-97, cert. ef. 1-1-98 thru 4-30-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 26-1998(Temp), f. 12-30-98, cert. ef. 1-1-99 thru 3-31-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 19-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 10-28-09; SSP 33-2009, f. & cert. ef. 10-29-09; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-0080

TANF Eligibility for Minor Parents

To be eligible for TANF, a minor parent applying for benefits for his or her child must live with the minor's parent, parents or legal guardian unless it is unsafe or impractical for the minor parent to live with those individuals.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 418.132

Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-0095

Specific Requirements; EXT

(1) To be eligible for EXT benefits, at least one member of the *filing group* (see OAR 461-110-0330) must meet the requirements of one of the following subsections:

(a) Have been eligible for and received MAA or MAF program benefits and then become ineligible for one of the following reasons:

(A) An increase in the *earned income* (see OAR 461-145-0120) of the caretaker relative (see OAR 461-001-0000); or

(B) A combination of an increase in both the *earned income* of the caretaker relative and the child support received.

(b) Have been eligible for and received MAA or MAF program benefits for three of the six months prior to becoming ineligible due to an increase in child support received.

(2) If the *filing group* becomes ineligible for MAA or MAF when another change occurs in conjunction with the increase in *earned income* or child support, the *filing group* is not eligible for EXT if the other change, by itself, makes the *filing group* ineligible for MAA or MAF.

(3) Eligibility for EXT is limited to the members of the MAA or MAF *benefit group* (see OAR 461-110-0750) at the time that those benefits end.

(4) Subject to the time periods established in OAR 461-135-0096(1):

(a) Once eligibility for EXT is established, members of the *benefit group* are ineligible if the *filing group* contains no *dependent child* (see OAR 461-001-0000).

(b) A *benefit group* may regain EXT eligibility after becoming ineligible, even if eligibility was lost due to moving out of state, whenever the *benefit group* again meets EXT eligibility requirements.

(c) Individuals who have lost EXT eligibility because they leave the household during the EXT eligibility period may regain eligibility when they return to the household.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404

Stats. Implemented: ORS 409.010, 409.040, 411.060, 411.070, 411.404

Hist.: AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 31-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 40-2010(Temp), f. & cert. ef. 11-15-10 thru 5-13-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-0096

Eligibility Period; EXT

(1) For a client who meets the eligibility requirements for EXT, the period of eligibility is one of the following:

(a) If eligibility for EXT results from increased child support, the period of eligibility is four months.

(b) If eligibility for EXT results from an increase in the caretaker relative's earnings, the period of eligibility is twelve months.

(2) The period of eligibility for EXT is based on the increase in the caretaker relative's earnings and is described in subsection (1)(b) of this rule in each of the following situations:

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(a) A client meets the eligibility requirements for EXT based on an increase in the caretaker relative's earnings and also meets the eligibility requirements based on an increase in child support in the same month.

(b) A client meets the eligibility requirements for EXT based on a combination of increased income from the caretaker relative's earnings and child support, although either increase by itself does not make the filing group ineligible for MAA or MAF.

(3) The EXT eligibility period begins the first of the month following the month eligibility for MAA or MAF ends. If a benefit group received MAA or MAF benefits when they were eligible for EXT, the MAA or MAF benefits are not an overpayment. However, any month in which the client receives MAA or MAF benefits when eligible for EXT is counted as a month of EXT eligibility.

Stat. Auth.: ORS 411.060, 414.042

Stats. Implemented: ORS 411.060, 414.042

Hist.: AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 31-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-0170

Eligibility for 1972 COLA Clients; MAA and MAF

A client is eligible for MAA or MAF, if he or she meets all eligibility requirements except his or her income exceeds the income limit because of an SSB cost-of-living increase in July 1972; and

(1) The client received SSB in August 1972 and received benefits under MAA or MAF or a state program for the aged, blind, or disabled, or were eligible for such a program; or

(2) The client would have been eligible for SSB if he or she had not resided in a medical facility.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-9; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 17-2004, f. & cert. ef. 7-1-04; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-0875

Specific Requirements; Retroactive Medical

(1) The following clients are evaluated for retroactive eligibility for medical assistance:

(a) Clients applying for the OSIPM, QMB-DW, REFM, or SAC program. This includes deceased individuals who would have been eligible for Medicaid covered services had they, or someone acting on their behalf, applied.

(b) Clients found ineligible for the OSIPM or SAC program solely because they do not meet the citizenship requirements of OAR 461-120-0125. Clients eligible under this subsection are eligible only for CAWEM program benefits (see OAR 461-135-1070).

(c) Clients found eligible for QMB-BAS, who are evaluated for OSIPM retroactive eligibility.

(2) If eligible for medical assistance retroactively, the client's eligibility cannot start earlier than the date indicated by OAR 461-180-0140.

(3) In the QMB-BAS program, there is no retroactive medical benefits.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 8-1993(Temp), f. & cert. ef. 4-26-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-0900

Specific Requirements; REF, REFM

(1) In addition to the eligibility requirements in other rules in Chapter 461 of the Oregon Administrative Rules, an individual must meet all of the requirements in this rule to be eligible for the REF and REFM programs.

(2) An individual must meet the alien status requirements of OAR 461-120-0125, except a child (see OAR 461-001-0000) born in the United States to an REF or REFM program client meets the alien status requirements for the REF and REFM programs as long as each parent (see OAR 461-001-0000) in the household group (see OAR 461-110-0210) meets the alien status requirements of OAR 461-120-0125.

(3) An individual is not eligible to receive REF and REFM program benefits if the individual is a full-time student of higher education, unless such education is part of a cash assistance case plan. Any education or train-

ing allowable under an approved case plan must be less than one year in length. For the purposes of this rule, "higher education" means education that meets the requirements of one of the following subsections:

(a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL, and high school equivalency programs at these institutions are not considered higher education.

(b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered higher education.

(4) Eligibility for REF and REFM program benefits is limited to the first eight months in the United States:

(a) For an individual who meets the alien status requirements of OAR 461-120-0125(8)(a), (c), (d), or (e), the month that the individual enters the U.S. counts as the first month.

(b) For an individual who meets the alien status requirements of OAR 461-120-0125(8)(b), (f), or (g), the month that the individual was granted the individual's status counts as the first month.

(c) For an individual who meets the alien status requirements of OAR 461-120-0125(8)(h):

(A) If the individual enters the U.S. with the special immigrant status, the month that the individual enters the U.S. counts as the first month.

(B) If the individual is granted special immigrant status after they have already entered the U.S., then the month in which the special immigrant status was granted counts as the first month.

(d) Months in the United States are counted as whole months. There is no prorating of months, except as described in OAR 461-193-0320.

(5) For an individual who meets the requirements of section (4) of this rule:

(a) When the individual resides in Clackamas, Multnomah, or Washington counties:

(A) The individual is not eligible to receive REF, TANF, or TANF-related employment services through the Department. To receive benefits, the individual is required to participate in the Refugee Case Service Project (RCSP) program. This individual is referred to their local resettlement agency to be enrolled in the RCSP program and receives all other Department services through the individual's local Department office.

(B) An individual who no longer meets the requirements of section (4) of this rule is no longer eligible to receive cash or case management services through the RCSP program. If this individual has been in the United States for 12 months or less, the individual is referred to the New Arrival Employment Services (NAES) program contractor for employment services.

(b) When the individual resides in counties other than Clackamas, Multnomah, and Washington, the RCSP program is not available. The individual is served at the individual's local Department office.

(6) Except for QMB, eligibility for all Medicaid and CHIP programs must be determined prior to determining eligibility for the REFM program.

(7) Eligibility for the TANF program must be determined prior to the REF program.

(8) An REF program client may not participate in the Pre-TANF program.

Stat. Auth.: ORS 409.050, 411.060 & 412.049

Stats. Implemented: ORS 409.010, 411.060 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 33-1996(Temp), f. 9-26-96, cert. ef. 10-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08; SSP 4-2008(Temp), f. & cert. ef. 2-22-08 thru 7-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 13-2010(Temp), f. & cert. ef. 5-17-10 thru 11-13-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-0930

Medical Coverage for Refugees; REFM

(1) REFM benefits are the same medical coverage as other Medicaid or CHIP programs, except QMB.

(2) A client is not required to meet the financial eligibility criteria for REFM if the client meets all the non-financial eligibility criteria for REFM and:

(a) The client loses eligibility for any other Medicaid or CHIP program, except QMB; or

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(b) The client had refugee-related medical assistance established in another state based on refugee status granted by the United States Citizenship and Immigration Services, and moved to Oregon within the client's first eight months in the United States.

(3) A client who is determined eligible for REFM will maintain eligibility for REFM for the remainder of their first eight months in the United States even if the client loses eligibility for REF due to having income equal to or over the REF countable (see OAR 461-001-0000) income and adjusted income (see OAR 461-001-0000) limits (see OAR 461-155-0030).

Stat. Auth.: ORS 409.050, 411.060, 411.404

Stats. Implemented: ORS 409.010, 411.060, 411.404

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-0950

Eligibility for Inmates and Residents of State Hospitals

(1) This rule sets out additional restrictions on the eligibility of inmates and residents of state hospitals for programs covered by Chapter 461 of the Oregon Administrative Rules.

(2) Definition of an "inmate".

(a) An inmate is an individual living in a public institution who is:

(A) Confined involuntarily in a local, state or federal prison, jail, detention facility, or other penal facility, including an individual being held involuntarily in a detention center awaiting trial or an individual serving a sentence for a criminal offense;

(B) Residing involuntarily in a facility under a contract between the facility and a public institution where, under the terms of the contract, the facility is a public institution;

(C) Residing involuntarily in a facility that is under governmental control; or

(D) Receiving care as an outpatient while residing involuntarily in a public institution.

(b) An individual is not considered an inmate when:

(A) The individual is released on parole, probation, or post-prison supervision;

(B) The individual is on home- or work-release, unless the individual is required to report to a public institution for an overnight stay;

(C) The individual is staying voluntarily in a detention center, jail, or county penal facility after his or her case has been adjudicated and while other living arrangements are being made for the individual; or

(D) The individual is in a public institution pending other arrangements as defined in 42 CFR 435.1010.

(3) Definition of a "public institution".

(a) A public institution is any of the following:

(A) A state hospital (see ORS 162.135).

(B) A local correctional facility (see ORS 169.005): a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds individuals for more than 36 hours.

(C) A Department of Corrections institution (see ORS 421.005): a facility used for the incarceration of individuals sentenced to the custody of the Department of Corrections, including a satellite, camp, or branch of a facility.

(D) A youth correction facility (see ORS 162.135):

(i) A facility used for the confinement of youth offenders and other individuals placed in the legal or physical custody of the youth authority, including a secure regional youth facility, a regional accountability camp, a residential academy and satellite, and camps and branches of those facilities; or

(ii) A facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youth, or youth offenders pursuant to a judicial commitment or order.

(b) As used in this rule, the term public institution does not include:

(A) A medical institution as defined in 42 CFR 435.1010 including the Secure Adolescent Inpatient Program (SAIP) and the Secure Children's Inpatient Program (SCIP);

(B) An intermediate care facility as defined in 42 CFR 440.140 and 440.150;

(C) A publicly operated community residence that serves no more than 16 residents, as defined in 42 CFR 435.1009; or

(D) A child-care institution as defined in 42 CFR 435.1009 with respect to:

(i) Children for whom foster care maintenance payments are made under title IV-E of the Social Security Act; and

(ii) Children receiving TANF-related foster care under title IV-A of the Social Security Act.

(4) Definition of serious mental illness. An individual has a serious mental illness if the individual has been diagnosed by a psychiatrist, a licensed clinical psychologist or a certified non-medical examiner as having dementia, schizophrenia, bipolar disorder, major depression or other affective disorder or psychotic mental disorder other than a substance abuse disorder and other than a disorder that is both--

(a) Caused primarily by substance abuse; and

(b) Likely to no longer meet the applicable diagnosis if the substance abuse discontinues or declines.

(5) An individual who resides in a public institution, meets the definition of a serious mental illness (see section (4) of this rule), and applies for medical assistance between 90 and 120 days prior to the expected date of the person's release from the public institution may be found eligible for medical assistance. If the individual is determined to be eligible, the effective date of the individual's medical assistance is the date the individual is released from the institution.

(6) A client who becomes a resident of a state hospital has medical benefits suspended for up to twelve full calendar months if the client is at least 22 years of age and under 65 years of age. When a client with suspended medical benefits is no longer a resident of the state hospital, medical benefits are reinstated effective the first day the client is no longer a resident, if the client continues to meet eligibility for the medical program.

(7) An individual residing in a state psychiatric institution may be eligible for OSIPM or SAC benefits if the individual is:

(a) 65 years of age or older;

(b) Under 22 years of age; or

(c) 21 years of age or older, if the basis of need is disability or blindness; eligibility was determined before the individual reached 21 years of age; and the individual entered the state hospital before reaching 21 years of age.

(8) For all programs covered under chapter 461 of the Oregon Administrative Rules:

(a) Except as provided in OAR 461-135-0750, an inmate of a public institution is not eligible for benefits.

(b) If a pregnant woman receiving medical assistance through the GAM, OSIPM, or SAC program becomes an inmate of a public institution, her medical benefits are suspended. When the Department is informed the woman is no longer an inmate, her medical benefits are reinstated--effective on the first day she is no longer an inmate--if she is still in her protected period of eligibility under OAR 461-135-0010.

(c) If an individual receiving medical assistance through the GAM, OSIPM, QMB, or SAC program becomes an inmate of a correctional facility with an expected stay of no more than 12 months, medical benefits are suspended for up to 12 full calendar months during the incarceration period.

(A) In the GAM or SAC program, when the Department is notified by a client with suspended benefits that the client has been released from incarceration, and the notification takes place within 10 days of the release or there is good cause for the late reporting, medical benefits are reinstated effective the first day the client is no longer an inmate.

(B) In the OSIPM or QMB program, when the Department is notified that an individual with suspended benefits has been released, and the notification takes place within 10 days of the release, medical benefits are reinstated effective the first day the client is no longer an inmate if the client continues to meet eligibility for the medical program.

(9) In the GA and SNAP programs, in addition to the other provisions of this rule, an inmate released from a public institution on home arrest, and required to wear an electronic device to monitor his or her activity, is ineligible for benefits if the correctional agency provides room and board to the individual.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.439, 411.443, 411.445, 411.816, 412.014, 412.049, 414.426, 2011 OL

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 21-2001(Temp), f. & cert. ef. 10-1-01 thru 12-31-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 17-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-1060

Breast and Cervical Cancer Medical Program (BCCM)

(1) Program established. This rule implements ORS 414.534-538. It establishes eligibility rules for medical assistance based on a woman's need of treatment for breast or cervical cancer, including pre-cancerous condi-

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tions (treatment). The Department administers the Oregon Breast and Cervical Cancer Program by entering into agreements with local entities (referred to in this rule as qualified entities) to provide screening services funded by the Centers for Disease Control in support of the National Breast and Cervical Cancer Early Detection Program.

(2) Who is eligible. A woman may be eligible for medical assistance without regard to her income or resources. To be eligible, she must:

(a) Be found to need treatment following screening services provided by a qualified entity;

(b) Be under the age of 65;

(c) Not be covered for treatment by creditable health insurance, as defined in 42 U.S.C. §300gg(c), which includes Medicaid, Medicare, and individual or group health insurance; and

(d) Not be eligible for Medicaid through a Medicaid program listed in 42 U.S.C. §1396a(a)(10)(A)(i) (mandatory Medicaid eligibility groups).

(3) Presumptive eligibility.

(a) Start of presumptive eligibility. A woman is presumptively eligible for the BCCM program under this rule beginning the day a qualified entity determines, on the basis of preliminary information, that she is likely to meet the requirements of sections (2)(a), (b), and (c) of this rule.

(b) End of presumptive eligibility. A woman is no longer presumptively eligible for the BCCM program under this rule the earlier of:

(A) The day on which a determination is made by the Department with respect to her eligibility.

(B) The last day of the month following the month in which presumptive eligibility begins if the woman does not file an application by that date.

(4) A qualified entity that determines a woman is presumptively eligible for the BCCM program must:

(a) Notify the Department of the determination within five working days; and

(b) Explain to the woman at the time the determination is made the circumstances under which an application for medical assistance must be submitted to the Department and the deadline for the application (see section (5) of this rule).

(5) Continuing eligibility following the period of presumptive eligibility. To remain eligible for benefits, a woman determined by a qualified entity to be presumptively eligible under this rule, but who is in an eligibility group listed in 42 U.S.C. § 1396a(a)(10)(A)(i), must apply for medical assistance by not later than the last day of the month following the month during which the determination of presumptive eligibility is made. The Department determines continuing eligibility of a woman found presumptively eligible under this rule.

(6) When eligibility ends. A woman found eligible for the BCCM program by the Department under this rule becomes ineligible:

(a) Once her treating health professional determines her course of treatment is complete.

(b) Upon reaching age 65.

(c) When she becomes covered for treatment by creditable health insurance.

(d) Upon becoming a resident of another state.

(e) When the Department determines she does not meet the requirements for eligibility.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 414.540

Hist.: AFS 5-2002, f. & cert. ef. 4-1-02; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-1070

Specific Requirements; Citizen/Alien-Waived Emergent Medical (CAWEM)

To be eligible for the CAWEM program, a client must be ineligible for OSIPM solely because he or she does not meet citizenship or alien status requirements. Benefits of the CAWEM program are limited to the services described in the administrative rules of the Department of Human Services in chapter 410 of the Oregon Administrative Rules.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 411.060

Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 16-2004(Temp), f. & cert. ef. 7-1-04 thru 9-30-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-1100

Specific Requirements; OHP

In addition to eligibility requirements applicable to the OHP program in other rules in chapter 461 of the Oregon Administrative Rules, this rule sets out specific eligibility requirements for the OHP program.

(1) For purposes of this rule, OAR 461-135-1101, and 461-135-1149, the term private major medical health insurance refers to a comprehensive major medical insurance plan that at a minimum provides physician services; hospitalization (inpatient and outpatient); outpatient lab, x-ray, immunizations; and prescription drug coverage. This term does not include coverage under the Kaiser Child Health Program or Kaiser Transition Program but does include policies that are purchased privately or are employer-sponsored.

(2) To be eligible for the OHP program, an individual cannot:

(a) Be receiving, or deemed to be receiving, SSI benefits;

(b) Be eligible for Medicare, except that this requirement does not apply to the OHP OPP program;

(c) Be receiving Medicaid through another program; or

(d) Be enrolled in a health insurance plan subsidized by the Family Health Insurance Assistance program (FHIAP, see ORS 735.720 to 735.740).

(3) To be eligible for the OHP-OPU program, an individual must be 19 years of age or older and may not be pregnant. An individual eligible for the OHP-OPU program is referred to as a health plan new/noncategorical (HPN) client. In addition to all other OHP program eligibility requirements, an HPN client:

(a) May not be covered by private major medical health insurance that is accessible to the HPN client. For the purposes of this rule, an individual may be eligible for OHP-OPU if they have private major medical health insurance that is not accessible for one or more of the following reasons:

(A) The travel time or distance to available providers exceeds:

(i) In urban areas — 30 miles, 30 minutes, or the community standard, whichever is greater;

(ii) In rural areas — 60 miles, 60 minutes, or the community standard, whichever is greater.

(B) Accessing the private major medical health insurance would place a filing group member at risk of harm.

(b) May not have been covered by private major medical health insurance during the six months preceding the effective date for starting medical benefits. The six-month waiting period is waived if:

(A) The criteria in subsection (a) of this section are met.

(B) The individual has a condition that, without treatment, would be life-threatening or would cause permanent loss of function or disability;

(C) The individual's private health insurance premium was reimbursed under the provisions of OAR 461-135-0990;

(D) The individual's private health insurance was subsidized through FHIAP or the Office of Private Health Partnerships (OPHP) in accordance with ORS 414.231, 414.826, 414.831, and 414.839; or

(E) A member of the individual's filing group was a victim of domestic violence.

(c) Must meet the following eligibility requirements:

(A) Payment of premiums determined in accordance with OAR 461-155-0235 and paid in accordance with OAR 461-135-1120; and

(B) The requirements in OAR 461-120-0345 related to obtaining medical coverage for members of the benefit group through the Family Health Insurance Assistance Program (FHIAP), if applicable.

(4) To be eligible for the OHP-OPC program, an individual must be less than 19 years of age.

(5) To be eligible for the OHP-OP6 program, a child must be less than six years of age and not eligible for OHP-OPC.

(6) To be eligible for the OHP-OPP program, an individual must be pregnant or must be a newborn assumed eligible under OAR 461-135-0010(4).

(7) To be eligible for the OHP-CHP program, an individual must be under 19 years of age and must:

(a) Not be eligible for the OHP-OPC, OHP-OPP, or OHP-OP6 programs;

(b) Meet budgeting requirements of OAR 461-160-0700;

(c) For eligibility decisions prior to August 16, 2010, select a medical, dental and mental health managed health care plan (MHCP) or primary care case manager (PCCM) if available, unless the client is exempted by OAR 410-141-0060; and

(d) Not be covered by any private major medical health insurance. For the purposes of this rule, an individual may be eligible for OHP-CHP if they

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have private major medical health insurance that is not accessible for one or more of the following reasons:

(A) The travel time or distance to available providers exceeds:

(i) In urban areas — 30 miles, 30 minutes, or the community standard, whichever is greater;

(ii) In rural areas — 60 miles, 60 minutes, or the community standard, whichever is greater.

(B) Accessing the private major medical health insurance would place a filing group member at risk of harm.

(e) Not be covered by private major medical health insurance during the two months preceding the effective date for starting medical benefits. The two-month waiting period is waived if:

(A) The criteria in subsection (d) of this section are met.

(B) The individual has a condition that, without treatment, would be life threatening or cause permanent loss of function or disability;

(C) The loss of health insurance was due to the loss of or a change in employment;

(D) The individual's private health insurance premium was reimbursed under OAR 461 135 0990;

(E) The individual's private health insurance was subsidized through FHIAP or the Office of Private Health Partnerships (OPHP) in accordance with ORS 414.231, 414.826, 414.831, and 414.839; or

(F) A member of the individual's filing group was a victim of domestic violence.

(8) A child who becomes ineligible for the OHP program because of age while receiving in patient medical services remains eligible until the end of the month in which he or she no longer receives those services if he or she is receiving in-patient medical services on the last day of the month in which the age requirement is no longer met.

(9) In the HKC, OHP-CHP, and OHP-OPC programs, for the Department to enroll a child in the program based on a determination made by an ELA, the child's parent or guardian must give consent in writing, by telephone, orally, or through electronic signature for the child to be enrolled in the program.

(10) The Department only may use ELE for a child in a filing group in which no member is already receiving benefits through the CEC, CEM, EXT, HKC, MAA, MAF, OHP-CHP, OHP-OPP, OHP-OP6, OSIPM, or SAC program.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 414.115, 414.231
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.704, 411.706, 414.025, 414.115, 414.231, 414.826, 414.831, 414.839
Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 13-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 36-2009(Temp), f. & cert. ef. 12-1-09 thru 12-31-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 9-2010(Temp), f. & cert. ef. 4-21-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 21-2010(Temp), f. & cert. ef. 7-1-10 thru 10-18-10; SSP 24-2010(Temp), f. & cert. ef. 7-15-10 thru 10-18-10; SSP 27-2010(Temp), f. & cert. ef. 8-16-10 thru 10-18-10; SSP 30-2010(Temp), f. & cert. ef. 8-25-10 thru 10-18-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 35-2010(Temp), f. & cert. ef. 10-1-10 thru 3-30-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 36-2011(Temp), f. 12-27-11, cert. ef. 1-1-12 thru 6-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 15-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 20-2013(Temp), f. & cert. ef. 8-23-13 thru 12-28-13; SSP 20-2013(Temp), f. & cert. ef. 8-23-13 thru 12-28-13; SSP 27-2013, f. & cert. ef. 10-1-13; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-1101

Specific Requirements; Healthy KidsConnect (HKC)

In addition to eligibility requirements applicable to the OHP program in other rules in chapter 461 of the Oregon Administrative Rules, this rule sets out specific eligibility requirements for the OHP program.

(1) For purposes of this rule, OAR 461-135-1101, and 461-135-1149, the term private major medical health insurance refers to a comprehensive major medical insurance plan that at a minimum provides physician services; hospitalization (inpatient and outpatient); outpatient lab, x-ray, immunizations; and prescription drug coverage. This term does not include coverage under the Kaiser Child Health Program or Kaiser Transition Program but does include policies that are purchased privately or are employer-sponsored.

(2) To be eligible for the OHP program, an individual cannot:

(a) Be receiving, or deemed to be receiving, SSI benefits;

(b) Be eligible for Medicare, except that this requirement does not apply to the OHP OPP program;

(c) Be receiving Medicaid through another program; or

(d) Be enrolled in a health insurance plan subsidized by the Family Health Insurance Assistance program (FHIAP, see ORS 735.720 to 735.740).

(3) To be eligible for the OHP-OPU program, an individual must be 19 years of age or older and may not be pregnant. An individual eligible for the OHP-OPU program is referred to as a health plan new/noncategorical (HPN) client. In addition to all other OHP program eligibility requirements, an HPN client:

(a) May not be covered by private major medical health insurance that is accessible to the HPN client. For the purposes of this rule, an individual may be eligible for OHP-OPU if they have private major medical health insurance that is not accessible for one or more of the following reasons:

(A) The travel time or distance to available providers exceeds:

(i) In urban areas — 30 miles, 30 minutes, or the community standard, whichever is greater;

(ii) In rural areas — 60 miles, 60 minutes, or the community standard, whichever is greater.

(B) Accessing the private major medical health insurance would place a filing group member at risk of harm.

(b) May not have been covered by private major medical health insurance during the six months preceding the effective date for starting medical benefits. The six-month waiting period is waived if:

(A) The criteria in subsection (a) of this section are met.

(B) The individual has a condition that, without treatment, would be life-threatening or would cause permanent loss of function or disability;

(C) The individual's private health insurance premium was reimbursed under the provisions of OAR 461-135-0990;

(D) The individual's private health insurance was subsidized through FHIAP or the Office of Private Health Partnerships (OPHP) in accordance with ORS 414.231, 414.826, 414.831, and 414.839; or

(E) A member of the individual's filing group was a victim of domestic violence.

(c) Must meet the following eligibility requirements:

(A) Payment of premiums determined in accordance with OAR 461-155-0235 and paid in accordance with OAR 461-135-1120; and

(B) The requirements in OAR 461-120-0345 related to obtaining medical coverage for members of the benefit group through the Family Health Insurance Assistance Program (FHIAP), if applicable.

(4) To be eligible for the OHP-OPC program, an individual must be less than 19 years of age.

(5) To be eligible for the OHP-OP6 program, a child must be less than six years of age and not eligible for OHP-OPC.

(6) To be eligible for the OHP-OPP program, an individual must be pregnant or must be a newborn assumed eligible under OAR 461-135-0010(4).

(7) To be eligible for the OHP-CHP program, an individual must be under 19 years of age and must:

(a) Not be eligible for the OHP-OPC, OHP-OPP, or OHP-OP6 programs;

(b) Meet budgeting requirements of OAR 461-160-0700;

(c) For eligibility decisions prior to August 16, 2010, select a medical, dental and mental health managed health care plan (MHCP) or primary care case manager (PCCM) if available, unless the client is exempted by OAR 410-141-0060; and

(d) Not be covered by any private major medical health insurance. For the purposes of this rule, an individual may be eligible for OHP-CHP if they have private major medical health insurance that is not accessible for one or more of the following reasons:

(A) The travel time or distance to available providers exceeds:

(i) In urban areas — 30 miles, 30 minutes, or the community standard, whichever is greater;

(ii) In rural areas — 60 miles, 60 minutes, or the community standard, whichever is greater.

(B) Accessing the private major medical health insurance would place a filing group member at risk of harm.

(e) Not be covered by private major medical health insurance during the two months preceding the effective date for starting medical benefits. The two-month waiting period is waived if:

(A) The criteria in subsection (d) of this section are met.

(B) The individual has a condition that, without treatment, would be life threatening or cause permanent loss of function or disability;

(C) The loss of health insurance was due to the loss of or a change in employment;

(D) The individual's private health insurance premium was reimbursed under OAR 461 135 0990;

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(E) The individual's private health insurance was subsidized through FHIAP or the Office of Private Health Partnerships (OPHP) in accordance with ORS 414.231, 414.826, 414.831, and 414.839; or

(F) A member of the individual's filing group was a victim of domestic violence.

(8) A child who becomes ineligible for the OHP program because of age while receiving in patient medical services remains eligible until the end of the month in which he or she no longer receives those services if he or she is receiving in-patient medical services on the last day of the month in which the age requirement is no longer met.

(9) In the HKC, OHP-CHP, and OHP-OPC programs, for the Department to enroll a child in the program based on a determination made by an ELA, the child's parent or guardian must give consent in writing, by telephone, orally, or through electronic signature for the child to be enrolled in the program.

(10) The Department only may use ELE for a child in a filing group in which no member is already receiving benefits through the CEC, CEM, EXT, HKC, MAA, MAF, OHP-CHP, OHP-OPP, OHP-OP6, OSIPM, or SAC program.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 414.025, 414.231, 414.826, 414.831, 414.839
Stats. Implemented: ORS 411.060, 411.070, 411.404, 414.025, 414.231, 414.826, 414.831, 414.839
Hist: SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 15-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 20-2013(Temp), f. & cert. ef. 8-23-13 thru 12-28-13; SSP 27-2013, f. & cert. ef. 10-1-13; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-1120

Premium Requirement; OHP-OPU

In the OHP-OPU program, a monthly premium must be paid when the *benefit group* (see OAR 461-110-0750) includes at least one non-exempt (HPN) client (see OAR 461-135-1100) as follows:

(1) The following HPN clients are exempt from the premium requirement:

- (a) A member of a federally recognized Indian tribe, band, or group.
- (b) An Eskimo, Aleut, or other Alaska native enrolled by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act.
- (c) An individual eligible for benefits through an Indian Health Program.

(d) An individual eligible for the CAWEM program (see OAR 461-135-1070).

(e) An individual in a need group (see OAR 461-110-0630) with countable (see OAR 461-001-0000) income that is 10 percent or less of the federal poverty level in at least one of the following situations:

(A) Using income assigned to the budget month (see OAR 461-001-0000) at certification or recertification;

(B) Using income assigned to the budget month from the current certification for the need group formed when an HPN client leaves the filing group (see OAR 461-110-0310 and 461-110-0400); or

(C) Using income assigned to the budget month from the current certification when multiple OHP program cases are combined into one case.

(2) The amount of the premium is determined in accordance with OAR 461-155-0235.

(3) Each non exempt client in the benefit group is responsible for payment of premiums.

(4) Once the amount of the premium is established, the amount will not change during the certification period (see OAR 461-001-0000) unless the conditions under at least one of the following subsections apply:

- (a) An HPN client becomes pregnant.
- (b) An HPN client becomes eligible for another program (for example, MAA or OSIPM).

(c) An HPN client leaves the filing group.

(d) OHP program cases are combined during their certification periods.

(e) An HPN client's exemption status changes.

(f) An HPN client is no longer a member of the benefit group.

(5) A premium is considered paid on time when the payment is received by the Oregon Health Plan billing office on or before the due date which is the 20th of the month for which the premium was billed. The day the payment arrives in the billing office's post office box when sent via mail or the day it is submitted via telephone or electronically to the billing office is the date it is received. A premium not paid on time is in arrears. A premium is past due when it has not been paid within six months of the due date. A client will not be disenrolled during his or her certification period for premiums in arrears or past due premiums. All premiums in arrears and past due premiums for a filing group must be paid before a client can establish a new certification period.

(6) For any billed premium, the Department cancels the arrearage if the applicant is otherwise eligible for the OHP program and one of the following subsections applies:

(a) The arrearage was incurred while the client was exempt from the requirement to pay a premium; or

(b) The applicant is exempt from the requirement to pay premiums under subsection (1)(e) of this rule.

(7) The Department cancels any premium arrearage over three years old.

Stat. Auth.: ORS 411.060, 411.404, 411.431 & 411.432

Stats. Implemented: ORS 411.060, 411.404, 411.431, 411.432 & 414.025

Hist.: AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; Administrative correction 2-23-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 19-2003(Temp), f. & cert. ef. 7-1-03 thru 9-30-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 3-2004(Temp), f. & cert. ef. 2-19-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 8-2011(Temp), f. & cert. ef. 3-1-11 thru 8-28-11; SSP 17-2011, f. & cert. ef. 7-1-11; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-135-1149

Specific Requirements; Continuous Eligibility for Non-CAWEM Children; CEC, CEM

(1) "Continuous eligibility for non-CAWEM children" means a non-CAWEM child under 19 years of age the Department determines is eligible for Medicaid or OHP-CHP is deemed to be eligible for a total of 12 months regardless of any change in circumstances, other than:

(a) Moving out of state;

(b) Turning 19 years of age, however a pregnant individual who turns 19 years of age remains eligible for OHP-CHP through the last day of the month during which the pregnancy ends; or

(c) In the OHP-CHP program, receipt of private major medical health insurance.

(2) When a pregnant non-CAWEM child is eligible for and receiving OHP-CHP program benefits loses this eligibility, her medical assistance continues through the CEC program through the last day of the month in which the pregnancy ends as long as she is not a recipient of private major medical health insurance (see OAR 461-135-1100).

(3) To be eligible for the CEC program, a client must meet the requirements of all of the following subsections:

(a) Be a U.S citizen or meet the requirements in OAR 461-120-0125(4);

(b) Be under 20 years of age;

(c) Lose eligibility for OHP-CHP program medical benefits while pregnant; and

(d) Not be a recipient of private major medical health insurance.

(4) CEC program eligibility ends:

(a) The last day of the month in which the pregnancy ends;

(b) When the client moves out of state;

(c) When the client voluntarily ends OHP-CHP program benefits;

(d) When the client becomes a recipient of private major medical health insurance; or

(e) If the client becomes eligible for Child Welfare (CW) medical, EXT, MAA, MAF, OHP, OSIPM, or SAC program benefits.

(5) When a non-CAWEM child who is eligible for and receiving CW medical, EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM, or SAC program benefits loses this eligibility with time remaining in the 12-month continuous eligibility period, the child's medical assistance continues for the remainder of the 12-month eligibility period through the CEM program.

(6) The CEM program eligibility period is based on the most recent CW medical, EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM, or SAC program approval date. A child losing eligibility for CW medical, EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM, or SAC program benefits less than 12 months after having been approved for benefits qualifies for CEM program benefits for the balance of the 12 month period following that approval.

(7) To be eligible for the CEM program, a client must meet the requirements of all of the following subsections:

(a) Be a U.S citizen or meet the requirements in OAR 461-120-0125(4);

(b) Be eligible for and receiving CW medical, EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM, or SAC program medical benefits;

(c) Be under 19 years of age; and

(d) Lose eligibility for CW medical, EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM or SAC program medical benefits less than 12 months

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after having been approved for benefits, including approvals resulting from redeterminations.

- (8) CEM program eligibility ends when the client:
 - (a) Becomes 19 years of age;
 - (b) Moves out of state;
 - (c) Voluntarily ends benefits; or
 - (d) Becomes eligible for CW medical, EXT, MAA, MAF, OHP, OSIPM, or SAC program benefits.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 414.025
Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 414.025
Hist.: SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-140-0040

Determining Availability of Income

(1) This rule describes the date income is considered available, what amount of income is considered available, and situations in which income is considered unavailable.

(2) Income is considered available the date it is received or the date a member of the financial group (see OAR 461-110-0530) has a legal right to the payment and the legal ability to make it available, whichever is earlier, except as follows:

(a) Income usually paid monthly or on some other regular payment schedule is considered available on the regular payment date if the date of payment is changed because of a holiday or weekend.

(b) Income withheld or diverted at the request of an individual is considered available on the date the income would have been paid without the withholding or diversion.

(c) An advance or draw of earned income is considered available on the date it is received.

(d) Income that is averaged, annualized, converted, or prorated is considered available throughout the period for which the calculation applies.

(e) A payment due to a member of the financial group, but paid to a third party for a household expense, is considered available when the third party receives the payment.

(f) In prospective budgeting, income is available in the month the income is expected to be received (see OAR 461-150-0020).

(3) The following income is considered available even if not received:

(a) Deemed income.

(b) In the ERDC, GA, GAM, OSIP, OSIPM, QMB, REF, REFM, and TANF programs, the portion of a payment from an assistance program, such as public assistance, unemployment compensation, or social security, withheld to repay an overpayment.

(c) In the SNAP program, the portion of a payment from the TANF program counted as disqualifying income under OAR 461-145-0105.

(4) The amount of income considered available is the gross before deductions, such as garnishments, taxes, or other payroll deductions including flexible spending accounts.

(5) The following income is not considered available:

(a) Wages withheld by an employer in violation of the law.

(b) Income received by another person who does not pay the client his or her share.

(c) Income received by a member of the financial group after he or she has left the household.

(d) Moneys withheld from or returned to the source of the income to repay an overpayment from that source unless the repayment is countable.

(A) In the SNAP program, under OAR 461-145-0105; or

(B) In the ERDC, GA, GAM, OSIP, OSIPM, QMB, REF, REFM, and TANF programs, under subsection (3)(b) of this rule.

(e) For a client who is not self-employed, income required to be expended on an ongoing, monthly basis on an expense necessary to produce the income, such as supplies or rental of work space.

(f) Income received by the financial group but intended and used for the care of someone not in the financial group as follows:

(A) If the income is intended both for someone in the financial group and someone not in the financial group, the portion of the income intended for the care of the individual not in the financial group is considered unavailable.

(B) If the portion intended for the care of the individual not in the financial group cannot readily be identified, the income is prorated evenly among the individuals for whom the income is intended. The prorated share intended for the care of the individual not in the financial group is then considered unavailable.

(g) In the ERDC, REF, REFM, SNAP, and TANF programs, income controlled by the client's abuser if the client is a victim of domestic vio-

lence (see OAR 461-001-0000), the client's abuser controls the income and will not make the money available to the filing group, and the abuser is not in the client's filing group.

(h) In the OSIP, OSIPM, and QMB programs, unearned income not received because a payment was reduced to cover expenses incurred by a member of the financial group to secure the payment. For example, if a retroactive check is received from a benefit program other than SSI, legal fees connected with the claim are subtracted. Or, if payment is received for damages received as a result of an accident the amount of legal, medical or other expenses incurred by a member of the financial group to secure the payment are subtracted.

(i) In the REFM program, any income used for medical or medical-related purposes.

(6) The availability of lump-sum income is covered in OAR 461-140-0120.

Stat. Auth.: ORS 409.050, 411.060, 411.816, 412.049, 414.042
Stats. Implemented: ORS 411.060, 411.117, 411.816, 412.049, 414.042
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 1-2005(Temp), f. & cert. ef. 2-1-05 thru 6-30-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 5-2005(Temp), f. & cert. ef. 4-1-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-140-0120

Availability and Treatment of Lump-Sum Income

(1) Lump-sum income (see OAR 461-001-0000) is treated as follows if it is received by a member of a financial group (see OAR 461-110-0530).

(2) In the EA, REF, REFM, SNAP, and TANF programs:

(a) Lump-sum income is a resource.

(b) In the EA, REF, REFM, and TANF programs:

(A) Lump-sum income is considered available to the financial group when a member of the group receives the income and until the income becomes unavailable for a reason beyond the group's control.

(B) Lump-sum income is considered unavailable for a reason beyond the group's control if the member who received the lump-sum income:

(i) Leaves the financial group before spending any of the lump-sum income; or

(ii) Spends the lump-sum income on an immediate basic need or emergency.

(3) In the ERDC program, lump-sum income is excluded.

(4) In the GA, GAM, OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD), and QMB programs, lump-sum income is treated as follows:

(a) Lump-sum income not excluded in future months is a resource, except that in the OSIP and OSIPM programs retroactive SSB and SSI payments are treated in accordance with OAR 461-145-0490 and 461-145-0510.

(b) The following lump-sum income is excluded:

(A) The first \$20 received in a month;

(B) The income the client turns over to the Department as reimbursement for previous assistance; and

(C) The income the client uses to pay for special need items approved by the Department. Special needs are explained at OAR 461-155-0500 and following.

(5) In the OSIP-EPD and OSIPM-EPD programs, lump-sum income is counted as a resource.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.014, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 1-1991(Temp), f. & cert. ef. 1-2-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-140-0210

Asset Transfer; General Information and Timelines

(1) OAR 461-140-0210 to 461-140-0300 regulate the effect of a transfer of an asset on a client.

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(2) If an asset is transferred during the periods of time listed in section (4) or (5) of this rule and if the transfer is made in whole or in part for the purpose of establishing or maintaining eligibility for benefits:

(a) In the REFM program, the filing group is disqualified if ---

(A) A member of the financial group (see OAR 461-110-0530) transferred the asset; and

(B) The client is an inpatient in a nursing facility, or is an inpatient in a medical institution in which payment for the client is based on a level of care provided in a nursing facility.

(b) In the REF, SNAP, and TANF programs, the filing group is disqualified if:

(A) The asset was a resource; and

(B) A member of the financial group transferred the resource.

(c) In the GA, GAM, OSIP, and OSIPM programs, a client in a non-standard living arrangement (see OAR 461-001-0000) is disqualified if the client or the spouse of the client transferred the asset.

(3) In all programs except the ERDC program, clients in financial groups whose members transfer an asset covered under section (2) of this rule within the time periods listed in section (4) or (5) of this rule must report the transfer as soon as practicable and must provide information requested by the Department concerning the transfer.

(4) In the REF, REFM, SNAP, and TANF programs, a transfer of an asset may be disqualifying if the transfer occurs:

(a) In the REFM program, during the three years preceding the date of request (see OAR 461-115-0030).

(b) In the SNAP program, during the three months preceding the filing date or during a certification period (see OAR 461-001-0000) if the asset was a resource.

(c) In the REF and TANF programs, during the three years preceding the date of request (see OAR 461-115-0030) if the asset was a resource.

(5) In the GA, GAM, OSIP, and OSIPM programs, for a client in a nonstandard living arrangement, a transfer of an asset may be disqualifying if the transfer occurs:

(a) On or before June 30, 2006 and as described in one of the following paragraphs:

(A) On or after the date that is 60 months prior to the date of request — for assets that are transferred without compensation equal to or greater than fair market value from a revocable trust (see OAR 461-145-0540(7)(c)).

(B) On or after the date that is 60 months prior to the date of request — for assets that are transferred without compensation equal to or greater than fair market value to an irrevocable trust (see OAR 461-145-0540(8)(a)).

(C) On or after the date that is 60 months prior to the date of request — when there is a change in circumstances that makes assets in an irrevocable trust unavailable to the client (see OAR 461-145-0540(8)(d)).

(D) On or after the date that is 36 months prior to the date of request — for assets transferred without compensation equal to or greater than fair market value from an irrevocable trust (see OAR 461-145-0540(8)(b) and (c)).

(E) On or after the date that is 36 months prior to the date of request — for other asset transfers made without compensation equal to or greater than fair market value.

(b) On or after:

(A) July 1, 2006; and

(B) The date that is 60 months prior to the date of request.

(6) The duration of the period of disqualification or ineligibility is set out in OAR 461-140-0260 to 461-140-0300.

Stat. Auth.: ORS 411.060, 411.710, 412.049, 418.816

Stats. Implemented: ORS 411.060, 411.710, 412.049, 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 27-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-140-0270

Disqualification Due to An Asset Transfer; REF, REFM, TANF

(1) A *financial group* (see OAR 461-110-0530) in which a member is disqualified due to the transfer of an asset is disqualified for the number of months equal to the uncompensated value (see OAR 461-140-0250) divided by the TANF payment standard (see OAR 461-155-0030).

(2) The disqualification period starts the date the Department imposes the disqualification by terminating benefits for the period calculated

above or, in the case of an applicant, by denying benefits for the same period of time measured from the date of application.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.632, 411.404, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0040

Burial Arrangements and Burial Fund

(1) The following definitions apply to this rule:

(a) A burial arrangement is an agreement with an entity — such as a funeral agreement (which means an arrangement made with a licensed funeral provider), burial insurance, or a burial trust designating a funeral director as the beneficiary that makes allowance for burial costs. A burial arrangement does not include a burial space, which is covered in OAR 461-145-0050, or a burial fund.

(b) A burial fund is an identifiable fund set aside for a client's burial costs. A burial fund does not include a burial space, which is covered in OAR 461-145-0050, or a burial arrangement.

(2) Except as provided in subsection (e) of this section, a burial arrangement is treated as follows:

(a) In the ERDC, REF, REFM, SNAP, and TANF programs, the equity value (defined in OAR 461-001-0000) of one prepaid burial arrangement for each member of the filing group is excluded.

(b) For grandfathered OSIP and OSIPM clients (see OAR 461-125-0330(2), 461-125-0370(1)(b), and 461-135-0771), up to \$1,000 in combined equity value of each burial arrangement with a licensed funeral director (plus accrued interest) and life insurance policies are excluded. The amount of combined cash and equity value of all life insurance and burial arrangements that is over \$1,000 is counted as a resource.

(c) In the GA, GAM, OSIP, OSIPM, and QMB programs, the amount in an irrevocable burial trust or any other irrevocable arrangement to cover burial costs is excluded.

(d) In all programs not listed in subsection (a) of this section and for OSIP and OSIPM clients not covered by subsection (b) of this section, a burial arrangement is treated in the manner as the program treats a burial fund under section (3) of this rule.

(e) Burial insurance that has cash surrender value is considered life insurance and is treated in accordance with OAR 461-145-0320 and, as applicable, subsection (b) of this section.

(3) A burial fund is treated as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) A burial fund may be established only from financial means such as cash, burial contracts, bank accounts, stocks, bonds or life insurance policies.

(B) A burial fund is counted as a resource if it is commingled with assets unrelated to a burial. The amount set aside for burial must be in a separate account to be excluded from resource consideration.

(C) A burial fund may be established if the countable resources of a client exceed allowable limits. A burial fund is excluded from the resource calculation to the extent allowed in paragraph (D) of this subsection.

(D) The following calculation determines the exclusion for a burial fund:

(i) Up to \$1,500 of a burial fund may be excluded from resources for each of the following:

(I) The client.

(II) The client's spouse.

(ii) The amount in subparagraph (i) of this paragraph is reduced by the total of the following amounts:

(I) The face value of life insurance policies owned by the client that have already been excluded from resources.

(II) The amount in an irrevocable burial trust or any other irrevocable arrangement to cover burial costs.

(E) All interest earned on an excluded burial fund or increases in the value of an excluded burial arrangement if left in the fund is excluded from income.

(b) In all programs not listed in subsection (a) of this section, a burial fund is counted as a resource.

(4) There is no overpayment for the time period during which the burial arrangement or burial fund existed if a client:

(a) Cancels an excluded burial arrangement; or

(b) Uses an excluded burial fund for any purpose other than burial costs.

(5) If an asset originally used as a burial arrangement or burial fund is converted to other uses, the asset is treated under the other applicable rules.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049
Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91;
AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-
1992, f. & cert. ef. 10-1-92; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 21-1995, f. 9-20-95, cert.
ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS
10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru
3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 7-
2007, f. 6-29-07, cert. ef. 7-1-07; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 30-2013(Temp), f.
& cert. ef. 10-1-13 thru 3-30-14

461-145-0050

Burial Space and Merchandise

(1) Burial spaces include conventional grave sites, crypts, mausoleums, urns, and other repositories that are traditionally used for the remains of deceased persons. Burial spaces also include headstones and the opening and closing of the grave.

(a) In the ERDC, REF, SNAP, and TANF programs, the equity value (see OAR 461-001-0000) of one burial space is excluded as a resource for each member of the financial group (see OAR 461-110-0530).

(b) In the GA, GAM, OSIP, OSIPM, and QMB programs, the equity value of a burial space is excluded as a resource if owned by the client and designated for the client, the spouse of the client, minor and adult children, siblings, parents, and the spouse of any of these people.

(2) Burial merchandise includes, but is not limited to, caskets, liners, burial vaults, markers, and foundations. The equity value of burial merchandise is excluded as a resource if owned by the client and designated for:

(a) In the ERDC, REF, SNAP, and TANF programs, a member of the financial group.

(b) In the GA, GAM, OSIP, OSIPM, and QMB programs, the client, the spouse of the client, minor and adult children, siblings, parents, and the spouse of any of these people.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014
Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.014
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90;
AFS 13-1991, f. & cert. ef. 7-1-91; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996,
f. 12-31-96, cert. ef. 1-1-97; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04;
SSP 6-2004, f. & cert. ef. 4-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 30-
2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0080

Child Support and Cash Medical Support

(1) Child support and cash medical support paid by a non-custodial parent for a dependent child (see OAR 461-001-0000) or minor parent (see OAR 461-001-0000) in the financial group (see OAR 461-110-0530) are considered income of the dependent child or minor parent, whether the support is paid voluntarily or in accordance with an order to pay child support.

(2) For the purposes of this rule:

(a) "Disregard" means child support, up to \$50 per dependent child or minor parent per financial group per month and not to exceed \$200 per financial group per month, that is not counted as income of the client. "Disregard" includes current child support only.

(b) "Pass-through" means child support, up to \$50 per dependent child or minor parent per financial group per month and not to exceed \$200 per financial group per month, that is sent to the client before any remaining amount of current child support is withheld by the State. "Pass-through" includes current child support only.

(3) In the ERDC program, child support is considered countable (see OAR 461-001-0000) unearned income if it is received by the financial group or is countable under OAR 461-145-0280. Otherwise it is excluded.

(4) In the SNAP program, child support and cash medical support are treated as follows:

(a) Child support payments the group receives that must be assigned to the Department to maintain TANF eligibility are excluded, even if the group fails to turn the payments over to the Department.

(b) Child support payments received by a filing group (see OAR 461-110-0370) with at least one member working under a TANF JOBS Plus agreement are excluded, except:

(A) It is considered countable unearned income in the calculation of the wage supplement; and

(B) Any pass-through pursuant to section (2) of this rule is considered countable unearned income.

(c) All other child support, including any pass-through pursuant to section (2) of this rule, is considered countable unearned income.

(d) Cash medical support is considered countable unearned income except to the extent it is used to reimburse (see OAR 461-145-0440) an actual medical cost.

(e) Payments made by a non-custodial parent to a third party for the benefit of the financial group are treated in accordance with OAR 461-145-0280.

(5) Except as provided otherwise in section (8) of this rule for the TANF program, in the REF, REFM, and TANF programs:

(a) In determining initial eligibility, except for disregard pursuant to section (2) of this rule, child support received by the Oregon Department of Justice, Division of Child Support (DCS) is considered countable unearned income, if continued receipt of the child support is reasonably anticipated. These payments are excluded when determining the benefit amount.

(b) In determining on-going eligibility, except for clients working under a TANF JOBS Plus agreement and except for child support passed through to the client and disregarded pursuant to section (2) of this rule, child support received by the DCS is considered countable unearned income, if continued receipt of the child support is reasonably anticipated. These payments are excluded when determining the benefit amount.

(c) For clients working under a TANF JOBS Plus agreement:

(A) Child support is excluded in determining countable income.

(B) Child support is excluded when calculating the TANF portion of the benefit equivalency standards.

(C) All child support paid directly to the client is considered countable unearned income in the calculation of the wage supplement.

(d) All other child support payments:

(A) Paid directly to the financial group that are turned over to the Department or to the DCS are considered countable unearned income except for any amount of pass-through and disregard pursuant to section (2) of this rule.

(B) Paid directly to the financial group that are not turned over to the Department or to the DCS are considered countable unearned income.

(C) Paid to a third party for the benefit of the financial group are considered countable unearned income. This includes but is not limited to payments made by a non-custodial parent to a third party for rent, mortgage, utilities, or child care.

(e) Cash medical support is excluded in determining countable income.

(6) In the OSIP, OSIPM, and QMB programs, all child support and cash medical support paid to the financial group are considered countable unearned income. Child support and cash medical support paid by the financial group are not deductible from income.

(7) In the SFPS program, notwithstanding section (5) of this rule, for on-going eligibility and benefit determination:

(a) Except for disregard pursuant to section (2) of this rule, child support is considered countable unearned income.

(b) Cash medical support is excluded in determining countable income.

(c) Payments made by a non-custodial parent to a third party for the benefit of the financial group are considered countable unearned income. This includes but is not limited to payments made by a non-custodial parent to a third-party for rent, mortgage, utilities, or child care.

(8) For on-going eligibility and benefit determination for TANF clients in a two-parent household:

(a) Except for disregard pursuant to section (2) of this rule, child support is considered countable unearned income.

(b) Cash medical support is excluded in determining countable income.

(c) Payments made by a non-custodial parent to a third party for the benefit of the financial group are considered countable unearned income. This includes but is not limited to payments made by a non-custodial parent to a third party for rent, mortgage, utilities, or child care.

(d) For a filing group (see OAR 461-110-0330) with at least one member working under a TANF JOBS Plus agreement:

(A) Child support is excluded in determining countable income.

(B) Child support is excluded when calculating the TANF portion of the benefit equivalency standards.

(C) All child support paid directly to the client is considered countable unearned income in the calculation of the wage supplement.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90;
AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-
1992, f. & cert. ef. 4-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-
1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-
1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 9-1997, f.
& cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef.
10-1-00; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 14-2005,
f. 9-30-05, cert. ef. 10-1-05; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. &
cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 7-2008(Temp),
f. & cert. ef. 3-21-08 thru 9-17-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert.

ADMINISTRATIVE RULES

ef. 10-1-08; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 29-2011(Temp), f. & cert. ef. 10-5-11 thru 4-2-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 24-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 12-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 31-2012(Temp), f. 9-28-12, cert. ef. 10-1-12 thru 12-28-12; SSP 36-2012, f. 12-28-12, cert. ef. 12-29-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0086

Contributions

(1) *Contributions* are monies, not considered gifts or winnings under OAR 461-145-0210, given voluntarily to a member of a financial group (see OAR 461-110-0530) by someone who is not in the group.

(2) In the SNAP program, contributions are counted as unearned income, except that contributions from charitable sources are excluded if all the following are true:

(a) The contribution is from a private, nonprofit charitable organization.

(b) The contribution is based on need.

(c) The contribution does not exceed \$300 per quarter.

(3) Except as provided in section (2) of this rule, contributions are counted as unearned income.

(4) See OAR 461-145-0280 for the treatment of unearned in-kind income.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.700, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 11-1999, f. & cert. ef. 10-1-99; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; Renumbered from 461-145-0070, SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0090

Disability Benefit

(1) This rule covers public and private disability benefits, except the following:

(a) Agent Orange disability benefits (covered in OAR 461-145-0005).

(b) Radiation Exposure Compensation Act payments (covered in OAR 461-145-0415).

(c) Social security based on disability or SSI (covered in OAR 461-145-0490 and 461-145-0510).

(d) Veterans benefits (covered in OAR 461-145-0580).

(e) Workers compensation (covered in OAR 461-145-0590).

(2) For each disability payment covered under this rule:

(a) If received monthly or more frequently:

(A) In the ERDC, REF, REFM, SNAP, and TANF programs, income from employer-sponsored disability insurance is counted as earned income (see OAR 461-145-0130) if paid to a client who is still employed while recuperating from an illness or injury.

(B) In the OSIP, OSIPM, and QMB programs, income from employer-paid disability insurance is counted as earned income if received within six full calendar months after stopping work.

(C) Except as provided in paragraphs (A) and (B) of this subsection, the payment is counted as unearned income.

(b) All payments other than those in subsection (a) of this section are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.700, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0110

Domestic Volunteer Services Act (VISTA, RSVP, SCORE, ACE)

In all Department programs covered by Chapter 461 of the Oregon Administrative Rules, with respect to federal programs under the Domestic Volunteers Service Act of 1973 (Pub. L. No. 93 113):

(1) Payments under Title I — VISTA, University Year of Action, and Urban Crime Prevention — are treated as follows:

(a) In the ERDC, REF, REFM, and TANF programs, these payments are excluded, except that these payments are counted as earned income if the total value of all compensation is equal to or greater than compensation at the state minimum wage.

(b) In the GA and GAM programs, payments are counted as unearned income.

(c) In all programs except the ERDC, GA, GAM, REF, REFM, and TANF programs:

(A) The payments are excluded if the client is receiving Department program benefits when they join the Title I program. The exclusion of payments continues until the client has a break in receiving Department benefits of more than one month.

(B) The payments are counted as earned income for clients who joined the Title I program before applying for Department program benefits.

(2) Payments are excluded for programs under Title II (National Older Americans Volunteer Programs), which include:

(a) Retired Senior Volunteer Program (RSVP) Title II, Section 201.

(b) Foster Grandparent Program Title II, Section 211.

(c) Older American Community programs.

(d) Senior Companion Program.

(3) Payments are excluded for programs under Title III (National Volunteer Programs to Assist Small Businesses and Promote Volunteer Service by Persons with Business Experience), which include:

(a) Service Corps of Retired Executives (SCORE) Title III, Section 302.

(b) Active Corps of Executives (ACE) Title III, Section 302.

Stat. Auth.: ORS 411.060, 411.070, 411.700, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0120

Earned Income; Defined

Earned income is income received in exchange for an individual's physical or mental labor. Earned income includes all of the following:

(1) Compensation for services performed, including wages, salaries, commissions, tips, sick leave, vacation pay, draws, or the sale of one's blood or plasma.

(2) Income from on-the-job-training, paid job experience, JOBS Plus work experience, or Welfare-to-Work work experience.

(3) In-kind income, when a client is an employee of the person providing the in-kind income and the income is in exchange for work performed by the client.

(4) For self-employment, gross receipts and sales, including mileage reimbursements, before costs.

(5) In:

(a) The SNAP program, cafeteria plan (see OAR 461-001-0000) benefits and funds placed in a flexible spending account.

(b) All programs except the SNAP program, cafeteria plan benefits that an employee takes as cash as well as funds placed in a flexible spending account.

(6) Income from work-study.

(7) Income from profit sharing that the client receives monthly or periodically.

(8) The fee for acting as an individual's representative payee, as long as that individual is not included in the filing group.

(9) In the OSIP, OSIPM, QMB, and SNAP programs, expenditure by a business entity that substantially benefits a principal (see OAR 461-145-0088).

Stat. Auth.: ORS 409.050, 411.060, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0130

Earned Income; Treatment

(1) Earned income (see OAR 461-145-0120) is countable in determining eligibility for programs, subject to sections (2) to (8) of this rule.

(2) JOBS Plus income is earned income and is treated as follows:

(a) In the SNAP program:

(A) JOBS Plus income earned by a TANF-PLS client:

(i) Is counted in determining initial SNAP program eligibility.

(ii) Is excluded in determining ongoing eligibility.

(B) JOBS Plus wages received after the client's last month of work under a TANF-PLS JOBS Plus agreement are counted.

(b) In the TANF program:

(A) JOBS Plus income earned by an NCP-PLS (see OAR 461-101-0010(2)(c)) client is counted in determining initial TANF eligibility.

(B) When determining the need for a TANF supplement for a TANF-PLS client, the income is treated as follows:

(i) It is excluded in determining the countable income limit and in calculating the benefit equivalency standards.

(ii) It is counted in calculating the wage supplement.

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(C) JOBS Plus wages received after the client's last month of work under a JOBS Plus agreement are counted.

(c) In the CAWEM, OSIPM, QMB, and REFM programs:

(A) For JOBS Plus income earned by a TANF-PLS program client who is also in the REFM program, the income is excluded when determining initial and ongoing program eligibility.

(B) JOBS Plus wages received after the client's last month of work under a TANF-PLS JOBS Plus agreement are counted.

(d) In all programs not covered under subsections (a) to (c) of this section, TANF-PLS income is counted as earned income.

(e) In all programs other than the TANF program, NCP-PLS income is counted as earned income.

(f) In all programs, client wages received under the Tribal TANF JOBS programs are counted as earned income.

(3) Welfare-to-Work work experience income is treated as follows:

(a) In the REF, REFM, and TANF programs, the income is earned income, and the first \$260 is excluded each month.

(b) In the SNAP program, the income is earned income.

(4) In the ERDC program, earned income of a child is excluded.

(5) In the REF, REFM, and TANF programs:

(a) Earned income of the following children is excluded:

(A) Dependent children under the age of 19 years, and minor parents under the age of 18 years, who are full-time students in grade 12 or below (or the equivalent level of vocational training, in GED courses), or in home schooling approved by the local school district.

(B) Dependent children under the age of 18 years who are attending school part-time (as defined by the institution) and are not employed full-time.

(C) Dependent children too young to be in school.

(b) Income remaining after the month of receipt is a resource.

(c) In-kind earned income is excluded (see OAR 461-145-0280 and 461-145-0470).

(6) In the SNAP program:

(a) If a cafeteria plan (see OAR 461-001-0000) benefit that the employee cannot elect to receive as a cash payment is designated and used to pay for child care, medical care, or health insurance, the benefit is excluded unless it is reimbursed by the Department. If reimbursed, the Department counts it as earned income.

(b) The following types of income are excluded:

(A) The earned income of an individual under the age of 18 years who is under the parental control of another member of the household and is:

(i) Attending elementary or high school;

(ii) Attending GED classes recognized by the local school district;

(iii) Completing home-school elementary or high school classes recognized by the local school district; or

(iv) Too young to attend elementary school.

(B) In-kind earned income, except as provided in section (7) of this rule.

(C) Deductions from base pay for future educational costs under Pub. L. No. 99-576, 100 Stat. 3248 (1986), for clients on active military duty.

(D) Income remaining after the month of receipt is a resource.

(7) In the SNAP program, earned in-kind income (see OAR 461-145-0280) is excluded unless it is an expenditure by a business entity that benefits a principal (see OAR 461-145-0088).

(8) In all programs except in the OSIPM program for a client in non-standard living arrangement (see OAR 461-001-0000), the income of a temporary employee of the U.S. Census Bureau employed to assist in taking the census is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.400, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 414.231, 414.712, 414.826

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.400, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 414.231, 414.712, 414.826

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1990, f. & cert. ef. 3-2-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 7-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 31-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 14-2010(Temp), f. & cert. ef. 5-19-10 thru 11-15-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0150

Educational Income

(1) Educational income is income designated specifically for educational expenses. To be considered educational income, the income must be received by one of the following:

(a) A student at a recognized institution of post-secondary education. Post secondary education is education offered primarily to individuals 18 years of age or older. Admission may — but does not necessarily — require a high school diploma or equivalent.

(b) A student at a school for individuals with disabilities.

(c) A student in a vocational education program.

(d) A student in a program that provides for completion of requirements for a secondary school diploma or the equivalent.

(2) To determine the amount of educational income to exclude, education expenses listed in the financial aid award letter are used unless one of the following is true:

(a) The student provides verification of amounts different from those listed in the award letter, in which case the verified amounts from the student are used.

(b) The student receives child care benefits — ERDC or other child care subsidies. The amount the student actually pays for child care (including the ERDC copay) is excluded as educational income instead of the amount shown in the award letter.

(c) The student states that actual transportation costs exceed the amount allowed for the expense in the award letter. In that situation, the number of miles to and from school is multiplied by \$0.20. The product or the amount from the award letter, whichever is greater, is excluded.

(3) The following items are excluded:

(a) Educational income authorized by the Carl D. Perkins Vocational and Applied Technology Education Act or Title IV of the Higher Education Act or made available by the Bureau of Indian Affairs (BIA).

(b) All income from educational loans.

(4) Except as provided in section (5) of this rule, the cost of the following items from remaining educational funds (including non Title IV work study, externship (see OAR 461-001-0015), graduate assistantship (see OAR 461-001-0015), graduate fellowship (see OAR 461-001-0015) wages, and internship (see OAR 461-001-0015)) is excluded:

(a) Tuition, mandatory fees, books and supplies, transportation, required rental or purchase of equipment or materials charged to students enrolled in a specific curriculum, other miscellaneous personal expenses (except room and board), and loan originator fees and insurance premiums required to obtain an educational loan.

(b) In all programs except ERDC — dependent care.

(5) For a participant in the Parents as Scholars (PAS) component of the JOBS program who has been approved for PAS pursuant to OAR 461-190-0199, all remaining educational funds, including those funds intended for room and board, are excluded.

(6) In all programs covered by chapter 461 of the Oregon Administrative Rules, after allowing exclusions, the remaining income is treated as follows:

(a) Income received through work study (including work study provided through a VA program or other educational program), fellowships and teaching-assistant positions not excluded by section (3) or (4) of this rule is earned income.

(b) Educational income not covered by subsection (a) of this section is prorated over the period it is intended to cover. If the client has already received the income, the prorated amount is counted monthly beginning with the first month of the period. If the client has not received the income at the time the determination is made, the prorated income is counted starting in the month the client expects to receive it.

Stat. Auth.: ORS 411.060, 411.083, 411.404, 411.816, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.083, 411.404, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.816, 411.825, 412.014 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. & cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

ADMINISTRATIVE RULES

461-145-0220

Home

(1) Home defined: A home is the place where the filing group lives. A home may be a house, boat, trailer, mobile home, or other habitation. A home also includes the following:

(a) Land on which the home is built and contiguous property.

(A) In all programs except the GA, GAM, OSIP, OSIPM, QMB, and SNAP programs property must meet all the following criteria to be considered contiguous property:

(i) It must not be separated from the land on which the home is built by land owned by people outside the financial group (see OAR 461-110-0530).

(ii) It must not be separated by a public right-of-way, such as a road.

(iii) It must be property that cannot be sold separately from the home.

(B) In the GA, GAM, OSIP, OSIPM, QMB, and SNAP programs, contiguous property is property not separated from the land on which the home is built by land owned by people outside the financial group.

(b) Other dwellings on the land surrounding the home that cannot be sold separately from the home.

(2) Exclusion of home and other property:

(a) For a client who has an initial month (see OAR 461-001-0000) of long-term care on or after January 1, 2006:

(A) For purposes of this subsection:

(i) The definition of "child" in OAR 461-001-0000 does not apply.

(ii) "Child" means a biological or adoptive child who is:

(I) Under age 21; or

(II) Any age and meets the Social Security Administration criteria for blindness or disability.

(B) The equity value of a home is excluded if the requirements of at least one of the following subparagraphs are met:

(i) The child of the client occupies the home.

(ii) The spouse of the client occupies the home.

(iii) The equity in the home is \$536,000 or less, and the requirements of at least one of the following subparagraphs are met:

(I) The client occupies the home.

(II) The home equity is excluded under OAR 461-145-0250.

(III) The home is listed for sale per OAR 461-145-0420.

(iv) Notwithstanding OAR 461-120-0330, the equity in the home is more than \$536,000 and the client is unable legally to convert the equity value in the home to cash.

(b) For all other filing groups, the value of a home is excluded when the home is occupied by any member of the filing group.

(c) In the SNAP program, the value of land is excluded while the group is building or planning to build their home on it, except that if the group owns (or is buying) the home they live in and has separate land they intend to build on, only the home in which they live is excluded, and the land they intend to build on is treated as real property in accordance with OAR 461 145 0420.

(3) Exclusion during temporary absence: If the value of a home is excluded under section (2) of this rule, the value of this home remains excluded in each of the following situations:

(a) In all programs except the GA, GAM, OSIP, OSIPM, and QMB programs, during the temporary absence of all members of the filing group from the property, if the absence is due to illness or uninhabitability (from casualty or natural disaster), and the filing group intends to return home.

(b) In the SNAP program, when the financial group is absent because of employment or training for future employment.

(c) In the GA, GAM, OSIP, OSIPM, and QMB programs, when the client is absent to receive care in a medical institution, if one of the following is true:

(A) The absent client has provided evidence that he or she will return to the home. The evidence must reflect the subjective intent of the client, regardless of the client's medical condition. A written statement from a competent client is sufficient to prove the intent.

(B) The home remains occupied by the client's spouse, child, or a relative dependent on the client for support. The child must be less than 21 years of age or, if over the age of 21, blind or an individual with a disability as defined by SSA criteria.

(d) In the REF, REFM, and TANF programs, when all members of the filing group are absent because:

(A) The members are employed in seasonal employment and intend to return to the home when the employment ends; or

(B) The members are searching for employment, and the search requires the members to relocate away from their home. If all members of the filing group are absent for this reason, the home may be excluded for

up to six months from the date the last member of the filing group leaves the home to search for employment. After the six months, if a member of the filing group does not return, the home is no longer excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0230

Housing and Urban Development

(1) Payments from HUD made to a third party in behalf of the client are treated as follows:

(a) In the REF, REFM, and TANF programs, the payment is used to determine shelter-in-kind income.

(b) In the EA, ERDC, GA, GAM, OSIP, OSIPM, QMB, and SNAP programs, the payments are excluded.

(2) HUD payments made directly to a member of the financial group, except Youthbuild Program payments and Family Investment Centers payments, are treated as follows:

(a) In the REF, REFM, and TANF programs, the payment is used to determine shelter-in-kind income. If the payments are made in a lump sum, the lump sum is unearned income.

(b) In the EA program, the payment is unearned income.

(c) In the ERDC, GA, GAM, OSIP, OSIPM, and QMB programs, the payments are excluded.

(d) In the SNAP program, payments for utilities are excluded. Other payments are unearned income.

(3) Youthbuild Program payments are treated as follows:

(a) In the TANF program, if the Youthbuild Program participant is a dependent child in the filing group or a caretaker relative age 19 or younger, the payments are excluded. If the participant is a caretaker relative over age 19, the payments are treated as follows:

(A) Incentive payments that are reimbursements for specific expenses not covered by program benefits, for instance transportation and school supplies, are excluded.

(B) On-the-job training (OJT) and work experience payments are earned income.

(C) The bonus payment (the incentive payment for attendance) is unearned income.

(b) In the ERDC program, Youthbuild payments are earned income.

(c) In the SNAP program, payments to clients under the age of 19 years who are under the control of an adult member of the filing group are excluded. Other Youthbuild payments are earned income.

(4) Escrow accounts established for families participating in the Family Self-Sufficiency (FSS) program sponsored by HUD are excluded.

(5) Payments related to family investment centers issued under the Cranston-Gonzalez National Affordable Housing Act, Pub. L. No. 101-625, sec. 515, 104 Stat. 4196 (1990), are treated as follows:

(a) Wages are earned income, and stipends are unearned income.

(b) Service payments for items such as child care, basic education, literacy, or computer skills training are excluded.

Stat. Auth.: ORS 411.060 & 411.816

Stats. Implemented: ORS 411.060 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0250

Income-Producing Property

(1) Income from *income producing property* (see OAR 461-001-0000) is counted as follows:

(a) If a member of the financial group (see OAR 461-110-0530) actively manages the property 20 hours or more per week, the income is treated in the same manner as self-employment income (see OAR 461-145-0910, 461-145-0920, and 461-145-0930).

(b) If a member of the *financial group* does not actively manage the property 20 hours or more per week, the income is counted as unearned income with exclusions allowed only in accordance with OAR 461-145-0920. In the SNAP program, if the financial group owns more than one property, the exclusions for one property may not be used to offset income from a different property.

ADMINISTRATIVE RULES

(2) The equity value (see OAR 461-001-0000) of income-producing property is treated as follows:

(a) In the EA and ERDC programs, it is excluded.

(b) In the SNAP program, it is counted as a resource except to the extent described in each of the following situations:

(A) If the property produces an annual countable income similar to other properties in the community with comparable market value, the equity value of the property is excluded.

(B) The property is excluded under OAR 461-145-0600.

(C) The equity value of income-producing livestock, poultry, and other animals is excluded.

(D) If selling the resource would produce a net gain to the financial group of less than \$1,500, the equity value is excluded.

(c) In the GA, GAM, OSIP, OSIPM, and QMB programs, it is counted as a resource, except:

(A) If the property produces an annual countable income of at least six percent of its equity value, the value of the property is excluded up to a maximum of \$6,000.

(B) The total equity value is excluded (regardless of value or rate of return) if the requirements of all the following subparagraphs are met:

(i) The property is used in the trade or business of a member of the financial group, as evidenced by two or more of the following:

(I) The good faith intention of making a profit.

(II) Its use is part of a regular occupation for a member of the financial group.

(III) Holding out to others as being engaged in the selling of goods or services.

(IV) Continuity of operations, repetition of transactions, or regularity of activities.

(V) A business tax return, including forms such as Profit or Loss from Business or Profession (Schedule C), Computation of Social Security Self-Employment (Schedule SE), Farm Income and Expenses (Schedule F), Depreciation and Amortization (Form 4562), or U.S. Partnership Return of Income (Form 1065).

(ii) The property is in current use or, if not in use for reasons beyond the control of the financial group, there must be a reasonable expectation that the required use will resume.

(iii) The property is essential to the client's self-support.

(d) In the REF, REFM, and TANF programs, it is counted as a resource, except that in the TANF program, it is excluded for a self-employed client participating in the microenterprise component of the JOBS program.

Stat. Auth.: ORS 411.060, 411.400, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.400, 411.700, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0300

Workforce Investment Act

Payments to clients made under Title I-B of the Workforce Investment Act (see OAR 589-020-0210) are treated as provided in this rule.

(1) Need-based (stipend) payments are treated as unearned income except as follows:

(a) In the SNAP program, these payments are excluded.

(b) The payments are excluded for REF, REFM, and TANF clients under the age of 19 years, or under the age of 20 years if the client is a caretaker relative (see OAR 461-001-0000).

(2) OJT (On-the-Job Training) and work experience payments are counted as earned income, except as follows:

(a) The payments are excluded for REF, REFM, and TANF clients under the age of 18 years, or under the age of 20 years if the client is a caretaker relative (see OAR 461-001-0000);

(b) The payments are excluded for an SNAP client who is:

(A) Under the age of 19 years and under the control of an adult member of the filing group (see OAR 461-110-0370); or

(B) Receiving OJT payments under the Summer Youth Employment and Training Program.

(3) A support service payment for an item already covered by the benefits of the benefit group (see OAR 461-110-0750) is treated as unearned income. All other support service payments (including lunch payments and clothing allowances) are excluded.

(4) A reimbursement (see OAR 461-001-0000) is treated as provided in OAR 461-145-0440.

[Publication.: Publications referenced are available from the agency.]

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0330

Loans and Interest on Loans

(1) This rule covers proceeds of loans, loan repayments, and interest earned by a lender. If the proceeds of a loan are used to purchase an asset, the asset is evaluated under the other rules in this division of rules.

(2) For purposes of this rule:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) "Bona fide loan agreement" means an agreement that:

(i) Is enforceable under state law;

(ii) Is in effect at the time the cash proceeds are provided to the borrower; and

(iii) Includes an obligation to repay and a feasible repayment plan.

(B) "Negotiable loan agreement" means a loan agreement in which the instrument ownership and the whole amount of money expressed on its face can be transferred from one person to another (i.e., sold) at prevailing market rates.

(b) In all programs:

(A) "Reverse-annuity mortgage" means a contract with a financial institution (see OAR 461-001-0000) under which the financial institution provides payments against the equity in the home that must be repaid when the homeowner dies, sells the home, or moves.

(B) The proceeds of a home equity loan or reverse-annuity mortgage are considered loans.

(3) For payments that a member of the financial group (see OAR 461-110-0530) receives as a borrower to be treated as a loan:

(a) In the GA, GAM, OSIP, OSIPM, QMB, and SNAP programs, there must be an oral or written loan agreement, and this agreement must state when repayment of the loan is due to the lender.

(b) In programs other than the GA, GAM, OSIP, OSIPM, QMB, and SNAP programs, there must be a written loan agreement, and this agreement must be signed by the borrower and lender, dated before the borrower receives the proceeds of the loan, and state when repayment of the loan is due to the lender.

(4) Payments for a purported loan that do not meet the requirements of section (3) of this rule are counted as unearned income.

(5) When a member of a financial group receives cash proceeds as a borrower from a loan that meets the requirements of section (3) of this rule:

(a) In all programs, educational loans are treated according to OAR 461-145-0150.

(b) In the ERDC, REF, REFM, SNAP, and TANF programs, the loan is excluded. If retained after the month of receipt, the loan proceeds are treated in accordance with OAR 461-140-0070.

(c) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) If the loan is a bona fide loan agreement, the money provided by the lender is not income but is counted as the borrower's resource if retained in the month following the month of receipt (notwithstanding OAR 461-140-0070).

(B) If the loan is not a bona fide loan agreement, the money provided by the lender is counted as income in the month received and is counted as a resource if retained in the month following the month it was received.

(6) In the OSIPM program, if a client or a spouse of a client uses funds to purchase a mortgage or to purchase or lend money for a promissory note or loan:

(a) In a transaction occurring on or after July 1, 2006:

(A) The balance of the payments owing to the client or spouse of the client is a transfer of assets for less than fair market value, unless all of the following requirements are met:

(i) The total value of the transaction is being repaid to the client or spouse of the client within three months of the client's life expectancy per that person's actuarial life expectancy as established by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration.

(ii) Payments are made in equal amounts over the term of the transaction without any deferrals or balloon payments.

(iii) The contract is not cancelled upon the death of the individual receiving the payments under this transaction.

(B) If the loan results in a disqualification and the disqualification period has been served, payments against the principal and interest are treated as unearned income.

ADMINISTRATIVE RULES

(b) In a transaction occurring before July 1, 2006 or for a transaction occurring on or after July 1, 2006 that does not result in a disqualification in subsection (a) of this section, the loan is treated as follows:

(A) Interest income is treated as unearned income.

(B) The loan is counted as a resource if:

(i) The financial group includes a client in a nonstandard living arrangement (see OAR 461-001-0000) and the client's spouse;

(ii) The transaction is on or after the date of the first continuous period of care (see OAR 461-001-0030); and

(iii) The amount of the loan plus other resources transferred exceeds the largest amount in OAR 461-160-0580(2)(f).

(C) For all other loans:

(i) If the loan is both a negotiable loan agreement and a bona fide loan agreement, the loan is counted as a resource valued at the outstanding principal balance.

(ii) If the loan does not qualify under subparagraph (i) of this paragraph, payments against the principal are counted as unearned income.

(7) In the GA, GAM, OSIP, and QMB programs:

(a) Interest income is treated as unearned income.

(b) If the loan is both a negotiable loan agreement and a bona fide loan agreement, the loan is counted as a resource of the lender valued at the outstanding principal balance.

(c) If the loan does not qualify under subsection (b) of this section, the payments against the principal are counted as income to the lender.

(8) In all programs other than the GA, GAM, OSIP, OSIPM, and QMB programs:

(a) The interest payment is counted as unearned income.

(b) The payment of principal is excluded.

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049 & 414.042

Stats. Implemented: ORS 411.060, 411.816, 412.014, 412.049 & 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; [SSP 20-2009(Temp), f. & cert. ef. 7-29-09 thru 1-25-10; Suspended by SSP 26-2009(Temp), f. & cert. ef. 9-1-09 thru 1-25-10]; Administrative correction 2-19-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0340

Lodger Income

(1) Lodger income is the amount a lodger (see OAR 461-001-0000) pays the filing group for room (rent) and board (meals).

(2) Lodger income is counted as follows:

(a) In the REF, REFM, and TANF programs, lodger income not excluded under OAR 461-155-0350 is treated as self employment income.

(b) In all programs except the REF, REFM, and TANF programs, lodger income is treated as self-employment income.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0360

Motor Vehicle

(1) The value of disability-related apparatus, optional equipment, or low mileage is not considered in determining the fair market value (see OAR 461-001-0000) of an automobile, truck, or van. The *fair market value* of an automobile, truck, or van is presumed to be the "average trade-in value" established in the National Automobile Dealers Association's (NADA) Used Car Guide. If the vehicle is not listed in the NADA Used Car Guide, the "average trade-in value" established in the Kelley Blue Book is used. If the vehicle is not listed in the NADA Used Car Guide and Kelley Blue Book, the "average trade-in value" established in a similar publication is used. A client may rebut the presumption with a statement from a car dealer, mechanic, or other reliable source. If the vehicle is not listed in the NADA Used Car Guide, Kelley Blue Book, and a similar publication, the estimate of the value by the client may be accepted unless it appears questionable, in which case additional evidence of the value is required.

(2) Some programs permit an exclusion for a portion of the equity value (see OAR 461-001-0000) for any licensed and unlicensed motor vehicles owned by the financial group:

(a) In the REF, REFM, SNAP, and TANF programs, this exclusion is up to \$10,000.

(b) In the GA and GAM programs, this exclusion is up to \$4,500.

(c) Any remaining equity in that vehicle and the total equity value of all other vehicles is counted as a resource.

(3) In the EA and ERDC programs, all motor vehicles are excluded.

(4) In the OSIPM and QMB programs:

(a) The total value of a vehicle selected by the financial group is excluded if it is used for transportation of the client or a member of the client's household.

(b) The total equity value of any vehicle not excluded under subsection (a) of this section and all other vehicles is counted as a resource.

(5) In the OSIP-EPD and OSIPM-EPD programs, if a vehicle was purchased as an employment and independence expense (see OAR 461-001-0035) or with moneys from an approved account (see OAR 461-001-0035), the total value of the vehicle is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.700, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.700, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0365

National and Community Services Trust Act (NCSTA), including AmeriCorps (other than AmeriCorps VISTA)

(1) The National and Community Service Trust Act (NCSTA) of 1993 (P.L. 103-82) amended the National and Community Service Act (NCSA) of 1990 (P.L. 101-610) that established a Corporation for National and Community Service. The Corporation administers national service programs providing living allowance, educational award, child care and in-kind benefits.

(2) NCSTA payments, including AmeriCorps (except AmeriCorps VISTA which is covered in OAR 461-145-0110) are treated as follows:

(a) The living allowance (stipend benefits) is excluded.

(b) Educational award and in-kind benefits are treated as follows:

(A) In the GA program, these benefits are treated according to the policy for the specific type of asset.

(B) In all programs except GA, these benefits are excluded.

(c) The child care allowance is treated as follows:

(A) For clients in the ERDC, REF, and TANF programs who are eligible for direct provider payment of child care, the allowance is counted as unearned income. The allowance is excluded only if the client already pays the provider. The provider may be paid for only the costs not covered by the allowance.

(B) For clients in the SNAP program who are receiving a child care deduction, the deduction is allowed only for the costs not covered by the allowance.

(C) In all other programs, the allowance is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0380

Pension and Retirement Plans

(1) Pension and retirement plans include the following:

(a) Benefits employees receive only when they retire. These benefits can be disbursed in lump-sum or monthly payments.

(b) Benefits that employees are allowed to withdraw when they leave a job before retirement.

(c) The following retirement plans if purchased by a client with funds from the plans authorized by section 401 of the Internal Revenue Code of 1986:

(A) Traditional Defined-Benefit Plan.

(B) Cash Balance Plan.

(C) Employee Stock Ownership Plan.

(D) Keogh Plan.

(E) Money Purchase Pension Plan.

(F) Profit-Sharing Plan.

(G) Simple 401(k).

(H) 401(k).

ADMINISTRATIVE RULES

(d) Retirement plans purchased by a client with funds from plans authorized by section 403 of the Internal Revenue Code of 1986 at subsections (a) or (b).

(e) The following retirement plans and annuities if purchased by a client with funds from the plans authorized by section 408 of the Internal Revenue Code of 1986 at subsections (a), (b), (c), (k), (p), or (q), or at section 408A:

(A) Individual Retirement Annuity.

(B) Individual Retirement Account (IRA).

(C) Deemed Individual Retirement Account or Annuity under a qualified employer plan.

(D) Accounts established by employers and certain associations of employees.

(E) Simplified Employee Pension (SEP).

(F) Simple Individual Retirement Account (Simple-IRA).

(G) Roth IRA.

(f) The following retirement plans offered by governments, nonprofit organizations, or unions:

(A) 457(b) Plan.

(B) 501(c)(18) Plan.

(C) Federal Thrift Savings Plan under 5 USC 8439.

(g) In all programs except the OSIP, OSIPM, and QMB programs, an annuity purchased by a client with funds from a plan authorized under subsection (c), (d), or (f) of this section.

(2) An annuity purchased by the spouse (see OAR 461-001-0000) of a client with funds from a retirement plan described in subsection (1)(e) of this rule is not considered a retirement plan and is treated in accordance with OAR 461-145-0020 and OAR 461-145-0022.

(3) Benefits the client receives from pension and retirement plans are treated as follows:

(a) Monthly payments are counted as unearned income.

(b) All payments not covered by subsection (a) of this section are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).

(4) In the OSIP, OSIPM, and QMB programs:

(a) Except for an annuity purchased with funds from a retirement plan described in subsection (1)(e) of this rule:

(A) The equity value (see OAR 461-001-0000) of a pension or retirement plan is excluded as a resource if the individual is eligible for monthly or periodic payments under the terms of the plan and has applied for those payments. When an individual is permitted to choose or change a payment option, the individual must select the option that:

(i) Provides payments commencing on the earliest possible date; and

(ii) Completes payments within the actuarial life expectancy, as published in the Periodic Life Table of the Office of the Chief Actuary of the Social Security Administration, of the individual.

(B) The equity value of all pension and retirement plans not covered by paragraph (A) of this subsection that allow clients to withdraw funds, minus any penalty for withdrawal, is counted as a resource.

(b) The equity value of an annuity purchased with funds from a retirement plan described in subsection (1)(e) of this rule is excluded as a resource if it meets the payout requirements of OAR 461-145-0022(10)(c). Otherwise, the equity value is counted as a resource.

(5) In the SNAP program, the value of retirement accounts identified in sections 401(a), 403(a), 403(b), 408, 408(k), 408(p), 408A, 457(b), or 501(c)(18) of the Internal Revenue Code, or in a Federal Thrift Savings Plan account are excluded resources.

(6) In all programs except the OSIP, OSIPM, QMB, and SNAP programs, the equity value of a pension and retirement plan that allows a client to withdraw funds before retirement, minus any penalty for early withdrawal, is counted as a resource.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.014, 412.049 & 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.014, 412.049 & 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; [SSP 21-2009(Temp), f. & cert. ef. 7-29-09 thru 1-25-10; Suspended by SSP 26-2009(Temp), f. & cert. ef. 9-1-09 thru 1-25-10]; Administrative correction 2-19-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0410

Program Benefits

(1) EA and TA-DVS payments are treated as follows:

(a) In the ERDC and SNAP programs, a payment made directly to the client is counted as unearned income. Dual payee and provider-direct payments are excluded.

(b) In all programs except the ERDC and SNAP programs, these payments are excluded.

(2) Payments from ERDC and TANF child care are excluded unless the client is the provider.

(3) Payments from the GAM, OCCS medical programs, OSIPM, QMB, and REFM programs are excluded.

(4) Payments from JPI (see OAR 461-135-1260) are issued as a food benefit and are excluded.

(5) SNAP payments are treated as follows:

(a) The value of an SNAP benefit is excluded in all programs except the EA program. In the EA program, the value is counted as a resource when determining the emergency food needs of the filing group (see OAR 461-110-0310).

(b) OFSET service payments are excluded.

(6) Benefits from the GA, OSIP (except OSIP-IC), Post-TANF, REF, SFPSS, TANF, and tribal-TANF programs are treated as follows:

(a) In the EA program, these payments are counted as unearned income, except that these payments are excluded for a benefit group (see OAR 461-110-0750) whose emergent need is the result of domestic violence (see OAR 461-001-0000).

(b) In the ERDC program:

(A) Post-TANF payments are excluded.

(B) All other payments are counted as unearned income.

(c) In the SNAP program:

(A) These payments are treated as unearned income.

(B) An amount received as a late processing payment is treated as lump-sum income.

(C) Payments made to correct an underpayment are treated as lump-sum income.

(D) Ongoing special needs payments for laundry allowances, special diet or meal allowance, restaurant meals, accommodation allowances, and telephone allowances are treated as unearned income. All other special needs payments are excluded as reimbursements.

(d) In all programs except the EA, ERDC, and SNAP programs:

(A) These payments are excluded in the month received, and any portion remaining following the month of receipt is counted as a resource.

(B) Payments made to correct an underpayment are excluded.

(e) In all programs:

(A) JOBS, REF, and TANF JOBS Plus support service payments are excluded.

(B) For the treatment of JOBS Plus income, see OAR 461-145-0130.

(C) REF and TANF client incentive payments are treated as follows:

(i) Except in the TANF program, the cooperation incentive payment (see OAR 461-135-0310) is counted as unearned income.

(ii) Progress and outcome incentive payments other than in-kind payments are counted as lump-sum income (see OAR 461-140-0120). All other incentives are excluded.

(7) Payments from OSIP-IC are treated as follows:

(a) In the SNAP program, these payments are counted as unearned income and assets held in a contingency fund (see OAR 411-030-0020) are counted as a resource.

(b) In all other programs, these payments and funds held in a contingency fund are excluded.

(8) Pre-TANF program payments are treated as follows:

(a) In the SNAP program, a payment for basic living expenses, made directly to the client, is counted as unearned income. All other payments are excluded.

(b) In all programs except the SNAP program, these payments are excluded.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.700, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 5-1991, f. & cert. ef. 2-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 21-1992(Temp), f. 7-31-92, cert. ef. 8-1-92; AFS 32-1992, f. 10-30-92, cert. ef. 11-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 18-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 36-2011(Temp), f. 12-27-11, cert. ef. 1-1-12 thru 6-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

ADMINISTRATIVE RULES

461-145-0420

Real Property

(1) For purposes of this rule, manufactured and mobile homes and floating homes and houseboats are treated in the same manner as real property.

(2) The applicant has the burden of proof of establishing the fair market value (see OAR 461-001-0000) of real property (see OAR 461-001-0000). *Fair market value* may be established by any methodology determined to accurately reflect the fair market value of the real property, including the provision of an appraisal or comparative market analysis performed by an impartial individual who is certified or licensed in the applicable jurisdiction.

(3) Real property that is not income-producing or the home of the financial group (see OAR 461-110-0530) is treated as follows:

(a) In the REF, REFM, and TANF programs, the equity value (see OAR 461-001-0000) of all real property that is not excluded under a TANF Interim Assistance agreement is counted as a resource.

(b) In the EA and ERDC programs, real property is excluded.

(c) In the SNAP program, real property is treated as follows:

(A) The equity value of real property is excluded if the financial group is making a good-faith effort to sell the real property at a fair market price.

(B) The *equity value of the real property* is counted as a resource if the financial group refuses to make a good-faith effort to sell.

(C) The resource is excluded if selling the resource would produce a net gain to the financial group of less than \$1,500.

(d) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) The equity value of real property that was the home of the financial group is excluded if the financial group is making a good-faith effort to sell the real property at a reasonable price, unless the equity value in the home makes the client ineligible under OAR 461-145-0220(2)(a).

(B) The equity value of all other real property is excluded if the financial group is making a good-faith effort to sell the real property at a reasonable price. The equity value is counted after the real property is excluded for nine months unless the failure to sell it is for reasons beyond the reasonable control of the financial group.

(4) The treatment of real property that is income producing is covered in OAR 461-145-0250.

(5) The treatment of the home of the financial group is covered in OAR 461-145-0220.

Stat. Auth.: ORS 411.060, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.816 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0430

Real Property Excluded under an Interim Assistance Agreement; REF, REFM, TANF

(1) This rule applies in the REF, REFM, and TANF programs when the equity value (see OAR 461-001-0000) of real property puts the financial group (see OAR 461-110-0530) over the resource limit.

(2) When section (1) of this rule applies:

(a) The *equity value of real property* is excluded for a maximum of nine months if the financial group signs and complies with the terms of the program's Interim Assistance Agreement.

(b) After the ninth month, the equity value of the property is counted as a resource.

(3) To comply with the terms of the program's Interim Assistance Agreement, the financial group must agree to do all the following:

(a) Make a good-faith effort to sell the property; and

(b) Use the proceeds from the sale of the property to reimburse the Department for all benefits paid under the terms of the program's Interim Assistance Agreement. The reimbursement will not exceed the net proceeds of the sale of the property.

(4) The amount of benefits paid while the financial group has excess real property is an overpayment if the financial group fails to notify the Department that the group has the property.

(5) The amount of the benefits paid while the *financial group* has excess real property is an overpayment up to the net proceeds of the sale of the property if the property sells and the financial group does not repay the Department under the terms of the program's Interim Assistance Agreement.

Stat. Auth.: ORS 411.060, 411.700, 412.049

Stats. Implemented: ORS 411.060, 411.700, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0433

Recreational Vehicles

(1) For purposes of this rule, a *recreational vehicle* includes both of the following subsections:

(a) A vehicle (a means for carrying or transporting something) if:

(A) The vehicle is used primarily for amusement and not for day-to-day transportation; and

(B) The vehicle cannot be licensed as a motor vehicle for use on a public highway (even if the vehicle is registered or licensed as a non-motor vehicle).

(b) An ATV, boat, camper, dune buggy, plane, snowmobile, and trailer, unless the item qualifies as a capital asset (see OAR 461-001-0000) or as work-related equipment (see OAR 461-145-0600).

(2) Except as provided in section (4) of this rule, for all programs except ERDC, the equity value (see OAR 461-001-0000) of a recreational vehicle is counted as a resource.

(3) In the ERDC program, the value of a recreational vehicle is excluded.

(4) In the SNAP program only, the equity value of a recreational vehicle is excluded if selling the vehicle would produce a net gain to the financial group of less than \$1,500.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 412.049

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0440

Reimbursement

(1) For the treatment of USDA meal reimbursements, see OAR 461-145-0570.

(2) The *reimbursement* of a business expense for a self-employed client is treated as self-employment income (see OAR 461-145-0910 and 461-145-0920).

(3) Except as provided in sections (1) and (2) of this rule, a reimbursement (see OAR 461-001-0000) is treated as follows:

(a) In the ERDC program, a reimbursement is excluded, except that a reimbursement for child care from a source outside of the Department is counted as unearned income.

(b) In the SNAP program:

(A) A reimbursement in the form of money for a normal household living expense, such as rent or payment on a home loan, personal clothing, or food eaten at home, is unearned income.

(B) Any other reimbursement is treated as follows:

(i) An in-kind reimbursement is excluded.

(ii) A reimbursement in the form of money is excluded if used for the identified expense, unless the expense is covered by program benefits.

(iii) A reimbursement is counted as periodic or lump sum income (see OAR 461-140-0110 and 461-140-0120) if not used for the identified expense.

(iv) A reimbursement for an item already covered by the benefits of the benefit group (see OAR 461-110-0750) is counted as periodic or lump sum income.

(c) In the SNAP program, an expenditure by a business entity that benefits a principal is counted as earned income (see OAR 461-145-0130).

(d) In all programs except the ERDC and SNAP programs, a reimbursement is treated as follows:

(A) An in-kind reimbursement is excluded.

(B) A reimbursement in the form of money is excluded if used for the identified expense, unless the expense is covered by program benefits.

(C) A reimbursement is counted as periodic or lump sum income if not used for the identified expense.

(D) A reimbursement for an item already covered by the benefits of the benefit group is counted as periodic or lump sum income.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.700, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

ADMINISTRATIVE RULES

461-145-0455

Resettlement and Placement (R&P) Grants

(1) A Reception and Placement (R&P) grant is a payment made by the United States Department of State through a national refugee resettlement agency to a local resettlement agency, refugee sponsor, or refugee. An R&P grant is provided to the resettlement agency to help with the costs of initial resettlement of a refugee in the United States. The resettlement agency provides a part of this grant to the refugee, usually in the refugee's first month after arrival, for the refugee's initial resettlement needs and not for ongoing living expenses.

(2) In the ERDC, REF, REFM, and TANF programs, an R&P grant is excluded from consideration as income or a resource for purposes of determining program eligibility or benefit levels, except as provided in OAR 461-140-0070.

(3) In the SNAP program, any amount paid directly to a SNAP household from an R&P grant is counted as unearned income. For an in-kind payment made directly to a provider by the resettlement agency, see OAR 461-145-0280.

(4) In the GA, OSIP, OSIPM, and QMB programs, an R&P grant determined to be available to the refugee case is considered unearned income.

Stat. Auth.: ORS 411.060, 411.116, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.116, 411.404, 411.816, 412.006, 412.049
Hist.: AFS 1-2001(Temp), f. & cert. ef. 1-30-01 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0460

Sale of a Resource

(1) In the ERDC program, all proceeds from the sale of a resource are excluded as income and as a resource.

(2) In the REF, REFM, and TANF programs:

(a) Proceeds from the sale of an excluded resource to the extent reinvested in another excluded resource are excluded as income and as a resource.

(b) All proceeds from the sale of the resource are counted as unearned income, unless excluded in subsection (a) of this section.

(3) In all programs except the ERDC, REF, REFM, and TANF programs, proceeds from the sale of a resource are treated as follows:

(a) Proceeds from the sale of a resource (other than a home) received on a monthly or other periodic basis are counted as unearned income. Proceeds received on a lump sum basis are treated as follows:

(A) If the proceeds are from the sale of an excluded resource, the amount reinvested in another excluded resource is excluded, and the remainder is counted as a resource.

(B) The proceeds from all other sales are counted as a resource. If the proceeds put the benefit group (see OAR 461-110-0750) over the resource limit, the proceeds are counted as periodic or lump sum income (see OAR 461-140-0110 and 461-140-0120).

(b) Proceeds from the sale of the home of the financial group (see OAR 461-110-0530) are excluded for three months if the financial group intends to use the proceeds (subparagraphs (A)(i) and (A)(ii) of this subsection set out the scope of use of excluded proceeds in the GA, GAM, OSIP, and QMB programs) to buy another home, except as follows:

(A) In the GA, GAM, OSIPM (except for clients eligible under OAR 461-135-0771), and QMB programs for a home sold on or after October 1, 2012:

(i) Principal payments, including lump-sum payments, are excluded for three full calendar months from the date of receipt if the financial group intends to use the proceeds to buy another home or for associated costs including:

- (I) Downpayments;
- (II) Settlement costs;
- (III) Loan processing fees and points;
- (IV) Moving expenses;
- (V) Necessary repairs to or replacement of the new home's structure or fixtures (including roof, furnace, plumbing, built-in appliances) that are identified and documented prior to occupancy; and
- (VI) Mortgage payments.

(ii) For the purposes of subparagraph (i) of this paragraph, funds that are obligated by contract during these three full calendar months are also excluded.

(iii) Interest payments are counted as unearned income.

(B) For clients eligible for OSIPM under OAR 461-135-0771, the proceeds from the sale of the financial group's home, if the financial group intends to use them to buy another home (subparagraphs (A)(i) and (A)(ii)

of this subsection set out the scope of use of excluded proceeds), are treated as follows:

(i) For a home sold prior to October 1, 2012, the proceeds are excluded for 12 full calendar months.

(ii) For a home sold on or after October 1, 2012:

(I) Principal payments, including lump-sum payments, are excluded for 12 full calendar months from the date of receipt.

(II) Interest payments are counted as unearned income.

(c) The proceeds from the sale of a home that are not reinvested in another home are counted as a resource, except as follows:

(A) In the GA and GAM programs, if the proceeds put the benefit group over the resource limit, they are counted as periodic or lump sum income.

(B) In the GA, GAM, OSIPM, and QMB programs for a home sold on or after October 1, 2012:

(i) Principal is counted as a resource, except that in the GA and GAM programs, if the proceeds put the benefit group over the resource limit, they are counted as periodic or lump sum income.

(ii) Interest payments are counted as unearned income.

(C) In the SNAP program, the proceeds are treated as lump-sum income (see OAR 461-001-0000) under OAR 461-140-0120.

(d) In the SNAP program:

(A) Interest received monthly or on another periodic basis from the sale of a home is counted as unearned income.

(B) If a self-employed client sells a work-related asset, including equipment and inventory, the proceeds of the sale are treated as self-employment income (see OAR 461-145-0910).

(4) Costs of the type excluded under OAR 461-145-0920 are subtracted from proceeds counted as income under this rule.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0470

Shelter-in-Kind Income

(1) Except as provided in section (2) of this rule:

(a) In the ERDC, GA, and GAM programs, *shelter-in-kind* (see OAR 461-001-0000) payments are excluded, except earned shelter-in-kind is not excluded in the ERDC program.

(b) In the REF, REFM, and TANF programs, except for child support (see OAR 461-145-0080 and 461-145-0280), shelter-in-kind payments are excluded.

(c) In the SNAP program, shelter-in-kind housing and utility payments are excluded (see OAR 461-145-0130 about exclusion of earned in-kind income), except an expenditure by a business entity for shelter costs (see OAR 461-001-0000) of a principal (see OAR 461-145-0088) is counted as income.

(d) In the OSIP, OSIPM, and QMB programs:

(A) Except as provided in paragraph (C) of this subsection, unearned shelter-in-kind income is treated as follows:

(i) Shelter-in-kind payments from HUD are excluded.

(ii) If the shelter-in-kind includes all housing and utilities, the Shelter-in-Kind Standard for total shelter (see OAR 461-155-0300) is counted as unearned income.

(iii) If the shelter-in-kind includes all housing (utilities are not included), the Shelter-in-Kind Standard for housing costs (see OAR 461-155-0300) is counted as unearned income.

(B) Except as provided in paragraph (C) of this subsection, earned shelter-in-kind income is treated as follows:

(i) If shelter is provided for services related to the employer's trade or business and acceptance of the shelter is a condition of employment, the shelter-in-kind income is treated in accordance with paragraph (A) of this subsection.

(ii) Except as provided in subparagraph (i) of this paragraph, the fair market value (see OAR 461-001-0000) of the shelter is counted as earned income.

(C) In the OSIP and OSIPM programs, when a prorated standard is used (see OAR 461-155-0020 and OAR 461-155-0250) shelter-in-kind income is excluded.

(2) A payment for which there is a legal obligation to pay to a member of the financial group (see OAR 461-110-0530) that is made to a third

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party for shelter expenses of a member of the *financial group* is counted as unearned income.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.404, 411.700, 411.816, 412.014, 412.049, 414.042
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0505

Spousal Support

(1) In the ERDC, OSIP, OSIPM, QMB, and REFM programs, spousal support (see OAR 461-001-0000) is counted as unearned income.

(2) In the SNAP program:

(a) Payments made by the separated or divorced spouse to a third party for the benefit of the financial group are excluded, except that a payment for which there is a legal obligation to pay to a member of the financial group that is made to a third party for shelter expenses of a member of the financial group is counted as unearned income.

(b) Spousal support is counted as unearned income.

(3) In the REF and TANF programs:

(a) For clients not working under a TANF JOBS Plus agreement, if the spousal support is received by the Department or Department of Justice and if continued receipt of the spousal support is reasonably anticipated, the spousal support is:

(A) Counted as unearned income when determining eligibility; and
(B) Excluded when determining the REF and TANF benefit amount.

(b) For clients working under a TANF JOBS Plus agreement:

(A) Spousal support is excluded in determining countable income.

(B) Spousal support is excluded when calculating the TANF portion of the benefit equivalency standards.

(C) Spousal support received by the client is counted as unearned income when calculating the wage supplement.

(c) Other spousal support payments (not covered under subsections

(a) or (b) of this section) are counted as unearned income.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049
Hist.: AFS 8-1992, f. & cert. ef. 4-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0510

SSI

(1) In the ERDC, GA, GAM, and SNAP programs, if a client is required by law to receive an SSI benefit through a representative payee, the representative's fee is excluded.

(2) In the ERDC, GA, and GAM programs:

(a) A monthly SSI payment is counted as unearned income.

(b) Lump-sum SSI payments are counted according to OAR 461-140-0120.

(3) In the REF, REFM, and TANF programs:

(a) SSI monthly and lump-sum payments are excluded if the recipient will be removed from the financial group (see OAR 461-110-0530) the month following receipt of the payment.

(b) An SSI lump-sum payment is excluded in the month received and the next month.

(4) In the SNAP program:

(a) A monthly SSI payment is counted as unearned income.

(b) A lump-sum SSI payment is excluded.

(5) In the OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD), and QMB programs, a retroactive SSI payment is excluded for nine months after the month of receipt. After the nine-month period, any remaining amount is a countable (see OAR 461-001-0000) resource. For the purposes of this section, a payment is retroactive if it is issued in any month after the calendar month for which it is intended.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 39-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0540

Trusts

(1) This section applies to all trust funds (see OAR 461-001-0000) in the REF, REFM, SNAP, and TANF programs. It also applies to GA, GAM, OSIP, OSIPM, and QMB for trust funds established before October 1, 1993:

(a) Trust funds are counted as a resource if the fund is legally available for use by a member of the financial group (see OAR 461-110-0530) for items covered by program benefits. In the OSIP, OSIPM, and QMB programs, the amount of the trust that is considered legally available is the maximum amount that could be distributed to the beneficiary under the terms of the trust, regardless of whether the trustee exercises his or her authority to actually make a distribution.

(b) Trust funds are excluded if the fund is not available for use by a member of the financial group. The financial group must try to remove legal restrictions on the trust, unless that would cause an expense to the group.

(c) The part of the fund available for use for medical expenses covered by the medical program for which the financial group is eligible is counted.

(2) In the ERDC program, all trust funds are excluded.

(3) In the OSIP, OSIPM, and QMB programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (4) to (10) of this rule. In the GA and GAM programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (4) to (8) of this rule.

(4) A trust is considered established if the financial group used their resources to form all or part of the trust and if any of the following established a trust, other than by a will:

(a) The client.

(b) The client's spouse.

(c) Any other person, including a court or administrative body, with legal authority to act in place of or on behalf of the client or the client's spouse.

(d) Any other person, including a court or administrative body, acting in the direction or upon the request of the client or the client's spouse.

(5) If the trust contains resources or income of another person, only the share attributable to the client is considered available.

(6) Except as provided in section (9) of this rule, the following factors are ignored when determining how to treat a trust:

(a) The purpose for which the trust was established.

(b) Whether or not the trustees have or exercise any discretion under the trust.

(c) Any restrictions on when or if distributions may be made from the trust.

(d) Any restrictions on the use of distributions from the trust.

(7) If the trust is revocable, it is treated as follows:

(a) The total value of the trust is considered a resource available to the client.

(b) A payment made from the trust to or for the benefit of the client is considered unearned income.

(c) A payment from the trust other than to or for the benefit of the client is considered a transfer of assets covered by OAR 461-140-0210 and following.

(8) If the trust is irrevocable, it is treated as follows:

(a) If, under any circumstances, the funds transferred into the trust are unavailable to the client and the trustee has no discretion to distribute the funds to or for the benefit of the client, the client is subject to a transfer-of-resources penalty as provided in OAR 461-140-0210 and following.

(b) If, under any circumstances, payments could be made to or on behalf of the client, the share of the trust from which the payment could be made is considered a resource. A payment from the trust other than one to or for the benefit of the client is considered a transfer of assets that may be covered by OAR 461-140-0210.

(c) If, under any circumstances, income is generated by the trust and could be paid to the client, the income is unearned income. Payments made for any reason other than to or for the benefit of the client are considered a transfer of assets subject to disqualification per OAR 461-140-0210.

(d) If any change in circumstance makes assets (income or resources) from the trust unavailable to the client, the change is a disqualifying transfer as of the date of the change.

(9) Notwithstanding the provisions in sections (1) and (3) to (8) of this rule, the following trusts are not considered in determining eligibility for OSIPM and QMB:

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(a) A trust containing the assets of a client determined to have a disability that meets the SSI criteria that was created before the client reached age 65, if the trust was established by one of the following and the state will receive all funds remaining in the trust upon the death of the client, up to the amount of medical benefits provided on behalf of the client:

- (A) The client's parent.
- (B) The client's grandparent.
- (C) The client's legal guardian or conservator.
- (D) A court.

(b) A trust established between October 1, 1993 and March 31, 1995 for the benefit of the client and containing only the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical benefits provided on behalf of the client. The trust is the total income in excess of the income standard for OSIPM. The remaining income not deposited into the trust is available for the following deductions in the order they appear prior to applying the patient liability:

- (A) Personal-needs allowance.
- (B) Community spouse monthly maintenance needs allowance.
- (C) Medicare and other private medical insurance premiums.
- (D) Other incurred medical.

(c) A trust established on or after April 1, 1995 for the benefit of the client whose income is above 300 percent of the full SSI standard and containing the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical assistance provided on behalf of the client. The trust contains all of the client's income. The income deposited into the trust is distributed monthly in the following order with excess amounts treated as income to the individual subject to the rules on transfer of assets in division 140 of this chapter of rules:

(A) Personal needs allowance and applicable room and board standard.

(B) Reasonable administrative costs of the trust, not to exceed a total of \$50 per month, including the following:

- (i) Trustee fees.
- (ii) A reserve for administrative fees and costs of the trust, including bank service charges, copy charges, postage, accounting and tax preparation fees, future legal expenses, and income taxes attributable to trust income.
- (iii) Conservatorship and guardianship fees and costs.

(C) Community spouse and family monthly maintenance needs allowance.

(D) Medicare and other private medical insurance premiums.

(E) Other incurred medical costs as allowed under OAR 461-160-0030 and 461-160-0055.

(F) Contributions to reserves or payments for child support, alimony, and income taxes.

(G) Monthly contributions to reserves or payments for the purchase of an irrevocable burial plan with a maximum value of \$5,000.

(H) Contributions to a reserve or payments for home maintenance if the client meets the criteria of OAR 461-155-0660 or OAR 461-160-0630.

(I) Patient liability not to exceed the cost of home and community-based care (see OAR 461-001-0030) or nursing facility services.

(10) This section of the rule applies to a trust signed on or after July 1, 2006.

(a) Notwithstanding the provisions of sections (1) and (3) to (8) of this rule, a trust that meets the requirements of subsection (b) of this section is not considered in determining eligibility for OSIPM and QMB, except that if the client is age 65 or older when the trust is funded or a transfer is made to the trust, the transfer may constitute a disqualifying transfer of assets under OAR 461-140-0210 and following.

(b) This section of the rule applies to a trust that meets all of the following conditions:

(A) The trust is established and managed by a non-profit association.

(B) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.

(C) The trust is established by the client, client's parent, grandparent, or legal guardian or a court for clients who have disabilities.

(D) Upon the death of the beneficiary or termination of the trust, the trust pays to the State an amount equal to the total medical assistance paid on behalf of the beneficiary under the State plan for Medicaid. The amount paid to the state may be reduced by administrative costs directly related to administering the sub-trust account of the beneficiary.

(E) The trust contains the resources or income of a client who has a disability that meets the SSI criteria.

(11) In the GA, GAM, OSIP, OSIPM, and QMB programs, the provisions of this rule may be waived for an irrevocable trust if the Department determines that denial of benefits would create an undue hardship on the client if, among other things:

(a) The absence of the services requested may result in a life-threatening situation.

(b) The client was a victim of fraud or misrepresentation.

Stat. Auth: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 18-2002(Temp), f. & cert. ef. 11-19-02 thru 5-18-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 16-2006(Temp), f. 12-29-06, cert. ef. 1-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0580

Veterans' Benefits

(1) Veterans' benefits, other than the educational and training and rehabilitation program benefits, are treated as follows:

(a) Except as specified in sections (2) and (5) of this rule, monthly payments are counted as unearned income.

(b) Other payments are counted as periodic or lump sum income (see OAR 461-140-0110 and 461-140-0120).

(2) Veterans' benefits that include aid-and-attendance payments are treated as follows:

(a) For OSIP and OSIPM clients receiving long-term care or home and community-based care (see OAR 461-001-0030):

(A) When determining eligibility, the entire veterans' benefit payment is excluded.

(B) When calculating monthly benefits or patient liability, the entire veterans' benefit payment is counted as unearned income.

(C) Payments for services not covered by the Department's programs are excluded.

(D) If the client receives a payment covering a previous period of eligibility, the client is required to turn over to the Department the full amount of the payment up to the cost of institutional and home and community-based care provided to the client during the months covered by the payment. A client's failure to reimburse the Department in this instance constitutes an overpayment of public assistance in accordance with OAR 461-195-0501 and 461-195-0521 and ORS 411.640 and 411.690. Any excess veterans' benefit payment made to the client is counted as lump sum or periodic income.

(b) For all other clients not covered under subsection (a) of this section:

(A) In the SNAP program, aid-and-attendance payments used to pay for an attendant are treated as a reimbursement and excluded (see OAR 461-145-0440). The remaining benefits, if any, are counted as unearned income.

(B) In the QMB program, the aid-and-attendance payments are excluded. The remaining benefits are counted unless excluded under another rule or another section of this rule.

(C) Reimbursements paid to the client for costs and services already paid for by the Department are third-party resources and may be recovered from the client as an overpayment of public assistance pursuant to OAR 461-195-0501, 461-195-0521, and 461-195-0551. Any unrecovered third-party resource or payment above the actual cost is counted as lump-sum or periodic income (see OAR 461-140-0110 and 461-140-0120).

(3) Educational benefits from the United States Veterans Administration are treated in accordance with OAR 461-145-0150.

(4) A subsistence allowance from a training and rehabilitation program of the United States Veterans Administration is treated ---

(a) In the SNAP program, as earned income (see OAR 461-145-0130).

(b) In all other programs, as unearned income.

(5) The following payments are excluded:

(a) Payments under 38 USC 1805 to biological children of Vietnam veterans who are born with spina bifida.

ADMINISTRATIVE RULES

(b) Payments under 38 USC 1815 to children with birth defects born to female Vietnam veterans.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.404, 411.620, 411.640, 411.690, 411.700, 411.816, 412.014, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 26-2012(Temp), f. & cert. ef. 7-11-12 thru 1-7-13; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0590

Workers Compensation

(1) For workers compensation payments received monthly or more frequently:

(a) Except as provided in subsection (b) of this section, these payments are counted as unearned income.

(b) In the ERDC, REF, REFM, SNAP, and TANF programs, income from workers compensation is counted as earned income (see OAR 461-145-0130) if paid to a client who is still employed while recuperating from an illness or injury.

(2) All workers compensation payments other than those in section (1) are counted as periodic or lump sum income (see OAR 461-140-0110 and 461-140-0120).

Stat. Auth.: ORS 411.060, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.700, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0600

Work-Related Capital Assets, Equipment, and Inventory

(1) As used in this rule:

(a) "Inventory" means goods that are in stock and available for sale to prospective customers.

(b) "Work-related equipment" means property essential to the employment or self-employment of a financial group member. Examples are a tradesman's tools, a farmer's machinery, and equipment used to maintain an income-producing vehicle.

(2) A capital asset (see OAR 461-001-0000), other than work-related equipment and inventory, is treated as follows:

(a) In all programs except REF, REFM, SNAP, and TANF, the equity value (see OAR 461-001-0000) of a capital asset is treated according to the rules for the asset.

(b) In the SNAP program, a capital asset used in a business is excluded as follows:

(A) Non-farm assets are excluded as long as the financial group (see OAR 461-110-0530) is actively engaged in self-employment activities.

(B) Farm assets are excluded until one year after the date the person quit self-employment as a farmer.

(c) In the REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component of the JOBS program, the value of a capital asset is excluded.

(B) For all other clients, the value of a capital asset is counted according to the rules in this division of rules.

(3) Work-related equipment is treated as follows:

(a) In the EA, ERDC, and SNAP programs, the equity value of work-related equipment is excluded.

(b) In the GA, OSIP, OSIPM, and QMB programs, the value of equipment needed by a client who has a disability or is blind to complete a plan for self-support (see OAR 461-135-0708) is excluded as long as the plan is in effect. For all other equipment, the equity value of the equipment is counted as a resource, except as provided at OAR 461-145-0250.

(c) In the REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component of the JOBS program, the equity value of the equipment is excluded.

(B) For all other clients, the equity value of the equipment is treated as a resource.

(4) Inventory is treated as follows:

(a) In the EA, ERDC, and SNAP programs, inventory is excluded as long as the client is engaged in self-employment activities.

(b) In the GA, OSIP, OSIPM, and QMB programs, the value of inventory needed by a client who has a disability or is blind to complete a plan for self-support is excluded, as long as the plan is in effect. For all other inventory, the equity value of the inventory is counted as a resource.

(c) In the REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component of the JOBS program, the wholesale value of inventory remaining at the end of the semi-annual period covered in each income statement (see OAR 461-190-0197), less encumbrances, is counted as a resource.

(B) For all other clients, the wholesale value of inventory remaining at the end of a month, less encumbrances, is counted as a resource.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.404, 411.700, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0820

Deemed Assets; Noncitizen's Sponsor

(1) An individual or organization may sponsor the admission of a noncitizen under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154).

(2) An affidavit of support (USCIS Form I-864) is the agreement between the sponsor and the United States Citizenship and Immigration Services in which the sponsor agrees to provide financial support for the noncitizen so that the noncitizen will not become a public charge.

(3) In all programs except the ERDC, REF, and REFM programs, the countable assets of an individual sponsor and the spouse of the sponsor are considered countable assets of the noncitizen as provided in this section and OAR 461-145-0810 to 461-145-0860. The sponsor's assets are considered available to the noncitizen whether or not the sponsor lives in the same household as the noncitizen. The assets of the sponsor's spouse are considered available only when the spouse lives in the sponsor's household.

(4) OAR 461-145-0830 sets out situations in which the assets of the sponsor and the spouse of the sponsor are not counted, as well as how the income deemed available to the noncitizen is calculated.

(5) The value of the resources deemed available to each noncitizen is determined as follows:

(a) In all programs except the OSIPM and SNAP programs, the total value of the countable resources is deemed to each sponsored noncitizen according to the rules of the program for which the noncitizen applies.

(b) In the OSIPM program, an amount equal to the OSIPM (not OSIPM-EPD) program resource standard is deducted from the total amount of resources deemed to the noncitizen (see OAR 461-160-0015). If the sponsor lives with a spouse, the two-person standard is deducted.

(c) In the SNAP program only, \$1,500 is deducted from the value. The remaining value is divided by the number of noncitizens sponsored by the individual or couple. The result is the value of the resources deemed available to the noncitizen.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025
Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1993(Temp), f. & cert. ef. 2-1-93; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 8-2003(Temp), f. & cert. ef. 4-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0830

When to Deem the Assets of a Sponsor of a Noncitizen

(1) In the ERDC, REF, and REFM programs, the assets of a sponsor and of a sponsor's spouse are not deemed to the sponsored noncitizen.

(2) In all programs except the ERDC, REF, and REFM programs, the assets of a sponsor and the spouse of the sponsor are considered the assets of the sponsored noncitizen unless at least one of the following subsections applies:

(a) The sponsor has not signed a legally binding affidavit of support, for instance USCIS Form I-864 or I-864A;

(b) The sponsor receives SNAP, SSI, or TANF benefits;

(c) The sponsor is deceased. The estate of a deceased sponsor is not responsible for the noncitizen;

(d) The sponsored noncitizen establishes indigence. A sponsored noncitizen establishes indigence if the total income of the household including in-kind income plus any cash, food, housing, or other assistance provided by other individuals including the sponsor is --

(A) In the TANF program, under the countable (see OAR 461-001-0000) income standard.

(B) In the SNAP program, under 130 percent of the federal poverty level.

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(C) In all programs except the SNAP and TANF programs, not enough for the noncitizen to obtain food and shelter without program benefits.

(i) If the noncitizen is living with the sponsor, the indigence exception may not apply and deeming does apply.

(ii) If the noncitizen is living apart from the sponsor, the indigence exception applies if the noncitizen meets all of the following requirements:

(I) The total income (of all kinds and from all sources, even excluded income) the noncitizen receives is less than the OSIPM standard for a one-person need group;

(II) The noncitizen does not receive free room and board; and

(III) The resources (even excluded resources) available to the noncitizen are under the applicable resource limit.

(D) Each income determination under this subsection is effective for 12 months and may be renewed for additional 12-month periods.

(e) The sponsored noncitizen is a battered immigrant spouse, battered immigrant child, immigrant parent of a battered child or an immigrant child of a battered parent, as long as the battered noncitizen does not live in the same household as the person responsible for the battery;

(f) The sponsored noncitizen does not meet the alien status requirement for the program for which he or she applies;

(g) The sponsored noncitizen becomes a naturalized citizen;

(h) The sponsored noncitizen can be credited with 40 qualifying quarters of work; or

(i) The sponsored noncitizen is under 18 years of age.

(3) In the OSIPM program, the deeming period is three years after the date of admission, which is the date the U.S. Bureau of Citizenship and Immigration Services establishes as the date the noncitizen was admitted for permanent residence. Deeming ends on the last day of the month that is three years after the date of admission.

(4) In all programs except the ERDC, OSIPM, REF, REFM, and SNAP programs, the following process is used to determine the amount of income considered available to the noncitizen from the noncitizen's sponsor and the spouse of the sponsor. The unearned income of the sponsor and the sponsor's spouse is added to their countable earned income (see OAR 461-140-0010) minus earned income deductions.

(5) In the OSIPM program:

(a) The income of the sponsor or the sponsor's spouse is not counted if any one of the following provisions applies:

(A) The individual is a refugee admitted to the United States under section 207 of the Immigration and Nationality Act (INA) (8 USC 1157);

(B) The individual has been granted asylum under section 208 of the INA (8 USC 1158); or

(C) The individual has become blind or disabled after admission to the United States.

(b) An amount equal to the OSIPM (not OSIPM-EPD) program income standard is deducted from the total amount of income deemed to the noncitizen (see OAR 461-160-0015). If the sponsor lives with a spouse, the two-person standard is deducted.

(6) In the SNAP program, each sponsored noncitizen is considered to have the income calculated according to section (4) of this rule divided by the number of the sponsor's --

(a) Current sponsored noncitizens;

(b) Household members who receive support from the sponsor; and

(c) Dependents.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 412.049, 414.042;

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1993(Temp), f. & cert. ef. 2-1-93; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 8-2003(Temp), f. & cert. ef. 4-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0860

Deemed Assets, Parent of Minor Parent; TANF

In the TANF program, the assets of the parents of a minor parent are deemed as follows if they are living together and the minor parent is under age 18, has never married, and is not legally emancipated.

(1) The resources of the parents of the minor parent are excluded.

(2) The income of the parents is deemed to the minor parent when the minor parent and the minor's children live with the minor's parents.

(3) The income of the parents of a pregnant minor is deemed to the minor when the minor lives with the parents.

(4) Deemed income is considered available to the minor parent and the parent's dependent child, or to the pregnant minor, even if it is not received.

(5) The amount of the deemed income of the parents is determined as follows:

(a) A \$90 earned income deduction is allowed.

(b) The needs of the parents and the parents' dependents, living in the same household and not included in the benefit group, are deducted at the TANF Payment Standard.

(c) Amounts paid to legal dependents not living in the household are deducted.

(d) Payments of alimony or child support are deducted.

(e) Any remaining income is countable deemed income.

Stat. Auth.: ORS 411.060, 412.049

Stats. Implemented: ORS 411.060, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0870

Deemed Assets, Spouse of Nonparent Caretaker Relative; MAF

In the MAF program:

(1) The Department deems all the resources of the spouse (see OAR 461-001-0000) of a nonparent caretaker relative (see OAR 461-001-0000) back to the MAF financial group (see OAR 461-110-0530) if the needy caretaker relative is in the financial group. The Department treats the resource according to the TANF rules for the type of resource.

(2) The Department deems the income of the spouse as follows:

(a) The Department deducts the following from the spouse's countable (see OAR 461-001-0000) income:

(A) The needs of the spouse and the spouse's dependents living in the household, who are not in the MAF filing group (see OAR 461-110-0340), at the adjusted income standard (see OAR 461-155-0330); and

(B) The \$90 earned income deduction.

(b) The Department counts any remaining income as unearned income to the financial group.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404 & 411.700

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404 & 411.700

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0910

Self-Employment; General

(1) Self-employment income is income resulting from one's own business, trade, or profession, rather than from a salary or wage paid by an employer. A client is considered self-employed if he or she meets the criteria in sections (2) or (3) of this rule. Except as noted in section (3) of this rule, for all programs except SNAP, when a client has established a corporation, determine if the client is self-employed according to section (2) of this rule. If a client has more than one self-employment business, trade, or profession, the income from each is determined separately.

(2) Except as provided in OAR 461-145-0250(1), an individual is self-employed for the purposes of this division of rules if he or she:

(a) Is considered an independent contractor by the business that employs him or her; or

(b) Meets at least four of the following criteria:

(A) Is engaged in an enterprise for the purpose of producing income.

(B) Is responsible for obtaining or providing a service or product by retaining control over the means and manner of providing the work or services offered.

(C) Has principal responsibility for the success or failure of the business operation by assuming the necessary business expenses and profit or loss risks connected with the operation of the business, and has the authority to hire and fire employees to perform the labor or services.

(D) Is not required to complete an IRS W-4 form for an employer and is not required to have federal income tax or FICA payments withheld from a pay check.

(E) Is not covered under an employer's liability or workers' compensation insurance policy.

(3) Notwithstanding section (2) of this rule:

(a) Homecare Workers (see OAR 411-031-0020) paid by the Department are not self-employed.

(b) Child care providers (see OAR 461-165-0180) paid by the Department, adult foster home providers (see OAR 411-050-0400) paid by the Department, realty agents, and individuals who sell plasma, redeem beverage containers, pick mushrooms for sale, or engage in similar enterprises are considered to be self-employed.

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(4) In the ERDC, REF, SNAP, and TANF programs, self-employment income, including income from a microenterprise, is counted prospectively to determine eligibility as follows:

(a) Self-employment income is annualized when it is:

(A) Received during less than a 12-month period but is intended as a full year's income.

(B) From a business that has operated for a full year and the previous year is representative of what the income and costs will be during the budget month.

(b) Self-employment income is treated as anticipated income when a financial group begins self-employment and is unable to determine what the income and costs will be during the budget month.

(5) In the GA, OSIP, OSIPM, and QMB programs, self-employment income is considered available upon receipt by a member of the financial group, except it is prorated over the period of work if the duration of the work exceeds one month.

(6) When determining the amount of countable self-employment income, use gross receipts and sales, including mileage reimbursements, before costs.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.006, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.006, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 1-2005(Temp), f. & cert. ef. 2-1-05 thru 6-30-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 5-2005(Temp), f. & cert. ef. 4-1-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0920

Self-Employment; Costs That Are Excluded To Determine Countable Income

(1) This rule explains how to determine which costs are excluded from gross self-employment income.

(2) Unless prohibited by section (3) of this rule, and subject to the provisions of sections (4) and (5) of this rule and OAR 461-145-0930, the necessary costs of producing self-employment income are excluded from gross sales and receipts, including but not limited to:

(a) Labor (wages paid to an employee or work contracted out).

(b) Materials used to make a product.

(c) In the SNAP program — principal and interest paid to purchase income-producing property, such as real property, equipment or capital assets. In all other programs, interest paid to purchase income-producing property, such as equipment or capital assets.

(d) Insurance premiums, taxes, assessments, and utilities paid on income-producing property.

(e) Service, repair, and rental of business equipment (including motor vehicles) and property that is owned, leased or rented.

(f) Advertisement and business supplies.

(g) Licenses, permits, legal, or professional fees.

(h) Transportation costs at 20 cents per mile, if the cost is part of the business expense. Commuting expenses to and from the worksite are not part of the business expense.

(i) Charges for telephone service that are a necessary cost for self-employment.

(j) Meals and snacks provided by family day care providers for children in their care (except the provider's own children). The actual cost of the meals is used if the provider can document the cost. If the provider cannot document the actual cost, the USDA meal reimbursement rates are used.

(k) Materials purchased for resale, such as cosmetic products.

(l) For newspaper carriers, the cost of newspapers, bags, and rubber bands.

(3) The following costs are not excluded from gross sales and receipts:

(a) Business losses from previous months.

(b) Except in the SNAP program, payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods.

(c) Federal, state and local income taxes, draws or salaries paid to any financial group member, money set aside for personal retirement, and other work-related personal expenses (such as transportation, personal business, and entertainment expenses).

(d) Depreciation. Depreciation is a prorated lessening of value assigned to a capital asset based on its useful life expectancy and initial cost.

(e) Costs related to traveling to another area to seek business when there is no reasonable possibility of deriving income from the trip.

(f) Interest or fees on personal credit cards.

(g) Personal telephone charges.

(h) Shelter or utility costs associated with the client's home, except as authorized by section (4) of this rule.

(4) The exclusions for items used for both business and personal purposes, such as automobiles and a residence (including utilities), are limited by the following subsections:

(a) In the ERDC, GA, GAM, OSIP, OSIPM, and QMB programs, the portion of the expense that is for business use only is excluded.

(b) In the SNAP program, costs are excluded for a separate office or shop located on the property used as a home, if the costs are billed separately from the residence. Costs for other items used for both business and personal use are excluded.

(5) If no member of the financial group has been self-employed for a sufficiently long period to ascertain the costs of self-employment, the costs may be estimated.

(6) For a client participating in the microenterprise component of the JOBS program, costs are excluded according to this rule and general accounting principles, as applied by a certified public accountant, bookkeeping firm, or other entity approved by the Department.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.006, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.006, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 24-1998(Temp), f. 11-30-98, cert. ef. 12-1-98 thru 3-31-99; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 1-2005(Temp), f. & cert. ef. 2-1-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-145-0930

Self-Employment; Determination of Countable Income

(1) The Department initially determines gross sales and receipts minus any returns and allowances (before excluding or deducting any costs). This rule explains how different programs exclude and deduct costs from self-employment gross sales and receipts.

(2) In the ERDC program, if a client claims an excludable cost permitted under OAR 461-145-0920, at least 50 percent of gross self-employment income is excluded. The maximum exclusion is the total excludable cost under OAR 461-145-0920.

(3) In the GA, OSIP, OSIPM, and QMB programs, all costs permitted under OAR 461-145-0920 are excluded.

(4) In the TANF program:

(a) For a client participating in the microenterprise component of the JOBS program, costs are excluded according to OAR 461-145-0920 and general accounting principles, as applied by a certified public accountant, bookkeeping firm, or other entity approved by the Department.

(b) For all other clients, no costs are subtracted (excluded).

(5) In the REF program, no costs are excluded.

(6) In the SNAP program, if there are any costs permitted under OAR 461-145-0920, there is a deduction of 50 percent of gross self-employment income.

Stat. Auth.: ORS 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.009, 412.049, 414.231, 414.826, 414.831

Stats. Implemented: ORS 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.009, 412.049, 414.231, 414.826, 414.831

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 24-1998(Temp), f. 11-30-98, cert. ef. 12-1-98 thru 3-31-99; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-150-0020

Prospective Eligibility and Budgeting

For prospective eligibility (see OAR 461-001-0000) and budgeting (see OAR 461-001-0000):

(1) The *budget month* (see OAR 461-001-0000) and payment month (see OAR 461-001-0000) are the same.

(2) The client's anticipated income, household composition, and other relevant factors are used to determine the client's eligibility and benefit level. The client and Department jointly anticipate the client's income based on the income already received and the income the client expects to receive.

ADMINISTRATIVE RULES

(3) Prospective budgeting is used for annualized income and prorated educational income.

(4) When prospective budgeting is used and the actual income differs from the amount determined under section (2) of this rule:

(a) If the anticipated income exceeds the actual income, a client is not entitled to a benefit supplement.

(b) If the actual income exceeds the anticipated income, there may be a client-error overpayment under OAR 461-195-0521.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 7-2001(Temp), f. & cert. ef. 4-4-01 thru 6-30-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 7-2004(Temp), f. & cert. ef. 4-1-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-150-0070

Prospective Budgeting of Stable Income

(1) Stable income (see OAR 461-001-0000) in prospective budgeting (see OAR 461-001-0000) and eligibility (see OAR 461-001-0000) is treated so that the monthly amount is used to anticipate the income of the financial group (see OAR 461-110-0530). The amount of stable income for each month is determined as follows:

(a) If paid once per month, that amount is used.

(b) If paid twice per month or semi-monthly, that amount is converted to a monthly amount by multiplying it by two.

(c) If paid once every other week or biweekly, that amount is converted to a monthly amount by multiplying it by 2.15.

(d) If paid once per week, that amount is converted to a monthly amount by multiplying it by 4.3.

(2) In the SNAP program, stable income the client expects to receive less often than monthly is treated as periodic income (see OAR 461-001-0000) under 461-140-0110.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-89, cert. ef. 4-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-150-0080

Prospective Budgeting of Variable Income; Not OHP; Not MRS

Variable income (see OAR 461-001-0000) is used as follows in prospective budgeting (see OAR 461-001-0000) and eligibility (see OAR 461-001-0000) so that the anticipated amount is the same for each month, except as specified in OAR 461-150-0060 and section (6) of this rule:

(1) For income paid more than once per month, determine an average amount per pay period in accordance with sections (2) to (4) of this rule. The average amount is then converted to a monthly amount as follows, if paid:

(a) Twice per month, multiply by 2;

(b) Every other week, multiply by 2.15; or

(c) Once per week, multiply by 4.3.

(2) For variable earned income based on an hourly wage when the past is representative, monthly income is determined by calculating an average number of hours per pay period, then these hours are multiplied by the hourly wage and converted to a monthly amount under section (1) of this rule.

(3) For variable earned income involving various rates of pay (overtime, shift differential, tips) when the past is representative, monthly income is determined by calculating the average income per pay period, then the average income is converted to a monthly amount under section (1) of this rule.

(4) For variable earned or unearned income when the past is representative and income cannot be calculated under section (2) or (3) of this rule, monthly income is determined by averaging the income over:

(a) A representative period of months by totaling the income for those months and dividing by the number of months used; or

(b) A representative number of pay periods and converting to a monthly amount under section (1) of this rule.

(5) For variable earned and unearned income when the past is not representative of the income the financial group (see OAR 461-110-0530) will receive during the eligibility period, the client and the Department jointly determine the anticipated income.

(6) In the SNAP program, a financial group meeting the definition of "destitute household" in OAR 461-135-0575 is not eligible to use the income averaging option for the initial month (see OAR 461-001-0000) of eligibility or the first month of a new certification period. For a destitute

financial group, income for the initial month of eligibility and the first month of a certification period is determined under OAR 461-150-0100, thereafter, the financial group is subject to sections (2) to (5) of this rule.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-150-0090

Prospective Budgeting: Annualizing and Prorating Contracted or Self-employment Income

In all programs except the REFM program:

(1) Income from self-employment, including contract income while self-employed, is treated in accordance with OAR 461-145-0910 unless the income meets the provisions of section (2) of this rule.

(2) If past contract income is not representative of future income or when a substantial increase or decrease is expected in countable (see OAR 461-001-0000) self-employment income (see OAR 461-145-0910) in the next year, costs as allowed under OAR 461-145-0930 and anticipated income are used to determine the countable income.

(3) In the ERDC, REF, SNAP, and TANF programs, contract income that does not meet the criteria of self-employment income (see OAR 461-145-0910) is treated as follows:

(a) Income received during a less than 12-month period but intended as a full year's income is annualized.

(b) Income received on an hourly or piecework basis or monthly over the term of the contract period is not annualized. It is treated as stable income (see OAR 461-001-0000) under OAR 461-150-0070 or variable income (see OAR 461-001-0000) under OAR 461-150-0080.

(4) Contract income that is not the annual income of the financial group and not paid on an hourly or piecework basis is prorated over the period the income is intended to cover.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.014, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 37-2009(Temp), f. & cert. ef. 12-1-09 thru 5-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-155-0030

Income and Payment Standards; MAA, MAF, REF, SAC, TANF

In the JOBS, REF, and TANF programs, the income standards are as follows:

(1) The *Countable Income* Limit Standard is the amount set as the maximum countable income limit.

(a) For each need group (see OAR 461-110-0630) in the REF and TANF programs containing an adult, the following table is used: [Table not included. See ED. NOTE.]

(b) In the TANF program, a caretaker relative (see OAR 461-001-0000) other than a parent (see OAR 461-001-0000) who chooses not to be included in the need group is subject to the "no-adult countable income limit standard" for the need group under subsection (c) of this section. The "non-needy countable income limit standard" for the filing group (see OAR 461-110-0330) is set at 185 percent of the federal poverty level (see OAR 461-155-0180).

(c) In the REF and TANF programs, when the need group contains no adults, the "no adult countable income limit standard" is calculated as follows:

(A) Refer to the Countable Income Limit Standard for need groups with adults. Use the standard for the number of individuals in the household group (see OAR 461-110-0210).

(B) Divide the standard in paragraph (A) of this subsection by the number of individuals in the household group. Round this figure down to the next lower whole number if the figure is not a whole number.

(C) Multiply the figure from paragraph (B) of this subsection by the number of individuals in the need group. The result is the standard.

(d) In the JOBS program, for the filing group of a non-custodial parent who resides in Oregon and whose dependent child (see OAR 461-001-0000) is receiving TANF program benefits in Oregon to participate in an activity (see OAR 461-001-0025) of the JOBS program, the countable (see OAR 461-001-0000) income limit is set at 185 percent of the federal poverty level (see OAR 461-155-0180).

ADMINISTRATIVE RULES

(2) The Adjusted Income/Payment Standard is used as the adjusted income limit and to calculate cash benefits for need groups with an adult.

(a) For need groups containing an adult in the REF and TANF programs, except as provided otherwise in subsection (b) of this section, the following table is used: [Table not included. See ED. NOTE.]

(b) To calculate cash benefits for a need group with an adult in the REF and TANF programs, the following table is used: [Table not included. See ED. NOTE.]

(c) In the REF and TANF programs, when the need group contains no adult, the No-Adult Adjusted Income/Payment Standard is calculated as follows:

(A) Refer to the Adjusted Income/Payment Standard for need groups with adults. Use the standard for the number of individuals in the household group.

(B) Divide the standard in paragraph (A) of this subsection by the number of individuals in the household group. Round this figure down to the next lower whole number if the figure is not a whole number.

(C) Multiply the figure from paragraph (B) of this subsection by the number of individuals in the need group.

(D) Add \$12 to the figure calculated in paragraph (C) of this subsection.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.124

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.400, 412.006, 412.049, 412.124

Hist.: AFS 80-1989, f. & cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 6-2007(Temp), f. 6-29-07, cert. ef. 7-1-07 thru 9-30-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 26-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 3-2012(Temp), f. & cert. ef. 1-26-12 thru 3-31-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-155-0235

OHP Premium Standards

In the OHP program, the following steps are followed to determine the amount of the monthly premium for the filing group (see OAR 461-110-0400):

(1) The number of persons in the OHP need group is determined in accordance with OAR 461-110-0630.

(2) The countable income of the financial group (see OAR 461-110-0530) is determined in accordance with 461-150-0055 and 461-160-0700.

(3) Based on the number in the need group and the countable income, the monthly premium for each non exempt OHP-OPU client in the benefit group (see OAR 461-110-0750) is determined from the following table: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 411.060, 411.404, 411.431 & 411.432

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.431 & 411.432

Hist.: AFS 35-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 22-1996, f. 5-30-96, cert. ef. 6-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 6-2003(Temp), f. 2-26-03, cert. ef. 3-1-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 5-2004(Temp), f. & cert. ef. 3-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 2-2005, f. & cert. ef. 2-18-05; SSP 1-2006, f. & cert. ef. 1-24-06; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 1-2007, f. & cert. ef. 1-24-07; SSP 1-2008(Temp), f. & cert. ef. 1-24-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 1-2009, f. & cert. ef. 1-27-09; SSP 2-2011, f. & cert. ef. 1-20-11; SSP 2-2012, f. & cert. ef. 1-25-12; SSP 3-2013, f. & cert. ef. 1-30-13; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-155-0350

Minimum Contribution Standard

The Minimum Contribution Standard is used to determine which portion of a lodger's income is excluded for REF, REFM, and TANF. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.083, 411.085, 411.404, 412.006, 412.049

Stats. Implemented: ORS 411.070, 411.081, 411.083, 411.085, 411.404, 412.006, 412.049

Hist.: AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-155-0670

Special Need; Special Diet Allowance

(1) In the GA, GAM, OSIP, OSIPM, REF, REFM, SFPSS, and TANF programs, a client is not eligible for a special diet allowance if receiving any of the following:

- (a) Room and board.
- (b) Residential care facility services or assisted living facility services.
- (c) Nursing facility services.
- (d) Adult foster care services.
- (e) An allowance for restaurant meals.
- (f) A commercial food preparation diet.

(2) An GA, GAM, REF, REFM, SFPSS, or TANF client, or an OSIP or OSIPM client receiving SSI, having an adjusted income less than the OSIPM program income standard under OAR 461-155-0250, or receiving in-home services is eligible for a special diet allowance if the client meets the following requirements:

(a) The client would be in an imminent life-threatening situation without the diet, as verified by medical documentation from a Department-approved medical authority (see OAR 461-125-0830); and

(b) A nutritionist verifies that the special diet needed exceeds the cost of a regular diet.

(3) The amount of a special diet allowance is calculated as follows:

(a) In the REF, REFM, SFPSS, and TANF programs, the difference between the actual cost of the special diet and a prorated share of the SNAP program benefit for the appropriate number of clients in the benefit group (see OAR 461-110-0750).

(b) In the GA, GAM, OSIP, and OSIPM programs, the lesser of the following:

(A) The difference between the actual cost of the special diet and the amount provided in the basic standard for food (see OAR 461-155-0250).

(B) A maximum of \$300 per month, or an exceptional amount, authorized by the SPD Program Assistance Section, which will not exceed the cost of home IV therapy.

(4) Local management staff must approve the request for a special diet allowance.

(5) Each special diet allowance must be reviewed at six-month intervals.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-160-0015

Resource Limits

(1) In the EA program, all countable (see OAR 461-001-0000) resources must be used to meet the emergent need.

(2) In the ERDC and REFM programs, there is no resource limit.

(3) In the GA, GAM, OSIP, and OSIPM programs, the resource limit is as follows:

(a) \$2,000 for a one-person need group (see OAR 461-110-0630) and \$3,000 for a two-person need group.

(b) \$1,000 for an OSIP need group eligible under OAR 461 135 0771.

The total cash resources may not exceed \$500 for a one-person need group or \$1,000 for a two-person need group.

(c) \$5,000 is the limit for the OSIP-EPD and OSIPM-EPD programs (see OAR 461-001-0035 and 461-145-0025 for funds that may be excluded as approved accounts).

(4) In the REF and TANF programs, the resource limit is:

(a) \$2,500 for any of the following:

(A) A new REF or TANF applicant for benefits.

(B) REF and TANF need groups which do not have at least one caretaker relative or parent who is receiving TANF.

(C) REF and TANF need groups which have at least one JOBS participant who is:

(i) Receiving TANF and not progressing in an activity (see OAR 461-001-0025) of an open JOBS case plan (see OAR 461-001-0025); or

(ii) Serving a current JOBS disqualification.

(d) \$10,000 for a need group not covered under subsection (a) of this section.

(5) In the QMB program, the resource limit is amended in January of each year based on the low income subsidy for Medicare Part D as published by the Health Resources and Services Administration of the U.S. Department of Health and Human Services. Effective January 1, 2013 the resource limit is \$7,080 for a one-person need group and \$10,620 for a need group containing two or more individuals.

(6) In the SNAP program, the resource limit is:

ADMINISTRATIVE RULES

(a) \$3,250 for a financial group (see OAR 461-110-0530) with at least one member who is elderly (see OAR 461-001-0015) or an individual with a disability (see OAR 461-001-0015).

(b) \$2,000 for all other financial groups.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 414.231

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.831, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 17-2003, f. & cert. ef. 7-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-11; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 27-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-160-0040

Dependent Care Costs; Deduction and Coverage

(1) In the SNAP program, dependent care is deductible (see OAR 461-160-0430) when all of the following are true:

(a) The dependent is a member of the filing group and is in the care, control, and custody of an individual in the group.

(b) The dependent care provider:

(A) Is not in the filing group; and

(B) Is not the parent of the dependent.

(c) The dependent care is necessary because the client is working, commuting, on a meal break, in training, participating in pre-employment education, or participating in an OFSET case plan (see OAR 461-001-0020).

(2) In the ERDC, REF, and TANF programs, the cost of dependent child care may be paid for by the Department (is covered) only if dependent child care is necessary for the working client to perform his or her job duties. For a client working under a JOBS Plus agreement, child care is covered during the time the client is engaged in work or in job search if the employer pays the client during that time.

(3) In the ERDC, JOBS, REF, and TANF programs, the cost of dependent child care is not covered by the Department when free care is available, such as during school hours for school-age children.

(4) Child care is not covered in the ERDC, REF, and TANF programs if the nature of the work of the caretaker does not make it necessary for a person other than the caretaker (see OAR 461-001-0000) to provide the care. Child care is not covered during a period of time when the caretaker:

(a) Works at home and the nature of the work allows the caretaker to provide the care without significantly affecting the work;

(b) Provides child care in a residence; or

(c) Works for a provider of child care in a residence that is not certified under OAR 414-350-0000 to 414-350-0400.

(5) In the ERDC program:

(a) Child care is not covered during a period of time when the caretaker is self-employed (see OAR 461-145-0910).

(b) The cost of dependent child care may continue to be paid for, at the same benefit level, by the Department (is covered) for job search, through the end of the month following the month in which a loss of all employment for an adult in the filing group occurred if both of the following paragraphs apply.

(A) The loss of employment is reported in a timely manner.

(B) None of the following sub-paragraphs apply:

(i) The loss of employment included self-employment.

(ii) The adult was discharged or fired without good cause (see OAR 461-135-0070(3)) for misconduct, felony, or theft. "Misconduct" means willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee, including an act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest.

(iii) The adult voluntarily quit in anticipation of discharge or without good cause (see OAR 461-135-0070(3)).

(6) In the JOBS and REF programs, the cost of child care may be covered while the care is necessary to enable the client to participate in a case plan (see OAR 461-190-0211).

(7) In the ERDC, JOBS, JOBS Plus, REF, and TANF programs, the cost of dependent child care may be paid for (is covered) by the Department, only if all the following are true:

(a) The dependent child:

(A) In the ERDC program, is a member of the benefit group (see OAR 461-110-0750) and is in the care, control, and custody of an individual in the group.

(B) In the JOBS, JOBS Plus, REF, and TANF programs, lives with the filing group.

(b) The provider of child care is not in the filing group.

(c) The provider of child care is not the parent of the dependent.

(8) Coverage of the cost of dependent care is subject to the requirements in Chapter 461 of the Oregon Administrative Rules, including OAR 461-120-0510(6), 461-135-0400, 461-155-0150, 461-160-0193, 461-165-0180, and 461-190-0211.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-160-0060

Use of Rounding in Calculating Benefit Amount

(1) In the REF and TANF programs, a benefit amount not a whole number of dollars is rounded down to the next lower whole dollar.

(2) In the ERDC program, total countable income is rounded down to the next lower whole dollar. The benefit figures are not rounded.

(3) In the GA, GAM, OSIP, OSIPM and QMB programs, rounding is not used.

(4) In the SNAP program:

(a) Except as provided in subsection (b) of this section, when income and deductions are calculated, a figure ending with less than 50 cents is rounded to the next lower dollar and a figure ending with 50 cents or more is rounded to the next higher dollar.

(b) After multiplying the adjusted income by 30 percent, any amount from 1 to 99 cents is rounded up to the next higher dollar.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: 411.060, 411.404, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-160-0100

How Income Affects Eligibility and Benefits; REF, SFPSS, TANF

(1) *Countable income* (see OAR 461-001-0000) and adjusted income (see OAR 461-001-0000) are used to determine eligibility for the REF, SFPSS, and TANF programs using the countable and adjusted income standards in OAR 461-155-0030 as explained in this section:

(a) The financial group's countable income is compared to the countable income limit standard for the need group. If countable income equals or exceeds the standard, the benefit group is not eligible.

(b) If countable income is less than the countable income standard, the adjusted income is compared to the payment standard. If the adjusted income equals or exceeds the payment standard for the need group (see OAR 461-110-0630), the benefit group (see OAR 461-110-0750) is not eligible. If the adjusted income is less than the payment standard for the need group, the benefit group meets the income eligibility standard.

(2) Adjusted income is used to determine the monthly benefit in the REF, SFPSS, and TANF (except for a client who receives JOBS Plus income — see OAR 461-145-0130) programs as explained in this section:

(a) The monthly benefit is calculated by subtracting adjusted income from the applicable payment standard for the need group. The remainder is the benefit amount except for a need group that includes an ineligible non-citizen.

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(b) If the need group contains an ineligible non-citizen, the benefit is the lesser of the remainder calculated in subsection (a) of this section and the payment standard for the benefit group.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.009, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.009, 412.014, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-160-0120

Deemed Assets, Ineligible Non-Citizens and Father of an Unborn; MAF

In the MAF program:

(1) A need group (see OAR 461-110-0630) ineligible for the MAF program that includes one or more ineligible non-citizens or a father of an unborn is evaluated for the MAF program by deeming the non-excluded income of the father or the ineligible non-citizens as provided in sections (2) and (3) of this rule. The amount deemed is counted as unearned income to the MAF financial group (see OAR 461-110-0530).

(2) If an individual is excluded from the MAF filing group (see OAR 461-110-0340) because he is the father of an unborn, the amount of the income deemed back to the MAF financial group from the father is determined by deducting from his non-excluded income:

(a) The adjusted income standard in OAR 461-155-0030(2) for one person; and

(b) The first \$90 of earned income.

(3) If one or more individuals are excluded from the MAF filing group for failure to meet the requirements of OAR 461-120-0125 (regarding citizenship and alien status), the amount of the income deemed back to the MAF financial group from the ineligible non-citizens is determined by deducting from their non-excluded income:

(a) The adjusted income standard in OAR 461-155-0030(2) for the number of people who do not meet the citizenship or alien status requirements; and

(b) The first \$90 of earned income for each ineligible non-citizen.

Stat. Auth.: ORS 411.060, 411.070 & 411.404
Stats. Implemented: ORS 411.060, 411.070 & 411.404
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-160-0125

Income of Parent Who is a Household Member But Not a Caretaker; MAF

This rule explains how to determine countable income for the MAF program when a parent in the financial group is excluded from the need group because he or she has given up the care, control and supervision of a child. The countable income is determined as follows:

(1) The needs of the parent and his or her dependents who are in the same household but not the same benefit group are deducted from gross income. The amount deducted is the payment standard in OAR 461-155-0030(1)(a). No deduction is made of the needs that were already deducted in the calculation of deemed income for minor parents under OAR 461-145-0860.

(2) From the balance, the following are deducted in order — the first \$90 of earned income, amounts paid to legal dependents not living in the household, and payments of alimony and child support.

(3) The remaining income is the countable income of the need group.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-160-0160

Earned Income Deduction; REF, TANF

(1) In the REF program, the earned income deduction authorized in this division of rules is allowed for each person in the financial group who has earned income. The earned income deduction is 50 percent of the client's gross earned income including self-employment income.

(2) In the TANF program:

(a) For a self-employed client participating in the microenterprise component of the JOBS program, the earned income deduction for *income*

earned in the microenterprise is 50 percent of the client's countable income calculated pursuant to OAR 461-145-0920 and 461-145-0930.

(b) For all other income, the earned income deduction is 50 percent of the client's gross earned income, including self-employment income.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 15-1991(Temp), f. & cert. ef. 8-16-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-160-0190

Earned Income Deductions and Order Applied; MAF and SAC

For the MAF and SAC programs, earned income deductions are applied in the following order:

(1) The first earned income deduction is the standard earned income deduction of \$90.

(2) The second earned income deduction is the \$30 and one-third earned income deduction. It is calculated as follows:

(a) The \$30 is deducted after the \$90 standard deduction is taken.

(b) One-third of the amount remaining is deducted.

(3) The third earned income deduction is the dependent-care deduction. Dependent care costs are deducted as follows:

(a) The total monthly deduction cannot exceed \$200 for each dependent under two years of age or \$175 for each dependent two years of age or older:

(A) For clients with full-time employment, there is no limit on the hourly rate for care.

(B) For clients with part-time employment (less than 30 hours per week), \$1 an hour may be deducted for each dependent.

(b) Dependent care costs are deducted for the following:

(A) The hours worked and work-related commuting and meal times.

(B) Medical leave or work-related training periods, even if dependent care was not used, if the client is required to pay the provider for the time.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 5-2002, f. & cert. ef. 4-1-02; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-160-0200

Unearned Income Exclusion for Child and Spousal Support; MAF and SAC

Clients in the MAF and SAC programs are entitled to unearned income exclusions from the following income:

(1) Cash medical support.

(2) Child support payments up to \$50 per dependent child or minor parent per financial group (see OAR 461-110-0530) per month, not to exceed \$200 per financial group per month.

(3) Spousal support payments up to \$50 made directly to the financial group for a member of the *financial group*.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 23-2008, f. & cert. ef. 10-1-08; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-160-0630

Deduction for Maintaining a Home; Long-Term Care Client

In the OSIP and OSIPM programs, a single client in long term care is eligible for a home maintenance deduction for up to six months if:

(1) A physician has documented that the client is likely to return home within six months;

(2) The amount of the deduction is reasonable in relation to the applicable OSIP shelter standard; and

(3) The Department determines that maintaining the home is an essential part of a plan for the client's relocation to a less restrictive living situation.

Stat. Auth.: ORS 411.060, 411.404
Stats. Implemented: ORS 411.060, 411.404

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

ADMINISTRATIVE RULES

461-160-0700

Use of Income; HKC, OHP

In the HKC and OHP programs, the Department uses income to determine eligibility as follows:

(1) The *countable* (see OAR 461-001-0000) income of the *financial group* (see 461-110-0530) received and expected to be received in the *budget month* (see 461-001-0000) is determined under 461-150-0055.

(2) For each member of the *need group* (see OAR 461-110-0630), the *countable* income of the *financial group* from the *budget month* is compared to the applicable OHP program income standard. If the *countable* income of the *financial group* is below the applicable income standard for the *need group* size and all other financial and non-financial eligibility requirements are met, the *need group* member is eligible for OHP program benefits. If the *countable* income of the *financial group* equals or exceeds the applicable OHP program income standard, the *need group* member is ineligible for OHP program benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 414.025, 414.231

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 24-1998(Temp), f. 11-30-98, cert. ef. 12-1-98 thru 3-31-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 38-2010(Temp), f. & cert. ef. 11-1-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 43-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 4-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-165-0030

Concurrent and Duplicate Program Benefits

(1) An individual may not receive benefits from the Department of the same type (that is, cash, medical, or SNAP benefits) for the same period as a member of two or more different benefit groups (see OAR 461-110-0750) or from two or more separate programs, except as noted in this rule. This provision includes a prohibition against an individual receiving TANF concurrently with another cash assistance program funded under Title IV-E of the Social Security Act.

(a) A client may receive EA, HSP, and TA-DVS benefits and cash payments from other programs for the same time period.

(b) If a GA client becomes eligible for the TANF program, the client's benefits are supplemented during the first month of eligibility for TANF to the TANF payment standards.

(c) An REF or TANF recipient may receive ERDC for a child (see OAR 461-001-0000) in the household group (see OAR 461-110-0210), but who may not be included in the REF or TANF filing group.

(d) A child who is a member of an ERDC benefit group may also be a member of one of the following benefit groups:

(A) An OSIP-AB benefit group.

(B) A TANF benefit group when living with a nonneedy caretaker relative (see OAR 461-001-0000), if the caretaker relative is not the child's parent.

(C) A TANF benefit group when living with a needy caretaker relative receiving SSI.

(e) A client in the SNAP program who leaves a filing group (see OAR 461-110-0370) that includes an individual who abused them and enters a domestic violence shelter (see OAR 461-001-0000) or safe home (see OAR 461-001-0000) for victims of domestic violence (see OAR 461-001-0000) may receive SNAP benefits twice during the month the client enters the domestic violence shelter or safe home.

(f) A QMB client may also receive medical benefits from OSIPM, REF, or an OCCS medical program with the exception of OHP-OPC, OHP-OPU, OHP-OP6, OHP-CHIP, and MAGI CHIP.

(2) An individual may not receive benefits of the same type (that is, cash, medical, or SNAP benefits) for the same period from both Oregon and another state or tribal food distribution program, except as follows:

(a) Medical benefits may be authorized for an eligible client if the client's provider refuses to submit a bill to the Medicaid agency of another state and the client would not otherwise receive medical care.

(b) Cash benefits may be authorized for a client in the Pre-TANF program if benefits from another state will end by the last day of the month in which the client applied for TANF.

(3) In the SNAP program, each individual who has been included as a member of the filing group in Oregon or another state is subject to all of the restrictions in section (2) of this rule.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 412.124, 414.025, 414.826, 414.831, 414.839

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 412.124, 414.025, 414.826, 414.831, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-165-0120

Benefits for a Client in an Acute Care Hospital

(1) In the REF, REFM, and TANF programs, regular monthly benefits continue when a client enters an acute care hospital. The monthly benefits remain unchanged until the client returns home or enters some other living arrangement. An authorized representative designated by the client or the branch may be used if necessary.

(2) In the ERDC, GA, GAM, OSIP, OSIPM, and QMB programs, regular monthly benefits continue if a client will be in the acute care hospital for less than 30 days. If the client will be in the acute care hospital for 30 days or more or until death, the client's needs are determined as if the client were in a nursing facility.

(3) In the SNAP program, regular monthly benefits continue if the client will be in his or her own home 50 percent of the time or more. If the client will be in an institution for more than 50 percent of a calendar month, the client is not eligible for SNAP benefits.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-170-0011

Changes That Must Be Reported

(1) A change in employment status is considered to occur as follows:

(a) For a new job, the change occurs the first day of the new job.

(b) For a job separation, the change occurs on the last day of employment.

(2) A change in source of income is considered to occur as follows:

(a) For earned income, the change occurs upon the receipt by the client of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.

(b) For unearned income, the change occurs the day the client receives the new or changed payment.

(3) A client must report, orally or in writing, the following changes:

(a) In the ERDC program:

(A) A client not participating in SRS in the SNAP program must report the following changes within 10 days of occurrence:

(i) A change in child care provider.

(ii) A change in employment status.

(iii) A change in mailing address or residence.

(iv) A change in membership of the filing group (see OAR 461-110-0350).

(v) A change in source of income expected to continue.

(B) A client participating in SRS in the SNAP program must report the following changes by the tenth day of the month following the month of occurrence:

(i) A change in child care provider.

(ii) Loss of employment.

(iii) Monthly income exceeding the SNAP countable income limit.

(iv) A parent (see OAR 461-001-0000) of a child or unborn or the spouse of the caretaker moves into the residence.

(C) The ERDC case may continue to follow the reporting requirements in paragraph (3)(a)(B) of this rule without a companion SNAP case in SRS when:

(i) The ERDC case was certified in the fifth or sixth month of the SNAP certification period (see OAR 461-001-0000); and

(ii) The SNAP companion case automatically closes because the Interim Change Report (see OAR 461-170-0010) was not received.

(b) In the SNAP program:

(A) A client assigned to CRS must report any of the following changes within 10 days of occurrence:

(i) A change in earned income of more than \$100.

(ii) A change in unearned income of more than \$50.

(iii) A change in source of income.

(iv) A change in membership of the filing group (see OAR 461-110-0370) and any resulting change in income.

ADMINISTRATIVE RULES

(v) A change in residence and the shelter costs in the new residence.
(vi) A change in the legal obligation to pay child support.
(vii) When the sum of cash on hand, stocks, bond, and money in a bank or savings institution account reaches or exceeds program resource limits.

(viii) Acquisition or change in ownership of a non-excluded vehicle.

(B) A client assigned to SRS must report when the filing group's monthly income exceeds the SNAP countable income limit by the tenth day of the month following the month of occurrence.

(C) A client assigned to TBA is not required to report any changes.

(c) For JPI (see OAR 461-135-1260), a client must follow the same reporting requirements as a SNAP client assigned to SRS or TBA reporting systems (see OAR 461-170-0010).

(d) In the GA, GAM, OSIP, OSIPM, and QMB programs a client must report all changes that may affect eligibility within 10 days of occurrence, including any of the following changes:

(A) A change in employment status.

(B) A change in health care coverage.

(C) A change in membership of the household group (see OAR 461-110-0210).

(D) A change in marital status.

(E) A change in residence.

(F) A change in resources.

(G) A change in source or amount of income.

(e) In the REF, SFPSS, and TANF programs, clients assigned to CRS must report any of the following changes within 10 days of occurrence:

(A) Acquisition or change in ownership of a non-excluded vehicle.

(B) A change in earned income more than \$100.

(C) A change in employment status.

(D) A change in membership of the household group (see OAR 461-110-0210).

(E) A change in marital status or other changes in membership of the filing group.

(F) A change in mailing address or residence.

(G) A change in pregnancy status of any member of the filing group.

(H) A change in source of income.

(I) A change in unearned income more than \$50.

(J) A change in who pays the shelter costs if the costs will be paid by a non-custodial parent.

(K) Sale or receipt of a resource that causes total resources to exceed program resource limits.

(f) In the REFM program, clients must report the following changes within 10 days of occurrence:

(A) A change in membership of the household group (see OAR 461-110-0210).

(B) A change in residence.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049 & 414.231
Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826 & 414.831

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; Renumbered from 461-170-0015, 461-170-0020, 461-170-0025, 461-170-0030, 461-170-0035 by SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 7-2010(Temp), f. & cert. ef. 4-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 10-2012, f. 3-29-12, cert. ef. 3-30-12; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-170-0130

Acting on Reported Changes; OSIPM, QMB

(1) When an OSIPM or QMB client, who is required by this division of rules to report a change in circumstances, makes a timely report of a change that could reduce or end medical benefits, the Department must review each individual in the filing group for eligibility for the other medical programs listed in this rule prior to reducing or ending medical benefits.

(2) If the Department needs additional information to act on the timely reported change, members of the benefit group (see OAR 461-110-0750) remain eligible from the date the change was reported until the Department determines their eligibility in accordance with the application processing time frames in OAR 461-115-0190.

Stat. Auth.: ORS 409.050, 411.060, 411.404

Stats. Implemented: ORS 409.010, 411.060, 411.404

Hist.: SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 9-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-170-0200

State and Federal Government-Initiated Changes

A client is not required to report any of the following changes:

(1) Periodic cost-of-living adjustments to the federal Black Lung Program, SSB (Social Security Benefits), SSDI, SSI, and veterans assistance under Title 38 of the United States Code.

(2) Periodic cost-of-living adjustments to ERDC, GA, OSIP, REF, SFPSS, and TANF standards.

(3) Other changes in eligibility criteria based on legislative or regulatory actions.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.009, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.009, 412.014, 412.049, 412.089

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-175-0200

Notice Situations; General Information

(1) In the EA program, a basic decision notice (see OAR 461-001-0000) is sent for all situations.

(2) In the SNAP program, a basic decision notice is sent for all actions on applications for assistance.

(3) In the JOBS program:

(a) A basic decision notice is sent whenever a request for a support service payment is denied.

(b) No decision notice is required if request for a support service is approved.

(4) In the TANF program, a notice approving benefits informs the client, within one month following eligibility determination, of the opportunity to volunteer for JOBS participation and of the procedure for JOBS program entry.

(5) In the Pre-TANF program, a basic decision notice is sent when payment for basic living expenses is denied or when payment for other support services in the JOBS program is denied. No other notices are required for this program.

(6) In the TA-DVS program, a basic decision notice (see OAR 461-001-0000) is sent to a safe mailing address or hand delivered for all situations. This includes when the program is approved, denied, or closed (prior to the end of the 90 day eligibility period) and when a payment under the program is denied.

(7) In all programs except the Pre-TANF program, unless stated differently in this rule or another rule, the Department mails or otherwise provides the client with (sends) a decision notice (see OAR 461-001-0000) as follows:

(a) A basic decision notice is sent whenever an application for assistance, including retroactive medical assistance, is approved or denied or a request for a support service payment in the JOBS program is denied.

(b) A timely continuing benefit decision notice (see OAR 461-001-0000) is sent whenever benefits or support service payments authorized by OAR 461-190-0211 are reduced or closed, or the method of payment changes to protective, vendor, or two-party.

(c) A decision notice is sent whenever the Department adjusts previously underissued cash assistance or SNAP benefits.

(8) In all programs:

(a) Notwithstanding any rule in Chapter 461, to the extent permitted by OAR 137-003-0530, the Department may take any of the following actions:

(A) Amend a decision notice with another decision notice or a contested case notice.

(B) Amend a contested case notice.

(C) Delay a reduction or closure of benefits as a result of a client's request for hearing.

(D) Extend the effective date on a decision notice or contested case notice.

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(b) Except as provided in subsection (a) of this section or when a delay results from the client's request for a hearing, a notice to reduce or close benefits becomes void if the reduction or closure is not initiated on the date stated on the notice. If the notice is void, a new notice is sent to inform the financial group (see OAR 461-110-0530) of a new date on which their benefits will be reduced or closed.

(c) No decision notice is required in each of the following situations:

(A) Benefits are ended because there is no living person in the benefit group (see OAR 461-110-0750).

(B) A notice was sent, the client requested a hearing, and either the hearing request is dismissed or a final order is issued.

(C) The client has signed a voluntary agreement that qualifies as a final order under ORS 183.417(3)(b) (see OAR 461-175-0340(2)).

(D) A decision notice that included the eligibility begin and end dates was given for TA-DVS program benefits and the 90 day eligibility period ends.

(d) When the Department amends a decision notice with another decision notice under subsection (a) of this section, the date of the amended notice restarts the client's deadlines to request a hearing or continuing benefits, or both.

(e) When a contested case notice extends an effective date or delays a reduction or closure, the date of the amended notice restarts a client's timeline to request continuing benefits.

(f) When a client has a pending hearing request or is receiving continuing benefits, and the Department amends a notice under this section, the client need not re-file the hearing request or renew the request for continuing benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231
Stats. Implemented: ORS 183.415, 183.417, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 16-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 11-2008(Temp), f. & cert. ef. 4-7-08 thru 9-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 3-2010(Temp), f. & cert. ef. 2-23-10 thru 8-22-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-175-0203

Notice Situation; EXT

When TANF benefits end, send a basic decision notice notifying the benefit group of the following:

(1) Its right to EXT benefits; and

(2) The fact that EXT will end the month the benefit group ceases to include an eligible dependent child.

Stat. Auth.: ORS 183.417, 411.060, 411.070, 411.404, 412.006, 412.014 & 412.049
Stats. Implemented: ORS 183.417, 411.060, 411.070, 411.404, 412.006, 412.014 & 412.049
Hist.: AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1997(Temp), f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

61-175-0210

Notice Situation; Client Moved or Whereabouts Unknown

(1) To end benefits if a client has moved out of state, the Department sends the following decision notice (see OAR 461-001-0000):

(a) In the ERDC, GA, GAM, OSIP, OSIPM, QMB, REF, REFM, and TANF programs:

(A) The Department sends a timely continuing benefit decision notice (see OAR 461-001-0000) to clients who have moved out of state.

(B) The Department sends a basic decision notice (see OAR 461-001-0000) if the client becomes eligible for benefits in another state.

(b) In the SNAP program, no decision notice is required if the Department determines that the benefit group (see OAR 461-110-0750) has moved out of Oregon.

(2) If Department mail or benefits have been returned with no forwarding address, the Department gives the client the benefits if the client's whereabouts become known during the period covered by the returned benefits. See OAR 461-165-0130 for when SNAP benefits can be sent out of state. If the client's whereabouts are unknown, the Department ends benefits by sending the following decision notice to their last known address:

(a) In all programs except the SNAP program, a basic decision notice.

(b) In the SNAP program, for cases in the CRS reporting system, no decision notice is required.

Stat. Auth.: ORS 411.060, 411.095, 411.404 & 411.816 & 412.049
Stats. Implemented: ORS 411.060, 411.095, 411.404 & 411.816 & 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 37-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-29-12; SSP 22-2012, f. 6-29-12, cert. ef. 6-30-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-175-0270

Notice Situation; SRS or TBA

(1) When the Department takes action on information reported on the Interim Change Report form, the Department sends a continuing benefit decision notice (see OAR 461-001-0000) for clients in the ERDC, OSIP, OSIPM, QMB, REF, REFM, SNAP, and TANF programs. The notice includes the amount of income used to determine the benefits or ineligibility.

(2) For all changes not reported on the Interim Change Report form, which result in a closure or reduction in benefits, the Department sends a timely continuing benefit decision notice.

(3) When the Department changes the reporting system from one reporting system to another reporting system, the Department provides a continuing benefit decision notice if the change occurs at a time other than at the start of a certification period (see OAR 461-001-0000).

Stat. Auth.: ORS 411.060, 411.070, 411.111, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.095, 411.111, 411.404, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-175-0305

Notice Situation; Removing an Individual From a Benefit Group (REF, REFM, SNAP, TANF) or Need Group (ERDC)

(1) To remove an individual from a benefit group (see OAR 461-110-0750), the following notices are used:

(a) A continuing benefit decision notice (see OAR 461-001-0000) is used when the removal is based on information reported on the Interim Change Report form.

(b) A timely continuing benefit decision notice (see OAR 461-001-0000) is used when the removal is not based on the Interim Change Report form.

(2) In the ERDC program, the Department sends a timely continuing benefit decision notice to remove an individual from the need group (see OAR 461-110-0630).

(3) In the REF, REFM, and TANF programs, if a child is removed from the benefit group as a result of a court order or a voluntary placement in foster care by the child's caretaker relative (see OAR 461-001-0000), a basic decision notice (see OAR 461-001-0000) is used.

Stat. Auth.: ORS 411.060, 411.095, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.095, 411.404, 411.816, 412.049
Hist.: AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-180-0020

Effective Dates; Changes in Income or Income Deductions That Cause Increases

For all programs in Chapter 461, except the ERDC program, this rule is used to determine the effective date when a change in income or income deductions causes an increase in benefits. For all changes, the effective date is one of the following:

(1) In the GA, SFPSS, and TANF programs, the effective date for an anticipated change reported before the payment month is the first of the payment month in which it will occur. If the change is not reported until the month it occurs or later, the effective date is the first of the month following the month in which the change was reported.

(2) In the SNAP program:

(a) The effective date when verification is not requested is the first of the month following the date the change was reported.

(b) The effective date if verification is requested is:

(A) The first of the month following the date the change was reported if verification is received no later than the due date for the verification.

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(B) The first of the month following the date the verification is received by the Department, if received after the verification due date.

(3) In the OSIP program, the effective date for an anticipated change is:

(a) The first of the month in which the change occurs if the change is reported by the 10th day of the month following the month the change occurred; or

(b) 10 days before the change is reported, if it is reported after the 10th day of the month following the month the change occurred.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-180-0050

Effective Dates; Suspending or Closing Benefits and JOBS Support Service Payments

(1) This rule explains the effective date for closing or suspending benefits for the entire benefit group (see OAR 461-110-0750) and the effective date for ending JOBS support service payments.

(2) In all programs except the ERDC program, when the only individual in a benefit group dies, the effective date of the closure is:

(a) In the REF, SNAP, and TANF programs, the last day of the month in which the death occurred.

(b) In all other programs, the date of the death.

(3) For all closures and suspensions not covered by section (2) of this rule, the effective date is determined as follows:

(a) When prospective eligibility is used, the effective date for closing or suspending benefits is the last day of the month in which the notice period ends.

(b) When retrospective eligibility or budgeting is used, the effective date for closing or suspending benefits is the last day of the budget month.

(c) When an absent parent enters an ongoing TANF program household, or another change occurs that ends eligibility based on the incapacity or unemployment of a parent, the effective date for closing benefits is the last day of the month in which the 45-day period described in OAR 461-125-0255 ends.

(d) For a pregnant female receiving benefits of the OSIPM program, the effective date for closing benefits is no earlier than the last day of the calendar month in which the 60th day after the last day of pregnancy falls, except at the client's request.

(e) For a client who is receiving medical assistance and becomes incarcerated with an expected stay of a year or less, the effective date for suspending medical benefits is the effective date on the decision notice (see OAR 461-001-0000).

(f) The effective date for ending support service payments authorized under OAR 461-190-0211 is the earlier of the following:

(A) The date the related JOBS activity is scheduled to end.

(B) The date the client no longer meets the requirements of OAR 461-190-0211.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826
Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 18-2004, f. & cert. ef. 7-12-04; SSP 23-2004(Temp), f. & cert. ef. 10-1-04 thru 12-31-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-180-0065

Effective Dates; Ending Disqualifications

(1) The effective date for ending a JOBS disqualification or a disqualification related to diagnosis, counseling, or treatment for substance abuse or mental health is:

(a) The date the client meets the requirements for ending the JOBS disqualification (see OAR 461-130-0335); or

(b) The date the client meets the requirements for ending the disqualification for failure to comply with OAR 461-135-0085(1) (see OAR 461-135-0089).

(2) In the GAM and OSIPM programs, the effective date for ending the disqualification for failing to enroll in cost-effective, employer-spon-

sored health insurance is the date the client provides verification of enrollment during the open enrollment period.

(3) In the SNAP program, the effective date for ending an employment program disqualification is the date the client fulfills the requirements to end the disqualification or the first of the month following the minimum disqualification period, whichever occurs later (see OAR 461-180-0010 regarding the effective date for adding a person to an open case).

(4) For an IPV disqualification, the disqualification ends the day after the minimum disqualification period ends, if there is no additional IPV disqualification to be served and all eligibility requirements are met.

(5) For all other disqualifications in the TANF program, the disqualification ends whenever the client agrees to cooperate.

(6) For other disqualifications in the SNAP program, the disqualification ends at the end of the disqualification period.

Stat. Auth.: ORS 411.060, 411.816 & 412.049
Stats. Implemented: ORS 411.060, 411.816 & 412.049
Hist.: AFS 22-1990(Temp), f. 9-28-90, cert. ef. 10-1-90; AFS 26-1990, f. & cert. ef. 11-29-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-180-0085

Effective Dates; Redeterminations of OSIPM and QMB

In the OSIPM and QMB programs, when the Department initiates a redetermination of eligibility:

(1) Prior to reducing or ending medical benefits:

(a) The Department must review each individual in the filing group (see OAR 461-110-0410) for eligibility for the other medical programs listed in this rule.

(b) The Oregon Health Authority, Cover Oregon, or the Department must review the individual for Medicaid eligibility under MAGI rules (OAR 410-200).

(2) If additional information is needed to redetermine eligibility, members of the benefit group (see OAR 461-110-0750) who may be eligible for the other programs listed in this rule remain eligible from the date the review is initiated until the Department or Oregon Health Authority determines their eligibility in accordance with the application processing time frames in OAR 461-115-0190.

Stat. Auth.: ORS 409.050, 411.060, 411.404
Stats. Implemented: ORS 409.050, 411.060, 411.404
Hist.: SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 9-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-180-0097

Effective Dates; OHP Premium

(1) Each client in the OHP-OPU program is required to pay a premium if not exempted by OAR 461-135-1120.

(2) The effective date for starting the premium is:

(a) For a new OHP-OPU program client, the first of the month following the month the eligibility determination is made.

(b) For a client found eligible at a redetermination of eligibility, the first month of the new certification period (see OAR 461-001-0000).

(3) The effective date for ending the OHP premium is the first of the month in which the client becomes:

(a) Exempt from paying a premium; or

(b) Eligible under another medical assistance program.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.431, 411.598, 414.033, 414.065
Stats. Implemented: ORS 409.050, 411.060, 411.404, 411.431, 411.598, 414.033, 414.065
Hist.: AFS 36-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 32-2010, f. & cert. ef. 10-1-10; Suspended by SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-180-0100

Effective Dates; Eligibility Following Closure

The new effective date of eligibility following closure of benefits or following the end of a certification period is determined as follows:

(1) For the SNAP program, see OAR 461 115 0450.

(2) In the ERDC program, eligibility starts the first day of the month of the date of request.

(3) In the TANF program:

(a) Eligibility starts on the date provided by OAR 461-180-0070 for TANF unless the client meets the requirements of subsection (b) of this section.

(b) Eligibility starts the first day of the month following closure if:

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(A) The client contacts the Department during the month of closure; and

(B) Submits to the Department a complete application not later than the end of the month following closure.

(4) In all programs other than the ERDC, SNAP, and TANF programs:

(a) If the client completes the application process within the applicable time period described in chapter 461 of the Oregon Administrative Rules, eligibility starts on the first day of the month following closure if the filing group meets all eligibility requirements on that date and if:

(A) The filing group established a date of request (see OAR 461-115-0030 for the meaning of date of request) prior to closure; or

(B) The Department initiated a redetermination of eligibility prior to closure.

(b) If the client does not complete the application process within the time period described in chapter 461 of the Oregon Administrative Rules, the determination of an effective date requires a new date of request (see OAR 461-115-0030 for the meaning of date of request).

Stat. Auth.: ORS 411.060, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.816 & 412.049

Hist.: AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-180-0105

Effective Dates; Reductions Delayed Pending a Hearing Decision

(1) If a proposed reduction or closure of benefits or a proposed disqualification arising out of an employment program is delayed because the client requested a hearing, the proposed action takes effect in accordance with sections (2) and (3) of this rule.

(2) A disqualification is effective in the following programs on the first day of the month following issuance of a final order upholding the disqualification:

(a) In the JOBS and JOBS Plus programs.

(b) In the SNAP program, if the disqualification is a result of any of the following:

(A) A job quit.

(B) Failure to comply with a requirement in OAR 461-130-0320.

(C) Failure to comply with a requirement of the JOBS or UC employment program.

(3) All other reductions or closures are effective in accordance with the notice that precipitated the appeal.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Hist.: AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 31-2003(Temp), f. & cert. ef. 12-1-03 thru 12-31-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-180-0120

Effective Dates; Removing an Individual

The effective date for removing an individual from a benefit group (see OAR 461-110-0750) is one of the following:

(1) If the individual has left the benefit group in the current budget month because he or she is ineligible, is disqualified, or has left the household, the effective date is:

(a) The first of the month after the notice period (see OAR 461-175-0050) ends, if the change will reduce benefits.

(b) The last day of the month in which the notice period ends, if the change will end benefits.

(2) If the individual is reasonably expected to leave the household next month, the effective date is the later of the following:

(a) The first of the month following the month in which the individual leaves the household group (see OAR 461-110-0210), if the change will reduce benefits.

(b) The end of the month in which the individual is expected to leave the household group, if the change will end benefits.

(3) When an individual in a benefit group of more than one individual dies, the effective date of the closure or reduction in benefits is one of the following:

(a) In the ERDC, REF, SNAP, and TANF programs, the last day of the month in which the 10-day notice period ends.

(b) For all programs not covered by subsection (a) of this section, the date of the individual's death.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 13-1993(Temp), f. & cert. ef. 7-1-93; AFS 21-1993, f. & cert. ef. 10-12-93; AFS 2-1994, f. & cert. ef. 2-1-94; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

461-180-0140

Effective Dates; Retroactive Medical Benefits

(1) In the OSIPM program:

(a) If a benefit group requests and is eligible for retroactive medical benefits, the earliest date they can be eligible is three months before the date of request. For example, if the benefit group requests benefits on July 10th, eligibility may begin as early as April 10.

(b) After the earliest date is established, eligibility is determined on a month by month basis. The period starts on the earliest established date and ends on the date the benefit group requests benefits. For example, if the benefit group requests benefits on August 10th, the earliest date is May 10. Eligibility is established separately for May 10 through May 31, June 1 through June 30, July 1 through July 31, and August 1 through August 9.

(2) In the QMB BAS programs:

(a) If a benefit group currently eligible for QMB BAS requests and is eligible for retroactive medical benefits under OSIPM, the earliest date they can be eligible is three months before the effective date for QMB BAS.

(b) After the earliest date is established, eligibility is determined on a month by month basis. The period starts on the earliest established date and ends on the effective date for QMB BAS. For example, if the benefit group requests benefits on August 10 and the effective date is September 1, the earliest date the group can be eligible for retroactive medical benefits is June 1. Eligibility is established separately for June 1 through June 30, July 1 through July 31, and August 1 through August 31.

(3) If a benefit group currently eligible for QMB DW requests and is eligible for retroactive medical benefits, the earliest date they can be eligible is three months before the effective date of their initial eligibility.

(4) If a benefit group currently eligible for QMB SMB requests and is eligible for retroactive payment of Part B Medicare premiums, the earliest date they can be eligible is three months before the effective date of their initial eligibility.

(5) If a benefit group currently eligible for REFM requests and is eligible for retroactive medical benefits, the earliest they can be eligible is the most recent of the following:

(a) The date the benefit group arrived in the United States; or

(b) Three months before the date of request.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients

Adm. Order No.: SSP 31-2013(Temp)

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13 thru 3-30-14

Notice Publication Date:

Rules Amended: 461-155-0150

Subject: OAR 461-155-0150 is being amended to update references to the Child Care Division to state the office's new name as the Oregon Office of Child Care. The rule is also being amended to update the Infant age category for licensed providers and the provider rates for Registered Family and Certified Family care providers as determined by the Final Memorandum of Agreement with the AFSCME provider union.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0150

Child Care Eligibility Standard, Payment Rates, and Copayments

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:

(1) The following definitions apply to the rules governing child care rates:

(a) Infant: For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 2 years.

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(b) Toddler: For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 2 years to 3 years.

(c) Preschool: A child aged 3 years to 6 years.

(d) School: A child aged 6 years or older.

(e) Special Needs: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral or mental disability. The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:

(A) A physician, nurse practitioner, clinical social worker, or any additional sources in OAR 461-125-0830.

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.

(C) Eligibility for SSI.

(2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:

(a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.

(c) The Registered Family Rate applies to child care provided in the provider's own home when the provider meets criteria established by the Office of Child Care.

(d) The Certified Family Rate applies to child care provided in a residential dwelling that is certified by the Office of Child Care as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(e) The Standard Center Rate applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Office of Child Care Certification rules (see OAR 414-300-0000).

(f) The Enhanced Center Rate applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in paragraph (2)(b) of this rule.

(B) New staff must meet the Oregon Registry training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (2)(b), (f), or (g) of this rule.

(h) The Certified Center Rate applies to child care provided in a center that is certified by the Office of Child Care.

(3) The following provisions apply to child care payments:

(a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month, unless the provider customarily bills all families at a part-time monthly rate (subject to the maximum full-time monthly rate) and is designated as the primary provider for the case.

(c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month, customarily bill all families at a part-time monthly rate, and are designated as the primary provider for the case.

(d) Unless required by the circumstances of the client or child, the Department will not pay for care at a part-time monthly or a monthly rate to more than one provider for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for up to five days each month the child is absent if:

(A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care; and

(B) It is the provider's policy to bill all families for absent days.

(g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.

(4) The following are the child care rates, the rates are based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (hourly or monthly):

(a) [Table not included. See ED. NOTE.]

(b) [Table not included. See ED. NOTE.]

(c) [Table not included. See ED. NOTE.]

(5) Except to the extent provided otherwise in section (12) of this rule, this section establishes the ERDC eligibility standard and the client's copayment (copay).

(a) The ERDC eligibility standard is met for need groups (see OAR 461-110-0630) of eight or less if monthly countable income (see OAR 461-001-0000) for the need group is less than 185 percent of the federal poverty level (FPL), as described in OAR 461-155-0180(6). The eligibility standard for a need group size of eight applies to any need group larger than eight.

(b) The minimum monthly ERDC copay is \$25.

(c) For filing groups (see OAR 461-110-0310) whose countable income is at or below 50 percent of the 2007 FPL, the copay is \$25 or 1.5 percent of the filing group's monthly countable income, whichever is greater.

(d) For filing groups whose countable income is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:

(A) Determine filing group's countable income as a percent of FPL (rounding to the nearest hundredth of the percentage), subtract 50, and multiply this difference by 0.12.

(B) Add 1.5 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income to determine the copay amount.

(e) The 2007 federal poverty level used to determine copay amounts under subsections (c) and (d) of this section is set at the following amounts: [Table not included. See ED. NOTE.]

(6) Subject to the provisions in section (9) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:

(a) The monthly rate provided in section (4) of this rule.

(b) The product of the hours of care, limited by section (8) of this rule, multiplied by the hourly rate provided in section (4) of this rule.

(7) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:

(a) The amount billed by the provider or providers.

(b) The monthly rate established in this rule for 215 hours of care.

(8) The number of payable billed hours of care for a child is limited as follows:

(a) In the ERDC and TANF programs, the total payable hours of care in a month may not exceed:

(A) 125 percent of the number of hours necessary for the client to perform the duties of his or her job, or to participate in activities included in a case plan (see OAR 461-001-0025) including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client; or

(B) The monthly rate established in section (4) of this rule multiplied by a factor of not more than 1.5, determined by dividing the number of hours billed by 215, when the client meets the criteria for extra hours under section (10) of this rule.

(b) In the ERDC program, for a client who earns less than the Oregon minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.

(c) In the TANF program, for a client who earns less than the Oregon minimum wage or is self-employed, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.

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(9) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (10) of this rule, is the lesser of one of the following:

(a) The amount billed by the provider or providers; or
(b) The monthly rate established in section (4) of this rule multiplied by a factor, of not more than 1.5, determined by dividing the number of hours billed by 215.

(10) The limit allowed by section (9) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this section, a client has special circumstances when it is necessary for the client to obtain child care in excess of 215 hours in a month to perform the requirements of his or her employment or training. This is limited to the following situations:

(a) The commute time to and from work exceeds two hours per day.
(b) The caretaker works an overnight shift and care is necessary for both work hours and sleep hours.
(c) The caretaker works a split shift and it is not feasible to care for the child between shifts.
(d) The caretaker consistently works more than 40 hours per week.
(e) Weekend work or other nonstandard work hours require care by more than one provider, and the total allowable hours billed by both providers exceeds the maximum limit.
(f) The caretaker needs child care for both full-time work and participation in Department assigned activities.

(11) The payment available for care of a child who meets the special needs criteria described in subsection (1)(e) of this rule is increased in accordance with OAR 461-155-0151 if the requirements of both of the following subsections are met:

(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age; and
(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

(12) Starting May 1, 2012:

(a) The minimum monthly ERDC copay is \$27.
(b) Except as stated in subsection (a) of this section, the Department adds 10 percent to the monthly client co-payment amount set under section (5) of this rule.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006 & 412.049
Stats. Implemented: ORS 409.010, 409.610, 411.060, 411.070, 412.006 & 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 14-1992, f. & cert. ef. 6-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1994, f. 4-29-94, cert. ef. 5-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 4-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 4-2000(Temp), f. 2-29-00, cert. ef. 3-1-00 thru 8-25-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 13-2012(Temp), f. & cert. ef. 4-10-12 thru 10-7-10; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 31-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

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Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients

Adm. Order No.: SSP 32-2013(Temp)

Filed with Sec. of State: 10-2-2013

Certified to be Effective: 10-2-13 thru 3-31-14

Notice Publication Date:

Rules Amended: 461-025-0310

Subject: OAR 461-025-0310 about hearing requests is being amended as part of the implementation of the federal Affordable Care Act

and HB 2859 to address the statutory changes to the definition of “public assistance,” and align the time periods for DHS medical programs with OHA OCCS medical programs, establishing 90 days to request a hearing, a 75 day good cause window, and allowing oral hearing requests.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-025-0310

Hearing Requests

(1) A claimant (see OAR 461-025-0305) has the right to a contested case hearing in the following situations upon the timely completion of a request for hearing:

(a) Except as provided in subsection (o) of this section, the Department has not approved or denied a request or application for public assistance or medical assistance within 45 days of the application.

(b) The Department has not acted timely on an application as follows:

(A) An application for SNAP program benefits — within 30 days of the filing date.

(B) An application for a JOBS support service payment — within the time frames established in OAR 461-115-0190(3).

(c) The Department acts to deny, reduce, close, or suspend SNAP program benefits, a grant of public assistance, a grant of aid, a support service payment authorized in the JOBS program by OAR 461-190-0211, medical assistance, or child care benefits authorized under division 160 or 165 of this chapter of rules in the ERDC or TANF child care programs. When used in this subsection, grant of public assistance and grant of aid mean the grant of cash assistance calculated according to the client’s need.

(d) The Department has sent a decision notice (see OAR 461-001-0000) that the claimant is liable for an overpayment (see OAR 461-195-0501).

(e) The Department modifies a grant of public assistance or a grant of aid; or the claimant claims that the Department previously underissued public assistance, medical assistance, or SNAP program benefits and the Department denies, or denies in part, that claim.

(f) The household disputes its current level of SNAP program benefits.

(g) The filing group (see OAR 461-110-0370) is aggrieved by any action of the Department that affects the participation of the filing group in the SNAP program.

(h) The claimant asks for a hearing to determine if the waiver of an Intentional Program Violation hearing was signed under duress.

(i) The Department establishes or changes the client’s premium for the Oregon Health Plan.

(j) In the Pre-TANF program, the Department denies payment for a basic living expense (see OAR 461-135-0475) or other support service payment in the JOBS program (see subsection (c) of this section).

(k) In the TA-DVS program, when OAR 461-135-1235 provides a right to a hearing.

(l) A service re-assessment of a client conducted in accordance with OAR division 411-015 has resulted in a reduction or termination of nursing facility services or home and community-based care (see OAR 461-001-0030).

(m) The claimant’s benefits are changed to vendor, protective, or two-party payments.

(n) Department has issued a notice seeking repayment under ORS 411.892 to an employer participating in the JOBS program.

(o) In the OSIP and OSIPM programs, when the Department has not approved or denied an application within the time frames established in OAR 461-115-0190.

(p) The right to a hearing is otherwise provided by statute or rule.

(2) A client is not entitled to a hearing on the question of the contents of a case plan (defined in OAR 461-190-0151) unless the right to hearing is specifically authorized by the Department’s rules. For a dispute about an activity in the JOBS program, the client is entitled to use the Department’s re-engagement process (see OAR 461-190-0231). In the TA-DVS program, a dispute about the contents of a TA-DVS case plan (see OAR 461-135-1205) is resolved through re-engagement if there is no right to a hearing under OAR 461-135-1235.

(3) A request for hearing is complete:

(a) In public assistance and SNAP programs, when the Department’s Administrative Hearing Request form (form DHS 443) is:

(A) Completed;

(B) Signed by the claimant, the claimant’s attorney, or the claimant’s authorized representative (see OAR 461-115-0090); and

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(C) Received by the Department. OAR 137-003-0528(1)(a) (which allows hearing requests to be treated as timely based on the date of the post-mark) does not apply to hearing requests contesting a decision notice (see OAR 461-001-0000). The Department has adopted the exception to the Attorney General's model rules set out in this paragraph due to operational conflicts.

(b) In the SNAP program, when the Department receives an oral or written statement from the claimant, the claimant's attorney, or the claimant's authorized representative that the claimant wishes to appeal a decision affecting the claimant's SNAP program benefits to a higher authority.

(c) In the case of a provider of child care, when a written request for hearing from the provider is received by the Department.

(d) For medical assistance, when a hearing request is made in a manner permitted under OAR 410-200-0145 or this section.

(4) In the event a request for hearing is not timely, the Department may issue an order of dismissal if there is no factual dispute about whether sections (7) and (10) of this rule provide a right to a hearing. The Department may refer an untimely request to the Office of Administrative Hearings for a hearing on the question of timeliness.

(5) In the event the claimant has no right to a contested case hearing on an issue, the Department may enter an order accordingly. The Department may refer a hearing request to the Office of Administrative Hearings for a hearing on the question of whether the claimant has the right to a contested case hearing.

(6) For medical assistance, to be timely, a hearing request must be received by the Department, the OHA Statewide Processing Center, or Cover Oregon in the time frame set out in OAR 410-200-0145. In other programs, to be timely, a completed hearing request must be received by the Department not later than:

(a) Except as provided in subsection (b) of this section, the 45th day following the date of the decision notice (see OAR 461-001-0000) in public assistance programs.

(b) The 90th day following the effective date of the reduction or termination of benefits in a public assistance program if the reduction or termination of aid is a result of a JOBS disqualification (see OAR 461-130-0330) or a penalty for failure to seek treatment for substance abuse or mental health (see OAR 461-135-0085).

(c) The 90th day following the date of the decision notice in the SNAP program, except:

(A) A filing group may submit a hearing request at any time within a certification period (see OAR 461-001-0000) to dispute its current level of benefits.

(B) A filing group may submit a hearing request within 90 days of the denial of a request for restoration of benefits if not more than twelve months has expired since the loss of benefits.

(d) The 30th day following the date of notice from the Oregon Department of Revenue in cases covered by ORS 293.250.

(e) In a case described in subsection (1)(h) of this rule, the request must be made within 90 days of the date the waiver was signed.

(7) When the Department receives a completed hearing request that is not filed within the timeframe required by section (6) of this rule but is filed no later than 120 days after a decision notice became a final order:

(a) The Department refers the hearing request to the Office of Administrative Hearings for a contested case hearing on the merits of the Department's action described in the notice:

(A) If the Department finds that the claimant and claimant's representative did not receive the decision notice and did not have actual knowledge of the notice; or

(B) If the Department finds that the claimant did not meet the timeframe required by section (6) of this rule due to excusable mistake, surprise, excusable neglect (which may include neglect due to significant cognitive or health issues), good cause (see OAR 461-025-0305), reasonable reliance on the statement of a Department employee relating to procedural requirements, or due to fraud, misrepresentation, or other misconduct of the Department.

(b) The Department refers the request for a hearing to the Office of Administrative Hearings for a contested case proceeding to determine whether the claimant is entitled to a hearing on the merits if there is a dispute between the claimant and the Department about either of the following paragraphs.

(A) The claimant or claimant's representative received the decision notice or had actual knowledge of the decision notice. At the hearing, the Department must show that the claimant or claimant's representative had actual knowledge of the notice or that the Department mailed or electroni-

cally mailed the notice to the correct address of the claimant or claimant's representative, as provided to the Department.

(B) The claimant qualifies for a contested case hearing on the merits under paragraph (a)(B) of this section.

(c) The Department may only dismiss such a request for hearing as untimely without a referral to the Office of Administrative Hearings if the following requirements are met:

(A) The undisputed facts show that the claimant does not qualify for a hearing under this section; and

(B) The decision notice was served personally or by registered or certified mail.

(8) In computing the time periods provided by this rule, see OAR 461-025-0300(1).

(9) In the REF and REFM programs, a client is not eligible for a contested case hearing when assistance is terminated because the eligibility time period imposed by OAR 461-135-0900 has been reached. If the issue is the date of entry into the United States the Department provides for prompt resolution of the issue by inspection of the individual's documentation issued by the US Citizenship and Immigration Services (USCIS) or by information obtained from USCIS, rather than by contested case hearing.

(10) If the Department receives a hearing request more than 120 days after an overpayment notice became a final order by default:

(a) The Department verifies whether its records indicate that the liable adult requesting the hearing was sent the overpayment notice.

(b) If no overpayment notice was sent to that liable adult, the overpayment hearing request is timely. The Department will send the claimant a decision notice or a contested case notice.

(c) If the Department determines that an overpayment notice was sent to the liable adult, there is no hearing right based on the issue of whether or not the overpayment notice was received.

(d) Any hearing request is treated as timely when required under the Servicemembers Civil Relief Act.

(e) The Department may dismiss a request for hearing as untimely if the claimant does not qualify for a hearing under this section.

(11) If the Department receives a hearing request more than 120 days after a decision notice (other than an overpayment notice) became a final order by default:

(a) Any hearing request is treated as timely when required under the Servicemembers Civil Relief Act.

(b) The Department may dismiss a request for hearing as untimely if the claimant does not qualify for a hearing under subsection (a) of this section.

(12) Notwithstanding sections (7), (10) and (11) of this rule, for medical assistance, the time frame is the same as the one in OAR 410-200-0146 instead of 120 days.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 411.060, 411.095, 411.404, 411.408, 411.816, 411.892, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.095, 411.103, 411.117, 411.404, 411.408, 411.816, 411.892, 412.009, 412.014, 412.049, 412.069
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 4-1995, f. & ef. 2-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-2000, f. 1-31-2000, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 4-2012(Temp), f. & cert. ef. 1-31-12 thru 7-29-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 32-2013(Temp), f. & cert. ef. 10-2-13 thru 3-31-14

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients

Adm. Order No.: SSP 33-2013(Temp)

Filed with Sec. of State: 10-3-2013

Certified to be Effective: 10-3-13 thru 3-30-14

Notice Publication Date:

Rules Amended: 461-175-0210

Rules Suspended: 461-175-0210(T)

Subject: OAR 461-175-0210 about notices sent to clients when they move or their location is unknown is being amended to state that no notice is needed in the SNAP program when a SNAP case is closed for returned mail and the clients whereabouts are unknown.

Rules Coordinator: Annette Tesch—(503) 945-6067

ADMINISTRATIVE RULES

461-175-0210

Notice Situation; Client Moved or Whereabouts Unknown

(1) To end benefits if a client has moved out of state, the Department sends the following decision notice (see OAR 461-001-0000):

(a) In the ERDC, GA, GAM, OSIP, OSIPM, QMB, REF, REFM, and TANF programs:

(A) The Department sends a timely continuing benefit decision notice (see OAR 461-001-0000) to clients who have moved out of state.

(B) The Department sends a basic decision notice (see OAR 461-001-0000) if the client becomes eligible for benefits in another state.

(b) In the SNAP program, no decision notice is required if the Department determines that the benefit group (see OAR 461-110-0750) has moved out of Oregon.

(2) If Department mail or benefits have been returned with no forwarding address, the Department gives the client the benefits if the client's whereabouts become known during the period covered by the returned benefits. See OAR 461-165-0130 for when SNAP benefits can be sent out of state. If the client's whereabouts are unknown, the Department ends benefits by sending the following decision notice to their last known address:

(a) In all programs except the SNAP program, a basic decision notice.

(b) In the SNAP program, no decision notice is required.

Stat. Auth.: ORS 411.060, 411.095, 411.404 & 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.095, 411.404 & 411.816 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 37-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-29-12; SSP 22-2012, f. 6-29-12, cert. ef. 6-30-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 33-2013(Temp), f. & cert. ef. 10-3-13 thru 3-30-14

Rule Caption: Changing OARs affecting public assistance, medical assistance or Supplemental Nutrition Assistance Program Clients

Adm. Order No.: SSP 34-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 9-1-2013

Rules Amended: 461-155-0190

Subject: OAR 461-155-0190 about the SNAP income and payment standards is being amended to reflect the sunset of the American Recovery and Reinvestment Act of 2009 (ARRA) by reducing the payment standards for the Thrifty Food Plan in the SNAP program as of November 1, 2013.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0190

Income and Payment Standards; SNAP

(1) The monthly SNAP Countable and Adjusted Income Limits are as follows: [Table not included. See ED. NOTE.]

(2) The SNAP Payment Standard (Thrifty Food Plan) changes on November 1, 2013.

(a) Prior to November 1, 2013, this standard is: [Table not included. See ED. NOTE.]

(b) Starting November 1, 2013, this standard is: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816, 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 34-2013, f. & cert. ef. 10-15-13

Department of Public Safety Standards and Training

Chapter 259

Rule Caption: Insert omitted word relating to lapsed certification; Housekeeping

Adm. Order No.: DPSST 19-2013

Filed with Sec. of State: 9-23-2013

Certified to be Effective: 9-23-13

Notice Publication Date: 9-1-2013

Rules Amended: 259-008-0067

Rules Repealed: 259-008-0067(T)

Subject: Corrects an error caused by the inadvertent omission of a word, ensuring that the rule language matches the Department's procedure and intent for lapsing law enforcement certifications. Housekeeping changes are made for clarity.

Rules Coordinator: Linsay Hale—(503) 378-2431

259-008-0067

Lapsed Certification

(1) The certification of any law enforcement officer who does not serve as a law enforcement officer or any certified reserve officer who is not utilized as a certified reserve officer, for any period of time in excess of three consecutive months is lapsed.

(a) Upon reemployment as a law enforcement officer or recommencing service as a certified reserve officer, the person whose certification has lapsed must reapply for certification in the manner provided in the Act and these rules.

(b) Notwithstanding subsection (1), the certification of a law enforcement officer or certified reserve officer does not lapse if the officer is on leave from a law enforcement unit.

(2) The certification of any telecommunicator or emergency medical dispatcher who is not utilized as a telecommunicator or emergency medical dispatcher for any period of time in excess of 12 consecutive months is lapsed.

(a) Upon reemployment as a telecommunicator or emergency medical dispatcher, the person whose certification has lapsed must reapply for certification in the manner provided in the Act and these rules.

(b) Notwithstanding subsection (2), the certification of a telecommunicator or emergency medical dispatcher does not lapse if the telecommunicator or emergency medical dispatcher is on leave from a public or private safety agency.

Stat. Auth.: ORS 181.652, 181.653 & 181.667

Stats. Implemented: ORS 181.652, 181.653 & 181.667

Hist.: BPSST 9-2003, f. & cert. ef. 4-22-03; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 7-2010, f. 7-15-10, cert. ef. 8-1-10; DPSST 10-2013(Temp), f. & cert. ef. 6-5-13 thru 10-1-13; DPSST 19-2013, f. & cert. ef. 9-23-13

Rule Caption: Clarify the minimum education standards for Private Security providers

Adm. Order No.: DPSST 20-2013

Filed with Sec. of State: 9-23-2013

Certified to be Effective: 9-23-13

Notice Publication Date: 9-1-2013

Rules Amended: 259-060-0020

Subject: Clarifies that the exemption from the minimum education standard for private security providers applies only to individuals certified on or before November 1, 2012 who have held certification or licensure continuously. Individuals who were previously certified or licensed, but whose certification or licensure has expired, been surrendered or revoked must meet the minimum education requirement. The requirement for applicants to provide documentary evidence of meeting the minimum education standard to the Department was clarified as well.

Rules Coordinator: Linsay Hale—(503) 378-2431

259-060-0020

Minimum Standards for Certification or Licensure

(1) Age. Private security providers must be:

(a) At least 18 years of age to be certified as an unarmed private security professional or licensed supervisory manager; and

(b) At least 21 years of age to be certified as an armed private security professional or instructor or be licensed as an executive manager.

(2) Education.

(a) Applicants for certification or licensure must have earned one of the following:

(A) A high school diploma;

(B) A General Education Development (GED) certificate; or

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(C) A four-year, post-secondary degree issued by an accredited degree-granting college or university recognized by the Oregon Office of Degree Authorization under the provision of ORS 348.604.

(b) The Department may require documentary evidence of the above. Acceptable evidence consists of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted at the discretion of the Department.

(c) The requirement found in subsection (2)(a) applies only to individuals submitting an application for new certification or licensure as described in OAR 259-060-0025 on or after November 1, 2012.

(3) Training. An applicant for certification or licensing must satisfactorily complete the applicable training requirements prescribed by these rules.

(4) Moral Fitness. All private security providers must be of good moral fitness as determined by a criminal background check, department investigation or other reliable sources.

(a) Lack of good moral fitness includes, but is not limited to, mandatory and discretionary disqualifying misconduct as described in OAR 259-060-0300.

(b) For the purposes of this standard, the Department, through the Policy Committee and the Board, has defined core values that are integral to the private security profession. These values are:

(A) Honesty. Honesty includes integrity, credibility, acting honorably and maintaining confidences;

(B) Character. Good character includes being respectful and courteous, being faithful, diligent and loyal to the employer's charge, using discretion, demonstrating compassion and exhibiting courage;

(C) Fair Treatment of Others. Fair treatment of others includes treating others equitably, demonstrating good judgment and not being discriminatory;

(D) Public Trust. Public trust includes maintaining public confidences, being law-abiding and adhering to recognized industry standards; and

(E) Respect for the laws of this state and nation.

(5) Minimum Standards for Armed Certification.

(a) An applicant for certification as an armed private security professional or firearms instructor must not:

(b) Have been committed to the Mental Health and Development Disability Services Division under ORS 426.130, or similar order in another jurisdiction;

(c) Have been found to be mentally ill and subject to an order under ORS 426.130 prohibiting the person from purchasing or possessing a firearm as a result of that mental illness;

(d) Be prohibited under US Code Title 18, Section 922(g)(8) (relating to civil restraining orders including stalking or harassment) from possessing a firearm in interstate commerce; or

(e) Be prohibited under any law of this state or any federal law from purchasing, owning or possessing a firearm.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 181.875, 181.878 & 181.883

Stats. Implemented: ORS 181.875 & 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 10-2003(Temp), f. & cert. ef. 6-16-03 thru 12-1-03; DPSST 12-2003, f. & cert. ef. 7-24-03; DPSST 6-2004, f. & cert. ef. 4-23-04; DPSST 9-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 19-2008, f. & cert. ef. 10-15-08; DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 12-2013, f. & cert. ef. 6-24-13; DPSST 20-2013, f. & cert. ef. 9-23-13

Rule Caption: Update discretionary disqualifying crimes list and presumptive categories; Adds summary staff disposition and administrative closure

Adm. Order No.: DPSST 21-2013

Filed with Sec. of State: 9-23-2013

Certified to be Effective: 9-23-13

Notice Publication Date: 9-1-2013

Rules Amended: 259-008-0070

Subject: Adds crimes and presumptive categories to the discretionary disqualifying crimes list. Additionally, because all criminal convictions meet the definition of Misconduct, crimes with a presumptive category of Misconduct (Category V) are not included on the discretionary list. Language is added to allow for summary staff disposition or administrative closure for crimes with a presumptive

category of only Misconduct (Category V) if the conviction occurred seven years prior to the date of review and it represents the sole criminal conviction in the officer's history.

Rules Coordinator: Linsay Hale—(503) 378-2431

259-008-0070

Denial/Revocation

(1) It is the responsibility of the Board to set the standards, and of the Department to uphold them, to ensure the highest levels of professionalism and discipline. These standards shall be upheld at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

Definitions

(2) For purposes of this rule, the following definitions apply:

(a) "Denial" or "Deny" means the refusal to grant a certification for mandatory grounds or discretionary disqualifying misconduct as identified in this rule, pursuant to the procedures identified in (9) of this rule.

(b) "Discretionary Disqualifying Misconduct" means misconduct identified in OAR 259-008-0070(4).

(c) "Revocation" or "Revoke" means to withdraw the certification of a public safety professional or instructor for mandatory grounds or discretionary disqualifying misconduct as identified in this rule, pursuant to the procedures identified in section (9) of this rule. Grounds for Mandatory Denial or Revocation of Certification

(3) Mandatory Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor:

(a) The Department must deny or revoke the certification of any public safety professional or instructor after written notice and hearing, based upon a finding that:

(A) The public safety professional or instructor has been discharged for cause from employment as a public safety professional or instructor. For purposes of this rule, "discharged for cause," means an employer-initiated termination of employment for any of the following reasons after a final determination has been made. If, after service by the Department of a Notice of Intent to Deny or Revoke Certifications (NOI), the public safety professional or instructor provides notice to the Department within the time stated in the NOI that the discharge has not become final, then the Department may stay further action pending a final determination.

(i) Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(ii) Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(iii) Gross Misconduct: means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(iv) Incompetence: means a demonstrated lack of ability to perform the essential tasks of a public safety professional or instructor that remedial measures have been unable to correct; or

(v) Misuse of Authority: Includes abuse of public trust, abuse of authority to obtain a benefit, avoid a detriment, or harm another, and abuse under the color of office.

(B) The public safety professional or instructor has been convicted in this state or any other jurisdiction of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one year may be imposed;

(C) The public safety professional or instructor has been convicted of violating any law of this state or any other jurisdiction involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic or dangerous drug except the Department may deny certification for a conviction of possession of less than one ounce of marijuana, which occurred prior to certification; or

(D) The public safety professional or instructor has been convicted in this state of any of the following offenses, or of their statutory counterpart(s) in any other jurisdiction, designated under the law where the conviction occurred as being punishable as a crime:

25.785(3) (False Submission of a Statement Regarding Social Security Number);

106.041(5) (Intentional False Statement on Marriage License; Application);

162.075 (False swearing);

162.085 (Unsworn falsification);

162.145 (Escape in the third degree);

162.175 (Unauthorized departure);

162.195 (Failure to appear in the second degree);

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162.235 (Obstructing governmental or judicial administration);
162.247 (Interfering with a peace officer);
162.257 (Interfering with a firefighter or emergency medical technician);
162.295 (Tampering with physical evidence);
162.305 (Tampering with public records);
162.315 (Resisting arrest);
162.335 (Compounding);
162.365 (Criminal impersonation);
162.369 (Possession of false law enforcement identification);
162.375 (Initiating a false report);
162.385 (Giving false information to a peace officer for a citation or arrest warrant);
162.415 (Official misconduct in the first degree);
163.200 (Criminal mistreatment in the second degree);
163.454 (Custodial sexual misconduct in the second degree);
163.687 (Encouraging child sexual abuse in the third degree);
163.732 (Stalking);
164.045 (Theft in the second degree);
164.085 (Theft by deception);
164.095 (Theft by receiving);
164.125 (Theft of services);
164.235 (Possession of a burglary tool or theft device);
164.877 (Unlawful tree spiking; unlawful possession of substance that can damage certain wood processing equipment);
165.007 (Forgery in the second degree);
165.017 (Criminal possession of a forged instrument in the second degree);
165.037 (Criminal simulation);
165.042 (Fraudulently obtaining a signature);
165.047 (Unlawfully using slugs);
165.055 (Fraudulent use of a credit card);
165.065 (Negotiating a bad check);
165.080 (Falsifying business records);
165.095 (Misapplication of entrusted property);
165.100 (Issuing a false financial statement);
165.102 (Obtain execution of documents by deception);
165.118(1) (Unlawfully Altering Metal Property);
165.118(2)(a)(b) (False Statement on a Metal Property Record);
165.825 (Sale of drugged horse);
166.065(1)(b) (Harassment);
166.155 (Intimidation in the second degree);
166.270 (Possession of weapons by certain felons);
166.350 (Unlawful possession of armor-piercing ammunition);
166.416 (Providing false information in connection with a transfer of a firearm);
166.418 (Improperly transferring a firearm);
166.470 (Limitations and conditions for sales of firearms);
167.007 (Prostitution);
167.075 (Exhibiting an obscene performance to a minor);
167.080 (Displaying obscene materials to minors);
167.132 (Possession of gambling records in the second degree);
167.147 (Possession of a gambling device);
167.222 (Frequenting a place where controlled substances are used);
167.262 (Adult using minor in commission of controlled substance offense);
167.320 (Animal abuse in the first degree);
167.330 (Animal neglect in the first degree);
167.332 (Prohibition against possession of domestic animal);
167.333 (Sexual assault of animal);
167.337 (Interfering with law enforcement animal);
167.355 (Involvement in animal fighting);
167.370 (Participation in dogfighting);
167.431 (Participation in cockfighting);
167.820 (Concealing the birth of an infant);
305.815 (False Swearing of Return, Statement or Other Tax Document);
307.990 (Willful False Statement to Property Tax Assessment Officer);
398.224 (Refusal to Appear to Testify);
462.415(2) (Racing a Prohibited Animal);
462.420 (Stimulating or Depressing Participating Animal);
462.430 (Influencing the Results of Races);
462.450 (Possession, Transportation or Use of Drugs at Race Course);
462.460 (Racing an Animal Under Name or Designation Other than Registered Name or Designation or Altering License);
462.470 (Aiding or Abetting Racing Animal Under Name or Designation Other than Registered Name or Designation);
475.525 (Sale of drug paraphernalia);
475.840 (Manufacture or deliver a controlled substance);
475.860 (Unlawful delivery of marijuana);
475.864 (Unlawful possession of marijuana);
475.906 (Distribution of controlled substance to minors);
475.910 (Application of controlled substance to the body of another person);
475.912 (Unlawful delivery of imitation controlled substance);
475.914 (Unlawful acts, registrant delivering or dispensing controlled substance);
475.916 (Prohibited acts involving records and fraud);
475.918 (Falsifying drug test results);
475.920 (Providing drug test falsification equipment);
475.950 (Failure to report precursor substances transaction);
475.955 (Failure to report missing precursor substances);
475.960 (Illegally selling drug equipment);
475.965 (Providing false information on precursor substances report or record);
475.969 (Unlawful possession of phosphorus);
475.971 (Unlawful possession of anhydrous ammonia);
475.973 (Unlawful possession of ephedrine, pseudoephedrine or phenylpropranolamine; unlawful distribution);
475.975 (Unlawful possession of iodine in its elemental form);
475.976 (Unlawful possession of iodine matrix);
657.300 (False Statements or Failure to Report Material Fact by Employer);
657.495 (Fraudulently Lowering Contributions);
658.415 (False Swearing or Affirmation of Application of License, Proof of Insurance and Financial Responsibilities of Farm Labor Contractors);
659.810 (Filing a False Statement with Employment Agency to Secure Labor);

679.170(3) (Fraudulent Alteration of Diploma, Certificate or Transcript);
679.170(5) (Willful False Statement to Oregon Board of Dentistry);
689.995 (Willfully Furnishing False Information; Pharmacists, Drug Outlets, Drug Sales);
807.520 (False swearing to receive license);
807.620 (Giving false information to police officer);
Any offense involving any acts of domestic violence as defined in ORS 135.230.

(b) The Department must take action on a mandatory disqualifying conviction, regardless of when it occurred, unless the Department, or the Board, has previously reviewed the conviction and approved the public safety professional or instructor for certification under a prior set of standards.

Discretionary Disqualifying Misconduct as Grounds for Denying or Revoking Certification

(4) Discretionary disqualifying misconduct as Grounds for Denying or Revoking Certification(s) of a Public Safety Professional or Instructor:

(a) The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

(A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor has engaged in conduct that fails to meet the applicable minimum standards as described in subsection (b), minimum training or the terms and conditions established under ORS 181.640;

(C) The public safety professional or instructor has engaged in conduct that resulted in the conviction of an offense, punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction. Presumptive categories have been identified for the crimes listed in subsection (4), based solely on the elements of the crime. Other categories may apply based on the conduct leading to the conviction; or

(D) A public safety professional failed to attend at least one session with a mental health professional within six months after the public safety professional was involved in using deadly physical force, as required by ORS 181.789.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect or serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. By definition, all criminal convictions meet the definition of Misconduct within this category. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

(c) For discretionary disqualifying misconduct, the applicable category will be determined based on the facts of each case. Discretionary disqualifying misconduct under (a)(C) includes, but is not limited to, the following list, which identifies the applicable category for each listed discretionary offense, based on the elements of the crime.

NOTE: Those criminal convictions not listed below are presumptively considered Misconduct (Category V):
25.260 (Unlawful Disclosure of Confidential Records of Child Support Division) — Category II;
162.405 (Official Misconduct in the Second Degree) — Category III;
162.425 (Misuse of Confidential Information) — Category III;
162.465 (Unlawful Legislative Lobbying) — Category I;
163.160 (Assault in the Fourth Degree) — Category II;

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163.187 (Strangulation) — Category II;
163.190 (Menacing) — Category II;
163.195 (Recklessly Endangering Another Person) — Category IV;
163.212 (Unlawful Use of Stun Gun, Tear Gas or Mace in the Second Degree) — Category IV;
163.415 (Sexual Abuse in the Third Degree) — Category II;
163.435 (Contributing to the Sexual Delinquency of a Minor) — Category II;
163.445 (Sexual Misconduct) — Category II;
163.465 (Public Indecency) — Category II;
163.467 (Private Indecency) — Category II;
163.545 (Child Neglect in the Second Degree) — Category IV;
163.693 (Failure to Report Child Pornography) — Category IV;
163.575 (Endangering the Welfare of a Minor) — Category III;
163.700 (Invasion of Personal Privacy) — Category II;
163.709 (Unlawful Directing of Light from a Laser Pointer) — Category IV;
164.162 (Mail Theft or Receipt of Stolen Mail) — Category I;
164.265 (Criminal Trespass While in Possession of a Firearm) — Category IV;
164.272 (Unlawful Entry into a Motor Vehicle) — Category IV;
164.335 (Reckless Burning) — Category IV;
164.785 (Placing Offensive Substances in waters/on highways or property) — Category IV;
164.845 (FTA on Summons for ORS 164.813 or 164.825) — Category IV;
164.887 (Interference with Agricultural Operations) — Category II;
165.540 (Obtaining Contents of Communications) — Category IV;
165.570 (Improper Use of Emergency Reporting System) — Category IV;
165.572 (Interference with Making a Report) — Category II;
165.577 (Cellular Counterfeiting in the Third Degree) — Category I;
165.805 (Misrepresentation of Age by a Minor) — Category I;
166.025 (Disorderly Conduct in the Second Degree) — Category IV;
166.027 (Disorderly Conduct in the First Degree) — Category IV;
166.075 (Abuse of Venerated Objects) — Category II;
166.076 (Abuse of a Memorial to the Dead) — Category II;
166.090 (Telephonic Harassment) — Category II;
166.095 (Misconduct with Emergency Telephone Calls) — Category IV;
166.155 (Intimidation in the Second Degree) — Category II;
166.180 (Negligently Wounding Another) — Category IV;
166.190 (Pointing a Firearm at Another) — Category IV;
166.240 (Carrying a Concealed Weapon) — Category IV;
166.250 (Unlawful Possession of a Firearm) — Category IV;
166.320 (Setting of a Springgun or Setgun) — Category IV;
166.385 (Possession of Hoax Destructive Device) — Category IV;
166.425 (Unlawful Purchase of Firearm) — Category I;
166.427 (Register of Transfers of Used Firearms) — Category IV;
166.480 (Sale or Gift of Explosives to Children) — Category IV;
166.635 (Discharging Weapon or Throwing Object at Trains) — Category IV;
166.638 (Discharging Weapon Across Airport Operational Surfaces) — Category IV;
166.649 (Throwing Object off Overpass in the Second Degree) — Category IV;
167.312 (Research and Animal Interference) — Category II;
167.315 (Animal Abuse in the Second Degree) — Category IV;
167.325 (Animal Neglect in the Second Degree) — Category IV;
167.340 (Animal Abandonment) — Category IV;
167.352 (Interfering with Assistance, Search and Rescue or Therapy Animal) — Category IV;
167.385 (Unauthorized Use of Livestock Animal) — Category II;
167.388 (Interference with Livestock Production) — Category II;
167.808 (Unlawful Possession of Inhalants) — Category IV;
167.810 (Creating a Hazard) — Category IV;
167.822 (Improper Repair Vehicle Inflatable Restraint System) — Category IV;
241.525 (Corrupt Practices) — Category III;
Chapter 319 (Any Violation Involving a False Statement – Motor Vehicle and Aircraft Fuel Tax) — Category I;
411.320 (Disclosure and Use of Public Assistance Records) — Category II;
468.956 (Refusal to Produce Material Subpoenaed by the Commission) — Category IV;
471.410 (Providing Liquor to Person under 21 or to Intoxicated Person) — Category IV;
609.805 (Misrepresentation of Pedigree; Mutilation of Certificate or Proof of Pedigree) — Category I;
609.990(3)(a) (Violation of ORS 609.098 — Maintaining a Dangerous Dog) — Category IV;
632.470 (False Representation as to Raising, Production or Packaging) — Category I;
632.475 (Possession of Unlabeled, Falsely Labeled or Deceptively Packed Products) — Category I;
657.295 (Violation of Unemployment Insurance Witness Fees, Disputed Claims Expenses and Counsel Fees) — Category I;
659-800 (Use of Force or Misrepresentation to Prevent Employment) — Category I;
659.805 (Blacklisting and Blackmailing) — Category II;
659-815 (Deceptive Representations or Advertisements by Persons Employing Labor) — Category I;
659.845 (Fraudulently Accepting Advancement and Refusing to Work) — Category I;
661.040 (Violation of Limitations of Fees Charged laborers by Collective Bargaining Agents) — Category I;
661.260 (False Filing or Fraudulent Filing) — Category I;
688.120 (Fraudulent Representation as a Physical Therapist or Physical Therapist Assistant) — Category I;
731.260 (False or Misleading Filings; Insurance Code) — Category I;
803.225 (Failure to Designate Replica.. Vehicle in Title or Registration Application) — Category I;
807.430 (Misuse of Identification Card) — Category I;
807.510 (Transfer of documents for the purpose of misrepresentation) — Category I;
807.530 (False Application for License) — Category I;
807.580 (Using Invalid License) — Category I;
807.590 (Permitting Misuse of License) — Category I;
807.600 (Using Another's License) — Category I;
811.060 (Vehicular Assault of Bicyclist or Pedestrian) — Category IV;
811.140 (Reckless Driving) — Category IV;
811.182 (Criminal Driving While Suspended or Revoked) — Category IV;

811.231 (Reckless Endangerment of Highway Workers) — Category IV;
811.540 (Fleeing or Attempt to Elude a Police Officer) — Category IV;
811.700 (Failure to Perform Duties of Driver when Property is Damaged) — Category IV;
811.740 (False Accident Report) — Category I;
813.010 (Driving Under the Influence of Intoxicants) — Category IV;
825.990(3)(d) (False Material Statement or Representation in any Application, Label, Manifest, Record, Report, Permit or Other Document Filed, Maintained or Used for Purposes of Compliance) — Category I;
825.990(3)(e) (Failure to Include Material Information Required by Department of Transportation) — Category I;
830.035(2) (Fleeing; Attempts to Elude) — Category IV;
830.053 (False or Fraudulent Report of Theft of Boat) — Category I;
830.315(1) (Reckless Operation) — Category IV;
830.325 (Operate a Boat while Under the Influence of Intoxicating Liquor or Controlled Substance) — Category IV;
830.475(1) (Failure to Perform the Duties of an Operator at Accident) — Category IV;
830.730 (False Information) — Category I;
830.994 (Operates a Boat in Violation of a Court Order) — Category IV;
837.080 (Prohibited Operation of an Aircraft) — Category IV.

Initial Periods of Ineligibility

(d) Upon determination to proceed with the denial or revocation of a public safety professional's or instructor's certification based on discretionary disqualifying misconduct identified in subsection (a), an initial minimum period of ineligibility to apply for certification will be determined based upon the category of misconduct (i.e., Dishonesty, Disregard for Rights of Others, Misuse of Authority, Gross Misconduct, Misconduct or Insubordination).

(e) Following review and recommendation by a Policy Committee, the Board will determine the initial minimum period of ineligibility for discretionary disqualifying misconduct identified in subsection (a) from the time frame identified below for each category of discretionary disqualifying misconduct:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

Eligibility to Reapply; Ineligibility Periods

(5) A person is not eligible to reapply for training or certification if the person had training or certification denied or revoked for:

- (a) Mandatory grounds identified in section (3) of this rule; or
- (b) Discretionary Disqualifying Misconduct identified in section (4) of this rule that is determined to be a Category I lifetime disqualifier.

(6) Eligibility to reapply for certification:

(a) In determining the initial minimum period of ineligibility within any category for discretionary disqualifying misconduct listed in section (4) of this rule, the Board will take into consideration any mitigating or aggravating factors, subject to the provisions of section (9) of this rule.

(b) The initial minimum period of ineligibility will be included in any Final Order of the Department.

(c) Any subsequent eligibility to apply for certification will be determined by the Board, after Policy Committee review, subject to the provisions of section (11) of this rule.

Guidelines for Denial or Revocation Based on Discretionary Disqualifying Misconduct

(7) In determining whether to take action on a conviction, the Department must use the following guidelines:

(a) In making a decision on a discretionary denial or revocation, the Department will consider the implementation dates relating to new mandatory conviction notification requirements adopted in 2003 and statutory changes dealing with lifetime disqualifier convictions for public safety officers adopted in 2001.

(b) The Department will not take action on a conviction constituting discretionary disqualifying misconduct that occurred prior to January 1, 2001. However, the Department may consider such conviction as evidence that a public safety professional or instructor does not meet the established moral fitness guidelines.

(c) The Department may take action on any conviction constituting discretionary disqualifying misconduct that occurred after January 1, 2001, however, crimes with a presumptive category of only Misconduct (Category V) may be appropriate for summary staff disposition or administrative closure if the conviction occurred seven years or more prior to the date of review and it represents the sole criminal conviction in the public safety professional's or instructor's history.

(d) The Board may reconsider any mandatory conviction which subsequently becomes a conviction constituting discretionary disqualifying misconduct, upon the request of the public safety professional or instructor.

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(e) The length of ineligibility for training or certification based on a conviction begins on the date of conviction.

(f) The Department will not take action against a public safety professional, instructor, or agency for failing to report, prior to January 1, 2003, a conviction that constitutes discretionary disqualifying misconduct.

(g) The Department may take action against a public safety professional, instructor, or agency for failing to report, after January 1, 2003, any conviction that constitutes discretionary disqualifying misconduct.

Procedure for Denial or Revocation of a Certificate

(8) Scope of Revocation. Whenever the Department revokes the certification of any public safety professional or instructor under the provisions of OAR 259-008-0070, the revocation will encompass all public safety certificates, except fire certification(s), the Department has issued to that person.

(9) Denial and Revocation Procedure.

(a) Agency Initiated Review: When the entity utilizing a public safety professional or instructor requests that a public safety professional's or instructor's certification be denied or revoked, it must submit in writing to the Department the reason for the requested denial or revocation and all factual information supporting the request.

(b) Department Initiated Review: Upon receipt of factual information from any source, and pursuant to ORS 181.662, the Department may request that the public safety professional's or instructor's certification be denied or revoked.

(c) Department Staff Review: When the Department receives information, from any source, that a public safety professional or instructor may not meet the established standards for Oregon public safety professionals or instructors, the Department will review the request and the supporting factual information to determine if the request for denial or revocation meets statutory and administrative rule requirements.

(A) If the reason for the request does not meet the statutory and administrative rule requirements for denial or revocation the Department will notify the requestor.

(B) If the reason for the request does meet statutory and administrative rule requirements but is not supported by adequate factual information, the Department will request further information from the employer or conduct its own investigation of the matter.

(C) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying misconduct listed in subsection (4), the case may be presented to the Board, through a Policy Committee.

(D) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board's review.

(E) In misconduct cases in which there has been an arbitrator's opinion related to the public safety professional's or instructor's employment, the Department will proceed as follows:

(i) If the arbitrator's opinion finds that underlying facts supported the allegations of misconduct, the department will proceed as identified in paragraphs (A) through (D) of this subsection.

(ii) If the arbitrator has ordered employment reinstatement after a discharge for cause without a finding related to whether the misconduct occurred, the Department will proceed as identified in paragraphs (A) through (D) of this subsection.

(iii) If the arbitrator's opinion finds that underlying facts did not support the allegation(s) of misconduct, the Department will proceed as identified in paragraph (A) of this subsection and administratively close the matter.

(d) Policy Committee and Board Review: In making a decision to authorize initiation of proceedings under subsection (e) of this rule, based on discretionary disqualifying misconduct, the Policy Committees and Board will consider mitigating and aggravating circumstances, including, but not limited to, the following:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire; and

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self-reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor; and

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

(e) Initiation of Proceedings: Upon determination that the reason for denial or revocation is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared and served on the public safety professional or instructor.

(f) Contested Case Notice:

(A) All contested case notices will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules or Procedures adopted under OAR 259-005-0015.

(B) In discretionary cases heard by a policy committee, the contested case notice will be served on the public safety professional or instructor prior to Board review. If the Board disapproves the policy committee's recommendation, the Department will withdraw the Contested Case Notice.

(g) Response Time:

(A) A party who has been served with a "Contested Case Notice of Intent to Deny Certification" has 60 days from the date of mailing or personal service of the notice in which to file a written request for a hearing with the Department.

(B) A party who has been served with the "Contested Case Notice of Intent to Revoke Certification" has 20 days from the date of mailing or personal service of the notice in which to file a written request for hearing with the Department.

(h) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0672.

(i) Hearing Request: If a timely request for a hearing is received, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(j) Proposed and Final Orders:

(A) In cases in which a hearing is requested, proposed orders, exceptions, and final orders will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedures adopted under OAR 259-005-0015.

(B) Department-proposed amendments to a proposed order issued by an Administrative Law Judge in a case that was originally heard by a policy committee must be considered and approved by the policy committee that originally reviewed the case before a final order can be issued.

(k) Stipulated Order Revoking Certification: The Department may enter a stipulated order revoking the certification of a public safety professional or instructor upon the person's voluntary agreement to terminate an administrative proceeding to revoke a certification, or to relinquish a certification, under the terms and conditions outlined in the stipulated order.

Appeals, Reapplication, and Eligibility Determinations

(10) Appeal Procedure. A public safety professional or instructor, aggrieved by the findings and Order of the Department may, as provided in ORS 183.480, file an appeal with the Court of Appeals from the final Order of the Department.

(11) Reapplication Process.

(a) Any public safety professional or instructor whose certification has been denied or revoked pursuant to section (4) of this rule, may reapply for certification within the applicable timeframes described in sections (4) through (6) of this rule. The initial minimum ineligibility period will

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begin on the date an Order of the Department denying or revoking certification becomes final. The initial minimum ineligibility period will cease when the applicable timeframe stated in the Order has been satisfied

(b) Any public safety professional or instructor whose certification has been denied or revoked based on discretionary disqualifying misconduct may not reapply for certification until:

(A) The initial minimum period of ineligibility stated in an Order of the Department denying or revoking certification has been satisfied;

(i) If the initial period of ineligibility for the individual was for a period of less than the maximum period identified in section (4) of this rule, and the Board determines that an individual must remain ineligible to apply for certification, then the individual may not reapply for certification under the provisions of this rule until after the maximum initial period of ineligibility identified in (4) of this rule has been satisfied.

(ii) If the individual has satisfied the maximum initial period of ineligibility and the Board determines that an individual must remain ineligible to apply for certification, then the individual may not submit any further requests for an eligibility determination, and the original denial or revocation remains permanent.

(B) A written request for an eligibility determination has been submitted to the Department and a Policy Committee has recommended that a public safety professional's or instructor's eligibility to apply for public safety or instructor certification be restored and the Board has upheld the recommendation;

(i) A request for an eligibility determination should include documentation or information that supports the public safety professional's or instructor's request for eligibility to apply for certification.

(ii) In considering a request for an eligibility determination, the Policy Committee and the Board may consider mitigating and aggravating circumstances identified in Section 9(d) of this rule.

(iii) After reviewing a written request for an eligibility determination, the Board, through a Policy Committee, may determine that the individual's eligibility to apply for certification be restored if the criteria for certification have been met; or determine that the factors that originally resulted in denial or revocation have not been satisfactorily mitigated and the individual must remain ineligible to apply for certification.

(C) The public safety professional or instructor is employed or utilized by a public safety agency; and

(D) All requirements for certification have been met.

Stat. Auth.: ORS 181.640, 181.661, 181.662, 181.664 & 183.341

Stats. Implemented: ORS 181.640, 181.661, 181.662 & 181.664

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1980(Temp), f. & ef. 6-26-80; PS 2-1980, f. & ef. 12-8-80; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0055, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 6-2000, f. & cert. ef. 9-29-00; BPSST 14-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp) f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-02; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 7-2003, f. & cert. ef. 4-11-03; DPSST 7-2004, f. & cert. ef. 4-23-04; DPSST 10-2006, f. & cert. ef. 7-6-06; DPSST 16-2008, f. & cert. ef. 10-15-08; DPSST 21-2008, f. 12-15-08, cert. ef. 1-1-09; DPSST 11-2011, f. & cert. ef. 7-1-11; DPSST 11-2012, f. & cert. ef. 4-24-12; DPSST 19-2012, f. & cert. ef. 8-31-12; DPSST 22-2012, f. & cert. ef. 10-23-12; DPSST 26-2012(Temp), f. & cert. ef. 12-14-12 thru 6-12-13; DPSST 3-2013, f. & cert. ef. 1-22-13; DPSST 21-2013, f. & cert. ef. 9-23-13

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Rule Caption: Housekeeping: To correct typographical errors, ambiguous language and provide consistency and clarity.

Adm. Order No.: DPSST 22-2013

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Rules Amended: 259-009-0000, 259-009-0005, 259-009-0010, 259-009-0020, 259-009-0025, 259-009-0035, 259-009-0059, 259-009-0062, 259-009-0063, 259-009-0065, 259-009-0067, 259-009-0070, 259-009-0085, 259-009-0087, 259-009-0090, 259-009-0100

Rules Repealed: 259-009-0030

Subject: The rule set was reviewed for typographical errors and ambiguous language; as well as consistency and clarity. Additionally, this proposed rule repeals OAR 259-009-0030 (Fire Policy Committee) to eliminate redundancy.

Rules Coordinator: Linsay Hale—(503) 378-2431

259-009-0000

Policies and Objectives

(1) The policies of the Board and Department in response to ORS 181.630 are:

(a) The Board and Department exist to develop talented individuals into public safety providers who are:

(A) Culturally competent;

(B) Ethically, physically and emotionally fit; and

(C) Well trained, highly skilled and responsive to the needs of their communities.

(b) The Board and Department will promote the safety, efficiency, effectiveness, self-sufficiency and competence of fire service professionals.

(c) The Board and Department will support collaboration among fire service organizations and the related organizations with whom they work and the interests of the communities they serve.

(d) The Board and Department will consult with and inform each other fully on matters of fire standards, training and certification.

(e) The Board must adopt or approve all policies, standards and minimum requirements for public safety certifications and training.

(f) The Department must administer operations and procedures and implement or apply the policies and standards of the Board.

(g) The Department is and remains a full department of the state.

(2) The objectives of the Board and Department are:

(a) To improve public safety services in Oregon by raising the level of competence of fire service professionals.

(A) By establishing minimum standards for the training and certification of fire professionals.

(B) By providing, sponsoring, certifying or coordinating fire training courses.

(b) To conduct, facilitate, and promote studies and research designed to improve fire service within the state, and to assist in the implementation of Board recommendations.

Stat. Auth.: ORS 181.630 & 181.640

Stats. Implemented: ORS 181.630 & 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 22-2013, f. & cert. ef. 10-3-13

259-009-0005

Definitions

(1) "Advanced Wildland Interface Fire Fighter (FFT1)" means a person who is an entry level supervisory position with the knowledge and skills to tactically supervise other fire line firefighters.

(2) "Agency Head" means the chief officer of a fire service agency directly responsible for the administration of that unit.

(3) "Authority having jurisdiction" means the Department of Public Safety Standards and Training.

(4) "Board" means the Board on Public Safety Standards and Training.

(5) "Chief Officer" means an individual of an emergency fire agency at a higher level of responsibility than a company officer. A chief officer supervises two or more fire companies in operations or manages and supervises a particular fire service agency program such as training, communications, logistics, prevention, emergency medical services provisions and other staff related duties.

(6) "Community College" means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including but not limited to vocational or technical education programs or lower division collegiate programs.

(7) "Company Officer" means a fire officer who supervises a company of fire fighters assigned to an emergency response apparatus.

(8) "Content Expert" means a person who documents their experience, knowledge, training and education for the purposes of course instruction.

(9) "Content Level Course" is a course that includes an identifiable block of learning objectives or outcomes that are required for certification at one or more levels.

(10) "Department" means the Department of Public Safety Standards and Training.

(11) "Director" means the Director of the Department of Public Safety Standards and Training.

(12) "Entry Level Fire Fighter" means an individual at the beginning of his/her fire service involvement. During the probationary period, an entry level fire fighter is in a training and indoctrination period under constant supervision by a more senior member of a fire service agency.

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(13) "Field Training Officer" means an individual who is authorized by a fire service agency or by the Department to sign as verifying completion of tasks required by task books.

(14) "Fire Company" means a group of fire fighters, usually three or more, who staff and provide the essential emergency duties of a particular emergency response apparatus.

(15) "Fire Fighter" is a term used to describe an individual who renders a variety of emergency response duties primarily to save lives and protect property. This applies to career and volunteer personnel.

(16) "Fire Ground Leader" means a Fire Service Professional who is qualified to lead emergency scene operations."

(17) "Fire Inspector" means an individual whose primary function is the inspection of facilities in accordance with the specific jurisdictional fire codes and standards.

(18) "Fire Service Agency" means any unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide, fire protection services.

(19) "Fire Service Professional" means a paid (career) or volunteer fire fighter, an officer or a member of a public or private fire protection agency who is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not include forest fire protection agency personnel.

(20) "Fire Training Officer" means a fire service member assigned the responsibility for administering, providing, and managing or supervising a fire service agency training program.

(21) "First Responder" means an "NFPA Operations Level Responder."

(22) "NFPA" stands for National Fire Protection Association which is a body of individuals representing a wide variety of professions, including fire protection, who develop consensus standards and codes for fire safety by design and fire protection agencies.

(23) "NFPA Aircraft Rescue and Fire-Fighting Apparatus" means a Fire Service Professional who has met the requirements of Fire Fighter II as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4, NFPA Airport Fire Fighter as specified in NFPA 1003 and the job performance requirements defined in NFPA 1002 Sections 9.1 and 9.2.

(24) "NFPA Airport Firefighter" means a member of a Fire Service Agency who has met job performance requirements of NFPA Standard 1003.

(25) "NFPA Apparatus Equipped with an Aerial Device" means a Fire Service Professional who has met the requirements of Fire Fighter I as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 6.1 and 6.2.

(26) "NFPA Apparatus Equipped with a Tiller" means a Fire Service Professional who has met the requirements of Fire Fighter I as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4, Apparatus Equipped with an Aerial Device as specified in NFPA 1002 Chapter 6 and the job performance requirements defined in NFPA 1002 Sections 7.2.

(27) "NFPA Apparatus Equipped with Fire Pump" means a Fire Service Professional who has met the requirements of Fire Fighter I as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 5.1 and 5.2.

(28) "NFPA Cargo Tank Specialty" means a person who provides technical support pertaining to cargo tank cars, provides oversight for product removal and movement of damaged cargo tanks, and acts as liaison between technicians and outside resources.

(29) "NFPA Confined Space Rescue" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 7 sections 7.1 and 7.2.

(30) "NFPA Dive Rescue" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 11 sections 11.1 and 11.2, and Chapter 13 sections 13.1 and 13.2.

(31) "NFPA Fire Apparatus Driver/Operator" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1002, Chapter 4 sections 4.2 and 4.3.

(32) "NFPA Fire Fighter I" means a member of a fire service agency who has met the Level I job performance requirements of NFPA standard 1001 (sometimes referred to as a journeyman fire fighter).

(33) "NFPA Fire Fighter II" means a member of a fire service agency who met the more stringent Level II job performance requirements of NFPA Standard 1001 (sometimes referred to as a senior fire fighter).

(34) "NFPA Fire Inspector I" means an individual who conducts basic fire code inspections and has met the Level I job performance requirements of NFPA Standard 1031.

(35) "NFPA Fire Inspector II" means an individual who conducts complicated fire code inspections, reviews plans for code requirements, and recommends modifications to codes and standards. This individual has met the Level II job performance requirements of NFPA standard 1031.

(36) "NFPA Fire Inspector III" means an individual at the third and most advanced level of progression who has met the job performance requirements specified in this standard for Level III. The Fire Inspector III performs all types of fire inspections, plans review duties, and resolves complex code-related issues.

(37) "NFPA Fire Instructor I" means a fire service instructor who has demonstrated the knowledge and ability to deliver instruction effectively from a prepared lesson plan, including instructional aids and evaluation instruments; adapts lesson plans to the unique requirements of the students and the authority having jurisdiction; organizes the learning environment so that learning is maximized; and meets the record-keeping requirements of the authority having jurisdiction.

(38) "NFPA Fire Instructor II" means a fire service instructor who, in addition to meeting NFPA Fire Instructor I qualifications, has demonstrated the knowledge and ability to develop individual lesson plans for specific topics, including learning objectives, instructional aids, and evaluation instruments; schedules training sessions based on an overall training plan for the authority having jurisdiction; and supervises and coordinates the activities of other instructors.

(39) "NFPA Fire Instructor III" means a fire service instructor who, in addition to meeting NFPA Fire Instructor II qualifications, has demonstrated the knowledge and ability to develop comprehensive training curricula and programs for use by single or multiple organizations; conducts organization needs analysis; and develops training goals and implementation strategies.

(40) "NFPA Fire Investigator" means an individual who conducts post fire investigations to determine the cause and the point of origin of a fire. This individual has met the job performance requirements of NFPA Standard 1033.

(41) "NFPA Fire Officer I" means a fire officer, at the supervisory level, who has met the job performance requirements specified in NFPA 1021 Standard Fire Officer Professional Qualifications (company officer rank).

(42) "NFPA Fire Officer II" means the fire officer, at the supervisory/managerial level, who has met the job performance requirements in NFPA Standard 1021 (station officer, battalion chief rank).

(43) "NFPA Fire Officer III" means a fire officer, at the managerial/administrative level, who has met the job performance requirements in NFPA Standard 1021 (district chief, assistant chief, division chief, deputy chief rank).

(44) "NFPA Fire Officer IV" means a fire officer, at the administrative level, who has met the job performance requirements in NFPA Standard 1021 (fire chief).

(45) "NFPA Incident Commander" (IC) means a person who is responsible for all incident activities, including the development of strategies and tactics and the ordering and release of resources.

(46) "NFPA Intermodal Tank Specialty" means a person who provides technical support pertaining to intermodal tanks, provides oversight for product removal and movement of damaged intermodal tanks, and acts as a liaison between technicians and outside resources.

(47) "NFPA Hazardous Materials Safety Officer" means a person who works within an incident management system (IMS), specifically, the hazardous materials branch/group, to ensure that recognized hazardous materials or weapons of mass destruction (WMD) safe practices are followed at hazardous materials or WMD incidents.

(48) "NFPA Hazardous Materials Technician" means a person who responds to hazardous materials or WMD incidents using a risk-based response process where they analyze a problem involving hazardous materials or WMD, select applicable decontamination procedures, and control a release using specialized protective and control equipment.

(49) "NFPA Marine Land-Based Fire Fighter" means a member of a fire service agency who meets the job performance requirements of NFPA 1005.

(50) "NFPA Marine Tank Vessel Specialty" means a person who provides technical support pertaining to marine tank vessels, provides over-

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sight for product removal and movement of damaged marine tank vessels, and acts as a liaison between technicians and outside resources.

(51) “NFPA Mobile Water Supply Apparatus” means a Fire Service Professional who has met the requirements of Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 10.1 and 10.2.

(52) “NFPA Operations Level Responder” means a person who responds to hazardous materials or WMD incidents for the purpose of implementing or supporting actions to protect nearby persons, the environment, or property from the effects of the release.

(53) “NFPA Rope Rescue — Level I” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 6 section 6.1.

(54) “NFPA Rope Rescue — Level II” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 6 section 6.2.

(55) “NFPA Structural Collapse Rescue” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 9 sections 9.1 and 9.2.

(56) “NFPA Surf Rescue” means a Fire Service Professional who had met the job performance requirements defined in NFPA 1006, Chapter 11 sections 11.1 and 11.2, and Chapter 15 sections 15.1 and 15.2.

(57) “NFPA Surface Water Rescue — Level I” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 11 section 11.1.

(58) “NFPA Surface Water Rescue — Level II” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 11 section 11.2.

(59) “NFPA Swiftwater Rescue” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 6 sections 6.1 and 6.2, Chapter 11 sections 11.1 and 11.2, and Chapter 12 sections 12.1 and 12.2.

(60) “NFPA Tank Car Specialty” means a person who provides technical support pertaining to tank cars, provides oversight for product removal and movement of damaged tank cars, and acts as a liaison between technicians and outside resources.

(61) “NFPA Trench Rescue” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 8 sections 8.1 and 8.2.

(62) “NFPA Vehicle and Machinery Rescue” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 10 sections 10.1 and 10.2.

(63) “NFPA Wildland Fire Apparatus” means a Fire Service Professional who has met the requirements of Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 8.1 and 8.2.

(64) “Service Delivery” means to be able to adequately demonstrate, through job performance, the knowledge, skills, and abilities of a certification level.

(65) “Staff” means employees occupying full-time, part-time, or temporary positions with the Department.

(66) “Task Performance” means to demonstrate the ability to perform tasks of a certification level, in a controlled environment, while being evaluated.

(67) “The Act” refers to the Public Safety Standards and Training Act (ORS 181.610 to 181.705).

(68) “Topical Level Course” is a course that does not include an identifiable block of learning objectives or outcomes that are required for certification at one or more levels.

(69) “Track” means a field of study required for certification.

(70) “Waiver” means to refrain from pressing or enforcing a rule.

(71) “Wildland Interface Crew Boss” means a person who is in a supervisory position in charge of 16 to 21 fire fighters and is responsible for their performance, safety, and welfare.

(72) “Wildland Interface Division/Group Supervisor” means a person who is responsible to act in an ICS position responsible for commanding and managing resources on a particular geographic area of a wildland fire (reports to a branch director or operations section chief).

(73) “Wildland Interface Engine Boss” means a person in supervisory position who has demonstrated the skills and depth of knowledge necessary to function under general supervision while operating a piece of apparatus such as an engine.

(74) “Wildland Interface Fire Fighter (FFT2)” means a person at the first level of progression who has demonstrated the knowledge and skills necessary to function safely as a member of a wildland fire suppression

crew whose principal function is fire suppression. This position has direct supervision.

(75) “Wildland Interface Strike Team Leader Crew” means a person who is responsible to act in an ICS position and is responsible for the direct supervision of a crew strike team.

(76) “Wildland Interface Strike Team Leader Engine” means a person who is responsible to act in an ICS position and is responsible for the direct supervision of an engine strike team.

(77) “Wildland Interface Structural Group Supervisor” means a person who is responsible to act in an ICS position responsible for supervising equipment and personnel assigned to a group. Groups are composed of resources assembled to perform a special function not necessarily within a single geographic division. Groups, when activated, are located between branches and resources in the operations section (reports to a branch director or operations section chief).

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 2-2006, f. & cert. ef. 1-24-06; DPSST 9-2006, f. & cert. ef. 7-7-06; DPSST 2-2007, f. & cert. ef. 1-12-07; DPSST 10-2008, f. & cert. ef. 7-15-08; DPSST 7-2009, f. & cert. ef. 7-13-09; DPSST 12-2009, f. & cert. ef. 10-15-09; DPSST 16-2009(Temp), f. & cert. ef. 12-15-09 thru 6-11-10; DPSST 5-2010, f. 6-11-10, cert. ef. 6-14-10; DPSST 11-2010, f. & cert. ef. 11-12-10; DPSST 3-2011, f. 3-28-11, cert. ef. 5-1-11; DPSST 12-2011, f. & cert. ef. 8-1-11; DPSST 21-2012, f. & cert. ef. 10-1-12; DPSST 8-2013, f. & cert. ef. 3-26-13; DPSST 22-2013, f. & cert. ef. 10-3-13

259-009-0010

Personnel Action Forms

(1) All public or private fire service agencies will furnish to the Department the name, address, and other pertinent information concerning any newly appointed fire service professional on a Personnel Agency Form within 30 business days after employment.

(2) Whenever fire service personnel resign, retire, terminate employment, are discharged, or die, the agency head will report the information to the Department on a Personnel Agency Form within 30 business days of the action.

(a) The agency must notify the Department in writing when a fire service professional is promoted to a fire chief position, when a new agency head designee is assigned, or when a fire service professional is promoted to a training officer position.

(b) The agency must notify the Department in writing when a fire service professional is no longer assigned the duties of a fire chief, agency head designee or training officer.

(3) All applicable sections of the Personnel Agency Form must be completed and signed by the agency head or an authorized representative. Fire service personnel are not allowed to sign their own forms.

(4) All applicants will furnish to the Department on a Personnel Agency Form their social security number. The social security number is used to accurately identify the applicant and to verify information provided by fire service professionals under the Act in connection with revocation proceedings.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 22-2013, f. & cert. ef. 10-3-13

259-009-0020

Waiver for Equivalent Training or Experience — Reciprocity

(1) The Board or its designee may waive the completion of any course required by OAR 259-009-0025 upon presentation of documentary evidence by a fire service agency that the fire service professional has satisfactorily completed equivalent training or experience.

(2) In order to be considered for equivalency, training received in a state with laws governing or regulating training of fire service professionals must have been approved or certified by the employing agency in the state where the training was received.

(3) The Department may elect to prescribe, as a condition of certification, successful completion of specified courses or remedial training.

(4) The Department may enter into standing reciprocity compacts or agreements with States, that by law, regulate and supervise the quality of fire service training and require a minimum number of hours of classroom training equivalent to the standards established by the Board.

Stat. Auth.: ORS 181.660

Stats. Implemented: ORS 181.660

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 22-2013, f. & cert. ef. 10-3-13

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259-009-0025

College Education Credits

(1) The Department will only recognize credits awarded by an accredited, degree-granting college or a university of post-secondary education, which is recognized by the Council for Higher Education (CHEA) or by the Council on Postsecondary Accreditation (COPA)/Commission of Recognition of Postsecondary Accreditation (CORPA), as outlined in the current edition of the Higher Education Directory (HED).

(2) College credits used for certification obtained in a foreign country, which certificate, credential, or degree is claimed to be comparable to a certificate, credential, or degree granted by a licensing body in the United States or US Territories must be evaluated by a credentialing agency that is a member of the National Association of Credential Evaluation Services (NACES). The Department/Board has no responsibility for obtaining or paying for the evaluation and arranging for an official copy to be sent by the evaluating agency to the Department. The evaluation must be approved by the Department, based upon review of an official copy sent by the evaluating agency directly to the Department, before the educational credit is accepted as equivalent.

(3) Certification Credit. Persons wishing to document college education must furnish official transcripts or a certified true copy of official transcripts to the Department. Courses can only be accepted for credit towards certification if the class has been successfully passed with a "C" or better.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 22-2013, f. & cert. ef. 10-3-13

259-009-0035

Certificates Are Property of Department

Certificates and awards are the property of the Department. The Department has the power to revoke or suspend any certificate or award as provided in the Act.

Stat. Auth.: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665

Stats. Implemented: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 22-2013, f. & cert. ef. 10-3-13

259-009-0059

Minimum Standards for Employment as a Fire Service Professional

(1) No person may be certified as a Fire Service Professional who is not 18 years of age.

(2) Only training received after attaining the age of 16 will be applied for certification purposes.

(3) DPSST Fire Service Agency affiliation must be attained after the age of 16 via submission of a (Personnel Agency Form).

(4) Fingerprints. Any individual utilized by a fire service agency that is identified in the Oregon LEDS system as a multi-source offender is required to be fingerprinted on standard applicant fingerprint cards. The hiring agency is responsible for fingerprinting and must forward one (1) card, with the appropriate fees to the Department.

(5) Notification of Conviction:

(a) A fire service professional or instructor who is convicted of a crime, as identified in OAR 259-009-0070, while employed by a fire service agency must notify the agency head within five business days of the conviction.

(b) When an agency receives notification of a conviction from a fire service professional, instructor, or another source, the agency must notify the Department within 30 calendar days. The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of the conviction.

Stat. Auth.: ORS 181.610 & 181.640

Stats. Implemented: ORS 181.610 & 181.640

Hist.: DPSST 1-2006(Temp), f. & cert. ef. 1-23-06 thru 6-1-06; DPSST 5-2006, f. & cert. ef. 5-3-06; DPSST 7-2009, f. & cert. ef. 7-13-09; DPSST 22-2013, f. & cert. ef. 10-3-13

259-009-0062

Fire Service Personnel Certification

(1) A fire service professional affiliated with an Oregon fire service agency may be certified by:

(a) Satisfactorily completing the requirements specified in section (2) of this rule;

(b) Through participation in a fire service agency training program accredited by the Department;

(c) Through a course certified by the Department; or

(d) By evaluation of experience as specified in OAR 259-009-0063.

(e) The Department may certify a fire service professional who has satisfactorily completed the requirements for certification as prescribed in

section (2) of this rule, including the Task Performance Evaluations (TPE) if applicable.

(2) The following standards for fire service personnel are adopted by reference:

(a) The provisions of the NFPA Standard 1001, 2008 Edition, entitled "Fire Fighter Professional Qualifications";

(A) Delete section 1.3.1.

NOTE: This references NFPA 1500.

(B) Delete section 2.2.

NOTE: This references NFPA 1500 and 1582.

(C) Entry Level Fire Fighter means an individual trained to the requirements of Section 2-1 Student Prerequisites, NFPA Standard 1403, 1997 Edition, entitled "Live Fire Training Evolutions" and the applicable safety requirements adopted by OR-OSHA. An individual trained to this level and verified by the agency head is qualified to perform live-fire training exercises and to perform on the emergency scene under constant supervision. An Entry Level Fire Fighter should be encouraged to complete Fire Fighter I training within one year.

(D) All applicants for certification must complete a task performance evaluation or a Department-approved task book for NFPA Fire Fighter I and NFPA Fire Fighter II. The evaluation or task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(b) The provisions of the NFPA Standard 1002, 2009 Edition, entitled "Standard for Fire Apparatus Driver/Operator Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) 5.1 General. The job performance requirements defined in Sections 5.1 and 5.2 must be met prior to certification as a Fire Service Agency Driver/Operator-Pumper.

(B) 6.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 6.1 and 6.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Aerial.

(C) 7.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 7.1 and 7.2 must be met prior to certification as a Fire Service Agency Driver/Operator-Tiller.

(D) 8.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 8.1 and 8.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Wildland Fire Apparatus.

(E) 9.1 General. The requirements of NFPA 1001 Fire Fighter II and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 9.1 and 9.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Aircraft Rescue and Fire Fighting Apparatus (ARFF).

(F) 10.1 General. The requirements of NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 10.1 and 10.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Mobile Water Supply Apparatus.

(G) Delete "the requirements of NFPA 1500, Standard on Fire Department Occupational Safety and Health Program".

(H) All applicants for certification must complete a task performance evaluation or a Department-approved task book for: NFPA Fire Apparatus Driver/Operator, NFPA Apparatus Equipped with Fire Pump, NFPA Apparatus Equipped with an Aerial Device, NFPA Apparatus Equipped with a Tiller, NFPA Wildland Fire Apparatus, NFPA Aircraft Rescue and Firefighting Apparatus or NFPA Mobile Water Supply Apparatus. The task books must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(c) The provisions of the NFPA Standards 1003, 2010 Edition, entitled "Standard for Airport Fire Fighter Professional Qualifications".

(A) 6.1 General. Prior to certification as a Fire Service Agency NFPA 1003 Airport Fire Fighter, the requirements of NFPA 1001 Fire Fighter II, as specified by the Department and the job performance requirements defined in sections 5.1 through 5.4, must be met.

(B) All applicants for certification must complete a Department-approved task book for Airport Fire Fighter. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(d) The provisions of NFPA Standard 1005, 2007 Edition, entitled "Marine Fire Fighting for Land Based Fire Fighters Professional

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Qualifications,” are adopted subject to the following definitions and modifications:

(A) Delete section 2.2.

NOTE: This references NFPA 1500.

(B) Delete sections of 2.4.

NOTE: This references NFPA 1000, NFPA 1081, NFPA 1405, NFPA 1670 and NFPA 1710.

(C) 5.1 General. Prior to certification as a Fire Service Agency NFPA 1005 Marine Land-Based Fire Fighter, the requirements of NFPA 1001 Fire Fighter II, as specified by the Department.

(D) All applicants for certification must complete a Department approved task book for Marine Fire Fighting for Land Based Fire Fighters. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(E) Transition Phase:

(i) An application for certification in Marine Fire Fighting for Land Based Fire Fighters must be submitted to the Department no later than June 30, 2009 to receive consideration for certification without having to complete a task book.

(ii) All applications received on or after July 1, 2009 will need to show completion of the approved task book.

(e) The provisions of the NFPA Standard No. 1031, Edition of (2009), entitled “Professional Qualifications for Fire Inspector and Plan Examiner” are adopted.

(A) All applicants for certification as an NFPA Fire Inspector I must:

(i) Successfully complete a Department-approved task book; and

(ii) Furnish proof that they have passed an exam demonstrating proficiency in the model fire code adopted by the State of Oregon or an equivalent.

(B) All applicants for certification as an NFPA Fire Inspector II must:

(i) Hold a certification as a NFPA Fire Inspector I; and

(ii) Successfully complete a Department-approved task book.

(C) All applicants for certification as an NFPA Fire Inspector III must:

(i) Hold a certification as a NFPA Fire Inspector II; and

(ii) Successfully complete a Department-approved task book.

(D) Task books must be monitored by a Field Training Officer approved by the Department. The Field Training Officer must be certified at or above the level being monitored and have at least five years inspection experience. The Department may approve other Field Training Officers with equivalent training, education and experience as determined by designated Department staff.

(f) The provisions of the NFPA Standard No. 1033, Edition of (2009), entitled “Professional Qualifications for Fire Investigator” are adopted subject to the following definitions and requirements:

(A) An individual must successfully complete a Department-approved task book before the Department will administer a written examination for the Fire Investigator certification level. Exception: Anyone holding a valid IAAI Fire Investigator Certification, National Association of Fire Investigators (NAFI) certification, or Certified Fire Explosion Investigators (CFEI) certification is exempt from taking the Department’s Fire Investigator written exam.

(B) A Department approved Field Training Officer must monitor the completion of a task book. The Field Training Officer must be certified at or above the level being monitored and have at least five (5) years fire investigation experience. Exception: The Department may approve Field Training Officers with equivalent training, education and experience.

(g) The provisions of the NFPA Standard No. 1035, Edition of 2000, entitled “Professional Qualifications for Public Fire and Life Safety Educator” are adopted subject to the following definitions and modifications:

(A) Chapter 6 (Six) “Juvenile Firesetter Intervention Specialist I” and Chapter 7 (Seven) “Juvenile Firesetter Intervention Specialist II,” Oregon-amended, will be adopted with the following changes:

(i) Change the following definitions:

(I) 1-4.4 Change the definition of “Assessment” to read, “A structured process by which relevant information is gathered for the purpose of determining specific child or family intervention needs conducted by a mental health professional.”

(II) 1-4.11 Change the title of “Fire Screener” to “Fire Screening” and the definition to read, “The process by which we conduct an interview with a firesetter and his or her family using state approved forms and guidelines. Based on recommended practice, the process may determine the need for referral for counseling and/or implementation of educational intervention strategies to mitigate effects of firesetting behavior.”

(III) 1-4.14 Include “insurance” in list of agencies.

(IV) 1-4.15 Change the definition to read: “...that may include screening, education and referral for assessment for counseling, medical services.”

(V) 1-4.16 Change “person” to “youth” and change age from 21 to 18.

(VI) 1-4.17 Add “using state-approved prepared forms and guidelines.”

(VII) 1-4.22 Add “...or by authority having jurisdiction.”

(VIII) 1-4.24 Add “...or as defined by the authority having jurisdiction.”

(ii) Under 6-1 General Requirements, delete the statement, “In addition, the person will meet the requirements for NFPA Public Fire and Life Safety Educator I prior to being certified as a NFPA Juvenile Firesetter Intervention Specialist I.”

(B) A task book will be completed prior to certification as a NFPA Public Fire and Life Safety Educator I, II or III.

(C) A task book will be completed prior to certification as a NFPA Public Information Officer.

(D) A task book will be completed prior to certification as a NFPA Juvenile Firesetter Intervention Specialist I and II.

(h) The provisions of the NFPA Standard No. 1041, Edition of 2012, entitled “Standard for Fire Service Instructor Professional Qualifications,” are adopted subject to the successful completion of an approved task book for NFPA Fire Instructor I, II and III.

(i) The provisions of the NFPA Standard 1021, 2009 Edition, entitled “Standards for Fire Officer Professional Qualifications,” are adopted subject to the following definitions and modifications:

(A) 4.1 General. For certification as NFPA Fire Officer I, the candidate must be certified at NFPA 1001 Fire Fighter II, and NFPA 1041 Fire Instructor I, as defined by the Department, and meet the job performance requirements defined in Sections 4.1 through 4.7 of this Standard.

(i) Amend section 4.1.2 General Prerequisite Skills to include college courses or Department- approved equivalent courses in the following areas of study: Communications, Math, Physics, Chemistry, or Fire Behavior and Combustion. Refer to the suggested course guide for detailed course, curriculum and training information.

(ii) All applicants for certification must complete a task performance evaluation or a Department-approved task book for NFPA Fire Officer I. The evaluation or task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(B) 5.1 General. For certification as NFPA Fire Officer II, the candidate must be certified as NFPA Fire Officer I, as defined by the Department, and meet the job performance requirements defined in Section 5.1 through 5.7 of the Standard.

(i) Amend section 5.1.2 General Prerequisite Skills to include college courses or Department- approved equivalent courses Psychology or Sociology.

(ii) Amend section 5.3 Community and Government Relations to include State and Local Government or Department-approved equivalent courses.

(iii) All applicants for certification must complete a task performance evaluation or a Department-approved task book for NFPA Fire Officer II. The evaluation or task book must be approved off by the Agency Head or Training Officer, before an applicant can qualify for certification.

(C) 6.1 General. For certification as NFPA Fire Officer III, the candidate must be certified as a NFPA Fire Officer II, NFPA, NFPA 1041 Fire Instructor II, as defined by the Department, and meet the job performance requirements defined in Sections 6.1 through 6.7 of the Standard.

(i) All applicants for certification must complete a Department-approved task book for NFPA Fire Officer III.

(ii) The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(D) 7.1 General. For certification as NFPA Fire Officer IV the candidate must be certified as NFPA Fire Officer III, as defined by the Department, and meet the job performance requirements in Sections 7.1 through 7.7 of the Standard.

(i) All applicants for certification must complete a Department-approved task book for NFPA Fire Officer IV.

(ii) The task book must be approved by the Agency Head or Training Officer, before an applicant can qualify for certification.

(j) Hazardous Materials Responder (DPSST-P-12 1/96).

(k) Fire Ground Leader.

(A) This is a standard that is Oregon-specific.

(B) An applicant applying for Fire Ground Leader must first be certified as an NFPA Fire Fighter II.

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(C) An applicant applying for Fire Ground Leader must document training in all of the following areas:

- (i) Building Construction: Non-Combustible and Combustible;
- (ii) Emergency Service Delivery;
- (iii) Fire Behavior;
- (iv) Fire Ground Safety; and
- (v) Water Supply Operations.

(D) All applicants for certification must complete a task performance evaluation or a Department-approved task book for Fire Ground Leader. The evaluation or task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(l) Advanced Wildland Interface Fire Fighter (FFT1).

(A) This standard includes NWCG Wildland Fire Fighter Type 1.

(B) An individual applying for Advanced Wildland Interface Fire Fighter (FFT1) must be certified as Wildland Interface Fire Fighter (FFT2) prior to applying for Advanced Wildland Interface Fire Fighter (FFT1) and must document training in all of the following areas at the time of application:

- (i) S-131 Firefighter Type I;
- (ii) S-133 Look Up, Look Down, Look Around; and
- (iii) Completion of the NWCG Firefighter Type 1 (FFT1)/Incident Commander Type 5 (ICT5) Task Book.

(m) Wildland Interface Fire Fighter (FFT2).

(A) This standard includes NWCG Wildland Fire Fighter Type 2.

(B) An individual applying for Wildland Interface Fire Fighter (FFT2) must document training in all of the following areas at the time of application:

- (i) S-130 Fire Fighter Training;
- (ii) S-190 Wildland Fire Behavior;
- (iii) L-180 Human Factors on the Fireline; and
- (iv) I-100 Introduction to ICS.

(n) Wildland Interface Engine Boss.

(A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Engine Boss must be certified as Wildland Interface Fire Fighter prior to applying for Wildland Interface Engine Boss and must document training in all of the following areas at the time of application:

- (i) I-200 Basic Incident Command;
- (ii) S-230 or S-231 Crew Boss (Single Resource);
- (iii) S-290 Intermediate Wildland Fire Behavior; and
- (iv) Completion of the task book for NWCG Single Resource Boss Engine.

(o) Wildland Interface Crew Boss.

(A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Crew Boss must be certified as Wildland Interface Fire Fighter prior to applying for Wildland Interface Crew Boss and must document training in all of the following areas at the time of application:

- (i) I-200 Basic Incident Command;
- (ii) S-230 Crew Boss (Single Resource);
- (iii) S-290 Intermediate Wildland Fire Behavior; and
- (iv) Completion of the task book for NWCG Single Resource Boss Crew.

(p) Wildland Interface Strike Team Leader Engine.

(A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Strike Team Leader Engine must be certified as Wildland Interface Engine Boss prior to applying for Wildland Interface Strike Team/Leader Engine and must document training in all of the following areas at the time of application:

- (i) S-215 Fire Operations in the WUI;
- (ii) S-330 Task Force/Strike Team Leader;
- (iii) I-300 Intermediate ICS; and
- (iv) Completion of the task book for NWCG Strike Team Leader Engine.

(q) Wildland Interface Strike Team Leader Crew.

(A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Strike Team Leader Crew must be certified as Wildland Interface Crew Boss prior to applying for Wildland Interface Strike Team Leader Crew and must document training in all of the following areas at the time of application:

- (i) S-215 Fire Operations in the WUI;
- (ii) S-330 Task Force/Strike Team Leader;
- (iii) I-300 Intermediate ICS; and
- (iv) Completion of the task book for NWCG Strike Team Leader Crew.

(r) Wildland Interface Structural Group Supervisor.

(A) This is an Oregon standard.

(B) An individual applying for Wildland Interface Structural Group Supervisor must be certified as Wildland Interface Strike Team Leader Engine prior to applying for certification as Wildland Structural Interface Group Supervisor and must document training in all of the following areas at the time of application:

(i) S-390 Introduction to Wildland Fire Behavior Calculations;

(ii) S-339 Division/Group Supervisor; and

(iii) Completion of the task book for NWCG Group Supervisor.

(s) Wildland Interface Division/Group Supervisor.

(A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Division/Group Supervisor must be certified as Wildland Interface Strike Team Leader Engine and a Wildland Interface Strike Team Leader Crew prior to applying for certification as Wildland Interface Division/Group Supervisor and must document training in all of the following areas at the time of application:

(i) S-390 Introduction to Wildland Fire Behavior Calculations;

(ii) S-339 Division/Group Supervisor; and

(iii) Completion of the task book for NWCG Division/Group Supervisor.

(t) Maritime Fire Service Operator Standards Professional Qualifications (October, 1999) and completion of an approved task book. Historical Recognition:

(A) The application must be submitted with the fire chief or designee's signature attesting to the skill level and training of the applicant.

(B) The application must be submitted to the Department no later than October 1, 2004, to receive certification for Maritime Fire Service Operator without having to complete the task book.

(C) All applications received after October 1, 2004, will need to show completion of the approved task book.

(u) Certification guide for Wildland Fire Investigator (August, 2005).

(v) The provisions of the 2008 Edition of NFPA 1006 entitled, "Standards for Technical Rescuer Professional Qualifications" are adopted subject to the following modifications:

(A) Historical Recognition:

(i) Applicants who currently hold active Department of Public Safety Standards and Training NFPA Surface Water Rescue Technician and NFPA Rope Rescue levels of certification may apply for NFPA Swiftwater Rescue level of certification.

(ii) The NFPA Technical Rescuer application for certification (i) above must be submitted to the Department of Public Safety Standards and Training on or before December 30, 2011.

(B) Instructors:

(i) Curriculum must be certified by the Department to meet NFPA 1006 standards.

(ii) An instructor delivering training under a fire service agency's accreditation agreement must be a certified technician in that specialty rescue area.

(C) Task Books:

(i) A task book must be completed for each of the eleven specialty rescue areas applied for.

(ii) Only a certified technician in that specialty rescue area can approve the task book.

(iii) The requirements in Chapters 4 and 5 only need to be met once for all eleven specialty rescue areas.

(w) Urban Search and Rescue.

(A) This is a standard that is Oregon-specific.

(B) The following eleven (11) specialty Urban Search and Rescue (USAR) certifications are adopted:

(i) Task Force Leader;

(ii) Safety Officer;

(iii) Logistics Manager;

(iv) Rescue Team Manager;

(v) Rescue Squad Officer;

(vi) Rescue Technician;

(vii) Medical Technician;

(viii) Rigging Technician;

(ix) Search Team Manager;

(x) Search Squad Officer; and

(xi) Search Technician.

(C) An applicant applying for any USAR certification(s) must complete the appropriate application attesting to completion of the required training.

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(x) The provisions of the NFPA Standard 472, 2008 Edition, entitled "Standard for Hazardous Materials and Weapons of Mass Destruction" are adopted subject to the following definitions and modifications:

(A) NFPA Hazardous Materials Technician: All applicants for certification must first certify as an NFPA Operations Level Responder and complete a Department-approved task book. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(B) NFPA Hazardous Materials Safety Officer: All applicants for certification must first certify as a NFPA Hazardous Materials Technician and complete a Department-approved task book. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification. This certification level includes, but is not limited to, the following course work:

- (i) Analyzing the Incident;
- (ii) Planning the Response;
- (iii) Implementing the Planned Response;
- (iv) Evaluating the Progress.

(C) Incident Commander: The level of certification formerly known as "On-Scene Incident Commander" is now known as "NFPA Hazardous Materials Incident Commander." The Incident Commander correlates directly with NFPA 472. All applicants for certification must first certify as an NFPA Operations Level Responder.

(D) Operations Level Responder: The level of certification formerly known as "First Responder" is now known as "NFPA Operations Level Responder." The NFPA Operations Level Responder correlates directly with NFPA 472. Successful completion of skills sheets or task performance evaluations (TPE) must be met prior to certification as an NFPA Operations Level Responder.

(y) Specialty Levels of Certification. All applicants for specialty levels of certification must first certify as a NFPA Hazardous Materials Technician.

(A) The following four (4) specialty certifications are adopted:

- (i) NFPA Cargo Tank Specialty;
- (ii) NFPA Intermodal Tank Specialty;
- (iii) NFPA Marine Tank Vessel Specialty;
- (iv) NFPA Tank Car Specialty;

(B) Successful completion of task performance evaluations (TPE) must be met prior to obtaining a specialty level of certification.

(3) Task performance evaluations, where prescribed, will be required prior to certification. Such examinations will be conducted in the following manner:

(a) Task performance competency will be evaluated by three people nominated by the employing fire service agency's Chief Officer for approval by the Department or its designated representative.

(b) The employing fire service agency's equipment and operational procedures must be used in accomplishing the task performance to be tested.

(c) Specific minimum testing procedures, as provided by the Department, will be used for administration of the evaluation.

(d) The training officer for an accredited fire service agency training program must notify the Department or its designated representative prior to performing a task performance evaluation.

(e) At the request of the fire chief, a representative of the Department will be designated to monitor the task performance evaluation for personnel from a fire service agency whose training program is not accredited.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 11-2003 f. & cert. ef. 7-24-03; DPSST 13-2003(Temp), f. & cert. ef. 10-27-03 thru 3-31-04; DPSST 3-2004(Temp), f. & cert. ef. 4-9-04 thru 10-1-04; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 2-2006, f. & cert. ef. 1-24-06; DPSST 9-2006 f. & cert. ef. 7-7-06; DPSST 14-2006, f. & cert. ef. 10-13-06; DPSST 16-2006, f. & cert. ef. 11-20-06; DPSST 2-2007, f. & cert. ef. 1-12-07; DPSST 10-2008, f. & cert. ef. 7-15-08; DPSST 7-2009, f. & cert. ef. 7-13-09; DPSST 12-2009, f. & cert. ef. 10-15-09; DPSST 16-2009(Temp), f. & cert. ef. 12-15-09 thru 6-11-10; DPSST 5-2010, f. 6-11-10, cert. ef. 6-14-10; DPSST 11-2010, f. & cert. ef. 11-12-10; DPSST 11-2010, f. & cert. ef. 11-12-10; DPSST 3-2011, f. 3-28-11, cert. ef. 5-1-11; DPSST 7-2012, f. & cert. ef. 3-28-12; DPSST 21-2012, f. & cert. ef. 10-1-12; DPSST 8-2013, f. & cert. ef. 3-26-13; DPSST 16-2013, f. & cert. ef. 6-25-13; DPSST 22-2013, f. & cert. ef. 10-3-13

259-009-0063

Credit for Experience

(1) A fire service professional with three years experience in a fire department may apply to be evaluated for certification based upon experience and accumulated knowledge.

(2) A fire service professional may petition for credit for prior learning. The individual must describe in writing all experience and training pertinent to the standard being challenged. The material presented will be

reviewed by a panel of three fire service professionals, appointed by the Department or designated staff. The fire service professionals will determine what credit, if any, should be granted to the individual.

(3) Applicants may take a competency examination, if available. Applicants who fail examinations for any specific requirement will not be re-examined for a period of 60 days. Applicants who fail examinations for specific requirements may, after a 60 day interim period, apply to the Department to be re-examined by written or oral examination. Oral examinations will be conducted by a representative of the Department.

(4) The Department may enter into a learning contract with a fire service professional for any standards that are needed. Upon successful completion of the contract, the individual will be granted credit for the job performance requirements. The contract must be in writing and signed by the Director or designated representative and the individual seeking credit. The contract will include a course of study, an evaluation process and a completion date.

(5) The Department or its designated representative will notify the applicant of the results of the evaluation within 60 days.

(6) The Department or its designated representative may grant certification to the applicant when the evaluation indicates the applicant's experience and knowledge exceed the minimum established standards (Note: See also OAR 259-009-0020).

Stat. Auth.: ORS 181.660

Stats. Implemented: ORS 181.660

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 22-2013, f. & cert. ef. 10-3-13

259-009-0065

Maintenance

(1)(a) The Training Officer must verify that individuals have successfully performed essential functions for each certification through service delivery (see OAR 259-009-0005), task performance (see OAR 259-009-0005), or sufficient education or training hours to verify each member's certification pursuant to OAR 259-009-0065. Any certificate not verified by the agency will be lapsed.

(b) Verification that maintenance requirements have been completed must be submitted to the Department by December 31st of every even year.

(2) Maintenance requirements must be demonstrated by completing any combination of one or more of the following:

- (a) Service Delivery;
- (b) Task Performance;
- (c) Education; or
- (d) Training.

(3) Operation Track:

(a) NFPA Fire Fighter I, NFPA Fire Fighter II, NFPA Driver, NFPA Hazmat First Responder, NFPA Hazmat Technician, NFPA Airport Fire Fighter, NFPA Pumper Operator, NFPA Aerial Operator, NFPA Tiller Operator, NFPA Aircraft Rescue and Firefighting Apparatus Operator, Wildland Fire Apparatus Operator, NFPA Mobile Water Supply Apparatus Operator, NFPA Fire Officer I, NFPA Fire Officer II, Fire Ground Leader, NFPA Rescue Technician (Rope, Water, Vehicle, Confined Space, Structural, Trench), On Scene Incident Command, Wildland Interface (Fire Fighter, Engine Boss, Strike Team Leader, Wildland Interface Division Supervisor), Maritime Operator (Awareness, Deck Hand, Boat Operations, Rescue Boat, Fire Boat) certification levels must complete maintenance requirements for Operation Track.

(b) If the Training Officer chooses to verify maintenance requirements through training or education, the maintenance requirements for the Operation Track is 60 hours completed annually.

(4) Instructor Track

(a) Instructor I, II and III certification levels must complete maintenance requirements for Instructor Track.

(b) If the Training Officer chooses to verify maintenance requirements through training or education, the maintenance requirements for the Instructor Track is four hours completed annually.

(5) Prevention/Public Education/Administration Track

(a) NFPA Public Fire/Life Safety Educator I, NFPA Public Fire/Life Safety Educator II, Public Fire/Life Safety Educator III, NFPA Public Information Officer, NFPA Juvenile Firesetter Intervention Specialist I, NFPA Juvenile Firesetter Intervention Specialist II, NFPA Fire Officer III, NFPA Fire Officer IV, Investigator, Wildland Investigator, NFPA Fire Inspector I, NFPA Fire Inspector II, NFPA Fire Inspector III certification levels must complete maintenance requirements for Prevention/Public Education/Administration Track.

(b) If the Training Officer chooses to verify maintenance requirements through training or education, the maintenance requirement for the

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Prevention/Public Education/Administration Track is 12 hours completed annually.

(6) A Fire Service Professional certified and performing duties in more than one track must complete the maintenance requirements for each track.

(7) A minimum passing score of 70 percent must be achieved for any level of certification that requires completion of a written test.

(8) Failure to notify the Department that the Fire Service Professional's maintenance requirements have been completed will result in a warning notification letter being sent to the agency head and the Training Officer.

(a) A three month extension will be automatically authorized if requested in writing.

(b) Failure to complete maintenance requirements and submit the completed appropriate form after the warning notification letter and before the three month extension has expired, will result in the lapse of the Fire Service Professional's certification.

(c) Subject to Department approval, re-certification following a lapse may be obtained upon the employing agency submitting the following:

(A) A request for re-certification and documentation explaining why the maintenance requirements were not completed or verified; and

(B) Verification that the maintenance requirements have been completed and a completed reinstatement form.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 2-2006, f. & cert. ef. 1-24-06; DPSST 22-2013, f. & cert. ef. 10-3-13

259-009-0067

Lapsed Certification

(1) All levels of certification of any fire service professional will be considered lapsed if the individual has not been utilized as such for more than 12 consecutive months.

(2) A fire service professional whose certification has lapsed must apply for re-certification upon re-utilization as a fire service professional.

(a) The fire service professional must complete a Department task book, task performance evaluation or approved training.

(b) Upon successful completion of the appropriate testing or evaluation, as verified by the signature and recommendation of the agency head or designee, the fire service professional whose certification has lapsed, may request reinstatement of certification. The request must be made to the Department by submitting the appropriate form.

Stat. Auth.: ORS 181.652, 181.653 & 181.667

Stats. Implemented: ORS 181.652, 181.653 & 181.667

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 6-2007, f. & cert. ef. 3-14-07; DPSST 22-2013, f. & cert. ef. 10-3-13

259-009-0070

Denial/Revocation

(1) It is the responsibility of the Board to set the standards, and of the Department to uphold them, to ensure the highest levels of professionalism and discipline. These standards will be upheld at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

Definitions

(2) For purposes of this rule, the following definitions will apply:

(a) "Denial" or "Deny" means the refusal to grant a fire service certification for mandatory grounds or discretionary disqualifying misconduct as identified in this rule, pursuant to the procedures identified in (9) of this rule.

(b) "Discretionary Conviction" means a conviction identified in OAR 259-009-0070(6).

(c) "Discretionary Disqualifying Misconduct" means misconduct identified in OAR 259-009-0070(4).

(d) "Revocation" or "Revoke" means to withdraw the certification of a fire service professional or instructor for mandatory grounds or discretionary disqualifying misconduct as identified in this rule, pursuant to the procedures identified in subsection (9) of this rule.

Grounds for Mandatory Denial or Revocation of Certification

(3) Mandatory Grounds for Denying or Revoking Certification of a Fire Service Professional or Instructor:

(a) The Department must deny or revoke the certification of any fire service professional or instructor, after written notice, and a hearing if requested, based upon a finding that:

(A) The fire service professional or instructor has been convicted in this state of a crime listed in ORS 137.700 or in any other jurisdiction of a crime that, if committed in this state would constitute a crime listed in 137.700. Those crimes are:

163.095 Attempted Aggravated Murder;

163.115 Attempted Murder;

163.115 Murder;

163.118 Manslaughter in the First Degree;

163.125 Manslaughter in the Second Degree;

163.149 Aggravated Vehicular Homicide;

163.175 Assault in the Second Degree;

163.185 Assault in the First Degree;

163.225 Kidnapping in the Second Degree;

163.235 Kidnapping in the First Degree;

163.365 Rape in the Second Degree;

163.375 Rape in the First Degree;

163.395 Sodomy in the Second Degree;

163.405 Sodomy in the First Degree;

163.408 Sexual Penetration in the Second Degree;

163.411 Sexual Penetration in the First Degree;

163.427 Sexual Abuse in the First Degree;

163.670 Using a Child in a Display of Sexually Explicit Conduct;

164.325 Arson in the First Degree (See exception under OAR 259-009-0070(4));

164.405 Robbery in the Second Degree;

164.415 Robbery in the First Degree;

167.017 Compelling Prostitution.

(B) The fire service professional or instructor has been discharged for cause from employment as a fire service professional or instructor.

(b) For purposes of this rule, "discharged for cause", means an employer initiated termination of employment for any of the following reasons after a final determination has been made. If, after service by the Department of a Notice of Intent to Deny or Revoke Certifications (NOI), the fire service professional or instructor provides notice to the Department within the time stated in the NOI that the discharge has not become final, then the Department may stay further action pending a final determination.

(A) Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Gross Misconduct means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable fire service professional or instructor would observe in a similar circumstance;

(D) Incompetence: means a demonstrated lack of ability to perform the essential tasks of a fire service professional or instructor that remedial measures have been unable to correct.

(E) Misuse of Authority: Includes abuse of public trust, abuse of authority to obtain a benefit, avoid a detriment, or harm another, and abuse under the color of office.

Discretionary Disqualifying Misconduct as Grounds for Denying or Revoking Certification

(4) Discretionary disqualifying misconduct as grounds for denying or revoking certification(s) of a fire service professional or instructor:

(a) The Department may deny or revoke the certification of any fire service professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

(A) The fire service professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The fire service professional or instructor has been convicted of an offense listed in subsection (4)(c), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, the Department, through the Fire Policy Committee and Board, has defined core values that are integral to the fire service profession. These values are:

(A) Category I: Honesty. Honesty includes straightforwardness of conduct; integrity, adherence to the facts; freedom from subterfuge or duplicity; truthfulness and sincerity.

(B) Category II: Professionalism. Professionalism includes the conduct, aims, or qualities that characterize or mark a profession or a professional person; extreme competence in an occupation or pursuit.

(C) Category III: Justice. Justice includes just treatment, the quality or characteristics of being just, impartial, or fair.

(c) Pursuant to ORS 181.662(3)(b), the Department has determined that, in the absence of a determination to the contrary by the Fire Policy Committee and Board, a fire service professional or instructor who has been convicted of the following crimes has violated the core values of the fire service profession and may not be fit to receive or hold certification:

25.785(3) (False Submission Social Security Number) – Category I;

92.337 (Furnishing False Information or Making a False Representation) – Category I;

1;

162.015 (Bribe Giving) – Category III;

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- 162.025 (Bribe Receiving) — Category III;
162.065 (Perjury) — Category I;
162.117 (Public Investment Fraud) — Category I;
162.155 (Escape in the Second Degree) — Category II;
162.165 (Escape in the First Degree) — Category II;
162.185 (Supplying Contraband) — Category II;
162.205 (Failure to Appear in the First Degree) — Category II;
162.265 (Bribing a Witness) — Category III;
162.275 (Bribe Receiving by a Witness) — Category III;
162.285 (Tampering with a Witness) — Category III;
162.305 (Tampering with Public Records) — Category III;
162.325 (Hindering Prosecution) — Category III;
162.355 (Simulating Legal Process) — Category III;
162.365 (Criminal Impersonation) — Category I;
162.367 (Criminal Impersonation of a Peace Officer) — Category I;
162.415 (Official Misconduct in the First Degree) — Category II;
163.145 (Criminally Negligent Homicide) — Category III;
163.160 (Assault in the Fourth Degree) — Category III;
163.165 (Assault in the Third Degree) — Category III;
163.205 (Criminal Mistreatment in the First Degree) — Category III;
163.207 (Female Genital Mutilation) — Category III;
163.208 (Assaulting a Public Safety Officer) — Category III;
163.213 (Unlawful Use of an Electrical Stun Gun, Tear Gas or Mace in the First Degree) — Category II;
163.245 (Custodial Interference in the Second Degree) — Category III;
163.257 (Custodial Interference in the First Degree) — Category III;
163.275 (Coercion) — Category III;
163.355 (Rape in the Third Degree) — Category III;
163.425 (Sexual Abuse in the Second Degree) — Category III;
163.465 (Public Indecency) — Category III;
163.515 (Bigamy) — Category III;
163.525 (Incest) — Category III;
163.535 (Abandonment of a Child) — Category III;
163.537 (Buying or Selling a Person Under 18 years of age) — Category III;
163.547 (Child Neglect in the First Degree) — Category III;
163.555 (Criminal Non-Support) — Category III;
163.684 (Encouraging Child Sexual Abuse in the First Degree) — Category III;
163.686 (Encouraging Child Sexual Abuse in the Second Degree) — Category III;
163.688 (Possession of Materials Depicting Sexually Explicit Conduct of a Child in the Second Degree) — Category III;
163.689 (Possession of Materials Depicting Sexually Explicit Conduct of a Child in the Second Degree) — Category III;
163.732 (Stalking) — Category III;
163.750 (Violating Court's Stalking Protective Order) — Category III;
164.045 (Theft in the Second Degree) — Category I;
164.055 (Theft in the First Degree) — Category I;
164.057 (Aggravated Theft in the First Degree) — Category I;
164.075 (Theft by Extortion) — Category I;
164.125 (Theft of Services: by Deception) — Category I;
164.135 (Unauthorized Use of a Vehicle) — Category I;
164.140 (Criminal Possession of Rented or Leased Personal Property: felony only) — Category I;
164.170 (Laundering a Monetary Instrument) — Category I;
164.172 (Engaging in a Financial Transaction in Property Derived from Unlawful Activity) — Category I;
164.215 (Burglary in the Second Degree) — Category III;
164.225 (Burglary in the First Degree) — Category III;
164.235 (Possession of a Burglary Tool or Theft Device) — Category III;
164.315 (Arson in the Second Degree) — Category II;
164.325 (Arson in the First Degree — If not a conviction under ORS 137.700) — Category II;
164.365 (Criminal Mischief in the First Degree) — Category III;
164.377 (Computer Crime) — Category III;
164.395 (Robbery in the Third Degree) — Category III;
164.868 (Unlawful Labeling of a Sound Recording) — Category III;
164.869 (Unlawful Recording of a Live Performance) — Category III;
164.872 (Unlawful Labeling of a Videotape Recording) — Category III;
164.885 (Endangering Aircraft) — Category II;
164.889 (Interference with Agricultural Research) — Category III;
165.013 (Forgery in the First Degree) — Category I;
165.022 (Criminal Possession of a Forged Instrument in the First Degree) — Category I;
165.032 (Criminal Possession of a Forgery Device) — Category I;
165.055 (Fraudulent Use of a Credit Card: Felony Only) — Category I;
165.065 (Negotiating a Bad Check) — Category I;
165.070 (Possessing Fraudulent Communications Device) — Category I;
165.074 (Unlawful Factoring of Payment Card Transaction) — Category I;
165.085 (Sports Bribery) — Category III;
165.090 (Sports Bribe Receiving) — Category III;
165.579 (Cellular Counterfeiting in the Second Degree) — Category III;
165.581 (Cellular Counterfeiting in the First Degree) — Category III;
165.692 (Making False Claim for Health Care Payment) — Category I;
165.800 (Identity Theft) — Category I;
165.810 (Unlawful Possession of a Personal Identification Device) — Category I;
165.813 (Unlawful Possession of Fictitious Identification) — Category I;
166.005 (Treason) — Category II;
166.015 (Riot) — Category II;
166.085 (Abuse of Corpse in the Second Degree) — Category II;
166.087 (Abuse of Corpse in the First Degree) — Category II;
166.155 (Intimidation in the Second Degree) — Category III;
166.165 (Intimidation in the First Degree) — Category III;
166.220 (Unlawful Use of Weapon) — Category I;
166.270 (Possession of Weapons by Certain Felons: Felony only) — Category II;
166.275 (Possession of Weapons by Inmates of Institutions) — Category II;
166.370 (Possession of Firearm or Dangerous Weapon in Public Building or Court Facility; Exceptions; Discharging Firearm at School) — Category II;
166.382 (Possession of Destructive Device Prohibited) — Category II;
166.384 (Unlawful Manufacture of Destructive Device) — Category II;
166.429 (Firearms Used in Felony) — Category II;
166.438 (Transfer of Firearms at Gun Shows: Felony Only) — Category II;
166.450 (Obliteration or Change of Identification Number on Firearms) — Category II;
166.642 (Felon in Possession of Body Armor) — Category II;
166.643 (Unlawful Possession of Body Armor) — Category II;
166.649 (Throwing an Object Off an Overpass in the Second Degree) — Category III;
166.651 (Throwing an Object Off an Overpass in the First Degree) — Category III;
166.660 (Unlawful Paramilitary Activity) — Category III;
166.720 (Racketeering Activity Unlawful) — Category II;
167.012 (Promoting Prostitution) — Category III;
167.062 (Sadomasochistic Abuse or Sexual Conduct in Live Show: Felony Only) — Category III;
167.164 (Possession of Gray Machine) — Category I;
167.212 (Tampering with Drug Records) — Category I;
167.262 (Adult Using Minor in Commission of Controlled Substance Offense: Felony Only) — Category III;
167.322 (Aggravated Animal Abuse in the First Degree) — Category III;
167.339 (Assaulting Law Enforcement Animal) — Category III;
305.815 (False Return, Statement or Document) — Category I;
411.630 (Unlawfully Obtaining Public Assistance) — Category I;
411.675 (Submitting Wrongful Claim for Payment) — Category I;
411.840 (Unlawfully Obtaining or Disposing of Supplemental Nutrition Assistance) — Category I;
433.010(1) (Willfully Causing the Spread of Communicable Disease) — Category II;
475.840 (Prohibited Acts Generally: Manufacture or Deliver a Controlled Substance) — Category II;
475.846 (Unlawful Manufacture of Heroin) — Category II;
475.848 (Unlawful Manufacture of Heroin Within 1,000 Feet of School) — Category III;
475.850 (Unlawful Delivery of Heroin) — Category II;
475.852 (Unlawful Delivery of Heroin Within 1,000 Feet of School) — Category III;
475.854 (Unlawful Possession of Heroin) — Category II;
475.856 (Unlawful Manufacture of Marijuana) — Category II;
475.858 (Unlawful Manufacture of Marijuana Within 1,000 Feet of School) — Category III;
475.860 (Unlawful Delivery of Marijuana: Felony only) — Category II;
475.862 (Unlawful Delivery of Marijuana Within 1,000 Feet of School) — Category III;
475.864 (Unlawful Possession of Marijuana: Felony only) — Category II;
475.866 (Unlawful Manufacture of 3,4-Methylenedioxyamphetamine (Ecstasy)) — Category II;
475.868 (Unlawful Manufacture of 3,4-Methylenedioxyamphetamine (Ecstasy) Within 1,000 Feet of School) — Category III;
475.870 (Unlawful Delivery of 3,4-Methylenedioxyamphetamine (Ecstasy)) — Category II;
475.872 (Unlawful Delivery of 3,4-Methylenedioxyamphetamine (Ecstasy) Within 1,000 Feet of School) — Category II;
475.874 (Unlawful Possession of 3,4-Methylenedioxyamphetamine (Ecstasy)) — Category II;
475.876 (Unlawful Manufacture of Cocaine) — Category II;
475.878 (Unlawful Manufacture of Cocaine Within 1,000 Feet of School) — Category III;
475.880 (Unlawful Delivery of Cocaine) — Category II;
475.882 (Unlawful Delivery of Cocaine Within 1,000 Feet of School) — Category III;
475.884 (Unlawful Possession of Cocaine) — Category II;
475.886 (Unlawful Manufacture of Methamphetamine) — Category II;
475.888 (Unlawful Manufacture of Methamphetamine Within 1,000 Feet of School) — Category III;
475.890 (Unlawful Delivery of Methamphetamine) — Category II;
475.892 (Unlawful Delivery of Methamphetamine Within 1,000 Feet of School) — Category III;
475.894 (Unlawful Possession of Methamphetamine) — Category II;
475.904 (Unlawful Manufacture or Delivery of Controlled Substance Within 1,000 Feet of School) — Category III;
475.908 (Causing Another Person to Ingest a Controlled Substance) — Category III;
475.910 (Application of Controlled Substance to the Body of Another Person) — Category III;
475.914 (Prohibited Acts for Registrants: Deliver or Dispense Controlled Substance) — Category II;
475.962 (Distribution of Equipment, Solvent, Reagent or Precursor Substance with Intent to Facilitate Manufacture of Controlled Substances) — Category II;
475.967 (Possession of Precursor Substance With Intent to Manufacture Controlled Substance) — Category II;
475.977 (Possessing or Disposing of Methamphetamine Manufacturing Waste) — Category II;
476.150 (Entry and Inspection of Premises: Interfering or Preventing Entry) — Category II;
476.380 (Burning without a Permit) — Category II;
476.510 to 476.610 (Violations of the Emergency Conflagration Act) — Category II;
532.140 (Branding or Marking Forest Products and Booming Equipment with the Intent to Injure or Defraud) — Category I;
632.470 (False Representation as to Raising, Production or Packing) — Category I;
632.475 (Possession of Unlabeled, Falsely Labeled or Deceptively Packed Products) — Category I;
659.815 (Deceptive Representations or Advertisements by Persons Employing Labor) — Category I;
688.120 (Fraudulent Representation) — Category I;
689.995(3) (Willfully Furnishing False Information) — Category I;
689.995(4) (Making or Causing to be Made Any False Representations) — Category I;
731.260 (False or Misleading Filings) — Category I;
759.360(2) (Furnishing False Information or Making a False Representation) — Category I;

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811.182 (Criminal Driving While Suspended or Revoked) — Category II;
811.540 (Fleeing or Attempting to Elude Police Officer: Felony Only) — Category II;
811.705 (Failure to Perform Duties of a Driver to Person Injured) — Category II;
813.010 (DUI: Felony Only) — Category II.

Any crime that requires the fire service professional or instructor to register as a sex offender, "Attempt," "Solicitation," or "Conspiracy" to commit a crime listed in ORS 137.700 or in any other jurisdiction that, if committed in this state, would constitute an attempt, solicitation, or conspiracy to commit a crime listed in 137.700 (and identified in OAR 259-009-0070(3)). Conviction of a felony or Class A misdemeanor "Attempt", "Solicitation" or "Conspiracy" to commit a crime identified in this rule as a discretionary disqualifier.

(d) If a fire service professional or instructor held certification on or before January 15, 2008 and applies for a new certification, the Department will proceed as follows:

(A) No action will be taken on a discretionary conviction that occurred prior to January 15, 2003.

(B) The Department will not initiate revocation proceedings based on a discretionary disqualifying conviction that occurred between January 15, 2003 and January 15, 2008.

(C) The Department may initiate denial of a new certification based on a discretionary disqualifying conviction that occurred between January 15, 2003 and January 15, 2008.

(e) If a fire service professional or instructor held certification on January 15, 2008 and applies for or obtains certification after that date, the Department may initiate denial or revocation of all certifications held based on a discretionary disqualifying conviction that occurred prior to January 15, 2008.

(f) If a fire service professional or instructor is convicted of a discretionary disqualifying crime on or after January 15, 2008, the Department may initiate a denial or revocation of all certification(s) upon learning of the conviction.

Initial Minimum Periods of Ineligibility

(5) Upon determination to proceed with the denial or revocation of a fire service professional's or instructor's certification based on discretionary disqualifying misconduct identified in section (4), the Fire Policy Committee and Board will determine an initial minimum period of ineligibility to apply for certification. The initial minimum period of ineligibility will range from 30 days to seven years.

(a) In determining the initial minimum period of ineligibility for discretionary disqualifying misconduct listed in section (4) of this rule, the Fire Policy Committee and the Board will take into consideration any aggravating or mitigating factors subject to the provisions of section (7) of this rule.

(b) A person is not eligible to reapply for training or certification if the person had training or certification denied or revoked for mandatory grounds identified in section (3) of this rule.

(c) The initial minimum period of ineligibility will be included in any Final Order of the Department.

(d) Any subsequent eligibility to apply for certification will be determined by the Board, after a review by the Fire Policy Committee, subject to the provisions of section (9) of this rule.

Procedure for Denial or Revocation of a Certificate

(6) Scope of Revocation. Except as provided in (4) above, when the Department denies or revokes the certification of any fire service professional or instructor under the provisions of OAR 259-009-0070, the revocation will encompass all fire service certificates the Department has issued to that person.

(7) Denial and Revocation Procedure.

(a) Agency Initiated Review: When the entity utilizing a fire service professional or instructor requests that a fire service professional's or instructor's certification be revoked or denied, it must submit in writing to the Department the reason for the requested revocation or denial and all factual information supporting the request.

(b) Department Initiated Review: Upon receipt of factual information from any source, and pursuant to ORS 181.662, the Department may request that the fire service professional's or instructor's certification be revoked or denied.

(c) Department Staff Review: When the Department receives information, from any source, that a fire service professional or instructor may not meet the established standards for Oregon fire service professionals or instructors, the Department will review the request and the supporting factual information to determine if the request for denial or revocation meets statutory and administrative rule requirements.

(A) If the reason for the request does not meet the statutory and administrative rule requirements for denial or revocation the Department will notify the requestor.

(B) If the reason for the request does meet statutory and administrative rule requirements but is not supported by adequate factual information,

the Department will request further information from the employer or conduct its own investigation of the matter.

(C) If the Department determines that a fire service professional or instructor may have engaged in discretionary disqualifying misconduct listed in subsection (4), the case may be presented to the Board, through the Fire Policy Committee.

(D) The Department will seek input from the affected fire service professional or instructor, allowing him or her to provide, in writing, information for the Fire Policy Committee and Board's review.

(E) In misconduct cases where there has been an arbitrator's opinion related to the fire service professional's or instructor's employment, the Department will proceed as follows:

(i) If the arbitrator's opinion finds that underlying facts supported the allegations of misconduct, the department will proceed as identified in paragraphs (A) through (D) of this subsection.

(ii) If the arbitrator has ordered employment reinstatement after a discharge for cause without a finding related to whether the misconduct occurred, the Department will proceed as identified in paragraphs (A) through (D) of this subsection.

(iii) If the arbitrator's opinion finds that underlying facts did not support the allegation(s) of misconduct, the Department will proceed as identified in paragraph (A) of this subsection and administratively close the matter.

(d) Policy Committee and Board Review: In making a decision to authorize initiation of proceedings under subsection (e) of this rule, based on discretionary disqualifying misconduct, the Fire Policy Committee and Board will consider mitigating and aggravating circumstances including, but not limited to the following:

(A) When the misconduct occurred in relation to the fire service professional's or instructor's service as a fire service professional or instructor (i.e., before, during, after);

(B) Whether the fire service professional or instructor served time in prison/jail; and if so, the length of incarceration;

(C) Whether restitution was ordered, and if so, whether the fire service professional or instructor met all obligations;

(D) Whether the fire service professional or instructor has ever been on parole or probation. If so, the date on which the parole or probation period expired or is set to expire;

(E) Whether the fire service professional or instructor has more than one conviction and if so, over what period of time;

(F) Whether the misconduct involved domestic violence;

(G) Whether the fire service professional or instructor self-reported the misconduct;

(H) Whether the conduct involved dishonesty, fraud, deceit, or misrepresentation;

(I) Whether the conduct was prejudicial to the administration of justice;

(J) Whether the conduct adversely reflects on the fitness of the fire service professional or instructor to perform as a fire service professional or instructor;

(K) Whether the conduct makes the fire service professional or instructor otherwise unfit to render effective service because of the agency's or public's loss of confidence that the fire service professional or instructor possesses the core values integral to the fire service profession; and

(L) What the fire service professional's or instructor's physical or emotional condition was at the time of the conduct.

(e) Initiation of Proceedings: Upon determination by the policy committee that the reason for denial or revocation is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared and served on the fire service professional or instructor.

(f) Contested Case Notice:

(A) All contested case notices will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedures adopted under OAR 259-005-0015.

(B) In discretionary cases heard by a policy committee, the contested case notice will be served on the fire service professional or instructor prior to Board review. If the Board disapproves the policy committee's recommendation, the Department will withdraw the Contested Case Notice.

(g) Response Time:

(A) A party who has been served with a "Contested Case Notice of Intent to Deny Certification" has 60 days from the date of mailing or personal service of the notice in which to file a written request for a hearing with the Department.

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(B) A party who has been served with a "Contested Case Notice of Intent to Revoke Certification" has 20 days from the date of mailing or personal service of the notice in which to file a written request for a hearing with the Department.

(h) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order revoking or denying certification pursuant to OAR 137-003-0672.

(i) Hearing Request: If a timely request for a hearing is received, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(j) Proposed and Final Orders:

(A) In cases in which a hearing is requested, proposed orders, exceptions, and final orders will be issued pursuant to the applicable provision of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

(B) Department-proposed amendments to a proposed order issued by an Administrative Law Judge in a case that was originally heard by a policy committee must be considered and approved by the policy committee that originally reviewed the case before a final order can be issued.

(k) Stipulated Order Revoking Certification: The Department may enter a stipulated order revoking the certification of a fire service professional or instructor upon the person's voluntary agreement to terminate an administrative proceeding to revoke a certification, or to relinquish a certification under the terms and conditions outlined in the stipulated order.

Appeals, Reapplication, and Eligibility Determinations

(8) Appeal Procedure. A fire service professional or instructor, aggrieved by the findings and Order of the Department may, as provided in ORS 183.480, file an appeal with the Court of Appeals from the final Order of the Department.

(9) Reapplication Process.

(a) Any fire service professional or instructor whose certification has been denied or revoked under section (4) of this rule for discretionary disqualifying misconduct may reapply for certification within the applicable timeframes described in (4) and (5) of this rule.

(b) Any fire service professional or instructor whose certification has been denied or revoked based on discretionary disqualifying misconduct may not reapply for certification until:

(A) The initial minimum period of ineligibility stated in an Order of the Department denying or revoking certification has been satisfied;

(i) If the initial period of ineligibility for the individual was for a period of less than the maximum period identified in section (4) of this rule, and the Board determines that an individual must remain ineligible to apply for certification, then the individual may not reapply for certification under the provisions of this rule until the maximum initial period of ineligibility identified in (5) of this rule has been satisfied.

(ii) If the individual has satisfied the maximum initial period of ineligibility and the Board determines that an individual must remain ineligible to apply for certification, then the individual may not submit any further requests for an eligibility determination, and the original denial or revocation remains permanent.

(B) A written request for an eligibility determination has been submitted to the Department and the Fire Policy Committee has recommended that a fire service professional's or instructor's eligibility to apply for fire service or instructor certification be restored and the Board has upheld the recommendation;

(i) A request for an eligibility determination should include documentation or information that supports the fire service professional's or instructor's request for eligibility to apply for certification.

(ii) In considering a request for an eligibility determination, the Fire Policy Committee and the Board may consider mitigating and aggravating circumstances identified in Section (7)(d) of this rule.

(iii) After reviewing a written request for an eligibility determination, the Board, through the Fire Policy Committee, may determine that the individual's eligibility to apply for certification be restored if the criteria for certification have been met; or determine that the factors that originally resulted in denial or revocation have not been satisfactorily mitigated and the individual must remain ineligible to apply for certification.

(C) The fire service professional or instructor is employed or utilized by a fire service agency; and

(D) All requirements for certification have been met.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 181.640, 181.661, 181.662, 181.664 & 183.341

Stats. Implemented: ORS 181.640, 181.661, 181.662 & 181.664

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 3-2008, f. & cert. ef. 1-15-08; DPSST 7-2009, f. & cert. ef. 7-13-09; DPSST 7-2010, f. 7-15-10, cert. ef. 8-1-10; DPSST 1-2011, f. 2-24-11, cert. ef. 4-1-11; DPSST 11-2011, f. & cert. ef. 7-1-11; DPSST 19-2012, f. & cert. ef. 8-31-12; DPSST 7-2013, f. & cert. ef. 3-26-13; DPSST 22-2013, f. & cert. ef. 10-3-13

259-009-0085

Certification of Courses and Classes

(1) The Department will certify courses, and classes deemed adequate to effectively teach one or more approved fire subject(s) to fire service personnel.

(2) Certification will be based on the evaluation of course curriculum or subjects for instruction.

(3) Facilities and equipment used for certified training will be accessible to all interested and qualified individuals.

(4) The Department will certify courses at the content level. Courses certified at the content level require student demonstration of acquired knowledge, skills, or abilities. Agencies, organizations, or individuals requesting course certification at the content level must submit an application to certify a course (DPSST Form F-20), accompanied by clearly-defined NFPA standards for job performance requirements, curriculum, test questions or evaluation criteria, and evidence of instructor certification as provided in OAR 259-009-0080. Curriculum submitted to DPSST becomes the property of DPSST.

(5) The Department must notify the requesting agency, organization or individual, in writing, of the denial or the granted level of course certification. If certification is granted, the instructor must submit an Application to Instruct an Approved DPSST Course (DPSST Form F-9F) to obtain rosters and a Notice of Course Completion (NOCC).

(6) It is the responsibility of the requesting agency, organization, or individual, to:

(a) Oversee the preparation of curriculum and to ensure its compliance with the requirements of the Department;

(b) Obtain a facility and instructor(s) to be used for the course, and ensure their compliance with the requirement of the Department;

(c) Develop rules and regulations governing the operation of the facility and the conduct of the trainees;

(d) Administer the course;

(e) Maintain an accurate record of attendance; and

(f) Maintain all forms required by the Department, forwarding them within the stipulated time period.

(7) Once a course is certified, it remains certified for unlimited delivery for five years, unless there is a significant change in course content, number of hours or instructor; or unless it is decertified by the Department as provided in section (9) of this rule. The Department must be notified of significant changes.

(8) All course certification will expire on December 31st of the fifth year after the initial approval date. Agencies, organizations or individuals must request recertification to continue a course for each additional five years.

(9) The Department must decertify a course whenever that course is deemed inadequate. The course may be recertified by the Department when satisfactory proof has been presented to the Department that the deficiencies have been corrected.

(10) Fire service agencies may accredit their training programs as provided in OAR 259-009-0087.

Stat. Auth.: ORS 181.640 & 181.650

Stats. Implemented: ORS 181.640 & 181.650

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 4-2005, f. & cert. ef. 5-24-05; DPSST 22-2013, f. & cert. ef. 10-3-13

259-009-0087

Accreditation of Fire Service Agency Training Programs

(1) The Department may accredit fire service agency training programs which meet the following requirements:

(a) The program is under the direction of a designated training officer;

(b) Qualified instructors are provided to teach the various subjects;

(c) The organizational structure of the program is submitted to the Department along with course outlines of subject content, instructor qualifications, and the appropriate application form for accreditation. A plan must be included which explains how the required training hours will be provided; and

(d) The training officer annually schedules and makes available to fire service personnel the following minimum hours of acceptable education training:

DISCIPLINE — HOURS PER YEAR

Fire Suppression Personnel — 60 Hours

All Other Disciplines — 12 Hours

Instructor I, II, III — 4 Hours

(e) At the conclusion of the training program or as a part of the accredited training, the training officer will require appropriate written examination or task performance examination in accordance with standards and procedures adopted by the Department.

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(f) Fire Service Personnel training records must be maintained by the employing fire service agency for at least five years.

(g) The fire service agency will possess at least one triple combination pumper that conforms to the minimum standards for automotive fire apparatus as outlined in the National Fire Protection Association (NFPA) Pamphlet #1901. Apparatus may be accepted by judgment of the Department when it is of a special fire suppression need and will adequately meet the training needs of the proposed program.

(h) A written accreditation agreement must be prepared by the Department, defining the specific requirements of accreditation, including the specific training the fire service agency is accredited to deliver. The agreement must be signed by the Department's designee, the head of the fire service agency, city manager or chairman of the rural fire protection district board, and the training officer. The accreditation agreement must be reviewed every three years.

(A) The review will consist of a written questionnaire which must be verified by the Agency representative.

(B) An on-sight review must occur if there is a change in the accreditation agreement.

(C) The Agency head will agree as a part of the accreditation agreement to allow, at any time, access by Department examiners to the fire service agency's personnel training records to verify training received by fire service agency personnel and to monitor testing processes.

(2) The Agency head, on behalf of the fire service agency, will have the right to appeal to the Department any proposed termination of the agreement.

Stat. Auth.: ORS 181.640 & 181.650
Stats. Implemented: ORS 181.640 & 181.650
Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 22-2013, f. & cert. ef. 10-3-13

259-009-0090

Training Records

(1) Upon receipt by the Department of a Personnel Agency Form, properly identifying a fire service professional, the Department will initiate a file for that individual and record completion of approved training, as well as other personnel information, if properly documented.

(2) Upon display of proper identification, an agency head or authorized representative may review their employee's file as maintained by the Department. Proper identification will also be required of individuals interested in reviewing their own file.

(3) All requests for copies of training records must be made in writing.

(4) Review or release of non-public information under Oregon law to other than the individual whose file is the subject of the information request or to the employing public or private fire safety agency will only be permitted by the Department upon advisement by the Attorney General, by court order or with a signed consent from the individual whose file is the subject of the information request.

Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 22-2013, f. & cert. ef. 10-3-13

259-009-0100

Miscellaneous Activities of the Board or Department

(1) The Board or Department may make or encourage studies of any aspect of fire administration, including the stimulation of research by public and private agencies which will be designed to improve the Fire Protection System.

(2) The Board or Department may cooperate and consult with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, community colleges, and other institutions concerning the development of fire safety training schools and programs or courses of instruction.

(3) The Board or Department may cooperate and consult with official bodies or individuals charged by law with the responsibility for fire selection and training standards in other states.

(4) The Board or Department may periodically publish or recommend that other governmental agencies publish curricula, manuals, lesson plans, brochures, newsletters, and other materials to aid departments in achieving the objectives of the Act.

(5) The Department may direct, operate, or sponsor training schools and set reasonable rules and regulations for the operation and use by trainees.

Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 22-2013, f. & cert. ef. 10-3-13

Department of Transportation, Driver and Motor Vehicle Services Division Chapter 735

Rule Caption: Bulk Records for Crash Reports and Implied Consent Reports No Longer Available

Adm. Order No.: DMV 11-2013

Filed with Sec. of State: 9-24-2013

Certified to be Effective: 9-24-13

Notice Publication Date: 8-1-2013

Rules Amended: 735-010-0030

Subject: The Driver and Motor Vehicle Services Division of the Oregon Department of Transportation (DMV) is discontinuing the bulk sale of Implied Consent Combined Reports and Oregon Police Traffic Crash Reports. This action is being taken as a result of the U.S. Supreme Court decision in *Maracich v. Spears*, 570 U.S. ___, 133 S. Ct. 2191 (2013). The Supreme Court ruling states that solicitation of clients is not a use of personal information that is authorized by the "investigation in anticipation of litigation" exception to the Federal Driver Privacy Protection Act (DPPA) prohibition on use of personal information from motor vehicle records. Oregon statutes that implement this DPPA exception use the same language that was interpreted by the Supreme Court. Based on this ruling, DMV is no longer providing bulk sales of Implied Consent Combined Reports and Oregon Police Traffic Crash Reports under the exception in ORS 802.177(4)(a).

The only reference in administrative rule that DMV has regarding these bulk sales is in OAR 735-010-0030(6) which DMV has amended to remove that reference. DMV also deleted section (12)(b) of this rule because driver record lists are no longer provided on paper or magnetic tape.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-010-0030

Types of Driver and Identification Card Records Available and Their Fees

This rule specifies the types of driver records available from DMV's driver records database and the fee amounts for the records:

(1) Abstract of Employment Driving Record — Computer-produced record of an individual's employment driving record. The record includes employment-related accidents, suspensions and convictions for violation of motor vehicle laws, as set forth in ORS 802.200(9). The record covers the three-year period preceding the date of the request. Miscellaneous administrative entries may also be included as determined by DMV. The record does not include convictions for offenses that result in a mandatory revocation or suspension under ORS 809.409, 809.411, 809.413 and 813.400. The record will include information of a positive drug test result, posted in accordance with ORS 825.412, only if the requestor provides written permission from the person who was subject to the drug test. The fee for each record is:

(a) \$2 for a certified record ordered by mail or through DMV's Interactive Voice Response System (IVR);

(b) \$2 for an uncertified record provided through the Driving Record Web Service;

(c) A \$1.50 search fee for any record requested under this subsection but not found in DMV's driver records database.

(2) Abstract of Non-employment Driving Record — Computer-produced record of an individual's non-employment driving record. The record includes motor vehicle accidents, convictions for violations of motor vehicle laws, other than those included in the employment driving record, and DUII diversion agreements for the three years preceding the date of the record request. The record also includes suspensions, revocations or cancellations of driving privileges, except those suspensions where DMV has received notice to reinstate the person's driving privileges under ORS 809.220. Miscellaneous administrative entries may also be included as determined by the department. The fee for each record is:

(a) \$1.50 for a certified record ordered by mail or through IVR;

(b) \$2 for an uncertified record provided through the Driving Record Web Service.

(c) A \$1.50 search fee for any record requested under this subsection but not found in DMV's driver records database.

(3) Insurance Abstract of Non-employment Driving Record — Computer-produced record containing certain entries of an individual's

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non-employment driving record as described in section (2) of this rule. The record includes motor vehicle accidents, convictions for violations of motor vehicle laws, other than those included in the employment driving record, DUII diversion agreements and suspensions, revocations or cancellations of driving privileges, except those suspensions where DMV has received notice to reinstate the person's driving privileges under ORS 809.220. This record is available only to insurers or insurance support organizations. An individual may request his or her own insurance abstract to obtain an insurance discount under ORS 746.265(3). The fee for each record is:

(a) \$1.50 for a certified record ordered by mail;

(b) A \$1.50 search fee for any record requested under this subsection but not found in DMV's driver records database.

(4) Driver License Information Report — Information on the report includes driver name, address, license number, license type, license expiration date, license restrictions, license issue date and status of license. Driver license information may be provided orally or by computer-produced certified print. The fee for each report is:

(a) \$1.50 for a computer-produced certified report or for an oral report from a DMV employee requested in person or over the phone. Information over the phone will only be provided to a record account holder. DMV will charge a search fee of \$1.50 for any information requested under this paragraph but not found in DMV's driver records database;

(b) \$1.20 for a report obtained through IVR. DMV will charge a search fee of \$1.20 for any information requested under this paragraph but not found through IVR.

(5) Identification Card (ID card) Information Report — Information on the report includes ID card holder's name, address, ID card number, ID card expiration date, issue date, and status of ID card. ID card information may be provided orally through IVR or by computer-produced certified print. The fee for each report is:

(a) \$1.50 for a computer-produced certified report or for an oral report from a DMV employee requested in person or over the phone. Information over the phone will only be provided to a record account holder. DMV will charge a search fee of \$1.50 for any information requested under this paragraph but not found in DMV's records database;

(b) \$1.20 for a report obtained through IVR. DMV will charge a search fee of \$1.20 for any information requested under this paragraph but not found in IVR.

(6) Oregon Police Traffic Crash Report — The fee for a copy of an Oregon Police Traffic Crash Report is \$9.50 for a certified copy or \$8.50 for an uncertified copy. DMV will charge a search fee of \$8.50 for an Oregon Police Traffic Crash Report that is requested but not found.

(7) Driver License/ID Card Application History — The fee for a person's application history which includes copies of any application for an original, renewal or duplicate driver license or ID card is \$18.50 for a certified history or \$17.50 for an uncertified history.

(8) Miscellaneous Driver Document Copy — Copies of any document or transaction related to a person's driving record, driver license, or driving privilege. The fee for a miscellaneous driver document is \$5 for a certified copy or \$4 for an uncertified copy.

(9) Driver Purged File History — Computer-produced print containing all entries shown on the computer file for a driver, except those entries exempted under the Oregon Public Records Law, ORS 192.410 to 192.505. The fee for a driver purged file history is \$2. DMV will charge a search fee of \$1.50 for any driver file requested under this subsection but not found in DMV's driver records database.

(10) Court Print — Computer-produced record of an individual's employment and non-employment driving record. The record includes convictions for major traffic offenses, DUII diversion agreements and any alcohol rehabilitation entries for the ten years preceding the date of the request, and convictions for minor traffic offenses and motor vehicle accidents for the five years preceding the date of the request. The record also includes suspensions, cancellations, revocations and miscellaneous administrative entries, but does not include information exempt from disclosure under the Oregon Public Records Law. Court Print with CDL Medical Certification — Computer-produced record of a CDL holder's employment and non-employment driving record as described above. The record also includes medical certification data that shows if the CDL holder is medically qualified to drive commercial motor vehicles. The fee for each record is:

(a) \$3 for a certified print ordered by mail, through IVR or through the Automated Reporting Service (A.R.S);

(b) \$2 for a record accessed through the Driving Record Web Service;

(c) A \$1.50 search fee for any record requested under this subsection but not found in DMV's driver records database.

(11) Suspension Package — Certified court print and certified copies of any of the following documents needed for a court proceeding: a suspension, revocation or cancellation notice; returned envelope, signed receipt, or affidavit showing service of the notice; hardship permit application; license restrictions; or any letter sent by DMV informing the person of a suspension, revocation or cancellation. The fee for a suspension package is \$11.50. There is a \$1.50 search fee if a court print requested under this subsection cannot be found in DMV's driver records database;

(12) Driver Records List — Computer produced list of driver names, addresses or other record information created using selection criteria. For example, the selection criteria may be the names and addresses of all licensed drivers of a specific age group. The following apply to a request for a driver records list:

(a) The requester must describe how the list will be used. If the purpose of the list is for bulk distribution, as defined in OAR 735-010-0008, the list will only include individuals who have requested that their personal information be provided to bulk distributors.

(b) DMV's computer system must be programmed to use the selection criteria requested. If the selection criteria requested requires additional computer programming, DMV will not provide the list unless DMV computer programming resources are available and the requester pays the actual programming costs as set forth in OAR 735-010-0000.

(c) The fee for a driver records list furnished via File Transfer Protocol Secure (FTPS) is \$700.

(13) Purged Driver Record Information — Copy of a microfilmed driving record containing entries that have been purged from DMV's driver records database. The fee for a purged information driving record is \$2.50 for a certified copy or \$1.50 for an uncertified copy.

(14) Insurance Information Search — A search of DMV records to identify the insurance company and policy number for a vehicle or individual. This information may be provided orally by a DMV employee if requested in person or over the phone or by letter from DMV. The fee for an insurance information search is \$10, regardless of whether the information is actually found in DMV records.

(15) Automated Reporting Service (A.R.S) — A court print sent automatically to an enrolled record account holder when an accident, conviction, DUII diversion or suspension, revocation or cancellation is posted to a listed individual's driving record. The fee for an A.R.S. court print is \$3.00. If the account holder requests that DMV add or delete an individual from A.R.S. there is a \$2.00 fee. There is no fee to add or delete an individual if the record account holder uses DMV's online system.

Stat. Auth.: ORS 184.616, 184.619, 192.440, 802.010, 802.179, 802.183, 802.200, 802.220 & 802.230

Stats. Implemented: ORS 802.200, 746.265, 802.230, 802.220 & 825.412

Hist.: MV 10-1984, f. 6-29-84, ef. 7-1-84; MV 8-1985, f. & ef. 8-1-85; MV 20-1987, f. 9-21-87, ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-032-0035; MV 44-1989, f. & cert. ef. 10-16-89; MV 15-1990, f. 8-30-90, cert. ef. 9-1-90; MV 12-1992, f. & cert. ef. 10-16-92; DMV 16-1998, f. 12-17-98, cert. ef. 1-1-99; DMV 20-2001, f. & cert. ef. 10-18-01; DMV 1-2002, f. & cert. ef. 1-17-02; DMV 5-2005, f. & cert. ef. 2-16-05; DMV 16-2009, f. 9-29-09 cert. ef. 10-1-09; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; DMV 6-2012, f. & cert. ef. 6-27-12; DMV 11-2013, f. & cert. ef. 9-24-13

Rule Caption: Mandatory Reporting Requirements of Medically At-Risk Drivers and ID Card Availability When Voluntarily Quits Driving

Adm. Order No.: DMV 12-2013

Filed with Sec. of State: 9-24-2013

Certified to be Effective: 9-24-13

Notice Publication Date: 8-1-2013

Rules Amended: 735-062-0010, 735-062-0135, 735-074-0080, 735-074-0090

Subject: Oregon Laws 2011, Chapter 295, section 1 (HB 3185), created a work group in the Department of Transportation to evaluate the department's At-Risk Driver Program and consider different assessment tools and options for enhancing the program. This work group included experts in geriatrics, general medicine, driving assessment, research practices, and law enforcement, as well as an advocate for senior citizens.

In assessing the At-Risk Driver Program the work group made recommendations to amend the rules as follows:

* Modify the definition of "uncontrollable" to include the term "persistent."

* Expand mandatory reporting to include medical professionals who provide specialist evaluations or health care services that result from a referral by another physician or health care provider.

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* Specify that reporting is not required if a patient is incapacitated and not expected to regain the ability to drive.

The amendments of OAR 735-074-0080 and 735-074-0090 make the changes recommended by the work group.

The work group also recommended that DMV rules and forms related to surrender of driving privileges be amended. ORS 807.400 authorizes DMV to issue a no fee identification card if a person acknowledges he or she is no longer competent to drive. The work group determined that this language has a negative connotation for persons retiring their driving privileges, and recommended that DMV rules and forms use the words “no longer able to drive safely” which is consistent with ORS 807.060. DMV amended OAR 735-062-0010(7)(a) and 735-062-0135(4) to replace the words “no longer competent to drive” with the words “no longer able to drive safely.”

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-062-0010

Identification Cards

(1) Pursuant to ORS 807.400 and as provided in this rule, DMV will issue an identification card to a person who does not have a valid driver license.

(2) A person applying for an identification card must:

(a) Satisfy all identification card requirements set forth in ORS 807.400 and 807.410, except as described under section (7) of this rule;

(b) Provide a verifiable SSN or proof that the person is not eligible for a SSN as provided in OAR 735-062-0005;

(c) Provide proof of legal presence as provided in OAR 735-062-0015;

(d) Submit to the collection of biometric data for the purpose of establishing identity as provided in ORS 807.024 and OAR 735-062-0016.

(e) Provide proof of the person’s identity and date of birth as provided in OAR 735-062-0020; and

(f) Provide proof of the person’s residence address as provided in OAR 735-016-0070 and 735-062-0030.

(3) Identification cards issued to persons for whom DMV has created an Oregon driving record will reflect the same number as that on the existing record.

(4) An applicant in possession of a driver license issued by another jurisdiction must surrender that license to DMV before an identification card will be issued. The person must provide a statement to DMV if the person’s license is lost, destroyed or the person no longer has the license in his or her possession, and must agree that the license will be surrendered to DMV if found.

(5) Applicants for an identification card must personally apply at a DMV office to receive an identification card.

(6) All identification cards must include a photograph of the cardholder.

(7) DMV will waive the fee requirements set forth in ORS 807.410 for those persons applying for an identification card when:

(a) The person voluntarily surrenders an Oregon license or driver permit to DMV based upon the person’s recognition that the person is no longer able to safely operate a motor vehicle; or

(b) The person’s driving privileges are suspended under ORS 809.419(1) and the person voluntarily surrenders the person’s license or driver permit to DMV.

(8) An identification card of a United States citizen or permanent legal resident with a February 29 birth date expires:

(a) On February 29 if the expiration year is a leap year; or

(b) On March 1 if the expiration year is not a leap year.

(9) After determining that an applicant has met all requirements under this rule, DMV will issue the identification card and mail it to the address provided by the applicant at the time of application.

(10) After determining that an applicant has met all requirements under this rule and has provided proof of legal presence in the United States on a temporary basis, as described in OAR 735-062-0015(4), DMV will issue a limited term identification card and mail it to the address provided by the applicant at the time of the application.

(11) DMV may renew an identification card as provided in OAR 735-062-0090 or may do so using a previous photograph only as provided 735-062-0125.

(12) DMV may replace an identification card as provided in OAR 735-062-0110 or may do so using a previous photograph only as provided 735-062-0125.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.021, 807.040, 807.050 & 807.400

Stats. Implemented: ORS 807.021, 807.022 & 807.400

Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0003; MV 19-1990, f. 12-17-90, cert. ef. 1-1-91; DMV 12-2000, f. & cert. ef. 9-21-00; DMV 24-2001, f. 12-14-01, cert. ef. 1-1-02; DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08; DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 25-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 16-2011, f. 12-22-11, cert. ef. 1-1-12; DMV 12-2013, f. & cert. ef. 9-24-13

735-062-0135

Voluntary Surrender of Driving Privileges

A person may surrender all or part of the driving privileges granted to that person by the State of Oregon, through the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV).

(1) To surrender all or part of a person’s driving privileges, that person must sign a DMV form and must surrender to DMV any license or permit issued for the driving privilege. DMV will allow the person to surrender all driving privileges, or part of the driving privileges granted to that person under any class of license, endorsement or driver permit.

(2) When driving privileges are surrendered, the driving privileges are immediately withdrawn and the person is no longer authorized to operate vehicles pursuant to those driving privileges. A person who surrenders all driving privileges may not exercise any driving privileges, except those granted by statute under ORS 807.020. A person who surrenders part of the person’s driving privileges may exercise only those driving privileges retained. Operation of a vehicle on Oregon highways or premises open to the public without appropriate driving privileges is a violation of law under ORS 807.010.

(3) In accordance with OAR 735-062-0010, DMV may issue an identification card to a person who has surrendered all driving privileges.

(4) If the person surrenders all driving privileges and declares on DMV form 735-7206 that he or she is no longer able to safely operate a motor vehicle, DMV will rescind any suspension imposed under OAR 735-074-0140 or 735-076-0020.

(5) A person may surrender only part of the driving privileges granted by DMV by canceling any endorsements or driver permits granted to the person. The person must specify those driving privileges the person seeks to surrender. A person who surrenders an endorsement must pay the renewal or replacement license fee for issuance of a license that reflects the driving privileges the person retains.

(6) Surrender of driving privileges means the driving privileges are canceled as defined in ORS 801.175(2). When a voluntary surrender of driving privileges is accepted, DMV will cancel driving privileges without providing further notice or an opportunity for hearing to the person. The person’s driving record will show that the driving privileges have been surrendered.

(7) A person who seeks to regain surrendered driving privileges must reapply for the privileges and establish eligibility and qualification as provided by law, including payment of all required fees.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 809.419

Stats. Implemented: ORS 802.010(1)(c), 809.419

Hist.: DMV 1-2003, f. & cert. ef. 2-13-03; DMV 16-2005(Temp), f. & cert. ef. 6-17-05 thru 12-13-05; DMV 23-2005, f. & cert. ef. 11-18-05; DMV 17-2011, f. 12-22-11, cert. ef. 1-1-12; DMV 12-2013, f. & cert. ef. 9-24-13

735-074-0080

Definitions

(1) “DMV” means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(2) A “health care provider” is a person licensed, certified or otherwise authorized or permitted by law to administer health care in the State of Oregon. For purposes of these rules, the term health care provider is limited to: a chiropractic physician, nurse practitioner, occupational therapist, physical therapist, optometrist, physician assistant and podiatric physician or surgeon.

(3) “Immediate suspension or cancellation” means the suspension or cancellation of driving privileges or the right to apply for driving privileges before the person is given an opportunity for a hearing to contest the suspension or cancellation.

(4) “Mandatory reporting or a mandatory report” is a report of severe and uncontrollable cognitive or functional impairments, submitted by a physician or designated health care provider as mandated under ORS 807.710 and these rules. DMV also has a non-mandatory reporting program that can be used by anyone, including physicians and health care providers, that reports medical issues or driving behaviors that may affect the person’s ability to safely operate a motor vehicle. The non-mandatory reporting program is outlined in OAR chapter 735, division 76.

(5) “Medical Determination Officer” is a physician, nurse practitioner or physician assistant, licensed to provide health care services by the

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State of Oregon, and employed or designated by DMV to make medical determinations of a driver's medical eligibility for driving privileges.

(6) A "medical report form" is the form provided to a person or designated by DMV to be used to obtain medical information for determining if the person is eligible or qualified for driving privileges.

(7) A "physician" is a medical doctor or doctor of osteopathic medicine licensed to practice medicine in the State of Oregon by the Board of Medical Examiners or a doctor of naturopathic medicine licensed to practice naturopathic medicine in the State of Oregon by the Board of Naturopathic Examiners.

(8) A "primary care provider" is a physician or health care provider who is responsible for supervising, coordinating and providing a person's initial and ongoing health care. A primary care provider initiates referrals for health care outside of his or her scope of practice, consultations and specialist care to assure continuity of a person's medically appropriate health care.

(9) "Primary and secondary driving controls" mean the steering wheel, gas pedal, brake, clutch (if applicable), turn signal controls, headlight controls, windshield wiper controls, defrost control and horn of a motor vehicle.

(10) "Recertification" or "recertify" is the process for requiring the person to reestablish eligibility at periodic intervals by submitting updated medical or vision information and possibly proving that the mental or physical condition or impairment does not affect their ability to safely operate a motor vehicle by passing DMV tests, receiving a determination of eligibility from the Medical Determination Officer, or both.

(11) "Severe" means that the impairment substantially limits a person's ability to perform activities of daily living, including driving, because it is not controlled or compensated for by medication, therapy, surgery or adaptive devices. Severe does not include a temporary impairment for which the person is being treated by a physician or health care provider and which is not expected to last more than six months.

(12) "Uncontrollable" means the impairment persists despite efforts to control or compensate for it by medication, therapy, surgery, or adaptive devices. Uncontrollable does not include an impairment for which treatment by medication, therapy, surgery or adaptive devices is currently under evaluation.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.710

Stat. Implemented: ORS 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 14-2005, f. & cert. ef. 5-19-05; DMV 6-2006, f. & cert. ef. 5-25-06; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 12-2013, f. & cert. ef. 9-24-13

735-074-0090

Physicians and Health Care Providers Required to Report to DMV

(1) If providing health care services to a person meeting the criteria set forth in OAR 735-074-0100 or 735-074-0110, the following physicians and health care providers must submit a report to DMV as described in 735-074-0120:

(a) The person's primary care provider.

(b) A physician or health care provider providing emergency health care services to a person who does not have a primary care provider.

(c) A physician, physician assistant or nurse practitioner providing ongoing specialist health care services for a cognitive or functional impairment meeting the criteria set forth in OAR 735-074-0110.

(2) A physician, physician assistant, or nurse practitioner providing a specialist evaluation or a health care provider providing health care services based on a referral from the person's primary care provider, and the health care services relate to a cognitive or functional impairment meeting the criteria set forth in OAR 735-074-0110 must:

(a) Submit a report to DMV; or

(b) Provide the findings, test results and/or treatment report to the referring provider. Upon receipt of findings, test results and/or a treatment report, the referring provider must submit a report to DMV if the cognitive or functional impairment meets the criteria set forth in OAR 735-074-0110.

(3) An ophthalmologist or optometrist providing health care services to a person who does not meet the DMV vision standards set forth in OAR 735-062-0050 with corrective lenses or devices must:

(a) Submit a report to DMV; or

(b) Provide the findings or test results to the person's primary care provider. Upon receipt of findings from the ophthalmologist or optometrist, the primary care provider must submit a report to DMV.

(4) Notwithstanding section (1) of this rule, a physician or health care provider providing health care services to a person meeting the criteria set forth in OAR 735-074-0100 and 735-074-0110, is not required to submit a report to DMV if the person is incapacitated and not expected to regain the ability to drive.

Stat. Auth.: ORS 184.616, 184.619 & 807.710

Stat. Implemented: ORS 807.710

Hist.: DMV 8-2003, f. 5-14-03, cert. ef. 6-1-03; DMV 12-2013, f. & cert. ef. 9-24-13

Rule Caption: Witness Information, Requests for Admissions, and Written Interrogatories in Implied Consent Hearings

Adm. Order No.: DMV 13-2013

Filed with Sec. of State: 9-24-2013

Certified to be Effective: 9-24-13

Notice Publication Date: 8-1-2013

Rules Adopted: 735-090-0066

Subject: Most contested case hearings for implied consent cases are conducted under extremely tight timelines in accordance with ORS 813.410, with the hearing held and the final order issued within 30 days of arrest. This tight timeframe leaves little to no extra time for DMV and the Office of Administrative Hearings (OAH) to engage in the discovery methods described under OAR 137-003-0566. There are limited exceptions to the statutory timelines set forth in ORS 813.440, which do not include requests for discovery. Approximately 250 implied consent hearings are conducted each month. The relevant documents are provided to the petitioner as discovery prior to the hearing, namely the police report described in ORS 813.120, which includes the name and telephone number of the reporting officer who will testify at hearing, and other documents DMV intends to offer as exhibits. Recently, the Department of Justice adopted new model rules for discovery methods in contested cases. Under OAR 137-003-0566(2) an agency may determine that certain forms of discovery are not allowed in a category of cases when the agency meets certain conditions. DMV finds that the discovery methods listed in OAR 137-003-0566(1)(a), (d), and (e) (the names, telephone numbers, and addresses of witnesses expected to testify at the hearing, requests for admissions, and written interrogatories respectively) would unduly complicate and interfere with the hearing processes in implied consent cases due to the volume of cases and need for speed and informality in these cases. The current alternative procedures for sharing relevant information, including those established in Oregon Administrative Rule, Chapter 735, Division 90, are sufficient to ensure fundamental fairness in implied consent contested case hearings. In addition, the names of the possible witnesses that will testify on the agency's behalf are already included in the documents DMV provides to a petitioner prior to hearing. Therefore DMV has adopted OAR 735-090-0066 to establish that witness information, requests for admissions, and written interrogatories do not apply to and may not be used as discovery methods in implied consent contested case hearings.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-090-0066

Witness Information, Requests for Admissions, and Written Interrogatories

(1) The Agency finds that use of the discovery methods listed in OAR 137-003-0566(1)(a), (d) and (e) (names, telephone numbers, and addresses of witnesses expected to testify at the hearing, requests for admission, and written interrogatories respectively) would unduly complicate and interfere with the hearing processes in Implied Consent contested case hearings due to the statutorily mandated timeframe within which these cases must be decided, the volume of cases and need for speed and informality in these hearings. The current alternative procedures for sharing relevant information, including those established in Oregon Administrative Rule, chapter 735, division 90, are sufficient to ensure fundamental fairness in Implied Consent contested case hearings.

(2) The witness information, requests for admission, and interrogatories described in OAR 137-003-0566(1)(a), (d) and (e) do not apply to the Agency's Implied Consent contested case hearings and may not be used in such hearings.

Stat. Auth.: ORS 183.341, 184.616, 184.619, 802.010, 813.410 & 813.440

Stats. Implemented: ORS 813.410 & 813.440

Hist.: DMV 13-2013 f. & cert. ef. 9-24-13

Rule Caption: Waiver of Drive Test When Applicant Has Completed an Approved Driver Education Program

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Adm. Order No.: DMV 14-2013

Filed with Sec. of State: 9-24-2013

Certified to be Effective: 9-24-13

Notice Publication Date: 8-1-2013

Rules Amended: 735-062-0080, 735-062-0140

Subject: The Oregon Department of Transportation, Transportation Safety Division (TSD), oversees driver education in Oregon. TSD has built a very robust driver education program, where the instructors must complete many hours of specialized training and the curriculum used by all providers is consistent and uses best practices to successfully teach safe driving behaviors. All TSD-approved driver education programs require students to pass a drive test to successfully complete the course. TSD is working to standardize the drive test procedures used by all providers. During this standardization process, DMV will coordinate with TSD to make certain that the drive test meets or exceeds the requirements of a Class C drive test conducted by DMV.

ORS 807.072 (1)(a) authorizes DMV, by administrative rule, to waive any test establishing qualification for a driver license where the person can provide satisfactory proof that they have passed an equivalent test that is given in conjunction with a traffic safety education course certified by the Department under ORS 802.345. DMV has amended OAR 735-062-0080 to state that DMV will waive the drive test portion of DMV testing for any person who provides a Driver Education Certificate of Completion card issued by a TSD-approved traffic safety education course provider, if the drive test that the person passed to successfully complete the course meets or exceeds DMV's Class C drive test. DMV also amended OAR 735-062-0140 to establish the specific proof of completion of a traffic safety education course that DMV will accept.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-062-0080

Waiving Drive Test Portion of Driver License Examination

(1) DMV will waive the actual demonstration of an applicant's ability to drive a Class C vehicle required by ORS 807.070(3) if all of the following apply:

(a) The applicant surrenders to DMV a driver license issued to the applicant by another state, the District of Columbia, a United States Territory, a Canadian Province or a jurisdiction with whom DMV has a reciprocity agreement and the driver license has not been expired for more than one year, or if the person's driver license issued by a jurisdiction listed above, has been lost or stolen, the applicant submits a letter of clearance, as required in OAR 735-062-0007;

(b) The surrendered, lost or stolen license authorizes the driving of a vehicle other than a moped or motorcycle;

(c) The surrendered, lost or stolen license includes no restrictions other than a single restriction or a combination of restrictions comparable to restrictions imposed on an Oregon driver license;

(d) The applicant has no physical disabilities or impairments which may necessitate any restrictions other than:

(A) "With corrective lenses";

(B) "Outside or side-view mirror(s)"; or

(C) The restriction(s) imposed on the applicant's surrendered, lost or stolen driver license issued by another jurisdiction.

(e) The applicant has no physical or mental condition that provides DMV with reason to question the applicant's ability to drive a motor vehicle without endangering the safety of persons or property.

(2) In addition to section (1) of this rule, DMV will waive the actual demonstration of an applicant's ability to drive a Class C vehicle required by ORS 807.070(3) if:

(a) The applicant passes a traffic safety education course approved by the Transportation Safety Division under ORS 802.345;

(b) The drive test administered during the traffic safety education course meets or exceeds the requirements of a Class C drive test conducted by DMV; and

(c) The applicant provides a Driver Education Certificate of Completion card, as described in OAR 735-062-0140, that was issued within two years prior to the submission of an application for a Class C driver license.

(3) DMV may waive the actual demonstration of an applicant's ability to drive a Class A, B, or C commercial motor vehicle or any endorsement

related to a commercial driver license if the applicant meets the qualifications set forth in subsections (1)(a) through (e) of this rule and surrenders a commercial driver license issued by another state or the District of Columbia that authorizes the driving of a commercial motor vehicle included in the Oregon classification for which the application is made.

(4) DMV may waive the actual demonstration of an applicant's ability to drive a Class A or B commercial motor vehicle if the applicant has military experience driving a Class A or Class B commercial motor vehicle and meets the following requirements:

(a) The applicant holds or is eligible for an Oregon non-commercial driver license;

(b) The applicant submits a completed Application for Military Skills Waiver, including the Commanding Officer's certification of commercial driving experience, showing the applicant meets the conditions for a waiver of drive skills testing set forth in 49 CFR, Section 383.77, Substitute for driving skills test for drivers with military CMV Experience; and

(c) DMV determines, based on documentary evidence submitted by the applicant or any military department or agency of the United States Department of Defense that:

(A) The class of commercial vehicle operated by the applicant in the military is equivalent to the class of commercial driver license for which the applicant is applying; and

(B) The applicant's primary duty while serving in the military was operation of a commercial motor vehicle and included operation of a commercial motor vehicle on public roadways.

(5) DMV will waive the actual demonstration of an applicant's ability to drive a motorcycle if:

(a) The applicant surrenders to DMV a motorcycle-endorsed driver license issued to the applicant by another state, the District of Columbia, a United States Territory or a Canadian Province, or submits a clearance letter as provided for in subsection (1)(a) of this rule; and

(b) The applicant meets the qualifications in subsections (1)(c), (d) and (e) of this rule.

(6) In addition to section (5) of this rule, DMV will waive the actual demonstration of an applicant's ability to drive a motorcycle if:

(a) The applicant passes a motorcycle skills test given during a motorcycle rider education course established by the Transportation Safety Division under ORS 802.320; and

(b) The motorcycle skills test administered during the motorcycle education course meets or exceeds the motorcycle skills test administered by DMV.

(7) Evidence of passing the motorcycle skills test identified in section (6) of this rule is a motorcycle education course completion card as provided for in OAR 735-062-0140. The completion card must have been issued within two years of application to be considered valid for waiver of the skills test.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.070, 807.072, 807.080 & 807.170

Stats. Implemented: ORS 807.070, 807.072, 807.080 & 807.170

Hist.: MV 61, f. 10-14-75, ef. 11-11-75; MV 15-1986, f. 9-16-86, ef. 10-1-86; MV 15-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0045; MV 26-1988, f. & cert. ef. 11-1-88; MV 6-1990, f. & cert. ef. 4-2-90; MV 14-1990, f. & cert. ef. 8-16-90; MV 1-1991, f. & cert. ef. 3-18-91; MV 16-1991, f. 9-18-91, cert. ef. 9-29-91; MV 6-1992(Temp), f. 5-29-92, cert. ef. 6-1-92; MV 10-1992, f. 8-21-92, cert. ef. 9-1-92; MV 12-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 4-1995, f. & cert. ef. 3-9-95; DMV 3-1-2005, f. & cert. ef. 12-14-05; DMV 11-2006(Temp), f. & cert. ef. 8-25-06 thru 2-20-07; DMV 18-2006, f. & cert. ef. 12-13-06; DMV 3-2009, f. & cert. ef. 2-20-09; DMV 11-2009, f. 6-25-09, cert. ef. 7-1-09; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; DMV 1-2013, f. 1-17-13, cert. ef. 2-1-13; DMV 14-2013, f. & cert. ef. 9-24-13

735-062-0140

Proof of Completion of a Traffic Safety Education or Motorcycle Education Course

(1) For purposes of waiving the Class C drive test DMV will only accept a Driver Education Certificate of Completion card issued by a traffic safety education course approved by the Transportation Safety Division. The Driver Education Certificate of Completion card must be in the format designed and approved by the Transportation Safety Division.

(2) For purposes of issuing a motorcycle endorsement DMV will only accept a course completion card from a motorcycle rider education course established under ORS 802.320. The course completion card must be issued within two years of application.

(3) As proof of completion of a motorcycle education course, DMV will accept a course completion card, which minimally includes:

(a) The applicant's name;

(b) The name of the course completed;

(c) The date of the course;

(d) Where the course was taken;

(e) The signature of the instructor; and

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(f) The instructor's certification number.

Stat. Auth.: ORS 184.616, 184.619 & 807.175

Stats. Implemented: ORS 807.170 & 807.175

Hist.: MV 27-1989, f. & cert. ef. 10-3-89; MV 12-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 7-1998, f. & cert. ef. 6-19-98; DMV 11-2006(Temp), f. & cert. ef. 8-25-06 thru 2-20-07; DMV 18-2006, f. & cert. ef. 12-13-06; DMV 3-2009, f. & cert. ef. 2-20-09; DMV 14-2013, f. & cert. ef. 9-24-13

Rule Caption: Commercial Drive School Certificate and Instructor Certificate Requirements

Adm. Order No.: DMV 15-2013

Filed with Sec. of State: 9-24-2013

Certified to be Effective: 9-24-13

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Rules Amended: 735-160-0003, 735-160-0005, 735-160-0010, 735-160-0011, 735-160-0015, 735-160-0020, 735-160-0035, 735-160-0075, 735-160-0080, 735-160-0095, 735-160-0100, 735-160-0115, 735-160-0125, 735-160-0130

Subject: The rules in OAR Chapter 735, Division 160 outline the requirements for a Commercial Driver Training School Certificate and a Driver Training Instructor Certificate. DMV issues these certificates and also performs on-site audits of the drive school, their records and instruction. In performing these functions and reviewing the rules, DMV determined that a few minor changes needed to be made to improve both the rules and the program. Many changes were simply for clarity and consistency. Substantive changes include the following:

1. Exempting a business from obtaining a Commercial Driver Training School Certificate if it only provides off-road instruction in vehicles with equipment which simulate hazardous driving conditions to persons holding valid driver licenses.

2. Updating offenses that disqualify an applicant as an Operator or Instructor to include involuntary servitude and trafficking in persons.

3. Requiring a person who conducts behind-the-wheel training to have had a driver license for a minimum of five years;

4. Requiring an applicant for an instructor certificate to disclose prior certification(s) in another state on the application;

5. Requiring an applicant for an instructor certificate to provide an explanation or evidence if he or she self-reports a medical condition or the person is in the DMV medically at-risk program. DMV will review information provided by the applicant and determine if the person qualifies to be an Instructor, notwithstanding the medical or physical condition.

6. Modifying the sanctions to make them more consistent and appropriate for the violation.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-160-0003

Purpose and Exemptions

(1) The purpose of chapter 735, division 160 rules is to outline the requirements for a Commercial Driver Training School Certificate pursuant to ORS 822.515 and a Driver Training Instructor Certificate pursuant to ORS 822.530.

(2) Except as provided in ORS 822.500(2) and section (4) of this rule a person must obtain a Commercial Driver Training School Certificate to operate, for consideration, a business or non-profit enterprise engaged in educating and training persons in the driving of motor vehicles, either practically or theoretically or both.

(3) Except as provided in ORS 822.525(2) and section (4) of this rule, a person must obtain a Driver Training Instructor Certificate if, for compensation, the person teaches, conducts classes, gives demonstrations to or supervises practice in the driving of motor vehicles. This section applies to persons acting on their own behalf, or acting as an operator of or on behalf of, any business, nonprofit enterprise, or school engaged in educating and training persons in the driving of motor vehicles, either practically or theoretically or both.

(4) A person that provides limited driver education or training for a specialized purpose is exempt from the requirement to obtain either a Commercial Driver Training School Certificate or a Driver Training Instructor Certificate.

(5) For purposes of ORS 822.500, 822.525 and section (4) of this rule, the following are persons who provide limited driver education or training for a specialized purpose:

(a) A rehabilitation specialist engaged in evaluating, assessing or retraining drivers to compensate for a physical or mental condition or impairment.

(b) A provider of a DMV approved accident prevention course offered primarily for insurance discount purposes pursuant to ORS 742.490.

(c) A provider who teaches specialized driving skills to drivers of emergency vehicles as defined by ORS 801.260.

(d) An employee of a government entity, business, non-profit enterprise or school who provides defensive driving training or similar driver safety instruction to employees of the government entity, business, non-profit enterprise or school who hold valid driver licenses.

(e) A person hired by, or contracting with, a government entity, business, non-profit enterprise or school who provides defensive driving training or similar driver safety instruction to employees of the government entity, business or nonprofit enterprise who hold valid driver licenses.

(f) A federal, state, county or city agency that provides driver safety training to members of the public who hold valid driver licenses, including, but not limited to teaching people how to drive in adverse weather conditions, a safe-driving program or a motorcycle safety program.

(g) A provider of off-the-highway instruction in the operation of off-road racing vehicles to persons holding valid driver licenses.

(h) A provider of off-the-highway instruction in the operation of off-road all terrain vehicles (ATVs).

(i) A provider of training conducted exclusively over the internet, if no classroom or behind-the-wheel training is conducted at any physical location in Oregon.

(j) A provider of driver improvement or similar driver safety instruction for the purpose of a court-order or for a court diversion program.

(k) An insurer, or person acting on behalf of an insurer, who provides defensive driving training or similar driver safety instruction for the purpose of reducing insurance premiums, not used to meet a DMV requirement.

(l) Providers of off the highway training conducted exclusively for currently licensed drivers who are taking the training to gain specific skills, not used to meet a DMV requirement. Examples of specific skills training include, but are not limited to, hazardous driving conditions training, crash avoidance training or tactical driver training.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.500 & 822.525

Stats. Implemented: ORS 822.500, 822.515, 822.525 & 822.530

Hist.: DMV 25-2005, f. 12-14-05 cert. ef. 1-1-06; DMV 18-2008, f. & cert. ef. 7-23-08; DMV 15-2013, f. & cert. ef. 9-24-13

735-160-0005

Definitions

The following definitions apply to terms in chapter 735, division 160 rules.

(1) "Behind-the-wheel" instruction means the portion of the training that requires the student to be located in the automobile.

(2) "Cancellation" in regards to a School Certificate or Instructor Certificate means to declare a School Certificate or Instructor Certificate void with a new certificate obtainable only as defined in OAR 735-160-0115(12).

(3) "Code of Ethics and Rules of Conduct Violation" means any violation of the standards established by OAR 735-160-0130.

(4) "Commercial Driver Training School" or "School" means a privately or publicly owned driver training facility in Oregon that has been issued a School Certificate by DMV to provide student drivers behind-the-wheel instruction, classroom instruction or both, for a fee.

(5) "Commercial Driver Training School Operator" or "Operator" means the person designated on the School Certificate as the representative responsible for the operation of a Commercial Driver Training School certified by DMV.

(6) "Commercial Driver Training School Instructor" or "Instructor" means a person issued an Instructor Certificate by DMV who is an employee of a Commercial Driver Training School, and who teaches, conducts classes, gives demonstrations or supervises the practice of student drivers.

(7) "Corrected School Certificate" means a certificate issued based on an application submitted by an Operator to:

(a) Correct or change a school name or address; or

(b) Correct or change the person designated as the school's Operator.

(8) "Corrected Instructor Certificate" means a certificate issued based on an application submitted by an Instructor to:

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(a) Correct or change the name or address of the school employing the Instructor; or

(b) Correct or change the Instructor's name.

(9) "DMV" means the Driver and Motor Vehicle Services Division of the Department of Transportation.

(10) "Employee" means an individual who may or may not provide services for the school for compensation. For purposes of these rules, this definition includes an independent contractor.

(11) "Instructor Certificate" means a certificate issued by DMV as provided in ORS 822.530 to a Commercial Driver Training School Instructor to provide, for a fee, student drivers behind-the-wheel instruction, classroom instruction, or both.

(12) "Instructor Card" means a Card issued to an Instructor certified by DMV as evidence of Instructor certification.

(13) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, a territory or province of Canada, any state of the Republic of Mexico or the Federal District of Mexico or foreign government that has legal authority to issue driver licenses.

(14) "Permanent classroom facility" means a classroom used on a continuing, ongoing basis.

(15) "Revocation" means the termination of the authority granted under a School Certificate or an Instructor Certificate for a specified period, with a new certificate obtainable only as defined under 735-160-0115(11).

(16) "School Certificate" means a certificate issued by DMV as provided in ORS 822.515 to a Commercial Driver Training School Operator.

(17) "Student driver" or "student" means a person who is receiving classroom or behind-the-wheel instruction, or both, at a Commercial Driver Training School.

(18) "Supplemental School Certificate" means a certificate issued by DMV that authorizes a school to operate, under the same business name, at an additional business location that is 500 or more feet beyond any other authorized business location of the school. An additional business location includes a location where business records are kept and business activities are conducted but does not include a location where only instruction is provided.

(19) "Suspension" means the temporary withdrawal for a specified period of time of the authority to conduct business or perform instructional activities granted under a School Certificate or an Instructor Certificate.

(20) "Traffic crime" means a conviction under Oregon statute or city ordinance, or a comparable statute or city ordinance of any other jurisdiction, for any misdemeanor or felony involving the use of a motor vehicle that may result in a jail sentence.

(21) "Warning" means a written correction notice issued by DMV to the Operator or an Instructor of a Commercial Driver Training School that requires corrective action be taken as specified by DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.515 & 822.530

Stats. Implemented: ORS 822.515

Hist.: MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 15-2013, f. & cert. ef. 9-24-13

735-160-0010

Commercial Driver Training School Operator Qualifications

(1) An Operator of the school must be at least 21 years of age and meet the qualification requirements of sections (2) through (7) of this rule.

(2) An Operator must not have a conviction for any of the following crimes:

(a) A traffic crime as defined by ORS 801.545 and OAR 735-160-0005(20). This subsection does not apply if the conviction occurred more than five years preceding the date an application for a School Certificate or Corrected School Certificate is submitted to DMV;

(b) Kidnapping, custodial interference, subjecting another to involuntary servitude, or trafficking in persons as defined in ORS 163.225 through 163.266;

(c) Any sexual offense, with or without force, any offense related to child pornography or any offense compelling or promoting prostitution;

(d) Any crime involving death, injury or threat of injury to another person;

(e) Any crime involving theft, forgery, fraud, falsifying or tampering with records, or racketeering; or

(f) Any crime relating to the unlawful possession, use, sale, manufacture or distribution of controlled substances or alcoholic beverages.

(3) An Operator who has been convicted of one of the crimes listed in section (2) of this rule may include an explanation of the crime or evidence of intervening circumstances since the conviction. DMV may issue a School Certificate if the person is otherwise qualified and DMV determines

based on the explanation or evidence DMV determines that the conviction does not affect the person's fitness to be an Operator.

(4) An Operator must not engage in conduct that is substantially related to the person's fitness to be an Operator or that demonstrates unfitness and inability to perform the responsibilities of an Operator. DMV will determine from the facts of the conduct, and the intervening circumstances known to DMV, if the person is fit to perform the responsibilities of an Operator or poses a risk to the safety of others while performing those responsibilities.

(5) An Operator may not be the operator of any school in Oregon if a School Certificate issued to the operator is currently revoked for an offense described in OAR 735-160-0010(2). An Operator may not be the operator of any school in Oregon if a School Certificate issued to the Operator is currently suspended, revoked, canceled, or withdrawn unless the School Certificate is reinstated or is eligible and the Operator meets all eligibility requirements of OAR 735-160-0010.

(6) An Operator must not have been the operator of any school in another jurisdiction that has been suspended, revoked, canceled, or withdrawn for the same or a similar offense as described in OAR 735-160-0010(2) within five years preceding the date of application for a School Certificate or Corrected School Certificate. DMV will review the results of an operator's criminal history to determine whether the offense is applicable.

(7) The criteria described in this rule apply to a current School Certificate and may provide grounds for suspension, revocation, or cancellation as described in OAR 735-160-0115 if an Operator fails to remain qualified as prescribed under this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.500, 822.515 & 822.530

Stats. Implemented: ORS 822.500 & 822.515

Hist.: MV 43, f. & ef. 12-8-69; MV 6-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-051-0010; MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09; DMV 15-2013, f. & cert. ef. 9-24-13

735-160-0011

Issuance of Commercial Driver Training School Certificate

(1) An Operator must apply for an original or renewal School Certificate pursuant to ORS 822.515 and must:

(a) Submit a completed application on a form or in a format provided or established by DMV;

(b) Meet the qualifications listed in OAR 735-160-0010;

(c) Authorize DMV to obtain the Operator's criminal background information. Criminal background information will only be used to determine Operator qualifications and may be used as evidence in any contested case hearing or appeal as described in section (6) of this rule. Such information will otherwise be kept confidential and not released to any person unless DMV determines a record, or any portion thereof, must be released pursuant to the Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court orders disclosure in accordance with the Public Records law.

(d) Submit a School bond that complies with the requirements of ORS 822.505, on a form prescribed by DMV, and certify that a bond will remain in effect as long as the School Certificate is valid;

(e) Submit proof of insurance that complies with the requirements of ORS 822.510, on a form prescribed by DMV. The Operator must certify that insurance will remain in effect as long as the School Certificate is valid;

(f) Submit the fee required under ORS 822.700; and

(g) Register the business name with the Secretary of State, Corporation Division and provide the registry number.

(2) The business location of the School must comply with the requirements of OAR 735-160-0020.

(3) Once issued, a School Certificate is not transferable to any other Commercial Driver Training School.

(4) An Operator must submit to DMV a renewal application, supporting documents and payment for a School Certificate no later than the last day of the calendar year. DMV will provide a grace period of 45 days for the application to be processed during which time the existing School Certificate will remain valid. A renewal application that is received after the expiration date of the existing School Certificate will be treated as an application for an original School Certificate.

(5) DMV will not issue or renew a School Certificate if:

(a) The qualifications or requirements set forth in Chapter ORS 822 and OAR chapter 735 division 160 rules are not met; or

(b) DMV determines information contained in the application is false.

(6) If DMV refuses to issue or renew a School Certificate, DMV will notify the Operator in writing. The Operator may request a contested case

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hearing. The hearing is conducted in accordance with the contested case provisions of the Administrative Procedures Act, ORS 183.310 to 183.500 and is subject to the following:

(a) A request for hearing must be submitted in writing to and received by DMV within 20 days of the date the refusal notification is mailed to the Operator. DMV will not issue a School Certificate pending the outcome of the contested case hearing. If DMV refuses to renew a School Certificate, the expired School Certificate remains valid pending the outcome of the contested case hearing, unless the basis for the refusal is failure to provide or maintain a School bond or provide proof of insurance, as required, or DMV determines continued operation of the School would constitute a serious danger to the public health or safety.

(b) Failure to timely request a hearing constitutes waiver of the right to a hearing and no School Certificate will be issued or renewed until the requirements of ORS 822.500 to 822.515 and the OAR chapter 735, division 160 rules are satisfied.

(7) Failure to maintain any of the requirements as prescribed under this rule may result in a sanction as described in OAR 735-160-0115 of a School Certificate issued or renewed in accordance with this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.505, 822.510 & 822.515
Stats. Implemented: ORS 822.500, 822.510 & 822.515
Hist.: DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09; DMV 15-2013, f. & cert. ef. 9-24-13

735-160-0015

Commercial Driver Training School Operator Responsibilities

(1) An Operator must:

(a) Notify DMV by mail, email or facsimile within 10 calendar days of any of the following:

(A) The location of any permanent classroom facility changes;

(B) The School goes out of business and ceases operations;

(C) The Operator no longer meets or maintains the qualifications set forth in OAR 735-160-0010;

(D) The School does not maintain the requirements set forth in OAR 735-160-0011;

(E) An Instructor whose employment with the School has terminated; or

(F) An Instructor employed by the School who no longer meets or maintains the qualifications, responsibilities or requirements set forth in OAR 735-160-0075, 735-160-0080, and 735-160-0095, including an explanation of why the Instructor no longer meets the qualifications, responsibilities, or requirements.

(b) File an application with DMV for a Corrected School Certificate within 10 calendar days if the name or address of the School changes or the School Operator's name changes. If the name of the School changes, the Operator must submit bond and insurance documents in the new business name to DMV within thirty (30) days;

(c) Make any and all business records, vehicles and facilities related to the operation of the School available for inspection by a DMV inspector in accordance with OAR 735-160-0030. DMV may conduct an inspection with or without prior notice to the School Operator;

(d) Establish procedures that reasonably insure no Instructor or student is under the influence of any intoxicant during classroom or behind-the-wheel instruction;

(e) Provide student with a copy of, or prominently display in a publicly accessible and conspicuous manner, a complaint procedure that includes DMV contact information;

(f) Comply with all statutes, administrative rules, and regulations related to the operation of a Commercial Driver Training School;

(g) Adhere to the Code of Ethics and Rules of Conduct set forth in OAR 735-160-0130;

(h) Authorize only a person that has been issued an Instructor Certificate, who is employed by the School, to provide classroom or behind-the-wheel instruction to a student driver;

(i) Notify DMV by facsimile, email or mail within 24 hours (excluding weekends and state holidays) of any:

(A) Notice of a civil legal action filed against the School, Operator or an Instructor which is related to the School's operations; or

(B) Criminal investigation, arrest or conviction for an offense described in OAR 735-0160-0010(2); and

(j) If requested, respond to DMV by mail, email or facsimile within 10 calendar days to any complaint received by DMV.

(2) An Operator must not:

(a) Falsify or tamper with any records;

(b) Act as a Commercial Driver Training Instructor unless the Operator has been issued an Instructor Certificate by DMV;

(c) Transfer or allow any other School or Operator to use the School Certificate issued to the Operator;

(d) Knowingly assist a person to fraudulently obtain driving privileges from DMV; or

(e) Permit an Instructor who works for the School to:

(A) Provide classroom or behind-the-wheel instruction to any student driver who is not enrolled in the School. This subsection does not apply to instruction given by an Instructor to his or her immediate family members;

(B) Conduct any behind-the-wheel instruction with any student driver not in possession of a valid driver license or instruction permit;

(C) Provide behind-the-wheel instruction to any student driver on a driving route specifically used by DMV to test applicants for Oregon driving privileges;

(D) Provide questions and answers that are identical to a DMV knowledge test during classroom training;

(E) Allow any Instructor who does not have a valid Oregon driver license to conduct behind-the-wheel instruction and not allow any Instructor who does not have a valid driver license to conduct classroom training.

(f) Permit any person under the age of 19 to conduct any instruction, or permit any person under the age of 21 to conduct behind-the-wheel instruction.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.505, 822.510, 822.515 & 822.530
Stats. Implemented: ORS 822.505, 822.510 & 822.515

Hist.: MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 15-2013, f. & cert. ef. 9-24-13

735-160-0020

Location and Advertising

(1) No School may have a business location closer than 1,500 feet to any DMV office, unless it has continuously operated in that location prior to the opening of the DMV office.

(2) No School may be operated from a liquor store, bar, tent, temporary stand, temporary address, mailing service, or through a telephone answering service.

(3) Every School must have a business location in Oregon having at least one structure where records required to be maintained are kept and made available for DMV inspection. The School Certificate must list the business location.

(4) A Commercial Driver Training School with more than one business location must, on a form supplied by DMV, apply for and be issued a Supplemental School Certificate for each additional business location not listed on the School Certificate. A supplemental business location must be 500 or more feet from any other business location of the School and must operate under the same business name as that listed on the School Certificate. The Supplemental School Certificate must list the supplemental business location.

(5) If the business location changes, the School must be issued a Corrected School Certificate before business may be conducted at the new location. If the name of the School changes, the School must obtain a Corrected School Certificate and Corrected Supplemental School Certificate for each business location before business may be conducted under the new name.

(6) Access to the most current Oregon Vehicle Code statutes and the most current Oregon Administrative Rules relating to driver licensing must be available at each business location and supplemental business location of the School. The statutes and administrative rules must be made available for view by the public upon request. Access to the statutes and administrative rules may be provided electronically through the internet.

(7) The following advertising practices must be followed:

(a) No advertisement, publication, employee or other person affiliated with the School may indicate or imply that enrollment in the School guarantees issuance of driving privileges;

(b) No employee or other person affiliated with the School may solicit business or cause business to be solicited on its behalf or display or distribute any advertising material within 1,500 feet of any DMV office, unless the business location of the School is within 1,500 feet as authorized under section (1) of this rule;

(c) School forms, agreements, advertising and business premises signs may say: "This school is certified by the State of Oregon." There may be no suggestion, either express or implied, in any form, agreement, advertisement, publication, business solicitation, or business sign that the School is endorsed or recommended by the State of Oregon or any agency of the State;

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(d) Only the business location or supplemental business location address as it appears on the School Certificate or Supplemental School Certificate may be included in any advertisement or business solicitation;

(e) No advertisement, publication, or business solicitation may be false, deceptive, or misleading and no employee or other person affiliated with the School may disseminate false, deceptive, or misleading information about the School or authorize others to do the same;

(f) Only the School name as it appears on the current School Certificate may be used in any publication, form, advertisement, business solicitation, or sign; and

(g) No advertisement, publication, employee, or other person affiliated with the School may knowingly encourage persons who are not domiciled in or residents of Oregon to apply for Oregon driving privileges.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.515

Stats. Implemented: ORS 822.515

Hist.: MV 43, f. & ef. 12-8-69; MV 6-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-051-0015; MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 15-2013, f. & cert. ef. 9-24-13

735-160-0035

Inspection and Investigation

(1) DMV will periodically inspect a School to determine it is complying with all laws and administrative rules pertaining to Commercial Driver Training Schools, including Instructor certification and operation requirements.

(2) All records subject to this rule must be available for inspection by an authorized representative(s) of DMV. DMV may conduct a random inspection of the business premises, records, or equipment of a School to review compliance with Oregon statutes and administrative rules. DMV may give notice and arrange an appointment with the Operator prior to an inspection, or may conduct a random inspection without providing notice to the Operator. The Operator must consent to and fully cooperate with any inspection.

(3) Inspections may include examination of:

(a) All student driver records regardless of whether the student driver completed or failed to complete the School's driver training program;

(b) The records of current or former Instructors employed by the School;

(c) Any motor vehicles used for training student drivers, to ensure that the vehicles meet the equipment standards of OAR 735-160-0040;

(d) Any curriculum and instructional materials used to teach or demonstrate how to drive; and

(e) Those facilities, records, or equipment DMV deems necessary to inspect, in its discretion, to ensure that the School is complying with all applicable provisions of law.

(4) Refusal to permit DMV to conduct an inspection will result in a sanction imposed pursuant to OAR 735-160-0125.

(5) DMV may investigate any complaint it receives about an Operator or Instructor. The Operator, Instructor and employees of the School must cooperate with DMV during the investigation. If requested by DMV, the Operator must respond to the complaint in writing and submit the response to DMV by mail, email or facsimile within 10 calendar days from the date DMV notifies the Operator of the complaint.

(6) DMV will prepare a written report of each inspection and investigation. A copy of the DMV report, including any sanction or corrective action, will be sent to the Operator.

(7) The Operator must correct any deficiency identified by a DMV inspector during an on-site inspection, within 30 calendar days of the date the inspection report requiring corrective action is issued by DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.515 & 822.530

Stats. Implemented: ORS 822.515

Hist.: MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 15-2013, f. & cert. ef. 9-24-13

735-160-0075

Commercial Driver Training School Instructor Qualifications

(1) No person will teach, conduct classes, give demonstrations to, or supervise the practice of student drivers for compensation unless he or she is issued an Instructor Certificate by DMV.

(2) To be eligible for an Instructor Certificate, or to renew or maintain an Instructor Certificate, a person must:

(a) Be at least 21 years of age to conduct behind-the-wheel training and age 19 to conduct classroom training;

(b) Be an employee of a School that holds a valid and current School Certificate issued by DMV;

(c) Have valid Oregon driving privileges, or valid driving privileges from another jurisdiction, for at least three years preceding the date an application for an Instructor Certificate is submitted to DMV if the person

will only conduct classroom training, or valid driving privileges for at least five years preceding the date an application for an Instructor Certificate is submitted to DMV if the person will conduct behind-the-wheel instruction. To be valid, driving privileges must not be suspended, revoked, canceled, or otherwise withdrawn for a violation of a traffic crime described in OAR 735-160-0005(20) and ORS 801.545. For purposes of these OAR 735 division 160 rules, a hardship or probationary permit does not constitute valid driving privileges. A person who has not held Oregon driving privileges for the periods described above, may be required to submit a certified driving record from each jurisdiction that issued driving privileges during that period;

(d) Not have a conviction for any of the following crimes:

(A) A traffic crime as defined by ORS 801.545 and OAR 735-160-0005(20). This subsection does not apply if the conviction occurred more than five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(B) Kidnapping, custodial interference, subjecting another to involuntary servitude, or trafficking in persons as defined in ORS 163.225 through 163.266;

(C) Any sexual offense, with or without force, any offense related to child pornography, or compelling or promoting prostitution;

(D) Any crime involving death, injury or threat of injury to another person;

(E) Any crime involving theft, forgery, fraud, falsifying or tampering with records, or racketeering; or

(F) Any crime relating to the unlawful possession, use, sale, manufacture, or distribution of controlled substances or alcoholic beverages;

(e) Not engage in conduct that is substantially related to the person's fitness to be an Instructor or that demonstrates unfitness and inability to perform the responsibilities of an instructor. DMV will determine from the facts of the conduct, and the intervening circumstances known to DMV, if the person is fit to perform the responsibilities of an Instructor or poses a risk to the safety of others while performing those responsibilities; and

(f) Have received a passing score on the written knowledge test and the certification drive test described in OAR 735-160-0100 if the person is required to take the certification drive test under OAR 735-160-0080(3).

(g) Currently have valid Oregon driving privileges if the person will conduct behind-the-wheel training.

(3) A person is not eligible for an Instructor Certificate, and will not be allowed to renew or maintain an Instructor Certificate if:

(a) The person has a physical or mental condition or impairment affecting the person's ability to teach, give demonstrations, or supervise the practice of student drivers in a motor vehicle;

(b) The person's vision in both eyes, with or without corrective lenses, does not meet a minimum acuity of 20/40. Corrective lenses do not include bioptic telescopic lenses. This requirement does not apply to a person applying to conduct only classroom training.

(c) The person's driving privileges are revoked as a habitual offender under ORS 809.600 or any equivalent action in another jurisdiction. This section applies if the person's driving privileges were revoked as a habitual offender and have not been restored under ORS 809.660 or its equivalent in another jurisdiction at least five years prior to the date an application for an Instructor Certificate or Corrected Instructor Certificate is submitted to DMV;

(d) The person is enrolled or participating in a DUI diversion program including an equivalent diversion program in another jurisdiction. This section will apply if the person was enrolled or participated in a diversion program anytime within the five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(e) The person has had a suspension of driving privileges under a driver improvement program, including an equivalent driver improvement program in another jurisdiction. This section will apply if the suspension occurred within the last three years preceding the date an application for an Instructor Certificate is submitted;

(f) The person refuses to take a breath or blood test in accordance with ORS 813.100 or any equivalent violation in another jurisdiction. This section applies if the person refused a breath test anytime within five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(g) The person fails to pass a breath or blood test in accordance with ORS 813.100 or any equivalent violation in another jurisdiction. This section applies if the person fails a breath test anytime within five years preceding the date an application for an Instructor Certificate is submitted to DMV;

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(h) The person is an Instructor at any School in Oregon whose School Certificate is currently revoked, canceled, or withdrawn unless the Operator has completed the terms of their sanction according to OAR 735-160-0125; or

(i) The person has an Instructor Certificate or School Certificate that is suspended, revoked, canceled, or withdrawn or a similar sanction in this or in any other jurisdiction, on the date the application for an Instructor Certificate is submitted to DMV. The person must disclose on the application if he or she has been certified as an Instructor or Operator in the past three years in any other jurisdiction, and specify the jurisdiction(s). DMV will verify whether the person's certification is currently withdrawn in that jurisdiction and if it is grounds for denial or withdrawal of an Oregon Instructor Certificate.

(4) A person who has been convicted of one of the crimes listed in section (2) of this rule may include an explanation of the crime or evidence of intervening circumstances since the conviction. Notwithstanding the conviction DMV may issue an Instructor Certificate if the person is otherwise qualified and DMV determines based on the explanation or evidence that the conviction does not affect the person's fitness to be an Instructor.

(5) A person whose driving privileges have been suspended as described in section (3)(e) of this rule may include an explanation or evidence of intervening circumstances since the suspension. Notwithstanding the suspended driving privileges, DMV may issue an Instructor Certificate if the person is otherwise qualified and DMV determines based on the explanation or evidence that the suspension does not affect the person's fitness to be an Instructor.

(6) An applicant who has answered "Yes" to any medical question on the application, or whose driving privileges are cancelled, suspended or revoked due to a mental or physical condition may include an explanation or evidence regarding the condition. DMV may request additional information from the applicant including, but not limited to, documentation regarding the nature of the condition from a licensed medical practitioner. Notwithstanding the condition, DMV may issue an Instructor Certificate if the person is otherwise qualified and based on the explanation or evidence DMV determines that the condition does not affect the person's fitness to be an Instructor.

(7) The criteria described in this rule apply to a current Instructor Certificate and may provide grounds for suspension, revocation, or cancellation as described in OAR 735-160-0115 if an Instructor fails to remain qualified as prescribed under this rule.

Stat. Auth.: ORS 184.616, 814.619, 802.010 & 822.530
Stats. Implemented: ORS 822.530

Hist.: DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09; DMV 15-2013, f. & cert. ef. 9-24-13

735-160-0080

Issuance of Commercial Driver Training School Instructor Certificate

(1) An applicant must apply for an original or renewal Instructor Certificate pursuant to ORS 822.530 and must:

(a) Submit a completed application on a form or in a format provided or established by DMV;

(b) Meet the Instructor qualifications listed in OAR 735-160-0075;

(c) Pass the knowledge and certification drive test requirement in accordance with OAR 735-160-0100. The drive test is not required if:

(A) The applicant can provide proof that he or she completed the Transportation Safety Division (TSD) approved Foundations course and the TSD approved course of study for behind-the-wheel instructor preparation, including an in-car practicum with beginning drivers;

(B) The applicant is an approved ODOT-TSD Traffic Safety Education Instructor; or

(C) The applicant will only conduct classroom training.

(d) Authorize DMV to obtain the applicant's criminal background information. Criminal background information will only be used to determine the person's qualifications to be an Instructor and may be used as evidence in any contested case hearing or appeal as described in section (6) of this rule. Such information will otherwise be kept confidential and not released to any person unless DMV determines a record, or any portion thereof, must be released pursuant to the Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court orders disclosure in accordance with the Public Records Law.

(e) Submit the fee required under ORS 822.700; and

(f) Possess and maintain a current and valid Oregon driver license. If only conducting classroom training, the applicant may possess and maintain a current and valid driver license from another jurisdiction.

(2) An Instructor must submit to DMV a renewal application, supporting documents and payment for an Instructor Certificate no later than

the last day of the calendar year. DMV may provide a grace period of 45 days for the application to be processed during which time the existing Instructor Certificate will remain valid. A renewal application that is received after the last day of the calendar year will be treated as an application for an original Instructor Certificate.

(3) DMV will not issue or renew an Instructor Certificate if:

(a) Any of the qualifications or requirements set forth in ORS Chapter 822 and OAR chapter 735, division 160 rules are not met; or

(b) DMV determines information contained in the application is false.
(4) If DMV refuses to issue or renew an Instructor Certificate, DMV will notify the person in writing. The person may request a contested case hearing. The hearing is conducted in accordance with the applicable contested case provisions of the Administrative Procedures Act, ORS 183.310 to 183.500 and is subject to the following:

(a) A request for hearing must be submitted in writing and received by DMV within 20 days of the date the refusal notification is mailed to the person. DMV will not issue an Instructor Certificate pending the outcome of the contested case hearing. If DMV refuses to renew an Instructor Certificate, the expired Instructor Certificate remains valid pending the outcome of the contested case hearing; and

(b) Failure to timely request a hearing constitutes waiver of the right to a hearing and no Instructor Certificate will be issued or renewed until the requirements of ORS 822.500 to 822.515 and OAR chapter 735, division 160 rules are satisfied.

(5) Failure to maintain any of the requirements as prescribed under this rule may result in a sanction as described in OAR 735-160-0115 of an Instructor Certificate issued or renewed in accordance with this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.530

Stats. Implemented: ORS 822.530

Hist.: MV 43, f. & ef. 12-8-69; MV 7-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-051-0005; MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09; DMV 15-2013, f. & cert. ef. 9-24-13

735-160-0095

Commercial Driver Training School Instructor Responsibilities

(1) An Instructor shall:

(a) Meet and remain in compliance with the Instructor qualifications set forth in OAR 735-160-0075;

(b) Provide student driver training that meets the curriculum requirements set forth in OAR 735-160-0050;

(c) Accurately complete all applicable student driver records required under OAR 735-160-0030;

(d) Adhere to the Code of Ethics and Rules of Conduct set forth in OAR 735-160-0130;

(e) Comply with all statutes, administrative rules and regulations relating to acting as an Instructor;

(f) Carry the Instructor's card at all times while providing instruction;

(g) Notify DMV by mail or facsimile within 24 hours, excluding state holidays or weekends of any:

(A) Notice of civil legal action filed against the Instructor related to acting as an Instructor; or

(B) A criminal investigation, arrest or conviction for an offense described in OAR 735-160-0075(2)(d); and

(C) If requested, respond to DMV in writing or by facsimile or mail within 10 calendar days (excluding weekends and state holidays) to any complaint received by DMV.

(2) An Instructor shall not:

(a) Falsify or tamper with any records;

(b) Transfer to or allow any other person to use his or her Instructor Certificate or Instructor Card;

(c) Knowingly assist a person in fraudulently obtaining driving privileges from DMV;

(d) Provide classroom or behind-the-wheel instruction to any student driver who is not enrolled in the School. This subsection does not apply to the Instructor's immediate family members;

(e) Allow any student driver to operate a motor vehicle without a valid driver license or instruction permit;

(f) Provide behind-the-wheel instruction to any student driver on a driving route specifically used by DMV to test applicants for Oregon driving privileges;

(g) Provide questions and answers that are identical to a DMV knowledge test during classroom training;

(h) Allow any student driver to participate in classroom instruction or behind-the-wheel instruction if the Instructor has reason to believe the student driver is under the influence of an intoxicant;

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(i) Provide classroom instruction or behind-the-wheel instruction if the Instructor is under the influence of an intoxicant; or

(j) Act as an Instructor for behind-the-wheel training without a valid Oregon driver license or provide classroom instruction without a valid driver license.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.525 & 822.530
Stats. Implemented: ORS 822.530
Hist.: MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 15-2013, f. & cert. ef. 9-24-13

735-160-0100

Commercial Driver Training School Instructor Testing

(1) The knowledge test required by OAR 735-160-0080 for an applicant will consist of questions about:

- (a) The Oregon Vehicle Code;
- (b) Safe driving practices;
- (c) The operation of motor vehicles;

(d) The methods and requirements for instructing student drivers under OAR 735-160-0050; and

(e) The qualification and responsibilities related to being an Instructor under OAR 735-160-0003 through 735-160-0130.

(2) The certification driving test required by OAR 735-160-0080 examines the applicant's ability to drive consistent with the standards established by ORS 807.070(3) and OAR 735-160-0050.

(3) Each applicant will be given a maximum of three opportunities in one year to pass the knowledge test or the certification drive test in accordance with sections (4) and (5) of this rule.

(4) Applicants, required to pass a certification drive test under OAR 735-160-0080(3), who fail the certification drive test on the first attempt must wait at least seven calendar days before taking a second certification drive test. Individuals who fail the certification drive test on the second attempt must wait 14 calendar days before taking a third certification drive test. Applicants who fail the third certification drive test must wait one year from the date of taking the third certification drive test.

(5) Applicants who fail the knowledge test on the first attempt must wait at least seven calendar days before taking a second knowledge test. Individuals who fail the knowledge test on the second attempt must wait 14 calendar days before taking a third knowledge test. Individuals who fail the third knowledge test must wait one year from the date of taking the third knowledge test.

(6) Applicants must receive a passing score of 85 percent or higher on the written knowledge test described in section (1) of this rule and a passing score of 90 percent or higher on the certification drive test described in section (2) of this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.515 & 822.530
Stats. Implemented: ORS 822.530
Hist.: MV 43, f. & ef. 12-8-69; MV 7-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-052-0015; MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 15-2013, f. & cert. ef. 9-24-13

735-160-0115

Commercial Driver Training School and Instructor Sanctions

(1) DMV will impose sanctions when it determines a School or an Instructor has violated provisions of the Oregon Vehicle Code, or administrative rules promulgated by DMV relating to:

- (a) Operating a Commercial Driver Training School; or
- (b) Acting as a Commercial Driver Training School Instructor.

(2) DMV will impose a sanction appropriate for the particular violation. In determining an appropriate sanction, DMV may use the matrix outlined in OAR 735-160-0125 as a guideline and may consider the following criteria:

- (a) The severity of the violation or its impact on the safety of the public;
- (b) The number of similar or related violations;
- (c) Whether the violations were willful or intentional; and
- (d) The history of prior sanctions imposed by DMV.

(3) DMV will impose sanctions when it determines violations have occurred or are occurring. These may include one or more of the following:

- (a) A written warning, including correction notices;
- (b) Suspension of the School Certificate and suspension of the right to apply for or renew a School Certificate for up to one year;
- (c) Suspension of the Instructor Certificate and suspension of the right to apply for or renew an Instructor Certificate for up to one year;
- (d) Revocation of the School Certificate and revocation of the right to apply for or renew a School Certificate for up to five years;
- (e) Revocation of the Instructor Certificate and revocation of the right to apply for or renew an Instructor Certificate for up to five years.

(4) DMV may cancel, suspend or revoke a School Certificate or an Instructor Certificate if the School, the Operator or the Instructor fails to maintain the eligibility requirements under ORS 822.500 to 822.535 and these OAR division 160 rules.

(5) An Operator or Instructor whose certificate has been suspended, revoked, or cancelled is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.

(6) When DMV takes action to suspend, revoke or cancel a School Certificate DMV will send notice to the Operator listed on the School Certificate. The notice will be in writing and state that the suspension, revocation, or cancellation will begin either in five calendar days (an immediate suspension or cancellation) or in 30 calendar days from the date on the notice. The notice will be served by first class mail sent to the School's most current address on record with DMV.

(7) When DMV takes action to suspend, revoke or cancel an Instructor Certificate DMV will send notice to the Instructor listed on the Instructor Certificate. The notice will be in writing and state that the suspension, revocation, or cancellation will begin either in five calendar days (for an immediate suspension or cancellation) or in 30 calendar days from the date on the notice. The notice will be served by first class mail sent to the School listed as the Instructor's current employer. DMV will use the School's most current address on record with DMV.

(8) Except as provided for in section (9) of this rule, a request for a hearing must be submitted in writing to, and received by, DMV within 20 days of the date of the notice. If a hearing request is received in a timely manner the suspension, revocation or cancellation will not go into effect pending the outcome of the hearing, unless the School Certificate is immediately suspended or cancelled.

(9) If the School Certificate is immediately suspended or cancelled as set forth in OAR 735-160-0125, the request for hearing must be submitted in writing to, and received by, DMV within 90 days of the date of the notice of suspension. The suspension or cancellation will remain in effect pending the outcome of the hearing.

(10) Except as provided in OAR 137-003-0528, when no request for a hearing is received by the deadline, the Operator or Instructor has waived the right to a hearing, DMV's file constitutes the record of the case, and a default order will be issued by DMV.

(11) If a School Certificate or Instructor Certificate is revoked, the Operator or Instructor may reapply for an original certificate after a period of revocation of five years and must meet all the qualifications and requirements for the certificate.

(12) If the School Certificate or Instructor Certificate is cancelled, the Operator or Instructor may reapply for an original certificate when they have met all of the requirements for a certificate and fees are paid in accordance with ORS 822.700.

(13) At the end of a suspension period, DMV will reinstate the School Certificate or Instructor Certificate unless the certificate has expired, or the Operator or Instructor does not comply with the reinstatement requirements or meet the qualification requirements for the certificate. If the certificate is suspended and has been expired for more than one year, the Operator or Instructor must reapply for an original certificate, comply with the reinstatement requirements, meet all the qualifications and requirements for a new School Certificate or Instructor Certificate, and pay fees in accordance with ORS 822.700.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.515 & 822.530
Stat. Implemented: ORS 822.515
Hist.: DMV 15-2005, f. & cert. ef. 5-19-05; DMV 14-2007, f. & cert. ef. 12-24-07; DMV 15-2013, f. & cert. ef. 9-24-13

735-160-0125

Sanctions

DMV adopts the following matrix of sanctions for School Operator and Instructor violations. As used in this rule, an offense will be considered a second or subsequent offense if it occurred within three years from the date the Operator or Instructor was notified in writing of the occurrence of the same or a substantially similar offense in this or another jurisdiction. DMV will not sanction as a second or third/subsequent offense if more than three years have passed from the date of the previous violation for the same or similar offense. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 814.619, 802.010, 822.515 & 822.530
Stats. Implemented: ORS 822.515 - 822.530
Hist.: DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09; DMV 15-2013, f. & cert. ef. 9-24-13

ADMINISTRATIVE RULES

735-160-0130

Code of Ethics and Rules of Conduct

(1) Each Operator and each Instructor accepts the responsibilities and requirements of the driver training profession. Each Operator and Instructor must adhere to the highest ethical standards of professional conduct.

(2) To fulfill their obligations to the public and to DMV, the Operator and Instructor must:

(a) Recognize that the instruction and training of student drivers is a position of trust;

(b) Exhibit competence and wisdom in conducting professional responsibilities;

(c) Uphold and obey the law, including but not limited to the provisions of the Oregon Vehicle Code; and

(d) Maintain and uphold the highest educational standards possible for instructing and training student drivers.

(3) Rules of Conduct. An Operator and Instructor will not engage in or knowingly allow any owner, officer, agent, director, manager, or employee of a School to engage in any of the following:

(a) Assist or knowingly allow a student driver to fraudulently obtain driving privileges for which the student driver is ineligible or has not qualified;

(b) Discriminate against a student driver because of race, religion, national origin, disability, age, sex, or sexual orientation;

(c) Have sexual contact with, or request sexual contact from, a student driver. For purposes of this section, "sexual contact" means:

(A) Sexual intercourse; or

(B) Any touching of the sexual or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either party;

(d) Make sexual advances either verbally or physically or request sexual contact from any student driver, whether directly, indirectly or by innuendo;

(e) Use physical force or a threat of physical force against a student driver, unless such force or threat is necessary to avoid immediate danger to the safety of the student driver, the Operator or Instructor, employees of the School, passengers in a vehicle being used for behind-the-wheel instruction, or the general public;

(f) Possess or use any unlawful controlled substance or intoxicating beverage, or be under the influence of any intoxicating beverages, drugs or controlled substances while training or instruction is being provided to student drivers;

(g) Falsify any document or make a misrepresentation on the application for a School or Instructor Certificate;

(h) Refer any student driver to a particular DMV-certified third-party tester or examiner for DMV testing purposes; or

(i) If also certified as a DMV third party tester or examiner, test an applicant for driving privileges if the applicant was enrolled as a student driver at the School, unless otherwise authorized.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.515 & 822.530

Stats. Implemented: ORS 822.530

Hist.: MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 15-2013, f. & cert. ef. 9-24-13

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Department of Transportation, Highway Division Chapter 734

Rule Caption: Map-21 Special Permit During Periods of National Emergency

Adm. Order No.: HWD 4-2013

Filed with Sec. of State: 9-23-2013

Certified to be Effective: 9-23-13

Notice Publication Date: 8-1-2013

Rules Adopted: 734-082-0085

Subject: MAP-21, the Moving Ahead for Progress in the 21st Century Act (P.L. 112-141), was signed into law by President Obama on July 6, 2012. Funding surface transportation programs at over \$105 billion for fiscal years 2013 and 2014, MAP-21 is the first long-term highway authorization enacted since 2005.

Section 127 of title 23, USC, establishes weight limitations for vehicles operating on the Interstate System. Section 127 states that the overall gross weight may not exceed 80,000 lbs., including all enforcement tolerances, except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued Special Permits in accordance with applicable State laws. This lan-

guage establishes the States' authority to issue Special Permits to "non-divisible" loads. Examples of non-divisible loads include: bulldozers, large generators, scrapers, and modular homes.

Section 1511 of MAP-21 extends the States' authority to issue Special Permits to vehicles with divisible loads that are delivering relief supplies during a presidentially-declared emergency or major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act") (42 U.S.C. 5121 et seq.). This new rule will ensure Oregon is in compliance with the federal regulations.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-082-0085

Special Variance Permits During Periods of National Emergency

(1) A special variance permit may be issued during an emergency to an overweight vehicle and a load that can easily be dismantled or divided, if:

(a) The President of United States has declared the emergency to be a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

(b) The permit is issued in accordance with State law;

(c) The permit is issued exclusively to a vehicle and load that is delivering relief supplies and removing debris; and

(d) The issuance of the special variance permit is to exceed the Federal weight limitations on Interstate highways only.

(2) A permit issued under paragraph (1) will expire 120 days after the date of the declaration of emergency under subparagraph (a) of that paragraph.

(3) For purposes of this rule, facilitating delivery of relief supplies may include, but are not limited to:

(a) Medicine and medical equipment;

(b) Food supplies (including feed for livestock);

(c) Water;

(d) Materials used to provide or construct temporary housing;

(e) Debris removal; and

(f) Other supplies directly supporting the type of relief needed following a disaster.

(4) The term "delivering" means transporting relief supplies to any destination that is part of the geographical area covered by the emergency or major disaster declaration. Special variance permits may be issued to vehicles destined for a disaster area located in another State.

(5) A person who is issued a special variance permit as described in this rule for a divisible load over 98,000 pounds is required to pay road use fees described in ORS 818.225 in addition to the permit fee.

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 818.200, 818.210, 818.220 & 818.225

Hist.: HWD 4-2013, f. & cert. ef. 9-23-13

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Department of Transportation, Rail Division Chapter 741

Rule Caption: Amendment of Highway-Rail Crossing Rules

Adm. Order No.: RD 1-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 9-1-2013

Rules Amended: 741-100-0005, 741-100-0020, 741-100-0030, 741-100-0040, 741-110-0030, 741-110-0040, 741-110-0050, 741-110-0060, 741-110-0070, 741-110-0080, 741-115-0010, 741-115-0020, 741-115-0030, 741-115-0040, 741-115-0060, 741-115-0070, 741-120-0020, 741-120-0040, 741-120-0050, 741-125-0030, 741-200-0020, 741-200-0050, 741-200-0060

Subject: ODOT has amended its rules regarding highway-rail crossings. Certain sections were added to provide new definitions and clarification of regulations. Other rules were amended to comply with the Manual on Uniform Traffic Control Devices (MUTCD), 2009 Edition. Certain figures relating to the current rules were removed because they are unnecessary as the result of ODOT's adoption of MUTCD.

Rules Coordinator: Lauri Kunze—(503) 986-3171

ADMINISTRATIVE RULES

741-100-0005

Jurisdiction of the State

The jurisdiction of the state for the regulation of highway-rail grade crossings includes all roadways open to or to be opened to and used by the public, which are equipped with protective devices as required under OAR chapter 741, divisions 100 through 200, or by Order of the Department. The state's jurisdiction extends a distance equal to the safe stopping distance, for the posted or statutory speed, measured back from the location of the stop clearance lines at the highway-rail grade crossing.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220
Stat. Implemented: ORS 824.200
Hist.: RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-100-0020

Definitions

As used in OAR chapter 741, divisions 100 through 200, the following definitions apply:

(1) "Alter" means any change to the roadway or tracks at a crossing that materially affects use of the crossing by railroad equipment, vehicles, or pedestrians. Alterations include, but are not limited to adding or removing tracks; changing the width of the roadway; installing or removing protective devices; creating an additional travel lane; changing the direction of traffic flow; installing curbs, sidewalks, or bicycle facilities; or changing grade, including superelevation, if sufficient to necessitate a change of the grade of the railroad or highway being crossed.

(2) "AASHTO" means the American Association of State Highway and Transportation Officials, 2001, A Policy on Geometric Design of Highways and Streets, Fourth Edition.

(3) "Bicycle facilities" are defined in Section 1A.13 of the Manual on Uniform Traffic Control Devices (MUTCD), see section 13 below.

(4) "Bicycle lane" has the meaning given in Section 1A.13 of the MUTCD.

(5) "Crossing" means the area affecting or affected by the intersection of a highway with a track or tracks of a railroad or a rail fixed guideway system.

(6) "Curb" means standard curb as per Oregon Standard Drawing No. RD700.

(7) "Grade crossing" means a highway-rail grade crossing as defined in Section 1A.13 of the MUTCD.

(8) "Guardrail" means a device as depicted in Oregon Standard Drawing No. RD445.

(9) "Highway" has the meaning given that term in ORS 824.200(2).

(10) "Illumination" means a system of luminaires arranged in a unique pattern (see Figure 4) to provide direct lighting on the side of railroad equipment occupying a grade crossing during hours of darkness.

(11) "Interconnection" is as defined in Section 1A.13 of the MUTCD.

(a) "Preemption" is as defined in Section 1A.13 of the MUTCD. See also Section 4D.27 of the MUTCD.

(b) "Advance Preemption" is as defined in 1A.13 of the MUTCD.

(c) "Simultaneous Preemption" is as defined in Section 1A.13 of the MUTCD.

(12) "Maintenance" includes but is not limited to the repair, replacement, alignment, cleaning of protective devices and other actions necessary to assure the proper warning is conveyed to users of the crossing. It also includes the required power to properly activate and operate the protective devices. Minor changes resulting from the maintenance of surface, grade, and alignment, or the replacement in kind of existing signs and signals are not alterations. See OAR 741-120-0020 regarding maintenance of grade crossing surfaces.

(13) "MUTCD" means the Manual on Uniform Traffic Control Devices as adopted by OAR 734-020-0005.

(14) "Pathway" is defined in Section 1A.13 of the MUTCD.

(15) "Public authority" has the meaning given to the term "public authority in interest" in ORS 824.200(7).

(16) "Rail fixed guideway system" means any light, heavy or rapid rail system, monorail, inclined plane, funicular, trolley or automated guideway used primarily for carrying passengers.

(17) "Railroad" has the meaning given that term in ORS 824.020(2) and 824.200(7).

(18) "Roadway" has the meaning given in Section 1A.13 of the MUTCD.

(19) "Safe Stopping Distance" (SSD) means the design stopping sight distance as set forth in AASHTO 2001, Exhibit 3-1 (see Table 1).

(20) "Separated crossing" means a crossing where the highway and railroad are not at common grade. There are two types of separated crossings:

(a) "Overcrossing" means the highway is above the railroad.

(b) "Undercrossing" means the railroad is above the highway.

(21) "Shoulder" means that portion of the roadway contiguous with the traveled way that accommodates stopped vehicles, emergency use, and lateral support of sub-base, base, and surface courses.

(22) "Sidewalk" is as defined in Section 1A.13 of the MUTCD.

(23) "Sight Distance" means the distance from the highway-rail grade crossing, measured along the railroad, that a train must become visible to a motorist who is at the SSD.

(24) "Standard Protective Devices" means the traffic control devices listed in the MUTCD, and the Active, Passive, Auxiliary and Advance Warning devices listed in Sections (2), (3), (4), (5), (6), and (7) of OAR 741 110 0030.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.200

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;

Renumbered from 860-042-0002; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-100-0030

Adoption of Tables and Figures Related to Railroad-Highway Crossings

For the purposes of OAR chapter 741, division 100 through division 200, Tables 1 and 2 and Figures 1 through 5 are hereby adopted and made a part of these rules.

[ED. NOTE: Tables & Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.212

Hist.: RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-100-0040

Display of U.S. DOT Inventory Number

The U.S. DOT crossing number shall be displayed at all public highway-rail crossings.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.200

Hist.: RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-110-0030

Standard Protective Devices

(1) The devices listed in the MUTCD and the devices listed in Sections (2), (3), (4), (5), (6), and (7) of this rule are "standard protective devices."

(2) Passive Devices:

(a) Railroad STOP Sign Figure 1 is a fixed rectangular sign that shall bear the word "STOP" in white reflective letters on red reflective material.

(b) Stop Clearance Line is a stop line as defined in Section 1A.13 of the MUTCD, which is 24 inches wide.

(c) "Illumination" (Figure 4) is a system of luminaires arranged in a unique pattern to provide direct lighting on the side of railroad equipment occupying a grade crossing during hours of darkness.

(3) Active Devices at Grade Crossings:

(a) Flashing-Light Signal is as set forth in Section 8C.02 of the MUTCD, which has an audible warning device. For additional specifications for Flashing-light signals, refer to subsections (e) and (f) of this section.

(b) Cantilevered Flashing-Light Signal is as set forth in Section 8C.02 of the MUTCD, which has an audible warning device. For additional specifications on cantilevered Flashing-light signals, refer to subsections (e) and (f) of this section.

(c) Pedestrian Flashing-Light Signal is as set forth in Section 8D.06 of the MUTCD. For additional specifications on Pedestrian Flashing-light signals, refer to subsections (e) and (f) of this section.

(d) Automatic Gate is as set forth in Section 8C.04 of the MUTCD.

(e) Light units on Flashing-light signals, Cantilevered Flashing-light signals, and Pedestrian Flashing-light signals shall be aligned so that insofar as it is practical to do so, at least one full 12-inch diameter red light shall be visible when viewed from any point on the roadway within the safe stopping distance.

(f) Unless otherwise specified, 12-inch diameter roundels (lenses) on Flashing-light signals, Cantilevered Flashing-light signals, and Pedestrian Flashing-light signals, if incandescent bulbs are used, shall be as follows:

(A) Front light units: roundel rated with a 30-degree horizontal and 15-degree downward spread.

(B) Back light units: roundel rated with a 70-degree horizontal spread.

(C) Cantilevered front and back light units: roundel rated with a 20-degree horizontal and 32-degree downward spread.

ADMINISTRATIVE RULES

(4) Auxiliary Devices. The Department may authorize the installation of auxiliary signs and signals at a crossing. Such devices shall be installed so as not to obscure other crossing signs or signals at the crossing.

(5) Advance Warning Devices:

(a) Train-Activated Advance Warning Device (Figure 3) is a signal that shall alternately flash two yellow lights along the highway in advance of a crossing, to provide warning of an approaching train.

(b) Skewed Angle Bicycle Warning sign is the skewed crossing (W10-12) sign in Section 8B.25 of the MUTCD. If used at pathway-rail grade crossings, the sign size depicted in Table 9B-1 of the MUTCD for a shared-use path shall be used.

(6) Guardrail is as depicted in Oregon Standard Drawing No. RD445.

(7) Curb is a standard curb as depicted in Oregon Standard Drawing No. RD700.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 4-8-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0060; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-110-0040

Location of Protective Devices

(1) Standard Protective Devices shall be located as set forth in Part 8 of the MUTCD.

(2) Railroad STOP signs (Figure 1) shall be located adjacent to the track on which the stopping requirement applies not closer than six feet nor further than 25 feet from the nearest edge of the roadway.

(3) The stop clearance line described in OAR 741-110-0030(2)(b) shall be located in accordance with the MUTCD as adopted by OAR 734-020-0005.

(4) Grade Crossing Advance warning signs and grade crossing pavement markings shall be located in accordance with the MUTCD as adopted by OAR 734-020-0005.

(5) STOP AHEAD (W3-1 or W3-1a) signs, YIELD AHEAD (W3-2 or W3-2a) signs and train-activated advance warning signals shall be located not less than 100 feet in advance of the advance warning sign. See Figure 3.

(6) Guardrails shall be located so that the face of the guardrail, at a point perpendicular to the roadway centerline, shall coincide with the outside edge of the roadway. No part of the guardrail shall be closer than 10 feet from the centerline of the nearest track.

(7) Curb shall be located on the outside edge of the roadway. Curb shall commence not less than 10 feet from centerline of nearest track and must extend 50 feet in advance of the automatic protective device.

(8) Illumination Devices. The system of luminaires shall be located at the grade crossing, as determined by field conditions, to light the side of the train during hours of darkness. See Figure 4.

(9) Overhead Mounting of Signs and Signals. At the option of the public authority, or by Order of the Department, authorized signs and signals may be installed directly over a lane of traffic on the roadway.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0070; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-110-0050

Authority Required for Installation, Removal or Change of Protective Devices/Exceptions

No protective device shall be installed, removed or substituted for any other device, without prior authorization by Order of the Department, except:

(1) Additional flashing light units may be installed on existing installations of Flashing-light signals and Cantilevered Flashing-light signals by the railroad.

(2) Worn out or destroyed protective devices may be replaced by a similar device; however, the replacement shall comply with the MUTCD as adopted by OAR 734-020-0005.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0075; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-110-0060

Required Installation of Specified Protective Devices

Unless otherwise ordered by the Department, the following protective devices shall be installed at the grade crossings described below.

(1) One railroad STOP sign shall be installed, where physical circumstances permit, on each track approach to each crossing equipped with Flashing-light signals, Cantilevered Flashing-light signals, Pedestrian Flashing-light signals, and automatic gates when the minimum signal activation requirement of OAR 741 110-0070(1) cannot be met.

(2) Two Number of Tracks (R15-2P) plaques shall be installed at each grade crossing consisting of two or more tracks.

(3) Stop Clearance Lines. One stop clearance line shall be installed on each paved roadway approach lane at each grade crossing.

(4) Grade Crossing Advance Warning Signs. Appropriate grade crossing advance warning signs shall be installed on each roadway approach to each grade crossing.

(5) Grade Crossing Pavement Markings. Grade crossing pavement markings shall be installed on each paved vehicle approach lane to each grade crossing.

(6) Guardrail or Curb. Guardrail or curb, as appropriate, shall be installed at each crossing equipped with active protective devices.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0080; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-110-0070

Operation of Active Devices

(1) Activation of Devices. Unless otherwise ordered by the Department, Flashing-light signals, Cantilevered Flashing-light signals, Pedestrian Flashing-light signals, and automatic gates shall be activated by approaching trains through control circuitry in such a manner as will provide a warning through continuous signal operation for a period of not less than 20 seconds nor more than 40 seconds before the arrival of a train traveling at the highest speed permissible over that particular track. Prolonged signal operation shall be avoided by reasonable operating and engineering practices.

(2) Cessation of Operation. The warning aspect of Flashing-light signals, Cantilevered Flashing-light signals, Pedestrian Flashing-light signals, and automatic gates shall cease operation immediately after the passage of the train over the roadway unless approach circuits on adjacent tracks are occupied by an oncoming train.

(3) Advance Preemption or other appropriate methods shall be used to provide a pedestrian clear-out interval (PCOI) before the vehicle clear-out interval (VCOI).

(a) When a VCOI is required, the indication for the track clearance phases shall be GREEN.

(b) The road authority may submit an engineering study to the State Traffic Engineer to request a deviation from the standards. The State Traffic Engineer, together with the ODOT Rail and Public Transit Division, Crossing Safety Section Manager, may authorize a signalized intersection operation consistent with the findings of the study.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0090; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-110-0080

Observance of Railroad Stop Signs

When Railroad STOP signs are installed, traffic on the railroad shall stop prior to entering the roadway and proceed when safe to do so, but not before automatic gate arms have fully lowered, or (in the case of a highway-rail grade crossing not equipped with automatic gates) not before active protective devices, if any, at the crossing have been fully activated for a period of not less than 20 seconds.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stats Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83, (Order No. 83-143); PUC 3-1985, f. & ef. 4-8-85, (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0096; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-115-0010

Definitions

(1) Signal Maintenance Units (SMU) are defined in the **American Railway Engineering and Maintenance of Way Association Communication and Signals Manual (2000 Edition)**.

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(2) "Active Protective Devices" mean any devices described in OAR 741-110-0030(3) or vehicle traffic signals.

(3) "Eligible Railroad" means a railroad as defined in ORS 824.020, which bears the costs of maintaining one or more active protective devices at highway-rail grade crossings and which is entitled, under ORS 824.018, to partial reimbursement for those costs. Public transit districts are not eligible for such reimbursement.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.018

Hist.: PUC 10-1992, f. & cert. ef. 6-8-92 (Order No. 92-790); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0107; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2013, f. & cert. ef. 10-15-13

741-115-0020

Procedure for Allocation of Monies

(1) Apportionment Factors to allocate funds from the Grade Crossing Protection Account to defray the costs of maintaining active protective devices at highway-rail grade crossings, pursuant to ORS 824.018, shall be apportioned based on SMU units. The calculation for reimbursement to each eligible railroad shall be apportioned based upon total SMU units maintained by the railroad divided by the total SMU units reported for all railroads that maintain active protective devices at highway-rail grade crossings in the state.

(2) Reimbursement Procedure. On or before January 31 of each year, the Department shall determine the unit counts, as defined in section (1) of this rule, at highway-rail grade crossings equipped with active protective devices. The Department shall, based on those units, apportion funds from the Grade Crossing Protection Account to partially reimburse eligible railroads for expenses incurred in the preceding year to maintain the devices at those crossings. The amount distributed shall equal \$100,000.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.018

Hist.: PUC 10-1992, f. & cert. ef. 6-8-92 (Order No. 92-790); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0108; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2013, f. & cert. ef. 10-15-13

741-115-0030

Responsibility for Installation and Maintenance of Protective Devices

Unless otherwise ordered by the Department, or unless the parties agree otherwise, the party responsible for the installation and maintenance of protective devices at a grade crossing is as set forth in Table 2. At grade crossings with interconnected vehicle traffic signals, the responsibilities are shared between the railroad and the public authority. The railroad shall install and maintain the circuitry located on the track and its connection to the outside of the railroad signal case. The railroad shall provide appropriate electrical contacts to the public authority. The railroad shall install and maintain "DO NOT STOP ON TRACKS" (R8-8) signs on Cantilevered Flashing light signals pursuant to OAR 741-110-0040(9). The public authority shall install and maintain all other signs, signals and circuitry connected to the outside of the railroad signal case to assure proper operation of the subject device.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.200 & 824.212

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); PUC 26-1985, f. & ef. 12-19-85 (Order No. 85-1196); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0114; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-115-0040

Special Requirements for Traffic Signal Preemption Control

(1) Each public authority with responsibility for maintaining a vehicle traffic signal system interconnected with active protective devices at an adjacent grade crossing shall:

(a) Install the notice, provided by the Department, in the traffic signal cabinet.

(b) Install a "DO NOT STOP ON TRACKS" (R8-8) sign (see Figure 2) capable of holding three flags.

(c) When the railroad preemption feature fails and cannot be repaired within 30 minutes, install flags on the "DO NOT STOP ON TRACKS" (R8-8) signs (see Figure 2) and/or provide manual flag protection alerting motorists of the potential hazard.

(d) Remove the flags required in subsection (c) of this section upon completion of repairs to the railroad preemption feature.

(2) Upon notification of failure of the railroad preemption feature at a crossing equipped with an interconnected vehicle traffic signal system, the railroad shall immediately issue appropriate instructions to all train and

switch crews operating over the crossing to be alert for trapped vehicles when approaching the crossing.

(3) The appropriate public authority will provide the Department with a report within 15 days of any signal interconnection malfunction reported to the railroad dispatcher.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0116; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-115-0060

Stop Signs at Private Crossings

(1) Unless otherwise ordered by the Department under ORS 824.224, the railroad shall cause to be installed one vehicle stop sign (24-inch minimum) on each side of any private or farm crossing at grade that is not equipped with automatic protective devices.

(2) The railroad shall also cause to be installed an auxiliary sign identifying the crossing as a private crossing by stating the words "PRIVATE CROSSING" in letters at least two inches high. The color of the sign shall be black letters on a white background (see Figure 5). Optional information such as the words "NO TRESPASSING," the name of the railroad from which permission must be secured for use of the crossing and permit number may be included on the auxiliary sign.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.224

Hist.: PUC 3-1983, f. & ef. 3-16-83, (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0120; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-115-0070

Bicycle Lane and Multi-use Path Construction

(1) Bicycle facilities shall intersect railroad tracks as close to 90 degrees as possible.

(2) Pathway grade crossings or bicycle lanes that have angles of intersection with railroad tracks of 60 to 74 degrees shall have a skewed crossing (W10-12) sign posted on each approach to the crossing.

(3) Pathway grade crossings or bicycle lanes that have angles of intersection with railroad tracks of 59 degrees or less shall require an engineering study.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.212

Hist.: RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-120-0020

Grade Crossing Construction and Maintenance

(1) At all new or altered grade crossings used by motor vehicles, bicycles, or pedestrians, the roadway or multi-use path shall be constructed to conform to or exceed nationally recognized and commonly used construction standards.

(2) The width of the crossing surface, including sidewalks, at the crossing shall be not less than the width of the roadway, and sidewalk, approaches to the crossing.

(3) Unless authorized in writing by the Department, the surface of the roadway shall be in the same plane as the top of rails for a distance of at least two feet outside the rails, and not more than three inches higher nor three inches lower than the top of the nearest rail at a point thirty feet from the rail, measured at right angles thereto.

(4) The surface of each grade crossing shall conform to the plane of the top of the rails and be constructed and maintained in a reasonably smooth condition.

(5) The railroad shall notify the public authority at least four weeks in advance of the date it intends to raise or lower the elevation of one or more tracks at the crossing.

(6) The public authority shall notify the railroad at least four weeks in advance of the date it intends to raise or lower the elevation of its roadway on the roadway approach to the crossing. See Section 8A.08 of the MUTCD.

(7) Upon notification by the Department of a condition that does not conform to the requirements of sections (1) through (5) of this rule, the railroad or the public authority, within 30 days of such notification, unless any party requests a hearing, shall bring its portion of the crossing into compliance with the provisions of this rule, unless a time extension is granted in writing by the Department. See OAR 741-120-0010.

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(8) The construction of new driveways within 100 feet of any railroad track at existing grade crossings requires an application for authority to alter a grade crossing under ORS 824.206, except for railroad right-of-way roads.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220
Stats. Implemented: ORS 824.212
Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0215; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-120-0040

Authority for Closure of Crossings and Removal of Tracks at Crossings

(1) Permanent Closure of Roadway at Crossings. Whenever a crossing is permanently closed to the traveling public, the public authority at the crossing shall notify the Department of the closure and comply with OAR 741-120-0050. After such closure has been accomplished, the roadway cannot be reopened without the authority of the Department pursuant to ORS 824.204 or 824.210.

(2) Temporary Closure of Roadway at Crossings by the Railroad. When a railroad desires to close a highway-rail crossing temporarily, it shall provide to the public authority at least four weeks advance notification of its intent to close the crossing. The railroad may provide the road authority less than four weeks advance notice of its intent to temporarily close the grade crossing, if the temporary closure is needed for emergency circumstances. See Section 8A.08 of the MUTCD.

(3) Discontinuance of Railroad Operations at Crossings. Whenever railroad use of a crossing is to be discontinued in accordance with federal requirements, the owner of the track at the crossing and the railroad operating over such track shall notify the Department of the discontinuance.

(4) Removal of Trackage at Crossings. Whenever one or more tracks are to be removed at a grade crossing, the railroad operating over such trackage shall file an application to alter the crossing under ORS 824.206.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220
Stats. Implemented: ORS 824.206
Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0235; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09; RD 1-2013, f. & cert. ef. 10-15-13

741-120-0050

Permanent Closure and Removal of Grade Crossings

(1) Construction of Barricades. Whenever a grade crossing is closed to use by the travelling public, a barricade or other appropriate obstruction sufficient to prevent use of the crossing by the travelling public shall be installed and maintained in good condition on each roadway or pathway approach to the crossing. Barricade width shall be a minimum of the width of the roadway, sidewalks and shoulders. Barricades shall be installed and maintained by the public authority. The cost of construction shall be borne by the railroad; maintenance cost shall be borne by the public authority.

(2) Removal of Crossing Surface. Whenever a grade crossing is closed to use by the travelling public, the railroad, after installation of required barricades, shall promptly remove all roadway surface and sidewalk material from the area between lines drawn perpendicular to the end of ties of each track at the crossing.

(3) Removal of Railroad Tracks. Whenever a grade crossing, or one or more tracks is closed to use by railroad equipment, the tracks (including rails and ties) shall be removed and the roadway surface and sidewalks restored by the railroad within twelve months from the time the track is closed to use by railroad equipment.

(4) Removal of Protective Devices. Whenever a grade crossing is closed to use by the travelling public or by railroad equipment, protective devices shall be promptly removed by the party responsible for their maintenance as specified in the crossing Order or Table 2 of these rules.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220
Stats. Implemented: ORS 824.206
Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0240; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2013, f. & cert. ef. 10-15-13

741-125-0030

Railroad Equipment Set Back from Railroad-Highway Grade Crossings

(1) Except as provided in section (2) or (3) of this rule, no railroad shall cause any rail cars, locomotives or other railroad equipment to be stopped, stored or left standing within 250 feet of a public highway-rail grade crossing where there is an adjacent track.

(2) The set back limitation set forth in section (1) of this rule does not apply when:

- (a) The crossing is equipped with active warning devices;
- (b) The train is stopped by an emergency condition not under the control of the railroad; or
- (c) A railroad employee is physically at the crossing and providing flagging protection for the crossing.

(3) The Department, after hearing, unless not required by ORS 824.214, may grant a reasonable and necessary variance from the limitation set forth in section (1) of this rule upon proper application by a person, railroad or public authority in interest.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220
Stats. Implemented: ORS 824.223
Hist.: RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2013, f. & cert. ef. 10-15-13

741-200-0020

Applications Required

Except where formal proceedings are initiated by the Rail and Public Transit Division of the Department and except as provided in OAR 741-110-0050 and 741-120-0040, an application for authority must be filed with the Department to:

- (1) Construct, relocate or alter a sidewalk, multi-use path or roadway across one or more railroad tracks at grade;
- (2) Construct or relocate one or more railroad tracks across a sidewalk, multi-use path or roadway at grade; or
- (3) Construct, relocate or alter a separated crossing of a sidewalk, multi-use path or roadway.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220
Stats. Implemented: ORS 824.204, 824.206 & 824.210
Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0011; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2013, f. & cert. ef. 10-15-13

741-200-0050

Information to Accompany Application

Unless exceptions have been authorized pursuant to OAR 741-200-0060, each application shall be accompanied by an engineered plan (drawing). The plan shall include:

(1) A vicinity map, drawn to scale, showing in detail the vicinity of the crossing, project site and surrounding area road grid. The map shall show:

- (a) The angle of intersection of the centerlines of railroad and roadway. In cases where such intersection is on a curved section of roadway or railroad, the angle of intersection shall be the angle formed by a tangent to the curve or curves at the point of intersection;
- (b) The right-of-way lines of the roadway and the railroad;
- (c) The location of all public and private crossings within the limits of the map;
- (d) The location of all structures or other obstructions to vision that are between approaching vehicles and trains;
- (e) The location of all signs and signals that govern the flow of rail or roadway traffic within the safe stopping distance and the location of all railroad signs and signals within the grade crossing approach circuit; and
- (f) Maximum distance of unobstructed view along the tracks, indicated by sight lines drawn from:
 - (A) Points on the roadway 18 feet on each side of the centerline of the nearest track; and
 - (B) Points on the roadway at the distance from the centerline of the nearest track in accordance with the table of safe stopping distances.

(2) Drawings for Active Protective Devices. When active protective devices are to be installed or altered, a drawing (scale of 1 inch = 20 feet is recommended) shall be provided showing the location of proposed signal foundations in relation to distances from centerlines of highway and nearest railroad track. This drawing shall also show the proposed position of other related structures and devices such as guardrails, shoulders of roadway, curbs of roadway and part-time turn restriction signals.

(3) Vehicle Traffic Signal Plan (if applicable) with Operation Description.

(4) Roadway Profile. A profile showing, to scale, the grade of the roadway within the safe stopping distance on each side of the crossing.

(5) Railroad Profile. A profile showing the track profile within 250 feet of the crossing.

(6) Drawings for Separated Crossings. All applications to construct or alter separated structures shall include engineered drawings showing the vertical and horizontal clearances above and adjacent to the railroad tracks that will exist upon completion. Such clearances shall not be less than those prescribed in CFR 646.212(a)(3) as stated in the Appendix to Subpart B of Part 646—Horizontal and Vertical Clearance Provisions for Overpass and Underpass StructuresBU.

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(7) Drawings for Undercrossings. All applications to construct or alter undercrossings shall include engineered drawings showing the clearances beneath the structure that will be provided for roadway use. Minimum clearances shall comply with AASHTO.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220
Stats. Implemented: ORS 824.204, 824.206 & 824.210
Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;
Renumbered from 860-043-0045; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2013, f. & cert. ef. 10-15-13

741-200-0060

Application Alternative

Upon approval of Rail and Public Transit Division management staff, certain requirements of OAR 741-200-0050 may be waived.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220
Stats. Implemented: ORS 824.202
Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;
Renumbered from 860-043-0046; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2013, f. & cert. ef. 10-15-13

Department of Veterans' Affairs

Chapter 274

Rule Caption: Procurement and contracting for the second Oregon Veterans' Home

Adm. Order No.: DVA 9-2013(Temp)

Filed with Sec. of State: 9-20-2013

Certified to be Effective: 9-20-13 thru 3-1-14

Notice Publication Date:

Rules Adopted: 274-042-0005, 274-042-0010, 274-042-0015, 274-042-0020, 274-042-0025, 274-042-0030, 274-042-0035, 274-042-0040

Subject: The purpose of these temporary rules is to set out the procedures for procurement and contracting with respect to the operations and management of the second Oregon Veterans' Home. These rules have an effective date of September 9, 2013. Temporary rules were filed on September 9, 2013 that are identical to these rules with the exception of the effective date stated in OAR 274-42-0005. The Department is filing these temporary rules, which supersede the September 9, 2013 filing because there were technical errors with that filing.

Rules Coordinator: Laurie Skillman—(503) 373-2016

274-042-0005

Purpose

The purpose of this division is to establish the procedures for public contracts and procurements by the Department with respect to operation and management of the second Oregon Veterans' Home. With respect to such public contracts and procurements, the Department is exempt from ORS 279A.140 and 279B.235 pursuant to ORS 408.375. Accordingly, the Department hereby establishes relevant standards, considerations and procedures with respect to such procurement and contracting activities. To the degree, if any, that the provisions of this division 42 conflict with the provisions of OAR chapter 274, division 5, the provisions of this division 42 shall prevail.

Stat. Auth.: ORS 406.005 & 408.375
Stats. Implemented: ORS 408.365 – 408.380
Hist.: DVA 8-2013(Temp), f. & cert. ef. 9-9-13 thru 3-1-14; DVA 9-2013(Temp), f. & cert. ef. 9-20-13 thru 3-1-14

274-042-0010

Definitions

(1) Terms used in this division have meanings as defined in ORS Chapters 406, 407, 408 and in this rule unless the context requires a different meaning.

(2) As used in these rules, unless otherwise indicated by the context:

(a) "Consultant" means an individual or firm that has been found qualified to do specified types of work for the agency and with whom the Department may contract;

(b) "Competitive Procurement" is a formal procurement method whereby proposals or applicants are requested from a number of sources and the Request for Proposals or other solicitation document is widely published or otherwise distributed;

(c) "Noncompetitive Procurement" is procurement through solicitation of a proposal from only one source or on a first-come first-served basis;

(d) "Small Purchase Procurement Procedures" are those relatively simple and informal procurement methods whereby price or rate quotations are obtained from a number of sources and selection made on the basis of costs and other applicable criteria.

Stat. Auth.: ORS 406.005 & 408.375
Stats. Implemented: ORS 408.365 – 408.380
Hist.: DVA 8-2013(Temp), f. & cert. ef. 9-9-13 thru 3-1-14; DVA 9-2013(Temp), f. & cert. ef. 9-20-13 thru 3-1-14

274-042-0015

Basic Policy and Approach

(1) The model rules of the Attorney General adopted pursuant to ORS 279A.065 do not apply to the Department with respect to its public contracts and procurements regarding the operation and management of the second Oregon Veterans' Home. The Department will, however, consider the Attorney General's model rules for guidance in exercising its contracting and procurement discretion in this area. Other factors that the Department may consider include, but are not limited to:

(a) The subject matter of the proposed contract and appropriate means to ensure successful performance at competitive costs where practical;

(b) Specificity with respect to communication and reservation of rights in any procurement;

(c) Clarity in the naming and description of parties as well as consideration of appropriate preferences;

(d) Ascertaining and obtaining appropriate representations and warranties as to the qualifications of parties;

(e) Specificity with respect to consideration and applicable time periods;

(f) Specificity with respect to terms and covenants, particularly as to standards applicable to the performance of all work or delivery of goods;

(g) Identification of remedies and their suitability to protect Department and program interests;

(h) Identification of insurance and other risk mitigation terms and the appropriate balance of such measures with potential risks and costs;

(i) Requirements for compliance with applicable laws, including those applicable to funding sources and nondiscrimination;

(j) Use of appropriate terms with respect to standard provisions such as governing law, venue, waiver, exhibits, merger, etc.

(k) Applicable statutory provisions.

(2) Contracting and procurement procedures related to the second Oregon Veterans' Home that cannot practically be established, including with resort to the competitive contractor selection procedures of ORS 279B.050 to 279B.085, will be accomplished in consultation with financial advisors, legal counsel and other appropriate professionals. As a general standard, the Department will seek to employ procedures as are practical to introduce competitive efficiencies and sound selections given the particular circumstances, complex regulations and governing law applicable to the operation and management of a skilled nursing facility such as the second Oregon Veterans' Home.

(3) In contracting for consultant or other personal services, as well as goods or other services, the Department will consider factors including those described subsection (1) of this rule and employ the following procedures as applicable, except when the Director determines that an emergency or other good cause exists to excuse the Department from one or more of those procedures, such as when the personal services contract involves data processing services

(4) The Department will contract for consultant and other personal services when:

(a) The specialized skills, knowledge, and resources are not available within the Department; when the work cannot be done in a reasonable time within the Department's own work force;

(b) An independent and impartial evaluation of a situation is required by a consultant or other provider with recognized professional expertise and stature in a field;

(c) It will be less expensive to contract for the work;

(d) The Department is directed by statute or otherwise to contract for services; or

(e) The Department otherwise determines that contracting for a consultant or other personal services will best serve the purpose of fulfilling its statutory or other duties. The Department may contract for other goods and services necessary or appropriate for the operation and management of the second Oregon Veterans' Home. Contracts will be awarded only after the approval of the Director or his/her designee, subject to minimum limit exceptions.

(5) Agreements for the services of a contractor who is a member of the Public Employees' Retirement System and who is employed in another

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public department usually will be by interagency agreement. Exceptions may be granted by the Director or his/her designee when such an agreement is impractical and when the work will be done on the contractor's own time. Such exceptions normally will be processed as a personal services contract.

(6) The Department will seek to ensure competition and include performance standards to the extent it determines to be practicable when awarding personal services contracts or other agreements regarding the operation or management of the second Oregon Veterans' Home.

(7) In selecting between two or more equally qualified bidders, preference will be given to individuals residing in Oregon and businesses that have an office in Oregon.

Stat. Auth.: ORS 406.005 & 408.375

Stats. Implemented: ORS 408.365 – 408.380

Hist.: DVA 8-2013(Temp), f. & cert. ef. 9-9-13 thru 3-1-14; DVA 9-2013(Temp), f. & cert. ef. 9-20-13 thru 3-1-14

274-042-0020

Procurement Method

(1) From September 9, 2013 through December 31, 2013, the Department will comply with the provisions of subsections (2) through (7) of this rule. Beginning January 1, 2014, the Department will comply with the provisions of subsections (8) through (13) of this rule.

(2) The department will comply with the requirements of ORS 200.035.

(3) The department may allow for preference of or limit competition for a public contract for goods and services or for any other public contract that does not exceed \$75,000, to contracting entities owned or controlled by persons described in ORS 279A.100(1).

(4) The department may participate in, sponsor, conduct, or administer cooperative procurements pursuant to ORS 279A.200 through 279A.225.

(5) Small purchase procurement procedures described in OAR 274-042-0030 may be used for the procurement of goods and services that does not exceed \$5,000 per agreement per fiscal year. Price or rate quotations will be sought from at least three qualified sources, if practical. This procedure does not govern program solicitations.

(6) Competitive procurement procedures as outlined in OAR 274-042-0025 will be used for goods and services, as well as personal service contracts that do not exceed \$5,000 per agreement per fiscal year. Competitive procurement procedures may be used for contracts that do not exceed \$5,000 whenever the Department determines that it would be prudent and advantageous to do so. Exceptions may be granted to accommodate one or more of the conditions described in section (3) of this rule with the approval of the Director.

(7) Noncompetitive procurement procedures may be used for goods and services, as well as personal services contracts if:

(a) The item or service is available only from a single source, or the sole source has special skills or special characteristics that are reasonably only available from that source or based upon the particular provider's expertise, experience or situation;

(b) Public need or emergency weighs against the delay incurred by competitive solicitation;

(c) After solicitation of a number of sources, competition is determined inadequate; or

(d) The contract is a renewal of an existing contract, subject to approval by all required parties.

(8) The department will comply with the requirements of ORS 200.035.

(9) The department may allow for preference of or limit competition for a public contract for goods and services or for any other public contract that does not exceed \$75,000, to contracting entities owned or controlled by persons described in ORS 279A.100(1).

(10) The department may participate in, sponsor, conduct, or administer cooperative procurements pursuant to ORS 279A.200 through 279A.225.

(11) Small purchase procurement procedures described in OAR 274-042-0030 may be used for the procurement of goods and services that does not exceed \$10,000 per agreement per fiscal year. Price or rate quotations will be sought from at least three qualified sources, if practical. This procedure does not govern program solicitations.

(12) Competitive procurement procedures as outlined in OAR 274-042-0025 will be used for goods and services, as well as personal service contracts that do not exceed \$10,000 per agreement per fiscal year. Competitive procurement procedures may be used for contracts that do not exceed \$10,000 whenever the Department determines that it would be prudent and advantageous to do so. Exceptions may be granted to accommo-

date one or more of the conditions described in section (3) of this rule with the approval of the Director.

(13) Noncompetitive procurement procedures may be used for goods and services, as well as personal services contracts if:

(a) The item or service is available only from a single source, or the sole source has special skills or special characteristics that are reasonably only available from that source or based upon the particular provider's expertise, experience or situation;

(b) Public need or emergency weighs against the delay incurred by competitive solicitation;

(c) After solicitation of a number of sources, competition is determined inadequate; or

(d) The contract is a renewal of an existing contract, subject to approval by all required parties.

Stat. Auth.: ORS 406.005 & 408.375

Stats. Implemented: ORS 408.365 – 408.380

Hist.: DVA 8-2013(Temp), f. & cert. ef. 9-9-13 thru 3-1-14; DVA 9-2013(Temp), f. & cert. ef. 9-20-13 thru 3-1-14

274-042-0025

Competitive Procurement Procedures

(1) A request for proposals (RFP) or similar solicitation (collectively, RFP) will be prepared for the contracts for which competitive procurement procedures will be used. The RFP will normally include, at a minimum, the following information:

(a) Date and hour by which proposals or other responses must be received;

(b) Return address where proposals or other responses must be received;

(c) Description of work;

(d) Evaluation criteria; and

(e) Department project manager's name, address and phone number.

(2) The Department will notify persons who have indicated a desire to be notified of contracting opportunities or that have indicated expertise in the subject area, and any other persons deemed necessary, of projects for which an RFP may be issued. Notification of the project for which an RFP may be issued may be announced to the public and may be advertised in appropriate periodicals. The RFP will be sent to all persons responding to the notification in the required manner.

(3) Exceptions to section (2) of this rule may be granted by the Director or his/her designee when the RFP is preceded by a request for information (RFI). When an RFI is widely distributed to solicit information and interest in a proposed contract, eligibility for the subsequent RFP may be limited to parties responding to the RFI.

(4) Proposals will be evaluated in accordance with the evaluation criteria included in the RFP. An objective rating system will be used in the evaluation process. Records pertaining to the procurement process and selection of the consultant shall be maintained in the Department's files.

(5) Exceptions to the notification procedures in sections (2) and (3) of this rule may be granted by the Director or his/her designee if warranted by time, cost, or other relevant considerations.

Stat. Auth.: ORS 406.005 & 408.375

Stats. Implemented: ORS 408.365 – 408.380

Hist.: DVA 8-2013(Temp), f. & cert. ef. 9-9-13 thru 3-1-14; DVA 9-2013(Temp), f. & cert. ef. 9-20-13 thru 3-1-14

274-042-0030

Small Purchase Procurement Procedures

(1) A statement of work and request for price or rate quotation shall be developed and submitted to prospective contractors with which the Department has had previous successful experience or which are believed by the Department to be qualified to offer the needed services. The statement of work and request for quotation may be communicated orally or in writing.

(2) At least three price quotations shall be obtained from qualified sources unless there are fewer than three qualified sources interested in the contract.

(3) Contractor selection shall be made on the basis of the cost estimate and other pertinent information such as qualifications, experience, reference check and project approach.

Stat. Auth.: ORS 406.005 & 408.375

Stats. Implemented: ORS 408.365 – 408.380

Hist.: DVA 8-2013(Temp), f. & cert. ef. 9-9-13 thru 3-1-14; DVA 9-2013(Temp), f. & cert. ef. 9-20-13 thru 3-1-14

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274-042-0035

Contracting Procedure and Responsibility

The procedures for screening and selection of providers of goods or services, as well as personal service contractors, relating the responsible parties to their actions, are as follows:

(1) Contractor. Action required: Submit qualifications, credentials, costs estimates, project approach and other pertinent information relating to the project announcement.

(2) Department assigned personnel (may be contract officer). Action required:

(a) Determine that work on a project requires the services of a consultant;

(b) Prepare cost estimate for contract;

(c) Determine type of selection and screening process to be used to select a contractor and obtain approval of Director or his/her designee to begin contracting process for consultant services;

(d) Notify prospective contractors of matters for which competitive procurement or small purchase procurement procedures will be used as provided by OAR 274-042-0025 or 274-042-0030;

(e) Complete screening and selection procedure and tentatively select a contractor;

(f) Where different from assigned personnel, forward draft of contract to the Department's contract officer for approval;

(g) Forward proposed contract that totals \$100,000 or more to Attorney General for review and approval of legal sufficiency, unless contract form is subject to a group exemption and has previously been approved by Attorney General. The Department will forward proposed contracts for lesser amounts to the Attorney General for review where particular issues merit such review or there is an expectation that the contract amount may subsequently be amended to an aggregate amount at or over \$100,000; and

(h) When notified by the contract officer, authorize contractor to begin work.

(3) Director or designee, (may be contract officer). Action required:

(a) Approves/disapproves contract, particularly scope and budget, as well as use of the contracting process;

(b) Makes direct and emergency appointments and grants exceptions as necessary and in accordance with Department rules;

(c) Approves/disapproves all subsequent amendments; and

(d) Signs approved contracts.

(4) Department contract officer. Action required:

(a) Reviews contract and selection process for compliance with Department rules and other applicable state and federal rules and regulations;

(b) Maintains a file on the selection and screening of applicants for consultant services.

(c) Obtains contractor's signature on approved contract;

(d) Forwards one copy of final approved contract to contractor and retains a copy of the contract with original signatures for the Department's contract file;

(e) Notifies contract manager (if different from contract officer) when contractor may begin work.

Stat. Auth.: ORS 406.005 & 408.375

Stats. Implemented: ORS 408.365 – 408.380

Hist.: DVA 8-2013(Temp), f. & cert. ef. 9-9-13 thru 3-1-14; DVA 9-2013(Temp), f. & cert. ef. 9-20-13 thru 3-1-14

274-042-0040

Discretionary Action

(1) As it deems necessary or appropriate for its purposes, the Department may waive or deviate from the foregoing provisions of this Division to the extent the Department's statutory authority to employ its own procurement and contracting procedures allow. Factors that the Department may consider in waiving or deviating from such provision or in determining what other procurement or contracting procedures it will apply in a particular circumstance may include, but are not limited to:

(a) Serving program or other Department purposes;

(b) Collaborating with reputable and effective partners;

(c) Leveraging resources, experience, or services;

(d) Efficiently and effectively using department resources;

(e) Addressing exigent or unusual circumstances;

(f) Advancing the Department's interests in the appropriate operation or management of the second Oregon Veterans' Home;

(g) Promoting the coordination of relevant skills, resources, and efforts;

(h) Educating persons and entities concerning services needs or opportunities for veterans; and

(k) Ensuring compliance with department or other applicable standards.

(2) Included within this authority to waive or deviate from such procedures, or to apply other procurement or contracting procedures in particular circumstances, the Department may amend an existing contract without additional competition, inter alia, to extend its term, to modify the compensation, to delete services, or to add any services or goods within the scope of the relevant procurement provided the amendment, in the Department's determination, is consistent with relevant factors identified in this Division or consistent with factors otherwise relevant to such action.

Stat. Auth.: ORS 406.005 & 408.375

Stats. Implemented: ORS 408.365 – 408.380

Hist.: DVA 8-2013(Temp), f. & cert. ef. 9-9-13 thru 3-1-14; DVA 9-2013(Temp), f. & cert. ef. 9-20-13 thru 3-1-14

Land Conservation and Development Department Chapter 660

Rule Caption: Designate areas and establish regulatory standards for marine renewable energy development within the territorial sea.

Adm. Order No.: LCDD 3-2013

Filed with Sec. of State: 10-7-2013

Certified to be Effective: 10-7-13

Notice Publication Date: 1-1-2013

Rules Amended: 660-036-0005

Subject: The Land Conservation and Development Commission adopts as part of the Oregon Coastal Management Program, and herein incorporates by reference, an amendment to the Territorial Sea Plan Part Five: Use of the Territorial Sea for the Development of Renewable Energy Facilities or Other Related Structures, Equipment or Facilities, that the Commission approved as modified on January 24, 2013.

Rules Coordinator: Casaria Taylor—(503) 373-0050, ext. 322

660-036-0005

Territorial Sea Plan: Use of the Territorial Sea for the Development of Renewable Energy Facilities or Other Related Structures, Equipment or Facilities

The Land Conservation and Development Commission adopts as part of the Oregon Coastal Management Program, and herein incorporates by reference, an amendment to the Territorial Sea Plan Part Five: Use of the Territorial Sea for the Development of Renewable Energy Facilities or Other Related Structures, Equipment or Facilities, that the Commission approved as modified on January 24, 2013.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 196.471

Hist.: LCDD 4-2009, f. & cert. ef. 11-25-09; LCDD 3-2013, f. & cert. ef. 10-7-13

Landscape Contractors Board Chapter 808

Rule Caption: Removing actions that are not consistent with the definition of Dishonest or Fraudulent Conduct

Adm. Order No.: LCB 4-2013

Filed with Sec. of State: 9-30-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 5-1-2013

Rules Amended: 808-002-0330

Subject: Removing actions that are not consistent with the definition of Dishonest or Fraudulent Conduct

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-002-0330

Dishonest or Fraudulent Conduct

“Dishonest or fraudulent conduct,” as used in ORS 671.610(1)(q), includes, but is not limited to, the following:

(1) Failing to pay monies when due for materials or services rendered in connection with the applicant's or licensee's operations as a landscape contracting business when the applicant or licensee has received sufficient

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funds as payment for the particular landscaping project or operation for which the services or materials were rendered or purchased; or

(2) Accepting payment in advance on a contract or agreement and failing to perform the work or provide the services required by the contract or agreement in a diligent manner and failing to return payment for unperformed work, upon reasonable and proper demand, within ten days of demand; or

(3) Displaying to the public false, misleading, or deceptive advertising whereby a reasonable person could be misled or injured; or

(4) Failing to pay minimum wages or overtime wages as required under state or federal law; or

(5) Failing to comply with the state Prevailing Wage Rate Law, ORS 279.348 to 279.380; or

(6) Failing to comply with the federal Davis-Bacon and related acts when the terms of the contract require such compliance; or

(7) Failing to pay wages as determined by the Bureau of Labor and Industries, Wage and Hour Division; or

(8) Presenting for payment to the board a check that subsequently is returned to the agency due to non-sufficient funds or closure of the account; or

(9) Misrepresenting the employment relationship between a landscape contracting business and a landscape construction professional.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.610(1)(q)

Hist.: LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 4-2013, f. 9-30-13 cert. ef. 10-1-13

Rule Caption: Increases amount of landscaping work a general contractor may perform from \$3,400 to \$3,800.

Adm. Order No.: LCB 5-2013

Filed with Sec. of State: 9-30-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 5-1-2013

Rules Amended: 808-003-0210

Subject: Increases amount of landscaping work a general contractor may perform from \$3,400 to \$3,800.

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-003-0210

Value of Landscaping Work Performed by a Residential General Contractor

A general contractor licensed under ORS 701 who meets the exemption listed in 671.540(1)(h) may perform landscaping work if the total value of the landscaping work is:

(1) \$3,000 if the landscaping work was completed September 1, 2003 and before September 1, 2008;

(2) \$3,400 if the landscaping work was completed on September 1, 2008 and before September 1, 2013; or

(3) \$3,800 if the landscaping work was completed on or after September 1, 2013.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.540

Hist.: LCB 5-2003, f. & cert. ef. 8-1-03; LCB 10-2008, f. & cert. ef. 11-6-08; LCB 12-2009, f. 12-23-09, cert. ef. 1-1-10; LCB 5-2013, f. 9-30-13, cert. ef. 10-1-13

Oregon Business Development Department Chapter 123

Rule Caption: This filing amends the rules for the Industry Competitiveness Fund.

Adm. Order No.: OBDD 8-2013(Temp)

Filed with Sec. of State: 10-4-2013

Certified to be Effective: 10-4-13 thru 4-2-14

Notice Publication Date:

Rules Adopted: 123-095-0035

Rules Amended: 123-095-0000, 123-095-0010, 123-095-0030, 123-095-0040

Rules Suspended: 123-095-0020

Subject: These amendments expands entities eligible to receive grants and loans from the Fund, clarifies criteria for approving awards and clarifies contract requirements.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-095-0000

Purpose and Objectives

The purpose of this division of administrative rules is to govern the use of funds in the Industry Competitiveness Fund established by ORS 285B.290.

Stat. Auth.: ORS 285A.075(5) & 285A.110

Stats. Implemented: ORS 285B.286 & 285B.290

Hist.: EDD 4-1992(Temp), f. & cert. ef. 3-18-92; EDD 1-1993, f. & cert. ef. 1-15-93; EDD 1-2000, f. & cert. ef. 1-13-00; OBDD 8-2013(Temp), f. & cert. ef. 10-4-13 thru 4-2-14

123-095-0010

Definitions

For the purposes of these rules, additional definitions may be found in Procedural Rules OAR 123-001. The following terms shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Project" means an activity that contributes to the stability, growth, development, or competitiveness of a Traded Sector Industry, or group of Traded Sector Industries.

(2) "Traded Sector Industry" means an Oregon industry whose members sell their goods or services into markets for which national or international competition exists.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.286

Hist.: EDD 4-1992(Temp), f. & cert. ef. 3-18-92; EDD 1-1993, f. & cert. ef. 1-15-93; EDD 1-2000, f. & cert. ef. 1-13-00; OBDD 8-2013(Temp), f. & cert. ef. 10-4-13 thru 4-2-14

123-095-0020

Eligible Applicants

Industry associations and groups of three or more Traded Sector Industry firms are eligible for grants under the Industry Development Program. At the discretion of the Director, the Department may award grants to other public or private entities.

Stat. Auth.: ORS 285A.075(5) & 285A.110

Stats. Implemented: ORS 285B.280, 285B.283 & 285B.286

Hist.: EDD 4-1992(Temp), f. & cert. ef. 3-18-92; EDD 1-1993, f. & cert. ef. 1-15-93; EDD 1-2000, f. & cert. ef. 1-13-00; Suspended by OBDD 8-2013(Temp), f. & cert. ef. 10-4-13 thru 4-2-14

123-095-0030

Eligible and Non-Eligible Activities

(1) Funds in the Industry Competitiveness Fund may be used by Department to:

(a) Provide grants or loans for Projects. Examples of a Project include, but are not limited to, the following activities:

(A) Assisting a Traded Sector Industry(ies) in establishing research and development consortia;

(B) Introducing new products into an existing market or developing new markets for a Traded Sector Industry(ies) or businesses within a Traded Sector Industry;

(C) Promoting the commercialization of new technologies for a Traded Sector Industry(ies);

(D) Increasing the skills of workers to meet the needs of a Traded Sector Industry(ies);

(E) Enhancing the capacity of a Traded Sector Industry(ies) to take advantage of electronic communications and information technologies; and

(F) Increasing the global competitiveness of a Traded Sector Industry(ies);

(G) Activities that are prerequisite to and will lead to the implementation of any of the above (such as preparing an application for federal grant funds for one or more of the above activities); and

(H) Assisting in organizing focus groups or other meetings and conducting research to identify issues and needs of a Traded Sector Industry(ies) and developing strategies to address those needs and issues; and

(b) Directly purchase goods and services which contribute to the stability, growth, development or competitiveness of a Traded Sector Industry(ies).

(2) Funds in the Industry Competitiveness Fund may not be used for:

(a) Any activity that requires continuing subsidies from the State of Oregon; or

(b) Ongoing administrative expenses.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.286 & 285B.290

Hist.: EDD 4-1992(Temp), f. & cert. ef. 3-18-92; EDD 1-1993, f. & cert. ef. 1-15-93; EDD 1-2000, f. & cert. ef. 1-13-00; OBDD 8-2013(Temp), f. & cert. ef. 10-4-13 thru 4-2-14

123-095-0035

Award Requirements

A Project which is financed through an Industry Competitiveness Fund grant or loan must meet the following criteria:

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(1) Individual businesses in the Traded Sector Industry(ies) must be involved in planning the Project or Department must determine that the nature of the Project results in this involvement being unfeasible or in some other manner not applicable;

(2) The grant or loan from the Industry Competitiveness Fund must not represent more than 50% of the total cash cost of the Project;

(3) Private sector funds used to cover cash expenses for the Project must be at least equal to the amount of the grant or loan from the Industry Competitiveness Fund;

(4) Compliance with this division of administrative rule and ORS 285B.286 and 285B.290 does not entitle a Project to a grant or loan from the Industry Competitiveness Fund.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.286 & 285B.290

Hist.: OBDD 8-2013(Temp), f. & cert. ef. 10-4-13 thru 4-2-14

123-095-0040

Administration of Awards

(1) Upon approval of a grant or a loan for a Project, Department will enter into an agreement with the entity responsible for completing the Project. The agreement will, as applicable, include, but is not limited to, the following:

(a) A description of the Project;

(b) Procedures and conditions for disbursing the grant or loan moneys from the Industry Competitiveness Fund;

(c) A requirement that private sector funds used to cover cash expenses for the Project must be at least equal to the amount of the grant or loan from the Industry Competitiveness Fund;

(d) A requirement that the grant or loan from the Industry Competitiveness Fund may not exceed 50% of the total cash cost of the Project;

(e) A requirement that a sign be conspicuously displayed at the site of the Project or a statement included on written documents produced as a result of the Project which indicates the Project is being funded with Oregon State Lottery Funds, administered by Department;

(f) Reporting requirement(s); and

(g) Other provisions deemed necessary by Department.

(2) Upon approval of using Industry Competitiveness Fund moneys in accordance with 123-095-0020(1)(b), Department will procure the goods and services in accordance with OAR 123 division 006, Procedures for Contracts Entered with the Business Development Department.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.286 & 285B.290

Hist.: EDD 4-1992(Temp), f. & cert. ef. 3-18-92; EDD 1-1993, f. & cert. ef. 1-15-93; EDD 1-2000, f. & cert. ef. 1-13-00; OBDD 8-2013(Temp), f. & cert. ef. 10-4-13 thru 4-2-14

Rule Caption: The amendments in these rules relate to the Oregon Low Income Community Jobs Initiative

Adm. Order No.: OBDD 9-2013(Temp)

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13 thru 4-11-14

Notice Publication Date:

Rules Amended: 123-630-0000, 123-630-0010, 123-630-0020, 123-630-0030, 123-630-0040, 123-630-0050, 123-630-0070, 123-630-0080, 123-630-0090, 123-630-0100

Subject: In 2013 the legislature passed HB 2763 which made a number of modifications to the Oregon Low Income Community Jobs Initiative. The department intends to capture immediate changes in this filing. We will proceed with the permanent rulemaking process in November.

Changes were made to the definition of Qualified equity investment. Other changes were made to the rules for application, reporting requirements and certification.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-630-0000

Purpose

This division of administrative rules specifies procedures and criteria necessary to administer processes under the Oregon Low Income Community Jobs Initiative for the certification of a qualified equity investment in order to receive a credit allowance for taxes otherwise due under ORS chapter 316, 317 or 318.

Stat. Auth.: ORS 285C.650-285C.656, 315.526 – 315.536

Stats. Implemented: ORS 285C.650-285C.656, 315.526 – 315.536

Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14

123-630-0010

Definitions

For the purposes of this division of administrative rules, additional definitions are found in Procedural Rules, OAR chapter 123-001. As used in OAR chapter 123 division 630 the following terms have the meanings set forth below and in ORS 285C.650-285C.656 and ORS 315.526-315.536, unless the context clearly indicates otherwise.

(1) “Applicable percentage” means zero percent for each of the first two credit allowance dates, seven percent for the third credit allowance date and eight percent for the next four credit allowance dates.

(2) “Credit allowance date” means, with respect to any qualified equity investment:

(a) The date on which the investment is initially made; and

(b) Each of the six yearly anniversary dates after that initial date.

(3) “Long-term debt security” means any debt instrument issued by a qualified community development entity, at par value or at a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization or prepayment features prior to its original maturity date.

(4) “Purchase price” means the amount of cash paid to a qualified community development entity for a qualified equity investment.

(5) “Qualified active low-income community business” has the meaning given that term in section 45D of the Internal Revenue Code and the rules and regulations adopted pursuant thereto. “Qualified active low-income community business” does not include, a business that derives or projects to derive 15 percent or more of its annual revenue from the rental or sale of real estate, unless the business is controlled by, or under common control with, another business that:

(a) Does not derive or project to derive 15 percent or more of its annual gross revenues from the rental or sale of real estate; and

(b) Is the primary tenant of real estate leased from the controlled business.

(6) “Qualified community development entity” has the meaning given that term in section 45D of the Internal Revenue Code, provided that the entity has entered into, or is controlled by an entity that has entered into, an allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by section 45D of the Internal Revenue Code, and the State of Oregon is included within the service area set forth in the allocation agreement.

(7) “Qualified equity investment” means any equity investment in, or long-term debt security issued by, a qualified community development entity, that:

(a) Is acquired at its original issuance solely in exchange for cash after July 1, 2012, unless it was a qualified equity investment in the hands of a prior holder; and

(b) Within 12 months of its issuance substantially all of its cash purchase price is used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in this state and thereafter over the term of the qualified equity investment no less than 85 percent of its cash purchase price is used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in this state. All reinvestments must be made in this state.

(8) “Qualified low-income community investment” means any capital or equity investment in, or loan to, any qualified active low-income community business made after July 1, 2012.

Stat. Auth.: ORS 315.526 – 315.536

Stats. Implemented: ORS 315.526 – 315.536

Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14

123-630-0020

Credit Allowance

(1) A person or entity that makes a qualified equity investment shall, at the time of investment, earn a vested credit against the taxes otherwise due under ORS chapter 316, 317 or 318.

(2) The total amount of the tax credit available to a taxpayer under this section shall equal 39 percent of the purchase price of the qualified equity investment. The applicable percentage is zero percent for years 1 and 2, seven percent for year 3 and eight percent for years 4, 5, 6 and 7. A tax credit allowed under this section may not be sold or transferred, with the exception that tax credits that a partnership, limited liability company, S corporation or other pass-through entity is entitled to claim may be allocated to the partners, members or shareholders of the entity for their direct use

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in accordance with the provisions of any agreement among the partners, members or shareholders.

(3) The holder of a qualified equity investment or any partner, member or shareholder of such holder pursuant to subparagraph 2 above on a particular credit allowance date of the qualified equity investment may claim a portion of the tax credit against its tax liability for the tax year that includes the credit allowance date equal to the applicable percentage for that credit allowance date multiplied by the purchase price of the qualified equity investment.

(4) The credit allowed under this section may not exceed the tax liability of the taxpayer claiming the credit for the tax year in which the credit is claimed.

(5) Effective January 1, 2014, any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability of the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year. Any credit remaining unused in the second succeeding tax year may be carried forward and used in the third succeeding tax year. Any credit remaining unused in the third succeeding tax year may be carried forward and used in the fourth succeeding tax year. Any credit remaining unused in the fourth succeeding tax year may be carried forward and used in the fifth tax year, but may not be used in any tax year thereafter. Any tax credit otherwise allowed under this section prior to January 1, 2014, that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability in any succeeding tax year.

Stat. Auth.: ORS 315.526 – 315.536

Stats. Implemented: ORS 315.526 – 315.536, ORS 316, 317 or 318

Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14

123-630-0030

Eligibility

(1) The following conditions and/or criteria must exist for a taxpayer to be eligible for the credit:

(a) A qualified community development entity that issues a debt instrument may not make cash interest payments on the debt instrument during the period commencing with its issuance and ending on its final credit allowance date in excess of the sum of the cash interest payments and the cumulative operating income, as defined in the regulations promulgated under section 45D of the Internal Revenue Code, of the qualified community development entity for the same period. This limitation shall only apply to long-term debt securities issued by a qualified community development entity that are designated as qualified equity investments and shall not apply to other debt of the qualified community development entity. Neither this paragraph nor the definition of "long-term debt security" provided in ORS 315.529 in any way limits the holder's ability to accelerate payments on the debt instrument in situations where the qualified community development entity has defaulted on covenants designed to ensure compliance with this section or section 45D of the Internal Revenue Code.

(b) A business is considered a qualified active low-income community business for the duration of a qualified community development entity's investment in or loan to the business if it is reasonable to expect that at the time of the qualified community development entity's investment in or loan to a qualified active low-income community business, the business will continue throughout the duration of the investment in or loan to the business.

(c) A qualified equity investment must be designated a qualified equity investment by the qualified community development entity and be certified by the department.

(d) The maximum amount of qualified low-income community investments made in a qualified active low-income community business, together with all of its affiliates, that may count towards the requirement that a qualified community development entity invest substantially all of the qualified equity investment required by OAR 123-630-0010(7)(b) in qualified active low-income community businesses in this state is \$4 million, whether made by one or several qualified community development entities.

(e) Effective January 1, 2014, the maximum amount of qualified low-income community investments made in a qualified active low-income community business, together with all of its affiliates, that may count towards the requirement that a qualified community development entity invest at least the percentage of the qualified equity investment required by OAR 123-630-0010(7)(b) in qualified active low-income community businesses in this state is \$8 million, whether made by one or several qualified community development entities. New or revised projects summaries sub-

mitted by the community development entity on or after January 1, 2014, to demonstrate increased qualified low-income community investment must demonstrate that the new or expanded project is new and distinct from the original project to the extent of the increased qualified low-income community investment made on or after January 1, 2014. Project summaries received prior to January 1, 2014 will be considered under OAR 123-630-0030(1)(d).

(f) A qualified equity investment must be made before July 1, 2016. Nothing in this paragraph precludes an entity that makes a qualified equity investment prior to July 1, 2016, from claiming a tax credit relating to that qualified equity investment for each applicable credit allowance date.

(g) No more than 40% of the total project costs that are paid for by the qualified low-income community investment may be for working capital, financing and other fees and other soft costs.

(2) A taxpayer claiming a credit may not claim any other credit under ORS 315 or 285C during the same tax year based on activities related to the same qualified active low-income community business.

Stat. Auth.: ORS 285C.650-285C.656, 315.526 – 315.536

Stats. Implemented: ORS 285C.650-285C.656, 315.526 – 315.536

Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14

123-630-0040

Ineligible Activities

Not all projects or businesses will qualify for the Oregon Low Income Community Jobs Initiative. Example businesses that are ineligible include but are not limited to:

- (1) Residential rental;
- (2) Owner occupied housing;
- (c) Farming operations;
- (3) Private or commercial golf courses;
- (4) Country clubs;
- (5) Massage parlors;
- (6) Hot tub facilities;
- (7) Suntan facilities;
- (8) Racetracks or other facilities used for gambling; and
- (9) Any store of which the principal business is the sale of alcoholic beverages for consumption off premises.

Stat. Auth.: ORS 285C.650-285C.656, 315.526 – 315.536

Stats. Implemented: ORS 285C.650-285C.656, 315.526 – 315.536

Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14

123-630-0050

Application and Fees

(1) An applicant seeking to have an equity investment or long-term debt security certified as a qualified equity investment and eligible for a tax credit under ORS 285C.650 and OAR 123-630-0080 must submit an application to the department on a form that the department provides. A complete application must include all of the following:

(a) The entity's name, address, tax identification number and evidence of certification as a qualified community development entity.

(b) A copy of an allocation agreement executed by the entity, or its controlling entity, and the Community Development Financial Institutions Fund that includes the State of Oregon in its service area.

(c) A certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community Development Financial Institutions Fund.

(d) A description of the proposed purchase price, structure and purchaser of the equity investment or long-term debt security.

(e) The name and tax identification number of any person eligible to claim a tax credit, under ORS 285C.650 – 285C.656, and ORS 315.526 – 315.536, allowed as a result of the certification of the qualified equity investment.

(f) Information regarding the proposed use of proceeds from the issuance of the qualified equity investment on a form provided by the department. If the information described in the previous sentence is not submitted with the application, the applicant shall, at least 20 days prior to the date of the applicant proposes to make a qualified low-income community investment, submit to the department for review and approval of the qualified low-income community investment, an updated qualified low-income community investment certification of a form provided by the department. The information will include but is not limited to the following for each proposed qualified low-income community investment:

- (A) Location;
- (B) Sources and uses of funds;
- (C) Impacts to communities;

ADMINISTRATIVE RULES

- (D) Revenues;
- (E) Number of jobs created and/or retained; and
- (F) Economic impacts

(g) A nonrefundable application fee of \$20,000. This fee shall be paid to the department and shall be required for each application submitted.

(2) In addition to what is required by the application or in this division of administrative rules, the applicant will submit any information requested by the department for purposes of evaluating the application.

(3) A qualified community development entity submitting an application for certification of an additional equity investment or long-term debt security as a qualified equity investment and eligible for a tax credit under ORS 315.533, must demonstrate to the satisfaction of the department that all previous equity investments and long-term debt securities certified as qualified equity investments have been fully committed and used in compliance with the requirements of the Oregon Low Income Community Jobs Initiative.

(4) A qualified community development entity that is certified under ORS 285C.650 and OAR 123-630-0080 shall pay an annual evaluation fee of \$1,000 to the department with the submission of each report described in OAR 123-630-0070.

- (4) Applications will be processed on a first come, first serve basis.
Stat. Auth.: ORS 285C.650 , 315.526 – 315.536
Stats. Implemented: ORS 285C.650 & 315.526 – 315.536
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14

123-630-0070 Reporting Requirements

(1) The qualified community development entity will submit a report by the first anniversary of the initial credit allowance date that provides proof that substantially all of the cash purchase price of its qualified equity investment was used to make qualified low-income community investments in qualified active low-income community businesses located in this state.

(2) Thereafter, the qualified community development entity will submit an annual report within 45 days of the beginning of the state's fiscal year during the compliance period on a form provided by the department. No annual report shall be due prior to the first anniversary of the initial credit allowance date. The form shall be remitted to the department both in electronic and hard copy formats. The information provided in an annual report will be submitted by the department to the Oregon Department of Administrative Services no later than September 30 following submission of the report and will be posted on the Oregon transparency website no later than December 31 of the same year. The report will include but is not limited to the following:

- (a) Number of employment positions created and retained as a result of qualified low-income community investments;
- (b) Annual salary of each position described in subparagraph (a) of this paragraph; and
- (c) Number of positions described in subparagraph (a) of this paragraph that provide health benefits as described in ORS 743.730.
- (d) Proof that substantially all of the cash purchase price of the qualified equity investment continues to be used to make qualified low-income community investments in qualified active low-income community businesses located in this state.
- (e) Information with respect to the qualified equity investments made for the purpose of making qualified low-income community investments in Oregon that would be reported as part of the institution level report and transaction level reports submitted by qualified community development entities pursuant to section 45D of the Internal Revenue Code.

(3) The qualified community development entity is not required to provide the annual report information set forth in OAR 123-630-0070(2) or (3) for qualified low-income community investments that have been redeemed or repaid.

- (3) The qualified community development entity is not required to provide the annual report information set forth in OAR 123-630-0070(2) or (3) for qualified low-income community investments that have been redeemed or repaid.
Stat. Auth.: ORS 285C.650 , 315.526 – 315.536
Stats. Implemented: ORS 285C.650 & 315.526 – 315.536
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14

123-630-0080 Certification

(1) Within 15 days after having received a complete application, the department will grant or deny the application in full or in part and notify the applicant of the decision.

(2) If the application is deemed complete, the department will certify the proposed equity investment or long-term debt security as a qualified equity investment and eligible for a tax credit under ORS 285C.650 and this

rule, and subject to the limitations stated in applicable statutes and these rules. The department shall provide written notice of the certification to the qualified community development entity. The notice shall include the names of those taxpayers who are eligible to utilize the credits and their respective credit amounts. If the names of the persons or entities that are eligible to utilize the credits change due to a transfer of a qualified equity investment or a change in an allocation pursuant to OAR 123-630-0020(2), the qualified community development entity shall notify the department of the change.

(3)(a) Except as otherwise provided in paragraph (b) below, within 60 days after receiving notice of certification, the qualified community development entity shall issue the qualified equity investment and receive cash in the amount of the certified purchase price. The qualified community development entity must provide the department with evidence of the receipt of the cash investment within 10 business days after receipt. If the qualified community development entity does not receive the cash investment and issue the qualified equity investment on or before the 60th day following receipt of the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the department for certification. A certification that lapses reverts to the department and may be reissued only in accordance with the application process outlined in this section.

(b) For a qualified equity investment described in ORS 285C.653(2), a qualified community development entity shall issue the qualified equity investment during the period beginning July 1, 2012, and ending 60 days after receiving notice of certification. If the qualified equity investment is issued prior to the submission of an application for certification under the applicable statutes and rules, the qualified community development entity must provide the department with evidence of the qualified equity investment and of receipt of the cash investment at the time of application for certification.

(4) The department shall certify qualified equity investments in the order applications are received by the department. Applications received on the same day shall be deemed to have been received simultaneously. For applications received on the same day and deemed complete, the department shall certify, consistent with remaining tax credit capacity, qualified equity investments in proportionate percentages based upon the ratio of the amount of qualified equity investment requested in an application to the total amount of qualified equity investments requested in all applications received on the same day. Applications for certification under ORS 285C.653(2) and OAR 123-630-0090(2) submitted without complete project summaries commensurate with the amount of certification applied for, may be reduced at the sole discretion of the department. Applications must demonstrate the ability to identify projects described in ORS 285C.653(2) and OAR 123-630-0090(2), and failure to identify projects described in ORS 285C.653(2) and OAR 123-630-0090(2) may additionally result in a reduction of the certification. If a pending request cannot be fully certified because of the limitations in the applicable statutes and OAR 123-630-0090, the department shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit.

(5) If the department denies any part of the application, the notification to the applicant will include the grounds for denial. The applicant will have 15 days of receipt of the notification to provide additional information to mediate the denial. Within 15 days after the department receives any such additional information, the department will reconsider the application. If the department grants the application upon reconsideration, the approval will be effective as of the original date of submission. If the applicant fails to provide additional information within 15 days of receipt of the denial, the application remains denied.

- (5) If the department denies any part of the application, the notification to the applicant will include the grounds for denial. The applicant will have 15 days of receipt of the notification to provide additional information to mediate the denial. Within 15 days after the department receives any such additional information, the department will reconsider the application. If the department grants the application upon reconsideration, the approval will be effective as of the original date of submission. If the applicant fails to provide additional information within 15 days of receipt of the denial, the application remains denied.
Stat. Auth.: ORS 285C.650 , 315.526 – 315.536
Stats. Implemented: ORS 285C.650 & 315.526 – 315.536
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14

123-630-0090 Limitations for Certification

(1) Once the department has certified a cumulative amount of qualified equity investments that can result in the utilization of \$16 million of tax credits in any tax year, the department may not certify any more qualified equity investments under ORS 285C.650 and OAR 123-630-0080. This limitation shall be based on the scheduled utilization of tax credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

ADMINISTRATIVE RULES

(2) The department will reserve \$30 million of qualified equity investment authority for qualified low-income community investments in qualified active low-income community businesses that:

- (a) Have a primary purpose of improving the environment or reducing emissions of greenhouse gases; or
- (b) Produce goods that directly reduce emissions of greenhouse gases or are designed as environmentally sensitive replacements for products in current use.

(3) The department will reserve \$130 million of qualified equity investment authority for all other qualified active low-income community investments (which may include the types of investments described in ORS 285C.653(s) and OAR 123-630-0090(2)).

(4) All applications will indicate the amount of qualified equity investment authority sought by the applicant under OAR 123-630-0090(2) and OAR 123-630-0090(3). The maximum amount of qualified equity investment authority for which an applicant may apply under OAR 123-630-0090(2) is \$30 million and under 123-630-0090(3) is \$170 million.

Stat. Auth.: ORS 285C.650 – 653, 315.526 – 315.536

Stats. Implemented: ORS 315.526 – 315.536

Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14

123-630-0100

Recapture of Tax Credit

(1) The Department of Revenue may recapture any portion of a tax credit per ORS 285C.656 and ORS 315.533.

(2) The Department of Revenue may recapture any portion of a tax credit if the qualified community development entity applies for and receives qualified equity investment authority under ORS 285C.653(2) and OAR 123-630-0090(2) and fails to invest at least 85 percent of the cash purchase price of the QEI in qualified active low-income community businesses that satisfy the requirements of ORS 285C.653(2) and OAR 123-630-0090(2) within 12 months of the issuance of the qualified equity investment and maintain such level of investment in qualified active low-income community businesses satisfying such requirements until the last credit allowance date for such qualified equity investment.

(3) The department shall pre-screen a qualified community development entity's proposed investment in a qualified active low-income community business for purposes of determining if the business satisfies the requirements of ORS 285C.653(2) and OAR 123-630-0090(2). The department shall, not later than 15 business days after the date of receipt of all relevant documentation, determine whether the qualified active low-income community business satisfies the requirements of ORS 285C.653(2) and OAR 123-630-0090(2) and notify the qualified community development entity in writing of the determination and an explanation of its determination. If the department fails to notify the qualified community development entity with respect to the proposed investment within the period specified in this paragraph, the business in which the qualified community development entity proposes to invest is considered to satisfy the requirements of ORS 285C.653(2) and OAR 123-630-0090(2).

Stat. Auth.: ORS 285C.656 & 315.526 – 315.536

Stats. Implemented: ORS 285C.656 & 315.526 – 315.536

Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14

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Oregon Department of Education

Chapter 581

Rule Caption: Changes in CTE Revitalization Grant criteria, proposal review committee, method of awarding competitive grants.

Adm. Order No.: ODE 21-2013

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 9-27-13

Notice Publication Date: 7-1-2013

Rules Amended: 581-044-0210, 581-044-0220, 581-044-0240, 581-044-0250, 581-044-0260

Subject: The proposed rule changes replace the existing Proposal Review Committee with a Grant Advisory Committee, allows additional appointees for proposal review, and adds sustainability of partnerships as an additional grant criteria for the CTE Revitalization Grant. Additional changes are proposed to reflect the current administrative structure of the Oregon Department of Education.

Rules Coordinator: Cindy Hunt — (503) 947-5651

581-044-0210

Definitions

The following definitions apply to OAR 581-044-0210 to 581-044-0260.

(1) "Diverse number of students" refers to a range of school sizes based on student enrollment.

(2) "High demand", as defined by the Oregon Employment Department, means having more than the median number of total (growth plus replacement) openings for statewide or a particular region.

(3) "High wage", as defined by the Oregon Employment Department, is a wage that is more than the all-industry, all-ownership median wage for statewide or a particular region.

(4) "Metropolitan County" is a county classified as Metropolitan by the U.S. Office of Management and Budget (OMB).

(5) "Reasonable geographic distribution" means that at least one-third of the funded proposals shall serve schools within a Metropolitan County, and at least one-third shall serve schools outside of a Metropolitan County.

(6) "The Act" refers to section 7, chapter 683, Oregon Laws 2011 (Enrolled House Bill 3362).

(7) "Educational enterprise" means middle school through post-secondary education including apprenticeship training.

Stat. Auth.: ORS 344.075

Stats. Implemented: ORS 344.075

Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 21-2013, f. & cert. ef. 9-27-13

581-044-0220

Policy

A Career and Technical Education Revitalization Grant Program has been established to encourage support for programs of study that are part of a continuum across the educational enterprise. Grants must be used to enhance the collaboration between education providers and employers by:

(1) Developing or enhancing career and technical education programs of study.

(2) Expanding the professional growth of and career opportunities for students through career and technical education programs.

(3) Assessing the ability of each career and technical education program to meet workforce needs and give students the skills required for jobs in Oregon that provide high wages and are in high demand.

(4) Supporting the achievement of the Oregon high school diploma requirements.

Stat. Auth.: ORS 344.075

Stats. Implemented: ORS 344.075

Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 21-2013, f. & cert. ef. 9-27-13

581-044-0240

Criteria for Grant Awards

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted each biennium for which Career and Technical Education Revitalization Grant funds are available. The Department shall notify eligible applicants of the proposal process and due dates, and make available necessary guidelines and application forms.

(2) All proposals must comply with requirements of the Act. Grants shall be awarded based on the following generally applicable criteria:

(a) The program shall focus on development and/or enhancement of a program of study in career and technical education;

(b) The program supports Oregon high school diploma requirements;

(c) There is a clear connection between the proposal and the workforce for the program of study based on high wages and high demand;

(d) The program shall serve to increase enrollment in programs of study which provide skills for employment in high-demand careers leading to high wages;

(e) The program demonstrates potential to teach a higher-level of academic and technical skills to all students, thereby increasing the knowledge and improving the skills of Oregon's workforce, and meeting established or developing industry standards;

(f) The business industry and/or labor communities are actively involved in program development and implementation in a manner that strengthens the development and continued viability of the program of study;

(g) There is evidence that the program of study implemented or improved shall be sustained beyond the life of the grant;

(h) There are provisions for follow up of students/staff, evaluation of program results, and reporting of program results.

ADMINISTRATIVE RULES

(3) Priority shall be given to proposals that meet the minimum criteria and:

- (a) Support new or expanded CTE programs;
- (b) Demonstrate long-term viability;
- (c) Demonstrate commitments from business, industry, labor or education providers to enhance collaboration;
- (d) Demonstrate a diverse number of students served;
- (e) Contribute to a reasonable geographic distribution of grant monies;
- (f) Create regional collaborations between partners which may include multiple public schools or other partners in a region; and
- (g) Demonstrate that the collaboration between education providers and employers enhanced by the grant will be sustainable beyond the life of the grant.

Stat. Auth.: ORS 344.075
Stats. Implemented: ORS 344.075
Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 21-2013, f. & cert. ef. 9-27-13

581-044-0250

Grant Advisory Committee

(1) The Oregon Department of Education and the Bureau of Labor and Industries shall jointly convene a Grant Advisory Committee to set goals for the grant program, develop grant criteria, review all grant applications and recommend determinations on those applications.

(2) The Grant Advisory Committee shall have representatives from business, industry, labor, and education providers. The Department and Bureau shall seek recommendations for membership on the committee from:

- (a) Organizations who represent business, industry and labor; and
 - (b) Education providers including but not limited to the Department of Community Colleges and Workforce Development, community colleges, school districts and other public and private education providers.
- (3) A member of the Grant Advisory Committee may not review a grant for which they have a declared conflict of interest.

(4) The Grant Advisory Committee shall receive training on the purpose of the Career and Technical Education Revitalization Grant program and RFP scoring procedures prior to scoring any proposals.

(5) In consultation with the Bureau of Labor and Industries, the Oregon Department of Education may appoint additional grant reviewers for the sole purpose of expediting the grant review process.

Stat. Auth.: ORS 344.075
Stats. Implemented: ORS 344.075
Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 21-2013, f. & cert. ef. 9-27-13

581-044-0260

Method of Awarding Competitive Grants

(1) Funding awards for Career and Technical Education Revitalization projects shall be approved by the Oregon Department of Education designated project manager, fiscal manager, and the Deputy Superintendent of Public Instruction.

(2) The Oregon Department of Education shall design a Request for Proposal (RFP) and scoring sheets that reflect requirements of state law and criteria stated in OAR 581-044-0240.

(3) Mailing requirements and deadlines shall be included in the RFP.

(4) Each proposal shall be scored by a minimum of two reviewers who are members of the Grant Advisory Committee or have been appointed as a grant reviewer as described in OAR 581-044-0250 section (5). Where possible each proposal shall be scored by at least one reviewer representing business, industry, or labor and one reviewer representing education providers.

(5) The Grant Advisory Committee shall make recommendations for funding based on the review of proposals and the intent of the Act.

(6) In the event that there are insufficient proposals that meet the requirements of the Act and ensure a reasonable geographic distribution, the Grant Advisory Committee may recommend an alternative approach to determining reasonable geographic distribution.

(7) The Oregon Department of Education shall notify both successful and unsuccessful applicants. Both successful and unsuccessful applicants shall be allowed access to a summary of comments and suggestions related to their proposals.

(8) Applicants shall have one week from the date of the notification letter to appeal the funding decision related to their application to the Deputy Superintendent of Public Instruction. Decisions made by the Deputy Superintendent are final.

(9) Grant recipients may request minor changes in funded proposals from the Department of Education. Requests for changes and approved changes shall be kept as part of the grant file.

Stat. Auth.: ORS 344.075
Stats. Implemented: ORS 344.075
Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 21-2013, f. & cert. ef. 9-27-13

Rule Caption: Implement provisions of HB 3233 relating to educator effectiveness and common core state standards implementation.

Adm. Order No.: ODE 22-2013(Temp)

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 9-27-13 thru 3-26-14

Notice Publication Date:

Rules Adopted: 581-018-0300, 581-018-0305, 581-018-0310, 581-018-0315, 581-018-0320, 581-018-0325

Subject: These temporary rules implement the provisions of HB 3233 relating to educator effectiveness (SB 290) and common core state standards (CCSS) implementation.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-018-0300

Definitions

The following definitions apply to 581-018-0300 to 581-018-0325

(1) “Common Core State Standards (CCSS)” means a coherent progression of learning expectations in English language arts and mathematics designed to prepare K–12 students for college and career success. CCSS were adopted by the Oregon State Board of Education in 2010.

(2) “Educator Effectiveness” means expectations for educators defined by the Core Teaching Standards established in Senate Bill 290 to improve student academic growth. Teacher effectiveness is defined by the Model Core Teaching Standards and administrator effectiveness is defined by the Oregon Educational Leadership/ Administrator Standards adopted by the State Board of Education in 2011.

(3) “Oregon Framework for Teacher and Administrator Evaluation and Support Systems” means the state guidelines developed by the Oregon Department of Education and stakeholders that incorporates the requirements of Senate Bill 290 and the federal requirements of the Elementary and Secondary Education Act (ESEA) Flexibility Waiver for educator evaluation and support systems.

(4) “Regional Peer Review Panels” means the process required in Oregon’s ESEA Flexibility Waiver in which the Department of Education will ensure that each district is fully implementing educator evaluation systems and common core state standards and providing feedback and support to districts.

(5) “Achievement gap” means the gap in achievement that often exists between students who are economically disadvantaged, students learning English as a second language, African American, Hispanic or Native American and their peers.

(6) “Network” means the Network of Quality Teaching and Learning established by chapter 661, Oregon Law 2013 (Enrolled House Bill 3233).

Stat. Auth.: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)
Stat. Implemented: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)
Hist.: ODE 22-2013(Temp), f. & cert. ef. 9-27-13 thru 3-26-14

581-018-0305

Establishment

(1) The Educator Effectiveness and CCSS Implementation Grant program is established as part of the Network for Quality Teaching and Learning.

(2) The purposes of the grants are to:

(a) Build each school district’s capacity to support full implementation of the Oregon Framework for Teacher and Administrator Evaluation and Support Systems and the Common Core State Standards.

(b) Ensure coherence and integration of policies to improve educator practice and student learning.

(c) Establish and support regional Peer Review Panels to:

(A) Ensure that districts are fully implementing valid and reliable educator evaluation and support systems and CCSS including for English Learners, students with disabilities, and low-achieving students; and

(B) Provide high quality feedback and support to districts.

(C) Districts must present their evaluation and support system and CCSS implementation plan to a Peer Review Panel by July 1, 2015.

Stat. Auth.: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)
Stat. Implemented: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)
Hist.: ODE 22-2013(Temp), f. & cert. ef. 9-27-13 thru 3-26-14

ADMINISTRATIVE RULES

581-018-0310

Eligibility

The Department of Education shall allocate funds for Educator Effectiveness and CCSS Implementation to:

(1) School districts or consortia of small districts to support an Education Facilitator Team and district implementation.

(2) Non-profit organizations and postsecondary institutions for the purpose of supporting implementation.

Stat. Auth.: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Stat. Implemented: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Hist.: ODE 22-2013(Temp), f. & cert. ef. 9-27-13 thru 3-26-14

581-018-0315

Criteria

(1) Each school district or a consortium of small school districts must establish a collaborative Education Facilitator Team consisting of teachers and building/district administrators who will support district-wide implementation of the CCSS and the Oregon Framework for Teacher and Administrator Evaluation and Support Systems. In creating teams, districts must consider the needs of all students in their district, including students with disabilities, English learners, and low-achieving students. Districts must also consider closing the achievement gap. Education Facilitator Teams will:

(a) Work to increase communication and clarification of educator expectations between the Department of Education and schools.

(b) Facilitate a needs assessment to determine professional development and technical assistance needs in the district.

(c) Attend professional learning provided by the Department of Education.

(d) Disseminate information from the Department of Education and facilitate professional learning in their districts based on district needs.

(e) Connect local stakeholders to local schools and the district to provide additional professional learning opportunities (e.g., local colleges and businesses, special education and English learner resources/providers).

(f) Inform Peer Review Panels of district needs and progress.

(2) During the 2013–14 school year, the Department of Education shall establish and disseminate to school districts the criteria and process for presenting their local evaluation and support systems and CCSS implementation plans to regional Peer Review Panels.

Stat. Auth.: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Stat. Implemented: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Hist.: ODE 22-2013(Temp), f. & cert. ef. 9-27-13 thru 3-26-14

581-018-0320

Grant Funding

(1) For the 2013-14 school year, the Department of Education shall allocate funds to school districts or consortia of small school districts to establish an Education Facilitator Team as described in 581-018-0315.

(2) For the 2014-15 school year, the Department of Education shall establish criteria for district implementation grants based on identified needs within the district or consortium districts.

(3) Districts may use grant funds to pay for Education Facilitators to attend professional learning provided by the Department of Education and to support professional learning for educators within the district.

(4) The Department of Education shall provide Education Facilitators with curricular resources and access to professional learning to support implementation of the CCSS and Oregon Framework for Teacher and Administrator Evaluation and Support Systems.

(5) The Department of Education shall facilitate statewide and regional networking among districts and post-secondary institutions to promote collaborative learning and sharing of best practices.

(6) The Department of Education and school districts may contract with entities on the master contractor list to provide professional learning and technical assistance to support implementation in districts.

Stat. Auth.: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Stat. Implemented: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Hist.: ODE 22-2013(Temp), f. & cert. ef. 9-27-13 thru 3-26-14

581-018-0325

Reporting

The Department of Education shall develop district reporting requirements for allocation of funds for Educator Effectiveness and CCSS implementation as required by the Oregon Investment Board and the Network for Quality Teaching and Learning.

Stat. Auth.: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Stat. Implemented: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Hist.: ODE 22-2013(Temp), f. & cert. ef. 9-27-13 thru 3-26-14

Oregon Education Investment Board

Chapter 705

Rule Caption: Regarding Achievement Compacts

Adm. Order No.: OEIB 2-2013

Filed with Sec. of State: 10-11-2013

Certified to be Effective: 10-11-13

Notice Publication Date: 9-1-2013

Rules Adopted: 705-010-0072

Rules Amended: 705-010-0030, 705-010-0035, 705-010-0045, 705-010-0055, 705-010-0065, 705-010-0070

Subject: These amendments and rule are necessary to bring the rules into alignment with legislation passed in the 2013 legislative session.

Rules Coordinator: Seth Allen—(503) 378-8213

705-010-0030

Distribution of Compacts to Education Entities

(1) The Board shall distribute achievement compacts to all education entities no later than 120 days prior to the date by which the achievement compact must be completed as set forth in 705-010-0035.

(2) Distribution may be done by electronic means.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12; OEIB 4-2012, f. & cert. ef. 9-21-12; OEIB 2-2013, f. & cert. ef. 10-11-13

705-010-0035

Completion and Execution of Achievement Compacts

(1) The governing body of each education entity must complete and execute its achievement compact with the Board annually by the following dates:

(a) For school districts and education service districts, by October 15.

(b) For community colleges, public universities and the Oregon Health and Science University, by June 30.

(2) Completion means that the governing body shall identify a target number and percentage of students for achievement of the outcomes, measures of progress and goals specified in the achievement compact for the fiscal year, as directed by the Board. The Board may waive the requirement to identify both a target number and percentage of students and require either a number or percentage for specific outcome measures, depending on the specifications of the compacts it approves.

(3) Education entities may provide a range of target numbers and percentages, but the Board shall use the lowest figure of any range provided.

(4) Education entities may provide target numbers and percentages for years beyond the next year.

(5) Execution of an achievement compact requires the signature of the chair or president of the governing board or that of its chief executive officer and its submission to the Board. Electronic signature is permitted.

(6) Community colleges, public universities and the Oregon Health Sciences Universities may submit executed achievement compacts by electronic means. School districts and education service districts must complete achievement compacts through the Oregon Department of Education's secure web-based portal designated for that purpose.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12; OEIB 4-2012, f. & cert. ef. 9-21-12; OEIB 2-2013, f. & cert. ef. 10-11-13

705-010-0045

Communications

As part of the process of entering into an achievement compact, the governing body of an education entity shall ensure that open communications are provided to parents, students, teachers or faculty, employees, exclusive bargaining representatives and community representatives for the purposes of explaining and discussing the outcomes, measures of progress, goals and targets specified in the achievement compact for the fiscal year.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12; OEIB 4-2012, f. & cert. ef. 9-21-12; OEIB 2-2013, f. & cert. ef. 10-11-13

705-010-0055

Receipt and Acceptance of Achievement Compacts

(1) The Chief Education Officer shall acknowledge receipt of each achievement compact and shall inform the education entity of the Board's acceptance of any local priorities within 30 days of receipt of the achievement compact.

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(2) The Board shall make available on its website the achievement compacts received and summary reports of the information contained in the achievement compacts.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12; OEIB 4-2012, f. & cert. ef. 9-21-12; OEIB 2-2013, f. & cert. ef. 10-11-13

705-010-0065

End-of-Year Reports

(1) For terms of achievement compacts that are carried forward in identical form from one fiscal year to the next, an education entity's report of results in a subsequent year's achievement compact shall represent its report of final results for a given fiscal year.

(2) For terms of achievement compacts that are not carried forward in identical form from one fiscal year to the next, the education entity shall report its results in conjunction with its data reports for the Oregon Report Card or in separate reports within 120 days after the close of the fiscal year.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Hist.: OEIB 4-2012, f. & cert. ef. 9-21-12; OEIB 2-2013, f. & cert. ef. 10-11-13

705-010-0070

Achievement Compact Advisory Committees

(1) Each school district, as defined in ORS 332.022, and each education service district operated under ORS Chapter 334 shall form an achievement compact advisory.

(2) An achievement compact advisory committee shall be responsible for ensuring that achievement compacts are developed annually for each school year with input from educators, parents, community and staff of the district.

(3) An achievement compact advisory committee shall:

(a) Develop plans for achieving the district's outcomes, measures of progress, goals and targets expressed in an achievement compact, including methods of assessing and reporting progress toward the achievement of goals and targets; and

(b) Recommend outcomes, measures of progress, goals and targets to be contained in the district's achievement compact for the next fiscal year.

(4) Each achievement compact advisory committee shall present its recommendations in a report to the governing board of the district no later than May 1 of each year. An achievement compact advisory committee's report and recommendations shall be considered by the governing board of the district when entering into an achievement compact for the next fiscal year. The governing board shall file the achievement compact advisory committee's report with each achievement compact it adopts and forwards to the Board.

(5) Parent engagement is an important component in the advancement of Achievement Compacts. Each district needs to ensure that they have a process for allowing a diverse group of parents to share their perspectives and their recommendations about:

(a) District services that contribute to student success and instructional program quality;

(b) Student, school, and district progress toward the state's 40-40-20 educational goals; and

(c) The type of academic program they believe will help students in their district succeed and support the state in reaching the 40-40-20 goal.

(6) School districts and education service districts shall make all materials, not containing confidential student information, available to the Achievement Compact committee shall be available to parent and community members. The narrative that will accompany the district compact should include a brief description of the parent engagement strategy and a summary of the recommendations they received from parents and the community.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Hist.: OEIB 4-2012, f. & cert. ef. 9-21-12; OEIB 5-2012(Temp), f. & cert. ef. 10-11-12 thru 4-9-13; Administrative correction, 4-22-13; OEIB 1-2013, f. & cert. ef. 5-2-13; OEIB 2-2013, f. & cert. ef. 10-11-13

705-010-0072

Achievement Compact Advisory Committees for Community College Districts and Public Universities

(1) Each community college district shall form an achievement compact advisory committee that meets the requirements of Section 202b, Chapter _____, Oregon Laws 2013 (Enrolled House Bill 3120).

(2) An achievement compact advisory committee shall be responsible for ensuring that the college's or university's achievement compact is implemented for the 2013-14 fiscal year and subsequent fiscal years.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Hist.: OEIB 2-2013, f. & cert. ef. 10-11-13

**Oregon Health Authority,
Addictions and Mental Health Division:
Mental Health Services
Chapter 309**

Rule Caption: Permanent amendments to OAR 309-016 (Medicaid Payments) regarding Substance Use Disorder Detoxification Treatment Services.

Adm. Order No.: MHS 11-2013

Filed with Sec. of State: 9-23-2013

Certified to be Effective: 9-23-13

Notice Publication Date: 10-1-2012

Rules Adopted: 309-016-0801, 309-016-0806, 309-016-0811, 309-016-0816, 309-016-0821

Subject: These rules specify standards for authorized appropriate reimbursement of Medicaid or State Children's Health Plan funded addictions and mental health services and supports. This includes payments for community-based and acute inpatient services in a general medical setting or a freestanding facility which meets the federal definition as an institute for mental disease.

Rules Coordinator: Nola Russell—(503) 945-7652

309-016-0801

Conditions of Service Provider Participation

Provider shall meet the following requirements:

(1) Possess the appropriate current and valid License, Letter of Approval and/or Certificate of Approval issued by the Division provided as outlined in OAR 415-012-0000 to 415-012-0090;

(2) Develop a Cost Allocation Plan to support the Provider's Usual and Customary Charge. Usual and customary charge is defined in OAR 410-120-0000;

(3) Provide services in accordance with the Civil Rights Act of 1964, the Americans with Disabilities Act and any other state and federal laws and regulations listed in the contract with the Division;

(4) Participate in the claim review process outlined in OAR 410-120-1397; and

(5) Center to be in compliance with 415-050-0000 to 415-050-0095.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705 & 430.715
Hist.: MHS 11-2013, f. & cert. ef. 9-23-13

309-016-0806

Provider Enrollment

Providers shall meet all requirements in OAR 410-120-1260, Medical Assistance Programs Provider Enrollment, OAR 407-120-0310 Provider Requirements, and 407-120-0320 Provider Enrollment.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705 & 430.715
Hist.: MHS 11-2013, f. & cert. ef. 9-23-13

309-016-0811

Payment

(1) DMAP or the Division will make payment in compliance with 42 CFR 447.10. Any contracted Billing Agent or Billing Service submitting claims on behalf of a Provider but not receiving payment in the name of or on behalf of the Provider does not meet the requirements for Billing Provider enrollment. If electronic transactions will be submitted, Billing Agents and Billing Services must register and comply with Oregon Health Authority Electronic Data Interchange (EDI) rules, OAR 407-120-0100 through 407-120-0200. DMAP may require that payment for services be made only after review by DMAP.

(2) The Division sets Fee-for-Service (FFS) payment rates.

(3) All FFS payment rates are the rates in effect on the date of service that are the lesser of the amount billed, the AMH maximum allowable amount or the reimbursement specified in the individual program Provider rules: The Division's maximum allowable rate setting process uses a methodology that is based on the existing Medicaid fee schedule with adjustments for legislative changes and payment levels. The rates are updated periodically and posted on the Division's web site

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 414.725 & 414.737, 430.640, 430.705 & 430.715
Hist.: MHS 11-2013, f. & cert. ef. 9-23-13

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309-016-0816

Sanctions

Sanctions will be imposed on Providers when necessary in accordance with OAR 410-120-1400 through 410-120-1460 Medical Assistance Programs Provider Sanctions and Types and Conditions of Sanction

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705 & 430.715

Hist.: MHS 11-2013, f. & cert. ef. 9-23-13

309-016-0821

Individual Eligibility

(1) To be eligible for Detoxification Treatment services under these rules the individual must be a current Medicaid recipient.

(2) Providers are responsible to verify an individual is a Medicaid recipient as outlined in OAR 410-120-1140

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065, 414.025 & 414.047

Hist.: MHS 11-2013, f. & cert. ef. 9-23-13

Oregon Health Authority, Division of Medical Assistance Programs Chapter 410

Rule Caption: Increase payment for certain primary care practitioners and increase the VFC administration fee.

Adm. Order No.: DMAP 49-2013

Filed with Sec. of State: 9-25-2013

Certified to be Effective: 9-25-13

Notice Publication Date: 9-1-2013

Rules Adopted: 410-130-0005

Rules Amended: 410-120-1340, 410-130-0255

Subject: The Division of Medical Assistance Programs (Division) General rules, administrative rules govern payments for services provided to certain eligible clients. The Division proposed adoption of OAR 410-130-0005 and proposed amendment of OAR 410-130-0255, 410-120-1340 to implement changes required by the affordable Care Act.

OAR 410-120-1340 establishes the federally required payment increase to be effective on or after Jan. 1 2013. Rule 410-130-0005 establishes the self-attestation process required for the Division to identify providers subject to the federally required payment increase. Rule 410-130-0255 clarifies the procedure codes for the Vaccine For Children program.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-120-1340

Payment

(1) The Division of Medical Assistance Programs (Division) shall make payment only to the enrolled provider (see OAR 410-120-1260) who actually performs the service or to the provider's enrolled billing provider for covered services rendered to eligible clients.

(2) Division reimbursement for services may be subject to review prior to reimbursement.

(3) The Division that is administering the program under which the billed services or items are provided sets fee-for-service (FFS) payment rates.

(4) The Division uses FFS payment rates in effect on the date of service that are the lesser of:

(a) The amount billed;

(b) The Division maximum allowable amount or;

(c) Reimbursement specified in the individual program provider rules:

(5) Amount billed may not exceed the provider's "usual charge" (see definitions);

(6) The Division's maximum allowable rate setting process uses the following methodology for:

(a) Relative Value Unit (RVU) weight-based rates: For all CPT/HCPCS codes assigned an RVU weight, the 2013 Total RVU weights published in the Federal Register, Vol. 77, November 16, 2012 with technical corrections published Dec. 14, 2012, to be effective for dates of services on or after January 1, 2013.

(A) For professional services not typically performed in a facility, the Non-Facility Total RVU weight;

(B) For professional services typically performed in a facility, the Facility Total RVU weight;

(C) The Division applies the following conversion factors:

(i) \$40.79 for labor and delivery codes (59400-59622);

(ii) \$36.0666 for Federally Qualified primary care codes billed by providers meeting the criteria in OAR 410-130-0005;

(iii) \$27.82 for other Oregon primary care providers and services not specified in (ii). A current list of primary care CPT, HCPCS and provider specialty codes is available at http://www.oregon.gov/OHA/healthplan/data_pubs/feeschedule/main.shtml

(iv) \$25.48 for all remaining RVU weight based CPT/HCPCS codes.

(D) Rate calculation: Effective January 1, 2013, The Division will calculate rates for each RVU weight-based code using statewide Geographic Practice Cost Indices (GPCIs) as follows:

(i) Work RVU) X (Work GPCI of 1.0) + (Practice Expense RVU) X (Practice GPCI of 0.969) + (Malpractice RVU) X (Malpractice GPCI of 0.625);

(ii) Sum in (D)(i) multiplied by the applicable conversion factor in section C.

(b) Non RVU based rates:

(A) \$20.78 is the base rate for anesthesia service codes 00100-01996. The rate is based on per unit of service;

(B) Clinical lab codes are priced at 70% of the 2013 Medicare clinical lab fee schedule;

(C) All approved Ambulatory Surgical Center (ASC) procedures are reimbursed at 80% of the 2012 Medicare fee schedule;

(D) Physician administered drugs, billed under a HCPCS code, are based on Medicare's Average Sale Price (ASP). When no ASP rate is listed the rate shall be based upon the Wholesale Acquisition Price (WAC) plus 6.25%. If no WAC is available, then the rate shall be reimbursed at Acquisition Cost. Pricing information for WAC is provided by First Data Bank. These rates may change periodically based on drug costs;

(E) All procedures used for vision materials and supplies are based on contracted rates that include acquisition cost plus shipping and handling.

(F) Individual provider rules may specify reimbursement rates for particular services or items.

(7) The rates in (6) are updated periodically and posted on the Authority web site at http://www.oregon.gov/OHA/healthplan/data_pubs/feeschedule/main.shtml.

(8) The Division reimburses inpatient hospital service under the DRG methodology, unless specified otherwise in the Division's Hospital Services Program administrative rules (chapter 410, division 125). Reimbursement for services, including claims paid at DRG rates, shall not exceed any upper limits established by federal regulation.

(9) The Division reimburses all out-of-state hospital services at Oregon DRG or FFS rates as published in the Hospital Services Program rules (OAR chapter 410, division 125) unless the hospital has a contract or service agreement with the Division to provide highly specialized services.

(10) Payment rates for in-home services provided through Department of Human Services (Department) Aged and Physically Disabled Division (APD) will not exceed the costs of nursing facility services unless the criteria in OAR 411-027-0020 have been met.

(11) The Division sets payment rates for out-of-state institutions and similar facilities, such as skilled nursing care facilities, psychiatric and rehabilitative care facilities at a rate that is:

(a) Consistent with similar services provided in the State of Oregon; and

(b) The lesser of the rate paid to the most similar facility licensed in the State of Oregon or the rate paid by the Medical Assistance Programs in that state for that service; or

(c) The rate established by APD for out-of-state nursing facilities.

(12) The Division shall not make payment on claims that have been assigned, sold, or otherwise transferred or when the billing provider, billing agent or billing service receives a percentage of the amount billed or collected or payment authorized. This includes, but is not limited to, transfer to a collection agency or individual who advances money to a provider for accounts receivable.

(13) The Division shall not make a separate payment or copayment to a nursing facility or other provider for services included in the nursing facility's all-inclusive rate. The following services are not included in the all-inclusive rate (OAR 411-070-0085) and may be separately reimbursed:

(a) Legend drugs, biologicals and hyperalimentation drugs and supplies, and enteral nutritional formula as addressed in the Pharmaceutical Services Program administrative rules (chapter 410, division 121) and Home Enteral/Parenteral Nutrition and IV Services Program administrative rules, (chapter 410, division 148);

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(b) Physical therapy, speech therapy, and occupational therapy provided by a non-employee of the nursing facility within the appropriate program administrative rules, (chapter 410, division 129 and 131);

(c) Continuous oxygen which exceeds 1,000 liters per day by lease of a concentrator or concentrators as addressed in the Durable Medical Equipment, Prosthetics, Orthotics and Supplies Program administrative rules, (chapter 410, division 122);

(d) Influenza immunization serum as described in the Pharmaceutical Services Program administrative rules, (chapter 410, division 121);

(e) Podiatry services provided under the rules in the Medical-Surgical Services Program administrative rules, (chapter 410, division 130);

(f) Medical services provided by a physician or other provider of medical services, such as radiology and laboratory, as outlined in the Medical-Surgical Services Program rules, (chapter 410, division 130);

(g) Certain custom fitted or specialized equipment as specified in the Durable Medical Equipment, Prosthetics, Orthotics and Supplies Program administrative rules, (chapter 410, division 122).

(14) The Division reimburses hospice services based on CMS Core-Based Statistical Areas (CBSA's). A separate payment will not be made for services included in the core package of services as outlined in OAR chapter 410, division 142.

(15) Payment for Division clients with Medicare and full Medicaid:

(a) The Division limits payment to the Medicaid allowed amount, less the Medicare payment, up to the Medicare co-insurance and deductible, whichever is less. The Division's payment cannot exceed the co-insurance and deductible amounts due;

(b) The Division pays the Division allowable rate for Division covered services that are not covered by Medicare.

(16) For clients with third-party resources (TPR), the Division pays the Division allowed rate less the TPR payment but not to exceed the billed amount.

(17) The Division payments, including contracted PHP or CCO payments, unless in error, constitute payment in full, except in limited instances involving allowable spend-down or copayments. For the Division, such payment in full includes:

(a) Zero payments for claims where a third party or other resource has paid an amount equivalent to or exceeding Division allowable payment; and

(b) Denials of payment for failure to submit a claim in a timely manner, failure to obtain payment authorization in a timely and appropriate manner, or failure to follow other required procedures identified in the individual provider rules.

(18) Payment by the Division does not restrict or limit the Authority or any state or federal oversight entity's right to review or audit a claim before or after the payment. Claim payment may be denied or subject to recovery if medical review, audit or other post-payment review determines the service was not provided in accordance with applicable rules or does not meet the criteria for quality of care, or medical appropriateness of the care or payment.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025, 414.033, 414.065, 414.095, 414.705, 414.727, 414.728, 414.742 & 414.743

Hist.: PWC 683, f. 7-19-74, ef. 8-11-784; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; Renumbered from 461-013-0061; PWC 833, f. 3-18-77, ef. 4-1-77; Renumbered from 461-013-0061; AFS 5-1981, f. 1-23-81, ef. 3-1-81; Renumbered from 461-013-0060, AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 24-1985, f. 4-24-85, ef. 6-1-85; AFS 50-1985, f. 8-16-85, ef. 9-1-85; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0081, 461-013-0085, 461-013-0175 & 461-013-0180; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0040, 410-120-0220, 410-120-0200, 410-120-0240 & 410-120-0320; HR 2-1994, f. & cert. ef. 2-1-94; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03; OMAP 10-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 15-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 45-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 24-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 35-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 38-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 39-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 22-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-25-12; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 28-2012, f. 6-21-12, cert. ef. 7-1-12; DMAP 41-2012(Temp), f. 8-22-12, cert. ef. 9-1-12 thru 2-28-13; DMAP 49-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 14-2013(Temp), f. & cert. ef. 3-29-13 thru 9-25-13; DMAP 49-2013, f. & cert. ef. 9-25-13

410-130-0005

Federally Qualified Primary Care Provider

(1) Section 1202 of the Affordable Care Act (ACA) amended sections 1902(a)(13), 1902(jj), 1905(dd) and 1932(f) of the Social Security Act to require increased Medicaid payment for primary care services to qualified providers for calendar years 2013 and 2014 as specified in these rules.

(2) Federally Qualified Primary Care Services are designated as:

(a) Evaluation and Management (E&M) Current Procedural Terminology (CPT) codes 99201 through 99499; and

(b) Vaccine administration CPT codes 90460, 90461, 90471, 90472, 90473 and 90474, or their successor codes; and

(c) Administration of vaccines under Vaccines for Children Program (refer to OAR 410-130-0255).

(3) To qualify for the increased payment, the individual physician must attest that:

(a) The physician has a primary practice in family medicine, general internal medicine, or pediatric medicine; and

(b) One or both of the following are true:

(A) The physician is Board-certified in a specialty or subspecialty of family medicine, general internal medicine, or pediatric medicine by one of the following boards:

(i) The American Board of Medical Specialties (ABMS);

(ii) The American Osteopathic Association (AOA);

(iii) The American Board of Physician Specialties (ABPS);

(B) The physician can demonstrate that at least 60 percent of the procedure codes billed and paid in Medicaid claims were qualifying primary care codes described in section 2 of this rule.

(i) Over the previous calendar year, if billings exist for this time period; or

(ii) Over the previous month, if billings do not exist for the previous calendar year.

(4) To qualify for the increased payment, a Physician Assistant (PA) or Nurse Practitioner (NP) must attest that they work under the direct supervision of a Physician who:

(a) Qualifies for increased primary care payments as described in these rules; and

(b) Assumes professional responsibility for the services rendered by the PA or NP.

(5) Providers seeking the reimbursement increase from the Division of Medical Assistance Programs (Division) must self-attest with the Division. Providers, not enrolled with the Division, seeking the increase from OHP health plans (MCO or CCO), must self-attest with the applicable MCO or CCO.

(6) Reimbursement: Effective for dates of service on or after January 1, 2013, the Division shall reimburse primary care providers as follows:

(a) Federally qualified primary care providers as described in this rule at the rate specified in OAR 410-120-1340(6)(C)(ii); or

(b) Other primary care providers, including potentially qualified providers who do not self-attest to the Division as described in part (3) of this rule, at the rate specified in OAR 410-120-1340(6)(C)(iii).

(7) Annual review of qualifying providers: The Division will review a statistically valid sample of providers to determine whether they satisfy the criteria described in (3) and (4) of these rules. Providers reviewed who do not satisfy the criteria will be required to reimburse the Division for the difference between the rate they should have received according to OAR 410-120-1340(6)(C)(iii) and enhanced rate in OAR 410-120-1340(6)(C)(ii). The sample will include the following providers:

(a) Physicians who have self-attested to qualifying for the increased rate; and

(b) Providers who have self-attested that they are under the direct supervision of a qualified physician.

(8) Supplemental information on primary care reimbursement under the Affordable Care Act is available at http://www.oregon.gov/oha/health-plan/pages/tools_prov/pcp-rates.aspx.

Stat Auth.: ORS 413.042

Stats Implemented: 414.025 & 414.065

Hist.: DMAP 14-2013(Temp), f. & cert. ef. 3-29-13 thru 9-25-13; DMAP 49-2013, f. & cert. ef. 9-25-13

410-130-0255

Immunizations and Immune Globulins

(1) Use standard billing procedures for vaccines that are not part of the Vaccines for Children (VFC) Program.

(2) The Division of Medical Assistance Programs (Division) covers Synagis (palivizumab-rsv-igm) only for high-risk infants and children as defined by the American Academy of Pediatric guidelines.

(a) Prior authorization is required for Synagis. See Table 130-0200-1 Prior Authorization;

(b) Bill 90378 for Synagis.

(3) Providers are encouraged to administer combination vaccines when medically appropriate and cost effective.

(4) Vaccines For Children (VFC) Program:

ADMINISTRATIVE RULES

(a) Under this federal program, vaccine serums are free for clients ages 0 through 18. The Division will not reimburse for the purchase or administration of privately purchased vaccines that are provided through the VFC Program. ;

(b) Only providers enrolled in the VFC Program can receive free vaccine serums. To enroll as a VFC provider, contact the Public Health Immunization Program. For contact information, see the Oregon VFC program website at <http://public.health.oregon.gov/PreventionWellness/VaccinesImmunization/ImmunizationProviderResources/vfc/Pages/index.aspx>

(c) The Division will reimburse all enrolled VFC Program providers for the administration of any vaccine provided by the VFC Program at the Regional Maximum amount of \$21.96. Whenever a new vaccine becomes available through the VFC Program, administration of that vaccine is also covered by the Division;

(d) Refer to Table 130-0255-1 for immunization codes provided through the VFC Program;

(e) Providers shall follow the current Advisory Committee on Immunization Practices (ACIP) guidelines for immunization schedules. Exceptions include:

(A) On a case-by-case basis, provider may use clinical judgment in accordance with accepted medical practice to provide immunizations on a modified schedule;

(B) On a case-by-case basis, provider may modify immunization schedule in compliance with the laws of the State of Oregon, including laws relating to exemptions for immunizations due to religious beliefs or other requests.

(f) Use the following procedures when billing the Division for the administration of a VFC vaccine:

(A) When the sole purpose of the visit is to administer a VFC vaccine, the provider should bill the appropriate vaccine specific procedure code (90632-90748) with modifier -SL or -26 for each injection. Do not bill the immunization administration Current Procedural Terminology (CPT) code 90460-90474 or 99211;

(B) When the vaccine is administered as part of an Evaluation and Management service (e.g., well-child visit) the provider should bill the appropriate vaccine specific procedure code with modifier -SL, or -26 for each injection in addition to the Evaluation and Management code.

(g) For clients with private insurance, bill the Division or the client's managed care plan directly for the administration of VFC vaccines. Medicaid is not considered the "payer of last resort" for administration of VFC vaccines.

(h) For VFC providers who qualify for the federal primary care rate increase as specified under 42 CFR 447 Subpart G, CCOs and MCOs are required to reimburse for the administration of any vaccine provided by the VFC Program at the Regional Maximum amount of \$21.96. See OAR 410-130-0005 for information about how to qualify for the federal primary care rate increase. Plans have the option to apply the Regional Maximum amount to non- primary care VFC providers.

(i) The Division is applying the VFC rate increase to all VFC fee for service providers, regardless of whether they have attested for the primary care rate increase.

(5) Table 130-0255-1

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025 & 414.065

Hist.: HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 4-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; Renumbered from 410-130-0800, OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 13-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 45-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 26-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 5-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 20-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 18-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 15-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 34-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 43-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 14-2013(Temp), f. & cert. ef. 3-29-13 thru 9-25-13; DMAP 49-2013, f. & cert. ef. 9-25-13

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Rule Caption: Amendment of HERC Prioritized List of Health Services reflecting approved modifications effective October 1, 2013

Adm. Order No.: DMAP 50-2013(Temp)

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13 thru 3-30-14

Notice Publication Date:

Rules Amended: 410-141-0520

Subject: The Oregon Health Plan (OHP) Program administrative rules govern Division of Medical Assistance Programs' (Division) payments for services provided to clients. The Division is temporarily amending 410-141-0520 HERC Prioritized List of Health Services to reference the January 1, 2011 to December 31, 2013, Prioritized List of Health Services effective October 1, 2013 which includes interim modifications and technical changes made for 2009 national code set.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-141-0520

Prioritized List of Health Services

(1) The Health Evidenced Review Commission (HERC) Prioritized List of Health Services (Prioritized List) is the listing of physical and mental health services with "expanded definitions" of preventive services and the practice guidelines, as presented to the Oregon Legislative Assembly. The Prioritized List is generated and maintained by HERC. The HERC maintains the most current list on their Web site: <http://www.oregon.gov/oha/herc/Pages/Prioritized-List-Pending.aspx>, or for a hardcopy contact the Medical Assistance Programs within the Oregon Health Authority (OHA). This rule incorporates by reference the Centers for Medicare and Medicaid Services (CMS) approved biennial January 1, 2011–December 31, 2013 Prioritized List, including April 1, 2013 interim modifications and technical changes, expanded definitions, practice guidelines and condition treatment pairs funded through line 498.

(2) Certain mental health services are only covered for payment when provided by a Mental Health Organization (MHO), Community Mental Health Program (CMHP) or authorized Coordinated Care Organization (CCO).

(3) Substance Use Disorder (SUD) treatment services are covered for eligible OHP clients when provided by an FCHP, PCO, and CCO or by a provider who has a letter of approval from the Addictions and Mental Health Division and approval to bill Medicaid for SUD services.

Stat. Auth.: ORS 192.527, 192.528, 413.042 & 414.065

Stats. Implemented: ORS 192.527, 192.528, 414.065 & 414.727

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 33-1998, f. & cert. ef. 9-1-98; OMAP 1998(Temp), f. & cert. ef. 10-1-98 thru 3-1-99; OMAP 48-1998(Temp), f. & cert. ef. 12-1-98 thru 5-1-99; OMAP 21-1999, f. & cert. ef. 4-1-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 9-2000(Temp), f. 4-27-00, cert. ef. 4-27-00 thru 9-26-00; OMAP 13-2000, f. & cert. ef. 9-12-00; OMAP 14-2000(Temp), f. 9-15-00, cert. ef. 10-1-00 thru 3-30-01; OMAP 40-2000, f. 11-17-00, cert. ef. 11-20-00; OMAP 22-2001(Temp), f. 3-30-01, cert. ef. 4-1-01 thru 9-1-01; OMAP 28-2001, f. & cert. ef. 8-10-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 18-2002, f. 4-15-02, cert. ef. 5-1-02; OMAP 64-2002, f. & cert. ef. f. & cert. ef. 10-2-02; OMAP 65-2002(Temp), f. & cert. ef. 10-2-02 thru 3-15-04; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 30-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 81-2003(Temp), f. & cert. ef. 10-23-03 thru 3-15-04; OMAP 94-2003, f. 12-31-03 cert. ef. 1-1-04; OMAP 17-2004(Temp), f. 3-15-04 cert. ef. 4-1-04 thru 9-15-04; OMAP 28-2004, f. 4-22-04 cert. ef. 5-1-04; OMAP 48-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 51-2004, f. 9-9-04, cert. ef. 10-1-04; OMAP 68-2004(Temp), f. 9-14-04, cert. ef. 10-1-04 thru 3-15-05; OMAP 83-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 54-2005(Temp), f. & cert. ef. 10-14-05 thru 4-1-06; OMAP 62-2005, f. 11-29-05, cert. ef. 12-1-05; OMAP 71-2005, f. 12-21-05, cert. ef. 1-1-06; OMAP 6-2006, f. 3-22-06, cert. ef. 4-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 14-2007(Temp), f. & cert. ef. 10-1-07 thru 3-28-08; DMAP 28-2007(Temp), f. & cert. ef. 12-20-07 thru 3-28-08; DMAP 8-2008, f. & cert. ef. 3-27-08; DMAP 10-2008(Temp), f. & cert. ef. 4-1-08 thru 9-15-08; DMAP 23-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 31-2008(Temp), f. & cert. ef. 10-1-08 thru 3-29-09; DMAP 40-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 4-2009(Temp), f. & cert. ef. 1-30-09 thru 6-25-09; DMAP 6-2009(Temp), f. 3-26-09, cert. ef. 4-1-09 thru 9-25-09; DMAP 8-2009(Temp), f. & cert. ef. 4-17-09 thru 9-25-09; DMAP 26-2009, f. 8-3-09, cert. ef. 8-5-09; DMAP 30-2009(Temp), f. 9-15-09, cert. ef. 10-1-09 thru 3-29-10; DMAP 36-2009(Temp), f. 12-10-09 ef. 1-1-10 thru 3-29-10; DMAP 1-2010(Temp), f. & cert. ef. 1-15-10 thru 3-29-10; DMAP 3-2010, f. 3-5-10, cert. ef. 3-17-10; DMAP 5-2010(Temp), f. 3-26-10, cert. ef. 4-1-10 thru 9-1-10; DMAP 10-2010, f. & cert. ef. 4-26-10; DMAP 27-2010(Temp), f. 9-24-10, cert. ef. 10-1-10 thru 3-25-11; DMAP 43-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 4-2011, f. 3-23-11, cert. ef. 4-1-11; DMAP 24-2011(Temp), f. 9-15-11, cert. ef. 10-1-11 thru 3-26-12; DMAP 45-2011, f. 12-21-11, cert. ef. 12-23-11; DMAP 47-2011(Temp), f. 12-13-11, cert. ef. 1-1-12 thru 6-25-12; DMAP 22-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 9-21-12; DMAP 43-2012(Temp), f. 9-21-12, cert. ef. 9-23-12 thru 3-21-13; DMAP 11-2013, f. & cert. ef. 3-21-13; DMAP 50-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

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Rule Caption: Align with Department of Human Services OAR chapter 461, medical eligibility rules

Adm. Order No.: DMAP 51-2013

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 8-1-2013

Rules Amended: 410-120-0006

Subject: The General Rules Program administrative rules govern the Division's payments for services provided to clients, and medical assistance eligibility determinations made by the Oregon Health

ADMINISTRATIVE RULES

Authority. In coordination with the Department of Human Services' (Department) revision of medical eligibility rules in chapter 461, the Division is amending OAR 410-120-0006 to assure that the Division's medical eligibility rule aligns with and reflects information found in the Department's medical eligibility rules. In OAR

410-120-0006, the Division adopts in rule by reference Department eligibility rules and must update OAR 410-120-0006 in conjunction.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-120-0006

Medical Eligibility Standards

As the state Medicaid and CHIP agency, the Oregon Health Authority (Authority) is responsible for establishing and implementing eligibility policies and procedure consistent with applicable law. As outlined in 943-001-0020; the Authority, and the Department of Human Services (Department) work together to adopt rules to assure that medical assistance eligibility procedures and determinations are consistent across both agencies.

(1) The Authority adopts and incorporates by reference the rules established in OAR chapter 461 and in effect October 1, 2013 for all medical eligibility requirements for medical assistance when the Authority conducts eligibility determinations.

(2) Any reference to OAR chapter 461 in Oregon Administrative Rules or contracts of the Authority are deemed to be references to the requirements of this rule and shall be construed to apply to all eligibility policies, procedures and determinations by or through the Authority.

(3) For purposes of this rule, references in OAR chapter 461 to the Department or to the Authority shall be construed to be references to both agencies.

(4) Effective on or after July 1, 2011 the Authority shall conduct medical eligibility determinations using the OAR chapter 461 rules which are in effect on the date the Authority makes the medical eligibility determination.

(5) A request for a hearing resulting from a determination under this rule, made by the Authority shall be handled pursuant to the hearing procedures set out in division 25 of OAR chapter 461. References to "the Administrator" in division 25 of chapter 461 or "the Department" are hereby incorporated as references to the" Authority."

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.065

Hist.: DMAP 10-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 18-2011(Temp), f. & cert. ef. 7-15-11 thru 1-11-12; DMAP 21-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-11-12; DMAP 25-2011(Temp), f. 9-28-11, cert. ef. 10-1-11 thru 1-11-12; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-10-12; DMAP 2-2012(Temp), f. & cert. ef. 1-26-12 thru 7-10-12; DMAP 3-2012(Temp), f. & cert. ef. 1-31-12 thru 2-1-12; DMAP 4-2012(Temp), f. 1-31-12, cert. ef. 2-1-12 thru 7-10-12; DMAP 9-2012(Temp), f. & cert. ef. 3-1-12 thru 7-10-12; DMAP 21-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-10-12; DMAP 25-2012(Temp), f. & cert. ef. 5-1-12 thru 7-10-12; Administrative correction 8-1-12; DMAP 35-2012(Temp), f. & cert. ef. 7-20-12 thru 1-15-13; DMAP 45-2012(Temp), f. & cert. ef. 10-5-12 thru 1-19-13; DMAP 50-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 53-2012(Temp), f. & cert. ef. 11-1-12 thru 4-29-13; DMAP 56-2012(Temp), f. 11-30-12, cert. ef. 12-1-12 thru 4-1-13; DMAP 60-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 65-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DMAP 2-2013(Temp), f. & cert. ef. 1-8-13 thru 6-29-13; DMAP 3-2013(Temp), f. & cert. ef. 1-30-13 thru 6-29-13; DMAP 5-2013(Temp), f. & cert. ef. 2-20-13 thru 6-29-13; DMAP 7-2013(Temp), f. & cert. ef. 3-1-13 thru 6-29-13; DMAP 12-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 17-2013, f. & cert. ef. 4-10-13; DMAP 24-2013, f. & cert. ef. 5-29-13; DMAP 32-2013, f. & cert. ef. 6-27-13; DMAP 39-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 1-28-14; DMAP(Temp), f. 8-21-13, cert. ef. 8-23-13 thru 1-28-14; DMAP 51-2013, f. & cert. ef. 10-1-13

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Rule Caption: Align with Department of Human Services OAR chapter 461, medical eligibility rules

Adm. Order No.: DMAP 52-2013(Temp)

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13 thru 3-30-14

Notice Publication Date:

Rules Amended: 410-120-0006

Subject: The General Rules Program administrative rules govern the Division's payments for services provided to clients, and medical assistance eligibility determinations made by the Oregon Health Authority. In coordination with the Department of Human Services' (Department) revision of medical eligibility rules in chapter 461, the Division is amending OAR 410-120-0006 to assure that the Division's

medical eligibility rule aligns with and reflects information found in the Department's medical eligibility rules. In OAR

410-120-0006, the Division adopts in rule by reference Department eligibility rules and must update OAR 410-120-0006 in conjunction.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-120-0006

Medical Eligibility Standards

As the state Medicaid and CHIP agency, the Oregon Health Authority (Authority) is responsible for establishing and implementing eligibility policies and procedure consistent with applicable law. As outlined in 943-001-0020; the Authority, and the Department of Human Services (Department) work together to adopt rules to assure that medical assistance eligibility procedures and determinations are consistent across both agencies.

(1) The Authority adopts and incorporates by reference the rules established in OAR chapter 461 and in effect October 1, 2013, for all medical eligibility requirements for medical assistance when the Authority conducts eligibility determinations.

(2) Any reference to OAR chapter 461 in Oregon Administrative Rules or contracts of the Authority are deemed to be references to the requirements of this rule and shall be construed to apply to all eligibility policies, procedures and determinations by or through the Authority.

(3) For purposes of this rule, references in OAR chapter 461 to the Department or to the Authority shall be construed to be references to both agencies.

(4) Effective on or after July 1, 2011 the Authority shall conduct medical eligibility determinations using the OAR chapter 461 rules which are in effect on the date the Authority makes the medical eligibility determination.

(5) A request for a hearing resulting from a determination under this rule, made by the Authority shall be handled pursuant to the hearing procedures set out in division 25 of OAR chapter 461. References to "the Administrator" in division 25 of chapter 461 or "the Department" are hereby incorporated as references to the" Authority."

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.065

Hist.: DMAP 10-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 18-2011(Temp), f. & cert. ef. 7-15-11 thru 1-11-12; DMAP 21-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-11-12; DMAP 25-2011(Temp), f. 9-28-11, cert. ef. 10-1-11 thru 1-11-12; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-10-12; DMAP 2-2012(Temp), f. & cert. ef. 1-26-12 thru 7-10-12; DMAP 3-2012(Temp), f. & cert. ef. 1-31-12 thru 2-1-12; DMAP 4-2012(Temp), f. 1-31-12, cert. ef. 2-1-12 thru 7-10-12; DMAP 9-2012(Temp), f. & cert. ef. 3-1-12 thru 7-10-12; DMAP 21-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-10-12; DMAP 25-2012(Temp), f. & cert. ef. 5-1-12 thru 7-10-12; Administrative correction 8-1-12; DMAP 35-2012(Temp), f. & cert. ef. 7-20-12 thru 1-15-13; DMAP 45-2012(Temp), f. & cert. ef. 10-5-12 thru 1-19-13; DMAP 50-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 53-2012(Temp), f. & cert. ef. 11-1-12 thru 4-29-13; DMAP 56-2012(Temp), f. 11-30-12, cert. ef. 12-1-12 thru 4-1-13; DMAP 60-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 65-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DMAP 2-2013(Temp), f. & cert. ef. 1-8-13 thru 6-29-13; DMAP 3-2013(Temp), f. & cert. ef. 1-30-13 thru 6-29-13; DMAP 5-2013(Temp), f. & cert. ef. 2-20-13 thru 6-29-13; DMAP 7-2013(Temp), f. & cert. ef. 3-1-13 thru 6-29-13; DMAP 12-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 17-2013, f. & cert. ef. 4-10-13; DMAP 24-2013, f. & cert. ef. 5-29-13; DMAP 32-2013, f. & cert. ef. 6-27-13; DMAP 39-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 1-28-14; DMAP(Temp), f. 8-21-13, cert. ef. 8-23-13 thru 1-28-14; DMAP 51-2013, f. & cert. ef. 10-1-13; DMAP 52-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

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Rule Caption: Hospital Assessment Rate Sunset Date Change

Adm. Order No.: DMAP 53-2013(Temp)

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13 thru 3-29-14

Notice Publication Date:

Rules Amended: 410-050-0870

Subject: The Oregon Health Authority (Authority), Division of Medical Assistance Programs is amending OAR 410-050-0870 to reflect the new sunset date of the hospital assessment rate as approved by the Oregon State Legislature, effective August 1, 2013. The original sunset date expires October 1, 2013 and if the date is not changed to reflect the new date of October 1, 2015, the Authority will be unable to collect the hospital assessment rate which funds the Oregon Health Plan, the State's Medicare waiver health plan provider.

Proposed rules are available on the following website: <http://www.oregon.gov/DHS/admin/Pages/dwssrules/index.aspx>. For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Cheryl Peters—(503) 945-6527

ADMINISTRATIVE RULES

410-050-0870

Sunset Provisions

The hospital tax applies to net revenue received by hospitals on or after January 1, 2004 and before October 1, 2015.

Stat. Auth.: ORS 413.042, 410.070 & 411.060

Stats. Implemented: ORS 409.750; OL 2003, Ch. 736, Sec. 2 as amended by OL 2007, Ch. 780, Sec. 1; OL 2009, Ch. 828, Sec. 51; OL 2009, Ch. 867, Sec. 17 & 2013 HB 2216

Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 33-2009, f. & cert. ef. 10-1-09; DMAP 53-2013(Temp), f. & cert. ef. 10-1-13 thru 3-29-14

Rule Caption: Eligibility requirements for the Authority's Office of Client and Community Services Medical Programs

Adm. Order No.: DMAP 54-2013(Temp)

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13 thru 3-30-14

Notice Publication Date:

Rules Adopted: 410-200-0010, 410-200-0015, 410-200-0100, 410-200-0105, 410-200-0110, 410-200-0111, 410-200-0115, 410-200-0120, 410-200-0125, 410-200-0130, 410-200-0135, 410-200-0140, 410-200-0145, 410-200-0146, 410-200-0200, 410-200-0205, 410-200-0210, 410-200-0215, 410-200-0220, 410-200-0225, 410-200-0230, 410-200-0235, 410-200-0240, 410-200-0305, 410-200-0310, 410-200-0315, 410-200-0400, 410-200-0405, 410-200-0406, 410-200-0410, 410-200-0415, 410-200-0420, 410-200-0425, 410-200-0435, 410-200-0440, 410-200-0500, 410-200-0505, 410-200-0510, 410-200-0515

Subject: With passage of the Affordable Care Act (ACA), Medicaid and CHIP eligibility methodologies are mandated to be changed January 1, 2014 to use of Modified Adjusted Gross Income (MAGI) income and methodologies. Oregon was approved for early implementation of the MAGI income and eligibility methodologies, an option provided by CMS to the states. These rules must be adopted to support the implementation of MAGI income and eligibility methodologies. The new rules provide the policy that will be effective October 1, 2013. These rules explain the new household groups, whose income must be counted, what income is considered in determining medical eligibility, time frames for determining medical eligibility, hearing processes, and processes for coordination with Cover Oregon when an individual must be referred.

In addition, in support of the DHS/OHA decision to move all OHA MAGI medical program cases and eligibility for all OHA MAGI medical programs out of the DHS Self-Sufficiency branches and into the OHA Statewide Processing Center (5503) as part of the ACA implementation efforts, all OCCS medical program rules must be moved out of the Department's OAR chapter 461s and into the Authority's chapter 410 division 200 no later than October 1, 2013.

With the October 1, 2013 changes to the OHA MAGI medical programs and with medical eligibility moving from DHS Self-Sufficiency branches into the OHA statewide Processing Center, it was determined to be advantageous and cost effective to move the rules from chapter 461 to chapter 410-200 at one time instead of on two separate rule filings.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-200-0010

Overview

(1) These rules, OAR 410-200-0010 through 0515 describe eligibility requirements for OCCS Medical Programs.

(2) Rule text in italics indicates the term can be found in the definitions rule OAR 410-200-0015.

Stat. Auth.: ORS 411.402, 411.404, 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0015

General Definitions

(1) Action means a termination, suspension, or reduction of Medicaid or CHIP eligibility or covered services.

(2) Address Confidentiality Program (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address

and mail forwarding service for ACP participants who are victims of domestic violence, sexual assault, or stalking.

(3) AEN means Assumed Eligible Newborn (see OAR 410-200-0115)

(4) Affordable Care Act means the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152), as amended by the Three Percent Withholding Repeal and Job Creation Act (Pub. L. 112-56).

(5) Agency means the Oregon Health Authority, Department of Human Services, and Cover Oregon.

(6) American Indian and Alaska Native exceptions means:

(a) Distributions from Alaska Native Corporations and Settlement Trusts;

(b) Distributions from any property held in trust, subject to Federal restrictions, located within the most recent boundaries of a prior Federal reservation, or otherwise under the supervision of the Secretary of the Interior;

(c) Distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from:

(A) Rights of ownership or possession in any lands described in section (b) of this part; or

(B) Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources;

(d) Distributions resulting from real property ownership interests related to natural resources and improvements:

(A) Located on or near a reservation or within the most recent boundaries of a prior Federal reservation; or

(B) Resulting from the exercise of federally-protected rights relating to such real property ownership interests;

(e) Payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable Tribal Law or custom;

(f) Student financial assistance provided under the Bureau of Indian Affairs education programs.

(7) Applicant means an individual who is seeking an eligibility determination themselves or someone for whom they are applying through an application submission or a transfer from another agency or insurance affordability program.

(8) Application means:

(a) The single streamlined application for all insurance affordability programs developed by Cover Oregon and the Authority; or

(b) For individuals applying, or who may be eligible, for assistance on a basis other than the applicable MAGI standard, an application designed specifically to determine eligibility on a basis other than the applicable MAGI standard, submitted by or on behalf of the individual.

(9) APTC means Advance payments of the premium tax credit, which means payment of the tax credits specified in section 36B of the Internal Revenue Code (as added by section 1401 of the Affordable Care Act) which are provided on an advance basis to an eligible individual enrolled in a QHP through an Exchange in accordance with sections 1402 and 1412 of the Affordable Care Act.

(10) Assumed eligibility means an individual is deemed to be eligible for a period of time based on receipt of another program benefits or because of another individual's eligibility.

(11) Appeal Request means a clear expression, oral or written, by an individual or the individual's representative that the individual wishes to appeal an Authority decision or action. A claimant or the claimant's representative may request a hearing in the following manner:

(a) By telephone;

(b) By mail;

(c) In person;

(d) Through other commonly available electronic means; or

(e) Via the internet.

(12) Authority means the Oregon Health Authority.

(13) Authorized Representative means an individual or organization that acts responsibly on behalf of an applicant or beneficiary in assisting with the individual's application and renewal of eligibility and other ongoing communications with the Agency. See OAR 410-200-0111 Authorized Representatives.

(14) Beneficiary means an individual who has been determined eligible and is currently receiving OCCS Medical Program benefits.

(15) BRS means Behavioral Residential Services

(16) Budget Month means the calendar month from which financial and nonfinancial information is used to determine eligibility.

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(17) Caretaker means a parent, caretaker relative, or non-related caretaker who assumes primary responsibility for the child's care.

(18) Caretaker Relative means a relative of a dependent child by blood, adoption, or marriage with whom the child is living, who assumes primary responsibility for the child's care (as may, but is not required to, be indicated by claiming the child as a tax dependent for Federal income tax purposes), and who is one of the following –

(a) The child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece.

(b) The spouse of such parent or relative, even after the marriage is terminated by death or divorce.

(c) An individual described in this section who is a relative of the child based on blood (including those of half-blood), adoption, or marriage.

(19) CAWEM means Citizen/Alien-Waived Emergent Medical. Medicaid coverage of emergent medical needs for clients who are not eligible for other medical programs solely because they do not meet citizenship and alien status requirements.

(20) CAWEM Prenatal means medical services for pregnant CAWEM clients.

(21) Child means an individual, including minor parent, under the age of 19. Child does not include an unborn. Child includes a natural or biological, adopted or step child.

(22) Citizenship includes status as a "national of the United States" defined in 8 U.S.C. 1101(a)(22) that includes both citizens of the United States and non-citizen nationals of the United States.

(23) Claim means a legal action or a demand by, or on behalf of, an applicant or beneficiary for damages for or arising out of a personal injury which is against any person, public body, agency, or commission other than the State Accident Insurance Fund Corporation or Worker's Compensation Board

(24) Claimant means an individual who has requested an appeal.

(25) Code means Internal Revenue Code of 1986, as amended.

(26) Combined eligibility notice means an eligibility notice that informs an individual, or multiple family members of a household when feasible, of eligibility for each of the insurance affordability programs and enrollment in a qualified health plan through Cover Oregon, for which a determination or denial was made by Cover Oregon or the Authority.

(27) Community partner means all external entities (non-agents) who partner with Cover Oregon and enter in formal agreement with the Authority to conduct outreach and/or enrollment assistance, whether or not they are funded or compensated by Cover Oregon.

(28) Coordinated content means information included in an eligibility notice regarding the transfer of the individual's or households' electronic account to another insurance affordability program for a determination of eligibility.

(29) Cover Oregon means Oregon Health Insurance Exchange Corporation.

(30) Custodial Parent means the parent with whom the child spends more than half of their nights.

(31) Date of Request means the earlier of:

(a) The date the request for medical benefits is received; or

(b) The date the applicant received a medical service, if the request for medical benefits is received by midnight of the following business day.

(32) Decision Notice means a written notice of a decision made regarding eligibility for an OCCS medical program benefit. A decision notice may be:

(a) Basic Decision Notice — Mailed no later than the date of action given in the notice.

(b) Combined Decision Notice — Informs an individual, or multiple family members of a household when feasible, of the eligibility decision made for each of the MAGI insurance affordability programs.

(c) Timely continuing benefit decision notice — informs the client of the right to continued benefits and is mailed no later than 15 calendar days prior to the effective date of the change for clients in the Address Confidentiality Program and 10 calendar days prior to the effective date of the change for all other clients.

(33) Department means the Oregon Department of Human Services.

(34) Dependent child means a child who is under the age of 18, or is age 18 and a full-time student in secondary school (or equivalent vocational or technical training), if before attaining age 19 the child may reasonably be expected to complete such school or training.

(35) ELA (Express Lane Agency) means the Department of Human Services capable of making determinations regarding one or more eligibility requirements in the OHP-OPC, OHP-CHP, or HKC programs.

(36) ELE (Express Lane Eligibility) means the Department of Human Services option to rely on a determination, made within a reasonable period, by an ELA finding that a child satisfies the requirements for OHP-CHP or OHP-OPC program eligibility. ELE qualifies a child for medical assistance benefits based on a finding from another public agency, even when the other agency's eligibility methodology differs from that ordinarily used by the Department to determine HKC, OHP-CHP, and OHP-OPC program eligibility.

(37) Electronic account means an electronic file that includes all information collected and generated by the agency regarding each individual's Medicaid or CHIP eligibility and enrollment, including all required documentation and including any information collected or generated as part of a fair hearing process conducted by the Authority or through Cover Oregon appeals process.

(38) Electronic Application means an application electronically signed and submitted through the internet

(39) Eligibility determination means an approval or denial of eligibility as well as a renewal or termination of eligibility.

(40) Expedited appeal means a telephone hearing held within five working days of the Authority's receipt of an appeal request, unless the claimant requests more time. The claimant is entitled to reasonable notice of the hearing either through personal service, by overnight mail, or if the claimant agrees by electronic mail. The final order must be issued within three working days from the date the appeal closes.

(41) Family Size means the number of persons used to compare to the income standards chart for the applicable program. The family size consists of all members of the Household Group and each unborn child of any pregnant members of the Household Group.

(42) Federal poverty level (FPL) means the Federal poverty level updated periodically in the Federal Register by the Secretary of Health and Human Services under the authority of 42 U.S.C. 9902(2), as in effect for the applicable budget period used to determine an individual's eligibility in accordance with 42 CFR 435.603(h).

(43) Household Group consists of every individual whose income is considered for determining each medical applicant's eligibility, as defined in OAR 410-200-0310.

(44) Inmate means

(a) An inmate is an individual living in a public institution who is:

(A) Confined involuntarily in a local, state or federal prison, jail, detention facility, or other penal facility, including an individual being held involuntarily in a detention center awaiting trial or an individual serving a sentence for a criminal offense;

(B) Residing involuntarily in a facility under a contract between the facility and a public institution where, under the terms of the contract, the facility is a public institution;

(C) Residing involuntarily in a facility that is under governmental control; or

(D) Receiving care as an outpatient while residing involuntarily in a public institution.

(b) An individual is not considered an inmate when:

(A) The individual is released on parole, probation, or post-prison supervision;

(B) The individual is on home- or work-release, unless the individual is required to report to a public institution for an overnight stay;

(C) The individual is staying voluntarily in a detention center, jail, or county penal facility after his or her case has been adjudicated and while other living arrangements are being made for the individual; or

(D) The individual is in a public institution pending other arrangements as defined in 42 CFR 435.1010.

(45) Insurance affordability program means a program that is one of the following:

(a) Medicaid

(b) CHIP

(c) A program that makes coverage in a qualified health plan through Cover Oregon with advance payments of the premium tax credit established under section 36B of the Internal Revenue Code available to qualified individuals.

(d) A program that makes available coverage in a qualified health plan through Cover Oregon with cost-sharing reductions established under section 1402 of the Affordable Care Act.

(46) Lawfully present means an individual:

(a) Is a qualified non-citizen, as defined in this section;

(b) Has valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15) or otherwise under the immigration laws (as defined in 8 U.S.C. 1101(a)(17));

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(c) Is paroled into the United States in accordance with 8 U.S.C. 1182(d)(5) for less than 1 year, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings;

(d) Belongs to one of the following classes:

(A) Granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a, respectively;

(B) Granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. 1254a, and individuals with pending applications for TPS who have been granted employment authorization;

(C) Granted employment authorization under 8 CFR 274a.12(c);

(D) Family Unity beneficiaries in accordance with section 301 of Public Law 101-649, as amended;

(E) Under Deferred Enforced Departure (DED) in accordance with a decision made by the President;

(F) Granted Deferred Action status;

(G) Granted an administrative stay of removal under 8 CFR part 241;

(viii) Beneficiary of approved visa petition who has a pending application for adjustment of status;

(e) Is an individual with a pending application for asylum under 8 U.S.C. 158, or for withholding of removal under 8 U.S.C. 1231, or under the Convention Against Torture who:

(A) Has been granted employment authorization; or

(B) Is under the age of 14 and has had an application pending for at least 180 days;

(f) Has been granted withholding of removal under the Convention Against Torture

(g) Is a child who has a pending application for Special Immigrant Juvenile status as described in 8 U.S.C. 1101(a)(27)(J);

(h) Is lawfully present in American Samoa under the immigration laws of American Samoa;

(i) Is a victim of a severe form of trafficking in persons, in accordance with the Victims of Trafficking and Violence Protection Act of 2000, Public Law 106-386, as amended (22 U.S.C. 7105(b)); or

(j) Exception. An individual with deferred action under the Department of Homeland Security's deferred action for childhood arrivals process, as described in the Secretary of Homeland Security's June 15, 2012 memorandum, shall not be considered to be lawfully present with respect to any of the above categories in sections (a) through (i) of this definition.

(47) Legal Argument has the meaning given that term in OAR 137-003-0008(c). It does not include presentation of motions, evidence, examination and cross-examination of witnesses, or presentation of factual arguments or arguments on:

(a) The application of the statutes or rules to the facts in the contested case;

(b) Comparison of prior actions of the Authority in handling similar situations.

(c) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;

(d) The admissibility of evidence; and

(e) The correctness of procedures being followed in the contested case hearing.

(48) Medicaid or Oregon Health Plan (OHP) means Oregon's Medicaid program under title XIX of the Social Security Act.

(49) MAGI means Modified Adjusted Gross Income and has the meaning provided at IRC 36B(d)(2)(B) and generally means federally taxable income with the following exceptions:

(a) The income of the following individuals is excluded when they are not expected to be required to file a tax return for the tax year in which eligibility is being determined. This subsection applies whether or not the child or tax dependent actually files a tax return:

(A) Children, regardless of age, who are included in the household of a parent,

(B) Tax dependents.

(b) In applying subsection (a) of this section, IRC § 6012(a)(1) is used to determine who is required to file a tax return.

(50) MAGI-based income means income calculated using the same financial methodologies used to determine MAGI as defined in section 36B(d)(2)(B) of the Code, with the following exceptions:

(a) American Indian and Alaska Native exceptions,

(b) Child support;

(c) Life insurance proceeds;

(d) Non-taxable Veterans' benefits;

(e) Non-taxable workers' compensation benefits;

(f) Scholarships, awards, or fellowship grants used for educational expenses;

(g) Supplemental Security Income (SSI).

(h) An amount received as a lump sum is counted as income only in the month received. Lump sum income includes but is not limited to:

(A) Winnings

(B) Countable educational income

(C) Capital gains

(D) Dividends/interest/royalties

(i) Scholarships, awards, or fellowship grants used for education purposes and not for living expenses

(j) Self-employment and business entity income is determined by adding gross receipts and other business income and subtracting deductions described in Internal Revenue Code (IRC) §§ 161 through 249. Items not deductible are described in IRC §§ 261 through 280 and include, but are not limited to, most capital expenditures, such as business start-up costs, buildings, and furniture, and payments or deductions for personal, living, or family use. Business structures are determined by state statutes and are dependent on elections made by business owners. Each state may use different regulations for business structures. Salaries and wages paid to employees, including those who are owners or stockholders, are countable income to the employees. Additionally, business income is countable to owners and stockholders as described below:

(A) Sole proprietors and independent contractors: The necessary and ordinary costs of producing income are subtracted from gross receipts and other business income to determine countable income. Expenses related to costs for both business and personal use are prorated according to the proportions used for each purpose. Costs are limited to those described in IRC §§ 161 through 199 and Treasury Regulations §§ Sec. 1.162 through 1.263.

(B) Partnerships that are not publicly traded and limited liability companies (LLC): Owners' income is determined as follows:

(i) The distributive share of income, gain and loss is determined proportionately according to the partnership agreement or the LLC agreement.

(ii) Income from other partnerships, estates and trusts is added to the amount in paragraph (A) of this subsection.

(iii) The costs of producing income described in subsection (4)(a), except for oil and gas depletion and costs listed below are proportionately subtracted from gross receipts to determine each partner's countable income:

(1) Bad debts;

(2) Guaranteed payments to partners;

(3) Losses from other partnerships, farms, estates and trusts;

(4) Retirement plans.

(C) S Corporations: Shareholders' income is determined as follows:

(i) The distributive share of profits, gain and loss are determined proportionately on the basis of the stockholders' shares of stock.

(ii) The costs of producing income described in subsection (a) are proportionately subtracted from gross receipts to determine each stockholder's countable income.

(iii) The distributive share of profits is countable income to the shareholders whether or not it is actually distributed to the shareholders.

(D) C corporations: Shareholders' income is countable when it is distributed to them through dividends.

(51) MAGI income standard means the monthly income standard for the relevant program and family size, described in OAR 410-200-0315.

(52) Minimum Essential Coverage means medical coverage under:

(a) A government-sponsored plan, including Medicare part A, Medicaid, CHIP, TRICARE, the veterans health care program, and the Peace Corps program;

(b) Employer-sponsored plans, with respect to an employee, including coverage offered by an employer, which is a government plan, any other plan or coverage offered in the small or large group market within the state, and any plan established by an Indian tribal government;

(c) Plans in the individual market;

(d) Grandfathered health plans; and

(e) Any other health benefits coverage, such as a state health benefits risk pool, as recognized by the HHS secretary in coordination with the Treasury Secretary.

(53) Non-applicant means an individual who is not seeking an eligibility determination for himself or herself and is included in an applicant's or beneficiary's household to determine eligibility for such applicant or beneficiary.

(54) Non-citizen has the same meaning as the term "alien," as defined in section 101(a)(3) of the Immigration and Nationality Act (INA), (8

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U.S.C. 1101(a)(3)) and includes any individual who is not a citizen or national of the United States, defined at 8 U.S.C. 1101(a)(22).

(55) OCCS is the Office of Client and Community Services, part of the Medical Assistance Programs under the Oregon Health Authority responsible for OCCS medical program eligibility policy, community outreach, OCCS Medical Program eligibility determinations, and the OHA Customer Service Call Center.

(56) OCCS Medical Programs means all programs under the Oregon Health Authority, Office of Client and Community Services, including:

(a) CEC means Continuous Eligibility for OHP-CHP pregnant women. Title XXI medical assistance for a pregnant non-CAWEM child found eligible for the OHP-CHP program who, for a reason other than moving out of state or becoming a recipient of private major medical health insurance, otherwise would lose her eligibility. The pregnant individual is deemed eligible for OHP-CHP through the last day of the month in which the pregnancy ends.

(b) CEM means Continuous Eligibility for Medicaid. Title XIX medical assistance for a non-CAWEM child found eligible for Medicaid who loses his or her eligibility for a reason other than turning 19 years of age or moving out of state. The child is deemed eligible for Medicaid for the remainder of the 12 month eligibility period.

(c) MAA means Medical Assistance Assumed. The Medical Assistance Assumed program provides medical assistance to people who are eligible for the Pre-TANF program or ongoing TANF benefits.

(d) MAF means Medical Assistance to Families. The Medical Assistance to Families program provides medical assistance to people who are ineligible for MAA but are eligible for Medicaid using ADC program standards and methodologies that were in effect as of July 16, 1996.

(e) EXT means Extended Medical Assistance. The Extended Medical Assistance program provides medical assistance for a period of time after a family loses its eligibility for the MAA, MAF, or Pre-TANF program due to an increase in their child support or earned income.

(f) OHP means Oregon Health Plan. The Oregon Health Plan Program provides medical assistance to many low-income individuals and families. The program includes five categories of people who may qualify for benefits. The acronyms for these categories are:

(A) OHP-CHP; Persons Under 19. OHP coverage for persons under 19 years of age who qualify at or below the 300 percent income standard.

(B) OHP-OPC; Children. OHP coverage for children who qualify under the 100 percent income standard.

(C) OHP-OPP; Pregnant Females and their newborn children. OHP coverage for pregnant females who qualify under the 185 percent income standard and their newborn children.

(D) OHP-OPU; Adults. OHP coverage for adults who qualify under the 100 percent income standard. A person eligible under OHP-OPU is referred to as a health plan new/noncategorical (HPN) client.

(E) OHP-OP6; Children Under 6. OHP coverage for children under age 6 who qualify under the 133 percent income standard.

(g) HKC means Healthy KidsConnect. A program administered by the Office of Private Health Partnerships (OPHP) providing access to health care for children not eligible for any of the Agency's other medical assistance programs.

(h) SAC means Medical Coverage for Children in Substitute or Adoptive Care.

(i) BCCTP means Breast and Cervical Cancer Treatment Program

(j) MAGI Medicaid/CHIP means OCCS Medical Programs for which eligibility is based on MAGI, including:

(A) MAGI Child

(B) MAGI Parent or Other Caretaker Relative

(C) MAGI Pregnant Woman

(D) MAGI Children's Health Insurance Program (CHIP)

(E) MAGI Substitute or Adoptive Care (SAC)

(F) MAGI Adult

(57) OCWP means Office of Child Welfare Medical Programs.

(58) OSIPM means Oregon Supplemental Income Program Medical. OSIPM is a medical program administered by the Department of Human Services, Aging and People with Disabilities for:

(a) Individuals who receive Supplemental Security Income (SSI); or

(b) Individuals who receive home or community based services, or when the individual resides in a nursing facility or state institution.

(59) Parent means a natural or biological, adopted or step parent.

(60) Personal Injury means a physical or emotional injury to an individual including but not limited to assault, battery, or medical malpractice arising from such physical or emotional injury.

(61) Pregnant woman means a woman during pregnancy and the post-partum period, which begins on the date the pregnancy ends, extends 60 days, and then ends on the last day of the month in which the 60-day period ends.

(62) Private Major Medical Health Insurance means a comprehensive major medical insurance plan that, at a minimum, provides physician services; inpatient and outpatient hospitalization; outpatient lab, x-ray, immunizations; and prescription drug coverage. This term does not include coverage under the Kaiser Child Health Program or Kaiser Transition Program but does include policies that are purchased privately or are employer-sponsored.

(63) PRTF means Psychiatric Residential Treatment Facility

(64) Public Institution means any of the following:

(a) A state hospital (see ORS 162.135).

(b) A local correctional facility (see ORS 169.005): a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds individuals for more than 36 hours.

(c) A Department of Corrections institution (see ORS 421.005): a facility used for the incarceration of individuals sentenced to the custody of the Department of Corrections, including a satellite, camp, or branch of a facility.

(d) A youth correction facility (see ORS 162.135):

(A) A facility used for the confinement of youth offenders and other individuals placed in the legal or physical custody of the youth authority, including a secure regional youth facility, a regional accountability camp, a residential academy and satellite, and camps and branches of those facilities; or

(B) A facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youth, or youth offenders pursuant to a judicial commitment or order.

(e) As used in this rule, the term public institution does not include:

(A) A medical institution as defined in 42 CFR 435.1010 including the Secure Adolescent Inpatient Program (SAIP) and the Secure Children's Inpatient Program (SCIP);

(B) An intermediate care facility as defined in 42 CFR 440.140 and 440.150; or

(C) A publicly operated community residence that serves no more than 16 residents, as defined in 42 CFR 435.1009.

(65) Qualified Hospital means a hospital that—

(a) Participates as an enrolled Medicaid provider in Oregon;

(b) Notifies OHA of their decision to make presumptive eligibility determinations;

(c) Agrees to make determinations consistent with OHA policies and procedures;

(d) Informs applicants for Presumptive Eligibility of their responsibility and of available assistance to complete and submit the full Medicaid application and to understand any documentation requirements; and

(e) Are not disqualified by the Authority for violations related to standards established for the Presumptive Eligibility program under 42 CFR § 435.1110(d)

(66) Qualified non-citizen means an individual that is any of the following:

(a) A non-citizen lawfully admitted for permanent residence under the INA (8 U.S.C. 1101 et seq);

(b) A refugee admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157);

(c) A non-citizen granted asylum under section 208 of the INA (8 U.S.C. 1158);

(d) A non-citizen 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));

(e) A non-citizen 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;

(f) A non-citizen 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;

(g) A non-citizen who is a Cuban and Haitian entrant (as defined in section 501(3) of the Refugee Education Assistance Act of 1980);

(h) An Afghan or Iraqi alien granted Special Immigration Status (SIV) under section 101(a)(27) of the INA; or

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(i) A battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c) and is in the United States on a conditional resident status, as determined by the U.S. Citizenship and Immigration Services.

(67) Reasonable Opportunity Period:

(a) Begins on, and must extend 90 days from, the date on which notice is received by the individual. The date on which the notice is received is considered to be 5 days after the date on the notice, unless the individual shows that he or she did not receive the notice within the 5-day period.

(b) May be extended beyond 90 days if the individual is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation or the agency needs more time to complete the verification process.

(68) Redetermination means a review of eligibility outside of regularly scheduled renewals. Redeterminations which result in the assignment of a new renewal date or a change in program are considered renewals.

(69) Renewal means a regularly scheduled periodic review of eligibility resulting in a renewal or change of program benefits, including the assignment of a new renewal date, or a change in eligibility status.

(70) Required documentation means:

(a) Facts to support the agency's decision on the application, and

(b) Either:

(A) A finding of eligibility or ineligibility; or

(B) An entry in the case record that the applicant voluntarily withdrew the application and the agency sent a notice confirming the decision, that the applicant has died, or that the applicant cannot be located.

(71) Secure electronic interface means an interface which allows for the exchange of data between Medicaid or CHIP and other insurance affordability programs and adheres to the requirements in 42 CFR part 433, subpart C.

(72) Shared eligibility service means a common or shared eligibility system or service used by a State to determine individuals' eligibility for insurance affordability programs.

(73) Sibling means natural or biological, adopted, half or step sibling.

(74) SSA means Social Security Administration

(75) Tax dependent has the same meaning as the term "dependent" under section 152 of the Internal Revenue Code, as an individual for whom another individual claims a deduction for a personal exemption under section 151 of the Internal Revenue Code for a taxable year.

(76) Timely means within 90 days of the date the notice of adverse action is received.

(77) Title IV-E means title IV-E of the Social Security Act (42 U.S.C. §§ 671-679b).

Stat. Auth.: ORS 411.095, 411.402, 411.404, 413.038, 414.025, 414.534

Stats. Implemented: ORS 411.095, 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0100

Coordinated Eligibility and Enrollment Process with the Department of Human Services and Cover Oregon

(1) This rule describes Oregon Health Authority's (Authority) coordination of eligibility and enrollment with the Department of Human Services (Department) and Cover Oregon (Exchange). The Authority shall:

(a) Minimize the burden on individuals seeking to obtain or renew eligibility, or to appeal a determination of eligibility for insurance affordability programs;

(b) Ensure determinations of eligibility and enrollment in the appropriate program without undue delay, consistent with timeliness standards described in OAR 410-200-0110 based on the application date;

(c) Provide coordinated content for those household members whose eligibility status is not yet determined; and

(d) Screen every applicant or beneficiary who submits an application or renewal form, or whose eligibility is being renewed under a change in circumstance, for criteria that identify individuals for whom MAGI-based income methods do not apply.

(2) For individuals undergoing eligibility determination based on MAGI-based methodology and standards, the Authority, consistent with the timeliness standards described in OAR 410-200-0110, must:

(a) Determine eligibility for MAGI Medicaid/CHIP on the basis of having household income at or below the applicable MAGI-based standard, or

(b) If ineligible under section (a), screen for APTC and refer to the Exchange.

(3) If ineligible for MAGI Medicaid/CHIP, for individuals undergoing a Medicaid eligibility determination on a basis other than MAGI-based

standards, the Authority must, consistent with the timeliness standards described in OAR 410-200-0110:

(a) Screen for eligibility for Medicaid on a basis other than MAGI-based standards, as indicated by information provided on the application or renewal form.

(b) Transfer via secure electronic interface the individual's electronic account information to the Department, as appropriate, and provide timely notice to the Department that the individual is not eligible for OCCS medical programs, but that a final determination of Medicaid eligibility on other bases is still pending.

(c) Provide notice to the individual that:

(A) The Authority has determined the individual ineligible for OCCS medical programs;

(B) The Department is continuing to evaluate Medicaid eligibility on one or more other bases, including a plain language explanation of the other bases being considered.

(C) The notice must include coordinated content relating to the transfer of the individual's electronic account to the Department, as appropriate; and

(D) There is a right to a hearing to challenge the eligibility decision.

(d) Provide, or assure that the Department has provided, the individual with notice of the final determination of eligibility on one or more other bases.

(4) For beneficiaries found ineligible for ongoing OCCS medical program benefits, the Authority shall maintain OCCS medical program benefits while eligibility is being determined by the Department or the Exchange, and may not take action to close benefits until determination of eligibility for other insurance affordability programs is complete.

(5) Coordination among appeals agencies:

(a) The Authority shall maintain a secure electronic interface through which the Authority can receive an individual's electronic account, including any information provided by the individual as part of an appeal to any Agency, from the Department and the Exchange;

(b) The Authority may not request information or documentation from the individual included in the individual's electronic account or provided to the Agency; and

(c) If information is available through electronic data match, and is useful and related to eligibility for OCCS Medical Programs, the Authority must obtain the information through electronic data match.

(6) The Exchange may perform any obligation of the Authority under these rules pertaining to MAGI Medicaid/CHIP, except for hospital presumptive eligibility. Each Agency must either complete the processing of any application or redetermination for medical benefits or transfer the application to another Agency for completion.

Stat. Auth.: ORS 411.402, 411.404, 413.042, 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0105

Specific Requirements; Hospital Presumptive Eligibility

This rule sets out when an individual is presumptively eligible for MAGI Medicaid/CHIP based on the determination of a qualified hospital.

(1) To be eligible for Hospital Presumptive Eligibility, based on preliminary information, an individual must be:

(a) A child under the age of 19 with income at or below 300 percent of the federal poverty level;

(b) A parent or caretaker relative of a dependent child with income at or below the MAGI Parent or Other Caretaker Relative income standard for the appropriate family size in OAR 410-200-0315;

(c) A pregnant women age 19 and above with income at or below 185 percent of the federal poverty level; or

(d) An adult between the ages of 19 through 64 with income at or below 138 percent of the federal poverty level.

(2) To be eligible for the Hospital Presumptive Eligibility, based on preliminary information, an individual may not:

(a) Be receiving SSI benefits;

(b) Be eligible for Medicare;

(c) Be receiving Medicaid through another program;

(d) Have creditable coverage, unless the coverage is provided through Indian Health Services; or

(e) Be age 65 or above.

(3) The Hospital Presumptive Eligibility period begins on the date the qualified hospital determines the individual's eligibility based on the applicant's self-attestation that the household group's income does not exceed

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the applicable income level for the MAGI medical program on that date and the individual is otherwise eligible.

(4) The Hospital Presumptive Eligibility period ends with and includes, the earlier of:

(a) In the case of an individual on whose behalf a Medicaid application has been filed, the day on which the state determines the individual is not eligible for MAGI Medicaid/CHIP; or

(b) If subsection (a) is not completed, the last day of the month following the month during which the hospital makes the presumptive determination.

(5) A Hospital Presumptive Eligibility decision does not qualify a beneficiary for 12-months of continuous eligibility, or protected postpartum eligibility.

Stat. Auth: ORS 411.402, 411.404, 413.042, 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0110

Application and Renewal Processing and Timeliness Standards

(1) General information as it relates to application processing is as follows:

(a) An individual may apply for one or more medical programs administered by the Authority, the Department, or the Exchange, using a single streamlined application. An application may be submitted via the Internet, by telephone, via mail, in person, or through other commonly available electronic means. An application and any required verification may be submitted by the applicant, an adult who is in the applicant's household or family, the applicant's authorized representative or, if the applicant is a minor or incapacitated, someone acting on behalf of the applicant.

(b) The Agency must ensure that an application form is readily available to anyone requesting one and assist applicants who are unable to complete the application form or to gather information necessary to verify eligibility.

(c) If the Agency requires additional information to determine eligibility, the Agency must send the applicant or beneficiary written notice that includes a statement of the specific information needed to determine eligibility and the date by which the applicant or beneficiary must provide the required information in accordance with section (6) of this rule.

(d) If an application is filed containing the applicant or beneficiary's name and address, the Agency must send the applicant or beneficiary a decision notice within the time frame established in section (6) of this rule.

(e) An application is complete if all of the following requirements are met:

(A) All information necessary to determine the individual's eligibility and benefit amount is provided on the application for each individual in the household group.

(B) The applicant, even if homeless, provides an address where they can receive postal mail.

(C) The application is signed in accordance with section (5) of this rule.

(D) The application is received by the Agency.

(f) To complete the application process, the applicant must:

(A) With the exception of sections (4) and (5) of this rule, complete and sign an application, and

(B) Provide necessary information to the Agency within the time frame established in section (6) of this rule.

(2) General information as it relates to renewal and redetermination processing is as follows:

(a) The Authority must redetermine eligibility at assigned intervals and whenever a beneficiary's eligibility becomes questionable.

(b) When renewing or redetermining medical benefits, the Agency must, to the extent feasible, determine eligibility using information found in the beneficiary's electronic account and electronic data accessible to the Agency.

(c) If the Agency is unable to determine a beneficiary's eligibility using information found in the beneficiary's electronic account and electronic data accessible to the Agency, then the Agency must provide a pre-populated renewal form to the beneficiary containing information known to the Agency, statement of the additional information needed to renew eligibility, and the date by which the beneficiary must provide the required information in accordance with section (6) of this rule.

(d) The Agency must assist applicants who are unable to complete the pre-populated renewal form or gather information necessary to renew eligibility.

(e) The pre-populated renewal form is complete if it meets the requirements identified in section (1)(e) of this rule.

(f) If the Agency provides the individual with a pre-populated renewal form, to complete the renewal process, the individual must:

(A) Complete and sign the form in accordance with section (5) of this rule.

(B) Submit the form via the Internet, by telephone, via mail, in person, and through other commonly available electronic means, and

(C) Provide necessary information to the Agency within the time frame established in section (6) of this rule.

(g) A beneficiary may withdraw a pre-populated renewal form at any time.

(3) A new application is required when:

(a) An individual requests medical benefits and no member of the household group currently receives medical benefits.

(b) A child turns age 19, is no longer claimed as a tax dependent, and wishes to retain medical benefits.

(4) A new application is not required when:

(a) The Agency determines an applicant is ineligible in the month of application and is determining if the applicant is eligible the following month.

(b) The Agency determines a new applicant is ineligible for medical in the months of October, November, or December 2013 for a reason other than failure to complete the application requirements as identified in sections (1) and (5) of this rule, and the Agency is redetermining the applicant's eligibility for the new medical programs effective January 1, 2014.

(c) Eligibility for OCCS medical programs is determined using the individual's Supplemental Nutrition Assistance Program (SNAP) eligibility pursuant to OAR 410-200-0505.

(d) Benefits are closed and reopened during the same calendar month.

(e) A beneficiary's medical benefits are suspended because the beneficiary is an inmate who lives in a public institution and who meets the requirements of OAR 410-200-0140.

(f) An assumed eligible newborn (AEN) is added to a household group receiving medical program benefits.

(g) An individual not receiving medical program benefits is added to an ongoing household group receiving medical program benefits and eligibility can be determined using information found in the individual or beneficiary's electronic account and electronic data available to the Agency.

(h) Redetermining or renewing eligibility for beneficiaries and the Agency has sufficient evidence to redetermine or renew eligibility for the same or new program.

(i) At renewal, the beneficiary fails to submit additional information requested by the Agency within 30 days, but provides the requested information within 90 days after the date medical benefits were terminated.

(5) Signature requirements are as follows:

(a) The applicant must sign an application, except as follows:

(A) At least one caretaker relative or parent in the household group, or the primary person when there is no parent in the household group, or an authorized representative must sign the initial application for benefits.

(B) An individual required but unable to sign the application may sign with a mark, witnessed by an Agency employee, community partner, insurance broker, or insurance agent.

(C) When renewing eligibility, the Agency successfully determines eligibility using information found in the beneficiary's electronic account and electronic data accessible to the Agency.

(D) When the Agency successfully renews eligibility using information found in the beneficiary's electronic account and electronic data accessible to the Agency, sends an approval notice to the beneficiary on the basis of eligibility, and the beneficiary contacts the Agency providing information that differs from the information used to renew eligibility.

(E) When the application is one for presumptive eligibility only (see OAR 410-200-0105), as determined by a qualified hospital.

(b) When renewing eligibility, if the Agency is unable to determine eligibility using information found in the beneficiary's electronic account and electronic data accessible to the Agency, a signature is required on the pre-populated renewal form sent to the beneficiary for additional information.

(c) Signatures may be submitted and must be accepted by the Agency via internet, mail, telephone, in person, or other electronic means.

(d) An electronic application must be submitted to and received by the Authority with an electronic signature.

(6) Application and renewal processing timeliness standards are as follows:

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(a) At initial eligibility determination, the Agency shall determine eligibility and send a decision notice not later than the 45th calendar day after the date of request if:

- (A) All information necessary to determine eligibility is present; or
- (B) The application is not completed by the applicant within 45 days after the date of request.

(b) At initial eligibility determination, the Agency may extend the 45-day period described in section (a) if there is an administrative or other emergency beyond the control of the Agency. The Agency must document the emergency.

(c) Except for periodic renewals of eligibility described in section (d), the Agency provides the reasonable opportunity period to verify information after eligibility has been determined.

(d) At periodic renewal of eligibility, if additional information beyond data available to the Agency on the beneficiary's electronic account or electronic data is required, the Authority must provide the beneficiary at least 30 days from the date of the renewal form to respond and provide necessary information.

(7) Medical program eligibility for October, November, and December 2013 budget months shall be determined according to the following program hierarchy:

(a) For a child applicant, the hierarchy is as follows:

(A) Assumed eligibility for OCCS medical programs (see OAR 410-200-0135)

- (B) MAA;
- (C) EXT;
- (D) Oregon Health Plan program categories in the following order:
 - (i) OHP-OPP;
 - (ii) OHP-OPC;
 - (iii) OHP-OP6;
- (E) MAGI SAC when the child is in Behavioral Rehabilitation Services (BRS) or in Psychiatric Residential Treatment Facility (PRTF) as identified in OAR 410-200-0405;

(F) BCCTP as identified in 410-200-0400;

(G) Continuous Eligibility as identified in OAR 410-200-0135;

(H) MAGI CHIP;

(b) For an adult applicant, the hierarchy is as follows:

(A) Assumed eligibility for OCCS medical programs (see OAR 410-200-0135);

- (B) MAA;
- (C) EXT;
- (D) OHP-OPP;
- (E) MAGI SAC;
- (F) BCCTP
- (G) OHP-OPU

(8) Medical program eligibility for January 2014 budget month and later is determined according to the following program hierarchy:

(a) For a child applicant, the hierarchy is as follows:

(A) Assumed eligibility for OCCS medical programs (see OAR 410-200-0135);

(B) MAGI Pregnant Woman program as identified in OAR 410-200-0425;

(C) MAGI Child program as identified in OAR 410-200-0415;

(D) Former Foster Care Youth Medical as identified in OAR 410-200-0406;

(E) MAGI SAC, when the child is in Behavioral Rehabilitation Services (BRS) or in Psychiatric Residential Treatment Facility (PRTF) as identified in OAR 410-200-0405;

- (F) BCCTP as identified in 410-200-0400;
- (G) Continuous Eligibility as identified in OAR 410-200-0135;
- (H) MAGI CHIP as identified in OAR 410-200-0410.

(b) For an adult applicant, the hierarchy is as follows:

(A) Assumed eligibility for OCCS medical programs (see OAR 410-200-0135);

(B) EXT;

(C) MAGI Parent or Other Caretaker Relative Program as identified in OAR 410-200-0420;

(D) MAGI Pregnant Woman Program as identified in OAR 410-200-0425

(E) Former Foster Care Youth Medical as identified in OAR 410-200-0406;

- (F) MAGI SAC as identified;
- (G) MAGI Adult Program as identified in OAR 410-200-0435;
- (H) BCCTP as identified in OAR 410-200-0400.

Note This rule replaces and amends information previously found in OAR 461-115-0010; 461-115-0020; 461-115-0050; 461-115-0071; 461-115-0090; 461-195-0305,

461-195-0310, 461-195-0321]
Stat. Auth: ORS 411.402, 411.404, 413.042, 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0111

Authorized Representatives

(1) The following individuals may designate an authorized representative:

- (a) A caretaker;
- (b) The primary person, when there is no caretaker in the household group;
- (c) An adult in the household group; or
- (d) The Agency, if an authorized representative is needed but has not been designated by the individual.

(2) The Agency must allow an individual of the applicant's or beneficiary's choice to act as the authorized representative unless there is evidence that the individual may cause harm to the client or may be considered as having a conflict of interest.

(3) The Agency may accept an applicant or beneficiary's designation of an authorized representative via any of the following methods, and must include either a handwritten or electronic signature:

- (a) The Internet;
- (b) E-mail;
- (c) Mail;
- (d) Telephonic recording;
- (e) In person; or
- (f) Other electronic means.

(4) Applicants and beneficiaries may authorize their authorized representative to:

- (a) Sign an application on the applicant's behalf;
- (b) Complete and submit a renewal form;
- (c) Receive copies of the applicant or beneficiary's notices and other communications from the Agency; or
- (d) Act on behalf of the applicant or beneficiary in any or all other matters with the Agency.

(5) The authorized representative must:

(a) Fulfill all responsibilities encompassed within the scope of the authorized representation as identified in section (5) to the same extent as the individual represented; and

(b) Maintain the confidentiality of any information regarding the applicant or beneficiary provided by the Authority.

(6) In addition to authorized representatives as designated in sections (1) through (5) above, an individual is treated as an authorized representative if the individual has been given authority under state law. Such authority includes but is not limited to:

- (a) A court order establishing legal guardianship;
- (b) A health care power of attorney, when the individual is unable to make their own decisions; or
- (c) A court order establishing power of attorney.

(7) As a condition of serving as an authorized representative, a provider or staff member or volunteer of an organization with a service-providing relationship to the beneficiary must affirm that he or she will adhere to the regulations in 45 CFR 431, subpart F and at 45 CFR 155.260(f) and at 45 CFR 447.10, as well as other relevant State and Federal laws concerning conflicts of interest and confidentiality of information.

(8) The power to act as an authorized representative is valid until the Agency is notified via any of the methods described in section (3) of any of the following:

(a) The applicant or beneficiary modifies the authorization or notifies the Agency that the representative is no longer authorized to act on his or her behalf;

(b) The authorized representative informs the Agency that he or she no longer is acting in such capacity; or

(c) There is a change in the legal authority upon which the individual or organization's authority was based.

Note This rule replaces and amends information previously found in OAR 461-115-0090

Stat. Auth: ORS 411.402, 411.404, 413.042, 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706
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410-200-0115

Effective Dates—OCCS Medical Programs

(1) Date of Request.

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(a) For all OCCS medical programs the applicant or an individual authorized to act on behalf of the applicant must contact the Oregon Health Authority (Authority), the Department of Human Services (Department), or Cover Oregon (Exchange) to request medical benefits. The request may be via the internet, by telephone through a call center, by an Authority contracted outreach worker or community partner, by regular mail, by electronic communication or in person.

(b) The date of request is the earlier of the following:

(A) The date the request for medical benefits is received; or

(B) The date the applicant received a medical service, if the request for medical benefits is received by midnight of the following business day.

(c) For current beneficiaries of OCCS medical programs, the date of request is one of the following:

(A) The date the beneficiary reports a change requiring a redetermination of eligibility; or

(B) The date the Agency initiates a review, except that the automatic mailing of an application does not constitute a date of request.

(d) The date of request starts the application processing time frame.

(e) If the application is not received within 45 days after the date of request, or within the extended time that the Authority has allowed under OAR 410-200-0110 (Application Processing), the new date of request is the date the application is submitted to the Agency.

(2) Except for CEM, CEC and EXT, the effective date of medical benefits for new applicants for OCCS medical programs is whichever comes first:

(a) The date of request, if the applicant is found eligible as of that date; or

(b) If ineligible on the date of request, the first day following the date of request on which the client is determined to be eligible, within the month of the date of request or the following month.

(c) January 1, 2014, if not eligible based on budget month income from the months of October through December 2013, but the budget month income is below the income standard for January 1, 2014.

(3) The effective date for retroactive medical benefits (see OAR 410-200-0130) for MAGI Medicaid/CHIP and BCCTP is the earliest date of eligibility during the three months preceding the date of request.

(4) Establishing a renewal date.

(a) Except for CEM, CEC, EXT, and as provided in subsection (b), for all OCCS Medical Programs, eligibility must be renewed every 12 months. The renewal date is the last day of the month, determined as follows:

(A) For initial eligibility, the renewal date is determined by counting 12 full months following the initial month of eligibility.

(B) For renewals that are regularly scheduled, the new renewal date is determined by counting 12 full months following the current renewal month.

(C) For renewals that are the result of a reported change, the new renewal date is determined by counting 12 full months following the month the change occurred.

(b) Except for HKC, OHP-OP6, OHP-OPP, and individuals who are 18 turning 19 years of age, all OCCS Medical Program beneficiaries who have renewal dates between October 1, 2013 and March 31, 2014, the renewal date shall be extended by six calendar months, as follows:

(A) Renewal dates that fall in October 2013 shall be extended to April 2014.

(B) Renewal dates that fall in November 2013 shall be extended to May 2014.

(C) Renewal dates that fall in December 2013 shall be extended to June 2014.

(D) Renewal dates that fall in January 2014 shall be extended to July 2014.

(E) Renewal dates that fall in February 2014 shall be extended to August 2014.

(F) Renewal dates that fall in March 2014 shall be extended to September 2014.

(5) Acting on Reported Changes.

(a) When the beneficiary reports a change in circumstances at any time other than the renewal month, eligibility must be redetermined for all household group members.

(b) Except for OHP-OPP and MAGI Pregnant Woman, based on the reported change, if the beneficiary is determined to be eligible for another OCCS Medical Program, the effective date for the change is the first of the month following the month in which the determination was made.

(c) For OHP-OPP and MAGI Pregnant Woman, the effective date is the date of request.

(d) For beneficiaries whose eligibility was determined prior to January 1, 2014, who report changes that may effect eligibility in January, February or March, 2014 the following apply:

(A) Eligibility shall be redetermined using the budgeting policies outlined in OAR 410-200-XXXX.

(B) If ineligible for OCCS medical programs using information gained during the January, February or March redetermination, the effective date of the change shall be April 1, 2014, the end of the month following timely notice, whichever is later.

(C) OCCS medical program benefits shall be maintained during the period of time between the loss of eligibility and the APTC or closure effective date of April 1, 2014.

(6) Assumed Eligibility

(a) A pregnant woman eligible for and receiving medical assistance under any Medicaid program who becomes ineligible for the medical program shall be reviewed for all other medical programs. If not eligible for any other medical program, she is assumed eligible for continuous eligibility until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls unless:

(A) She is no longer an Oregon resident; or

(B) She requests medical benefits to be closed.

(b) A child born to a mother eligible for and receiving Medicaid or CHIP benefits is assumed eligible newborn (AEN) for medical benefits until the end of the month the child turns one year of age, unless:

(A) The child dies;

(B) The child is no longer an Oregon resident; or

(C) The child's representative requests a voluntary termination of the child's eligibility.

(7) Twelve Month Continuous Eligibility

(a) A child determined eligible for MAGI Medicaid/CHIP or BCCTP at initial eligibility or at the renewal period shall have a 12 month continuous enrollment period. The 12 month continuous enrollment period begins on the date of request or date the child is initially found eligible, and continues for the following 12 full months.

(b) For a child transitioning from another Medicaid program, the 12 month continuous enrollment period begins the first month following the month in which the other Medicaid program ends.

(8) Suspending or Closing Medical Benefits

(a) The effective date for closing all OCCS medical program benefits is the earliest of:

(A) The date of a beneficiary's death;

(B) The last day of the month in which the beneficiary becomes ineligible and a timely continuing benefit decision notice is sent;

(C) The day prior to the start date for Office of Child Welfare Programs or OSIPM for beneficiaries transitioning from an OCCS medical program;

(D) The date the program ends; or

(E) The last day of the month in which a timely continuing benefit decision notice is sent if ongoing eligibility cannot be determined because the beneficiary does not provide required information within 30 days.

(b) Prior to suspending or closing medical benefits, the Agency must determine eligibility for all other insurance affordability programs.

(c) For handling of OCCS Medical Program beneficiaries who become incarcerated, see 461-200-0140.

(9) Denial of Benefits

The effective date for denying OCCS Medical Program benefits is the earlier of the following:

(a) The date the decision is made that the applicant is not eligible; or

(b) The end of the application processing time frame, unless the time period has been extended to allow the applicant more time to provide required verification.

(10) Eligibility Following Closure.

(a) The Authority must reconsider in a timely manner (see OAR 410-200-0110 Application Processing) the eligibility of an individual who:

(A) Lost OCCS Medical Program eligibility because they did not return necessary required information or pursue an available asset; and

(B) Within 90 days of the medical closure date, submits the information necessary for the eligibility determination.

(b) If the individual is found to meet medical eligibility based on the completed redetermination, eligibility shall be restored back to the day after medical benefits ended.

Note This rule replaces and amends information previously found in OAR 461-180-0010, 461-180-0050, 461-180-0060, 461-180-0085, 461-180-0090, 461-180-0100, 461-180-0120, and 461-180-0140

Stat. Auth: ORS 411.402, 411.404, 413.042, 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

ADMINISTRATIVE RULES

410-200-0120

Notices

(1) Except as provided in this rule, the Authority shall send:

(a) A basic decision notice whenever an application for OCCS Medical Program benefits is approved or denied.

(b) A timely continuing benefit decision notice whenever OCCS Medical Program benefits are reduced or closed.

(2) For a beneficiary who has become an inmate in a public institution, the Authority shall send a basic decision notice to suspend OCCS Medical Program benefits.

(3) For a beneficiary who has been placed in skilled nursing care, intermediate care, or long-term hospitalization, the Authority shall send a basic decision notice to close, suspend or reduce OCCS Medical Program benefits.

(4) For a beneficiary who is placed in a public institution or a correctional facility the Authority shall send a basic decision notice to close, reduce or suspend OCCS Medical Program benefits.

(5) The Authority shall send a basic decision notice to close OCCS Medical Program benefits for a beneficiary who has received them for less than 30 days and who is ineligible for any insurance affordability program.

(6) When returned mail is received without a forwarding address, and the beneficiary's whereabouts are unknown, the Authority shall send a basic decision notice to end benefits if the mail was sent by regular mail. If the returned mail was sent electronically, the Authority shall resend by regular mail within three business days. The date on the notice shall be the date the notice is sent by regular mail.

(7) The Authority shall send one of the following notices when a beneficiary ceases to be an Oregon Resident:

(a) A timely continuing benefit notice; or

(b) A basic decision notice if the beneficiary is eligible for benefits in the other state.

(8) Except as provided in section (10) of this rule, to close medical program benefits based on a request made by the beneficiary, another adult member of the household group, or the authorized representative, the Authority shall send the following decisions notices:

(a) A timely continuing benefit decision notice when an oral request is made to close benefits.

(b) A basic decision notice when a signed, written request to withdraw, end, or reduce benefits is made.

(c) A basic decision notice when an oral request to withdraw an application for benefits is made.

(9) No other notice is required when an individual completes a voluntary agreement if all of the following are met:

(a) The Authority provides the individual with a copy of the completed agreement; and

(b) The Authority acts on the request by the date indicated on the form.

(10) No decision notice is required in the following situations:

(a) The only individual in the household group dies.

(b) A hearing was requested after a notice was received and either the hearing request is dismissed or a final order is issued.

(11) Decision notices must be written in plain language and be accessible to individuals who are limited English proficient and individuals with disabilities. In addition,

(a) All decision notices must include:

(A) A statement of the action taken.

(B) A clear statement listing the specific reasons why the decision was made and the effective date of the decision;

(C) Rules supporting the action;

(D) Information about the individual's right to request a hearing and the method and deadline to request a hearing; and

(E) Details about medical programs for which eligibility is not MAGI-based and information regarding how to request a determination for such programs.

(F) A statement indicating under what circumstances a default order may be taken.

(G) Information about the right to counsel at a hearing and the availability of free legal services.

(b) A decision notice approving OCCS Medical Program benefits, including retroactive medical, must include:

(A) The level of benefits and services approved;

(B) If applicable, information relating to premiums, enrollment fees and cost sharing; and

(C) The changes that must be reported and the process for reporting changes.

(c) A decision notice reducing, denying, or closing OCCS Medical Program benefits must include information about a beneficiary's right to continue receiving benefits.

(12) The Authority may amend:

(a) A decision notice with another decision notice; or

(b) A contested case notice.

(13) Except as the notice is amended, or when a delay results from the client's request for a hearing, a notice to reduce or close benefits becomes void if the reduction or closure is not made effective on the date stated on the notice.

(14) The Authority must provide individuals with a choice to receive decision notices and information referenced in this rule in an electronic format or by regular mail. If an individual chooses to receive notices and information electronically, and has established an online account with Cover Oregon, the Authority must:

(a) Send confirmation of this decision by regular mail;

(b) Post notices to the individual's electronic account within one business day of the date on the notice;

(c) Send an email or other electronic communication alerting the individual that a notice has been posted to their electronic account;

(d) At the request of the individual, send by regular mail any notice or information delivered electronically;

(e) Inform the individual of the right to stop receiving electronic notices and information and begin receiving these through regular mail; and

(f) If any electronic communication referenced above is undeliverable, send the notice by regular mail within three business days of the failed communication.

Note This rule replaces and amends information previously found in OAR 461-175-0340, 461-175-0200, 461-175-0205, 461-175-0210, 461-175-0230, 461-175-0250]

Stat. Auth: ORS 411.402, 411.404, 413.042, 414.534

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Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0125

Acting on Reported Changes

(1) Redeterminations.

(a) When an OCCS Medical Program beneficiary or authorized representative makes a timely report of a change in circumstances at any time between regular renewals of eligibility that may affect the beneficiary's eligibility, the Authority must promptly redetermine eligibility before reducing or ending medical benefits.

(b) For renewals, the Authority must limit requests for information from the individual to information related to the reported change.

(c) If the Authority has enough information to determine eligibility, a new 12-month renewal period must be given after a redetermination.

(d) If the Authority has information about anticipated changes in a beneficiary's circumstances that may affect eligibility, it must redetermine eligibility at the appropriate time based on the changes.

(2) For beneficiaries whose eligibility was determined prior to October, 2013, changes reported in October, November or December, 2013, may result in loss of eligibility for the OCCS Medical Program using the budgeting policies outlined in OAR 410-200-0310. For these beneficiaries:

(a) Information used for the October, November or December 2013 redetermination shall be used to determine eligibility for January 1, 2014 in the MAGI Child, MAGI Parent or Other Caretaker Relative, MAGI Pregnant Woman, or MAGI Adult programs. If eligible, the effective date of eligibility for the program is January 1, 2014.

(b) If ineligible for MAGI Child, MAGI Parent or Other Caretaker Relative, MAGI Pregnant Woman, or MAGI Adult programs using information from the October, November or December 2013 redetermination, the applicant shall be referred to the appropriate Agency in accordance with OAR 410-200-0100.

(c) OCCS Medical Program benefits may not be maintained during the period of time between the loss of eligibility and the January 1, 2014, effective date, or the effective date determined by another Agency.

(3) For beneficiaries who were receiving OCCS Medical Program benefits prior to January 1, 2014, who report changes that may affect eligibility in January, February or March, 2014:

(a) Eligibility shall be redetermined using the budgeting policies outlined in OAR 410-200-0310.

(b) If eligible for MAGI Medicaid/CHIP, CEC, CEM, EXT or BCCTP, a new 12 month eligibility period shall be applied.

(c) If ineligible for MAGI Medicaid/CHIP, CEC, CEM, EXT or BCCTP, using information gained during the January, February or March 2014 redetermination:

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(A) Eligibility shall be maintained until April 1, 2014, or the end of the timely continuing benefits notice period, whichever is later; and

(B) The beneficiary shall be referred to the appropriate Agency in accordance with OAR 410-200-0100.

Stat. Auth.: ORS 411.402, 411.404, 413.042, 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0130

Retroactive Medical

(1) The Authority may evaluate the following for retroactive medical eligibility:

(a) Applicants requesting OCCS medical programs may be evaluated for retroactive medical benefits if they have unpaid medical bills or received donated medical services in Oregon in the 90 days preceding the date of request which would have been covered by Medicaid/CHIP benefits.

(b) Deceased individuals who would have been eligible for Medicaid covered services had they, or someone acting on their behalf, applied.

(2) If eligible for retroactive medical, the individual's eligibility may not start earlier than the date indicated by OAR 410-200-0115 Effective Dates.

(3) The Authority reviews each month individually for retroactive medical eligibility.

(4) The Authority shall evaluate requests for retroactive medical benefits submitted prior to Jan 1, 2014 using 2013 Medicaid/CHIP eligibility requirements as outlined in OAR 410-200-0510.

(5) Retroactive Medical eligibility shall not be determined on the basis of Hospital Presumptive Eligibility (OAR 410-200-0105).

(6) In the BCCTP program, a woman may not be eligible prior to January 1, 2002.

Note This rule replaces and amends information previously found in OAR 461-135-0875
Stat. Auth.: ORS 411.402, 411.404, 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 414.025, 414.231, 414.534, 414.536, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0135

Specific Program Requirements; Assumed Eligibility and Continuous Eligibility for Children, Adults and Pregnant Women

(1) Assumed Eligibility

(a) A child born to a mother eligible for and receiving Medicaid benefits is assumed eligible for the MAGI Child program until the end of the month in which the child turns one year of age, unless:

- (A) The child dies;
- (B) The child is no longer a resident of Oregon; or
- (C) The child's representative requests a termination of the child's eligibility.

(b) An individual is assumed eligible for Chaffee medical if they:

- (A) Are 18 years of age or older, but under 21 years of age; and
- (B) Were in foster care under the responsibility of the state or Tribe and enrolled in Medicaid upon attaining:

- (i) Age 18, or
- (ii) If over 18, the age at which the state's or Tribe's foster care assistance ended under title IV-E of the Social Security Act;

- (C) Are not receiving SSI; and
- (D) Are not receiving adoption assistance or foster care maintenance payments.

(2) Continuous Eligibility

(a) Children under age 19 who lose eligibility for any Medicaid or CHIP program prior to the 12-month renewal date shall remain eligible until the end of the renewal month, regardless of any change in circumstances except for the following:

- (A) No longer an Oregon resident;
- (B) Death;
- (C) Turning age 19;
- (D) For children in the CHIP program, receipt of private major medical health insurance; or
- (E) When any adult in the household group requests the medical benefits be closed.

(b) A pregnant woman eligible for and receiving medical assistance under any Medicaid program who loses eligibility for the medical program is reviewed for all other medical programs. If not eligible for any other medical program, she is eligible for continuous eligibility until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls except in the following circumstances;

(A) She is no longer an Oregon resident;

(B) Death; or

(C) She requests medical benefits be closed.

Stat. Auth.: ORS 411.402, 411.404, 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 414.025, 414.231, 414.534, 414.536, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0140

Eligibility for Inmates

(1) An inmate of a public institution is not eligible for OCCS Medical Programs.

(2) If an OCCS Medical Program beneficiary becomes an inmate of a public institution with an expected stay of no more than 12 months, medical benefits shall be suspended for up to 12 full calendar months during the incarceration period.

(3) Suspended benefits shall be restored to the first day the individual is no longer an inmate, without the need for a new application, when:

(a) The individual reports their release to the Agency within 10 days of the release date; or

(b) The individual reports their release to the Agency more than 10 days from the release date, and there is good cause for the late reporting.

(4) Benefits may be restored pursuant to section (3) if:

(a) The individual is still within their 12 month eligibility period, then the eligibility renewal date shall be retained; or

(b) The individual is no longer within their 12 month eligibility period, then the date that the individual reports their release shall be treated as the date of request for redetermination of eligibility.

Note This rule replaces and amends information previously found in OAR 461-135-0950

Stat. Auth.: ORS 411.070, 411.404, 411.816, 412.014, 412.049, 413.042
Stats. Implemented: ORS 411.070, 411.404, 411.439, 411.443, 411.445, 411.816, 412.014, 412.049, 414.426
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

420-200-0145

Contested Case Appeals

(1) This rule applies to contested case appeals for programs described in OAR chapter 410 division 200. Contested case appeals are conducted in accordance with the Attorney General's model rules at OAR 137-003-0501 and following, except to the extent that Authority rules provide for different procedures.

(2) The Authority's contested case appeals governed by this rule are not open to the public and are closed to nonparticipants, except nonparticipants may attend subject to the parties' consent and applicable confidentiality laws.

(3) A claimant may request a contested case appeal upon the timely completion of an appeal request in medical assistance programs in the following situations:

(a) The Authority has not approved or denied an application within 45 days of the date of request for benefits, or the extended time the Authority has allowed for processing.

(b) The Authority acts to deny, reduce, close, or suspend medical assistance, including the denial of continued benefits pending the outcome of a contested case appeal.

(c) The Authority claims that an earlier medical assistance payment was an overpayment.

(d) A claimant claims that the Authority previously underissued medical assistance.

(e) A claimant disputes the current level of benefits.

(4) The claimant has the burden of proof.

(5) An officer or employee of the Authority or the Department of Human Services may appear on behalf of the Authority in medical assistance appeals described in this rule. The Authority's lay representative may not make legal argument on behalf of the Authority.

(6) If the administrative law judge determines that statements or objections made by the Authority representative appearing in a contested case involve legal argument, the administrative law judge shall provide reasonable opportunity for the Authority representative to consult the Attorney General and permit the Attorney General to present argument at the appeal or to file written legal argument within a reasonable time after conclusion of the appeal.

(7) The Authority representative is subject to the Code of Conduct for Non-Attorney Representatives at Administrative Hearings, which is maintained by the Oregon Department of Justice and available on its website at <http://www.doj.state.or.us>. An Authority representative appearing under this rule must read and be familiar with it.

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(8) When an Authority representative is used, requests for admission and written interrogatories are not permitted.

(9) The Authority representative and the claimant may have an informal conference in order to:

(a) Provide an opportunity to settle the matter;

(b) Review the basis for the eligibility determination, including reviewing the rules and facts that serve as the basis for the decision;

(c) Exchange additional information that may correct any misunderstandings of the facts relevant to the eligibility determination; or

(d) Consider any other matters that may expedite the orderly disposition of the appeal.

(10) A client who is receiving medical assistance benefits and who is entitled to a continuing benefit decision notice may, at the option of the client, receive continuing benefits in the same manner and amount until a final order resolves the contested case. In order to receive continuing benefits, a client must request an appeal not later than the later of:

(e) The tenth day following the date the notice is received; and

(f) The effective date of the action proposed in the notice.

(10) The continuing benefits are subject to modification based on additional changes affecting the client's eligibility or level of benefits.

(11) When a claimant contests the denial of continuing benefits, the claimant shall receive an expedited appeal.

(12) In computing timeliness under sections (3) and (10) of this rule:

(a) Delay caused by circumstances beyond the reasonable control of the claimant is not counted; and

(b) The notice is considered to be received on the fifth day after the notice is sent unless the claimant shows the notice was received later or was not received.

Note This rule replaces and amends information previously found in OAR 461-025-0300, 461-025-0301, 461-025-0305, 461-025-0310, 461-025-0311, 461-025-0315, and 461-025-0325, and 461-025-0350

Stat. Auth.: ORS 411.404, 411.816, 412.014, 412.049, 413.042

Stats. Implemented: ORS 183.452, 411.060, 411.404, 411.816, 412.014, 412.049

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0146

Final Orders, Dismissals and Withdrawals

(1) When the Authority refers a contested case under chapter 410 division 200 to the Office of Administrative Hearings (OOAH), the Authority must indicate on the referral:

(a) Whether the Authority is authorizing a proposed order, a proposed and final order, or a final order; and

(b) If the Authority establishes an earlier deadline for written exceptions and argument because the contested case is being referred for an expedited appeal.

(2) When the Authority authorizes either a proposed order or a proposed and final order:

(a) The claimant may file written exceptions and written argument to be considered by the Authority. The exceptions and argument must be received at the location indicated in the OAH order not later than the 20th day after service of the proposed order or proposed and final order, unless subsection (1)(b) of this rule applies.

(b) Proposed Orders. After OAH issues a proposed order, the Authority shall issue the final order, unless the Authority requests that OAH issue the final order pursuant to OAR 137-003-0655.

(c) Proposed and Final Orders. If the claimant does not submit timely exceptions or argument following a proposed and final order, the proposed and final order becomes a final order on the 21st day after service of the proposed and final order unless:

(A) The Authority has issued a revised order; or

(B) Has notified the claimant and OAH that the Authority shall issue the final order.

(d) When the Authority receives timely exceptions or argument, the Authority shall issue the final order, unless the Authority requests that OAH issue the final order.

(3) In a contested case appeal if the OAH is authorized to issue a final order on behalf of the Authority, the Authority may issue the final order in the case of default.

(4) A petition by a claimant for reconsideration or rehearing must be filed with the individual who signed the final order, unless stated otherwise on the final order.

(5) A final order is effective immediately upon being signed or as otherwise provided in the order. Delay due to a postponement or continuance granted at the claimant's request shall not be counted in computing time limits for a final order.

(a) A final order shall be issued or the case otherwise resolved:

(A) Not later than 90 days following the date of the appeal for the standard appeal time frame.

(B) Not later than 3 working days after the date the OAH hears an expedited appeal.

(6) In the event a request for appeal is not timely or the claimant has no right to a contested case appeal on an issue, and there are no factual disputes about whether this division of rules provides a right to an appeal, the Authority may issue an order accordingly. The Authority may refer an untimely request to the OAH for an appeal on timeliness or on the question of whether the claimant has the right to a contested case appeal.

(7) When the Authority receives an appeal request that is not filed within 90 days of the date of the decision notice but is filed within 75 days after a decision notice has become a final order:

(a) The Authority may refer the appeal request to the OAH for a contested case appeal on the merits of the Authority's action described in the notice:

(A) If the Authority finds that the claimant and claimant's representative did not receive the decision notice and did not have actual knowledge of the notice; or

(B) If the Authority finds that the claimant did not meet the timeframe required by OAR 410-200-0145(5) due to excusable mistake or neglect, which may be due to significant cognitive or health issues, reasonable reliance on the statement of an Authority employee relating to procedural requirements, or due to misrepresentation or other misconduct of the Authority.

(b) The Authority may dismiss an appeal request if it finds it is untimely if the claimant does not qualify for an appeal under subsection (7)(a).

(8) When the Authority receives an appeal request more than 75 days after a decision notice became a final order:

(a) For an overpayment notice:

(A) The Authority shall verify whether its records indicate that the liable adult requesting the appeal was sent the overpayment notice.

(B) If no overpayment notice was sent to the liable adult, the overpayment appeal request is timely. The Authority shall send the claimant a decision notice or a contested case notice.

(C) If the Authority determines that an overpayment notice was sent to the liable adult, there is no appeal right based on the issue of whether or not the appeal request was received timely.

(b) Any appeal request is treated as timely when required under the Servicemembers Civil Relief Act.

(c) The Authority may dismiss an appeal request as untimely if the claimant does not qualify for an appeal under subsections 8(a) and (b).

(9) A claimant may withdraw an appeal request at any time before a final order has been issued on the contested case. When a claimant withdraws an appeal request:

(a) The Authority shall send an order confirming the withdrawal to the claimant's last known address.

(b) The claimant may cancel the withdrawal in writing. The withdrawal must be received by the Authority hearing representative no later than the tenth working day following the date the Authority sent the order confirming the withdrawal.

(10) An appeal request is dismissed by order by default when neither the claimant nor the claimant's representative appears at the time and place specified for the appeal. The order is effective on the date scheduled for the appeal. The Authority shall cancel the dismissal order on request of the claimant on a showing that the claimant was unable to attend the appeal and unable to request a postponement for reasons beyond his or her control.

Note This rule replaces and amends information previously found in OAR 461-025-0310, 461-025-0350, 461-025-0356, 461-025-0371, 461-025-0375

Stat. Auth.: ORS 183.341, 413.042, 411.060, 411.404, 411.408, 411.816, 412.014, 412.049

Stats. Implemented: ORS 183.341, 411.060, 411.404, 411.408, 411.816, 412.014, 412.049

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0200

Residency Requirements

(1) To be eligible for OCCS Medical Programs, an individual must be a resident of Oregon.

(2) An individual is a resident of Oregon if the individual lives in Oregon, except:

(a) An individual 21 years of age or older who is capable of indicating intent to reside (see section (6) of this rule) who is placed in a medical facility in Oregon by another state is considered to be a resident of the state that makes the placement.

(b) An individual 21 years of age or older who became incapable of indicating intent to reside after attaining 21 years of age, and who is placed in a medical facility in Oregon, is considered to be a resident of Oregon

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unless the individual was placed in the facility by a state agency of another state. When a state agency of another state places an individual, the individual is considered to be a resident of the state that makes the placement.

(c) For an individual less than 21 years of age who is incapable of indicating an intent to reside, or an individual of any age who became incapable of indicating that intent before attaining 21 years of age, the state of residence is one of the following:

(A) The state of residence of the individual's parent or legal guardian at the time of application.

(B) The state of residence of the party who applies for benefits on the individual's behalf if there is no living parent or the location of the parent is unknown, and there is no legal guardian.

(C) Oregon, if the individual has been receiving medical assistance in Oregon continuously since November 1, 1981, or is from a state with which Oregon has an interstate agreement that waives the residency requirement.

(D) When a state agency of another state places the individual, the individual is considered to be a resident of the state that makes the placement.

(3) There is no minimum amount of time an individual must live in Oregon to be a resident. However, the individual must intend to remain in Oregon, unless the individual entered Oregon with a job commitment or is looking for work.

(4) An individual is not a resident if the individual is in Oregon solely for a vacation.

(5) An individual continues to be a resident of Oregon during a temporary period of absence if he or she intends to return when the purpose of the absence is completed.

(6) An individual is presumed to be incapable of indicating an intent to reside if the individual falls under one or more of the following:

(a) The individual is assessed with an IQ of 49 or less, based on a test acceptable to the Authority.

(b) The individual has a mental age of seven years or less, based on tests acceptable to the Authority.

(c) The individual is judged legally incompetent by a court of competent jurisdiction.

(d) The individual is found incapable of indicating intent to reside based on documentation provided by a physician, psychologist, or other professional licensed by the state of Oregon in the field of intellectual disabilities.

Note This rule replaces and amends information previously found in OAR 461-120-0010

Stat. Auth: ORS 411.402, 411.404, 413.042, 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0205

Concurrent and Duplicate Program Benefits

(1) An individual receiving OCCS Medical Program benefits may not receive the following medical benefits at the same time:

- (a) Any other OCCS Medical Program;
- (b) Office of Child Welfare Medical;
- (c) Oregon Youth Authority Medical;
- (d) Oregon Supplemental Income Program-Medical (OSIPM); or
- (e) Refugee Medical Assistance (REFM).

(f) A subsidy through the Family Health Insurance Assistance Program (FHIAP) established by ORS 735.720 to 735.740, or receiving a subsidy through the Office of Private Health Partnerships (OPHP) in accordance with ORS 414.826, 414.831, and 414.839.

(2) An individual may not receive OCCS Medical Program benefits and medical benefits from another state, unless the individual's provider refuses to submit a bill to the Medicaid/CHIP agency of the other state and the individual would not otherwise receive medical care.

Note This rule replaces and amends information previously found in OAR 461-135-0030
Stat. Auth: ORS 411.402, 411.404, 413.042, 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0210

Requirement to Provide Social Security Number

(1) The Agency may collect a Social Security Number (SSN) for the following purposes:

(a) The determination of eligibility for benefits. The SSN is used to verify income and other assets and to match with other state and federal records such as the Internal Revenue Service (IRS), Medicaid, child support, Social Security benefits, and unemployment benefits.

(b) The preparation of aggregate information and reports requested by funding sources for the program providing benefits.

(c) The operation of the program applied for or providing benefits.

(d) Conducting quality assessment and improvement activities.

(e) Verifying the correct amount of payments, recovering overpaid benefits, and identifying any individual receiving benefits in more than one household.

(2) As a condition of eligibility, except as provided in section (5) below, each applicant (including children) requesting medical benefits must:

(a) Provide a valid SSN; or

(b) Apply for an SSN if the individual does not have one and provide the SSN when it is received.

(3) Except as provided in section (5) below, if an applicant does not recall their SSN or has not been issued an SSN, and the SSN is not available to the Agency, the Agency must:

(a) Obtain required evidence under SSA regulations to establish the age, the citizenship or alien status, and the true identity of the applicant; and

(b) Either assist the applicant in completing an application for an SSN or, if there is evidence that the applicant has previously been issued an SSN, request SSA to furnish the number.

(4) The Agency may request that non-applicants or individuals determined eligible for CAWEM or CAWEM Prenatal provide an SSN on a voluntary basis. The Agency shall use the SSN for the purposes outlined in section (1).

(5) An applicant is not required to apply for or provide an SSN if the individual:

(a) Is determined eligible for CAWEM or CAWEM Prenatal medical;

or

(b) Does not have an SSN and the SSN may be issued only for a valid non-work reason; or

(c) Is a member of a religious sect or division of a religious sect that has continuously existed since December 31, 1950 and the individual adheres to its tenets or teachings that prohibit applying for or using an SSN.

(d) Is a newborn that is assumed eligible based on the eligibility of the mother of the newborn and who is under one year of age.

Note This rule replaces and amends information previously found in OAR 461-120-0210

Stat. Auth: ORS 411.402, 411.404, 413.042, 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 413.038, 414.025, 414.231, 414.534, 414.536, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0215

Citizenship and Alien Status Requirements

(1) Except as provided in section (2) of this rule, to be a beneficiary of a medical program an individual must be:

(a) A citizen of the United States;

(b) A qualified non-citizen who meets the alien status requirements in section (3) of this rule;

(c) A citizen of Puerto Rico, Guam, the Virgin Islands or Saipan, Tinian, Rota or Pagan of the Northern Mariana Islands; or

(d) A national from American Samoa or Swains Islands

(2) To be eligible for CAWEM benefits, an individual must be ineligible for a medical program solely because he or she does not meet citizenship or alien status requirements set forth in this rule.

(3) An individual is a qualified non-citizen if the individual is any of the following:

(a) A non-citizen lawfully admitted for permanent residence under the INA (8 U.S.C. 1101 et seq);

(b) A refugee admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157);

(c) A non-citizen granted asylum under section 208 of the INA (8 U.S.C. 1158);

(d) A non-citizen 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));

(e) A non-citizen 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;

(f) A non-citizen 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;

(g) A non-citizen who is a Cuban and Haitian entrant (as defined in section 501(3) of the Refugee Education Assistance Act of 1980);

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(h) An Afghan or Iraqi alien granted Special Immigration Status (SIV) under section 101(a)(27) of the INA; or

(i) A battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c) and is in the United States on a conditional resident status, as determined by the U.S. Citizenship and Immigration Services.

(4) A qualified non-citizen meets the alien status requirements if the individual satisfies one of the following requirements:

(a) Effective October 1, 2009, is an individual under 19 years of age.

(b) Was a qualified non-citizen before August 22, 1996.

(c) Physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date qualified non-citizen status was obtained. 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 qualified non-citizen status was obtained.

(d) Has been granted any of the following alien statuses:

(A) Refugee under section 207 of the INA.

(B) Asylum under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) 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).

(G) 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).

(H) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(e) An American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act (INA) (8 U.S.C. 1359) apply.

(f) 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)).

(g) A veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 U.S.C. 5303A(d).

(h) A member of the United States Armed Forces on active duty (other than active duty for training).

(i) The spouse or a dependent child of an individual described in subsection (f) or (g) of this section.

(5) A non-citizen meets the alien status requirements if the individual is under the age of 19 and is one of the following:

(a) A citizen of a Compact of Free Association State (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) who has been admitted to the U.S. as a non-immigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the U.S.

(b) An individual described in 8 CFR section 103.12(a)(4) who belongs to one of the following classes of aliens 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:

(A) An alien currently in temporary resident status pursuant to section 210 or 245A of the INA (8 USC 1160 and 1255a);

(B) An alien currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 USC 1229b);

(C) Cuban-Haitian entrants, as defined in section 202(b) Pub. L. 99-603 (8 USC 1255a), as amended;

(D) Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649 (8 USC 1255a), as amended;

(E) An alien currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;

(F) An alien currently in deferred action status pursuant to Department of Homeland Security Operating Instruction OI 242.1(a)(22); or

(G) An alien 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.

(c) 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).

(6) Except for individuals described in section (4) of this rule, a non-citizen who entered the United States or was given qualified non-citizen status on or after August 22, 1996:

(a) Is ineligible an OCCS Medical Program for five years beginning on the date the non-citizen received qualified non-citizen status.

(b) Meets the alien status requirement following the five-year period.

Note This rule replaces and amends information previously found in OAR 461-120-0110, 461-120-0125

Stat. Auth: ORS 411.402, 411.404, 413.042, 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 414.025, 414.231, 414.534, 414.536, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0220

Requirement to Pursue Assets

(1) As a condition of ongoing eligibility an applicant or beneficiary must make a good faith effort to obtain an asset to which they have a legal right or claim, except an applicant or beneficiary is not required to:

(a) Apply for Supplemental Security Income (SSI) from the Social Security Administration.

(b) Borrow money.

(c) Make a good faith effort to obtain such asset if the individual can show good cause for not doing so.

(2) Pursuable assets include but are not limited to:

(a) Claims related to an injury;

(b) Disability benefits;

(c) Healthcare coverage;

(d) Retirement benefits;

(e) Survivorship benefits;

(f) Unemployment compensation; and

(g) Veteran's compensation and pensions.

(3) Except for beneficiaries in the OHP-CHP or MAGI CHIP programs, caretakers must obtain available health insurance coverage and cash medical support for household group members receiving medical assistance.

(a) Each caretaker in the household group must assist the Agency and the Division of Child Support (DCS) in establishing paternity for each child receiving medical assistance and in obtaining an order directing the non-custodial parent of a child receiving benefits to provide cash medical support and health care coverage for that child.

(b) A parent receiving medical assistance who fails to meet the requirements of section (3) (a) is applied the penalty identified in section (3)(e) or section (3)(f) after providing the beneficiary with notice and opportunity to show the provisions of section (4) of this rule apply.

(c) Each applicant, including a parent for their child, must make a good faith effort to obtain available coverage under Medicare. The Authority may not penalize children for non-cooperation.

(d) With the exception of OHP-CHP, MAGI CHIP, and OHP-OPU, caretakers who are OCCS Medical Program beneficiaries must apply for, accept, and maintain cost-effective employer-sponsored health insurance as set forth in OAR 461-155-0360, unless they have good cause.

(e) For MAA, MAF, EXT, CEM, and SAC medical programs, a parent who fails to meet the requirements of section (3) is excluded from the family size.

(f) With the exception of OHP-CHP, MAGI-CHIP, HKC and CEC, a parent of a child receiving OCCS Medical Program benefits who fails to meet the requirements of section (3) is ineligible for assistance.

(4) Section (3) of this rule does not apply to individuals when:

(a) The individual's compliance would result in emotional or physical harm to the dependent child or to the caretaker. The statement of the caretaker serves as prima facie evidence that harm would result;

(b) The child was conceived as a result of incest or rape and efforts to obtain support would be detrimental to the dependent child. The statement of the caretaker serves as prima facie evidence on the issues of conception and detrimental effect to the dependent child;

(c) Legal proceedings are pending for adoption of the child;

(d) The parent is being helped by a public or licensed private social agency to resolve the issue of whether to release the child for adoption;

(e) The individual is pregnant; or

(f) Other good cause reasons exist for noncooperation.

(5) An individual involved in a personal injury must pursue a claim for the personal injury. If the claim or action to enforce such claim was initiated prior to the application for medical assistance, the individual must

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notify the Agency during the eligibility verification process (see OAR 410-200-0230 Verification). The following information is required:

- (a) The names and addresses of all parties against whom the action is brought or claim is made;
 - (b) A copy of each claim demand; and
 - (c) If an action is brought, the case number and the county where the action is filed.
- (6) Unless specified otherwise in this rule, an individual who fails to comply with the requirements of this rule is ineligible for benefits until the individual meets the requirements of this rule.

Note This rule replaces and amends information previously found in OAR 461-120-0330, 461-120-0345, 461-120-0350, 461-155-0360 (reference), 461-195-0303, 461-195-0310
Stat. Auth: ORS 411.402, 411.404, 413.0042
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 414.025, 414.231, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0225

Assignment of Rights

(1) The signature of the applicant or authorized representative on the application for assistance signifies the applicant's agreement to assign the rights to reimbursement for medical care costs to the Agency.

(2) As a condition of eligibility, each applicant must:

(a) Assign to the Agency any rights of each household group member receiving benefits to reimbursement for medical care costs to the Agency including any third party payments for medical care and any medical care support available under an order of a court or an administrative agency.

(b) Assign to the Agency any rights to payment for medical care from any third party and, once they receive assistance, to assist the Agency in pursuing any third party who may be liable for medical care or services paid by the Agency, including health services paid for pursuant to ORS 414.706 to 414.750 as set forth in OAR 410-200-0220, 461-195-0303 and 461-195-0310.

(c) Unless good cause exists as established in OAR 410-200-0220 (Requirement to Pursue Assets), failure to assign the right to reimbursement for medical care costs to the Agency shall result in ineligibility for the household group until the requirements of this rule are met.

(3) Except for the OHP-OPU, OHP-CHP, and MAGI CHIP programs:

(a) An applicant must assign to the state the right of any Medicaid-eligible individual in the household group to receive any cash medical support that accrues while the individual receives assistance, not to exceed the total amount of assistance paid; and

(b) Cash medical support received by the Agency shall be retained as necessary to reimburse the Agency for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed.

Note This rule replaces and amends information previously found in OAR 461-120-0315, 461-120-0310, 461-195-0303, 461-195-0310
Stat. Auth: ORS 411.402, 411.404, 413.042
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 414.025, 414.231, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0230

Verification

(1) Except as described in section (5) of this rule, applicants, beneficiaries, or individuals of applicant or beneficiary's choosing may attest to the following information without further verification:

- (a) Age and date of birth;
- (b) Application for other benefits;
- (c) Caretaker relative status;
- (d) Household composition;
- (e) Legal name;
- (f) Medicare;
- (g) Pregnancy;
- (h) Residency; and
- (i) Social Security number.

(2) The Authority may verify information attested by the individual using available electronic data.

(3) Except as provided in section (3)(c), applicants, beneficiaries, or individuals of applicant or beneficiary's choosing must make a declaration of citizenship, national status, or non-citizen status.

(a) Self-attestation shall be accepted upon receipt and verified post-eligibility by documentary evidence through a match with available electronic data; or

(b) In the event additional verification is needed, the Authority shall provide a reasonable opportunity period to verify citizenship.

(c) The following are exempt from the requirement to verify citizenship or non-citizen status:

- (A) Individuals who are assumed eligible (see OAR 410-200-0135);
- (B) Individuals who are enrolled in Medicare;
- (C) Individuals who are presumptively eligible for the BCCTP Program (see OAR 461-200-0400);
- (D) Individuals receiving Social Security Disability Income (SSDI);

or

(E) Individuals who have previously verified citizenship or non-citizen status with the Agency. The Agency may not re-verify or require an individual to re-verify citizenship at a renewal of eligibility or subsequent application following a break in coverage.

(4) Applicants, beneficiaries, or individuals of the applicant or beneficiary's choosing must make a declaration of income:

(a) Self-attestation shall be accepted upon receipt and verified post-eligibility determination by documentary evidence through a match with available electronic data; or

(b) In the event that additional verification is needed, the Authority shall provide a reasonable opportunity period to verify their income information.

(5) The Authority may request that applicants for medical assistance provide additional information, including documentation, to verify most eligibility criteria if data obtained electronically is not reasonably compatible with attested information.

Note This rule replaces and amends information previously found in OAR 461-115-0610 and 461-115-0705
Stat. Auth: ORS 411.402, 411.404, 413.042, 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0235

Changes That Must Be Reported

(1) Individuals must report the following changes in circumstances affecting eligibility for beneficiaries within 30 calendar days of its occurrence:

- (a) A change in health care coverage.
- (b) A change in mailing address or residence.
- (c) A change in legal name.

(d) A claim for a personal injury. The following information must be reported:

(A) The names and addresses of all parties against whom the action is brought or claim is made;

(B) A copy of each claim demand; and

(C) If an action is brought, identification of the case number and the county where the action is filed.

(e) In addition to section (1)(a)–(d), in the EXT program:

(A) A change in pregnancy status of a household group member.

(B) When a household group member receiving medical assistance is no longer a dependent child.

(f) In addition to section (1)(a)–(d), in the OHP, HKC and MAGI CHIP programs:

(A) A change in availability of employer-sponsored health insurance.

(B) A change in pregnancy status of a household group member.

(g) In addition to section (1)(a)–(d), in the MAA, MAF, SAC, EXT, BCCTP, MAGI SAC, MAGI Pregnant Woman, MAGI Parent or Other Caretaker Relative, MAGI Child, and MAGI Adult programs:

(A) A change in source of income.

(B) A change in employment status.

(i) For a new job, the change occurs the first day of the new job.

(ii) For a job separation, the change occurs on the last day of employment.

(C) A change in earned income more than \$100. The change occurs upon the receipt by the beneficiary of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.

(D) A change in unearned income more than \$50. The change occurs the day the beneficiary receives the new or changed payment.

(E) A change in membership of the household group.

(F) A change in pregnancy status of a household group member.

(G) A change in availability of employer-sponsored health insurance.

(h) In addition to section (1)(a)–(d), in the Former Foster Care Youth medical program, a change in pregnancy status.

(2) Beneficiaries, adult members of the household group, or authorized representatives may report changes via the Internet, by telephone, via mail, in person, and through other commonly available electronic means.

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(3) A change is considered reported on the date the beneficiary, adult member of the household group, or authorized representative reports the information to the Agency.

(4) A change reported by the beneficiary, adult member of the household group, or authorized representative for one program is considered reported for all programs administered by the Agency in which the beneficiary participates.

(5) Beneficiaries, adult members of the household group, or authorized representatives are not required to report any of the following changes:

(a) Periodic cost-of-living adjustments to the federal Black Lung Program, SSB, SSDI, SSI, and veterans assistance under Title 38 of the United States Code.

(b) Changes in eligibility criteria based on legislative or regulatory actions.

Note This rule replaces and amends information previously found in OAR 461-105-0020; 461-170-0010; 461-170-0011; 461-170-0200; 461-195-0305; 461-195-0310; 461-195-0321
Stat. Auth: ORS 411.402, 411.404, 413.042, 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0240

Citizen/Alien Waived Emergent Medical

(1) To be eligible for CAWEM benefits, an individual must be ineligible for OCCS Medical Programs, solely because he or she does not meet the citizen or alien status requirements. A child who is eligible for OHP-CHP, MAGI CHIP, CEM, or CEC is not eligible for CAWEM benefits.

(2) To be eligible for the CAWEM Prenatal enhanced benefit package, a CAWEM recipient must be pregnant.

(3) The pregnant CAWEM client's enhanced medical benefits package ends when the pregnancy ends.

(4) The woman remains eligible for CAWEM emergent benefits through the end of her pregnancy and for the two months following the end of her pregnancy.

Stat. Auth: ORS 411.402, 411.404, 413.042, 414.025, 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706, 411.060
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0305

Household Group — Modified Adjusted Gross Income (MAGI) based Medicaid and CHIP

When establishing eligibility for MAGI-based Medicaid or MAGI CHIP, each applicant or beneficiary must have their own countable household group determined individually, based on the following household group rules:

(1) Tax Payer's Household Group:

(a) For tax-payers who are not claimed as a tax dependent by another individual, the household group consists of the taxpayer and all individuals whom the tax payer intends to claim as tax dependents.

(b) For tax-payers who are married and living with their spouse, each spouse shall be included in the household group of the other spouse, whether they file taxes together or separately.

(2) Tax Dependent's Household Group:

(a) In the case of an individual who expects to be claimed as a tax dependent by another individual, the household group is that of the individual claiming the tax dependent; or

(b) Household group is determined under section (3) of this rule, where the tax dependent:

(A) Is not the tax payer's spouse or child;

(B) Is a child living with both parents but the parents are not filing taxes jointly and one of the parents is claiming the child as a tax dependent; or

(C) Is a child claimed as a tax dependent by a non-custodial parent.

(3) The household group for a tax dependent who meets the criteria in section (2)(b) consists of the tax dependent and the following individuals, if living in the same household:

(a) The individual's spouse;

(b) The individual's children;

(c) If the individual is a child under 19 years of age, the child's parents and siblings.

(4) For individuals who do not file a tax return and are not claimed as a tax dependent, the household group consists of the individual and the following individuals, if living with the individual:

(a) The individual's spouse;

(b) The individual's step children; and

(c) If the individual is a child under 19 years of age, the child's parents and siblings.

Stat. Auth: ORS 411.402, 411.404, 413.042
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0310

Eligibility and Budgeting; MAGI Medicaid/CHIP; Not BCCTP or EXT

(1) The budget month means the calendar month from which nonfinancial and financial information is used to determine eligibility for OCCS Medical Programs.

(2) The budget month is determined as follows:

(a) For a new applicant, the budget month is:

(A) The month in which medical assistance is requested; or

(B) If ineligible in the month in which medical assistance is requested, the budget month is the following month.

(b) For a current Medicaid/CHIP beneficiary, the budget month is:

(A) The final month of the twelve-month enrollment period;

(B) The month a change that affects eligibility is reported, if reported timely; or

(C) The month the individual ages off a medical program or is no longer eligible for a medical assistance program.

(c) For retroactive medical, the budget month is the month in which the applicant received medical services for which they are requesting payment. Retroactive medical is determined on a month-by-month basis.

(3) Countable income anticipated or received in the budget month is determined as follows:

(a) Income is calculated by adding together the income of the household group that has already been received in the budget month, and the income that is reasonably expected to be received in the remainder of the budget month.

(b) If ineligible in the budget month, countable income from the month following the budget month is considered.

(c) If ineligible under subsections (a) or (b) of this section because the countable income is over the income standard for OCCS Medical Programs, income shall be annualized using the requirements in 26 CFR §1.36 B-1(e) for the year in which medical has been requested, and applied to the budget month. If the annualized income is below 100% FPL as identified in 26 CFR §1.36 B-1(e), eligibility shall be determined for the appropriate program pursuant to OAR 410-200-0315.

(4) The household group's budget month income is compared to the income standard for the appropriate family size to determine if an applicant may be eligible for an OCCS Medical Program.

Note This rule replaces and amends information previously found in OAR 461-150-0055, 461-155-0060, 461-150-0070

Stat. Auth: ORS 411.402, 411.404, 413.042
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0315

Standards and Determining Income Eligibility

(1) MAGI-based income not specifically excluded is countable, and its value is used in determining the eligibility and benefit level of an applicant or beneficiary.

(2) MAGI-based income is considered available on the date it is received or the date a member of the household group has a legal right to the payment and the legal ability to make it available, whichever is earlier, except as follows:

(a) Income usually paid monthly or on some other regular payment schedule is considered available on the regular payment date if the date of payment is changed because of a holiday or weekend.

(b) Income withheld or diverted at the request of an individual is considered available on the date the income would have been paid without the withholding or diversion.

(c) An advance or draw of earned income is considered available on the date it is received.

(3) In determining financial eligibility for each applicant, the sum of the budget month MAGI-based income of all household group members is combined and compared to the applicable income standard for the family size. If the income is at or below the MAGI income standard, the individual meets the financial eligibility requirements. Except as provided in section (4)(a), if income exceeds the MAGI income standard, the individual is ineligible.

(4) This section is effective January 1, 2014:

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(a) If an individual is ineligible for MAGI Medicaid based solely on income, and would otherwise be eligible for MAGI CHIP or be referred to the Exchange for APTC, a disregard equivalent to 5 percentage points of the federal poverty level for the applicable family size shall be applied the household group's income. If the resulting amount is below the income standard for the applicable program and family size, the individual meets the financial eligibility requirements in the following programs:

- (A) The MAGI Child Program,
- (B) The MAGI Adult Program,
- (C) The MAGI Pregnant Woman Program,

(b) If an individual is ineligible for MAGI CHIP based solely on income, and would otherwise be referred to the Exchange for APTC, a disregard equivalent to 5 percentage points of the federal poverty level for the applicable family size shall be applied the household group's income. If the resulting amount is below the income standard for the applicable program and family size, the individual meets the financial eligibility requirements in the MAGI CHIP.

(i) The MAGI income standard for the MAGI Parent or Other Caretaker-Relative program and MAGI SAC program is set as follows: [Table not included. See ED. NOTE.]

(ii) The MAGI income standard for the MAGI Child Program and the MAGI Adult Program is set at 133% of the FPL as follows. If an individual's household group income exceeds the income standard for their family size, the appropriate disregard for their family size described in section (4)(a) shall be applied: [Table not included. See ED. NOTE.]

(iii) The MAGI income standard for the MAGI Pregnant Woman Program and for MAGI Child Program recipients under age one is set at 185% FPL. If an individual's household group income exceeds the income standard for their family size, the appropriate disregard for their family size described in section (4)(a) shall be applied: [Table not included. See ED. NOTE.]

(iv) The MAGI income standard for the MAGI CHIP program is set through 300% of FPL as follows. If a child's household group income exceeds the income standard for their family size, and the child would be otherwise ineligible for MAGI CHIP, the appropriate disregard for their family size described in section (5)(a)(B) shall be applied: [Table not included. See ED. NOTE.]

(5) Effective October 1, 2013 through December 31, 2013, the MAGI income standards listed in this section are used.

(a) Individuals who apply from October 1, 2013 through December 31, 2013 shall first be considered for the programs described in OAR 410-200-0510. Individuals found ineligible based on information from all budget months of October, November, or December 2013 shall have their eligibility determined as follows:

(A) For individuals who would be eligible for programs based on eligibility and income standards found in section (4)(c) through (e) as of January 1, 2014, eligibility for the applicable program shall begin as of that date.

(B) For individuals who are ineligible for programs which begin on January 1, 2014 who would otherwise be eligible for MAGI CHIP or be referred to the Exchange for APTC as of January 1, 2014, a disregard equivalent to 5 percentage points of the federal poverty level for the applicable family size will be applied the household group's income. If the resulting amount is below the January 1, 2014, income standard found in section (4)(c) through (e) for the applicable program and family size, the individual meets the financial eligibility requirements for MAGI Medicaid/CHIP.

(i) The MAGI-based income standard for the MAA and MAGI SAC programs is as follows. If a child's household group income exceeds the income standard for their family size, and the child would be otherwise ineligible for Medicaid, the appropriate disregard for their family size described in section (5)(a)(B) shall be applied: [Table not included. See ED. NOTE.]

(ii) The MAGI-based income standard for the OHP-OPU program is set at 100 percent of the federal poverty level: [Table not included. See ED. NOTE.]

(iii) The MAGI-based income standard for the OHP-OPC program is set to 100 percent of the federal poverty level. If a child's household group income exceeds the income standard for their family size, and the child would be otherwise ineligible for Medicaid, the appropriate disregard for the MAGI-based income standard for the OHP-OP6 program is set at 133 percent of the federal poverty level. If a child's household group income exceeds the income standard for their family size, and the child would be otherwise ineligible for Medicaid, the appropriate disregard for their fami-

ly size described in section (5)(a)(B) shall be applied: [Table not included. See ED. NOTE.]

(b) The MAGI-based income standard for the OHP-OPP program is set at 185 percent of the federal poverty level. If a child's household group income exceeds the income standard for their family size, and the child would be otherwise The MAGI income standard for the MAGI CHIP program is set through 300% of FPL as follows:

(c) In the MAGI CHIP and MAGI Child Program, when the Department uses a finding made during an ELE determination and the child meets all other MAGI CHIP, or MAGI Child Program nonfinancial eligibility requirements, the standard for the number of eligibility group members determined by the ELA is used to determine eligibility regardless of the family size. The countable income of the household group is the same as the income amount determined by the ELA. A child is deemed eligible for MAGI CHIP, or MAGI Child Program as follows:

(A) If the MAGI-based income of the household group is below 163 percent of the federal poverty level as listed below, the Department deems the child eligible for the MAGI Child Program.

(B) If the MAGI-based income of the household group is at or above 163 percent of the FPL through 300% percent of the FPL as listed in section (5)(b)(E) of this rule, the Agency deems the child eligible for MAGI CHIP.

Note This rule replaces and amends information previously found in OAR 461-140-0010, 461-140-0040, 461-150-0055, 461-155-0180, and 461-155-0225.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth: ORS 411.402, 411.404, 413.042,

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0400

Breast and Cervical Cancer Treatment Program Specific Requirements

This rule establishes eligibility criteria for medical assistance based on an individual's need of treatment for breast or cervical cancer, including pre-cancerous conditions (treatment). The Authority administers the Oregon Breast and Cervical Cancer Treatment Program (BCCTP) by entering into agreements with qualified entities as approved by the Authority to provide screening services for BCCTP funded by the Centers for Disease Control in support of the National Breast and Cervical Cancer Early Detection Program.

(1) To be eligible for BCCTP, an individual must:

(a) Be found to need treatment following screening services provided by a qualified entity;

(b) Be under the age of 65;

(c) Not be covered for treatment by creditable coverage, as defined in 42 U.S.C. §300gg-3(c), which includes Medicaid, Medicare, and individual or group health insurance; and

(d) Not be eligible for Medicaid through a Medicaid program listed in 42 U.S.C. §1396a(a)(10)(A)(i) (mandatory Medicaid eligibility groups).

(2) An individual is presumptively eligible for BCCTP beginning the day a qualified entity determines, on the basis of preliminary information, that she is likely to meet the requirements of section (1). A qualified entity that determines an individual presumptively eligible for BCCTP must:

(a) Notify the Authority of the determination within five working days; and

(b) Explain to the individual at the time the determination is made the circumstances under which an application for medical assistance must be submitted to the Authority and the deadline for the application (see section (3)).

(3) To remain eligible for benefits, an individual determined by a qualified entity to be presumptively eligible for BCCTP must apply for medical assistance no later than the last day of the month following the month in which the determination of presumptive eligibility is made. Presumptive eligibility for BCCTP ends on:

(a) The last day of the month following the month in which presumptive eligibility begins, if the individual does not file an application by that date.

(b) The day on which a determination is made for other Medicaid program benefits.

(4) An individual found eligible for the BCCTP by the Authority becomes ineligible upon the first of the following to occur:

(a) The treating health professional determines the course of treatment is complete.

(b) Upon reaching age 65.

(c) When the individual becomes covered for treatment by creditable coverage.

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(d) Upon becoming a resident of another state.

(e) When the Authority determines she does not meet the requirements for eligibility.

Note This rule replaces and amends information previously found in OAR 461-135-1060

Stat. Auth: ORS 411.402, 411.404, 413.042, 414.534.

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.540, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0405

MAGI Substitute and Adoptive Care (SAC) Specific Requirements

In addition to eligibility requirements applicable to the MAGI SAC program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the MAGI SAC program.

(1) Individuals may not be eligible for the MAGI SAC program with an effective date prior to October 1, 2013.

(2) To be eligible for the MAGI SAC program, an individual must:

(a) Be under the age of 21 and live in an intermediate psychiatric care facility for which a public agency of Oregon is assuming at least partial financial responsibility; and

(b) Have household income at or below income standard for the applicable family size as identified in OAR 410-200-0315.

(c) Meet the hierarchy requirements in OAR 410-200-0110(7).

(3) While living in an intermediate psychiatric care facility, an individual's household group is determined by the criteria described in OAR 410-200-0305(3).

Note This rule replaces and amends information previously found in OAR 461-135-0150

Stat. Auth: ORS 411.402, 411.404, 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 413.038, 414.025, 414.231, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0406

Specific Requirements; Former Foster Care Youth Medical

In addition to eligibility requirements applicable to the Former Foster Care Youth Medical program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the Former Foster Care Youth Medical program.

(1) Individuals may not be eligible for the Former Foster Care Youth Medical program with an effective date prior to January 1, 2014.

(2) To be eligible for Former Foster Care Youth Medical, an individual must not be eligible for MAGI Child, MAGI Pregnant Woman, or MAGI Parent or Other Caretaker Relative program benefits, or be assumed eligible for OSIPM (see OAR 461-135-0010).

(3) There is no income test for the Former Foster Care Youth Medical program.

(4) An individual is assumed eligible for Former Foster Care Youth Medical if the criteria in section (1) is met and the individual:

(b) Is 18 years of age or older, but under 26 years of age;

(c) Was in foster care under the responsibility of the State or Tribe and enrolled in Medicaid under the State's Medicaid State plan or 1115 demonstration upon attaining:

(A) Age 18, or

(B) If over 18, the age at which Oregon Medicaid or Oregon Tribal foster care assistance ended under title IV-E of the Act;

(d) Is not receiving SSI; and

(e) Is not receiving adoption assistance or foster care maintenance payments

Stat. Auth: ORS 411.402, 411.404, 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 413.038, 414.025, 414.231, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0410

MAGI CHIP Specific Requirements

In addition to eligibility requirements applicable to the MAGI CHIP program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the MAGI CHIP program.

(1) Individuals may not be eligible for the MAGI CHIP program with an effective date prior to October 1, 2014.

(2) To be eligible for the MAGI CHIP program, an individual must be under 19 years of age and must:

(a) Not be eligible for MAGI Child, MAGI Pregnant Woman, MAGI Parent or Caretaker Relative or MAGI SAC programs;

(b) Meet budgeting requirements of OAR 410-200-0315; and

(c) Not be covered by minimum essential coverage. For the purposes of this rule, a child is not considered to have minimum essential coverage if it is not accessible for one or more of the following reasons:

(A) The travel time or distance to available providers within the minimum essential coverage network exceeds:

(i) In urban areas: 30 miles, 30 minutes, or the community standard, whichever is greater; or

(ii) In rural areas: 60 miles, 60 minutes, or the community standard, whichever is greater.

(B) Accessing the minimum essential coverage would place a household group member at risk of harm.

(3) For the Authority to enroll a child in MAGI CHIP based on a determination made by an Express Lane Agency (ELA), the child's parent or guardian must give consent in writing, by telephone, orally, or through electronic signature.

Note This rule replaces and amends information previously found in OAR 461-135-1100 (7)

Stat. Auth: ORS 411.402, 411.404, 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 413.038, 414.025, 414.231, 414

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0415

MAGI Child Specific Requirements

In addition to eligibility requirements applicable to the MAGI Child program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the MAGI Child program.

(1) Individuals may not be eligible for the MAGI Child program with an effective date prior to January 1, 2014.

(2) To be eligible for the MAGI Child Program, the child must be under the age of 19 with household income at or below:

(a) 133 percent of the federal poverty level (see OAR 410-200-0315) for the applicable family size for a child over the age of one but less than age 19; or

(b) 185 percent of the federal poverty level for the applicable family size for an infant under the age of one.

(3) To be eligible for the MAGI Child Program, an individual may not:

(a) Be receiving, or deemed to be receiving, SSI benefits;

(b) Be receiving Medicaid through another program.

(4) A child born to a mother eligible for and receiving Medicaid benefits is assumed eligible for medical benefits under this rule until the end of the month the child turns one year of age, unless:

(a) The child dies;

(b) The child is no longer a resident of Oregon; or

(c) The child's representative requests a termination of the child's eligibility.

(5) To enroll a child in the MAGI Child Program based on a determination made by an Express Lane Agency (ELA), the child's parent or guardian must give consent in writing, by telephone, orally, or through electronic signature.

(6) ELE qualifies a child for medical assistance benefits based on a finding from the Department, even when the Department's eligibility methodology differs from that used for OCCS medical programs.

Stat. Auth: ORS 411.402, 411.404, 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0420

MAGI Parent or Other Caretaker Relative Specific Requirements

In addition to eligibility requirements applicable to the MAGI Parent and Other Caretaker Relative program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the MAGI Parent and Other Caretaker Relative Program.

(1) Individuals may not be eligible for the MAGI Parent and Other Caretaker Relative Program with an effective date prior to January 1, 2014.

(2) Have household group income at or below income standard for the applicable family size as identified in OAR 410-200-0315;

(3) Have a dependent child in the home. However, a dependent child for whom foster care payments are made for more than 30 days is not eligible while the payments are being made for the dependent child.

Stat. Auth: ORS 411.402, 411.404, 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

ADMINISTRATIVE RULES

410-200-0425

MAGI Pregnant Woman Program Specific Requirements

In addition to eligibility requirements applicable to the MAGI Pregnant Woman program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the MAGI Pregnant Woman program.

(1) Individuals may not be eligible for the MAGI Pregnant Woman program with an effective date prior to January 1, 2014.

(2) To be eligible for the MAGI Pregnant Woman program, an individual must:

(a) Be pregnant; and

(b) Have household income that is at or below 185 percent of the federal poverty level (see OAR 410-200-0315).

(3) Once a beneficiary is eligible and receiving Medicaid through the MAGI Pregnant Woman program, they are eligible through the end of the pregnancy and for the following two months (see OAR 410-200-0135).

Note This rule replaces and amends information previously found in OAR 461-135-1100

Stat. Auth: ORS 411.402, 411.404, 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0435

MAGI Adult Specific Requirements

In addition to eligibility requirements applicable to the MAGI Adult program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the MAGI Adult program.

(1) An individual may not be eligible for the MAGI Adult program with an effective date prior to January 1, 2014.

(2) The Agency may not allow retroactive enrollment into the MAGI Adult program for effective dates prior to January 1, 2014.

(3) To be eligible for the MAGI Adult program an individual must:

(a) Be 19 years of age or older and under age 65; and

(b) Have household income at or below 133 percent federal poverty level (see OAR 410-200-0315) for the applicable family size.

(4) To be eligible for the MAGI Adult program, an individual may not be:

(a) Pregnant;

(b) Entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act;

(c) Receiving SSI benefits; or

(d) A parent or other caretaker relative living with a dependent child who is not enrolled in minimum essential coverage.

Stat. Auth: ORS 411.402, 411.404, 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0440

Extended Medical Assistance Specific Requirements

(1) To be eligible for Extended Medical Assistance (EXT) benefits, an individual must:

(a) Have been eligible for and receiving Medical Assistance Assumed (MAA) or Medical Assistance to Families (MAF) benefits, and lost eligibility due to receipt or increase of earned income or spousal support; and

(b) Be an Oregon resident.

(2) Individuals who lose eligibility for MAA or MAF due to the receipt or increase of earned income are eligible for 12 months of EXT benefits.

(3) Individuals who lose eligibility for MAA or MAF due to the receipt or increase of spousal support are eligible for four months of EXT benefits, if they were eligible for and receiving MAA or MAF for three of the six months preceding the receipt or increase of spousal support.

(4) Once eligibility for EXT is established, the EXT household must include a dependent child.

(5) Individuals who lose EXT eligibility because they leave the household during the EXT eligibility period may regain eligibility when they return to the household.

(6) The effective date of EXT is the first day of the month following the month in which MAA or MAF eligibility ends.

(7) If an individual receives MAA or MAF during months when they were eligible for EXT:

(a) Those months are not an overpayment; and

(b) Any month in which an individual receives MAA or MAF benefits when they were eligible for EXT is counted as a month of the EXT eligibility period.

(8) If a beneficiary of MAA or MAF benefits experiences another change in conjunction with the receipt or increase of earned income or spousal support, and the other change, by itself, makes the household group ineligible for the current program, the beneficiary is not eligible for EXT.

Note This rule replaces and amends information previously found in OAR 461-135-0095; 461-135-0096

Stat. Auth: ORS 411.402, 411.404, 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0500

Transitioning benefits – 2013 Programs

(1) For individuals who apply for OCCS medical programs on or after October 1, 2013, eligibility and budgeting shall be determined according to this section of rules.

(2) Individuals who apply from October 1, 2013 through December 31, 2013 shall first be considered for the programs described in OAR 410-200-0510. If an individual is eligible for one of those programs, eligibility shall continue according to section (3) of this rule. Individuals found ineligible based on information from all budget months of October, November, or December 2013 shall have their eligibility determined as follows:

(a) Individuals who would be eligible for new programs based on eligibility and income standards which begin January 1, 2014, shall become eligible for applicable programs as of that date.

(b) Individuals who are ineligible for new programs which begin on January 1, 2014 shall be referred to the Exchange.

(3) Individuals who are eligible and receiving OCCS Medical Program benefits described in OAR 410-200-0510 on December 31, 2013, shall be treated as follows effective January 1, 2014:

(a) Individuals receiving OHP-OPU program benefits shall be converted to the MAGI Adult program.

(b) Individuals receiving HKC program benefits shall be converted to the MAGI CHIP program.

(c) Individuals receiving OHP-CHP whose household income is below 133 percent of FPL shall be converted to the MAGI Child program.

(d) All others shall maintain their current program benefits until:

(A) A change occurs that impacts their eligibility; or

(B) Their next scheduled renewal occurs according to OAR 410-200-0115.

Stat. Auth: ORS 411.402, 411.404, 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0505

Specific Requirements; SNAP-Based Eligibility for MAA, OHP-OPP, or MAGI Medicaid

In SNAP-based eligibility, the Agency relies on a determination made for SNAP program benefits. A SNAP recipient adult may be found eligible for these medical programs based on findings from the Department, even if the Department's eligibility methodology differs from that used by the Agency to determine eligibility for OCCS medical programs.

(1) For SNAP-based eligibility, the adult must have SNAP income that is at or below the applicable income standards for MAA, OHP-OPP, or MAGI Medicaid.

(2) A new application is not required for SNAP-based eligibility.

(3) For SNAP-based eligibility, the adult in the household group must:

(a) Not be eligible for or receiving Supplemental Security Income;

(b) Indicate they wish to pursue medical assistance;

(c) Agree to cooperate with the Division of Child Support; and

(d) Meet the specific program requirements for the applicable program.

(4) If the individual requests SNAP-based eligibility and is not eligible, the Authority must review the individual's eligibility for OCCS medical programs based on a full determination without requiring a new application. The date of request is the date the Authority received consent for SNAP-based eligibility.

Stat. Auth: ORS 411.402, 411.404, 413.042, 413.038

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 413.038, 414.025, 414.231, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0510

Specific Program Requirements; BCCM, CEC, CEM, EXT, MAA, MAF, OHP, HKC, and SAC

(1) Except for HKC as outlined in section (18), this rule describes OCCS medical programs for which individuals may be determined eligible

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through December 31, 2013. See OAR 410-200-0050 for information regarding the treatment of those beneficiaries as of January 1, 2014.

(2) To be eligible for a program listed in this rule, an individual must meet the following:

(a) The eligibility factors set forth in OAR 410-200-0200 through 410-200-0240;

(b) The budgeting and income standard requirements set forth in OAR 410-200-0300 through 410-200-0315; and

(c) The individual must have established a date of request prior to January 1, 2014.

(3) For purposes of this rule, private major medical health insurance means a comprehensive major medical insurance plan that, at a minimum, provides physician services; inpatient and outpatient hospitalization; outpatient lab, x-ray, immunizations; and prescription drug coverage. This term does not include coverage under the Kaiser Child Health Program or Kaiser Transition Program but does include policies that are purchased privately or are employer-sponsored.

(4) For the purposes of this rule, the receipt of private major medical health insurance does not affect OCCS Medical Program eligibility if it is not accessible. Private major medical health insurance is not considered accessible if:

(a) The travel time or distance to available providers exceeds:

(A) In urban areas: 30 miles, 30 minutes, or the community standard, whichever is greater;

(B) In rural areas: 60 miles, 60 minutes, or the community standard, whichever is greater.

(b) Accessing the private major medical health insurance would place a filing group member at risk of harm.

(5) To be eligible for Chafee medical, the individual must be a child who was receiving foster care in Oregon, and foster care ended when they aged off at age 18.

(6) CEM provides eligibility for the balance of the 12-month eligibility period for non-CAWEM children who were receiving Child Welfare (CW) medical, EXT, MAA, MAF, OHP, OSIPM, or SAC program benefits and lost eligibility for reasons other than moving out of state or turning 19 years old. CEM benefits end when:

(a) The child becomes eligible for CW medical, EXT, MAA, MAF, OHP, OSIPM, or SAC program benefits;

(b) The child turns 19 years of age;

(c) The child moves out of state; or

(d) Benefits are closed voluntarily.

(7) CEC provides eligibility for the OHP-CHP program for non-CAWEM pregnant children who were receiving OHP-CHP and would have otherwise lost eligibility for reasons other than moving out of state or becoming a recipient of private major medical health insurance. CEC eligibility for OHP-CHP ends the day following the end of the month in which the earliest of the following occur:

(a) The pregnancy ends;

(b) The individual moves out of state;

(c) The individual begins receiving private major medical health insurance;

(d) Benefits are closed voluntarily; or

(e) The individual becomes eligible for CW medical, EXT, MAA, MAF, OHP, OSIPM, or SAC program benefits.

(8) For the Authority to enroll a child in the program based on a determination made by an ELA, the child's parent or guardian must give consent in writing, by telephone, orally, or through electronic signature.

(9) To be eligible for EXT, an individual must have been eligible for and receiving MAA or MAF and became ineligible due to a caretaker relative's increased earned income or due to increased spousal support (see OAR 410-200-0440).

(10) To be eligible for MAA or MAF, an individual must be one of the following:

(a) A dependent child who lives with a caretaker relative. However, a dependent child for whom foster care payments are made for more than 30 days is not eligible while the payments are being made.

(b) A caretaker relative of an eligible dependent child. However, a caretaker relative to whom foster care payments are made for more than 30 days is not eligible while the payments are being made.

(c) A caretaker relative of a dependent child, when the dependent child is ineligible for MAA or MAF for one of the following reasons:

(A) The child is receiving SSI;

(B) The child is in foster care, but is expected to return home within 30 days; or

(C) The child's citizenship has not been documented.

(d) An essential person. An essential person is a member of the household group who:

(A) Is not required to be in the filing group;

(B) Provides a service necessary to the health or protection of a member of the household group who has a mental or physical disability; and

(C) Is less expensive to include in the benefit group than the cost of purchasing this service from another source.

(e) A parent of an unborn as follows:

(A) For the MAA program:

(i) Any parent whose only child is an unborn child, once the mother's pregnancy has reached the calendar month preceding the month in which the due date falls.

(ii) The father of an unborn child who does not meet the criteria described in subsection (9)(e)(A)(i) of this part may be eligible if there is another dependent child in the household group.

(B) For the MAF program, a mother whose only child is an unborn child, once the mother's pregnancy has reached the calendar month preceding the month in which the due date falls

(11) To be eligible for any OHP program in sections (11) through (15), an individual may not be:

(a) Receiving SSI benefits;

(b) Eligible for Medicare, except that this requirement does not apply to the OHP-OPP program;

(c) Receiving Medicaid through any other program concurrently.

(12) To be eligible for the OHP-OPC program, an individual must be less than 19 years of age.

(13) To be eligible for the OHP-OP6 program, a child must be less than six years of age and not eligible for OHP-OPC.

(14) To be eligible for the OHP-OPP program, an individual must:

(a) Be pregnant;

(b) Be within the two calendar months following the month in which the pregnancy ended; or

(c) Be an infant under age one.

(15) To be eligible for the OHP-CHP program, an individual must be under 19 years of age and must:

(a) Not be eligible for the OHP-OPC, OHP-OPP, or OHP-OP6 programs; and

(b) Not be covered by any private major medical health insurance. An individual may be eligible for OHP-CHP if the private major medical health insurance is not accessible as outlined in section (4).

(16) Effective July 1, 2004, the OHP-OPU program is closed to new applicants. Except as provided in subsections (a) and (b) of this section, a new applicant may not be found eligible for the OHP-OPU program.

(a) An individual is not a new applicant if the Department determines that the individual is continuously eligible for medical assistance as follows:

(A) The individual is eligible for and receiving benefits under the OHP-OPU program on June 30, 2004, and the Department determines that the individual continues after that date to meet the eligibility requirements for the OHP-OPU program.

(B) The individual is eligible for and receiving benefits under the CAWEM program on June 30, 2004, and is eligible for the CAWEM program based on the OHP-OPU program, and the Department determines that the individual continues to meet the eligibility requirements for the OHP-OPU program except for citizenship or alien status requirements.

(C) The eligibility of the individual ends under the BCCM, CEC, CEM, EXT, GAM, HKC, MAA, MAF, OHP-CHP, OHP-OPC, OHP-OPP, OSIPM, REFM, or SAC program, or the related CAWEM program; or because the individual has left the custody of the Oregon Youth Authority (OYA); and at that time the Department determines that the individual meets the eligibility requirements for the OHP-OPU program.

(D) The individual is a child in the custody of the Department whose eligibility for Medicaid ends because of the child's age and at that time the Department determines that the individual meets the eligibility requirements for the OHP-OPU program.

(E) The Department determines that the individual was continuously eligible for the OHP-OPU program on or after June 30, 2004 under paragraphs (A) to (D) of this section.

(b) An individual who is not continuously eligible under subsection (a) is not a new applicant if the individual:

(A) Has eligibility end under the BCCM, CEC, CEM, EXT, HKC, MAA, MAF, OHP-CHP, OHP-OPP, OHP-OPU, OSIPM, REFM, or SAC program, or the related CAWEM program; because the individual has left the custody of the OYA; or is a child in the custody of the Department whose eligibility for Medicaid ends due to the child's age;

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(B) Established a date of request prior to the eligibility ending date in paragraph (A) of this section; and

(C) Meets the eligibility requirements for the OHP-OPU program or the related CAWEM program within either the month of the date of request or, if ineligible in the month of the date of request, the following month.

(17) To be eligible for the OHP-OPU program, an individual must meet the requirements listed in section (16), and be 19 years of age or older and may not be pregnant. Additionally, an individual must meet the following requirements:

(a) Must be currently receiving Medicaid or CHIP benefits when determined eligible for OHP-OPU.

(b) Must not be covered by any private major medical health insurance. An individual may be eligible for OHP-CHP if the private major medical health insurance is not accessible as outlined in section (4).

(c) May not have been covered by private major medical health insurance during the six months preceding the effective date for starting medical benefits. The six-month waiting period is waived if:

(A) Any of the criteria in section (4) are met;

(B) The individual has a condition that, without treatment, would be life-threatening or would cause permanent loss of function or disability;

(C) The individual's health insurance premium was reimbursed because the individual was receiving Medicaid, and the Department or the Authority found the premium was cost-effective;

(D) The individual's health insurance was subsidized through FHIAP or the Office of Private Health Partnerships in accordance with ORS 414.231, 414.826, 414.831, and 414.839; or

(E) A member of the individual's household group was a victim of domestic violence.

(18) The HKC program is closed to new enrollment effective October 1, 2013. To be eligible for the HKC program, an individual must be under 19 years of age and must:

(a) Not be eligible for the OHP-OPC, OHP-CHP, OHP-OPP, or OHP-OP6 programs; and

(b) Not be covered by any private major medical health insurance. An individual may be eligible for HKC if the private major medical health insurance is not accessible as outlined in section (4).

(19) To be eligible for the SAC program, an individual must meet the specific eligibility requirements for MAGI SAC found in OAR 410-200-0405.

(20) Except for OHP-CHP and CEC, a pregnant woman who is eligible for and receiving benefits through any program listed in this rule remains eligible through the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.

(21) A child who becomes ineligible for the OHP program because of age while receiving in-patient medical services remains eligible until the end of the month in which he or she no longer receives those services if he or she is receiving in-patient medical services on the last day of the month in which the age requirement is no longer met.

Stat. Auth.: ORS 411.402, 411.404, 413.042, 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

410-200-0515

OHP-OPU Premiums

(1) OHP-OPU beneficiaries must pay a monthly premium unless the beneficiary is exempt as any of the following:

(a) A member of a federally recognized Indian tribe, band, or group.

(b) An Eskimo, Aleut, or other Alaska native enrolled by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act.

(c) An individual eligible for benefits through an Indian Health Program.

(d) An individual eligible for CAWEM benefits (see OAR 410-200-0240).

(e) An individual whose household group income is 10 percent or less of the federal poverty level in at least one of the following situations:

(A) Using income assigned to the budget month at certification or renewal;

(B) Using income assigned to the budget month at most recent eligibility determination, when an OHP-OPU beneficiary leaves the household group.

(C) Using income assigned to the budget month at most recent eligibility determination, when multiple OHP program cases are combined into one case.

(2) Each non exempt beneficiary is responsible for payment of premiums.

(3) Once the amount of the premium is established, the amount shall not change until a redetermination takes place, unless the conditions under at least one of the following apply:

(a) A beneficiary becomes pregnant.

(b) A beneficiary becomes eligible for another program.

(c) An OHP-OPU beneficiary leaves the household group, and the remaining household group income is 10 percent or less of the federal poverty level.

(d) OHP program cases are combined.

(e) A beneficiary's exemption status changes.

(4) A premium is considered paid on time when the payment is received by the Oregon Health Plan billing office on or before the due date which is the 20th of the month for which the premium was billed. The day the payment arrives in the billing office's post office box when sent via mail or the day it is submitted via telephone or electronically to the billing office is the date it is received. A premium not paid on time is in arrears. A premium is past due when it has not been paid within six months of the due date. A client will not lose eligibility due to premiums in arrears or past due premiums unless an eligibility determination takes place. All premiums in arrears and past due premiums for a filing group must be paid before a client can be redetermined for ongoing eligibility.

(5) For any billed premium, the Agency shall cancel the arrearage if the applicant is otherwise eligible for the OHP-OPU program and one of the following applies:

(a) The arrearage was incurred while the client was exempt from the requirement to pay a premium; or

(b) The applicant is exempt from the requirement to pay premiums under section (1)(e) of this rule.

(6) The Agency shall cancel any premium arrearage over three years old.

(7) The following steps are followed to determine the amount of the monthly premium for an individual:

(a) The number of persons in the OHP household group is determined in accordance with OAR 410-200-0305.

(b) The countable income of the household group is determined in accordance with OAR 410-200-0310. Based on the number in the household group and the countable income, the monthly premium for each non-exempt OHP-OPU beneficiary is determined using the following table: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS, 411.404, 411.431, 411.432, 414.025
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.431, 411.432, 414.025
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14

Rule Caption: Align with Department of Human Services OAR chapter 461, medical eligibility rules

Adm. Order No.: DMAP 55-2013(Temp)

Filed with Sec. of State: 10-2-2013

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Notice Publication Date:

Rules Amended: 410-120-0006

Rules Suspended: 410-120-0006(T)

Subject: The General Rules Program administrative rules govern the Division's payments for services provided to clients, and medical assistance eligibility determinations made by the Oregon Health Authority. In coordination with the Department of Human Services' (Department) revision of medical eligibility rules in chapter 461, the Division is amending OAR 410-120-0006 to assure that the Division's medical eligibility rule aligns with and reflects information found in the Department's medical eligibility rules. In OAR

410-120-0006, the Division adopts in rule by reference Department eligibility rules and must update OAR 410-120-0006 in conjunction.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-120-0006

Medical Eligibility Standards

As the state Medicaid and CHIP agency, the Oregon Health Authority (Authority) is responsible for establishing and implementing eligibility policies and procedure consistent with applicable law. As outlined in 943-001-0020; the Authority, and the Department of Human Services (Department) work together to adopt rules to assure that medical assistance eligibility procedures and determinations are consistent across both agencies.

ADMINISTRATIVE RULES

(1) The Authority adopts and incorporates by reference the rules established in OAR chapter 461 and in effect October 2, 2013, for all medical eligibility requirements for medical assistance when the Authority conducts eligibility determinations.

(2) Any reference to OAR chapter 461 in Oregon Administrative Rules or contracts of the Authority are deemed to be references to the requirements of this rule and shall be construed to apply to all eligibility policies, procedures and determinations by or through the Authority.

(3) For purposes of this rule, references in OAR chapter 461 to the Department or to the Authority shall be construed to be references to both agencies.

(4) Effective on or after July 1, 2011 the Authority shall conduct medical eligibility determinations using the OAR chapter 461 rules which are in effect on the date the Authority makes the medical eligibility determination.

(5) A request for a hearing resulting from a determination under this rule, made by the Authority shall be handled pursuant to the hearing procedures set out in division 25 of OAR chapter 461. References to "the Administrator" in division 25 of chapter 461 or "the Department" are hereby incorporated as references to the Authority."

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.065

Hist.: DMAP 10-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 18-2011(Temp), f. & cert. ef. 7-15-11 thru 1-11-12; DMAP 21-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-11-12; DMAP 25-2011(Temp), f. 9-28-11, cert. ef. 10-1-11 thru 1-11-12; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-10-12; DMAP 2-2012(Temp), f. & cert. ef. 1-26-12 thru 7-10-12; DMAP 3-2012(Temp), f. & cert. ef. 1-31-12 thru 2-1-12; DMAP 4-2012(Temp), f. 1-31-12, cert. ef. 2-1-12 thru 7-10-12; DMAP 9-2012(Temp), f. & cert. ef. 3-1-12 thru 7-10-12; DMAP 21-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-10-12; DMAP 25-2012(Temp), f. & cert. ef. 5-1-12 thru 7-10-12; Administrative correction 8-1-12; DMAP 35-2012(Temp), f. & cert. ef. 7-20-12 thru 1-15-13; DMAP 45-2012(Temp), f. & cert. ef. 10-5-12 thru 1-19-13; DMAP 50-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 53-2012(Temp), f. & cert. ef. 11-1-12 thru 4-29-13; DMAP 56-2012(Temp), f. 11-30-12, cert. ef. 12-1-12 thru 4-1-13; DMAP 60-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 65-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DMAP 2-2013(Temp), f. & cert. ef. 1-8-13 thru 6-29-13; DMAP 3-2013(Temp), f. & cert. ef. 1-30-13 thru 6-29-13; DMAP 5-2013(Temp), f. & cert. ef. 2-20-13 thru 6-29-13; DMAP 7-2013(Temp), f. & cert. ef. 3-1-13 thru 6-29-13; DMAP 12-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 17-2013, f. & cert. ef. 4-10-13; DMAP 24-2013, f. & cert. ef. 5-29-13; DMAP 32-2013, f. & cert. ef. 6-27-13; DMAP 39-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 1-28-14; DMAP(Temp), f. 8-21-13, cert. ef. 8-23-13 thru 1-28-14; DMAP 51-2013, f. & cert. ef. 10-1-13; DMAP 52-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 55-2013(Temp), f. & cert. ef. 10-2-13 thru 3-31-14

Oregon Health Authority, Office for Oregon Health Policy and Research Chapter 409

Rule Caption: Adoption of Administrative Standards for Health Professional Student Clinical Training

Adm. Order No.: OHP 8-2013

Filed with Sec. of State: 9-30-2013

Certified to be Effective: 7-1-14

Notice Publication Date: 8-1-2013

Rules Adopted: 409-030-0100, 409-030-0110, 409-030-0120, 409-030-0130, 409-030-0140, 409-030-0150, 409-030-0160, 409-030-0170, 409-030-0180, 409-030-0190, 409-030-0200, 409-030-0210, 409-030-0220, 409-030-0230, 409-030-0240, 409-030-0250

Subject: These rules establish standards for administrative requirements for health professional student placements in clinical training settings within the state of Oregon. The intended purpose of the standards is to mitigate inconsistencies that currently exist across clinical placements; promote efficient solutions to reduce costs for students, schools, and clinical placement sites; and to ensure patient, clinical staff and student safety. These standards pertain to credentials that applicable students must obtain and requirements that clinical placement sites can set.

Rules Coordinator: Zarie Haverkate—(503) 373-1574

409-030-0100

Purpose

These rules (OAR 409-030-0100 to 409-030-0250) establish standards for administrative requirements for health professional student placements in clinical training settings within the state of Oregon. The purpose of these rules is to mitigate inconsistencies that currently exist across clinical placements; to promote efficient solutions to reduce costs for students, health profession programs and clinical placement sites; and to ensure patient, clinical staff and student safety. These rules pertain to credentials

that students must obtain and requirements that clinical placement sites may set. These rules are effective July 1, 2014.

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

409-030-0110

Definitions

The following definitions apply to OAR 409-030-0100 to 409-030-0250:

(1) "Administrative requirements" means those requirements that must be documented and verified before health professions program students may begin clinical placements, and includes criminal background checks, drug testing for substance abuse, health screenings, immunizations, and basic training standards.

(2) "Advanced practice nurse" means nursing practice areas inclusive of nurse practitioners, nurse midwives, clinical nurse specialists, and nurse anesthetists.

(3) "Authority" means the Oregon Health Authority.

(4) "CDC" means the federal Centers for Disease Control and Prevention.

(5) "Clinical placement" means any clinical rotations, internships, residencies, fellowships, and any other clinical training experience that a student undergoes as part of their health professions program.

(6) "Clinical setting" or "clinical site" means the clinical facility at which a student undergoes training during a clinical placement.

(7) "Direct contact with patients" means clinical or therapeutic interaction with a patient, in a one-on-one or group setting at the clinical placement setting or an associated location, including but not limited to meetings, examinations, or procedures.

(8) "Evidence of Immunization" means a statement signed and dated by a licensed practitioner who has within the scope of the practitioner's license the authority to administer immunizations or a representative of the local health department certifying the immunizations the student has received.

(9) "For cause" means that the behavior of a student or instructor gives the health profession program or clinical site reason to believe that the individual is not complying with established standards set forth in these rules.

(10) "Health profession program" means a post-secondary course of study that concentrates on a health profession discipline as described in OAR 409-030-0130 and offers students instruction and training for becoming a health care professional.

(11) "Immunization" means receipt of any vaccine licensed by the United States Food and Drug Administration or the foreign equivalent for the prevention of a disease; proof of immunity to the disease via titer; or confirmed history of the disease.

(12) "Individually identifiable health information" has the meaning given that term in ORS 433.443.

(13) "Instructor" means a teacher, trainer, or advisor on the faculty of the educational institution who is overseeing a student onsite during clinical training on behalf of the training program which the student attends. The degree of involvement of instructors in a student's clinical training experience may vary between programs, and may include but is not limited to observation, demonstration of technique, modeling of behavior, and regular feedback.

(14) "Licensed independent practitioner" means an individual permitted by Oregon law to independently provide care and services, without direction or supervision, within the scope of the individual's license.

(15) "Matriculated" means to be enrolled or registered for classes, as a student.

(16) "Patient" means an individual who is seeking care, guidance or treatment options at a clinical location.

(17) "School" or "educational institution" means the post-secondary college, university or other training program in which the student is matriculated for a health professions program.

(18) "Student" means an individual enrolled as a student or registered for a post-secondary school or training programs required minimum credit hours in an accredited health professions program of study.

(19) "Supervisor" means a staff member at a clinical facility who is delegated to provide supervision, to monitor student performance and to provide feedback to the student and the clinical educator and other educational training program faculty.

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

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409-030-0120

General applicability

(1) These rules apply to all students who:

(a) Plan to undergo clinical training at a setting listed in OAR 409-030-0140 within the state of Oregon; regardless of the location of the health profession program in which the student is matriculated;

(b) Concentrate on a health professional discipline listed in OAR 409-030-0130;

(c) Have direct contact with patients at any point during the clinical placement; and

(d) Are matriculated into and currently enrolled in a health professional training program as described in OAR 409-030-0130.

(2) Clinical sites may require instructors from the health profession program to satisfy the same requirements for immunizations, screenings, trainings, and other requirements set forth in these rules, if the instructor accompanies students onsite during clinical training and engages in direct contact with patients on behalf of or in support of the student.

(3) Except as provided in OAR 409-030-0150, covered clinical sites may not create additional or more stringent administrative requirements within the categories addressed by these rules for students and instructors covered by these rules.

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

409-030-0130

Health Professional Disciplines

(1) Except as provided in OAR 409-030-0150, these rules apply to students of the following health professions:

(a) Audiologists, as defined in ORS 681.205;

(b) Clinical laboratory science specialists, including medical technologists, clinical lab scientists, medical lab technologists, and clinical laboratory assistants, as defined in ORS 438.010;

(c) Dental hygienists, as defined in ORS 679.010;

(d) Dentists and dental assistants, as defined in ORS 679.010;

(e) Denturists, as defined in ORS 680.500;

(f) Dietitians, as defined in ORS 691.405;

(g) Emergency medical services providers, as defined in ORS 682.025;

(h) Hemodialysis technicians, as defined in ORS 688.635;

(i) Marriage and family therapists, as defined in ORS 675.705;

(j) Medical assistants (trained medical office and ancillary healthcare personnel who perform clinical tasks such as taking vital signs, preparing patients for examinations, or recording medical histories of patients, administrative duties, and other duties);

(k) Medical imaging practitioners and limited x-ray machine operators, as defined in ORS 688.405;

(l) Nurses, including registered nurses, practical nurses, advanced practice nurses, nurse practitioners, nursing assistants, medication aides and any other assistive nursing personnel licensed or certified under ORS 678.010 to 678.445;

(m) Occupational therapists and occupational therapy assistants, as defined in ORS 675.210;

(n) Optometrists, as described in ORS 683.010 to 683.310.

(o) Pharmacists and pharmacy technicians, as defined in ORS 689.005;

(p) Physical therapists, physical therapist aides, and physical therapist assistants, as defined in ORS 688.010;

(q) Physician assistants, as defined in ORS 677.495;

(r) Physicians (Medical/Osteopathic and Naturopathic), as defined in ORS 677.010 and 685.010;

(s) Podiatrists, as defined in ORS 677.805;

(t) Polysomnographic technologists, as defined in ORS 688.800;

(u) Professional counselors, as defined in ORS 675.705;

(v) Psychologists, as defined in ORS 675.010;

(w) Regulated social workers, as defined in ORS 675.510;

(x) Respiratory care practitioners, as defined in ORS 688.800;

(y) Speech-language pathologists and speech-language pathologist assistants, as defined in ORS 681.205; and

(z) Surgical technologists (allied health professionals under the supervision of a surgeon who are trained in advanced sterile techniques and theories and facilitate safety throughout the operative procedure);

(2) These rules do not apply to students engaged in a field of study that is not explicitly listed in section (1). Academic institutions and clinical placement settings should individually negotiate the terms of placement for students not covered by these rules. Clinical facilities may choose to require

that such students follow the standards set forth in these rules but are not required to do so.

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

409-030-0140

Clinical Settings

(1) Except as provided in section OAR 409-030-0140(2) and 409-030-0150, these rules apply to the following clinical facilities hosting health professions students in the disciplines described in OAR 409-030-0130:

(a) Ambulatory care settings, including but not limited to clinics, private practices, Federally Qualified Health Centers, and primary care homes;

(b) Ambulatory surgical centers, as defined in ORS 442.015;

(c) Hospice, as defined in ORS 443.860;

(d) Hospitals and emergency departments, as defined in ORS 442.015;

(e) Long term care facilities, as defined in ORS 442.015;

(f) Residential care facilities, as defined in ORS 443.400; and

(g) Skilled nursing facilities, as defined in ORS 442.015.

(2) In addition to the exceptions provided in OAR 409-030-0150, these rules do not apply to the following clinical facilities hosting health professions students in the disciplines described in OAR 409-030-0130 for a clinical placement:

(a) Chiropractic, acupuncture, and massage therapy clinics or offices that are independent and not associated with a clinical placement setting listed in OAR 409-030-0140(1).

(b) Federal facilities, including Department of Veterans' Affairs facilities, Indian Health Service facilities, and federal prisons. Standards for clinical placement in federal facilities are set at the federal level.

(c) Health management or administration departments.

(d) Public elementary and secondary schools (grades K-12).

(e) Radiosurgery clinical placements. The Nuclear Regulatory Commission sets requirements for students involved in radiosurgery.

(f) State prisons and correctional facilities.

(3) Completion of the administrative requirements in these rules only ensures administrative clearance for students. Clinical placement settings shall make all final clearance and placement decisions.

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

409-030-0150

Exceptions

(1) In addition to the exceptions listed in OAR 409-030-0130(2) and 409-030-0140(2), the standards in these rules does not apply to:

(a) Students who will not have direct patient contact as part of their clinical placement.

(b) Students who are undergoing training overseen by their employer, academic institution, or training program at facilities that are located on the premises of or operated solely by the employer, academic institution or training program, or are otherwise considered "in-house" clinics.

(2) Clinical placement sites that have fewer or less stringent administrative requirements for newly hired non-student employees may request exemption from specific provisions of OAR 409-030-0170 through 409-030-0240 for students performing clinical placements at that site. For example, a clinical placement site that does not require regular employees to take a drug screen prior to being hired may request exemption from the section of these rules that require students to take a drug screen prior to being placed at that clinical site. However:

(a) All exemptions must be documented with the Authority prior to implementation of the exemption; and

(b) Clinical placement sites may only request exemptions from the specific category or section of these rules in which their requirements for newly-hired non student employees are less (such as immunizations, screenings, trainings or other listed in Table 1). Clinical placement sites with an exemption to a specific category of the administrative requirements must still abide by all other sections of these rules.

(3) Exemption requests may be submitted by:

(a) Clinical placement sites; or

(b) Educational institutions, on behalf of and in consultation with the clinical placement sites with which they contract and place students for clinical training.

(4) A request for exemption must include:

(a) The name and mailing address of the clinical placement setting.

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(b) The supervisor or manager of student clinical placements on site, and email address and a phone number.

(c) A request for exemption from a specific section of the rules, that includes a description of the clinical placement setting's requirements for newly hired non-student employees, and how they differ from the requirements set forth in these rules.

(5) Clinical placement settings may temporarily institute a site-specific variation or change to a requirement listed in OAR 409-030-0170 through 409-030-0240 in extenuating circumstances including but not limited to a public health emergency situation, such as an outbreak that requires new or different vaccination or a safety breach that requires immediate action, provided that the clinical placement setting clearly notifies all affected parties and the Authority in advance of the changes.

(6) Once instituted, a change or variation of these rule requirements may remain in place at the individual clinical training placement setting until the next annual review of the rules, at which point a decision will be made that:

(a) The change or variation is one mandated by a federal or state regulatory agency and will therefore be incorporated into these rules for all affected clinical placement settings and health profession students; or

(b) The change or variation would improve student and patient safety significantly and should be applied widely to clinical placement settings and health profession students in the state of Oregon, through an amendment to these rules; or

(c) The change or variation is not appropriate for widespread application to clinical placement settings and health professions students in the state of Oregon. In this case, the change or variation may not be re-instated by the clinical placement site after the annual review of the rules.

Stat. Auth.: ORS 413.435
Stats. Implemented: ORS 413.435
Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

409-030-0160

Regular Review of Clinical Placement Standards

(1) The Authority shall convene an advisory group that may include representatives of affected students, health profession programs, clinical settings, and healthcare boards that regulate health profession programs. The Authority and the advisory group shall review the standards set forth in sections OAR 409-030-0170 through 409-030-0240 of these rules annually. Affected parties may bring proposed changes to the annual review process.

(2) Standards for immunizations are based on the CDC Advisory Committee on Immunization Practices guidance and other state and federal regulatory bodies overseeing immunization and vaccinations. Rules shall be updated as needed to remain in compliance with suggested vaccination schedules and other recommendations from these regulatory bodies related to the applicable immunizations and screenings listed in Table 1.

(3) State and nationwide criminal background check standards are based on rules determined by authorized state and federal regulatory bodies, including but not limited to the Joint Commission.

Stat. Auth.: ORS 413.435
Stats. Implemented: ORS 413.435
Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

409-030-0170

Administrative Requirements for Clinical Placement

(1) To qualify for a clinical placement at a covered site within the state of Oregon, covered students must satisfy requirements for each of the following categories prior to the start of the intended placement period. See Table 1 for an expanded list relating to:

- (a) Immunizations; and
- (b) Screenings;
- (c) Trainings; and
- (d) Evidence of coverage for professional liability and general liability

(2) Health profession programs and clinical placement settings are not required to pay for or otherwise administer any screenings or tests listed in these rules.

(3) Health profession programs must verify and retain evidence demonstrating that a student has completed all requirements listed in these rules prior to starting a placement for the student at a clinical setting. The health profession program shall provide evidence of completed requirements to clinical sites, as requested.

Stat. Auth.: ORS 413.435
Stats. Implemented: ORS 413.435
Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

409-030-0180

Immunization Standards

(1) Table 1 lists the diseases and the corresponding required immunizations that students must have in order to receive a clinical placement or the immunizations that students are recommended to have but that are not required in order to receive a clinical placement.

(2) Evidence of immunization may be demonstrated through the following:

(a) A document appropriately signed or officially stamped and dated by a qualified medical professional or an authorized representative of the local health department, which must include the following:

- (A) The month and year of each dose of each vaccine received; or
- (B) Documentation of proof of immunity to the disease via titer; or
- (C) The month and year the diagnosis of the disease was confirmed.

(b) An official record from the Oregon ALERT Immunization Information System.

(3) Individual student exemption to specific immunization requests are possible and must be maintained by health profession programs as part of the overall record of the student. Documentation for exemption requires one or more of the following:

(a) A written statement of exemption signed by a licensed independent practitioner; or

(b) A written statement of religious exemption, signed by the student.

Stat. Auth.: ORS 413.435
Stats. Implemented: ORS 413.435
Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

409-040-0190

Screening Standards

Table 1 provides detailed information related to required screenings for students' clinical placements. Required screenings consist of:

- (1) Tuberculosis (OAR 409-030-0200);
- (2) Substance abuse or misuse (OAR 409-030-0210); and
- (3) State and nationwide criminal background check (OAR 409-030-0220).

Stat. Auth.: ORS 413.435
Stats. Implemented: ORS 413.435
Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

409-030-0200

Tuberculosis Screening

(1) A student must obtain and provide documentation for TB screening consistent with the requirements for immunization in OAR 409-030-0180.

(2) TB screening must be conducted in a manner consistent with the CDC guidelines available at <http://www.cdc.gov/tb/topic/testing/> or other state or federal health authority guidelines prior to the start date of the initial clinical placement.

Stat. Auth.: ORS 413.435
Stats. Implemented: ORS 413.435
Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

409-030-0210

Drug Testing for Substance Abuse and Misuse

(1) A student must undergo a drug test prior to the start date of initial placement at a covered clinical setting. Subsequent drug screenings may not be required except for cause. These rules do not aim to define an "acceptable" result to a drug screen. These rules ensure completion of the administrative requirements necessary for administrative clearance for students. Clinical placement settings shall make all final clearance and placement decisions.

(2) At a minimum, a covered student seeking a clinical placement at a covered clinical site must undergo a standard 10-panel drug test and must sign any necessary authorizations. Screens for the following eight (8) substances must be included in the 10-panel drug screen:

- (a) Amphetamines (including methamphetamines)
- (b) Barbiturates
- (c) Benzodiazepines
- (d) Cocaine
- (e) Marijuana
- (f) Methadone
- (g) Opiates, and
- (h) Phencyclidine.

(3) All drug testing must be conducted by a laboratory licensed and operated in accordance with ORS 438.010 and OAR 333-024-0305 through 333-024-0350. The health profession program must verify that screening is performed by a reputable vendor.

Stat. Auth.: ORS 413.435

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Stats. Implemented: ORS 413.435
Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

409-030-0220

State and Nationwide Criminal Background Checks

(1) Students must undergo a state and nationwide criminal background check in advance of the start of their initial clinical placements.

(2) These rules do not aim to establish or define the composition of an “acceptable” result to a state and nationwide criminal background check. These rules ensure completion of the administrative requirements necessary for administrative clearance for students. Clinical placement settings shall make all final clearance and placement.

(3) State and nationwide criminal background checks must be:

(a) Performed by a vendor that is accredited by the National Association of Professional Background Screeners (NAPBS); or

(b) Performed by a vendor that meets the following criteria:

(A) Has been in the business of criminal background checks for at least two years;

(B) Has a current business license and private investigator license, if required in the company’s home state; and

(C) Maintains an errors and omissions insurance policy in an amount not less than \$1 million; or

(c) Conducted through an Oregon health professional licensing board, if required for students by such Board. (For example students of pharmacy are required by the Oregon Board of Pharmacy to obtain an intern license prior to engaging in clinical training and must undergo a national fingerprint-based background check.)

(4) A criminal records check must include the following:

(a) Name and address history trace;

(b) Verification that the students’ records have been correctly identified, using date of birth and a Social Security number trace;

(c) A local criminal records check, including city and county records for the student’s places of residence for the last seven years;

(d) A nationwide multijurisdictional criminal database search, including state and federal records;

(e) A nationwide sex offender registry search;

(f) A query with the Office of the Inspector General’s List of Excluded Individuals/Entities (LEIE);

(g) The name and contact information of the vendor who completed the records check;

(h) Arrest, warrant and conviction data, including but not limited to:

(A) Charges;

(B) Jurisdictions; and

(C) Date.

(i) Sources for data included in the report.

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

409-030-0230

Training Standards

(1) Students must complete all listed trainings in advance of the start date of the students’ initial clinical placement. See Table 1 for additional descriptions and recommended training resources.

(2) Students must complete the following steps for trainings that require certification:

(a) Complete training program in cardiopulmonary resuscitation (CPR), also known as Basic Life Support (BLS), at the healthcare provider level. Recommended trainings for CPR/BLS should comply with the standards set by the American Heart Association.

(b) Provide verified documentation as to the successful completion of CPR/BLS training, and

(c) Maintain current certification for CPR/BLS during the clinical placement.

(3) Health profession programs must provide documentation or a signed statement that the student has received prior training, taken educational courses, or is otherwise familiar with the following:

(a) The Health Insurance Portability and Accountability Act (HIPAA)

(b) Bloodborne Pathogen training that is compliant with the federal Occupational Safety and Health Administration (OSHA) requirements.

(c) Federal OSHA recommended safety guidelines, including:

(A) Fire and electrical safety;

(B) Personal protective equipment;

(C) Hazard communications; and

(D) Infection prevention practices.

(4) Health profession programs shall provide documentation of completed trainings, as requested by clinical sites.

(5) Clinical sites may require students to complete additional site-specific trainings or on-boarding procedures, including:

(a) Site-specific privacy and confidentiality trainings.

(b) Site-specific orientation trainings and on-boarding procedures, such as facility-specific protocols for safety, security, documentation systems, and standards of behavior or signing a non-disclosure statement.

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

409-030-0240

Insurance and Liability Coverage

(1) Prior to clinical training, students or health profession programs must demonstrate that students have one of the following types of coverage and that the coverage will remain in place for the entire duration of each placement:

(a) Professional liability insurance coverage, and

(b) General liability insurance coverage; or

(c) Coverage under a combined policy for professional and general liability insurance.

(2) A health profession program may offer coverage for students through a self-insurance program or the student may obtain coverage individually.

(3) Health profession programs shall maintain records related to insurance and provide them to clinical sites, as requested.

(4) Prior to clinical placement, it is recommended but not required that students obtain some form of health insurance coverage, such as personal major medical insurance or Workers’ Compensation insurance provided by the health profession program, and that the coverage remain in place for the entire duration of each placement.

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

409-030-0250

Information Sharing or Use of Data

(1) Only clinical sites that have a contractual agreement with a student’s training program may access the documentation and evidence related to completion of the administrative requirements.

(2) Students must provide written, signed permission that explicitly allows the sharing of required documents and necessary evidence with clinical sites, including but not limited to any release required under HIPAA or other applicable laws in order to disseminate the student’s personal health information under these rules.

(3) Dissemination of information received under these rules may only be made to individuals with a demonstrated and legitimate need to know the information.

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14

Rule Caption: Amendments to Patient-Centered Primary Care Home Program Rules

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Subject: The Oregon Health Authority, Office for Oregon Health Policy and Research is proposing to make amendments relating to the recognition criteria for the Primary Care Home (PCPCH) Program.

Rules Coordinator: Zarie Haverkate—(503) 373-1574

409-055-0030

Practice Application and Recognition Process

(1) Practices, or other entities on behalf of the practice, that wish to be recognized as a PCPCH shall submit a PCPCH Recognition Application electronically to the Authority via the Program’s online application system found on the Program website or by mail to the address posted on the Program website. The application shall include the quantitative data described in OAR 409-055-0040.

(2) The Authority shall review the application within 60 days of its submission to determine whether it is accurate, complete, and meets the recognition requirements. If the application is incomplete the applicant will

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be notified in writing of the information that is missing and when it must be submitted.

(3) The Authority shall review a complete application within 60 days of submission. If the Authority determines that the applicant has met the requirements of these rules the Authority shall:

(a) Inform the applicant in writing that the application has been approved as a recognized PCPCH,

(b) Assign a Tier level, and

(c) Include the effective recognition date.

(4) The Authority shall maintain instructions and criteria for submitting a PCPCH Recognition Application posted on the Program website.

(5) The Authority may deny PCPCH recognition if an applicant does not meet the requirements of these rules.

(6) A Practice may request that the Authority reconsider the denial of PCPCH recognition or reconsider the assigned tier level. A request for reconsideration must be submitted in writing to the Authority within 90 days of the date of the denial or approval letter and must include a detailed explanation of why the practice believes the Authority's decision is in error along with any supporting documentation. The Authority shall inform the practice in writing whether it has reconsidered its decision.

(7) Practices submitting applications on or after September 3, 2013 must apply to renew their recognition once every two years. Recognition will expire two years from the effective date of recognition that was issued by the Authority.

(a) At the Authority's discretion a 30-day grace period may be allowed for PCPCHs to submit their renewal application without having a lapse in recognition status.

(b) If a PCPCH believes that it meets the criteria to be recognized at a higher tier or increase its point threshold by at least 15 points, it may request to have its tier status reassessed by re-submitting an application not more than once every six months. The Authority may grant exceptions to the six month time period for good cause shown.

(c) Currently recognized PCPCHs that are due to reapply between September 3, 2013 and December 31, 2013 will be granted a grace period and have the option to wait to submit a renewal application between January 1, 2014 to January 30, 2014 without having a lapse in recognition status.

Stat. Auth: ORS 413.042, 414.655 & 442.210

Stats. Implemented: 413.042, 414.655 & 442.210

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 7-2012(Temp), f. & cert. ef. 10-4-12 thru 4-1-13; OHP 5-2013, f. 3-22-13, cert. ef. 4-1-13; OHP 6-2013, f. 8-23-13, cert. ef. 9-3-13; OHP 9-2013, f. 10-1-13, cert. ef. 1-1-14

409-055-0040

Recognition Criteria

(1) The PCPCH recognition criteria are divided into "Must-Pass" measures and other measures that place the practice on a scale of maturity or 'tier' that reflect basic to more advanced PCPCH functions.

(2) Must-Pass and 5 point measures focus on foundational PCPCH elements that should be achievable by most practices in Oregon with significant effort, but without significant financial outlay.

(3) 10 and 15 point measures reflect intermediate and advanced functions.

(4) Except for the 10 Must-Pass measures, each measure is assigned a point value. A practice must meet the following point allocation criteria to be recognized as a PCPCH:

(a) Tier 1: 30–60 points and all 10 Must-Pass Measures

(b) Tier 2: 65–125 points and all 10 Must-Pass Measures

(c) Tier 3: 130 points or more and all 10 Must-Pass Measures

(5) The Authority shall calculate a practice's point score through the recognition process described in OAR 409-055-0030.

(6) Table 1, incorporated by reference, contains the detailed list of Measures and corresponding point assignments.

(7) Table 2, incorporated by reference, contains a detailed list of the PCPCH Quality Measures.

(8) Measure specifications, thresholds for demonstrating improvement, and benchmarks for quantitative data elements are available on the Program website.

(9) National Committee for Quality Assurance (NCQA) recognition shall be acknowledged in the Authority's PCPCH recognition process; however, a practice is not required to use its NCQA recognition to meet the Oregon PCPCH standards. A practice that does not wish to use its NCQA recognition to meet the Oregon PCPCH standards must indicate so during the PCPCH application process and submit a complete PCPCH application.

(10) A practice seeking Oregon PCPCH recognition based on its NCQA recognition must:

(a) Submit a PCPCH application and evidence of its NCQA recognition along with its application;

(b) Comply with Table 3, incorporated by reference, for NCQA PCMH practices using 2008 NCQA criteria; or

(c) Comply with Table 4, incorporated by reference, for NCQA PCMH practices using 2011 NCQA criteria.

(11) The Authority may designate a practice as a Tier 3 "Star" Patient-Centered Primary Care Home for those practices attesting to a large number of advanced PCPCH criteria. The Authority will determine the criteria for this designation no later than June 2014.

[Tables: Tables reference are available from the agency.]

Stat. Auth: ORS 413.042, 414.655 & 442.210

Stats. Implemented: 413.042, 414.655 & 442.210

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 9-2013, f. 10-1-13, cert. ef. 1-1-14

409-055-0050

Data Reporting Requirements for Recognized PCPCHs

(1) To be recognized as a PCPCH, a practice must attest to meeting the criteria and submit quantitative data elements to support its attestation in accordance with Tables 1 & 2, incorporated by reference.

(2) Quantitative data shall be aggregated at the practice level, not the individual patient level, and a practice may not transfer any personal health information to the Authority during the PCPCH application process.

(3) PCPCHs must submit new quantitative and attestation data as a part of the recognition renewal process and must use the specifications found on the Program website for calculating application data.

(4) If approved by the practice, other entities may submit information on behalf of a practice, as long as appropriate practice staff has reviewed all application information and data prior to submission.

(5) A practice may request an exception to any of the quantitative data reporting requirements in Table 2 or the Must-Pass criteria by submitting a form prescribed by the program. The Authority may grant exceptions for good cause shown.

(6) Practices are required to submit 12 months of quantitative data in order to meet standards 2.A., 4.A. and 4.B. A practice may request an exception to the 12 month data reporting period by submitting a form prescribed by the program. The Authority may grant exceptions for good cause shown.

(7) The Authority shall notify the practice within 60 days of complete application and exception submission whether or not the requested exception has been granted.

[Tables: Tables reference are available from the agency.]

Stat. Auth: ORS 413.042, 414.655 & 442.210

Stats. Implemented: 413.042, 414.655 & 442.210

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 9-2013, f. 10-1-13, cert. ef. 1-1-14

409-055-0060

Verification

(1) The Authority shall conduct at least one on-site verification review of each recognized PCPCH to determine compliance with PCPCH criteria every five years and at such other times as the Authority deems necessary or at the request of the Division of Medical Assistance Programs (DMAP), or any other applicable program within the Authority. The purpose of the review is to verify reported attestation and quantitative data elements for the purposes of confirming recognition and Tier level.

(2) PCPCHs selected for verification shall be notified no less than 30 days prior to the scheduled review.

(3) PCPCHs shall permit Authority staff access to the practice's place of business during the review.

(4) A verification review may include but is not limited to:

(a) Review of documents and records.

(b) Review of patient medical records.

(c) Review of electronic medical record systems, electronic health record systems, and practice management systems.

(d) Review of data reports from electronic systems or other patient registry and tracking systems.

(e) Interviews with practice management, clinical and administrative staff.

(f) On-site observation of practice staff.

(g) On-site observation of patient environment and physical environment.

(5) Following a review, Authority staff may conduct an exit conference with the PCPCH representative(s). During the exit conference Authority staff shall:

(a) Inform the PCPCH representative of the preliminary findings of the review; and

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(b) Give the PCPCH a reasonable opportunity to submit additional facts or other information to the Authority staff in response to those findings.

(6) Following the review, Authority staff shall prepare and provide the PCPCH specific and timely written notice of the findings.

(7) If the findings result in a referral to DMAP per OAR 409-055-0070, Authority staff shall submit the applicable information to DMAP for its review and determination of appropriate action.

(8) If no deficiencies are found during a review, the Authority shall issue written findings to the PCPCH indicating that fact.

(9) If deficiencies are found, the Authority shall take informal or formal enforcement action in compliance with OAR 409-055-0070.

(10) The Authority may share application information and content submitted by practices and/or verification findings with managed or coordinated care plans, and/or insurance carriers.

Stat. Auth: ORS 413.042, 414.655 & 442.210

Stats. Implemented: 413.042, 414.655 & 442.210

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 9-2013, f. 10-1-13, cert. ef. 1-1-14

409-055-0070

Compliance

(1) If the Authority finds that the practice is not in compliance with processes as attested to, the Authority shall issue a written warning requiring the practice to submit an improvement plan to the Program within 90 days of the date of the written warning. The improvement plan must include a description of the practice's plan and timeline to correct the deficiency and proposed documentation or other demonstration that would verify the practice is in compliance.

(2) Authority will review the improvement plan and any documentation the practice submits in accordance with the deficiency, and if remedied, no further action will be taken.

(3) If a practice fails to submit the improvement plan or move into compliance within 90 days of the date of the written warning, the Authority may issue a letter of non-compliance and amend the practice's PCPCH recognition to reflect the appropriate Tier level or revoke its PCPCH status.

(4) If the Authority amends a practice's tier level or revokes PCPCH status this information will be made available to DMAP, the coordinated care or managed care plans, and insurance carriers.

(5) A practice that has had its PCPCH status revoked may have it reissued after reapplying for recognition and when the Authority determines that compliance with PCPCH Standards has been achieved satisfactorily.

(6) In order for the Authority to receive federal funding for Medicaid clients receiving services through a PCPCH, documentation of certain processes are required by the Centers for Medicare and Medicaid Services. Documentation requirements can be found in OAR 410-141-0860. If non-compliance is due to lack of service documentation required per OAR 410-141-0860, a referral may be made to the DMAP.

(7) If the Authority finds a lack of documentation per OAR 410-141-0860 to support the authorized tier level, the Authority may make a referral to the DMAP and may conduct an audit pursuant to the standards in OAR 943-120-1505.

Stat. Auth: ORS 413.042, 414.655 & 442.210

Stats. Implemented: 413.042, 414.655 & 442.210

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12; OHP 9-2013, f. 10-1-13, cert. ef. 1-1-14

Oregon Health Authority, Oregon Educators Benefit Board Chapter 111

Rule Caption: Amendments made to implement new groups that are newly eligible due to House Bill 2279

Adm. Order No.: OEBC 10-2013(Temp)

Filed with Sec. of State: 10-11-2013

Certified to be Effective: 10-11-13 thru 4-8-14

Notice Publication Date:

Rules Amended: 111-030-0050

Subject: With the passage of House Bill 2279, new groups have the option of joining the Oregon Educators Benefit Board. The amendments to Division 30 provide language for the implementation of new groups under House Bill 2279.

Rules Coordinator: April Kelly—(503) 378-6588

111-030-0050

Premium Rate Structure Selection Process and Limitations

(1) Educational Entities and Local Governments may choose a composite or tiered rate structure for each Employee Group for medical, dental and vision coverage unless otherwise specified in an OEBC administrative rule. The rate structure selected for each coverage type applies to all individuals electing to participate as active employees within an Employee Group.

(2) Educational Entities and Local Governments may select a composite or tiered rate structure for early retirees unless otherwise specified in an OEBC administrative rule.

(3) Educational Entities and Local Governments may select a composite or tiered rate structure for part-time employees of an Employee Group unless otherwise specified in an OEBC administrative rule. If a different rate structure is selected for part-time employees that structure must apply to all participating part-time employees within that Employee Group.

(4) Rate structures must be selected during the plan selection process.

(5) Once an Educational Entity or Local Government elects a change in rate structure for a type of coverage within an Employee Group, the rate structure selection cannot be changed for at least three plan years. The rate structure change will go into effect on the first day of the next plan year, October 1.

(6) Educational Entities or Local Governments who offered LTD on a composite rate structure prior to moving to OEBC coverages can continue to do so. Use of the composite rate structure for LTD plans is only available on a mandatory LTD plan and requires 100 percent enrollment.

(a) Employee Groups using a composite rate structure for mandatory LTD plans effective October 1, 2012, may continue to use either the employer-paid or employee-paid option.

(b) Effective October 1, 2013, OEBC will expand the availability of the composite rate structure for mandatory LTD plans only to those Employee Groups that chose to elect an employer-paid plan option.

(c) Rate structures must be selected during the plan selection period and become effective the first day of the next plan year, October 1.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 864(1)(a)

Hist.: OEBC 8-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBC 2-2011, f. & cert. ef. 2-11-11; OEBC 1-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; OEBC 4-2013, f. & cert. ef. 5-10-13; OEBC 10-2013(Temp), f. & cert. ef. 10-11-13 thru 4-8-14

Rule Caption: Amendments made to implement new groups that are newly eligible due to House Bill 2279

Adm. Order No.: OEBC 11-2013(Temp)

Filed with Sec. of State: 10-11-2013

Certified to be Effective: 10-11-13 thru 4-8-14

Notice Publication Date:

Rules Adopted: 111-020-0010

Rules Amended: 111-020-0001, 111-020-0005

Subject: With the passage of House Bill 2279, new groups have the option of joining the Oregon Educators Benefit Board. The amendments to Division 20 provide language for the implementation of new groups under House Bill 2279.

Rules Coordinator: April Kelly—(503) 378-6588

111-020-0001

Initial Employee Group Phase-in

(1) Any employee group in Subject Districts or Provisional Non-subject Districts may elect to participate in benefit plans provided by the Board beginning on October 1, 2008, October 1, 2009, or October 1, 2010, without having to meet the phase-in requirements outlined under Sections 2, 3 and 4; however:

(a) Eligible employees of a Subject District who are represented under a collective bargaining agreement with an end date of July 1, 2007, through June 30, 2008, must participate in benefit plans provided by the Board beginning October 1, 2008.

(b) Eligible employees of a Subject District who are represented under a collective bargaining agreement with an end date of July 1, 2008, through June 30, 2009, must participate in benefit plans provided by the Board beginning October 1, 2009.

(c) Eligible employees of a Subject District who are represented under a collective bargaining agreement with an end date on or after July 1, 2009, must participate in benefit plans provided by the Board beginning October 1, 2010.

(d) Eligible employees of a Subject District who are not represented under a collective bargaining agreement must participate in benefit plans

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provided by the Board consistent with the requirements governing eligible employees of the Subject District who are represented under a collective bargaining contract as outlined under section 1(a), (b) and (c) above. If more than one collective bargaining contract exists in the Subject District, the earliest collective bargaining contract end date must be applied. If no employee group in the Subject District is represented through a collective bargaining agreement, all eligible employees of the district must participate in benefit plans provided by the Board beginning October 1, 2008.

(2) An employee group electing to participate in benefit plans provided by the Board under section 1 must provide notice of such election not later than June 30 of the year in which they plan to move to the OEBB benefit plans on October 1, or at least 90 days or more from the date benefits under OEBB will go into effect if moving from a plan year other than October 1 through September 30.

(3) Employee groups in Provisional Non-subject Districts who elect to participate in benefit plans provided by the Board cannot return to benefit plans provided or administered by an entity other than the Board.

(4) Employee groups electing to participate in OEBB benefit plans prior to the date mandated by Senate Bills 426 and 1066 (Chapter 7, Oregon Laws 2007, as amended by Chapter 39, Oregon Laws 2008) must participate in all types of benefit coverage provided by the Board at the time of plan selection.

Stat. Auth.: ORS 243.860 - 243.886
Stats. Implemented: ORS 243.886

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 3-2007(Temp), f. & cert. ef. 11-15-07 thru 3-18-08; OEBB 5-2008, f. & cert. ef. 4-1-08; OEBB 12-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 2-2009, f. & cert. ef. 1-30-09; OEBB 6-2009(Temp), f. & cert. ef. 3-10-09 thru 9-4-09; OEBB 9-2009, f. & cert. ef. 5-1-09; OEBB 3-2010, f. & cert. ef. 3-15-10; OEBB 11-2013(Temp), f. & cert. ef. 10-11-13 thru 4-8-13

111-020-0005

Employee Group Phase-in for Non-subject Districts

(1) An Employee Group in a Non-subject District may elect to participate in a benefit plan provided by the Board on October 1, 2008, or on October 1 of any following year, or on another date if moving from a plan year other than October 1 through September 30.

(2) An Employee Group in a Non-subject District electing to participate in benefit plans provided by the Board under section 1 must provide notice of such election not later than June 30 of the year in which they plan to move to the OEBB benefit plans on October 1, or at least 90 days or more from the date benefits under OEBB will go into effect if moving from a plan year other than October 1 through September 30.

(3) An Employee Group in a Non-subject District who elects to participate in benefit plans provided by the Board cannot return to benefit plans provided or administered by an entity other than the Board.

Stat. Auth.: ch.7, OL 2007

Stats. Implemented: Sec.14, ch. 7, OL 2007, Sec.16, ch. 7, OL 2007

Hist.: OEBB 3-2008, f. & cert. ef. 1-4-08; OEBB 11-2013(Temp), f. & cert. ef. 10-11-13 thru 4-8-13

111-020-0010

Educational Entity or Local Government Joining OEBB

(1) Effective January 1, 2014 an Educational Entity or Local Government can elect to participate in benefit plans provided by the Board subject to the following conditions:

(a) The Educational Entity or Local Government completes and submits a Notice of Intent to join OEBB at least 90 days prior to the date OEBB coverage is to go into effect;

(b) OEBB will not transfer any deductibles or annual out-of-pocket maximums met with the prior carrier;

(c) For those members with an existing life insurance policy through the Educational Entity or Local Government, OEBB will transfer the life insurance amount in force on the last day the prior group coverage was in effect if requested and documented by the Educational Entity or Local Government.

(2) Local Governments who elect to participate in benefit plans provided by the Board and then subsequently elect to leave OEBB and participate in the exchange may re-elect to participate in benefit plans provided by the Board on a one-time basis provided the Local Government completes and submits a Notice of Intent to join OEBB at least 90 days prior to the date OEBB coverage is to go into effect.

(3) Once a Local Government re-elects to participate in benefit plans provided by the Board after leaving, they are not eligible to leave again.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 11-2013(Temp), f. & cert. ef. 10-11-13 thru 4-8-13

Rule Caption: Amendments made to implement new groups that are newly eligible due to House Bill 2279

Adm. Order No.: OEBB 12-2013(Temp)

Filed with Sec. of State: 10-11-2013

Certified to be Effective: 10-11-13 thru 4-8-14

Notice Publication Date:

Rules Amended: 111-010-0015

Subject: With the passage of House Bill 2279, new groups have the option of joining the Oregon Educators Benefit Board. The amendments to Division 10 provide language for the implementation of new groups under House Bill 2279. In addition, an amendment is made related to the Affordable Care Act and new federal requirements related to Health Reimbursement Arrangements (HRAs).

Rules Coordinator: April Kelly — (503) 378-6588

111-010-0015

Definitions

Unless the context indicates otherwise, as used in OEBB administrative rules, the following definitions will apply:

(1) "Actuarial value" means the expected financial value for the average member of a particular benefit plan.

(2) "Adverse Benefit Determination" means a denial, reduction, or termination of, or a failure to provide or make payment (in whole or in part), for a benefit, including any such denial, reduction, termination, or failure to provide or make payment that is based on but not limited to:

(a) A determination of a member's eligibility to participate in the plan;

(b) A determination that the benefit is not a covered benefit; or

(c) A rescission of coverage, whether or not, in connection with rescission, there is an adverse effect on any particular benefit.

(3) "Affidavit of Domestic Partnership" means a document that attests the eligible employee and one other eligible individual meet the criteria in section (15)(b).

(4) "Benefit plan" includes, but is not limited to, insurance or other benefits including:

(a) Medical (including non-integrated health reimbursement arrangements (HRAs));

(b) Dental;

(c) Vision;

(d) Life, disability and accidental death;

(e) Long term care;

(f) Employee Assistance Program Plans;

(g) Supplemental medical, dental and vision coverages (including Integrated General Purpose and Integrated Post-Deductible health reimbursement arrangements (HRAs); and Limited Purpose, Post-Separation/Retiree, and Premium Only health reimbursement arrangements (HRAs));

(h) Any other remedial care recognized by state law, and related services and supplies;

(i) Comparable benefits for employees who rely on spiritual means of healing; and

(j) Self-insurance programs managed by the Board.

(5) "Benefits" means goods and services provided under Benefit Plans.

(6) "Board" means the ten-member board established in the Department of Administrative Services as the Oregon Educators Benefit Board under chapter 00007, Oregon Laws 2007.

(7) "Child" means and includes the following:

(a) An eligible employee's, spouse's, or domestic partner's biological son or daughter; adopted child; child placed for adoption; or legally placed child, who is 25 or younger on the first day of the month. An eligible employee must provide the required custody or legal documents to their Educational Entity showing proof of adoption, legal guardianship or other court order if enrolling a child for whom the employee, spouse, or domestic partner is not the biological parent. Grandchildren are only eligible when the eligible employee is the legal guardian or adoptive parent of the grandchild.

(b) A person who is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability. There is no age limit for a dependent child who is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability. When the dependent child is 26 years of age or older all the following requirements must be met:

(A) The disability must have existed before attaining age 26.

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(B) The employee must provide evidence to the Educational Entity or OEBB that (1) the person had health plan coverage, group or individual, prior to attaining age 26, and (2) health plan coverage continued without a gap until the OEBB health plan effective date.

(C) The person's attending physician must submit documentation of the disability to the eligible employee's OEBB health insurance plan for review and approval. If the person receives health plan approval, the health plan may review the person's health status at any time to determine continued OEBB coverage eligibility.

(D) The person must not have terminated from OEBB health plan coverage after attaining the age of 26.

(c) Eligibility for coverage under this rule includes people who may not be dependents under federal or state tax law and may require an Educational Entity to adjust an Eligible Employee's income based on the imputed value of the benefit.

(8) "Comparable cost (Medical, Dental and Vision)" means that the total cost to a district for enrollment in OEBB plans comparable in design to the district's plan(s) do not exceed the total cost to a district for enrollment in the district's plan(s) using the rate(s) in effect or proposed for the benefit plan year.

(9) "Comparable cost (Basic and Optional Life Insurance, Accidental Death & Dismemberment, and Short and Long Term Disability)" means that the premium rates of an OEBB plan design option do not exceed the average, aggregate premium rates of a district's pre-OEBB plan design in effect the year prior to implementation.

(10) "Comparable plan design (Medical, Dental and Vision)" means that the actuarial values of two plan designs are within 2.5 percent higher or lower of each other.

(11) "Comparable plan design (Basic and Optional Life Insurance and Accidental Death & Dismemberment)" means that 90 percent of district employees can obtain a maximum benefit through an OEBB plan design that is within \$2,500 of the maximum benefit obtained through a pre-OEBB plan design in effect the year prior to implementation.

(12) "Comparable plan design (Short and Long Term Disability)" means 90 percent of the district employees can obtain the same elimination period, percentage of covered compensation, definition of covered compensation, coverage period duration, and maximum payment per benefit period through an OEBB plan design as through a pre-OEBB plan design in effect the year prior to implementation.

(13) "Dependent" means and includes the eligible employee's spouse or domestic partner, or child as defined by OAR 111-010-0010(7), unless otherwise defined in another OEBB rule.

(14) "Documented district policies" means Educational Entities' policies and practices that apply to an employee group and are submitted to the Oregon Educators Benefit Board during the plan selection process. Educational Entities' policies and practices must be identified and submitted with the applicable employee group plan selections.

(15) "Eligible Domestic partner," unless otherwise defined by a collective bargaining agreement or documented district policy in effect on January 31, 2008, means and includes the following:

(a) An unmarried individual of the same sex who has entered into a "Declaration of Domestic Partnership" with the eligible employee that is recognized under Oregon law; or

(b) An unmarried individual of the same or opposite sex who has entered into a partnership that meets the following criteria:

(A) Both are at least 18 years of age;

(B) Are responsible for each other's welfare and are each other's sole domestic partners;

(C) Are not married to anyone and have not had a spouse or another domestic partner within the prior six months. If previously married, the six-month period starts on the final date of divorce;

(D) Share a close personal relationship and are not related by blood closer than would bar marriage in the State of Oregon;

(E) Have jointly shared the same regular and permanent residence for at least six months immediately preceding the date the Affidavit of Domestic Partnership is signed and submitted to the Educational Entity; and

(F) Are jointly financially responsible for basic living expenses defined as the cost of food, shelter and any other expenses of maintaining a household. Financial information must be provided if requested.

(G) The eligible employee and domestic partner must jointly complete and submit to the Educational Entity an Affidavit of Domestic Partnership form, within five business days of the electronic enrollment date or the date the Educational Entity received the enrollment/change

form. If the affidavit is not received, coverage will terminate for the domestic partner retroactive to the effective date.

(c) The Eligible Employee must notify the Educational Entity within 31 days of meeting all criteria as defined in 111-010-0015 (15)(b) or obtaining the "Declaration of Domestic Partnership" which is recognized under Oregon law.

(d) Educational Entities' must calculate and apply applicable imputed value tax for domestic partners covered under OEBB benefit plans.

(16) "Educational Entity" means public school districts (K-12), education service districts (ESDs), community colleges and public charter schools participating in OEBB.

(17) "Eligible employee" means and includes an employee of an Educational Entity or Local Government who is actively working or on paid or unpaid leave that is recognized by federal or state law, and:

(a) Is employed in a half time or greater position or is in a job-sharing position; or

(b) Meets the definition of an eligible employee under a separate OEBB rule or under a collective bargaining agreement or documented district policy in effect on January 31, 2008; or

(c) Is an employee of a community college who is covered under a collectively bargained contract and has worked a class load of between 25 percent and 49 percent for a minimum period of two years and is expected to continue to work a class load of at least 25 percent. Coverage is limited to medical to include Kaiser Medical Plan 2 (where available), Moda Health Plan E, Moda Health Plan G, or Moda Health Plan H. Moda Health Plan H can only be elected if the eligible employee is eligible for and actively contributing to a Health Savings Account (HSA). The tiered rate structure will apply to all medical plans.

(18) "Eligible Early Retiree" means and includes a previously Eligible Employee who is:

(a) Not Medicare-eligible; or

(b) Under 65 years old; and

(A) Receiving a service or disability retirement allowance or pension under the Public Employees Retirement System (PERS) or under any other retirement or disability benefit plan or system offered by an OEBB participating organization for its employees;

(B) Eligible to receive a service retirement allowance under PERS and has reached earliest retirement age under ORS Chapter 238;

(C) Eligible to receive a pension under ORS 238A.100 to 238A.245 and has reached earliest retirement age as described in ORS 238A.165; or

(D) Eligible to receive a service retirement allowance or pension under another retirement benefit plan or system offered by an OEBB participating organization and has reached earliest retirement age under the plan or system.

(19) "Employee Group" means employees and early retirees of a similar employment type, for example administrative, represented classified, non-represented classified, confidential, represented licensed, or non-represented licensed, within an Educational Entity. If one or more collective bargaining unit exists within an employee group, each unit will be considered a separate employee group.

(20) "Flexible benefit plan" includes plans that allow contributions on a tax-favored basis including health savings accounts.

(21) "Health Reimbursement Arrangement (HRA)" means an account established and funded solely by the employer that can be used to pay for qualified health care expenses for eligible employees and their spouses and federal tax dependents, up to a maximum dollar amount for a coverage period, and any unused portion of the maximum dollar amount at the end of a coverage period is carried forward to increase the maximum reimbursement amount in subsequent coverage periods. This definition should be interpreted to comply with the guidelines established by the IRS for treatment of HRAs on a tax-favored basis in Technical Release No. 2013-03, IRS Publication 969 and IRS Notice 2002-45. HRA includes, but is not limited to, the following:

(a) "Integrated General Purpose HRA" is an HRA that allows participants to be reimbursed for all IRS qualified expenses and is available only to eligible employees who are enrolled in an OEBB medical plan as the primary subscriber, or as an eligible dependent.

(b) "Integrated Post-Deductible HRA" is an HRA that allows participants to be reimbursed for expenses up to a certain amount, but only after the participants have met the annual deductible on an OEBB medical plan in which the employee participant is enrolled as the primary subscriber, or as an eligible dependent.

(c) "Limited Purpose HRA" is an HRA that allows participants to be reimbursed for only standard dental, vision, and orthodontia expenses and

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does not require the employee participant to be enrolled in an OEGB medical plan as the primary subscriber, or as a dependent.

(d) "Non-integrated HRA" is an HRA that allows participants to be reimbursed for all IRS qualified expenses when the employee participant is not enrolled in an OEGB medical plan as the primary subscriber, or as an eligible dependent.

(e) "Post-Separation/Retiree HRA" is an HRA that allows participants to be reimbursed for qualified expenses only after the employee separates/retires and does not require the employee participant to be enrolled in an OEGB medical plan as the primary subscriber, or as a dependent.

(f) "Premium Only HRA" is an HRA that allows participants to be reimbursed only for insurance premiums paid on an after tax basis, where the employee participant has no ability to pay the premium on a pre-tax basis and the HRA does not require the employee participant to be enrolled in an OEGB medical plan as the primary subscriber, or as a dependent.

(22) "Health Savings Account (HSA)" means a tax-exempt trust or custodial account that is set up with a qualified HSA trustee to pay or reimburse certain incurred medical expenses, as defined in 26 U.S.C. § 223(d) and IRS Publication 969.

(23) "High Deductible Health Plan (HDHP)" means a health plan that meets the criteria for a "high deductible health plan" as outlined in 26 U.S.C. § 223(c)(2). Enrollment in an HDHP is one of the requirements that must be met in order to qualify to contribute to a health savings account (HSA).

(24) "Local Government" means cities, counties and special districts in Oregon.

(25) "Members" means and includes the following:

(a) "Eligible employee" as defined by OAR 111-010-0015(17).

(b) "Child" as defined by OAR 111-010-0015(7).

(c) "Domestic Partner" as defined by OAR 111-010-0015(15).

(d) "Spouse" as defined by OAR 111-010-0015(31).

(26) "Non-subject District" means a community college not yet participating in benefit plans provided by the Oregon Educators Benefit Board, or a charter school whose employees are not considered employees of a school district.

(27) "Oregon Educators Benefit Board or OEGB" means the program created under chapter 00007, Oregon Laws 2007.

(28) "OEGB participating organization" means a Subject District, Non-subject District, or Provisional Non-subject District that participates in benefit plans provided by the Oregon Educators Benefit Board (OEGB).

(29) "Provisional Non-subject District" means a common school district, a union high school district, or an education service district that:

(a) Was self-insured on December 31, 2006;

(b) Had an independent health insurance trust established and functioning on December 31, 2006; or

(c) Can provide comparable plan designs at a comparable cost as defined by sections (8) and (10) of this Rule.

(30) "Qualified Status Change (QSC)" means a change in family or work status that allows limited mid-year changes to benefit plans consistent with the individual event.

(31) "Special district" means any district listed in ORS chapter 198 "Special Districts Generally," or as determined by the Board.

(32) "Spouse" means a person of the opposite sex who is a husband or wife. Except as provided in Oregon Constitution Article XV, Section 5a, a relationship recognized as a marriage in another state will be recognized in Oregon even though such a relationship would not be a marriage if the same facts had been relied upon to create a marriage in Oregon. The definition of spouse does not include a former spouse and a former spouse does not qualify as a dependent.

(33) "Subject District" means a common school district, a union high school district, or an education service district that:

(a) Did not self-insure on January 1, 2007;

(b) Did not have a health trust in effect on January 1, 2007; or

(c) Does not provide comparable plan designs at a comparable cost as defined by sections (8) and (10) of this rule.

Stat. Auth.: ORS 243.860 – 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEGB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEGB 2-2008, f. & cert. ef. 1-4-08; OEGB 10-2008(Temp), f. & cert. ef. 8-13-08 thru 2-6-09; OEGB 1-2009, f. & cert. ef. 1-30-09; OEGB 5-2009(Temp), f. & cert. ef. 3-10-09 thru 9-4-09; OEGB 8-2009, f. & cert. ef. 5-1-09; OEGB 12-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEGB 19-2009, f. & cert. ef. 12-17-09; OEGB 7-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEGB 11-2010(Temp), f. & cert. ef. 10-1-10 thru 1-29-11; OEGB 1-2011, f. & cert. ef. 2-11-11; OEGB 6-2011(Temp), f. & cert. ef. 2-15-11 thru 8-13-11; OEGB 14-2011, f. & cert. ef. 8-2-11; OEGB 15-2011(Temp), f. & cert. ef. 8-2-11 thru 1-28-12; OEGB 16-2011(Temp), f. & cert. ef. 10-1-11 thru 1-28-12; OEGB 20-2011, f. & cert. ef. 10-13-11, cert. ef. 10-14-11; OEGB 22-2011, f. & cert. ef. 12-14-11; OEGB 13-2012, f. & cert. ef. 12-19-12; OEGB 6-2013, f. & cert. ef. 7-12-13; OEGB 12-2013(Temp), f. & cert. ef. 10-11-13 thru 4-8-14

Oregon Health Authority, Public Employees' Benefit Board Chapter 101

Rule Caption: Amends rules for conformance with federal health-care reform and Board By-Laws; clarifies language.

Adm. Order No.: PEBB 1-2013

Filed with Sec. of State: 9-24-2013

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Rules Amended: 101-010-0005, 101-020-0020, 101-020-0025, 101-020-0066, 101-030-0005, 101-030-0070

Subject: Amends rules for conformance with federal healthcare reform and Board By-Laws; clarifies language.

Rules Coordinator: Cherie Taylor—(503) 378-6296

101-010-0005

Definitions

Unless the context indicates otherwise, as used in OAR chapter 101, divisions 1 through 60, the following definitions will apply:

(1) "Actively at work" for medical and dental insurance coverage means an active eligible employee at work, in paid status and scheduled for work during the month. Optional plan policies or plan certificates contain "actively at work" criteria specific to the individual plan.

(2) "Active Participation" in reference to a Flexible Spending Account (FSA) means an eligible employee currently enrolled in the plan and who each month deposits the required dollar contribution in the account.

(3) "Affidavit of Dependency" means a notarized document that attests a dependent child meets the criteria for a dependent child under OAR 101-015-0011.

(4) "Affidavit of Domestic Partnership" means a notarized document that attests the eligible employee and one other individual meet the criteria in OAR 101-015-0026(2).

(5) "Agency" means a PEBB participating organization such as an individual state of Oregon public agency, semi-independent agency, and individual OUS University.

(6) "Benefit amount" means the amount of money paid by a PEBB participating organization for the purchase of core benefit plans on behalf of active eligible employees. PEBB does not determine the benefit amount.

(7) "CBIW" means Continuation of Benefits for Injured Workers.

(8) "Certificate of Registered Domestic Partnership" means the certificate issued by an Oregon county clerk to two individuals of the same sex after they file a Declaration of Domestic Partnership with the county clerk.

(9) "COBRA" means the federal Consolidated Omnibus Reconciliation Act of 1985.

(10) "Core Benefits" means the specific benefit plans that a PEBB employer pays a benefit amount for plan coverage of active eligible employees (e.g., medical, dental and employee basic term life coverage).

(11) "Dependent Care Flexible Spending Account" or "Dependent Care FSA" means the Dependent Care Assistance Program (DCAP) that PEBB has adopted in accordance with section 129 of the Internal Revenue Code.

(12) "Dependent child" means a child that satisfies the conditions of OAR 101-015-0011, as applicable.

(13) "Domestic partner" means an eligible employee's partner in a registered domestic partnership under Chapter 99 Oregon Laws 2007 or unmarried partner of the same or opposite sex that meets the requirements as outlined in OAR 101-015-0026(2).

(14) "Eligible employee" means an individual eligible to enroll in PEBB plan benefits and includes:

(a) "Active eligible employee" means an employee of a PEBB participating organization, including state officials, in exempt, unclassified, classified and management service positions who are expected to work at least 90 days; and who work at least half-time or are in a position classified as job share. These employees are eligible for PEBB core benefits and some optional plans depending on their job classification.

(b) "Retired eligible employee" means a previously active eligible employee, who meets retiree eligibility as defined in OAR 101-050-0005. A retired eligible employee is eligible to self-pay for only the benefit plans established in division 50 of this chapter.

(c) "Other eligible employee" means an individual of a specific self-pay group as established by ORS 243.140 and 243.200. These groups are eligible only for medical or dental benefits as approved by PEBB.

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(15) "Family member" means a spouse, domestic partner, or a qualifying child.

(16) "FMLA" means the federal Family Medical Leave Act.

(17) "FTE" means full time equivalent job position.

(18) "Grandchild Affidavit" means a notarized document that attests a grandchild of an eligible employee, spouse, or domestic partner meets the eligibility criteria for PEBB grandchild coverage as defined in OAR 101-015-0011(1)(B).

(19) "Half-time" means an eligible employee who works less than full time but at least:

(a) Eighty paid regular hours per month; or

(b) 0.5 FTE for unclassified OUS employees; or

(c) Eighty paid hours per month and is employed at a minimum of .5 FTE, for Oregon Judicial Department employees; or

(d) As defined by collective bargaining.

(20) "Health Flexible Spending Account" or "Health FSA" means the health flexible spending arrangement that PEBB has adopted in accordance with the Internal Revenue Code.

(21) "Imputed value" means a dollar amount established yearly for an insurance premium at fair market value. The IRS or the Oregon Department of Revenue may view the imputed value as taxable income. The imputed value dollar amount is added to the eligible employee's taxable wages.

(22) "Ineligible individual" means an individual who does not meet the definition of an eligible employee, spouse, domestic partner, or dependent child as defined in PEBB administrative rules.

(23) "Job share" means two eligible employees sharing one full time equivalent position. Each eligible employee's percentage of the total position determines the benefit amount the employee receives. The monthly benefit percentage amount remains the same regardless of each individual's hours worked per month. Job share employees may not donate their portion of the benefit amount to the job share co-worker.

Example 1: John and Jill share one full time equivalent position. When they were hired into the position in July, John's percentage of the total position was 40 percent; Jill's percentage was 60 percent. John worked 70 percent of the available hours in September. John's benefit amount percentage for September remains at 40 percent. Jill's benefit amount percentage remains at 60 percent.

(24) "Midyear plan change event" means an event that provides an eligible employee an exception to the general plan year irrevocability rule that applies to PEBB plan elections. Permissible midyear events fall into three broad groups with allowable subgroups: (1) change in status (QSC), (2) cost or coverage changes, or (3) other laws or court orders.

(25) "OFLA" means the Oregon Family Leave Act.

(26) "OSPS" means the Oregon State Payroll System.

(27) "OUS" means the Oregon University System.

(28) "Open enrollment period" means an annual period chosen by PEBB when both active and other eligible employees and COBRA participants can make benefit plan changes or elections for the next plan year.

(29) "Optional plans" means, but is not limited to:

(a) Dependent life insurance;

(b) Employee, spouse, or domestic partner optional life insurance;

(c) Accidental Death & Dismemberment (AD&D) insurance;

(d) Short Term Disability insurance;

(e) Long Term Disability insurance;

(f) Flexible Spending Accounts (Health and Dependent Care); and

(g) Long Term Care insurance.

(30) "Paid regular status" means in current payroll status, and receiving payment for work time. Paid regular status includes the use of vacation, sick, holiday, or personal leave accruals, compensatory time, or other employer approved paid status such as furlough.

(31) "Pebb.benefits" means the electronic benefit management system sponsored by PEBB. The system allows electronic enrollment and termination of an eligible individual's benefit plans, personal information updates, and the transmittal of data to plans, payroll centers, and third party administrators.

(32) "PEBB participating organization" means a state agency, board, commission, university, or other entity that receives approval to participate in PEBB benefit plans.

(33) "Plan change period" means a period chosen by PEBB when retirees can make limited benefit plan changes.

(34) "Plan year" means a period of twelve consecutive months. PEBB's plan year is a calendar year.

(35) "Qualified status change" (QSC) means a change in family or work status that allows or requires limited mid-year changes of benefit plans consistent with the individual event.

(36) "Rescission" means a cancellation or discontinuance of coverage that has a retroactive effect. A cancellation or discontinuation of coverage

that is prospective only, or one that is effective retroactively but is attributable to nonpayment of premiums or contributions, is not a rescission.

(37) "Reinstate" means to reactivate previous benefits and enrollments, if they are available, to an eligible employee returning to eligible status within a specific time frame. Reinstated enrollment does not include FSAs or Long Term Care.

(38) "Spouse" means a person of the opposite sex who is a husband or wife. A relationship recognized as a marriage in another state between two opposite sex partners will be recognized in Oregon even though such a relationship would not be a marriage if the same facts had been relied upon to create a marriage in Oregon. The definition of spouse does not include a former spouse and a former spouse does not qualify as a dependent.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061 - 302, 659A.060 - 069, 743.600 - 602, 743.707

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 3-2005, f. 8-31-05, cert. ef. 9-1-05; PEBB 2-2006(Temp), f. & cert. ef. 12-14-06 thru 6-12-07; PEBB 1-2007(Temp), f. & cert. ef. 6-11-07 thru 12-8-07; PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 1-2008(Temp), f. & cert. ef. 2-4-08 thru 8-1-08; PEBB 2-2008, f. & cert. ef. 8-1-08; PEBB 3-2009, f. 9-29-09 cert. ef. 10-1-09; HLA 4-2010, f. & cert. ef. 5-18-10; PEBB 1-2010(Temp), f. & cert. ef. 6-1-10 thru 11-28-10; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11; PEBB 1-2013, f. & cert. ef. 9-24-13

101-020-0020

Newborn and Adopted Child Enrollment

(1) An eligible employee's biological newborn child receives PEBB-sponsored medical and dental insurance coverage under the newborn's own coverage from the moment of birth through the first 31 days of life without completing PEBB forms. To continue coverage beyond the first 31 days of coverage the eligible employee must enroll the newborn child to their benefit plans within 30 days from the date of birth by submitting the correct enrollment update forms.

(2) An eligible employee's newly adopted child receives PEBB-sponsored medical and dental insurance coverage under the adopted child's own coverage from the date of the adoption decree or date of placement for adoption through the first 31 days without completing PEBB forms. To continue coverage beyond the first 31 days of coverage the eligible employee must enroll the adopted child to their benefit plans within 30 days from the date of the decree or placement by submitting the correct enrollment update forms. Placement for adoption requires the submission of an Affidavit of Dependency with enrollment forms with legal documentation of the placement.

(a) The eligible employee must submit the adoption agreement or placement agreement with the enrollment forms to the agency. Upon adoption completion, a copy of the finalized adoption document must be submitted to the employee's agency.

(b) Claims payment will not occur prior to the adoption decree or placement for adoption date.

(3) A request to enroll a biological newborn or newly adopted child beyond 30 days of the date of birth, adoption decree, or placement for adoption is late enrollment as specified in OAR 101-020-0040.

Stat. Auth.: ORS 243.061 - 302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 743.600-602 & 743.707

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 1-2005, f. & cert. ef. 4-14-05; PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 2-2008, f. & cert. ef. 8-1-08; PEBB 1-2013, f. & cert. ef. 9-24-13

101-020-0025

Removing an Ineligible Individual from Benefit Plans

(1) All eligible employees have 30 days from the date a spouse, domestic partner, or dependent child loses eligibility to remove the individual from PEBB coverage. When agencies receive update forms to remove ineligible individuals within the required 30 days coverage terminations are prospective, ending the last day of the month following agency receipt of the appropriate forms.

Example: Ann's divorce is final on June 6 and she submits the update form to remove her ex spouse to her agency on June 22. The agency terminates Ann's former spouse PEBB coverage effective June 30. Ann's former spouse will receive a COBRA notice of availability.

(2) An employee's failure to report a spouse, domestic partner, or dependent child's loss of eligibility within 30 days of the event is an intentional misrepresentation of a material fact of enrollment by the employee. PEBB will rescind all coverage back to the last day of the month and plan year when eligibility was lost. Ineligible individuals removed more than 60 days from the eligibility loss date will receive a COBRA unavailability letter due to the employee's late notification.

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(a) At an agency's discretion, an employee may become liable to repay the agency for premiums paid by the agency while the individual was ineligible.

(b) An employee may become liable for repayment of insurance claims incurred and paid by a plan for the ineligible individual according to contract agreements between PEBB and the plan.

(c) An employee may face disciplinary action by an agency.

Example: Ann's divorce is final on June 6. Ann submits her update form to her agency October 10. The agency forwards the update forms to PEBB. PEBB terminates the ineligible individual's coverage the last day of the month that the divorce was final. The ex spouse will receive a COBRA unavailability letter.

(3) Premium refunds to agencies:

(a) Premium refunds for rescinded coverage may be available according to PEBB's contract agreement with each plan.

(b) An agency will not receive a premium equivalent refund from a PEBB self-insured plan for an ineligible individual whose coverage is rescinded.

(3) A plan may remove from coverage or deny the claims of an eligible employee, a family member, domestic partner, or domestic partner's dependent child because of fraud, intentional misrepresentation of a material fact, eligibility violations, or policy term violations. Violations include but are not limited to, fraud, material misrepresentation, or concealment. When a plan removes an employee from coverage for violations:

(a) The employee may choose, as a midyear plan change, an alternative plan to replace the terminated plan. If no alternative plan is available, there is no coverage.

(b) The plan may retain all premiums paid and has the right to recover from the employee, the benefits paid as a result of such wrongful activity that are in excess of the premiums.

(c) The plan may deny future enrollments of the individual.

(4) When discovered, PEBB may rescind coverage for individuals identified as ineligible to the end of the month that eligibility is lost, whether or not requested by the employee within the 30 day period.

Example 1: Cindy's divorce was final September 14. Cindy did not submit update forms; instead, she removed her spouse's coverage during open enrollment in October. Open Enrollment removal by the employee will result in continued coverage for the former spouse until December 31 of the current plan year. PEBB and the agency identify and verify the former spouse as ineligible for coverage early in December. PEBB retro terminates the ex-spouse's coverage to September 30. The ex spouse receives a notice of COBRA unavailability due to the late employee notification. Cindy may be responsible for claims paid or agency premiums paid for her former spouse after September 30.

Stat. Auth.: ORS 243.061 - 302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 743.600-602 & 743.707

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 2-2008, f. & cert. ef. 8-1-08; PEBB 3-2009, f. 9-29-09, cert. ef. 10-1-09; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11; Suspended by PEBB 1-2011(Temp), f. & cert. ef. 3-9-11 thru 8-4-11; PEBB 2-2011(Temp), f. & cert. ef. 8-5-11 thru 1-31-12; Administrative correction 2-24-12; PEBB 1-2013, f. & cert. ef. 9-24-13

101-020-0066

Public Employees' Benefit Board Appeal Procedure

(1) Eligible employees may submit appeal requests to PEBB concerning PEBB policy, eligibility, or plan enrollments. PEBB staff and the Board Appeals Subcommittee use relevant state and federal regulations, policy, PEBB's documented Internal Revenue Code (IRC) 125 Cafeteria plan, and Oregon Administrative Rules to provide appeal decisions.

(2) PEBB does not accept appeals related to contracted plans or plan administrators, such as but not limited to medical, dental, life, disability, COBRA, and long term care, services, decisions, or claims. The Board's Appeal Committee may hear appeals concerning benefit design.

(3) If PEBB rescinds plan coverage due to an individual's ineligibility for coverage, the ineligible individual may appeal the rescission decision to PEBB using this rule. Until the appeal process for the rescission is exhausted the individual's premium and claim payments will continue as if the rescission had not occurred. Upon final appeal determination and the rescission is upheld the employee will be responsible to pay all claims and premium payments paid by the Plan or PEBB during the period of ineligibility.

(4) Eligible Employees, or individuals who believe they received an incorrect or unfair decision from PEBB staff, an employing agency, retiree plan administrator, or an individual notified of a rescission have three levels of PEBB appeal.

(a) Level One: An eligible employee who believes he or she received an incorrect or unfair decision from PEBB, an employing agency, or retiree plan administrator, or an individual notified of a rescission may appeal the decision to PEBB. The appeal must be within 30 days the decision or action considered by the employee or individual as unfair or incorrect.

(A) The employee or individual must submit the appeal to PEBB using the correct forms and provide any supporting documentation for the appeal.

(B) A PEBB Benefit Analyst will review the appeal documents and may request additional information from the employee, individual, employer, or plan. Information requested from the employee must be received within 10 business days or PEBB will close the appeal.

(C) The analyst will complete the review of the appeal within 30 days from the date PEBB receives all necessary appeal documentation. PEBB will notify the employee or individual of any delay.

(D) When the review is complete, the analyst will provide a written letter of explanation and determination to the employee or individual. If the appeal is denied, continued appeal steps will be included in the document.

(b) Level Two: An eligible employee or an individual who is dissatisfied with a Level One appeal determination may within 30 days of the level one determination letter request a Level Two review from the PEBB Plan Design Manager.

(A) The employee or individual must submit the request to the Plan Design Manager in writing and provide any new supporting documentation. The manager may request additional information from the employee, the employer, or plan. Information requested from the employee must be received within 10 business days or PEBB will close the appeal.

(B) The Plan Design Manager will review the request and determine whether to provide a determination to the employee or individual, or to move the request directly to the third level of appeals.

(C) If the Plan Design Manager completes a review, the employee or individual will receive a written letter of explanation and determination. If the appeal is denied, continued appeal steps will be included in the document.

(D) If the Plan Design Manager sends the appeal directly to Level Three without providing a determination, the employee will receive written notice.

(c) Level Three: An eligible employee or individual receiving both a first and second level appeal denial can request that the Board Appeals Subcommittee review the appeal. The Subcommittee can also review appeals submitted directly to them by the Plan Design Manager. The Board Appeals Subcommittee will provide a final decision to the employee or the individual.

(A) An employee or individual requesting a Level Three review must submit the request in writing to the Plan Design Manager within 30 days of the Level Two determination letter date.

(B) The Subcommittee appeal determination requires a majority vote of the members. If an agreement cannot be reached, the appeal may be referred to the full Board. Decisions by the full Board require a majority vote. The Appeals Subcommittee may render a decision to the employee or individual and also refer the issue to the full Board for a benefit policy review.

(C) When the Subcommittee completes a review, or in the case of a full Board review, the employee or individual will receive a written explanation and determination within 30 days after the meeting.

(5) An individual may appeal the Subcommittee or Board's decision as provided under the Oregon Administrative Procedures Act, ORS Chapter 183

Stat. Auth.: ORS 243.061 - 302

Stats. Implemented: ORS 243.061 - 302

Hist.: PEBB 3-2010, f. 9-23-10, cert. ef. 10-1-10; PEBB 1-2013, f. & cert. ef. 9-24-13

101-030-0005

Continuation of Group Medical and Dental Insurance Coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA)

COBRA allows an eligible individual who is losing an employer's group health plan coverage due to a qualifying event to continue coverage for a limited time. PEBB COBRA is a self-pay premium by the eligible individual.

(1) PEBB participating organizations will issue an initial COBRA notice to all newly eligible employees and individuals that explains the right to continue employer medical and dental insurance plans if lost.

(a) The notice must be mailed to the eligible employee's address of record immediately following enrollment in PEBB medical or dental insurance plans or personally delivered to the employee. The notice must include all PEBB covered individuals residing at the address, including family members, a domestic partner, and a domestic partner's dependent children. Agencies must send a separate notice to the address of record for eligible individuals residing separately from the eligible employee.

ADMINISTRATIVE RULES

(b) An initial COBRA notice must be mailed to individuals who become newly eligible for PEBB coverage due to marriage or the formation of a domestic partnership.

(2) To initiate COBRA eligibility a COBRA triggering event must occur causing the loss of benefit coverage. COBRA triggering events include:

- (a) An involuntary reduction in hours or layoff.
- (b) A strike or lockout.
- (c) The beginning of an unpaid leave of absence.
- (d) The termination of employment.
- (e) Retirement.
- (f) A dependent child no longer satisfying eligibility requirements.
- (g) The loss of employer-sponsored group coverage for dependents due to Medicare eligibility.

(h) A divorce or termination of a domestic partnership.
(i) The death of the employee.
(3) All individuals losing eligibility due to a triggering event must receive a COBRA continuation notice. PEBB participating organizations must notify PEBB's Third Party Administrator (TPA) within 30 days of the date of benefit eligibility. The date eligibility is lost is the COBRA triggering event date.

(a) The PEBB TPA mails a COBRA notice of continuation, which includes a Certificate of Group Health Plan Coverage, to each eligible individual at their last address of record when eligibility for PEBB-sponsored insurance coverage is lost. The TPA must mail the notice to each eligible individual within 14 days of receiving the notification.

(b) An eligible employee has 60 days from the receipt of the COBRA notice to activate their COBRA rights of continuation. PEBB-sponsored insurance coverage must be continuous through COBRA implementation.

(4) Generally, health plans may be continued under COBRA provisions for the following basic maximum coverage periods:

- (a) For termination or reduction in hours, section (2)(a)–(e) of this rule, 18 months after the date of the triggering event; or
- (b) For Section (2)(f)–(i) of this rule, 36 months after the date of the triggering event.

(5) An eligible employee's spouse or domestic partner who is 55 years of age or older and who loses benefit coverage due to divorce, termination of a domestic partnership, or death of the employee, section (2)(h) and (i) of this rule, may continue PEBB health insurance coverage for themselves and their dependent children beyond the general 36 month COBRA continuation period. An eligible spouse or domestic partner may continue their PEBB health insurance coverage until they are entitled to Medicare, are covered under another group medical insurance plan, or otherwise lose eligibility.

(6) An eligible individual continuing PEBB medical or dental insurance coverage or both under COBRA provisions has the same rights as active eligible employees for making changes during the open enrollment period and is eligible for qualified midyear changes.

(7) An eligible employee ending employment may continue to participate in the Healthcare Flexible Spending Account through COBRA up to the end of the current plan year if when the triggering event occurs:

- (a) They have a positive balance in their account; and
- (b) They self-pay contributions to the account. Contributions after employment ends are paid on an after-tax basis.

Stat. Auth.: ORS 243.061 - 302
Stats. Implemented: ORS 243.061-302, 659A.060-069 & 743.600-602
Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 1-2013, f. & cert. ef. 9-24-13

101-030-0070

Life, Disability, and Accidental Death and Dismemberment Insurance – Continuation of Coverage

(1) When an eligible employee separates from state service optional life insurance coverage may continue through the plan, not PEBB, as follows:

(a) Portability. An eligible employee terminating employment, other than for disability or retirement, may continue the employee's optional employee, spouse, and domestic partner life insurance coverage at the group rate, plus billing fees. The policy remains a term life insurance policy. The employee must apply directly to the plan within 30 days of the date coverage ends. Portability is not available for employee basic life or dependent life coverage. A survivor of a covered eligible employee may continue optional life insurance through the plan upon the death of the employee.

(b) Conversion Rights. An eligible employee terminating employment for any reason, including disability or retirement, or experiencing a reduction in hours to less than 80 paid regular hours in the month, may be eligible to convert the employee's term life insurance coverage. Not all policy types are available for conversion. The employee must apply directly to the plan within 30 days of the date insurance coverage ends. A survivor of a covered eligible employee may convert life insurance coverage through the plan upon the death of the employee.

(c) Retiree Life Insurance Option. An eligible employee who retires may purchase the Retiree Life Insurance Option without submitting evidence of insurability. The employee must apply directly to the insurance plan within 30 days of the date insurance coverage ends.

(d) Transfer of Premium Payment for Optional Employee Life Insurance. When two active eligible employees are married or in a domestic partnership and both are state employees, one employee can transfer their optional life insurance coverage to the other employee's life insurance coverage or to themselves upon:

- (A) Terminating employment for any reason;
- (B) Beginning an active military leave;
- (C) Divorce;
- (D) Termination of their domestic partnership, or;
- (E) Retirement. The remaining employed eligible employee must submit the completed and signed transfer form to their agency within 30 days of the date of the events listed in (1)(d) of this rule.

(2) There are no portability, conversion, or rollover continuation options for short term or long term disability or accidental death and dismemberment insurance coverage.

Stat. Auth.: ORS 243.061 - 302
Stats. Implemented: ORS 243.061 - 302
Hist.: PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; Renumbered from 101-020-0070, PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11; PEBB 1-2013, f. & cert. ef. 9-24-13

Rule Caption: Division 5 rules are being amended to support the Board's procurement and renewal processes.

Adm. Order No.: PEBB 2-2013(Temp)

Filed with Sec. of State: 10-2-2013

Certified to be Effective: 10-2-13 thru 3-28-14

Notice Publication Date:

Rules Amended: 101-005-0040, 101-005-0105, 101-005-0110

Subject: Division 5 rules are being amended to support the Board's procurement and renewal processes.

Rules Coordinator: Cherie Taylor—(503) 378-6296

101-005-0040

Procurement and Renewal Processes

(1) Formal Selection Procedure: This procedure will be used for the procurement of Benefits. Exceptions to this procedure are specified in sections (2), (3), (4) and (5).

(a) Announcement: The Board will give notice of intent to contract for Benefits via the Oregon Procurement Information Network (ORPIN). The notice shall include a description of the Benefits or services sought, the scope of the services required, and a description of special requirements, if any. The notice will invite qualified prospective contractors to apply. The notice will specify when and where the application may be obtained, to whom it must be returned, and the closing date.

(b) Proposal: The Proposal from the prospective contractors will consist of a statement that describes the prospective contractor's credentials, performance data and other information sufficient to establish contractor's qualifications for providing the Benefits or services sought, as well as any other information requested in the announcement.

(c) Evaluation: The Board or its designees will evaluate the qualifications of all applicants and select prospective contractors as set forth in OAR 101-005-0110.

(d) Award of Contracts: The Board will make final selections based on the criteria included in OAR 101-002-005(3) in addition to criteria included in the Request for Proposals.

(2)(a) Informal Selection Procedure: This procedure may be used at the Board's discretion, when the informal selection procedure will not interfere with competition among prospective contractors, reduce the quality of services, is an amount less than \$150,000 in contract costs, or will not increase costs. The Board will contact a minimum of three prospective contractors known to the Board to be qualified to propose the sought-after services. The selection will be made by the Board based upon the factors described in paragraph (1)(d) of this rule. If three quotes are not received, the Board will make a written record of its efforts to obtain quotes.

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(b) When informal selection procedure has been used, the cumulative amendment(s) to the contract shall not increase the total contract cost to sum that is greater than twenty-five percent (25%) of the original contract cost.

(3)(a) Sole Source Procedure: PEBB may award a contract for Benefits without competition when the Administrator of PEBB determines in writing that the services are available from only one source, or the contractor is defined as a Qualified Rehabilitation Facility as defined in Oregon's public contracting code.

(b) The determination of a sole source must be based on written findings that may include:

(A) That the efficient utilization of existing services requires the acquisition of compatible services;

(B) That the services required for the exchange of software or data with other public or private agencies are available from only one source;

(C) That the services are for use in a pilot or an experimental project, or;

(D) Other findings that support the conclusion that the goods or services are available from only one source.

(c) To the extent reasonably practical, PEBB shall negotiate with the sole source to obtain contract terms advantageous to PEBB.

(4) Renewal Procedure: If the Board does not issue an RFP or Single Source procurements to solicit formal proposals from qualified potential Contractors or Vendors, the Board may directly negotiate and enter into renewal contracts each plan year with Renewal Contractors to provide Benefits and other services without following the procedures set forth in sections (1) and (2) above. The Board may renew contracts with Renewal Contractors for as many years as the Board determines is in the best interest of the state and employees. The Board may invite renewal Proposals from those Contractors or Vendors who provided the same or similar employee Benefit Plan or other services in the year immediately prior. An employee Benefit Plan or other services contract is similar if it is reasonable related to the scope of work described in the procurement under which such a contract was awarded. The Board will negotiate with Renewal Contractors and enter into contracts with them after giving full consideration to the factors listed in paragraph (1)(d) or to such of those factors as the Board determines shall be evaluated for the renewal.

(5) Emergency Appointment Procedure: The Board may select a Benefit Plan or other service Contractor without following any of the above procedures when Emergency conditions require. In such instance, the recommended appointment and a written description of the conditions requiring the use of this appointment procedure shall be submitted to the Board. The Board will determine if an Emergency exists, declare the Emergency and negotiate a contract with the Contractor after giving full consideration to the factors listed in paragraph (1)(d).

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.135

Hist.: PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 2-2005, f. 7-26-05, cert. ef. 7-29-05; PEBB 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-22-09; PEBB 2-2009, f. 7-29-09, cert. ef. 8-1-09; PEBB 3-2010, f. 9-23-10, cert. ef. 10-1-10, PEBB 2-2013(Temp), f. & cert. ef. 10-2-13 thru 3-28-14

101-005-0105

Submission of Proposals; Format; Timing

(1) All Proposals submitted as a result of a Formal Solicitation, Informal Solicitation, or Single Source Solicitation shall comply with the procurement's specifications. If portions of the Proposal to any solicitation are deemed unacceptable or non-responsive to the specifications of the solicitation, the Proposal will be deemed non-responsive and will not be given further evaluation or consideration. If a Proposal to any solicitation is delivered late, it will be deemed non-responsive to the specification of the solicitation and will be returned to the Proposer unopened.

(2) Unless otherwise specified in the procurement, submission of Proposals shall be in writing and shall be delivered in the written format, as required by the specifications of the solicitation. Proposals may be submitted entirely electronically in a reasonable format if required by the solicitation documents.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.125(1)

Hist.: PEBB 2-2005, f. 7-26-05, cert. ef. 7-29-05; PEBB 3-2010, f. 9-23-10, cert. ef. 10-1-10, PEBB 2-2013(Temp), f. & cert. ef. 10-2-13 thru 3-28-14

101-005-0110

Evaluation of Proposals

(1) Evaluation. The evaluation process described in this rule applies to the Formal Selection Procedure set forth in OAR 101-005-0040(1). The Board and any assigned representatives, including but not limited to, PEBB stakeholders staff, or Consultants, hereinafter identified as the Selection

Committee, shall evaluate Proposals only in accordance with criteria set forth in the RFP and applicable law. The Board shall evaluate Proposals to determine the Responsible Proposer or Proposers submitting the best responsive Proposal or Proposals.

(2) Competitive Range; Protest; Award.

(a) Determining Competitive Range. If the Board does not cancel the solicitation, the Board will evaluate all Proposals in accordance with the evaluation criteria set forth in the RFP. After evaluation of all Proposals in accordance with the criteria set forth in the RFP, the Board will determine the Proposers in the competitive range.

(b) Protesting Competitive Range. The Board shall provide written notice to all Proposers identifying Proposers in the competitive range. A Proposer that is not within the competitive range may protest the Board's evaluation and determination of the competitive range in not more than two (2) business days after the Board has sent written e-mail notice of the competitive range to all Proposers.

(c) Intent to Award; Discuss or Negotiate. After the protest period provided in accordance with paragraph (2) (b) expires, or after the Board has provided a final response to any protest, whichever date is later, the Board may engage in discussions and negotiations with Proposers in the competitive range.

(3) Discussions and Negotiations. If the Board chooses to enter into discussions and negotiations with the Proposers in the competitive range, the Board shall proceed as follows:

(a) Initiating Discussions. The Board shall initiate oral or written discussions and negotiations with all of the Proposers in the competitive range regarding their Proposals.

(b) Conducting Discussions. The Board may conduct discussions and negotiations with each Proposer in the competitive range necessary to fulfill the purposes of this section, but need not conduct the same amount of discussions or negotiations with each Proposer. The Board may terminate discussions and negotiations with any Proposer in the competitive range at any time. However, the Board shall offer all Proposers in the competitive range the opportunity to discuss their Proposals with the Board before the Board notifies Proposers of the award decisions. The Proposers' opportunity to discuss their Proposals with the Board before Proposers are notified of the award decisions may be satisfied by interviewing Proposers in the competitive range, as specified in the RFP.

(A) In conducting discussions, the Board and any designated representatives:

(i) Shall treat all Proposers fairly and shall not favor any Proposer over another;

(ii) Shall determine whether other factors, including but not limited to, Oregon residency of the primary business office and Proposer demonstration of services and products, will be used to determine the apparent successful Proposer, should a tie between Proposers occur.

(B) At any time during the time allowed for discussions and negotiations, the Board may:

(i) Continue discussions and negotiations with a particular Proposer or Proposers, or;

(ii) Terminate discussions with a particular Proposer and continue discussions with other Proposers in the competitive range;

(C) The Board may continue discussions and negotiations with Proposers until the Board has determined which Proposer or Proposers shall be awarded contracts.

(c) Intent to Award; Protest. The Board shall provide written notice to all Proposers in the competitive range of the Board's intent to award the contracts. An unsuccessful Proposer may protest the Board's intent to award in accordance with OAR 101-005-0140. After the protest period provided in accordance with OAR 101-005-0140 expires, or after the Board has provided a final response to any protest, whichever date is later, the Board may commence final Contract execution with the successful Proposer or Proposers.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.135 & 243.125

Hist.: PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 2-2005, f. 7-26-05, cert. ef. 7-29-05; PEBB 3-2010, f. 9-23-10, cert. ef. 10-1-10, PEBB 2-2013(Temp), f. & cert. ef. 10-2-13 thru 3-28-14

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**Oregon Health Authority,
Public Health Division
Chapter 333**

Rule Caption: Application fees for medical marijuana registration
Adm. Order No.: PH 9-2013(Temp)
Filed with Sec. of State: 10-2-2013

ADMINISTRATIVE RULES

Certified to be Effective: 10-2-13 thru 3-30-14

Notice Publication Date:

Rules Amended: 333-008-0020

Subject: The Oregon Health Authority, Public Health Division is temporarily amending OAR 333-008-0020 relating to new registration for medical marijuana use.

In 2013 the Legislature approved medical marijuana fee reductions for individuals that are eligible for Oregon Health Plan (OHP) benefits or are receiving food stamps benefits through the Oregon SNAP program.

The Authority finds that failure to act promptly will result in serious prejudice to the public interest, the Authority, and OHP clients and food stamp recipients. These rules need to be adopted promptly so that individuals with limited incomes benefit from these fee reductions as soon as possible. The Authority is filing the fee reductions as temporary, emergency rules in order to expedite the fee reductions for OHP clients and SNAP recipients. A permanent rule-making will follow to make these fee reductions permanent.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-008-0020

New Registration Application and Verification

(1) A person may apply for a registry identification card on forms prescribed by the Authority. In order for an application to be considered complete, an applicant must submit the following:

(a) An application form signed and dated by the applicant;

(b) Copies of legible and valid U.S. state or federal issued photographic identification that includes last name, first name, and date of birth from the applicant, the designated primary caregiver, and grower, as applicable. Acceptable forms of current U.S. state or federal issued photographic identification include but are not limited to:

(A) Driver's license;

(B) State identification card;

(C) Passport; or

(D) Military identification card.

(c) Written documentation, which may consist of relevant portions of the applicant's medical record, signed by the applicant's attending physician within 90 days of the date of receipt by the Authority, which describes the applicant's debilitating medical condition and states that the use of marijuana may mitigate the symptoms or effects of the applicant's debilitating medical condition;

(d) If applicable, a completed and notarized "Declaration of Person Responsible for Minor" form for any person under 18 years of age, signed and dated by the person responsible for the minor;

(e) The name of a designated primary caregiver, if any, and one designated grower (either the patient or another person) and the location of the grow site; and

(f) An application fee and grow site registration fee, if applicable, in the form of cash, bank check, money order, or personal check.

(2) The Authority shall process an application prior to issuing registry identification cards to assure that the application is complete and information provided has been verified.

(a) The Authority shall only accept applications that are mailed or are hand-delivered.

(b) If an applicant does not provide all the information required and the application is considered incomplete, the Authority shall notify the applicant of the information that is missing, and shall allow the applicant 14 days to submit the missing information.

(c) If an applicant does not provide the information necessary to declare an application complete, or to complete the verification process within the timelines established in subsections (2)(b) and (3)(e) of this rule, the application shall be rejected as incomplete. An applicant whose application is rejected as incomplete may reapply at any time. If an applicant submits an application fee and the application is subsequently denied or rejected, the application fee may be applied toward a new application submitted within one year of the denial or rejection date.

(d) The Authority may reject an application if the application or supporting documents appear to be altered (e.g., writing is whited out). An application shall be denied in accordance with OAR 333-008-0030 if an application or supporting documents are determined to have been falsified.

(e) The Authority may verify information on each application and accompanying documentation, including:

(A) Contacting each applicant by telephone or by mail. If proof of identity is uncertain, the Authority may require a face-to-face meeting and may require the production of additional identification materials;

(B) Contacting a minor's parent or legal guardian;

(C) Contacting the Oregon Medical Board to verify that an attending physician is licensed to practice in the state and is in good standing;

(D) Contacting the attending physician to request further documentation to support a finding that the physician is the applicant's attending physician. The Authority shall notify the applicant of the intent to review the medical records and request the applicant's authorization to conduct the review. Failure to authorize a review of medical records may result in the application being declared incomplete, or denial of an application. If the Authority is unable to verify that the applicant's attending physician meets the definition under OAR 333-008-0010(3) the applicant will be allowed 30 days to submit written documentation or a new attending physician's declaration from a physician meeting the requirements of these rules. Failure to submit the required attending physician documentation is grounds for denial under ORS 475.309 and OAR 333-008-0030;

(E) Contacting the Division of Medical Assistance Programs, Department of Human Services-Self Sufficiency, or the Social Security Administration (SSA) to verify eligibility for benefits; and

(F) Conducting a criminal records check under ORS 181.534 of any person whose name is submitted as a grower.

(3) Application fees.

(a) A non-refundable application fee of \$200 is required at the time of application.

(b) If applicable as specified in OAR 333-008-0025, a non-refundable grow site registration fee of \$50 is required at the time of application.

(c) An applicant who can prove he or she is an Oregon resident and can demonstrate current receipt of SSI benefits, current eligibility for OHP benefits or current receipt of food stamp benefits through the Oregon SNAP program, qualifies for a reduced non-refundable application fee.

(A) Proof of residency may be shown through provision of:

(i) A current Oregon driver's license or Oregon issued identification card; and

(ii) A utility bill, mortgage statement, lease payment statement or lease agreement for the previous month with the applicant's name and an Oregon physical address.

(B) An applicant demonstrating receipt of SSI benefits by providing a copy of a current monthly SSI benefit card showing dates of coverage is entitled to a reduced application fee of \$20.

(C) An applicant demonstrating current eligibility for OHP benefits by providing a copy of the applicant's current eligibility statement is entitled to a reduced application fee of \$50.

(D) An applicant demonstrating receipt of current food stamp benefits, verified by enrollment in Oregon's Food Stamp Management Information System database system and by providing current proof of his or her food stamp benefits, is entitled to a reduced application fee of \$60.

(d) The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.

(e) The Authority shall notify an applicant who submits a reduced application fee for which the applicant is not eligible and will allow the applicant 14 days from the date of notice to pay the correct application fee and submit a current valid proof of eligibility.

(f) The application fees established in paragraphs (3)(c)(C) and (D) of this rule are effective for an application received on or after October 1, 2013.

(4) The application forms referenced in this rule may be obtained by contacting the: Oregon Medical Marijuana Program (OMMP) at PO Box 14450, Portland, OR 97293-0450 or calling 971-673-1234.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 13-2000(Temp), f. & cert. ef. 12-21-00 thru 6-15-01; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 9-2003, f. 6-26-03, cert. ef. 7-1-03; PH 38-2004, f. 12-22-04, cert. ef. 1-1-05; PH 17-2005, f. 11-25-05, cert. ef. 12-1-05; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 14-2010(Temp), f. & cert. ef. 7-6-10 thru 12-31-10; PH 27-2010, f. & cert. ef. 12-28-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11; PH 9-2013(Temp), f. & cert. ef. 10-2-13 thru 3-30-14

ADMINISTRATIVE RULES

Oregon Health Insurance Exchange Chapter 945

Rule Caption: Eligibility Standards, Application Process, and Appeals of Eligibility Determinations

Adm. Order No.: OHIE 6-2013

Filed with Sec. of State: 9-30-2013

Certified to be Effective: 9-30-13

Notice Publication Date: 8-1-2013

Rules Adopted: 945-040-0010, 945-040-0020, 945-040-0030, 945-040-0040, 945-040-0050, 945-040-0060, 945-040-0070, 945-040-0080, 945-040-0090, 945-040-0100, 945-040-0110, 945-040-0120, 945-040-0130, 945-040-0140, 945-040-0150, 945-040-0160, 945-040-0170

Subject: Establishes (1) eligibility standards, (2) the application process for enrollment in a qualified health plan and insurance affordability programs, and (3) the process to appeal Exchange eligibility determinations.

Rules Coordinator: Gregory Jolivet—(503) 373-9406

945-040-0010

Definitions

(1) Advance payments of the premium tax credit means payment of the federal health insurance premium tax credit on an advance basis to an eligible individual enrolled in a QHP through the Exchange.

(2) American Indian, for purposes of eligibility for tax credits and cost sharing benefits, means an enrolled member of a federally recognized tribe. For Medicaid and CHIP, American Indian means an individual is either an enrolled member of a federally recognized tribe or a descendent of an enrolled member of a federally recognized tribe, or eligible for services through Indian Health Services.

(3) Appellant means an applicant or enrollee who has submitted a valid appeal request.

(4) Applicant means (a) An individual who is seeking eligibility for him or herself through an application submitted to the Exchange or transmitted to the Exchange by an agency administering insurance affordability programs for enrollment in a QHP, Medicaid, and/or CHIP, and (b) an employer or employee seeking eligibility for enrollment in a QHP through SHOP.

(5) Authorized representative means an individual or organization designated in writing by the applicant (individual or employee) to act on his or her behalf in applying for an eligibility determination or redetermination, and in carrying out other ongoing communications with the Exchange pursuant to 45 CFR §155.227.

(6) Benefit year means a calendar year for which a health plan provides coverage for health benefits.

(7) Catastrophic plan means a health plan described in §1302(e) of the Affordable Care Act.

(8) CHIP or Children's Health Insurance Program means the portion of the Oregon Health Plan established by Title XXI of the Social Security Act and administered by the Oregon Health Authority. CHIP provides health coverage for uninsured children who are ineligible for Medicaid.

(9) Cost sharing means any expenditure required by or on behalf of an enrollee with respect to essential health benefits. This includes deductibles, coinsurance, copayments, or similar charges, but excludes premiums, balance billing amounts for non-network providers, and spending for non-covered services.

(10) Cost sharing reductions means reductions in cost sharing for an eligible individual enrolled in a silver level QHP in the Exchange or for an individual who is an eligible American Indian enrolled in a QHP through the Exchange.

(11) Department of Health and Human Services or HHS means the United States Department of Health and Human Services.

(12) Eligible employee has the meaning given in the Oregon Insurance Code.

(13) Employee has the meaning given in section 2791 of the Public Health Services Act.

(14) Employer has the meaning given to the term in section 2791 of the PHS Act except that such term includes employers with one or more employees.

(15) Enrollee means a qualified individual or a qualified employee enrolled in a QHP.

(16) Exchange means the Oregon Health Insurance Exchange doing business as Cover Oregon.

(17) Essential health benefits consists of the following general categories and the items and services covered within the categories:

- (a) Ambulatory patient services;
- (b) Emergency services;
- (c) Hospitalization;
- (d) Maternity and newborn care;
- (e) Mental health and substance use disorder services and devices;
- (f) Prescription drugs;
- (g) Rehabilitative and habilitative services and devices;
- (h) Laboratory services;
- (i) Preventive and wellness services and chronic disease management;

and

- (j) Pediatric services, including oral and vision care.
- (18) Family size has the meaning given in 26 CFR §1.36B-1 and 42 CFR §435.603.

(19) Federal poverty level (or FPL) means the most recently published Federal poverty level as of the first day of the annual open enrollment period for coverage in a QHP through the Exchange.

(20) Full-time employee:

(a) For plan years beginning prior to January 1, 2016, a full-time employee means an employee that works at least 17.5 hours and not more than 40 hours per week and is otherwise determined to be a full-time employee by a small employer provided that the same number of hours for full-time employment applies to all employees.

(b) For plan years beginning on or after January 1, 2016, full-time employee has the meaning given in section 4980H of the Internal Revenue Code.

(21) Grandfathered health plan has the meaning given in 45 CFR §147.140.

(22) Household has the meaning given in 42 CFR §435.603.

(23) Household income has the meaning given in 26 CFR §1.36B and 42 CFR §435.603.

(24) Individual market means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

(25) Insurance affordability programs means advance payments of the federal health insurance premium tax credit, cost sharing reductions, and MAGI-based Medicaid and CHIP.

(26) Lawfully present has the meaning given in 45 CFR §152.2.

(27) MAGI-based Medicaid and CHIP means Medicaid and CHIP programs for which eligibility is based on modified adjusted gross income, and not primarily on age or disability.

(28) Medicaid means medical assistance programs established by Title XIX of the Social Security Act and administered in Oregon by the Oregon Health Authority.

(29) Minimum contribution requirement in the case of a medical plan means a small employer must contribute at least 50 percent of the employee-only premium. If a small employer elects to offer more than one medical plan to employees through SHOP, the minimum contribution requirement will be determined based on a reference plan selected by the employer. In the case of a dental plan, the employer must contribute at least \$20 per enrolling employee.

(30) Minimum essential coverage has the meaning given in section 5000(A)(f) of the Internal Revenue Code.

(31) Minimum participation requirement, in the case of a medical plan means that at least 75 percent of the employees offered SHOP medical coverage must enroll. In the case of a dental plan, at least 50 percent of the employees offered SHOP dental coverage must enroll.

(32) Modified adjusted gross income (or MAGI) means adjusted gross income adjusted by any amount excluded from gross income under IRS Code §911, any interest accrued, and social security benefits not included in gross income.

(33) OHA means Oregon Health Authority.

(34) Plan year means a consecutive 12-month period during which a health plan provides coverage for health benefits. A plan year may be a calendar year or otherwise.

(35) Qualified employer means an employer who meets the requirements to participate in the Small Business Health Options Program.

(36) Qualified health plan (or QHP) means a health plan that is certified by the Exchange as eligible to be sold and purchased through the Exchange.

(37) Resident means an individual who lives in Oregon with or without a fixed address, or intends to live in Oregon, including an individual who enters Oregon with a job commitment or looking for work. There is no minimum amount of time an individual must live in Oregon to be a resident. However, the individual must intend to remain in Oregon. An indi-

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vidual continues to be a resident of Oregon during a temporary period of absence if he or she intends to return when the purpose of the absence is completed. An individual is not a resident if the individual is in Oregon solely for a vacation.

(38) Silver-level qualified health plan means a QHP that provides a level of coverage that is designed to on average provide benefits that are actuarially equivalent to 70 percent of the full actuarial benefits provided under the plan.

(39) Small employer has the meaning given in the Oregon Insurance Code.

(40) Tax filer has the meaning given in 45 CFR §155.300.

(41) United States nationals are persons who owe permanent allegiance to the United States and may enter and work in the United States without restriction. This includes persons born in American Samoa or Swain's Island after December 24, 1952, and residents of the Northern Mariana Islands who did not elect to become United States citizens.

(42) Valid appeal request means an appeal request or amended appeal request from an applicant or an authorized representative made in accordance with OAR 945-010-0100(5) and that is received by the Exchange within 90 days of the date of the notice of eligibility determination.

Stat. Auth.: ORS 741.002

Stats. Implemented: ORS 741.500

Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0020

Eligibility for Enrollment in a Qualified Health Plan in the Individual Market

(1) To qualify for enrollment in a qualified health plan in the individual market, an applicant must:

(a) Be a United States citizen or national, or a lawfully present non-citizen;

(b) Be a resident of Oregon; and

(c) Not be incarcerated. Incarceration pending the disposition of charges is not a disqualifying factor.

(2) To qualify for enrollment in a qualified health plan that is a catastrophic plan, in addition to meeting the requirements of (1), an applicant must either:

(a) Have not attained the age of 30 before the beginning of the plan year; or

(b) Have a certification showing that he or she is exempt from the requirement to maintain minimum essential coverage for the plan year for which he or she is applying by reason of:

(A) Lack of access to affordable coverage, in accordance with §5000A(e)(1) of the Internal Revenue Code; or

(B) Hardship, in accordance with §5000A(e)(5) of the Internal Revenue Code.

Stat. Auth.: ORS 741.002

Stats. Implemented: ORS 741.500

Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0030

Eligibility for the Small Business Health Options Program (SHOP)

(1) To qualify for the Exchange's Small Business Health Options Program (SHOP), a small employer must:

(a) Have at least one but not more than 50 eligible employees;

(b) At a minimum, offer coverage in a qualified health plan to all full-time employees; and

(c) Have a principal business address in Oregon, or offer coverage to all eligible employees whose primary worksite is located in Oregon.

(2) A small employer that meets the minimum participation and contribution requirements for medical plans may apply for SHOP coverage throughout the year. A small employer that does not meet these requirements may apply for SHOP coverage between November 15 and December 15. The minimum participation and contribution requirements for dental plans apply throughout the year for a small employer offering dental plans through SHOP.

(3) Once enrolled, if the number of employees grows larger than 50, the group is eligible to stay enrolled through SHOP.

(4) An employee is eligible to enroll in a qualified health plan through SHOP if such employee receives an offer of coverage from a qualified employer.

Stat. Auth.: ORS 741.002

Stats. Implemented: ORS 741.500

Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0040

Eligibility for Insurance Affordability Programs

(1) Advance Payments of the Premium Tax Credit. In order to qualify for advance payments of the premium tax credit, a tax filer must:

(a) Be expected to have household income greater than or equal to 100 percent, but not more than 400 percent of the Federal Poverty Level (FPL) for the benefit year; and One or more applicants for whom the tax filer expects to claim a personal exemption deduction on his or her tax return for the benefit year including the tax filer and his or her spouse must:

(A) Be eligible for enrollment in a qualified health plan; and

(B) Not be eligible for minimum essential coverage, with the exception of coverage in the individual market; and

(b) Attest that he or she:

(A) Will file an income tax return for the benefit year;

(B) If married, will file a joint tax return for the benefit year;

(C) Will not be claimed as a tax dependent by another tax filer for the benefit year; and

(D) Will claim a personal exemption deduction on his or her tax return for the applicants identified as members of his or her family including the tax filer and his or her spouse.

(2) An individual is treated as eligible for employer-sponsored minimum essential coverage only if:

(a) The employee's share of the annual premium for self-only coverage does not exceed 9.5 percent of the taxpayer's household income for the taxable year and the insurer's share of the total allowed costs of benefits provided under the plan is at least 60 percent of those costs; or

(b) The individual actually enrolls in the coverage, including coverage that does not provide minimum value and exceeds 9.5 percent of the taxpayer's household income for the taxable year.

(3) A qualified individual must enroll through the Exchange in a qualified health plan that is not a catastrophic plan to receive advance payments of the premium tax credit.

(4) A qualified individual may accept less than the full amount of advance payments of the premium tax credit for which he or she is determined eligible.

(5) A tax filer who receives advance payments of the premium tax credit and does not file an income tax return and reconcile payments of the tax credit as required by the federal government may not be eligible for advance payments of the premium tax credit for the next benefit year.

(6) Cost Sharing Reductions. In order to qualify for cost sharing reductions, an individual must:

(a) Be eligible for enrollment in a qualified health plan;

(b) Be eligible for advance payments of the premium tax credit;

(c) Be expected to have household income that does not exceed 250 percent of FPL; and

(d) Be enrolled in a silver-level qualified health plan, except as provided in 945-040-0050 for members of federally recognized Indian tribes.

(7) The Exchange must use the following eligibility categories for cost sharing reductions:

(a) Individuals expected to have household income less than or equal to 150 percent of FPL. Individuals in this category will be eligible for cost sharing reductions such that the silver plan covers between 93 and 95 percent of the average expected medical expenses for essential health benefits.

(b) Individuals expected to have household income greater than 150 percent of FPL and less than or equal to 200 percent of FPL. Individuals in this category will be eligible for cost sharing reductions such that the silver plan covers between 86 and 88 percent of the average expected medical expenses for essential health benefits

(c) Individuals expected to have household income greater than 200 percent of FPL and less than or equal to 250 percent of FPL. Individuals in this category will be eligible for cost sharing reductions such that the silver plan covers between 72 and 74 percent of the average expected medical expenses for essential health benefits.

(8) MAGI-based Medicaid and CHIP Programs. The Exchange must determine eligibility for MAGI-based Medicaid and CHIP programs in accordance with OAR 410-200.

Stat. Auth.: ORS 741.002

Stats. Implemented: ORS 741.500

Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0050

Eligibility Standards for Special Populations

(1) Advance Payments of the Premium Tax Credit for Lawfully Present Noncitizens Ineligible for Medicaid. The Exchange must determine a tax filer eligible for advance payments of the premium tax credit if he or she:

ADMINISTRATIVE RULES

(a) Meets the requirements of 945-040-0040, except 945-040-0040(1)(a) and (b); and

(b) One or more applicants for whom the tax filer attests that he or she expects to claim a personal exemption deduction on his or her tax return for the benefit year, including the tax filer and his or her spouse, is a noncitizen who is lawfully present and ineligible for Medicaid by reason of immigration status in accordance with section 36B(c)(1)(B) of the Internal Revenue Code.

(2) Cost Sharing Reductions for American Indians/Alaska Natives. To qualify for cost sharing reductions, the applicant must:

- (a) Be a member of a federally recognized tribe;
- (b) Be eligible for and enroll in a qualified health plan;
- (c) Be eligible for advance payments of the premium tax credit; and
- (d) Be expected to have income that does not exceed 300 percent of the federal poverty level.

(3) An applicant qualified under section (2) of this rule is not required to enroll in a silver-level qualified health plan to receive cost sharing reductions.

(4) For an enrollee qualified under section (2) of this rule, carriers are required to eliminate any cost sharing under any plan chosen by the qualified applicant.

(5) A member of a federally recognized tribe who is enrolled in a qualified health plan is eligible for no cost sharing for services provided directly by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization, or through referral under contract services.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0060

Application Process

(1) An individual, authorized representative, or someone acting on behalf of an individual, must complete the application prescribed by the Exchange in order for the Exchange to determine eligibility for:

- (a) Enrollment in a qualified health plan;
- (b) Advance payments of the premium tax credit;
- (c) Cost sharing reductions; and
- (d) MAGI-based Medicaid and CHIP.

(2) An applicant who has a Social Security number must provide such number to the Exchange.

(3) An individual who is not seeking coverage for himself or herself is not required to provide a Social Security number, except that he or she must provide the Social Security number of the tax filer who is not an applicant only if the applicant attests that the tax filer has a Social Security number and filed a tax return for the year for which tax data would be used for verification of household income.

(4) An applicant, authorized representative or other individual acting on behalf of the applicant may file an application:

- (a) Via the Exchange Internet Web site;
- (b) By telephone through a call center;
- (c) By mail, including emails and faxes; or
- (d) In person.

(5) An applicant for individual market coverage may request an eligibility determination:

- (a) Only for enrollment in a qualified health plan; or
- (b) Both for enrollment in a qualified health plan, and insurance affordability programs.

(6) An applicant for individual market coverage may not apply for less than all of the insurance affordability programs.

(7) If an applicant for individual market coverage does not specify his or her preference to limit the eligibility determination to enrollment in a qualified health plan, the Exchange must determine the applicants' eligibility for insurance affordability programs.

(8) The Exchange must provide written notice to an applicant of any eligibility determination made in accordance with this section, including information on the applicant's right to appeal the determination and instructions regarding how to file an appeal.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0070

Eligibility Verification Process

(1) The Exchange must process eligibility determinations based on the information attested to by the applicant.

(2) For an individual seeking enrollment in a QHP, the Exchange must verify:

- (a) The Social Security number;
- (b) Citizenship, status as a national, and lawful presence;
- (c) Federal incarceration; and
- (d) Enrollment in a federally recognized Tribe.

(3) For an individual seeking eligibility for both enrollment in a QHP and insurance affordability programs, the Exchange must verify household income, as well as the items listed in section (2) of this rule.

(4) Approved data sources for verification include, but are not limited to the following:

- (a) The US Department of Health and Human Services;
- (b) The US Internal Revenue Service;
- (c) The US Department of Homeland Security;
- (d) The Social Security Administration;
- (e) The Oregon Employment Department; and
- (f) Tribal communications.

(5) For an employee seeking coverage in an employer-sponsored plan through SHOP, the Exchange must check the list of employees who have been offered coverage by the subject employer to verify that the employee has an offer of coverage.

(6) If the Exchange receives information from the applicant that is inconsistent with information the Exchange receives from the data sources in section (4) of this rule, and the inconsistency cannot be resolved by the applicant and a customer service representative, the Exchange must issue a notice to inform the applicant of the inconsistency and request further documentation.

(7) The applicant has 90 days from the date on the notice to provide the required documentation.

(8) If the attestation cannot be verified during the 90-day period, the Exchange must make a determination based on the information available from the data sources listed in sections (4) and (5) of this rule.

(9) At the end of the 90-day period, the Exchange must issue a written eligibility determination notice to the applicant. The determination takes effect 30 days after the date on which it was sent but not earlier than January 1, 2014.

SStat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0080

Eligibility Redetermination During a Benefit Year

(1) The Exchange must redetermine the eligibility of an enrollee during the benefit year if it receives and verifies new information reported by an enrollee.

(2) An enrollee who participates in affordability programs is required to report any changes that may affect his or her eligibility within 30 days of such change.

(3) Changes may be reported via the Exchange web portal, by telephone through the call center, by mail, or in person.

(4) The Exchange must verify information prior to using it for an eligibility redetermination.

(5) For individuals who elect to receive such notifications, the Exchange must provide periodic electronic notifications regarding the requirement to report changes and an enrollee's opportunity to report such changes.

(6) If the Exchange verifies information reported by an enrollee, it must:

- (a) Redetermine the enrollee's eligibility;
- (b) Notify the enrollee regarding the determination in a manner that complies with 45 CFR §155.230; and
- (c) Notify the enrollee's employer, as applicable.

(7) Eligibility redeterminations take effect the first day of the month following the date of the notice.

(8) When an individual is no longer eligible for enrollment in a qualified health plan, the Exchange must maintain his or her enrollment (without advance payments of the premium tax credit or cost sharing reductions) until the last day of the month following the date of the notice unless the enrollee requests an earlier termination date.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0090

Compliance with Code of Federal Regulations

These rules incorporate by reference 45 CFR §155.305, §155.310, §155.315, §155.320, §155.330, §155.350, §155.710, §155.715, and Subpart F. To the extent these rules do not address an applicable provision

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in the federal rules or are inconsistent with the federal rules, the applicable federal rule governs.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0100

Appeals of Exchange Eligibility Determinations

(1) An applicant or enrollee, or an authorized representative of an applicant or enrollee has the right to appeal a decision by the Exchange concerning:

(a) An initial determination of eligibility or redetermination of eligibility for:

(A) Enrollment in a qualified health plan, including enrollment in a qualified health plan that is a catastrophic plan;

(B) Advance payments of the premium tax credit, including the amount of advance payments of the premium tax credit;

(C) Cost-sharing reductions, including the level of cost-sharing reductions; and

(D) MAGI-based Medicaid and CHIP.

(b) Failure of the Exchange to act on an application within 45 days of the filing date.

(2) An individual or enrollee who wishes to appeal a decision regarding an exemption from the individual mandate must follow the instructions provided with the eligibility determination notice supplied by the US Department of Health and Human Services.

(3) An employer who wishes to appeal a determination that the employer does not provide minimum essential coverage through an employer-sponsored plan or that the coverage is not affordable coverage with respect to an employee must follow the instructions provided with the eligibility determination notice supplied by the US Department of Health and Human Services.

(4) To appeal an eligibility determination or the timeliness of such a decision an applicant or enrollee must submit an appeal request to the Exchange within 90 days of the date on the eligibility determination notice.

(5) The Exchange must accept appeal requests submitted to it:

(a) By telephone. Exchange or OHA staff will assist the applicant or enrollee over the telephone to complete Form CO-P-00012, incorporated by reference;

(b) By mail, using form CO-P-00012 that can be printed from the Exchange's website, if postmarked within the timeframe specified in section 4 of this rule;

(c) By fax; using form CO-P-00012 that can be printed from the Exchange's website; or

(d) Via the Internet on the Exchange's website or to the Exchange using electronic mail (email) to appeals@coveroregon.com and attaching form CO-P-00012.

(6) An appeal will not be denied for failure to complete form CO-P-00012.

(7) Upon receipt of a valid appeal request, the Exchange must:

(a) Send to the individual that submitted the appeal acknowledgement of the receipt of a valid appeal request, including

(A) Information on the appellant's eligibility pending appeal; and

(B) An explanation that any advance payments of the premium tax credit paid on behalf of the tax filer pending appeal are subject to reconciliation under 26 CFR 1.36B-4; and

(b) Coordinate with OHA, if applicable, to review the appeal request and determine which entity will take the lead to process the appeal.

(8) Upon receipt of an appeal request that is not valid, the Exchange must promptly and without undue delay inform the applicant or enrollee in writing:

(a) That the appeal request has not been accepted;

(b) About the nature of the defect in the appeal request; and

(c) That he or she may cure the defect and resubmit the appeal request within 90 days of the notice of eligibility determination or within a reasonable timeframe established by the Exchange.

(9) An appellant has the right to an expedited appeal when the time otherwise allowed for an appeal could jeopardize the individual's life, health or ability to attain, maintain, or regain maximum function. The Exchange shall review the request to determine eligibility for an expedited appeal and approve or deny the request for an expedited appeal.

(10) If a request for an expedited appeal is denied, the Exchange shall:

(a) Use the standard appeal time frame; and

(b) Inform the appellant of the denial promptly and without undue delay, either orally or through electronic means. If oral notification is pro-

vided, the Exchange must follow up with written notice within the timeframe established by the secretary of HHS.

(11) Written notice of denial of a request for an expedited appeal must include:

(a) The reason for the denial;

(b) An explanation that the appeal request will be transferred to the standard process; and

(c) An explanation of the appellant's rights under the standard process.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0110

Eligibility Pending Appeal

(1) After receipt of a valid appeal request that concerns a redetermination of eligibility, the Exchange shall continue the appellant's eligibility for enrollment in a QHP, advance payments of the premium tax credit, and cost-sharing reductions, as applicable, in accordance with the level of eligibility immediately before the redetermination being appealed unless the appellant chooses not to receive continued benefits.

(2) The Exchange shall determine an appellant's eligibility for continuing benefits in MAGI-based Medicaid and CHIP programs in accordance with OAR 410-200-0145.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0120

Informal Conference

Following receipt of a valid appeal request, the Exchange representative and the appellant may have an informal conference to:

(1) Provide an opportunity to resolve the matter;

(2) Review the basis for the eligibility determination, including but not limited to a review of the rules and facts that serve as the basis for the decision;

(3) Exchange additional information that may correct any misunderstandings of the facts relevant to the eligibility determination; and

(4) To consider any other matters that may expedite the orderly conduct of the proceeding.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0130

Contested Case Hearings

(1) All hearings under these rules must be conducted in accordance with OAR 137-003-0501 to 137-003-0700, except to the extent that Exchange rules are permitted to and provide for different procedures. Hearing must also be conducted in accordance with 45 CFR §155.535(c), (d) and (e).

(2) Except in the case of expedited hearing, the Exchange must ensure that written notice is sent to the appellant of the date, time, and location or format of the hearing no later than 15 days prior to the hearing date.

(3) The Exchange's contested case hearings governed by these rules are not open to the public and are closed to nonparticipants, except nonparticipants may attend subject to consent of the Exchange and the appellant and applicable confidentiality laws.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0140

Dismissals

(1) The Exchange shall dismiss an appeal if the appellant:

(a) Withdraws the appeal request in writing or on the record, including at the hearing;

(b) Fails to appear at a scheduled hearing without good cause;

(c) Fails to submit a valid appeal request;

(d) Fails to provide required information requested by an Exchange appeals representative;

(e) Dies while the appeal is pending; or

(f) No longer has an appealable issue in dispute.

(2) If an appeal is dismissed under this rule the Exchange shall provide a timely dismissal order to the appellant, including

(a) The reason for dismissal

(b) An explanation of the dismissal's effect on the appellant's eligibility; and

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(c) An explanation of how the appellant may show good cause why the dismissal should be vacated in accordance with section (3) of this rule.

(3) The Exchange may vacate a dismissal and proceed with the appeal if the appellant makes a written request postmarked or received by the Exchange within 30 days of the date of the notice of dismissal showing good cause why the dismissal should be vacated.

(4) If a request to vacate a dismissal is denied, the Exchange must provide timely written notice to the appellant of the denial.

(5) For purposes of this rule, "good cause" has the meaning given in OAR 137-003-0501(7).

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0150

Appeal Decisions

Appeal decisions must comply with 45 CFR 155.545.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0160

Appeal to the United States Department of Health and Human Services

If an appellant disagrees with the appeal decision of the Exchange, he or she may make an appeal request to HHS within 30 days of the date of the notice of appeal decision through any of the methods described in OAR 945-040-0100(5).

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

945-040-0170

Appeal Record

Subject to the requirements of all applicable federal and state laws regarding privacy, confidentiality, disclosure, and personally identifiable information, the Exchange must make the appeal record accessible to the appellant at a convenient place and time.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13

Oregon Liquor Control Commission
Chapter 845

Rule Caption: Temporary rule to implement Senate Bill 795 statutory amendments (granting temporary sales licensee growler privileges).

Adm. Order No.: OLCC 8-2013(Temp)

Filed with Sec. of State: 9-17-2013

Certified to be Effective: 10-1-13 thru 3-30-14

Notice Publication Date:

Rules Amended: 845-005-0440

Subject: Temporary Sales License privileges are set forth in ORS 471.190. OAR 845-005-0440 implements this statute. Under the current rule, the holder of a Temporary Sales License may sell wine, malt beverages, and cider for consumption on the licensed premises and for consumption off the licensed premises. However, alcohol sold for consumption off the licensed premises may only be sold in factory-sealed containers.

On June 26, 2013, the Governor signed Senate Bill 795 into law. Senate Bill 795 amended ORS 471.190 to allow the holder of a Temporary Sales License to sell wine, malt beverages, and cider in both factory-sealed containers and securely-covered containers provided by the consumer, also known as growlers, provided that the grower does not hold more than two gallons of liquid. Senate Bill 795 contains an emergency clause making it effective upon passage.

On September 12, 2013, the Commission adopted a temporary rule (effective October 1, 2013) without prior notice or hearing to comply with the statutory language now in effect.

The Commission will proceed with permanent rulemaking while the adopted temporary rule is in place. The temporary rule will remain in effect until permanent amendments are adopted or until the

temporary rule expires on March 30, 2014; whichever is first to occur.

Rules Coordinator: Annabelle Henry—(503) 872-5004

845-005-0440

Temporary Sales Licenses

(1) A person must obtain from the Commission a license or authority to sell alcoholic beverages. ORS 471.405 establishes a prohibition on sale of alcoholic beverages without a license or authority. ORS 471.406 defines sale of alcoholic beverages. This rule sets the requirements for obtaining a Temporary Sales License.

(2) Definitions. For this rule:

(a) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day. The license fee is \$50 per license day or for any part of a license day.

(b) "Nonprofit trade association" means an organization comprised of individual or business members where the organization represents the interests of the members and is registered with the state of Oregon as a nonprofit association.

(c) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(d) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity.

(e) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food.

(f) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(g) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(3) ORS 471.190 authorizes the Commission to issue a Temporary Sales License. Temporary Sales Licenses are issued in increments of one license day. The Commission will not approve more than seven license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than seven days. The Commission may issue a Temporary Sales License only to applicants that qualify under the Commission's licensing standards and that are:

(a) A nonprofit or charitable organization that is registered with the state, including nonprofit trade associations where at least 51% of the total membership is comprised of persons that hold winery licenses issued under ORS 471.223 or grower sales privilege licenses issued under 471.227; or

(b) A political committee that has a current statement of organization filed under ORS 260.039 or 260.042; or

(c) An agency of the State; or

(d) A local government or an agency or department of a local government; or

(e) Any applicant not described in (3)(a)–(3)(d) of this subsection, including licensees of the Commission.

(4) A Temporary Sales License may authorize the licensee to sell wine, malt beverages and cider at retail for consumption on the licensed premises and for consumption off the licensed premises. All wine, malt beverages and cider sold for consumption off the licensed premises must be in either:

(a) Manufacturer-sealed containers that do not hold more than two and one-quarter gallons each; or

(b) Securely covered containers provided by the consumer that do not hold more than two gallons each.

(5) A Temporary Sales License may authorize the licensee to sell distilled liquor by the drink at retail for consumption on the licensed premises.

(6) Applicants must apply in writing for a Temporary Sales License, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not

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complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(7) The application for a Temporary Sales License under this rule shall include:

(a) A written, dated, and signed plan. An application is not complete if this plan is not approved by the Commission. To approve a plan, the Commission must determine that the plan adequately manages:

- (A) The event to prevent problems and violations;
- (B) Patronage by minors as set out in subsection (8) of this rule; and
- (C) Alcohol consumption by adults.

(b) Identification of the individuals to be employed by the licensee to manage events on the licensed premises;

(c) Identification of the premises proposed to be licensed;

(d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465;

(e) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;

(f) The recommendation in writing of the local governing body where the licensed premises will be located;

(g) License fees as established by ORS 471.311.

(8) A plan for managing patronage by minors under subsection (7)(a) of this rule must meet the following requirements:

(a) If the Temporary Sales License will be on any part of a premises, room, or area with a permanent license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the permanent license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.

(b) If the Temporary Sales License will not be on any part of a premises, room, or area with a permanent license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

(9) Minors are prohibited from the licensed premises or portions of the licensed premises as follows:

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in an area where there is video lottery games, social games, or nude entertainment or where such activities are visible.

(c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.

(10) Minimum Age of Servers. Alcohol servers at temporary sales licensed locations must be at least 21 years of age to sell or serve alcoholic beverages, with the following exceptions:

(a) In areas of the licensed premises not prohibited to minors, persons who are 18, 19, and 20 years of age may:

(A) Take orders for, serve and sell alcoholic beverages for on-premises consumption if the activity is incidental to the selling or serving of food in that area of the licensed premises, and may sell alcoholic beverages in manufacturer-sealed containers for off-premises consumption; or

(B) Sell tokens/script, including verifying age, to be redeemed for alcoholic beverages or food at the event.

(b) In areas of the licensed premises prohibited to minors, persons who are 18, 19, and 20 years of age may deliver food, restock non-alcohol supplies and perform other non-alcohol related duties, however the person shall not remain in the prohibited area longer than is necessary to perform these duties.

(11) Alcohol servers at locations licensed under subsections (3)(b)–(e) of this rule must hold valid service permits unless specifically exempted under authority of subsection (12) of this rule.

(12) The Commission may waive the service permit requirement for the holder of a Temporary Sales License issued under subsections (3)(b)–(e) of this rule, and the licensee's alcohol servers, if:

(a) The license is used only for package sales; or if

(b) The Commission concludes alcohol service by individuals who do not hold a service permit does not pose a significant risk for public safety problems or non-compliance with liquor laws; and

(c) Each alcoholic beverage point-of-sale at the licensed location is staffed, at all times alcoholic beverages are being sold or served, by an individual who has completed a Server Education course successfully within 5 years prior to the date of the event.

(13) At events licensed under subsection (3)(a) of this rule, before allowing alcohol servers to sell or serve alcoholic beverages, the licensee must ensure that all alcohol servers have met one of the following standards:

(a) The alcohol server has a valid service permit or has successfully completed a Server Education course within 5 years prior to the date of the event, or

(b) The alcohol server has attended training provided by the licensee, and has read, signed and dated the Commission-provided brochure, What Every Volunteer Alcohol Server Needs to Know. The licensee-provided training must address the topics included in the brochure, including but not limited to: minors and proper checking of identification, and how to recognize and respond appropriately to visibly intoxicated persons. At any time while on duty, the alcohol server shall make the signed brochure available for immediate inspection by any inspector or investigator employed by the Commission or by any other peace officer.

(14) If there are compliance problems with an operator or an event, the Commission may add other requirements for the education of servers at events licensed under this rule.

(15) The Commission may deny, cancel or restrict a Temporary Sales License for any reason for which the Commission may deny, cancel or restrict a regular license.

(16) The Commission may deny or restrict a Temporary Sales License if the applicant has a serious violation history at events previously licensed with a Temporary Sales License within the past 36 months.

(17) The Commission shall limit the issuance of Temporary Sales Licenses to the same applicant at the same location to no more than 31 license days from January 1 to December 31 of each year, unless the Commission determines that the applicant would be eligible for an annual license based on the applicant's personal qualifications and the total number of license days at the same location does not exceed 60 in that calendar year.

(18) The Commission may refund the Temporary Sales License fee if the application is withdrawn by the applicant or denied by the Commission, if the event does not take place because of circumstances beyond the applicant's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.

(19) When the Commission approves a written plan under subsection (7)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a category III violation.

(20) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

Stat. Auth.: ORS 471, 471.030, 471.040, 471.190 & 471.730(1) & (5)

Stats. Implemented: ORS 471.190, 471.360 & 471.482

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 4-2001(Temp), f. & cert. ef. 8-15-01 thru 2-11-02; OLCC 13-2001, f. 12-18-01, cert. ef. 2-12-02; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02; OLCC 24-2007, f. 12-17-07, cert. ef. 1-1-08; OLCC 17-2010, f. 12-22-10, cert. ef. 1-1-11; OLCC 9-2012, f. 10-30-12, cert. ef. 11-1-12; OLCC 8-2013(Temp), f. 9-17-13, cert. ef. 10-1-13 thru 3-30-14

Oregon Medical Board
Chapter 847

Rule Caption: Reorganizes and updates the rules on licensure

Adm. Order No.: OMB 23-2013

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 2-1-2013

Rules Amended: 847-020-0140

Subject: The rule specifies the qualifications for a Limited License, Medical Faculty and the requirements for a physician practicing with this license. The rule is being amended here because the text originally filed in April 2013 omitted a part of the sentence in section (4). This rule filing corrects that error.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

ADMINISTRATIVE RULES

847-020-0140

Limited License, Medical Faculty Qualifications

(1) Any physician who does not qualify for a medical license under any of the provisions of this chapter and who is offered by the Dean of an approved medical school in this state a full-time faculty position may, after application to and approval by the Board, be granted a Limited License, Medical Faculty to engage in the practice of medicine only to the extent that such practice is incident to and a necessary part of the applicant's duties as approved by the Board in connection with such faculty position.

(2) To qualify for a Limited License, Medical Faculty an applicant must meet all the following requirements:

(a) Furnish documentary evidence satisfactory to the Board that the applicant is a United States citizen or is legally admitted to the United States.

(b) Furnish documentary evidence satisfactory to the Board that the applicant has been licensed to practice and has practiced medicine and surgery for not less than four years in another state or country whose requirements for licensure are satisfactory to the Board, or has been engaged in the practice of medicine in the United States for at least four years in approved hospitals, or has completed a combination of such licensed practice and training.

(c) The dean of the medical school must certify in writing to the Board that the applicant has been appointed to a full-time faculty position; that a position is available; and that because the applicant has unique expertise in a specific field of medicine, the medical school considers the applicant to be a valuable member of the faculty.

(d) The head of the department in which the applicant is to be appointed must certify in writing to the Board that the applicant will be under the direction of the head of the department and will not be permitted to practice medicine unless as a necessary part of the applicant's duties as approved by the Board in subsection (1)(a) of this rule.

(e) The applicant may be required to take and pass an examination by the Board.

(3) A Limited License, Medical Faculty is valid for one year after issuance and may be renewed as frequently as needed for a total period not to exceed four years. The four years must be consecutive.

(4) Having completed four years of practice under a Limited License, Medical Faculty and successfully passed one of the examinations or combination of examinations per OAR 847-020-0170, the applicant is eligible for licensure.

Stat. Auth.: ORS 677.132 & 677.265
Stats. Implemented: ORS 677.100, 677.110, 677.132 & 677.265
Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 2-2002, f. & cert. ef. 1-28-02; BME 5-2002, f. & cert. ef. 4-23-02; BME 3-2006, f. & cert. ef. 2-8-06; BME 4-2007, f. & cert. ef. 1-24-07; BME 18-2008, f. & cert. ef. 7-21-08; BME 23-2008, f. & cert. ef. 10-31-08; OMB 9-2013, f. & cert. ef. 4-5-13; OMB 23-2013, f. & cert. ef. 10-1-13

Rule Caption: Memorializes the authority previously delegated to the Executive Director to issue Notices of Civil Penalty

Adm. Order No.: OMB 24-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 8-1-2013

Rules Adopted: 847-001-0040

Subject: This rule adoption puts into administrative rule the authority that has been previously delegated by the Board to the Executive Director over approving and signing Notices of Civil Penalty for violation of Board administrative rules.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-001-0040

Approval of Notices of Civil Penalty

(1) The Executive Director has the authority to issue Notices of Civil Penalty, which include default final orders, for violations of the Board's administrative rules.

(2) The Executive Director's signature grants approval of the Notice of Civil Penalty, which becomes a public document. As a public document, the Notice of Civil Penalty may be released to the public. However, the civil penalty is not an adverse action.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.190, 677.205, 677.265
Hist.: OMB 12-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OMB 24-2013, f. & cert. ef. 10-15-13

Rule Caption: Board member compensation

Adm. Order No.: OMB 25-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 8-1-2013

Rules Adopted: 847-003-0200

Subject: The new rule establishes the compensation authorized for Board members.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-003-0200

Board Member Compensation

(1) Board members of the Oregon Medical Board shall receive up to \$250 compensation for each day or portion thereof during which the member is actually engaged in the performance of official duties, which includes Board and committee meetings and activities that the Board has pre-approved or requested that the member attend as its representative.

(2) The compensation amount shall be in addition to the allowable reimbursement for travel expenses.

Stat. Auth.: ORS 677.235
Stats. Implemented: ORS 292.495, 677.235
Hist.: OMB 25-2013, f. & cert. ef. 10-15-13

Rule Caption: Fee changes as approved

Adm. Order No.: OMB 26-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 8-1-2013

Rules Amended: 847-005-0005

Subject: The rule amendment reflects fees approved by the legislature for the 2013-15 biennial budget, including adjusted registration fees, a \$100 application fee for a physician to supervise a physician assistant, a one-time surcharge for physician assistants, and a passthrough fee for the actual cost of criminal records checks on applicants or licenses.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-005-0005

Fees

(1) Licensing Fees:

(a) Doctor of Medicine/Doctor of Osteopathy (MD/DO) Initial License Application — \$375.

(b) MD/DO Registration: Active, Administrative Medicine, Inactive, Locum Tenens, Military/Public Health, Telemedicine, Telemonitoring and Teleradiology — \$253/year+*.

(c) MD/DO Registration: Emeritus — \$50/year.

(d) MD/DO Limited License, SPEX/COMVEX, Visiting Professor, Fellow, Medical Faculty, Postgraduate, Special Application — \$185.

(e) MD/DO Application to Supervise a Physician Assistant — \$100.

(f) Acupuncture Initial License Application — \$245.

(g) Acupuncture Registration: Active, Inactive, Locum Tenens and Military/Public Health — \$161/year*.

(h) Acupuncture Registration: Emeritus — \$50/year.

(i) Acupuncture Limited License, Special, Visiting Professor, Postgraduate Application — \$75.

(j) Physician Assistant Initial License Application — \$245.

(k) Physician Assistant Registration: Active, Inactive, Locum Tenens and Military/Public Health — \$191/year*.

(L) Physician Assistant Registration: Emeritus — \$50/year.

(m) Physician Assistant Surcharge for 2014-2015 registration period — \$65.

(n) Physician Assistant Limited License, Special, Postgraduate Application — \$75.

(o) Podiatrist Initial Application — \$340.

(p) Podiatrist Registration: Active, Administrative Medicine, Inactive, Locum Tenens, Military/Public Health, Telemedicine and Telemonitoring — \$243/year*.

(q) Podiatrist Registration: Emeritus — \$50/year.

(r) Podiatrist Limited License, Special, Postgraduate Application — \$185.

(s) Reactivation Application Fee — \$50.

(t) Electronic Prescription Drug Monitoring Program — \$25/year**.

(u) Workforce Data Fee — \$5/license period***.

ADMINISTRATIVE RULES

- (v) Criminal Records Check Fee — \$52****.
- (w) Oral Specialty or Competency Examination (\$1,000 deposit required) — Actual costs.
- (2) Delinquent Registration Renewals:
 - (a) Delinquent MD/DO Registration Renewal — \$195.
 - (b) Delinquent Acupuncture Registration Renewal — \$80.
 - (c) Delinquent Physician Assistant Registration Renewal — \$80.
 - (d) Delinquent Podiatrist Registration Renewal — \$195.
- (3) Licensee Information Request Charges:
 - (a) Verification of Licensure — Individual Requests (1-4 Licenses) — \$10 per license.
 - (b) Verification of Licensure — Multiple (5 or more) — \$7.50 per license.
 - (c) Malpractice Report — Individual Requests — \$10 per license.
 - (d) Malpractice Report — Multiple (monthly report) — \$15 per report.
- (4) Disciplinary — Individual Requests — \$10 per license.
- (4) Base Service Charges for Copying — \$5 + .20/page.
- (5) Record Search Charges (+ copy charges in section (4) of this rule):
 - (a) Clerical — \$20 per hour.
 - (b) Administrative — \$40 per hour.
 - (c) Executive — \$50 per hour.
 - (d) Medical — \$75 per hour.
- (6) Data Order Charges:
 - (a) Standard Licensee Data Order — \$150 each.
 - (b) Custom Licensee Data Order — \$150.00 + \$40.00 per hour Administrative time.
- (c) Address Label Disk — \$100 each.
- (7) All Board fees and fines are non-refundable and non-transferable.
- (8) The Board may waive or reduce fees for public records upon written request if the Board determines that making the record available primarily benefits the general public.

+Per ORS 677.290(3), fee includes \$10.00 for the Oregon Health and Science University Library.

*Collected biennially excepted where noted in the Administrative Rules.

**Per ORS 431.960-431.978, fee is assessed to licensees authorized to prescribe or dispense controlled substances in Oregon for the purpose of creating and maintaining the Prescription Drug Monitoring Program administered by the Oregon Health Authority.

***Per ORS 676.410, fee is assessed for the purpose of creating and maintaining a healthcare workforce data base administered by the Oregon Health Authority.

****Per ORS 181.534(9)(g), fee is the actual cost of acquiring and furnishing criminal offender information.

Stat. Auth.: ORS 181.534, 431.972, 676.410, 677.265 & 677.290

Stats. Implemented: ORS 181.534, 192.440, 431.972, 676.410, 677.265 & 677.290

Hist.: ME 7-1984, f. & ef. 1-26-84; ME 17-1984, f. & ef. 11-5-84; ME 6-1985, f. & ef. 7-30-85; ME 3-1986(Temp), f. & ef. 4-23-86; ME 4-1986, f. & ef. 4-23-86; ME 9-1986, f. & ef. 7-31-86; ME 2-1987, f. & ef. 1-10-87; ME 7-1987(Temp), f. & ef. 1-26-87; ME 9-1987, f. & ef. 4-28-87; ME 25-1987, f. & ef. 11-5-87; ME 9-1988, f. & cert. ef. 8-5-88; ME 14-1988, f. & cert. ef. 10-20-88; ME 1-1989, f. & cert. ef. 1-25-89; ME 5-1989 (Temp), f. & cert. ef. 2-16-89; ME 6-1989, f. & cert. ef. 4-27-89; ME 9-1989(Temp), f. & cert. ef. 8-1-89; ME 17-1989, f. & cert. ef. 10-20-89; ME 4-1990, f. & cert. ef. 4-25-90; ME 9-1990, f. & cert. ef. 8-2-90; ME 5-1991, f. & cert. ef. 7-24-91; ME 11-1991(Temp), f. & cert. ef. 10-21-91; ME 6-1992, f. & cert. ef. 5-26-92; ME 1-1993, f. & cert. ef. 1-29-93; ME 13-1993, f. & cert. ef. 11-1-93; ME 14-1993(Temp), f. & cert. ef. 11-1-93; ME 1-1994, f. & cert. ef. 1-24-94; ME 6-1995, f. & cert. ef. 7-28-95; ME 7-1996, f. & cert. ef. 10-29-96; ME 3-1997, f. & cert. ef. 11-3-97; BME 7-1998, f. & cert. ef. 7-22-98; BME 7-1999, f. & cert. ef. 4-22-99; BME 10-1999, f. & cert. ef. 7-8-99; BME 8-2000, f. & cert. ef. 10-28-99; BME 4-2000, f. & cert. ef. 2-22-00; BME 6-2001(Temp), f. & cert. ef. 7-18-01 thru 11-30-01; BME 10-2001, f. & cert. ef. 10-30-01; BME 8-2003, f. & cert. ef. 4-24-03; BME 16-2003, f. & cert. ef. 10-23-03; BME 17-2004, f. & cert. ef. 9-9-04; BME 6-2005, f. & cert. ef. 7-20-05; BME 15-2006, f. & cert. ef. 7-25-06; BME 1-2007, f. & cert. ef. 1-24-07; BME 1-2008, f. & cert. ef. 1-22-08; BME 15-2008, f. & cert. ef. 7-21-08; BME 1-2009, f. & cert. ef. 1-22-09; BME 15-2009(Temp), f. & cert. ef. 9-11-09 thru 3-8-10; BME 1-2010, f. & cert. ef. 1-26-10; OMB 10-2011(Temp), f. & cert. ef. 7-13-11 thru 1-4-12; OMB 18-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; OMB 22-2011, f. & cert. ef. 10-18-11; OMB 33-2011(Temp), f. & cert. ef. 12-28-11, cert. ef. 1-1-12 thru 6-29-12; OMB 3-2012, f. & cert. ef. 2-10-12; OMB 9-2012(Temp), f. & cert. ef. 3-2-12 thru 8-29-12; OMB 20-2012, f. & cert. ef. 8-3-12; OMB 27-2012(Temp), f. & cert. ef. 10-12-12 thru 4-10-13; OMB 5-2013, f. & cert. ef. 4-5-13; OMB 13-2013(Temp), f. & cert. ef. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OMB 26-2013, f. & cert. ef. 10-15-13

Rule Caption: Memorializes the licensing authority previously delegated to the Executive Director and Medical Director

Adm. Order No.: OMB 27-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 8-1-2013

Rules Adopted: 847-008-0003

Subject: The rule adoption puts into administrative rule the licensing authority that has been previously delegated by the Board to the Executive Director and Medical Director.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-008-0003

Delegation of Authority

(1) The Executive Director or, in the absence of the Executive Director, the Medical Director has the authority to grant, renew and reactivate licensure for all license types and statuses upon satisfactory completion of the application.

(2) The Executive Director or, in the absence of the Executive Director, the Medical Director has the authority to approve visiting physician applications and visiting acupuncturist applications.

(3) The Executive Director has the authority to waive the registration fee for good and sufficient reason.

(4) The Executive Director has the authority to require additional documentation or explanatory statements for the application file to be considered satisfactorily complete.

(5) The Executive Director has the authority to determine that an applicant qualifies for licensure by expedited endorsement.

(6) The Executive Director has the authority to perform initial reviews of applications to determine whether an applicant or licensee meets the qualifications, has satisfactorily completed the application and should be approved or whether the application file contains derogatory information that requires review by an advisory committee and a determination by the Board.

(7) The Executive Director has the authority to perform initial reviews of re-entry plans for applicants who have ceased clinical practice for a period of 24 or more consecutive months to determine whether the proposed re-entry plan meets the Board's guidelines for re-entry or whether the proposal requires review by an advisory committee and a determination by the Board.

(8) The Medical Director has the authority to determine whether an applicant or licensee has significant malpractice claims or patient care issues that require additional review by an advisory committee and a determination by the Board.

(9) The Executive Director has the authority to grant waivers of the competency examinations if the applicable waiver requirements are met.

Stat. Auth.: ORS 677.235

Stats. Implemented: ORS 292.495, 677.235

Hist.: OMB 14-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OMB 27-2013, f. & cert. ef. 10-15-13

Rule Caption: Merges the names of the two former national databanks into one

Adm. Order No.: OMB 28-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 8-1-2013

Rules Amended: 847-008-0055

Subject: The rule amendment reflects the merger of the two national databanks (formerly the National Practitioner Data Bank and the Health Integrity & Protection Data Bank) into one (now known as the National Practitioner Data Bank).

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-008-0055

Reactivation from Locum Tenens/Inactive/Emeritus/Active-Military or Public Health to Active/Locum Tenens Status

(1) A licensee of the Board who wishes to reactivate from an inactive or emeritus status to an active or locum tenens status, or from locum tenens status to active status, must provide the Board with the following:

(a) Completed Affidavit of Reactivation form;

(b) Completed application(s) for registration;

(c) Appropriate fees for processing of affidavit and registration;

(d) A Board Action Databank Inquiry report sent directly to the Board from the Federation of State Medical Boards or Federation of Podiatric Medical Boards;

(e) The results of a Practitioner Self-Query from the National Practitioner Data Bank sent to the Board by the applicant;

(f) Verification of current licensure sent directly from each of the State Boards in the United States or Canada where the licensee has been practicing during the past 5 years, or from the date the license to practice in Oregon changed to inactive, locum tenens or emeritus status, whichever is the shorter period of time, showing license number, date issued, and status; and

(g) An official letter sent directly to the Board from the director, administrator, dean, or other official of each hospital, clinic, office, or training institute where the licensee was employed, practiced, had hospital priv-

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ileges (MD/DO/DPM), or trained in the United States or foreign countries during the past 5 years, or from the date the license to practice in Oregon changed to locum tenens, inactive or emeritus status, whichever is the shorter period of time. The letter must include an evaluation of overall performance, and specific beginning and ending dates of practice/employment/training.

(2) A licensee who wishes to reactivate from an active-military or public health status to an active or locum tenens status must provide the Board with a completed Affidavit of Reactivation form and a copy of the Active Duty Orders, Change of Duty Orders or Reassignment Orders.

(3) A personal appearance before the Board may be required.

(4) If, in the judgment of the Board, the conduct of the licensee has been such, during the period of active-military or public health, locum tenens, inactive or emeritus registration, that the licensee would have been denied a license if applying for an initial license to practice medicine, the Board may deny active registration.

(5) If a licensee has ceased the practice of medicine for a period of 12 or more consecutive months, the licensee may be required to demonstrate clinical competency.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 2-1997, f. & cert. ef. 7-28-97; BME 6-2000, f. & cert. ef. 7-27-00; BME 7-2002, f. & cert. ef. 7-17-02; BME 2-2004, f. & cert. ef. 1-27-04; BME 14-2004, f. & cert. ef. 7-13-04; BME 25-2006, f. & cert. ef. 10-23-06; BME 2-2008, f. & cert. ef. 1-22-08; OMB 12-2011, f. & cert. ef. 7-13-11; OMB 28-2013, f. & cert. ef. 10-15-13

Rule Caption: Fee for criminal records checks as approved

Adm. Order No.: OMB 29-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 8-1-2013

Rules Amended: 847-008-0068

Subject: The rule amendment specifies that the criminal records check cost will be passed through to the applicant or licensee as approved by the legislature in the 2013-15 budget.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-008-0068

State and Nationwide Criminal Records Checks, Fitness Determinations

(1) The purpose of these rules is to provide for the reasonable screening of applicants and licensees in order to determine if they have a history of criminal behavior such that they are not fit to be granted or renewed a license that is issued by the Board.

(2) These rules are to be applied when evaluating the criminal history of an applicant or licensee and conducting fitness determinations based upon such history. The fact that an applicant or licensee has cleared the criminal history check does not guarantee the granting or renewal of a license.

(3) The Board may require legible fingerprints of all applicants for a medical (MD/DO), podiatric (DPM), physician assistant (PA), and acupuncturist (LAc) license, licensees reactivating their license, licensees renewing their license and licensees under investigation to determine the fitness of an applicant or licensee. These fingerprints will be provided on prescribed forms made available by the Board. Fingerprints may be obtained at a law enforcement office or at a private service acceptable to the Board; the Board will submit fingerprints to the Oregon Department of State Police to conduct a Criminal History Check and a National Criminal History Check. Any original fingerprint cards will subsequently be destroyed.

(4) The Board will determine whether an applicant or licensee is fit to be granted a license based on the criminal records background check, any false statements made by the applicant or licensee regarding the criminal history of the individual, any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as part of an investigation. If an applicant is determined to be unfit, the applicant may not be granted a license. If the licensee is determined to be unfit, the licensee's license may not be reactivated or renewed. The Board may make a fitness determination conditional upon applicant's or licensee's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

(5) In making the fitness determination, the Board will consider:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the applicant's or licensee's present or proposed license; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the license. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the applicant or licensee at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(6) All background checks must include available state and national data, unless obtaining one or the other is an acceptable alternative.

(7) In order to conduct the Oregon and National Criminal History Check and fitness determination, the Board may require additional information from the licensee or applicant as necessary, such as but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial or other background information.

(8) Criminal offender information is confidential. Information received may be disseminated only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to ORS 676.175(1).

(9) The Board will permit the individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.

(10) The Board may consider any conviction of any violation of the law for which the court could impose a punishment and in compliance with ORS 670.280. The Board may also consider any arrests and court records that may be indicative of an individual's inability to perform as a licensee with care and safety to the public.

(11) If an applicant or licensee is determined not to be fit for a license, the applicant or licensee is entitled to a contested case process pursuant to ORS 183.414-183.470. Challenges to the accuracy or completeness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183.

(12) If the applicant discontinues the application process or fails to cooperate with the criminal history check process, the application is considered incomplete.

(13) The applicant or licensee must pay a criminal records check fee.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 181.534, 677.100 & 677.265

Hist. BME 20-2006(Temp), f. & cert. ef. 9-14-06 thru 3-12-07; BME 4-2007, f. & cert. ef. 1-24-07; BME 4-2008, f. & cert. ef. 1-22-08; OMB 20-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; OMB 5-2012, f. & cert. ef. 2-10-12; OMB 10-2012(Temp), f. & cert. ef. 3-2-12 thru 8-29-12; OMB 24-2012, f. & cert. ef. 8-3-12; Renumbered from 847-020-0155 by OMB 6-2013, f. & cert. ef. 4-5-13; OMB 15-2013(Temp), f. 7-12-12, cert. ef. 7-15-13 thru 1-11-14; OMB 29-2013, f. & cert. ef. 10-15-13

Rule Caption: Corrects the licensing process for Limited License, Medical Faculty

Adm. Order No.: OMB 30-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 8-1-2013

Rules Amended: 847-010-0063

Subject: The rule amendment accurately reflects that the Limited License, Medical Faculty is approved weekly rather than quarterly as a result of the delegation of these license application approvals to the Executive Director in July 2010.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-010-0063

Limited License, Medical Faculty

(1) A physician qualifying under OAR 847-020-0140 may be granted a Limited License, Medical Faculty. This license allows the physician to practice medicine only to the extent that such practice is incident to and a

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necessary part of the applicant's duties as approved by the Board in connection with the faculty position.

(2) A Limited License, Medical Faculty is valid for one year after issuance and may be renewed as frequently as needed for a total period not to exceed four years. The four years must be consecutive.

(3) Every physician who is issued a Limited License, Medical Faculty to practice in this state and who intends to continue practice in such faculty position beyond the period granted for the license must submit a new limited license application and fee at least 30 days before the expiration date of the license.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.100 & 677.132
Hist.: ME 21-1987, f. & ef. 10-29-87; ME 11-1988, f. & cert. ef. 8-5-88; ME 4-1993, f. & cert. ef. 4-22-93; BME 5-2001, f. & cert. ef. 4-23-01; BME 2-2002, f. & cert. ef. 1-28-02; BME 5-2004, f. & cert. ef. 4-22-04; BME 3-2007, f. & cert. ef. 1-24-07; BME 23-2008, f. & cert. ef. 10-31-08; OMB 16-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OMB 30-2013, f. & cert. ef. 10-15-13

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Rule Caption: Expands Visiting Physician approval to physicians volunteering at community nonprofit organizations

Adm. Order No.: OMB 31-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 8-1-2013

Rules Amended: 847-010-0066

Subject: The rule amendment expands the visiting physician approval to include out-of-state physicians who provide health care services without compensation at a community nonprofit organization such as a county health fair. The rule amendment also deletes the requirement for the visiting physician applicant to submit a curriculum vitae as the needed information is now gathered through the electronic application process.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-010-0066

Visiting Physician Requirements

(1) The Oregon Medical Board may grant approval for a visiting physician to practice under the supervision of an actively licensed Oregon physician who is in good standing without disciplinary action in order to:

(a) Obtain or provide training unrelated to enrollment in a postgraduate training program for a period up to thirty days per year in a hospital, ambulatory surgical center or accredited office-based surgery facility per OAR 847-017-0010; or

(b) Provide health care services without compensation at a community nonprofit organization for a period up to five consecutive days per year.

(2) Prior to being granted approval, the physician must submit an application and the following information to the Board:

(a) A letter from the requesting hospital administrator or administrator of the accredited facility and a letter from the hospital chief of staff, hospital department chairperson or member of the governing body of the accredited facility; or a letter from the community nonprofit organization; or a letter from the Oregon licensed physician supervising the visiting physician. The letter(s) must contain the following information:

(A) Dates of Oregon practice of the visiting physician;

(B) Description of the procedure(s);

(C) Name of the responsible Oregon-licensed staff physician who will supervise; and

(D) If the visiting physician application is requested under section (1)(a) of this rule, documentation that the requesting hospital, ambulatory surgical center or accredited facility has approved privileges for the visiting physician.

(b) Documentation that the visiting physician's license in the state or country in which they are practicing is active and in good standing.

(3) The visiting physician application must be submitted at least two weeks prior to the beginning date of such practice.

(4) Patients shall be informed that they are being treated by an approved visiting physician, who is not an Oregon licensed physician.

(5) The visiting physician who requests additional time in Oregon must apply for and obtain a license to practice in the State of Oregon.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.132, 677.265
Hist.: BME 7-2000, f. & cert. ef. 7-27-00; BME 13-2002, f. & cert. ef. 10-25-02; BME 24-2006, f. & cert. ef. 10-23-06; BME 17-2009, f. & cert. ef. 10-23-09; OMB 31-2013, f. & cert. ef. 10-15-13

Rule Caption: Drug dispensing, distribution and administration requirements

Adm. Order No.: OMB 32-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 8-1-2013

Rules Amended: 847-015-0025

Subject: The rule amendment establishes documentation standards for drugs dispensed, distributed or administered; requires provision of take-home instructions for drugs dispensed or distributed; clarifies that distribution, as defined by the Board of Pharmacy, is distinct from dispensing; and clarifies that a physician supervising a physician assistant with drug dispensing authority without first registering as a dispensing physician is a violation of the rule.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-015-0025

Dispensing, Distribution and Administration

(1) Any actively licensed physician or podiatric physician who dispenses drugs must register with the Board as a dispensing physician before beginning to dispense drugs.

(2) A physician must register with the Board as a dispensing physician before supervising a physician assistant or any other health care provider with dispensing privileges.

(3) At the time of license registration renewal, all dispensing physicians must indicate their status as a dispensing physician on the registration renewal form.

(4) Dispensing of drugs must be documented in the patient record. Documentation must include the name of the drug, the dose, the quantity dispensed, the directions for use and the name of the physician or physician assistant dispensing the drugs. The physician or physician assistant must verbally counsel the patient concerning any new medications and must provide written information on the directions for use.

(5) Distribution of samples, without charge, is not dispensing under this rule. Distribution of samples must be documented in the patient record. Documentation must include the name of the drug, the dose, the quantity distributed and the directions for use. The physician or physician assistant must verbally counsel the patient concerning any new medications and must provide written information on the directions for use.

(6) Administering drugs in the physician's or podiatric physician's office is not dispensing under this rule. Administration of drugs must be documented in the patient record. Documentation must include the name of the drug, the dose and the quantity administered.

(7) Any physician or podiatric physician who dispenses drugs or who supervises a physician assistant with drug dispensing authority without first registering with the Board will be fined \$195 and may be subject to further disciplinary action by the Board.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.010, 677.089, 677.510, 677.515
Hist.: ME 22-1987, f. & ef. 10-29-87; ME 9-1993, f. & cert. ef. 7-27-93; BME 1-2005, f. & cert. ef. 1-27-05; BME 24-2007, f. & cert. ef. 10-24-07; OMB 30-2011, f. & cert. ef. 10-27-11; OMB 32-2013, f. & cert. ef. 10-15-13

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Rule Caption: Defines office-based procedures and clarifies provider qualifications and requirements

Adm. Order No.: OMB 33-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 8-1-2013

Rules Adopted: 847-017-0003, 847-017-0008, 847-017-0037

Rules Amended: 847-017-0000, 847-017-0005, 847-017-0010, 847-017-0015, 847-017-0020, 847-017-0025, 847-017-0030, 847-017-0035, 847-017-0040

Subject: The rule amendments classify levels of office-based surgeries and set forth the corresponding requirements; reorganize and add new definitions; establish a standard of practice for licensees performing office-based surgery; set forth requirements for office-based surgery facilities; clarify the assessment and informed consent procedures prior to the performance of an office-based surgery; clarify the requirements for patient medical records; expand the emergency care and transfer protocol requirements; require reporting of speci-

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fied office-based surgical adverse events; and contain general grammar and language housekeeping changes.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-017-0000

Preamble

Licensees of the Oregon Medical Board providing office-based invasive procedures are accountable for the welfare and safety of their patients and responsible for ensuring that the performance of these procedures meets the standard of care.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0003

Classification of Office-Based Surgery

Office-based surgeries are classified by complexity.

(1) Level I are minor surgical procedures performed without anesthesia or under topical, local, or minor conduction block anesthesia not involving drug-induced alteration of consciousness, other than minimal sedation utilizing preoperative oral anxiolytic medications.

(a) The licensee must pursue continuing medical education in the field for which the services are being provided and in the proper drug dosages, management of toxicity, and hypersensitivity to local anesthetic and other drugs.

(b) The licensee must maintain active basic life support (BLS) certification.

(2) Level II are minor or major surgical procedures performed under moderate sedation/analgesia, such as oral, parenteral, or intravenous sedation or under analgesic or dissociative drugs.

(a) In addition to the requirements in section (1) of this rule, the licensee must:

(A) Maintain board certification or board eligibility in a specialty recognized by the American Board of Medical Specialties (ABMS), the American Osteopathic Association's Bureau of Osteopathic Specialists (AOA-BOS), the American Board of Podiatric Medicine (ABPM), the American Board of Podiatric Surgery (ABPS) or the National Commission on Certification of Physician Assistants (NCCPA), or

(B) Obtain fifty hours each year of accredited continuing medical education (CME) relevant to the Level II surgical procedures to be performed in the office-based facility. This requirement may not be satisfied with cultural competency CME or other CME that is only generally relevant to the licensee's practice.

(b) The licensee must be certified in advanced resuscitative techniques and must be on site at all times when patients are under the effects of anesthetic.

(c) The patient must be appropriately monitored as defined in 847-017-0005.

(3) Level III are major surgical procedures that require deep sedation/analgesia, general anesthesia, or regional blocks, and require support of vital bodily functions.

(a) In addition to the requirements in section (1) of this rule, the licensee must:

(A) Have staff privileges to perform the same procedure in a hospital or ambulatory surgical center, or

(B) Maintain board certification or board eligibility in an appropriate specialty recognized by the ABMS, the AOA-BOS, the ABPM, the ABPS or the NCCPA.

(b) The licensee must be certified in advanced resuscitative techniques and must be on site at all times when patients are under the effects of anesthetic.

(c) The patient must be appropriately monitored as defined in 847-017-0005.

(d) The licensee performing the procedure may not administer anesthesia other than additional local anesthesia and may not be primarily responsible for monitoring anesthesia during the procedure.

(4) Procedures or treatments involving the injection of a medication or substance for cosmetic purposes are the practice of medicine and must be performed as an office-based surgical procedure.

(5) Lipoplasty involving the removal of 500 cc or less volume of supernatant fat may be performed as a Level I surgical procedure. Office-based lipoplasty involving more than 500 cc volume of supernatant fat must be performed as a Level II or Level III surgical procedure.

(a) The performance of lipoplasty in an office-based setting may not result in the removal of more than 5% of total body weight or more than 4500 cc volume of supernatant fat removed, whichever is less.

(b) The licensee may not use more than 55 mg/kg of Lidocaine or 70 mcg/kg of epinephrine for tumescent anesthesia. The concentration of epinephrine in tumescent solutions may not exceed 1.5 mg/L.

(6) The following may not be performed in an office-based surgical facility:

(a) Procedures that may result in blood loss of more than 4% of the estimated blood volume in a patient with a normal hemoglobin;

(b) Procedures requiring intracranial, intrathoracic, or abdominal cavity entry; and

(c) Joint replacement procedures.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0005

Definitions

For the purpose of these rules, the following terms are defined:

(1) "Ambulatory surgical center" has the meaning given in ORS 442.015. Nothing in OAR chapter 847, division 17 is meant to exempt a physician's office from the licensure requirements in ORS 441.015 if the office meets the definition of an ambulatory surgical center in ORS 442.015. A physician's office that meets the definition of an ambulatory surgical center must comply with OAR chapter 333, division 76.

(2) "Board" means the Oregon Medical Board.

(3) "Certified in advanced resuscitative techniques" means that the individual is currently certified either with Advanced Cardiac Life Support (ACLS) for adults or Pediatric Advanced Life Support (PALS) or Advanced Pediatric Life Support (APLS) for children.

(4) "Deep sedation/analgesia" means the administration of a drug or drugs that produces depression of consciousness during which patients cannot be easily aroused and only respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate.

(5) "Facility" has the same definition as "office."

(6) "General anesthesia" means a drug-induced loss of consciousness during which patients are not able to be aroused, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function.

(7) "Health care personnel" means any person, licensed or unlicensed, who is directly related to the provision of health care services including, but not limited to, a physician assistant, nurse practitioner, certified registered nurse anesthetist, registered nurse, licensed practical nurse or medical assistant.

(8) "Hospital" has the meaning given in ORS 442.015.

(9) "Licensee" means an individual holding a valid license issued by the Board.

(10) "Lipoplasty" means any instrumentation under the skin through incisions for the reduction of subcutaneous volume. This includes, but is not limited to, liposuction, laser lipolysis, suction assisted lipectomy and liposculpture.

(11) "Local anesthesia" means the administration of a drug or drugs that produces a transient and reversible loss of sensation in a circumscribed portion of the body.

(12) "Minimal sedation" (anxiolysis) means the administration of a drug or drugs that produces a state of consciousness that allows the patient to tolerate unpleasant medical procedures while responding normally to verbal commands. Cardiovascular or respiratory function is unaffected and defensive airway reflexes remain intact.

(13) "Minor conduction block" means the injection of local anesthesia to stop or prevent a painful sensation in a circumscribed area of the body (that is, infiltration or local nerve block), or the block of a nerve by direct pressure and refrigeration. Minor conduction blocks include but are not limited to, intercostal, retrobulbar, paravertebral, peribulbar, pudendal, and sciatic nerve and ankle blocks.

(14) "Moderate sedation/analgesia" means the administration of a drug or drugs that produces depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by a light tactile stimulation. Reflex withdrawal from painful stimulation is NOT considered a purposeful response. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate.

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(15) "Monitor" means regular visual observation and continuous physiologic measurement of the patient as deemed appropriate by the level of sedation or recovery using appropriate instruments to measure, display, and record physiologic values, such as heart rate, blood pressure, respiration, oxygen saturation, and end tidal capnography.

(16) "Office" means a location, other than a hospital or ambulatory surgical center, at which medical or surgical services are rendered.

(17) "Office-based surgery" means the performance of any surgical or other invasive procedure requiring anesthesia, analgesia, or sedation, including cryosurgery, laser surgery and the use of lasers that penetrate the skin, which results in patient stay of less than 24 consecutive hours and is performed by a licensee in a location other than a hospital or ambulatory surgical center.

(18) "PARQ conference" means a Procedures, Alternatives, Risks and Questions conference, in which the licensee performing the procedure explains in general terms the procedure or treatment to be undertaken, any alternative procedures or methods of treatment, and any risks to the procedure or treatment and allows questions from the patient.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0008

Standard of Practice

A licensee performing office-based surgery must have received appropriate training and education in the safe and effective performance of all surgical procedures performed in the office. Such training and education should include:

- (1) Indications and contraindications for each procedure;
- (2) Identification and selection of appropriate patients for each procedure;
- (3) Identification of realistic and expected outcomes of each procedure;
- (4) Selection, maintenance, and utilization of products and equipment;
- (5) Appropriate technique for each procedure, including infection control and safety precautions;
- (6) Pharmacological intervention specific to each procedure;
- (7) Identification of complications and adverse reactions for each procedure;
- (8) Standards in surgical medical care; and
- (9) Emergency procedures to be used in the event of:
 - (a) Complications;
 - (b) Adverse reactions; or
 - (c) Equipment malfunction.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0010

Licensee Use of Office-Based Surgical Facilities

A licensee performing office-based surgery must ensure that the facility meets standards to ensure patient safety.

(1) Facilities where office-based surgeries are performed must comply with all federal and state laws and regulations that affect the practice.

(2) Facilities where Level II or Level III office-based surgeries are performed must be accredited by an appropriate, Board-recognized accreditation agency, including the American Association for Accreditation of Ambulatory Surgical Facilities (AAAASF), the Accreditation Association of Ambulatory Health Care (AAAHC), the Joint Commission, or the Institute for Medical Quality (IMQ). Facilities accredited by the Oregon Medical Association (OMA) prior to January 1, 2013, will continue to be recognized as accredited facilities until the accreditation period expires. Licensees of the Board performing office-based procedures in a new or existing facility, must ensure that facility is accredited within one year of the start date of the office-based procedures being performed or the date these rules are adopted, whichever is later. During the period of time the facility is in the accreditation process, the facility will make changes to come into compliance with the Administrative Rules in this Division.

(3) Facilities where Level II or Level III office-based surgeries are performed must provide health care personnel who have appropriate education and training for administration and monitoring of moderate sedation/analgesia, deep sedation/analgesia, general anesthesia or regional block.

(4) A licensee who holds a MD or DO degree as well as a DDS (Doctor of Dental Surgery) or DMD (Doctor of Dental Medicine) degree and is an active member of the Oregon Society of Oral Maxillofacial

Surgeons (OSOMS) may perform maxillofacial procedures in a facility approved by the OSOMS and function under the administrative rules of the Oregon Board of Dentistry, OAR chapter 818, division 026. For all procedures that are not oral maxillofacial in nature, licensees with medical and dental licenses must follow rules laid out in OAR chapter 847, division 017.

Stat. Auth.: ORS 677.265, 679.255

Stats. Implemented: ORS 677.060, 677.265, 679.255

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; BME 14-2007, f. & cert. ef. 7-23-07; BME 10-2008, f. & cert. ef. 4-24-08; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0015

Selection of Procedures and Patients

(1) The licensee who performs the office-based surgery or anesthetic is responsible for the safety of the patient.

(a) The licensee must evaluate and document the condition of the patient and the potential risks associated with the proposed treatment plan;

(b) The licensee must be satisfied that the procedure to be undertaken is within the scope of practice of the health care personnel, the capabilities of the facility and the condition of the patient; and

(c) The licensee must examine the patient immediately before the procedure to evaluate the risks of the procedure and the risks of anesthesia if applicable.

(2) Informed consent for the nature and objectives of the anesthesia planned and office-based surgery to be performed must be in writing and obtained from the patient[s] before the office-based surgery is performed. Informed consent is only to be obtained after a PARQ conference and must be documented in the medical record. The informed consent must include a disclosure of the licensee's specialty board certification through the ABMS, the AOA-BOS, the ABPM, the ABPS or the NCCPA or lack thereof. The requirement for written informed consent is not necessary for minor Level I procedures limited to the skin and mucosa.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0020

Patient Medical Records

(1) A legible, complete, comprehensive and accurate medical record must be maintained for each patient evaluated or treated. The record must include:

- (a) Identity of the patient;
- (b) History and physical, diagnosis and plan;
- (c) Appropriate lab, x-ray or other diagnostic reports;
- (d) Documentation of the PARQ conference;
- (e) Disclosure of the licensee's specialty board certification through the ABMS, the AOA-BOS, the ABPM, the ABPS or the NCCPA or lack thereof;
- (f) Appropriate preanesthesia evaluation;
- (g) Narrative description of procedure;
- (h) Intraoperative and postoperative monitoring;
- (i) Pathology reports;
- (j) Documentation of the outcome and the follow-up plan; and
- (k) Provision for continuity of post-procedure care.

(2) If the office-based surgery is a Level II or Level III surgical procedure, the patient record must include a separate anesthetic record that contains documentation of anesthetic provider, procedure, and technique employed. This must include the type of anesthesia used, drugs (type and dose) and fluids administered during the procedure, patient weight, level of consciousness, estimated blood loss, duration of procedure, and any complication or unusual events related to the procedure or anesthesia.

(3) The patient record must document if tissues and other specimens have been submitted for histopathologic diagnosis.

(4) The licensee must ensure that the facility has specific and current protocols in place for patient confidentiality and security of all patient data and information.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0025

Discharge Evaluation

The licensee performing the procedure is responsible for the determination that the patient is safe to be discharged from the office after the procedure.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

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847-017-0030

Emergency Care and Transfer Protocols

In facilities where Level II or Level III office-based surgeries are performed, the licensee must ensure that a written plan is in place for the provision of emergency medical care as well as the safe and timely transfer of patients to a nearby hospital should hospitalization be necessary.

(1) Age-appropriate emergency supplies, equipment, and medication should be provided in accordance with the scope of surgical and anesthesia services provided at the licensee's office.

(2) All office personnel must be familiar with the documented plan for arranging emergency medical services and the safe and timely transfer of patients to a nearby hospital and must be able to take necessary actions. If cardiopulmonary resuscitation (CPR) is instituted, the plan must include immediate contact with emergency medical services.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0035

Quality Assessment

(1) Office-based surgical practices must develop a system of quality assessment that effectively and efficiently strives for continuous quality improvement.

(2) Documentation of complications and adverse incident review must be available.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0037

Reporting Requirement

(1) Licensees performing office-based surgery must report the following complications and adverse incidents to the Board within ten business days of the event if the complication occurred within 30 days of the procedure:

(a) Surgical related death;

(b) Emergency transfer of the surgical patient to the hospital;

(c) Anesthetic or surgical event requiring cardiopulmonary resuscitation (CPR); and

(d) Unscheduled hospitalization related to the office-based surgery.

(2) Licensees performing or intending to perform office-based surgery must report any restriction, limitation, loss or denial of privileges in a hospital or accredited outpatient facility within ten business days of the restriction, limitation, loss or denial of privileges.

(3) The Board will review reports made under this rule to determine whether an investigation is necessary.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.415

Hist.: OMB 33-2013, f. & cert. ef. 10-15-13

847-017-0040

Facility Administration and Equipment

The licensee must ensure that specific and current arrangements are in place for obtaining laboratory, radiological, pathological and other ancillary services as may be required to support the surgical and/or anesthetic procedures undertaken.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; OMB 33-2013, f. & cert. ef. 10-15-13

Rule Caption: Merges the names of the two former national databanks into one

Adm. Order No.: OMB 34-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 8-1-2013

Rules Amended: 847-020-0150, 847-020-0185

Subject: The rule amendment merges the two national databanks (formerly the National Practitioner Data Bank and the Health Integrity and Protection Data Bank) into one (now known as the National Practitioner Data Bank).

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-020-0150

Documents and Forms to be Submitted for Licensure

The documents submitted must be legible and no larger than 8 1/2" x 11". All documents and photographs will be retained by the Board as a per-

manent part of the application file. If original documents are larger than 8 1/2" x 11", the copies must be reduced to the correct size with all wording and signatures clearly shown. Official translations are required for documents issued in a foreign language. The following documents are required:

(1) Application: Completed formal application provided by the Board. Required dates must include month, day and year.

(2) Birth Certificate: A copy of birth certificate.

(3) Medical School Diploma: A copy of a diploma showing graduation from an approved school of medicine or an international school of medicine.

(4) American Specialty Board Certificate or Recertification Certificate: A copy of the certificate issued by the American Specialty Board in the applicant's specialty, if applicable.

(5) Photograph: A close-up, passport quality photograph, front view, head and shoulders (not profile), with features distinct, taken within 90 days preceding the filing of the application.

(6) The results of a Practitioner Self-Query from the National Practitioner Data Bank sent to the Board by the applicant.

(7) Legible fingerprints as described in 847-008-0068 for the purpose of a criminal records background check.

(8) An applicant must pass an open-book examination on the Medical Practice Act (ORS Chapter 677) and an open-book examination on the Drug Enforcement Administration's regulations governing the use of controlled substances. If an applicant fails one or both examinations three times, the applicant's application will be reviewed by the Board's Administrative Affairs Committee and the applicant must attend an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the applicant's failure of the examination(s), before being given a fourth and final attempt to pass the examination(s). If the applicant does not pass the examination(s) on the fourth attempt, the applicant may be denied licensure.

(9) Any other documentation or explanatory statements as required by the Board.

Stat. Auth.: ORS 677.100 & 677.265

Stats. Implemented: ORS 677.010 & 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 3-2006, f. & cert. ef. 2-8-06; BME 15-2007, f. & cert. ef. 7-23-07; BME 20-2007, f. & cert. ef. 10-24-07; BME 6-2010, f. & cert. ef. 4-26-10; OMB 9-2013, f. & cert. ef. 4-5-13; OMB 34-2013, f. & cert. ef. 10-15-13

847-020-0185

License Application Withdrawals

(1) The Board will consider a request by an applicant to withdraw his/her application for licensure in the State of Oregon under the following circumstances:

(a) The applicant is eligible for licensure; and

(b) The file contains no evidence of violation of any provision of ORS 677.010 — 677.855.

(2) An applicant may request to withdraw his/her application for licensure in the State of Oregon and the withdrawal will be reported to the Federation of State Medical Boards under the following circumstances:

(a) The applicant is eligible for licensure; and

(b) The file contains evidence that the applicant may have violated any provision of ORS 677.010 — 677.855, but the Board has decided that there is an insufficient basis to proceed to formal discipline, or a licensing body in another state has imposed formal discipline or entered into a consent agreement for the same conduct, and that action has been reported to the National Practitioner Data Bank.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.190, 677.265

Hist.: BME 11-2006, f. & cert. ef. 5-8-06; OMB 34-2013, f. & cert. ef. 10-15-13

Rule Caption: Licensure for military spouses or domestic partners

Adm. Order No.: OMB 35-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 9-1-2013

Rules Adopted: 847-020-0165, 847-050-0022, 847-070-0024, 847-080-0016

Rules Repealed: 847-020-0165(T), 847-050-0022(T), 847-070-0024(T), 847-080-0016(T)

Subject: The new rules implement an augmented process for licensure of military spouses or domestic partners as required by 2013 House Bill 2037. Four rules are included (broken down by appropriate division of the administrative rules) for medical and osteopathic physicians, physician assistants, acupuncturists, and podiatric

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physicians. Specifically, each rule defines “military spouse or domestic partner,” provides the qualifications for this augmented process, provides the documents that will be accepted in lieu of other documents, lists any information that the Board will obtain on behalf of the applicant, and specifies the additional documents that will be required as part of this augmented application process.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-020-0165

Application for Licensure by Military Spouse or Domestic Partner

(1) “Military spouse or domestic partner” means a spouse or domestic partner of an active member of the Armed Forces of the United States who is the subject of a military transfer to Oregon.

(2) To qualify for licensure under this rule, the military spouse or domestic partner must:

(a) Meet the qualifications for licensure as stated in OAR 847-020-0120, 847-020-0130, and 847-020-0170;

(b) Be married to, or in a domestic partnership with, a member of the Armed Forces of the United States who is assigned to a duty station located in Oregon by official active duty military order;

(c) Be licensed to practice medicine in another state or territory of the United States;

(d) Be in good standing, with no restrictions or limitations upon, actions taken against, or investigation or disciplinary action pending against his or her license in any jurisdiction where the applicant is or has been licensed; and

(e) Have at least one year of active practice or teaching of medicine during the three years immediately preceding the application.

(3) If a military spouse or domestic partner applies for a license to practice medicine, the Board may accept:

(a) A copy of the medical school diploma to fulfill the requirement for a Dean’s Letter of Recommendation and the Verification of Medical Education form; and

(b) Verification of licensure in good standing from the jurisdiction of current or most recent practice of medicine to fulfill the requirement of verifications of licensure from all jurisdictions of prior and current health related licensure.

(4) If a military spouse or domestic partner applies for a license to practice medicine, the Board will obtain the following on behalf of the applicant:

(a) The results of a query of the National Practitioner Data Bank; and

(b) The results of a query of the Federation of State Medical Boards’ Board Action Data Bank.

(5) In addition to the documents required in section (3) of this rule and by OAR 847-020-0150 and 847-020-0160, the military spouse or domestic partner must submit a copy of the:

(a) Marriage certificate or domestic partnership registration with the name of the applicant and the name of the active duty member of the Armed Forces of the United States; and

(b) Assignment to a duty station located in Oregon by official active duty military order for the spouse or domestic partner named in the marriage certificate or domestic partnership registration.

Stat. Auth.: ORS 677.265 & HB 2037 (2013)

Stats. Implemented: ORS 677.010, 677.100, 677.265 & HB 2037 (2013)

Hist.: OMB 21-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 35-2013, f. & cert. ef. 10-15-13

847-050-0022

Application for Licensure by Military Spouse or Domestic Partner

(1) “Military spouse or domestic partner” means a spouse or domestic partner of an active member of the Armed Forces of the United States who is the subject of a military transfer to Oregon.

(2) To qualify for licensure under this rule, the military spouse or domestic partner must:

(a) Meet the qualifications for licensure as stated in OAR 847-050-0020;

(b) Be married to, or in a domestic partnership with, a member of the Armed Forces of the United States who is assigned to a duty station located in Oregon by official active duty military order;

(c) Be licensed to practice as a physician assistant in another state or territory of the United States;

(d) Be in good standing, with no restrictions or limitations upon, actions taken against, or investigation or disciplinary action pending against his or her license in any jurisdiction where the applicant is or has been licensed; and

(e) Have at least one year of active practice as a physician assistant or teaching at a physician assistant education program during the three years immediately preceding the application.

(3) If a military spouse or domestic partner applies for a license to practice as a physician assistant, the Board may accept:

(a) A copy of the physician assistant education program diploma to fulfill the requirement for the Verification of Medical Education form; and

(b) Verification of licensure in good standing from the jurisdiction of current or most recent practice as a physician assistant to fulfill the requirement of verifications of licensure from all jurisdictions of prior and current health related licensure.

(4) If a military spouse or domestic partner applies for a license to practice as a physician assistant, the Board will obtain the following on behalf of the applicant:

(a) The results of a query of the National Practitioner Data Bank; and

(b) The results of a query of the Federation of State Medical Boards’ Board Action Data Bank.

(5) In addition to the documents required in section (3) of this rule and by OAR 847-050-0015 and 847-050-0020, the military spouse or domestic partner must submit a copy of the:

(a) Marriage certificate or domestic partnership registration with the name of the applicant and the name of the active duty member of the Armed Forces of the United States; and

(b) Assignment to a duty station located in Oregon by official active duty military order for the spouse or domestic partner named in the marriage certificate or domestic partnership registration.

Stat. Auth.: ORS 677.265 & HB 2037 (2013)

Stats. Implemented: ORS 677.265, 677.512 & HB 2037 (2013)

Hist.: OMB 21-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 35-2013, f. & cert. ef. 10-15-13

847-070-0024

Application for Licensure by Military Spouse or Domestic Partner

(1) “Military spouse or domestic partner” means a spouse or domestic partner of an active member of the Armed Forces of the United States who is the subject of a military transfer to Oregon.

(2) To qualify for licensure under this rule, the military spouse or domestic partner must:

(a) Meet the qualifications for licensure as stated in OAR 847-070-0016;

(b) Be married to, or in a domestic partnership with, a member of the Armed Forces of the United States who is assigned to a duty station located in Oregon by official active duty military order;

(c) Be licensed to practice acupuncture in another state or territory of the United States;

(d) Be in good standing, with no restrictions or limitations upon, actions taken against, or investigation or disciplinary action pending against his or her license in any jurisdiction where the applicant is or has been licensed; and

(e) Have at least one year of active practice or teaching of acupuncture during the three years immediately preceding the application.

(3) If a military spouse or domestic partner applies for a license to practice acupuncture, the Board may accept:

(a) A copy of the acupuncture school diploma to fulfill the requirement for a letter from the Dean of the applicant’s acupuncture school; and

(b) Verification of licensure in good standing from the jurisdiction of current or most recent practice of acupuncture to fulfill the requirement of verifications of licensure from all jurisdictions of prior and current health related licensure.

(4) In addition to the documents required in section (3) of this rule and in OAR 847-070-0022, the military spouse or domestic partner must submit a copy of the:

(a) Marriage certificate or domestic partnership registration with the name of the applicant and the name of the active duty member of the Armed Forces of the United States; and

(b) Assignment to a duty station located in Oregon by official active duty military order for the spouse or domestic partner named in the marriage certificate or domestic partnership registration.

Stat. Auth.: ORS 677.265 & HB 2037 (2013)

Stats. Implemented: ORS 677.275, 677.759 & HB 2037 (2013)

Hist.: OMB 21-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 35-2013, f. & cert. ef. 10-15-13

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847-080-0016

Application for Licensure by Military Spouse or Domestic Partner

(1) "Military spouse or domestic partner" means a spouse or domestic partner of an active member of the Armed Forces of the United States who is the subject of a military transfer to Oregon.

(2) To qualify for licensure under this rule, the military spouse or domestic partner must:

(a) Meet the requirements for licensure as stated in OAR 847-080-0010;

(b) Be married to, or in a domestic partnership with, a member of the Armed Forces of the United States who is assigned to a duty station located in Oregon by official active duty military order;

(c) Be licensed to practice podiatric medicine in another state or territory of the United States;

(d) Be in good standing, with no restrictions or limitations upon, actions taken against, or investigation or disciplinary action pending against his or her license in any jurisdiction where the applicant is or has been licensed; and

(e) Have at least one year of active practice or teaching of podiatric medicine during the three years immediately preceding the application.

(3) If a military spouse or domestic partner applies for a license to practice podiatric medicine, the Board may accept:

(a) A copy of the podiatric medical school diploma to fulfill the requirement for a Dean's Letter of Recommendation and the Verification of Medical Education form; and

(b) Verification of licensure in good standing from the jurisdiction of current or most recent practice of podiatric medicine to fulfill the requirement of verifications of licensure from all jurisdictions of prior and current health related licensure.

(4) If a military spouse or domestic partner applies for a license to practice podiatric medicine, the Board will obtain the results of a query of the National Practitioner Data Bank on behalf of the applicant.

(5) In addition to the documents required in section (3) of this rule and in OAR 847-080-0013 and 847-080-0017, the military spouse or domestic partner must submit a copy of the:

(a) Marriage certificate or domestic partnership registration with the name of the applicant and the name of the active duty member of the Armed Forces of the United States; and

(b) Assignment to a duty station located in Oregon by official active duty military order for the spouse or domestic partner named in the marriage certificate or domestic partnership registration.

Stat. Auth.: ORS 677.265, 677.820 & HB 2037 (2013)

Stats. Implemented: ORS 677.820, 677.825, 677.830 & HB 2037 (2013)

Hist.: OMB 21-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 35-2013, f. & cert. ef. 10-15-13

Rule Caption: Merges the names of the two former national databanks into one

Adm. Order No.: OMB 36-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 8-1-2013

Rules Amended: 847-026-0010

Subject: The rule amendment merges the two national databanks (formerly the National Practitioner Data Bank and the Health Integrity & Protection Data Bank) into one (now known as the National Practitioner Data Bank).

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-026-0010

Documents, Letters, Certifications Obtained by the Board

The Board will obtain the following documents, letters, certifications if any and results of queries of national databases required for licensure on behalf of the applicant:

(1) Verification of certification by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(2) Verification of re-certification by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(3) The results of a query of the National Practitioner Data Bank; and

(4) The results of the query of the Federation of State Medical Boards' Board Action Data Bank.

Stat. Auth.: ORS 677.265, 677.115

Stats. Implemented: ORS 677.265, 677.115

Hist.: BME 21-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 4-2010, f. & cert. ef. 1-26-10; OMB 36-2013, f. & cert. ef. 10-15-13

Rule Caption: Supervising physician application fee and physician assistant surcharge fee as approved

Adm. Order No.: OMB 37-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 8-1-2013

Rules Amended: 847-050-0027, 847-050-0042

Subject: As approved by the legislature in the 2013-15 budget, the rule amendment specifies that there is a fee for the supervising physician application and implements a one-time surcharge for physician assistants renewing or applying for initial licensure in the 2014-15 licensure biennium.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-050-0027

Approval of Supervising Physician

(1) Prior to using the services of a physician assistant under a practice agreement, a supervising physician or primary supervising physician of a supervising physician organization must be approved as a supervising physician by the Board.

(2) The primary supervising physician of a supervising physician organization must apply as a supervising physician with the Board and must attest that each supervising physician in the supervising physician organization has reviewed statutes and rules relating to the practice of physician assistants and the role of a supervising physician.

(3) Physicians applying to be a supervising physician or the primary supervising physician of a supervising physician organization must:

(a) Submit a supervising physician application and application fee; and

(b) Take an online course and pass an open-book exam on the supervising physician requirements and responsibilities given by the Board. A passing score on the exam is 75%. If the supervising physician applicant fails the exam three times, the physician's application will be reviewed by the Board. A supervising physician applicant who has failed the exam three times must also attend an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the applicant's failure of the exam, before being given a fourth and final attempt to pass the examination. If the applicant does not pass the exam on the fourth attempt, the physician's application may be denied.

(4) The physician may be subject to Board investigation prior to approval or may be limited or denied approval as a supervising physician for the following:

(a) There are restrictions upon or actions against the physician's license;

(b) Fraud or misrepresentation in applying to use the services of a physician assistant.

(5) The Board may defer taking action upon a request for approval as a supervising physician pending the outcome of the investigation of the physician for violations of ORS 677.010-990.

(6) Failure to apply and be approved as a supervising physician by the Board prior to using the services of a physician assistant under a practice agreement is a violation of ORS 677.510 and is grounds for a \$195 fine. The licensee may be subject to further disciplinary action by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.205 & 677.510

Hist.: ME 4-1981(Temp), f. & cert. ef. 10-20-81; ME 2-1982, f. & cert. ef. 1-28-82; ME 5-1984, f. & cert. ef. 1-20-84; ME 8-1985, f. & cert. ef. 8-5-85; ME 5-1986, f. & cert. ef. 4-23-86; ME 21-1989, f. & cert. ef. 10-20-89; ME 2-1990, f. & cert. ef. 1-29-90; ME 5-1994, f. & cert. ef. 1-24-94; ME 9-1995, f. & cert. ef. 7-28-95; BME 13-2003, f. & cert. ef. 7-15-03; OMB 2-2011, f. & cert. ef. 2-11-11; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 11-2012(Temp), f. & cert. ef. 3-2-12 thru 8-29-12; OMB 26-2012, f. & cert. ef. 8-3-12; OMB 2-2013, f. & cert. ef. 1-11-13; OMB 17-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OMB 37-2013, f. & cert. ef. 10-15-13

847-050-0042

Registration

(1) The registration renewal form and fee must be received in the Board office during regular business hours and must be satisfactorily complete on or before December 31 of each odd-numbered year in order for the physician assistant's registration to be renewed for the next 24 months. This application must also include submission of an updated practice agreement

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or validation of an existing practice agreement or Board-approved practice description.

(2) Upon failure to comply with section (1) of this rule, the license will automatically lapse as per ORS 677.228.

(3) A one-time surcharge is required for each physician assistant renewing his or her license for the 2014-2015 biennial registration period or applying for an initial license during calendar years 2014 and 2015.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.510 & 677.512

Hist.: ME 1-1979, f. & ef. 1-2-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 7-1984, f. & ef. 1-26-84; ME 2-1990, f. & cert. ef. 1-29-90; ME 7-1990, f. & cert. ef. 4-25-90; ME 7-1991, f. & cert. ef. 7-24-91; ME 5-1994, f. & cert. ef. 1-24-94; BME 6-2003, f. & cert. ef. 1-27-03; BME 25-2008, f. & cert. ef. 10-31-08; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 17-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OMB 37-2013, f. & cert. ef. 10-15-13

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Rule Caption: Legislative updates to the Health Professionals' Services Program

Adm. Order No.: OMB 38-2013

Filed with Sec. of State: 10-15-2013

Certified to be Effective: 10-15-13

Notice Publication Date: 9-1-2013

Rules Amended: 847-065-0015, 847-065-0025, 847-065-0035, 847-065-0055, 847-065-0060, 847-065-0065

Rules Repealed: 847-065-0015(T), 847-065-0025(T), 847-065-0035(T), 847-065-0055(T), 847-065-0060(T), 847-065-0065(T)

Subject: The rule amendments reflect changes made by 2013 House Bill 2124 regarding the Health Professionals' Services Program. Specifically, the rule amendments refer to the new statutory location for the definition of "substantial noncompliance," remove the term "successful completion" from the definitions and add the substantive information to the rule on Completion Requirements, clarify the purpose of the investigation into the licensee's practice that occurs prior to full enrollment in the program, clearly establish the ability for licensees to self-refer to the program, exempt enrolled licensees with solely a mental health disorder from random drug or alcohol testing unless otherwise required by the Board, require the Board to assess the licensee's compliance with the monitoring agreement to complete the program or the contractor to assess compliance if the licensee is self-referred, specify that civil commitments for mental illness are considered substantial noncompliance rather than all admissions for mental health treatment, and allow the Board to review reports from the program for substantial noncompliance rather than mandating investigation of all reports.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-065-0015

Definitions

The following definitions apply to OAR chapter 847, division 065, except as otherwise stated in the definition:

(1) "Assessment or evaluation" means the process an independent third-party evaluator uses to diagnose the licensee and to recommend treatment options for the licensee.

(2) "Board" means the Oregon Medical Board.

(3) "Business day" means Monday through Friday, except legal holidays as defined in ORS 187.010 (or ORS 187.020).

(4) "Contractor" means the entity that has contracted with the Division to conduct the HPSP.

(5) "Diagnosis" means the principal mental health or substance use diagnosis listed in the current Diagnostic Statistical Manual (DSM). The diagnosis is determined through the assessment and any examinations, tests or consultations suggested by the assessment.

(6) "Division" means the Department of Human Services, Addictions and Mental Health Division.

(7) "DSM" means the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(8) "Federal regulations" means:

(a) As used in ORS 676.185(5)(d), a "positive toxicology test result as determined by federal regulations pertaining to drug testing" means a test result that meets or exceeds the cutoff concentrations shown in 49 CFR § 40.87 (2009); and

(b) As used in ORS 676.190(5)(g), requiring a "licensee to submit to random drug or alcohol testing in accordance with federal regulations" means licensees are selected for random testing by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with licensees' unique identification numbers or other comparable identifying numbers. Under the selection process used, each covered licensee must have an equal chance of being tested each time selections are made, as described in 40 CFR § 199.105(c)(5) (2009). Random drug tests must be unannounced and the dates for administering random tests must be spread reasonably throughout the calendar year, as described in 40 CFR § 199.105(c)(7) (2009).

(9) "Fitness to practice evaluation" means the process a qualified, independent third-party evaluator uses to determine if the licensee can safely perform the essential functions of the licensee's health practice.

(10) "Final enrollment" means a licensee has provided all documentation required by OAR 847-065-0035 and has met all eligibility requirements to participate in the HPSP.

(11) "Independent third-party evaluator" means an individual or center who is approved by the Board to evaluate, diagnose, and offer treatment options for substance use disorders and/or mental disorders.

(12) "Licensee" means a licensed physician, podiatric physician, physician assistant or acupuncturist who is licensed or certified by the Board.

(13) "Mental disorder" means a clinically significant syndrome identified in the current DSM that is associated with disability or with significantly increased risk of disability.

(14) "Monitoring agreement" means an individualized agreement between a licensee and the contractor that meets the requirements for a diversion agreement set by ORS 676.190.

(15) "Positive toxicology test result" means a test result that meets or exceeds the cutoff concentrations shown in 49 CFR 40.87 (2009), a test result that shows other drugs or alcohol, or a test result that fails to show the appropriate presence of a currently prescribed drug that is part of a treatment program related to a condition being monitored by HPSP.

(16) "Provisional enrollment" means temporary enrollment, pending verification that a licensee meets all program eligibility criteria.

(17) "Self-referred licensee" means a licensee who seeks to participate in the program without a referral from the Board.

(18) "Substance abuse" means a disorder related to the taking of a drug of abuse (including alcohol); to the side effects of a medication; and to a toxin exposure, including: substance use disorders (substance dependence and substance abuse) and substance-induced disorders (including but not limited to substance intoxication, withdrawal, delirium, and dementia, as well as substance induced psychotic disorders and mood disorders), as defined in DSM criteria.

(19) "Substantial non-compliance" means that a licensee is in violation of the terms of his or her monitoring agreement in a way that gives rise to concerns about the licensee's ability or willingness to participate in the HPSP. Substantial non-compliance and non-compliance include, but are not limited to, the factors listed in ORS 676.185(5). Conduct that occurred before a licensee entered into a monitoring agreement does not violate the terms of that monitoring agreement.

(20) "Toxicology testing" means urine testing or alternative chemical monitoring including blood, saliva, breath or hair as conducted by a laboratory certified, accredited or licensed and approved for toxicology testing.

(21) "Treatment" means the planned, specific, individualized health and behavioral-health procedures, activities, services and supports that a treatment provider uses to remediate symptoms of a substance use disorder and/or mental disorder.

Stat. Auth.: ORS 676.185 - 676.200 & 677.265

Stats. Implemented: ORS 676.185 - 676.200 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12; OMB 22-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 38-2013, f. & cert. ef. 10-15-13

847-065-0025

Eligibility for Participation in Health Professionals Services Program

Eligibility for Participation in Health Professionals' Services Program

(1) Licensee must be evaluated by an independent third-party evaluator.

(2) The evaluation must include a diagnosis of a substance use disorder and/or mental disorder with the appropriate diagnostic code from the DSM, and treatment options.

(3) Licensee must provide a written statement agreeing to enter the HPSP and agreeing to abide by all rules established by the Board.

(4) Licensee must enter into the "HPSP Monitoring Agreement."

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(5) The Board will determine whether a Board-referred licensee's practice has presented or presents a danger to the public. The contractor will determine whether a self-referred licensee's practice has presented or presents a danger to the public.

Stat. Auth.: ORS 676.185 - 676.200 & 677.265

Stats. Implemented: ORS 676.185 - 676.200 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12; OMB 22-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 38-2013, f. & cert. ef. 10-15-13

847-065-0035

Procedure for Self-Referred Licensees

Board licensees may self-refer to the HPSP.

(1) Provisional Enrollment: To be provisionally enrolled in the program, a self-referred licensee must:

(a) Sign a written consent allowing disclosure and exchange of information among the contractor, the licensee's employer, independent third-party evaluators and treatment providers;

(b) Sign a written consent allowing disclosure and exchange of information among the contractor, the Board, the licensee's employer, independent third-party evaluators and treatment providers in the event the contractor determines the licensee to be in substantial non-compliance with his or her monitoring agreement as defined in OAR 847-065-0065;

(c) Attest that the licensee is not, to the best of the licensee's knowledge, under investigation by the Board; and

(d) Agree to and sign a monitoring agreement.

(2) Final Enrollment: To move from provisional enrollment to final enrollment in the program, a self-referred licensee must:

(a) Obtain at the licensee's own expense and provide to the contractor, an independent third-party evaluator's written evaluation containing a DSM diagnosis and diagnostic code and treatment recommendations;

(b) Agree to cooperate with the contractor's investigation to determine whether the licensee's practice while impaired presents or has presented a danger to the public; and

(c) Enter into an amended monitoring agreement, if required by the contractor.

(3) Once a self-referred licensee seeks enrollment in the HPSP, failure to complete final enrollment may constitute substantial non-compliance and may be reported to the Board.

Stat. Auth.: ORS 676.185 - 676.200 & 677.265

Stats. Implemented: ORS 676.185 - 676.200 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12; OMB 22-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 38-2013, f. & cert. ef. 10-15-13

847-065-0055

Licensee Responsibilities

All licensees must:

(1) Agree to report any arrest for or conviction of a misdemeanor or felony crime to the contractor within three business days after the licensee is arrested or convicted of the crime;

(2) Comply continuously with his or her monitoring agreement, including any restrictions on his or her practice, for at least two years or longer, as specified in the monitoring agreement;

(3) Abstain from mind-altering or intoxicating substances or potentially addictive drugs, unless the drug is approved by the contractor and prescribed for a documented medical condition by a person authorized by law to prescribe the drug to the licensee;

(4) Report use of mind-altering or intoxicating substances or potentially addictive drugs within 24 hours to contractor;

(5) Participate in a treatment plan approved by a third-party evaluator or treatment provider;

(6) Limit practice as required by the contractor or the Board;

(7) Cooperate with supervised monitoring of practice;

(8) Participate in a follow-up evaluation, when necessary, of licensee's fitness to practice;

(9) Submit to random drug or alcohol testing, unless the licensee is diagnosed with solely a mental health disorder and the Board does not otherwise require the licensee to submit to random drug and alcohol testing;

(10) Report at least weekly to the contractor regarding the licensee's compliance with the monitoring agreement;

(11) Report applications for licensure in other states, changes in employment and changes in practice setting to the contractor;

(12) Agree to be responsible for the cost of evaluations, toxicology testing, treatment and monitoring;

(13) Report to the contractor any investigations or disciplinary action by any state, or state or federal agency, including Oregon;

(14) Participate in required meetings according to the treatment plan; and

(15) Maintain current license status and/or report any changes in license status.

Stat. Auth.: ORS 676.185 - 676.200 & 677.265

Stats. Implemented: ORS 676.185 - 676.200 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12; OMB 22-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 38-2013, f. & cert. ef. 10-15-13

847-065-0060

Completion Requirements

(1) The time spent participating in a monitored program before transferring from the Health Professionals Program to the Health Professionals' Services Program effective July 1, 2010, will be counted toward the required term of monitored practice.

(2) The licensee will remain enrolled in the program for a minimum of two consecutive years.

(3) The Board-referred licensee must have complied with the licensee's monitoring agreement to the satisfaction of the Board. The self-referred licensee must have complied with the licensee's monitoring agreement to the satisfaction of the contractor.

Stat. Auth.: ORS 676.185 - 676.200 & 677.265

Stats. Implemented: ORS 676.185 - 676.200 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12; OMB 22-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 38-2013, f. & cert. ef. 10-15-13

847-065-0065

Substantial Non-Compliance Criteria

(1) The contractor will report substantial non-compliance with a diversion agreement to the Board within one business day after the contractor learns of the substantial non-compliance, including but not limited to information that a licensee:

(a) Engaged in criminal behavior;

(b) Engaged in conduct that caused injury, death or harm to the public, including engaging in sexual impropriety with a patient;

(c) Was impaired in a health care setting in the course of the licensee's employment;

(d) Received a positive toxicology test result;

(e) Violated a restriction on the licensee's practice imposed by the contractor or the Board;

(f) Was civilly committed for mental illness;

(g) Entered into a diversion agreement, but failed to participate in the HPSP;

(h) Was referred to the HPSP, but failed to enroll in the HPSP;

(i) Forged, tampered with, or modified a prescription;

(j) Violated any rules of prescriptive authority;

(k) Violated any provisions of OAR 847-065-0055;

(l) Violated any terms of the diversion agreement; or

(m) Failed to complete the monitored practice requirements as stated in OAR 847-065-0060.

(2) The Board will review reports from the program. The Board may request the contractor to provide the licensee's complete record, and the contractor must send these records to the Board as long as a valid release of information is in place.

(3) If the Board finds that a licensee is substantially noncompliant with a diversion agreement, the Board may investigate and determine the appropriate sanction.

Stat. Auth.: ORS 676.185 - 676.200 & 677.265

Stats. Implemented: ORS 676.185 - 676.200 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13; OMB 33-2012, f. & cert. ef. 10-22-12; OMB 22-2013(Temp), f. 8-2-13, cert. ef. 8-3-13 thru 1-30-14; OMB 38-2013, f. & cert. ef. 10-15-13

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Clarifies the administration of death benefits for OPSRP members who die before pension is issued.

Adm. Order No.: PERS 7-2013

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 9-27-13

Notice Publication Date: 7-1-2013

ADMINISTRATIVE RULES

Rules Adopted: 459-075-0170

Subject: Under ORS 238A.180, an OPSRP Pension Program member's monthly pension is payable on their effective retirement date and ends on the first day of the month in which the member's death occurs. An ambiguous event occurs when the member dies in the month of retirement and the pension payable on the first of the month also ends on the first of the same month.

This rule clarifies the accrual of pension benefits and the last pension benefit the member or their benefit recipient is entitled to receive. Under OPSRP, a member or beneficiary who is receiving a monthly pension payment will be paid that benefit for the month in which that person dies. This result is different than a Tier One or Two member or their beneficiary, because of differences in the OPSRP statute. The rule is intended to clarify this difference.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-075-0170

Payment of OPSRP Pension Program Benefits

(1) Definitions. For purposes of this rule:

(a) "Benefit recipient" means an OPSRP Pension Program member, surviving beneficiary or alternate payee who is entitled to receive a retirement benefit under the OPSRP Pension Program.

(b) "Non-survivorship benefit" means a lifetime benefit that is paid to an eligible benefit recipient and ends after death.

(c) "Survivorship benefit" means a survivor monthly pension benefit that is paid to a surviving beneficiary after an OPSRP Pension Program member's death.

(2) An OPSRP monthly pension benefit accrues on the first day of the calendar month and shall be paid to the benefit recipient on the first day of the following month.

(3) If a benefit recipient who is receiving an OPSRP pension dies during a calendar month:

(a) Non-survivorship benefits shall accrue on the first day of the month of death and shall be paid to the deceased member or deceased alternate payee on the first day of the following month.

(b) Survivorship benefits shall accrue on the first day of the month after the last payable OPSRP pension benefit to a deceased member or deceased alternate payee.

(4) If the member or alternate payee is entitled to receive a cash-out of a small benefit under ORS 238A.195, the benefit accrues on the member's or alternate payee's effective retirement date and shall be paid to the member or alternate payee.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.180, 238A.185, 238A.190 & 238A.195

Hist.: PERS 7-2013, f. & cert. ef. 9-27-13

Rule Caption: Implement out-of-state tax remedy provisions of Senate Bill 822 (2013).

Adm. Order No.: PERS 8-2013

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 9-27-13

Notice Publication Date: 7-1-2013

Rules Amended: 459-013-0310, 459-013-0320

Subject: Senate Bill 822 (2013) became effective on May 6, 2013. The bill prohibits PERS from paying increased benefits provided by SB 656 (Chapter 796, Oregon Laws 1991), or HB 3349 (Chapter 569, Oregon Laws 1995) if the benefit payments are not subject to Oregon personal income tax because the recipient is not an Oregon resident (as provided in ORS 316.127(9)). The rule modifications are intended to conform existing administrative rules to this new law.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-013-0310

Payment of Increased Benefits under ORS 238.372 to 238.384

(1) For purposes of determinations under ORS 238.372 to 238.384:

(a) "Person" includes a member, an alternate payee, or a beneficiary.

(b) The increased benefit percentage to be added to a benefit paid to a beneficiary under ORS 238.390, 238.395, 238.400, 238.405, or under an optional form of retirement allowance under ORS 238.305 or 238.325 will be determined based on:

(A) The increased benefit percentage(s) for which the member is otherwise eligible under ORS 238.364, 238.366 and 238.368; and

(B) The residency of the beneficiary.

(2) PERS will make the following determinations on residency status for the purpose of determining increased benefit eligibility under ORS 238.372 to 238.384, based upon the yearly Oregon personal income tax return information provided by the Department of Revenue.

(a) If the Department of Revenue notifies PERS that a person:

(A) Filed Oregon personal income tax as a resident, PERS will treat the person as a resident of Oregon.

(B) Filed Oregon personal income tax as a non-resident, PERS will treat the person as a non-resident of Oregon, except as provided in section (3) below.

(C) Did not file Oregon personal income tax, PERS will treat the person as a non-resident of Oregon, except as provided in section (3) below.

(D) Filed Oregon personal income tax as a partial-year resident and the prior year the person filed personal income tax as a resident, PERS will treat the person as a non-resident of Oregon, except as provided in section (3) below.

(E) Filed Oregon personal income tax as a partial-year resident and the prior year the person filed personal income tax as a non-resident, PERS will treat the person as a resident of Oregon.

(F) Filed Oregon personal income tax as a partial-year resident and the prior year the person did not file personal income tax, PERS will treat the person as a resident of Oregon.

(b) If PERS cannot make a residency status determination based upon information provided by the Department of Revenue or the person did not otherwise provide PERS with residency status information, PERS will treat the person as a non-resident of Oregon, except as provided in section (3) below.

(3) Residency status information submitted on a form provided by PERS and received between January 1 and December 15 of the current calendar year will, for purposes of determining increased benefit eligibility under ORS 238.372 to 238.384, supersede any Oregon personal income tax return information provided by the Department of Revenue pursuant to section (2) of this rule.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.362, 238.364, 238.366, 238.368 & 238.372 - 238.384

Hist.: PERS 6-2012, f. & cert. ef. 3-28-12; PERS 8-2013, f. & cert. ef. 9-27-13

459-013-0320

Payment of Increased Benefits to an Alternate Payee

(1) The provisions of this rule apply to an alternate payee who receives retirement benefit payments derived from an "alternate payee account" or a separate benefit option as provided under OAR 459-045-0010(2) or (3)(b).

(2) If an alternate payee is eligible to receive increased benefits under ORS 238.465(5), the percentage of the increased benefit payable to the member, as determined under ORS 238.364, 238.366, 238.368, and 238.372 to 238.384, is the increased benefit percentage for which the alternate payee is eligible. If the member predeceases the alternate payee, the increased benefit percentage payable to the member at the time of death remains the increased benefit percentage for which the alternate payee is eligible.

(3) If the alternate payee is eligible for the increased benefit under section (2), payment of the increased benefit to the alternate payee under ORS 238.372 to 238.384 is determined by the residency of the alternate payee.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.362, 238.364, 238.366, 238.465 & 238.372 - 238.384

Hist.: PERS 6-2012, f. & cert. ef. 3-28-12; PERS 8-2013, f. & cert. ef. 9-27-13

Rule Caption: Adopt new assumed rate and specify effective date of implementation.

Adm. Order No.: PERS 9-2013

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 9-27-13

Notice Publication Date: 8-1-2013

Rules Adopted: 459-007-0007

Subject: At the July 26, 2013 PERS Board meeting, staff gave second notice of rulemaking, proposing a new rulemaking cycle to imbed the new assumed rate in rule and, based on public comment, to move the implementation of any rule change to an effective date of January 1 for all PERS transactions. The rule sets forth a new assumed rate and specifies when the assumed rate will be effective for PERS transactions.

Rules Coordinator: Daniel Rivas—(503) 603-7713

ADMINISTRATIVE RULES

459-007-0007

Assumed Rate

(1) The Board will review the assumed rate in odd-numbered years as part of the Board's review and adoption of actuarial assumptions and methods.

(2) The Board may adopt a change in the assumed rate at any time. A change in the assumed rate is effective the first of the year following the Board's adoption of the change.

(3) The assumed rate is set at 7.75 percent, effective on January 1, 2014.

Stat. Auth.: ORS 238.650 & 238A.450
Stats. Implemented: ORS 238 & 238A
Hist.: PERS 9-2013, f. & cert. ef. 9-27-13

Oregon State Lottery Chapter 177

Rule Caption: Amends Powerball game rules, including Power Play multiplier; prize accounts; pari-mutuel prizes and calculations
Adm. Order No.: LOTT 4-2013

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 9-1-2013

Rules Amended: 177-085-0005, 177-085-0020, 177-085-0025, 177-085-0035, 177-085-0050, 177-085-0065

Subject: The Oregon Lottery proposes to amend the above referenced administrative rules for the Powerball game. These changes are necessary to implement the changes to the Powerball game rules made by the Multi-State Lottery Association (MUSL), the national organization that administers the multi-state Powerball game and to make Division 85 rules consistent with the MUSL Powerball game rules.

Amendments to these rules return the Power Play option to a random multiplier option, which will multiply a set prize amount by 2, 3, 4, or 5, depending on the multiplier randomly selected. Neither the Grand Prize nor the Match 5 prize will be multiplied when the Power Play option is purchased as an add-on to a Powerball play.

Other amendments provide for the creation of new prize reserve and prize pool accounts for funding of the various prizes and clarify the calculation of the set prizes when the set prizes become pari-mutuel.

Other amendments to the Division 85 rules make Lottery's rules consistent with the MUSL Powerball game rules.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-085-0005

Definitions

The following definitions apply unless the context requires a different meaning.

(1) "Drawing" means the formal process of selecting winning numbers that determine the number of winners for each prize level of the game.

(2) "Game Board" or "Boards" means that area of the game slip that contains two sets of numbered squares to be marked by the player, the first set containing fifty-nine squares, numbered one through fifty-nine, and the second set containing thirty-five squares, numbered one through thirty-five.

(3) "Game Ticket" or "Ticket" means a ticket produced by a terminal which contains the caption Powerball®, one or more lettered game plays followed by the drawing date, the price of the ticket, a six digit retailer number and a serial number that is compatible with the Lottery's central computer system.

(4) "Licensee Lottery" means a state lottery or lottery of a governmental unit, political subdivision, or entity thereof that is not a Party Lottery but has agreed to comply with all applicable MUSL and Product Group requirements and has been authorized by the MUSL and by the Powerball® Product Group to sell the Powerball® game.

(5) "Lottery" means the Oregon State Lottery.

(6) "MUSL" means the Multi-State Lottery Association

(7) "MUSL Board" means the governing body of the MUSL which is comprised of the chief executive officer of each Party Lottery.

(8) "Party Lottery" means a state lottery or lottery of a political subdivision or entity that participates in MUSL and is authorized to sell the Powerball® game.

(9) "Game Play" means the six numbers, the first five from a field of fifty-nine numbers and the last one from a field of thirty-five numbers that

appear on a ticket as a single lettered selection and are to be played by a player in the game.

(10) "Game Slip" means the paper used in marking a player's game plays and containing one or more boards.

(11) "Product Group" means a group of lotteries which has joined together to offer a product pursuant to the terms of the Multi-State Lottery Agreement and the Product Group's own rules.

(12) "Quick Pick" means the random selection by the computer system of two-digit numbers that appear on a ticket and are played by a player in the game.

(13) "Retailer" means a person or entity authorized by the Lottery to sell lottery tickets.

(14) "Set Prize" means all prizes except the Grand Prize that are advertised to be paid by a single lump sum payment and, except in instances outlined in these division 85 rules, will be equal to the prize amount established by the MUSL Board for the prize level.

(15) "Draw game terminal" or "Terminal" has the meaning set forth in OAR 177-070-0005(5).

(16) "Winning Numbers" means the six numbers, the first five from a field of fifty-nine numbers and the last one from a field of thirty-five numbers, randomly selected at each drawing, which shall be used to determine winning plays contained on a game ticket.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 10-1996, f. & cert. ef. 9-4-96; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LC 9-1997(Temp), f. & cert. ef. 11-7-97; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 4-2003(Temp), f. & cert. ef. 4-15-03 thru 10-10-03; LOTT 10-2003, f. & cert. ef. 6-30-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 9-2011, f. 12-20-11, cert. ef. 1-15-12; LOTT 4-2013, f. 9-27-13, cert. ef. 10-1-13

177-085-0020

Prize Claims

(1) General: A ticket, subject to the validation requirements set forth in OAR 177-085-0040, is the only proof of a game play or plays. The submission of a winning ticket to the Lottery or an authorized retailer as required by OAR 177-046-0110 is the sole method of claiming a prize or prizes, except that a Grand Prize (and a Match 5+0 prize) must be claimed in person at Lottery Headquarters. A game slip or a copy of a ticket has no pecuniary or prize value and does not constitute evidence of ticket purchase or of numbers selected. A terminal produced paper receipt has no pecuniary or prize value and does not constitute evidence of ticket purchase or of numbers selected.

(2) Prize Claims: Powerball® prize claim procedures are governed by the administrative rules of the Oregon State Lottery. MUSL and the Party Lotteries are not responsible for Powerball® prizes that are not claimed following the proper procedures as determined by the Oregon State Lottery.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.250

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 9-2011, f. 12-20-11, cert. ef. 1-15-12; LOTT 4-2013, f. 9-27-13, cert. ef. 10-1-13

177-085-0025

Powerball® Prize Pool

(1) Prize Pool: The prize pool for all prize categories shall consist of 50 percent of each drawing period's sales, including any specific statutorily-mandated tax of a Party Lottery or a Licensee Lottery to be included in the price of a lottery ticket, after the prize pool accounts and prize reserve accounts are funded to the amounts established by the Product Group. Any amount remaining in the prize pool at the end of the Powerball® game shall be returned to all lotteries participating in the prize pool after the end of all claims periods of all Party Lotteries and Licensee Lotteries, carried forward to a replacement game or expended in a manner as directed by the members of the Product Group in accordance with state law.

(2) Prize Pool Accounts and Prize Reserve Accounts: An amount up to five percent of a Party Lottery's sales, including any specific statutorily-mandated tax of a Party Lottery to be included in the price of a lottery ticket, shall be deducted from a Party Lottery's Grand Prize Pool and placed in trust in one or more prize pool accounts and prize reserve accounts until the prize pool accounts and a Party Lottery's share of the prize reserve accounts reaches the amounts designated by the Product Group. The Product Group

ADMINISTRATIVE RULES

has established the following prize reserve accounts and prize pool accounts for the Powerball® game:

(a) Prize Reserve Accounts: The Product Group has established the following prize reserve accounts for the Powerball® game:

(A) The Prize Reserve Account, which is used to guarantee the payment of valid, but unanticipated, Grand Prize claims that may result from a system error or other reason (subject to the limitations of these rules); and

(B) The Set Prize Reserve Account, which is used to fund deficiencies in low-tier prize payments (subject to the limitations of these rules).

(b) Prize Pool Accounts: The Product Group has established the following prize pool accounts for the Powerball® game:

(A) The Grand Prize Pool Account, which is used to fund the immediate Grand Prize;

(B) The Set-Aside Account, which is used to guarantee payment of the minimum or starting Grand Prize;

(C) The Power Play® Prize Pool Account, which is described in OAR 177-085-0065; and

(D) The Low-Tier Prize Pool Account, which holds the temporary balances that may result from having fewer than expected winners in the low-tier set prize categories. (The source of the Low-Tier Prize Pool Account is the Party Lottery's weekly prize contributions less actual set prize liability.) Once the prize pool accounts and a Party Lottery's share of the prize reserve accounts exceed the designated amounts, the excess shall become part of the Grand Prize Pool Account.

(3) Balances: The Product Group, with approval of the Finance & Audit Committee, may establish a maximum balance for the prize pool accounts and prize reserve accounts. The Product Group may determine to expend all or a portion of the funds in the prize pool accounts (except the Grand Prize Pool Account) and the prize reserve accounts as follows:

(a) For the purpose of indemnifying the Party Lotteries and Licensee Lotteries in the payment of prizes to be made by the participating lotteries, subject to the approval of the MUSL Board; and

(b) For the payment of prizes or special prizes in the game, subject to the approval of the MUSL Finance and Audit Committee. The prize reserve shares of a Party Lottery may be adjusted with refunds to the Party Lottery from the prize reserve accounts as may be needed to maintain the approved maximum balance and shares of the Party Lotteries. Any amount remaining in the prize pool accounts or prize reserve accounts at the end of the Powerball® game shall be returned to all lotteries participating in the accounts after the end of all claims periods of all Party Lotteries and Licensee Lotteries, carried forward to a replacement game or a replacement prize reserve account or expended in a manner as directed by the members of the Product Group in accordance with state law.

(4) Expected Prize Payout Percentages: The Grand Prize shall be determined on a pari-mutuel basis. Except as otherwise provided in these rules, all other prizes awarded shall be paid as set lump sum prizes with the following expected prize payout percentages: [Table not included. See ED. NOTE.]

(a) Division of Grand Prize Among Winners: The prize money allocated to the Grand Prize category shall be divided equally by the number of game plays winning the Grand Prize.

(b) Set Prize Pool Carried Forward: The Set Prize Pool (for the single lump sum prizes of \$1,000,000 or less) shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the set prizes awarded in the current draw.

(c) Pari-Mutuel Prize Determination: Except as provided in OAR 177-085-0025(4)(c)(C), for Party Lotteries:

(A) If the total of the set prizes awarded in a drawing exceeds the percentage of the prize pool allocated to the set prizes, then the amount needed to fund the set prizes, including Power Play® prizes, awarded shall be drawn from the following sources, in the following order:

(i) The amount allocated to the set prizes and carried forward from previous draws, if any;

(ii) An amount from the Set Prize Reserve Account, if available, not to exceed \$40,000,000 per drawing.

(B) Lack of Sufficient Prize Funds: If, after these sources are depleted, there are not sufficient funds to pay the set prizes awarded, including Power Play® prizes, then the highest set prize shall become a pari-mutuel prize. If the amount of the highest set prize, when paid on a pari-mutuel basis, drops to or below the next highest set prize and there are still not sufficient funds to pay the remaining set prizes awarded, then the next highest set prize shall become a pari-mutuel prize. This procedure shall continue down through all set prize levels, if necessary, until all set prize levels become pari-mutuel prize levels.

(C) By agreement with the Licensee Lotteries, the Licensee Lotteries shall independently calculate their set pari-mutuel prize amounts. The Party Lotteries and the Licensee Lotteries shall then agree to set the pari-mutuel prize amounts for all lotteries selling the game at the lesser of the independently-calculated prize amounts.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stat. Implemented: ORS 461.220

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 17-1988(Temp), f. & cert. ef. 6-2-88; LC 18-1988, f. & cert. ef. 6-28-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 4-1993, f. & cert. ef. 4-2-93; LC 11-1995, f. 10-30-95, cert. ef. 11-1-95; LC 10-1996, f. & cert. ef. 9-4-96; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 9-2011, f. 12-20-11, cert. ef. 1-15-12; LOTT 10-2011(Temp), f. 12-22-11, cert. ef. 1-15-12 thru 7-7-12; LOTT 2-2012, f. 4-30-12, cert. ef. 5-1-12; LOTT 4-2013, f. 9-27-13, cert. ef. 10-1-13

177-085-0035 Prize Payment

(1) Selection of Payment Type: Grand prizes shall be paid, at the election of the player made no later than 60 days after validation of the prize, with either a per winner annuity or single lump sum payment. If the payment election is not made by the player within 60 days after validation, then the prize shall be paid as an annuity prize. The election to take the single lump sum payment may be made at the time of validation of the prize claim or within 60 days thereafter. An election made after validation is final and cannot be revoked, withdrawn, or otherwise changed.

(2) Share of the Grand Prize: Shares of the Grand Prize shall be determined by dividing the amount available in the Grand Prize pool equally among all winning game plays of the Grand Prize.

(3) Lump Sum Payment: Winner(s) who elect a lump sum payment shall be paid their share(s) in a single lump sum payment. (Application of the MUSL annuity factor generally is anticipated to result in the Grand Prize winner who elects a single lump sum payment receiving an amount that roughly approximates one-half of the advertised Grand Prize amount. The actual single lump sum payment amount will vary as a function of the MUSL annuity factor determined as described in subsection (4)(a) of this rule.)

(4) Annuity Payment: The annuitized option prize shall be determined by multiplying a winner's share of the Grand Prize pool by the MUSL annuity factor.

(a) The MUSL annuity factor is determined by the best total securities price obtained through a competitive bid of qualified, pre-approved brokers made after it is determined that the prize is to be paid as an annuity prize or after the expiration of 60 days after the winner becomes entitled to the prize.

(b) Neither MUSL nor the Party Lotteries or the Licensee Lotteries shall be responsible or liable for changes in the advertised or estimated annuity prize amount and the actual amount purchased after the prize payment method is actually known to MUSL. In certain instances announced by the Product Group, the Grand Prize shall be a guaranteed amount and shall be determined pursuant to subsection (11) of this rule. If individual shares of the cash held to fund an annuity are less than \$250,000.00, the Product Group, in its sole discretion, may elect to pay the winners their share of the amount held in the Grand Prize pool.

(5) Initial and Annual Payments: Except as may be controlled by statute, all annuitized prizes shall be paid annually in thirty payments with the initial payment being made directly with available funds, to be followed by twenty-nine payments funded by the annuity. All annuitized prizes shall be paid annually in thirty graduated payments (increasing each year) by a rate as determined by the Product Group. Prize payments may be rounded down to the nearest \$1,000. Annual payments after the initial payment shall be made by the lottery on the anniversary date of the first payment or if such date falls on a non-business day, then the first business day following the anniversary date of the first payment. Funds for the initial payment of an annuitized prize or the lump sum payment prize shall be made available by MUSL for payment by the Party Lottery or the Licensee Lottery which sold the winning ticket no earlier than the 15th calendar day (or the next banking day if the fifteenth day is a holiday) following the drawing.

(6) Lack of Available Funds: If necessary, when the due date for the payment of a prize occurs before the receipt of sufficient funds in the prize pool trust to pay the prize, then the transfer of funds for the payment of the full lump sum payment amount may be delayed pending receipt of funds from the Party Lotteries and Licensee Lotteries. The Lottery may elect to make the initial payment from its own funds after validation, with notice to MUSL.

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(7) **Death of Winner:** In the event of the death of a lottery winner during the annuity payment period, the MUSL Finance and Audit Committee, in its sole discretion excepting a discretionary review by the Product Group, upon the petition of the estate of the lottery winner (the "Estate") or the persons identified on the winner's Beneficiary Designation form (BDF), whichever is applicable, to the state lottery of the state in which the deceased lottery winner purchased the winning ticket, and subject to applicable federal, state, or district laws, may make payment to the Estate or the designated beneficiary of the discounted present value of the annuitized prize payments. If a determination is made, then securities and/or amounts held to fund the deceased lottery winner's annuitized prize may be distributed to the Estate or the persons on the BDF. The identification of the securities, if any, to fund the annuitized prize shall be at the sole discretion of the MUSL Finance and Audit Committee or the Product Group.

(8) **Low-Tier Prizes:** All low-tier prizes (all prizes except the Grand Prize) shall be paid directly through the Lottery that sold the winning ticket. The Lottery may begin paying low-tier prizes after receiving authorization to pay from the MUSL central office.

(9) **Rounding of Grand Prize Payments:** Annuitized payments of the Grand Prize or a share of the Grand Prize may be rounded to facilitate the purchase of an appropriate funding mechanism. Breakage on an annuitized Grand Prize win shall be added to the first payment to the winner or winners. Prizes other than the Grand Prize which, under OAR 177-085-0025(4)(c) and 177-085-0065(12), may become single-payment, parimutuel prizes, may be rounded down so that prizes can be paid in multiples of whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.

(10) **Roll Over of Grand Prize:** If the Grand Prize is not won in a drawing, the prize money allocated for the Grand Prize shall roll over and be added to the Grand Prize pool for the following drawing.

(11) **Minimum Grand Prizes and Increases:** The Product Group may offer guaranteed minimum Grand Prize amounts or minimum increases in the Grand Prize amount between drawings or make other changes in the allocation of prize money where the Product Group finds that it would be in the best interest of the game. If a minimum Grand Prize amount or a minimum increase in the Grand prize amount between drawings is offered by the Product Group, then the Grand Prize amount shall be determined as follows.

(a) **All Winners Select Annuity:** If there are multiple Grand Prize winners during a single drawing, each selecting the annuitized option prize, then a winner's share of the guaranteed annuitized Grand Prize shall be determined by dividing the guaranteed annuitized Grand Prize by the number of winning game plays.

(b) **Mix of Lump Sum and Annuity:** If there are multiple Grand Prize winners during a single drawing and at least one of the Grand Prize winners has elected the annuitized option prize, then the best bid submitted by MUSL's pre-approved qualified brokers shall determine the cash pool needed to fund the guaranteed annuitized Grand Prize.

(c) **No Winners Select Annuity:** If no winner of the Grand Prize during a single drawing has elected the annuitized option prize, then the amount of the cash in the Grand Prize pool shall be an amount equal to the guaranteed annuitized amount divided by the average annuity factor of the most recent three best quotes provided by MUSL's pre-approved qualified brokers submitting quotes.

(d) **Changes in Allocation of Prizes:** In no case shall quotes be used that are more than two weeks old, and if less than three quotes are submitted, then MUSL shall use the average of all quotes submitted. Changes in the allocation of prize money shall be designed to retain approximately the same prize allocation percentages, over a year's time, set out in OAR 177-085-0025(4). Minimum guaranteed prizes or increases may be waived if the alternate funding mechanism set out in OAR 177-085-0025(4)(c) becomes necessary.

(12) **One Prize per Board:** The holder of a winning ticket may win only one prize per board in connection with the winning numbers drawn, and shall be entitled only to the prize won by those numbers in the highest matching prize category.

(13) **Claim Expires in One Year:** Claims for all prize categories, including the Grand Prize, must be submitted within one year after the date of the drawing.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.20
Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 8-1992, f. & cert. ef. 7-23-92; LC 4-1993, f. & cert. ef. 4-2-93; LC 10-1996, f. & cert. ef. 9-4-96; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 4-2003(Temp), f. & cert. ef. 4-15-03 thru 10-10-03; LOTT 10-2003, f. & cert. ef. 6-

30-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 9-2011, f. 12-20-11, cert. ef. 1-15-12; LOTT 4-2013, f. 9-27-13, cert. ef. 10-1-13

177-085-0050

Ineligible Players

(1) **MUSL Restrictions:** A ticket or share issued by the MUSL or any of its Party Lotteries or Licensee Lotteries shall not be purchased by, and a prize won by any such ticket or share shall not be paid to:

(a) A MUSL employee, officer, or director;

(b) A contractor or consultant under agreement with the MUSL to review the MUSL audit and security procedures;

(c) An employee of an independent accounting firm under contract with MUSL to observe drawings or site operations and actually assigned to the MUSL account and all partners, share-holders, or owners in the local office of the firm; or

(d) An immediate family member (parent, stepparent, child, stepchild, spouse, or sibling) of an individual described in subsections (a) through (c) of this section and residing in the same household.

(2) **Local Lottery Restrictions:** Those persons designated by a Party Lottery's or Licensee Lottery's law as ineligible to play its games shall also be ineligible to play Powerball® in that Party Lottery's or Licensee Lottery's jurisdiction.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.250

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 12-1990, f. & cert. ef. 10-2-90; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 4-2013, f. 9-27-13, cert. ef. 10-1-13

177-085-0065

Power Play®

(1) **General:** Power Play® is an optional, limited extension of the Powerball® Game described in OAR Division 85. The Lottery Director, in the Lottery Director's sole discretion and based on agreements with MUSL, is authorized to initiate and terminate the Power Play® option.

(2) **Set Prizes Only:** Power Play® increases the amount of any of the cash Set Prizes (the cash prizes normally paying \$4 to \$1,000,000) won in a drawing. The Grand Prize Jackpot is not a Set Prize and will not be increased.

(3) **Power Play® Purchase:** A qualifying Power Play® option play is any single Powerball® Play for which the player selects the Power Play® option on either the game slip or by selecting the Power Play® option through a clerk-activated or player-activated terminal, pays one extra dollar for the Power Play® option play, and which is recorded at the Lottery's central computer as a qualifying play.

(4) **Qualifying Play:** Except as otherwise provided in these rules, for drawings before January 22, 2014, a qualifying play which wins one of the eight lump sum Set Prizes (excluding the Grand Prize Jackpot) shall be paid as follows: [Table not included. See ED. NOTE.]

(5) **Power Play® Drawings:** Effective for drawings on or after January 22, 2014, MUSL will conduct a separate random Power Play® drawing and announce results during each of the regular Powerball® drawings held during the promotion. During each Powerball® drawing a single number, 2, 3, 4, or 5, shall be drawn. The Powerball® Product Group may modify the multiplier features for special promotions from time to time.

(6) **Prizes to be Increased:** Except as provided in these rules, effective for drawings on or after January 22, 2014, a qualifying play which wins one of the seven lowest lump sum set prizes (excluding the Match 5+0 prize) will be multiplied by the number selected, either 2, 3, 4, or 5, in a separate random Power Play® drawing announced during the official Powerball® drawing show. The announced Match 5+0 prize, for players selecting the Power Play® option, shall be paid \$2,000,000 unless a higher limited promotional dollar amount is announced by the Group.

(7) **Power Play® Prize Pool:**

(a) **Drawings Prior to January 22, 2014:** The prize pool for all prize categories shall consist of up to 49.96 percent of each drawing period's sales, including any specific statutorily-mandated tax of a Party Lottery or Licensee Lottery to be included in the price of a lottery ticket.

(b) **Drawings On or After January 22, 2014:** Effective for drawings on or after January 22, 2014, the prize pool for all prize categories shall consist of up to 49.36 percent of each drawing period's sales, including any specific statutorily-mandated tax of a Party Lottery or Licensee Lottery to be included in the price of a lottery ticket.

(c) **Carry Forward:** The Power Play® Prize Pool shall be carried forward to subsequent draws if all or a portion of it is not need to pay the

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Power Play® prizes awarded in the current draw and held in the Power Play® Pool Account.

(8) Power Play® Pool Account:

(a) Drawings Prior to January 22, 2014: For drawings prior to January 22, 2014, an additional 0.04 percent of sales, including any specific statutorily-mandated tax of a Party Lottery or Licensee Lottery to be included in the price of a lottery ticket, may be collected and placed in trust in the Power Play® Pool Account, for the purpose of paying Power Play® prizes.

(b) Drawings On or After January 22, 2014: For drawings on or after January 22, 2014, an additional 0.64 percent of sales, including any specific statutorily-mandated tax of a Party Lottery or Licensee Lottery to be included in the price of a lottery ticket, may be collected and placed in trust in the Power Play® Pool Account, for the purpose of paying Power Play® prizes.

(c) Remaining Amounts: Any amount remaining in the Power Play® Pool Account at the end of this game shall be returned to all lotteries participating in the account after the end of all claim periods of all Party Lotteries and Licensee Lotteries, carried forward to a replacement game, or expended in a manner as directed by the members of the Product Group in accordance with jurisdiction statute.

(9) Power Play® Payout: Except as otherwise provided in these rules, all prizes awarded shall be paid as lump sum set prizes. Instead of the Powerball® set prize amounts, qualifying Power Play® option plays will pay the Power Play® prize amounts shown in sections (4) or (10) of this rule as applicable. In certain rare instances, and as determined under OAR 177-085-0025(4)(c)(B) and section (12) of this rule, the Powerball® set prize amount may be less than the amounts shown in sections (4) and (10) of this rule. In such case, the eight Power Play® prize amounts will be changed to an amount announced after the draw.

(10) Expected Power Play® Prize Payout — Effective for Drawings on or after January 22, 2014: [Table not included. See ED. NOTE.] In certain rare instances, the Powerball® set prize amount may be less than the amount shown. In such case, the eight lowest Power Play® prizes will be changed to an amount announced after the draw. For example, if the Match 4+1 Powerball® set prize amount of \$10,000.00 becomes \$5,000.00 under the rules of the Powerball® game and a 5x Power Play® multiplier is selected, then a Power Play® player winning that prize amount would win \$25,000.00.

(11) Probability of Winning: Effective for drawings on or after January 22, 2014, the following table sets forth the probability of the various Power Play® numbers being drawn during a single Powerball® drawing, except that the Power Play® amount for the Match 5+0 prize will be \$2,000,000. The Group may elect to run limited promotions that may modify the multiplier features.

Power Play® — Probability of Prize Increase

5X - Prize Won Times 5 — 1 in 10

4X - Prize Won Times 4 — 1 in 10

3X - Prize Won Times 3 — 1 in 3.33

2X - Prize Won Times 2 — 1 in 2

Power Play® does not apply to the Powerball® Grand Prize. Except as provided in OAR 177-085-0065(10), a Power Play® Match 5 set prize is set at \$2,000,000, regardless of the multiplier selected.

(12) Pari-Mutuel Prizes — All Prize Amounts: Except as provided in subsection (d) of this rule, for Party Lotteries, if the total of the original Powerball® set prizes and the Power Play® prizes awarded in a drawing exceeds the percentage of the prize pools allocated to the set prizes, then the amount needed to fund the set prizes (including the Power Play® prize amounts) awarded shall be drawn from the following sources, in the following order:

(a) The amount allocated to the set prizes and carried forward from previous draws, if any;

(b) An amount from the Powerball® Set-Prize Reserve Account, if available in the account, not to exceed \$40,000,000 per drawing; and

(c) If, after these sources are depleted, there are not sufficient funds to pay the set prizes awarded (including Power Play® prize amounts), then the highest set prize (including the Power Play® prize amounts) shall become a pari-mutuel prize. If the amount of the highest set prize, when paid on a pari-mutuel basis, drops to or below the next highest set prize and there are still not sufficient funds to pay the remaining set prizes awarded, then the next highest set prize, including the Power Play® prize amount, shall become a pari-mutuel prize. This procedure shall continue down through all set prizes levels, if necessary, until all set prize levels become pari-mutuel prize levels. In that instance, the money available from the funding sources listed in this rule shall be divided among the winning plays in proportion to their respective prize percentages. Powerball® and Power Play® prizes will be reduced by the same percentage.

(d) By agreement with the Licensee Lotteries, the Licensee Lotteries shall independently calculate their set pari-mutuel prize amounts, including the Power Play® prize amounts. The Party Lotteries and the Licensee Lotteries shall then agree to set the pari-mutuel prize amounts for all lotteries selling the game at the lesser of the independently calculated prize amounts.

(13) Prize Payment: All Power Play® prizes shall be paid in one lump sum. The Lottery may begin paying Power Play® prizes after receiving authorization to pay from the MUSL central office.

(14) Prizes Rounded: Prizes, which under these rules may become pari-mutuel prizes, may be rounded down so that prizes can be paid in whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461

Hist.: LOTT 3-2001(Temp), f. 3-1-01, cert. ef. 3-2-01 thru 8-29-01; LOTT 10-2001, f. 5-25-01, cert. ef. 5-29-01; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 10-2010, f. 11-19-10, cert. ef. 12-12-10; LOTT 9-2011, f. 12-20-11, cert. ef. 1-15-12; LOTT 10-2011(Temp), f. 12-22-11, cert. ef. 1-15-12 thru 7-7-12; LOTT 2-2012, f. 4-30-12, cert. ef. 5-1-12; LOTT 5-2012(Temp), f. & cert. ef. 8-16-12 thru 1-31-13; LOTT 7-2012, f. 10-26-12, cert. ef. 11-1-12; LOTT 4-2013, f. 9-27-13, cert. ef. 10-1-13

Rule Caption: Amends game matrix; creates 30-year Jackpot annuity; Modifies prize accounts; Specifies when prizes become pari-mutuel

Adm. Order No.: LOTT 5-2013

Filed with Sec. of State: 9-27-2013

Certified to be Effective: 10-19-13

Notice Publication Date: 8-1-2013

Rules Amended: 177-098-0010, 177-098-0020, 177-098-0030, 177-098-0040, 177-098-0050, 177-098-0060, 177-098-0110

Subject: The Oregon Lottery amended the above referenced administrative rules for the Mega Millions game. The Mega Millions game has been updated with a new matrix and Megaplier multipliers which modify the odds of winning. It is anticipated that these changes will attract more players resulting in higher jackpots and more prize payments. Other amendments provide:

1. In the event the multiplier drawing does not occur prior to the Mega Millions drawing, the multiplier number will be a 5;

2. The Jackpot prize will be paid in thirty graduated annual payments increasing by 5% each year;

3. The creation of new prize reserve and prize pool accounts for funding of the various prizes; and

4. Circumstances under which prizes will become pari-mutuel are being modified.

These changes were necessary to implement the changes to the Mega Millions game rules made by the national organization that administers the multi-state Mega Millions game.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-098-0010

Definitions

The following definitions apply unless the context requires a different meaning:

(1) "Drawing" means the formal process of selecting winning numbers which determine the number of winners for each prize level of the game.

(2) "Draw game terminal" or "Terminal" has the meaning set forth in OAR 177-070-0005(4).

(3) "Finance & Audit Committee" means the committee established by the Multi-State Lottery Association Agreement.

(4) "Game board" or "Boards" means that area of the play slip which contains two sets of numbered squares to be marked by the player, the first set containing seventy-five squares, numbered one through seventy-five and the second set containing fifteen squares, numbered one through fifteen.

(5) "Game ticket" or "Ticket" means a ticket produced by a terminal which contains the caption Mega Millions®, one or more lettered game plays followed by the drawing date, the price of the ticket, whether or not the player has purchased the Megaplier® option, the number of draws, the drawing dates if more than one drawing was purchased, a six digit retailer

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number, and a serial number that is compatible with the Lottery's central computer system.

(6) "Jackpot" means the top prize of the Mega Millions[®] game. The annuity Jackpot Prize is an amount that would be paid in thirty graduated annual installments with the annual payments increasing by five percent each year.

(7) "Mega Millions[®] Finance Committee" means a committee of the Mega Millions[®] Lotteries which determines the Jackpot Prize amount (cash and annuity).

(8) "Mega Millions[®] Lottery or Lotteries" means those lotteries which have joined under the Mega Millions[®] Lottery Agreement and through a Cross-Selling Agreement with MUSL, to operate and sell the Mega Millions[®] game.

(9) "Megaplier[®]" means Mega Millions[®] game feature, known as "Megaplier[®]", by which a player, for an additional wager of \$1 per play, can increase the guaranteed prize amount or pari-mutuel prize amount, as applicable, excluding the Jackpot Prize by a factor of two, three, four, or five times depending upon the multiplier number that is drawn prior to the Mega Millions[®] game drawing.

(10) "MUSL" means the Multi-State Lottery Association.

(11) "MUSL Board" means the governing body of MUSL which is comprised of the chief executive officer of each Party Lottery.

(12) "Participating Lottery" or "Selling Lottery" means a state lottery or lottery of a political subdivision or entity which is participating in selling the Mega Millions[®] game and which may be a member of either group.

(13) "Party Lottery" means a state lottery or lottery of a political subdivision or entity which has joined the MUSL and, in the context of these Product Group Rules, which has joined in selling the games offered by the MUSL Mega Millions[®] Product Group.

(14) "Play" means the six numbers, the first five from a field of seventy-five numbers and the last one from a field of fifteen numbers, that appear on a ticket as a single lettered selection and are to be played by a player in the game.

(15) "Play slip" means a card used in marking a player's game plays and containing one or more boards.

(16) "Product Group" means the group of lotteries which has joined together to offer the Mega Millions[®] lottery game product pursuant to the terms of a Cross-Selling Agreement with the Mega Millions[®] Lotteries, the Multi-State Lottery Agreement and the Group's own rules.

(17) "Quick Pick" means the random selection by the computer system of two-digit numbers that appear on a ticket and are played by a player in the game.

(18) "Retailer" means a person or entity authorized by the Lottery to sell lottery tickets.

(19) "Set Prize" means all other prizes except the Jackpot Prize that are advertised to be paid by a single lump sum payment and, except in instances outlined in these rules, will be equal to the prize amount established by the MUSL Board for the prize level.

(20) "Winning numbers" means the six numbers, the first five from a field of seventy-five numbers and the last one from a field of fifteen numbers, randomly selected at each drawing, which shall be used to determine winning plays contained on a game ticket.

Stat. Auth.: ORS 190, 461, OR Const. Art. XV, Sec. 4(4) &

Stats. Implemented: ORS 461

Hist.: LOTT 6-2010, f. 3-18-10, cert. ef. 3-21-10; LOTT 12-2010, f. 11-19-10, cert. ef. 12-12-10; LOTT 5-2013, f. 9-27-13, cert. ef. 10-19-13

177-098-0020

Game Description

(1) General Information: Mega Millions[®] is a five out of seventy-five plus one out of fifteen lottery game, drawn on the day(s), time(s) and location(s) as determined by the Mega Millions[®] Lotteries, and which pays the Jackpot Prize, at the election of the player made in accordance with these rules or by a default election made in accordance with these rules, either on a graduated annual pari-mutuel basis or as a cash value option using a rate determined by the Mega Millions[®] Finance Committee on a pari-mutuel basis. Except as provided in these rules, all other prizes are paid as a single lump sum payment.

(2) Selection of Numbers: To play the Mega Millions[®] game, a player shall select five different numbers, from one through seventy-five and one additional number from one through fifteen (the Mega ball), for input into a terminal. The Mega ball may be the same as one of the first five numbers selected by the player, as long as it is from one through fifteen.

(3) Purchase of Tickets: Tickets can be purchased for one dollar (U.S. \$1.00), either from a terminal operated by a retailer (i.e., a clerk-activated

terminal) or from a terminal operated by the player (i.e., a player-activated terminal).

(a) If purchased from a retailer, the retailer will issue a ticket, via the terminal, containing the player's selected set or sets of numbers, each of which constitutes a game play. The player may select a set of five numbers from one to seventy-five and one additional number from one through fifteen by:

(A) Marking six numbered squares in any one game board on a play slip and submitting the play slip to the retailer; or

(B) Requesting "Quick Pick" from the retailer.

(b) Tickets can be purchased from a player-activated terminal by use of a touch screen or by inserting a play slip into the machine.

(c) A player may purchase tickets for future consecutive drawings up to the maximum permitted by the Lottery.

(4) Player Responsibility: It is the sole responsibility of the player to verify the accuracy of the game play or plays and other data printed on the ticket. A ticket may not be voided or canceled by returning the ticket to the retailer or to the Lottery, including tickets that are printed in error. No ticket may be returned to the Lottery for credit. The placing of plays is done at the player's own risk through the Lottery retailer, who when entering the play or plays is acting on behalf of the player.

(5) Determination of Winning Numbers: The winning numbers for the Mega Millions[®] game shall be determined at a drawing conducted under the supervision of the Mega Millions[®] Lotteries and the MUSL Board. Winning numbers shall be selected at random with the aid of mechanical drawing equipment or a random number generator. The Lottery Director shall designate a Drawing Manager who shall review and randomly observe the Mega Millions[®] game drawings conducted.

Stat. Auth.: ORS 190, 461, OR Const. Art. XV, Sec. 4(4) &

Stats. Implemented: ORS 461

Hist.: LOTT 6-2010, f. 3-18-10, cert. ef. 3-21-10; LOTT 5-2013, f. 9-27-13, cert. ef. 10-19-13

177-098-0030

Prize Claims

(1) General: A ticket, subject to the validation requirements set forth in these rules and OAR 177-070-0035, is the only proof of a game play or plays and the submission of a winning ticket to the Lottery or an authorized retailer as required by these rules is the sole method of claiming a prize or prizes. A play slip or a copy of a ticket has no pecuniary or prize value and does not constitute evidence of ticket purchase or of numbers selected. A terminal produced paper receipt has no pecuniary or prize value and does not constitute evidence of ticket purchase or of numbers selected.

(2) Prize Claims: Mega Millions[®] prize claim procedures are governed by the administrative rules of the Oregon State Lottery. MUSL and the selling lotteries are not responsible for Mega Millions[®] prizes that are not claimed following the proper procedures as determined by the Oregon State Lottery.

Stat. Auth.: ORS 190, 461, OR Const. Art. XV, Sec. 4(4) &

Stats. Implemented: ORS 461

Hist.: LOTT 6-2010, f. 3-18-10, cert. ef. 3-21-10; LOTT 5-2013, f. 9-27-13, cert. ef. 10-19-13

177-098-0040

Prize Pool

(1) Prize Pool: The prize pool for all prize categories shall consist of up to fifty-five percent of each drawing period's sales, including any specific statutorily-mandated tax of a Party Lottery to be included in the price of a lottery ticket, after the prize reserve accounts are funded to the amounts set by the Product Group. The prize pool may be higher or lower than fifty-five percent based upon the number of winners at each prize level, as well as the funding required to meet a guaranteed Annuity Jackpot Prize as may be required by OAR 177-098-0060(5). Any amount remaining in the prize pool at the end of the Mega Millions[®] game shall be carried forward to a replacement game or expended in a manner as directed by the Product Group in accordance with the law of the state or jurisdiction.

(2) Prize Pool Accounts and Prize Reserve Accounts: An amount up to five percent of a Party Lottery's sales, including any specific statutorily-mandated tax of a Party Lottery to be included in the price of a lottery ticket, shall be added to a Party Lottery's Jackpot Prize Pool contribution and placed in trust in one or more prize pool accounts and prize reserve account(s) held by the Product Group at any time that the prize pool accounts and Party Lottery's share of the prize reserve account(s) is below the amounts designated by the Product Group. The Product Group has established the following prize reserve account and prize pool accounts for the Mega Millions[®] game:

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(a) The Prize Reserve Account, which is used to guarantee the payment of valid, but unanticipated, Jackpot Prize claims that may result from a system error or other reason (subject to the limitations of these rules);

(b) The Jackpot Prize Pool Account, which is used to fund the immediate Jackpot Prize;

(c) The Set-Aside Account, which is used to guarantee payment of the minimum or starting Jackpot Prize. The source of the Set-Aside Account funding is the difference between the amount in the Jackpot Prize Pool Account and the amount needed to fund Jackpot Prize payments as determined by the Mega Millions® lotteries;

(d) The Megaplier® Prize Pool Account described in OAR 177-098-0110; and

(e) The Low-Tier Prize Pool Account, which holds the temporary balances that may result from having fewer than expected winners in the low-tier Set Prize categories. The source of the Low-Tier Prize Pool Account is the Party Lottery's weekly prize contributions less actual Set Prize liability.

(3) Balances: The Product Group, with approval of the Finance & Audit Committee, may establish a maximum balance for the prize pool accounts and prize reserve account. The Product Group may determine to expend all or a portion of the funds in the prize pool accounts (except the Jackpot Prize Pool Account) and the prize reserve accounts:

(a) For the purpose of indemnifying the Party Lotteries and the Mega Millions® Lotteries in the payment of prizes to be made by the participating lotteries, subject to the approval of the MUSL Board; and

(b) For the payment of prizes or special prizes in the game; subject to the approval of the Finance and Audit Committee. The prize reserve shares of a Party Lottery may be adjusted with refunds to the Party Lottery from the prize reserve account as may be needed to maintain the approved maximum balance and shares of the Party Lotteries. Any amount remaining in the prize pool accounts or prize reserve account at the end of the Mega Millions® game shall be carried forward to a replacement game or expended in a manner as directed by the Members of the Product Group in accordance with the law of the state or jurisdiction.

(4) Expected Prize Payout Percentages: The Jackpot Prize shall be determined on a pari-mutuel basis. Except as provided in these rules and except for winning prizes sold by the California Lottery, all other prizes awarded shall be paid as Set Prizes with the following expected prize payout percentages, which does not include an additional amount held in prize reserves: [Table not included. See ED. NOTE.]

(a) Division of Jackpot Prize Among Winners: The Jackpot Prize amount shall be divided equally by the number of game tickets winning the Jackpot Prize.

(b) Set Prizes: The prize pool percentage allocated to the Set Prizes (the single lump sum prizes of \$1,000,000 or less) shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the Set Prizes awarded in the current draw.

(c) Pari-Mutuel Prize Determinations:

(A) Except as otherwise provided for in OAR 177-098-0110(10)(c), if the total of the Set Prizes awarded in a drawing exceeds the percentage of the prize pool allocated to the Set Prizes, then the amount needed to fund the Set Prizes, including Megaplier® prizes, awarded shall be drawn from the following sources, in the following order:

(i) The amount allocated to the Set Prizes and carried forward from previous draws, if any;

(ii) An amount from the prize reserve account described in section (2) of this rule, if available, not to exceed \$40,000,000 per drawing.

(B) If, after these sources are depleted, there are not sufficient funds to pay the Set Prizes awarded, including Megaplier® prizes, then the highest Set Prize shall become a pari-mutuel prize. If the amount of the highest Set Prize, when paid on a pari-mutuel basis, drops to or below the next highest Set Prize and there are still not sufficient funds to pay the remaining Set Prizes awarded, then the next highest Set Prize shall become a pari-mutuel prize. This procedure shall continue down through all Set Prize levels, if necessary, until all Set Prize levels become pari-mutuel prize levels.

(C) By agreement with the Mega Millions® Lotteries, the Mega Millions® Lotteries shall independently calculate their set pari-mutuel prize amounts. The Party Lotteries and the Mega Millions® Lotteries shall then agree to set the pari-mutuel prize amounts for all lotteries selling the game at the lesser of the independently-calculated prize amounts.

(5) Advertised Jackpot Prize Annuity Amount: Except as required by OAR 177-098-0060 the official advertised Jackpot Prize annuity amount is subject to change based on sales forecasts and/or actual sales.

(6) Changes to Prize Categories: The number of prize categories and the allocation of the prize fund among the prize categories may be changed

at the discretion of the Mega Millions® Lotteries, for promotional purposes. Such change shall be announced by the Lottery prior to the drawing to which the change applies.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 190, 461, OR Const. Art. XV, Sec. 4(4) &

Stats. Implemented: ORS 461

Hist.: LOTT 6-2010, f. 3-18-10, cert. ef. 3-21-10; LOTT 12-2010, f. 11-19-10, cert. ef. 12-12-10; LOTT 5-2013, f. 9-27-13, cert. ef. 10-19-13

177-098-0050

Probability of Winning

General: The following table sets forth the probability of winning and the probable distribution of winners in and among each prize category, based upon the total number of possible combinations in Mega Millions®. All prize winning tickets sold by the California Lottery are paid on a pari-mutuel basis. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 190, 461, OR Const. Art. XV, Sec. 4(4) &

Stats. Implemented: ORS 461

Hist.: LOTT 6-2010, f. 3-18-10, cert. ef. 3-21-10; LOTT 5-2013, f. 9-27-13, cert. ef. 10-19-13

177-098-0060

Prize Payment

(1) Selection of Payment Type: Jackpot Prizes shall be paid, at the election of the player made no later than 60 days after validation of the prize, with either a per winner annuity or single lump sum payment. If the payment election is not made by the player within 60 days after validation, then the prize shall be paid as an annuity prize. The election to take the single lump sum payment may be made at the time of validation of the prize claim or within 60 days thereafter. An election made after validation is final and cannot be revoked, withdrawn, or otherwise changed.

(2) Share of the Jackpot Prize: Shares of the Jackpot Prize shall be determined by dividing the amount available in the Jackpot Prize pool equally among all winning game plays of the Jackpot Prize in all participating lotteries. The prize money allocated from the current Mega Millions® Jackpot Prize Pool Account for the Jackpot Prize, plus any previous portions of prize money allocated to the Jackpot Prize category in which no matching tickets were sold will be divided equally among all Jackpot Prize winning game plays in all participating lotteries.

(3) Lump Sum Payment: Jackpot Prize winner(s) who elect a lump sum payment (cash value option) shall be paid their share(s) in a single lump sum payment. The lump sum payment amount shall be determined by the Product Group. The lump sum payment shall be paid upon completion of all internal validation procedures. Prize payments may be rounded down to the nearest \$1,000.

(4) Initial and Annual Annuitized Payments: All annuitized prizes shall be paid in graduated annual payments, with the initial payment being made in cash. Graduated annual payment option Jackpot Prizes will be paid in thirty graduated annual installments. The initial payment shall be paid upon completion of all internal validation procedures. The subsequent twenty-nine payments shall be paid graduated annually to coincide with the month of the Federal auction date at which the bonds were purchased to fund the annuity, with graduated annual installments defined in the Mega Millions® Lotteries' Finance and Operations Procedures. Payments shall escalate by a factor of five percent annually, and annual payments shall be rounded down to the nearest even one thousand dollar increment. All such payments shall be made within seven days of the anniversary of the annual auction date.

(5) Jackpot Prizes and Increases: The Mega Millions® lotteries may set a minimum guaranteed annuity Jackpot Prize amount, which shall be advertised by the selling lotteries as the starting guaranteed annuity Jackpot Prize amount.

(6) Roll Over of Jackpot Prize: If in any Mega Millions® drawing there are no Mega Millions® plays which qualify for the Jackpot Prize category, the portion of the prize fund allocated to such Jackpot Prize category shall remain in the Jackpot Prize category and be added to the amount allocated for the Jackpot Prize category in the next consecutive Mega Millions® drawing.

(7) Funding the Annuity: Funds for the initial payment of an annuitized prize or the lump sum cash prize shall be made available by MUSL for payment by the Party Lottery on a schedule approved by the Product Group. If individual shares of the cash held to fund an annuity is less than \$250,000, the Product Group, in its sole discretion, may elect to pay the winners their share of the cash held in the Jackpot Prize pool. Neither MUSL nor the party lotteries shall be responsible or liable for changes in the advertised or estimated annuity prize amount and the actual amount purchased after the prize payment method is actually known to MUSL.

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(8) Lack of Available Funds: If necessary, when the due date for the payment of a prize occurs before the receipt of funds in the prize pool trust sufficient to pay the prize, the transfer of funds for the payment of the full lump sum cash amount may be delayed pending receipt of funds from the Party Lotteries or other lotteries participating in the Mega Millions® Game. A Party Lottery may elect to make the initial payment from its own funds after validation, with notice to MUSL.

(9) Death of Winner: In the event of the death of a lottery winner sold by a Party Lottery during the annuity payment period, the MUSL Finance & Audit Committee, in its sole discretion excepting a discretionary review by the Product Group, upon the petition of the estate of the lottery winner (the "Estate") to the lottery of the jurisdiction in which the deceased lottery winner purchased the winning ticket, and subject to federal, state, district or territorial applicable laws, may accelerate the payment of all of the remaining lottery proceeds to the Estate. If such a determination is made, then securities and/or cash held to fund the deceased lottery winner's annuitized prize may be distributed to the Estate. The identification of the securities to fund the annuitized prize shall be at the sole discretion of the Finance & Audit Committee or the Product Group.

(10) Low-Tier Cash Prize Payments: All low-tier cash prizes (all prizes except the Jackpot Prize) shall be paid in cash through the Party Lottery which sold the winning ticket(s). A Party Lottery may begin paying low-tier cash prizes after receiving authorization to pay from the MUSL central office.

(11) Rounding of Prize Payments: Annuitized payments of the Jackpot Prize or a share of the Jackpot Prize may be rounded to facilitate the purchase of an appropriate funding mechanism. Breakage on an annuitized Jackpot Prize win shall be added to the first payment to the winner or winners. Prizes other than the Jackpot Prize which, under these rules, may become single-payment, pari-mutuel prizes, may be rounded down so that prizes can be paid in multiples of whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.

(12) Roll Over of Jackpot Prize: If the Jackpot Prize is not won in a drawing, the prize money allocated for the Jackpot Prize shall roll over and be added to the Jackpot Prize pool for the following drawing.

(13) One Prize per Game Play: The holder of a winning ticket may win only one prize per game play in connection with the winning numbers drawn, and shall be entitled only to the prize won by those numbers in the highest matching prize category.

(14) Claim Expires in One Year: Claims for all prize categories, including the Jackpot Prize, shall be submitted within one year after the date of the drawing in accordance with these rules and OAR 177-070-0025(3).

Stat. Auth.: ORS 190, 461, OR Const. Art. XV, Sec. 4(4) &
Stats. Implemented: ORS 461
Hist.: LOTT 6-2010, f. 3-18-10, cert. ef. 3-21-10; LOTT 12-2010, f. 11-19-10, cert. ef. 12-12-10; LOTT 5-2013, f. 9-27-13, cert. ef. 10-19-13

177-098-0110

Megaplier®

(1) General: Megaplier® is an optional, limited extension promotion of the Mega Millions® Game described in OAR division 98. The Lottery Director, in the Lottery Director's sole discretion and based on agreements with MUSL, is authorized to initiate and terminate the Megaplier® option.

(2) Set Prizes Only: Megaplier® multiplies or increases the amount of any of the lump sum Set Prizes (the cash prizes normally paying \$1 to \$1,000,000) won in a drawing held during the promotion. The Jackpot Prize is not a Set Prize and will not be multiplied or increased by means of the Megaplier® promotion.

(3) Qualifying Play: A qualifying Megaplier® option play is any single Mega Millions® Play for which the player selects the Megaplier® option on either the Play Slip or by selecting the Megaplier® option through a clerk-activated or player-activated terminal, pays one extra dollar for the Megaplier® option play, and which is recorded at the Party Lottery's central computer as a qualifying play.

(4) Prizes to be Multiplied or Increased:

(a) Set Prizes: A qualifying play which wins one of the lump sum Set Prizes will be multiplied by the number selected (either 2, 3, 4, or 5), in a separate random Megaplier® drawing announced in a manner determined by the Product Group.

(5) Selection of Multiplier®: MUSL will either itself conduct, or authorize a U.S. Lottery to conduct on its behalf, a separate random "Megaplier®" drawing. Before each Mega Millions® drawing a single number (2, 3, 4 or 5) shall be drawn. The Mega Millions® Product Group may change one or more of the multiplier features for special promotions

from time to time. In the event the "Megaplier®" drawing does not occur prior to the Mega Millions® drawing, the multiplier number will be a 5, which shall solely be determined by the lottery authorized to conduct the Megaplier® drawing.

(6) Megaplier® Prize Pool Account: The Megaplier® Prize Pool Account for all prize categories offered by the Party Lotteries shall consist of up to fifty-five percent of each drawing period's sales, as determined by the Product Group, including any specific statutorily-mandated tax of a Party Lottery to be included in the price of a lottery ticket. The Megaplier® Prize Pool Account shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the Megaplier® prizes awarded in the current draw and held in the Megaplier® Prize Pool Account. Any amount not used to pay for multiplied prizes may be collected and placed in the Megaplier® Prize Pool Account until the prize pool account reaches the amount designated by the Product Group. Any amount remaining in the Megaplier® Prize Pool Account at the end of this game shall be carried forward to a replacement game or expended in a manner as directed by the members of the Product Group in accordance with jurisdiction law.

(7) Expected Prize Payout: Except as provided in these rules, all prizes awarded shall be paid as lump sum Set Prizes. Instead of the Mega Millions® Set Prize amounts, qualifying Megaplier® plays will pay the amounts shown below when matched with the Megaplier® number drawn: [Table not included. See ED. NOTE.] Megaplier® multiplier numbers do not apply to the Mega Millions® Jackpot Prize. In certain rare instances, the Mega Millions® Set Prize amount may be less than the amount shown. In such case, the Megaplier® prizes will be a multiple of the changed Mega Millions® prize amount announced after the draw.

For example, if the Match 4+1 Mega Millions® Set Prize amount of \$5,000 becomes \$2,000 under the rules of the Mega Millions® game, then a Megaplier® player winning that prize amount with a 4X multiplier would win \$8,000 (\$2,000 x 4).

(8) Probability of Winning: The following table sets forth the probability of the various Megaplier® numbers being drawn during a single Mega Millions® drawing. The Product Group may elect to run limited promotions that may modify the multiplier features. [Table not included. See ED. NOTE.] Megaplier® multiplier numbers do not apply to the Mega Millions® Jackpot Prize.

(9) Prize Pool Carried Forward: The prize pool percentage allocated to the Megaplier® Set Prizes shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the Set Prizes awarded in the current draw or may be held in a prize reserve account.

(10) Pari-Mutuel Prizes — All Prize Amounts: Except as otherwise provided in OAR 177-098-0110(10)(c):

(a) If the total of the original Mega Millions® Set Prizes and the Megaplier® prize amounts awarded in a drawing exceeds the percentage of the prize pools allocated to the Set Prizes, then the amount needed to fund the Set Prizes (including the Megaplier® prize amounts) awarded shall be drawn from the following sources, in the following order:

(A) The amount allocated to the Set Prizes (including Megaplier® prize amounts) and carried forward from previous draws, if any.

(B) An amount from the Mega Millions® prize reserve account, if available in the account, not to exceed \$40,000,000 per drawing.

(b) If, after these sources are depleted, there are not sufficient funds to pay the Set Prizes awarded (including Megaplier® prize amounts), then the highest Set Prize (including the Megaplier® prize amounts) shall become a pari-mutuel prize. If the amount of the highest Set Prize, when paid on a pari-mutuel basis, drops to or below the next highest Set Prize and there are still not sufficient funds to pay the remaining Set Prizes awarded, then the next highest Set Prize, including the Megaplier® prize amount, shall become a pari-mutuel prize. This procedure shall continue down through all Set Prize levels, if necessary, until all Set Prizes become pari-mutuel prize levels. In that instance, the money available from the funding sources listed in this rule shall be divided among the winning plays in proportion to their respective prize percentages. Mega Millions® and Megaplier® prizes will be reduced by the same percentage.

(c) By agreement with the Mega Millions® Lotteries, the Mega Millions® Lotteries shall independently calculate their set pari-mutuel prize amounts, including the Megaplier® prize amounts. The party lotteries and the Mega Millions® Lotteries shall then agree to set the pari-mutuel prize amounts for all lotteries selling the game at the lesser of the independently calculated prize amounts.

(11) Prize Payment: All Megaplier® prizes shall be paid in one lump sum. The Lottery may begin paying Megaplier® prizes after receiving authorization to pay from the MUSL central office.

(12) Prizes Rounded: Prizes, which under these rules may become pari-mutuel prizes, may be rounded down so that prizes can be paid in

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whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 190, 461, OR Const. Art. XV, Sec. 4(4) & Stats. Implemented: ORS 461

Hist.: LOTT 6-2010, f. 3-18-10, cert. ef. 3-21-10; LOTT 12-2010, f. 11-19-10, cert. ef. 12-12-10; LOTT 1-2012(Temp), f. & cert. ef. 1-9-12 thru 7-2-12; LOTT 3-2012, f. 4-30-12, cert. ef. 5-1-12; LOTT 5-2013, f. 9-27-13, cert. ef. 10-19-13

Oregon Watershed Enhancement Board Chapter 695

Rule Caption: Repeals outdated administrative rules established in 2007 for salmon season state of emergency grants

Adm. Order No.: OWEB 3-2013

Filed with Sec. of State: 9-17-2013

Certified to be Effective: 9-17-13

Notice Publication Date: 8-1-2013

Rules Repealed: 695-007-0010, 695-007-0020, 695-007-0030, 695-007-0040

Subject: Division 7 of OWEB's administrative rules was established in response to Governor Kulongoski's Executive Orders issued between 2006 and 2008 declaring Salmon Season States of Emergency. The rules established grant application and award criteria for restoration, inventory and data collection, outreach, and technical planning projects that created employment opportunities for displaced workers (primarily fishers) during the States of Emergency. The most recent of the Salmon Season State of Emergency addressed by Division 7 rules expired in May 2009, rendering the rules obsolete. No Salmon Season State of Emergency has been declared since 2009.

Furthermore, the subsequent adoption of Division 4 rules (i.e. OAR 695-004-0030 (2)) in 2009 gives the OWEB Board the ability to offer special grant types, such as the Salmon Season State of Emergency Grants. If a future State of Emergency is declared and the OWEB Board again decides to offer grants that provide opportunities to displaced workers, Division 4 rules allow the Board to publicly discuss and approve necessary guidance and criteria for special grant programs without amending or writing new administrative rules for each unique circumstance. The Division 4 rule renders the Division 7 rules redundant and unnecessary now and into the future.

Rules Coordinator: Renee Davis-Born—(503) 986-0029

Parks and Recreation Department Chapter 736

Rule Caption: Revise camping rates for State Parks

Adm. Order No.: PRD 4-2013

Filed with Sec. of State: 10-1-2013

Certified to be Effective: 10-1-13

Notice Publication Date: 8-1-2013

Rules Amended: 736-015-0020, 736-015-0035, 736-015-0040, 736-015-0043

Subject: Rules under OAR Chapter 736, divisions 15, Rates, establish rates for camping and day use in properties managed by the Oregon Parks and Recreation Department. There are also rules establishing fee waivers for specific groups. As part of the OPRD budget, approved by the 2013 legislature, the department received approval to increase camping rates. In addition rules on fee waivers for Foster parents are being modified to limit the fee waiver to 14 days within a calendar month. A change to the fee structure for motorcycles in a campsite will allow up to two motorcycles for the extra vehicle fee.

Rules Coordinator: Vanessa DeMoe—(503) 986-0719

736-015-0020

Overnight Rentals

The director may designate a Type I campsite rental schedule at selected high use campgrounds. All remaining campgrounds will be set at the Type II campsite rental schedule. The director is authorized by the commission to include transient lodging taxes in the nightly rental rate and to increase the rental rate to the nearest whole dollar. The department shall

retain the additional revenue. Campsite Rental rates (per night per site before tax):

(1) Full Hookup Campsite: Provides campsite with individual water supply, electrical and sewage hookups, table, stove, and access to a restroom.

(a) Type I: \$28.

(b) Type II: \$24.

(2) Electrical Hookup Campsite: Provides campsite with individual water supply and electrical hookups, table, stove, and access to a restroom.

(a) Type I: \$26.

(b) Type II: \$22.

(3) Tent Campsite: Provides campsite with water supply nearby but does not have electricity or sewage hookup. Provides table, stove, and access to a restroom.

(a) Type I: \$19.

(b) Type II: \$17.

(4) Primitive Campsite: Provides campsite with table and stove; water and sanitary facilities may be some distance away. All primitive campsites: \$10.

(5) Yurt: Rustic units provide a temporary tent structure, covered deck, heat, lights and beds along with outdoor picnic facilities. Deluxe units add kitchen facilities, bathrooms and showers.

(a) Rustic: \$40.

(b) Deluxe: \$79.

(6) Cabin: Rustic units provide a hard-walled wooden structure, covered deck, heat, lights and beds along with outdoor picnic facilities. Totem units are primitive log units. Deluxe 1 units add kitchen facilities, bathrooms and showers.

(a) Totem: \$24.

(b) Rustic: \$40.

(c) Deluxe 1: \$79.

(7) Tepee: Tepee replica units vary in diameter from 18' to 26' and provide heat, lights and beds along with outdoor picnic facilities. All tepees: \$40.

(8) Hiker/Boater/Bicyclist Campsite: Provides cleared area for campers without motor vehicles; water and sanitary facilities may be some distance away. All hiker/boater/bicyclist campsites: \$5 per camper per night.

(9) Extra Vehicle in Campground: An additional rental rate of \$7 per vehicle is charged when an extra vehicle is driven into the campground and remains overnight.

(10) Extra Motorcycle in Campground: If the initial campsite rental is to a person riding a motorcycle, and the first extra vehicle is a motorcycle, the second motorcycle will not be charged. Additional motorcycles in the site will be charged \$7 as an extra vehicle. The \$7 extra vehicle charge will allow up to two motorcycles per extra vehicle charge.

(11) Pre-Registration (where available): The department may allow a person with a reservation for individual tent, electrical or full hookup campsites to expedite the check-in process by registering on-line prior to or upon arrival at the park area.

(12) Pursuant to ORS 105.672 to 105.696, overnight rental charges under this rule are for use of the assigned area or park facility of the state park land for camping and not for any other recreational purpose or area of state park land. The immunities provided under ORS 105.682 apply to use of state park land for any other recreational purpose.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.111, 390.121, 390.124 & 2010 HB 3673

Hist.: 1 OTC 17, f. 12-20-73; 1 OTC 23(Temp), f. 2-19-74; 1 OTC 56(Temp), f. & ef. 4-4-75; 1 OTC 59, f. 8-1-75, ef. 8-25-75; 1 OTC 74, f. & ef. 4-30-76; 1 OTC 82, f. 5-11-77, ef. 5-14-77; 1 OTC 86(Temp), f. 7-21-77, ef. 7-25-77; 1 OTC 90, f. & ef. 9-26-77; 1 OTC 1-1978, f. & ef. 2-23-78; 1 OTC 4-1979, f. & ef. 2-9-79; 1 OTC 6-1979, f. & ef. 3-29-79; 1 OTC 8-1979 (Temp), f. & ef. 5-17-79; 1 OTC 14-1979(Temp), f. & ef. 6-21-79; 1 OTC 2-1980, f. & ef. 1-4-80; PR 1-1981(Temp), f. 1-8-81, ef. 1-12-81; PR 9-1981, f. & ef. 4-6-81; PR 14-1981, f. & ef. 10-23-81; PR 5-1983, f. & ef. 3-30-83; PR 3-1984, f. & ef. 3-5-84; PR 11-1986, f. & ef. 7-9-86; PR 2-1987, f. & ef. 3-27-87; PR 1-1988, f. & cert. ef. 3-25-88; PR 6-1989(Temp), f. 12-29-89, cert. ef. 1-8-90; PR 1-1990, f. & cert. ef. 5-14-90; PR 4-1991, f. 4-30-91, cert. ef. 5-13-91; PR 1-1992, f. & cert. ef. 2-14-92; PR 16-1992, f. & cert. ef. 12-1-92; PR 2-1994, f. & cert. 2-9-94; PR 6-1995, f. & cert. ef. 7-14-95; PR 3-1996, f. & cert. ef. 5-13-96; PRD 8-2004, f. & cert. ef. 6-3-04; Renumbered from 736-010-0100, PRD 4-2005, f. & cert. ef. 5-5-05; PRD 2-2009, f. & cert. ef. 2-10-09; PRD 15-2009, f. & cert. ef. 9-29-09; PRD 1-2010, f. & cert. ef. 1-5-10; PRD 6-2010(Temp), f. & cert. ef. 4-15-10 thru 10-8-10; Administrative correction 10-26-10; PRD 7-2011, f. & cert. ef. 11-28-11; PRD 4-2013, f. & cert. ef. 10-1-13

736-015-0035

Fee Waivers and Refunds

(1) The director, at the direction of the commission, may waive, reduce or exempt fees established in this division under the following conditions:

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(a) A person or group provides in-kind services or materials equal to or greater than the value of the applicable rate, as determined by criteria approved by the director;

(b) Marketing or promotional considerations, including but not limited to special events and commercial filming, that promote the use of park areas and Oregon tourism;

(c) Traditional tribal activities in accordance with policy adopted by the Commission;

(d) Reduced service levels at a park, campsite or other facility as determined by the Park Manager.

(2) Reservation Facility Deposit Fee Waivers for individual primitive, tent, electric, full hook-up or horse camp campsites only:

(a) The facility deposit fee is waived for all persons with reservations commencing on State Parks Day (first Saturday of June). All other fees apply.

(b) The facility deposit fee is waived for foster families and adoptive foster families as defined in OAR 736-015-0006. The fee waiver is limited to the first two campsites, and an adult care provider must be present with the foster children. All other fees apply.

(c) The facility deposit fee is waived for U. S. veterans with a service connected disability or active duty U. S. military personnel as provided in ORS 390.124. All other fees apply.

(d) The person making the reservation must pay the \$8 non-refundable transaction fee at the time the reservation is made. This fee is not included in the fee waiver.

(e) Reservations made on the Internet are not eligible for fee waivers.

(3) Overnight Rental Fee Waivers for individual primitive, tent, electric, full hook-up or horse camp campsites only:

(a) The overnight rental fee, including any extra vehicle fees, is waived for all persons on the night of State Parks Day (first Saturday of June). All other fees apply.

(b) The overnight rental fee is waived for foster families as defined in OAR 736-015-0006. The fee waiver is limited to the first two campsites, and an adult care provider with one or more foster children must be present. The fee waiver is limited to a total of fourteen days per calendar month. All other fees and rules apply.

(c) The overnight rental fee is waived for U. S. veterans with a service connected disability or active duty U. S. military personnel on leave as provided in ORS 390.124. The waiver of individual campsite fees shall be limited to no more than five consecutive days per stay and no more than ten days total in a calendar month. The qualifying veteran or active duty military personnel on leave must be present in the site to qualify for the waiver. All other fees and rules apply.

(d) The director may waive the overnight rental fee for volunteer hosts traveling to an assignment at a park area.

(4) Day Use Parking Fee Waivers:

(a) The day use parking fee is waived for all persons on State Parks Day (first Saturday of June).

(b) The day use parking fee is waived for U.S. veterans with a service connected disability or active duty U.S. military personnel on leave as provided in ORS 390.124.

(c) The day use parking fee is waived for an adoptive foster family, as defined in OAR 736-015-0006, with an adopted foster child under 18 years of age or a foster family, as defined in 736-015-0006, if the foster care provider has a valid Certificate of Approval to Provide Foster Care in Oregon issued by the Oregon Department of Human Services. The waiver shall be valid until the expiration date of the Certificate of Approval to Provide Foster Care or the adopted foster child turns 18 years of age.

(d) All other fees apply.

(5) Proof of Eligibility for Fee Waivers

(a) The department will issue Veterans and Foster families who have provided the department valid proof of eligibility an OPRD Special Access Pass. Pass holders must use the pass to identify themselves as a qualified recipient of fee waivers at state park campgrounds and day use areas. Proof of eligibility must be provided through an application process outlined on the OPRD web site at www.oregonstateparks.org or by calling the OPRD Information Center at 1-800-551-6949 for instructions.

(b) The department will accept the following forms of proof to qualify for fee waivers as a U.S. veteran with a service connected disability:

(A) Disabled Veteran's license plate issued by the Oregon DMV;

(B) A current Disabled Veteran Permanent Hunting/Angling License issued by the Oregon Department of Fish and Wildlife;

(C) A Washington State Parks Disabled Veteran's ID card;

(D) Any VA photo identification card bearing the words "service connected";

(E) Any letter issued by the United States Department of Veterans Affairs (VA) stating eligibility for any of the above programs, or bearing the words "service-connected disability."

(c) The department will accept the following forms of proof to qualify for fee waivers as an adoptive foster family, as defined in OAR 736-015-0006, with an adopted foster child under 18 years of age or a foster family, as defined in 736-015-0006:

(A) Certificate of Approval to Maintain a Foster Home for Children with Developmental Disabilities;

(B) Certificate of Approval to Maintain a Foster Home for Children;

(C) Certificate of Approval to Maintain a Relative Home for Children;

(D) Written certification from Department of Human Services identifying the applicant as an adoptive or guardian foster family.

(d) The department will not issue an Active Duty Military on official leave a Special Access Pass. Such customers must pay any applicable fee and after their visit may request a refund by sending a letter from their commanding officer on official letterhead stating they were on leave for the dates they camped and their camping receipt to Reservations Northwest within 30 days after departure date of the stay. A refund of applicable fees will be sent within three weeks of the receipt of their request.

(6) The department may revoke an OPRD Special Access Pass issued under section (5) if:

(a) The pass is used to waive fees beyond the monthly allowable limits;

(b) The pass holder does not occupy a site when fees have been waived under authority of their pass; or

(c) The pass holder transfers their pass to another person to use.

(7) A person may request a refund under the following circumstances.

(A) Reservations Northwest may refund a reservation fee when the department has made a reservation error.

(b) Reservations Northwest may refund a facility deposit and may waive the cancellation or change rules when requested by the person due to the following emergency situations:

(A) Emergency vehicle repair creates a late arrival or complete reservation cancellation;

(B) A medical emergency or death of a family member creates a late arrival or complete reservation cancellation;

(C) Acts of Nature create dangerous travel conditions; or

(D) Deployment of military or emergency service personnel creates a late arrival or complete reservation cancellation.

(c) The director or his/her designee may approve a refund under other special circumstances.

(d) All requests for refunds listed above must be sent in writing to Reservations Northwest via email, fax or surface mail to be considered for a refund.

(e) The department will issue refunds for specific site or park area closures and no written request is required.

(f) The park manager may only issue a refund at the park due to the person leaving earlier than expected, and while the person is present and has signed for the refund. Once the person has left the park, refund requests must be sent to Reservations Northwest for processing.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.111, 390.121 & 390.124

Hist.: 1 OTC 17, f. 12-20-73; 1 OTC 56(Temp), f. & ef. 4-4-75; 1 OTC 59, f. 8-1-75, ef. 8-25-75; 1 OTC 74, f. & ef. 4-30-76; 1 OTC 82, f. 5-11-77, ef. 5-14-77; 1 OTC 5-1979, f. & ef. 2-9-79; 1 OTC 22-1979 (Temp), f. & ef. 9-24-79; 1 OTC 2-1980, f. & ef. 1-4-80; PR 9-1981, f. & ef. 4-6-81; PR 11-1986, f. & ef. 7-9-86; PR 1-1988, f. & cert. ef. 3-25-88; PR 1-1990, f. & cert. ef. 5-14-90; PR 4-1991, f. 4-30-91, cert. ef. 5-13-91; PR 3-1996, f. & cert. ef. 5-13-96; PRD 7-2002, f. & cert. ef. 7-1-02; PRD 6-2003, f. 10-3-03 cert. ef. 11-1-03; PRD 8-2004, f. & cert. ef. 6-3-04; Renumbered from 736-010-0120, PRD 4-2005, f. & cert. ef. 5-5-05; PRD 5-2005(Temp), f. 10-14-05, cert. ef. 11-11-05 thru 4-30-06; PRD 1-2006, f. & cert. ef. 2-14-06; PRD 8-2009, f. & cert. ef. 6-2-09; PRD 15-2009, f. & cert. ef. 9-29-09; PRD 1-2010, f. & cert. ef. 1-5-10; PRD 5-2011, f. & cert. ef. 8-1-11; PRD 4-2013, f. & cert. ef. 10-1-13

736-015-0040

Miscellaneous Rentals and Products

(1) Firewood: Where conditions permit, firewood will be sold.

(2) Boat Moorage Facilities — \$10 per day per boat: Where boat moorage facilities are provided they may only be reserved with other campsite reservations.

(3) Showers — \$2 per person: Charged where showers are available to non-campers in a campground.

(4) Horse Camping Area:

(a) Type I non-hookup site: \$19 per night per camper unit;

(b) Type II non-hookup site: \$17 per night per camper unit;

(c) Type I hookup site: \$28 per night per camper unit;

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- (d) Type II hookup site: \$24 per night per camper unit;
- (e) Type I group site (accommodates 3-5 units): \$57 per night;
- (f) Type II group site (accommodates 3-5 units): \$51 per night;
- (g) Type I double site: \$47 per night per two camper units;
- (h) Type II double site: \$41 per night per two camper units;
- (i) A camper unit consists of a motor home, trailer, tent or camper.

(5) Group Tent Camps: Small group tent areas available in some parks which are designed to accommodate approximately 25 people. Water and toilet facilities are provided nearby, but shower facilities may be some distance away.

- (a) Base rate (0-25 people): \$70 per night;

(b) Charges for persons in excess of the 25 person base rate will be \$3 per person per night.

(6) Group RV Camp: Special camp area designed to accommodate RV's requiring hookups in a group setting. The camp has electrical hookups available, water, table, stove, and access to a restroom.

- (a) Base rate (up to 10 units): \$100 per night;

(b) Charges for units in excess of the 10-unit base rate: \$10 per unit per night.

(7) Pets Staying Overnight in Facilities (Yurts, Cabins, Tepees): Not more than two pets (cat or dog only) staying overnight in facilities: \$10 per night.

(8) Ranch/Bunkhouse: Large communal type bunkhouse facility which includes kitchen and restroom facilities. Minimum fee of \$200 per night for up to 25 persons and \$8 per person per night thereafter up to the maximum occupancy.

(9) Youth Camp (Silver Falls): Large capacity group camp facility with cabins, commercial kitchen facilities, dining hall, showers, meeting halls and swimming facilities. Minimum fee of \$800 per night for up to 80 persons and \$10 per person per night thereafter up to a maximum occupancy of 250 persons.

(10) Lodge/Community Hall: Large meeting facility with kitchen and restroom facilities which may be reserved overnight: \$200 per night.

(11) Meeting Hall: Small meeting facility, generally associated with a campground, which may have limited kitchen facilities and restrooms: \$75 per day.

(12) Pavilion: A large, covered day-use facility for group use: Minimum fee of \$100 per event for up to 50 people, and \$1 per person thereafter up to the maximum occupancy of the facility.

(13) Shore Acres Garden: All facility prices, no matter which facility or combination of facilities are booked, start with a minimum of 50 persons per event. Additional people beyond the minimum of 50 are \$1 per person up to a maximum of 100 people per event.

(a) Event Site: A lawn area outside the formal garden or a section of the formal garden (NOTE: sites in the garden must be booked in conjunction with another facility): \$100 per event.

(b) Pavilion (inside the formal garden and must be booked with an event site or the garden house): \$100 per event.

(c) Garden House (inside the formal garden and must be booked with the Pavilion): \$200 per event.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.111, 390.121 & 390.124

Hist.: 1 OTC 17, f. 12-20-73; 1 OTC 56(Temp), f. & ef. 4-4-75; 1 OTC 59, f. 8-1-75, ef. 8-25-75; 1 OTC 74, f. & ef. 4-30-76; 1 OTC 82, f. 5-11-77, ef. 5-14-77; 1 OTC 2-1980, f. & ef. 1-4-80; PR 9-1981, f. & ef. 4-6-81; PR 11-1986, f. & ef. 7-9-86; PR 1-1988, f. & cert. ef. 3-25-88; PR 1-1990, f. & cert. ef. 5-14-90; PR 4-1991, f. 4-30-91, cert. ef. 5-13-91; PR 3-1996, f. & cert. ef. 5-13-96; PRD 8-2004, f. & cert. ef. 6-3-04; Renumbered from 736-010-0125, PRD 4-2005, f. & cert. ef. 5-5-05; PRD 2-2009, f. & cert. ef. 2-10-09; PRD 15-2009, f. & cert. ef. 9-29-09; PRD 1-2010, f. & cert. ef. 1-5-10; PRD 4-2013, f. & cert. ef. 10-1-13

736-015-0043

Effective Dates

Amendments to this division adopted at the September 24, 2013 OPRD Commission meeting become effective upon filing except rate increases in OAR 736-015-0020 and 736-015-0040 which become effective on May 1, 2014. Amendments to this division adopted at the September 29, 2009 OPRD Commission meeting become effective upon filing except:

- (1) OAR 736-015-0030 becomes effective January 1, 2010;

(2) OAR 736-015-0020 and 736-015-0040 become effective May 1, 2010.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.111, 390.121 & 390.124

Hist.: PRD 15-2009, f. & cert. ef. 9-29-09; PRD 4-2013, f. & cert. ef. 10-1-13

Rule Caption: Adopt rules to govern the department's process for entering into agreements with nonprofit organizations.

Adm. Order No.: PRD 5-2013

Filed with Sec. of State: 10-4-2013

Certified to be Effective: 10-4-13

Notice Publication Date: 7-1-2013

Rules Adopted: 736-002-0015

Subject: The rules govern the process the department and non-profit organizations will use to enter into agreements under which the organizations will solicit gifts, grants and donations for the benefit of the department. The rules detail eligibility criteria for working with the department; means for initiating proposals; procedures for evaluating proposals, selecting organizations and working toward agreements; agreement requirements, including provision for renewing or dissolving agreements; required notices, public representation of relationship with the department, lobbying activities, use of state seal, and management of funds generated through agreements.

Rules Coordinator: Vanessa DeMoe—(503) 986-0719

736-002-0015

Working with Donor Organizations

Authority and Purpose

(1) Oregon Laws 2013, chapter 299, section 2 authorizes the director of the Oregon State Parks and Recreation Department to enter into agreements with private, nonprofit organizations by which the organizations shall solicit gifts, grants and donations for the benefit of the department or donate goods and services to the department.

(2) The purpose of these rules is to provide procedures for soliciting and accepting proposals, reaching agreements, depositing funds, evaluating agreements and renewing or dissolving agreements.

Definitions

(3) As used in these rules and forms to be prepared by the Oregon Parks and Recreation Department, the following definitions apply:

(a) "Agreement" means a written agreement entered into between a donor organization and the department for the purposes identified in Oregon Laws 2013, chapter 299, section 2, subsection 1.

(b) "Department" means the Oregon Parks and Recreation Department or its staff.

(c) "Director" means the director of the Oregon Parks and Recreation Department.

(d) "Donation" means gifts, grants, cash donations, goods or services.

(e) "Donor proposal" means a written proposal submitted by a donor organization in a format as required by the department, and which requests to enter into an agreement with the department according to Oregon Laws 2013, ch. 299, section 2, subsection 1.

(f) "Donor organization" or "donor" means a federally tax exempt nonprofit organization registered with the Oregon Secretary of State.

Donor Organization Eligibility

(4) To be eligible to submit a donor proposal, a private nonprofit organization must:

(a) Meet the definition of a donor organization under subsection (3)(e); and

(b) Have an organizational mission that is consistent with the department's mission and strategic priorities.

Soliciting and Accepting Donor Proposals

(5) The department may request donor proposals as needed or on a biennial basis by posting a notice on the department's website and on the electronic procurement system the department uses to advertise contracting opportunities. The department may use additional notification means when necessary.

(6) To submit an unsolicited donor proposal, eligible donor organizations may contact the director's office at any time to obtain information on the process for submitting such a proposal, including required forms.

(7) The department's goal is to respond to proposals submitted under sections (5) and (6) within 30 days of receipt. If the department has not responded within such time, the applicant organization may contact the director's office and inquire about the proposal status. Failure to receive a response from the department shall not be interpreted as department acceptance of a proposal.

Evaluating Donor Proposals

(8) When evaluating a donor proposal, the department shall consider the following:

(a) Whether the proposal furthers the department's strategic priorities;

(b) Whether the proposal will produce financial or public service benefits to the department in excess of the department's cost to fulfill the agreements;

(c) Whether the proposal demonstrates that the donor organization has the ability to successfully carry out the proposed agreement terms;

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(d) Whether the department can successfully meet its obligations as specified or anticipated by the proposal; and

(e) Other factors the department deems appropriate.

(9) The department has sole discretion to accept or deny donor proposals. The department will communicate its decisions to applicants in writing. Acceptance of a donor proposal only means that the department will attempt to reach an agreement with the donor organization as provided in sections (10) to (13), and does not otherwise create an obligation on the department.

Reaching Agreement

(10) The department has 90 days from the date it accepts a donor proposal to negotiate the terms and conditions of an agreement with the selected donor organization. If an agreement is not reached in 90 days, the department may extend the negotiation period at its discretion or may rescind the acceptance.

(11) Each agreement must contain provisions that address the following:

(a) The agreement scope, dates or general timeframe, and projects to be completed by the donor or the process by which individual projects will be agreed upon and implemented;

(b) What the donor organization will provide to the department, the anticipated value and schedule of donations, the manner in which they will be provided, the ownership of each item, if applicable, the records to be kept by the donor organization, and the detail and timing of required reporting concerning the cost of department resources or services made available to donor organizations and the corresponding donations given to the department;

(c) What the department will provide to the donor organization, the schedule and cost for any state resources or services anticipated to be provided, and the manner in which the organization will request and the department will provide resources or services.

(d) Compliance with the terms of relevant statutes, administrative rules and department requirements, including use of the state seal and the department shield;

(e) Representation of the donor organization's relationship with the department and the requirement that the donor organization must report any political lobbying activities related to the agreement to the department within seven calendar days of undertaking the activity;

(f) Provisions for amending, renewing, and terminating the donor agreement; and

(g) The right of the department to refuse any donations.

(12) All agreements must be in writing and approved by the director or designee in accordance with the department's authority delegation policy.

(13) At least 30 days prior to the director signing an agreement, the department must:

(a) Post a notice on the department's website and on the electronic procurement system the department uses to advertise contracting opportunities announcing the proposed agreement with information about its purpose, content, and a link to its online location.

(b) Submit a copy of an executive summary of the content of the proposed agreement to every member of the Legislative Assembly by electronic mail that includes a link to the online location of the proposed agreement; and

(c) Submit a copy of the proposed agreement to the Legislative Administrator.

Management of Funds

(14) The department must deposit all funds received from agreements in subaccounts of the State Parks and Recreation Department Fund as established by ORS 390.134.

Monitoring and Evaluating Agreements

(15) The department must monitor agreements while in progress to determine whether they are properly executed and remain beneficial to the department.

(16) Within the 60 day period prior to the expiration of an agreement, the department must determine whether:

(a) The agreement delivered the benefits outlined;

(b) The donor organization complied with the agreement terms and conditions;

(c) The benefits received provided significant value to the department relative to the costs of the state resources or services expended to secure the benefits;

(d) The department was able to fulfill its obligations under the terms of the agreement; and

(e) The department would consider new agreements with the same donor organization in the future.

Ending or Renewing Agreements

(17) During the course of an agreement, each party may terminate the agreement at any time without cause by providing 30 days written notice to the other party.

(18) Prior to the expiration of an agreement, the department may consider two options based on the results of the agreement evaluation in section (16):

(a) Allow the agreement to expire; or

(b) Renew the agreement by extending or altering the existing agreement scope, conditions and terms, subject to the notice requirements in section (13).

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.134

Hist.: PRD 5-2013, f. & cert. ef. 10-4-13

Racing Commission Chapter 462

Rule Caption: Temporary Rule Regulating Limited Term Special Event Licenses

Adm. Order No.: RC 2-2013(Temp)

Filed with Sec. of State: 9-20-2013

Certified to be Effective: 9-20-13 thru 3-19-14

Notice Publication Date:

Rules Amended: 462-120-0060

Subject: Amend OAR 462-120-0060 (Temporary Licenses) to allow for a limited term, special event license for entities specifically listed in subsection 2 of the rule text.

Rules Coordinator: Nancy A. Artmann—(971) 673-0211

462-120-0060

Temporary Licenses

(1) Upon receipt of a completed application, the commission may issue a temporary license. The temporary license must be in the licensee's possession at all times while on a racecourse. A temporary license, except a temporary owner's license issued under OAR 462-120-0040 (4)(b)(i), is valid for 10 days unless it is replaced by a regular license or until the applicant is served with a ruling denying licensure, whichever occurs first. Another temporary license may be issued and is valid for an additional 10 days unless it is replaced by a regular license or until the applicant is served with a ruling denying licensure.

(2) Upon receipt of a completed application, the commission may issue a Special Event License to any person employed by, or acting under the direct supervision of, a licensed advanced deposit wagering company located in the State of Oregon. The Special Event License shall automatically expire 1 year from the date of issuance without notice. Employment under this Special Event License shall not exceed 90 work days during the period of licensure. The fee for this license shall be \$20.00

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.020

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, f. & cert. ef. 9-30-08; RC 1-2010, f. 9-23-10, cert. ef. 10-1-10; RC 2-2013(Temp), f. & cert. ef. 9-20-13 thru 3-19-14

Secretary of State, Archives Division Chapter 166

Rule Caption: Administrative Rule filing requirements, removes restrictions

Adm. Order No.: OSA 1-2013

Filed with Sec. of State: 10-10-2013

Certified to be Effective: 10-10-13

Notice Publication Date: 5-1-2013

Rules Amended: 166-500-0020

Subject: Administrative Rules are now filed online with the Secretary of State's office and are electronically date/time stamped upon filing. Since filing is no longer dependent upon the Secretary of State, Archives Building being open to accept hand-delivered filings, the requirement that Administrative Rules be filed during business hours when the building is open is no longer of consequence. The filing deadline continues to be the 15th of the month. Filings date stamped by the online filing system on or before the 15th of the month will meet that month's filing deadline.

Rules Coordinator: Julie Yamaka—(503) 378-5199

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166-500-0020

Administrative Rule Filing Requirements

(1) The Administrative Rules Unit shall compile, index and publish all rules adopted by each agency.

(2) Agencies must use the on-line Filing System, available on the Unit's website: <http://arcweb.sos.state.or.us/pages/rules/resources/fileonline.html> to submit Administrative Rule filings (ORS 183.355) and Notices of Proposed Rulemaking and Rulemaking Hearing (183.335(1) & (2)) to the Administrative Rules Unit of the State Archives, Oregon Secretary of State. For publication in the following month's on-line Oregon Bulletin and Administrative Rules Compilation, filings must be submitted to the Administrative Rules Unit by the 15th day of the month. The on-line filing system generates date-stamped receipt copies that are e-mailed to the rules coordinator. Rules coordinators should phone the Administrative Rules Unit at (503) 373-0701 option 2 if they do not receive these receipt copies. Filings must contain the date stamp from the deadline day or earlier to be published and posted the following month.

(3) In cases when the on-line system is unavailable, contact the Administrative Rules Unit. Administrative Rule Filings and Notices may be mailed or delivered (Temporary Rule Filings and Notices can be faxed) to the Administrative Rules Unit, with prior approval by the Administrative Rules Unit, using forms available for download on the Oregon State Archives website at <http://arcweb.sos.state.or.us/pages/rules/index.html>. In addition to the filing deadlines described in (2) above, mailed or delivered Filings and Notices must be received by the Administrative Rules Unit office by 5:00 p.m. on the deadline day.

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 183.335 & 183.360

Hist.: OSA 9-1997(Temp), f. & cert. ef. 10-6-97; [OSA 4-1995, f. 8-15-95, cert. ef. 9-1-95; Suspended by OSA 9-1997(Temp), f. & cert. ef. 10-6-97]; OSA 13-1997, f. & cert. ef. 11-3-97, Renumbered from 166-510-0001; OSA 5-1999(Temp), f. & cert. ef. 12-9-99 thru 5-10-00; OSA 2-2000, f. & cert. ef. 3-9-00; OSA 2-2007, f. & cert. ef. 7-31-07; OSA 2-2012, f. & cert. ef. 9-12-12; OSA 1-2013, f. & cert. ef. 10-10-13

Veterinary Medical Examining Board Chapter 875

Rule Caption: Adopts Legislatively approved fee increases for veterinary and certified veterinary technician licenses.

Adm. Order No.: VMEB 1-2013

Filed with Sec. of State: 10-4-2013

Certified to be Effective: 10-4-13

Notice Publication Date: 7-1-2013

Rules Amended: 875-010-0026, 875-010-0065, 875-030-0025

Subject: Adopts Legislatively approved fee increases for veterinary and certified veterinary technician licenses.

Rules Coordinator: Lori V. Makinen—(971) 673-0224

875-010-0026

Intern and Active Licenses

Upon approval of all required application materials, the applicant may then apply for an intern or active license to practice veterinary medicine in Oregon. License activation forms are available from the Board office or on its website.

(1) The intern or active license fee shall be \$150.

(2) If the applicant has satisfactorily completed one year's experience in the United States or its territories or provinces, or in Canada, an active veterinary license will be issued and will expire on the next following December 31st. Licensee shall renew the license according to OAR 875-010-0065.

(3) If applicant has less than one year's experience, an Intern Permit (intern license) will be issued. The intern license will expire following the total number of days necessary to complete one year's practice experience, under supervision of an Oregon licensed veterinarian, pursuant to ORS 686.085 and OAR 875-010-0050:

(a) Upon completion of the internship, the intern may apply for an active license, pursuant to OAR 875-010-0065. Late fees up to \$150 will apply for each month the application is late if the intern has continued to practice veterinary medicine in Oregon after expiration of the intern license;

(b) The supervising veterinarian shall complete an experience verification form attesting that the intern has satisfactorily completed the internship and the intern shall submit this form with the application for an active license.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.095 & 686.255

Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 1-2008, f. & cert. ef. 2-11-08; VMEB 1-2013, f. & cert. ef. 10-4-13

875-010-0065

License Renewal Procedures

(1) The annual renewal fee for all veterinary licenses shall be \$150.

(2) A renewal application is timely if the completed application together with the correct renewal fee is postmarked or electronically filed by December 31st of the current license year. The licensee has the burden of proving that the application was mailed or filed timely. If the renewal application is not timely, the applicant must pay delinquent fees of \$50 for each month or part of a month after December 31st, up to a maximum of \$150.

(a) In the event a licensee's renewal application is not received by January 31st, notice from the Board will be sent by April 1st, advising the licensee of his or her delinquency and that practicing veterinary medicine in Oregon without a valid license is a violation of ORS 686.020. It is the licensee's responsibility to provide the Board with a current address;

(b) If the delinquency in license renewal exceeds three months, the Board may require the applicant to appear before the Board and/or may attach other conditions to the renewal, e.g. community service, additional continuing education, etc.;

(c) If the delinquency in license renewal exceeds 21 months, the Board may assess an extended delinquency renewal fee, and/or require re-qualification by examination.

(3) Board staff will review renewal applications. If the application is complete with the following requirements, staff will issue a license which expires on December 31st of the next calendar year:

(a) The renewal application is completed;

(b) The renewal fee is enclosed;

(c) Any delinquent fees are enclosed;

(d) Continuing Education (CE) requirements must have been met; and

(e) The license is not suspended, revoked or otherwise encumbered under the provisions of ORS 686.120 and 686.130.

(4) Board staff will refer for Board review any license renewal that fails to respond fully to questions in the application.

(5) A veterinarian who submits a completed renewal application postmarked or electronically filed no later than December 31st, and has complied with all requirements under section (3) of this rule, may continue to practice veterinary medicine in Oregon pending notification of renewal or notification that the application is incomplete. A veterinarian who submits a renewal application postmarked after December 31st, or who knows the application is incomplete, or has not fulfilled the continuing education requirement, will be subject to delinquent fees and may not lawfully continue to practice veterinary medicine in Oregon until notified that the license has been renewed.

(6) If the veterinarian's license lapses, a 21-month grace period begins. The veterinarian may renew the license within the 21-month period by paying the maximum delinquent fee and the current annual license fee, and by providing documentation of veterinary activities, including completed Continuing Education, during the interim. After 21 months, the license may be revoked and the veterinarian may have to re-qualify for licensure by taking an examination determined by the Board.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.110 & 686.255

Hist.: VME 3-1986(Temp), f. & ef. 10-23-86; VME 1-1987, f. & ef. 12-22-87; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 3-1991, f. & cert. ef. 12-9-91; VME 1-1992, f. & cert. ef. 10-9-92; VME 2-1994, f. & cert. ef. 11-30-94; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 1-2013, f. & cert. ef. 10-4-13

875-030-0025

Application for Certified Veterinary Technicians

(1) Applications for certification shall include:

(a) An application form available from the Board office completed by the applicant;

(b) The application fee of \$35 payable to the Board;

(c) An official transcript or verification of standing and impending graduation from school.

(d) Completion of the Oregon Jurisprudence Exam and Regional Disease Test;

(e) The VTNE score report if the examination was taken in another state; and

(f) Letters of good standing from any other state the applicant is or has been licensed in as a certified veterinary technician or animal health technician.

(2) All applications for the VTNE must be made directly to the American Association of Veterinary State Boards (AAVSB),

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www.aavsb.org). The application fee for certification if the VTNE was taken in another state is \$35 payable to the Board.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.225 & 686.350 - 686.370

Hist.: VE 5, f. & ef. 8-3-76; VME 3-1983, f. & ef. 1-21-83; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 1-1991, f. & cert. ef. 1-24-91; VME 3-1991, f. & cert. ef. 12-9-91; VME 3-1992, f. & cert. ef. 10-9-92; Renumbered from 875-010-0025; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 3-2009, f. & cert. ef. 10-15-09; VMEB 2-2011, f. & cert. ef. 3-2-11; VMEB 1-2013, f. & cert. ef. 10-4-13

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
101-005-0040	10-2-2013	Amend(T)	11-1-2013	121-030-0060	12-1-2012	Am. & Ren.	1-1-2013
101-005-0105	10-2-2013	Amend(T)	11-1-2013	121-030-0070	12-1-2012	Am. & Ren.	1-1-2013
101-005-0110	10-2-2013	Amend(T)	11-1-2013	121-030-0080	12-1-2012	Am. & Ren.	1-1-2013
101-010-0005	9-24-2013	Amend	11-1-2013	121-030-0090	12-1-2012	Am. & Ren.	1-1-2013
101-020-0020	9-24-2013	Amend	11-1-2013	121-040-0010	12-1-2012	Am. & Ren.	1-1-2013
101-020-0025	9-24-2013	Amend	11-1-2013	122-001-0037	6-27-2013	Adopt(T)	8-1-2013
101-020-0066	9-24-2013	Amend	11-1-2013	123-009-0060	1-2-2013	Amend	2-1-2013
101-030-0005	9-24-2013	Amend	11-1-2013	123-009-0090	1-2-2013	Amend	2-1-2013
101-030-0070	9-24-2013	Amend	11-1-2013	123-017-0015	7-1-2013	Amend	8-1-2013
111-010-0015	12-19-2012	Amend	2-1-2013	123-017-0030	7-1-2013	Amend	8-1-2013
111-010-0015	7-12-2013	Amend	8-1-2013	123-017-0035	7-1-2013	Amend	8-1-2013
111-010-0015	10-11-2013	Amend(T)	11-1-2013	123-017-0055	7-1-2013	Amend	8-1-2013
111-015-0001	12-19-2012	Amend	2-1-2013	123-017-0060	7-1-2013	Repeal	8-1-2013
111-020-0001	10-11-2013	Amend(T)	11-1-2013	123-017-0070	7-1-2013	Repeal	8-1-2013
111-020-0005	10-11-2013	Amend(T)	11-1-2013	123-017-0080	7-1-2013	Repeal	8-1-2013
111-020-0010	10-11-2013	Adopt(T)	11-1-2013	123-021-0010	11-20-2012	Amend(T)	1-1-2013
111-030-0001	7-12-2013	Suspend	8-1-2013	123-021-0010	5-23-2013	Amend	7-1-2013
111-030-0005	7-12-2013	Suspend	8-1-2013	123-021-0015	11-20-2012	Amend(T)	1-1-2013
111-030-0010	7-12-2013	Amend(T)	8-1-2013	123-021-0015	5-23-2013	Amend	7-1-2013
111-030-0020	7-12-2013	Suspend	8-1-2013	123-021-0080	11-20-2012	Amend(T)	1-1-2013
111-030-0025	7-12-2013	Suspend	8-1-2013	123-021-0080	5-23-2013	Amend	7-1-2013
111-030-0046	7-12-2013	Amend(T)	8-1-2013	123-021-0090	11-20-2012	Amend(T)	1-1-2013
111-030-0050	2-21-2013	Amend(T)	4-1-2013	123-021-0090	5-23-2013	Amend	7-1-2013
111-030-0050	5-10-2013	Amend	6-1-2013	123-021-0110	11-20-2012	Amend(T)	1-1-2013
111-030-0050	10-11-2013	Amend(T)	11-1-2013	123-021-0110	5-23-2013	Amend	7-1-2013
111-040-0011	4-26-2013	Adopt	6-1-2013	123-024-0001	4-1-2013	Amend	5-1-2013
111-065-0010	4-22-2013	Amend(T)	6-1-2013	123-024-0011	4-1-2013	Amend	5-1-2013
111-065-0010	7-12-2013	Amend	8-1-2013	123-024-0021	4-1-2013	Amend	5-1-2013
111-065-0010(T)	7-12-2013	Repeal	8-1-2013	123-024-0031	4-1-2013	Amend	5-1-2013
111-065-0015	4-22-2013	Amend(T)	6-1-2013	123-024-0046	4-1-2013	Amend	5-1-2013
111-065-0015	7-12-2013	Amend	8-1-2013	123-056-0010	6-3-2013	Adopt(T)	7-1-2013
111-065-0015(T)	7-12-2013	Repeal	8-1-2013	123-056-0020	6-3-2013	Adopt(T)	7-1-2013
111-065-0025	4-22-2013	Amend(T)	6-1-2013	123-056-0030	6-3-2013	Adopt(T)	7-1-2013
111-065-0025	7-12-2013	Amend	8-1-2013	123-056-0035	6-3-2013	Adopt(T)	7-1-2013
111-065-0025(T)	7-12-2013	Repeal	8-1-2013	123-056-0040	6-3-2013	Adopt(T)	7-1-2013
111-065-0030	4-22-2013	Amend(T)	6-1-2013	123-094-0001	5-29-2013	Adopt(T)	7-1-2013
111-065-0030	7-12-2013	Amend	8-1-2013	123-094-0010	5-29-2013	Adopt(T)	7-1-2013
111-065-0030(T)	7-12-2013	Repeal	8-1-2013	123-094-0020	5-29-2013	Adopt(T)	7-1-2013
111-070-0005	7-12-2013	Amend(T)	8-1-2013	123-094-0030	5-29-2013	Adopt(T)	7-1-2013
111-070-0015	7-12-2013	Amend(T)	8-1-2013	123-094-0040	5-29-2013	Adopt(T)	7-1-2013
111-070-0050	7-12-2013	Amend(T)	8-1-2013	123-095-0000	10-4-2013	Amend(T)	11-1-2013
111-080-0055	7-12-2013	Adopt(T)	8-1-2013	123-095-0010	10-4-2013	Amend(T)	11-1-2013
121-001-0000	12-1-2012	Repeal	1-1-2013	123-095-0020	10-4-2013	Suspend	11-1-2013
121-001-0005	12-1-2012	Repeal	1-1-2013	123-095-0030	10-4-2013	Amend(T)	11-1-2013
121-020-0000	12-1-2012	Repeal	1-1-2013	123-095-0035	10-4-2013	Adopt(T)	11-1-2013
121-020-0010	12-1-2012	Am. & Ren.	1-1-2013	123-095-0040	10-4-2013	Amend(T)	11-1-2013
121-020-0020	12-1-2012	Am. & Ren.	1-1-2013	123-200-0005	9-3-2013	Am. & Ren.	10-1-2013
121-020-0030	12-1-2012	Am. & Ren.	1-1-2013	123-200-0010	9-3-2013	Am. & Ren.	10-1-2013
121-020-0040	12-1-2012	Am. & Ren.	1-1-2013	123-200-0020	9-3-2013	Am. & Ren.	10-1-2013
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121-030-0000	12-1-2012	Am. & Ren.	1-1-2013	123-200-0040	9-3-2013	Am. & Ren.	10-1-2013
121-030-0010	12-1-2012	Am. & Ren.	1-1-2013	123-200-0050	9-3-2013	Repeal	10-1-2013
121-030-0020	12-1-2012	Am. & Ren.	1-1-2013	123-200-0060	9-3-2013	Repeal	10-1-2013
121-030-0030	12-1-2012	Am. & Ren.	1-1-2013	123-200-0070	9-3-2013	Repeal	10-1-2013
121-030-0040	12-1-2012	Am. & Ren.	1-1-2013	123-200-0080	9-3-2013	Repeal	10-1-2013
121-030-0050	12-1-2012	Am. & Ren.	1-1-2013	123-200-0090	9-3-2013	Am. & Ren.	10-1-2013

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123-200-0120	9-3-2013	Repeal	10-1-2013	125-246-0353	12-1-2012	Amend	1-1-2013
123-200-0130	9-3-2013	Repeal	10-1-2013	125-246-0360	12-1-2012	Amend	1-1-2013
123-200-0140	9-3-2013	Repeal	10-1-2013	125-246-0400	12-1-2012	Amend	1-1-2013
123-200-0150	9-3-2013	Repeal	10-1-2013	125-246-0410	12-1-2012	Repeal	1-1-2013
123-200-0160	9-3-2013	Repeal	10-1-2013	125-246-0420	12-1-2012	Repeal	1-1-2013
123-200-0170	9-3-2013	Repeal	10-1-2013	125-246-0430	12-1-2012	Repeal	1-1-2013
123-200-0180	9-3-2013	Am. & Ren.	10-1-2013	125-246-0440	12-1-2012	Repeal	1-1-2013
123-200-0190	9-3-2013	Am. & Ren.	10-1-2013	125-246-0450	12-1-2012	Repeal	1-1-2013
123-200-0200	9-3-2013	Repeal	10-1-2013	125-246-0460	12-1-2012	Repeal	1-1-2013
123-200-1400	9-3-2013	Adopt	10-1-2013	125-246-0470	12-1-2012	Repeal	1-1-2013
123-200-1500	9-3-2013	Adopt	10-1-2013	125-246-0500	12-1-2012	Amend	1-1-2013
123-200-1600	9-3-2013	Adopt	10-1-2013	125-246-0556	12-1-2012	Amend	1-1-2013
123-200-1700	9-3-2013	Adopt	10-1-2013	125-246-0560	12-1-2012	Repeal	1-1-2013
123-200-1800	9-3-2013	Adopt	10-1-2013	125-246-0576	12-1-2012	Amend	1-1-2013
123-200-1900	9-3-2013	Adopt	10-1-2013	125-246-0800	12-1-2012	Amend	1-1-2013
123-630-0000	10-15-2013	Amend(T)	11-1-2013	125-247-0100	12-1-2012	Amend	1-1-2013
123-630-0010	10-15-2013	Amend(T)	11-1-2013	125-247-0110	12-1-2012	Amend	1-1-2013
123-630-0020	10-15-2013	Amend(T)	11-1-2013	125-247-0165	12-1-2012	Amend	1-1-2013
123-630-0030	10-15-2013	Amend(T)	11-1-2013	125-247-0255	12-1-2012	Amend	1-1-2013
123-630-0040	10-15-2013	Amend(T)	11-1-2013	125-247-0260	12-1-2012	Amend	1-1-2013
123-630-0050	10-15-2013	Amend(T)	11-1-2013	125-247-0265	12-1-2012	Amend	1-1-2013
123-630-0070	10-15-2013	Amend(T)	11-1-2013	125-247-0270	12-1-2012	Amend	1-1-2013
123-630-0080	10-15-2013	Amend(T)	11-1-2013	125-247-0275	12-1-2012	Amend	1-1-2013
123-630-0090	10-15-2013	Amend(T)	11-1-2013	125-247-0280	12-1-2012	Amend	1-1-2013
123-630-0100	10-15-2013	Amend(T)	11-1-2013	125-247-0285	12-1-2012	Amend	1-1-2013
125-021-0005	12-1-2012	Repeal	1-1-2013	125-247-0287	12-1-2012	Amend	1-1-2013
125-180-1000	12-17-2012	Adopt(T)	1-1-2013	125-247-0288	12-1-2012	Amend	1-1-2013
125-180-1010	7-31-2013	Adopt	9-1-2013	125-247-0296	12-1-2012	Amend	1-1-2013
125-180-1020	7-31-2013	Adopt	9-1-2013	125-247-0300	12-1-2012	Amend	1-1-2013
125-180-1030	7-31-2013	Adopt	9-1-2013	125-247-0330	12-1-2012	Amend	1-1-2013
125-180-1040	7-31-2013	Adopt	9-1-2013	125-247-0575	12-1-2012	Amend	1-1-2013
125-180-1050	7-31-2013	Adopt	9-1-2013	125-247-0600	12-1-2012	Amend	1-1-2013
125-180-1060	7-31-2013	Adopt	9-1-2013	125-247-0690	12-1-2012	Amend	1-1-2013
125-180-1100	12-17-2012	Adopt(T)	1-1-2013	125-247-0700	12-1-2012	Amend	1-1-2013
125-180-1200	12-17-2012	Adopt(T)	1-1-2013	125-247-0710	12-1-2012	Amend	1-1-2013
125-180-1300	12-17-2012	Adopt(T)	1-1-2013	125-247-0720	12-1-2012	Amend	1-1-2013
125-180-1400	12-17-2012	Adopt(T)	1-1-2013	125-247-0731	12-1-2012	Amend	1-1-2013
125-180-1500	12-17-2012	Adopt(T)	1-1-2013	125-247-0740	12-1-2012	Amend	1-1-2013
125-246-0100	12-1-2012	Amend	1-1-2013	125-247-0750	12-1-2012	Amend	1-1-2013
125-246-0110	12-1-2012	Amend	1-1-2013	125-247-0760	12-1-2012	Amend	1-1-2013
125-246-0165	12-1-2012	Amend	1-1-2013	125-247-0805	12-1-2012	Adopt	1-1-2013
125-246-0170	12-1-2012	Amend	1-1-2013	125-247-0810	12-1-2012	Adopt	1-1-2013
125-246-0210	12-1-2012	Amend	1-1-2013	125-248-0100	12-1-2012	Amend	1-1-2013
125-246-0220	12-1-2012	Amend	1-1-2013	125-248-0300	12-1-2012	Amend	1-1-2013
125-246-0312	12-1-2012	Repeal	1-1-2013	125-249-0630	12-1-2012	Amend	1-1-2013
125-246-0316	12-1-2012	Adopt	1-1-2013	137-004-0900	1-2-2013	Adopt	2-1-2013
125-246-0318	12-1-2012	Adopt	1-1-2013	137-004-0900(T)	1-2-2013	Repeal	2-1-2013
125-246-0319	12-1-2012	Adopt	1-1-2013	137-050-0700	7-1-2013	Amend	6-1-2013
125-246-0321	12-1-2012	Amend	1-1-2013	137-050-0710	7-1-2013	Amend	6-1-2013
125-246-0322	12-1-2012	Amend	1-1-2013	137-050-0715	7-1-2013	Amend	6-1-2013
125-246-0323	12-1-2012	Amend	1-1-2013	137-050-0720	7-1-2013	Amend	6-1-2013
125-246-0333	12-1-2012	Amend	1-1-2013	137-050-0725	7-1-2013	Amend	6-1-2013
125-246-0335	12-1-2012	Amend	1-1-2013	137-050-0730	7-1-2013	Amend	6-1-2013
125-246-0345	12-1-2012	Amend	1-1-2013	137-050-0735	7-1-2013	Amend	6-1-2013
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137-050-0750	7-1-2013	Amend	6-1-2013	137-110-0610	8-22-2013	Amend(T)	10-1-2013
137-050-0755	7-1-2013	Amend	6-1-2013	137-110-0610(T)	1-7-2013	Repeal	2-1-2013
137-050-0760	7-1-2013	Amend	6-1-2013	137-110-0620	1-7-2013	Adopt	2-1-2013
137-050-0765	7-1-2013	Amend	6-1-2013	137-110-0620	8-4-2013	Amend(T)	9-1-2013
137-055-2140	7-8-2013	Amend	8-1-2013	137-110-0620(T)	1-7-2013	Repeal	2-1-2013
137-055-2160	7-8-2013	Amend	8-1-2013	137-110-0630	1-7-2013	Adopt	2-1-2013
137-055-3340	7-1-2013	Repeal	6-1-2013	137-110-0630	8-4-2013	Amend(T)	9-1-2013
137-055-3420	7-8-2013	Amend	8-1-2013	137-110-0630(T)	1-7-2013	Repeal	2-1-2013
137-055-3430	7-8-2013	Amend	8-1-2013	137-110-0640	1-7-2013	Adopt	2-1-2013
137-055-4620	7-1-2013	Amend	6-1-2013	137-110-0640	8-4-2013	Amend(T)	9-1-2013
137-110-0001	1-7-2013	Adopt	2-1-2013	137-110-0640(T)	1-7-2013	Repeal	2-1-2013
137-110-0001	8-4-2013	Suspend	9-1-2013	137-110-0650	1-7-2013	Adopt	2-1-2013
137-110-0001(T)	1-7-2013	Repeal	2-1-2013	137-110-0650	8-4-2013	Amend(T)	9-1-2013
137-110-0005	1-7-2013	Adopt	2-1-2013	137-110-0650(T)	1-7-2013	Repeal	2-1-2013
137-110-0005	8-4-2013	Suspend	9-1-2013	137-110-0660	1-7-2013	Adopt	2-1-2013
137-110-0005(T)	1-7-2013	Repeal	2-1-2013	137-110-0660	8-4-2013	Suspend	9-1-2013
137-110-0010	1-7-2013	Adopt	2-1-2013	137-110-0660(T)	1-7-2013	Repeal	2-1-2013
137-110-0010	8-4-2013	Amend(T)	9-1-2013	137-110-0670	1-7-2013	Adopt	2-1-2013
137-110-0010(T)	1-7-2013	Repeal	2-1-2013	137-110-0670	8-4-2013	Amend(T)	9-1-2013
137-110-0020	1-7-2013	Adopt	2-1-2013	137-110-0670(T)	1-7-2013	Repeal	2-1-2013
137-110-0020	8-4-2013	Suspend	9-1-2013	137-120-0010	1-7-2013	Adopt	2-1-2013
137-110-0020(T)	1-7-2013	Repeal	2-1-2013	137-120-0010	8-4-2013	Suspend	9-1-2013
137-110-0110	1-7-2013	Adopt	2-1-2013	137-120-0010(T)	1-7-2013	Repeal	2-1-2013
137-110-0110	8-4-2013	Amend(T)	9-1-2013	137-120-0020	1-7-2013	Adopt	2-1-2013
137-110-0110(T)	1-7-2013	Repeal	2-1-2013	137-120-0020	8-4-2013	Amend(T)	9-1-2013
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137-110-0200	8-4-2013	Amend(T)	9-1-2013	141-067-0310	3-1-2013	Amend	3-1-2013
137-110-0200(T)	1-7-2013	Repeal	2-1-2013	141-088-0055	9-1-2013	Adopt	9-1-2013
137-110-0210	1-7-2013	Adopt	2-1-2013	141-090-0005	1-1-2013	Amend	1-1-2013
137-110-0210	8-4-2013	Amend(T)	9-1-2013	141-090-0010	1-1-2013	Amend	1-1-2013
137-110-0210(T)	1-7-2013	Repeal	2-1-2013	141-090-0015	1-1-2013	Amend	1-1-2013
137-110-0300	8-4-2013	Adopt(T)	9-1-2013	141-090-0020	1-1-2013	Amend	1-1-2013
137-110-0410	1-7-2013	Adopt	2-1-2013	141-090-0025	1-1-2013	Amend	1-1-2013
137-110-0410	8-4-2013	Amend(T)	9-1-2013	141-090-0030	1-1-2013	Amend	1-1-2013
137-110-0410(T)	1-7-2013	Repeal	2-1-2013	141-090-0032	1-1-2013	Amend	1-1-2013
137-110-0420	1-7-2013	Adopt	2-1-2013	141-090-0035	1-1-2013	Amend	1-1-2013
137-110-0420	8-4-2013	Amend(T)	9-1-2013	141-090-0040	1-1-2013	Amend	1-1-2013
137-110-0420(T)	1-7-2013	Repeal	2-1-2013	141-090-0045	1-1-2013	Amend	1-1-2013
137-110-0430	1-7-2013	Adopt	2-1-2013	141-090-0050	1-1-2013	Amend	1-1-2013
137-110-0430	8-4-2013	Suspend	9-1-2013	141-090-0055	1-1-2013	Amend	1-1-2013
137-110-0430(T)	1-7-2013	Repeal	2-1-2013	150-291.349	1-1-2013	Amend	2-1-2013
137-110-0500	1-7-2013	Adopt	2-1-2013	150-291.349	3-28-2013	Amend	5-1-2013
137-110-0500	8-4-2013	Suspend	9-1-2013	150-294.187	1-1-2013	Amend	2-1-2013
137-110-0500(T)	1-7-2013	Repeal	2-1-2013	150-294.187	3-28-2013	Amend	5-1-2013
137-110-0510	1-7-2013	Adopt	2-1-2013	150-305.220(1)	1-1-2013	Amend	2-1-2013
137-110-0510	8-4-2013	Suspend	9-1-2013	150-305.220(1)	3-28-2013	Amend	5-1-2013
137-110-0510(T)	1-7-2013	Repeal	2-1-2013	150-305.220(2)	1-1-2013	Amend	2-1-2013
137-110-0520	1-7-2013	Adopt	2-1-2013	150-305.220(2)	3-28-2013	Amend	5-1-2013
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137-110-0520(T)	1-7-2013	Repeal	2-1-2013	150-305.265(14)-(A)	3-28-2013	Am. & Ren.	5-1-2013
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137-110-0600	8-4-2013	Amend(T)	9-1-2013	150-305.796	3-28-2013	Adopt	5-1-2013
137-110-0600(T)	1-7-2013	Repeal	2-1-2013	150-306.115	1-1-2013	Amend	2-1-2013
137-110-0605	8-4-2013	Adopt(T)	9-1-2013	150-306.115	3-28-2013	Amend	5-1-2013
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150-306.115-(C)	3-28-2013	Amend	5-1-2013	160-040-0204	8-1-2013	Amend	9-1-2013
150-309.110	1-1-2013	Repeal	2-1-2013	160-040-0300	8-1-2013	Amend	9-1-2013
150-309.110	3-28-2013	Repeal	5-1-2013	160-040-0301	8-1-2013	Amend	9-1-2013
150-311.668(1)(a)-(A)	1-1-2013	Repeal	2-1-2013	160-040-0302	8-1-2013	Amend	9-1-2013
150-311.668(1)(a)-(B)	1-1-2013	Repeal	2-1-2013	160-040-0304	8-1-2013	Amend	9-1-2013
150-311.668(1)(a)(A)	3-28-2013	Repeal	5-1-2013	160-040-0305	8-1-2013	Amend	9-1-2013
150-311.668(1)(a)(B)	3-28-2013	Repeal	5-1-2013	160-040-0306	8-1-2013	Amend	9-1-2013
150-311.670(1)	1-1-2013	Amend	2-1-2013	160-040-0307	8-1-2013	Amend	9-1-2013
150-311.670(1)	3-28-2013	Amend	5-1-2013	160-040-0310	8-1-2013	Amend	9-1-2013
150-311.679(10)	1-1-2013	Repeal	2-1-2013	160-040-0311	8-1-2013	Amend	9-1-2013
150-311.679(10)	3-28-2013	Repeal	5-1-2013	160-040-0312	8-1-2013	Amend	9-1-2013
150-311.684	1-1-2013	Amend	2-1-2013	160-040-0400	8-1-2013	Amend	9-1-2013
150-311.684	3-28-2013	Amend	5-1-2013	160-040-0401	8-1-2013	Amend	9-1-2013
150-311.706	1-1-2013	Repeal	2-1-2013	160-040-0402	8-1-2013	Amend	9-1-2013
150-311.706	3-28-2013	Repeal	5-1-2013	160-040-0501	8-1-2013	Amend	9-1-2013
150-311.706(1)	1-1-2013	Repeal	2-1-2013	160-040-0502	8-1-2013	Amend	9-1-2013
150-311.706(1)	3-28-2013	Repeal	5-1-2013	160-040-0503	8-1-2013	Amend	9-1-2013
150-311.806-(A)	1-1-2013	Amend	2-1-2013	160-040-0505	8-1-2013	Amend	9-1-2013
150-311.806-(A)	3-28-2013	Amend	5-1-2013	160-040-0506	8-1-2013	Amend	9-1-2013
150-314.781	1-1-2013	Amend	2-1-2013	160-100-0000	9-1-2013	Amend	10-1-2013
150-314.781	3-28-2013	Amend	5-1-2013	160-100-0010	9-1-2013	Amend	10-1-2013
150-315.068	6-5-2013	Amend(T)	7-1-2013	160-100-0020	9-1-2013	Amend	10-1-2013
150-316.871(3)	1-1-2013	Repeal	2-1-2013	160-100-0030	9-1-2013	Amend	10-1-2013
150-316.871(3)	3-28-2013	Repeal	5-1-2013	160-100-0040	9-1-2013	Amend	10-1-2013
150-316.873	1-1-2013	Repeal	2-1-2013	160-100-0100	9-1-2013	Amend	10-1-2013
150-316.873	3-28-2013	Repeal	5-1-2013	160-100-0110	9-1-2013	Amend	10-1-2013
150-316.874	1-1-2013	Repeal	2-1-2013	160-100-0120	9-1-2013	Amend	10-1-2013
150-316.874	3-28-2013	Repeal	5-1-2013	160-100-0125	9-1-2013	Adopt	10-1-2013
150-316.876	1-1-2013	Repeal	2-1-2013	160-100-0130	9-1-2013	Amend	10-1-2013
150-316.876	3-28-2013	Repeal	5-1-2013	160-100-0140	9-1-2013	Amend	10-1-2013
150-316.877	1-1-2013	Repeal	2-1-2013	160-100-0150	9-1-2013	Amend	10-1-2013
150-316.877	3-28-2013	Repeal	5-1-2013	160-100-0160	9-1-2013	Amend	10-1-2013
150-316.878	1-1-2013	Repeal	2-1-2013	160-100-0170	9-1-2013	Amend	10-1-2013
150-316.878	3-28-2013	Repeal	5-1-2013	160-100-0200	9-1-2013	Amend	10-1-2013
150-316.879	1-1-2013	Repeal	2-1-2013	160-100-0210	9-1-2013	Amend	10-1-2013
150-316.879	3-28-2013	Repeal	5-1-2013	160-100-0220	9-1-2013	Amend	10-1-2013
150-316.882	1-1-2013	Repeal	2-1-2013	160-100-0230	9-1-2013	Amend	10-1-2013
150-316.882	3-28-2013	Repeal	5-1-2013	160-100-0240	9-1-2013	Amend	10-1-2013
150-316.884	1-1-2013	Repeal	2-1-2013	160-100-0301	9-1-2013	Amend	10-1-2013
150-316.884	3-28-2013	Repeal	5-1-2013	160-100-0310	9-1-2013	Amend	10-1-2013
150-323.160(1)	1-1-2013	Amend	2-1-2013	160-100-0320	9-1-2013	Amend	10-1-2013
150-323.160(1)	3-28-2013	Amend	5-1-2013	160-100-0330	9-1-2013	Amend	10-1-2013
150-323.160(2)	1-1-2013	Amend	2-1-2013	160-100-0340	9-1-2013	Amend	10-1-2013
150-323.160(2)	3-28-2013	Amend	5-1-2013	160-100-0350	9-1-2013	Amend	10-1-2013
150-323.220-(A)	1-1-2013	Amend	2-1-2013	160-100-0360	9-1-2013	Amend	10-1-2013
150-323.220-(B)	1-1-2013	Adopt	2-1-2013	160-100-0400	9-1-2013	Amend	10-1-2013
150-323.220(A)	3-28-2013	Amend	5-1-2013	160-100-0410	9-1-2013	Amend	10-1-2013
150-323.220(B)	3-28-2013	Adopt	5-1-2013	160-100-0420	9-1-2013	Amend	10-1-2013
150-457.440(9)	7-15-2013	Amend(T)	8-1-2013	160-100-0430	9-1-2013	Amend	10-1-2013
160-040-0100	8-1-2013	Amend	9-1-2013	160-100-0500	9-1-2013	Amend	10-1-2013
160-040-0101	8-1-2013	Amend	9-1-2013	160-100-0510	9-1-2013	Amend	10-1-2013
160-040-0103	8-1-2013	Amend	9-1-2013	160-100-0600	9-1-2013	Amend	10-1-2013
160-040-0104	8-1-2013	Amend	9-1-2013	160-100-0610	9-1-2013	Amend	10-1-2013
160-040-0106	8-1-2013	Amend	9-1-2013	160-100-0620	9-1-2013	Amend	10-1-2013

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160-100-1000	9-1-2013	Amend	10-1-2013	161-570-0045	1-31-2013	Repeal	3-1-2013
160-100-1010	9-1-2013	Amend	10-1-2013	161-570-0055	1-31-2013	Adopt	3-1-2013
160-100-1020	9-1-2013	Amend	10-1-2013	161-570-0060	1-31-2013	Adopt	3-1-2013
160-100-1030	9-1-2013	Amend	10-1-2013	162-050-0020	11-27-2012	Adopt	1-1-2013
160-100-1040	9-1-2013	Amend	10-1-2013	165-013-0010	2-4-2013	Amend	3-1-2013
160-100-1050	9-1-2013	Amend	10-1-2013	165-014-0148	7-10-2013	Adopt(T)	8-1-2013
160-100-1060	9-1-2013	Amend	10-1-2013	165-018-0005	6-4-2013	Repeal	7-1-2013
160-100-1070	9-1-2013	Amend	10-1-2013	165-018-0010	6-4-2013	Repeal	7-1-2013
160-100-1080	9-1-2013	Amend	10-1-2013	165-018-0015	6-4-2013	Repeal	7-1-2013
160-100-1090	9-1-2013	Amend	10-1-2013	165-018-0020	6-4-2013	Repeal	7-1-2013
160-100-1100	9-1-2013	Amend	10-1-2013	165-018-0030	6-4-2013	Repeal	7-1-2013
160-100-1105	9-1-2013	Amend	10-1-2013	165-020-0050	6-4-2013	Amend	7-1-2013
160-100-1110	9-1-2013	Amend	10-1-2013	165-020-0060	6-4-2013	Repeal	7-1-2013
160-100-1120	9-1-2013	Amend	10-1-2013	165-020-0440	11-29-2012	Adopt	1-1-2013
160-100-1130	9-1-2013	Amend	10-1-2013	165-020-2032	3-19-2013	Adopt(T)	5-1-2013
160-100-1140	9-1-2013	Amend	10-1-2013	166-500-0020	10-10-2013	Amend	11-1-2013
160-100-1150	9-1-2013	Amend	10-1-2013	170-040-0020	4-2-2013	Amend	5-1-2013
161-002-0000	1-31-2013	Amend	3-1-2013	170-040-0030	4-2-2013	Amend	5-1-2013
161-003-0020	1-31-2013	Amend	3-1-2013	170-040-0040	4-2-2013	Amend	5-1-2013
161-006-0025	1-31-2013	Amend	3-1-2013	170-040-0050	4-2-2013	Amend	5-1-2013
161-006-0025	7-1-2013	Amend(T)	7-1-2013	170-040-0070	4-2-2013	Amend	5-1-2013
161-006-0155	1-31-2013	Adopt	3-1-2013	170-040-0080	4-2-2013	Amend	5-1-2013
161-006-0160	1-31-2013	Amend	3-1-2013	170-040-0090	4-2-2013	Amend	5-1-2013
161-010-0010	1-31-2013	Amend	3-1-2013	170-040-0100	4-2-2013	Amend	5-1-2013
161-010-0020	1-31-2013	Amend	3-1-2013	170-040-0110	4-2-2013	Amend	5-1-2013
161-010-0035	1-31-2013	Amend	3-1-2013	170-061-0015	12-14-2012	Amend(T)	1-1-2013
161-010-0045	1-31-2013	Amend	3-1-2013	170-061-0015	4-24-2013	Amend	6-1-2013
161-010-0065	1-31-2013	Adopt	3-1-2013	170-062-0000	11-19-2012	Amend(T)	1-1-2013
161-010-0080	1-31-2013	Amend	3-1-2013	173-006-0005	7-1-2013	Amend(T)	7-1-2013
161-010-0080	7-1-2013	Amend(T)	8-1-2013	173-008-0005	7-1-2013	Amend(T)	7-1-2013
161-015-0000	1-31-2013	Amend	3-1-2013	177-010-0003	2-1-2013	Amend(T)	3-1-2013
161-015-0010	1-31-2013	Amend	3-1-2013	177-010-0003	7-1-2013	Amend	8-1-2013
161-015-0025	1-31-2013	Amend	3-1-2013	177-010-0003(T)	7-1-2013	Repeal	8-1-2013
161-015-0025	7-1-2013	Amend(T)	8-1-2013	177-010-0003(T)	7-1-2013	Repeal	8-1-2013
161-015-0030	1-31-2013	Amend	3-1-2013	177-040-0017	1-1-2013	Amend	2-1-2013
161-015-0030	7-1-2013	Amend(T)	8-1-2013	177-040-0050	2-1-2013	Amend(T)	3-1-2013
161-020-0005	1-31-2013	Amend	3-1-2013	177-040-0050	7-1-2013	Amend	8-1-2013
161-020-0055	1-31-2013	Amend	3-1-2013	177-040-0050(T)	7-1-2013	Repeal	8-1-2013
161-020-0110	1-31-2013	Amend	3-1-2013	177-040-0050(T)	7-1-2013	Repeal	8-1-2013
161-025-0025	1-31-2013	Amend	3-1-2013	177-040-0200	2-1-2013	Amend(T)	3-1-2013
161-025-0030	1-31-2013	Amend	3-1-2013	177-040-0200	7-1-2013	Amend	8-1-2013
161-025-0050	1-31-2013	Amend	3-1-2013	177-040-0200	7-1-2013	Amend	8-1-2013
161-050-0000	1-31-2013	Amend	3-1-2013	177-040-0200(T)	7-1-2013	Repeal	8-1-2013
161-050-0040	1-31-2013	Amend	3-1-2013	177-040-0200(T)	7-1-2013	Repeal	8-1-2013
161-050-0050	1-31-2013	Amend	3-1-2013	177-046-0015	2-1-2013	Amend(T)	3-1-2013
161-050-0050	7-1-2013	Suspend	8-1-2013	177-046-0015	7-1-2013	Amend	8-1-2013
161-510-0010	1-31-2013	Amend	3-1-2013	177-046-0015(T)	7-1-2013	Repeal	8-1-2013
161-510-0030	1-31-2013	Repeal	3-1-2013	177-046-0015(T)	7-1-2013	Repeal	8-1-2013
161-520-0010	1-31-2013	Amend	3-1-2013	177-046-0080	2-1-2013	Amend(T)	3-1-2013
161-520-0030	1-31-2013	Amend	3-1-2013	177-046-0080	7-1-2013	Amend	8-1-2013
161-520-0035	1-31-2013	Adopt	3-1-2013	177-046-0080(T)	7-1-2013	Repeal	8-1-2013
161-520-0045	1-31-2013	Amend	3-1-2013	177-046-0080(T)	7-1-2013	Repeal	8-1-2013
161-520-0050	1-31-2013	Amend	3-1-2013	177-046-0100	2-1-2013	Amend(T)	3-1-2013
161-530-0010	1-31-2013	Amend	3-1-2013	177-046-0100	7-1-2013	Amend	8-1-2013
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177-046-0110	2-1-2013	Amend(T)	3-1-2013	177-052-0030	7-1-2013	Amend	8-1-2013
177-046-0110	7-1-2013	Amend	8-1-2013	177-052-0030(T)	7-1-2013	Repeal	8-1-2013
177-046-0110(T)	7-1-2013	Repeal	8-1-2013	177-052-0040	2-1-2013	Amend(T)	3-1-2013
177-046-0110(T)	7-1-2013	Repeal	8-1-2013	177-052-0040	7-1-2013	Amend	8-1-2013
177-046-0140	2-1-2013	Amend(T)	3-1-2013	177-052-0040	7-1-2013	Amend	8-1-2013
177-046-0140	7-1-2013	Amend	8-1-2013	177-052-0040(T)	7-1-2013	Repeal	8-1-2013
177-046-0140(T)	7-1-2013	Repeal	8-1-2013	177-052-0050	2-1-2013	Amend(T)	3-1-2013
177-046-0140(T)	7-1-2013	Repeal	8-1-2013	177-052-0050	7-1-2013	Amend	8-1-2013
177-050-0002	2-1-2013	Amend(T)	3-1-2013	177-052-0050	7-1-2013	Amend	8-1-2013
177-050-0002	7-1-2013	Amend	8-1-2013	177-052-0050(T)	7-1-2013	Repeal	8-1-2013
177-050-0002(T)	7-1-2013	Repeal	8-1-2013	177-052-0060	2-1-2013	Amend(T)	3-1-2013
177-050-0024	2-1-2013	Amend(T)	3-1-2013	177-052-0060	7-1-2013	Amend	8-1-2013
177-050-0024	7-1-2013	Amend	8-1-2013	177-052-0060	7-1-2013	Amend	8-1-2013
177-050-0024(T)	7-1-2013	Repeal	8-1-2013	177-052-0060(T)	7-1-2013	Repeal	8-1-2013
177-050-0025	2-1-2013	Amend(T)	3-1-2013	177-052-0070	2-1-2013	Amend(T)	3-1-2013
177-050-0025	7-1-2013	Amend	8-1-2013	177-052-0070	7-1-2013	Amend	8-1-2013
177-050-0025(T)	7-1-2013	Repeal	8-1-2013	177-052-0070	7-1-2013	Amend	8-1-2013
177-050-0100	2-1-2013	Amend(T)	3-1-2013	177-052-0070(T)	7-1-2013	Repeal	8-1-2013
177-050-0100	7-1-2013	Amend	8-1-2013	177-070-0005	2-1-2013	Amend(T)	3-1-2013
177-050-0100(T)	7-1-2013	Repeal	8-1-2013	177-070-0005	7-1-2013	Amend	8-1-2013
177-051-0000	2-1-2013	Amend(T)	3-1-2013	177-070-0005	7-1-2013	Amend	8-1-2013
177-051-0000	7-1-2013	Amend	8-1-2013	177-070-0005(T)	7-1-2013	Repeal	8-1-2013
177-051-0000(T)	7-1-2013	Repeal	8-1-2013	177-075-0040	8-29-2013	Amend(T)	10-1-2013
177-051-0010	2-1-2013	Amend(T)	3-1-2013	177-085-0005	10-1-2013	Amend	11-1-2013
177-051-0010	7-1-2013	Amend	8-1-2013	177-085-0020	10-1-2013	Amend	11-1-2013
177-051-0010(T)	7-1-2013	Repeal	8-1-2013	177-085-0025	10-1-2013	Amend	11-1-2013
177-051-0030	2-1-2013	Amend(T)	3-1-2013	177-085-0035	10-1-2013	Amend	11-1-2013
177-051-0030	7-1-2013	Amend	8-1-2013	177-085-0050	10-1-2013	Amend	11-1-2013
177-051-0030(T)	7-1-2013	Repeal	8-1-2013	177-085-0065	10-1-2013	Amend	11-1-2013
177-051-0030(T)	7-1-2013	Repeal	8-1-2013	177-094-0080	12-16-2012	Amend	1-1-2013
177-051-0035	2-1-2013	Amend(T)	3-1-2013	177-094-0080(T)	12-16-2012	Repeal	1-1-2013
177-051-0035	7-1-2013	Amend	8-1-2013	177-094-0085	12-16-2012	Amend	1-1-2013
177-051-0035	7-1-2013	Amend	8-1-2013	177-094-0085(T)	12-16-2012	Repeal	1-1-2013
177-051-0035(T)	7-1-2013	Repeal	8-1-2013	177-098-0010	10-19-2013	Amend	11-1-2013
177-051-0040	2-1-2013	Amend(T)	3-1-2013	177-098-0020	10-19-2013	Amend	11-1-2013
177-051-0040	7-1-2013	Amend	8-1-2013	177-098-0030	10-19-2013	Amend	11-1-2013
177-051-0040(T)	7-1-2013	Repeal	8-1-2013	177-098-0040	10-19-2013	Amend	11-1-2013
177-051-0120	2-1-2013	Amend(T)	3-1-2013	177-098-0050	10-19-2013	Amend	11-1-2013
177-051-0120	7-1-2013	Amend	8-1-2013	177-098-0060	10-19-2013	Amend	11-1-2013
177-051-0120(T)	7-1-2013	Repeal	8-1-2013	177-098-0110	10-19-2013	Amend	11-1-2013
177-051-0130	2-1-2013	Amend(T)	3-1-2013	213-017-0005	8-7-2013	Amend(T)	9-1-2013
177-051-0130	7-1-2013	Amend	8-1-2013	213-017-0006	8-7-2013	Amend(T)	9-1-2013
177-051-0130(T)	7-1-2013	Repeal	8-1-2013	213-017-0008	8-7-2013	Amend(T)	9-1-2013
177-052-0000	2-1-2013	Amend(T)	3-1-2013	213-017-0009	8-7-2013	Amend(T)	9-1-2013
177-052-0000	7-1-2013	Amend	8-1-2013	213-018-0012	8-7-2013	Adopt(T)	9-1-2013
177-052-0000(T)	7-1-2013	Repeal	8-1-2013	213-018-0013	8-7-2013	Adopt(T)	9-1-2013
177-052-0010	2-1-2013	Amend(T)	3-1-2013	213-018-0036	8-7-2013	Adopt(T)	9-1-2013
177-052-0010	7-1-2013	Amend	8-1-2013	213-019-0008	8-7-2013	Amend(T)	9-1-2013
177-052-0010	7-1-2013	Amend	8-1-2013	230-020-0002	4-15-2013	Amend(T)	5-1-2013
177-052-0010(T)	7-1-2013	Repeal	8-1-2013	230-020-0002	7-10-2013	Amend(T)	8-1-2013
177-052-0020	2-1-2013	Amend(T)	3-1-2013	230-020-0330	2-21-2013	Amend	4-1-2013
177-052-0020	7-1-2013	Amend	8-1-2013	230-020-0330	7-10-2013	Amend(T)	8-1-2013
177-052-0020	7-1-2013	Amend	8-1-2013	230-020-0330	7-10-2013	Amend(T)	8-1-2013
177-052-0020(T)	7-1-2013	Repeal	8-1-2013	250-020-0141	4-1-2013	Amend	5-1-2013
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250-020-0280	7-1-2013	Amend(T)	8-1-2013	259-009-0065	10-3-2013	Amend	11-1-2013
250-020-0280	7-1-2013	Amend(T)	8-1-2013	259-009-0067	10-3-2013	Amend	11-1-2013
250-020-0280(T)	6-28-2013	Repeal	8-1-2013	259-009-0070	3-26-2013	Amend	5-1-2013
255-030-0010	3-1-2013	Amend	4-1-2013	259-009-0070	10-3-2013	Amend	11-1-2013
255-030-0013	3-1-2013	Amend	4-1-2013	259-009-0080	3-26-2013	Amend	5-1-2013
255-030-0021	3-1-2013	Amend	4-1-2013	259-009-0085	10-3-2013	Amend	11-1-2013
255-030-0023	3-1-2013	Amend	4-1-2013	259-009-0087	10-3-2013	Amend	11-1-2013
255-030-0024	3-1-2013	Amend	4-1-2013	259-009-0090	10-3-2013	Amend	11-1-2013
255-030-0025	3-1-2013	Amend	4-1-2013	259-009-0100	10-3-2013	Amend	11-1-2013
255-030-0025	6-10-2013	Amend	7-1-2013	259-012-0005	1-24-2013	Amend	3-1-2013
255-030-0026	3-1-2013	Amend	4-1-2013	259-015-0000	1-30-2013	Repeal	3-1-2013
255-030-0026	6-10-2013	Amend	7-1-2013	259-015-0005	1-30-2013	Repeal	3-1-2013
255-030-0027	3-1-2013	Amend	4-1-2013	259-015-0010	1-30-2013	Repeal	3-1-2013
255-030-0032	3-1-2013	Amend	4-1-2013	259-020-0010	12-26-2012	Amend	2-1-2013
255-030-0035	3-1-2013	Amend	4-1-2013	259-020-0015	12-26-2012	Amend	2-1-2013
255-030-0040	3-1-2013	Amend	4-1-2013	259-020-0030	12-26-2012	Amend	2-1-2013
255-030-0046	3-1-2013	Adopt	4-1-2013	259-020-0031	12-26-2012	Repeal	2-1-2013
255-030-0055	3-1-2013	Amend	4-1-2013	259-060-0010	12-24-2012	Amend	2-1-2013
255-060-0011	6-25-2013	Amend	8-1-2013	259-060-0010	6-24-2013	Amend	8-1-2013
255-060-0016	6-25-2013	Amend	8-1-2013	259-060-0015	12-24-2012	Amend	2-1-2013
255-062-0016	2-15-2013	Amend	3-1-2013	259-060-0015	6-24-2013	Amend	8-1-2013
259-005-0015	4-1-2013	Amend	5-1-2013	259-060-0020	6-24-2013	Amend	8-1-2013
259-008-0005	12-27-2012	Amend	2-1-2013	259-060-0020	9-23-2013	Amend	11-1-2013
259-008-0010	7-23-2013	Amend	9-1-2013	259-060-0025	6-24-2013	Amend	8-1-2013
259-008-0011	7-23-2013	Amend	9-1-2013	259-060-0030	6-24-2013	Amend	8-1-2013
259-008-0025	3-8-2013	Amend	4-1-2013	259-060-0060	6-24-2013	Amend	8-1-2013
259-008-0025	6-25-2013	Amend	8-1-2013	259-060-0090	6-24-2013	Amend	8-1-2013
259-008-0060	12-27-2012	Amend	2-1-2013	259-060-0120	6-24-2013	Amend	8-1-2013
259-008-0064	12-27-2012	Amend	2-1-2013	259-060-0135	6-24-2013	Amend	8-1-2013
259-008-0065	12-27-2012	Amend	2-1-2013	259-060-0300	6-24-2013	Amend	8-1-2013
259-008-0066	12-27-2012	Amend	2-1-2013	259-060-0450	6-24-2013	Amend	8-1-2013
259-008-0067	6-5-2013	Amend(T)	7-1-2013	259-060-0500	6-24-2013	Amend	8-1-2013
259-008-0067	9-23-2013	Amend	11-1-2013	259-060-0600	12-26-2012	Amend	2-1-2013
259-008-0067(T)	9-23-2013	Repeal	11-1-2013	259-061-0010	1-2-2013	Amend	2-1-2013
259-008-0070	12-14-2012	Amend(T)	1-1-2013	259-061-0015	1-2-2013	Repeal	2-1-2013
259-008-0070	1-22-2013	Amend	3-1-2013	259-061-0020	1-2-2013	Amend	2-1-2013
259-008-0070	9-23-2013	Amend	11-1-2013	259-061-0020	6-24-2013	Amend	8-1-2013
259-008-0070(T)	1-22-2013	Repeal	3-1-2013	259-061-0030	1-2-2013	Repeal	2-1-2013
259-008-0075	6-24-2013	Amend	8-1-2013	259-061-0050	1-2-2013	Repeal	2-1-2013
259-008-0075	7-23-2013	Amend	9-1-2013	259-061-0055	1-2-2013	Repeal	2-1-2013
259-008-0076	12-27-2012	Amend	2-1-2013	259-061-0060	1-2-2013	Repeal	2-1-2013
259-008-0080	7-23-2013	Amend	9-1-2013	259-061-0070	1-2-2013	Repeal	2-1-2013
259-008-0100	6-24-2013	Amend	8-1-2013	259-061-0080	1-2-2013	Repeal	2-1-2013
259-009-0000	10-3-2013	Amend	11-1-2013	259-061-0090	1-2-2013	Repeal	2-1-2013
259-009-0005	3-26-2013	Amend	5-1-2013	259-070-0020	12-24-2012	Amend	2-1-2013
259-009-0005	10-3-2013	Amend	11-1-2013	274-001-0005	5-15-2013	Amend	6-1-2013
259-009-0010	10-3-2013	Amend	11-1-2013	274-010-0100	7-8-2013	Amend	8-1-2013
259-009-0020	10-3-2013	Amend	11-1-2013	274-012-0001	7-8-2013	Amend	8-1-2013
259-009-0025	10-3-2013	Amend	11-1-2013	274-015-0010	7-9-2013	Amend(T)	8-1-2013
259-009-0030	10-3-2013	Repeal	11-1-2013	274-015-0010	8-30-2013	Amend(T)	10-1-2013
259-009-0035	10-3-2013	Amend	11-1-2013	274-015-0010(T)	8-30-2013	Suspend	10-1-2013
259-009-0059	10-3-2013	Amend	11-1-2013	274-020-0200	7-8-2013	Amend	8-1-2013
259-009-0062	3-26-2013	Amend	5-1-2013	274-020-0200	7-23-2013	Amend(T)	9-1-2013
259-009-0062	6-25-2013	Amend	8-1-2013	274-020-0265	7-23-2013	Amend(T)	9-1-2013

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274-020-0285	7-23-2013	Amend(T)	9-1-2013	291-097-0010	12-28-2012	Am. & Ren.(T)	2-1-2013
274-020-0290	7-23-2013	Amend(T)	9-1-2013	291-097-0010	6-1-2013	Am. & Ren.	7-1-2013
274-020-0348	7-23-2013	Amend(T)	9-1-2013	291-097-0015	12-28-2012	Am. & Ren.(T)	2-1-2013
274-030-0625	7-24-2013	Adopt(T)	9-1-2013	291-097-0015	6-1-2013	Am. & Ren.	7-1-2013
274-030-0630	7-24-2013	Amend(T)	9-1-2013	291-097-0020	12-28-2012	Am. & Ren.(T)	2-1-2013
274-042-0005	9-9-2013	Adopt(T)	10-1-2013	291-097-0020	6-1-2013	Am. & Ren.	7-1-2013
274-042-0005	9-20-2013	Adopt(T)	11-1-2013	291-097-0023	12-28-2012	Suspend	2-1-2013
274-042-0010	9-9-2013	Adopt(T)	10-1-2013	291-097-0023	6-1-2013	Repeal	7-1-2013
274-042-0010	9-20-2013	Adopt(T)	11-1-2013	291-097-0025	12-28-2012	Am. & Ren.(T)	2-1-2013
274-042-0015	9-9-2013	Adopt(T)	10-1-2013	291-097-0025	6-1-2013	Am. & Ren.	7-1-2013
274-042-0015	9-20-2013	Adopt(T)	11-1-2013	291-097-0030	12-28-2012	Am. & Ren.(T)	2-1-2013
274-042-0020	9-9-2013	Adopt(T)	10-1-2013	291-097-0030	6-1-2013	Am. & Ren.	7-1-2013
274-042-0020	9-20-2013	Adopt(T)	11-1-2013	291-097-0031	12-28-2012	Suspend	2-1-2013
274-042-0025	9-9-2013	Adopt(T)	10-1-2013	291-097-0031	6-1-2013	Repeal	7-1-2013
274-042-0025	9-20-2013	Adopt(T)	11-1-2013	291-097-0040	12-28-2012	Am. & Ren.(T)	2-1-2013
274-042-0030	9-9-2013	Adopt(T)	10-1-2013	291-097-0040	6-1-2013	Am. & Ren.	7-1-2013
274-042-0030	9-20-2013	Adopt(T)	11-1-2013	291-097-0050	12-28-2012	Am. & Ren.(T)	2-1-2013
274-042-0035	9-9-2013	Adopt(T)	10-1-2013	291-097-0050	6-1-2013	Am. & Ren.	7-1-2013
274-042-0035	9-20-2013	Adopt(T)	11-1-2013	291-097-0060	12-28-2012	Am. & Ren.(T)	2-1-2013
274-042-0040	9-9-2013	Adopt(T)	10-1-2013	291-097-0060	6-1-2013	Am. & Ren.	7-1-2013
274-042-0040	9-20-2013	Adopt(T)	11-1-2013	291-097-0070	12-28-2012	Am. & Ren.(T)	2-1-2013
274-045-0001	7-8-2013	Amend	8-1-2013	291-097-0070	6-1-2013	Am. & Ren.	7-1-2013
274-045-0001	7-23-2013	Amend(T)	9-1-2013	291-097-0080	12-28-2012	Am. & Ren.(T)	2-1-2013
291-009-0005	8-20-2013	Amend	10-1-2013	291-097-0080	6-1-2013	Am. & Ren.	7-1-2013
291-009-0010	8-20-2013	Amend	10-1-2013	291-097-0090	12-28-2012	Am. & Ren.(T)	2-1-2013
291-009-0015	8-20-2013	Amend	10-1-2013	291-097-0090	6-1-2013	Am. & Ren.	7-1-2013
291-013-0010	6-21-2013	Amend	8-1-2013	291-097-0100	12-28-2012	Am. & Ren.(T)	2-1-2013
291-013-0055	6-21-2013	Amend	8-1-2013	291-097-0100	6-1-2013	Am. & Ren.	7-1-2013
291-013-0070	6-21-2013	Amend	8-1-2013	291-097-0120	12-28-2012	Am. & Ren.(T)	2-1-2013
291-013-0104	6-21-2013	Amend	8-1-2013	291-097-0120	6-1-2013	Am. & Ren.	7-1-2013
291-013-0110	6-21-2013	Amend	8-1-2013	291-097-0130	12-28-2012	Am. & Ren.(T)	2-1-2013
291-013-0130	6-21-2013	Amend	8-1-2013	291-097-0130	6-1-2013	Am. & Ren.	7-1-2013
291-013-0140	6-21-2013	Amend	8-1-2013	291-097-0140	12-28-2012	Am. & Ren.(T)	2-1-2013
291-013-0206	6-21-2013	Amend	8-1-2013	291-097-0140	6-1-2013	Am. & Ren.	7-1-2013
291-013-0215	6-21-2013	Amend	8-1-2013	291-097-0200(T)	6-1-2013	Repeal	7-1-2013
291-053-0010	1-17-2013	Amend	3-1-2013	291-097-0210(T)	6-1-2013	Repeal	7-1-2013
291-053-0075	1-17-2013	Amend	3-1-2013	291-097-0215(T)	6-1-2013	Repeal	7-1-2013
291-053-0085	1-17-2013	Amend	3-1-2013	291-097-0220	12-28-2012	Adopt(T)	2-1-2013
291-053-0095	1-17-2013	Amend	3-1-2013	291-097-0220	6-1-2013	Adopt	7-1-2013
291-053-0105	1-17-2013	Amend	3-1-2013	291-097-0220(T)	6-1-2013	Repeal	7-1-2013
291-053-0115	1-17-2013	Amend	3-1-2013	291-097-0225	12-28-2012	Adopt(T)	2-1-2013
291-053-0125	1-17-2013	Amend	3-1-2013	291-097-0225	6-1-2013	Adopt	7-1-2013
291-053-0135	1-17-2013	Amend	3-1-2013	291-097-0225(T)	6-1-2013	Repeal	7-1-2013
291-078-0005	2-28-2013	Amend	4-1-2013	291-097-0230	12-28-2012	Adopt(T)	2-1-2013
291-078-0005(T)	2-28-2013	Repeal	4-1-2013	291-097-0230	6-1-2013	Adopt	7-1-2013
291-078-0010	2-28-2013	Amend	4-1-2013	291-097-0230(T)	6-1-2013	Repeal	7-1-2013
291-078-0010(T)	2-28-2013	Repeal	4-1-2013	291-097-0235	12-28-2012	Adopt(T)	2-1-2013
291-078-0020	2-28-2013	Amend	4-1-2013	291-097-0235	6-1-2013	Adopt	7-1-2013
291-078-0020(T)	2-28-2013	Repeal	4-1-2013	291-097-0235(T)	6-1-2013	Repeal	7-1-2013
291-078-0026	2-28-2013	Adopt	4-1-2013	291-097-0240(T)	6-1-2013	Repeal	7-1-2013
291-078-0026(T)	2-28-2013	Repeal	4-1-2013	291-097-0245	12-28-2012	Adopt(T)	2-1-2013
291-078-0031	2-28-2013	Adopt	4-1-2013	291-097-0245	6-1-2013	Adopt	7-1-2013
291-078-0031(T)	2-28-2013	Repeal	4-1-2013	291-097-0245(T)	6-1-2013	Repeal	7-1-2013
291-093-0005	4-15-2013	Amend	5-1-2013	291-097-0250(T)	6-1-2013	Repeal	7-1-2013
291-097-0005	12-28-2012	Am. & Ren.(T)	2-1-2013	291-097-0255(T)	6-1-2013	Repeal	7-1-2013

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291-097-0260(T)	6-1-2013	Repeal	7-1-2013	309-018-0120	8-9-2013	Adopt(T)	9-1-2013
291-097-0265(T)	6-1-2013	Repeal	7-1-2013	309-018-0125	8-9-2013	Adopt(T)	9-1-2013
291-097-0270(T)	6-1-2013	Repeal	7-1-2013	309-018-0130	8-9-2013	Adopt(T)	9-1-2013
291-097-0275(T)	6-1-2013	Repeal	7-1-2013	309-018-0135	8-9-2013	Adopt(T)	9-1-2013
291-097-0280(T)	6-1-2013	Repeal	7-1-2013	309-018-0140	8-9-2013	Adopt(T)	9-1-2013
291-097-0285(T)	6-1-2013	Repeal	7-1-2013	309-018-0145	8-9-2013	Adopt(T)	9-1-2013
291-097-0290(T)	6-1-2013	Repeal	7-1-2013	309-018-0150	8-9-2013	Adopt(T)	9-1-2013
291-097-0295(T)	6-1-2013	Repeal	7-1-2013	309-018-0155	8-9-2013	Adopt(T)	9-1-2013
291-097-0300(T)	6-1-2013	Repeal	7-1-2013	309-018-0160	8-9-2013	Adopt(T)	9-1-2013
291-097-0305(T)	6-1-2013	Repeal	7-1-2013	309-018-0165	8-9-2013	Adopt(T)	9-1-2013
291-104-0111	4-15-2013	Amend	5-1-2013	309-018-0170	8-9-2013	Adopt(T)	9-1-2013
291-130-0006	2-22-2013	Amend	4-1-2013	309-018-0175	8-9-2013	Adopt(T)	9-1-2013
291-130-0006(T)	2-22-2013	Repeal	4-1-2013	309-018-0180	8-9-2013	Adopt(T)	9-1-2013
291-130-0011	2-22-2013	Amend	4-1-2013	309-018-0185	8-9-2013	Adopt(T)	9-1-2013
291-130-0011(T)	2-22-2013	Repeal	4-1-2013	309-018-0190	8-9-2013	Adopt(T)	9-1-2013
291-130-0016	2-22-2013	Amend	4-1-2013	309-018-0195	8-9-2013	Adopt(T)	9-1-2013
291-130-0020	2-22-2013	Amend	4-1-2013	309-018-0200	8-9-2013	Adopt(T)	9-1-2013
291-130-0020(T)	2-22-2013	Repeal	4-1-2013	309-018-0205	8-9-2013	Adopt(T)	9-1-2013
291-130-0080	2-22-2013	Amend	4-1-2013	309-018-0210	8-9-2013	Adopt(T)	9-1-2013
291-130-0080(T)	2-22-2013	Repeal	4-1-2013	309-018-0215	8-9-2013	Adopt(T)	9-1-2013
291-153-0005	8-29-2013	Amend	10-1-2013	309-018-0220	8-9-2013	Adopt(T)	9-1-2013
291-153-0020	8-29-2013	Amend	10-1-2013	309-018-0225	8-9-2013	Adopt(T)	9-1-2013
291-153-0025	8-29-2013	Adopt	10-1-2013	309-019-0100	8-9-2013	Adopt(T)	9-1-2013
291-207-0100	1-1-2013	Adopt	2-1-2013	309-019-0105	8-9-2013	Adopt(T)	9-1-2013
309-011-0024	12-28-2012	Adopt	2-1-2013	309-019-0110	8-9-2013	Adopt(T)	9-1-2013
309-011-0026	12-28-2012	Adopt	2-1-2013	309-019-0115	8-9-2013	Adopt(T)	9-1-2013
309-011-0028	12-28-2012	Adopt	2-1-2013	309-019-0120	8-9-2013	Adopt(T)	9-1-2013
309-011-0030	12-28-2012	Adopt	2-1-2013	309-019-0125	8-9-2013	Adopt(T)	9-1-2013
309-011-0032	12-28-2012	Adopt	2-1-2013	309-019-0130	8-9-2013	Adopt(T)	9-1-2013
309-011-0034	12-28-2012	Adopt	2-1-2013	309-019-0135	8-9-2013	Adopt(T)	9-1-2013
309-011-0036	12-28-2012	Adopt	2-1-2013	309-019-0140	8-9-2013	Adopt(T)	9-1-2013
309-011-0120	12-28-2012	Amend	2-1-2013	309-019-0145	8-9-2013	Adopt(T)	9-1-2013
309-011-0125	12-28-2012	Amend	2-1-2013	309-019-0150	8-9-2013	Adopt(T)	9-1-2013
309-011-0130	12-28-2012	Amend	2-1-2013	309-019-0155	8-9-2013	Adopt(T)	9-1-2013
309-011-0135	12-28-2012	Repeal	2-1-2013	309-019-0160	8-9-2013	Adopt(T)	9-1-2013
309-011-0140	12-28-2012	Renumber	2-1-2013	309-019-0165	8-9-2013	Adopt(T)	9-1-2013
309-016-0605	6-5-2013	Amend	7-1-2013	309-019-0170	8-9-2013	Adopt(T)	9-1-2013
309-016-0801	9-23-2013	Adopt	11-1-2013	309-019-0175	8-9-2013	Adopt(T)	9-1-2013
309-016-0806	9-23-2013	Adopt	11-1-2013	309-019-0180	8-9-2013	Adopt(T)	9-1-2013
309-016-0811	9-23-2013	Adopt	11-1-2013	309-019-0185	8-9-2013	Adopt(T)	9-1-2013
309-016-0816	9-23-2013	Adopt	11-1-2013	309-019-0190	8-9-2013	Adopt(T)	9-1-2013
309-016-0821	9-23-2013	Adopt	11-1-2013	309-019-0195	8-9-2013	Adopt(T)	9-1-2013
309-016-0825	1-7-2013	Adopt(T)	2-1-2013	309-019-0200	8-9-2013	Adopt(T)	9-1-2013
309-016-0825	6-5-2013	Adopt	7-1-2013	309-019-0205	8-9-2013	Adopt(T)	9-1-2013
309-016-0825(T)	6-5-2013	Repeal	7-1-2013	309-019-0210	8-9-2013	Adopt(T)	9-1-2013
309-016-0830	6-5-2013	Adopt	7-1-2013	309-019-0215	8-9-2013	Adopt(T)	9-1-2013
309-016-0835	6-5-2013	Adopt	7-1-2013	309-019-0220	8-9-2013	Adopt(T)	9-1-2013
309-016-0837	6-5-2013	Adopt	7-1-2013	309-022-0100	8-9-2013	Adopt(T)	9-1-2013
309-016-0840	6-5-2013	Adopt	7-1-2013	309-022-0105	8-9-2013	Adopt(T)	9-1-2013
309-016-0845	6-5-2013	Adopt	7-1-2013	309-022-0110	8-9-2013	Adopt(T)	9-1-2013
309-016-0850	6-5-2013	Adopt	7-1-2013	309-022-0115	8-9-2013	Adopt(T)	9-1-2013
309-016-0855	6-5-2013	Adopt	7-1-2013	309-022-0120	8-9-2013	Adopt(T)	9-1-2013
309-018-0100	8-9-2013	Adopt(T)	9-1-2013	309-022-0125	8-9-2013	Adopt(T)	9-1-2013
309-018-0105	8-9-2013	Adopt(T)	9-1-2013	309-022-0130	8-9-2013	Adopt(T)	9-1-2013
309-018-0110	8-9-2013	Adopt(T)	9-1-2013	309-022-0135	8-9-2013	Adopt(T)	9-1-2013
309-018-0115	8-9-2013	Adopt(T)	9-1-2013	309-022-0140	8-9-2013	Adopt(T)	9-1-2013

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309-022-0150	8-9-2013	Adopt(T)	9-1-2013	309-039-0770	6-5-2013	Repeal	7-1-2013
309-022-0155	8-9-2013	Adopt(T)	9-1-2013	309-039-0780	6-5-2013	Repeal	7-1-2013
309-022-0160	8-9-2013	Adopt(T)	9-1-2013	309-039-0790	6-5-2013	Repeal	7-1-2013
309-022-0165	8-9-2013	Adopt(T)	9-1-2013	309-090-0005	12-26-2012	Amend	2-1-2013
309-022-0170	8-9-2013	Adopt(T)	9-1-2013	309-090-0025	12-26-2012	Amend	2-1-2013
309-022-0175	8-9-2013	Adopt(T)	9-1-2013	309-112-0000	1-23-2013	Amend(T)	3-1-2013
309-022-0180	8-9-2013	Adopt(T)	9-1-2013	309-112-0005	1-23-2013	Amend(T)	3-1-2013
309-022-0185	8-9-2013	Adopt(T)	9-1-2013	309-112-0010	1-23-2013	Amend(T)	3-1-2013
309-022-0190	8-9-2013	Adopt(T)	9-1-2013	309-112-0015	1-23-2013	Amend(T)	3-1-2013
309-022-0192	8-9-2013	Adopt(T)	9-1-2013	309-112-0017	1-23-2013	Amend(T)	3-1-2013
309-022-0195	8-9-2013	Adopt(T)	9-1-2013	309-112-0020	1-23-2013	Amend(T)	3-1-2013
309-022-0200	8-9-2013	Adopt(T)	9-1-2013	309-112-0025	1-23-2013	Amend(T)	3-1-2013
309-022-0205	8-9-2013	Adopt(T)	9-1-2013	309-112-0030	1-23-2013	Amend(T)	3-1-2013
309-022-0210	8-9-2013	Adopt(T)	9-1-2013	309-112-0035	1-23-2013	Amend(T)	3-1-2013
309-022-0215	8-9-2013	Adopt(T)	9-1-2013	325-005-0015	4-25-2013	Amend	6-1-2013
309-022-0220	8-9-2013	Adopt(T)	9-1-2013	325-005-0015	7-3-2013	Amend	8-1-2013
309-022-0225	8-9-2013	Adopt(T)	9-1-2013	330-070-0010	1-1-2013	Amend	2-1-2013
309-022-0230	8-9-2013	Adopt(T)	9-1-2013	330-070-0013	1-1-2013	Amend	2-1-2013
309-032-1500	8-9-2013	Suspend	9-1-2013	330-070-0014	1-1-2013	Amend	2-1-2013
309-032-1505	2-11-2013	Amend(T)	3-1-2013	330-070-0019	1-1-2013	Amend	2-1-2013
309-032-1505	8-9-2013	Suspend	9-1-2013	330-070-0020	1-1-2013	Amend	2-1-2013
309-032-1510	2-11-2013	Amend(T)	3-1-2013	330-070-0021	1-1-2013	Amend	2-1-2013
309-032-1510	8-9-2013	Suspend	9-1-2013	330-070-0022	1-1-2013	Amend	2-1-2013
309-032-1515	8-9-2013	Suspend	9-1-2013	330-070-0024	1-1-2013	Amend	2-1-2013
309-032-1520	8-9-2013	Suspend	9-1-2013	330-070-0025	1-1-2013	Amend	2-1-2013
309-032-1525	2-11-2013	Amend(T)	3-1-2013	330-070-0026	1-1-2013	Amend	2-1-2013
309-032-1525	8-9-2013	Suspend	9-1-2013	330-070-0027	1-1-2013	Amend	2-1-2013
309-032-1530	2-11-2013	Amend(T)	3-1-2013	330-070-0029	1-1-2013	Amend	2-1-2013
309-032-1530	8-9-2013	Suspend	9-1-2013	330-070-0040	1-1-2013	Amend	2-1-2013
309-032-1535	2-11-2013	Amend(T)	3-1-2013	330-070-0045	1-1-2013	Amend	2-1-2013
309-032-1535	8-9-2013	Suspend	9-1-2013	330-070-0048	1-1-2013	Amend	2-1-2013
309-032-1540	2-11-2013	Amend(T)	3-1-2013	330-070-0055	1-1-2013	Amend	2-1-2013
309-032-1540	8-9-2013	Suspend	9-1-2013	330-070-0059	1-1-2013	Amend	2-1-2013
309-032-1545	8-9-2013	Suspend	9-1-2013	330-070-0060	1-1-2013	Amend	2-1-2013
309-032-1550	8-9-2013	Suspend	9-1-2013	330-070-0062	1-1-2013	Amend	2-1-2013
309-032-1555	8-9-2013	Suspend	9-1-2013	330-070-0063	1-1-2013	Amend	2-1-2013
309-032-1560	8-9-2013	Suspend	9-1-2013	330-070-0064	1-1-2013	Amend	2-1-2013
309-032-1565	8-9-2013	Suspend	9-1-2013	330-070-0070	1-1-2013	Amend	2-1-2013
309-034-0400	8-9-2013	Suspend	9-1-2013	330-070-0073	1-1-2013	Amend	2-1-2013
309-034-0410	8-9-2013	Suspend	9-1-2013	330-070-0089	1-1-2013	Amend	2-1-2013
309-034-0420	8-9-2013	Suspend	9-1-2013	330-070-0091	1-1-2013	Amend	2-1-2013
309-034-0430	8-9-2013	Suspend	9-1-2013	330-090-0133	5-13-2013	Amend	6-1-2013
309-034-0440	8-9-2013	Suspend	9-1-2013	330-090-0140	11-16-2012	Amend(T)	1-1-2013
309-034-0450	8-9-2013	Suspend	9-1-2013	330-090-0140	5-13-2013	Amend	6-1-2013
309-034-0460	8-9-2013	Suspend	9-1-2013	330-090-0140(T)	5-13-2013	Repeal	6-1-2013
309-034-0470	8-9-2013	Suspend	9-1-2013	330-090-0150	5-13-2013	Amend	6-1-2013
309-034-0480	8-9-2013	Suspend	9-1-2013	330-090-0150	10-2-2013	Amend	11-1-2013
309-034-0490	8-9-2013	Suspend	9-1-2013	330-090-0160	11-16-2012	Amend(T)	1-1-2013
309-034-0500	8-9-2013	Suspend	9-1-2013	330-090-0160	5-13-2013	Amend	6-1-2013
309-039-0700	6-5-2013	Repeal	7-1-2013	330-090-0160(T)	5-13-2013	Repeal	6-1-2013
309-039-0710	6-5-2013	Repeal	7-1-2013	330-110-0005	12-20-2012	Amend	2-1-2013
309-039-0720	6-5-2013	Repeal	7-1-2013	330-110-0010	12-20-2012	Amend	2-1-2013
309-039-0730	6-5-2013	Repeal	7-1-2013	330-110-0015	12-20-2012	Amend	2-1-2013
309-039-0740	6-5-2013	Repeal	7-1-2013	330-110-0016	12-20-2012	Amend	2-1-2013
309-039-0750	6-5-2013	Repeal	7-1-2013	330-110-0020	12-20-2012	Repeal	2-1-2013

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330-110-0030	12-20-2012	Amend	2-1-2013	331-440-0000	8-23-2013	Amend(T)	10-1-2013
330-110-0035	12-20-2012	Amend	2-1-2013	331-705-0072	6-1-2013	Repeal	7-1-2013
330-110-0036	12-20-2012	Amend	2-1-2013	331-705-0080	4-1-2013	Amend(T)	4-1-2013
330-110-0040	12-20-2012	Amend	2-1-2013	331-705-0080	6-1-2013	Amend	7-1-2013
330-110-0040	6-17-2013	Amend(T)	8-1-2013	331-710-0040	6-1-2013	Repeal	7-1-2013
330-110-0042	12-20-2012	Amend	2-1-2013	331-710-0050	4-1-2013	Amend	4-1-2013
330-110-0045	12-20-2012	Amend	2-1-2013	331-710-0080	11-19-2012	Amend(T)	1-1-2013
330-110-0046	12-20-2012	Adopt	2-1-2013	331-710-0080	4-1-2013	Amend	4-1-2013
330-110-0047	12-20-2012	Adopt	2-1-2013	331-710-0090	11-19-2012	Amend(T)	1-1-2013
330-110-0048	12-20-2012	Adopt	2-1-2013	331-710-0090	4-1-2013	Amend	4-1-2013
330-110-0050	12-20-2012	Repeal	2-1-2013	331-718-0020	11-19-2012	Amend(T)	1-1-2013
330-110-0055	12-20-2012	Amend	2-1-2013	331-718-0020	4-1-2013	Amend	4-1-2013
330-135-0010	1-1-2013	Amend	2-1-2013	331-900-0000	1-16-2013	Amend	3-1-2013
330-135-0015	1-1-2013	Amend	2-1-2013	331-900-0005	1-16-2013	Amend	3-1-2013
330-135-0018	1-1-2013	Adopt	2-1-2013	331-900-0010	1-16-2013	Amend	3-1-2013
330-135-0020	1-1-2013	Amend	2-1-2013	331-900-0020	1-16-2013	Amend(T)	3-1-2013
330-135-0025	1-1-2013	Amend	2-1-2013	331-900-0020	3-15-2013	Amend	4-1-2013
330-135-0030	1-1-2013	Amend	2-1-2013	331-900-0025	1-16-2013	Amend(T)	3-1-2013
330-135-0035	1-1-2013	Amend	2-1-2013	331-900-0025	3-15-2013	Amend	4-1-2013
330-135-0040	1-1-2013	Amend	2-1-2013	331-900-0035	1-16-2013	Amend	3-1-2013
330-135-0045	1-1-2013	Amend	2-1-2013	331-900-0040	1-16-2013	Amend	3-1-2013
330-135-0047	1-1-2013	Adopt	2-1-2013	331-900-0050	1-16-2013	Amend(T)	3-1-2013
330-135-0048	1-1-2013	Adopt	2-1-2013	331-900-0050	3-15-2013	Amend	4-1-2013
330-135-0050	1-1-2013	Amend	2-1-2013	331-900-0055	1-16-2013	Amend(T)	3-1-2013
330-135-0055	1-1-2013	Amend	2-1-2013	331-900-0055	3-15-2013	Amend	4-1-2013
330-200-0040	10-2-2013	Amend	11-1-2013	331-900-0065	1-16-2013	Amend	3-1-2013
330-210-0040	10-2-2013	Amend	11-1-2013	331-900-0080	1-16-2013	Amend	3-1-2013
330-220-0040	10-2-2013	Amend	11-1-2013	331-900-0085	1-16-2013	Amend	3-1-2013
330-225-0040	10-2-2013	Amend	11-1-2013	331-900-0090	1-16-2013	Amend	3-1-2013
331-405-0020	7-1-2013	Amend	8-1-2013	331-900-0095	1-16-2013	Amend	3-1-2013
331-405-0030	7-1-2013	Am. & Ren.	8-1-2013	331-900-0097	1-16-2013	Amend	3-1-2013
331-405-0045	7-1-2013	Repeal	8-1-2013	331-900-0098	1-16-2013	Amend	3-1-2013
331-407-0000	7-1-2013	Am. & Ren.	8-1-2013	331-900-0105	1-16-2013	Amend	3-1-2013
331-410-0010	7-1-2013	Repeal	8-1-2013	331-900-0115	1-16-2013	Amend	3-1-2013
331-410-0012	7-1-2013	Adopt	8-1-2013	331-900-0120	1-16-2013	Amend	3-1-2013
331-410-0015	7-1-2013	Adopt	8-1-2013	331-900-0125	1-16-2013	Amend	3-1-2013
331-410-0020	7-1-2013	Amend	8-1-2013	331-900-0130	1-16-2013	Amend	3-1-2013
331-410-0025	7-1-2013	Adopt	8-1-2013	331-905-0000	1-16-2013	Amend	3-1-2013
331-410-0030	7-1-2013	Amend	8-1-2013	331-905-0000	4-1-2013	Amend(T)	5-1-2013
331-410-0035	7-1-2013	Adopt	8-1-2013	331-905-0000	7-1-2013	Amend	8-1-2013
331-410-0040	7-1-2013	Repeal	8-1-2013	331-905-0005	1-16-2013	Amend	3-1-2013
331-410-0045	7-1-2013	Adopt	8-1-2013	331-905-0005	4-1-2013	Amend(T)	5-1-2013
331-410-0050	7-1-2013	Amend	8-1-2013	331-905-0005	7-1-2013	Amend	8-1-2013
331-410-0055	7-1-2013	Adopt	8-1-2013	331-905-0010	1-16-2013	Amend	3-1-2013
331-410-0060	7-1-2013	Amend	8-1-2013	331-905-0010	4-1-2013	Amend(T)	5-1-2013
331-410-0065	7-1-2013	Amend	8-1-2013	331-905-0010	7-1-2013	Amend	8-1-2013
331-410-0080	7-1-2013	Amend	8-1-2013	331-905-0011	1-16-2013	Amend(T)	3-1-2013
331-410-0090	7-1-2013	Amend	8-1-2013	331-905-0011	3-15-2013	Amend	4-1-2013
331-415-0000	7-1-2013	Repeal	8-1-2013	331-905-0012	1-16-2013	Amend	3-1-2013
331-415-0010	7-1-2013	Amend	8-1-2013	331-905-0013	1-16-2013	Amend(T)	3-1-2013
331-415-0020	7-1-2013	Amend	8-1-2013	331-905-0013	3-15-2013	Amend	4-1-2013
331-420-0000	7-1-2013	Amend	8-1-2013	331-905-0014	1-16-2013	Amend	3-1-2013
331-420-0010	7-1-2013	Amend	8-1-2013	331-905-0015	1-16-2013	Amend	3-1-2013
331-420-0020	7-1-2013	Amend	8-1-2013	331-905-0025	1-16-2013	Amend	3-1-2013
331-425-0010	7-1-2013	Repeal	8-1-2013	331-905-0035	1-16-2013	Amend	3-1-2013

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331-905-0040	4-1-2013	Amend(T)	5-1-2013	331-925-0050	1-16-2013	Amend	3-1-2013
331-905-0040	7-1-2013	Amend	8-1-2013	331-940-0000	7-1-2013	Amend(T)	7-1-2013
331-905-0045	1-16-2013	Amend	3-1-2013	331-940-0000	7-9-2013	Amend	8-1-2013
331-905-0050	1-16-2013	Amend	3-1-2013	331-950-0010	1-16-2013	Amend	3-1-2013
331-905-0050	4-1-2013	Amend(T)	5-1-2013	331-950-0020	1-16-2013	Amend	3-1-2013
331-905-0050	7-1-2013	Amend	8-1-2013	331-950-0040	1-16-2013	Amend	3-1-2013
331-905-0052	1-16-2013	Amend	3-1-2013	332-020-0010	7-12-2013	Amend(T)	8-1-2013
331-905-0055	1-16-2013	Amend	3-1-2013	333-002-0300	2-4-2013	Adopt(T)	3-1-2013
331-905-0058	1-16-2013	Amend	3-1-2013	333-002-0305	2-4-2013	Adopt(T)	3-1-2013
331-905-0060	1-16-2013	Amend	3-1-2013	333-002-0310	2-4-2013	Adopt(T)	3-1-2013
331-905-0070	4-1-2013	Suspend	5-1-2013	333-002-0315	2-4-2013	Adopt(T)	3-1-2013
331-905-0070	7-1-2013	Repeal	9-1-2013	333-002-0320	2-4-2013	Adopt(T)	3-1-2013
331-905-0075	1-16-2013	Amend	3-1-2013	333-002-0325	2-4-2013	Adopt(T)	3-1-2013
331-905-0080	1-16-2013	Amend	3-1-2013	333-002-0327	2-4-2013	Adopt(T)	3-1-2013
331-905-0080	4-1-2013	Amend(T)	5-1-2013	333-002-0340	2-4-2013	Adopt(T)	3-1-2013
331-905-0080	7-1-2013	Amend	8-1-2013	333-002-0345	2-4-2013	Adopt(T)	3-1-2013
331-905-0085	1-16-2013	Amend	3-1-2013	333-002-0350	2-4-2013	Adopt(T)	3-1-2013
331-905-0090	1-16-2013	Amend	3-1-2013	333-002-0355	2-4-2013	Adopt(T)	3-1-2013
331-905-0095	1-16-2013	Amend	3-1-2013	333-002-0360	2-4-2013	Adopt(T)	3-1-2013
331-905-0100	1-16-2013	Amend	3-1-2013	333-002-0370	2-4-2013	Adopt(T)	3-1-2013
331-905-0105	1-16-2013	Amend	3-1-2013	333-002-0375	2-4-2013	Adopt(T)	3-1-2013
331-905-0110	1-16-2013	Amend	3-1-2013	333-002-0380	2-4-2013	Adopt(T)	3-1-2013
331-905-0115	1-16-2013	Amend	3-1-2013	333-004-0000	12-26-2012	Amend	2-1-2013
331-905-0120	1-16-2013	Amend	3-1-2013	333-004-0010	12-26-2012	Amend	2-1-2013
331-910-0010	1-16-2013	Amend	3-1-2013	333-004-0020	12-26-2012	Amend	2-1-2013
331-910-0025	1-16-2013	Amend	3-1-2013	333-004-0030	12-26-2012	Amend	2-1-2013
331-910-0035	1-16-2013	Amend	3-1-2013	333-004-0040	12-26-2012	Amend	2-1-2013
331-910-0050	1-16-2013	Amend	3-1-2013	333-004-0050	12-26-2012	Amend	2-1-2013
331-910-0060	1-16-2013	Amend	3-1-2013	333-004-0060	12-26-2012	Amend	2-1-2013
331-910-0070	1-16-2013	Amend	3-1-2013	333-004-0070	12-26-2012	Amend	2-1-2013
331-910-0080	1-16-2013	Amend	3-1-2013	333-004-0080	12-26-2012	Amend	2-1-2013
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331-915-0000	1-16-2013	Amend	3-1-2013	333-004-0110	12-26-2012	Amend	2-1-2013
331-915-0015	1-16-2013	Amend	3-1-2013	333-004-0120	12-26-2012	Amend	2-1-2013
331-915-0020	1-16-2013	Amend	3-1-2013	333-004-0130	12-26-2012	Amend	2-1-2013
331-915-0025	1-16-2013	Amend	3-1-2013	333-004-0140	12-26-2012	Amend	2-1-2013
331-915-0035	1-16-2013	Amend	3-1-2013	333-004-0150	12-26-2012	Amend	2-1-2013
331-915-0050	1-16-2013	Amend	3-1-2013	333-004-0160	12-26-2012	Amend	2-1-2013
331-915-0055	1-16-2013	Amend	3-1-2013	333-004-0170	12-26-2012	Repeal	2-1-2013
331-915-0060	1-16-2013	Amend	3-1-2013	333-004-0180	12-26-2012	Repeal	2-1-2013
331-915-0065	1-16-2013	Amend	3-1-2013	333-004-0190	12-26-2012	Repeal	2-1-2013
331-915-0070	1-16-2013	Amend	3-1-2013	333-004-0200	12-26-2012	Adopt	2-1-2013
331-915-0075	1-16-2013	Amend	3-1-2013	333-004-0210	12-26-2012	Adopt	2-1-2013
331-915-0080	1-16-2013	Amend	3-1-2013	333-004-0220	12-26-2012	Adopt	2-1-2013
331-915-0085	1-16-2013	Amend	3-1-2013	333-004-0230	12-26-2012	Adopt	2-1-2013
331-920-0000	1-16-2013	Amend	3-1-2013	333-008-0020	10-2-2013	Amend(T)	11-1-2013
331-920-0005	1-16-2013	Amend	3-1-2013	333-008-0090	1-1-2013	Amend	2-1-2013
331-925-0000	1-16-2013	Amend	3-1-2013	333-010-0400	2-4-2013	Adopt	3-1-2013
331-925-0005	1-16-2013	Amend	3-1-2013	333-010-0405	2-4-2013	Adopt	3-1-2013
331-925-0010	1-16-2013	Amend	3-1-2013	333-010-0410	2-4-2013	Adopt	3-1-2013
331-925-0015	1-16-2013	Amend	3-1-2013	333-010-0415	2-4-2013	Adopt	3-1-2013
331-925-0020	1-16-2013	Amend	3-1-2013	333-010-0420	2-4-2013	Adopt	3-1-2013
331-925-0025	1-16-2013	Amend	3-1-2013	333-010-0425	2-4-2013	Adopt	3-1-2013
331-925-0030	1-16-2013	Amend	3-1-2013	333-010-0430	2-4-2013	Adopt	3-1-2013
331-925-0035	1-16-2013	Amend	3-1-2013	333-010-0435	2-4-2013	Adopt	3-1-2013

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333-010-0450	2-4-2013	Adopt	3-1-2013	333-030-0120	1-25-2013	Amend	3-1-2013
333-010-0455	2-4-2013	Adopt	3-1-2013	333-030-0125	1-25-2013	Amend	3-1-2013
333-010-0460	2-4-2013	Adopt	3-1-2013	333-030-0130	1-25-2013	Amend	3-1-2013
333-010-0465	2-4-2013	Adopt	3-1-2013	333-052-0030	12-20-2012	Amend	2-1-2013
333-010-0470	2-4-2013	Adopt	3-1-2013	333-052-0040	12-20-2012	Amend	2-1-2013
333-012-0260	2-4-2013	Repeal	3-1-2013	333-052-0043	12-20-2012	Adopt	2-1-2013
333-012-0262	2-4-2013	Repeal	3-1-2013	333-052-0044	12-20-2012	Adopt	2-1-2013
333-012-0264	2-4-2013	Repeal	3-1-2013	333-052-0050	12-20-2012	Amend	2-1-2013
333-012-0265	2-4-2013	Repeal	3-1-2013	333-052-0060	12-20-2012	Amend	2-1-2013
333-012-0266	2-4-2013	Repeal	3-1-2013	333-052-0065	12-20-2012	Amend	2-1-2013
333-012-0267	2-4-2013	Repeal	3-1-2013	333-052-0070	12-20-2012	Amend	2-1-2013
333-012-0268	2-4-2013	Repeal	3-1-2013	333-052-0080	12-20-2012	Amend	2-1-2013
333-012-0269	2-4-2013	Repeal	3-1-2013	333-052-0090	12-20-2012	Amend	2-1-2013
333-012-0270	2-4-2013	Repeal	3-1-2013	333-052-0100	12-20-2012	Amend	2-1-2013
333-012-0280	2-4-2013	Am. & Ren.	3-1-2013	333-052-0120	12-20-2012	Amend	2-1-2013
333-012-0290	2-4-2013	Am. & Ren.	3-1-2013	333-052-0130	12-20-2012	Amend	2-1-2013
333-012-0300	2-4-2013	Renumber	3-1-2013	333-055-0100	7-1-2013	Adopt(T)	8-1-2013
333-012-0310	2-4-2013	Renumber	3-1-2013	333-055-0105	7-1-2013	Adopt(T)	8-1-2013
333-012-0320	2-4-2013	Renumber	3-1-2013	333-055-0110	7-1-2013	Adopt(T)	8-1-2013
333-012-0330	2-4-2013	Renumber	3-1-2013	333-061-0025	1-25-2013	Amend	3-1-2013
333-012-0340	2-4-2013	Am. & Ren.	3-1-2013	333-061-0030	1-25-2013	Amend	3-1-2013
333-012-0350	2-4-2013	Renumber	3-1-2013	333-061-0032	1-25-2013	Amend	3-1-2013
333-012-0360	2-4-2013	Renumber	3-1-2013	333-061-0034	1-25-2013	Amend	3-1-2013
333-012-0370	2-4-2013	Renumber	3-1-2013	333-061-0036	1-25-2013	Amend	3-1-2013
333-012-0380	2-4-2013	Renumber	3-1-2013	333-061-0040	1-25-2013	Amend	3-1-2013
333-012-0390	2-4-2013	Renumber	3-1-2013	333-061-0042	1-25-2013	Amend	3-1-2013
333-012-0400	2-4-2013	Am. & Ren.	3-1-2013	333-061-0043	1-25-2013	Amend	3-1-2013
333-022-0200	2-4-2013	Adopt	3-1-2013	333-061-0045	1-25-2013	Amend	3-1-2013
333-022-0205	2-4-2013	Adopt	3-1-2013	333-061-0050	1-25-2013	Amend	3-1-2013
333-022-0210	2-4-2013	Adopt	3-1-2013	333-061-0058	1-25-2013	Repeal	3-1-2013
333-022-0300	2-4-2013	Adopt	3-1-2013	333-061-0065	1-25-2013	Amend	3-1-2013
333-022-0305	2-4-2013	Adopt	3-1-2013	333-061-0070	1-25-2013	Amend	3-1-2013
333-022-0310	2-4-2013	Adopt	3-1-2013	333-061-0071	1-25-2013	Amend	3-1-2013
333-022-0315	2-4-2013	Adopt	3-1-2013	333-061-0072	1-25-2013	Amend	3-1-2013
333-030-0015	1-25-2013	Amend	3-1-2013	333-061-0073	1-25-2013	Amend	3-1-2013
333-030-0020	1-25-2013	Amend	3-1-2013	333-061-0074	1-25-2013	Amend	3-1-2013
333-030-0025	1-25-2013	Amend	3-1-2013	333-061-0077	1-25-2013	Amend	3-1-2013
333-030-0030	1-25-2013	Amend	3-1-2013	333-061-0087	1-25-2013	Amend	3-1-2013
333-030-0035	1-25-2013	Amend	3-1-2013	333-061-0090	1-25-2013	Amend	3-1-2013
333-030-0040	1-25-2013	Amend	3-1-2013	333-061-0098	1-25-2013	Amend	3-1-2013
333-030-0045	1-25-2013	Repeal	3-1-2013	333-061-0220	1-25-2013	Amend	3-1-2013
333-030-0050	1-25-2013	Amend	3-1-2013	333-061-0225	1-25-2013	Amend	3-1-2013
333-030-0055	1-25-2013	Amend	3-1-2013	333-061-0228	1-25-2013	Amend	3-1-2013
333-030-0060	1-25-2013	Amend	3-1-2013	333-061-0235	1-25-2013	Amend	3-1-2013
333-030-0065	1-25-2013	Amend	3-1-2013	333-061-0245	1-25-2013	Amend	3-1-2013
333-030-0070	1-25-2013	Amend	3-1-2013	333-061-0250	1-25-2013	Amend	3-1-2013
333-030-0075	1-25-2013	Amend	3-1-2013	333-061-0335	1-25-2013	Amend	3-1-2013
333-030-0080	1-25-2013	Amend	3-1-2013	333-100-0005	1-29-2013	Amend	3-1-2013
333-030-0085	1-25-2013	Amend	3-1-2013	333-102-0115	1-29-2013	Amend	3-1-2013
333-030-0090	1-25-2013	Amend	3-1-2013	333-102-0203	1-29-2013	Amend	3-1-2013
333-030-0095	1-25-2013	Amend	3-1-2013	333-102-0250	1-29-2013	Amend	3-1-2013
333-030-0100	1-25-2013	Amend	3-1-2013	333-102-0285	1-29-2013	Amend	3-1-2013
333-030-0103	1-25-2013	Amend	3-1-2013	333-102-0340	1-29-2013	Amend	3-1-2013
333-030-0105	1-25-2013	Amend	3-1-2013	333-106-0045	1-29-2013	Amend	3-1-2013

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333-106-0305	1-29-2013	Amend	3-1-2013	333-250-0047	1-25-2013	Amend	3-1-2013
333-106-0315	1-29-2013	Amend	3-1-2013	333-250-0048	1-25-2013	Amend	3-1-2013
333-106-0325	1-29-2013	Amend	3-1-2013	333-250-0050	1-25-2013	Amend	3-1-2013
333-106-0370	1-29-2013	Amend	3-1-2013	333-250-0060	1-25-2013	Amend	3-1-2013
333-106-0720	1-29-2013	Amend	3-1-2013	333-250-0070	1-25-2013	Amend	3-1-2013
333-116-0040	1-29-2013	Amend	3-1-2013	333-250-0080	1-25-2013	Amend	3-1-2013
333-116-0050	1-29-2013	Amend	3-1-2013	333-250-0100	1-25-2013	Amend	3-1-2013
333-116-0090	1-29-2013	Amend	3-1-2013	333-255-0000	1-25-2013	Amend	3-1-2013
333-116-0405	1-29-2013	Repeal	3-1-2013	333-255-0010	1-25-2013	Amend	3-1-2013
333-116-0640	1-29-2013	Amend	3-1-2013	333-255-0020	1-25-2013	Amend	3-1-2013
333-116-0660	1-29-2013	Amend	3-1-2013	333-255-0030	1-25-2013	Amend	3-1-2013
333-116-0670	1-29-2013	Amend	3-1-2013	333-255-0040	1-25-2013	Amend	3-1-2013
333-116-0680	1-29-2013	Amend	3-1-2013	333-255-0050	1-25-2013	Amend	3-1-2013
333-116-0683	1-29-2013	Amend	3-1-2013	333-255-0060	1-25-2013	Amend	3-1-2013
333-116-0687	1-29-2013	Amend	3-1-2013	333-255-0070	1-25-2013	Amend	3-1-2013
333-116-0690	1-29-2013	Amend	3-1-2013	333-255-0071	1-25-2013	Amend	3-1-2013
333-116-0700	1-29-2013	Amend	3-1-2013	333-255-0072	1-25-2013	Amend	3-1-2013
333-116-0715	1-29-2013	Amend	3-1-2013	333-255-0073	1-25-2013	Amend	3-1-2013
333-116-0720	1-29-2013	Amend	3-1-2013	333-255-0079	1-25-2013	Amend	3-1-2013
333-116-0740	1-29-2013	Amend	3-1-2013	333-255-0080	1-25-2013	Amend	3-1-2013
333-116-0880	1-29-2013	Amend	3-1-2013	333-255-0081	1-25-2013	Amend	3-1-2013
333-116-0905	1-29-2013	Amend	3-1-2013	333-255-0082	1-25-2013	Amend	3-1-2013
333-118-0150	1-29-2013	Amend	3-1-2013	333-255-0090	1-25-2013	Amend	3-1-2013
333-119-0040	1-29-2013	Amend	3-1-2013	333-255-0091	1-25-2013	Amend	3-1-2013
333-119-0041	1-29-2013	Adopt	3-1-2013	333-255-0092	1-25-2013	Amend	3-1-2013
333-119-0080	1-29-2013	Amend	3-1-2013	333-255-0093	1-25-2013	Amend	3-1-2013
333-120-0630	1-29-2013	Amend	3-1-2013	333-265-0000	1-25-2013	Amend	3-1-2013
333-120-0730	1-29-2013	Amend	3-1-2013	333-265-0010	1-25-2013	Amend	3-1-2013
333-123-0005	1-29-2013	Amend	3-1-2013	333-265-0011	1-25-2013	Adopt	3-1-2013
333-123-0055	1-29-2013	Adopt	3-1-2013	333-265-0014	1-25-2013	Amend	3-1-2013
333-123-0060	1-29-2013	Adopt	3-1-2013	333-265-0015	1-25-2013	Amend	3-1-2013
333-123-0065	1-29-2013	Adopt	3-1-2013	333-265-0023	1-25-2013	Amend	3-1-2013
333-123-0070	1-29-2013	Adopt	3-1-2013	333-265-0024	1-25-2013	Adopt	3-1-2013
333-123-0075	1-29-2013	Adopt	3-1-2013	333-265-0025	1-25-2013	Amend	3-1-2013
333-123-0080	1-29-2013	Adopt	3-1-2013	333-265-0050	1-25-2013	Amend	3-1-2013
333-123-0085	1-29-2013	Adopt	3-1-2013	333-265-0060	1-25-2013	Amend	3-1-2013
333-123-0090	1-29-2013	Adopt	3-1-2013	333-265-0085	1-25-2013	Amend	3-1-2013
333-123-0095	1-29-2013	Adopt	3-1-2013	333-265-0105	1-25-2013	Amend	3-1-2013
333-123-0100	1-29-2013	Adopt	3-1-2013	333-265-0110	1-25-2013	Amend	3-1-2013
333-123-0105	1-29-2013	Adopt	3-1-2013	333-265-0160	1-25-2013	Amend	3-1-2013
333-123-0110	1-29-2013	Adopt	3-1-2013	333-265-0190	1-25-2013	Repeal	3-1-2013
333-123-0115	1-29-2013	Adopt	3-1-2013	333-500-0005	1-1-2013	Amend	2-1-2013
333-200-0010	1-1-2013	Amend	2-1-2013	333-500-0010	1-1-2013	Amend	2-1-2013
333-200-0020	1-1-2013	Amend	2-1-2013	333-500-0031	1-1-2013	Amend	2-1-2013
333-200-0080	1-1-2013	Amend	2-1-2013	333-500-0032	1-1-2013	Amend	2-1-2013
333-200-0090	1-1-2013	Amend	2-1-2013	333-500-0038	1-1-2013	Amend	2-1-2013
333-250-0010	1-25-2013	Amend	3-1-2013	333-505-0001	1-1-2013	Amend	2-1-2013
333-250-0020	1-25-2013	Amend	3-1-2013	333-505-0005	1-1-2013	Amend	2-1-2013
333-250-0030	1-25-2013	Amend	3-1-2013	333-505-0007	1-1-2013	Amend	2-1-2013
333-250-0031	1-25-2013	Adopt	3-1-2013	333-505-0010	1-1-2013	Amend	2-1-2013
333-250-0040	1-25-2013	Amend	3-1-2013	333-505-0030	1-1-2013	Amend	2-1-2013
333-250-0041	1-25-2013	Amend	3-1-2013	333-505-0033	1-1-2013	Amend	2-1-2013
333-250-0042	1-25-2013	Amend	3-1-2013	333-505-0050	1-1-2013	Amend	2-1-2013
333-250-0043	1-25-2013	Amend	3-1-2013	333-505-0060	1-1-2013	Amend	2-1-2013
333-250-0044	1-25-2013	Amend	3-1-2013	333-505-0080	1-1-2013	Amend	2-1-2013

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333-510-0040	1-1-2013	Amend	2-1-2013	335-095-0010	9-13-2013	Amend(T)	10-1-2013
333-520-0035	1-1-2013	Amend	2-1-2013	335-095-0030	12-14-2012	Amend	1-1-2013
333-520-0050	1-1-2013	Amend	2-1-2013	335-095-0030	5-1-2013	Amend	5-1-2013
333-520-0060	1-1-2013	Amend	2-1-2013	335-095-0030	9-13-2013	Amend(T)	10-1-2013
333-520-0070	1-1-2013	Amend	2-1-2013	335-095-0040	12-14-2012	Amend	1-1-2013
333-525-0010	1-1-2013	Repeal	2-1-2013	335-095-0050	12-14-2012	Amend	1-1-2013
334-001-0012	7-1-2013	Amend	7-1-2013	337-010-0026	1-1-2014	Amend	9-1-2013
334-001-0060	1-1-2013	Amend	1-1-2013	337-010-0026	1-1-2014	Amend	9-1-2013
334-010-0005	7-1-2013	Amend	7-1-2013	337-010-0030	7-1-2013	Amend	5-1-2013
334-010-0015	7-1-2013	Amend	7-1-2013	340-041-0007	6-21-2013	Adopt	8-1-2013
334-010-0027	1-1-2013	Amend	1-1-2013	340-041-0028	6-21-2013	Adopt	8-1-2013
334-010-0027	7-1-2013	Amend	7-1-2013	340-041-0061	6-21-2013	Adopt	8-1-2013
334-010-0029	1-1-2013	Amend	1-1-2013	340-048-0055	1-16-2013	Amend	3-1-2013
334-010-0029	7-1-2013	Amend	7-1-2013	340-048-0055	3-25-2013	Amend(T)	5-1-2013
334-010-0046	1-1-2013	Amend	1-1-2013	340-049-0010	3-1-2013	Amend	3-1-2013
334-040-0010	1-1-2013	Amend	1-1-2013	340-049-0015	3-1-2013	Amend	3-1-2013
334-040-0010	7-1-2013	Amend	7-1-2013	340-049-0020	3-1-2013	Amend	3-1-2013
335-005-0010	12-14-2012	Amend	1-1-2013	340-049-0025	3-1-2013	Amend	3-1-2013
335-005-0020	5-1-2013	Amend	5-1-2013	340-049-0030	3-1-2013	Amend	3-1-2013
335-060-0005	12-14-2012	Amend	1-1-2013	340-049-0035	3-1-2013	Amend	3-1-2013
335-060-0005	5-1-2013	Amend	5-1-2013	340-049-0040	3-1-2013	Amend	3-1-2013
335-060-0005	7-1-2013	Amend(T)	8-1-2013	340-049-0055	3-1-2013	Amend	3-1-2013
335-060-0006	12-14-2012	Adopt	1-1-2013	340-049-0060	3-1-2013	Amend	3-1-2013
335-060-0006	5-1-2013	Amend	5-1-2013	340-049-0065	3-1-2013	Amend	3-1-2013
335-060-0006	5-17-2013	Amend(T)	7-1-2013	340-049-0085	3-1-2013	Amend	3-1-2013
335-060-0007	12-14-2012	Adopt	1-1-2013	340-054-0005	12-14-2012	Amend	1-1-2013
335-060-0007	5-1-2013	Amend	5-1-2013	340-054-0010	12-14-2012	Amend	1-1-2013
335-060-0010	5-1-2013	Amend	5-1-2013	340-054-0011	12-14-2012	Adopt	1-1-2013
335-060-0010	5-17-2013	Amend(T)	7-1-2013	340-054-0015	12-14-2012	Amend	1-1-2013
335-060-0010	7-1-2013	Amend(T)	8-1-2013	340-054-0020	12-14-2012	Repeal	1-1-2013
335-070-0010	5-1-2013	Repeal	5-1-2013	340-054-0021	12-14-2012	Repeal	1-1-2013
335-070-0020	5-1-2013	Amend	5-1-2013	340-054-0022	12-14-2012	Amend	1-1-2013
335-070-0020	5-17-2013	Amend(T)	7-1-2013	340-054-0023	12-14-2012	Repeal	1-1-2013
335-070-0030	5-1-2013	Repeal	5-1-2013	340-054-0024	12-14-2012	Repeal	1-1-2013
335-070-0040	5-1-2013	Amend	5-1-2013	340-054-0025	12-14-2012	Amend	1-1-2013
335-070-0050	5-1-2013	Amend	5-1-2013	340-054-0026	12-14-2012	Adopt	1-1-2013
335-070-0050	5-17-2013	Amend(T)	7-1-2013	340-054-0027	12-14-2012	Adopt	1-1-2013
335-070-0055	5-1-2013	Repeal	5-1-2013	340-054-0035	12-14-2012	Repeal	1-1-2013
335-070-0060	5-1-2013	Repeal	5-1-2013	340-054-0036	12-14-2012	Adopt	1-1-2013
335-070-0065	5-1-2013	Repeal	5-1-2013	340-054-0055	12-14-2012	Repeal	1-1-2013
335-070-0070	5-1-2013	Repeal	5-1-2013	340-054-0056	12-14-2012	Adopt	1-1-2013
335-070-0075	5-1-2013	Repeal	5-1-2013	340-054-0060	12-14-2012	Amend	1-1-2013
335-070-0080	5-1-2013	Amend	5-1-2013	340-054-0065	12-14-2012	Amend	1-1-2013
335-070-0080	5-17-2013	Amend(T)	7-1-2013	340-054-0085	12-14-2012	Repeal	1-1-2013
335-070-0085	5-1-2013	Repeal	5-1-2013	340-054-0087	12-14-2012	Repeal	1-1-2013
335-080-0005	12-14-2012	Amend	1-1-2013	340-054-0090	12-14-2012	Repeal	1-1-2013
335-080-0005	5-1-2013	Amend	5-1-2013	340-054-0093	12-14-2012	Repeal	1-1-2013
335-080-0010	12-14-2012	Amend	1-1-2013	340-054-0095	12-14-2012	Repeal	1-1-2013
335-080-0010	5-1-2013	Amend	5-1-2013	340-054-0097	12-14-2012	Repeal	1-1-2013
335-080-0015	12-14-2012	Amend	1-1-2013	340-054-0098	12-14-2012	Repeal	1-1-2013
335-080-0015	5-1-2013	Amend	5-1-2013	340-054-0100	12-14-2012	Amend	1-1-2013
335-080-0025	12-14-2012	Amend	1-1-2013	340-054-0102	12-14-2012	Amend	1-1-2013
335-080-0025	5-1-2013	Amend	5-1-2013	340-054-0104	12-14-2012	Amend	1-1-2013
335-085-0010	7-1-2013	Adopt(T)	8-1-2013	340-054-0106	12-14-2012	Amend	1-1-2013
335-085-0010	9-13-2013	Adopt(T)	10-1-2013	340-054-0108	12-14-2012	Amend	1-1-2013

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340-064-0035	8-29-2013	Amend	10-1-2013	340-228-0621	3-27-2013	Repeal	5-1-2013
340-064-0055	8-29-2013	Amend	10-1-2013	340-228-0623	3-27-2013	Repeal	5-1-2013
340-093-0030	8-29-2013	Amend	10-1-2013	340-228-0625	3-27-2013	Repeal	5-1-2013
340-093-0050	8-29-2013	Amend	10-1-2013	340-228-0627	3-27-2013	Repeal	5-1-2013
340-093-0070	8-29-2013	Amend	10-1-2013	340-228-0629	3-27-2013	Repeal	5-1-2013
340-093-0105	8-29-2013	Amend	10-1-2013	340-228-0631	3-27-2013	Repeal	5-1-2013
340-093-0110	8-29-2013	Amend	10-1-2013	340-228-0633	3-27-2013	Repeal	5-1-2013
340-093-0115	8-29-2013	Amend	10-1-2013	340-228-0635	3-27-2013	Amend	5-1-2013
340-095-0090	8-29-2013	Amend	10-1-2013	340-228-0637	3-27-2013	Amend	5-1-2013
340-095-0095	8-29-2013	Amend	10-1-2013	340-232-0085	3-27-2013	Amend	5-1-2013
340-096-0001	8-29-2013	Amend	10-1-2013	340-238-0040	3-27-2013	Amend	5-1-2013
340-096-0010	8-29-2013	Amend	10-1-2013	340-238-0060	3-27-2013	Amend	5-1-2013
340-096-0040	8-29-2013	Amend	10-1-2013	340-240-0010	12-11-2012	Amend	1-1-2013
340-096-0060	8-29-2013	Amend	10-1-2013	340-240-0030	12-11-2012	Amend	1-1-2013
340-096-0070	8-29-2013	Amend	10-1-2013	340-240-0500	12-11-2012	Adopt	1-1-2013
340-096-0080	8-29-2013	Amend	10-1-2013	340-240-0510	12-11-2012	Adopt	1-1-2013
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340-096-0100	8-29-2013	Amend	10-1-2013	340-240-0530	12-11-2012	Adopt	1-1-2013
340-096-0110	8-29-2013	Amend	10-1-2013	340-240-0540	12-11-2012	Adopt	1-1-2013
340-096-0120	8-29-2013	Amend	10-1-2013	340-240-0550	12-11-2012	Adopt	1-1-2013
340-096-0130	8-29-2013	Amend	10-1-2013	340-240-0560	12-11-2012	Adopt	1-1-2013
340-096-0140	8-29-2013	Amend	10-1-2013	340-240-0570	12-11-2012	Adopt	1-1-2013
340-096-0150	8-29-2013	Amend	10-1-2013	340-240-0580	12-11-2012	Adopt	1-1-2013
340-096-0160	8-29-2013	Adopt	10-1-2013	340-240-0610	12-11-2012	Adopt	1-1-2013
340-096-0170	8-29-2013	Adopt	10-1-2013	340-240-0620	12-11-2012	Adopt	1-1-2013
340-096-0180	8-29-2013	Adopt	10-1-2013	340-240-0630	12-11-2012	Adopt	1-1-2013
340-096-0190	8-29-2013	Adopt	10-1-2013	340-244-0030	3-27-2013	Amend	5-1-2013
340-096-0200	8-29-2013	Adopt	10-1-2013	340-244-0210	3-27-2013	Amend	5-1-2013
340-097-0001	8-29-2013	Amend	10-1-2013	340-244-0220	3-27-2013	Amend	5-1-2013
340-097-0110	8-29-2013	Amend	10-1-2013	340-244-0230	3-27-2013	Repeal	5-1-2013
340-097-0120	8-29-2013	Amend	10-1-2013	340-244-0234	3-27-2013	Amend	5-1-2013
340-102-0011	8-14-2013	Amend(T)	9-1-2013	340-244-0238	3-27-2013	Amend	5-1-2013
340-200-0020	3-27-2013	Amend	5-1-2013	340-244-0239	3-27-2013	Adopt	5-1-2013
340-200-0040	12-10-2012	Amend	1-1-2013	340-244-0240	3-27-2013	Amend	5-1-2013
340-200-0040	12-11-2012	Amend	1-1-2013	340-244-0242	3-27-2013	Amend	5-1-2013
340-200-0040	3-27-2013	Amend	5-1-2013	340-244-0244	3-27-2013	Amend	5-1-2013
340-204-0010	12-11-2012	Amend	1-1-2013	340-244-0246	3-27-2013	Amend	5-1-2013
340-210-0100	3-27-2013	Amend	5-1-2013	340-244-0248	3-27-2013	Amend	5-1-2013
340-216-0020	3-27-2013	Amend	5-1-2013	340-244-0250	3-27-2013	Amend	5-1-2013
340-216-0060	3-27-2013	Amend	5-1-2013	340-253-0000	12-11-2012	Adopt	1-1-2013
340-216-0062	3-27-2013	Amend	5-1-2013	340-253-0040	12-11-2012	Adopt	1-1-2013
340-216-0064	3-27-2013	Amend	5-1-2013	340-253-0060	12-11-2012	Adopt	1-1-2013
340-216-0066	3-27-2013	Amend	5-1-2013	340-253-0100	12-11-2012	Adopt	1-1-2013
340-216-0068	3-27-2013	Adopt	5-1-2013	340-253-0200	12-11-2012	Adopt	1-1-2013
340-220-0030	12-11-2012	Amend	1-1-2013	340-253-0250	12-11-2012	Adopt	1-1-2013
340-220-0040	12-11-2012	Amend	1-1-2013	340-253-0310	12-11-2012	Adopt	1-1-2013
340-220-0050	12-11-2012	Amend	1-1-2013	340-253-0320	12-11-2012	Adopt	1-1-2013
340-225-0090	12-11-2012	Amend	1-1-2013	340-253-0330	12-11-2012	Adopt	1-1-2013
340-228-0602	3-27-2013	Amend	5-1-2013	340-253-0340	12-11-2012	Adopt	1-1-2013
340-228-0606	3-27-2013	Amend	5-1-2013	340-253-0400	12-11-2012	Adopt	1-1-2013
340-228-0609	3-27-2013	Amend	5-1-2013	340-253-0450	12-11-2012	Adopt	1-1-2013
340-228-0611	3-27-2013	Repeal	5-1-2013	340-253-0500	12-11-2012	Adopt	1-1-2013
340-228-0613	3-27-2013	Repeal	5-1-2013	340-253-0600	12-11-2012	Adopt	1-1-2013
340-228-0615	3-27-2013	Repeal	5-1-2013	340-253-0630	12-11-2012	Adopt	1-1-2013

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340-253-0650	12-11-2012	Adopt	1-1-2013	409-021-0130	2-1-2013	Amend	3-1-2013
340-253-1000	12-11-2012	Adopt	1-1-2013	409-025-0160	2-1-2013	Amend	3-1-2013
340-253-1010	12-11-2012	Adopt	1-1-2013	409-030-0100	7-1-2014	Adopt	11-1-2013
340-253-1020	12-11-2012	Adopt	1-1-2013	409-030-0110	7-1-2014	Adopt	11-1-2013
340-253-1030	12-11-2012	Adopt	1-1-2013	409-030-0120	7-1-2014	Adopt	11-1-2013
340-253-3000	12-11-2012	Adopt	1-1-2013	409-030-0130	7-1-2014	Adopt	11-1-2013
340-253-3010	12-11-2012	Adopt	1-1-2013	409-030-0140	7-1-2014	Adopt	11-1-2013
340-253-3020	12-11-2012	Adopt	1-1-2013	409-030-0150	7-1-2014	Adopt	11-1-2013
340-253-3030	12-11-2012	Adopt	1-1-2013	409-030-0160	7-1-2014	Adopt	11-1-2013
340-253-3040	12-11-2012	Adopt	1-1-2013	409-030-0170	7-1-2014	Adopt	11-1-2013
340-253-3050	12-11-2012	Adopt	1-1-2013	409-030-0180	7-1-2014	Adopt	11-1-2013
340-262-1000	12-11-2012	Adopt	1-1-2013	409-030-0190	7-1-2014	Adopt	11-1-2013
340-264-0040	12-11-2012	Amend	1-1-2013	409-030-0200	7-1-2014	Adopt	11-1-2013
340-264-0078	12-11-2012	Amend	1-1-2013	409-030-0210	7-1-2014	Adopt	11-1-2013
340-264-0080	12-11-2012	Amend	1-1-2013	409-030-0220	7-1-2014	Adopt	11-1-2013
340-264-0100	12-11-2012	Amend	1-1-2013	409-030-0230	7-1-2014	Adopt	11-1-2013
340-264-0175	12-11-2012	Adopt	1-1-2013	409-030-0240	7-1-2014	Adopt	11-1-2013
345-024-0550	9-30-2013	Amend	11-1-2013	409-030-0250	7-1-2014	Adopt	11-1-2013
345-024-0590	9-30-2013	Amend	11-1-2013	409-035-0020	2-1-2013	Amend	3-1-2013
345-024-0590	10-10-2013	Amend	11-1-2013	409-037-0000	9-4-2013	Adopt	10-1-2013
345-029-0060	1-28-2013	Amend	3-1-2013	409-037-0010	9-4-2013	Adopt	10-1-2013
345-060-0004	1-28-2013	Amend	3-1-2013	409-037-0020	9-4-2013	Adopt	10-1-2013
345-060-0007	1-28-2013	Amend	3-1-2013	409-037-0030	9-4-2013	Adopt	10-1-2013
345-060-0025	1-28-2013	Amend	3-1-2013	409-037-0040	9-4-2013	Adopt	10-1-2013
407-007-0200	8-1-2013	Amend	9-1-2013	409-037-0050	9-4-2013	Adopt	10-1-2013
407-007-0210	2-5-2013	Amend(T)	3-1-2013	409-037-0060	9-4-2013	Adopt	10-1-2013
407-007-0210	8-1-2013	Amend	9-1-2013	409-037-0070	9-4-2013	Adopt	10-1-2013
407-007-0210(T)	8-1-2013	Repeal	9-1-2013	409-037-0080	9-4-2013	Adopt	10-1-2013
407-007-0220	8-1-2013	Amend	9-1-2013	409-055-0030	4-1-2013	Amend	5-1-2013
407-007-0230	8-1-2013	Amend	9-1-2013	409-055-0030	9-3-2013	Amend	10-1-2013
407-007-0240	8-1-2013	Amend	9-1-2013	409-055-0030	1-1-2014	Amend	11-1-2013
407-007-0250	8-1-2013	Amend	9-1-2013	409-055-0030(T)	4-1-2013	Repeal	5-1-2013
407-007-0275	8-1-2013	Amend	9-1-2013	409-055-0040	1-1-2014	Amend	11-1-2013
407-007-0277	8-1-2013	Amend	9-1-2013	409-055-0050	1-1-2014	Amend	11-1-2013
407-007-0280	8-1-2013	Amend	9-1-2013	409-055-0060	1-1-2014	Amend	11-1-2013
407-007-0290	2-5-2013	Amend(T)	3-1-2013	409-055-0070	1-1-2014	Amend	11-1-2013
407-007-0290	8-1-2013	Amend	9-1-2013	409-060-0100	2-1-2013	Adopt	3-1-2013
407-007-0290(T)	8-1-2013	Repeal	9-1-2013	409-060-0110	2-1-2013	Adopt	3-1-2013
407-007-0320	8-1-2013	Amend	9-1-2013	409-060-0120	2-1-2013	Adopt	3-1-2013
407-025-0000	10-1-2013	Adopt	11-1-2013	409-060-0130	2-1-2013	Adopt	3-1-2013
407-025-0010	10-1-2013	Adopt	11-1-2013	409-060-0140	2-1-2013	Adopt	3-1-2013
407-025-0020	10-1-2013	Adopt	11-1-2013	409-060-0150	2-1-2013	Adopt	3-1-2013
407-025-0030	10-1-2013	Adopt	11-1-2013	410-050-0861	4-1-2013	Amend(T)	5-1-2013
407-025-0040	10-1-2013	Adopt	11-1-2013	410-050-0861	8-1-2013	Amend	9-1-2013
407-025-0050	10-1-2013	Adopt	11-1-2013	410-050-0861(T)	8-1-2013	Repeal	9-1-2013
407-025-0060	10-1-2013	Adopt	11-1-2013	410-050-0870	10-1-2013	Amend(T)	11-1-2013
407-025-0070	10-1-2013	Adopt	11-1-2013	410-120-0000	7-1-2013	Amend(T)	8-1-2013
407-025-0080	10-1-2013	Adopt	11-1-2013	410-120-0006	12-1-2012	Amend(T)	1-1-2013
407-025-0090	10-1-2013	Adopt	11-1-2013	410-120-0006	1-1-2013	Amend	2-1-2013
407-025-0100	10-1-2013	Adopt	11-1-2013	410-120-0006	1-1-2013	Amend(T)	2-1-2013
407-025-0110	10-1-2013	Adopt	11-1-2013	410-120-0006	1-8-2013	Amend(T)	2-1-2013
407-025-0120	10-1-2013	Adopt	11-1-2013	410-120-0006	1-30-2013	Amend(T)	3-1-2013
407-035-0000	8-1-2013	Repeal	9-1-2013	410-120-0006	2-20-2013	Amend(T)	4-1-2013
407-035-0005	8-1-2013	Repeal	9-1-2013	410-120-0006	3-1-2013	Amend(T)	4-1-2013
407-035-0010	8-1-2013	Repeal	9-1-2013	410-120-0006	4-1-2013	Amend	5-1-2013
407-035-0015	8-1-2013	Repeal	9-1-2013	410-120-0006	4-10-2013	Amend	5-1-2013

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410-120-0006	5-29-2013	Amend	7-1-2013	410-123-1260	4-1-2013	Amend	5-1-2013
410-120-0006	6-27-2013	Amend	8-1-2013	410-123-1260	7-1-2013	Amend(T)	8-1-2013
410-120-0006	8-1-2013	Amend(T)	9-1-2013	410-123-1490	4-1-2013	Amend	5-1-2013
410-120-0006	8-23-2013	Amend(T)	10-1-2013	410-123-1490	7-1-2013	Amend(T)	8-1-2013
410-120-0006	10-1-2013	Amend	11-1-2013	410-123-1600	7-1-2013	Amend(T)	8-1-2013
410-120-0006	10-1-2013	Amend(T)	11-1-2013	410-123-1620	4-1-2013	Amend	5-1-2013
410-120-0006	10-2-2013	Amend(T)	11-1-2013	410-125-0450	9-3-2013	Amend	10-1-2013
410-120-0006(T)	12-1-2012	Suspend	1-1-2013	410-127-0020	6-27-2013	Amend	8-1-2013
410-120-0006(T)	1-1-2013	Repeal	2-1-2013	410-127-0040	6-27-2013	Amend	8-1-2013
410-120-0006(T)	1-1-2013	Suspend	2-1-2013	410-127-0060	6-27-2013	Amend	8-1-2013
410-120-0006(T)	1-8-2013	Suspend	2-1-2013	410-127-0080	6-27-2013	Amend	8-1-2013
410-120-0006(T)	1-30-2013	Suspend	3-1-2013	410-130-0005	3-29-2013	Adopt(T)	5-1-2013
410-120-0006(T)	2-20-2013	Suspend	4-1-2013	410-130-0005	9-25-2013	Adopt	11-1-2013
410-120-0006(T)	3-1-2013	Suspend	4-1-2013	410-130-0180	12-28-2012	Amend(T)	2-1-2013
410-120-0006(T)	5-29-2013	Repeal	7-1-2013	410-130-0180	6-25-2013	Amend	8-1-2013
410-120-0006(T)	8-23-2013	Suspend	10-1-2013	410-130-0240	12-28-2012	Amend(T)	2-1-2013
410-120-0006(T)	10-2-2013	Suspend	11-1-2013	410-130-0240	6-25-2013	Amend	8-1-2013
410-120-0025	9-12-2013	Amend	10-1-2013	410-130-0255	3-29-2013	Amend(T)	5-1-2013
410-120-0045	9-12-2013	Amend	10-1-2013	410-130-0255	9-25-2013	Amend	11-1-2013
410-120-1160	7-1-2013	Amend(T)	8-1-2013	410-136-0030	7-1-2013	Repeal	8-1-2013
410-120-1200	7-1-2013	Amend(T)	8-1-2013	410-136-0040	7-1-2013	Repeal	8-1-2013
410-120-1210	1-1-2013	Amend(T)	2-1-2013	410-136-0045	7-1-2013	Repeal	8-1-2013
410-120-1210	6-27-2013	Amend	8-1-2013	410-136-0050	7-1-2013	Repeal	8-1-2013
410-120-1210	7-1-2013	Amend(T)	8-1-2013	410-136-0060	7-1-2013	Repeal	8-1-2013
410-120-1340	3-29-2013	Amend(T)	5-1-2013	410-136-0070	7-1-2013	Repeal	8-1-2013
410-120-1340	9-25-2013	Amend	11-1-2013	410-136-0080	7-1-2013	Repeal	8-1-2013
410-120-1855	7-1-2013	Amend(T)	8-1-2013	410-136-0100	7-1-2013	Repeal	8-1-2013
410-121-0030	1-1-2013	Amend	2-1-2013	410-136-0120	7-1-2013	Repeal	8-1-2013
410-121-0030	2-21-2013	Amend(T)	4-1-2013	410-136-0140	7-1-2013	Repeal	8-1-2013
410-121-0030	5-1-2013	Amend(T)	6-1-2013	410-136-0160	7-1-2013	Repeal	8-1-2013
410-121-0030	8-16-2013	Amend	10-1-2013	410-136-0180	7-1-2013	Repeal	8-1-2013
410-121-0030(T)	1-1-2013	Repeal	2-1-2013	410-136-0200	7-1-2013	Repeal	8-1-2013
410-121-0030(T)	5-1-2013	Suspend	6-1-2013	410-136-0220	7-1-2013	Repeal	8-1-2013
410-121-0033	1-1-2013	Amend	2-1-2013	410-136-0240	7-1-2013	Repeal	8-1-2013
410-121-0033(T)	1-1-2013	Repeal	2-1-2013	410-136-0245	7-1-2013	Repeal	8-1-2013
410-121-0040	1-1-2013	Amend	2-1-2013	410-136-0260	7-1-2013	Repeal	8-1-2013
410-121-0040	2-21-2013	Amend(T)	4-1-2013	410-136-0280	7-1-2013	Repeal	8-1-2013
410-121-0040	5-1-2013	Amend(T)	6-1-2013	410-136-0300	7-1-2013	Repeal	8-1-2013
410-121-0040	8-16-2013	Amend	10-1-2013	410-136-0320	7-1-2013	Repeal	8-1-2013
410-121-0040(T)	1-1-2013	Repeal	2-1-2013	410-136-0340	7-1-2013	Repeal	8-1-2013
410-121-0040(T)	5-1-2013	Suspend	6-1-2013	410-136-0350	7-1-2013	Repeal	8-1-2013
410-121-0100	1-1-2013	Amend	2-1-2013	410-136-0360	7-1-2013	Repeal	8-1-2013
410-121-0100(T)	1-1-2013	Repeal	2-1-2013	410-136-0420	7-1-2013	Repeal	8-1-2013
410-121-0111	1-1-2013	Adopt	2-1-2013	410-136-0440	7-1-2013	Repeal	8-1-2013
410-121-0111	8-1-2013	Amend(T)	9-1-2013	410-136-0800	7-1-2013	Repeal	8-1-2013
410-121-0111(T)	1-1-2013	Repeal	2-1-2013	410-136-0820	7-1-2013	Repeal	8-1-2013
410-121-0190	12-28-2012	Amend(T)	2-1-2013	410-136-0840	7-1-2013	Repeal	8-1-2013
410-121-0190	6-25-2013	Amend	8-1-2013	410-136-0860	7-1-2013	Repeal	8-1-2013
410-122-0186	12-27-2012	Amend	2-1-2013	410-136-3000	7-1-2013	Adopt	8-1-2013
410-122-0325	12-27-2012	Amend	2-1-2013	410-136-3020	7-1-2013	Adopt	8-1-2013
410-123-1060	4-1-2013	Amend	5-1-2013	410-136-3040	7-1-2013	Adopt	8-1-2013
410-123-1160	4-1-2013	Amend	5-1-2013	410-136-3060	7-1-2013	Adopt	8-1-2013
410-123-1160	7-1-2013	Amend(T)	8-1-2013	410-136-3080	7-1-2013	Adopt	8-1-2013
410-123-1200	4-1-2013	Amend	5-1-2013	410-136-3100	7-1-2013	Adopt	8-1-2013
410-123-1220	4-1-2013	Amend	5-1-2013	410-136-3120	7-1-2013	Adopt	8-1-2013
410-123-1240	4-1-2013	Amend	5-1-2013	410-136-3140	7-1-2013	Adopt	8-1-2013

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410-136-3180	7-1-2013	Adopt	8-1-2013	410-180-0325	8-2-2013	Adopt(T)	9-1-2013
410-136-3200	7-1-2013	Adopt	8-1-2013	410-180-0327	8-2-2013	Adopt(T)	9-1-2013
410-136-3220	7-1-2013	Adopt	8-1-2013	410-180-0340	8-2-2013	Adopt(T)	9-1-2013
410-136-3240	7-1-2013	Adopt	8-1-2013	410-180-0345	8-2-2013	Adopt(T)	9-1-2013
410-136-3260	7-1-2013	Adopt	8-1-2013	410-180-0350	8-2-2013	Adopt(T)	9-1-2013
410-136-3280	7-1-2013	Adopt	8-1-2013	410-180-0355	8-2-2013	Adopt(T)	9-1-2013
410-136-3300	7-1-2013	Adopt	8-1-2013	410-180-0360	8-2-2013	Adopt(T)	9-1-2013
410-136-3320	7-1-2013	Adopt	8-1-2013	410-180-0370	8-2-2013	Adopt(T)	9-1-2013
410-136-3340	7-1-2013	Adopt	8-1-2013	410-180-0375	8-2-2013	Adopt(T)	9-1-2013
410-136-3360	7-1-2013	Adopt	8-1-2013	410-180-0380	8-2-2013	Adopt(T)	9-1-2013
410-138-0390	4-26-2013	Amend	6-1-2013	410-200-0010	10-1-2013	Adopt(T)	11-1-2013
410-141-0262	3-1-2013	Amend(T)	4-1-2013	410-200-0015	10-1-2013	Adopt(T)	11-1-2013
410-141-0262	4-10-2013	Amend(T)	5-1-2013	410-200-0100	10-1-2013	Adopt(T)	11-1-2013
410-141-0262	8-26-2013	Amend	10-1-2013	410-200-0105	10-1-2013	Adopt(T)	11-1-2013
410-141-0520	3-21-2013	Amend	5-1-2013	410-200-0110	10-1-2013	Adopt(T)	11-1-2013
410-141-0520	10-1-2013	Amend(T)	11-1-2013	410-200-0111	10-1-2013	Adopt(T)	11-1-2013
410-141-3060	1-1-2013	Amend(T)	2-1-2013	410-200-0115	10-1-2013	Adopt(T)	11-1-2013
410-141-3060	2-7-2013	Amend(T)	3-1-2013	410-200-0120	10-1-2013	Adopt(T)	11-1-2013
410-141-3060	6-27-2013	Amend	8-1-2013	410-200-0125	10-1-2013	Adopt(T)	11-1-2013
410-141-3060	7-9-2013	Amend(T)	8-1-2013	410-200-0130	10-1-2013	Adopt(T)	11-1-2013
410-141-3060(T)	2-7-2013	Suspend	3-1-2013	410-200-0135	10-1-2013	Adopt(T)	11-1-2013
410-141-3080	4-23-2013	Amend	6-1-2013	410-200-0140	10-1-2013	Adopt(T)	11-1-2013
410-141-3080	6-11-2013	Amend	7-1-2013	410-200-0145	10-1-2013	Adopt(T)	11-1-2013
410-141-3080	7-9-2013	Amend(T)	8-1-2013	410-200-0146	10-1-2013	Adopt(T)	11-1-2013
410-141-3160	1-4-2013	Amend(T)	2-1-2013	410-200-0200	10-1-2013	Adopt(T)	11-1-2013
410-141-3160	6-27-2013	Amend	8-1-2013	410-200-0205	10-1-2013	Adopt(T)	11-1-2013
410-141-3220	7-9-2013	Amend(T)	8-1-2013	410-200-0210	10-1-2013	Adopt(T)	11-1-2013
410-141-3260	4-26-2013	Amend	6-1-2013	410-200-0215	10-1-2013	Adopt(T)	11-1-2013
410-141-3262	3-1-2013	Amend(T)	4-1-2013	410-200-0220	10-1-2013	Adopt(T)	11-1-2013
410-141-3262	4-10-2013	Amend(T)	5-1-2013	410-200-0225	10-1-2013	Adopt(T)	11-1-2013
410-141-3262	8-26-2013	Amend	10-1-2013	410-200-0230	10-1-2013	Adopt(T)	11-1-2013
410-141-3420	7-9-2013	Amend(T)	8-1-2013	410-200-0235	10-1-2013	Adopt(T)	11-1-2013
410-142-0020	5-1-2013	Amend(T)	5-1-2013	410-200-0240	10-1-2013	Adopt(T)	11-1-2013
410-142-0020	6-27-2013	Amend	8-1-2013	410-200-0305	10-1-2013	Adopt(T)	11-1-2013
410-142-0290	5-1-2013	Amend(T)	5-1-2013	410-200-0310	10-1-2013	Adopt(T)	11-1-2013
410-142-0290	6-27-2013	Amend	8-1-2013	410-200-0315	10-1-2013	Adopt(T)	11-1-2013
410-147-0360	3-1-2013	Amend(T)	4-1-2013	410-200-0400	10-1-2013	Adopt(T)	11-1-2013
410-147-0360	8-26-2013	Amend	10-1-2013	410-200-0405	10-1-2013	Adopt(T)	11-1-2013
410-147-0400	1-1-2013	Amend(T)	2-1-2013	410-200-0406	10-1-2013	Adopt(T)	11-1-2013
410-147-0400	3-1-2013	Amend(T)	4-1-2013	410-200-0410	10-1-2013	Adopt(T)	11-1-2013
410-147-0400	6-27-2013	Amend	8-1-2013	410-200-0415	10-1-2013	Adopt(T)	11-1-2013
410-147-0400(T)	3-1-2013	Suspend	4-1-2013	410-200-0420	10-1-2013	Adopt(T)	11-1-2013
410-165-0000	4-26-2013	Amend(T)	6-1-2013	410-200-0425	10-1-2013	Adopt(T)	11-1-2013
410-165-0020	4-26-2013	Amend(T)	6-1-2013	410-200-0435	10-1-2013	Adopt(T)	11-1-2013
410-165-0040	4-26-2013	Amend(T)	6-1-2013	410-200-0440	10-1-2013	Adopt(T)	11-1-2013
410-165-0060	4-26-2013	Amend(T)	6-1-2013	410-200-0500	10-1-2013	Adopt(T)	11-1-2013
410-165-0080	4-26-2013	Amend(T)	6-1-2013	410-200-0505	10-1-2013	Adopt(T)	11-1-2013
410-165-0100	4-26-2013	Amend(T)	6-1-2013	410-200-0510	10-1-2013	Adopt(T)	11-1-2013
410-165-0120	4-26-2013	Amend(T)	6-1-2013	410-200-0515	10-1-2013	Adopt(T)	11-1-2013
410-165-0140	4-26-2013	Amend(T)	6-1-2013	411-001-0500	4-2-2013	Adopt	5-1-2013
410-180-0300	8-2-2013	Adopt(T)	9-1-2013	411-001-0500(T)	4-2-2013	Repeal	5-1-2013
410-180-0305	8-2-2013	Adopt(T)	9-1-2013	411-001-0510	4-2-2013	Adopt	5-1-2013
410-180-0310	8-2-2013	Adopt(T)	9-1-2013	411-001-0510	7-1-2013	Amend(T)	8-1-2013
410-180-0312	8-2-2013	Adopt(T)	9-1-2013	411-001-0520	4-2-2013	Adopt	5-1-2013
410-180-0315	8-2-2013	Adopt(T)	9-1-2013	411-001-0520	6-1-2013	Amend	7-1-2013

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411-015-0008	7-1-2013	Amend(T)	8-1-2013	411-034-0055	7-1-2013	Amend(T)	8-1-2013
411-015-0015	7-1-2013	Amend(T)	8-1-2013	411-034-0070	7-1-2013	Amend(T)	8-1-2013
411-015-0100	7-1-2013	Amend(T)	8-1-2013	411-034-0090	7-1-2013	Amend(T)	8-1-2013
411-020-0002	11-28-2012	Amend	1-1-2013	411-040-0000	7-1-2013	Amend(T)	8-1-2013
411-020-0002(T)	11-28-2012	Repeal	1-1-2013	411-045-0010	7-1-2013	Amend(T)	8-1-2013
411-020-0030	11-28-2012	Amend	1-1-2013	411-045-0050	7-1-2013	Amend(T)	8-1-2013
411-020-0030(T)	11-28-2012	Repeal	1-1-2013	411-048-0000	4-15-2013	Repeal	5-1-2013
411-020-0085	11-28-2012	Amend	1-1-2013	411-048-0010	4-15-2013	Repeal	5-1-2013
411-020-0085(T)	11-28-2012	Repeal	1-1-2013	411-048-0020	4-15-2013	Repeal	5-1-2013
411-020-0123	11-28-2012	Adopt	1-1-2013	411-048-0030	4-15-2013	Repeal	5-1-2013
411-020-0123(T)	11-28-2012	Repeal	1-1-2013	411-048-0040	4-15-2013	Repeal	5-1-2013
411-020-0126	11-28-2012	Adopt	1-1-2013	411-048-0050	4-15-2013	Repeal	5-1-2013
411-020-0126(T)	11-28-2012	Repeal	1-1-2013	411-048-0060	4-15-2013	Repeal	5-1-2013
411-028-0000	7-1-2013	Adopt(T)	8-1-2013	411-048-0070	4-15-2013	Repeal	5-1-2013
411-028-0010	7-1-2013	Adopt(T)	8-1-2013	411-048-0080	4-15-2013	Repeal	5-1-2013
411-028-0020	7-1-2013	Adopt(T)	8-1-2013	411-048-0100	4-15-2013	Repeal	5-1-2013
411-028-0030	7-1-2013	Adopt(T)	8-1-2013	411-048-0120	4-15-2013	Repeal	5-1-2013
411-028-0040	7-1-2013	Adopt(T)	8-1-2013	411-048-0130	4-15-2013	Repeal	5-1-2013
411-028-0050	7-1-2013	Adopt(T)	8-1-2013	411-048-0150	4-15-2013	Adopt	5-1-2013
411-030-0002	5-23-2013	Amend(T)	7-1-2013	411-048-0150	7-1-2013	Amend(T)	8-1-2013
411-030-0020	5-23-2013	Amend(T)	7-1-2013	411-048-0160	4-15-2013	Adopt	5-1-2013
411-030-0020	7-1-2013	Amend(T)	8-1-2013	411-048-0160	7-1-2013	Amend(T)	8-1-2013
411-030-0020(T)	7-1-2013	Suspend	8-1-2013	411-048-0170	4-15-2013	Adopt	5-1-2013
411-030-0033	5-23-2013	Amend(T)	7-1-2013	411-048-0170	7-1-2013	Amend(T)	8-1-2013
411-030-0040	5-23-2013	Amend(T)	7-1-2013	411-048-0180	4-15-2013	Adopt	5-1-2013
411-030-0050	5-23-2013	Amend(T)	7-1-2013	411-048-0190	4-15-2013	Adopt	5-1-2013
411-030-0055	5-23-2013	Amend(T)	7-1-2013	411-048-0200	4-15-2013	Adopt	5-1-2013
411-030-0070	7-1-2013	Amend(T)	8-1-2013	411-048-0210	4-15-2013	Adopt	5-1-2013
411-030-0080	3-26-2013	Amend	5-1-2013	411-048-0220	4-15-2013	Adopt	5-1-2013
411-030-0080	5-23-2013	Amend(T)	7-1-2013	411-048-0230	4-15-2013	Adopt	5-1-2013
411-030-0080(T)	3-26-2013	Repeal	5-1-2013	411-048-0240	4-15-2013	Adopt	5-1-2013
411-030-0090	5-23-2013	Amend(T)	7-1-2013	411-048-0250	4-15-2013	Adopt	5-1-2013
411-030-0100	7-1-2013	Amend(T)	8-1-2013	411-050-0400	9-1-2013	Am. & Ren.	10-1-2013
411-031-0020	3-26-2013	Amend	5-1-2013	411-050-0401	9-1-2013	Am. & Ren.	10-1-2013
411-031-0020	7-1-2013	Amend(T)	8-1-2013	411-050-0405	5-23-2013	Amend(T)	7-1-2013
411-031-0020(T)	3-26-2013	Repeal	5-1-2013	411-050-0405	9-1-2013	Am. & Ren.	10-1-2013
411-031-0030	3-26-2013	Amend	5-1-2013	411-050-0405(T)	9-1-2013	Repeal	10-1-2013
411-031-0040	3-26-2013	Amend	5-1-2013	411-050-0408	9-1-2013	Am. & Ren.	10-1-2013
411-031-0040	7-1-2013	Amend(T)	8-1-2013	411-050-0410	9-1-2013	Am. & Ren.	10-1-2013
411-031-0040(T)	3-26-2013	Repeal	5-1-2013	411-050-0412	9-1-2013	Am. & Ren.	10-1-2013
411-031-0050	3-26-2013	Amend	5-1-2013	411-050-0415	9-1-2013	Am. & Ren.	10-1-2013
411-032-0000	7-1-2013	Amend	7-1-2013	411-050-0420	9-1-2013	Am. & Ren.	10-1-2013
411-032-0001	7-1-2013	Amend	7-1-2013	411-050-0430	9-1-2013	Am. & Ren.	10-1-2013
411-032-0005	7-1-2013	Amend	7-1-2013	411-050-0435	9-1-2013	Am. & Ren.	10-1-2013
411-032-0010	7-1-2013	Amend	7-1-2013	411-050-0440	9-1-2013	Am. & Ren.	10-1-2013
411-032-0013	7-1-2013	Repeal	7-1-2013	411-050-0443	9-1-2013	Am. & Ren.	10-1-2013
411-032-0015	7-1-2013	Amend	7-1-2013	411-050-0444	9-1-2013	Am. & Ren.	10-1-2013
411-032-0020	7-1-2013	Amend	7-1-2013	411-050-0445	9-1-2013	Am. & Ren.	10-1-2013
411-032-0044	7-1-2013	Amend	7-1-2013	411-050-0447	9-1-2013	Am. & Ren.	10-1-2013
411-034-0000	7-1-2013	Amend(T)	8-1-2013	411-050-0450	9-1-2013	Am. & Ren.	10-1-2013
411-034-0010	7-1-2013	Amend(T)	8-1-2013	411-050-0455	9-1-2013	Am. & Ren.	10-1-2013
411-034-0020	7-1-2013	Amend(T)	8-1-2013	411-050-0460	9-1-2013	Am. & Ren.	10-1-2013
411-034-0030	7-1-2013	Amend(T)	8-1-2013	411-050-0465	9-1-2013	Am. & Ren.	10-1-2013
411-034-0035	7-1-2013	Amend(T)	8-1-2013	411-050-0480	9-1-2013	Am. & Ren.	10-1-2013
411-034-0040	7-1-2013	Amend(T)	8-1-2013	411-050-0481	9-1-2013	Am. & Ren.	10-1-2013

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411-050-0485	9-1-2013	Am. & Ren.	10-1-2013	411-308-0050	7-1-2013	Amend(T)	8-1-2013
411-050-0487	9-1-2013	Am. & Ren.	10-1-2013	411-308-0060	7-1-2013	Amend(T)	8-1-2013
411-050-0490	9-1-2013	Repeal	10-1-2013	411-308-0070	7-1-2013	Amend(T)	8-1-2013
411-050-0491	9-1-2013	Am. & Ren.	10-1-2013	411-308-0080	7-1-2013	Amend(T)	8-1-2013
411-050-0662	9-1-2013	Adopt	10-1-2013	411-308-0100	7-1-2013	Amend(T)	8-1-2013
411-065-0000	7-1-2013	Amend(T)	8-1-2013	411-308-0120	7-1-2013	Amend(T)	8-1-2013
411-069-0000	10-7-2013	Amend(T)	11-1-2013	411-320-0020	7-1-2013	Amend(T)	8-1-2013
411-069-0010	10-7-2013	Amend(T)	11-1-2013	411-320-0030	7-1-2013	Amend(T)	8-1-2013
411-069-0020	10-7-2013	Amend(T)	11-1-2013	411-320-0040	7-1-2013	Amend(T)	8-1-2013
411-069-0030	10-7-2013	Amend(T)	11-1-2013	411-320-0060	7-1-2013	Amend(T)	8-1-2013
411-069-0040	10-7-2013	Amend(T)	11-1-2013	411-320-0070	7-1-2013	Amend(T)	8-1-2013
411-069-0050	10-7-2013	Amend(T)	11-1-2013	411-320-0090	7-1-2013	Amend(T)	8-1-2013
411-069-0060	10-7-2013	Amend(T)	11-1-2013	411-320-0100	7-1-2013	Amend(T)	8-1-2013
411-069-0070	10-7-2013	Amend(T)	11-1-2013	411-320-0110	7-1-2013	Amend(T)	8-1-2013
411-069-0080	10-7-2013	Amend(T)	11-1-2013	411-320-0120	7-1-2013	Amend(T)	8-1-2013
411-069-0090	10-7-2013	Amend(T)	11-1-2013	411-320-0130	7-1-2013	Amend(T)	8-1-2013
411-069-0100	10-7-2013	Amend(T)	11-1-2013	411-320-0175	4-2-2013	Amend	5-1-2013
411-069-0110	10-7-2013	Amend(T)	11-1-2013	411-325-0020	7-1-2013	Amend(T)	8-1-2013
411-069-0120	10-7-2013	Amend(T)	11-1-2013	411-325-0390	7-1-2013	Amend(T)	8-1-2013
411-069-0130	10-7-2013	Amend(T)	11-1-2013	411-325-0400	7-1-2013	Amend(T)	8-1-2013
411-069-0140	10-7-2013	Amend(T)	11-1-2013	411-325-0440	7-1-2013	Amend(T)	8-1-2013
411-069-0150	10-7-2013	Amend(T)	11-1-2013	411-328-0560	7-1-2013	Amend(T)	8-1-2013
411-069-0160	10-7-2013	Amend(T)	11-1-2013	411-328-0790	7-1-2013	Amend(T)	8-1-2013
411-069-0170	10-7-2013	Amend(T)	11-1-2013	411-328-0800	7-1-2013	Amend(T)	8-1-2013
411-070-0005	3-1-2013	Amend	4-1-2013	411-330-0020	1-4-2013	Amend	2-1-2013
411-070-0005	10-7-2013	Amend(T)	11-1-2013	411-330-0020	7-1-2013	Amend(T)	8-1-2013
411-070-0005(T)	3-1-2013	Repeal	4-1-2013	411-330-0020(T)	1-4-2013	Repeal	2-1-2013
411-070-0033	7-1-2013	Amend(T)	8-1-2013	411-330-0030	7-1-2013	Amend(T)	8-1-2013
411-070-0091	3-1-2013	Amend	4-1-2013	411-330-0040	7-1-2013	Amend(T)	8-1-2013
411-070-0091(T)	3-1-2013	Repeal	4-1-2013	411-330-0050	7-1-2013	Amend(T)	8-1-2013
411-070-0140	5-1-2013	Amend(T)	6-1-2013	411-330-0060	7-1-2013	Amend(T)	8-1-2013
411-070-0140	10-1-2013	Amend	11-1-2013	411-330-0065	1-4-2013	Adopt	2-1-2013
411-070-0140(T)	10-1-2013	Repeal	11-1-2013	411-330-0065(T)	1-4-2013	Repeal	2-1-2013
411-070-0300	10-7-2013	Amend(T)	11-1-2013	411-330-0070	7-1-2013	Amend(T)	8-1-2013
411-070-0437	10-7-2013	Adopt(T)	11-1-2013	411-330-0080	7-1-2013	Amend(T)	8-1-2013
411-070-0442	10-7-2013	Amend(T)	11-1-2013	411-330-0090	7-1-2013	Amend(T)	8-1-2013
411-070-0442	10-7-2013	Amend(T)	11-1-2013	411-330-0110	7-1-2013	Amend(T)	8-1-2013
411-070-0442(T)	10-7-2013	Suspend	11-1-2013	411-340-0020	4-1-2013	Amend(T)	5-1-2013
411-070-0452	7-1-2013	Amend(T)	8-1-2013	411-340-0020	7-2-2013	Amend(T)	8-1-2013
411-070-0452	10-7-2013	Amend(T)	11-1-2013	411-340-0020	7-22-2013	Amend	9-1-2013
411-070-0452(T)	10-7-2013	Suspend	11-1-2013	411-340-0020	8-1-2013	Amend(T)	9-1-2013
411-070-0470	1-1-2013	Amend(T)	2-1-2013	411-340-0020(T)	7-2-2013	Suspend	8-1-2013
411-070-0470	5-1-2013	Amend	5-1-2013	411-340-0020(T)	7-22-2013	Repeal	9-1-2013
411-070-0470(T)	5-1-2013	Repeal	5-1-2013	411-340-0100	7-1-2013	Amend(T)	8-1-2013
411-085-0025	10-7-2013	Amend(T)	11-1-2013	411-340-0110	7-1-2013	Amend(T)	8-1-2013
411-085-0210	10-7-2013	Amend(T)	11-1-2013	411-340-0120	7-1-2013	Amend(T)	8-1-2013
411-086-0100	10-1-2013	Amend(T)	11-1-2013	411-340-0125	7-1-2013	Amend(T)	8-1-2013
411-088-0070	10-7-2013	Amend(T)	11-1-2013	411-340-0130	7-1-2013	Amend(T)	8-1-2013
411-300-0110	7-1-2013	Amend(T)	8-1-2013	411-340-0150	7-1-2013	Amend(T)	8-1-2013
411-300-0120	7-1-2013	Amend(T)	8-1-2013	411-345-0020	7-1-2013	Amend(T)	8-1-2013
411-300-0130	7-1-2013	Amend(T)	8-1-2013	411-345-0140	7-1-2013	Amend(T)	8-1-2013
411-300-0140	7-1-2013	Amend(T)	8-1-2013	411-346-0110	7-1-2013	Amend(T)	8-1-2013
411-300-0150	7-1-2013	Amend(T)	8-1-2013	411-346-0180	7-1-2013	Amend(T)	8-1-2013
411-308-0010	7-1-2013	Amend(T)	8-1-2013	411-350-0020	7-2-2013	Amend(T)	8-1-2013
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411-350-0050	7-2-2013	Amend(T)	8-1-2013	413-030-0454	1-15-2013	Amend	2-1-2013
411-355-0010	7-2-2013	Amend(T)	8-1-2013	413-030-0456	1-15-2013	Adopt	2-1-2013
411-355-0020	7-2-2013	Amend(T)	8-1-2013	413-040-0005	1-15-2013	Amend	2-1-2013
411-355-0030	7-2-2013	Amend(T)	8-1-2013	413-040-0006	1-15-2013	Amend	2-1-2013
411-355-0040	7-2-2013	Amend(T)	8-1-2013	413-040-0008	1-15-2013	Amend	2-1-2013
411-360-0010	9-27-2013	Amend	11-1-2013	413-040-0009	1-15-2013	Amend	2-1-2013
411-360-0020	9-27-2013	Amend	11-1-2013	413-040-0010	1-15-2013	Amend	2-1-2013
411-360-0030	9-27-2013	Amend	11-1-2013	413-040-0011	1-15-2013	Amend	2-1-2013
411-360-0040	9-27-2013	Amend	11-1-2013	413-040-0013	1-15-2013	Amend	2-1-2013
411-360-0050	9-27-2013	Amend	11-1-2013	413-040-0016	1-15-2013	Amend	2-1-2013
411-360-0055	9-27-2013	Adopt	11-1-2013	413-040-0017	1-15-2013	Amend	2-1-2013
411-360-0060	9-27-2013	Amend	11-1-2013	413-040-0024	1-15-2013	Amend	2-1-2013
411-360-0070	9-27-2013	Amend	11-1-2013	413-040-0032	1-15-2013	Amend	2-1-2013
411-360-0080	9-27-2013	Amend	11-1-2013	413-040-0210	1-15-2013	Amend	2-1-2013
411-360-0090	4-1-2013	Amend(T)	5-1-2013	413-040-0215	1-15-2013	Amend	2-1-2013
411-360-0090	9-27-2013	Amend	11-1-2013	413-040-0240	1-15-2013	Amend	2-1-2013
411-360-0090(T)	9-27-2013	Repeal	11-1-2013	413-040-0270	1-15-2013	Amend	2-1-2013
411-360-0100	9-27-2013	Repeal	11-1-2013	413-040-0290	1-15-2013	Amend	2-1-2013
411-360-0110	9-27-2013	Amend	11-1-2013	413-040-0300	1-15-2013	Amend	2-1-2013
411-360-0120	9-27-2013	Amend	11-1-2013	413-050-0000	10-1-2013	Repeal	11-1-2013
411-360-0130	9-27-2013	Amend	11-1-2013	413-050-0005	10-1-2013	Repeal	11-1-2013
411-360-0140	9-27-2013	Amend	11-1-2013	413-050-0010	10-1-2013	Repeal	11-1-2013
411-360-0150	9-27-2013	Repeal	11-1-2013	413-050-0020	10-1-2013	Repeal	11-1-2013
411-360-0160	9-27-2013	Amend	11-1-2013	413-050-0030	10-1-2013	Repeal	11-1-2013
411-360-0170	9-27-2013	Amend	11-1-2013	413-050-0040	10-1-2013	Repeal	11-1-2013
411-360-0180	9-27-2013	Amend	11-1-2013	413-050-0050	10-1-2013	Repeal	11-1-2013
411-360-0190	9-27-2013	Amend	11-1-2013	413-050-0200	10-1-2013	Repeal	11-1-2013
411-360-0200	9-27-2013	Amend	11-1-2013	413-050-0210	10-1-2013	Repeal	11-1-2013
411-360-0210	9-27-2013	Amend	11-1-2013	413-050-0220	10-1-2013	Repeal	11-1-2013
411-360-0220	9-27-2013	Amend	11-1-2013	413-050-0230	10-1-2013	Repeal	11-1-2013
411-360-0230	9-27-2013	Amend	11-1-2013	413-050-0235	10-1-2013	Repeal	11-1-2013
411-360-0240	9-27-2013	Amend	11-1-2013	413-050-0280	10-1-2013	Repeal	11-1-2013
411-360-0250	9-27-2013	Amend	11-1-2013	413-060-0100	10-1-2013	Repeal	11-1-2013
411-360-0260	9-27-2013	Amend	11-1-2013	413-060-0110	10-1-2013	Repeal	11-1-2013
411-360-0270	9-27-2013	Amend	11-1-2013	413-060-0120	10-1-2013	Repeal	11-1-2013
411-360-0275	9-27-2013	Amend	11-1-2013	413-060-0130	10-1-2013	Repeal	11-1-2013
411-360-0280	9-27-2013	Amend	11-1-2013	413-060-0140	10-1-2013	Repeal	11-1-2013
411-360-0290	9-27-2013	Amend	11-1-2013	413-060-0150	10-1-2013	Repeal	11-1-2013
411-360-0300	9-27-2013	Amend	11-1-2013	413-060-0200	10-1-2013	Repeal	11-1-2013
411-360-0310	9-27-2013	Amend	11-1-2013	413-060-0210	10-1-2013	Repeal	11-1-2013
413-020-0236	1-15-2013	Amend	2-1-2013	413-060-0220	10-1-2013	Repeal	11-1-2013
413-020-0245	1-15-2013	Amend	2-1-2013	413-060-0230	10-1-2013	Repeal	11-1-2013
413-030-0000	1-15-2013	Amend	2-1-2013	413-060-0240	10-1-2013	Repeal	11-1-2013
413-030-0003	1-15-2013	Amend	2-1-2013	413-060-0300	10-1-2013	Repeal	11-1-2013
413-030-0006	1-15-2013	Amend	2-1-2013	413-060-0310	10-1-2013	Repeal	11-1-2013
413-030-0009	1-15-2013	Amend	2-1-2013	413-060-0320	10-1-2013	Repeal	11-1-2013
413-030-0013	1-15-2013	Amend	2-1-2013	413-060-0330	10-1-2013	Repeal	11-1-2013
413-030-0016	1-15-2013	Amend	2-1-2013	413-060-0340	10-1-2013	Repeal	11-1-2013
413-030-0019	1-15-2013	Amend	2-1-2013	413-060-0350	10-1-2013	Repeal	11-1-2013
413-030-0023	1-15-2013	Amend	2-1-2013	413-060-0360	10-1-2013	Repeal	11-1-2013
413-030-0026	1-15-2013	Amend	2-1-2013	413-060-0370	10-1-2013	Repeal	11-1-2013
413-030-0030	1-15-2013	Amend	2-1-2013	413-070-0524	1-15-2013	Amend	2-1-2013
413-030-0405	1-15-2013	Amend	2-1-2013	413-070-0536	1-15-2013	Amend	2-1-2013
413-030-0410	1-15-2013	Amend	2-1-2013	413-070-0551	1-15-2013	Amend	2-1-2013
413-030-0445	1-15-2013	Amend	2-1-2013	413-070-0552	1-15-2013	Amend	2-1-2013

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413-070-0565	1-15-2013	Amend	2-1-2013	413-215-1031	10-1-2013	Amend	11-1-2013
413-070-0620	1-15-2013	Amend	2-1-2013	414-002-0005	8-16-2013	Adopt(T)	10-1-2013
413-070-0625	1-15-2013	Amend	2-1-2013	414-002-0005	9-9-2013	Adopt(T)	10-1-2013
413-070-0630	1-15-2013	Amend	2-1-2013	414-002-0010	8-16-2013	Adopt(T)	10-1-2013
413-070-0640	1-15-2013	Amend	2-1-2013	414-002-0010	9-9-2013	Adopt(T)	10-1-2013
413-080-0040	1-15-2013	Amend	2-1-2013	414-900-0005	8-16-2013	Adopt(T)	10-1-2013
413-080-0050	1-15-2013	Amend	2-1-2013	414-900-0005	9-9-2013	Adopt(T)	10-1-2013
413-080-0052	1-15-2013	Amend	2-1-2013	414-900-0010	8-16-2013	Adopt(T)	10-1-2013
413-080-0054	1-15-2013	Adopt	2-1-2013	414-900-0010	9-9-2013	Adopt(T)	10-1-2013
413-080-0055	1-15-2013	Amend	2-1-2013	414-900-0015	8-16-2013	Adopt(T)	10-1-2013
413-080-0059	1-15-2013	Amend	2-1-2013	414-900-0015	9-9-2013	Adopt(T)	10-1-2013
413-080-0063	1-15-2013	Repeal	2-1-2013	414-900-0020	8-16-2013	Adopt(T)	10-1-2013
413-080-0067	1-15-2013	Amend	2-1-2013	414-900-0020	9-9-2013	Adopt(T)	10-1-2013
413-080-0200	10-1-2013	Repeal	11-1-2013	415-012-0000	1-14-2013	Amend(T)	2-1-2013
413-080-0205	10-1-2013	Repeal	11-1-2013	415-012-0000	5-3-2013	Amend	6-1-2013
413-080-0210	10-1-2013	Repeal	11-1-2013	415-012-0010	1-14-2013	Amend(T)	2-1-2013
413-080-0220	10-1-2013	Repeal	11-1-2013	415-012-0010	5-3-2013	Amend	6-1-2013
413-080-0240	10-1-2013	Repeal	11-1-2013	415-012-0020	1-14-2013	Amend(T)	2-1-2013
413-080-0250	10-1-2013	Repeal	11-1-2013	415-012-0020	5-3-2013	Amend	6-1-2013
413-080-0260	10-1-2013	Repeal	11-1-2013	415-012-0030	1-14-2013	Amend(T)	2-1-2013
413-080-0270	10-1-2013	Repeal	11-1-2013	415-012-0030	5-3-2013	Amend	6-1-2013
413-120-0246	10-1-2013	Amend	11-1-2013	415-012-0032	5-3-2013	Adopt	6-1-2013
413-120-0810	10-1-2013	Amend	11-1-2013	415-012-0035	5-3-2013	Adopt	6-1-2013
413-120-0835	10-1-2013	Repeal	11-1-2013	415-012-0040	5-3-2013	Amend	6-1-2013
413-120-0850	10-1-2013	Repeal	11-1-2013	415-012-0050	5-3-2013	Amend	6-1-2013
413-120-0860	1-15-2013	Amend	2-1-2013	415-012-0055	5-3-2013	Adopt	6-1-2013
413-200-0000	10-1-2013	Repeal	11-1-2013	415-012-0060	5-3-2013	Amend	6-1-2013
413-200-0010	10-1-2013	Repeal	11-1-2013	415-012-0065	5-3-2013	Adopt	6-1-2013
413-200-0020	10-1-2013	Repeal	11-1-2013	415-012-0067	5-3-2013	Adopt	6-1-2013
413-200-0030	10-1-2013	Repeal	11-1-2013	415-012-0070	5-3-2013	Amend	6-1-2013
413-200-0040	10-1-2013	Repeal	11-1-2013	415-012-0080	5-3-2013	Amend	6-1-2013
413-200-0050	10-1-2013	Repeal	11-1-2013	415-012-0090	5-3-2013	Amend	6-1-2013
413-210-0300	10-1-2013	Repeal	11-1-2013	415-020-0005	6-7-2013	Amend	7-1-2013
413-210-0310	10-1-2013	Repeal	11-1-2013	415-020-0015	6-7-2013	Amend	7-1-2013
413-210-0320	10-1-2013	Repeal	11-1-2013	415-020-0017	6-7-2013	Adopt	7-1-2013
413-210-0330	10-1-2013	Repeal	11-1-2013	415-020-0053	1-14-2013	Amend(T)	2-1-2013
413-210-0340	10-1-2013	Repeal	11-1-2013	415-020-0053	6-7-2013	Amend	7-1-2013
413-215-0911	10-1-2013	Amend	11-1-2013	415-020-0060	6-7-2013	Amend	7-1-2013
413-215-0916	10-1-2013	Amend	11-1-2013	415-020-0075	6-7-2013	Amend	7-1-2013
413-215-0918	10-1-2013	Adopt	11-1-2013	415-020-0085	6-7-2013	Amend	7-1-2013
413-215-0921	10-1-2013	Amend	11-1-2013	415-050-0000	2-4-2013	Amend(T)	3-1-2013
413-215-0926	10-1-2013	Amend	11-1-2013	415-050-0000	8-1-2013	Amend	9-1-2013
413-215-0931	10-1-2013	Amend	11-1-2013	415-050-0000(T)	8-1-2013	Repeal	9-1-2013
413-215-0936	10-1-2013	Amend	11-1-2013	415-050-0005	2-4-2013	Amend(T)	3-1-2013
413-215-0941	10-1-2013	Amend	11-1-2013	415-050-0005	8-1-2013	Amend	9-1-2013
413-215-0946	10-1-2013	Amend	11-1-2013	415-050-0005(T)	8-1-2013	Repeal	9-1-2013
413-215-0951	10-1-2013	Amend	11-1-2013	415-050-0010	8-1-2013	Amend	9-1-2013
413-215-0961	10-1-2013	Amend	11-1-2013	415-050-0015	2-4-2013	Amend(T)	3-1-2013
413-215-0976	10-1-2013	Amend	11-1-2013	415-050-0015	8-1-2013	Amend	9-1-2013
413-215-0981	10-1-2013	Amend	11-1-2013	415-050-0015(T)	8-1-2013	Repeal	9-1-2013
413-215-0992	10-1-2013	Adopt	11-1-2013	415-050-0020	8-1-2013	Amend	9-1-2013
413-215-0996	10-1-2013	Amend	11-1-2013	415-050-0025	2-4-2013	Amend(T)	3-1-2013
413-215-1006	10-1-2013	Amend	11-1-2013	415-050-0025	8-1-2013	Amend	9-1-2013
413-215-1011	10-1-2013	Amend	11-1-2013	415-050-0025(T)	8-1-2013	Repeal	9-1-2013
413-215-1016	10-1-2013	Amend	11-1-2013	415-050-0030	8-1-2013	Amend	9-1-2013

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415-050-0035	8-1-2013	Amend	9-1-2013	436-001-0019	12-28-2012	Amend	1-1-2013
415-050-0035(T)	8-1-2013	Repeal	9-1-2013	436-001-0023	12-28-2012	Amend	1-1-2013
415-050-0040	2-4-2013	Amend(T)	3-1-2013	436-001-0170	12-28-2012	Amend	1-1-2013
415-050-0040	8-1-2013	Amend	9-1-2013	436-001-0225	12-28-2012	Amend	1-1-2013
415-050-0040(T)	8-1-2013	Repeal	9-1-2013	436-001-0246	12-28-2012	Amend	1-1-2013
415-050-0045	2-4-2013	Amend(T)	3-1-2013	436-001-0300	12-28-2012	Repeal	1-1-2013
415-050-0045	8-1-2013	Amend	9-1-2013	436-001-0410	12-28-2012	Amend	1-1-2013
415-050-0045(T)	8-1-2013	Repeal	9-1-2013	436-001-0420	12-28-2012	Amend	1-1-2013
415-050-0050	2-4-2013	Amend(T)	3-1-2013	436-001-0430	12-28-2012	Amend	1-1-2013
415-050-0050	8-1-2013	Amend	9-1-2013	436-009-0004	4-1-2013	Amend	4-1-2013
415-050-0050(T)	8-1-2013	Repeal	9-1-2013	436-009-0010	4-1-2013	Amend	4-1-2013
415-050-0055	2-4-2013	Amend(T)	3-1-2013	436-009-0020	4-1-2013	Amend	4-1-2013
415-050-0055	8-1-2013	Amend	9-1-2013	436-009-0025	4-1-2013	Amend	4-1-2013
415-050-0055(T)	8-1-2013	Repeal	9-1-2013	436-009-0030	4-1-2013	Amend	4-1-2013
415-050-0060	2-4-2013	Amend(T)	3-1-2013	436-009-0050	4-1-2013	Amend	4-1-2013
415-050-0060	8-1-2013	Amend	9-1-2013	436-009-0070	4-1-2013	Amend	4-1-2013
415-050-0060(T)	8-1-2013	Repeal	9-1-2013	436-009-0110	4-1-2013	Amend	4-1-2013
415-050-0065	2-4-2013	Amend(T)	3-1-2013	436-009-0135	4-1-2013	Amend	4-1-2013
415-050-0065	8-1-2013	Amend	9-1-2013	436-009-0175	4-1-2013	Amend	4-1-2013
415-050-0065(T)	8-1-2013	Repeal	9-1-2013	436-009-0177	4-1-2013	Amend	4-1-2013
415-050-0070	2-4-2013	Amend(T)	3-1-2013	436-009-0180	4-1-2013	Amend	4-1-2013
415-050-0070	8-1-2013	Amend	9-1-2013	436-009-0207	4-1-2013	Amend	4-1-2013
415-050-0070(T)	8-1-2013	Repeal	9-1-2013	436-009-0260	4-1-2013	Amend	4-1-2013
415-050-0075	2-4-2013	Amend(T)	3-1-2013	436-009-0290	4-1-2013	Amend	4-1-2013
415-050-0075	8-1-2013	Amend	9-1-2013	436-010-0210	4-1-2013	Amend	4-1-2013
415-050-0075(T)	8-1-2013	Repeal	9-1-2013	436-010-0230	4-1-2013	Amend	4-1-2013
415-050-0080	8-1-2013	Amend	9-1-2013	436-010-0265	4-1-2013	Amend	4-1-2013
415-050-0085	8-1-2013	Amend	9-1-2013	436-010-0330	4-1-2013	Amend	4-1-2013
415-050-0090	2-4-2013	Amend(T)	3-1-2013	436-015-0008	4-1-2013	Amend	4-1-2013
415-050-0090	8-1-2013	Amend	9-1-2013	436-015-0080	4-1-2013	Amend	4-1-2013
415-050-0090(T)	8-1-2013	Repeal	9-1-2013	436-015-0110	4-1-2013	Amend	4-1-2013
415-050-0095	8-1-2013	Amend	9-1-2013	436-035-0002	1-1-2013	Amend	1-1-2013
416-465-0000	2-25-2013	Repeal	4-1-2013	436-035-0003	1-1-2013	Amend	1-1-2013
416-465-0010	2-25-2013	Repeal	4-1-2013	436-035-0005	1-1-2013	Amend	1-1-2013
416-465-0020	2-25-2013	Repeal	4-1-2013	436-035-0007	1-1-2013	Amend	1-1-2013
416-465-0030	2-25-2013	Repeal	4-1-2013	436-035-0008	1-1-2013	Amend	1-1-2013
416-465-0040	2-25-2013	Repeal	4-1-2013	436-035-0009	1-1-2013	Amend	1-1-2013
416-800-0080	7-29-2013	Amend	9-1-2013	436-035-0011	1-1-2013	Amend	1-1-2013
423-001-0000	8-20-2013	Amend(T)	10-1-2013	436-035-0012	1-1-2013	Amend	1-1-2013
423-001-0000	9-9-2013	Amend(T)	10-1-2013	436-035-0017	1-1-2013	Amend	1-1-2013
423-001-0005	8-20-2013	Amend(T)	10-1-2013	436-035-0018	1-1-2013	Amend	1-1-2013
423-001-0005	9-9-2013	Amend(T)	10-1-2013	436-035-0030	1-1-2013	Amend	1-1-2013
423-001-0006	8-20-2013	Amend(T)	10-1-2013	436-035-0040	1-1-2013	Amend	1-1-2013
423-001-0006	9-9-2013	Amend(T)	10-1-2013	436-035-0110	1-1-2013	Amend	1-1-2013
423-008-0005	8-20-2013	Adopt(T)	10-1-2013	436-035-0230	1-1-2013	Amend	1-1-2013
423-008-0005	9-9-2013	Adopt(T)	10-1-2013	436-035-0235	1-1-2013	Amend	1-1-2013
423-009-0005	8-20-2013	Adopt(T)	10-1-2013	436-035-0255	1-1-2013	Amend	1-1-2013
423-009-0005	9-9-2013	Adopt(T)	10-1-2013	436-035-0260	1-1-2013	Amend	1-1-2013
423-009-0010	8-20-2013	Adopt(T)	10-1-2013	436-035-0265	1-1-2013	Amend	1-1-2013
423-009-0010	9-9-2013	Adopt(T)	10-1-2013	436-035-0340	1-1-2013	Amend	1-1-2013
423-009-0020	8-20-2013	Adopt(T)	10-1-2013	436-035-0350	1-1-2013	Amend	1-1-2013
423-009-0020	9-9-2013	Adopt(T)	10-1-2013	436-035-0370	1-1-2013	Amend	1-1-2013
436-001-0003	12-28-2012	Amend	1-1-2013	436-035-0380	1-1-2013	Amend	1-1-2013
436-001-0004	12-28-2012	Amend	1-1-2013	436-035-0385	1-1-2013	Amend	1-1-2013
436-001-0005	12-28-2012	Amend	1-1-2013	436-035-0390	1-1-2013	Amend	1-1-2013

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436-035-0400	1-1-2013	Amend	1-1-2013	437-003-0134	4-1-2013	Adopt	3-1-2013
436-035-0410	1-1-2013	Amend	1-1-2013	437-005-0001	12-14-2012	Amend	1-1-2013
436-035-0420	1-1-2013	Amend	1-1-2013	437-005-0001	7-19-2013	Amend	9-1-2013
436-035-0430	1-1-2013	Amend	1-1-2013	437-005-0002	12-14-2012	Amend	1-1-2013
436-035-0440	1-1-2013	Amend	1-1-2013	437-005-0003	12-14-2012	Amend	1-1-2013
436-035-0450	1-1-2013	Amend	1-1-2013	438-005-0015	4-1-2013	Amend	3-1-2013
436-035-0500	1-1-2013	Amend	1-1-2013	438-009-0005	4-1-2013	Amend	3-1-2013
436-050-0003	1-23-2013	Amend(T)	3-1-2013	438-009-0020	4-1-2013	Amend	3-1-2013
436-050-0003	7-22-2013	Amend	8-1-2013	438-011-0010	4-1-2013	Amend	3-1-2013
436-050-0175	1-1-2013	Amend	1-1-2013	438-011-0045	4-1-2013	Amend	3-1-2013
436-050-0300	1-23-2013	Amend(T)	3-1-2013	438-012-0001	4-1-2013	Amend	3-1-2013
436-050-0300	7-22-2013	Amend	8-1-2013	438-012-0020	4-1-2013	Amend	3-1-2013
436-070-0002	4-1-2013	Amend	1-1-2013	438-012-0031	4-1-2013	Amend	3-1-2013
436-070-0003	4-1-2013	Amend	1-1-2013	438-012-0035	4-1-2013	Amend	3-1-2013
436-070-0010	4-1-2013	Amend	1-1-2013	438-012-0036	4-1-2013	Amend	3-1-2013
436-105-0003	7-1-2013	Amend	5-1-2013	438-012-0050	4-1-2013	Amend	3-1-2013
436-105-0520	7-1-2013	Amend	5-1-2013	438-012-0060	4-1-2013	Amend	3-1-2013
436-110-0150	6-7-2013	Adopt	7-1-2013	438-012-0062	4-1-2013	Amend	3-1-2013
436-160-0001	7-1-2014	Amend	11-1-2013	438-016-0005	4-1-2013	Amend	3-1-2013
436-160-0002	7-1-2014	Repeal	11-1-2013	438-019-0010	4-1-2013	Amend	3-1-2013
436-160-0003	7-1-2014	Repeal	11-1-2013	438-020-0010	4-1-2013	Amend	3-1-2013
436-160-0004	7-1-2014	Amend	11-1-2013	438-022-0005	4-1-2013	Amend	3-1-2013
436-160-0005	7-1-2014	Amend	11-1-2013	440-045-0020	1-1-2014	Amend	11-1-2013
436-160-0006	7-1-2014	Repeal	11-1-2013	440-045-0025	1-1-2014	Amend	11-1-2013
436-160-0010	7-1-2014	Repeal	11-1-2013	441-505-3090	1-23-2013	Adopt	3-1-2013
436-160-0020	7-1-2014	Repeal	11-1-2013	441-505-3090(T)	1-23-2013	Repeal	3-1-2013
436-160-0030	7-1-2014	Repeal	11-1-2013	441-710-0270	2-1-2013	Amend(T)	2-1-2013
436-160-0040	7-1-2014	Amend	11-1-2013	441-710-0270	7-19-2013	Amend	9-1-2013
436-160-0050	7-1-2014	Repeal	11-1-2013	441-710-0270(T)	7-19-2013	Repeal	9-1-2013
436-160-0060	7-1-2014	Amend	11-1-2013	441-740-0017	9-17-2013	Adopt(T)	11-1-2013
436-160-0070	7-1-2014	Repeal	11-1-2013	442-005-0000	1-1-2013	Amend	2-1-2013
436-160-0090	7-1-2014	Repeal	11-1-2013	442-005-0010	1-1-2013	Amend	2-1-2013
436-160-0405	7-1-2014	Amend	11-1-2013	442-005-0020	1-1-2013	Amend	2-1-2013
436-160-0410	7-1-2014	Amend	11-1-2013	442-005-0030	1-1-2013	Amend	2-1-2013
436-160-0415	7-1-2014	Amend	11-1-2013	442-005-0040	1-1-2013	Amend	2-1-2013
436-160-0420	7-1-2014	Amend	11-1-2013	442-005-0050	1-1-2013	Amend	2-1-2013
436-160-0430	7-1-2014	Amend	11-1-2013	442-005-0070	1-1-2013	Amend	2-1-2013
436-160-0440	7-1-2014	Amend	11-1-2013	442-005-0080	1-1-2013	Amend	2-1-2013
436-160-0445	7-1-2014	Amend	11-1-2013	442-005-0090	1-1-2013	Amend	2-1-2013
437-002-0005	12-14-2012	Amend	1-1-2013	442-005-0100	1-1-2013	Amend	2-1-2013
437-002-0020	4-1-2013	Amend	3-1-2013	442-005-0110	1-1-2013	Amend	2-1-2013
437-002-0023	4-1-2013	Adopt	3-1-2013	442-005-0130	1-1-2013	Amend	2-1-2013
437-002-0100	7-19-2013	Amend	9-1-2013	442-005-0140	1-1-2013	Amend	2-1-2013
437-002-0120	12-14-2012	Amend	1-1-2013	442-005-0150	1-1-2013	Amend	2-1-2013
437-002-0134	4-1-2013	Amend	3-1-2013	442-005-0160	1-1-2013	Amend	2-1-2013
437-002-0240	12-14-2012	Amend	1-1-2013	442-005-0170	1-1-2013	Amend	2-1-2013
437-002-0360	7-18-2013	Amend	9-1-2013	442-005-0180	1-1-2013	Amend	2-1-2013
437-002-0360	7-19-2013	Amend	9-1-2013	442-005-0190	1-1-2013	Amend	2-1-2013
437-003-0001	12-14-2012	Amend	1-1-2013	442-005-0200	1-1-2013	Amend	2-1-2013
437-003-0001	2-14-2013	Amend	3-1-2013	442-005-0210	1-1-2013	Amend	2-1-2013
437-003-0001	4-1-2013	Amend	3-1-2013	442-005-0220	1-1-2013	Amend	2-1-2013
437-003-0001	7-19-2013	Amend	9-1-2013	442-005-0230	1-1-2013	Amend	2-1-2013
437-003-0001	9-13-2013	Amend	10-1-2013	442-005-0235	1-1-2013	Adopt	2-1-2013
437-003-0001	10-9-2013	Amend	11-1-2013	442-005-0240	1-1-2013	Amend	2-1-2013
437-003-0080	10-9-2013	Repeal	11-1-2013	442-005-0260	1-1-2013	Amend	2-1-2013

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442-005-0280	1-1-2013	Amend	2-1-2013	461-001-0000(T)	10-1-2013	Suspend	11-1-2013
442-005-0290	1-1-2013	Amend	2-1-2013	461-001-0015	4-1-2013	Amend	5-1-2013
442-005-0300	1-1-2013	Amend	2-1-2013	461-001-0030	7-1-2013	Amend(T)	8-1-2013
442-005-0310	1-1-2013	Amend	2-1-2013	461-001-0030	10-1-2013	Amend	11-1-2013
442-005-0320	1-1-2013	Amend	2-1-2013	461-001-0030(T)	10-1-2013	Repeal	11-1-2013
442-005-0330	1-1-2013	Amend	2-1-2013	461-025-0300	4-1-2013	Amend	5-1-2013
442-005-0340	1-1-2013	Amend	2-1-2013	461-025-0300(T)	4-1-2013	Repeal	5-1-2013
442-005-0350	1-1-2013	Repeal	2-1-2013	461-025-0301	4-1-2013	Adopt	5-1-2013
442-010-0010	1-1-2013	Amend	2-1-2013	461-025-0301(T)	4-1-2013	Repeal	5-1-2013
442-010-0020	1-1-2013	Amend	2-1-2013	461-025-0310	7-1-2013	Amend(T)	8-1-2013
442-010-0030	1-1-2013	Amend	2-1-2013	461-025-0310	10-1-2013	Amend	11-1-2013
442-010-0040	1-1-2013	Amend	2-1-2013	461-025-0310	10-2-2013	Amend(T)	11-1-2013
442-010-0050	1-1-2013	Amend	2-1-2013	461-025-0310(T)	10-1-2013	Repeal	11-1-2013
442-010-0055	1-1-2013	Amend	2-1-2013	461-025-0315	7-1-2013	Amend(T)	8-1-2013
442-010-0060	1-1-2013	Amend	2-1-2013	461-025-0315	10-1-2013	Amend	11-1-2013
442-010-0070	1-1-2013	Amend	2-1-2013	461-025-0315(T)	10-1-2013	Repeal	11-1-2013
442-010-0075	1-1-2013	Amend	2-1-2013	461-101-0010	8-23-2013	Amend(T)	10-1-2013
442-010-0080	1-1-2013	Amend	2-1-2013	461-101-0010	10-1-2013	Amend(T)	11-1-2013
442-010-0085	1-1-2013	Amend	2-1-2013	461-101-0010(T)	10-1-2013	Suspend	11-1-2013
442-010-0090	1-1-2013	Amend	2-1-2013	461-110-0210	7-1-2013	Amend(T)	8-1-2013
442-010-0100	1-1-2013	Amend	2-1-2013	461-110-0210	10-1-2013	Amend	11-1-2013
442-010-0110	1-1-2013	Repeal	2-1-2013	461-110-0210	10-1-2013	Amend(T)	11-1-2013
442-010-0120	1-1-2013	Amend	2-1-2013	461-110-0210(T)	10-1-2013	Repeal	11-1-2013
442-010-0140	1-1-2013	Amend	2-1-2013	461-110-0330	10-1-2013	Amend(T)	11-1-2013
442-010-0150	1-1-2013	Amend	2-1-2013	461-110-0340	10-1-2013	Amend	11-1-2013
442-010-0160	1-1-2013	Amend	2-1-2013	461-110-0340	10-1-2013	Amend(T)	11-1-2013
442-010-0170	1-1-2013	Amend	2-1-2013	461-110-0370	10-1-2013	Amend	11-1-2013
442-010-0180	1-1-2013	Amend	2-1-2013	461-110-0400	10-1-2013	Suspend	11-1-2013
442-010-0190	1-1-2013	Amend	2-1-2013	461-110-0430	4-10-2013	Amend(T)	5-1-2013
442-010-0210	1-1-2013	Amend	2-1-2013	461-110-0430	10-1-2013	Amend	11-1-2013
442-010-0215	1-1-2013	Amend	2-1-2013	461-110-0430(T)	10-1-2013	Repeal	11-1-2013
442-010-0220	1-1-2013	Amend	2-1-2013	461-110-0530	10-1-2013	Amend(T)	11-1-2013
442-010-0230	1-1-2013	Amend	2-1-2013	461-110-0630	10-1-2013	Amend(T)	11-1-2013
442-010-0240	1-1-2013	Amend	2-1-2013	461-115-0016	1-1-2013	Amend	2-1-2013
442-010-0260	1-1-2013	Amend	2-1-2013	461-115-0016(T)	1-1-2013	Repeal	2-1-2013
442-010-0270	1-1-2013	Amend	2-1-2013	461-115-0030	10-1-2013	Amend(T)	11-1-2013
442-010-0280	1-1-2013	Repeal	2-1-2013	461-115-0050	8-1-2013	Amend(T)	9-1-2013
459-005-0040	1-25-2013	Amend	3-1-2013	461-115-0050	10-1-2013	Amend(T)	11-1-2013
459-005-0400	12-5-2012	Adopt	1-1-2013	461-115-0050(T)	10-1-2013	Suspend	11-1-2013
459-005-0525	3-29-2013	Amend	5-1-2013	461-115-0071	10-1-2013	Amend(T)	11-1-2013
459-005-0545	3-29-2013	Amend	5-1-2013	461-115-0150	10-1-2013	Amend(T)	11-1-2013
459-007-0007	9-27-2013	Adopt	11-1-2013	461-115-0430	1-1-2013	Amend	2-1-2013
459-009-0200	1-25-2013	Amend	3-1-2013	461-115-0430	7-1-2013	Amend	8-1-2013
459-013-0060	7-26-2013	Amend	9-1-2013	461-115-0430	10-1-2013	Amend(T)	11-1-2013
459-013-0310	9-27-2013	Amend	11-1-2013	461-115-0530	10-1-2013	Suspend	11-1-2013
459-013-0320	9-27-2013	Amend	11-1-2013	461-115-0705	10-1-2013	Suspend	11-1-2013
459-017-0060	3-29-2013	Amend	5-1-2013	461-120-0030	10-1-2013	Amend(T)	11-1-2013
459-035-0001	12-5-2012	Amend	1-1-2013	461-120-0050	10-1-2013	Amend(T)	11-1-2013
459-035-0200	12-5-2012	Repeal	1-1-2013	461-120-0125	10-1-2013	Amend(T)	11-1-2013
459-035-0220	12-5-2012	Repeal	1-1-2013	461-120-0210	5-29-2013	Amend(T)	7-1-2013
459-075-0170	9-27-2013	Adopt	11-1-2013	461-120-0210	10-1-2013	Amend	11-1-2013
459-075-0200	3-29-2013	Amend	5-1-2013	461-120-0210	10-1-2013	Amend(T)	11-1-2013
459-080-0500	3-29-2013	Amend	5-1-2013	461-120-0210(T)	10-1-2013	Repeal	11-1-2013
461-001-0000	8-23-2013	Amend(T)	10-1-2013	461-120-0310	10-1-2013	Amend(T)	11-1-2013
461-001-0000	10-1-2013	Amend	11-1-2013	461-120-0315	10-1-2013	Amend(T)	11-1-2013

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461-120-0340	4-1-2013	Amend	5-1-2013	461-135-0780	4-1-2013	Amend	5-1-2013
461-120-0345	10-1-2013	Amend(T)	11-1-2013	461-135-0780(T)	4-1-2013	Repeal	5-1-2013
461-120-0350	10-1-2013	Amend(T)	11-1-2013	461-135-0832	7-1-2013	Amend(T)	8-1-2013
461-120-0510	10-1-2013	Amend(T)	11-1-2013	461-135-0832	10-1-2013	Amend	11-1-2013
461-120-0630	10-1-2013	Amend(T)	11-1-2013	461-135-0832(T)	10-1-2013	Repeal	11-1-2013
461-125-0010	10-1-2013	Amend	11-1-2013	461-135-0835	7-1-2013	Amend(T)	8-1-2013
461-125-0030	10-1-2013	Amend	11-1-2013	461-135-0835	10-1-2013	Amend	11-1-2013
461-125-0050	4-1-2013	Amend	5-1-2013	461-135-0835(T)	10-1-2013	Repeal	11-1-2013
461-125-0050	10-1-2013	Amend	11-1-2013	461-135-0875	10-1-2013	Amend(T)	11-1-2013
461-125-0060	10-1-2013	Amend	11-1-2013	461-135-0900	7-1-2013	Amend	8-1-2013
461-125-0090	10-1-2013	Amend	11-1-2013	461-135-0900	10-1-2013	Amend(T)	11-1-2013
461-125-0110	10-1-2013	Amend	11-1-2013	461-135-0920	10-1-2013	Amend	11-1-2013
461-125-0120	10-1-2013	Amend	11-1-2013	461-135-0930	10-1-2013	Amend	11-1-2013
461-125-0130	10-1-2013	Amend	11-1-2013	461-135-0930	10-1-2013	Amend(T)	11-1-2013
461-125-0150	10-1-2013	Amend(T)	11-1-2013	461-135-0950	10-1-2013	Amend(T)	11-1-2013
461-125-0170	10-1-2013	Amend	11-1-2013	461-135-1060	10-1-2013	Suspend	11-1-2013
461-125-0230	10-1-2013	Amend	11-1-2013	461-135-1070	10-1-2013	Amend(T)	11-1-2013
461-125-0250	10-1-2013	Amend	11-1-2013	461-135-1100	7-1-2013	Amend(T)	8-1-2013
461-125-0830	1-1-2013	Amend(T)	2-1-2013	461-135-1100	8-23-2013	Amend(T)	10-1-2013
461-125-0830	4-1-2013	Amend	5-1-2013	461-135-1100	10-1-2013	Amend	11-1-2013
461-125-0830(T)	4-1-2013	Repeal	5-1-2013	461-135-1100	10-1-2013	Suspend	11-1-2013
461-130-0310	1-1-2013	Amend(T)	2-1-2013	461-135-1100(T)	8-23-2013	Suspend	10-1-2013
461-130-0310	4-1-2013	Amend	5-1-2013	461-135-1100(T)	10-1-2013	Repeal	11-1-2013
461-130-0310	7-1-2013	Amend	8-1-2013	461-135-1101	7-1-2013	Amend(T)	8-1-2013
461-130-0310	10-1-2013	Amend	11-1-2013	461-135-1101	8-23-2013	Amend(T)	10-1-2013
461-130-0310(T)	4-1-2013	Repeal	5-1-2013	461-135-1101	10-1-2013	Amend	11-1-2013
461-130-0328	10-1-2013	Amend(T)	11-1-2013	461-135-1101	10-1-2013	Suspend	11-1-2013
461-130-0330	1-1-2013	Amend	2-1-2013	461-135-1101(T)	8-23-2013	Suspend	10-1-2013
461-130-0335	1-1-2013	Amend	2-1-2013	461-135-1101(T)	10-1-2013	Repeal	11-1-2013
461-135-0010	10-1-2013	Amend	11-1-2013	461-135-1102	12-1-2012	Amend(T)	1-1-2013
461-135-0010	10-1-2013	Amend(T)	11-1-2013	461-135-1102	4-1-2013	Amend	5-1-2013
461-135-0070	7-1-2013	Amend	8-1-2013	461-135-1102	8-1-2013	Amend(T)	9-1-2013
461-135-0070	10-1-2013	Amend(T)	11-1-2013	461-135-1102	10-1-2013	Suspend	11-1-2013
461-135-0080	10-1-2013	Amend(T)	11-1-2013	461-135-1102(T)	4-1-2013	Repeal	5-1-2013
461-135-0089	1-1-2013	Amend	2-1-2013	461-135-1120	10-1-2013	Suspend	11-1-2013
461-135-0095	10-1-2013	Suspend	11-1-2013	461-135-1125	8-23-2013	Amend(T)	10-1-2013
461-135-0096	10-1-2013	Suspend	11-1-2013	461-135-1125	10-1-2013	Suspend	11-1-2013
461-135-0170	10-1-2013	Suspend	11-1-2013	461-135-1149	10-1-2013	Suspend	11-1-2013
461-135-0400	1-1-2013	Amend(T)	2-1-2013	461-140-0040	10-1-2013	Amend(T)	11-1-2013
461-135-0400	7-1-2013	Amend	8-1-2013	461-140-0120	10-1-2013	Amend(T)	11-1-2013
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461-135-0407	1-1-2013	Adopt	2-1-2013	461-140-0210	10-1-2013	Amend(T)	11-1-2013
461-135-0407	5-15-2013	Amend(T)	6-1-2013	461-140-0270	10-1-2013	Amend(T)	11-1-2013
461-135-0407	10-1-2013	Amend	11-1-2013	461-140-0296	7-1-2013	Amend(T)	8-1-2013
461-135-0407(T)	1-1-2013	Repeal	2-1-2013	461-140-0296	10-1-2013	Amend	11-1-2013
461-135-0407(T)	10-1-2013	Repeal	11-1-2013	461-140-0296(T)	10-1-2013	Repeal	11-1-2013
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461-135-0570	10-1-2013	Amend	11-1-2013	461-145-0040	10-1-2013	Amend(T)	11-1-2013
461-135-0570(T)	10-1-2013	Repeal	11-1-2013	461-145-0050	10-1-2013	Amend(T)	11-1-2013
461-135-0726	7-1-2013	Amend(T)	8-1-2013	461-145-0080	12-29-2012	Amend	2-1-2013
461-135-0726	10-1-2013	Amend	11-1-2013	461-145-0080	10-1-2013	Amend(T)	11-1-2013
461-135-0726(T)	10-1-2013	Repeal	11-1-2013	461-145-0086	10-1-2013	Amend(T)	11-1-2013
461-135-0750	7-1-2013	Amend(T)	8-1-2013	461-145-0090	10-1-2013	Amend(T)	11-1-2013
461-135-0750	10-1-2013	Amend	11-1-2013	461-145-0110	10-1-2013	Amend(T)	11-1-2013
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461-145-0220	1-1-2013	Amend(T)	2-1-2013	461-150-0060(T)	10-1-2013	Suspend	11-1-2013
461-145-0220	4-1-2013	Amend	5-1-2013	461-150-0070	10-1-2013	Amend(T)	11-1-2013
461-145-0220	10-1-2013	Amend(T)	11-1-2013	461-150-0080	10-1-2013	Amend(T)	11-1-2013
461-145-0220(T)	4-1-2013	Repeal	5-1-2013	461-150-0090	10-1-2013	Amend(T)	11-1-2013
461-145-0230	10-1-2013	Amend(T)	11-1-2013	461-155-0020	7-1-2013	Amend(T)	8-1-2013
461-145-0250	7-1-2013	Amend	8-1-2013	461-155-0020	10-1-2013	Amend	11-1-2013
461-145-0250	10-1-2013	Amend(T)	11-1-2013	461-155-0020(T)	10-1-2013	Repeal	11-1-2013
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461-145-0260	1-1-2013	Amend(T)	2-1-2013	461-155-0150	1-1-2013	Amend(T)	2-1-2013
461-145-0260	4-1-2013	Amend	5-1-2013	461-155-0150	7-1-2013	Amend	8-1-2013
461-145-0260(T)	1-1-2013	Repeal	2-1-2013	461-155-0150	10-1-2013	Amend(T)	11-1-2013
461-145-0260(T)	4-1-2013	Repeal	5-1-2013	461-155-0180	1-30-2013	Amend	3-1-2013
461-145-0300	10-1-2013	Amend(T)	11-1-2013	461-155-0180	2-1-2013	Amend(T)	3-1-2013
461-145-0330	10-1-2013	Amend(T)	11-1-2013	461-155-0180	7-1-2013	Amend	8-1-2013
461-145-0340	10-1-2013	Amend(T)	11-1-2013	461-155-0180	8-23-2013	Amend(T)	10-1-2013
461-145-0360	10-1-2013	Amend(T)	11-1-2013	461-155-0180(T)	7-1-2013	Repeal	8-1-2013
461-145-0365	10-1-2013	Amend(T)	11-1-2013	461-155-0190	10-1-2013	Amend	11-1-2013
461-145-0380	10-1-2013	Amend(T)	11-1-2013	461-155-0190	10-15-2013	Amend	11-1-2013
461-145-0410	10-1-2013	Amend(T)	11-1-2013	461-155-0225	8-23-2013	Amend(T)	10-1-2013
461-145-0420	10-1-2013	Amend(T)	11-1-2013	461-155-0225	10-1-2013	Amend(T)	11-1-2013
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461-145-0433	10-1-2013	Amend(T)	11-1-2013	461-155-0235	1-30-2013	Amend	3-1-2013
461-145-0440	10-1-2013	Amend(T)	11-1-2013	461-155-0235	10-1-2013	Suspend	11-1-2013
461-145-0455	10-1-2013	Amend(T)	11-1-2013	461-155-0250	1-1-2013	Amend(T)	2-1-2013
461-145-0460	10-1-2013	Amend(T)	11-1-2013	461-155-0250	4-1-2013	Amend	5-1-2013
461-145-0470	10-1-2013	Amend(T)	11-1-2013	461-155-0250(T)	4-1-2013	Repeal	5-1-2013
461-145-0505	10-1-2013	Amend(T)	11-1-2013	461-155-0270	1-1-2013	Amend(T)	2-1-2013
461-145-0510	10-1-2013	Amend(T)	11-1-2013	461-155-0270	1-8-2013	Amend(T)	2-1-2013
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461-145-0540	10-1-2013	Amend	11-1-2013	461-155-0270	7-1-2013	Amend(T)	8-1-2013
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461-145-0540(T)	10-1-2013	Repeal	11-1-2013	461-155-0270(T)	1-8-2013	Suspend	2-1-2013
461-145-0580	1-1-2013	Amend	2-1-2013	461-155-0270(T)	4-1-2013	Repeal	5-1-2013
461-145-0580	7-1-2013	Amend(T)	8-1-2013	461-155-0270(T)	10-1-2013	Repeal	11-1-2013
461-145-0580	10-1-2013	Amend	11-1-2013	461-155-0290	3-1-2013	Amend	4-1-2013
461-145-0580	10-1-2013	Amend(T)	11-1-2013	461-155-0291	3-1-2013	Amend	4-1-2013
461-145-0580(T)	1-1-2013	Repeal	2-1-2013	461-155-0295	3-1-2013	Amend	4-1-2013
461-145-0580(T)	10-1-2013	Repeal	11-1-2013	461-155-0300	1-1-2013	Amend(T)	2-1-2013
461-145-0590	10-1-2013	Amend(T)	11-1-2013	461-155-0300	4-1-2013	Amend	5-1-2013
461-145-0600	10-1-2013	Amend(T)	11-1-2013	461-155-0300(T)	4-1-2013	Repeal	5-1-2013
461-145-0820	10-1-2013	Amend(T)	11-1-2013	461-155-0350	10-1-2013	Amend(T)	11-1-2013
461-145-0830	10-1-2013	Amend(T)	11-1-2013	461-155-0530	7-1-2013	Amend(T)	8-1-2013
461-145-0860	10-1-2013	Amend(T)	11-1-2013	461-155-0530	10-1-2013	Amend	11-1-2013
461-145-0870	10-1-2013	Suspend	11-1-2013	461-155-0530(T)	10-1-2013	Repeal	11-1-2013
461-145-0910	10-1-2013	Amend(T)	11-1-2013	461-155-0575	4-1-2013	Amend	5-1-2013
461-145-0920	10-1-2013	Amend(T)	11-1-2013	461-155-0575	7-1-2013	Amend(T)	8-1-2013
461-145-0930	10-1-2013	Amend(T)	11-1-2013	461-155-0575	8-1-2013	Amend(T)	9-1-2013
461-150-0020	10-1-2013	Amend(T)	11-1-2013	461-155-0575	10-1-2013	Amend	11-1-2013
461-150-0055	8-1-2013	Amend(T)	9-1-2013	461-155-0575(T)	4-1-2013	Repeal	5-1-2013
461-150-0055	8-23-2013	Amend(T)	10-1-2013	461-155-0575(T)	8-1-2013	Suspend	9-1-2013
461-150-0055	10-1-2013	Suspend	11-1-2013	461-155-0575(T)	10-1-2013	Repeal	11-1-2013
461-150-0055(T)	8-23-2013	Suspend	10-1-2013	461-155-0580	7-1-2013	Amend(T)	8-1-2013
461-150-0060	7-1-2013	Amend	8-1-2013	461-155-0580	10-1-2013	Amend	11-1-2013
461-150-0060	8-1-2013	Amend(T)	9-1-2013	461-155-0580(T)	10-1-2013	Repeal	11-1-2013

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461-155-0630	10-1-2013	Amend	11-1-2013	461-160-0620	7-1-2013	Amend(T)	8-1-2013
461-155-0630(T)	10-1-2013	Repeal	11-1-2013	461-160-0620	10-1-2013	Amend	11-1-2013
461-155-0640	7-1-2013	Amend(T)	8-1-2013	461-160-0620(T)	10-1-2013	Repeal	11-1-2013
461-155-0640	10-1-2013	Amend	11-1-2013	461-160-0630	10-1-2013	Amend(T)	11-1-2013
461-155-0640(T)	10-1-2013	Repeal	11-1-2013	461-160-0700	10-1-2013	Suspend	11-1-2013
461-155-0660	7-1-2013	Amend(T)	8-1-2013	461-165-0010	2-6-2013	Amend	3-1-2013
461-155-0660	10-1-2013	Amend	11-1-2013	461-165-0030	10-1-2013	Amend(T)	11-1-2013
461-155-0660(T)	10-1-2013	Repeal	11-1-2013	461-165-0060	1-1-2013	Amend	2-1-2013
461-155-0670	10-1-2013	Amend(T)	11-1-2013	461-165-0100	7-1-2013	Amend(T)	8-1-2013
461-155-0710	7-1-2013	Amend	8-1-2013	461-165-0100	10-1-2013	Amend	11-1-2013
461-160-0010	4-10-2013	Amend(T)	5-1-2013	461-165-0100(T)	10-1-2013	Repeal	11-1-2013
461-160-0010	10-1-2013	Amend	11-1-2013	461-165-0120	10-1-2013	Amend(T)	11-1-2013
461-160-0010(T)	10-1-2013	Repeal	11-1-2013	461-165-0160	4-1-2013	Amend	5-1-2013
461-160-0015	1-1-2013	Amend	2-1-2013	461-165-0180	4-1-2013	Amend	5-1-2013
461-160-0015	1-1-2013	Amend(T)	2-1-2013	461-165-0190	4-1-2013	Repeal	5-1-2013
461-160-0015	4-1-2013	Amend	5-1-2013	461-170-0011	10-1-2013	Amend	11-1-2013
461-160-0015	10-1-2013	Amend	11-1-2013	461-170-0011	10-1-2013	Amend(T)	11-1-2013
461-160-0015	10-1-2013	Amend(T)	11-1-2013	461-170-0130	10-1-2013	Amend(T)	11-1-2013
461-160-0015(T)	4-1-2013	Repeal	5-1-2013	461-170-0200	10-1-2013	Amend(T)	11-1-2013
461-160-0030	4-1-2013	Amend	5-1-2013	461-175-0200	10-1-2013	Amend(T)	11-1-2013
461-160-0040	7-1-2013	Amend	8-1-2013	461-175-0203	10-1-2013	Suspend	11-1-2013
461-160-0040	10-1-2013	Amend(T)	11-1-2013	461-175-0210	10-1-2013	Amend(T)	11-1-2013
461-160-0055	1-1-2013	Amend	2-1-2013	461-175-0210	10-3-2013	Amend(T)	11-1-2013
461-160-0055	4-1-2013	Amend	5-1-2013	461-175-0210(T)	10-3-2013	Suspend	11-1-2013
461-160-0055	7-1-2013	Amend(T)	8-1-2013	461-175-0222	7-1-2013	Amend	8-1-2013
461-160-0055	10-1-2013	Amend	11-1-2013	461-175-0230	7-1-2013	Amend(T)	8-1-2013
461-160-0055(T)	1-1-2013	Repeal	2-1-2013	461-175-0230	10-1-2013	Amend	11-1-2013
461-160-0055(T)	10-1-2013	Repeal	11-1-2013	461-175-0230(T)	10-1-2013	Repeal	11-1-2013
461-160-0060	10-1-2013	Amend(T)	11-1-2013	461-175-0270	10-1-2013	Amend(T)	11-1-2013
461-160-0100	10-1-2013	Amend(T)	11-1-2013	461-175-0305	10-1-2013	Amend(T)	11-1-2013
461-160-0120	10-1-2013	Suspend	11-1-2013	461-180-0010	8-1-2013	Amend(T)	9-1-2013
461-160-0125	10-1-2013	Suspend	11-1-2013	461-180-0010	10-1-2013	Amend(T)	11-1-2013
461-160-0160	10-1-2013	Amend(T)	11-1-2013	461-180-0010(T)	10-1-2013	Suspend	11-1-2013
461-160-0190	10-1-2013	Suspend	11-1-2013	461-180-0020	10-1-2013	Amend(T)	11-1-2013
461-160-0193	4-1-2013	Amend	5-1-2013	461-180-0044	7-1-2013	Amend(T)	8-1-2013
461-160-0200	10-1-2013	Suspend	11-1-2013	461-180-0044	10-1-2013	Amend	11-1-2013
461-160-0410	4-1-2013	Amend	5-1-2013	461-180-0044(T)	10-1-2013	Repeal	11-1-2013
461-160-0415	4-1-2013	Amend	5-1-2013	461-180-0050	10-1-2013	Amend(T)	11-1-2013
461-160-0420	4-1-2013	Amend	5-1-2013	461-180-0065	10-1-2013	Amend(T)	11-1-2013
461-160-0420	10-1-2013	Amend	11-1-2013	461-180-0070	4-1-2013	Amend	5-1-2013
461-160-0430	4-1-2013	Amend	5-1-2013	461-180-0085	10-1-2013	Amend(T)	11-1-2013
461-160-0430	10-1-2013	Amend	11-1-2013	461-180-0090	8-1-2013	Amend(T)	9-1-2013
461-160-0540	7-1-2013	Amend(T)	8-1-2013	461-180-0090	10-1-2013	Amend(T)	11-1-2013
461-160-0540	10-1-2013	Amend	11-1-2013	461-180-0090(T)	10-1-2013	Suspend	11-1-2013
461-160-0540(T)	10-1-2013	Repeal	11-1-2013	461-180-0097	10-1-2013	Suspend	11-1-2013
461-160-0550	7-1-2013	Amend(T)	8-1-2013	461-180-0100	1-1-2013	Amend	2-1-2013
461-160-0550	10-1-2013	Amend	11-1-2013	461-180-0100	10-1-2013	Amend(T)	11-1-2013
461-160-0550(T)	10-1-2013	Repeal	11-1-2013	461-180-0105	10-1-2013	Amend(T)	11-1-2013
461-160-0551	7-1-2013	Amend(T)	8-1-2013	461-180-0120	10-1-2013	Amend(T)	11-1-2013
461-160-0551	10-1-2013	Amend	11-1-2013	461-180-0140	10-1-2013	Amend(T)	11-1-2013
461-160-0551(T)	10-1-2013	Repeal	11-1-2013	461-185-0050	7-1-2013	Amend(T)	8-1-2013
461-160-0580	1-1-2013	Amend	2-1-2013	461-185-0050	10-1-2013	Amend	11-1-2013
461-160-0610	7-1-2013	Amend(T)	8-1-2013	461-185-0050(T)	10-1-2013	Repeal	11-1-2013
461-160-0610	10-1-2013	Amend	11-1-2013	461-190-0211	1-1-2013	Amend(T)	2-1-2013
461-160-0610(T)	10-1-2013	Repeal	11-1-2013	461-190-0211	1-23-2013	Amend(T)	3-1-2013

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461-190-0211	7-1-2013	Amend(T)	8-1-2013	573-076-0090	6-20-2013	Amend	8-1-2013
461-190-0211	10-1-2013	Amend	11-1-2013	573-076-0100	6-20-2013	Amend	8-1-2013
461-190-0211(T)	1-1-2013	Suspend	2-1-2013	573-076-0110	6-20-2013	Amend	8-1-2013
461-190-0211(T)	1-23-2013	Suspend	3-1-2013	573-076-0120	6-20-2013	Amend	8-1-2013
461-190-0211(T)	4-1-2013	Repeal	5-1-2013	573-076-0130	6-20-2013	Amend	8-1-2013
461-190-0211(T)	10-1-2013	Repeal	11-1-2013	574-050-0005	1-28-2013	Amend	3-1-2013
461-193-0320	7-1-2013	Amend	8-1-2013	574-050-0005	7-24-2013	Amend	9-1-2013
461-195-0501	3-25-2013	Amend(T)	5-1-2013	576-005-0032	7-1-2013	Amend	7-1-2013
461-195-0501	9-20-2013	Amend	11-1-2013	576-005-0035	3-1-2013	Repeal	4-1-2013
461-195-0501(T)	9-20-2013	Repeal	11-1-2013	576-005-0040	3-1-2013	Repeal	4-1-2013
461-195-0521	7-1-2013	Amend	8-1-2013	576-010-0000	1-1-2013	Amend	2-1-2013
461-195-0521	7-1-2013	Amend(T)	8-1-2013	576-010-0000	7-1-2013	Amend	7-1-2013
461-195-0521	10-1-2013	Amend	11-1-2013	576-026-0005	1-1-2013	Repeal	2-1-2013
461-195-0521(T)	10-1-2013	Repeal	11-1-2013	576-026-0010	1-1-2013	Repeal	2-1-2013
461-195-0541	3-25-2013	Amend(T)	5-1-2013	576-050-0015	1-1-2013	Amend	2-1-2013
461-195-0541	7-1-2013	Amend	8-1-2013	576-055-0000	1-16-2013	Adopt	3-1-2013
461-195-0541	7-1-2013	Amend(T)	8-1-2013	576-055-0010	1-16-2013	Adopt	3-1-2013
461-195-0541	9-20-2013	Amend	11-1-2013	576-055-0020	1-16-2013	Adopt	3-1-2013
461-195-0541(T)	7-1-2013	Repeal	8-1-2013	576-055-0030	1-16-2013	Adopt	3-1-2013
461-195-0541(T)	9-20-2013	Repeal	11-1-2013	576-055-0040	1-16-2013	Adopt	3-1-2013
461-195-0601	3-25-2013	Amend(T)	5-1-2013	576-055-0050	1-16-2013	Adopt	3-1-2013
461-195-0601	9-20-2013	Amend	11-1-2013	576-055-0060	1-16-2013	Adopt	3-1-2013
461-195-0601(T)	9-20-2013	Repeal	11-1-2013	576-055-0070	1-16-2013	Adopt	3-1-2013
461-195-0621	3-25-2013	Amend(T)	5-1-2013	576-055-0080	1-16-2013	Adopt	3-1-2013
461-195-0621	9-20-2013	Amend	11-1-2013	576-055-0090	1-16-2013	Adopt	3-1-2013
461-195-0621(T)	9-20-2013	Repeal	11-1-2013	576-055-0100	1-16-2013	Adopt	3-1-2013
462-120-0060	9-20-2013	Amend(T)	11-1-2013	576-055-0110	1-16-2013	Adopt	3-1-2013
462-130-0010	12-31-2012	Amend	2-1-2013	576-055-0120	1-16-2013	Adopt	3-1-2013
462-200-0635	8-21-2013	Adopt(T)	10-1-2013	576-055-0130	1-16-2013	Adopt	3-1-2013
471-020-0010	7-16-2013	Amend(T)	9-1-2013	576-055-0140	1-16-2013	Adopt	3-1-2013
471-020-0035	7-16-2013	Amend(T)	9-1-2013	576-055-0150	1-16-2013	Adopt	3-1-2013
471-030-0040	9-1-2013	Amend(T)	10-1-2013	576-055-0160	1-16-2013	Adopt	3-1-2013
471-030-0045	9-1-2013	Amend(T)	10-1-2013	576-056-0000	1-1-2013	Adopt	2-1-2013
471-030-0052	10-1-2013	Amend(T)	10-1-2013	576-056-0010	1-1-2013	Adopt	2-1-2013
471-030-0053	9-1-2013	Amend(T)	10-1-2013	576-056-0020	1-1-2013	Adopt	2-1-2013
471-030-0058	9-1-2013	Adopt(T)	10-1-2013	576-056-0030	1-1-2013	Adopt	2-1-2013
571-004-0020	3-4-2013	Amend	4-1-2013	576-056-0040	1-1-2013	Adopt	2-1-2013
571-004-0025	3-4-2013	Amend	4-1-2013	576-056-0050	1-1-2013	Adopt	2-1-2013
571-004-0030	3-4-2013	Amend	4-1-2013	576-056-0060	1-1-2013	Adopt	2-1-2013
571-004-0037	3-4-2013	Adopt	4-1-2013	576-056-0070	1-1-2013	Adopt	2-1-2013
571-004-0050	3-4-2013	Amend	4-1-2013	576-056-0080	1-1-2013	Adopt	2-1-2013
571-004-0055	3-4-2013	Amend	4-1-2013	576-056-0090	1-1-2013	Adopt	2-1-2013
571-050-0011	8-9-2013	Amend	9-1-2013	576-056-0100	1-1-2013	Adopt	2-1-2013
571-060-0005	3-6-2013	Amend	4-1-2013	576-056-0110	1-1-2013	Adopt	2-1-2013
571-060-0005	6-27-2013	Amend	8-1-2013	576-056-0120	1-1-2013	Adopt	2-1-2013
573-040-0005	5-7-2013	Amend	6-1-2013	576-056-0130	1-1-2013	Adopt	2-1-2013
573-050-0015	6-20-2013	Amend	8-1-2013	577-042-0010	3-20-2013	Amend(T)	5-1-2013
573-050-0016	6-20-2013	Amend	8-1-2013	577-042-0010	7-29-2013	Amend	9-1-2013
573-050-0025	6-20-2013	Amend	8-1-2013	577-060-0020	5-30-2013	Amend	7-1-2013
573-050-0030	6-20-2013	Amend	8-1-2013	578-041-0030	9-16-2013	Amend	7-1-2013
573-050-0040	6-20-2013	Amend	8-1-2013	578-072-0030	9-16-2013	Amend	7-1-2013
573-076-0040	6-20-2013	Amend	8-1-2013	579-010-0006	9-6-2013	Repeal	10-1-2013
573-076-0050	6-20-2013	Amend	8-1-2013	579-010-0011	9-6-2013	Repeal	10-1-2013
573-076-0060	6-20-2013	Amend	8-1-2013	579-010-0016	9-6-2013	Repeal	10-1-2013
573-076-0070	6-20-2013	Amend	8-1-2013	579-010-0021	9-6-2013	Repeal	10-1-2013

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579-010-0030	9-6-2013	Repeal	10-1-2013	580-061-0105	4-10-2013	Amend(T)	5-1-2013
579-010-0035	9-6-2013	Repeal	10-1-2013	580-061-0110	4-10-2013	Amend(T)	5-1-2013
579-010-0040	9-6-2013	Repeal	10-1-2013	580-061-0115	4-10-2013	Amend(T)	5-1-2013
579-020-0006	5-28-2013	Amend	7-1-2013	580-061-0120	4-10-2013	Amend(T)	5-1-2013
579-040-0005	8-6-2013	Amend(T)	9-1-2013	580-061-0125	4-10-2013	Amend(T)	5-1-2013
579-040-0007	8-6-2013	Amend(T)	9-1-2013	580-061-0130	4-10-2013	Amend(T)	5-1-2013
579-040-0010	8-6-2013	Amend(T)	9-1-2013	580-061-0135	4-10-2013	Amend(T)	5-1-2013
579-040-0013	8-6-2013	Amend(T)	9-1-2013	580-061-0140	4-10-2013	Amend(T)	5-1-2013
579-040-0015	8-6-2013	Amend(T)	9-1-2013	580-061-0145	4-10-2013	Amend(T)	5-1-2013
579-040-0020	8-6-2013	Suspend	9-1-2013	580-061-0150	4-10-2013	Amend(T)	5-1-2013
579-040-0030	8-6-2013	Amend(T)	9-1-2013	580-061-0155	4-10-2013	Amend(T)	5-1-2013
579-040-0035	8-6-2013	Amend(T)	9-1-2013	580-061-0160	4-10-2013	Amend(T)	5-1-2013
579-040-0045	8-6-2013	Amend(T)	9-1-2013	580-062-0010	4-10-2013	Amend(T)	5-1-2013
579-070-0005	12-20-2012	Amend	2-1-2013	580-062-0015	4-10-2013	Amend(T)	5-1-2013
579-070-0005	2-22-2013	Amend	4-1-2013	580-062-0020	4-10-2013	Amend(T)	5-1-2013
579-070-0010	2-22-2013	Amend	4-1-2013	581-001-0016	1-15-2013	Adopt	2-1-2013
579-070-0015	2-22-2013	Amend	4-1-2013	581-002-0090	1-15-2013	Adopt	2-1-2013
579-070-0030	2-22-2013	Amend	4-1-2013	581-015-2030	4-9-2013	Amend(T)	5-1-2013
579-070-0035	2-22-2013	Amend	4-1-2013	581-015-2030	7-11-2013	Amend	8-1-2013
579-070-0041	2-22-2013	Amend	4-1-2013	581-015-2090	4-25-2013	Amend(T)	6-1-2013
579-070-0042	2-22-2013	Amend	4-1-2013	581-015-2090	5-30-2013	Amend	7-1-2013
579-070-0043	2-22-2013	Amend	4-1-2013	581-015-2110	1-17-2013	Amend	3-1-2013
579-070-0045	2-22-2013	Amend	4-1-2013	581-015-2310	4-25-2013	Amend(T)	6-1-2013
580-040-0040	7-24-2013	Amend	9-1-2013	581-015-2310	5-30-2013	Amend	7-1-2013
580-060-0000	4-10-2013	Amend(T)	5-1-2013	581-015-2530	4-25-2013	Amend(T)	6-1-2013
580-060-0010	4-10-2013	Amend(T)	5-1-2013	581-015-2530	5-30-2013	Amend	7-1-2013
580-060-0015	4-10-2013	Amend(T)	5-1-2013	581-015-2735	4-25-2013	Amend(T)	6-1-2013
580-060-0020	4-10-2013	Amend(T)	5-1-2013	581-015-2735	5-30-2013	Amend	7-1-2013
580-060-0025	4-10-2013	Amend(T)	5-1-2013	581-015-2745	4-25-2013	Amend(T)	6-1-2013
580-060-0035	4-10-2013	Amend(T)	5-1-2013	581-015-2745	5-30-2013	Amend	7-1-2013
580-060-0040	4-10-2013	Amend(T)	5-1-2013	581-015-2885	4-25-2013	Amend(T)	6-1-2013
580-060-0045	4-10-2013	Amend(T)	5-1-2013	581-015-2885	5-30-2013	Amend	7-1-2013
580-060-0050	4-10-2013	Amend(T)	5-1-2013	581-017-0005	8-15-2013	Adopt(T)	9-1-2013
580-060-0055	4-10-2013	Amend(T)	5-1-2013	581-017-0010	8-15-2013	Adopt(T)	9-1-2013
580-060-0060	4-10-2013	Suspend	5-1-2013	581-017-0020	8-15-2013	Adopt(T)	9-1-2013
580-061-0000	4-10-2013	Amend(T)	5-1-2013	581-017-0100	8-15-2013	Adopt(T)	9-1-2013
580-061-0005	4-10-2013	Amend(T)	5-1-2013	581-017-0105	8-15-2013	Adopt(T)	9-1-2013
580-061-0010	4-10-2013	Amend(T)	5-1-2013	581-017-0110	8-15-2013	Adopt(T)	9-1-2013
580-061-0015	4-10-2013	Amend(T)	5-1-2013	581-017-0115	8-15-2013	Adopt(T)	9-1-2013
580-061-0020	4-10-2013	Amend(T)	5-1-2013	581-018-0005	8-15-2013	Adopt(T)	9-1-2013
580-061-0025	4-10-2013	Amend(T)	5-1-2013	581-018-0010	8-15-2013	Adopt(T)	9-1-2013
580-061-0030	4-10-2013	Amend(T)	5-1-2013	581-018-0020	8-15-2013	Adopt(T)	9-1-2013
580-061-0035	4-10-2013	Amend(T)	5-1-2013	581-018-0100	8-15-2013	Adopt(T)	9-1-2013
580-061-0040	4-10-2013	Amend(T)	5-1-2013	581-018-0105	8-15-2013	Adopt(T)	9-1-2013
580-061-0045	4-10-2013	Amend(T)	5-1-2013	581-018-0110	8-15-2013	Adopt(T)	9-1-2013
580-061-0050	4-10-2013	Amend(T)	5-1-2013	581-018-0115	8-15-2013	Adopt(T)	9-1-2013
580-061-0055	4-10-2013	Amend(T)	5-1-2013	581-018-0120	8-15-2013	Adopt(T)	9-1-2013
580-061-0060	4-10-2013	Amend(T)	5-1-2013	581-018-0125	8-15-2013	Adopt(T)	9-1-2013
580-061-0065	4-10-2013	Amend(T)	5-1-2013	581-018-0200	8-15-2013	Adopt(T)	9-1-2013
580-061-0070	4-10-2013	Amend(T)	5-1-2013	581-018-0205	8-15-2013	Adopt(T)	9-1-2013
580-061-0075	4-10-2013	Amend(T)	5-1-2013	581-018-0210	8-15-2013	Adopt(T)	9-1-2013
580-061-0080	4-10-2013	Amend(T)	5-1-2013	581-018-0215	8-15-2013	Adopt(T)	9-1-2013
580-061-0085	4-10-2013	Amend(T)	5-1-2013	581-018-0220	8-15-2013	Adopt(T)	9-1-2013
580-061-0090	4-10-2013	Amend(T)	5-1-2013	581-018-0225	8-15-2013	Adopt(T)	9-1-2013
580-061-0095	4-10-2013	Amend(T)	5-1-2013	581-018-0300	9-27-2013	Adopt(T)	11-1-2013

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581-018-0305	9-27-2013	Adopt(T)	11-1-2013	584-017-0210	4-30-2013	Repeal	6-1-2013
581-018-0310	9-27-2013	Adopt(T)	11-1-2013	584-017-0220	4-30-2013	Repeal	6-1-2013
581-018-0315	9-27-2013	Adopt(T)	11-1-2013	584-017-0230	4-30-2013	Repeal	6-1-2013
581-018-0320	9-27-2013	Adopt(T)	11-1-2013	584-017-0240	4-30-2013	Repeal	6-1-2013
581-018-0325	9-27-2013	Adopt(T)	11-1-2013	584-017-0251	4-30-2013	Repeal	6-1-2013
581-021-0500	1-17-2013	Amend	3-1-2013	584-017-0261	4-30-2013	Repeal	6-1-2013
581-021-0500(T)	1-17-2013	Repeal	3-1-2013	584-017-0270	4-30-2013	Repeal	6-1-2013
581-022-1060	7-11-2013	Amend	8-1-2013	584-017-0280	4-30-2013	Repeal	6-1-2013
581-022-1065	1-15-2013	Repeal	2-1-2013	584-017-0282	4-30-2013	Repeal	6-1-2013
581-022-1440	4-10-2013	Amend	5-1-2013	584-017-0290	4-30-2013	Repeal	6-1-2013
581-022-1670	2-20-2013	Amend	4-1-2013	584-017-0300	4-30-2013	Repeal	6-1-2013
581-022-2130	4-5-2013	Adopt	5-1-2013	584-017-0310	4-30-2013	Repeal	6-1-2013
581-044-0210	9-27-2013	Amend	11-1-2013	584-017-0320	4-30-2013	Repeal	6-1-2013
581-044-0220	9-27-2013	Amend	11-1-2013	584-017-0330	4-30-2013	Repeal	6-1-2013
581-044-0240	9-27-2013	Amend	11-1-2013	584-017-0340	4-30-2013	Repeal	6-1-2013
581-044-0250	9-27-2013	Amend	11-1-2013	584-017-0351	4-30-2013	Repeal	6-1-2013
581-044-0260	9-27-2013	Amend	11-1-2013	584-017-0355	4-30-2013	Repeal	6-1-2013
581-045-0003	1-15-2013	Amend	2-1-2013	584-017-0360	4-30-2013	Repeal	6-1-2013
581-045-0586	1-17-2013	Amend	3-1-2013	584-017-0370	4-30-2013	Repeal	6-1-2013
581-045-0586(T)	1-17-2013	Repeal	3-1-2013	584-017-0380	4-30-2013	Repeal	6-1-2013
581-051-0305	8-28-2013	Amend	10-1-2013	584-017-0390	4-30-2013	Repeal	6-1-2013
581-051-0306	8-28-2013	Amend	10-1-2013	584-017-0400	4-30-2013	Repeal	6-1-2013
584-005-0005	2-14-2013	Amend	3-1-2013	584-017-0410	4-30-2013	Repeal	6-1-2013
584-017-0005	4-30-2013	Repeal	6-1-2013	584-017-0420	4-30-2013	Repeal	6-1-2013
584-017-0010	4-30-2013	Repeal	6-1-2013	584-017-0430	4-30-2013	Repeal	6-1-2013
584-017-0020	4-30-2013	Repeal	6-1-2013	584-017-0441	4-30-2013	Repeal	6-1-2013
584-017-0025	4-30-2013	Repeal	6-1-2013	584-017-0451	4-30-2013	Repeal	6-1-2013
584-017-0030	4-30-2013	Repeal	6-1-2013	584-017-0455	4-30-2013	Repeal	6-1-2013
584-017-0035	4-30-2013	Repeal	6-1-2013	584-017-0460	4-30-2013	Repeal	6-1-2013
584-017-0040	4-30-2013	Repeal	6-1-2013	584-017-0462	4-30-2013	Repeal	6-1-2013
584-017-0042	4-30-2013	Repeal	6-1-2013	584-017-0465	4-30-2013	Repeal	6-1-2013
584-017-0045	4-30-2013	Repeal	6-1-2013	584-017-0470	4-30-2013	Repeal	6-1-2013
584-017-0050	4-30-2013	Repeal	6-1-2013	584-017-0480	4-30-2013	Repeal	6-1-2013
584-017-0055	4-30-2013	Repeal	6-1-2013	584-017-0500	4-30-2013	Repeal	6-1-2013
584-017-0057	4-30-2013	Repeal	6-1-2013	584-017-0510	4-30-2013	Repeal	6-1-2013
584-017-0060	4-30-2013	Repeal	6-1-2013	584-017-0520	4-30-2013	Repeal	6-1-2013
584-017-0070	4-30-2013	Repeal	6-1-2013	584-017-0530	4-30-2013	Repeal	6-1-2013
584-017-0075	4-30-2013	Repeal	6-1-2013	584-017-0541	4-30-2013	Repeal	6-1-2013
584-017-0080	4-30-2013	Repeal	6-1-2013	584-017-0551	4-30-2013	Repeal	6-1-2013
584-017-0085	4-30-2013	Repeal	6-1-2013	584-017-0555	4-30-2013	Repeal	6-1-2013
584-017-0090	4-30-2013	Repeal	6-1-2013	584-017-0560	4-30-2013	Repeal	6-1-2013
584-017-0100	4-30-2013	Repeal	6-1-2013	584-017-0570	4-30-2013	Repeal	6-1-2013
584-017-0115	4-30-2013	Repeal	6-1-2013	584-017-0580	4-30-2013	Repeal	6-1-2013
584-017-0120	4-30-2013	Repeal	6-1-2013	584-017-1028	4-30-2013	Amend	6-1-2013
584-017-0130	4-30-2013	Repeal	6-1-2013	584-018-0205	2-14-2013	Amend	3-1-2013
584-017-0140	4-30-2013	Repeal	6-1-2013	584-018-0205	8-19-2013	Amend	10-1-2013
584-017-0150	4-30-2013	Repeal	6-1-2013	584-018-0220	11-19-2012	Adopt	1-1-2013
584-017-0160	4-30-2013	Repeal	6-1-2013	584-018-0305	2-14-2013	Amend	3-1-2013
584-017-0170	4-30-2013	Repeal	6-1-2013	584-020-0041	8-19-2013	Amend	10-1-2013
584-017-0175	4-30-2013	Repeal	6-1-2013	584-036-0055	8-19-2013	Amend	10-1-2013
584-017-0180	4-30-2013	Repeal	6-1-2013	584-036-0082	11-19-2012	Repeal	1-1-2013
584-017-0182	4-30-2013	Repeal	6-1-2013	584-052-0030	11-19-2012	Repeal	1-1-2013
584-017-0185	4-30-2013	Repeal	6-1-2013	584-052-0031	11-19-2012	Repeal	1-1-2013
584-017-0190	4-30-2013	Repeal	6-1-2013	584-052-0032	11-19-2012	Repeal	1-1-2013
584-017-0200	4-30-2013	Repeal	6-1-2013	584-052-0033	11-19-2012	Repeal	1-1-2013
584-017-0201	4-30-2013	Repeal	6-1-2013	584-060-0002	8-19-2013	Amend	10-1-2013

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584-060-0012	8-19-2013	Amend	10-1-2013	589-007-0700	12-26-2012	Amend	2-1-2013
584-060-0062	8-19-2013	Amend	10-1-2013	603-013-0905	2-7-2013	Adopt	3-1-2013
584-060-0220	8-19-2013	Amend	10-1-2013	603-013-0910	2-7-2013	Adopt	3-1-2013
584-060-0250	8-19-2013	Amend	10-1-2013	603-013-0920	2-7-2013	Adopt	3-1-2013
584-066-0015	2-14-2013	Adopt	3-1-2013	603-013-0932	2-7-2013	Adopt	3-1-2013
584-070-0411	2-14-2013	Amend	3-1-2013	603-017-0900	2-7-2013	Adopt	3-1-2013
584-080-0031	11-19-2012	Amend	1-1-2013	603-017-0910	2-7-2013	Adopt	3-1-2013
584-080-0161	8-19-2013	Amend	10-1-2013	603-017-0920	2-7-2013	Adopt	3-1-2013
584-090-0001	4-30-2013	Repeal	6-1-2013	603-017-0930	2-7-2013	Adopt	3-1-2013
584-090-0005	4-30-2013	Repeal	6-1-2013	603-021-0900	2-7-2013	Adopt	3-1-2013
584-090-0010	4-30-2013	Repeal	6-1-2013	603-021-0910	2-7-2013	Adopt	3-1-2013
584-090-0020	4-30-2013	Repeal	6-1-2013	603-021-0920	2-7-2013	Adopt	3-1-2013
584-090-0030	4-30-2013	Repeal	6-1-2013	603-021-0930	2-7-2013	Adopt	3-1-2013
584-090-0040	4-30-2013	Repeal	6-1-2013	603-022-0900	2-7-2013	Adopt	3-1-2013
584-090-0060	4-30-2013	Repeal	6-1-2013	603-022-0910	2-7-2013	Adopt	3-1-2013
584-090-0100	8-19-2013	Amend	10-1-2013	603-022-0920	2-7-2013	Adopt	3-1-2013
584-090-0115	11-19-2012	Amend	1-1-2013	603-022-0930	2-7-2013	Adopt	3-1-2013
584-100-0002	8-19-2013	Amend	10-1-2013	603-024-0017	4-26-2013	Amend	6-1-2013
584-100-0006	8-19-2013	Amend	10-1-2013	603-024-0019	4-26-2013	Amend	6-1-2013
584-100-0011	8-19-2013	Amend	10-1-2013	603-024-0041	4-26-2013	Amend	6-1-2013
584-100-0016	2-14-2013	Amend	3-1-2013	603-024-0211	4-26-2013	Amend	6-1-2013
584-100-0016	8-19-2013	Amend	10-1-2013	603-024-0589	4-26-2013	Amend	6-1-2013
584-100-0017	8-19-2013	Amend	10-1-2013	603-024-0592	4-26-2013	Amend	6-1-2013
584-100-0021	8-19-2013	Amend	10-1-2013	603-024-0605	4-26-2013	Amend	6-1-2013
584-100-0023	8-19-2013	Repeal	10-1-2013	603-024-0613	4-26-2013	Amend	6-1-2013
584-100-0026	8-19-2013	Amend	10-1-2013	603-024-0640	4-26-2013	Amend	6-1-2013
584-100-0031	8-19-2013	Amend	10-1-2013	603-024-0900	2-7-2013	Adopt	3-1-2013
584-100-0038	11-19-2012	Amend	1-1-2013	603-024-0910	2-7-2013	Adopt	3-1-2013
584-100-0038	2-14-2013	Amend	3-1-2013	603-024-0920	2-7-2013	Adopt	3-1-2013
584-100-0038	8-19-2013	Amend	10-1-2013	603-024-0930	2-7-2013	Adopt	3-1-2013
584-100-0041	8-19-2013	Amend	10-1-2013	603-025-0030	1-1-2013	Amend	2-1-2013
584-100-0061	8-19-2013	Amend	10-1-2013	603-025-0190	9-4-2013	Amend	10-1-2013
584-100-0091	11-19-2012	Amend	1-1-2013	603-025-0900	2-7-2013	Adopt	3-1-2013
584-100-0096	11-19-2012	Amend	1-1-2013	603-025-0910	2-7-2013	Adopt	3-1-2013
584-100-0101	2-14-2013	Amend	3-1-2013	603-025-0920	2-7-2013	Adopt	3-1-2013
584-100-0101	8-19-2013	Am. & Ren.	10-1-2013	603-025-0930	2-7-2013	Adopt	3-1-2013
584-100-0106	2-14-2013	Amend	3-1-2013	603-028-0900	2-7-2013	Adopt	3-1-2013
584-100-0106	8-19-2013	Am. & Ren.	10-1-2013	603-028-0910	2-7-2013	Adopt	3-1-2013
585-001-0007	12-17-2012	Adopt	2-1-2013	603-028-0920	2-7-2013	Adopt	3-1-2013
585-001-0007	10-10-2013	Amend	11-1-2013	603-028-0930	2-7-2013	Adopt	3-1-2013
585-001-0008	10-10-2013	Amend	11-1-2013	603-047-0010	12-21-2012	Adopt	2-1-2013
585-001-0009	12-17-2012	Adopt	2-1-2013	603-047-0100	12-21-2012	Adopt	2-1-2013
585-001-0009	10-10-2013	Repeal	11-1-2013	603-047-0200	12-21-2012	Adopt	2-1-2013
589-002-0100	12-26-2012	Amend	2-1-2013	603-047-0300	12-21-2012	Adopt	2-1-2013
589-002-0100	6-11-2013	Amend	7-1-2013	603-047-0400	12-21-2012	Adopt	2-1-2013
589-002-0110	12-26-2012	Adopt	2-1-2013	603-047-0500	12-21-2012	Adopt	2-1-2013
589-002-0110	6-11-2013	Adopt	7-1-2013	603-051-0855	3-1-2013	Amend	4-1-2013
589-002-0120	12-26-2012	Adopt	2-1-2013	603-051-0856	3-1-2013	Amend	4-1-2013
589-002-0120	6-11-2013	Adopt	7-1-2013	603-051-0857	3-1-2013	Amend	4-1-2013
589-002-0130	12-26-2012	Adopt	2-1-2013	603-051-0858	3-1-2013	Amend	4-1-2013
589-002-0130	6-11-2013	Adopt	7-1-2013	603-051-0859	3-1-2013	Amend	4-1-2013
589-007-0200	6-25-2013	Amend	8-1-2013	603-052-0075	3-1-2013	Amend	4-1-2013
589-007-0500	5-31-2013	Amend(T)	7-1-2013	603-052-0114	3-1-2013	Amend	4-1-2013
589-007-0500	9-20-2013	Amend	11-1-2013	603-052-0116	3-1-2013	Amend	4-1-2013
589-007-0500(T)	9-20-2013	Repeal	11-1-2013	603-052-0127	3-1-2013	Amend	4-1-2013
589-007-0600	5-31-2013	Amend	7-1-2013	603-052-0129	3-1-2013	Amend	4-1-2013

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603-052-0850	2-6-2013	Repeal	3-1-2013	629-640-0000	9-1-2013	Amend	8-1-2013
603-052-0852	2-6-2013	Repeal	3-1-2013	629-640-0100	9-1-2013	Amend	8-1-2013
603-052-0860	2-6-2013	Amend	3-1-2013	629-640-0105	9-1-2013	Amend	8-1-2013
603-052-0861	2-6-2013	Adopt	3-1-2013	629-640-0200	9-1-2013	Amend	8-1-2013
603-052-0862	2-6-2013	Adopt	3-1-2013	629-645-0000	9-1-2013	Amend	8-1-2013
603-052-0870	2-6-2013	Amend	3-1-2013	629-645-0030	9-1-2013	Amend	8-1-2013
603-052-0880	2-6-2013	Amend	3-1-2013	629-645-0040	9-1-2013	Amend	8-1-2013
603-052-0882	2-6-2013	Adopt	3-1-2013	629-645-0050	9-1-2013	Amend	8-1-2013
603-052-0884	2-6-2013	Adopt	3-1-2013	629-650-0000	9-1-2013	Amend	8-1-2013
603-052-0886	2-6-2013	Adopt	3-1-2013	629-650-0005	9-1-2013	Adopt	8-1-2013
603-052-0888	2-6-2013	Adopt	3-1-2013	629-660-0050	9-1-2013	Amend	8-1-2013
603-052-0901	2-6-2013	Adopt	3-1-2013	629-665-0230	9-1-2013	Amend	8-1-2013
603-052-0921	2-6-2013	Adopt	3-1-2013	629-670-0214	9-1-2013	Amend	8-1-2013
603-052-1020	10-10-2013	Amend	11-1-2013	629-680-0020	9-1-2013	Amend	8-1-2013
603-052-1080	12-3-2012	Adopt	1-1-2013	632-010-0004	3-21-2013	Amend	5-1-2013
603-052-1090	12-3-2012	Adopt	1-1-2013	632-010-0006	3-21-2013	Repeal	5-1-2013
603-052-1200	3-1-2013	Amend	4-1-2013	632-010-0008	3-21-2013	Amend	5-1-2013
603-052-1206	12-12-2012	Adopt	1-1-2013	632-010-0010	3-21-2013	Amend	5-1-2013
603-052-1209	12-12-2012	Adopt	1-1-2013	632-010-0011	3-21-2013	Amend	5-1-2013
603-052-1211	12-12-2012	Adopt	1-1-2013	632-010-0012	3-21-2013	Amend	5-1-2013
603-052-1230	3-1-2013	Amend	4-1-2013	632-010-0014	3-21-2013	Amend	5-1-2013
603-052-1320	3-1-2013	Amend	4-1-2013	632-010-0015	3-21-2013	Amend	5-1-2013
603-057-0386	6-27-2013	Adopt(T)	8-1-2013	632-010-0016	3-21-2013	Amend	5-1-2013
603-100-0900	2-7-2013	Adopt	3-1-2013	632-010-0017	3-21-2013	Amend	5-1-2013
603-100-0910	2-7-2013	Adopt	3-1-2013	632-010-0018	3-21-2013	Amend	5-1-2013
603-100-0920	2-7-2013	Adopt	3-1-2013	632-010-0020	3-21-2013	Amend	5-1-2013
603-100-0930	2-7-2013	Adopt	3-1-2013	632-010-0128	3-21-2013	Amend	5-1-2013
611-010-0010	7-16-2013	Amend	9-1-2013	632-010-0130	3-21-2013	Amend	5-1-2013
611-030-0040	7-16-2013	Amend	9-1-2013	632-010-0132	3-21-2013	Amend	5-1-2013
617-020-0010	10-11-2013	Adopt	11-1-2013	632-010-0134	3-21-2013	Amend	5-1-2013
629-035-0055	7-1-2013	Amend	7-1-2013	632-010-0136	3-21-2013	Amend	5-1-2013
629-600-0050	9-1-2013	Adopt	8-1-2013	632-010-0138	3-21-2013	Amend	5-1-2013
629-600-0100	9-1-2013	Amend	8-1-2013	632-010-0140	3-21-2013	Amend	5-1-2013
629-605-0150	9-1-2013	Amend	8-1-2013	632-010-0142	3-21-2013	Amend	5-1-2013
629-605-0160	9-1-2013	Amend	8-1-2013	632-010-0144	3-21-2013	Amend	5-1-2013
629-605-0170	9-1-2013	Amend	8-1-2013	632-010-0146	3-21-2013	Amend	5-1-2013
629-605-0173	9-1-2013	Amend	8-1-2013	632-010-0148	3-21-2013	Amend	5-1-2013
629-605-0180	9-1-2013	Amend	8-1-2013	632-010-0150	3-21-2013	Amend	5-1-2013
629-610-0000	9-1-2013	Amend	8-1-2013	632-010-0151	3-21-2013	Amend	5-1-2013
629-610-0020	9-1-2013	Amend	8-1-2013	632-010-0152	3-21-2013	Amend	5-1-2013
629-610-0070	9-1-2013	Amend	8-1-2013	632-010-0154	3-21-2013	Amend	5-1-2013
629-610-0090	9-1-2013	Amend	8-1-2013	632-010-0156	3-21-2013	Amend	5-1-2013
629-615-0100	9-1-2013	Amend	8-1-2013	632-010-0157	3-21-2013	Amend	5-1-2013
629-615-0300	9-1-2013	Amend	8-1-2013	632-010-0159	3-21-2013	Amend	5-1-2013
629-620-0000	9-1-2013	Amend	8-1-2013	632-010-0161	3-21-2013	Amend	5-1-2013
629-623-0100	9-1-2013	Amend	8-1-2013	632-010-0162	3-21-2013	Amend	5-1-2013
629-623-0200	9-1-2013	Amend	8-1-2013	632-010-0163	3-21-2013	Amend	5-1-2013
629-623-0400	9-1-2013	Amend	8-1-2013	632-010-0164	3-21-2013	Amend	5-1-2013
629-625-0000	9-1-2013	Amend	8-1-2013	632-010-0165	3-21-2013	Amend	5-1-2013
629-625-0500	9-1-2013	Amend	8-1-2013	632-010-0166	3-21-2013	Amend	5-1-2013
629-625-0600	9-1-2013	Amend	8-1-2013	632-010-0167	3-21-2013	Amend	5-1-2013
629-625-0650	9-1-2013	Amend	8-1-2013	632-010-0168	3-21-2013	Amend	5-1-2013
629-630-0800	9-1-2013	Amend	8-1-2013	632-010-0169	3-21-2013	Repeal	5-1-2013
629-635-0100	9-1-2013	Amend	8-1-2013	632-010-0170	3-21-2013	Amend	5-1-2013
629-635-0130	9-1-2013	Repeal	8-1-2013	632-010-0172	3-21-2013	Amend	5-1-2013

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632-010-0176	3-21-2013	Amend	5-1-2013	632-020-0145	3-21-2013	Amend	5-1-2013
632-010-0178	3-21-2013	Amend	5-1-2013	632-020-0150	3-21-2013	Amend	5-1-2013
632-010-0182	3-21-2013	Amend	5-1-2013	632-020-0154	3-21-2013	Amend	5-1-2013
632-010-0184	3-21-2013	Amend	5-1-2013	632-020-0155	3-21-2013	Amend	5-1-2013
632-010-0186	3-21-2013	Amend	5-1-2013	632-020-0156	3-21-2013	Amend	5-1-2013
632-010-0188	3-21-2013	Amend	5-1-2013	632-020-0157	3-21-2013	Amend	5-1-2013
632-010-0190	3-21-2013	Amend	5-1-2013	632-020-0159	3-21-2013	Amend	5-1-2013
632-010-0192	3-21-2013	Amend	5-1-2013	632-020-0160	3-21-2013	Repeal	5-1-2013
632-010-0194	3-21-2013	Amend	5-1-2013	632-020-0170	3-21-2013	Amend	5-1-2013
632-010-0196	3-21-2013	Amend	5-1-2013	632-020-0175	3-21-2013	Amend	5-1-2013
632-010-0198	3-21-2013	Amend	5-1-2013	632-020-0180	3-21-2013	Amend	5-1-2013
632-010-0205	3-21-2013	Amend	5-1-2013	635-003-0003	5-1-2013	Amend(T)	6-1-2013
632-010-0210	3-21-2013	Amend	5-1-2013	635-003-0003	5-14-2013	Amend	6-1-2013
632-010-0220	3-21-2013	Amend	5-1-2013	635-003-0003(T)	5-14-2013	Repeal	6-1-2013
632-010-0225	3-21-2013	Amend	5-1-2013	635-004-0215	5-14-2013	Amend	6-1-2013
632-010-0230	3-21-2013	Amend	5-1-2013	635-004-0220	1-1-2013	Amend	2-1-2013
632-010-0235	3-21-2013	Amend	5-1-2013	635-004-0275	1-3-2013	Amend	2-1-2013
632-015-0005	3-21-2013	Amend	5-1-2013	635-004-0275	9-1-2013	Amend(T)	10-1-2013
632-015-0010	3-21-2013	Amend	5-1-2013	635-004-0310	1-1-2013	Amend	2-1-2013
632-015-0015	3-21-2013	Amend	5-1-2013	635-004-0350	1-1-2013	Amend	2-1-2013
632-015-0020	3-21-2013	Amend	5-1-2013	635-004-0355	1-1-2013	Amend	2-1-2013
632-015-0025	3-21-2013	Amend	5-1-2013	635-004-0355	9-9-2013	Amend(T)	10-1-2013
632-015-0030	3-21-2013	Amend	5-1-2013	635-004-0375	6-19-2013	Amend	8-1-2013
632-015-0035	3-21-2013	Amend	5-1-2013	635-004-0375	8-22-2013	Amend(T)	10-1-2013
632-015-0040	3-21-2013	Amend	5-1-2013	635-004-0465	1-1-2013	Amend	2-1-2013
632-015-0045	3-21-2013	Amend	5-1-2013	635-004-0485	5-14-2013	Amend	6-1-2013
632-015-0050	3-21-2013	Amend	5-1-2013	635-004-0585	5-14-2013	Amend	6-1-2013
632-015-0055	3-21-2013	Amend	5-1-2013	635-005-0320	5-14-2013	Amend	6-1-2013
632-015-0060	3-21-2013	Amend	5-1-2013	635-005-0355	6-15-2013	Amend(T)	7-1-2013
632-020-0005	3-21-2013	Amend	5-1-2013	635-005-0410	1-1-2013	Amend	2-1-2013
632-020-0010	3-21-2013	Amend	5-1-2013	635-005-0430	5-14-2013	Amend	6-1-2013
632-020-0015	3-21-2013	Amend	5-1-2013	635-005-0465	12-12-2012	Amend(T)	1-1-2013
632-020-0025	3-21-2013	Amend	5-1-2013	635-005-0465	10-15-2013	Amend	11-1-2013
632-020-0028	3-21-2013	Adopt	5-1-2013	635-005-0465(T)	12-12-2012	Suspend	1-1-2013
632-020-0030	3-21-2013	Amend	5-1-2013	635-005-0480	1-1-2013	Amend	2-1-2013
632-020-0031	3-21-2013	Amend	5-1-2013	635-005-0585	1-1-2013	Amend	2-1-2013
632-020-0032	3-21-2013	Adopt	5-1-2013	635-005-0605	5-14-2013	Amend	6-1-2013
632-020-0035	3-21-2013	Amend	5-1-2013	635-005-0660	5-14-2013	Amend	6-1-2013
632-020-0040	3-21-2013	Amend	5-1-2013	635-005-0665	5-14-2013	Amend	6-1-2013
632-020-0045	3-21-2013	Repeal	5-1-2013	635-005-0740	1-1-2013	Amend	2-1-2013
632-020-0055	3-21-2013	Repeal	5-1-2013	635-005-0745	5-14-2013	Amend	6-1-2013
632-020-0060	3-21-2013	Amend	5-1-2013	635-005-0760	5-14-2013	Amend	6-1-2013
632-020-0065	3-21-2013	Amend	5-1-2013	635-005-0800	1-1-2013	Amend	2-1-2013
632-020-0070	3-21-2013	Amend	5-1-2013	635-005-0820	5-14-2013	Amend	6-1-2013
632-020-0090	3-21-2013	Amend	5-1-2013	635-005-0825	5-14-2013	Amend	6-1-2013
632-020-0095	3-21-2013	Amend	5-1-2013	635-006-0001	1-1-2013	Amend	2-1-2013
632-020-0100	3-21-2013	Amend	5-1-2013	635-006-0001	5-14-2013	Amend	6-1-2013
632-020-0105	3-21-2013	Amend	5-1-2013	635-006-0165	5-14-2013	Amend	6-1-2013
632-020-0110	3-21-2013	Amend	5-1-2013	635-006-0200	1-1-2013	Amend	2-1-2013
632-020-0115	3-21-2013	Amend	5-1-2013	635-006-0210	1-1-2013	Amend	2-1-2013
632-020-0117	3-21-2013	Amend	5-1-2013	635-006-0211	1-1-2013	Amend	2-1-2013
632-020-0125	3-21-2013	Amend	5-1-2013	635-006-0212	7-3-2013	Amend(T)	8-1-2013
632-020-0130	3-21-2013	Amend	5-1-2013	635-006-0215	1-1-2013	Amend	2-1-2013
632-020-0135	3-21-2013	Amend	5-1-2013	635-006-0215	7-3-2013	Amend(T)	8-1-2013
632-020-0138	3-21-2013	Amend	5-1-2013	635-006-0225	7-3-2013	Amend(T)	8-1-2013

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635-006-1025	5-14-2013	Amend	6-1-2013	635-019-0090	5-24-2013	Amend(T)	7-1-2013
635-006-1075	5-14-2013	Amend	6-1-2013	635-019-0090	6-1-2013	Amend(T)	7-1-2013
635-008-0120	7-26-2013	Amend(T)	9-1-2013	635-019-0090	7-5-2013	Amend(T)	8-1-2013
635-008-0120	8-5-2013	Amend	9-1-2013	635-019-0090	7-19-2013	Amend(T)	8-1-2013
635-008-0151	5-10-2013	Amend	6-1-2013	635-019-0090(T)	5-24-2013	Suspend	7-1-2013
635-008-0151	8-5-2013	Amend	9-1-2013	635-019-0090(T)	6-1-2013	Suspend	7-1-2013
635-008-0151(T)	5-10-2013	Repeal	6-1-2013	635-019-0090(T)	7-5-2013	Suspend	8-1-2013
635-008-0175	1-1-2013	Amend	2-1-2013	635-019-0090(T)	7-19-2013	Suspend	8-1-2013
635-010-0004	10-10-2013	Amend	11-1-2013	635-021-0080	1-1-2013	Amend	2-1-2013
635-010-0007	10-10-2013	Amend	11-1-2013	635-021-0090	1-1-2013	Amend	2-1-2013
635-010-0015	10-10-2013	Amend	11-1-2013	635-021-0090	7-1-2013	Amend(T)	8-1-2013
635-010-0050	10-10-2013	Amend	11-1-2013	635-021-0090	8-24-2013	Amend(T)	10-1-2013
635-011-0100	1-1-2013	Amend	2-1-2013	635-021-0090(T)	8-24-2013	Suspend	10-1-2013
635-011-0102	1-1-2013	Amend	2-1-2013	635-023-0080	1-1-2013	Amend	2-1-2013
635-013-0003	1-1-2013	Amend	2-1-2013	635-023-0090	1-1-2013	Amend	2-1-2013
635-013-0003	5-1-2013	Amend(T)	6-1-2013	635-023-0095	1-1-2013	Amend	2-1-2013
635-013-0003	5-14-2013	Amend	6-1-2013	635-023-0095	1-1-2013	Amend(T)	2-1-2013
635-013-0003(T)	5-14-2013	Repeal	6-1-2013	635-023-0095	2-28-2013	Amend(T)	3-1-2013
635-013-0004	1-1-2013	Amend	2-1-2013	635-023-0095	4-1-2013	Amend(T)	5-1-2013
635-013-0007	7-1-2013	Amend	7-1-2013	635-023-0095	6-14-2013	Amend(T)	7-1-2013
635-013-0009	7-1-2013	Amend	7-1-2013	635-023-0095	6-21-2013	Amend(T)	8-1-2013
635-014-0080	1-1-2013	Amend	2-1-2013	635-023-0095	6-29-2013	Amend(T)	8-1-2013
635-014-0090	1-1-2013	Amend	2-1-2013	635-023-0095	10-19-2013	Amend(T)	10-1-2013
635-014-0090	4-1-2013	Amend(T)	5-1-2013	635-023-0095(T)	2-28-2013	Suspend	3-1-2013
635-014-0090	6-1-2013	Amend(T)	7-1-2013	635-023-0095(T)	4-1-2013	Suspend	5-1-2013
635-014-0090	6-30-2013	Amend(T)	8-1-2013	635-023-0095(T)	6-14-2013	Suspend	7-1-2013
635-014-0090	7-1-2013	Amend	7-1-2013	635-023-0095(T)	6-21-2013	Suspend	8-1-2013
635-014-0090(T)	6-1-2013	Suspend	7-1-2013	635-023-0095(T)	6-29-2013	Suspend	8-1-2013
635-014-0090(T)	7-1-2013	Repeal	7-1-2013	635-023-0095(T)	10-19-2013	Suspend	10-1-2013
635-016-0080	1-1-2013	Amend	2-1-2013	635-023-0125	1-1-2013	Amend	2-1-2013
635-016-0090	1-1-2013	Amend	2-1-2013	635-023-0125	2-28-2013	Amend(T)	3-1-2013
635-016-0090	1-1-2013	Amend(T)	2-1-2013	635-023-0125	4-5-2013	Amend(T)	5-1-2013
635-016-0090	4-1-2013	Amend(T)	5-1-2013	635-023-0125	5-25-2013	Amend(T)	7-1-2013
635-016-0090	7-1-2013	Amend	7-1-2013	635-023-0125	6-8-2013	Amend(T)	7-1-2013
635-016-0090(T)	4-1-2013	Suspend	5-1-2013	635-023-0125(T)	4-5-2013	Suspend	5-1-2013
635-016-0090(T)	7-1-2013	Repeal	7-1-2013	635-023-0125(T)	5-25-2013	Suspend	7-1-2013
635-017-0080	1-1-2013	Amend	2-1-2013	635-023-0125(T)	6-8-2013	Suspend	7-1-2013
635-017-0090	1-1-2013	Amend	2-1-2013	635-023-0128	1-1-2013	Amend	2-1-2013
635-017-0090	7-11-2013	Amend(T)	8-1-2013	635-023-0128	6-16-2013	Amend(T)	7-1-2013
635-017-0095	1-1-2013	Amend	2-1-2013	635-023-0128	6-27-2013	Amend(T)	8-1-2013
635-017-0095	2-14-2013	Amend(T)	3-1-2013	635-023-0128	7-13-2013	Amend(T)	8-1-2013
635-017-0095	2-28-2013	Amend(T)	4-1-2013	635-023-0128(T)	6-27-2013	Suspend	8-1-2013
635-017-0095	4-1-2013	Amend(T)	5-1-2013	635-023-0128(T)	7-13-2013	Suspend	8-1-2013
635-017-0095	7-25-2013	Amend(T)	9-1-2013	635-023-0130	1-1-2013	Amend	2-1-2013
635-017-0095	10-19-2013	Amend(T)	10-1-2013	635-023-0130	8-1-2013	Amend(T)	9-1-2013
635-017-0095(T)	4-1-2013	Suspend	5-1-2013	635-023-0130	8-23-2013	Amend(T)	10-1-2013
635-017-0095(T)	7-25-2013	Suspend	9-1-2013	635-023-0130	9-13-2013	Amend(T)	10-1-2013
635-017-0095(T)	10-19-2013	Suspend	10-1-2013	635-023-0130	9-26-2013	Amend(T)	11-1-2013
635-018-0080	1-1-2013	Amend	2-1-2013	635-023-0130(T)	8-23-2013	Suspend	10-1-2013
635-018-0090	1-1-2013	Amend	2-1-2013	635-023-0130(T)	9-13-2013	Suspend	10-1-2013
635-018-0090	4-15-2013	Amend(T)	4-1-2013	635-023-0130(T)	9-26-2013	Suspend	11-1-2013
635-018-0090	8-1-2013	Amend(T)	8-1-2013	635-023-0134	1-1-2013	Amend	2-1-2013
635-019-0080	1-1-2013	Amend	2-1-2013	635-023-0134	5-4-2013	Amend(T)	6-1-2013
635-019-0090	1-1-2013	Amend	2-1-2013	635-023-0134	7-21-2013	Amend(T)	9-1-2013
635-019-0090	1-1-2013	Amend(T)	2-1-2013	635-023-0134	9-1-2013	Amend(T)	10-1-2013

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635-023-0134(T)	9-1-2013	Suspend	10-1-2013	635-041-0076(T)	6-29-2013	Suspend	8-1-2013
635-039-0080	1-3-2013	Amend	2-1-2013	635-041-0076(T)	7-6-2013	Suspend	8-1-2013
635-039-0080	5-1-2013	Amend(T)	5-1-2013	635-041-0076(T)	7-15-2013	Suspend	8-1-2013
635-039-0080	5-14-2013	Amend	6-1-2013	635-041-0076(T)	7-22-2013	Suspend	9-1-2013
635-039-0080(T)	5-14-2013	Repeal	6-1-2013	635-042-0022	4-9-2013	Amend(T)	5-1-2013
635-039-0085	6-28-2013	Amend(T)	8-1-2013	635-042-0022	5-15-2013	Amend(T)	6-1-2013
635-039-0085	7-23-2013	Amend(T)	9-1-2013	635-042-0022	5-22-2013	Amend(T)	7-1-2013
635-039-0085	8-8-2013	Amend(T)	9-1-2013	635-042-0022	5-29-2013	Amend(T)	7-1-2013
635-039-0085(T)	7-23-2013	Suspend	9-1-2013	635-042-0022(T)	5-22-2013	Suspend	7-1-2013
635-039-0085(T)	8-8-2013	Suspend	9-1-2013	635-042-0022(T)	5-29-2013	Suspend	7-1-2013
635-039-0090	1-1-2013	Amend	2-1-2013	635-042-0027	6-16-2013	Amend(T)	7-1-2013
635-039-0090	1-1-2013	Amend(T)	2-1-2013	635-042-0027	7-15-2013	Amend(T)	8-1-2013
635-039-0090	4-1-2013	Amend(T)	5-1-2013	635-042-0027(T)	7-15-2013	Suspend	8-1-2013
635-039-0090	5-14-2013	Amend	6-1-2013	635-042-0031	8-11-2013	Amend(T)	9-1-2013
635-039-0090	9-27-2013	Amend(T)	11-1-2013	635-042-0031	8-25-2013	Amend(T)	10-1-2013
635-039-0090(T)	4-1-2013	Suspend	5-1-2013	635-042-0031	8-28-2013	Amend(T)	10-1-2013
635-039-0090(T)	5-14-2013	Repeal	6-1-2013	635-042-0031	9-15-2013	Amend(T)	10-1-2013
635-041-0020	1-1-2013	Amend	2-1-2013	635-042-0031	9-19-2013	Amend(T)	11-1-2013
635-041-0045	2-1-2013	Amend(T)	3-1-2013	635-042-0031	9-26-2013	Amend(T)	11-1-2013
635-041-0045	3-6-2013	Amend(T)	4-1-2013	635-042-0031	10-1-2013	Amend(T)	11-1-2013
635-041-0045	6-16-2013	Amend(T)	7-1-2013	635-042-0031(T)	8-25-2013	Suspend	10-1-2013
635-041-0045	8-12-2013	Amend(T)	9-1-2013	635-042-0031(T)	8-28-2013	Suspend	10-1-2013
635-041-0045	10-9-2013	Amend(T)	11-1-2013	635-042-0031(T)	9-15-2013	Suspend	10-1-2013
635-041-0045(T)	3-6-2013	Suspend	4-1-2013	635-042-0031(T)	9-19-2013	Suspend	11-1-2013
635-041-0045(T)	6-16-2013	Suspend	7-1-2013	635-042-0031(T)	9-26-2013	Suspend	11-1-2013
635-041-0045(T)	8-12-2013	Suspend	9-1-2013	635-042-0031(T)	10-1-2013	Suspend	11-1-2013
635-041-0045(T)	10-9-2013	Suspend	11-1-2013	635-042-0032	10-2-2013	Amend(T)	11-1-2013
635-041-0063	5-24-2013	Amend(T)	7-1-2013	635-042-0060	10-16-2013	Amend(T)	11-1-2013
635-041-0065	2-1-2013	Amend(T)	3-1-2013	635-042-0135	1-31-2013	Amend(T)	3-1-2013
635-041-0065	2-27-2013	Amend(T)	4-1-2013	635-042-0145	2-11-2013	Amend(T)	3-1-2013
635-041-0065	3-6-2013	Amend(T)	4-1-2013	635-042-0145	3-13-2013	Amend(T)	4-1-2013
635-041-0065	5-21-2013	Amend(T)	7-1-2013	635-042-0145	5-15-2013	Amend(T)	6-1-2013
635-041-0065	6-8-2013	Amend(T)	7-1-2013	635-042-0145	5-22-2013	Amend(T)	7-1-2013
635-041-0065(T)	2-27-2013	Suspend	4-1-2013	635-042-0145	5-29-2013	Amend(T)	7-1-2013
635-041-0065(T)	3-6-2013	Suspend	4-1-2013	635-042-0145	7-31-2013	Amend(T)	9-1-2013
635-041-0065(T)	5-21-2013	Suspend	7-1-2013	635-042-0145	8-9-2013	Amend(T)	9-1-2013
635-041-0065(T)	6-8-2013	Suspend	7-1-2013	635-042-0145	9-30-2013	Amend(T)	11-1-2013
635-041-0065(T)	6-16-2013	Suspend	7-1-2013	635-042-0145(T)	3-13-2013	Suspend	4-1-2013
635-041-0075	8-12-2013	Amend(T)	9-1-2013	635-042-0145(T)	5-15-2013	Suspend	6-1-2013
635-041-0075	8-19-2013	Amend(T)	9-1-2013	635-042-0145(T)	5-22-2013	Suspend	7-1-2013
635-041-0075	9-10-2013	Amend(T)	10-1-2013	635-042-0145(T)	5-29-2013	Suspend	7-1-2013
635-041-0075	9-16-2013	Amend(T)	10-1-2013	635-042-0145(T)	8-9-2013	Suspend	9-1-2013
635-041-0075	9-24-2013	Amend(T)	11-1-2013	635-042-0145(T)	9-30-2013	Suspend	11-1-2013
635-041-0075	9-30-2013	Amend(T)	11-1-2013	635-042-0160	2-11-2013	Amend(T)	3-1-2013
635-041-0075	10-9-2013	Amend(T)	11-1-2013	635-042-0160	3-21-2013	Amend(T)	5-1-2013
635-041-0075(T)	8-19-2013	Suspend	9-1-2013	635-042-0160	8-26-2013	Amend(T)	10-1-2013
635-041-0075(T)	9-10-2013	Suspend	10-1-2013	635-042-0160	9-30-2013	Amend(T)	11-1-2013
635-041-0075(T)	9-16-2013	Suspend	10-1-2013	635-042-0160(T)	3-21-2013	Suspend	5-1-2013
635-041-0075(T)	9-24-2013	Suspend	11-1-2013	635-042-0160(T)	9-30-2013	Suspend	11-1-2013
635-041-0075(T)	9-30-2013	Suspend	11-1-2013	635-042-0170	2-11-2013	Amend(T)	3-1-2013
635-041-0075(T)	10-9-2013	Suspend	11-1-2013	635-042-0170	5-15-2013	Amend(T)	6-1-2013
635-041-0076	6-16-2013	Amend(T)	7-1-2013	635-042-0170	8-26-2013	Amend(T)	10-1-2013
635-041-0076	6-29-2013	Amend(T)	8-1-2013	635-042-0170	9-30-2013	Amend(T)	11-1-2013
635-041-0076	7-6-2013	Amend(T)	8-1-2013	635-042-0170(T)	5-15-2013	Suspend	6-1-2013
635-041-0076	7-15-2013	Amend(T)	8-1-2013	635-042-0170(T)	9-30-2013	Suspend	11-1-2013

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635-042-0180	3-21-2013	Amend(T)	5-1-2013	635-073-0000	6-10-2013	Amend	7-1-2013
635-042-0180	8-26-2013	Amend(T)	10-1-2013	635-073-0065	2-1-2013	Amend	2-1-2013
635-042-0180	9-30-2013	Amend(T)	11-1-2013	635-073-0070	2-1-2013	Amend	2-1-2013
635-042-0180(T)	3-21-2013	Suspend	5-1-2013	635-075-0005	3-11-2013	Amend(T)	4-1-2013
635-042-0180(T)	9-30-2013	Suspend	11-1-2013	635-075-0005	6-10-2013	Amend	7-1-2013
635-043-0051	6-10-2013	Amend	7-1-2013	635-075-0005(T)	6-10-2013	Repeal	7-1-2013
635-045-0000	1-1-2013	Amend	2-1-2013	635-078-0011	1-1-2013	Amend	2-1-2013
635-045-0000	8-5-2013	Amend	9-1-2013	635-095-0125	12-31-2012	Amend(T)	2-1-2013
635-045-0002	1-1-2013	Amend	2-1-2013	635-095-0125	6-10-2013	Amend	7-1-2013
635-045-0002	10-10-2013	Amend	11-1-2013	635-095-0125(T)	6-10-2013	Repeal	7-1-2013
635-050-0050	6-10-2013	Amend	7-1-2013	635-110-0009	5-23-2013	Adopt(T)	7-1-2013
635-051-0000	8-5-2013	Amend	9-1-2013	635-110-0010	5-23-2013	Amend(T)	7-1-2013
635-052-0000	8-5-2013	Amend	9-1-2013	635-110-0010	7-12-2013	Amend	8-1-2013
635-053-0000	8-5-2013	Amend	9-1-2013	635-110-0010	10-1-2013	Amend(T)	11-1-2013
635-053-0035	1-23-2013	Amend(T)	3-1-2013	635-110-0010(T)	7-12-2013	Repeal	8-1-2013
635-054-0000	8-5-2013	Amend	9-1-2013	635-110-0020	5-23-2013	Amend(T)	7-1-2013
635-056-0050	12-18-2012	Amend	2-1-2013	635-110-0020	7-12-2013	Amend	8-1-2013
635-056-0075	12-18-2012	Amend	2-1-2013	635-110-0020(T)	7-12-2013	Repeal	8-1-2013
635-060-0000	8-5-2013	Amend	9-1-2013	635-170-0001	8-5-2013	Amend	9-1-2013
635-060-0005	1-23-2013	Amend	3-1-2013	635-180-0001	8-5-2013	Amend	9-1-2013
635-060-0030	10-10-2013	Amend	11-1-2013	635-500-6650	1-14-2013	Adopt	2-1-2013
635-060-0040	3-11-2013	Amend(T)	4-1-2013	635-500-6700	1-1-2013	Adopt	2-1-2013
635-060-0040	10-10-2013	Amend	11-1-2013	635-500-6705	1-1-2013	Adopt	2-1-2013
635-060-0046	10-10-2013	Amend	11-1-2013	635-500-6710	1-1-2013	Adopt	2-1-2013
635-060-0055	10-10-2013	Amend	11-1-2013	635-500-6715	1-1-2013	Adopt	2-1-2013
635-065-0001	1-1-2013	Amend	2-1-2013	635-500-6720	1-1-2013	Adopt	2-1-2013
635-065-0011	1-1-2013	Adopt	2-1-2013	635-500-6725	1-1-2013	Adopt	2-1-2013
635-065-0011	2-7-2013	Amend	3-1-2013	635-500-6730	1-1-2013	Adopt	2-1-2013
635-065-0015	1-1-2013	Amend	2-1-2013	635-500-6735	1-1-2013	Adopt	2-1-2013
635-065-0090	1-1-2013	Amend	2-1-2013	635-500-6740	1-1-2013	Adopt	2-1-2013
635-065-0401	1-1-2013	Amend	2-1-2013	635-500-6745	1-1-2013	Adopt	2-1-2013
635-065-0625	1-1-2013	Amend	2-1-2013	635-500-6750	1-1-2013	Adopt	2-1-2013
635-065-0625	7-26-2013	Amend(T)	9-1-2013	635-500-6755	1-1-2013	Adopt	2-1-2013
635-065-0735	1-1-2013	Amend	2-1-2013	635-500-6760	1-1-2013	Adopt	2-1-2013
635-065-0740	1-1-2013	Amend	2-1-2013	635-500-6765	1-1-2013	Adopt	2-1-2013
635-065-0760	1-1-2013	Amend	2-1-2013	645-010-0015	7-5-2013	Amend	8-1-2013
635-065-0765	2-1-2013	Amend	2-1-2013	645-040-0010	7-5-2013	Amend	8-1-2013
635-065-0765	2-7-2013	Amend	3-1-2013	647-010-0010	5-10-2013	Amend	6-1-2013
635-065-0765(T)	2-7-2013	Repeal	3-1-2013	658-030-0020	7-3-2013	Amend	8-1-2013
635-066-0000	1-1-2013	Amend	2-1-2013	660-006-0005	2-1-2013	Amend	3-1-2013
635-066-0010	1-1-2013	Amend	2-1-2013	660-006-0025	2-1-2013	Amend	3-1-2013
635-066-0020	1-1-2013	Amend	2-1-2013	660-024-0040	12-10-2012	Amend	1-1-2013
635-067-0000	1-1-2013	Amend	2-1-2013	660-024-0045	12-10-2012	Adopt	1-1-2013
635-067-0000	6-10-2013	Amend	7-1-2013	660-033-0130	1-29-2013	Amend	3-1-2013
635-067-0004	1-1-2013	Amend	2-1-2013	660-036-0005	10-7-2013	Amend	11-1-2013
635-068-0000	3-1-2013	Amend	3-1-2013	660-044-0000	1-1-2013	Amend	1-1-2013
635-068-0000	6-10-2013	Amend	7-1-2013	660-044-0005	1-1-2013	Amend	1-1-2013
635-069-0000	2-1-2013	Amend	2-1-2013	660-044-0040	1-1-2013	Adopt	1-1-2013
635-069-0000	6-10-2013	Amend	7-1-2013	660-044-0045	1-1-2013	Adopt	1-1-2013
635-070-0000	4-1-2013	Amend	4-1-2013	660-044-0050	1-1-2013	Adopt	1-1-2013
635-070-0000	6-10-2013	Amend	7-1-2013	660-044-0055	1-1-2013	Adopt	1-1-2013
635-070-0020	2-7-2013	Amend	3-1-2013	660-044-0060	1-1-2013	Adopt	1-1-2013
635-071-0000	4-1-2013	Amend	4-1-2013	661-010-0075	5-1-2013	Amend(T)	6-1-2013
635-071-0000	6-10-2013	Amend	7-1-2013	668-010-0010	5-15-2013	Amend	6-1-2013
635-072-0000	1-1-2013	Amend	2-1-2013	668-030-0010	7-16-2013	Amend	9-1-2013

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690-022-0010	7-1-2013	Adopt(T)	8-1-2013	695-045-0190	1-30-2013	Adopt	3-1-2013
690-022-0015	7-1-2013	Adopt(T)	8-1-2013	695-045-0195	1-30-2013	Adopt	3-1-2013
690-501-0005	12-12-2012	Amend	1-1-2013	695-045-0200	1-30-2013	Adopt	3-1-2013
690-501-0010	12-12-2012	Amend	1-1-2013	695-045-0205	1-30-2013	Adopt	3-1-2013
690-501-0020	12-12-2012	Repeal	1-1-2013	695-045-0210	1-30-2013	Adopt	3-1-2013
690-501-0030	12-12-2012	Amend	1-1-2013	695-045-0215	1-30-2013	Adopt	3-1-2013
690-515-0000	12-12-2012	Amend	1-1-2013	695-046-0010	6-19-2013	Amend	8-1-2013
690-515-0010	12-12-2012	Amend	1-1-2013	695-046-0020	6-19-2013	Amend	8-1-2013
690-515-0020	12-12-2012	Amend	1-1-2013	695-046-0025	6-19-2013	Repeal	8-1-2013
690-515-0030	12-12-2012	Amend	1-1-2013	695-046-0030	6-19-2013	Repeal	8-1-2013
690-515-0040	12-12-2012	Amend	1-1-2013	695-046-0040	6-19-2013	Repeal	8-1-2013
690-515-0050	12-12-2012	Amend	1-1-2013	695-046-0050	6-19-2013	Repeal	8-1-2013
690-515-0060	12-12-2012	Amend	1-1-2013	695-046-0060	6-19-2013	Repeal	8-1-2013
690-516-0005	12-12-2012	Amend	1-1-2013	695-046-0070	6-19-2013	Repeal	8-1-2013
690-516-0010	12-12-2012	Amend	1-1-2013	695-046-0080	6-19-2013	Repeal	8-1-2013
690-516-0020	12-12-2012	Repeal	1-1-2013	695-046-0090	6-19-2013	Repeal	8-1-2013
690-516-0030	12-12-2012	Amend	1-1-2013	695-046-0100	6-19-2013	Repeal	8-1-2013
690-517-0000	12-12-2012	Amend	1-1-2013	695-046-0110	6-19-2013	Repeal	8-1-2013
690-517-0020	12-12-2012	Amend	1-1-2013	695-046-0120	6-19-2013	Repeal	8-1-2013
690-517-0030	12-12-2012	Amend	1-1-2013	695-046-0130	6-19-2013	Repeal	8-1-2013
690-517-0040	12-12-2012	Amend	1-1-2013	695-046-0140	6-19-2013	Repeal	8-1-2013
690-517-0050	12-12-2012	Repeal	1-1-2013	695-046-0150	6-19-2013	Repeal	8-1-2013
690-518-0010	12-12-2012	Amend	1-1-2013	695-046-0160	6-19-2013	Repeal	8-1-2013
690-518-0030	12-12-2012	Amend	1-1-2013	695-046-0170	6-19-2013	Repeal	8-1-2013
690-518-0040	12-12-2012	Repeal	1-1-2013	695-046-0175	6-19-2013	Adopt	8-1-2013
690-518-0050	12-12-2012	Amend	1-1-2013	695-046-0180	6-19-2013	Adopt	8-1-2013
695-007-0010	9-17-2013	Repeal	11-1-2013	695-046-0185	6-19-2013	Adopt	8-1-2013
695-007-0020	9-17-2013	Repeal	11-1-2013	695-046-0190	6-19-2013	Adopt	8-1-2013
695-007-0030	9-17-2013	Repeal	11-1-2013	695-046-0195	6-19-2013	Adopt	8-1-2013
695-007-0040	9-17-2013	Repeal	11-1-2013	695-046-0200	6-19-2013	Adopt	8-1-2013
695-045-0010	1-30-2013	Amend	3-1-2013	695-046-0205	6-19-2013	Adopt	8-1-2013
695-045-0020	1-30-2013	Amend	3-1-2013	695-046-0210	6-19-2013	Adopt	8-1-2013
695-045-0025	1-30-2013	Repeal	3-1-2013	695-046-0215	6-19-2013	Adopt	8-1-2013
695-045-0030	1-30-2013	Repeal	3-1-2013	695-046-0220	6-19-2013	Adopt	8-1-2013
695-045-0035	1-30-2013	Repeal	3-1-2013	695-046-0225	6-19-2013	Adopt	8-1-2013
695-045-0040	1-30-2013	Repeal	3-1-2013	695-046-0230	6-19-2013	Adopt	8-1-2013
695-045-0045	1-30-2013	Repeal	3-1-2013	705-010-0030	10-11-2013	Amend	11-1-2013
695-045-0050	1-30-2013	Repeal	3-1-2013	705-010-0035	10-11-2013	Amend	11-1-2013
695-045-0055	1-30-2013	Repeal	3-1-2013	705-010-0045	10-11-2013	Amend	11-1-2013
695-045-0060	1-30-2013	Repeal	3-1-2013	705-010-0055	10-11-2013	Amend	11-1-2013
695-045-0065	1-30-2013	Repeal	3-1-2013	705-010-0065	10-11-2013	Amend	11-1-2013
695-045-0070	1-30-2013	Repeal	3-1-2013	705-010-0070	5-2-2013	Amend	6-1-2013
695-045-0080	1-30-2013	Repeal	3-1-2013	705-010-0070	10-11-2013	Amend	11-1-2013
695-045-0090	1-30-2013	Repeal	3-1-2013	705-010-0072	10-11-2013	Adopt	11-1-2013
695-045-0100	1-30-2013	Repeal	3-1-2013	710-005-0010	9-24-2013	Adopt(T)	11-1-2013
695-045-0110	1-30-2013	Repeal	3-1-2013	715-010-0000	8-21-2013	Adopt	10-1-2013
695-045-0120	1-30-2013	Repeal	3-1-2013	715-010-0015	8-21-2013	Adopt	10-1-2013
695-045-0130	1-30-2013	Repeal	3-1-2013	715-010-0025	8-21-2013	Adopt	10-1-2013
695-045-0140	1-30-2013	Repeal	3-1-2013	731-001-0000	5-17-2013	Amend	7-1-2013
695-045-0150	1-30-2013	Repeal	3-1-2013	731-005-0780	7-18-2013	Amend	9-1-2013
695-045-0160	1-30-2013	Adopt	3-1-2013	731-012-0010	8-26-2013	Adopt	10-1-2013
695-045-0165	1-30-2013	Adopt	3-1-2013	731-012-0020	8-26-2013	Adopt	10-1-2013
695-045-0170	1-30-2013	Adopt	3-1-2013	731-012-0030	8-26-2013	Adopt	10-1-2013
695-045-0175	1-30-2013	Adopt	3-1-2013	731-012-0040	8-26-2013	Adopt	10-1-2013
695-045-0180	1-30-2013	Adopt	3-1-2013	731-012-0050	8-26-2013	Adopt	10-1-2013

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731-012-0070	8-26-2013	Adopt	10-1-2013	735-062-0140	9-24-2013	Amend	11-1-2013
731-012-0080	8-26-2013	Adopt	10-1-2013	735-064-0005	3-22-2013	Amend	5-1-2013
731-012-0090	8-26-2013	Adopt	10-1-2013	735-064-0020	3-22-2013	Amend	5-1-2013
731-012-0100	8-26-2013	Adopt	10-1-2013	735-064-0060	3-22-2013	Amend	5-1-2013
731-012-0110	8-26-2013	Adopt	10-1-2013	735-064-0100	3-22-2013	Amend	5-1-2013
731-012-0120	8-26-2013	Adopt	10-1-2013	735-064-0110	3-22-2013	Amend	5-1-2013
731-012-0130	8-26-2013	Adopt	10-1-2013	735-070-0006	11-19-2012	Adopt	1-1-2013
731-012-0140	8-26-2013	Adopt	10-1-2013	735-070-0080	5-23-2013	Amend	7-1-2013
731-070-0050	6-21-2013	Amend	8-1-2013	735-070-0085	6-21-2013	Amend(T)	8-1-2013
733-001-0000	4-15-2013	Amend	5-1-2013	735-072-0020	5-1-2013	Amend	6-1-2013
733-001-0005	4-15-2013	Amend	5-1-2013	735-072-0023	5-1-2013	Amend	6-1-2013
733-001-0010	4-15-2013	Adopt	5-1-2013	735-074-0080	9-24-2013	Amend	11-1-2013
733-001-0015	4-15-2013	Adopt	5-1-2013	735-074-0090	9-24-2013	Amend	11-1-2013
733-001-0025	4-15-2013	Adopt	5-1-2013	735-090-0066	9-24-2013	Adopt	11-1-2013
733-001-0030	4-15-2013	Adopt	5-1-2013	735-160-0003	9-24-2013	Amend	11-1-2013
733-001-0035	4-15-2013	Adopt	5-1-2013	735-160-0005	9-24-2013	Amend	11-1-2013
734-010-0220	11-21-2012	Amend	1-1-2013	735-160-0010	9-24-2013	Amend	11-1-2013
734-010-0290	11-21-2012	Amend	1-1-2013	735-160-0011	9-24-2013	Amend	11-1-2013
734-010-0300	11-21-2012	Amend	1-1-2013	735-160-0015	9-24-2013	Amend	11-1-2013
734-010-0310	11-21-2012	Repeal	1-1-2013	735-160-0020	9-24-2013	Amend	11-1-2013
734-010-0320	11-21-2012	Amend	1-1-2013	735-160-0035	9-24-2013	Amend	11-1-2013
734-010-0330	11-21-2012	Amend	1-1-2013	735-160-0075	9-24-2013	Amend	11-1-2013
734-010-0340	11-21-2012	Amend	1-1-2013	735-160-0080	9-24-2013	Amend	11-1-2013
734-010-0350	11-21-2012	Amend	1-1-2013	735-160-0095	9-24-2013	Amend	11-1-2013
734-010-0370	11-21-2012	Repeal	1-1-2013	735-160-0100	9-24-2013	Amend	11-1-2013
734-010-0380	11-21-2012	Amend	1-1-2013	735-160-0115	9-24-2013	Amend	11-1-2013
734-020-0070	8-26-2013	Amend	10-1-2013	735-160-0125	9-24-2013	Amend	11-1-2013
734-030-0005	3-1-2013	Amend	3-1-2013	735-160-0130	9-24-2013	Amend	11-1-2013
734-030-0010	3-1-2013	Amend	3-1-2013	735-164-0000	5-23-2013	Amend	7-1-2013
734-030-0015	3-1-2013	Amend	3-1-2013	735-164-0010	5-23-2013	Amend	7-1-2013
734-030-0016	3-1-2013	Adopt	3-1-2013	735-164-0020	5-23-2013	Amend	7-1-2013
734-059-0100	11-20-2012	Amend	1-1-2013	736-002-0015	10-4-2013	Adopt	11-1-2013
734-073-0090	12-21-2012	Repeal	2-1-2013	736-010-0005	7-19-2013	Amend	9-1-2013
734-075-0010	5-16-2013	Amend	7-1-2013	736-010-0015	7-19-2013	Amend	9-1-2013
734-075-0011	5-16-2013	Amend	7-1-2013	736-010-0020	7-19-2013	Amend	9-1-2013
734-082-0085	9-23-2013	Adopt	11-1-2013	736-010-0022	7-19-2013	Amend	9-1-2013
735-001-0050	3-22-2013	Amend	5-1-2013	736-010-0025	7-19-2013	Amend	9-1-2013
735-001-0062	1-1-2013	Adopt	2-1-2013	736-010-0026	7-19-2013	Amend	9-1-2013
735-001-0062	5-3-2013	Adopt	6-1-2013	736-010-0027	7-19-2013	Amend	9-1-2013
735-010-0030	9-24-2013	Amend	11-1-2013	736-010-0030	7-19-2013	Amend	9-1-2013
735-012-0000	11-19-2012	Amend	1-1-2013	736-010-0035	7-19-2013	Amend	9-1-2013
735-012-0000(T)	11-19-2012	Repeal	1-1-2013	736-010-0040	7-19-2013	Amend	9-1-2013
735-048-0000	4-22-2013	Amend	6-1-2013	736-010-0050	7-19-2013	Amend	9-1-2013
735-048-0020	4-22-2013	Amend	6-1-2013	736-010-0055	7-19-2013	Amend	9-1-2013
735-048-0030	4-22-2013	Amend	6-1-2013	736-010-0060	11-16-2012	Amend	1-1-2013
735-048-0040	4-22-2013	Amend	6-1-2013	736-010-0060	7-19-2013	Amend	9-1-2013
735-048-0050	4-22-2013	Amend	6-1-2013	736-010-0065	7-19-2013	Amend	9-1-2013
735-048-0060	4-22-2013	Amend	6-1-2013	736-015-0006	11-16-2012	Amend	1-1-2013
735-048-0070	4-22-2013	Amend	6-1-2013	736-015-0015	11-16-2012	Amend	1-1-2013
735-048-0080	4-22-2013	Amend	6-1-2013	736-015-0020	10-1-2013	Amend	11-1-2013
735-050-0100	5-23-2013	Amend	7-1-2013	736-015-0035	10-1-2013	Amend	11-1-2013
735-050-0120	6-21-2013	Amend(T)	8-1-2013	736-015-0040	10-1-2013	Amend	11-1-2013
735-062-0010	9-24-2013	Amend	11-1-2013	736-015-0043	10-1-2013	Amend	11-1-2013
735-062-0080	2-1-2013	Amend	3-1-2013	736-018-0045	12-31-2012	Amend	1-1-2013
735-062-0080	9-24-2013	Amend	11-1-2013	736-021-0010	2-1-2013	Amend	2-1-2013

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736-021-0030	2-1-2013	Amend	2-1-2013	736-053-0135	7-19-2013	Amend	9-1-2013
736-021-0040	2-1-2013	Amend	2-1-2013	736-053-0140	7-19-2013	Amend	9-1-2013
736-021-0050	2-1-2013	Amend	2-1-2013	736-053-0200	7-19-2013	Amend	9-1-2013
736-021-0060	2-1-2013	Amend	2-1-2013	736-053-0205	7-19-2013	Amend	9-1-2013
736-021-0065	2-1-2013	Adopt	2-1-2013	736-053-0210	7-19-2013	Amend	9-1-2013
736-021-0070	2-1-2013	Amend	2-1-2013	736-053-0215	7-19-2013	Amend	9-1-2013
736-021-0080	2-1-2013	Amend	2-1-2013	736-053-0220	7-19-2013	Amend	9-1-2013
736-021-0090	2-1-2013	Amend	2-1-2013	736-053-0225	7-19-2013	Amend	9-1-2013
736-021-0100	2-1-2013	Amend	2-1-2013	736-053-0230	7-19-2013	Amend	9-1-2013
736-021-0110	2-1-2013	Repeal	2-1-2013	736-053-0235	7-19-2013	Amend	9-1-2013
736-021-0120	2-1-2013	Amend	2-1-2013	736-053-0300	7-19-2013	Amend	9-1-2013
736-021-0130	2-1-2013	Amend	2-1-2013	736-053-0305	7-19-2013	Amend	9-1-2013
736-021-0140	2-1-2013	Amend	2-1-2013	736-053-0315	7-19-2013	Amend	9-1-2013
736-021-0150	2-1-2013	Amend	2-1-2013	736-053-0325	7-19-2013	Amend	9-1-2013
736-021-0160	2-1-2013	Amend	2-1-2013	740-055-0035	5-16-2013	Adopt	7-1-2013
736-045-0006	12-13-2012	Adopt	1-1-2013	740-060-0010	6-20-2013	Amend	8-1-2013
736-045-0011	12-13-2012	Adopt	1-1-2013	740-060-0020	6-20-2013	Amend	8-1-2013
736-045-0100	12-13-2012	Adopt	1-1-2013	740-060-0030	1-18-2013	Amend(T)	3-1-2013
736-045-0200	12-13-2012	Adopt	1-1-2013	740-060-0030	6-20-2013	Repeal	8-1-2013
736-045-0300	12-13-2012	Adopt	1-1-2013	740-060-0035	6-20-2013	Adopt	8-1-2013
736-045-0305	12-13-2012	Adopt	1-1-2013	740-060-0040	1-18-2013	Amend(T)	3-1-2013
736-045-0310	12-13-2012	Adopt	1-1-2013	740-060-0040	6-20-2013	Amend	8-1-2013
736-045-0320	12-13-2012	Adopt	1-1-2013	740-060-0040(T)	6-20-2013	Repeal	8-1-2013
736-045-0330	12-13-2012	Adopt	1-1-2013	740-060-0045	6-20-2013	Amend	8-1-2013
736-045-0340	12-13-2012	Adopt	1-1-2013	740-060-0055	6-20-2013	Amend	8-1-2013
736-045-0400	12-13-2012	Adopt	1-1-2013	740-060-0060	6-20-2013	Amend	8-1-2013
736-045-0405	12-13-2012	Adopt	1-1-2013	740-060-0070	6-20-2013	Amend	8-1-2013
736-045-0410	12-13-2012	Adopt	1-1-2013	740-060-0080	1-18-2013	Amend(T)	3-1-2013
736-045-0412	12-13-2012	Adopt	1-1-2013	740-060-0080	6-20-2013	Amend	8-1-2013
736-045-0414	12-13-2012	Adopt	1-1-2013	740-060-0080(T)	6-20-2013	Repeal	8-1-2013
736-045-0416	12-13-2012	Adopt	1-1-2013	740-060-0085	6-20-2013	Adopt	8-1-2013
736-045-0418	12-13-2012	Adopt	1-1-2013	740-060-0090	6-20-2013	Adopt	8-1-2013
736-045-0420	12-13-2012	Adopt	1-1-2013	740-060-0100	6-20-2013	Amend	8-1-2013
736-045-0422	12-13-2012	Adopt	1-1-2013	740-060-0110	6-20-2013	Amend	8-1-2013
736-045-0424	12-13-2012	Adopt	1-1-2013	740-100-0010	4-22-2013	Amend	6-1-2013
736-045-0426	12-13-2012	Adopt	1-1-2013	740-100-0065	4-22-2013	Amend	6-1-2013
736-045-0428	12-13-2012	Adopt	1-1-2013	740-100-0070	4-22-2013	Amend	6-1-2013
736-045-0430	12-13-2012	Adopt	1-1-2013	740-100-0080	4-22-2013	Amend	6-1-2013
736-045-0432	12-13-2012	Adopt	1-1-2013	740-100-0085	4-22-2013	Amend	6-1-2013
736-045-0434	12-13-2012	Adopt	1-1-2013	740-100-0090	4-22-2013	Amend	6-1-2013
736-045-0436	12-13-2012	Adopt	1-1-2013	740-100-0090	8-26-2013	Amend	10-1-2013
736-045-0438	12-13-2012	Adopt	1-1-2013	740-110-0010	4-22-2013	Amend	6-1-2013
736-045-0440	12-13-2012	Adopt	1-1-2013	740-200-0010	1-17-2013	Amend	3-1-2013
736-045-0442	12-13-2012	Adopt	1-1-2013	740-200-0020	1-17-2013	Amend	3-1-2013
736-045-0444	12-13-2012	Adopt	1-1-2013	740-200-0040	1-17-2013	Amend	3-1-2013
736-045-0446	12-13-2012	Adopt	1-1-2013	741-100-0005	10-15-2013	Amend	11-1-2013
736-045-0448	12-13-2012	Adopt	1-1-2013	741-100-0020	10-15-2013	Amend	11-1-2013
736-045-0500	12-13-2012	Adopt	1-1-2013	741-100-0030	10-15-2013	Amend	11-1-2013
736-045-0505	12-13-2012	Adopt	1-1-2013	741-100-0040	10-15-2013	Amend	11-1-2013
736-053-0100	7-19-2013	Amend	9-1-2013	741-110-0030	10-15-2013	Amend	11-1-2013
736-053-0105	7-19-2013	Amend	9-1-2013	741-110-0040	10-15-2013	Amend	11-1-2013
736-053-0110	7-19-2013	Amend	9-1-2013	741-110-0050	10-15-2013	Amend	11-1-2013
736-053-0115	7-19-2013	Amend	9-1-2013	741-110-0060	10-15-2013	Amend	11-1-2013
736-053-0120	7-19-2013	Amend	9-1-2013	741-110-0070	10-15-2013	Amend	11-1-2013
736-053-0125	7-19-2013	Amend	9-1-2013	741-110-0080	10-15-2013	Amend	11-1-2013

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741-115-0030	10-15-2013	Amend	11-1-2013	808-005-0020	12-4-2012	Amend	1-1-2013
741-115-0040	10-15-2013	Amend	11-1-2013	808-040-0025	12-4-2012	Amend	1-1-2013
741-115-0060	10-15-2013	Amend	11-1-2013	808-040-0050	12-4-2012	Amend	1-1-2013
741-115-0070	10-15-2013	Amend	11-1-2013	808-040-0060	12-4-2012	Amend	1-1-2013
741-120-0020	10-15-2013	Amend	11-1-2013	809-001-0000	12-21-2012	Amend	1-1-2013
741-120-0040	10-15-2013	Amend	11-1-2013	809-001-0020	12-21-2012	Repeal	1-1-2013
741-120-0050	10-15-2013	Amend	11-1-2013	809-001-0025	12-21-2012	Repeal	1-1-2013
741-125-0030	10-15-2013	Amend	11-1-2013	809-001-0030	12-21-2012	Repeal	1-1-2013
741-200-0020	10-15-2013	Amend	11-1-2013	809-010-0001	9-24-2013	Amend	11-1-2013
741-200-0050	10-15-2013	Amend	11-1-2013	809-010-0025	12-21-2012	Amend	1-1-2013
741-200-0060	10-15-2013	Amend	11-1-2013	809-010-0025	7-1-2013	Amend	7-1-2013
800-001-0020	2-1-2013	Amend	2-1-2013	809-020-0030	12-21-2012	Amend	1-1-2013
800-010-0020	2-1-2013	Amend	2-1-2013	809-040-0021	9-24-2013	Amend	11-1-2013
800-010-0030	2-1-2013	Amend	2-1-2013	809-055-0000	12-21-2012	Amend	1-1-2013
800-015-0010	2-1-2013	Amend	2-1-2013	811-010-0086	11-1-2013	Amend	11-1-2013
800-020-0015	2-1-2013	Amend	2-1-2013	811-010-0093	6-6-2013	Amend	7-1-2013
800-020-0025	8-5-2013	Amend(T)	9-1-2013	811-010-0110	11-1-2013	Amend	11-1-2013
800-020-0030	2-1-2013	Amend	2-1-2013	811-015-0002	8-2-2013	Amend	9-1-2013
800-020-0035	2-1-2013	Amend	2-1-2013	811-015-0080	11-28-2012	Adopt	1-1-2013
800-030-0025	2-1-2013	Amend	2-1-2013	812-002-0640	5-1-2013	Amend	6-1-2013
801-001-0035	1-8-2013	Amend	2-1-2013	812-005-0180	5-1-2013	Amend	6-1-2013
804-001-0002	7-1-2013	Amend	7-1-2013	812-006-0100	5-1-2013	Amend	6-1-2013
804-003-0000	6-20-2013	Amend(T)	8-1-2013	812-006-0150	5-1-2013	Amend	6-1-2013
804-010-0000	11-21-2012	Amend	1-1-2013	812-006-0200	5-1-2013	Amend	6-1-2013
804-010-0000(T)	11-21-2012	Repeal	1-1-2013	812-006-0250	5-1-2013	Amend	6-1-2013
804-020-0001	11-21-2012	Amend	1-1-2013	812-006-0300	5-1-2013	Amend	6-1-2013
804-020-0001(T)	11-21-2012	Repeal	1-1-2013	812-006-0350	5-1-2013	Amend	6-1-2013
804-020-0003	11-21-2012	Amend	1-1-2013	812-006-0400	5-1-2013	Amend	6-1-2013
804-020-0003(T)	11-21-2012	Repeal	1-1-2013	812-006-0450	5-1-2013	Amend	6-1-2013
804-020-0010	11-21-2012	Amend	1-1-2013	813-001-0007	6-21-2013	Amend(T)	8-1-2013
804-020-0010(T)	11-21-2012	Repeal	1-1-2013	813-004-0001	3-28-2013	Adopt	5-1-2013
804-020-0015	11-21-2012	Amend	1-1-2013	813-004-0001(T)	3-28-2013	Repeal	5-1-2013
804-020-0015(T)	11-21-2012	Repeal	1-1-2013	813-004-0002	3-28-2013	Adopt	5-1-2013
804-020-0030	11-21-2012	Amend	1-1-2013	813-004-0002(T)	3-28-2013	Repeal	5-1-2013
804-020-0030(T)	11-21-2012	Repeal	1-1-2013	813-004-0200	1-4-2013	Adopt	2-1-2013
804-020-0040	11-21-2012	Amend	1-1-2013	813-004-0210	1-4-2013	Adopt	2-1-2013
804-020-0040(T)	11-21-2012	Repeal	1-1-2013	813-004-0220	1-4-2013	Adopt	2-1-2013
804-020-0045	11-21-2012	Amend	1-1-2013	813-004-0230	1-4-2013	Adopt	2-1-2013
804-020-0045(T)	11-21-2012	Repeal	1-1-2013	813-004-0240	1-4-2013	Adopt	2-1-2013
804-020-0065	11-21-2012	Amend	1-1-2013	813-004-0250	1-4-2013	Adopt	2-1-2013
804-020-0065(T)	11-21-2012	Repeal	1-1-2013	813-004-0260	1-4-2013	Adopt	2-1-2013
804-022-0005	6-20-2013	Amend(T)	8-1-2013	813-004-0270	1-4-2013	Adopt	2-1-2013
804-022-0010	6-20-2013	Amend(T)	8-1-2013	813-004-0280	1-4-2013	Adopt	2-1-2013
804-025-0010	6-20-2013	Amend(T)	8-1-2013	813-004-0290	1-4-2013	Adopt	2-1-2013
804-040-0000	11-21-2012	Amend	1-1-2013	813-004-0300	1-4-2013	Adopt	2-1-2013
804-040-0000(T)	11-21-2012	Repeal	1-1-2013	813-004-0310	1-4-2013	Adopt	2-1-2013
806-001-0003	7-1-2013	Amend	5-1-2013	813-005-0001	6-21-2013	Amend(T)	8-1-2013
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806-010-0105	2-12-2013	Amend	3-1-2013	813-005-0016	6-21-2013	Amend(T)	8-1-2013
808-001-0008	7-1-2013	Amend	8-1-2013	813-005-0020	6-21-2013	Adopt(T)	8-1-2013
808-002-0020	12-4-2012	Amend	1-1-2013	813-005-0030	6-21-2013	Adopt(T)	8-1-2013
808-002-0330	10-1-2013	Amend	11-1-2013	813-005-0040	6-21-2013	Adopt(T)	8-1-2013
808-002-0755	2-1-2013	Adopt	3-1-2013	813-005-0050	6-21-2013	Adopt(T)	8-1-2013
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813-006-0010	6-21-2013	Amend(T)	8-1-2013	813-110-0010	6-21-2013	Amend(T)	8-1-2013
813-006-0015	6-21-2013	Amend(T)	8-1-2013	813-110-0012	6-21-2013	Suspend	8-1-2013
813-006-0020	6-21-2013	Amend(T)	8-1-2013	813-110-0013	6-21-2013	Suspend	8-1-2013
813-006-0025	6-21-2013	Amend(T)	8-1-2013	813-110-0015	6-21-2013	Amend(T)	8-1-2013
813-006-0030	6-21-2013	Amend(T)	8-1-2013	813-110-0020	6-21-2013	Amend(T)	8-1-2013
813-006-0035	6-21-2013	Amend(T)	8-1-2013	813-110-0021	6-21-2013	Amend(T)	8-1-2013
813-006-0040	6-21-2013	Adopt(T)	8-1-2013	813-110-0022	6-21-2013	Amend(T)	8-1-2013
813-007-0005	3-21-2013	Amend(T)	5-1-2013	813-110-0023	6-21-2013	Suspend	8-1-2013
813-007-0005	9-4-2013	Amend	10-1-2013	813-110-0024	6-21-2013	Adopt(T)	8-1-2013
813-007-0005(T)	9-4-2013	Repeal	10-1-2013	813-110-0025	6-21-2013	Amend(T)	8-1-2013
813-007-0040	3-21-2013	Amend(T)	5-1-2013	813-110-0027	6-21-2013	Adopt(T)	8-1-2013
813-007-0040	9-4-2013	Amend	10-1-2013	813-110-0030	6-21-2013	Amend(T)	8-1-2013
813-007-0040(T)	9-4-2013	Repeal	10-1-2013	813-110-0032	6-21-2013	Adopt(T)	8-1-2013
813-055-0001	6-21-2013	Amend(T)	8-1-2013	813-110-0033	6-21-2013	Suspend	8-1-2013
813-055-0010	6-21-2013	Amend(T)	8-1-2013	813-110-0034	6-21-2013	Adopt(T)	8-1-2013
813-055-0020	6-21-2013	Amend(T)	8-1-2013	813-110-0035	6-21-2013	Amend(T)	8-1-2013
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813-055-0040	6-21-2013	Amend(T)	8-1-2013	813-110-0040	6-21-2013	Amend(T)	8-1-2013
813-055-0050	6-21-2013	Amend(T)	8-1-2013	813-110-0045	6-21-2013	Adopt(T)	8-1-2013
813-055-0060	6-21-2013	Suspend	8-1-2013	813-110-0050	6-21-2013	Suspend	8-1-2013
813-055-0065	6-21-2013	Adopt(T)	8-1-2013	813-120-0001	6-21-2013	Amend(T)	8-1-2013
813-055-0070	6-21-2013	Renumber	8-1-2013	813-120-0010	6-21-2013	Amend(T)	8-1-2013
813-055-0075	6-21-2013	Amend(T)	8-1-2013	813-120-0015	6-21-2013	Adopt(T)	8-1-2013
813-055-0080	6-21-2013	Renumber	8-1-2013	813-120-0020	6-21-2013	Suspend	8-1-2013
813-055-0085	6-21-2013	Amend(T)	8-1-2013	813-120-0025	6-21-2013	Amend(T)	8-1-2013
813-055-0090	6-21-2013	Renumber	8-1-2013	813-120-0032	6-21-2013	Amend(T)	8-1-2013
813-055-0095	6-21-2013	Adopt(T)	8-1-2013	813-120-0035	6-21-2013	Amend(T)	8-1-2013
813-055-0100	6-21-2013	Suspend	8-1-2013	813-120-0040	6-21-2013	Suspend	8-1-2013
813-055-0105	6-21-2013	Amend(T)	8-1-2013	813-120-0045	6-21-2013	Amend(T)	8-1-2013
813-055-0110	6-21-2013	Suspend	8-1-2013	813-120-0047	6-21-2013	Amend(T)	8-1-2013
813-055-0115	6-21-2013	Amend(T)	8-1-2013	813-120-0050	6-21-2013	Amend(T)	8-1-2013
813-090-0005	6-21-2013	Amend(T)	8-1-2013	813-120-0060	6-21-2013	Suspend	8-1-2013
813-090-0010	6-21-2013	Amend(T)	8-1-2013	813-120-0070	6-21-2013	Renumber	8-1-2013
813-090-0015	6-21-2013	Amend(T)	8-1-2013	813-120-0080	6-21-2013	Renumber	8-1-2013
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813-090-0030	6-21-2013	Renumber	8-1-2013	813-120-0120	6-21-2013	Amend(T)	8-1-2013
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813-090-0039	6-21-2013	Amend(T)	8-1-2013	813-130-0010	6-21-2013	Amend(T)	8-1-2013
813-090-0040	6-21-2013	Amend(T)	8-1-2013	813-130-0020	6-21-2013	Amend(T)	8-1-2013
813-090-0045	6-21-2013	Adopt(T)	8-1-2013	813-130-0030	6-21-2013	Amend(T)	8-1-2013
813-090-0048	6-21-2013	Adopt(T)	8-1-2013	813-130-0040	6-21-2013	Amend(T)	8-1-2013
813-090-0060	6-21-2013	Renumber	8-1-2013	813-130-0050	6-21-2013	Amend(T)	8-1-2013
813-090-0065	6-21-2013	Suspend	8-1-2013	813-130-0060	6-21-2013	Amend(T)	8-1-2013
813-090-0067	6-21-2013	Amend(T)	8-1-2013	813-130-0070	6-21-2013	Amend(T)	8-1-2013
813-090-0070	6-21-2013	Renumber	8-1-2013	813-130-0080	6-21-2013	Amend(T)	8-1-2013
813-090-0075	6-21-2013	Adopt(T)	8-1-2013	813-130-0090	6-21-2013	Amend(T)	8-1-2013
813-090-0080	6-21-2013	Amend(T)	8-1-2013	813-130-0100	6-21-2013	Amend(T)	8-1-2013
813-090-0090	6-21-2013	Adopt(T)	8-1-2013	813-130-0110	6-21-2013	Amend(T)	8-1-2013
813-090-0095	6-21-2013	Amend(T)	8-1-2013	813-130-0120	6-21-2013	Amend(T)	8-1-2013

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813-130-0140	6-21-2013	Suspend	8-1-2013	820-010-0200	3-13-2013	Amend	4-1-2013
813-130-0150	6-21-2013	Amend(T)	8-1-2013	820-010-0204	3-13-2013	Amend	4-1-2013
813-205-0000	6-21-2013	Amend(T)	8-1-2013	820-010-0205	3-13-2013	Amend	4-1-2013
813-205-0010	6-21-2013	Suspend	8-1-2013	820-010-0206	3-13-2013	Amend	4-1-2013
813-205-0020	6-21-2013	Amend(T)	8-1-2013	820-010-0207	3-13-2013	Amend	4-1-2013
813-205-0030	6-21-2013	Amend(T)	8-1-2013	820-010-0208	3-13-2013	Amend	4-1-2013
813-205-0040	6-21-2013	Amend(T)	8-1-2013	820-010-0210	8-13-2013	Amend(T)	9-1-2013
813-205-0050	6-21-2013	Amend(T)	8-1-2013	820-010-0212	3-13-2013	Amend	4-1-2013
813-205-0051	6-21-2013	Amend(T)	8-1-2013	820-010-0213	3-13-2013	Amend	4-1-2013
813-205-0052	6-21-2013	Amend(T)	8-1-2013	820-010-0214	3-13-2013	Amend	4-1-2013
813-205-0060	6-21-2013	Amend(T)	8-1-2013	820-010-0215	3-13-2013	Amend	4-1-2013
813-205-0070	6-21-2013	Amend(T)	8-1-2013	820-010-0217	8-13-2013	Adopt(T)	9-1-2013
813-205-0080	6-21-2013	Amend(T)	8-1-2013	820-010-0219	8-13-2013	Adopt(T)	9-1-2013
813-205-0082	6-21-2013	Adopt(T)	8-1-2013	820-010-0225	3-13-2013	Amend	4-1-2013
813-205-0085	6-21-2013	Amend(T)	8-1-2013	820-010-0225	7-10-2013	Amend(T)	8-1-2013
813-205-0100	6-21-2013	Amend(T)	8-1-2013	820-010-0226	3-13-2013	Amend	4-1-2013
813-205-0110	6-21-2013	Amend(T)	8-1-2013	820-010-0226	7-10-2013	Amend(T)	8-1-2013
813-205-0120	6-21-2013	Amend(T)	8-1-2013	820-010-0227	9-11-2013	Amend	10-1-2013
813-205-0130	6-21-2013	Amend(T)	8-1-2013	820-010-0228	9-11-2013	Amend	10-1-2013
813-205-0140	6-21-2013	Suspend	8-1-2013	820-010-0260	9-11-2013	Repeal	10-1-2013
813-205-0145	6-21-2013	Adopt(T)	8-1-2013	820-010-0305	9-11-2013	Amend	10-1-2013
813-205-0150	6-21-2013	Adopt(T)	8-1-2013	820-010-0325	6-17-2013	Amend	8-1-2013
813-250-0000	12-6-2012	Amend(T)	1-1-2013	820-010-0415	3-13-2013	Amend	4-1-2013
813-250-0000	6-4-2013	Amend	7-1-2013	820-010-0425	3-13-2013	Amend	4-1-2013
813-250-0000(T)	6-4-2013	Repeal	7-1-2013	820-010-0427	3-13-2013	Amend	4-1-2013
813-250-0010	12-6-2012	Suspend	1-1-2013	820-010-0442	9-11-2013	Amend	10-1-2013
813-250-0010	6-4-2013	Repeal	7-1-2013	820-010-0480	3-13-2013	Amend	4-1-2013
813-250-0020	12-6-2012	Amend(T)	1-1-2013	820-010-0520	3-13-2013	Amend	4-1-2013
813-250-0020	6-4-2013	Amend	7-1-2013	820-010-0620	9-11-2013	Amend	10-1-2013
813-250-0020(T)	6-4-2013	Repeal	7-1-2013	820-010-0621	9-11-2013	Amend	10-1-2013
813-250-0030	12-6-2012	Amend(T)	1-1-2013	820-010-0635	3-13-2013	Amend	4-1-2013
813-250-0030	6-4-2013	Amend	7-1-2013	820-010-0720	3-13-2013	Amend	4-1-2013
813-250-0030(T)	6-4-2013	Repeal	7-1-2013	820-015-0026	3-13-2013	Amend	4-1-2013
813-250-0040	12-6-2012	Amend(T)	1-1-2013	820-020-0040	3-13-2013	Amend	4-1-2013
813-250-0040	6-4-2013	Amend	7-1-2013	820-050-0001	3-18-2013	Adopt(T)	5-1-2013
813-250-0040(T)	6-4-2013	Repeal	7-1-2013	820-050-0001	6-17-2013	Adopt	8-1-2013
813-250-0050	12-6-2012	Suspend	1-1-2013	820-050-0001(T)	6-17-2013	Repeal	8-1-2013
813-250-0050	6-4-2013	Repeal	7-1-2013	820-050-0010	3-13-2013	Adopt	4-1-2013
818-001-0002	7-1-2013	Amend	6-1-2013	830-001-0000	3-29-2013	Amend	5-1-2013
818-001-0087	7-1-2013	Amend	6-1-2013	830-020-0030	3-29-2013	Amend	5-1-2013
818-012-0005	7-1-2013	Amend	6-1-2013	830-020-0040	3-29-2013	Amend	5-1-2013
818-026-0000	7-1-2013	Amend	6-1-2013	830-030-0000	3-29-2013	Amend	5-1-2013
818-026-0020	7-1-2013	Amend	6-1-2013	830-030-0070	3-29-2013	Amend	5-1-2013
818-026-0060	7-1-2013	Amend	6-1-2013	830-030-0100	3-29-2013	Amend	5-1-2013
818-026-0065	7-1-2013	Amend	6-1-2013	830-040-0005	3-29-2013	Amend	5-1-2013
818-026-0070	7-1-2013	Amend	6-1-2013	830-040-0050	3-29-2013	Amend	5-1-2013
818-026-0140	7-1-2013	Adopt(T)	8-1-2013	833-020-0051	2-1-2013	Amend	2-1-2013
818-035-0020	7-1-2013	Amend	6-1-2013	833-020-0081	2-1-2013	Amend	2-1-2013
818-035-0066	7-1-2013	Amend	6-1-2013	833-030-0041	2-1-2013	Amend	2-1-2013
818-035-0072	7-1-2013	Amend	6-1-2013	833-040-0041	2-1-2013	Amend	2-1-2013
818-042-0090	7-1-2013	Amend	6-1-2013	833-050-0081	8-15-2013	Amend	9-1-2013
818-042-0095	7-1-2013	Amend	6-1-2013	833-060-0012	10-8-2013	Amend(T)	11-1-2013
818-042-0110	7-1-2013	Amend	6-1-2013	836-011-0000	2-6-2013	Amend	3-1-2013
820-001-0020	9-11-2013	Amend	10-1-2013	836-031-0765	2-6-2013	Amend	3-1-2013
820-001-0025	3-13-2013	Adopt	4-1-2013	836-053-0064	6-17-2013	Adopt(T)	8-1-2013

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836-053-0065	6-17-2013	Amend(T)	8-1-2013	847-017-0000	10-15-2013	Amend	11-1-2013
836-053-0471	6-17-2013	Amend(T)	8-1-2013	847-017-0003	10-15-2013	Adopt	11-1-2013
836-053-1404	12-20-2012	Amend(T)	2-1-2013	847-017-0005	10-15-2013	Amend	11-1-2013
836-053-1404	6-17-2013	Amend	7-1-2013	847-017-0008	10-15-2013	Adopt	11-1-2013
836-053-1405	12-20-2012	Amend(T)	2-1-2013	847-017-0010	10-15-2013	Amend	11-1-2013
836-053-1405	6-17-2013	Amend	7-1-2013	847-017-0015	10-15-2013	Amend	11-1-2013
837-085-0030	6-26-2013	Amend	8-1-2013	847-017-0020	10-15-2013	Amend	11-1-2013
837-085-0040	2-1-2013	Amend	3-1-2013	847-017-0025	10-15-2013	Amend	11-1-2013
837-085-0040	6-26-2013	Amend	8-1-2013	847-017-0030	10-15-2013	Amend	11-1-2013
837-085-0070	2-1-2013	Amend	3-1-2013	847-017-0035	10-15-2013	Amend	11-1-2013
837-085-0080	2-1-2013	Amend	3-1-2013	847-017-0037	10-15-2013	Adopt	11-1-2013
837-085-0080	6-26-2013	Amend	8-1-2013	847-017-0040	10-15-2013	Amend	11-1-2013
837-085-0300	6-26-2013	Amend	8-1-2013	847-020-0100	4-5-2013	Amend	5-1-2013
837-090-1030	7-1-2013	Amend	8-1-2013	847-020-0110	4-5-2013	Amend	5-1-2013
837-090-1145	6-30-2013	Amend	8-1-2013	847-020-0115	4-5-2013	Am. & Ren.	5-1-2013
837-120-0080	7-1-2013	Amend	8-1-2013	847-020-0120	4-5-2013	Amend	5-1-2013
839-009-0335	11-21-2012	Amend	1-1-2013	847-020-0130	4-5-2013	Amend	5-1-2013
839-009-0390	11-21-2012	Amend	1-1-2013	847-020-0140	4-5-2013	Amend	5-1-2013
839-009-0410	11-21-2012	Amend	1-1-2013	847-020-0140	10-1-2013	Amend	11-1-2013
839-025-0700	1-1-2013	Amend	2-1-2013	847-020-0150	4-5-2013	Amend	5-1-2013
839-025-0700	3-25-2013	Amend	5-1-2013	847-020-0150	10-15-2013	Amend	11-1-2013
839-025-0700	9-20-2013	Amend	11-1-2013	847-020-0160	4-5-2013	Amend	5-1-2013
839-025-0700	10-1-2013	Amend	11-1-2013	847-020-0165	8-3-2013	Adopt(T)	9-1-2013
845-005-0440	10-1-2013	Amend(T)	11-1-2013	847-020-0165	10-15-2013	Adopt	11-1-2013
845-006-0335	7-15-2013	Amend(T)	8-1-2013	847-020-0165(T)	10-15-2013	Repeal	11-1-2013
845-006-0345	4-1-2013	Amend	4-1-2013	847-020-0170	4-5-2013	Amend	5-1-2013
845-006-0347	4-1-2013	Amend	4-1-2013	847-020-0180	4-5-2013	Repeal	5-1-2013
845-006-0392	7-15-2013	Amend(T)	8-1-2013	847-020-0182	4-5-2013	Amend	5-1-2013
845-006-0396	7-15-2013	Amend(T)	8-1-2013	847-020-0183	4-5-2013	Amend	5-1-2013
845-009-0010	5-10-2013	Amend(T)	6-1-2013	847-020-0185	10-15-2013	Amend	11-1-2013
845-009-0015	5-10-2013	Amend(T)	6-1-2013	847-020-0190	4-5-2013	Amend	5-1-2013
845-009-0140	10-1-2013	Amend	10-1-2013	847-026-0010	10-15-2013	Amend	11-1-2013
845-015-0170	1-1-2013	Amend	2-1-2013	847-035-0011	4-5-2013	Amend	5-1-2013
845-015-0205	9-1-2013	Adopt	10-1-2013	847-035-0030	4-5-2013	Amend	5-1-2013
847-001-0035	7-12-2013	Adopt	8-1-2013	847-050-0022	8-3-2013	Adopt(T)	9-1-2013
847-001-0040	7-15-2013	Adopt(T)	8-1-2013	847-050-0022	10-15-2013	Adopt	11-1-2013
847-001-0040	10-15-2013	Adopt	11-1-2013	847-050-0022(T)	10-15-2013	Repeal	11-1-2013
847-003-0200	10-15-2013	Adopt	11-1-2013	847-050-0027	1-11-2013	Amend	2-1-2013
847-005-0005	4-5-2013	Amend	5-1-2013	847-050-0027	7-15-2013	Amend(T)	8-1-2013
847-005-0005	7-15-2013	Amend(T)	8-1-2013	847-050-0027	10-15-2013	Amend	11-1-2013
847-005-0005	10-15-2013	Amend	11-1-2013	847-050-0041	1-11-2013	Amend	2-1-2013
847-005-0005(T)	4-5-2013	Repeal	5-1-2013	847-050-0041(T)	1-11-2013	Repeal	2-1-2013
847-008-0003	7-15-2013	Adopt(T)	8-1-2013	847-050-0042	7-15-2013	Amend(T)	8-1-2013
847-008-0003	10-15-2013	Adopt	11-1-2013	847-050-0042	10-15-2013	Amend	11-1-2013
847-008-0040	1-11-2013	Amend(T)	2-1-2013	847-050-0065	1-11-2013	Amend	2-1-2013
847-008-0040	4-5-2013	Amend	5-1-2013	847-050-0065(T)	1-11-2013	Repeal	2-1-2013
847-008-0040(T)	4-5-2013	Repeal	5-1-2013	847-065-0015	8-3-2013	Amend(T)	9-1-2013
847-008-0055	10-15-2013	Amend	11-1-2013	847-065-0015	10-15-2013	Amend	11-1-2013
847-008-0065	1-11-2013	Amend	2-1-2013	847-065-0015(T)	10-15-2013	Repeal	11-1-2013
847-008-0068	7-15-2013	Amend(T)	8-1-2013	847-065-0025	8-3-2013	Amend(T)	9-1-2013
847-008-0068	10-15-2013	Amend	11-1-2013	847-065-0025	10-15-2013	Amend	11-1-2013
847-010-0063	7-15-2013	Amend(T)	8-1-2013	847-065-0025(T)	10-15-2013	Repeal	11-1-2013
847-010-0063	10-15-2013	Amend	11-1-2013	847-065-0035	8-3-2013	Amend(T)	9-1-2013
847-010-0066	10-15-2013	Amend	11-1-2013	847-065-0035	10-15-2013	Amend	11-1-2013
847-012-0000	4-5-2013	Amend	5-1-2013	847-065-0035(T)	10-15-2013	Repeal	11-1-2013
847-015-0025	10-15-2013	Amend	11-1-2013	847-065-0055	8-3-2013	Amend(T)	9-1-2013

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847-065-0055(T)	10-15-2013	Repeal	11-1-2013	852-005-0015	1-3-2013	Amend	2-1-2013
847-065-0060	8-3-2013	Amend(T)	9-1-2013	852-005-0030	1-3-2013	Amend	2-1-2013
847-065-0060	10-15-2013	Amend	11-1-2013	852-005-0040	1-3-2013	Repeal	2-1-2013
847-065-0060(T)	10-15-2013	Repeal	11-1-2013	852-010-0005	1-3-2013	Amend	2-1-2013
847-065-0065	8-3-2013	Amend(T)	9-1-2013	852-010-0015	1-3-2013	Amend	2-1-2013
847-065-0065	10-15-2013	Amend	11-1-2013	852-010-0020	1-3-2013	Amend	2-1-2013
847-065-0065(T)	10-15-2013	Repeal	11-1-2013	852-010-0022	1-3-2013	Amend	2-1-2013
847-070-0024	8-3-2013	Adopt(T)	9-1-2013	852-010-0023	1-3-2013	Amend	2-1-2013
847-070-0024	10-15-2013	Adopt	11-1-2013	852-010-0030	1-3-2013	Amend	2-1-2013
847-070-0024(T)	10-15-2013	Repeal	11-1-2013	852-010-0035	1-3-2013	Amend	2-1-2013
847-070-0050	7-12-2013	Amend	8-1-2013	852-010-0051	1-3-2013	Amend	2-1-2013
847-080-0002	7-12-2013	Amend	8-1-2013	852-010-0080	1-3-2013	Amend	2-1-2013
847-080-0010	7-12-2013	Amend	8-1-2013	852-020-0029	1-3-2013	Amend	2-1-2013
847-080-0013	7-12-2013	Amend	8-1-2013	852-020-0031	1-3-2013	Amend	2-1-2013
847-080-0016	8-3-2013	Adopt(T)	9-1-2013	852-020-0035	1-3-2013	Amend	2-1-2013
847-080-0016	10-15-2013	Adopt	11-1-2013	852-020-0045	1-3-2013	Amend	2-1-2013
847-080-0016(T)	10-15-2013	Repeal	11-1-2013	852-020-0050	1-3-2013	Amend	2-1-2013
847-080-0017	7-12-2013	Amend	8-1-2013	852-020-0060	1-3-2013	Amend	2-1-2013
847-080-0018	7-12-2013	Amend	8-1-2013	852-020-0070	1-3-2013	Amend	2-1-2013
847-080-0021	7-12-2013	Adopt	8-1-2013	852-050-0001	1-3-2013	Amend	2-1-2013
847-080-0022	7-12-2013	Amend	8-1-2013	852-050-0005	1-3-2013	Amend	2-1-2013
847-080-0028	7-12-2013	Adopt	8-1-2013	852-050-0006	1-3-2013	Amend	2-1-2013
847-080-0030	7-12-2013	Amend	8-1-2013	852-050-0012	1-3-2013	Amend	2-1-2013
848-005-0010	7-1-2013	Amend	7-1-2013	852-050-0013	1-3-2013	Amend	2-1-2013
848-005-0020	1-1-2013	Amend(T)	1-1-2013	852-050-0014	1-3-2013	Amend	2-1-2013
850-001-0015	4-12-2013	Amend	5-1-2013	852-050-0016	1-3-2013	Amend	2-1-2013
850-030-0035	4-12-2013	Amend	5-1-2013	852-050-0018	1-3-2013	Amend	2-1-2013
850-035-0230	4-12-2013	Amend	5-1-2013	852-050-0021	1-3-2013	Amend	2-1-2013
851-050-0000	4-1-2013	Amend	4-1-2013	852-050-0022	1-3-2013	Adopt	2-1-2013
851-050-0000(T)	4-1-2013	Repeal	4-1-2013	852-050-0025	1-3-2013	Amend	2-1-2013
851-050-0005	6-1-2013	Amend	6-1-2013	852-060-0025	1-3-2013	Amend	2-1-2013
851-050-0006	6-1-2013	Amend	6-1-2013	852-060-0027	1-3-2013	Amend	2-1-2013
851-050-0008	6-1-2013	Amend	6-1-2013	852-060-0060	1-3-2013	Amend	2-1-2013
851-050-0009	4-1-2013	Amend	4-1-2013	852-060-0065	1-3-2013	Amend	2-1-2013
851-050-0009(T)	4-1-2013	Repeal	4-1-2013	852-060-0070	1-3-2013	Amend	2-1-2013
851-050-0138	6-1-2013	Amend	6-1-2013	852-070-0005	1-3-2013	Amend	2-1-2013
851-052-0020	6-1-2013	Amend	6-1-2013	852-070-0010	1-3-2013	Amend	2-1-2013
851-052-0030	6-1-2013	Amend	6-1-2013	852-070-0016	1-3-2013	Amend	2-1-2013
851-052-0040	4-1-2013	Amend	4-1-2013	852-070-0020	1-3-2013	Amend	2-1-2013
851-052-0040(T)	4-1-2013	Repeal	4-1-2013	852-070-0025	1-3-2013	Amend	2-1-2013
851-054-0040	6-1-2013	Amend	6-1-2013	852-070-0030	1-3-2013	Amend	2-1-2013
851-054-0050	6-1-2013	Amend	6-1-2013	852-070-0035	1-3-2013	Amend	2-1-2013
851-054-0055	6-1-2013	Repeal	6-1-2013	852-070-0040	1-3-2013	Repeal	2-1-2013
851-054-0060	4-1-2013	Amend	4-1-2013	852-070-0045	1-3-2013	Amend	2-1-2013
851-054-0060(T)	4-1-2013	Repeal	4-1-2013	852-070-0050	1-3-2013	Repeal	2-1-2013
851-054-0100	4-1-2013	Amend	4-1-2013	852-070-0055	1-3-2013	Amend	2-1-2013
851-054-0100(T)	4-1-2013	Repeal	4-1-2013	852-070-0060	1-3-2013	Am. & Ren.	2-1-2013
851-062-0100	4-1-2013	Amend	4-1-2013	852-080-0020	1-3-2013	Amend	2-1-2013
851-070-0005	4-1-2013	Amend	4-1-2013	852-080-0025	1-3-2013	Amend	2-1-2013
851-070-0030	4-1-2013	Amend	4-1-2013	852-080-0030	1-3-2013	Amend	2-1-2013
851-070-0040	4-1-2013	Amend	4-1-2013	852-080-0040	1-3-2013	Amend	2-1-2013
851-070-0050	4-1-2013	Amend	4-1-2013	855-041-0005	12-17-2012	Am. & Ren.	2-1-2013
851-070-0100	4-1-2013	Amend	4-1-2013	855-041-0007	12-17-2012	Repeal	2-1-2013
852-001-0001	1-3-2013	Amend	2-1-2013	855-041-0010	12-17-2012	Renumber	2-1-2013
852-001-0002	1-3-2013	Amend	2-1-2013	855-041-0015	12-17-2012	Am. & Ren.	2-1-2013

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855-041-0016	12-17-2012	Renumber	2-1-2013	855-110-0005	7-1-2013	Amend(T)	8-1-2013
855-041-0017	12-17-2012	Renumber	2-1-2013	855-110-0005	7-9-2013	Amend(T)	8-1-2013
855-041-0020	12-17-2012	Renumber	2-1-2013	855-110-0005	9-23-2013	Amend	11-1-2013
855-041-0025	12-17-2012	Renumber	2-1-2013	855-110-0005(T)	9-23-2013	Repeal	11-1-2013
855-041-0026	12-17-2012	Am. & Ren.	2-1-2013	855-110-0007	12-13-2012	Amend	1-1-2013
855-041-0030	12-17-2012	Repeal	2-1-2013	855-110-0007	7-1-2013	Amend(T)	8-1-2013
855-041-0035	12-17-2012	Am. & Ren.	2-1-2013	855-110-0007	7-9-2013	Amend(T)	8-1-2013
855-041-0036	12-17-2012	Renumber	2-1-2013	855-110-0007	9-23-2013	Amend	11-1-2013
855-041-0037	12-17-2012	Renumber	2-1-2013	855-110-0007(T)	9-23-2013	Repeal	11-1-2013
855-041-0040	12-17-2012	Renumber	2-1-2013	855-110-0010	7-1-2013	Amend(T)	8-1-2013
855-041-0055	12-17-2012	Renumber	2-1-2013	855-110-0010	7-9-2013	Amend(T)	8-1-2013
855-041-0056	12-17-2012	Renumber	2-1-2013	855-110-0010	9-23-2013	Amend	11-1-2013
855-041-0057	12-17-2012	Renumber	2-1-2013	855-110-0010(T)	9-23-2013	Repeal	11-1-2013
855-041-0060	12-17-2012	Am. & Ren.	2-1-2013	856-010-0003	8-15-2013	Amend(T)	9-1-2013
855-041-0060	12-17-2012	Am. & Ren.	2-1-2013	856-010-0006	8-15-2013	Adopt(T)	9-1-2013
855-041-0060	12-17-2012	Am. & Ren.	2-1-2013	856-010-0016	7-1-2013	Amend	8-1-2013
855-041-0061	12-17-2012	Renumber	2-1-2013	856-030-0045	1-31-2013	Adopt	3-1-2013
855-041-0065	12-17-2012	Am. & Ren.	2-1-2013	858-010-0001	9-30-2013	Amend	11-1-2013
855-041-0065	12-17-2012	Am. & Ren.	2-1-2013	858-010-0005	9-30-2013	Amend	11-1-2013
855-041-0065	12-17-2012	Am. & Ren.	2-1-2013	858-010-0010	2-5-2013	Amend	3-1-2013
855-041-0065	12-17-2012	Am. & Ren.	2-1-2013	858-010-0010	7-15-2013	Amend	8-1-2013
855-041-0075	12-17-2012	Renumber	2-1-2013	858-010-0010	9-30-2013	Amend	11-1-2013
855-041-0080	12-17-2012	Renumber	2-1-2013	858-010-0010(T)	2-5-2013	Repeal	3-1-2013
855-041-0086	12-17-2012	Renumber	2-1-2013	858-010-0011	9-30-2013	Repeal	11-1-2013
855-041-0095	12-17-2012	Renumber	2-1-2013	858-010-0012	9-30-2013	Amend	11-1-2013
855-041-0103	12-17-2012	Renumber	2-1-2013	858-010-0013	9-30-2013	Amend	11-1-2013
855-041-0135	12-17-2012	Am. & Ren.	2-1-2013	858-010-0015	2-5-2013	Amend	3-1-2013
855-041-0140	12-17-2012	Renumber	2-1-2013	858-010-0015(T)	2-5-2013	Repeal	3-1-2013
855-041-0145	12-17-2012	Am. & Ren.	2-1-2013	858-010-0016	11-20-2012	Amend(T)	1-1-2013
855-041-0160	12-17-2012	Am. & Ren.	2-1-2013	858-010-0016	2-5-2013	Amend	3-1-2013
855-041-0162	12-17-2012	Am. & Ren.	2-1-2013	858-010-0016	9-30-2013	Amend	11-1-2013
855-041-0164	12-17-2012	Renumber	2-1-2013	858-010-0016(T)	2-5-2013	Repeal	3-1-2013
855-041-0165	12-17-2012	Am. & Ren.	2-1-2013	858-010-0017	11-20-2012	Amend(T)	1-1-2013
855-041-0170	12-17-2012	Renumber	2-1-2013	858-010-0017	2-5-2013	Amend	3-1-2013
855-041-0173	12-17-2012	Renumber	2-1-2013	858-010-0017	9-30-2013	Amend	11-1-2013
855-041-0175	12-17-2012	Renumber	2-1-2013	858-010-0017(T)	11-20-2012	Suspend	1-1-2013
855-041-0177	12-17-2012	Renumber	2-1-2013	858-010-0017(T)	2-5-2013	Repeal	3-1-2013
855-041-0300	12-17-2012	Renumber	2-1-2013	858-010-0020	9-30-2013	Amend	11-1-2013
855-041-0350	12-17-2012	Renumber	2-1-2013	858-010-0025	9-30-2013	Amend	11-1-2013
855-041-0355	12-17-2012	Renumber	2-1-2013	858-010-0030	2-5-2013	Amend	3-1-2013
855-041-0360	12-17-2012	Am. & Ren.	2-1-2013	858-010-0030	9-30-2013	Amend	11-1-2013
855-041-0365	12-17-2012	Renumber	2-1-2013	858-010-0030(T)	2-5-2013	Repeal	3-1-2013
855-041-0600	12-17-2012	Renumber	2-1-2013	858-010-0036	9-30-2013	Amend	11-1-2013
855-041-0610	12-17-2012	Renumber	2-1-2013	858-010-0037	9-30-2013	Amend	11-1-2013
855-041-0620	12-17-2012	Am. & Ren.	2-1-2013	858-010-0050	11-19-2012	Amend	1-1-2013
855-041-0645	12-17-2012	Renumber	2-1-2013	858-010-0050	9-30-2013	Amend	11-1-2013
855-041-1140	9-25-2013	Amend	11-1-2013	858-010-0060	9-30-2013	Amend	11-1-2013
855-041-2300	9-24-2013	Adopt(T)	11-1-2013	858-010-0080	9-30-2013	Amend	11-1-2013
855-041-2310	9-24-2013	Adopt(T)	11-1-2013	858-020-0015	9-30-2013	Amend	11-1-2013
855-041-2320	9-24-2013	Adopt(T)	11-1-2013	858-020-0025	2-5-2013	Amend	3-1-2013
855-041-2330	9-24-2013	Adopt(T)	11-1-2013	858-020-0025	9-30-2013	Amend	11-1-2013
855-041-6410	12-21-2012	Amend	2-1-2013	858-020-0025(T)	2-5-2013	Repeal	3-1-2013
855-060-0004	3-7-2013	Amend(T)	4-1-2013	858-020-0035	9-30-2013	Amend	11-1-2013
855-060-0004	8-29-2013	Amend	10-1-2013	858-020-0045	9-30-2013	Amend	11-1-2013
855-065-0005	12-13-2012	Amend	1-1-2013	858-020-0055	9-30-2013	Amend	11-1-2013
855-110-0005	4-5-2013	Amend(T)	5-1-2013	858-020-0085	9-30-2013	Amend	11-1-2013

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858-030-0005	9-30-2013	Amend	11-1-2013	863-022-0015	2-1-2013	Amend	2-1-2013
859-070-0010	3-1-2013	Amend(T)	4-1-2013	863-022-0020	2-1-2013	Amend	2-1-2013
859-070-0010	6-20-2013	Amend	8-1-2013	863-022-0022	2-1-2013	Adopt	2-1-2013
859-070-0010(T)	6-20-2013	Repeal	8-1-2013	863-022-0025	2-1-2013	Amend	2-1-2013
859-070-0015	3-1-2013	Amend(T)	4-1-2013	863-022-0030	2-1-2013	Amend	2-1-2013
859-070-0015	6-20-2013	Amend	8-1-2013	863-022-0035	2-1-2013	Amend	2-1-2013
859-070-0015(T)	6-20-2013	Repeal	8-1-2013	863-022-0040	2-1-2013	Repeal	2-1-2013
860-021-0015	8-7-2013	Amend	9-1-2013	863-022-0045	2-1-2013	Amend	2-1-2013
860-021-0170	2-14-2013	Adopt	3-1-2013	863-022-0050	2-1-2013	Amend	2-1-2013
860-024-0020	5-30-2013	Amend	7-1-2013	863-022-0052	2-1-2013	Adopt	2-1-2013
860-024-0021	5-30-2013	Amend	7-1-2013	863-022-0055	2-1-2013	Amend	2-1-2013
860-027-0015	3-21-2013	Amend	5-1-2013	863-022-0060	2-1-2013	Amend	2-1-2013
860-027-0050	5-17-2013	Amend	7-1-2013	875-010-0026	10-4-2013	Amend	11-1-2013
860-032-0007	12-17-2012	Amend	2-1-2013	875-010-0065	10-4-2013	Amend	11-1-2013
860-033-0001	6-28-2013	Amend(T)	8-1-2013	875-030-0025	10-4-2013	Amend	11-1-2013
860-033-0005	6-28-2013	Amend(T)	8-1-2013	877-001-0006	1-1-2013	Amend	1-1-2013
860-033-0006	6-28-2013	Amend(T)	8-1-2013	877-001-0009	1-1-2013	Adopt	1-1-2013
860-033-0007	6-28-2013	Amend(T)	8-1-2013	877-001-0020	1-1-2013	Amend	1-1-2013
860-033-0010	6-28-2013	Amend(T)	8-1-2013	877-001-0025	1-1-2013	Amend	1-1-2013
860-033-0030	6-28-2013	Amend(T)	8-1-2013	877-001-0028	1-1-2013	Adopt	1-1-2013
860-033-0035	6-28-2013	Amend(T)	8-1-2013	877-020-0008	1-1-2013	Amend	1-1-2013
860-033-0040	6-28-2013	Amend(T)	8-1-2013	877-020-0010	1-1-2013	Amend	1-1-2013
860-033-0045	6-28-2013	Amend(T)	8-1-2013	877-020-0055	1-1-2013	Amend	1-1-2013
860-033-0046	6-28-2013	Amend(T)	8-1-2013	877-020-0057	1-1-2013	Amend	1-1-2013
860-033-0050	6-28-2013	Amend(T)	8-1-2013	877-025-0006	1-1-2013	Amend	1-1-2013
860-033-0055(T)	6-28-2013	Suspend	8-1-2013	877-025-0011	1-1-2013	Amend	1-1-2013
860-033-0100	6-28-2013	Amend(T)	8-1-2013	877-025-0016	1-1-2013	Repeal	1-1-2013
860-033-0110	6-28-2013	Adopt(T)	8-1-2013	877-030-0025	1-1-2013	Amend	1-1-2013
860-033-0530	6-28-2013	Amend(T)	8-1-2013	877-030-0040	1-1-2013	Amend	1-1-2013
860-033-0535	6-28-2013	Amend(T)	8-1-2013	877-040-0055	1-1-2013	Repeal	1-1-2013
860-033-0536	6-28-2013	Amend(T)	8-1-2013	918-001-0010	4-1-2013	Amend	4-1-2013
860-033-0537	6-28-2013	Amend(T)	8-1-2013	918-020-0090	8-1-2013	Amend(T)	9-1-2013
860-033-0540	6-28-2013	Amend(T)	8-1-2013	918-020-0370	10-1-2013	Amend(T)	11-1-2013
860-034-0393	5-17-2013	Amend	7-1-2013	918-030-0100	12-22-2012	Amend(T)	2-1-2013
860-034-0730	5-17-2013	Amend	7-1-2013	918-030-0100	4-1-2013	Amend	5-1-2013
863-015-0215	5-13-2013	Amend(T)	6-1-2013	918-030-0120	12-22-2012	Amend(T)	2-1-2013
863-015-0215	10-1-2013	Amend	10-1-2013	918-030-0120	4-1-2013	Amend	5-1-2013
863-020-0000	2-1-2013	Amend	2-1-2013	918-030-0125	12-22-2012	Amend(T)	2-1-2013
863-020-0005	2-1-2013	Amend	2-1-2013	918-030-0125	4-1-2013	Amend	5-1-2013
863-020-0007	2-1-2013	Amend	2-1-2013	918-030-0130	12-22-2012	Amend(T)	2-1-2013
863-020-0008	2-1-2013	Repeal	2-1-2013	918-030-0130	4-1-2013	Amend	5-1-2013
863-020-0010	2-1-2013	Amend	2-1-2013	918-030-0135	12-22-2012	Amend(T)	2-1-2013
863-020-0015	2-1-2013	Amend	2-1-2013	918-030-0135	4-1-2013	Amend	5-1-2013
863-020-0020	2-1-2013	Amend	2-1-2013	918-098-1000	2-2-2013	Amend(T)	3-1-2013
863-020-0025	2-1-2013	Amend	2-1-2013	918-098-1010	8-1-2013	Amend(T)	9-1-2013
863-020-0030	2-1-2013	Amend	2-1-2013	918-098-1530	1-1-2013	Amend	2-1-2013
863-020-0035	2-1-2013	Amend	2-1-2013	918-098-1530(T)	1-1-2013	Repeal	2-1-2013
863-020-0040	2-1-2013	Amend	2-1-2013	918-098-1550	1-1-2013	Amend	2-1-2013
863-020-0045	2-1-2013	Amend	2-1-2013	918-098-1550(T)	1-1-2013	Repeal	2-1-2013
863-020-0050	2-1-2013	Amend	2-1-2013	918-100-0125	3-1-2013	Adopt(T)	4-1-2013
863-020-0055	2-1-2013	Amend	2-1-2013	918-305-0100	5-1-2013	Amend	5-1-2013
863-020-0060	2-1-2013	Amend	2-1-2013	918-305-0105	1-1-2013	Amend(T)	1-1-2013
863-020-0065	2-1-2013	Amend	2-1-2013	918-305-0105	5-1-2013	Amend	5-1-2013
863-022-0000	2-1-2013	Amend	2-1-2013	918-305-0105(T)	1-1-2013	Suspend	1-1-2013
863-022-0005	2-1-2013	Amend	2-1-2013	918-305-0105(T)	5-1-2013	Repeal	5-1-2013

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918-695-0031	4-15-2013	Adopt(T)	5-1-2013	945-040-0010	9-30-2013	Adopt	11-1-2013
918-750-0115	1-1-2013	Adopt	2-1-2013	945-040-0020	9-30-2013	Adopt	11-1-2013
943-014-0400	8-23-2013	Adopt(T)	10-1-2013	945-040-0030	9-30-2013	Adopt	11-1-2013
943-014-0410	8-23-2013	Adopt(T)	10-1-2013	945-040-0040	9-30-2013	Adopt	11-1-2013
943-014-0415	8-23-2013	Adopt(T)	10-1-2013	945-040-0050	9-30-2013	Adopt	11-1-2013
943-014-0420	8-23-2013	Adopt(T)	10-1-2013	945-040-0060	9-30-2013	Adopt	11-1-2013
943-014-0430	8-23-2013	Adopt(T)	10-1-2013	945-040-0070	9-30-2013	Adopt	11-1-2013
943-014-0435	8-23-2013	Adopt(T)	10-1-2013	945-040-0080	9-30-2013	Adopt	11-1-2013
943-014-0440	8-23-2013	Adopt(T)	10-1-2013	945-040-0090	9-30-2013	Adopt	11-1-2013
943-014-0445	8-23-2013	Adopt(T)	10-1-2013	945-040-0100	9-30-2013	Adopt	11-1-2013
943-014-0450	8-23-2013	Adopt(T)	10-1-2013	945-040-0110	9-30-2013	Adopt	11-1-2013
943-014-0455	8-23-2013	Adopt(T)	10-1-2013	945-040-0120	9-30-2013	Adopt	11-1-2013
943-014-0460	8-23-2013	Adopt(T)	10-1-2013	945-040-0130	9-30-2013	Adopt	11-1-2013
943-014-0465	8-23-2013	Adopt(T)	10-1-2013	945-040-0140	9-30-2013	Adopt	11-1-2013
945-020-0010	12-13-2012	Adopt	1-1-2013	945-040-0150	9-30-2013	Adopt	11-1-2013
945-020-0020	12-13-2012	Adopt	1-1-2013	945-040-0160	9-30-2013	Adopt	11-1-2013
945-020-0040	7-9-2013	Adopt	8-1-2013	945-040-0170	9-30-2013	Adopt	11-1-2013
945-030-0010	3-18-2013	Adopt	5-1-2013	945-040-0170	9-30-2013	Adopt	11-1-2013
945-030-0010	5-28-2013	Suspend	7-1-2013	945-050-0010	4-15-2013	Adopt	5-1-2013
945-030-0020	3-18-2013	Adopt	5-1-2013	945-050-0020	4-15-2013	Adopt	5-1-2013
945-030-0030	3-18-2013	Adopt	5-1-2013	966-100-0100	1-2-2013	Adopt	2-1-2013
945-030-0030	5-28-2013	Amend(T)	7-1-2013	966-100-0200	1-2-2013	Adopt	2-1-2013
945-030-0030	8-19-2013	Amend	10-1-2013	966-100-0300	1-2-2013	Adopt	2-1-2013
945-030-0040	3-18-2013	Adopt	5-1-2013	966-100-0400	1-2-2013	Adopt	2-1-2013
945-030-0040	5-28-2013	Amend(T)	7-1-2013	966-100-0500	1-2-2013	Adopt	2-1-2013