

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, Aging and People with Disabilities  
and Developmental Disabilities 411

Agency and Division Administrative Rules Chapter Number

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Rules Coordinator Address Telephone

to become effective [June 1, 2013]. Rulemaking Notice was published in the [May 2013] Oregon Bulletin.\*\*  
Date upon filing or later Month and Year

**RULE CAPTION**

**Late Contested Case Hearing Requests**

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:**

**AMEND:**

411-001-0520

**REPEAL:**

**RENUMBER:**

**AMEND & RENUMBER:**

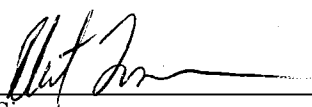
Stat. Auth.: ORS 409.050 and 411.103

Other Auth.:

Stats. Implemented: ORS 409.010 and 411.103

**RULE SUMMARY**

The Department of Human Services is permanently amending OAR 411-001-0520 about contested case hearing requests to correct a scrivener's error reflected in the permanent rule language that became effective April 2, 2013.

  
Signature

5-29-13  
Date

Robert Trachtenberg  
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 12-2013

1911

**DEPARTMENT OF HUMAN SERVICES  
AGING AND PEOPLE WITH DISABILITIES  
DEVELOPMENTAL DISABILITIES  
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411  
DIVISION 1**

**CONTESTED CASE HEARINGS**

**411-001-0520**

**Late Contested Case Hearing Requests**

(1) When the Department of Human Services (Department) receives a completed hearing request that is not filed within the timeframe required by the applicable rule in OAR chapter 411 but is filed no later than the deadlines set out in section (2) of this rule:

(a) The Department shall refer 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 when:

(A) The Department finds that the claimant and claimant's representative did not receive the notice and did not have actual knowledge of the notice; or

(B) The Department finds good cause that the claimant did not meet the timeframe required due to excusable mistake, surprise, excusable neglect (which may include neglect due to significant cognitive or health issues), circumstances beyond the claimant's control, reasonable reliance on the statement of a Department employee or an adverse provider relating to procedural requirements, or due to fraud, misrepresentation, or other misconduct of the Department or a party adverse to the claimant.

(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 notice or had actual knowledge of the 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 electronically mailed the notice to the correct address of the claimant or claimant's representative, as provided to the Department.

(B) The claimant has established good cause 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:

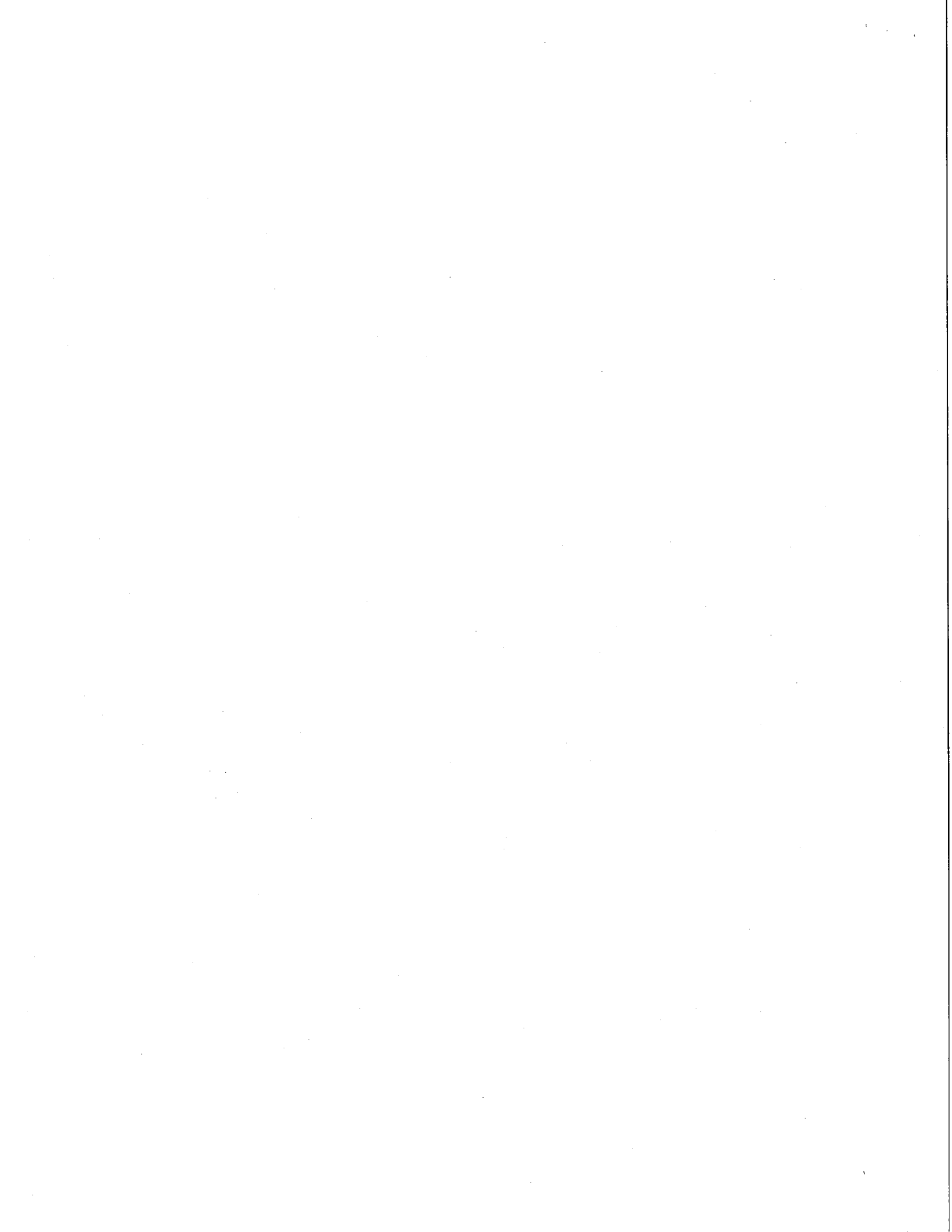
(A) The undisputed facts show that the claimant does not qualify for a hearing under this section; and

(B) The notice was served personally or by registered or certified mail.

(2) The Department shall consider whether a late hearing request meets the late request criteria set out in section (1) of this rule:

(a) When the hearing request is received up to 120 days after a notice became a final order by default if no provider is a party to the contested case.

(b) When the hearing request is received up to 60 days after a notice became a final order by default if at least one provider is a party to the contested case.



(3) Unless required otherwise by the Servicemembers Civil Relief Act, the Department may dismiss a request for hearing as untimely if the Department receives a completed hearing request after the applicable deadline in section (2) of this rule.

Stat. Auth.: ORS 409.050 & 411.103

Stats. Implemented: ORS 409.010 & 411.103

