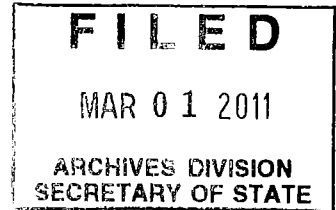


Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form.



I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted on March 1, 2011 by the
Date prior to or same as filing date.

Department of Human Services - Children, Adults and Families 461
Agency and Division Administrative Rules Chapter Number

Annette Tesch Human Services Building, 500 Summer St NE - E48, Salem, OR 97301 (503) 945-6067
Rules Coordinator Address Telephone

to become effective March 1, 2011 through August 28, 2011
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

ADOPT:

AMEND: 461-115-0530, 461-135-1120, 461-155-0290, 461-155-0291, 461-155-0295

SUSPEND:

ORS 409.050, 411.060, 411.070, 411.404, 411.431, 411.432, 414.231
Stat. Auth.

42 USC 1396d(p); Oregon Medicaid/State Children's Health Insurance Program (SCHIP) Health Insurance Flexibility and Accountability (HIFA) Section 1115 Demonstration
Other Authority

ORS 409.010, 411.060, 411.070, 411.404, 411.431, 411.432, 414.025, 414.065, 414.231
Stats. Implemented

RULE SUMMARY

OAR 461-115-0530 about Oregon Health Plan (OHP) program certification periods is being amended to lengthen Oregon Health Plan - Adults (OHP-OPU) program certification period (the period for which a client is certified eligible for a program.)

OAR 461-135-1120 about when an Oregon Health Plan - Adult (OHP-OPU) program benefit group (the individuals who receive benefits) must pay a monthly premium to receive program benefits is being amended to restate how the Department determines when a premium payment is paid on time or past due, and to state when a premium payment is in arrears. This rule also is being amended to cross-reference other administrative rules for the definitions of terms used in this rule and to italicize the defined terms throughout the rule.

SSP 8-2011 (T)

OAR 461-155-0290 about the income standards in the Qualified Medicare Beneficiaries - Basic (QMB-BAS) program, OAR 461-155-0291 about the income standards in the Qualified Medicare Beneficiaries - Disabled Worker (QMB-DW) program, and OAR 461-155-0295 about the income standards in the Qualified Medicare Beneficiaries - Specified Limited Medicare Beneficiary (QMB-SMB), and Qualified Medicare Beneficiaries - Qualified Individuals (QMB-SMF) programs are being amended to reflect the annual changes in the income standards based on changes to the federal poverty level. OAR 461-155-0295 is also being amended to clarify the income standards being applied.



Authorized Signer

Robert Trachtenberg
Printed Name

3-1-11
Date

A copy of the temporary rules can be accessed at the Self-Sufficiency Programs website:
http://www.dhs.state.or.us/policy/selfsufficiency/ar_search.htm

*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in the Rulemaking Action, and electronic copy of rules. ARC 940-2005

Secretary of State
STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

<u>Department of Human Services - Children, Adults and Families</u>	<u>461</u>
Agency and Division	Administrative Rules Chapter Number

In the Matter of: Amending OAR 461-115-0530, 461-135-1120, 461-155-0290, 461-155-0291, and 461-155-0295

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

Statutory Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.431, 411.432, 414.231

Other Authority: 42 USC 1396d(p); Oregon Medicaid/State Children's Health Insurance Program (SCHIP) Health Insurance Flexibility and Accountability (HIFA) Section 1115 Demonstration

Statutes Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.431, 411.432, 414.025, 414.065, 414.231

Need for the Temporary Rule(s):

OAR 461-115-0530 needs to be amended to lengthen the Oregon Health Plan - Adults (OHP-OPU) program certification period (the period for which a client is certified eligible for a program). The rule had stated that an OHP-OPU program certification period was six months long, requiring OHP-OPU program clients to undergo and the Department to conduct recertification of these clients twice as often as for clients in other OHP programs, resulting in some families with members in the OHP-OPU program and other members in other OHP programs having to undergo additional recertification determinations. The amended rule states that an OHP-OPU program certification period is 12 months long, allowing the Department to align the recertification process for families with members who are clients of multiple OHP programs, reducing the administrative burden on clients and synchronizing the timing of the recertification determinations the Department must make for a family with members in different OHP programs.

OAR 461-135-1120 needs to be amended to restate how the Department determines when an Oregon Health Plan - Adult (OHP-OPU) program required premium payment is paid on time or past due, and to state when a premium payment is in arrears. The rule had not stated when the Department considered a premium payment paid over the telephone or received by other electronic means to have been received by the Oregon Health Plan billing office, potentially causing confusion as to whether payments submitted in this manner were timely or past due. The amended rule clarifies when the Department considers payments submitted in these manners to have been received. This rule also had not stated when the Department considered a premium payment paid to be in arrears, possibly causing confusion as to when a payment was in arrears. The amended rule states that the Department considers an OPH-OPU program premium payment to be in arrears when it has not been received on time. This rule had stated that the Department

considered an OHP-OPU program premium payment past due when not received on time, likely causing confusion if used with the similarly defined new phrase, in arrears. The amended rule restates the definition of past due as an OHP-OPU program premium that has not been paid within six months of the due date. This rule also needs to be amended to cross-reference other administrative rules for the definitions of terms used in this rule and to italicize the defined terms throughout the rule. The rule had not cross-referenced the definitions for some terms used in this rule and italicized the terms when used, potentially causing confusion as to the meaning of those terms as used in this rule. The amended rule cross-references the definitions for defined terms and signals when the defined terms are used in this rule, clarifying the meaning of the terms and likely reducing incorrect interpretation and application of the rule.

OAR 461-155-0290, 461-155-0291, and 461-155-0295 need to be amended to reflect the annual change in the Qualified Medicare Beneficiaries - Basic (QMB-BAS), Qualified Medicare Beneficiaries - Disabled Worker (QMB-DW), Qualified Medicare Beneficiaries - Specified Limited Medicare Beneficiary (QMB-SMB), and Qualified Medicare Beneficiaries - Qualified Individuals (QMB-SMF) programs income standards based on the federal poverty level. Failure to update these standards will result in some clients being found ineligible for program benefits due to being over the applicable income standard. The amended rules apply the correct standards allowing for accurate eligibility determinations. OAR 461-155-0295 also needs to be amended to clarify the income standards being applied. The amended rule clarifies that the tables set out income standards at 120 and 135 percent of the poverty level.

Documents Relied Upon (and where they are available): Department of Human Services, Division of Medical Assistance Programs, Policy Issue Paper, "OHP Standard - Extending certification periods from six to twelve months"; available from: The Department of Human Services, Children, Adults and Families Division, CAF Medical Eligibility Unit, 500 Summer Street NE, Salem, Oregon 97301. "Annual Update of the HHS Poverty Guidelines", The Federal Register, Vol. 76, No. 13, Thursday, January 20, 2011, Notices, pp. 3637-38; available at: <http://edocket.access.gpo.gov/2011/pdf/2011-1237.pdf>.

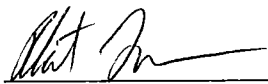
Justification of Temporary Rule(s):

The Department finds that failure to act promptly by amending OAR 461-115-0530 will result in serious prejudice to the public interest, Oregon Health Plan - Adults (OHP-OPU) program clients, and the Department. The amended rule states that an OHP-OPU program certification period is 12 months long, allowing the Department to align the recertification process for families with members who are clients of multiple OHP programs, reducing the administrative burden on OHP-OPU program clients and synchronizing the timing of the recertification determinations the Department must make for a family with members in different OHP programs. Delaying the effective date of these rule changes to complete the permanent rules process would cause some clients to have to unnecessarily go through and the Department to conduct unneeded recertification determinations.

The Department finds that failure to act promptly by amending OAR 461-135-1120 will result in serious prejudice to the public interest, Oregon Health Plan - Adult (OHP-OPU) program clients, and the Department. The rule changes clarify when the Department considers OHP-OPU

program premium payments to have been received, to be in arrears, or to be past due; and cross-reference administrative rules stating the meaning of defined terms used in this rule. Delaying the effective date of these rule changes to complete the permanent rules process could cause some OHP-OPU program clients to be placed incorrectly into past due status, potentially resulting in the Department determining the clients are not eligible for recertification of their OHP-OPU program benefits.

The Department finds that failure to act promptly by amending OAR 461-155-0290, 461-155-0291, and 461-155-0295 will result in serious prejudice to the public interest, the Department, and clients applying for and receiving Qualified Medicare Beneficiaries - Basic (QMB-BAS), Qualified Medicare Beneficiaries - Disabled Worker (QMB-DW), Qualified Medicare Beneficiaries - Specified Limited Medicare Beneficiary (QMB-SMB), and Qualified Medicare Beneficiaries - Qualified Individuals (QMB-SMF) program benefits. The updated accurate standards will allow more applicants to be found eligible for QMB-BAS, QMB-DW, QMB-SMB, and QMB-SMF program benefits and the Department to make correct determinations avoiding the unnecessary expense of erroneous benefit denials and closures. The amended rules are needed so that accurate standards can be in place for the March 1, 2011 effective date. Delaying the effective date of these rule changes to complete the permanent rules process would cause some clients to lose or be denied QMB-BAS, QMB-DW, QMB-SMB, and QMB-SMF program benefits and Department effort and expense to correct erroneous benefit denials and closures.



Authorized Signer

Robert Trachtenberg

Printed Name

3-1-11

Date

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

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

461-155-0290

Income Standard; QMB-BAS

The adjusted income standard for the QMB-BAS program is 100 percent of the 2011 federal poverty level.

QMB-BAS Adjusted Income Standard	
<u>No. in Need Group</u>	<u>Amount</u>
1	\$ 908
2	1,226
3	1,545
4	1,863
5	2,181
6	2,500
7	2,818
8	3,136
9	3,455
10	3,773
Each additional person	319

Stat. Auth.: ORS 411.060, 411.070

Stats. Implemented: ORS 411.060, 411.070

461-155-0291

Income Standard; QMB-DW

The adjusted income standard for the QMB-DW program is 200 percent of the 2011 federal poverty level (*see* OAR 461-155-0290).

QMB-DW Adjusted Income Standard	
<u>No. in Need Group</u>	<u>Amount</u>
1	\$ 1,816
2	2,452
3	3,089
4	3,726
5	4,362
6	4,999
7	5,636
8	6,272
9	6,910
10	7,546
Each additional person	637

Stat. Auth.: ORS 411.060, 411.070

Stats. Implemented: ORS 411.060, 411.070

461-155-0295

Income Standard; QMB-SMB, QMB-SMF

(1) Eligibility for QMB-SMB requires income greater than 100 percent (see OAR 461-155-0290) but less than 120 percent of the federal poverty level. The adjusted income standard for QMB-SMB is 120 percent of the 2011 federal poverty level.

**QMB-SMB Adjusted Income Standard
(Case Descriptor SMB)**

<u>No. in Need Group</u>	<u>Amount</u>
1	\$ 1,090
2	1,471
3	1,854
4	2,236
5	2,617
6	3,000
7	3,382
8	3,763
9	4,146
10	4,528
Each additional person	383

(2) Eligibility for QMB-SMF requires income equal to or greater than 120 percent (see section (1) of this rule) but less than 135 percent of the federal poverty level. The adjusted income standard for QMB-SMF is 135 percent of the 2011 federal poverty level.

**QMB-SMF Adjusted Income Standard
(Case Descriptor SMF)**

<u>No. in Need Group</u>	<u>Amount</u>
1	\$ 1,226
2	1,655
3	2,086
4	2,515
5	2,944
6	3,375
7	3,804
8	4,234
9	4,664
10	5,094
Each additional person	430

Stat. Auth.: ORS 411.060, 411.070

Stats. Implemented: ORS 411.060, 411.070