

3-29

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form..

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted on March 15, 2006 by the
Date prior to or same as filing date.

Department of Human Services, Office of Medical Assistance Programs 410
Agency and Division Administrative Rules Chapter Number

Darlene Nelson (503) 945-6927 (503) 945-6873 dar.l.nelson@state.or.us
Rules Coordinator Telephone Fax email

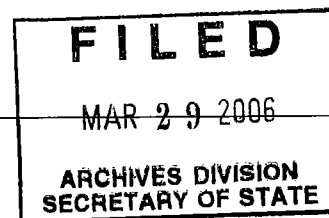
Communications Unit, 3rd Fl., DHS Bldg., 500 Summer St. NE-E35, Salem, Or. 97301-0177
Address

to become effective April 1, 2006 through September 15, 2006
Date upon filing or later A maximum of 180 days including the effective date.

RULEMAKING ACTION

Rule Filing Caption: Medicaid Drug Rebate Program list from CMS letter dated March 15, 2006

AMEND: 410-121-0157



Stat. Auth.: ORS Chapter 409.010; 409.050, Rules

Other Authority: None

Stats. Implemented: ORS 414.065

RULE SUMMARY

Subject Matter: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to certain clients. OMAP temporarily amended rule 410-121-0157 to reference the updated information regarding participating pharmaceutical companies to the Medicaid Drug Rebate Program, in compliance with federal regulations. Updates include information from CMS Release #140, date March 15, 2006, indicating the changes to be effective April 1, 2006.

Lynn Read
Lynn Read, Authorized Signer

3/28/06
Date

OMAP 7-2006 (Temp)

Secretary of State
STATEMENT OF NEED AND JUSTIFICATION
A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Human Services (DHS), Office of Medical Assistance Programs, (OMAP)
Agency and Division

Chapter 410
Administrative Rules Chapter Number

In the Matter of: The amendment of a rule, which governs payment for the Pharmaceutical Services program. OMAP will amend 410-121-0157.

Rule Filing Caption: Medicaid Drug Rebate Program list from CMS letter dated March 15, 2006

Statutory Authority: ORS 409.010

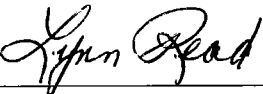
Other Authority: None

Statutes Implemented: ORS 414.065


Need for the Temporary Rule(s): The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-121-0157 is amended to reference the updated information regarding participating pharmaceutical companies to the Medicaid Drug Rebate Program, in compliance with federal regulations. Updates include information from Centers for Medicare and Medicaid Services, (CMS) Release #140, dated March 15, 2006.

Justification of Temporary Rule(s): A temporary rule is necessary to prevent prejudice against providers. Filing of a Temporary rule is necessary to ensure providers are using the most current, accurate and complete information regarding manufacturer's from which to prescribe and dispense pharmaceutical products. OMAP did not receive this information from CMS in time to file a standard permanent filing.

Other agencies affected: No other agencies are affected.



Lynn Read, Authorized Signer



Date

Participation in the Medicaid Drug Rebate Program

(1) The Oregon Medicaid Pharmaceutical Services Program is a participant in the Centers for Medicare and Medicaid Services (CMS) Medicaid Drug Rebate Program, created by the Omnibus Budget Reconciliation Act (OBRA) of 1990. The Medicaid Drug Rebate Program requires a drug manufacturer to enter into and have in effect a national rebate agreement with the Secretary of the Department of Health and Human Services for States to receive federal funding for outpatient drugs dispensed to Medicaid patients. The drug rebate program is administered by CMS's Center for Medicaid and State Operations (CMSO). Pharmaceutical companies participating in this program have signed agreements with CMS to provide rebates to the Office of Medical Assistance Programs (OMAP) on all their drug products. OMAP will reimburse providers only for outpatient drug products manufactured or labeled by companies participating in this program.

(2) Documents in rule by reference: Names and Labeler Code numbers for participants in the Medicaid Drug Rebate Program are the responsibility of and maintained by CMS. OMAP receives this information from CMS in the form of numbered and dated Releases. Subsequently, OMAP produces and updates Master Pharmaceutical Manufacturer's Rebate Lists (Lists), alphabetical and numeric, by manufacturer. These lists are used by OMAP providers to bill for services. OMAP includes in rule by reference, the following CMS Releases and subsequent OMAP Master Pharmaceutical Manufacturer's Rebate Lists: Release #128, dated January 21, 2004 – Lists updated February 10, 2004; Release #129, dated February 19, 2004 and Release #130, dated April 30, 2004 - Lists updated May 13, 2004; Release #132, dated June 22, 2004 – Lists updated July 19, 2004; Release #133, dated August 13, 2004 – Lists updated August 24, 2004; Release #134, dated November 18, 2004 – Lists updated December 16, 2004; Release #135, dated December 10, 2004 – Lists updated February 14, 2005; Release #136, dated February 17, 2005 – Lists updated March 30, 2005; Release #137, dated May 13, 2005 and Lists updated June 23, 2005; Release #138, dated August 5, 2005, and Lists updated August 19, 2005, and Release #139, dated December 1, 2005 - Lists updated December 8, 2005; Release #140, dated March 15, 2006, and Lists updated March 17, 2006. All CMS Releases are available on the Department of Human Services' website: www.dhs.state.or.us/policy/healthplan/guides/pharmacy/main.html, and on the CMS website: www.cms.hhs.gov/medicaid/drugs/drughmpg.asp, and the subsequent OMAP Master Pharmaceutical Manufacturer's Rebate Lists, are available on the Department of Human Services' website: www.dhs.state.or.us/policy/healthplan/guides/pharmacy/main.html.

(3) Retroactive effective dates: The CMS Medicaid Drug Rebate Program experiences frequent changes in participation and often this information is submitted to OMAP after the effective date(s) of some changes. Therefore, certain participant additions and deletions may be effective retroactively. See specific instructions in the CMS Releases for appropriate effective date(s) of changes.

(4) OMAP contracts with First Health Services to manage the Medicaid Rebate Dispute Resolution program. Pharmacy providers must verify the accuracy of their Medicaid pharmacy claims with First Health Services within 30 days of request in instances where drug manufacturers dispute their claim information. Verification can be photocopies of drug invoices showing that the billed products were in stock during the time of the date of service.

(5) The actual National Drug Code (NDC) dispensed and the actual metric decimal quantity dispensed, must be billed.

Stat. Auth.: ORS 409

Stats. Implemented: ORS/14.065