

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on [upon filing] by the
Date prior to or same as filing date

Department of Human Services, Seniors and People with Disabilities Division **411**
Agency and Division Administrative Rules Chapter Number

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to become effective [January 1, 2010]. Rulemaking Notice was published in the [November 2009] Oregon
Bulletin.** Date upon filing or later Month and Year

RULE CAPTION

Medicaid Long Term Care Quality and Reimbursement Advisory Council
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

411-001-0115, 411-001-0118

AMEND:

411-001-0100, 411-001-0110, 411-001-0120

REPEAL:

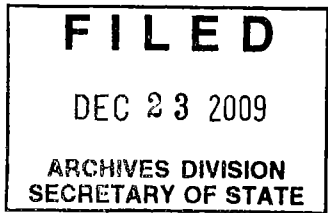
RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: **ORS 410.070 and 410.555**

Other Auth.:

Stats. Implemented: **ORS 410.550 to 410.555**



RULE SUMMARY

The Department of Human Services, Seniors and People with Disabilities Division is permanently amending the Medicaid Long Term Care Quality and Reimbursement Advisory Council (MLTCQRAC) rules in OAR chapter 411, division 001 to clarify administration, scope, and operation.

Catherine A Cooper *12/23/09* **Catherine A. Cooper**
Signature Date Printed Name

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005

SPD 18-2009

**DEPARTMENT OF HUMAN SERVICES
SENIORS AND PEOPLE WITH DISABILITIES DIVISION
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 1**

**MEDICAID LONG TERM CARE QUALITY AND REIMBURSEMENT ADVISORY
COUNCIL**

411-001-0100

Purpose

(1) The purpose of the rules in OAR chapter 411, division 001 is to establish procedures for the operation of the Medicaid Long Term Care Quality and Reimbursement Advisory Council (Council).

(2) The Council was established by the 1995 Legislative Assembly and consists of 12 stakeholders including the Long Term Care Ombudsman, consumers, advocates, and providers. Council appointments are made by the Governor, the President of the Senate, the Speaker of the House, Governor's Commission on Senior Services, and the Oregon Disabilities Commission as described in ORS 410.550.

(3) The Council is directed to advise the Department of Human Services, Seniors and People with Disabilities Division on changes or modifications to the Medicaid reimbursement system and the adverse and positive effects of the changes or modifications on the quality of long term care and community-based care services and reimbursement for long term care and community-based care services.

Stat. Auth.: ORS 410.070 and 410.555

Stats. Implemented: ORS 410.550 to 410.555

411-001-0110

Definitions

(1) "Council" means the Medicaid Long Term Care Quality and Reimbursement Advisory Council.

(2) "DHS" means the Department of Human Services.

(3) "Medicaid Reimbursement System" means the method or methodology associated with reimbursing providers of long term care and community-based services under the Seniors and People with Disabilities Division's Aged and Physically Disabled Programs. The Medicaid reimbursement system does not include rates established by collective bargaining, rates established by actuarial calculations, or rate increases that have been approved and funded by the Legislature.

(4) "Quality" means the degree to which long term care systems, services, and supplies for individuals and populations increase the likelihood of positive outcomes.

(5) "SPD" means the Department of Human Services, Seniors and People with Disabilities Division.

(6) "These Rules" mean the rules in OAR chapter 411, division 001.

Stat. Auth.: ORS 410.070 and 410.555
Stats. Implemented: ORS 410.550 to 410.555

411-001-0115

Council Administration

Council By-Laws supplement ORS 410.550 to 410.555 and these rules.
Stat. Auth.: ORS 410.070 and 410.555
Stats. Implemented: ORS 410.550 to 410.555

411-001-0118

Council Scope and Operation

- (1) At the beginning of each legislative session, the Council shall review the Governor's Recommended Budget for SPD. The Council may submit a recommendation in support or opposition of the Governor's Recommended Budget.
- (2) DHS shall submit to the Council, for the Council's review and recommendation, any proposed change or modification to the Medicaid reimbursement system.
- (3) Upon review of any proposed change or modification under section (2) of this rule, the Council shall issue a written advisory recommendation to SPD as described in OAR 411-001-0120.
- (4) Prior to implementing any change or modification to the Medicaid reimbursement system, SPD shall submit the Council's written recommendation to the Legislative Assembly or to the Emergency Board if the Legislative Assembly is not in session.
- (5) If the Council has a disagreement with any change or modification to the Medicaid reimbursement system, SPD shall obtain the approval of the Legislative Assembly or the Emergency Board if the Legislative Assembly is not in session, before instituting the proposed change or modification. A proposed change or modification with an estimated fiscal impact of \$100,000 or less shall be exempt from this provision.
- (6) SPD shall inform the Council of all rate changes within SPD's Aged and Physically Disabled Programs, including rates established by collective bargaining, rates established by actuarial calculations, and rate increases that have been approved and funded by the Legislature.
- (7) The Council may review SPD's strategic initiatives in order to assess the likelihood of increased quality for individuals served by SPD.

Stat. Auth.: ORS 410.070 and 410.555
Stats. Implemented: ORS 410.550 to 410.555

411-001-0120

Council Operation

- (1) Within 60 calendar days after receipt from SPD of any proposed change or modification to the Medicaid reimbursement system, the Council shall issue a written advisory recommendation to SPD. The 60-day period shall begin the day following delivery to the chairperson of the Council if a proposed change or modification is faxed, hand-delivered, or e-mailed. Otherwise, the 60-day period shall begin the third day after the date of mailing first class.
- (2) A written advisory recommendation issued by the Council must state:
 - (a) Whether the Council supports or opposes the proposed change or modification;

(b) Whether the Council concludes that the proposed change or modification shall have an adverse or positive effect on the quality of long term care and community-based care services provided under the Oregon Medicaid program; and

(c) The basis for the Council's recommendation, which must include:

(A) The reason for the Council's position;

(B) A list of the principal documents, reports, or studies, if any, relied upon in considering the proposed change or modification; and

(C) Other information deemed appropriate by the Council.

(3) Timeline for written recommendation.

(a) Notwithstanding section (1) of this rule, SPD may shorten the time within which the Council must issue a written recommendation if SPD decides to adopt a proposed change or modification by temporary rule and if SPD prepares a written statement in which SPD:

(A) Finds that failure to make proposed changes or modifications promptly is likely to result in serious prejudice to the public interest or to the interests of clients of DHS, providers of long term care or community-based care services, or other affected parties;

(B) Specifies reasons why the agency's failure to act promptly is likely to result in serious prejudice to those interests;

(C) States the need for the proposed change or modification and how the change or modification is intended to meet the need;

(D) Lists the principal documents, reports, or studies, if any, prepared or relied upon by SPD in evaluating the need for the proposed change or modification; and

(E) Cites the legal authority relied upon and bearing upon the adoption, amendment, or suspension of the rule if the proposed change or modification is to be made by administrative rule.

(b) However, SPD may not shorten the time for written recommendation to less than five business days.

(4) If SPD intends to adopt an administrative rule that directly or indirectly proposes a change or modification to the Medicaid reimbursement system, SPD may not proceed with notice requirements provided for in ORS 183.335 until SPD has received the Council's written recommendation as described in section (2) of this rule or the time permitted to the Council for issuance of a written recommendation has passed, whichever occurs first.

Stat. Auth.: ORS 410.070 and 410.555

Stats. Implemented: ORS 410.550 to 410.555