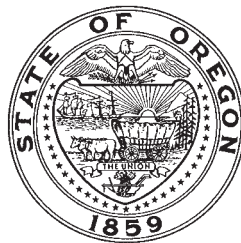


OREGON BULLETIN

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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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EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 17 - 17

INVOCATION OF EMERGENCY CONFLAGRATION ACT FOR THE MILLI FIRE IN DESCHUTES COUNTY

Pursuant to my authority as Governor of the State of Oregon, I find that:

The fire known as the “Milli Fire” is burning in Deschutes County.

The resources necessary for protecting life and property from the Milli Fire is beyond local capabilities. Assistance with life, safety, and structural fire protection was requested by the Central Oregon Multi-Agency Coordination Center. The State Fire Marshal concurs with that request. At the time of this declaration, 434 structures are threatened by the fire and are on Level 2 evacuation notice, and 218 structures are threatened and on Level 1 notice. Over 1000 citizens are affected by the fire at this time, and the area is also within the Total Solar Eclipse Path of Totality.

In accordance with ORS 476.510-476.610, I have determined that a threat to life, safety, and property exists due to a fire known as the Milli Fire in Deschutes County and the threat exceeds the firefighting capabilities of local firefighting personnel and equipment. Accordingly, I have invoked the Emergency Conflagration Act.

These findings were made at 9:06 a.m. on August 17, 2017, and I now confirm them with this Executive Order.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Oregon State Police and the Office of State Fire Marshal shall mobilize fire resources statewide and coordinate with all appropriate Fire Defense Chiefs for the use of personnel and equipment in accordance with the Emergency Conflagration Act to suppress and contain this fire. Resources responding to Milli Fire, burning near Sisters and Camp Sherman, may be redistributed by the State Fire Marshal.
2. This emergency is declared only for the Milli Fire threatening structures in Deschutes County near Sisters and Camp Sherman.
3. This order was made by verbal proclamation at 9:06 a.m. the 17th day of August, 2017, and signed this 30th day of August, 2017, in Salem, Oregon.
4. This order shall remain in effect for as long as the Office of State Fire Marshal believes resources should be deployed. It shall expire by September 15, 2017, unless otherwise extended by the Governor.

Done at Salem, Oregon, this 30th day of August, 2017.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

/s/ Dennis Richardson
Dennis Richardson
SECRETARY OF STATE

EXECUTIVE ORDER NO. 17-18

INVOCATION OF EMERGENCY CONFLAGRATION ACT FOR THE CHETCO BAR FIRE IN CURRY COUNTY

Pursuant to my authority as Governor of the State of Oregon, I find that:

The fire known as the “Chetco Bar Fire” is burning in Curry County.

The resources necessary for protecting life and property from the Chetco Bar Fire are beyond local capabilities. Assistance with life, safety, and structural fire protection was requested by Lang Johnson, Curry County Fire Defense Board Chief. The State Fire Marshal concurs with that request.

In accordance with ORS 476.510 et seq., I have determined that a threat to life, safety, and property exists due to a fire known as the Chetco Bar Fire in Curry County and the threat exceeds the firefighting capabilities of local firefighting personnel and equipment. Accordingly, I have invoked the Emergency Conflagration Act.

These findings were made at 12:26 a.m. on August 20, 2017, and I now confirm them with this Executive Order.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Oregon State Police and the Office of State Fire Marshal shall mobilize fire resources statewide and coordinate with all appropriate Fire Defense Chiefs for the use of personnel and equipment in accordance with the Emergency Conflagration Act to suppress and contain this fire. Resources responding to Chetco Bar Fire, burning near the town of Brookings may be redistributed by the State Fire Marshal.
2. This emergency is declared only for the Chetco Bar Fire threatening structures in Curry County near the town of Brookings.
3. This order shall remain in effect for as long as the Office of State Fire Marshal believes resources should be deployed. It shall expire by October 1, 2017, unless otherwise extended by the Governor.
4. This order was made by verbal proclamation at 12:26 a.m. the 20th day of August, 2017, and signed this 12th day of September, 2017, in Salem, Oregon.

Done at Salem, Oregon, this 12th day of September, 2017.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

/s/ Dennis Richardson
Dennis Richardson
SECRETARY OF STATE

EXECUTIVE ORDER NO. 17-19

INVOCATION OF EMERGENCY CONFLAGRATION ACT FOR THE EAGLE CREEK FIRE IN HOOD RIVER AND MULTNOMAH COUNTIES

Pursuant to my authority as Governor of the State of Oregon, I find that:

The fire known as the “Eagle Creek Fire” is burning in Hood River and Multnomah Counties.

The resources necessary for protecting life and property from the Eagle Creek Fire are beyond local capabilities. Assistance with life, safety, and structural fire protection was requested by Jim Trammel, Hood River County Fire Defense Board Chief, and Tom Williams, Multnomah County Fire Defense Board Chief. The State Fire Marshal concurs with their requests.

EXECUTIVE ORDERS

In accordance with ORS 476.510 et seq., I have determined that a threat to life, safety, and property exists due to a fire known as the Eagle Creek Fire in Hood River and Multnomah County and the threat exceeds the firefighting capabilities of local firefighting personnel and equipment. Accordingly, I have invoked the Emergency Conflagration Act.

These findings were made at 2:44 p.m. on September 3, 2017 (Hood River County), and 10:23 a.m. on September 4, 2017 (Multnomah County), and I now confirm them with this Executive Order.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Oregon State Police and the Office of State Fire Marshal shall mobilize fire resources statewide and coordinate with all appropriate Fire Defense Chiefs for the use of personnel and equipment in accordance with the Emergency Conflagration Act to suppress and contain this fire. Resources responding to Eagle Creek Fire, burning near the town of may be redistributed by the State Fire Marshal.
2. This emergency is declared only for the Eagle Creek Fire threatening structures in Hood River County near the town of Cascade

Locks, and in Multnomah County near the towns of Bridal Veil and Corbett.

3. This order was made by verbal proclamation at 2:44 p.m. the 3rd day of September, and 10:23 a.m. the 4th day of September, 2017, and signed this 18th day of September, 2017, in Salem, Oregon.

4. This order shall remain in effect for as long as the Office of State Fire Marshal believes resources should be deployed. It shall expire by October 1, 2017, unless otherwise extended by the Governor.

Done at Salem, Oregon, this 18th day of September, 2017.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

/s/ Dennis Richardson
Dennis Richardson
SECRETARY OF STATE

OTHER NOTICES

REQUEST FOR COMMENTS PROPOSED PROSPECTIVE PURCHASER AGREEMENT FOR BLASEN FAMILY SITE, ECSI # 3785

COMMENTS DUE: 5 p.m. October 30, 2017

PROJECT LOCATION: 1601 North Columbia Boulevard, Portland

PROPOSAL: The Department of Environmental Quality seeks comments on its proposed consent judgment for a prospective purchaser agreement with MW1, LLC for the Blasen Family site at 1601 North Columbia Boulevard property.

HIGHLIGHTS: MW1, LLC is acquiring the property from the current owner and plans to remediate the site and implement the remedies proscribed in the DEQ's 2010 Record of Decision document for the property. Past uses of the property include reprocessing of new and used sand (for abrasive blasting and roofing), transportation warehousing, construction equipment and materials storage, painting operations and forklift repair and sales. Past activities have caused environmental contamination on the property.

One area of concern at the site is a landfill area on the northern part of the property where used sandblast material was landfilled in the early 1990s. The primary contaminants of concern in this area are arsenic, chromium and lead. The Record of Decision specifies the installation and maintenance of a permanent cap over this area which will consist of a paved asphalt surface.

Another area of concern identified in the Record of Decision was stormwater management for the overall drainage at the site. Remedies will involve on-site infiltration and other measures to eliminate contaminant migration off-site.

The last area of concern is a ravine located along the western boundary of the property. The primary contaminants of concern in this area are lead and poly-chlorinated biphenyls. It is proposed to isolate this area from potential contact through construction and maintenance of a fence that will surround the area and prevent access.

DEQ created the prospective purchaser agreement program in 1995 through amendments to the state's Environmental Cleanup Law. The prospective purchaser agreement is a tool that expedites the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a contaminated site.

The proposed consent order will provide MW1, LLC with a release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The proposed consent judgment will also provide MW1, LLC with third party liability protection.

HOW TO COMMENT: Send comments to DEQ Project Manager Mike Greenburg at 700 NE Multnomah Street, Suite 600, Portland, OR, 97232 or greenburg.michael@deq.state.or.us. For more information contact the project manager at 503-229-5153.

Request DEQ project file review.

File review application form

Access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, select "Search complete ECSI database," then enter 3785 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 3785 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.aspx?SourceId=3785&SourceIdType=11>

If you do not have web access and want to review the project file contact the DEQ project manager.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the completion certification of the remedial actions taken at the site. A public notice of DEQ's final decision will be issued.

ACCESSIBILITY INFORMATION: Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited

English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email deqinfo@deq.state.or.us.

REQUEST FOR COMMENTS PROPOSED PROSPECTIVE PURCHASER AGREEMENT FOR BAKER IOOF BUILDING

COMMENTS DUE: 5 p.m., October 31, 2017

PROJECT LOCATION: Independent Order of Odd Fellows, Lodge # 25, 1780 Main Street, Baker City, Oregon

PROPOSAL: The Department of Environmental Quality seeks comments on its proposed consent judgment for a prospective purchaser agreement with Baker School District 5J concerning its acquisition of real property located at 1780 Main Street, Baker City, Oregon. Baker School District 5J intends to acquire the property for interim educational uses related to the scientific, policy, legal, and economic issues arising from the cleanup and redevelopment of brownfield sites; and in the long term, to promote educational opportunities for School District students from the sale and/or redevelopment of the property. The School District plans to remediate the property for future use.

Since 1888, the building has been occupied by a newspaper, a print shop including photography development, a grocery store, a saloon, a railroad hotel, a bowling alley, a soldier hostel, a jewelry store, a bakery and bagel shop, the IOOF Hall, a ski shop, and an antique store. Contamination concerns include the soil beneath the basement and hazardous building materials. Soil contamination includes petroleum hydrocarbons and heavy metals, including lead (Pb). Hazardous building materials include asbestos containing materials (ACM), lead based paint, lead dust, lead dross and building components and materials containing miscellaneous hazardous substances such as mercury thermostats. Required removal actions include removal and proper disposal of soils containing contaminant concentrations above risk-based standards as well as removal, abatement and/or encapsulation (for ACM) of hazardous building components and materials. Terms of the consent judgment include protection of public health, safety, welfare and the environment, facilitation of productive reuse of property, and protection from potential liabilities in accordance with applicable law.

DEQ created the prospective purchaser agreement program in 1995 through amendments to the state's Environmental Cleanup Law. The prospective purchaser agreement is a tool that expedites the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a contaminated site.

The proposed consent judgment will provide Baker School District 5J with a release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The proposed consent judgment will also provide Baker School District 5J with third party liability protection.

HOW TO COMMENT: Send comments to DEQ Project Manager Charles Kennedy at 475 NE Bellevue Dr. Suite 110, Bend, OR 97701 or kennedy.charles@deq.state.or.us. For more information contact the project manager at 541-633-2015.

Find information about requesting a review of DEQ project files at: <http://www.oregon.gov/deq/about-us/Pages/Request-Public-Record.aspx>

Find the File Review Application form at: <http://www.oregon.gov/deq/about-us/Pages/Requesting-Public-Records-Form.aspx>

For ECSI Sites: To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to <http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/ecsi.aspx>, select "Search complete ECSI database", then enter ECSI#6206 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #6206 in the Site ID/Info column. If you do not have web access and want to review the project file contact the DEQ project manager.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above before making a final

OTHER NOTICES

decision regarding the proposed remedial actions taken at the site. If comments are received, a public notice of DEQ's response to comments and final decision will be issued.

ACCESSIBILITY INFORMATION: Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email deqinfo@deq.state.or.us.

REQUEST FOR COMMENTS PROPOSED CERTIFICATE OF COMPLETION FOR OREGON HUMANE SOCIETY IN NE PORTLAND

COMMENTS DUE: 5 p.m., Tuesday, October 31, 2017

PROJECT LOCATION: 8001 and 8101 NE 14th Pl. Portland, OR 97211

PROPOSAL: DEQ is preparing to certify that all actions required have been satisfactorily completed. This project has resulted in both environmental and economic benefits.

HIGHLIGHTS: In April 2015, Oregon Humane Society entered a Prospective Purchaser Agreement (PPA) with DEQ to purchase adjacent contaminated industrial property for future campus expansion. Oregon Humane Society agreed to complete the following for the subject property:

1. Focused Phase 2 Environmental Site Assessment,
2. Underground magnetic anomaly investigation,
3. Contaminated Media Management Plan
4. Implementation of the Contaminated Media Management plan during any site development activities,
5. Clean out of the current on-site stormwater system and catch basins on the property,
6. Beneficial ground water use determination.

Soil contamination above occupational or construction risk-based concentrations remains on site in localized areas. The Contaminated Media Management Plan will be used to address localized contamination during future redevelopment of the site. DEQ will be notified and institutional controls may be required if impacted materials remain onsite after redevelopment occurs.

DEQ reviewed the requirements of the PPA and the corresponding actions, and made a preliminary determination that all obligations of the PPA were satisfactorily performed and that DEQ should issue a Certification of Completion.

DEQ created the prospective purchaser agreement program in 1995 through amendments to the state's Environmental Cleanup Law. The prospective purchaser agreement is a tool that expedites the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a contaminated site.

The Certification of Completion confirms Oregon Humane Society release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. A release from liability for historic contributions to Columbia Slough Sediment contamination (DEQ Environmental Cleanup Site Information Site #1243) is being addressed under a separate settlement agreement with DEQ. The consent judgment and certification of completion also provide Oregon Humane Society with third party liability protection.

HOW TO COMMENT: Send comments to DEQ Project Manager Sarah Miller at 700 NE Multnomah St. Suite #600, Portland, Oregon 97232 or miller.sarah@deq.state.or.us. For more information, contact the project manager at 503-229-5040.

Find information about requesting a review of DEQ project files at: <http://www.oregon.gov/deq/about-us/Pages/Request-Public-Record.aspx>

Find the File Review Application form at: <http://www.oregon.gov/deq/about-us/Pages/Requesting-Public-Records-Form.aspx>

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to <http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/>

[Pages/ecsi.aspx](#), select "Search complete ECSI database," then enter ECSI#5950 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #5950 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.aspx?SourceIdType=11&SourceId=5890&Screen=Load>

If you do not have web access and want to review the project file, contact the DEQ project manager.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the completion of remedial actions and certification and No Further Action. A public notice of DEQ's final decision will be issued.

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, call DEQ at 503-229-5696 or toll free in Oregon at 800-452-4011; fax to 503-229-6762; or email to deqinfo@deq.state.or.us. People with hearing impairments may call 711.

PUBLIC NOTICE: REQUEST FOR COMMENTS PROPOSED CHANGE TO CLEANUP REQUIREMENTS FOR COOS BAY CHEVRON BULK PLANT SITE

COMMENTS DUE: 5 p.m., Monday, October 31, 2017

PROJECT LOCATION: 2460 North Bayshore Drive, Coos Bay

PROPOSAL: Chevron proposes a change to the remedial actions required for the Coos Bay Chevron Bulk Plant site established in previous decisions. The proposed change would require a vapor barrier to be used in future building construction at the property. The amendment is proposed through Oregon Revised Statute 465.320.

The new restrictions will be recorded on the property deed to document required controls for affected areas of the site. This document would provide future owners or tenants information on environmental conditions. The restrictions include: drinking water supply wells are prohibited, only industrial or commercial uses will be allowed on the site, any new building must include an engineered vapor barrier, any construction must take place only on the northern 100 feet of the tax lot for Unit 1, and contaminated soils must be properly handled and disposed of during future development.

HIGHLIGHTS: The site is adjacent to Coos Bay and is currently vacant. The property was historically a bulk petroleum facility for predecessor companies of Chevron, with petroleum storage ending in 1988. Cleanup and investigation have been on-going since this time. A Record of Decision was first established for the site in 1996. The Record of Decision was amended in 1998. This proposed second amendment to the Record of Decision offers an alternative remedial approach to protect site occupants from soil vapors. It will also protect workers from direct contact with contaminated soil and groundwater during future construction. Chevron developed a Contaminated Media Management Plan to address future management of contaminated media in the affected area and provide health and safety measures for workers.

HOW TO COMMENT: Send comments to DEQ Project Manager Cathy Brown at 165 E. 7th Avenue, Suite 100 in Eugene or brown.cathy@deq.state.or.us. For more information contact the project manager at 541-687-7325.

Find information about requesting a review of DEQ project files at: <http://www.oregon.gov/deq/about-us/Pages/Request-Public-Record.aspx>

Find the File Review Application form at: <http://www.oregon.gov/deq/about-us/Pages/Requesting-Public-Records-Form.aspx>

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to ECSI online (<http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>) enter 542 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 542 in the Site ID/Info column. Alternatively, you may go directly to the database website for Chevron Bulk Plant online.

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If you do not have web access and want to review the project file contact the DEQ project manager.

THE NEXT STEP: If public comments provide new information or technical basis against the modified remedial action option, DEQ will approve the proposed amendment to the Record of Decision. Chevron will implement the new remedy through a restriction document recorded with the property deed.

ACCESSIBILITY INFORMATION: Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email deqinfo@deq.state.or.us.

REQUEST FOR COMMENTS

PROPOSED CONDITIONAL NO FURTHER ACTION FOR WELDON'S CLEANING CENTER

COMMENTS DUE: 5 p.m., Oct. 31, 2017

PROJECT LOCATION: 711 West Stewart Avenue, Medford, OR 97501

PROPOSAL: The Oregon Department of Environmental Quality is proposing a Conditional No Further Action determination under Oregon Revised Statute 465.320 for the property listed above.

HIGHLIGHTS: Dry-cleaning operations began at the site in 1969 or 1970. In 1999, chlorinated solvents commonly used in the dry-cleaning process were discovered in soil and groundwater at the site. Between 1999 and 2016, numerous soil, groundwater and soil gas samples were collected. Sample results indicate there is no risk to human health or the environment as long as the following conditions are met.

- Groundwater at the site shall not be used for beneficial use; municipal water will continue to service the property.
- A Contaminated Media Management Plan shall be prepared and made available to contractors for any future site development within the property boundaries as well as any future subsurface work conducted under or along Kings Highway to the east.
- The site shall not be used for residential or urban residential purposes in the future unless an engineered vapor barrier is installed.

HOW TO COMMENT: Send comments to DEQ Project Manager Mallory Ott at 165 E. 7th Avenue, Suite 100, Eugene, OR 97401 or ott.mallory@deq.state.or.us. For more information contact the project manager at 541-687-7440.

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to <http://www.deq.state.or.us/lq/ecsi/ecsiquery.asp> (search site ID 2773). If you do not have web access and want to review the project file contact the DEQ project manager.

THE NEXT STEP: If no comments based on technical merit are received objecting to this proposal, DEQ will issue a Conditional No Further Action for the site.

ACCESSIBILITY INFORMATION: Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language: call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email deqinfo@deq.state.or.us.

REQUEST FOR COMMENTS

PROPOSED PROSPECTIVE PURCHASER AGREEMENT FOR FORMER MODOC LUMBER SITE

COMMENTS DUE: 5 p.m., October 31, 2017

PROJECT LOCATION: Timbermill Drive, Multiple lots (Lots 7, 8, 10, 14, A) Klamath Falls, Oregon

PROPOSAL: The Department of Environmental Quality seeks comments on its proposed consent judgment for a prospective purchaser agreement with Klamath Falls Holdings, LLC (KFH) concerning its acquisition of multiple lots (Lots 7, 8, 10, 14, A) in what is now referred to as the TimberMill Shores development in Klamath Falls, Oregon (Property)

The Modoc Lumber Company manufactured wood products from approximately 1947 to 1994. The Ewauna Box Company operated a mill on the southern portion of the Modoc facility prior to Modoc's operation. The City of Klamath Falls is the current owner of the property previously used as the Ewauna Box Company. Other prior wood product facilities that operated on portions of the Modoc facility include Ellingson Timber Company and Big Lakes Box Company. When the mill was closed in 1994, operations included saw mills, dry kilns, a re-saw mill, and a wood fuel pellet mill. Support facilities included log decks planers, storage sheds, a machine shop, a truck repair shop, a boiler room, parts storage and offices. A wood waste landfill located south of the waste water treatment plant was also present. Between 1995 and 2000, all of the structures associated with Modoc Lumber's operation were demolished or removed, inclusive of concrete foundations. The property is currently being redeveloped as part of the TimberMill Shores development.

DEQ created the prospective purchaser agreement program in 1995 through amendments to the state's Environmental Cleanup Law. The prospective purchaser agreement is a tool that expedites the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a contaminated site.

The proposed consent judgment will provide KFH with a release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The proposed consent judgment will also provide KFH with third party liability protection.

HOW TO COMMENT: Send comments by 5 PM, October 31, 2017 to DEQ Project Manager David Anderson at 475 NE Bellevue Dr, Bend, OR 97701 or anderson.david@deq.state.or.us. For more information contact the project manager at 541-633-2012.

To access site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to <http://www.oregon.gov/deq/pages/index.aspx>, under the "Hazards and Cleanup" section, select "Environmental Cleanup Site Information Database" select "Search complete ECSI database", then enter 2307 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 2307 in the Site ID/Info column. If you do not have web access and want to review the project file contact the DEQ project manager.

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

ACCESSIBILITY INFORMATION: Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email deqinfo@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 rulemaking 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.*

.....
Board of Psychologist Examiners
Chapter 858

Rule Caption: Licensing fee increases.

Date:	Time:	Location:
10-24-17	10 a.m.	3218 Pringle Rd. SE Salem, OR 97302

Hearing Officer: LaRee Felton

Stat. Auth.: ORS 675.010-675.150

Stats. Implemented: ORS 675.110 & 675.115

Proposed Amendments: 858-030-0005

Last Date for Comment: 10-24-17, 5 p.m.

Summary: The proposed amendment increases licensure-related fees for psychologist and psychologist associate licensees and applicants.

Rules Coordinator: LaRee Felton

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

Telephone: (503) 373-1196

.....
Commission for the Blind
Chapter 585

Rule Caption: Revisions and Additions to implement House Bill 3253 and Update to Rule Structure

Date:	Time:	Location:
10-23-17	1 p.m.	OCB-Portland Offices 535 SE 12th Ave. Portland, OR

Hearing Officer: Eric Morris

Stat. Auth.: ORS 346.510-346.570

Other Auth.: ORS 183.341

Stats. Implemented: ORS 346.510-346.570

Proposed Adoptions: 585-015-0000, 585-015-0005, 585-015-0010, 585-015-0015, 585-015-0020, 585-015-0025, 585-015-0030, 585-015-0035, 585-015-0040, 585-015-0045, 585-015-0050, 585-015-0055

Proposed Repeals: 585-010-0015

Last Date for Comment: 10-23-17, 5 p.m.

Summary: This rule making repeals the Business Enterprise Program Rules and Regulations (585-010-0015) and establishes a new division, Division 15 - Business Enterprise Program, which includes twelve individual program specific rules. Comprehensive language and content additions and revisions have been made to all of the program rules. Additional rules have been added as mandated by 2017 House Bill 3253 including rules that define full-time employment, rate of set aside to be charged, available set aside discount incentives and definitions of healthy and local vending items.

Rules Coordinator: Dacia Johnson

Address: Commission for the Blind, 535 SE 12th Ave., Portland, OR 97214

Telephone: (971) 673-1588

.....
Construction Contractors Board
Chapter 812

Rule Caption: Bond form changes, acceptable identification clarification, CE required when endorsement changes, residential continuing education changes.

Date:	Time:	Location:
10-20-17	9 a.m.	201 High St. SE, 6th Floor Salem, OR 97301

Hearing Officer: Leslie Culpepper

Stat. Auth.: ORS 670.310, 701.235, 701.086, 701.126, 701.082, 701.265, 701.267

Stats. Implemented: ORS 701.082, 701.265, 701.267, 701.005, 701.035, 701.086, 701.122, 25.270, 25.785, 25.990, 701.050, 701.056, 701.068, 701.073, 701.081, 701.088, 701.084

Proposed Adoptions: 812-003-0154

Proposed Amendments: 812-003-0152, 812-003-0153, 812-003-0260, 812-006-0300, 812-020-0070, 812-022-0005, 812-022-0015, 812-022-0025, 812-022-0028, 812-022-0033

Proposed Repeals: 812-022-0034, 812-022-0035, 812-022-0036

Last Date for Comment: 10-21-17, 5 p.m.

Summary: AMEND:

812-003-0152 is amended to reflect the date of the current bond form.

812-003-0153 is amended to reflect the date of the current bond form.

812-003-0260 is amended to clarify that personal identification number is derived from a state-issued driver's license or identification issued by the United States government.

812-006-0300 is amended to clarify that personal identification is limited to United States or state government issued picture identification.

812-020-0070 is amended to permit a contractor who changed its endorsement during the license period or is changing its endorsement at the time of renewal to satisfy the continuing education requirement by completion of either residential or commercial continuing education.

812-022-0005 is amended to remove reference to "Series A Courses" and "Series B Courses" so that contractors may earn the same credit for every course.

812-022-0015 is amended to remove reference to "Series A Courses" and "Series B Courses." Expand types of qualifying courses to include energy and trade specific courses, to add courses on environmental hazards, and to clarify that contractors are limited to three hours credit for CCB courses on laws, regulations and business practices.

812-022-0025 is amended to remove reference to "Series A Courses" and "Series B Courses," provide a process to retroactively approve a provider, and to replace Oregon Laws citation with Oregon Revised Statute citation.

812-022-0028 is amended to remove reference to "Series A Courses" and "Series B Courses," provide a process to retroactively approve courses, and pre-approve courses from government agen-

NOTICES OF PROPOSED RULEMAKING

cies and accredited education institutions, which have their own processes for approving courses and ensuring quality.

812-022-0033 is amended to remove reference to “Series A Courses.”

ADOPT:

812-003-0154 is adopted for construction flagger bonds, including the date of the newly created form.

REPEAL:

812-022-0034 is repealed because the rule is redundant to OAR 812-022-0015(3) and 812-022-0028, as amended.

812-022-0035 is repealed because the rule is redundant to OAR 812-022-0033, as amended.

812-022-0036 is repealed to remove reference to tracking “Series A Courses” and “Series B Courses.”

Rules Coordinator: Leslie Culpepper

Address: Construction Contractors Board, 201 High St. SE, Suite 600, Salem, OR 97301

Telephone: (503) 934-2228

Rule Caption: Amendment to shared insurance policy rule.

Date:	Time:	Location:
10-20-17	9 a.m.	201 High St. SE Salem, OR, 6th Floor

Hearing Officer: Leslie Culpepper

Stat. Auth.: ORS 670.310, 701.235

Stats. Implemented: ORS 701.021

Proposed Amendments: 812-003-0100

Last Date for Comment: 10-21-17, 5 p.m.

Summary: 812-003-0100 is amended to allow multiple entities to share one insurance policy.

Rules Coordinator: Leslie Culpepper

Address: Construction Contractors Board, 201 High St. SE, Suite 600, Salem, OR 97301

Telephone: (503) 934-2228

**Department of Agriculture
Chapter 603**

Rule Caption: Amends ODA Public Records Policy to reflect new fees as directed by DAS statewide Policy.

Stat. Auth.: ORS 183, 192.005 & 561

Stats. Implemented: ORS 183, 192.005 & 561

Proposed Amendments: 603-001-0125, 603-001-0130, 603-001-0135, 603-001-0140, 603-001-0145, 603-001-0150, 603-001-0155

Last Date for Comment: 10-20-17, 5 p.m.

Summary: Department of Administrative Services statewide policy establishes standards for state agency policies relating to the charging practices and policies for fulfilling requests for public records. ODA needs to amend its public information administrative rule to reflect the DAS policy and be consistent with other state agencies on public records charges and policies. In addition, ODA internal management structure has changed, division administrators are now considered Program Directors. The amended public information administrative rule updates that structure change. Also, the previous 20-day requirement for the agency to provide requested records (with requirements for need of additional time) is being changed to a 10-day requirement to be consistent with state law.

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,
Insurance Regulation
Chapter 836**

Rule Caption: Revise employer group health insurance counting methodology to determine small or large group

Date:	Time:	Location:
10-24-17	1:30 p.m.	Labor & Industries Bldg. 350 Winter St. NE, Conf. Rm. E Salem, OR 97301

Hearing Officer: Cece Newell

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 743B.005

Proposed Amendments: 836-053-0015

Last Date for Comment: 10-26-17, 5 p.m.

Summary: In 2017, the Legislature enacted SB 271, which removed discretion of the Department of Consumer and Business Service to prescribe group size consistent with the guidance provided by the US Department of Health and Human Services and the US Department of Labor or the US Department of the Treasury. The amended law treats “small group” as an employer who employed not more than 50 and at least one full-time equivalent employee on the first day of the plan year. This rulemaking activity makes conforming changes to OAR 836-053-0015 consistent with the new law.

The Exhibit to the rule was revised to provide the Oregon Department of Justice (DOJ) clarification of the requirement that in order to qualify as a small employer group; the group must include at least one common law employee enrolled in the plan.

Rules Coordinator: Karen Winkel

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

Telephone: (503) 947-7694

Rule Caption: Adoption of NAIC Corporate Governance Model Regulation Language

Date:	Time:	Location:
10-24-17	10:30 a.m.	Labor & Industries Bldg. 350 Winter St. NE Basement, Conference Rm. E Salem OR 97301

Hearing Officer: Ethan Baldwin

Stat. Auth.: ORS 731.244

Stats. Implemented: Section 5 of Chapter 479, 2017 Laws

Proposed Adoptions: 836-011-0020, 836-011-0022, 836-011-0024

Last Date for Comment: 10-31-17, 5 p.m.

Summary: These proposed rules adopt Corporate Governance Regulation Language from NAIC Model 306. As required by Senate Bill 97, Oregon insurers must submit to DCBS Corporate Governance disclosure reports annually, consistent with the NAIC model regulation requirements. These proposed rules provide insurers the direction needed to submit this report.

Rules Coordinator: Karen Winkel

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

Telephone: (503) 947-7694

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

Rule Caption: Oregon OSHA Corrections to the Beryllium Rules.

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

Stats. Implemented: ORS 654.001–654.295

Proposed Amendments: 437-002-2024, 437-002-2028, 437-002-2029, 437-002-2030, 437-002-2045, 437-002-2032, 437-002-2033, 437-002-2034, 437-002-2036, 437-002-2037

Last Date for Comment: 10-31-17, Close of Business

Summary: This rule making is to keep Oregon OSHA in harmony with recent changes to federal OSHA’s standards.

Oregon OSHA intended to adopt federal OSHA’s requirements for beryllium of 1910.1024 and 1926.1124 with Oregon’s Administrative Order (AO) 3-2017. AO 3-2017 adopted the majority of federal OSHA’s final rule requirements as published in the January 9, 2017 Federal Register for occupational exposure to beryllium. Several

NOTICES OF PROPOSED RULEMAKING

requirements for housekeeping and waste disposal were unintentionally omitted in Oregon OSHA's rulemaking process, as well as a few inclusions in the requirements for recordkeeping that were artifacts from earlier rulemaking. This rulemaking will also be used to correct typographical and citation errors within the beryllium rules. By amending Division 2/Z-Beryllium, Oregon OSHA will correct these issues and bring Oregon OSHA's requirements into harmony with current federal OSHA standards before Oregon's rules go into effect on March 12, 2018.

Unless Oregon OSHA amends these rules to reflect the correct language in federal OSHA's adopted rules, employers in Oregon will be directed to inaccurate rule requirements when reading Division 2/Z-Beryllium in Oregon after March 12, 2018.

Rules Coordinator: Heather Case

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

Telephone: (503) 947-7449

Department of Consumer and Business Services, Workers' Compensation Division Chapter 436

Rule Caption: Implementation of House Bills 2186 and 2336 (2017); other self-insurance regulations

Date:	Time:	Location:
10-20-17	9:30 a.m.	Rm. F, Labor & Industries Bldg. 350 Winter St. NE Salem, OR

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 656.407, 656.430, 656.726(4)

Stats. Implemented: ORS 656, primarily 656.407, 656.430 (2017 Oregon Laws, chapter 118 (HB 2186)), 656.443 (2017 Oregon Laws, chapter 69 (HB 2336)), & 656.614

Proposed Amendments: Rules in 436-050, 436-050-0150, 436-050-0170, 436-050-0175, 436-050-0180, 436-050-0190, 436-050-0195, 436-050-0260, 436-050-0280, 436-050-0290

Last Date for Comment: 10-26-17, Close of Business

Summary: The public may also listen to the hearing or testify by telephone:

Dial-in number is 213-787-0529; Access code is 9221262#.

The agency proposes to amend OAR 436-050, "Employer/Insurer Coverage Responsibility," to:

- Revise, in OAR 436-050-0150, calculation instructions for the financial strength rating of public sector self-insured employers;
- Establish, in OAR 436-050-0150, that a public self-insured employer with a municipal bond rating of Aa3, AA-, or higher will be considered to have a strong financial strength rating;
- Clarify that the director may take one or more actions (not just a single action) under OAR 436-050-0150(5)(c) if a self-insured employer's financial strength rating is found to be weak;
- Clarify in OAR 436-050-0170(1)(e) that a self-insured employer's excess insurance policy may not contain provisions or endorsements that do not comply with Oregon law;
- Require in OAR 436-050-0175(3) that a self-insured employer's report of losses must include the medical reimbursement amounts applied to each claim, if applicable;
- Correct a previous typographical error by deleting "annual" from OAR 436-050-0180(1)(e), "Under this section, 'Incurred but not reported' (IBNR) will be calculated by applying a loss development factor determined by the director against the employer's annual incurred losses";
- Clarify that 436-050-0180(4)(c) applies to both self-insured employers and self-insured employer groups;
- Implement House Bill 2336 (2017) by explaining in OAR 436-050-0190(1)(b) that the director may refer a self-insured employer's or self-insured employer group's claims for processing to an assigned claims agent;

- Correct a previous typographical error by changing the reference to Form 1869 to Form 1865 in OAR 436-050-0195(2)(a);

- Implement House Bill 2186 by explaining in OAR 436-050-0260(1) and OAR 436-050-0280(1) that a self-insurance program under ORS 30.282(3) meets the organizational requirements to be certified as a self-insured employer group; and

- Clarify in OAR 436-050-0290(3) the procedures for cancellation and termination of members of a self-insured employer group and for reporting related information to the director.

Rules Coordinator: Fred Bruyns

Address: Department of Consumer and Business Services, Workers' Compensation Division, PO Box 14480, Salem, OR 97309-0405

Telephone: (503) 947-7717

Rule Caption: Implementation of House Bills 2338 and 3363 (2017); other changes affecting claims administration

Date:	Time:	Location:
10-20-17	9:30 a.m.	Rm. F, Labor & Industries Bldg. 350 Winter St. NE Salem, OR

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 656.210(2), 656.726(4)

Stats. Implemented: ORS 656, primarily 656.204 (House Bill 2338, 2017 Oregon Laws, chapter 71); 656.208, 656.210, 656.268, 656.325; ORS 677.100 to 677.228 & ORS 656.005 (House Bill 3363, 2017 Oregon Laws, chapter 409)

Proposed Adoptions: Rules in 436-060, 436-060-0075

Proposed Amendments: 436-010-0210, Rules in 436-060, 436-060-0005, 436-060-0025, 436-060-0035, 436-060-0095, 436-060-0140, 436-060-0147, 436-060-0150, 436-075-0003, 436-075-0005, 436-075-0008, 436-075-0010, 436-075-0020, 436-075-0030, 436-075-0040, 436-075-0065, 436-075-0070, 436-075-0090

Proposed Repeals: 436-075-0001, 436-075-0002, 436-075-0006

Last Date for Comment: 10-26-17, Close of Business

Summary: The public may also listen to the hearing or testify by telephone:

Dial-in number is 213-787-0529; Access code is 9221262#.

The agency proposes to amend OAR 436-010, Medical Services, to:

- Implement Enrolled House Bill 3363 (2017) by amending 436-010-0210, Appendix A, "Matrix for health care provider types" to refer to a "doctor of osteopathic medicine" rather than to a "doctor of osteopathy."

The agency proposes to amend OAR 436-060, "Claims Administration," to:

- Include a general definition of "dependent" in OAR 436-060-0005, plus a reference to ORS 656.005(10);
- Correct a typographical error in OAR 436-060-0025(4) to explain that the insurer may not include any gap in "earnings" (not "employment") of more than 14 days that was not anticipated in the wage earning agreement, when calculating the average earnings;
- Clarify in OAR 436-060-0025 that when a wage earning agreement has been changed due to reasons other than a pay raise, it is a new wage earning agreement;
- Implement Enrolled House Bill 2338 (2017) and consolidate several current provisions relevant to death benefits through adoption of a new rule describing appropriate payment of death benefits under ORS 656.204 and 656.208, to include provisions that address:
 - Final disposition of the body and funeral expenses;
 - Payments to surviving beneficiaries;
 - Benefit to surviving spouse;
 - Benefit to surviving child;
 - Benefit to surviving dependent;
 - Benefit to child or dependent attending higher education; and
 - Death during permanent total disability;
- Include in OAR 436-060-0095 the requirement, currently in OAR 436-010-0265(10)(b), for an insurer to forward a copy of the signed IME report to the attending physician to OAR 436-060-0095;

NOTICES OF PROPOSED RULEMAKING

- Clarify in OAR 436-060-0140(6)(b)(B) that an “Updated Notice of Acceptance at Closure” is not necessary to begin payment of death benefits following a worker’s death during a period of permanent total disability under ORS 656.208;

- Clarify requirements in OAR 436-060-0140 and 0147 affecting workers’ rights to a worker-requested medical examination (WRME):

-- Specify in OAR 436-060-0147 that the director will determine the attending physician or authorized nurse practitioner does not concur with independent medical examination reports if the director does not receive documents that demonstrate the attending physician or authorized nurse practitioner concurs or does not concur with the reports within 30 days after the worker’s request for hearing under 436-060-0147(1)(a);

-- Clarify in 436-060-0147(6) that the rule only requires the worker or worker’s attorney to schedule a date for the WRME and inform the director and insurer of that scheduling within 14 days of the directors’ notice, and that the WRME itself may take place outside of that 14-day window;

- Describe and clarify requirements in OAR 436-060-0150(6) for timely payment of death benefits; and

- Amend references to “fatal benefits” to “death benefits” to be consistent with the statute and OAR 436-075.

The agency proposes to amend OAR 436-075, “Retroactive Program,” to:

- Remove obsolete and redundant provisions;

- Revise and reorganize several rules, including definitions, to enhance clarity, as well as consistency with other divisions of OAR chapter 436;

- Move several provisions regarding death benefits to OAR 436-060;

- Clarify in OAR 436-075-0005, OAR 436-075-0020, and OAR 436-075-0040 that statutory benefits will only be offset by a surviving spouse’s Social Security benefits for claims with dates of injury between July 1, 1973, and April 1, 1974;

- Clarify in OAR 436-075-0065 that a disposition or claims settlement must be approved by the director before submission to the Workers’ Compensation Board to be eligible for reimbursement from the Retroactive Program; and

- Explain that the insurer must use Form 3285, “Requests for Reimbursement from the Retroactive Program,” or an equivalent form to request reimbursement from the Retroactive Program.

Rules Coordinator: Fred Bruyns

Address: Department of Consumer and Business Services, Workers’ Compensation Division, PO Box 14480, Salem, OR 97309-0405

Telephone: (503) 947-7717

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Department of Corrections

Chapter 291

Rule Caption: Structured, Intermediate Sanctions for Offenders on Community Supervision

Stat. Auth.: ORS 137.595, 179.040, 421.510, 423.020, 423.030, & 423.075

Stats. Implemented: ORS 137.595, 179.040, 421.510, 423.020, 423.030, & 423.075

Proposed Amendments: 291-058-0010, 291-058-0020, 291-058-0040, 291-058-0045, 291-058-0047

Last Date for Comment: 10-30-17, 4:30 p.m.

Summary: These proposed changes are necessary to modify how Community Corrections address violations of offenders under community supervision, which includes sanctions and incentives. The Administrative Sanctions Grid has been modified accordingly.

Rules Coordinator: Janet R. Worley

Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667

Telephone: (503) 945-0933

Department of Environmental Quality Chapter 340

Rule Caption: LRAPA 2017 Industrial Air Permitting Rules

Date:	Time:	Location:
11-9-17	12:30 p.m.	Lane Regional Air Protection Agency 1010 Main St., Meeting Rm. Springfield, OR 97477

Hearing Officer: Merlyn Hough

Stat. Auth.: ORS 468.020 & 468A

Stats. Implemented: ORS 468A.035 & 468A.135

Proposed Amendments: 340-200-0040

Last Date for Comment: 11-9-17, 12:30 p.m.

Summary: DEQ proposes to incorporate Lane Regional Air Protection Agency revised regulations for particulate matter emission standards and the preconstruction permitting program into Oregon’s State Implementation Plan in Oregon Administrative Rule 340-200-0040.

LRAPA also propose to streamline, reorganize and update Lane County’s air quality permit rules.

In addition, LRAPA proposes rules to:

- Remove certain greenhouse gas permitting requirements to align with the June 23, 2014 Supreme Court decision,

- Expand preconstruction permitting flexibility for small facilities, and

- Specify small source permitting exemptions

The Board was updated by DEQ on their corresponding rule changes at the June 23, 2014 Board meeting. LRAPA’s permitted sources and interested parties list were sent notifications about DEQ’s proposed permit changes during their comment period. At their April 2014 meeting, the LRAPA Citizen’s Advisory Committee (CAC) received updates from DEQ on their corresponding rule changes. DEQ adopted their corresponding rules on April 15, 2015. LRAPA provided a summary of these changes at the May 2017 CAC meeting.

The proposed rules would:

1. Clarify and update air quality rules

2. Update particulate matter emission standards

3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment

4. Establish two new state air quality area designations, “sustainment” and “reattainment,” to help areas avoid and more quickly end a federal nonattainment designation

5. Designate Oakridge as a state reattainment area while retaining its federal nonattainment designation

6. Change the New Source Review preconstruction permitting program

7. Adjust industrial and commercial activity levels below which some categories of sources are exempt from permitting and delete an unused category

8. Increase Air Contaminant Discharge Permit (ACDP) fees by 10% and change the annual increase from the Consumer Price Index (CPI) to 4%.

Regulated parties

The proposed rules affect:

- All businesses, agencies, local governments and other entities holding air quality permits; and

- Businesses and other entities required to submit construction approval notices;

Rule Options:

Some of the proposed rules must be adopted by LRAPA to maintain rules that are at least as stringent as the corresponding state and/or federal rules. In other areas, LRAPA has options to adopt rules that are different from state permitting requirements.

On November 9, 2017, the LRAPA Board of Directors plan to hold a hearing on the proposed industrial air permitting rules. The Environmental Quality Commission and DEQ have oversight authority to ensure LRAPA meets Clean Air Act requirements. The State Implementation Plan is the State of Oregon Clean Air Act Imple-

NOTICES OF PROPOSED RULEMAKING

mentation Plan as adopted by EQC under OAR 340-200-0040 and approved by EPA. EQC's role is to review LRAPA rules to determine if they comply with state law and the Clean Air Act, approve those rules if they comply, and direct DEQ to submit the approved rules to EPA for federal approval as State Implementation Plan amendments.

Rules Coordinator: Meyer Goldstein

Address: Department of Environmental Quality, 700 NE Multnomah St., 6th Floor, Portland, OR 97232

Telephone: (503) 229-6478

Department of Human Services, Administrative Services Division and Director's Office Chapter 407

Rule Caption: Change to Terminology in the Investigation of Reported Abuse in Certain Child Caring Agencies Rules

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 418.005, OL 2016, chapter 106, §36 to 38 & OL 2017, chapter 138, §4

Proposed Amendments: 407-045-0800, 407-045-0820, 407-045-0885, 407-045-0895

Proposed Repeals: 407-045-0800(T), 407-045-0820(T), 407-045-0885(T), and 407-045-0895(T)

Last Date for Comment: 10-23-17, 5 p.m.

Summary: The Department of Human Services (Department) needs to permanently amend OAR 407-045-0800 through 407-045-0895 to comply with House Bill 2903 (OL 2017 chapter 138, §4) which is now law. The Department is revising the references to the person or CCA that are subject to the investigation (accused of alleged abuse) per OL 2016, chapter 106, §36 to 38 to the term "respondent." The new law applies to compiling of records, report and other information during the investigation and in issuing findings, letters of concern or reprimands. Temporary rules for this rulemaking have been in place since July 17, 2017.

Proposed rules are available on the DHS Website: <http://www.oregon.gov/DHS/POLICIES/Pages/ss-admin-rules.aspx>

For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel

Address: Department of Human Services, Administrative Services Division and Director's Office, 250 Winter St. NE, Salem, OR 97301

Telephone: (503) 947-5250

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

Rule Caption: ODDS: Professional Behavior Services for Children and Adults with Intellectual or Developmental Disabilities

Date:	Time:	Location:
10-16-17	10:30 a.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 427.104, 430.662

Stats. Implemented: ORS 427.005, 427.007, 430.610, 430.620, 430.662-430.670

Proposed Adoptions: 411-304-0110, 411-304-0120, 411-304-0130, 411-304-0140, 411-304-0150, 411-304-0160, 411-304-0170, 411-304-0180, 411-304-0190, 411-304-0200, 411-304-0210

Last Date for Comment: 10-23-17, 5 p.m.

Summary: The Department of Human Services, Office of Developmental Disabilities Services (ODDS) is proposing to adopt rules for professional behavior services in OAR chapter 411, division 304 to establish standards for behavior professionals and the delivery of professional behavior services to modify the behavior of individuals experiencing intellectual or developmental disabilities.

The rules in OAR chapter 411, division 304 —

- Define terms relating to professional behavior services.

- Specify eligibility and limitations for professional behavior services.

- Clarify the components of professional behavior services, including standards for professional behavior service planning and safeguarding techniques.

- Establish minimum qualifications and standards for behavior professionals, including documentation and claim reimbursement requirements.

- Specify the provider types and agency endorsement needed to deliver professional behavior services.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E2 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

Rule Caption: ODDS: Behavior Supports, Safeguarding Equipment, Safeguarding Intervention, Emergency Physical Restraints, Incident Reporting, and Individually-Based Limitations

Date:	Time:	Location:
10-16-17	11:30 a.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 411.060, 417.345, 417.346, 427.104, 427.154, 430.640, 430.662, 443.450, 443.455, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.765, 443.767, 443.775, 443.790, 443.835

Stats. Implemented: ORS 409.050, 410.600, 410.606-410.619, 417.340-417.350, 427.005-427.163, 430.212, 430.215, 430.610-430.695, 443.400-443.455, 443.705-443.835

Proposed Amendments: 411-300-0150, 411-305-0235, 411-317-0000, 411-323-0010, 411-323-0020, 411-323-0060, 411-325-0190, 411-325-0350, 411-325-0430, 411-328-0625, 411-328-0700, 411-328-0770, 411-346-0180, 411-346-0190, 411-360-0160, 411-360-0170, 411-360-0180, 411-370-0010, 411-375-0035, 411-415-0070, 411-415-0090, 411-435-0050, 411-450-0080

Proposed Repeals: 411-325-0340, 411-328-0760

Last Date for Comment: 10-23-17, 5 p.m.

Summary: The Department of Human Services, Office of Developmental Disabilities Services (ODDS) is proposing the following rule changes:

OAR 411-300-0150 about scope and limitations of children's intensive in-home services is being amended to remove rule language relating to behavior support services and incorporate by reference the new rules for professional behavior services in OAR chapter 411, division 304.

OAR 411-305-0235 about family supports and services is being amended to improve readability, remove rule language relating to behavior support services, incorporate by reference the new rules for professional behavior services in OAR chapter 411, division 304, and clarify the use of family support funds for community inclusion.

OAR 411-317-0000 about definitions for developmental disabilities services is being amended to —

- Update and remove definitions relating to professional behavior services and behavior supports.

- Update the definition of Expenditure Guidelines to adopt Version 6.0 and the definition for background check, incident report, individually-based limitation, safeguarding equipment, and unusual incident.

- Add a general definition for level of care, physical restraint, and provider enrollment.

NOTICES OF PROPOSED RULEMAKING

OAR 411-323-0010 about agency certification and endorsement is being amended to add an endorsement for professional behavior services and clarify language relating to provider organizations currently certified under OAR chapter 411, division 340 or provider agencies endorsed to OAR 411-340-0170.

OAR 411-323-0020 about definitions and acronyms for agency certification and endorsement is being amended to update definitions relating to endorsing professional behavior services.

OAR 411-323-0060 about policies and procedures for agency certification and endorsement is being amended to require policies and procedures for professional behavior services and behavior supports.

OAR 411-325-0190 about immediate notifications and incident reporting for 24-hour residential programs is being amended to clarify incidents that require immediate notification, incident reporting requirements, and incident reporting timelines.

OAR 411-325-0340 about behavior support for 24-hour residential programs is being repealed because the requirements are now in OAR 411-323-0060, OAR 411-325-0350, and OAR chapter 411, division 304.

OAR 411-325-0350 about behavior supports and physical restraints for 24-hour residential programs is being amended to include requirements around the use and reporting of a safeguarding intervention, safeguarding equipment, and emergency physical restraint.

OAR 411-325-0430 about Individual Support Plans for individuals in 24-hour residential programs is being amended to update the rule language relating to individually-based limitations to incorporate restraint and the provider's responsibilities.

OAR 411-328-0625 about provider owned, controlled, or operated supported living settings is being amended to remove the rule language relating to residency agreements and update the rule language relating to individually-based limitations to incorporate restraint and the provider's responsibilities.

OAR 411-328-0700 about immediate notifications and incident reporting for supported living settings is being amended to clarify incidents that require immediate notification, incident reporting requirements, and incident reporting timelines.

OAR 411-328-0760 about behavior support for supported living settings is being repealed because the requirements are now in OAR 411-323-0060, OAR 411-328-0770, and OAR chapter 411, division 304.

OAR 411-328-0770 about behavior supports and physical restraints for supported living settings is being amended to include requirements around the use and reporting of a safeguarding intervention, safeguarding equipment, and emergency physical restraint.

OAR 411-346-0180 about the professional responsibilities of a child foster provider is being amended to —

- Include a child's strengths and what is important to a child in the referral process;

- Clarify the conditions when a child is turning 18 years of age and may continue to reside in their current home until turning 21 years of age.

- Replace references to protective physical intervention with safeguarding intervention.

OAR 411-346-0190 about standards and practices for care and services in a child foster home is being amended to —

- Require an individually-based limitation for any limitations on a child's freedom from restraint.

- Replace rule language relating to protective physical intervention with language relating to behavior supports and physical restraints, including requirements around the use and reporting of a safeguarding intervention, safeguarding equipment, and emergency physical restraint.

- Clarify incidents that require immediate notification, incident reporting requirements, and incident reporting timelines.

OAR 411-360-0160 about behavior supports and physical restraints for adult foster homes is being amended to include require-

ments around the use and reporting of a safeguarding intervention, safeguarding equipment, and emergency physical restraint.

OAR 411-360-0170 about documentation and record requirements for adult foster homes is being amended to —

- Update the rule language relating to individually-based limitations to incorporate restraint and the provider's responsibilities.

- Add requirements around documenting, tracking, and maintaining behavioral data.

OAR 411-360-0180 about general practices for adult foster homes is being amended to clarify incidents that require immediate notification, incident reporting requirements, and incident reporting timelines.

OAR 411-370-0010 about definitions for provider enrollment, service billing, and service payment is being amended to remove general definitions and add professional behavior services as a community services program.

OAR 411-375-0035 about documentation and reporting requirements for independent providers is being amended to —

- Include requirements around the use and reporting of a safeguarding intervention, safeguarding equipment, and emergency physical restraint.

- Clarify incident reporting requirements and incident reporting timelines.

OAR 411-415-0070 about service planning is being amended to —

- Update rule language relating to individually-based limitations, including the specific freedoms that require an individually-based limitation and when a safeguarding intervention or safeguarding equipment may be included in an individually-based limitation.

- Add rule language relating to Temporary Emergency Safety Plans.

OAR 411-415-0090 about case management contact and monitoring of services is being amended to —

- Clarify the purpose of case management contact over the course of a year and that reciprocal contact with a child's parent or legal representative may substitute for contact with the child.

- Include the actions a case manager must take when the case manager receives an incident report documenting the use of an emergency physical restraint, when the case manager becomes aware that a wrongful restraint may have been employed, and when a case manager receives three incident reports in a six month period documenting the use of an emergency physical restraint.

OAR 411-435-0050 about Community First Choice ancillary services is being amended to remove rule language relating to behavior support services, incorporate by reference the new rules for professional behavior services in OAR chapter 411, division 304, and update when community transportation may be used for behavior.

OAR 411-450-0080 about standards for provider agencies delivering community living supports is being amended to —

- Clarify incidents that require immediate notification, incident reporting requirements, and incident reporting timelines.

- Require policies and procedures for professional behavior services and behavior supports.

- Include requirements around the use and reporting of a safeguarding intervention, safeguarding equipment, and emergency physical restraint.

- Clarify incident reporting requirements and incident reporting timelines.

In addition, the Department is also proposing additional edits to ensure consistent terminology, update statutory and rule references, correct formatting and punctuation, and improve ease of reading.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Oregon Project Independence Pilot for Adults with Disabilities

Stat. Auth.: ORS 409.050, 410.070, 410.435

Stats. Implemented: ORS 409.010, 410.410–410.480

Proposed Amendments: 411-032-0050

Proposed Repeals: 411-032-0050(T)

Last Date for Comment: 10-30-17, 5 p.m.

Summary: The Department is amending 411-032-0050 to continue providing services to adults with physical disabilities that are currently receiving such services in regionally diverse pilot locations under the Oregon Project Independence Pilot. This rulemaking expands the date of the pilot program to allow the Department to continue providing services through the next biennium, as the pilot currently expires on June 30, 2017. Minor housekeeping to update a statutory reference was done to the rule as well.

Written comments may be submitted until October 30, 2017 at 5:00 p.m. via email to Kimberly.colkitt-hallman@state.or.us, faxed to 503-373-7032, or mailed to Kimberly Colkitt-Hallman, Rules Coordinator, 500 Summer Street NE, E-2, Salem, Oregon, 97301.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

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Department of Justice Chapter 137

Rule Caption: Amending rules relating to tobacco product manufacturers

Stat. Auth.: ORS 180.445, 180.450

Stats. Implemented: ORS 180.445, 180.450

Proposed Amendments: 137-105-0020, 137-105-0030

Last Date for Comment: 10-23-17, Close of Business

Summary: OAR 137-105-0020 is being amended to define the procedure for a non-participating manufacturer to request a refund of an inadvertent overpayment of an escrow deposit.

OAR 137-105-0030 is being amended to correct clerical errors.

Rules Coordinator: Carol Riches

Address: Department of Justice, 1162 Court St. NE, Salem, OR 97301

Telephone: (503) 378-5987

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Department of Public Safety Standards and Training Chapter 259

Rule Caption: Adds COFA residency as eligible for employment and certification in Police, Corrections and P&P; HB2594.

Stat. Auth.: ORS 181A.410, 183.341

Stats. Implemented: ORS 181A.395, 181A.410, 181A.490, 181A.520, 181A.530, 181A.550, 181A.640, 183.341

Proposed Amendments: 259-008-0010

Last Date for Comment: 10-21-17, 5 p.m.

Summary: During the 2017 legislative session, the Oregon legislature passed House Bill 2594. This bill allows a person who is a non-immigrant legally admitted to the United States under a Compact of Free Association to become certified as a corrections officer, a parole and probation officer or a police officer.

OAR 259-008-0010 outlines the minimum standards for employment as a law enforcement officer and will need to be amended to reflect the statutory changes resulting from the passage of HB 2594.

Rules Coordinator: Jennifer Howald

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2432

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Rule Caption: Adopts new rule identifying instructor responsibilities; includes additional supporting rule revisions for consistency.

Stat. Auth.: ORS 181A.870

Stats. Implemented: ORS 181A.840, 181A.850, 181A.870, 181A.995

Proposed Adoptions: 259-060-0136

Proposed Amendments: 259-060-0015, 259-060-0135, 259-060-0450

Last Date for Comment: 10-21-17, 5 p.m.

Summary: The Department certifies private security instructors to teach the alarm monitor basic course and refresher, the unarmed professional basic course and refresher, and the private security firearms course and refresher.

The current language for OAR 259-060-0135 contains direction on an instructor's responsibilities for maintaining training records, course remediation or failure, and authorizes certified instructors to deliver private security professional courses based on Board approved curriculums or private security professional training accredited by the Department.

The additional need to address conduct that instructors should adhere to during the delivery of course instruction and the need to create an avenue to address conduct that has been identified during audits and the review of complaints, resulted in the proposed adoption of OAR 259-060-0136. OAR 259-060-0136 establishes specific requirements within the administrative rule that may be considered for denial or revocation or civil penalty when violated.

The proposed change to OAR 259-060-0015 removes a statement from section (4) regarding prohibiting private security providers from providing training to private security professionals or applicants unless currently certified as an instructor. Alternative language has been provided in the proposed adoption of OAR 259-060-0136 (3).

The recommended changes to OAR 259-060-0135 focus on dividing the information that is contained within the current rule into two separate rules. OAR 259-060-0135 will continue to focus on what is required in order to become a certified instructor. The current rule text which outlines the responsibilities of a certified instructor for maintaining training records and course remediation or failure has been moved to OAR 259-060-0136 for adoption.

OAR 259-060-0136 focuses on the instructor's responsibilities once certified and houses the content moved from OAR 259-060-0135. OAR 259-060-0136 (4) outlines duties and includes a new addition in (4) (j) to offer a contract to students; (5) identifies prohibited actions; and (7) contains a minor change to (7)(c) where the new language states that students must qualify within three attempts in one day and the language removed from 259-060-0135 (9)(c) stated re-qualification attempts are limited to three in a single session.

The recommended changes to OAR 259-060-0450 consolidate the existing violations for instructors or private security providers into one reference to the new rule for instructor responsibilities.

Rules Coordinator: Jennifer Howald

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2432

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Rule Caption: Amends rule language for clarity regarding original intent for accreditation of employer proprietary training programs.

Stat. Auth.: ORS 181A.870

Stats. Implemented: ORS 181A.870

Proposed Amendments: 259-060-0092

Last Date for Comment: 10-21-17, 5 p.m.

Summary: In order to ensure that the rule language supports the original intent of the ORS authority to provide accreditation for training or educational programs offered by employers and that the Department is administering the accreditation program in accordance with that authority, the proposed rule changes amending OAR 259-060-0092 clarify the existing standards for the accreditation program.

The proposed changes use the terms employer, accreditation program manager and the Department based on definitions existing in OAR 259-060-0010. The accreditation program manager is not

NOTICES OF PROPOSED RULEMAKING

required to be a different person if the employer wants or needs to also serve as the accreditation program manager. The other references to executive manager; private security company, business or entity; and individual have been removed. The application requirements have been simplified to reference the application form itself for a list of supporting documents needed to complete the application. The application fee and the evaluation processing fee have been identified as separate fees. Further clarifying amendments have been included to address application deficiencies and the process for termination of an accreditation agreement.

The requirements for an accredited course include course instruction by a certified private security instructor. Since the Department only certifies alarm monitor private security instructors, unarmed private security instructors and private security firearms instructors the accreditation process is limited to these three training programs.

Rules Coordinator: Jennifer Howald

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2432

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Rule Caption: Establishes Emotional Standards for Armed Private Security Professionals and Private Security Firearms Instructors.

Stat. Auth.: ORS 181A.870

Stats. Implemented: ORS 181A.850, 181A.855, 181A.870, 181A.880 & 181A.885

Proposed Amendments: 259-060-0300

Last Date for Comment: 10-21-17, 5 p.m.

Summary: Prior to the current temporary rule for OAR 259-060-0300, the Department did not have the ability to take action to deny or revoke a private security provider's certifications if the Department received information from another public agency that an individual applying for or certified as an armed private security professional or a private security firearms instructor has demonstrated a lack of emotional fitness.

The Department finds that there is a potential of a serious risk to public health and safety created by certifying individuals to possess or have access to a firearm while providing private security services or instructing the firearms course when the Department has received information that the individual has demonstrated a lack of emotional fitness to another public agency.

The proposed changes to OAR 259-060-0300 will allow the Department to request, upon receipt of information from another public agency, that the certified individual or applicant submit to further medical evaluation at the expense of the Department.

Upon receipt of the requested medical evaluation or refusal by the affected individual to submit to further evaluation, the Department will consider the available information and make a determination whether or not the individual poses a serious risk to public health and safety and whether the individual's private security certification as an armed professional, a firearms instructor or both should be denied or revoked as a result.

Should a determination be made to take action to deny or revoke certification, the Department will issue a Notice of Intent following the Oregon Attorney General's Model Rules for contested case procedures and any affected individual will be able to exercise due process.

The proposed rule language is specific to the receipt of information from another public agency and therefore not open to anonymous reports or outside complaints. The Department considers another public agency to be a state or federal government agency and that the information received would be supported by the reporting agency's policies and procedures for the collection of information or their assessment of an individual's emotional or mental state.

The denial or revocation of a private security professional's armed certification or certification as a private security firearms instructor under this proposed rule change does not impact any other private

security provider licenses or certifications that the affected individual has been issued by DPSST.

After the public comment period, the proposed rule change will be considered by the Board on Public Safety Standards and Training for adoption as new standard and a permanent rule change.

Rules Coordinator: Jennifer Howald

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2432

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Department of Transportation

Chapter 731

Rule Caption: Update of RUC rules to incorporate the provisions of Chapter 750, OL 2017, section 32

Stat. Auth.: ORS 184.616, 184.619, 319.905–319.930

Stats. Implemented: ORS 319.883–319.990, Chapter 750, OL 2017

Proposed Amendments: 731-090-0000, 731-090-0020, 731-090-0030, 731-090-0040, 731-090-0070, 731-090-0080, 731-090-0090

Last Date for Comment: 10-23-17, 5 p.m.

Summary: The proposed amendments incorporate legislative changes made since ODOT adopted (or last amended) these rules. The changes include housekeeping edits that incorporate plain language, eliminate uncertainty, and make consistent the use of terms.

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: Update of ODOT's public records rule to incorporate recent legislation and statewide policy

Stat. Auth.: ORS 184.616, 184.619, 192.430, 192.440

Stats. Implemented: ORS 192.410–192.505, Ch. 456, OL 2017

Proposed Amendments: 731-001-0025

Last Date for Comment: 10-23-17, 5 p.m.

Summary: In May, 2017 ODOT temporarily adopted DAS policy 107-001-0030 (Public Records Requests Fees and Charges) into its public records rule. This rulemaking will make those changes permanent and incorporate the provisions of chapter 456, OL 2017 (SB 481) by reference.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/odot/get-involved/pages/rules.aspx>.

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: Serious Traffic Offenses

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.012, 809.525

Other Auth.: 49 CFR §383.51

Stats. Implemented: ORS 809.525

Proposed Amendments: 735-063-0360

Last Date for Comment: 10-23-17, 5 p.m.

Summary: OR Law 2017, chapter 190, section 2 (SB 37) amends ORS 809.525 which authorizes DMV to suspend commercial driving privileges upon receipt of a certain number of offenses within a certain time period. ORS 809.525 authorizes DMV to specify what those offenses are by administrative rule, which DMV has done in OAR 735-063-0360. Prior to the amendments in OR Law 2017, chapter 190, section 2, the statutory language was "serious traffic violation", but is now "serious traffic offense". Therefore, DMV proposes to amend OAR 735-063-0360 to use the terminology "serious traffic offense" to keep the rule aligned with statute. DMV proposes to further amend the rule to reflect the offense listed in ORS

NOTICES OF PROPOSED RULEMAKING

811.507 since OR Law 2017, chapter 629 (HB 2597) describes the offense - driving a motor vehicle while using a mobile electronic device.

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

Rule Caption: Prohibition on Endorsements for Emergency and Student Driver Permits

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.120, 807.220, 807.230

Stats. Implemented: ORS 807.031, 807.170, 807.200, 807.220, 807.230

Proposed Amendments: 735-064-0230, 735-064-0235

Last Date for Comment: 10-23-17, 5 p.m.

Summary: DMV proposes to amend OAR 735-064-0230 and 735-064-0235 to allow operation of a motorcycle that does not require an endorsement to operate. ORS 807.031(5) prohibits a person issued a restricted Class C license, such as an Emergency Permit and Special Student Driver Permit, from operating a vehicle that requires an endorsement. Operation of a motorcycle that does not require an endorsement, such as an autocycle, is not prohibited. DMV is amending OAR 735-064-0230 and 735-064-0235 to align with statute to prohibit operation of any vehicle that requires an endorsement, and thus allow operation of an autocycle because an endorsement is not required.

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

Rule Caption: Drive Test Waiver for Restricted Motorcycle Endorsement

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.070, 807.072, 807.080, 807.120, 807.170

Stats. Implemented: ORS, 807.070, 807.072, 807.080, 807.120, 807.170

Proposed Amendments: 735-062-0080, 735-062-0087

Last Date for Comment: 10-23-17, 5 p.m.

Summary: Chapter 807, Oregon Laws 2017 (SB 36) amends ORS 807.072 so that the department may waive the actual demonstration required under ORS 807.070(3) for a person who is applying for a restricted motorcycle endorsement that only authorized the person to operate a motorcycle with more than two wheels. Because of the amendment to ORS 807.072, DMV is amending OAR 735-062-0080 and 735-062-0087 to align with statute. DMV is removing the restricted motorcycle endorsement testing requirements listed in OAR 735-062-0087(5)(d). DMV is also amending OAR 735-062-0080 to insert a provision stating the department will waive the drive test demonstration if the person is applying for a restricted motorcycle endorsement.

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

Higher Education Coordinating Commission Chapter 715

Rule Caption: Student Complaints against public universities, community colleges, private non-profit institutions, and private career schools.

Date:	Time:	Location:
10-17-17	10:30 a.m.	Public Service Bldg. H302 (3rd Floor) 255 Capitol Street NE Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 348.603, 348.606, 350.075, 350.240, 659.850, 659.860

Other Auth.: Federal regulation 34 CFR §660.9

Stats. Implemented: ORS 183.341, 345.120, 345.240, 348.596, 350.075(4), 659.850, 689.852

Proposed Adoptions: 715-011-0005, 715-011-0010, 715-011-0015, 715-011-0020, 715-011-0025, 715-011-0030, 715-011-0035, 715-011-0040, 715-011-0045, 715-011-0050, 715-011-0055, 715-011-0060, 715-011-0065, 715-011-0070, 715-011-0075, 715-011-0080, 715-011-0085, 715-011-0090

Proposed Amendments: 715-045-0023

Last Date for Comment: 10-24-17, 5 p.m.

Summary: ORS 350.075 (4)(a) requires the Higher Education Coordinating Commission (HECC) to receive and “resolve student complaints against any school operating in this state” and 350.075(4)(g) states that HECC may “adopt rules” to implement that statute. These rules detail the HECC’s role in receiving, processing, and acting on student complaints against post-secondary institutions in Oregon.

Rules Coordinator: Kelly Dickinson

Address: Higher Education Coordinating Commission, 775 Court St. NE, Salem, OR 97301

Telephone: (503) 947-2379

Higher Education Coordinating Commission, Office of Community Colleges and Workforce Development Chapter 589

Rule Caption: Student Complaints against public universities, community colleges, private non-profit institutions, and private career schools.

Date:	Time:	Location:
10-17-17	10:30 a.m.	Public Service Bldg. H302 (3rd Floor) 255 Capitol Street NE Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 348.603, 348.606, 350.075, 350.240, 659.850, 659.860

Other Auth.: Federal regulation 34 CFR §660.9

Stats. Implemented: ORS 183.341, 345.120, 345.240, 348.596, 350.075(4), 659.850, 689.852

Proposed Repeals: 589-010-0100

Last Date for Comment: 10-24-17, 5 p.m.

Summary: ORS 350.075 (4)(a) requires the Higher Education Coordinating Commission (HECC) to receive and “resolve student complaints against any school operating in this state” and 350.075(4)(g) states that HECC may “adopt rules” to implement that statute. These rules detail the HECC’s role in receiving, processing, and acting on student complaints against post-secondary institutions in Oregon.

Rules Coordinator: Kelly Dickinson

Address: Higher Education Coordinating Commission, Office of Community Colleges and Workforce Development, 775 Court St. NE, Salem, OR 97301

Telephone: (503) 947-2379

Higher Education Coordinating Commission, Office of Degree Authorization Chapter 583

Rule Caption: Student Complaints against public universities, community colleges, private non-profit institutions, and private career schools.

Date:	Time:	Location:
10-17-17	10:30 a.m.	Public Service Bldg. H302 (3rd Floor) 255 Capitol Street NE Salem, OR

Hearing Officer: Staff

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 348.603, 348.606, 350.075, 350.240, 659.850, 659.860

Other Auth.: Federal regulation 34 CFR §660.9

Stats. Implemented: ORS 183.341, 345.120, 345.240, 348.596, 350.075(4), 659.850, 689.852

Proposed Amendments: 583-030-0020

Last Date for Comment: 10-24-17, 5 p.m.

Summary: ORS 350.075 (4)(a) requires the Higher Education Coordinating Commission (HECC) to receive and “resolve student complaints against any school operating in this state” and 350.075(4)(g) states that HECC may “adopt rules” to implement that statute. These rules detail the HECC’s role in receiving, processing, and acting on student complaints against post-secondary institutions in Oregon.

Rules Coordinator: Kelly Dickinson

Address: Higher Education Coordinating Commission, Office of Degree Authorization, 775 Court St. NE, Salem, OR 97301

Telephone: (503) 947-2379

.....
Landscape Contractors Board
Chapter 808

Rule Caption: Defines Improper

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.695

Proposed Adoptions: 808-002-0451

Last Date for Comment: 10-23-17, Close of Business

Summary: Defines Improper

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

.....
Occupational Therapy Licensing Board
Chapter 339

Rule Caption: Amends rule 339-010-0020 Unprofessional Conduct to include (g) Failing to cooperate with Board Investigations.

Stat. Auth.: ORS 675.230, 675.240, 675.250, 675.300 & 675.310

Other Auth.: Board Meeting August 4, 2017; September Newsletter to licensees; Board website

Stats. Implemented: ORS 675.300(a)

Proposed Amendments: 339-010-0020

Last Date for Comment: 10-21-17, 12 p.m.

Summary: 339-010-0020 Unprofessional Conduct

(1) Unprofessional conduct relating to patient/client safety, integrity and welfare includes:

(a) Intentionally harassing, abusing, or intimidating a patient/client, either physically or verbally;

(b) Intentionally divulging, without patient/client consent, any information gained in the patient relationship other than what is required by staff or team for treatment;

(c) Engaging in assault and/or battery of patient/client;

(d) Failing to respect the dignity and rights of patient/client, regardless of social or economic status, personal attributes or nature of health problems;

(e) Engaging in sexual improprieties or sexual contact with patient/client;

(f) Offering to refer or referring a patient/client to a third person for the purpose of receiving a fee or other consideration from the third person or receiving a fee from a third person for offering to refer or referring a patient/client to a third person;

(g) Taking property of patient/client without consent.

(h) Failing to follow principles and related standards of conduct as defined in the Occupational Therapy Code of Ethics (2015), by the American Occupational Therapy Association, to the extent they do not conflict with ORS 675.210 through 675.340.

(2) Unprofessional conduct relating to professional competency includes:

(a) Engaging in any professional activities for which licensee is not currently qualified;

(b) Failing to maintain competency;

(c) Failing to provide a comprehensive service that is compatible with current research and within an ethical and professional framework;

(d) Failing to obtain a physician’s referral in situations where an OT is using a modality not specifically defined in ORS 675.210(3);

(e) Failing to provide professional occupational therapy based on evaluation of patient’s/client’s needs and appropriate treatment procedures;

(f) Using an occupational therapy aide in violation of the law or Board rules regarding occupational therapy.

(3) Unprofessional conduct relating to the Board includes:

(a) Practicing occupational therapy without a current Oregon license;

(b) Failing to renew license in a timely manner;

(c) Failing to provide the Board with any documents requested by the Board;

(d) Failing to answer truthfully and completely any question asked by the Board;

(e) Failing to provide evidence of competency when requested;

(f) Violating the Practice Act, Board rules or Board Orders;

(g) Failing to cooperate with Board investigations.

(4) Unprofessional conduct relating to impaired function includes:

(a) Engaging in or assisting in the practice of occupational therapy while impaired by alcohol or other drugs;

(b) Use of alcohol or other drugs in a manner that creates a risk of harm to patient/client;

(c) Engaging in the practice of occupational therapy while one’s ability to practice is impaired by reason of physical or mental disability or disease.

(5) Unprofessional conduct relating to federal or state law or rules:

(a) Intentionally making or filing a false or misleading report or failing to file a report when it is required by law or third person or intentionally obstructing or attempting to obstruct another person from filing such report;

(b) Obtaining or attempting to obtain compensation by misrepresentation;

(c) Engaging in assault and/or battery of any person;

(d) Conviction of a crime or engaging in any act which the Board determines substantially relates to the practice of occupational therapy or indicates an inability to safely and proficiently engage in the practice of occupational therapy; or failing to notify the Board within 10 working days of a conviction of a misdemeanor, or an arrest for or conviction of a felony;

(e) Disciplinary actions imposed by another professional licensing body based on acts by the licensee similar to acts giving rise to discipline under the Practice Act or rules of the Board;

(f) Engaging in false, misleading or deceptive advertising.

(g) Fails to notify the appropriate licensing board of any conduct by another licensed medical provider when the licensee has reasonable cause to believe that the medical provider has engaged in prohibited or unprofessional conduct. As used in this subparagraph, “prohibited conduct” means a criminal act against a patient or a criminal act that creates a risk of harm to a patient and “unprofessional conduct” means conduct unbecoming a medical provider or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the medical provider’s profession or conduct that endangers the health, safety or welfare of a patient.

(h) Fails to notify the Board of a change in the licensee’s name, address, contact telephone number or place of employment or business as required by OAR 339-010-0018.

Rules Coordinator: Nancy Schuberg

Address: Occupational Therapy Licensing Board, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0198

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Amends rule 339-010-0016 Continuing Education Requirements for Applicants for licensure.

Stat. Auth.: ORS 675.320 (10) & (11)

Other Auth.: Board meeting held on August 4, 2017. September 2017 Newsletter, Board website.

Stats. Implemented: ORS 675.320 (10) & (11)

Proposed Amendments: 339-010-0016

Last Date for Comment: 10-21-17, 12 p.m.

Summary: 339-010-0016 CE Requirements for Applicants for Licensure

(1) All applicants for licensure will either be current on their NBCOT certification (National Board of Certification in Occupational Therapy) or will need 30 points of Board approved continuing education two years prior to becoming licensed in Oregon.

(2) All applicants for licensure who have passed the NBCOT certification examination more than a one year ago and have been unlicensed for more than three years will:

(a) Successfully complete a Board approved Re-Entry Program specifically designed for occupational therapists preparing them for re-entry into the field of occupational therapy; or

(b) Successfully retake and pass the NBCOT examination within the previous year.

(3) The Board has the discretion to waive requirement for license application requirements.

Rules Coordinator: Nancy Schuberg

Address: Occupational Therapy Licensing Board, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0198

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Rule Caption: Amends rule 339-010-0012 Background Checks and Fingerprinting Requirements.

Stat. Auth.: ORS 676.303, 675.320

Other Auth.: Board Meeting August 4, 2017; September 2017 Newsletter; Board website

Stats. Implemented: ORS 676.303, 675.320

Proposed Amendments: 339-010-0012

Last Date for Comment: 10-21-17, 12 p.m.

Summary: 339-010-0012 Background Checks and Fingerprinting Requirements

The Board may require Oregon or National criminal history checks, including fingerprints or other background checks such as the Law Enforcement Data System (LEDS), from any applicants for a license as an occupational therapist or occupational therapy assistant, a limited permit, or an applicant to reinstate a lapsed license. The fingerprints shall be provided in a format prescribed by the Board. The Board will provide information on where acceptable fingerprints may be obtained and what acceptable procedure is to be used for submitting them. The Board will use the fingerprints to conduct Criminal History Checks. When applicable, fingerprint cards will be destroyed as required by law. The Board may conduct a criminal record check on licensees applying to renew a license using the Law Enforcement Data System (LEDS) maintained by the Department of State Police.

Rules Coordinator: Nancy Schuberg

Address: Occupational Therapy Licensing Board, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0198

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Oregon Board of Naturopathic Medicine Chapter 850

Rule Caption: Change of annual license renewal due date and late fees, clarifies license renewal procedures.

Date:	Time:	Location:
10-19-17	10 a.m.	800 NE Oregon St. Conf. Rm. 445 Portland, OR

Hearing Officer: Mary-Beth Baptista

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.100, 685.102, 685.104

Proposed Amendments: 850-030-0035, 850-030-0090, 850-030-0195

Last Date for Comment: 10-27-17, 5 p.m.

Summary: Amends 850-030-0035 to change the date annual date for imposing a late fee on licensure applications from December 15 to January 15.

Amends 850-030-0090 to change the annual due date for licensure renewal or change of status applications from December 31, to January 15 of the year following expiration.

Amends 850-030-0195 to change annual due date for licensure renewal and clarifies renewal and change of status application requirements and procedures - including clarification of reinstating an inactive license. Edited to remove inaccurate citations.

Rules Coordinator: Mary-Beth Baptista

Address: Oregon Board of Naturopathic Medicine, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0192

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Rule Caption: Reduces the amount of annual Continuing Education credits required to maintain licensure and amends requirements.

Date:	Time:	Location:
10-19-17	10 a.m.	800 NE Oregon St. Conference Rm. 445 Portland, OR

Hearing Officer: Mary-Beth Baptista

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.102

Proposed Amendments: 850-040-0210

Last Date for Comment: 10-27-17, 5 p.m.

Summary: Amends 850-040-0210 Continuing Education: reduces the overall number of annual credit hours required to maintain an active license from the current requirement of 50 to the proposed requirement of 35 hours.

Rules Coordinator: Mary-Beth Baptista

Address: Oregon Board of Naturopathic Medicine, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0192

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Oregon Business Development Department Chapter 123

Rule Caption: Technical revisions to improve clarity in rules for tax incentives and account for 2017 laws.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.066, 285C.067(2), 285C.102(3)(c), 285C.120(2)(b), 285C.140(1) & (2), 285C.200(7) & 285C.215(3), 285C.370, 285C.503(3) & 285C.506(4), (6) & (7) and 285C.615(7)

Stats. Implemented: ORS 285C.050–285C.250, 285C.300–285C.320, 285C.350–285C.370, 285C.400–285C.420, 285C.500–285C.506, & 285C.600–285C.635, 307.123, 317.131 & 461.740

Proposed Amendments: Rules in 123-070, 123-623, 123-635, 123-650, 123-656, 123-662, 123-668, 123-674, 123-680, 123-690

Last Date for Comment: 11-3-17, Close of Business

Summary: Respective to programs that provide tax incentives to qualifying business firms:

1. These rules incorporate effects of Chapters 83 (Enrolled House Bill 2833), 185 & 297 (Enrolled House Bill 2312 and Senate Bill 41, updating references to federal workforce laws), 490 (Enrolled Senate Bill 936, affecting Strategic Investment Program - SIP), and 610 (Enrolled House Bill 2066), Oregon Laws 2017, including:

- Resulting clean-up by Or Laws 17-Ch-83 of standard enterprise zone exemption deferral or suspension under certain recessionary conditions and exclusion of otherwise ineligible operations from prohibition on in-state transfer of jobs into zone, and

- The varying ways that the above laws take effect as of October 6, 2017, especially the timing, bases, data sources and other impli-

NOTICES OF PROPOSED RULEMAKING

cations of new/revised employee pay requirements resulting from OrLaws`17-Ch-610, among three programs-Oregon Investment Advantage, standard enterprise zone`s extended abatement and long-term rural enterprise zone facilities-as well as (related) effects of new `qualified rural county` definition for enterprise zone incentives.

2. They also effect several technical adjustments with language to make it more accurate, clearer, such as:

- Defining total investment cost for SIP, which might also help with implementation of OrLaws`17-Ch-490,

- Stipulating/stressing statutory obligations of local zone sponsor to be proactive in enforcing its own additional requirements on businesses, and to keep other entities notified about such policies consistent with statutory obligations,

- Detailing metropolitan population threshold for applicability of exception from employee pay requirements on businesses receiving extended abatements in certain urban enterprise zones,

- Specifying matters of business eligibility for standard enterprise zone exemption-professional services, local shipping, gross receipts test and criteria for administrative/HQ-type centers, and distinguishing eligibility test for exempt property usage from the definition of "qualified property",

- Addressing allowed transfers of property among different businesses and that it must be at location identified in application for authorization when initially qualifying in the zone, even if having been moved to/from there after/before,

- Further clarifying long-term rural enterprise zone facility issues of subsequent investments that independently qualify as a benefiting facility and of corporate tax credit`s applicability, and

- Revising information regarding forms, submissions and other sources of guidance, to reflect agency reorganizations, Department of Revenue website changes and so forth.

Rules Coordinator: Mindee Sublette

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

Telephone: (503) 986-0036

Oregon Department of Education Chapter 581

Rule Caption: Dyslexia-Related Training Grants

Date:	Time:	Location:
10-20-17	10 a.m.	255 Capitol St. NE Salem, OR, Rm. 400A

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 342.950

Stats. Implemented: ORS 342.950

Proposed Adoptions: 581-002-1807

Last Date for Comment: 10-26-17, 9 a.m.

Summary: The proposed rule implements a grant program for dyslexia-related teacher training. The purpose of the grants is to offset costs incurred by districts in complying with dyslexia-related teacher training requirements. The rule establishes guidelines for how the Department will administer the grant program. The rule establishes which entities are eligible to receive the grants. The rules establishes reporting requirements for participating districts and charter schools.

Rules Coordinator: Nicki Prather

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

Telephone: (503) 947-5801

Rule Caption: Compliance and Reporting on Standards

Date:	Time:	Location:
10-20-17	10 a.m.	255 Capitol St. NE Salem, OR, Rm. 400A

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Proposed Amendments: 581-022-2305

Last Date for Comment: 10-26-17, 9 a.m.

Summary: Currently all school districts are required to report compliance with standards annually to communities. The rule amendment clarifies what this means by requiring districts to report to their school boards at a public meeting on post report on district web page.

Rules Coordinator: Nicki Prather

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

Telephone: (503) 947-5801

Rule Caption: Public Charter Schools

Date:	Time:	Location:
10-20-17	10 a.m.	255 Capitol St. NE Salem, OR, Rm. 400A

Hearing Officer: Jessica Nazarov

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338

Proposed Amendments: 581-026-0005

Last Date for Comment: 10-26-17, 9 a.m.

Summary: SB 208 requires that districts allow students attending a public charter school to have access to interscholastic activities in their parental resident district. The district may charge fees for students who participate and charter schools must pay the fees. The rules clarify the types of activities, fees, and frequency that the fees may be applied.

Rules Coordinator: Nicki Prather

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

Telephone: (503) 947-5801

Rule Caption: Participation in District Interscholastic Activities for Students Who Attend a Public Charter School

Date:	Time:	Location:
10-20-17	10 a.m.	255 Capitol St. NE Salem, OR, Rm. 400A

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 326.051 & 338.025

Stats. Implemented: ORS 339.460

Proposed Adoptions: 581-026-0700

Last Date for Comment: 10-26-17, 9 a.m.

Summary: SB 208 requires that districts allow students attending a public charter school to have access to interscholastic activities in their parental resident district. The district may charge fees for students who participate and charter schools must pay the fees. The rules clarify the types of activities, fees, and frequency that the fees may be applied.

Rules Coordinator: Nicki Prather

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

Telephone: (503) 947-5801

Rule Caption: Interscholastic Activities Eligibility Requirement for Students Who Attend a Public Charter School

Date:	Time:	Location:
10-20-17	10 a.m.	255 Capitol St. NE Salem, OR, Rm. 400A

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 326.051 & 338.025

Stats. Implemented: ORS 339.460

Proposed Adoptions: 581-026-0705

Last Date for Comment: 10-26-17, 9 a.m.

Summary: SB 208 requires that districts allow students attending a public charter school to have access to interscholastic activities in their parental resident district. The district may charge fees for students who participate and charter schools must pay the fees. The rules clarify the types of activities, fees, and frequency that the fees may be applied.

Rules Coordinator: Nicki Prather

NOTICES OF PROPOSED RULEMAKING

Address: Oregon Department of Education, 255 Capitol St. NE,
Salem, OR 97310
Telephone: (503) 947-5801

Rule Caption: District Fees for Interscholastic Activities for Students Who Attend a Public Charter School

Date: 10-20-17 **Time:** 10 a.m. **Location:** 255 Capitol St. NE
Salem, OR, Rm. 400A

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 326.051 & 338.025

Stats. Implemented: ORS 339.460

Proposed Adoptions: 581-026-0710

Last Date for Comment: 10-26-17, 9 a.m.

Summary: SB 208 requires that districts allow students attending a public charter school to have access to interscholastic activities in their parental resident district. The district may charge fees for students who participate and charter schools must pay the fees. The rules clarify the types of activities, fees, and frequency that the fees may be applied.

Rules Coordinator: Nicki Prather

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

Telephone: (503) 947-5801

Rule Caption: Rules implementing Ballot Measure 98

Date: 10-20-17 **Time:** 10 a.m. **Location:** 255 Capitol St. NE
Salem, OR, Rm. 400A

Hearing Officer: Emily Nazarov

Stat. Auth.: Sec. 1, Ch. 1, OL 2017

Stats. Implemented: Sec. 1, Ch. 1, OL 2017

Proposed Amendments: 581-013-0005, 581-013-0010, 581-013-0015, 581-013-0020, 581-013-0025, 581-013-0030, 581-013-0035

Last Date for Comment: 10-26-17, 9 a.m.

Summary: The proposed amendments update the rules governing the program established by Ballot Measure 98 to reflect changes adopted by the Legislature during the 2017 session.

Rules Coordinator: Nicki Prather

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

Telephone: (503) 947-5801

Oregon Health Authority, Health Licensing Office Chapter 331

Rule Caption: House Bill 2503 created a lactation consultant license; these are administrative rules for that program.

Date: 10-31-17 **Time:** 9 a.m. **Location:** Health Licensing Office
1430 Tandem Ave. NE, Suite 180
Salem, OR

Hearing Officer: Anne Thompson

Stat. Auth.: 2017 House Bill 2503; ORS 676.575-676.625

Stats. Implemented: 2017 House Bill 2503; ORS 676.575-676.625

Proposed Adoptions: 331-475-0005, 331-475-0010, 331-480-0005, 331-480-0010, 331-480-0015, 331-480-0020, 331-485-0005, 331-485-0010, 331-490-0005, 331-495-0005

Last Date for Comment: 10-31-17, 10:30 a.m. (Close of hearing)

Summary: 2017 House Bill 2503 created a license for lactation consultants that is overseen by the Health Licensing Office. These are the administrative rules for the program and license.

Rules Coordinator: Anne Thompson

Address: Health Licensing Office, 1430 Tandem Ave. NE, Suite 180,
Salem, OR 97301

Telephone: (503) 373-1904

Rule Caption: Align body and ear piercing rules with current industry standards and update profession specific guidelines.

Date: 10-18-17 **Time:** 9 a.m. **Location:** Health Licensing Office
1430 Tandem Ave., Suite 180
Salem, OR 97301

Hearing Officer: Samantha Patnode

Stat. Auth.: ORS 676.615, 690.365, 690.390, 690.405, 690.407

Stats. Implemented: ORS 676.610, 690.365, 690.390, 690.405, 690.410

Proposed Adoptions: 331-900-0002, 331-900-0042, 331-900-0043

Proposed Amendments: 331-900-0000, 331-900-0005, 331-900-0010, 331-900-0015, 331-900-0020, 331-900-0025, 331-900-0030, 331-900-0035, 331-900-0040, 331-900-0045, 331-900-0050, 331-900-0055, 331-900-0060, 331-900-0065, 331-900-0070, 331-900-0075, 331-900-0077, 331-900-0080, 331-900-0085, 331-900-0090, 331-900-0095, 331-900-0097, 331-900-0098, 331-900-0099, 331-900-0100, 331-900-0105, 331-900-0110, 331-900-0115, 331-900-0120, 331-900-0125, 331-900-0130, 331-905-0000, 331-905-0005, 331-905-0010, 331-905-0011, 331-905-0012, 331-905-0013, 331-905-0014, 331-905-0035, 331-905-0040, 331-905-0045, 331-905-0050, 331-905-0052, 331-905-0055, 331-905-0058, 331-905-0060, 331-905-0080, 331-905-0085, 331-905-0090, 331-905-0095, 331-905-0100, 331-905-0105, 331-905-0110, 331-905-0115, 331-905-0120, 331-915-0005, 331-915-0007, 331-915-0065, 331-915-0070, 331-915-0075, 331-915-0080, 331-915-0085, 331-925-0000, 331-925-0005, 331-925-0015, 331-925-0020, 331-925-0025, 331-925-0030, 331-925-0035, 331-925-0040, 331-925-0045, 331-925-0050, 331-925-0055, 331-940-0000, 331-950-0010, 331-950-0020, 331-950-0030, 331-950-0040, 331-950-0050, 331-950-0060, 331-950-0070

Proposed Repeals: 331-905-0015, 331-905-0020, 331-905-0025, 331-905-0030, 331-905-0075, 331-905-0080,

Last Date for Comment: 10-30-17, 9 a.m.

Summary: Body Piercing Change (earlobe piercing, standard body piercing, specialty level 1 piercing and specialty level 2 genital piercing):

Proposed rules add definitions for surface piercing, which is a piercing with an entry and exit, and single point piercing is a piercing with only an entry. The additions were made to show the difference between the two piercings.

Standard Body Piercing Education/Training Program

The amendment would require that as of January 1, 2018 proposed rules would reduce the number of hours required to receive a standard body piercing license including practical experience from 900 hours to 500 hours. Within the 900 hours of practical experience the standard body piercing trainee (trainee) is required to observe, participate and perform 400 specific body piercing procedures. The proposed change would require 500 hours of practical experience in which the trainee must observe, participate and perform 300 procedures combined into four categories. The proposed categories are general, cartilage, oral and surface. The theory portion will remain 250 hours which can be done under indirect supervision. Amendments also allow for a trainee to have multiple supervisors and obtain specialty level 1 training simultaneously.

Specialty Level 1 Body Piercing Education/Training Program

The amendment would require that as of January 1, 2018 proposed rules would reduce the number of hours required to receive a specialty level 1 body piercing license including practical experience from 36 hours to 26 hours. Of those 26 practical procedures, trainees must observe and participate in 10 procedure and the other 16 procedures unassisted but directly supervision. It is being proposed to move cheek piercing from standard body piercing to specialty level 1 piercing.

Specialty Level 2 Genital Piercing Education/Training Program

The amendment would require that as of January 1, 2018 proposed rules would reduce the number of hours required to receive a spe-

NOTICES OF PROPOSED RULEMAKING

cialty level 2 genital piercing license including practical experience from 26 hours to 18 hours. Of those 18 practical procedures trainees must observe and participate in 8 procedures and the other 10 procedures must be unassisted but directly supervised.

If an individual obtains partial training in the current 1100 hour training program the hours may be transferred to the new proposed training program of 750 hours which begins on January 1, 2018.

Rule amendments would provide individuals the option to obtain a standard body piercing temporary license while they are waiting to take the state approved practical examination. The temporary license would have indirect supervision requirements and a limited timeline to hold the license. The change requires that individuals apply for a temporary license at least 20 days before they intend to perform body piercing services in Oregon.

An already established temporary license generally used for body piercing and tattooing events and guest spots at various body art facilities will no longer require that the individual provide an affidavit of licensure from another state. To date there are very few states that meet the body piercing training standards in Oregon.

Initial jewelry standards were updated to the most current Association of Professional Piercers requirements for standard and specialty body piercings. Proposed rules add more infection control standards for earlobe piercing such as disinfection of tools, instruments and surfaces as well as storing of tools and instruments used for earlobe piercing. Currently the rule allows earlobe piercers to have a hot and cold running water source within a bathroom. The proposed rule would require a sink with unrestricted access on the facility premises but separate for a restroom. The proposal also requires a five foot open space on all sides of the procedure area which does not include walkways.

Currently informed consent for client is on an Office prescribed and created form downloadable from the web. Proposed rules would allow a standard and specialty piercers to create their own informed consent form as long as specific information is provided including procedures processes and after care.

All fields of practice, if applicable, align continuing education requirements, disinfection and sterilization requirements, informed consent and client record guidelines with current industry standards and public safety outcomes.

Administrative Changes:

Through out the proposed rules the Oregon Health Licensing Agency is amended to say Health Licensing Office. During the 2013 Legislative Session HB 2074 was passed the changing the name of the Health Licensing Office and moving the office under the Oregon Health Authority.

Remove all references throughout OAR 331 Division 900 licensure requirements prior to January 1, 2012.

Repeal rules regarding examinations for special body piercing as there is no examination required.

Rules Coordinator: Anne Thompson

Address: Health Licensing Office, 1430 Tandem Ave. NE, Suite 180, Salem, OR 97301

Telephone: (503) 373-1904

Rule Caption: Align requirements with law based on HB 3014 and remove requirement for CPR upon application.

Stat. Auth.: ORS 676.615 & Chapter 401, 2017 Law

Stats. Implemented: ORS 688.815 & Chapter 401, 2017 Law

Proposed Amendments: 331-705-0050, 331-710-0010, 331-710-0020, 331-710-0050, 331-710-0070, 331-710-0080, 331-710-0090, 331-715-0010, 331-718-0000

Proposed Repeals: 331-712-0000

Last Date for Comment: 10-30-17, 5 p.m.

Summary: During the 2017 Legislative Session HB 3014 was passed simplifying the process to obtain a respiratory therapy license in Oregon.

Amendments would also require ALL applicants have an active credential through National Board for Respiratory Care as a

Registered Respiratory Therapist and have passed, at minimum, an Oregon laws and rules examination.

Changes would also remove CPR from application requirements for licensure and update the professional code of ethics through the American Association of Respiratory Care to the April 2015 version.

Rules Coordinator: Anne Thompson

Address: Health Licensing Office, 1430 Tandem Ave. NE, Suite 180, Salem, OR 97301

Telephone: (503) 373-1904

Health Licensing Office, Board of Certified Advanced Estheticians Chapter 819

Rule Caption: Adopt curriculum and course of study for advanced esthetic schools, renewal standards and practice standards

Date:

Time:

Location:

10-20-17

9 a.m.

Health Licensing Office

1430 Tandem Ave. NE, Suite 180

Salem, OR 97301-0380

Hearing Officer: Samantha Patnode

Stat. Auth.: ORS 676.589, 676.630, 676.640, 676.645, 676.615, 676.655

Stats. Implemented: ORS 676.615, 676.630, 676.635, 676.640, 676.645, 676.655

Proposed Adoptions: 819-005-0015, 819-005-0020, 819-005-0025, 819-020-0100, 819-020-0110, 819-020-0120, 819-020-0150, 819-025-0000, 819-025-0010, 819-025-0020, 331-025-0030, 819-030-0010, 819-030-0020, 819-030-0030, 819-030-0040, 819-030-0050, 819-030-0060, 819-050-0010, 819-050-0020

Proposed Amendments: 819-005-0005, 819-030-0000, 819-040-0005

Proposed Repeals: 819-020-0015, 819-020-0020, 819-020-0035, 819-020-0045, 819-020-0055, 819-020-0065, 819-020-0075, 819-020-0085, 819-020-0090

Last Date for Comment: 10-30-17, 5 p.m.

Summary: During the 2015 Legislative Session HB 2642 was enacted creating the Board of Certified Advanced Estheticians (Board) under the Health Licensing Office (Office). Beginning in July 1, 2016 temporary rules were filed to allow advanced estheticians to obtain a temporary license if they met one of the requirements listed under the grandfathering guidelines: 1) 500 hours supervised experience as a laser operator under a physician, nurse practitioner, dentist or naturopathic physician or 2) 168 hours of experience and 40 hours of ducation under a provisional certification which requires, supervision and 24 hours in each of the following modalities:

- (a) Skin rejuvenation;
- (b) Photo rejuvenation;
- (c) Body contouring;
- (d) Dyschromia reduction;
- (e) Cellulite reduction;
- (f) Hair removal or reduction; and
- (g) Nonablative tattoo removal.

As of December 31, 2017 all provisional or temporary certification holders must have completed all the requirements under the 500 hours of supervised experience or 168 hours, 24 hours in each modality and 40 hours theory and fundamentals, including a board approved examination.

As of January 1, 2018 any individual seeking certification must attend a school licensed by the Higher Education Coordinating Commission teaching a board approved curriculum made up of 500 hours in which 305 hours is in theory and 195 hours of practical experience which includes 125 operations. The proposed rule lists the types of technology including microwaves, lasers and intense pulse light which must be performed using one of the modalities listed above.

Proposed rule provide only one pathway to licensure which includes 500 hours of theory and practical operations, hold a valid basic esthetics certification and passage of a board approved examination. Proposed rules also include procedures for examination

NOTICES OF PROPOSED RULEMAKING

conduct and failed examinations, posting and renewal requirements, continuing education requirements of 5 hours annually.

Adoption of general practice standards including working in a licensed cosmetology facility, ensuring Food and Drug Administration approved devices are being used and regulations ensuring ANSI standards for laser safety are being met. Safety and infection control standards provides guidelines for performing service including following cosmetology facility standards if applicable.

The proposed rules require client disclosure forms which explains the advanced estheticians for example training and education, experience and whether the estheticians has malpractice coverage.

Collaborative agreement is required by all advanced estheticians which must be with the following: physician, nurse practitioner, dentist or naturopathic physician.

Proposed client assessment and records practice standards ensure the advanced esthetician is aware of any issues with the clients skin or ailments. The record is also used to inform the client of risks, contraindications, procedure details and requirements for storing the records including electronically.

The Office and the Board proposed a civil penalty schedule which includes number offenses and cost for each civil penalty.

Update definitions to align with current industry standards and the advanced esthetics curriculum in place as of January 1, 2018.

Proposed rules enact Board meeting procedures including role of the chair, board meeting dates and election of chair person.

Rules Coordinator: Anne Thompson

Address: Oregon Health Authority, Health Licensing Office, Board of Certified Advanced Estheticians, 1430 Tandem Ave. NE, Suite 180, Salem, OR 97301

Telephone: (503) 373-1904

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Oregon Health Authority, Health Systems Division: Medical Assistance Programs Chapter 410

Rule Caption: Amending PDL May 25, 2017 DUR/P&T Action

Date:	Time:	Location:
10-17-17	10:30 a.m.	500 Summer St. NE Salem, OR 97301, Rm. 137B

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325, 414.330-414.414, 414.312, & 414.316

Stats. Implemented: ORS 414.065; 414.325, 414.334, 414.361, 414.369, 414.371, 414.353, & 414.354

Proposed Amendments: OAR 410-121-0030

Proposed Repeals: OAR 410-121-0030(T)

Last Date for Comment: 10-19-17, 5 p.m.

Summary: The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

410-121-0030:

Preferred:

Ranitidine 150mg & 300mg tablets

Famotidine 20mg & 40mg tablets

Irbesartan

Valsartan

Non-Preferred:

Daklinza™ (daclatasvir)

Sovaldi® (sofosbuvir)

Clerical - Various clerical changes were made to system class, drug and form names.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, 3rd Floor, Salem, OR 97301

Telephone: (503) 945-6430

Rule Caption: Amending Prior Authorization Approval Criteria Guide

Date:	Time:	Location:
10-17-17	10:30 a.m.	500 Summer St. NE Salem, OR 97301, Rm. 137B

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325, 414.330-414.414, 414.312, 414.316

Stats. Implemented: ORS 414.065; 414.325, 414.334, 414.361, 414.369, 414.371, 414.353, 414.354

Proposed Amendments: OAR 410-121-0040

Proposed Repeals: OAR 410-121-0040(T)

Last Date for Comment: 10-19-17, 5 p.m.

Summary: The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows: The Authority is amending this rule to update the Oregon Medicaid Fee for Service Prior Authorization Criteria Guide found at <http://www.oregon.gov/oha/HSD/OHP/Pages/Policy-Pharmacy.aspx> based on the P&T (Pharmacy and Therapeutic) Committee recommendations.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, 3rd Floor, Salem, OR 97301

Telephone: (503) 945-6430

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Rule Caption: Comply with Amended CFRs for Dispensing Fees; Revise Reimbursement Methodology for Certain Practitioner Administered Drugs

Date:	Time:	Location:
10-17-17	10:30 a.m.	500 Summer St. NE, Rm. 137B Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.025, 414.033, 414.065, 414.095, 414.728, 414.742 & 414.743

Proposed Amendments: 410-121-0160, 410-120-1340

Last Date for Comment: 10-19-17, 5 p.m.

Summary: The Division needs to amend these rules to stay in compliance with federal law by updating professional dispensing fee rates based on Oregon's most recent Professional Dispensing Fee Analysis. Amendment is also needed for federal compliance by more closely matching the ingredient cost for Practitioner Administered Drugs (PADs) when there is no published Medicare rate. The changes in this filing apply to fee-for-service coverage of pharmacy benefits.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, 3rd Floor, Salem, OR 97301

Telephone: (503) 945-6430

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Rule Caption: The Eligibility Criteria for TCM Children and Infant Eligibility

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: OAR 410-138-0040

Proposed Repeals: OAR 410-138-0040(T)

Last Date for Comment: 10-19-17, 5 p.m.

Summary: Amending to include full eligibility table from corresponding state plan amendment.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, 3rd Floor, Salem, OR 97301

Telephone: (503) 945-6430

NOTICES OF PROPOSED RULEMAKING

Oregon Health Authority, Public Health Division Chapter 333

Rule Caption: Administrative process for changing name and sex on birth certificate related to gender identity

Date: 10-25-17 **Time:** 2:30 p.m. **Location:** Portland State Office Bldg., 800 NE Oregon St., Rm. 1C Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 432.015, 432.098, 432.235, 432.245, 432.289, 432.380

Other Auth.: Oregon Laws 2017, chapter 100

Stats. Implemented: ORS 432.098, 432.235, 432.245, 432.289, 432.380

Proposed Adoptions: 333-011-0271, 333-011-0272, 333-011-0273, 333-011-0327

Proposed Amendments: 333-011-0265, 333-011-0275

Last Date for Comment: 10-27-17, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division is proposing to permanently adopt and amend rules in chapter 333, division 11 pertaining to vital records. The rules are being revised to implement House Bill 2673 (Oregon Laws 2017, chapter 100), passed by the Oregon Legislature in May 2017. House Bill 2673 creates an administrative process to change name and sex (separately) when the change is requested because the individual's sex on their birth certificate does not match their gender identity.

The new law takes effect October 6, 2017 and is operational January 1, 2018. The new law requires rules to implement. The subject of the rules is birth records. The goal of these rules is to implement the new law.

Rules Coordinator: Brittany Hall

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

Telephone: (503) 449-9808

Rule Caption: In-Home Care Agency and Hospice Agency Licensing Fees

Date: 10-18-17 **Time:** 2:30 p.m. **Location:** Portland State Office Bldg., 800 NE Oregon St., Rm. 1C Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 443.315, 443.340, 443.860

Other Auth.: OL 2017, chapter 559

Stats. Implemented: ORS 443.315, 443.340 & 443.860

Proposed Amendments: 333-035-0055, 333-536-0010

Proposed Repeals: 333-536-0031

Last Date for Comment: 10-23-17, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division is proposing to permanently amend OAR 333-035-0055 pertaining to hospice agency licensing fees, and permanently amend and repeal administrative rules in chapter 333, division 536 pertaining to in-home care agency licensing fees.

In response to passage of SB 53 (Oregon Laws 2017, chapter 559), administrative rules have been amended and repealed to clarify that an in-home care agency and hospice agency must submit a fee in accordance with ORS 443.315 and ORS 443.860 versus identifying fee language in rule. Changes will eliminate the need to amend rules in the future should the statutes change.

Amend OAR 333-035-0055: The 2017 Oregon Legislature approved fee increases for licensure of Hospice agencies. The rule is being amended to remove fee details and reference the statute instead eliminating the need for a future rule change should fees be amended again.

Amend OAR 333-536-0010: The 2017 Oregon Legislature approved fee increases for licensure of In-Home Care agencies. This

rule is being amended to add a reference that the application for licensure must be accompanied by the fee specified in statute.

Repeal OAR 333-536-0031: The 2017 Oregon Legislature approved fee increases for licensure of In-Home Care agencies. This rule is being repealed in order to remove fee details eliminating the need for a future rule change should fees be amended again.

Rules Coordinator: Brittany Hall

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

Telephone: (503) 449-9808

Oregon Housing and Community Services Department Chapter 813

Rule Caption: Updates 813-055-0001 and 813-055-0040 to reference current program manuals

Date: 10-26-17 **Time:** 10 a.m. **Location:** 725 Summer St. NE, Rm. 124B Salem, OR

Hearing Officer: Ariel Nelson

Stat. Auth.: ORS 456.555, 458.665

Stats. Implemented: ORS 456.515–456.725, 458.665

Proposed Amendments: 813-055-0001, 813-055-0040

Last Date for Comment: 10-26-17, Close of Hearing

Summary: Updates manual references from the "General Housing Account Program (GHAP) Manual dated June 2, 2014" to the "GHAP Manual dated July 1, 2016" and from "GHAP Manual and General Manual" to the "General Policy and Guideline Manual (GPGM)."

Rules Coordinator: Ariel Nelson

Address: Oregon Housing and Community Services Department, 725 Summer St. NE, Suite B, Salem, OR 97301

Telephone: (503) 949-0201

Rule Caption: The rules implement the Elderly Rental Assistance Program

Date: 11-2-17 **Time:** 10 a.m. **Location:** 725 Summer St. NE Salem, OR 97301, Rm. 124B

Hearing Officer: Theresa Wingard

Stat. Auth.: ORS 456.555

Other Auth.: SB 296 (2015)

Stats. Implemented: ORS 458.375 & 458.377, 458.505, 458.620 & 458.650

Proposed Adoptions: 813-053-0000, 813-053-0010, 813-053-0020, 813-053-0030, 813-053-0040, 813-053-0050, 813-053-0060, 813-053-0070, 813-053-0080, 813-053-0090

Last Date for Comment: 11-3-17, Close of Business

Summary: These rules implement the Elderly Rental Assistance Program. The program provides funding for local homeless programs to assist very-low-income homeless persons or those persons who are risk of becoming homeless and unstably housed, where a household member is 58 years or older.

Rules Coordinator: Ariel Nelson

Address: Oregon Housing and Community Services Department, 725 Summer St. NE, Suite B, Salem, OR 97301

Telephone: (503) 949-0201

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Clarify how PERS applies the Internal Revenue Code COLA to the annual IRC §415 limitation.

Date: 10-25-17 **Time:** 2 p.m. **Location:** PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR 97223

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.630, 238.650 & 238A.125

Stats. Implemented: ORS 238.005–238.715

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 459-005-0535

Last Date for Comment: 11-3-17, 5 p.m.

Summary: The benefit amount payable to any PERS member for a calendar year is limited by Internal Revenue Code Section 415(b). The applicable dollar limitation may be increased by a cost-of-living adjustment, as determined by the IRS. Currently, OAR 459-005-0535 allows for such an adjustment; however, in order to provide further clarity, PERS is amending the rule to include language specifying that the cost-of-living adjustment is applied to the applicable dollar limitation for years between a member's separation from employment and retirement, as well as to the years after the member begins receiving benefits.

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281

Telephone: (503) 603-7713

Rule Caption: Improve rules regarding employer side accounts to give employers more flexibility.

Date:	Time:	Location:
10-25-17	2 p.m.	PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR 97223

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.225–238.229

Proposed Adoptions: 459-009-0086

Proposed Amendments: 459-009-0084, 459-009-0085, 459-009-0090

Last Date for Comment: 11-3-17, 5 p.m.

Summary: Ease requirements regarding employer side accounts. Housekeeping edits relating to employer lump-sum unfunded actuarial liability (UAL) payments, surplus lump-sum payments, and side accounts. Add new rule regarding additional payments to existing employer side accounts. Modify existing rules for: 1. UAL lump-sum payments that receive an actuarial calculation, and 2. UAL lump-sum payments that do not receive an actuarial calculation.

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281

Telephone: (503) 603-7713

Oregon State Lottery Chapter 177

Rule Caption: Amends game matrix; revises odds of winning, ticket price, starting Jackpot; declines Jackpot only option

Date:	Time:	Location:
10-17-17	9 a.m.	Oregon State Lottery Headquarters 500 Airport Rd. SE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS Chapter 461

Other Auth.: Oregon Constitution, Article XV, Section 4(4)

Stats. Implemented: ORS 461.210, 461.220, 461.230, 461.240, & 461.250

Proposed Adoptions: 177-098-0120

Proposed Amendments: 177-098-0010, 177-098-0020, 177-098-0040, 177-098-0050, 177-098-0060, 177-098-0070, 177-098-0110

Last Date for Comment: 10-17-17, 9:30 a.m.

Summary: The Oregon Lottery proposes to amend the above referenced administrative rules and adopt one new rule for the Mega Millions game.

The Mega Millions game is being updated with a new game matrix (which revises the odds of winning) and a larger starting jackpot of \$40,000,000. The odds of winning the second prize level of \$1,000,000 have been improved. The price of a Mega Millions game ticket for a single wager is being increased to \$2. Oregon is declining the Just the Jackpot purchase option. It is anticipated that these changes will attract more players resulting in higher jackpots and more prize payments.

These amendments are required to implement changes made to the Mega Millions game by the Multi-State Lottery Association, the national organization that administers the multi-state Mega Millions game.

The amendments will be effective for drawings held on or after October 31, 2017, and for tickets purchased for such drawings.

Rules Coordinator: Joan Stevens-Schwenger

Address: Oregon State Lottery, 500 Airport Way SE, Salem, OR 97309

Telephone: (503) 540-1181

Water Resources Department Chapter 690

Rule Caption: Well Construction Bond Increase; Landowner Well Construction Permit Fee Increase; and Landowner Well Permit Requirement

Date:	Time:	Location:
10-27-17	2:30 p.m.	North Mall Office Bldg. 725 Summer St. NE, Rm. 124B Salem, OR 97301

Hearing Officer: Kris Byrd

Stat. Auth.: ORS 183, 536, 537 & 540

Stats. Implemented: ORS 183, ORS 536 & ORS 537

Proposed Amendments: 690-205-0005, 690-205-0175, 690-240-0035, 690-240-0055, 690-240-0340

Last Date for Comment: 11-03-17, 5 p.m.

Summary: The Department proposes these rule changes to implement modifications made to ORS 537.753 by House Bill 2296A during the 2017 legislative session. The changes include:

- Bond increase from \$10,000 to \$20,000 for water well constructors.
- Bond increase from \$5,000 to \$10,000 for landowner water well construction.
- Well construction permit application fee increase from \$25 to \$500 for landowners who are not licensed to construct wells.
- Clarification of when a landowner well construction permit is required.

Rules Coordinator: Diana Enright

Address: Water Resources Department, 725 Summer St. NE, Salem, OR 97301

Telephone: (503) 986-0874

ADMINISTRATIVE RULES

Board of Examiners for Engineering and Land Surveying Chapter 820

f. & cert. ef. 5-21-15; BEELS 7-2015, f. & cert. ef. 9-16-15; BEELS 3-2016, f. & cert. ef. 2-16-16; BEELS 4-2017, f. & cert. ef. 7-12-17; BEELS 5-2017, f. & cert. ef. 9-15-17

Rule Caption: Increase license application and renewal fees for professional engineers, professional land surveyors, and professional photogrammetrists.

Adm. Order No.: BEELS 5-2017

Filed with Sec. of State: 9-15-2017

Certified to be Effective: 9-15-17

Notice Publication Date: 8-1-2017

Rules Amended: 820-010-0505, 820-080-0010

Subject: OAR 820-010-0505 — The amendments increase the biennial renewal rate for professional engineers, professional land surveyors, and registered professional photogrammetrists from \$150.00 every two years to \$190.00 every two years.

OAR 820-080-0010 — The amendments increase the fee schedule for: the registration application fee and biennial renewal fees. The registration application fee increases from \$360.00 to \$400.00. This applies to applications for registration as a professional engineer, professional land surveyor, or professional photogrammetrist. The biennial renewal fees for professional registrants increase from \$150.00 every two years to \$190.00 every two years. The amendments also take into consideration the application fee for professional registration in a newly established branch of engineering, land surveying, or photogrammetric mapping, as allowed by ORS 672.153.

Rules Coordinator: Jenn Gilbert — (503) 934-2107

820-010-0505

Biennial Renewal of Registration or Certification

(1) Registration with the Board as a professional engineer, professional land surveyor, or professional photogrammetrist is on a biennial renewal schedule. As a condition of registration renewal, registrants must demonstrate compliance with the continuing professional development requirements in OAR 820-010-0635. Verification of completing the required professional development requirements on the CPD Organizational Form and fee must be postmarked or hand delivered by 5:00 p.m. on the day of the expiration date of the registration. The biennial fee to renew a registration is described below:

- (a) Professional Engineer — \$190.00;
- (b) Professional Land Surveyor — \$190.00;
- (c) Professional Photogrammetrist — \$190.00.

(2) Certification as a certified water right examiner is on a biennial renewal schedule. The fee must be postmarked or hand delivered by 5:00 p.m. on the day of the expiration date of the certification. The biennial fee to renew a certification as a water right examiner is \$40.00

(3) A delinquent fee of \$80.00 will be assessed on the first day following the expiration date of each registration or certification for each biennial renewal period in which renewal fee payment or verification of having timely completed the required continuing professional development hours has not been submitted.

(a) A registration or certification that is delinquent for failure to pay the renewal fee will remain in “delinquent” status until all delinquent fees that are due, and the required renewal fee, are paid.

(b) A registration or certification that is delinquent for failure to submit verification of having timely completed the required continuing professional development hours, when such hours have been completed, will remain in “delinquent” status until the delinquent fee is paid and the verification is submitted.

(c) A registration or certification that is suspended or for which renewal is refused because of failure to complete the required continuing professional development hours cannot be returned to active status or renewed until any delinquent fees and any biennial renewal fees due are paid, in addition to any conditions imposed by the Board for renewal or lifting of the suspension.

(4) Registrations or certificates in the delinquent or retired status for a period of 5 years or more may not be renewed. Delinquent or retired registrants or certificate holders must re-apply and re-take any applicable examination to obtain their certificate of registration or other certificate after their registrations have been delinquent or retired for a period of 5 years or more.

Stat. Auth.: ORS 670.310, 672.168, 672.170, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 1-2012(Temp), f. & cert. ef. 3-16-12 thru 5-15-12; BEELS 2-2012, f. & cert. ef. 5-10-12; BEELS 1-2015, f. & cert. ef. 2-3-15; BEELS 2-2015,

820-080-0010

Fees

For the purposes of ORS 672.155, the Board shall charge the following fees:

- (1) Registration application fee — \$400.
- (2) Additional branch fee — \$35.
- (3) Examination application fees:
 - (a) Oregon Specific Acoustical examination — \$55.
 - (b) Oregon Specific Forest examination — \$55.
 - (c) Oregon Specific Land Surveying examination — \$55.
- (4) Certified Water Right Examiner examination and certification application fee — \$200.
- (5) Biennial registration renewal fee:
 - (a) Professional engineer — \$190.00.
 - (b) Professional land surveyor — \$190.00.
 - (c) Professional photogrammetrist — \$190.00.
 - (d) Certified water right examiner — \$40.
- (6) Delinquency renewal fee — \$80 for any part of each biennial registration renewal period during delinquency.
- (7) Issuance of a temporary permit under ORS 672.109 or 672.127 — \$100.
- (8) Declaration/issuance of an intern enrollment number — \$35.
- (9) Re-issuance of professional wall certificate — \$35.
- (10) Re-issuance of renewal certificate and pocket card — \$10.
- (11) Verification of certification(s) and/or registration(s) — \$15.
- (12) Issuance of certificate of registration under ORS 672.153, without examination based on experience — \$290.
- (13) Reinstatement for inactive registrant or certificate holder — \$50.
- (14) Reinstatement for retired registrant or certificate holder — \$225.
- (15) Re-score of an Oregon specific examination item — \$50.

Stat. Auth.: ORS 670.310, 672.153, 672.155, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16; BEELS 8-2015, f. & cert. ef. 11-13-15; BEELS 6-2016, f. & cert. ef. 10-4-16; BEELS 4-2017, f. & cert. ef. 7-12-17; BEELS 5-2017, f. & cert. ef. 9-15-17

Board of Nursing Chapter 851

Rule Caption: Removes the 384 hour RN practice requirement for initial NP licensure.

Adm. Order No.: BN 9-2017

Filed with Sec. of State: 9-15-2017

Certified to be Effective: 10-1-17

Notice Publication Date: 8-1-2017

Rules Amended: 851-050-0004

Subject: The rule revisions were in response to the Oregon Health & Sciences (OHSU) School of Nursing (SON) faculty and the Advanced Practice Registered Nurse (APRN) Rules Advisory Committee (RAC) recommendation to delete the 384 hour RN practice requirement for initial NP licensure, which is a barrier to NP licensure in Oregon.

Rules Coordinator: Peggy Lightfoot — (971) 673-0638

851-050-0004

Nurse Practitioner Practice Requirements

(1) The practice requirement as a nurse practitioner must be met through practice, which meets the definition in OAR 851-050-0000(17) in the following manner:

- (a) Completion of a nurse practitioner program within the past one year; or
- (b) Completion of a nurse practitioner program within the past two years and a minimum of 192 hours of practice as a nurse practitioner; or
- (c) 960 hours of nurse practitioner practice within the five years preceding certification application or renewal; or
- (d) Completion of a Board supervised advanced practice re-entry program which meets the requirements of OAR 851-050-0006 within two years immediately preceding issuance of certification under a limited or registered nurse license and a limited nurse practitioner certificate.

(2) All practice hours claimed are subject to audit and disciplinary action for falsification.

Stat. Auth.: ORS 678.375, 678.380 & 678.390

Stats. Implemented: ORS 678.380 & 390

ADMINISTRATIVE RULES

Hist.: BN 10-2003, f. & cert. ef. 10-2-03; BN 8-2004, f. 5-4-04, cert. ef. 5-12-04; BN 9-2009, f. 12-17-09, cert. ef. 1-1-10; BN 6-2012, f. 5-7-12, cert. ef. 6-1-12; BN 4-2017(Temp), f. 4-14-17, cert. ef. 4-15-17 thru 10-10-17; BN 9-2017, f. 9-15-17, cert. ef. 10-1-17

Rule Caption: Change will allow qualified NPs to prescribe medication assisted treatment medications to include Buprenorphine (Suboxone).

Adm. Order No.: BN 10-2017

Filed with Sec. of State: 9-15-2017

Certified to be Effective: 10-1-17

Notice Publication Date: 8-1-2017

Rules Amended: 851-056-0026

Subject: The amendment will allow qualified Nurse Practitioners to prescribe medication assisted treatment (MAT) medications to include Buprenorphine (Suboxone). The change is in response to Federal Legislation know as the Comprehensive Addiction and Recovery Act (CARA), July 2016, which made allowances for Nurse Practitioners to prescribe Buprenorphine for MAT.

Rules Coordinator: Peggy Lightfoot—(971) 673-0638

851-056-0026

Rules Relating to Controlled Substances

(1) In the administration, distribution, storage, prescribing, and dispensing of controlled substances, APRNs shall comply with all applicable requirements in the Code of Federal Regulations (CFR), Title 21, and state law, including but not limited to, ORS Chapter 430 and 475 and OAR chapter 415 and 855.

(2) Nurse practitioners and clinical nurse specialists shall not dispense a controlled substance without current dispensing authority. Distribution of prepackaged, complimentary drug samples is not considered dispensing (ORS 689.005(9)).

(3) APRNs who have authority from the Drug Enforcement Administration (DEA) to prescribe controlled substances must verify evidence of such with their prescriptive authority renewal application. A nurse with prescriptive authority may choose to decline DEA certification and must verify so in writing.

(4) Storage and inventory of controlled substances:

(a) Samples or quantities of controlled substances shall be stored in a securely locked cabinet on the premises of the APRNs practice location.

(b) APRNs who receive samples or quantities of controlled substances shall be responsible for the security, inventory, and disposal of these drugs.

(c) APRNs shall maintain inventory records of controlled substances that they receive or distribute for a period of three years. The records shall include:

(A) Drug name, amount received, date received, drug expiration date;
(B) Drug name, amount distributed, date distributed, to whom distributed;

(C) Drug name and the date and place where it was returned for destruction.

(d) Controlled substances that are expired, deteriorated, or unwanted shall be returned to a DEA registered disposal site or disposal system or law enforcement authorities. This does not include controlled substances which are properly wasted at the facility where they were to be administered. In this context, "properly wasted" means that on-site destruction of a controlled substance in conformance with applicable state and federal law. APRNs shall not personally destroy controlled substances.

(e) Controlled substances must be transported in a secured, locked container.

(f) Client records shall state the distribution of controlled substance samples.

(g) Theft of controlled substances shall be immediately reported upon discovery to the DEA and to any other required authorities.

(h) APRNs who receive controlled substances shall cooperate with the Board in their inspection of records and physical inventory of controlled substances. Inventory of all controlled substances shall be taken by the prescriber responsible for their receipt and storage every year on the same date as the biennial inventory required by 21 CFR 1304.13.

(i) If requested by the Board, any APRN who receives controlled substances shall submit a copy of inventory records from the preceding two years for review.

(5) Prescribing controlled substances:

(a) APRNs shall only prescribe the controlled substances from Schedules II–V, at the level provided for on their DEA certificate.

(b) Nurse Practitioners who treat opioid addiction must demonstrate that they meet federal requirements and obtain a waiver from the Substance Abuse and Mental Health Services Administration (SAMHSA). To qualify for such a waiver, nurse practitioners must:

(A) Hold a current DEA registration with an identification number that specifically authorizes him or her to engage in medication assisted treatment of opioid addiction;

(B) Hold current Nurse Practitioner Certification in Oregon;

(C) Hold current Prescriptive Authority (NP-PP designation on licensure);

(D) Complete all SAMHSA required training related to the treatment and management of opioid addiction;

(E) Comply with all federal and state regulations applicable to controlled substances.

(6) Intractable or chronic pain management:

(a) APRNs may prescribe or administer controlled substances to a person in the course of their treatment for a diagnosed condition causing pain, defined in OAR 851-056-0000(18).

(b) The diagnosis and treatment of intractable or chronic pain requires documentation of the following:

(A) A recent diagnosis of the condition (if acute or unstable), or past diagnosis (if chronic and stable) causing pain, by one or more licensed practitioners specializing in the treatment of the body area, system, or organ perceived as the source of pain; and

(B) A written material risks notice specific to the patient's condition and treatment; and

(C) A consultation and review of the pain treatment plan where clinically indicated if the patient shows limited or no improvement.

(c) APRNs must have a complete discussion with the patient or person authorized to make health care decisions for the patient regarding the diagnosis, as well as the risk, benefits, alternatives, side effects, and potential for addiction and withdrawal of the controlled substance, along with any other applicable precautions. These discussions must be documented in the patient record. Documentation must include a plan for period review of patient response and follow-up.

(d) APRNs shall document patient use of controlled substances for chronic or intractable pain, including history and assessment to rule out substance abuse. Evidence of patient addiction or abuse requires referral and/or transfer of care for further diagnosis and treatment.

Stat. Auth.: ORS 678.150 & 678.285

Stats. Implemented: ORS 678.111, 678.370, 678.372, 678.375, 678.380, 678.385 & 678.390
Hist.: BN 10-2006, f. & cert. ef. 10-5-06; BN 5-2008, f. & cert. ef. 6-24-08; BN 9-2014, f. 12-5-14, cert. ef. 1-1-15; BN 2-2015, f. 6-23-15, cert. ef. 8-1-15; BN 3-2017(Temp), f. 4-14-17, cert. ef. 4-15-17 thru 10-10-17; BN 10-2017, f. 9-15-17, cert. ef. 10-1-17

Construction Contractors Board Chapter 812

Rule Caption: Eliminates redundant language regarding lead-based paint rules, and adopts federal regulations by reference.

Adm. Order No.: CCB 2-2017

Filed with Sec. of State: 8-25-2017

Certified to be Effective: 9-1-17

Notice Publication Date: 8-1-2017

Rules Adopted: 812-007-0015

Rules Amended: 812-005-0800, 812-007-0000, 812-007-0020, 812-007-0150, 812-007-0250, 812-007-0310, 812-007-0330, 812-007-0350

Rules Repealed: 812-007-0140, 812-007-0240, 812-007-0302, 812-007-0340, 812-007-0370, 812-007-0372, 812-007-0374

Subject: ADOPT:

812-007-0015 is adopted to adopt federal regulations governing lead-based paint activities and lead-based paint renovation by reference.

AMEND:

812-005-0800 is amended to remove references to lead-based paint rules that will be repealed or that no longer exist.

812-007-0000 is amended to indicate the division 7 rules apply only to CCB.

812-007-0020 is amended to remove definitions already found in federal regulations.

812-007-0150 is amended to remove reference to OAR 333-069-0070 and adopt by reference the relevant federal regulation.

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812-007-0250 is amended to remove reference to OAR 333-069-0070 and adopt by reference the relevant federal regulation.

812-007-0310 is amended to remove reference to OAR 333-070-0100 and adopt by reference the relevant federal regulation.

812-007-0330 is amended to remove reference to OAR 333-070-0100 and adopt by reference the relevant federal regulation.

812-007-0350 is amended to remove reference to OARs that no longer exist and adopt by reference the relevant federal regulations.

REPEAL:

812-007-0140 is repealed because it adopts by reference an OAR that no longer exists.

812-007-0240 is repealed because it adopts by reference an OAR that no longer exists.

812-007-0302 is repealed because it adopts by reference OARs that no longer exist.

812-007-0340 is repealed because it adopts by reference an OAR that no longer exists.

812-007-0370 is repealed because the rule is no longer necessary; CCB has adopted federal regulations that govern information distribution requirements for target housing dwelling units.

812-007-0372 is repealed because the rule is no longer necessary; CCB has adopted federal regulations that govern information distribution requirements for target housing common areas.

812-007-0374 is repealed because the rule is no longer necessary; CCB has adopted federal regulations that govern information distribution requirements for child-occupied facilities.

Rules Coordinator: Leslie Culpepper—(503) 934-2228

812-005-0800

Schedule of Penalties

The agency may assess penalties, not to exceed the amounts shown in the following guidelines:

(1) \$600 for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, which may be reduced to \$200 if the respondent becomes licensed or to \$50 if the advertisement or bid is withdrawn immediately upon notification from the agency that a violation has occurred and no work was accepted as a result of the advertisement or bid; and

(2) \$700 per offense without possibility of reduction for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, when one or more previous violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(3) \$1,000 per offense for performing work as a contractor in violation of ORS 701.021 when the Board has no evidence that the person has worked previously without having a license and no consumer has suffered damages from the work, which may be reduced to \$700 if the respondent becomes licensed within a specified time; and

(4)(a) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when an owner has filed a complaint for damages caused by performance of that work, which may be reduced to \$700 if the contractor becomes licensed within a specified time and settles or makes reasonable attempts to settle with the owner.

(b) A “complaint for damages” as used in section (4) of this rule includes, but is not limited to:

(A) A Construction Contractors Board Dispute Resolution Services (DRS) complaint; or

(B) A letter to Construction Contractors Board indicating that a citizen has been damaged by the contractor; and

(5) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when one or more violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(6) \$500 per offense for failure to respond to the agency’s request for the list of subcontractors required in ORS 701.345; and

(7) \$1,000 per offense for hiring an unlicensed subcontractor; and

(8) For failing to provide an “Information Notice to Owners about Construction Liens” as provided in ORS 87.093, when no lien has been filed, \$200 for the first offense, \$400 for the second offense, \$600 for the third offense, \$1,000 for each subsequent offense. Any time a lien has been filed upon the improvement, \$1,000.

(9) Failure to include license number in advertising or on contracts, in violation of OAR 812-003-0120: First offense \$100, second offense \$200, subsequent offenses \$400.

(10) Failure to list with the Construction Contractors Board a business name under which business as a contractor is conducted in violation of OAR 812-003-0260 or 812-003-0280: First offense \$50, second offense \$100, subsequent offenses \$200.

(11) Failure to notify the Construction Contractors Board of a new or additional business name or personal surname (for sole proprietors) under which business as a contractor is conducted, in violation of OAR 812-003-0320: First offense \$50, second offense \$100, subsequent offenses \$200.

(12) Failing to use a written contract as required by ORS 701.305: \$500 for the first offense; \$1,000 for the second offense; and \$5,000 for subsequent offenses.

(13) Violation of OAR 812-012-0130(1), failure to provide a Consumer Notification form; \$100 first offense; \$500 second offense; \$1,000 third offense; and \$5,000 for subsequent offenses. Civil penalties shall not be reduced unless the agency determines from clear and convincing evidence that compelling circumstances require a suspension of a portion of the penalty in the interest of justice. In no event shall a civil penalty for this offense be reduced below \$100.

(14) Failure to conform to information provided on the application in violation of ORS 701.046(5), issuance of a \$5,000 civil penalty, and suspension of the license until the contractor provides the agency with proof of conformance with the application and the terms of the application.

(a) If the violator is a limited contractor or residential limited contractor working in violation of the conditions established pursuant to OAR 812-003-0130 or 812-003-0131, the licensee shall be permanently barred from licensure in the limited contractor category or residential limited contractor endorsement.

(b) If the violator is a licensed developer, residential developer or commercial developer working in violation of the conditions established pursuant to ORS 701.005(3), (6) or (14) or 701.042, the licensee shall be permanently barred from licensure in the licensed developer category or residential developer or commercial developer endorsement.

(15) Knowingly assisting an unlicensed contractor to act in violation of ORS chapter 701, \$1,000.

(16) Failure to comply with any part of ORS Chapters 316, 656, or 657 or with ORS 701.035, 701.046 or 701.091, \$1,000 and suspension of the license until the contractor provides the agency with proof of compliance with the statute.

(17) Violating an order to stop work as authorized by ORS 701.225(6), \$1,000 per day.

(18) Working without a construction permit in violation of ORS 701.098, \$1,000 for the first offense; \$2,000 and suspension of CCB license for three (3) months for the second offense; \$5,000 and permanent revocation of CCB license for the third and subsequent offenses.

(19) Failure to comply with an investigatory order issued by the Board, \$500 and suspension of the license until the contractor complies with the order.

(20) Violation of ORS 701.098(1)(L) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public: first offense, \$1,000, suspension of the license or both; second and subsequent offenses, \$5,000, per violation, revocation or suspension of the license until the fraudulent conduct is mitigated in a manner satisfactory to the agency or both.

(21) Engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public by:

(a) Not paying prevailing wage on a public works job; or

(b) Violating the federal Davis-Bacon Act; or

(c) Failing to pay minimum wages or overtime wages as required under state and federal law; or

(d) Failing to comply with the payroll certification requirements of ORS 279C.845; or

(e) Failing to comply with the posting requirements of ORS 279C.840;

\$1,000 and suspension of the license until the money required as wages for employees is paid in full and the contractor is in compliance with the appropriate state and federal laws.

(22) Violation of ORS 701.098(1)(L) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public, as described in sections (20) or (21), where more than two violations have occurred: \$5,000 and revocation of the license.

(23) When, as set forth in ORS 701.098(1)(h), the number of licensed contractors working together on the same task on the same job site, where

ADMINISTRATIVE RULES

one of the contractors is licensed exempt under ORS 701.035(2)(b), exceeded two sole proprietors, one partnership, or one limited liability company, penalties shall be imposed on each of the persons to whom the contract is awarded and each of the persons who award the contract, as follows: \$1,000 for the first offense, \$2,000 for the second offense, six month suspension of the license for the third offense, and three-year revocation of license for a fourth offense.

(24) Performing home inspections without being an Oregon certified home inspector in violation of OAR 812-008-0030(1): \$5,000.

(25) Using the title Oregon certified home inspector in advertising, bidding or otherwise holding out as a home inspector in violation of OAR 812-008-0030(3): \$5,000.

(26) Failure to conform to the Standards of Practice in violation of OAR 812-008-0202 through 812-008-0214: \$750 per offense.

(27) Failure to conform to the Standards of Behavior in OAR 812-008-0201(2)-(4): \$750 per offense.

(28) Offering to undertake, bidding to undertake or undertaking repairs on a structure inspected by an owner or employee of the business entity within 12 months following the inspection in violation of ORS 701.355: \$5,000 per offense.

(29) Failure to include certification number in all written reports, bids, contracts, and an individual's business cards in violation of OAR 812-008-0202(4): \$400 per offense.

(30) Violation of work practice standards for lead-based paint (LBP) activity, first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 plus suspension of license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(31) Violation of work practice standards for LBP renovation, first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 and suspension of the certified LBP renovation contractor license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(32) Violation of OAR 812-007-0100, 812-007-0200 or 812-007-0300: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000. The civil penalty is payable to the Construction Contractors Board Lead-Based Paint (LBP) Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(33) Violation of ORS 279C.590:

(a) Imposition of a civil penalty on the contractor of up to ten percent of the amount of the subcontract bid submitted by the complaining subcontractor to the contractor or \$15,000, whichever is less; and

(b) Imposition of a civil penalty on the contractor of up to \$1,000; and

(c) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to six months for a second offense if the offense occurs within three years of the first offense.

(d) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to one year for a third or subsequent offense if the offense occurs within three years of the first offense.

(34) Violation of ORS 701.315, inclusion of provisions in a contract that preclude a homeowner from filing a breach of contract complaint with the Board: \$1,000 for the first offense, \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(35) Violation of ORS 701.345, failure to maintain the list of subcontractors: \$1,000 for the first offense; \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(36) Violation of 701.098(1)(f), knowingly providing false information to the Board: \$1,000 and suspension of the license for up to three months for the first offense; \$2,000 and suspension of the license for up to one year for the second offense; and \$5,000 and permanent revocation of license for the third offense.

(37) Failing to provide a written contract with the contractual terms provided by ORS 701.305 or OAR 812-012-0110: \$200 for the first offense; \$500 for the second offense; and \$1,000 for subsequent offenses.

(38) Working while the license is suspended if the licensee was required to provide an increased bond under ORS 701.068(5), 701.068(6), or OAR 812-003-0175: revocation.

(39) Working while the license is suspended for any violation of ORS 701.098(4)(a)(A) or ORS 701.098(4)(a)(B): \$5,000 for first offense, and revocation for second or subsequent offense.

(40) Working while the license is suspended for any reason except as otherwise provided for by this rule: revocation.

(41) Failure to comply with ORS 701.106(1)(a); \$1,000 for the first offense, \$5,000 for the second offense; \$5,000 and permanent revocation of CCB license for the third offense.

(42) Failure to deliver as required by ORS 701.109(2) a copy of a final judgment; \$200 first offense, \$400 second offense; \$600 for the third offense; \$1,000 for each subsequent offense.

(43) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is no claim of loss submitted to the insurance company: first offense, \$500; second offense, \$1,000; third and subsequent offenses, \$5,000.

(44) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is a claim of loss submitted to the insurance company: first offense, \$2,000; second and subsequent offenses, \$5,000.

(45) Undertaking, offering to undertake, or submitting a bid to work as a locksmith when an individual is not certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(46) Undertaking, offering to undertake, or submitting a bid to provide locksmith services when a business is not a licensed construction contractor or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(47) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the individual is a locksmith, unless an individual is certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(48) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the business providing locksmith services, unless a business: (a) is a licensed construction contractor, and (b) is owned by or employs a certified locksmith or is otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(49) Violating any applicable provision of the rules in division 30, including violating any standard of professional conduct other than OAR 812-030-0300(4): first offense, \$1,000; second offense, \$3,000; third offense, \$5,000 and revocation of the certificate.

(50) Violating OAR 812-030-0300(4): first offense, \$200; second offense, \$500; third offense, \$1,000.

Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.235, 701.515, 701.992 & 701.995

Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.021, 701.026, 701.042, 701.046, 701.073, 701.091, 701.098, 701.106, 701.109, 701.227, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.510, 701.515, 701.992 & 701.995

Hist.: IBB 4-1982, f. & ef. 10-7-82; IBB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0080(13); IBB 3-1983, f. 10-5-83, ef. 10-15-83; IBB 3-1984, f. & ef. 5-11-84; IBB 3-1985, f. & ef. 4-25-85; BB 1-1987, f. & ef. 3-5-87, BB 1-1988(Temp), f. & cert. ef. 1-26-88; BB 2-1988, f. & cert. ef. 6-6-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 3-1990(Temp), f. & cert. ef. 7-27-90; CCB 4-1990, f. 10-30-90, cert. ef. 11-1-90; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 4-1992, f. & cert. ef. 6-1-92; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 3-1996, f. & cert. ef. 8-13-96; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-1999(Temp), f. & cert. ef. 11-1-99 thru 4-29-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2000(Temp), f. & cert. ef. 11-13-00 thru 5-11-01; CCB 2-2001 f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 1-2002(Temp), f. & cert. ef. 3-1-02 thru 8-26-02; CCB 2-2002, f. & cert. ef. 3-1-02; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 6-2004, f. 6-25-04, cert. ef. 9-1-04; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 5-2005, f. 8-24-05, cert. ef. 1-1-06; Renumbered from 812-005-0005, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 2-2006, f. & cert. ef. 1-26-06; CCB 7-2006, f. & cert. ef. 6-23-06; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 4-2007, f. 6-28-07, cert. ef. 7-1-07; CCB 2-2008(Temp), f. & cert. ef. 1-2-08 thru 6-29-08; CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 13-2008, f. 6-30-08, cert. ef. 7-1-08; CCB 17-2008, f. 9-26-08, cert. ef. 10-1-08; CCB 19-2008, f. & cert. ef. 11-20-08; CCB 1-2009, f. 1-30-09, cert. ef. 2-1-09; CCB 4-2009, f. 5-6-09, cert. ef. 6-1-09; CCB 6-2009, f. & cert. ef. 9-1-09; CCB 2-2010, f. & cert. ef. 2-1-10; CCB 8-2010, f. & cert. ef. 4-28-10; CCB 13-2010(Temp), f. & cert. ef. 7-7-10 thru 1-2-11; Administrative correction 1-25-11; CCB 1-2011, f. 2-28-11, cert. ef. 3-1-11; CCB 4-2011, f. 6-24-11, cert. ef. 7-1-11; CCB 10-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 16-2011, f. 12-13-11, cert. ef. 1-1-12; CCB 3-2012, f. & cert. ef. 3-2-12; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12; CCB 6-2014, f. 6-26-14, cert. ef. 7-1-14; CCB 2-2017, f. 8-25-17, cert. ef. 9-1-17

812-007-0000

Authority, Purpose, Scope

(1) Authority. These rules are promulgated in accordance with and under the authority of ORS 701.505 to 701.520 and 701.995.

(2) Purpose. These rules establish a system to license contractors as lead-based paint (LBP) activities contractors and as certified LBP renovation contractors.

(3) Scope. These rules:

ADMINISTRATIVE RULES

(a) Prescribe the requirements for, and the manner of, licensing applicants.

(b) Establish fees.

(c) Prescribe actions that constitute failure to achieve or maintain licensing requirements, or that otherwise are contrary to the public interest, for which the board may deny, suspend or revoke a license.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 6-1996(Temp), f. & cert. ef. 11-26-96; Administrative Renumber from 812-007-0005, 5-19-97; CCB 1-1997, f. & cert. ef. 5-15-97; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 2-2017, f. 8-25-17, cert. ef. 9-1-17

812-007-0015

Federal Regulations Adopted by Reference

(1) Except as indicated herein, the board adopts, by reference, 40 CFR 745, Subpart D (Lead-Based Paint Hazards), Subpart E, (Residential Property Renovation) and Subpart L (Lead-Based Paint Activities).

(2) The board does not adopt the following regulations:

(a) 40 CFR § 745.87 (Enforcement and inspections);

(b) 40 CFR § 745.91 (Suspending, revoking, or modifying an individual's or firm's certification);

(c) 40 CFR § 745.225 (Accreditation of training programs);

(d) 40 CFR § 745.226 (Certification of individuals and firms engaged in lead-based paint activities: target housing and child-occupied facilities);

(e) 40 CFR § 745.235 (Enforcement);

(f) 40 CFR § 745.237 (Inspections);

(g) 40 CFR § 745.238 (Fees for accreditation and certification of lead-based paint activities);

(h) 40 CFR § 745.239 (Effective dates).

(3) Notwithstanding 40 CFR 745:

(a) All fees are as established in OAR 812-007-0031, 812-007-0160, 812-007-0260 and 812-007-0360.

(b) All license issuance, denial, renewal, reissuance, suspension, and revocation are as established in OAR 812, division 7.

(c) Where "Administrator" or "EPA" appears in 40 CFR 745, Subparts D, E and L, "Construction Contractors Board" or "board" is substituted, unless the context suggests otherwise.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2017, f. 8-25-17, cert. ef. 9-1-17

812-007-0020

Definitions

The following definitions apply to division 7 of OAR chapter 812.

(1) "Abatement" 40 CFR 745.223.

(2) "Accredited training program" means a training program provisionally accredited or accredited by the OHA, the Environmental Protection Agency (EPA) or an EPA-authorized state or tribal program.

(3) "Certified lead-based paint renovation contractor" means a construction contractor that is licensed by the board to conduct LBP renovation under ORS 701.515.

(4) "Certified renovator" 40 CFR 745.83.

(5) "Child-occupied facility" 40 CFR 745.83, 745.223.

(6) "Component or building component" 40 CFR 745.83, 745.223.

(7) "Course completion certificate" means documentation issued by an accredited training program to an individual as proof of successful completion of an accredited renovator training program (initial or refresher).

(8) "Deteriorated lead-based paint" 40 CFR 745.223.

(9) "Dust-lead hazard" 40 CFR 745.65.

(10) "Emergency renovation operations" 40 CFR 745.80.

(11) "Inspection" 40 CFR 745.223.

(12) "Lead abatement contractor" means a construction contractor that is licensed by the board to perform abatement.

(13) "Lead assessor" or "risk assessor" 40 CFR 745.223.

(14) "Lead-based paint" or "LBP" 40 CFR 745.223.

(15) "Lead-based paint activities" 40 CFR 745.223.

(16) "Lead inspection contractor" means a construction contractor that is licensed by the board to perform inspections or risk assessments.

(17) "Lead inspector" 40 CFR 745.223.

(18) "Lead supervisor" 40 CFR 745.223.

(19) "Lead worker" or "lead abatement worker" 40 CFR 745.223.

(20) "Minor repair and maintenance" 40 CFR 745.83.

(21) "Prohibited or restricted work activities" 40 CFR 745.85(a)(3).

(22) "Recognized test kit" 40 CFR 745.83.

(23) "Renovation" 40 CFR 745.83.

(24) "Renovation Right Pamphlet" 40 CFR 745.83.

(25) "Risk assessment" 40 CFR 745.223.

(26) "Soil lead hazard" 40 CFR 745.65.

(27) "Target housing" 40 CFR 745.223.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.505-701.520

Hist.: CCB 6-1996(Temp), f. & cert. ef. 11-26-96; Administrative Renumber from 812-007-0015, 5-19-97; CCB 1-1997, f. & cert. ef. 5-15-97; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 2-2010, f. & cert. ef. 2-1-10; CCB 5-2010(Temp), f. & cert. ef. 3-11-10 thru 9-3-10; CCB 10-2010(Temp), f. & cert. ef. 6-1-10 thru 9-3-10; CCB 14-2010, f. 8-24-10, cert. ef. 9-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 3-2012, f. & cert. ef. 3-2-12; CCB 8-2012, f. 10-26-12, cert. ef. 11-1-12; CCB 2-2017, f. 8-25-17, cert. ef. 9-1-17

812-007-0150

Denial, Suspension or Revocation of Lead-Based Paint Activity Licenses — Individuals

(1) The board may deny, suspend, or revoke an individual's license on the following grounds:

(a) Obtaining OHA certification through misrepresentation of certification requirements such as education, training, professional registration, or experience;

(b) Gaining admission to or completing continuing education by misrepresenting initial or previous education;

(c) Obtaining a license through invalid documentation;

(d) Permitting the duplication or use of the license by another;

(e) Failing to comply with applicable work practice standards in 40 CFR 745.227; or

(f) Being subject to a final administrative order or criminal conviction based on engaging in a prohibited act under rules of OHA or the board.

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 2-2017, f. 8-25-17, cert. ef. 9-1-17

812-007-0250

Denial, Suspension or Revocation of License for Lead-Based Paint Activities — Contractors

(1) The board may deny, suspend, or revoke a license of a lead abatement contractor or a lead inspection contractor on the following grounds:

(a) Obtaining OHA certification through misrepresentation of certification requirements such as education, training, professional registration, or experience;

(b) Obtaining a license through invalid documentation;

(c) Performing work requiring a license without having a current valid original license identification card available at the job site for inspection;

(d) Performing work for which there is no current, appropriate certification issued by OHA;

(e) Permitting the duplication or use of the license by another;

(f) Failing to comply with applicable work practice standards in 40 CFR 745.227;

(g) Failing to comply with local, state, or federal statutes or regulations including execution of a consent agreement in settlement of an enforcement action;

(h) Failing to maintain required records;

(i) Being subject to a final administrative order or criminal conviction based on engaging in a prohibited act under rules of the Department or the board;

(j) Failing to comply with a consent agreement in settlement of an enforcement action;

(k) For a lead abatement contractor, failing to have an owner or employee that is a licensed lead supervisor or lead worker; or

(l) For a lead inspection contractor, failing to have an owner or employee that is a licensed lead inspector or licensed lead assessor.

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 2-2017, f. 8-25-17, cert. ef. 9-1-17

812-007-0310

Application and Eligibility Requirements for Certified Lead-Based Paint Renovation Contractor

A person applying to become a certified LBP renovation contractor must submit the following:

(1) Completed application on a form provided by the board;

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(2) Proof that the person is licensed by the board as a construction contractor;

(3) The fee established in OAR 812-007-0360; and

(4) Proof that the licensee is owned by or employs at least one individual who has a current and valid course completion certificate evidencing that the individual is a certified renovator as provided in 40 CFR 745.83.

Stat. Auth.: ORS 670.310, 701.235 & 701.515
Stats. Implemented: ORS 701.510 & 701.515
Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 8-2010, f. & cert. ef. 4-28-10; CCB 2-2017, f. 8-25-17, cert. ef. 9-1-17

812-007-0330

Renewal of Certified Lead-Based Paint Renovation Contractor License

Persons licensed under these rules may renew their licenses by submitting the following:

(1) A properly completed application for license renewal on a form provided by the board;

(2) Proof that the person is licensed by the board as a construction contractor;

(3) The fee established in OAR 812-007-0360; and

(4) Proof that the licensee is owned by or employs at least one individual who has a current and valid course completion certificate evidencing that the individual is a certified renovator as provided in 40 CFR 745.83.

Stat. Auth.: ORS 670.310, 701.235 & 701.515
Stats. Implemented: ORS 701.515
Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 8-2010, f. & cert. ef. 4-28-10; CCB 2-2017, f. 8-25-17, cert. ef. 9-1-17

812-007-0350

Denial, Suspension or Revocation of Certified Lead-Based Paint Renovation Contractor License

(1) The board may deny, suspend, or revoke a license of a certified LBP renovation contractor on the following grounds:

(a) Obtaining a license through invalid documentation;

(b) Permitting the duplication or use of the license by another;

(c) Violating a rule of the board; or

(d) Violating 40 CFR §745.84 (information distribution requirements), 40 CFR §745.85 (work practice standards), or 40 CFR §745.86 (recordkeeping and reporting requirements).

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 670.310, 701.235 & 701.515
Stats. Implemented: ORS 701.510 & 701.515
Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 8-2010, f. & cert. ef. 4-28-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 3-2012, f. & cert. ef. 3-2-12; CCB 2-2017, f. 8-25-17, cert. ef. 9-1-17

Department of Administrative Services Chapter 125

Rule Caption: Amends Confidentiality and Inadmissibility of Mediation Communication and Workplace Interpersonal Dispute Mediation Communication.

Adm. Order No.: DAS 3-2017

Filed with Sec. of State: 8-29-2017

Certified to be Effective: 9-1-17

Notice Publication Date: 8-1-2017

Rules Amended: 125-140-0010, 125-140-0020

Rules Repealed: 125-140-0010(T), 125-140-0020(T)

Subject: Pursuant to ORS 36.224(4), amending the Department of Administrative Services mediation confidentiality rules OAR 125-140-0010 and 125-140-0020 to adopt by reference the Confidentiality and Inadmissibility of Mediation Communications rule OAR 137-005-0052 and the Confidentiality and Inadmissibility of Workplace Interpersonal Mediation Communications rule OAR 137-005-0054 adopted by the Attorney General effective as of 10-27-15.

Also, repeal temporary rules.

Rules Coordinator: Janet Chambers—(503) 378-5522

125-140-0010

Confidentiality and Inadmissibility of Mediation Communications

Pursuant to ORS 36.224, the Department of Administrative Services adopts by reference OAR 137-005-0052 as promulgated by the Attorney General effective as of October 27, 2015.

Stat. Auth.: ORS 36.224 & 184.340
Stats. Implemented: ORS 36.224, 36.228, 36.230 & 36.232
Hist.: DAS 1-1999, f. 4-30-99, cert. ef. 5-1-99; DAS 1-2017(Temp), f. 5-8-17, cert. ef. 5-10-17 thru 11-5-17; DAS 3-2017, f. 8-29-17, cert. ef. 9-1-17

125-140-0020

Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications

Pursuant to ORS 36.224, the Department of Administrative Services adopts by reference OAR 137-005-0054 as promulgated by the Attorney General effective as of October 27, 2015.

Stat. Auth.: ORS 36.224
Stats. Implemented: ORS 36.230(4)
Hist.: DAS 2-1999, f. 5-25-99, cert. ef. 5-26-99; DAS 1-2017(Temp), f. 5-8-17, cert. ef. 5-10-17 thru 11-5-17; DAS 3-2017, f. 8-29-17, cert. ef. 9-1-17

Department of Agriculture Chapter 603

Rule Caption: Permanent rule for sampling and testing industrial hemp products and commodities intended for human consumption.

Adm. Order No.: DOA 13-2017

Filed with Sec. of State: 8-30-2017

Certified to be Effective: 8-30-17

Notice Publication Date: 6-1-2017

Rules Adopted: 603-048-2300, 603-048-2305, 603-048-2310, 603-048-2315, 603-048-2320, 603-048-2330, 603-048-2340, 603-048-2350, 603-048-2380, 603-048-2450, 603-048-2480, 603-048-2440

Rules Amended: 603-048-0010, 603-048-0500, 603-048-0650, 603-048-0800, 603-048-1000, 603-048-0100, 603-048-0200, 603-048-0300, 603-048-0400, 603-048-0600, 603-048-0700, 603-048-0900

Rules Repealed: 603-048-2300(T), 603-048-2305(T), 603-048-2310(T), 603-048-2315(T), 603-048-2320(T), 603-048-2330(T), 603-048-2340(T), 603-048-2350(T), 603-048-2380(T), 603-048-2450(T), 603-048-2480(T), 603-048-0010(T), 603-048-0500(T), 603-048-0650(T), 603-048-0800(T), 603-048-1000

Subject: These rules make permanent the temporary rules effective March 15, 2017, set to expire on September 10, 2017, that set out requirements for testing of industrial hemp products and commodities intended for human consumption (consumables) mandated by Oregon Laws 2016, Chapter 71, Section 9.

The proposed rules explain and provide procedures for registered handlers to obtain sampling and testing prior to sale to ensure consumables comply with requirements adopted by Oregon Health Authority (OHA) under ORS 475B.555(1)(a) and (b) and (2) for testing marijuana items. This rulemaking also allows the department to incorporate OHA's most recent amendments to its rules for testing marijuana items effective May 31, 2017.

Adopting these rules will implement required testing by establishing: Standards for testing hemp consumables as their marijuana item equivalencies; Minimum requirements for laboratories authorized to conduct sampling and testing; Reporting and documentation requirements for handlers and laboratories; Requirements for ordering tests; Testing standards for usable hemp, hemp concentrates or extracts, and cannabinoid products; Procedures for determining batch sizes and for sampling industrial hemp commodities and products; Requirements for labeling, storing, and securing consumables prior to successful testing; Procedures for establishing a control study; Handler options to request research or quality control testing of consumables; Protocols for consumables that fail testing, including destruction; Violations of testing requirements; and additional testing that may be required by the department.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-048-0010

Definitions

The following definitions apply to OAR 603-048-0010 through 603-048-2480 unless the context requires otherwise.

(1) "Agricultural hemp seed" means Cannabis seed:

(a) That is sold to or intended to be sold to registered growers for planting; or

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(b) That remains in an unprocessed or partially processed condition that is capable of germination.

(2) "Agricultural hemp seed producer" means a registered grower or handler that produces agricultural hemp seed or processes industrial hemp into agricultural hemp seed.

(3) "CBD" means cannabidiol, Chemical Abstracts Service Number 13956-29-1.

(4) "Consumable" means an industrial hemp product intended for human consumption.

(5) "Crop" means industrial hemp grown under a single registration.

(6) "Department" means the Oregon Department of Agriculture.

(7) "Grower" means a person, joint venture or cooperative that produces industrial hemp.

(8) "Handler" means a person, joint venture or cooperative that receives industrial hemp for processing into commodities, products or agricultural hemp seed.

(9) "Harvest Lot":

(a) Means a quantity of industrial hemp harvested in a distinct time-frame that is:

(i) Grown in one contiguous field or growing area; or

(ii) Grown in a portion or portions of one contiguous field or one growing area.

(b) Does not include a quantity of industrial hemp comprised of industrial hemp grown in noncontiguous fields or noncontiguous growing areas.

(10) "Industrial hemp":

(a) Means all nonseed parts and varieties of the Cannabis plant, whether growing or not, that contain an average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis.

(b) Means any Cannabis seed:

(A) That is part of a crop;

(B) That is retained by a grower for future planting;

(C) That is agricultural hemp seed;

(D) That is for processing into or for use as agricultural hemp seed; or

(E) That has been processed in a manner or to an extent that the Cannabis seed is incapable of germination.

(c) Does not mean:

(A) Industrial hemp commodities or products; or

(B) Marijuana, as that is defined in ORS 475B.015.

(11) Industrial Hemp Commodity or Product:

(a) Means an item processed by a handler containing any industrial hemp or containing any chemical compounds derived from industrial hemp, including CBD derived from industrial hemp.

(b) Includes:

(A) Hemp concentrates or extracts as defined in OAR 603-048-2310;

(B) Hemp edible as defined in OAR 603-048-2310;

(C) Hemp tincture as defined in OAR 603-048-2310;

(D) Hemp topical as defined in OAR 603-048-2310;

(E) Hemp transdermal patch as defined in OAR 603-048-2310;

(F) Industrial hemp processed through retting or other processing such that it is suitable fiber for textiles, rope, paper, hempcrete, or other building or fiber materials;

(G) Industrial hemp seed processed such that it is incapable of germination and processed such that it is suitable for human consumption;

(H) Industrial hemp seed pressed or otherwise processed into oil;

(c) Does not include:

(A) Industrial hemp that has not been processed in any form;

(B) Industrial hemp that has been minimally processed, for purposes of transfer or storage including chopping, separating, or drying;

(C) Industrial hemp that has been minimally processed and meets all testing requirements for consumables under OAR 603-048-2300 to 603-048-2500 where used or intended to be used for processing into a hemp concentrate or extract as defined in OAR 603-048-2310;

(D) Agricultural hemp seed.

(12) "Intended for human consumption" means to ingest, inhale, topically apply to the skin or hair.

(13) "Laboratory" means a laboratory that is licensed by the Oregon Liquor Control Commission under ORS 475B.560 and accredited by the Oregon Health Authority under ORS 475B.565.

(14) "Produce" means the planting, cultivation, growing, or harvesting of industrial hemp.

(15) "Process" means the processing, compounding, or conversion of industrial hemp into industrial hemp commodities or products or agricultural hemp seed.

(16) "Registrant" means a grower or handler or agricultural hemp seed producer registered with the department under these rules.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996, OL 2016, Ch. 71

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16; DOA 19-2016, f. & cert. ef. 10-28-16; DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-0100

Production and Handling of Industrial Hemp and Agricultural Hemp Seed

(1) Industrial hemp is an agricultural product subject to regulation by the department.

(2) Only a grower registered with the department may produce industrial hemp. Only a handler registered with the department may process industrial hemp.

(3) Registrations are personal and may not be transferred. A registrant may not sell or transfer an industrial hemp or agricultural hemp seed production registration.

(4) A registered grower may use any propagation method, including planting seeds from, or starts, or the use of clones or cuttings, to produce industrial hemp.

(5) Any person holding a valid three-year or one-year industrial hemp license or agricultural hemp seed permit shall be considered a registrant for the purposes of these rules for the term remaining on the license or permit.

(6) The department shall make available to registered growers information that identifies registered agricultural hemp seed producers from whom growers may purchase agricultural hemp seed.

(7) A registrant may sell or transfer as follows:

(a) A registrant may only sell or transfer industrial hemp to another registrant.

(b) A registered agricultural hemp seed producer may only sell or transfer agricultural hemp seed to a registered grower, registered handler, or a registered agricultural hemp seed producer.

(c) A registered handler may sell or transfer industrial hemp commodities or products to any person.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996, OL 2016, Ch. 71

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 2, 4 - 8

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16; DOA 19-2016, f. & cert. ef. 10-28-16; DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-0200

Applications to Register or Renew Registrations

Registrations are valid for a one-year term beginning on January 1 of each calendar year. To ensure the department has sufficient time to process applications for registration, or renew a registration, any person applying for registration must apply with the department no less than 30 days prior to the date of the intended activity.

(1) Applications for registration under this section must be submitted to the department on forms provided by the department, and must be accompanied by the fee as described in OAR 603-048-0700. A person seeking to produce or process agricultural hemp seed must also apply for a separate registration as described in OAR 603-048-0300(2).

(2) An application to grow industrial hemp must include all of the following information: (a) The name and address of the applicant;

(b) The name and address of the applicant's industrial hemp operation(s);

(c) The global positioning system (GPS) coordinates provided in decimal of degrees and taken at the approximate center of the growing field, or entrance of building;

(d) A map of the growing area showing clear boundaries of the production area; and

(e) If industrial hemp is cultivated in a field, the number of square feet or acres of each cultivated field;

(f) If industrial hemp is cultivated in a greenhouse or other building, the approximate dimension or square feet of the building.

(3) An application to handle industrial hemp must include all of the following information:

(a) The name and address of the applicant;

(b) The name and address of applicant's industrial hemp operation(s).

(4) In addition to the requirements in sections (1) to (3), all applicants for registration must acknowledge and agree that:

(a) Any information provided to the department may be publicly disclosed and may be provided to law enforcement agencies without notice to the applicant;

(b) The department may enter any field, facility or greenhouse used for the production or handling of industrial hemp or agricultural hemp seed

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and may take samples of industrial hemp or agricultural hemp seed as necessary for the administration of the department's laws.

(c) All fees lawfully due to the department will be timely paid.

(d) The information provided is true and correct and that applicant's signature is an attestation of that fact.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996, OL 2016, Ch. 71

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 2, 4 - 8

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 1-2016(Temp), f. & cert. ef. 1-29-16 thru 7-26-16; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16; DOA 19-2016, f. & cert. ef. 10-28-16; DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-0300

Agricultural Hemp Seed

Registrations for growing or handling agricultural hemp seed are valid for a one-year term beginning on January 1 of each calendar year. To ensure the department has sufficient time to process applications for registration, or renew a registration, any person applying for registration must apply with the department no less than 30 days prior to the date of the intended activity.

(1) Only a grower registered with the department may produce agricultural hemp seed. Only a handler registered with the department may process agricultural hemp seed. An applicant may apply for a grower or handler registration at the same time the applicant applies for registration as an agricultural hemp seed producer.

(2) A registered grower or handler seeking to produce or process agricultural hemp seed must register with the department, on forms provided by the department, as an agricultural hemp seed producer unless:

(a) A registered grower retains agricultural hemp seed for the purpose of propagating industrial hemp for the grower's own use in future years;

(b) A registered grower produces Cannabis seeds that are incapable of germination; or

(c) A registered handler processes agricultural hemp seed in such a manner that the seeds are incapable of germination.

(3) An application to produce agricultural hemp seed must include all of the following information:

(a) The name and address of the applicant;

(b) The name and address of the applicant's agricultural hemp seed operation(s);

(c) The global positioning system (GPS) coordinates provided in decimal of degrees and taken at the approximate center of the growing field, or entrance of building;

(d) A map of the growing area showing clear boundaries of the production area; and

(e) If industrial hemp is produced in a field, the number of square feet or acres of each cultivated field;

(4) An application to process agricultural hemp seed must include all of the following information:

(a) The name and address of the applicant;

(b) The name and address of applicant's facility used for processing industrial hemp agricultural seed.

(5) A registered grower may retain agricultural hemp seed without registering as an agricultural hemp seed producer or complying with other seed standards set by the department under ORS 633.511 to 633.750 for the purpose of propagating industrial hemp in future years, except that a registered grower may not:

(a) Retain seed from a harvest lot for future planting when laboratory test results of the harvest lot indicate the tetrahydrocannabinol concentration exceeds 0.3 percent on a dry weight basis.

(b) Sell or transfer agricultural hemp seed for the purpose of planting without first obtaining a registration for agricultural hemp seed.

(6) An applicant for registration must acknowledge and agree that:

(a) Any information provided to the department may be publicly disclosed and may be provided to law enforcement agencies without notice to the applicant;

(b) The department may enter any field, facility or greenhouse used for the production or processing of industrial hemp and may take samples of industrial hemp as necessary for the administration of the department's laws.

(c) All fees lawfully due to the department will be timely paid.

(d) The information provided is true and correct and that applicant's signature is an attestation of that fact.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996, OL 2016, Ch. 71

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 2, 4 - 8

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16; DOA 19-2016, f. & cert. ef. 10-28-16; DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-0400

Reporting Requirements

A registered grower must ensure the grower's entire crop and each harvest lot is timely sampled and tested for tetrahydrocannabinol and must ensure test results are timely reported to the department.

(1) A registrant must immediately report to the department:

(a) The theft or loss of industrial hemp;

(b) All laboratory test results for tetrahydrocannabinol, for all harvest lots.

(2) On forms provided for by department, a registrant must immediately report to the department:

(a) Changes to the name, address, or telephone number of the registration holder;

(b) Changes in the ownership of the land or facilities used to produce or process industrial hemp or agricultural hemp seed;

(c) Changes in the ownership or structure of the entity holding an industrial hemp registration or agricultural hemp seed production registration;

(d) Changes in location or the addition of a facility for processing industrial hemp prior to beginning processing at the new location; and

(e) Changes in location or the addition of a field or growing area for producing industrial hemp prior to producing at the new location.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996, OL 2016, Ch. 71

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 2, 4 - 8

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16; DOA 19-2016, f. & cert. ef. 10-28-16; DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-0500

Record Keeping Requirements

Registrants must maintain records of all transfers of ownership or possession of industrial hemp for no less than three (3) years after the total disposition of each harvest lot.

(1) A registered grower must maintain records, which include:

(a) For any transfer of industrial hemp to a registered handler, the name and address of the recipient; receiving any amount of industrial hemp;

(b) Date(s) in which industrial hemp was transferred to the registered handler;

(c) Amount of industrial hemp, in pounds, transferred to the registered handler;

(d) All records of sampling including date, approximate number of plants sampled, total sample weight, and name of sampling entity;

(e) Name of laboratory that analyzed the sample(s); and

(f) All test report records for tetrahydrocannabinol for each harvest lot, as reported by the laboratory.

(2) A registered handlers of industrial hemp must maintain records, which include:

(a) For any receipt of industrial hemp from a registered grower or handler, the name and address of the transferor;

(b) All test report records for tetrahydrocannabinol for all industrial hemp received;

(c) Date industrial hemp was received;

(d) Amount in pounds and type of industrial hemp received;

(e) A copy of the test report records indicating concentration of tetrahydrocannabinol for each harvest lot of industrial hemp received; and

(f) A copy of all test reports required by OAR 603-048-2000 for each consumable sold or transferred.

(3) A registered agricultural hemp seed producer must maintain records which include:

(a) For any transfer of agricultural hemp seed to a registered grower or handler, the name and address of the recipient;

(b) Date(s) agricultural hemp seed was transferred to the registered grower or handler;

(c) Amount of agricultural hemp seed, in pounds, transferred to the registered grower or handler;

(d) All records of sampling including date, approximate number of plants sampled, total sample weight, and name of approved sampling entity;

(e) Name of laboratory that analyzed the sample(s); and

(f) All test report records for tetrahydrocannabinol for agricultural hemp seed, as reported by the laboratory.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996, OL 2016, Ch. 71

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 2, 4 - 8

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16; DOA 19-2016, f. & cert. ef. 10-28-16; DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

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603-048-0600

Sampling and Testing for Tetrahydrocannabinol

(1) A registered grower must ensure that the grower's entire crop is timely sampled and tested according to these rules. At the discretion of the grower, industrial hemp grown in a contiguous field or growing area may be sampled and tested as a separate harvest lot consistent with these rules. The grower must ensure that each harvest lot is timely sampled and tested.

(2) A registered grower and agricultural hemp seed producer producing agricultural hemp seed must arrange for and ensure the sampling of a harvest lot no more than four (4) weeks prior to harvest for the purpose of ensuring that the harvest lot contains an average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis.

(a) All sampling under these rules must be performed by the department, an entity contracted with the department to provide sampling services, or a laboratory.

(b) Sampling performed by the grower, other person with an interest in the testing outcome, or otherwise not performed by the department, department-contracted entity, or a laboratory, is insufficient to meet the requirement for testing under this rule.

(3) Sampling of a harvest lot must produce samples that are representative of the harvest lot.

(a) No more than one sample shall be taken per plant, the plant randomly chosen throughout the harvest lot's growing area;

(b) Samples shall be obtained from flowering tops when flowering tops are present; and

(c) Samples shall be cut to a length of about 20 cm and stored in a paper bag.

(4) Harvest lots shall be tested separately.

(5) Testing must be performed by a laboratory or by the department as described in subsection (6) of this rule.

(6) Until such time as laboratories are licensed by the Oregon Liquor Control Commission under ORS 475B.560 and accredited by the Oregon Health Authority pursuant to ORS 475B.565, to test for tetrahydrocannabinol concentration of industrial hemp, the department may contract with registered growers who may request sampling and laboratory testing services from the department to ascertain the average tetrahydrocannabinol content of industrial hemp. The fee for each test shall be \$350.

(7) Test results must be reported to the department, and on forms provided by the department, and include for each harvest lot:

- (a) Sample date;
- (b) Sample size by weight;
- (c) Test date;
- (d) Total tetrahydrocannabinol percentage;
- (e) Field/growing location information including GPS coordinates;

and

(f) Registration number.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996, OL 2016, Ch. 71
Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 2, 4 - 8
Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 1-2016(Temp), f. & cert. ef. 1-29-16 thru 7-26-16; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16; DOA 19-2016, f. & cert. ef. 10-28-16; DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-0650

Industrial Hemp Inspection and Record Reviews

(1) The department, as it deems necessary in the enforcement and carrying out its laws may, during normal business hours, inspect premises, machinery, equipment and facilities of registrants and inspect, any crop during any growth phase, and take a representative composite sample for field analysis.

(2) Upon not less than three days' notice, the department may subject registrant records to inspection or audit during normal business hours. The department may make an inspection or audit for the purpose of ensuring compliance with:

(a) A provision of ORS 571.300 to 571.315 or Oregon Laws 2016, ch 71;

(b) A rule adopted under a provision of ORS 571.300 to 571.315 or Oregon Laws 2016, ch 71; or

(c) An order issued by the department pursuant to a provision of ORS 571.300 to 571.315 or Oregon Laws 2016, ch 71, or rule adopted under a provision of ORS 571.300 to 571.315 or Oregon Laws 2016, ch 71.

Stat. Auth.: ORS 561.190, 571.300 - 571.315, OL 2016, Ch. 71
Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 2, 4 - 8
Hist.: DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16; DOA 19-2016, f. & cert. ef. 10-28-16; DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-0700

Registration Fees

The following designated annual registration fees shall be applicable to each described activity under authority of ORS 571.305:

- (1) Industrial hemp grower registration \$1300.00;
- (2) Industrial hemp handler registration \$1300.00; and
- (3) Agricultural hemp seed producer registration \$120.00.

Stat. Auth.: ORS 561.190, 569.445, 571.300 - 571.315, 633.511 - 633.996, OL 2016, Ch. 71
Stats. Implemented: ORS 571.300 - 571.315
Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16; DOA 19-2016, f. & cert. ef. 10-28-16; DOA 2-2017(Temp), f. & cert. ef. 1-18-17 thru 7-16-17; DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 11-2017, f. & cert. ef. 7-13-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-0800

Enforcement and Civil Penalty for Industrial Hemp Law Violation

(1) In addition to any other liability or penalty provided by law, any person who violates any provision of ORS 571.300 to 571.315, Oregon Laws 2016, ch 71, a rule adopted pursuant thereto or order issued by the department under ORS 571.300 to 571.315 Oregon Laws 2016, ch 71, may be subject to a civil penalty not to exceed \$2,500 per violation.

(2) If a civil penalty is imposed, the department shall issue a written notice to the person being assessed the penalty consistent with ORS Chapter 183. Contested cases will be conducted pursuant to ORS Chapter 183. Each violation may be considered a separate and distinct offense.

(3) Subject to the provisions of ORS chapter 183, the department may revoke the registration of a grower, handler or agricultural hemp seed producer or may refuse to register or renew the registration if a grower, handler or agricultural hemp seed producer violates:

(a) A provision of ORS 571.300 to 571.315 or Oregon Laws 2016, ch 71;

(b) A rule adopted under a provision of ORS 571.300 to 571.315 or Oregon Laws 2016, ch 71;

(c) An order issued by the department for violation of a provision of ORS 571.300 to 571.315 or Oregon Laws 2016, ch 71 or any rule adopted thereunder;

(d) Any statutory law or department rule related to agricultural activities other than industrial hemp operations.

Stat. Auth.: Stat. Auth.: ORS 561.190, 569.445, 571.300 - 571.315, OL 2016, Ch. 71
Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 12
Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16; DOA 19-2016, f. & cert. ef. 10-28-16; DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-0900

Embargo of Crop

If a harvest lot contains an average tetrahydrocannabinol concentration exceeding 0.3 percent on a dry weight basis, the department may detain, seize or embargo the harvest lot as provided in ORS 561.605 to 561.620 and consistent with these rules.

(1) The department shall cause to be affixed to the harvest lot being detained, seized or embargoed a notice that the industrial hemp is being detained, seized or embargoed by the department and warning all persons that the industrial hemp may not be moved from its current location without written permission from the department.

(2) The department shall notify in writing the owner or person in possession of the harvest lot that the harvest lot is being detained, seized or embargoed by the department.

(a) If the person in possession of the harvest lot is not the owner, the department shall make a reasonable effort to notify the owner.

(b) Such notification shall state the reason for the department's action and notify the owner or person in possession of the right to a hearing as provided under ORS Chapter 183.

(c) A written request for hearing on the propriety of the detention, seizure or embargo must be filed either by the owner or person in possession with the department within 10 days of receiving actual notice of the action.

(d) Any hearing shall not be held sooner than 10 days after the request for hearing has been received by the department, however if the industrial hemp subject to the department's action is perishable, or if, in the opinion of the department, other good and sufficient reason appears, the department may, at the request of the owner or person in possession of such industrial hemp, be held at an earlier date.

(e) Any hearing shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings and shall be conducted pursuant to ORS Chapter 183.

(3) If it appears that all or part of the harvest lot detained, seized or embargoed may be reconditioned or segregated in such a way as to comply

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with state laws, the owner or person in possession may cause the harvest lot to be reconditioned or segregated at the owner's or person's own expense after which the department may release the reconditioned industrial hemp. Stat. Auth.: ORS 561.190, 561.605 – 561.630, 571.300 - 571.315, OL 2016, Ch. 71
Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 2
Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16; DOA 19-2016, f. & cert. ef. 10-28-16; DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-1000

Violations and Penalties

Classification of Violations

(1) Violations are flagrant violations classified as follows:

(a) Class 1 violations include:

(A) Violations of ORS 571.305(1) or OAR 603-048-0100(2);

(B) Providing false information on an application for a registration, or application to renew a registration;

(C) Falsifying, or failure to keep or provide, information and records as required by the department;

(D) Growing or handling hemp with an average Tetrahydrocannabinol concentration that exceeds 0.3 percent on a dry weight basis;

(E) Failing to provide the department with laboratory test results that verify compliance with 0.3 percent tetrahydrocannabinol threshold before handling or transfer;

(F) Failing to test a consumable in accordance with OAR 603-048-2300 through 603-048-2480 prior to sale;

(G) Failing to report failed test results of a consumable to the Department within 24 hours as required by OAR 603-048-2300

(H) Selling or attempting to sell a consumable that fails to meet testing requirements required by OAR 603-048-2000 through 603-048-2480; or

(I) Repeat violations of Class 2 or Class 3 violations.

(b) Class 2 violations are any violations in which the person acted in a faulty, careless or negligent manner:

(A) Violation of any other rule, regulation or requirement as specified in OAR 603-048.

(c) Class 3 violations are negligent violations of:

(A) OAR 603-048-0100 to 603-048-2480;

(B) Providing false information on an application for a registration, or application to renew a registration;

(C) Falsifying or failure to keep or provide, information and records as required by the department;

(D) Growing or handling hemp with an average Tetrahydrocannabinol concentration that exceeds 0.3 percent on a dry weight basis.

(2) Civil Penalty amounts for each classification:

(a) Class 1 violation, \$2,500;

(b) Class 2 violation, \$1,000;

(c) Class 3 violation, \$500.

Stat. Auth.: ORS 561.190, 569.445, 571.300 - 571.315 & 633.511 - 633.996, Ch. 71, Sec. 2
Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16; DOA 19-2016, f. & cert. ef. 10-28-16; DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-2300

Testing of Consumables

(1) A registered handler may not sell a consumable unless it is first tested by a laboratory as required by these rules.

(2) Violations of these rules may result in the suspension or revocation of a registrant's registration or the imposition of civil penalties, or both. Violations include:

(a) Failure to test a consumable in accordance with these rules;

(b) Sale or attempting to sell a consumable that fails to meet testing requirements required by these rules;

(c) Failure to maintain a copy of all required test reports as required by OAR 603-048-0500; and

(d) Failure to report failed test results to the Department electronically to HempTestReports@oda.state.or.us using the forms provided by the Department within 24 hours after receipt of failed result.

(3) Test results expire after one year.

(4) These rules require consumables to be sampled, tested, and reported in a manner consistent with the Authority's marijuana sampling and testing rules in OAR 333-007-0300 to 333-007-0490 and OAR 333-064. In applying those rules:

(a) Consumables are treated as their marijuana equivalents as described in OAR 603-048-2310;

(b) References to "licensee or registrant" or "processor or processing site" should be read as "handler";

(c) References to "Authority or the Commission" should be read as "Department"; and

(d) References to "consumer or patient" should be read as "consumer" as that is defined in OAR 603-048-2310.

(5) To be sufficient to meet the requirement for testing under these rules, a handler must ensure through a testing agreement or contract with the laboratory that the laboratory:

(a) Samples consumables according to OAR 333-007-0360 and OAR 333-064-0100;

(b) Tests consumables according to OAR 333-007-0390 to 333-007-0440 and 333-064-0100;

(c) Keeps records in accordance with OAR 333-007-0360, 333-007-0370 and 333-064-0100.

(d) Reports all failed tests to the Department electronically to HempTestReports@oda.state.or.us using the forms provided by the Department consistent with reporting requirements under OAR 333-064-0110;

(e) Provides the handler with test reports that meet the requirements in OAR 333-064-0110.

Stat. Auth.: ORS 561.190, 571.300 - 571.315; OL 2016, Ch. 71.

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 9, 10, 12.

Hist.: DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-2305

Purpose and Scope

(1) The purpose of OAR 603-048-2300 to 603-048-2480 is to establish minimum testing standards for registered handlers processing industrial hemp into consumables.

(2) These rules apply to any consumable:

(a) Processed by a handler on or after March 15, 2017 and

(b) Tested or processed by a hemp handler before March 15, 2017 but not yet sold or transferred to a consumer as of March 15, 2017

Stat. Auth.: ORS 561.190, 571.300 - 571.315; OL 2016, Ch. 71.

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 9

Hist.: DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-2310

Definitions

As used in OAR 603-048-2300 to 603-048-2480, the following definitions apply:

(1) "Authority" means the Oregon Health Authority.

(2) "Batch" means:

(a) A quantity of usable hemp or hemp stalk from a harvest lot; or

(b) A quantity of hemp concentrate or extract or cannabinoid product from a process lot.

(3) "CBDA" means cannabidiolic acid, Chemical Abstracts Service Number 1244-58-2.

(4) "Cannabinoid" means any of the chemical compounds that are the active constituents of the cannabis plant.

(5) "Cannabinoid capsule"

(a) Means a small soluble container, usually made of gelatin that encloses a dose of a cannabinoid product, hemp concentrate, or hemp extract intended for human ingestion.

(b) For sampling and testing purposes is equivalent to a cannabinoid capsule as that is defined in OAR 333-007-0310.

(6) "Cannabinoid product"

(a) Means a hemp edible or any consumable including a hemp topical or hemp transdermal patch. Cannabinoid product does not include usable hemp or hemp stalk by itself or a cannabinoid concentrate or extract by itself.

(b) For sampling and testing purposes is equivalent to a cannabinoid product as that is defined in OAR 333-007-0310.

(7) "Chain of custody procedures" means procedures employed by laboratory personnel using a chain of custody form to record the possession of samples from the time of sampling through the retention time specified by the Department.

(8) "Consumer" means a person who purchases, receives, or otherwise uses hemp items who is not a registered handler.

(9) "Control study" means a study performed on items of unknown homogeneity to assure required uniformity of item accomplished through sampling and testing as described in OAR 603-048-2440.

(10) "Field duplicate sample" means a sample taken in an identical manner from and representative of the same hemp item being sampled that is analyzed separately, that is used for quality control only.

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(11) "Food" means a raw, cooked, or processed edible substance, or ingredient used or intended for use or for sale in whole or in part for human ingestion, or chewing gum.

(12) "Hemp concentrate or extract"

(a) Means a substance obtained by separating cannabinoids from industrial hemp leaves, flowers, or stalk by a mechanical, chemical or other process.

(b) For sampling and testing purposes is equivalent to a cannabinoid concentrate or edible as that is defined in OAR 333-007-0310.

(13) "Hemp edible"

(a) Means a food or potable liquid created from industrial hemp seed or into which industrial hemp, a hemp concentrate, or a hemp extract has been incorporated.

(b) For sampling and testing purposes is equivalent to a cannabinoid edible as that is defined in OAR 333-007-0310.

(14) "Hemp item"

(a) Means usable hemp, hemp stalk, a cannabinoid product, or a hemp concentrate or extract.

(b) For sampling and testing purposes is equivalent to a marijuana item as that is defined in OAR 333-007-0310.

(15) "Hemp stalk"

(a) Means the stalk of industrial hemp intended for human consumption.

(b) For sampling and testing purposes is equivalent to usable marijuana as that is defined in OAR 333-007-0310.

(16) "Hemp tincture"

(a) Means a solution of alcohol, hemp concentrate or extract, and perhaps other ingredients intended for human consumption, and that is exempt from the Liquor Control Act under ORS 471.035.

(b) For sampling and testing purposes is equivalent to a cannabinoid tincture as that is defined in OAR 333-007-0310.

(17) "Hemp topical"

(a) Means a substance intended to be applied to skin or hair that contains a cannabinoid product, hemp concentrate or extract and for purposes of testing includes a hemp transdermal patch.

(b) For sampling and testing purposes is equivalent to a cannabinoid topical as that is defined in OAR 333-007-0310.

(18) "Hemp transdermal patch"

(a) Means an adhesive substance applied to human skin that contains a cannabinoid product, hemp concentrate or extract for absorption into the bloodstream.

(b) For sampling and testing purposes is equivalent to a cannabinoid transdermal patch as that is defined in OAR 333-007-0310.

(19) "Homogeneous" means a cannabinoid product, hemp concentrate or extract has uniform composition and properties throughout each process lot.

(20) "Marijuana testing rules" means OHA testing rules for marijuana items found in OAR Chapter 333, Divisions 7 and 64, and all referenced tables and exhibits.

(21) "ORELAP" means the Oregon Environmental Laboratory Accreditation Program administered by the Authority pursuant to ORS 438.605 to 438.620.

(22) "Process lot" means:

(a) Any amount of hemp concentrate or extract of the same type and processed at the same time using the same extraction methods, standard operating procedures and batches from the same or a different harvest lot; or

(b) Any amount of a cannabinoid product of the same type and processed at the same time using the same ingredients, standard operating procedures and batches from the same or a different harvest lot or process lot of hemp concentrate or extract as defined in subsection (a) of this section.

(23) "Relative percentage difference" or "RPD" means the comparison of two quantities while taking into account the size of what is being compared as calculated under OAR 333-064-0100.

(24) "Relative standard deviation" or "RSD" means the standard deviation expressed as a percentage of the mean recovery as calculated under OAR 333-064-0100.

(25) "Sample" means an amount of a hemp item collected by laboratory personnel from a handler and provided to a laboratory for testing.

(26) "Sterilization" means the removal of all microorganisms and other pathogens from a hemp item by treating it with approved chemicals or subjecting it to high heat.

(27) "Test batch" means a group of samples from a batch submitted collectively to a laboratory for testing purposes.

(28) "THC" means tetrahydrocannabinol and has the same Chemical Abstracts Service Number 1972-08-3 as delta-9 THC.

(29) "THCA" means tetrahydrocannabinolic acid, Chemical Abstracts Service Number 23978-85-0.

(30) "These rules" means OAR 603-048-2300 through 603-048-2480.

(31) "TNI" means The NELAC (National Environmental Laboratory Accreditation Conference) Institute, a voluntary organization of state and federal environmental officials and interest groups purposed primarily to establish consensus standards for accrediting environmental laboratories.

(32) "TNI EL Standards" means the adopted 2009 TNI Environmental Lab Standards (© 2009 The NELAC Institute), which describe the elements of laboratory accreditation developed and established by the consensus principles of TNI and that meet the approval requirements of TNI procedures and policies.

(33) "Unit" means a unit of sale.

(34) "Usable hemp"

(a) Means the flowers and leaves of industrial hemp intended for human consumption that does not fall within meaning hemp concentrate or extract, hemp edible, or cannabinoid product.

(b) For sampling and testing purposes is equivalent to usable marijuana as that is defined in OAR 333-007-0310.

Stat. Auth.: ORS 561.190, 571.300 - 571.315; OL 2016, Ch. 71.

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 9

Hist.: DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-2315

Ordering Tests

A handler must provide a laboratory, prior to laboratory taking samples, with the following:

(1) A written request of analysis for each test the laboratory is being requested to conduct.

(2) Notification of whether the batch is being re-sampled because of a failed test and the failed test results.

(3) Certification of successful control study, if applicable, on a form prescribed by the Department.

Stat. Auth.: ORS 561.190, 571.300 - 571.315; OL 2016, Ch. 71.

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 9

Hist.: DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-2320

Usable Hemp Testing Requirements

(1) A handler must have every harvest lot of usable hemp or hemp stalk tested in the same manner as usable marijuana under OAR 333-007-0320 prior to sale or transfer.

(2) A handler must test a harvest lot of usable industrial hemp or industrial hemp stalks for microbiological contaminants in accordance with OAR 333-007-0390, upon written request by the Department.

Stat. Auth.: ORS 561.190, 571.300 - 571.315; OL 2016, Ch. 71.

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 9

Hist.: DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-2330

Hemp Concentrate or Extract Testing Requirements

(1) A handler must have every process lot of hemp concentrate or extract tested in the same manner as cannabinoid concentrates and extracts under OAR 333-007-0330 prior to sale or transfer.

(2) A handler must have a process lot of a hemp concentrate or extract tested for microbiological contaminants in accordance with OAR 333-007-0390, upon written request by the Department.

Stat. Auth.: ORS 561.190, 571.300 - 571.315; OL 2016, Ch. 71.

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 9

Hist.: DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-2340

Cannabinoid Product Testing Requirements

(1) A handler must have every process lot of a cannabinoid product, including hemp edibles, capsules, hemp tincture, hemp topical, hemp transdermal patch prior to sale or transfer to a consumer tested for THC and CBD concentration in the same manner as cannabinoid products under OAR 333-007-0340 or 333-007-0345, as applicable.

(2) A handler must have a process lot tested for microbiological contaminants in accordance with OAR 333-007-0390, upon written request by the Department.

Stat. Auth.: ORS 561.190, 571.300 - 571.315; OL 2016, Ch. 71.

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 9

ADMINISTRATIVE RULES

Hist.: DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-2350

Batch Requirements

(1) Usable hemp and hemp stalks: A handler must separate each harvest lot into no larger than 15 pound batches.

(2) Hemp concentrates or extracts:

(a) A process lot is considered a batch.

(b) The size of a process lot submitted for sampling and testing for purposes of a control study under OAR 333-007-0440 defines the maximum process lot for that concentrate, extract or product for purposes of sampling and testing after a control study has been certified.

(3) Cannabinoid products. A handler must separate process lots into not larger than 35,000 unit batches.

(4) A handler must assign each batch a unique batch number and that unique batch number must be:

(a) Provided to the individual responsible for taking samples; and

(b) Included on the batch label as required in OAR 603-048-2380.

(4) A handler may not reuse a unique batch number.

Stat. Auth.: ORS 561.190, 571.300 - 571.315; OL 2016, Ch. 71.

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 9

Hist.: DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-2380

Handler Site Requirements for Labeling, Storing, and Securing Pre-Tested Consumables; Recordkeeping

(1) After sampling of a harvest or process lot batch, a handler must:

(a) Label the batch with the following information:

(A) The handler's registration number;

(B) The harvest or process lot unique identification number;

(C) The name and accreditation number of the laboratory that took samples and the name and accreditation number of the laboratory responsible for the testing, if different;

(D) The test batch or sample unique identification numbers supplied by the laboratory personnel;

(E) The date the samples were taken; and

(F) In bold, capital letters, no smaller than 12 point font, "ITEM NOT TESTED."

(b) Store and secure the batch in a manner that prevents the consumable from being tampered with or transferred prior to test results being reported.

(c) Be able to easily locate a batch stored and secured under section

(1)(b) of this rule and provide that location to the Department or a laboratory upon request.

(2) If the samples pass testing, the batch of consumable satisfies the testing required by Or Laws 2016, chapter 71, Section 9 and these rules.

(3) If the samples do not pass testing, the handler must comply with OAR 603-048-2450.

Stat. Auth.: ORS 561.190, 571.300 - 571.315; OL 2016, Ch. 71.

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 9

Hist.: DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-2440

Control Study

(1) A handler may request that a laboratory perform a control study on hemp concentrates, extracts, or cannabinoid products in accordance with OAR 333-007-0440(1).

(2) To be sufficient to satisfy the requirements of a control study under these rules, a laboratory must:

(a) Conduct the control study in accordance with OAR 333-007-0440; and

(b) Identify on a form prescribed by the Department if a batch undergoing a control study passed testing requirements identified in OAR 333-007-0440(6), and must send the form at the handler's request to the Department:

(3) A control study passes or fails according to OAR 333-007-0440.

(4) A process lot sampled and tested for purposes of a control study that passes all the required tests satisfies the testing required by Or Laws 2016, chapter 71, Section 9 and these rules.

(5) Future batches of the hemp concentrate, extract or cannabinoid product that has a certified control study may be sampled and tested according to OAR 333-007-0440(9)-(11) for a one year period.

(6) The Department will certify a control study for a hemp concentrate, extract or cannabinoid product that passes all the required tests in accordance with this rule.

Stat. Auth.: ORS 561.190, 571.300 - 571.315; OL 2016, Ch. 71.

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 9

Hist.: DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-2450

Failed Test Samples

(1) If a sample fails any initial test, the laboratory that did the testing may reanalyze the sample. If the sample passes, another laboratory must resample the batch and confirm that result in order for the batch to pass testing.

(a) If a handler wishes to have a sample reanalyzed, the handler must request a reanalysis within seven (7) calendar days from the date the laboratory sent notice of the failed test to the handler. The reanalysis must be completed by the laboratory within 30 days from the date the reanalysis was requested.

(b) If a handler has requested a reanalysis in accordance with subsection (1)(a) of this rule and the sample passes, the handler has seven (7) calendar days from the date the laboratory sent notice of the passed test to request that another laboratory resample the batch and confirm the passed test result. The retesting must be completed by the second laboratory within 30 days from the date the retesting was requested.

(2) A handler must inform the Department within 24 hours, of the following, electronically to HempTestReports@oda.state.or.us using the forms provided the Department:

(A) A request for reanalysis of a sample;

(B) The testing results of the reanalysis;

(C) A request for retesting; and

(D) The results of retesting.

(3) If a sample fails a test or a reanalysis under section (1) of this rule, the batch:

(a) May be remediated or sterilized in accordance with the OAR 333-007-0450; or

(b) Must be destroyed as required by OAR 333-007-0450 in a manner specified by the Department if the batch is not or cannot be remediated or sterilized under OAR 333-007-0450.

(4) A handler must inform a laboratory prior to samples being taken that the batch has failed a test and is being retested after undergoing remediation or sterilization.

(5) A handler must, as applicable:

(a) Have detailed procedures for sterilization processes to remove microbiological contaminants and for reducing the concentration of solvents.

(b) Document all sampling, testing, sterilization, remediation and destruction that are a result of failing a test under these rules.

(c) A handler must report failed test results to the Department within 24 hours of receipt of the failed test report electronically to HempTestReports@oda.state.or.us using the forms provided by the Department.

(6) If a batch fails a test under these rules a handler must store, segregate, label, and may not remove the batch from the registered premises without permission from the Department in accordance with OAR 333-007-0450.

Stat. Auth.: ORS 561.190, 571.300 - 571.315; OL 2016, Ch. 71.

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 9

Hist.: DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

603-048-2480

Additional Testing

(1) The Department may require a handler to submit samples identified by the Department to a laboratory of the handler's choosing to be tested in order to determine whether a handler is in compliance with OAR 603-048-2300 through 603-048-2500, and may require additional testing that is not required by these rules.

(2) To be sufficient to meet the requirement for audit testing under this rule, a handler must ensure, through a testing agreement or contract, that the laboratory conducting the testing complies with these rules, to the extent they are applicable, and if conducting testing not required by these rules, may only use Authority approved methods.

(3) The Department may establish a process for the random testing of hemp items for microbiological contaminants.

(4) Any testing ordered under this rule must be paid for by the handler.

Stat. Auth.: ORS 561.190, 571.300 - 571.315; OL 2016, Ch. 71.

Stats. Implemented: ORS 571.300 - 571.315, OL 2016, Ch. 71, Sec. 9

Hist.: DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 13-2017, f. & cert. ef. 8-30-17

ADMINISTRATIVE RULES

Rule Caption: Update procedural rules.

Adm. Order No.: DOA 14-2017

Filed with Sec. of State: 8-30-2017

Certified to be Effective: 8-30-17

Notice Publication Date: 8-1-2017

Rules Amended: 603-001-0005

Subject: Update Procedural Rules to reflect the most recent Attorney General's model rules.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-001-0005

Model Rules of Procedure

The Attorney General's "Model Rules of Procedure Under the Administrative Procedures Act," effective July 2014 are hereby adopted as the rules of procedure for the Department in its rulemaking activities, declaratory ruling activities, and contest case considerations.

Stat. Auth.: ORS 183.341(1)

Stats. Implemented: ORS 183.341(1)

Hist.: AD 953(20-71), f. 10-20-71, ef. 11-11-71; AD 999(13-73), f. 10-26-73, ef. 11-25-73; AD 1090(13-76), f. & ef. 3-26-76; AD 4-1978, f. & ef. 5-11-78; AD 1-1980, f. & ef. 1-24-80; AD 23-1981, f. & ef. 11-24-81; AD 5-1986, f. & ef. 2-11-86; AD 16-1993, f. & cert. ef. 11-24-93; DOA 5-1998, f. & cert. ef. 5-20-98; DOA 4-2002, f. & cert. ef. 1-28-02; DOA 1-2003, f. & cert. ef. 1-7-03; DOA 14-2017, f. & cert. ef. 8-30-17

Department of Agriculture, Oregon Sweet Cherry Commission Chapter 669

Rule Caption: Amendment to reduce assessment rate on brined sweet cherries.

Adm. Order No.: OSCC 2-2017

Filed with Sec. of State: 8-25-2017

Certified to be Effective: 8-25-17

Notice Publication Date: 8-1-2017

Rules Amended: 669-010-0020

Subject: This rule amendment reduces the assessment rate for brined sweet cherries to \$6.75 per ton.

Rules Coordinator: Dana Branson—(541) 386-5761

669-010-0020

Assessments

(1) The first purchaser or producer acting in the capacity of his or her own first purchaser will deduct and withhold for assessments the following amounts for all sweet cherries grown in Oregon and sold for the following purposes on any crop harvested after this date:

- Fresh market — \$27 per ton;
- Canned — \$6.75 per ton;
- Frozen — \$ 6.75 per ton;
- Brined — \$6.75 per ton.

(2) All casual sales of sweet cherries will be exempt from the assessment. (See definition of "Casual Sales".)

Stat. Auth.: ORS 576.066(1)(e), 576.304(2), 576.325(2)(a)(b) & (4)(c)

Stats. Implemented: ORS 576.325

Hist.: RSC 1(Temp), f. 6-11-74, ef. 6-15-74 thru 10-12-74; RSC 4, f. 11-15-74, ef. 12-11-74; RSC 7(Temp), f. & ef. 7-1-75; RSC 8, f. 8-13-75, ef. 9-11-75; RSC 9, f. & ef. 11-21-75; RSC 2-1980, f. 6-6-80, ef. 6-15-80; RSC 2-1987, f. & ef. 6-8-87; OSC 1-1989, f. 5-24-89, cert. ef. 6-1-89; OSC 1-1992, f. & cert. ef. 1-3-92; OSC 1-1994, f. & cert. ef. 6-15-94; OSC 2-1994, f. & cert. ef. 11-22-94; OSCC 1-1998, f. 7-2-98, cert. ef. 7-2-98; OSCC 1-2004, f. & cert. ef. 1-13-04; OSCC 1-2005, f. & cert. ef. 3-4-05; OSCC 2-2017, f. & cert. ef. 8-25-17

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

Rule Caption: Adopts the 2017 Oregon Electrical Specialty Code

Adm. Order No.: BCD 9-2017

Filed with Sec. of State: 9-14-2017

Certified to be Effective: 10-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 918-305-0005, 918-305-0030, 918-305-0100, 918-305-0105, 918-306-0005, 918-306-0010

Subject: These rules adopt the 2017 Oregon Electrical Specialty Code based on the 2017 edition of the NFPA 70, National Electrical Code, with Oregon specific amendments. These rules include

some non-substantive housekeeping changes to administrative rules that provide clarity and consistency among the division's rules.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-305-0005

Interpretations

All electrical interpretations dated prior to October 1, 2017, issued by the Building Codes Division are withdrawn.

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.730

Hist.: BCD 19-2002, f. 8-1-02, cert. ef. 10-1-02; BCD 23-2004, f. 12-15-04, cert. ef. 4-1-05; BCD 6-2008, f. 3-7-08, cert. ef. 4-1-08; BCD 3-2011, f. 3-11-11, cert. ef. 4-1-11; BCD 12-2014, f. 9-30-14, cert. ef. 10-1-14; BCD 9-2017, f. 9-14-17, cert. ef. 10-1-17

918-305-0030

Other Codes or Publications that Impact Electrical Installations

Other codes and publications that impact electrical installations include, but are not limited to those listed below:

(1) Chapter 9 of the **Oregon Structural Specialty Code** relating to fire protection systems and Chapter 3 of the Oregon Residential Specialty Code relating to smoke alarm installations.

(2) ORS 455.420 requiring individual electric meters for dwelling units.

(3) The **Oregon Energy Efficiency Specialty Code**, and chapter 11 of the Oregon Residential Specialty Code which address the energy efficiency issues of motors, electric lighting and other electric equipment; and

(4) Chapter 16 and 17 of the Oregon Structural Specialty Code which addresses the seismic requirements of nonstructural components and special inspection requirements.

(5) Publications and requirements of the serving utility.

(6) Public Law 101-336, the Americans with Disabilities Act, Part III; Department of Justice Regulations of Friday, July 26, 1991; 28 CFR Part 36, as amended, including the 2010 ADA Standards for Accessible Design and Public Law 100-430, the Fair Housing Act and the regulations adopted thereunder.

(7) Chapter 11 of the Oregon Structural Specialty Code which relates to the Americans with Disabilities Act for mounting height requirements for electrical and communication receptacles located in affected buildings and structures.

(8) The interconnection of all net-metering facilities and solar photovoltaic systems operated as interconnected power production sources shall comply with the Oregon Electrical Specialty Code. In addition, the interconnection of all net-metering facilities utilizing solid-state inverters shall comply with OAR 860-039 Net Metering.

(9) Oregon Manufactured Dwelling Installation Specialty Code. The electrical installations shall be in accordance with the requirements of the Oregon Electrical Specialty Code.

(10) The electrical portions of the installation or product standards identified in OAR 918-306-0005. These standards are informational only and are to be used to clarify code intent. They may be used as installation guides when not specifically referenced or covered in the Oregon Electrical Specialty Code. Examples include, but are not limited to, the electrical sections of NFPA 20, NFPA 54, NFPA 99, NFPA 101, NFPA 110, NFPA 780 and NFPA 820.

(11) Electrical installation requirements for electric vehicle ready parking facilities specified in OAR 918-020-0380.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.730 & 757.262

Hist.: DC 13-1987, f. & ef. 5-1-87; Renumbered from 814-022-0610; BCA 17-1990, f. 6-27-90, cert. ef. 7-1-90; BCA 12-1993, f. 6-23-93, cert. ef. 7-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-290-0020; BCD 1-2000, f. 1-6-00, cert. ef. 4-1-00; BCD 12-2000, f. 6-3-00, cert. ef. 7-1-00; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 19-2002, f. 8-1-02, cert. ef. 10-1-02; BCD 23-2004, f. 12-15-04, cert. ef. 4-1-05; BCD 29-2005, f. 12-30-05, cert. ef. 1-1-06; BCD 6-2008, f. 3-7-08, cert. ef. 4-1-08; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 5-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 4-2011, f. & cert. ef. 3-11-11; BCD 21-2011, f. 7-26-11, cert. ef. 10-1-11; BCD 12-2014, f. 9-30-14, cert. ef. 10-1-14; BCD 9-2017, f. 9-14-17, cert. ef. 10-1-17

918-305-0100

Adoption of Oregon Electrical Specialty Code

(1) The **Oregon Electrical Specialty Code** is adopted pursuant to OAR chapter 918, Division 8.

(2) Effective October 1, 2017, the **2017 Oregon Electrical Specialty Code** consists of the following:

(a) 2017 Edition of the NFPA 70, National Electrical Code (NEC), and as further amended by the division in Table 1-E;

(b) 2017 Edition of the IEEE C2-2017, National Electrical Safety Code (NESC); and

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(c) The electrical provisions of the **Oregon Elevator Specialty Code** adopted in OAR 918-400-0455.

(3) In the event of a conflict between the NEC and NESC requirements, the NEC requirement, as amended in subsection (2) of this rule, applies.

(4) As used in this rule:

- (a) "ANSI" is the American National Standards Institute;
- (b) "ASME" is the American Society of Mechanical Engineers;
- (c) "IEEE" is the Institute of Electrical and Electronics Engineers;

and

(d) "NFPA" is the National Fire Protection Association.

NOTE: Table 1-E is printed at the end of Division 305 and is available on the division's website at <http://www.bcd.oregon.gov/rules.html#oar>

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.730

Hist.: DC 13-1987, f. & ef. 5-1-87; Renumbered from 814-022-0600; BCA 17-1990, f. 6-27-90, cert. ef. 7-1-90; BCA 12-1993, f. 6-23-93, cert. ef. 7-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; Renumbered from 918-290-0010; BCD 1-2000, f. 1-6-00, cert. ef. 4-1-00; BCD 19-2002, f. 8-1-02, cert. ef. 10-1-02; BCD 23-2004, f. 12-15-04, cert. ef. 4-1-05; BCD 6-2008, f. 3-7-08, cert. ef. 4-1-08; BCD 3-2011, f. 3-11-11, cert. ef. 4-1-11; BCD 5-2013, f. 4-12-13, cert. ef. 5-1-13; BCD 12-2014, f. 9-30-14, cert. ef. 10-1-14; BCD 9-2017, f. 9-14-17, cert. ef. 10-1-17

918-305-0105

Amendments to the Oregon Electrical Specialty Code

The **Oregon Electrical Specialty Code** is amended pursuant to OAR chapter 918, division 8. Amendments adopted during the code-cycle for inclusion into the **Oregon Electrical Specialty Code** are placed in this rule, showing the section reference and a descriptive caption. Amendments to the **Oregon Electrical Specialty Code** are printed in their entirety in Table 1-E.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.730

Hist.: BCD 23-2004, f. 12-15-04, cert. ef. 4-1-05; BCD 6-2008, f. 3-7-08, cert. ef. 4-1-08; BCD 3-2011, f. 3-11-11, cert. ef. 4-1-11; BCD 5-2012(Temp), f. & cert. ef. 6-7-12 thru 10-31-12; BCD 11-2012(Temp), f. 10-5-12, cert. ef. 1-1-13 thru 6-29-13; BCD 14-2012(Temp), f. 11-16-12, cert. ef. 1-1-13 thru 6-29-13; BCD 5-2013, f. 4-12-13, cert. ef. 5-1-13; BCD 12-2014, f. 9-30-14, cert. ef. 10-1-14; BCD 3-2015, f. 3-24-15, cert. ef. 4-1-15; BCD 11-2016(Temp), f. & cert. ef. 9-7-16 thru 3-5-17; BCD 16-2016, f. & cert. ef. 11-8-16; BCD 9-2017, f. 9-14-17, cert. ef. 10-1-17

918-306-0005

Standards for Product Evaluations

The following standards shall be adopted for use when completing product evaluation:

(1) NFPA standards on list dated October 1, 2017, maintained by the division titled "NFPA Standards"; and

(2) UL standards on list dated October 1, 2017, maintained by the division titled "UL Standards."

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.730

Hist.: BCD 19-2002, f. 8-1-02, cert. ef. 10-1-02; BCD 23-2004, f. 12-15-04, cert. ef. 4-1-05; BCD 12-2014, f. 9-30-14, cert. ef. 10-1-14; BCD 9-2017, f. 9-14-17, cert. ef. 10-1-17

918-306-0010

Overview

(1) ORS 479.610 establishes certification requirements for electrical products.

(2) The certification process generally involves inspection, testing and evaluation of the product. This is done through:

(a) Listing and application of listing label by a Nationally Recognized Testing Laboratory (NRTL);

(b) Special Deputy Evaluation and Certification. A product can be submitted to the division for certification under ORS 479.760. The special deputy procedures, rules and limitations are located in OAR 918-306-0510 to 918-306-0530; or

(c) Field Evaluation of Products. Field evaluation involves inspection, testing, evaluation and application of an evaluation label utilizing the 2018 NFPA Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.730

Hist.: BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; Suspended by BCD 12-2003(Temp), f. & cert. ef. 6-24-03 thru 10-31-03; BCD 15-2003, f. & cert. ef. 10-1-03; BCD 4-2004, f. 3-31-04, cert. ef. 4-1-04; BCD 12-2014, f. 9-30-14, cert. ef. 10-1-14; BCD 9-2017, f. 9-14-17, cert. ef. 10-1-17

Rule Caption: Adopts the 2017 Oregon Plumbing Specialty Code

Adm. Order No.: BCD 10-2017

Filed with Sec. of State: 9-14-2017

Certified to be Effective: 10-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 918-750-0110, 918-750-0115

Subject: These rules adopt the 2017 Oregon Plumbing Specialty Code based on the 2015 edition of the Uniform Plumbing Code published by the International Association of Plumbing and Mechanical Officials, with Oregon specific amendments. These rules include some non-substantive housekeeping changes to administrative rules that provide clarity and consistency among the division's rules.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-750-0110

Oregon Plumbing Specialty Code

(1) The **Oregon Plumbing Specialty Code** is adopted pursuant to OAR chapter 918, division 8.

(2) Effective October 1, 2017, the **2017 Oregon Plumbing Specialty Code** is based upon the following:

- (a) The 2015 Edition of the Uniform Plumbing Code, First Printing;
- (b) Chapters 1–11 and 13–17;
- (c) Appendices A, C, D, E, and K; and
- (d) As further amended by the division.

(3) Chapter 12, and Appendices B, F, G, H, I, J and L of the 2015 Uniform Plumbing Code are not adopted as part of the **Oregon Plumbing Specialty Code**.

[Publications: Publications are available for review at the division. See division website for information on where to purchase publications.]

Stat. Auth.: ORS 447.020, 455.020, 455.030 & 455.110

Stats. Implemented: ORS 447.020, 455.020, 455.030 & 455.110

Hist.: DC 40, f. 1-6-75, ef. 2-1-75; DC 99, f. 9-2-77, ef. 11-1-77; DC 15-1979(Temp), f. 12-21-79, ef. 1-1-80; DC 2-1980, f. 2-14-80, ef. 3-1-80; DC 3-1980, f. & ef. 2-14-80; DC 4-1981, f. 5-15-81, ef. 7-1-81; DC 9-1981, f. & ef. 7-6-81; DC 14-1981(Temp), f. 10-30-81, ef. 11-6-81; DC 15-1982(Temp), f. & ef. 5-5-82; DC 1-1983, f. & ef. 1-3-83; DC 28-1984, f. 9-5-84, ef. 10-15-84; DC 10-1985, f. & ef. 4-1-85; DC 4-1987, f. & ef. 3-4-87; DC 11-1987, f. & ef. 4-21-87; Renumbered from 814-021-0005; BCA 27-1989, f. 12-5-89, cert. ef. 1-1-90; BCA 14-1990, f. & cert. ef. 6-13-90; BCA 42-1991, f. & cert. ef. 12-23-91; BCA 19-1993(Temp), f. 8-26-93, cert. ef. 9-1-93; BCA 26-1993, f. 10-22-93, cert. ef. 11-1-93; BCD 4-1996, f. 2-29-96, cert. ef. 4-1-96; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98; Renumbered from 918-750-0010; BCD 7-1999, f. 6-21-99, cert. ef. 4-1-2000; BCD 6-2000, f. 3-15-00, cert. ef. 4-1-00; BCD 27-2000, f. 10-13-00 cert. ef. 10-01-01; BCD 24-2004, f. 12-15-04, cert. ef. 4-1-05; BCD 4-2008, f. 2-21-08, cert. ef. 4-1-08; BCD 2-2011, f. & cert. ef. 2-15-11; BCD 11-2014, f. 9-30-14, cert. ef. 10-1-14; BCD 10-2017, f. 9-14-17, cert. ef. 10-1-17

918-750-0115

Amendments to the Oregon Plumbing Specialty Code

The **Oregon Plumbing Specialty Code** is amended pursuant to OAR chapter 918, division 8. Amendments adopted during the code-cycle for inclusion into the **Oregon Plumbing Specialty Code** are placed in this rule, showing the section reference, a descriptive caption, and a short description of the amendment.

[Publications: Publications are available for review at the division. See division website for information on where to purchase publications.]

Stat. Auth.: ORS 447.020, 455.020, 455.030 & 455.110

Stats. Implemented: ORS 447.020, 455.020, 455.030 & 455.110

Hist.: BCD 16-2012, f. 12-21-12, cert. ef. 1-1-13; BCD 11-2014, f. 9-30-14, cert. ef. 10-1-14; BCD 2-2015, f. 3-24-15, cert. ef. 4-1-15; BCD 10-2017, f. 9-14-17, cert. ef. 10-1-17

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Rule Caption: Adopts the 2017 Oregon Residential Specialty Code

Adm. Order No.: BCD 11-2017

Filed with Sec. of State: 9-14-2017

Certified to be Effective: 10-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 918-480-0005, 918-480-0010, 918-480-0150

Subject: These rules adopt the 2017 Oregon Residential Specialty Code. The 2017 ORSC consists of the following: the structural and mechanical provisions of the 2015 edition of the International Residential Code for One- and Two-Family Dwellings with Oregon amendments; low-rise residential plumbing provisions of the 2017 Oregon Plumbing Specialty Code; low-rise residential electrical provisions of the 2017 Oregon Electrical Specialty Code; and the low-rise apartment provisions of the 2014 Oregon Structural Specialty Code and 2014 Oregon Mechanical Specialty Code. These rules also include some non-substantive housekeeping changes to administrative rules that provide clarity and consistency among division rules. Additionally, these rules establish a three month phase-

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in period that allows builders the choice of using the 2014 ORSC or the 2017 ORSC.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-480-0005

Adopted Oregon Residential Specialty Code

(1) The **Low-Rise Residential Dwelling Code**, identified in ORS 455.610, will be known as the **Oregon Residential Specialty Code**.

(2) The **Oregon Residential Specialty Code** is adopted pursuant to OAR chapter 918, division 8.

(3) Effective October 1, 2017, the **2017 Oregon Residential Specialty Code** consists of the following:

(a) The 2015 edition of the **International Residential Code for One- and Two-Family Dwellings** as published by the International Code Council, Inc., Chapters 1 through 24 and Chapter 44, Appendices E, F, G, H, K, R, S, and T, and as further amended by the Division. Chapters 25 through 43, and Appendices A, B, C, D, I, J, L, M, N, O, P, Q, and U are not adopted as part of the **Oregon Residential Specialty Code**.

(b) The low-rise plumbing provisions of the **Oregon Residential Specialty Code** are adopted in the **2017 Oregon Plumbing Specialty Code**.

(c) The low-rise electrical provisions of the **Oregon Residential Specialty Code** are adopted in the **2017 Oregon Electrical Specialty Code**.

(d) Low-rise apartment construction provisions of the **Oregon Residential Specialty Code** are adopted in the **2014 Oregon Structural Specialty Code** and the **2014 Oregon Mechanical Specialty Code**.

(4) Applicability of code changes to pending applications. Code requirements in effect at the time a plan review or permit application is filed controls the construction under the application unless the applicant agrees to be controlled by subsequent changes.

(5) For the purposes of implementing a phase-in period for the **2017 Oregon Residential Specialty Code**, the **2014 Oregon Residential Specialty Code** is adopted for a period of three months beginning October 1, 2017 and ending December 31, 2017.

(6) During the three-month phase-in period established in subsection (5), all building departments in the state are required to accept plans for low-rise residential dwellings designed to either the **2017 Oregon Residential Specialty Code** or to the **2014 Oregon Residential Specialty Code**.

[Publications: Publications referenced are available for review at the division. See division website for information on purchasing publications.]

Stat. Auth.: ORS 455.020, 455.030, 455.110, 455.380 & 455.525

Stats. Implemented: ORS 455.610

Hist.: DC 11-1986, f. 6-30-86, ef. 7-1-86; DC 6-1987(Temp), f. & ef. 4-3-87; Renumbered from 814-031-0005; BCA 3-1990, f. 1-30-90, cert. ef. 4-1-90; BCA 7-1990(Temp), f. 3-23-90, cert. ef. 4-1-90; BCA 21-1990, f. 8-28-90, cert. ef. 9-24-90; BCA 30-1990, f. 12-21-90, cert. ef. 1-1-92; BCA 8-1991, f. 4-10-91, cert. ef. 7-1-91; BCA 32-1991(Temp), f. & cert. ef. 9-30-91; BCA 1-1992, f. & cert. ef. 2-6-91; BCA 4-1992(Temp), f. 3-4-92, cert. ef. 3-5-92; BCA 6-1992, f. 3-24-92, cert. ef. 3-27-92; BCA 13-1992, f. 6-29-92, cert. ef. 7-1-92; BCA 28-1992(Temp), f. 12-30-92, cert. ef. 1-1-93; BCA 3-1993(Temp), f. & cert. ef. 3-3-93; BCA 7-1993, f. 4-28-93, cert. ef. 5-1-93; BCA 10-1993(Temp), f. & cert. ef. 6-11-93; BCD 3-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98, Renumbered from 918-480-0000; BCD 3-2000, f. 1-14-00 cert. ef. 4-1-00; BCD 33-2002, f. 12-20-02 cert. ef. 4-1-03; BCD 15-2004, f. 9-10-04, cert. ef. 10-1-04; BCD 5-2005, f. & cert. ef. 3-28-05; BCD 5-2008, f. 2-22-08, cert. ef. 4-1-08; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11; BCD 9-2014, f. 9-25-14, cert. ef. 10-1-14; BCD 11-2017, f. 9-14-17, cert. ef. 10-1-17

918-480-0010

Amendments to the Oregon Residential Specialty Code

The **Oregon Residential Specialty Code** is amended pursuant to OAR chapter 918, division 8. Amendments adopted during the code-cycle for inclusion into the **Oregon Residential Specialty Code** are placed in this rule, showing the section reference and a descriptive caption.

[Publications: Publications referenced are available for review at the division. See division website for information on where to purchase publications.]

Stat. Auth.: ORS 455.020, 455.110, & 455.610

Stats. Implemented: ORS 455.610

Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCA 29-1993, f. 11-24-93, cert. ef. 12-1-93; BCD 6-1995, f. 3-31-95, cert. ef. 4-1-95; BCD 3-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 22-1996(Temp), f. 10-1-96, cert. ef. 10-4-96; BCD 5-1997, f. 3-21-97, cert. ef. 4-1-97; Administrative Reformating 1-19-98; BCD 3-1998, f. 1-29-98, cert. ef. 4-1-98; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 3-2000, f. 1-14-00 cert. ef. 4-1-00; BCD 19-2000(Temp), f. & cert. ef. 8-15-00 thru 2-10-01; BCD 32-2000, f. 12-27-00, cert. ef. 1-1-01; BCD 3-2001, f. 2-9-01, cert. ef. 3-1-01; BCD 2-2002, f. 3-5-02, cert. ef. 4-1-02; BCD 22-2002(Temp), f. 9-13-02 cert. ef. 10-1-02 thru 3-29-03; BCD 30-2002, f. 12-6-02, cert. ef. 1-1-03; BCD 1-2003(Temp), f. & cert. ef. 1-10-03 thru 3-31-03; BCD 33-2002, f. 12-20-02 cert. ef. 4-1-03; BCD 15-2004, f. 9-10-04, cert. ef. 10-1-04; BCD 5-2005, f. & cert. ef. 3-28-05; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06; BCD 1-2007, f. 2-15-07, cert. ef. 4-1-07; BCD 5-2008, f. 2-22-08, cert. ef. 4-1-08; BCD 13-2008(Temp), f. & cert. ef. 7-3-08 thru 12-30-08; BCD 21-2008, f. 9-30-08, cert. ef. 10-1-08; BCD 24-2008(Temp), f. & cert. ef. 10-6-08 thru 4-1-09; BCD 1-2009, f. 1-30-09, cert. ef. 2-1-09; BCD 8-2009, f. 9-30-09, cert. ef. 10-1-09; BCD 5-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 19-2010, f. 12-30-10, cert. ef. 1-1-11; BCD 1-2011, f. & cert. ef. 2-15-11; BCD 11-2011(Temp),

f. & cert. ef. 4-15-11 thru 9-30-11; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11; BCD 9-2014, f. 9-25-14, cert. ef. 10-1-14; BCD 3-2015, f. 3-24-15, cert. ef. 4-1-15; BCD 2-2016, f. 1-28-16, cert. ef. 2-1-16; BCD 11-2017, f. 9-14-17, cert. ef. 10-1-17

918-480-0150

Low Volume Window Label Program

(1) As used in this rule:

(a) “Exempt fenestration product” means a skylight or solarium that is exempt from the thermal performance standards established in the **Oregon Residential Specialty Code**.

(b) “Manufacturer” has the definition provided in Chapter 11 of the **Oregon Residential Specialty Code**.

(c) “Window produced in low volume” has the definition provided in Chapter 11 of the **Oregon Residential Specialty Code**.

(2) Manufacturers of windows produced in low volume or exempt fenestration products must participate in a labeling program administered by the Division. Participating manufacturers must:

(a) Print their own labels, subject to standards established in the **Oregon Residential Specialty Code**;

(b) Attach an appropriate label to each window produced in low volume or exempt fenestration product produced for installation in Oregon;

(c) Comply with any other applicable labeling requirements established in Chapter 11 of the **Oregon Residential Specialty Code**; and

(d) Maintain a log in which the attachment of each label is recorded.

(3) A manufacturer participating in the Division’s labeling program must obtain, from the Division, a log for recording the attachment of labels to either windows produced in low volume or exempt fenestration products. A participating manufacturer must record in its log the type of window produced in low volume or exempt fenestration product that was labeled, the label’s production number, and the date the label was attached. A copy of a manufacturer’s labeling program log for the previous year must be sent to the Division by no later than January 31st of each year. The log must also be made available to the Division upon request.

(4) Participating manufacturers may not:

(a) Sell, exchange, or transfer their labels to another manufacturer;

(b) Purchase or obtain labels produced by another manufacturer; or

(c) Produce or use labels in excess of the maximum established by

Chapter 11 of the **Oregon Residential Specialty Code**.

Stat. Auth.: ORS 455.525

Stats. Implemented: ORS 455.525

Hist.: BCD 26-2008(Temp), f. & cert. ef. 11-3-08 thru 5-1-09; BCD 36-2008, f. 12-31-08, cert. ef. 1-1-09; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11; BCD 11-2017, f. 9-14-17, cert. ef. 10-1-17

Rule Caption: Amends the Oregon Structural Specialty Code for Aviation Hanger Fire Suppression

Adm. Order No.: BCD 12-2017(Temp)

Filed with Sec. of State: 9-14-2017

Certified to be Effective: 9-14-17 thru 3-12-18

Notice Publication Date:

Rules Adopted: 918-460-0017

Subject: This temporary rule provides an exception for manually actuated foam fire suppression systems installed in aviation hangars.

Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-460-0017

Aviation Hanger Fire Suppression

(1) In addition to the amendments in OAR 918-460-0015 the **Oregon Structural Specialty Code** is amended pursuant to OAR chapter 918, division 8 showing the section reference, a descriptive caption, and a short description of the amendment.

(2) Effective September 14, 2017, **Oregon Structural Specialty Code** Section [F] 412.4.6 is amended to include an exception for manually actuated foam suppression systems.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 455.030, 455.110

Stats. Implemented: ORS 455.110

Hist.: BCD 12-2017(Temp), f. & cert. ef. 9-14-17 thru 3-12-18

Department of Consumer and Business Services, Insurance Regulation Chapter 836

Rule Caption: Revises the Certificate of Compliance filing form reflecting Division of Financial Regulation

ADMINISTRATIVE RULES

Adm. Order No.: ID 8-2017
Filed with Sec. of State: 9-11-2017
Certified to be Effective: 9-11-17
Notice Publication Date: 7-1-2017
Rules Amended: 836-010-0011

Subject: This rule updates the Certificate of Compliance sample form required as a part of each rate and form filing. The form sample is currently an exhibit within OAR 836-010-0011, this rule-making removes the exhibit from the rule and places it on the Division of Financial Regulation website. In addition, this rule updates the form to correct the reference of the Oregon Insurance Division to the Division of Financial Regulation in order to reflect the official name change that occurred in January of 2016. Currently, a rule-making is necessary to replace references to the Oregon Insurance Division with the Division of Financial Regulation because this form is an exhibit within the rule. This rulemaking allows for future updates to the form to be carried out without having a formal rule-making process.

Rules Coordinator: Karen Winkel—(503) 947-7694

836-010-0011

Filing, Review of Rates and Forms

(1) Except as provided in this section, this rule applies to filings of all insurers, including health care service contractors as defined in ORS 750.005, multiple employer welfare arrangements as governed by 750.301 to 750.431 and fraternal benefit societies as governed by ORS Chapter 748. This rule does not apply to:

(a) Purchasing group insurance filings.

(b) Negotiated forms as described in ORS 742.003, but only if each of the negotiated forms is issued only to one policyholder, the insurer has determined that the forms comply with benefits and coverages mandated by statute and the forms have a company-assigned form number.

(c) Rates and forms approved by the Interstate Insurance Product Regulation Commission under ORS 732.820.

(2) An insurer must follow the applicable standards set forth on the website of the Division of Financial Regulation (DFR) at dfr.oregon.gov, when making rate and form filings, except that if the insurer files electronically on the System for Electronic Rates and Forms Filing, (SERFF), the insurer must comply with the Oregon standards set forth in SERFF.

(3) An insurer must submit a completed certificate of compliance as provided on the Division of Financial Regulation (DFR) website with each filing of a new or revised rate and each filing of a new or amended form. The insurer must use the certificate of compliance furnished on the DFR website at dfr.oregon.gov/rates-forms/Documents/3894.pdf. The certificate of compliance must certify compliance with the applicable filing requirements and product standards set forth on the DFR website at dfr.oregon.gov or on the SERFF system for Oregon, if filed electronically. The certificate must be accompanied by the applicable product standards form. A certificate of compliance must be completed and signed by:

(a) An officer of the insurer who is authorized by the insurer to do so; and

(b) Signed by the filer who is specifically designated by the insurer to prepare and make the filing.

(4) An insurer filing changes to a form or forms that were previously approved must highlight or otherwise visually call attention to the changes in new or revised forms and must submit a letter explaining the changes.

(5) A filing received for prior approval by the department that does not contain a certificate of compliance and does not comply with the standards referenced in this rule is incomplete and will be returned to the insurer as disapproved.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 731.244 & 731.296

Stats. Implemented: ORS 731.296, 737.205, 737.207, 742.001, 732.820, 743.015, 743.018 & 743.825

Hist.: ID 9-1994, f. 7-1-94, cert. ef. 7-15-94; ID 11-1996, f. 6-28-96, cert. ef. 7-1-96; ID 20-1997(Temp), f. 12-29-97, cert. ef. 12-30-97 thru 6-11-98; ID 11-1998, f. & cert. ef. 8-10-98; Administrative correction 6-25-99; ID 6-2000, f. & cert. ef. 7-19-00; ID 3-2001, f. 3-19-01, cert. ef. 5-1-01; ID 11-2002(Temp), f. & cert. ef. 4-18-02 thru 10-11-02; ID 20-2002, f. 10-11-02, cert. ef. 10-12-02; ID 8-2010, f. 3-31-10, cert. ef. 4-1-10; ID 20-2011, f. 12-16-11, cert. ef. 1-1-12; ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 8-2017, f. & cert. ef. 9-11-17

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

Rule Caption: Oregon OSHA correction to the Personal Climbing Equipment rules for Telecommunication Activities in General Industry.

Adm. Order No.: OSHA 6-2017

Filed with Sec. of State: 9-5-2017

Certified to be Effective: 11-1-17

Notice Publication Date: 8-1-2017

Rules Amended: 437-002-0300

Subject: This rule making is to keep Oregon OSHA in harmony with recent changes to federal OSHA's standards.

Oregon OSHA intended to adopt federal OSHA's revision to 1910.268(g)(1) with Oregon's Administrative Order (AO) 2-2017. AO 2-2017 adopted the majority of federal OSHA's final rule as published in the November 18, 2016 Federal Register for Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems). The final federal rule revised the language for personal climbing equipment for Telecommunications work in 1910.268(g)(1) in Subpart N of 1910; however, the federal language for 1910.268(g)(1) was unintentionally omitted in Oregon OSHA's rule-making process. This omission leaves in place existing rule language. By amending 1910.268(g)(1) in Subdivision 2R, Oregon OSHA will correct the omission, bringing Oregon OSHA's rule language for 1910.268(g)(1) into harmony with current federal OSHA standards before Oregon's 1910.268(g)(1) goes into effect on November 1, 2017.

Unless Oregon OSHA amends 1910.268(g)(1) to reflect the correct language in federal OSHA's adopted Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems) rule, employers in Oregon will be directed to obsolete and inaccurate rule references when reading 1910.268(g)(1) in Oregon after November 1, 2017. No comments were received regarding this rulemaking, and no hearings were requested.

Rules Coordinator: Heather Case—(503) 947-7449

437-002-0300

Adoption by Reference

In addition to and not in lieu of, any other health and safety codes contained in OAR chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

(1) Reserved for 29 CFR 1910.261 Pulp, Paper, and Paperboard Mills.

(2) 29 CFR 1910.262 Textiles, published 11/18/16, FR vol. 81, no. 223, p. 82494.

(3) 29 CFR 1910.263 Bakery Equipment, published 3/7/96, FR vol. 61, no. 46, p. 9241.

(4) 29 CFR 1910.264 Laundry Machinery and Operations, published 11/7/78, FR vol. 43, p. 51760.

(5) 29 CFR 1910.265 Sawmills, published 11/18/16, FR vol. 81, no. 223, p. 82494.

(6) Reserved for 29 CFR 1910.266 Pulpwood Logging.

NOTE: In Oregon, Pulpwood Logging rules are Oregon-initiated rules provided in Division 7, Forest Activities.

(7) Reserved for 29 CFR 1910.267 Agricultural Operations.

(8) 29 CFR 1910.268 Telecommunications, published 11/18/16, FR vol. 81, no. 223, p. 82494.

(9) 29 CFR 1910.269 Electric power generation, transmission and distribution. Repealed with Oregon OSHA Admin. Order 3-2015, f. 10/9/15, ef. 1/1/16. In Oregon, Division 2/RR applies.

(10) 29 CFR 1910.272 Grain Handling Facilities, and Appendices A, B and C, published 3/7/96, FR vol. 61, no. 46, p. 9242.

(11) 29 CFR 1910.274 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9242.

(12) 29 CFR 1910.275 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9242.

Note: These standards are available from the Oregon Occupational Safety and Health Division (OR-OSHA), 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

ADMINISTRATIVE RULES

Hist.: APD 10-1988, f. & ef. 7-7-88; OSHA 23-1990, f. 9-28-90, ef. 12-1-90; OSHA 27-1990, f. 12-12-90, ef. 2-1-91; OSHA 14-1991, f. 10-10-91, cert. ef. 11-1-91; OSHA 7-1993, f. 6-8-93, cert. ef. 8-1-93; OSHA 11-1993, f. 8-4-93, cert. ef. 10-1-93; OSHA 3-1994, f. & cert. ef. 8-1-94; OSHA 6-1995, f. 4-18-95, cert. ef. 6-1-95; OSHA 3-1996, f. & cert. ef. 7-22-96; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 3-1999, f. & cert. ef. 4-30-99; OSHA 5-2001, f. & cert. ef. 4-6-01; OSHA 4-2004, f. & cert. ef. 9-15-04; OSHA 4-2005, f. & cert. ef. 12-14-05; OSHA 1-2012, f. & cert. ef. 4-10-12; OSHA 6-2012, f. 9-28-12, cert. ef. 4-1-13; OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16; OSHA 2-2017, f. 5-16-17, cert. ef. 11-1-17; OSHA 6-2017, f. 9-5-17, cert. ef. 11-1-17

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Department of Consumer and Business Services, Workers' Compensation Division Chapter 436

Rule Caption: Amendments to reflect the Oregon Supreme Court's decision in *Brown v. SAIF Corporation*

Adm. Order No.: WCD 3-2017

Filed with Sec. of State: 9-7-2017

Certified to be Effective: 10-8-17

Notice Publication Date: 7-1-2017

Rules Amended: 436-010-0280, 436-030-0020, 436-030-0035, 436-035-0006, 436-035-0013

Subject: The agency has amended OAR chapter 436 to:

- Reflect changes in interpretation of workers' compensation statutes by the Oregon Supreme Court in *Brown v. SAIF Corporation*, 361 Or 241 (2017), primarily the court's determination that "otherwise compensable injury" in ORS 656.005(7)(a)(B), refers to a medical condition and not to an injury incident;

- Eliminate references to a "condition directly resulting from the work injury";

- Amend OAR 436-030-0035(1)(b) and (c) to refer to the plural "direct medical sequelae" rather than to "direct medical sequela" (to be consistent with other uses of the term);

- Update the examples in OAR 436-035-0013; and

- Replace some references to "injury claims" to indicate "initial injury claims," as well as some references to "injury claim" to indicate "initial injury claim."

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-010-0280

Determination of Impairment/Closing Exams

(1) When a worker has received compensation for time loss or it is likely the worker has permanent impairment and becomes medically stationary, the attending physician must complete a closing exam or refer the worker to a consulting physician for all or part of the closing exam. If the worker is under the care of an authorized nurse practitioner or a type B attending physician, other than a chiropractic physician, the provider must refer the worker to a type A attending physician to do a closing exam.

(2) The closing exam must be completed under OAR 436-030 and 436-035 and Bulletin 239. (See Appendix A "Matrix for Health Care Provider Types".)

(3) When the attending physician completes the closing exam, the attending physician has 14 days from the medically stationary date to send the closing report to the insurer. When the attending physician does not complete the closing exam, the attending physician must arrange, or ask the insurer to arrange, a closing exam with a consulting physician within seven days of the medically stationary date.

(4) When an attending physician or authorized nurse practitioner requests a consulting physician to do the closing exam, the consulting physician has seven days from the date of the exam to send the report to the attending physician for concurrence or objections. Within seven days of receiving the closing exam report, the attending physician must state in writing whether the physician concurs with or objects to all or part of the findings of the exam, and send the concurrence or objections with the report to the insurer.

(5) The attending physician must specify the worker's residual functional capacity if:

- (a) The attending physician has not released the worker to the job held at the time of injury because of a permanent work restriction caused by the compensable injury, and

- (b) The worker has not returned to the job held at the time of injury, because of a permanent work restriction caused by the compensable injury.

- (6) Instead of specifying the worker's residual functional capacity under section (5) of this rule, the attending physician may refer the worker for:

- (a) A second-level physical capacities evaluation (see OAR 436-009-0060) when the worker has not been released to return to the job held at the time of injury, has not returned to the job held at the time of injury, has returned to modified work, or has refused an offer of modified work; or

- (b) A work capacities evaluation (see OAR 436-009-0060) when there is a question of the worker's ability to return to suitable and gainful employment. The provider may also be required to specify the worker's ability to perform specific job tasks.

(7) When the insurer issues a major contributing cause denial on an accepted claim and the worker is not medically stationary:

- (a) The attending physician must do a closing exam or refer the worker to a consulting physician for all or part of the closing exam; or

- (b) An authorized nurse practitioner or a type B attending physician, other than a chiropractic physician, must refer the worker to a type A attending physician for a closing exam.

(8) The closing report must include all of the following:

- (a) Findings of permanent impairment.

- (A) In an initial injury claim, the closing report must include objective findings of any permanent impairment that is caused in any part by an accepted condition or a direct medical sequela of an accepted condition.

- (B) In a new or omitted condition claim, the closing report must include objective findings of any permanent impairment that is caused in any part by an accepted new or omitted condition or a direct medical sequela of an accepted new or omitted condition.

- (C) In an aggravation claim, the closing report must include objective findings of any permanent impairment that is caused in any part by an accepted worsened condition or a direct medical sequela of an accepted worsened condition.

- (D) In an occupational disease claim, the closing report must include objective findings of any permanent impairment that is caused in any part by an accepted occupational disease or a direct medical sequela of an accepted occupational disease.

- (b) Findings documenting permanent work restrictions.

- (A) If the worker has no permanent work restriction, the closing report must include a statement indicating that:

- (i) The worker has no permanent work restriction; or

- (ii) The worker is released, without restriction, to the job held at the time of injury.

- (B) In an initial injury claim, the closing report must include objective findings documenting any permanent work restriction that:

- (i) Prevents the worker from returning to the job held at the time of injury; and

- (ii) Is caused in any part by an accepted condition or a direct medical sequela of an accepted condition.

- (C) In a new or omitted condition claim, the closing report must include objective findings documenting any permanent work restriction that:

- (i) Prevents the worker from returning to the job held at the time of injury; and

- (ii) Is caused in any part by an accepted new or omitted condition or a direct medical sequela of an accepted new or omitted condition.

- (D) In an aggravation claim, the closing report must include objective findings documenting any permanent work restriction that:

- (i) Prevents the worker from returning to the job held at the time of injury; and

- (ii) Is caused in any part by an accepted worsened condition or a direct medical sequela of an accepted worsened condition.

- (E) In an occupational disease claim, the closing report must include objective findings documenting any permanent work restriction that:

- (i) Prevents the worker from returning to the job held at the time of injury; and

- (ii) Is caused in any part by an accepted occupational disease or a direct medical sequela of an accepted occupational disease.

- (c) A statement regarding the validity of an impairment finding is required in the following circumstances:

- (A) If the examining physician determines that a finding of impairment is invalid, the closing report must include a statement that identifies the basis for the determination that the finding is invalid.

- (B) If the examining physician determines that a finding of impairment is valid but the finding is not addressed by any applicable validity criteria under Bulletin 239, the closing report must include a statement that identifies the basis for the determination that the finding is valid.

ADMINISTRATIVE RULES

(C) If the examining physician chooses to disregard applicable validity criteria under Bulletin 239 because the criteria are medically inappropriate for the worker, the closing report must include a statement that describes why the criteria would be inappropriate.

[ED. NOTE: Appendices referenced are available from the agency.]

Stat. Auth.: ORS 656.726(4) & 656.245(2)(b)

Stats. Implemented: ORS 656.245 & 656.252

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; Renumbered from 436-069-0601, 5-1-85; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0080; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2006, f. 6-15-06, cert. ef. 7-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08; WCD 12-2007(Temp), f. 12-14-07, cert. ef. 1-2-08 thru 6-29-08; WCD 2-2008, f. 6-13-08, cert. ef. 6-30-08; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 5-2011, f. 11-18-11, cert. ef. 1-1-12; WCD 3-2014, f. 3-12-14, cert. ef. 4-1-14; WCD 1-2015, f. 1-29-15, cert. ef. 3-1-15; WCD 5-2015, f. 8-20-15, cert. ef. 10-1-15; WCD 2-2017(Temp), f. 4-10-17, cert. ef. 4-11-17 thru 10-7-17; WCD 3-2017, f. 9-7-17, cert. ef. 10-8-17

436-030-0020

Requirements for Claim Closure

(1) Issuance of a Notice of Closure. Unless the worker is enrolled and actively engaged in training, the insurer must issue a Notice of Closure on an accepted disabling claim within 14 days when:

(a) Medical information establishes that there is sufficient information to determine the extent of permanent disability and indicates that the worker is medically stationary;

(b) The compensable injury is no longer the major contributing cause of the worker's combined or consequential condition(s), a major contributing cause denial has been issued, and there is sufficient information to determine the extent of permanent disability;

(c) The worker fails to seek medical treatment for 30 days for reasons within the worker's control and the worker has been notified of pending actions in accordance with these rules;

(d) The worker fails to attend a mandatory closing examination for reasons within the worker's control and the worker has been notified of pending actions in accordance with these rules; or

(e) A worker receiving permanent total disability benefits has materially improved and is capable of regularly performing work at a gainful and suitable occupation.

(2) Sufficient Information. For purposes of determining the extent of permanent disability, except as provided in section (14) of this rule for closure after training, "sufficient information" requires: a qualifying statement of no permanent disability under subsection (a) of this section or a qualifying closing report under subsection (b) of this section. Additional documentation is required under subsection (c) of this section unless there is clear and convincing evidence that an attending physician or authorized nurse practitioner has released the worker to the job held at the time of injury or that the worker has returned to the job held at the time of injury.

(a) Qualifying statements of no permanent disability. A statement indicating that there is no permanent disability is sufficient if it meets all of the following requirements:

(A) Qualified providers. An authorized nurse practitioner or attending physician must provide or concur with the statement.

(B) Support by the medical record. The statement must be supported by the medical record. If the medical record reveals otherwise, a closing examination and report specified under subsection (b) of this section are required.

(C) In initial injury claims. In an initial injury claim, the statement must clearly indicate the following:

(i) There is no reasonable expectation of any permanent impairment caused in any part by an accepted condition or a direct medical sequela of an accepted condition; and

(ii) There is no reasonable expectation of any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted condition or a direct medical sequela of an accepted condition.

(D) In new or omitted condition claims. In a new or omitted condition claim, the statement must clearly indicate the following:

(i) There is no reasonable expectation of any permanent impairment caused in any part by an accepted new or omitted condition or a direct medical sequela of an accepted new or omitted condition; and

(ii) There is no reasonable expectation of any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted new or omitted condition or a direct medical sequela of an accepted new or omitted condition.

(E) In aggravation claims. In an aggravation claim, the statement must clearly indicate the following:

(i) There is no reasonable expectation of any permanent impairment caused in any part by an accepted worsened condition or a direct medical sequela of an accepted worsened condition; and

(ii) There is no reasonable expectation of any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted worsened condition or a direct medical sequela of an accepted worsened condition.

(F) In occupational disease claims. In an occupational disease claim, the statement must clearly indicate the following:

(i) There is no reasonable expectation of any permanent impairment caused in any part by an accepted occupational disease or a direct medical sequela of an accepted occupational disease; and

(ii) There is no reasonable expectation of any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted occupational disease or a direct medical sequela of an accepted occupational disease.

(b) Qualifying closing reports. A closing medical examination and report are required if there is a reasonable expectation of permanent disability. A closing report is sufficient if it meets all of the following requirements:

(A) Qualified providers. A type A attending physician or a chiropractic physician serving as the attending physician must provide or concur with the closing report.

(B) Release to regular work. If the worker has no permanent work restriction, the closing report must include a statement indicating that:

(i) The worker has no permanent work restriction; or

(ii) The worker is released, without restriction, to the job held at the time of injury.

(C) In initial injury claims. In an initial injury claim, the closing report must include detailed documentation of all measurements, findings, and limitations regarding:

(i) Any permanent impairment caused in any part by an accepted condition or a direct medical sequela of an accepted condition; and

(ii) Any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted condition or a direct medical sequela of an accepted condition.

(D) In new or omitted condition claims. In a new or omitted condition claim, the closing report must include detailed documentation of all measurements, findings, and limitations regarding:

(i) Any permanent impairment caused in any part by an accepted new or omitted condition or a direct medical sequela of an accepted new or omitted condition; and

(ii) Any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted new or omitted condition or a direct medical sequela of an accepted new or omitted condition.

(E) In aggravation claims. In an aggravation claim, the closing report must include detailed documentation of all measurements, findings, and limitations regarding:

(i) Any permanent impairment caused in any part by an accepted worsened condition or a direct medical sequela of an accepted worsened condition; and

(ii) Any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted worsened condition or a direct medical sequela of an accepted worsened condition.

(F) In occupational disease claims. In an occupational disease claim, the closing report must include detailed documentation of all measurements, findings, and limitations regarding:

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(i) Any permanent impairment caused in any part by an accepted occupational disease or a direct medical sequela of an accepted occupational disease; and

(ii) Any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted occupational disease or a direct medical sequela of an accepted occupational disease.

(c) Additional documentation. Unless there is clear and convincing evidence that an attending physician or authorized nurse practitioner has released the worker to the job held at the time of injury (for dates of injury on or after January 1, 2006) or that the worker has returned to the job held at the time of injury, all of the following is required:

(A) An accurate description of the physical requirements of the worker's job held at the time of injury, which has been provided by certified mail to the worker and the worker's legal representative, if any, either before closing the claim or at the time the claim is closed;

(B) The worker's wage established consistent with OAR 436-060;

(C) The worker's date of birth;

(D) Except as provided in OAR 436-030-0015(4)(d), the worker's work history for the period beginning five years before the date of injury to the mailing date of the Notice of Closure, including tasks performed or level of SVP, and physical demands; and

(E) The worker's level of formal education.

(3) When determining disability and issuing the Notice of Closure, the insurer must apply all statutes and rules consistent with their provisions, particularly as they relate to major contributing cause denials, worker's failure to seek treatment, worker's failure to attend a mandatory examination, medically stationary status, temporary disability, permanent partial and total disability, review of permanent partial and total disability.

(4) When issuing a Notice of Closure, the insurer must prepare and attach a summary worksheet, "Notice of Closure Worksheet," Form 2807, as described by bulletin of the director.

(5) The "Notice of Closure," Form 1644, is effective the date it is mailed to the worker and to the worker's attorney if the worker is represented, or to the worker's estate if the worker is deceased, regardless of the date on the Notice itself.

(6) The notice must be in the form and format prescribed by the director in these rules and include only the following:

(a) The worker's name, address, and claim identification information;

(b) The appropriate dollar value of any individual scheduled or unscheduled permanent disability based on the value per degree for injuries occurring before January 1, 2005 or, for injuries occurring on or after January 1, 2005, the appropriate dollar value of any "whole person" permanent disability, including impairment and work disability as determined appropriate under OAR 436-035;

(c) The body part(s) awarded disability, coded to the table of body part codes as prescribed by the director;

(d) The percentage of loss of the specific body part(s), including either the number of degrees that loss represents as appropriate for injuries occurring before January 1, 2005, or the percentage of the whole person the worker's loss represents as appropriate for injuries occurring on or after January 1, 2005;

(e) If there is no permanent disability award for this Notice of Closure, a statement to that effect;

(f) The duration of temporary total and temporary partial disability compensation;

(g) The date the Notice of Closure was mailed;

(h) The medically stationary date or the date the claim statutorily qualifies for closure under OAR 436-030-0035 or 436-030-0034;

(i) The date the worker's aggravation rights end;

(j) The appeal rights of the worker and any beneficiaries;

(k) A statement that the worker has the right to consult with the Ombudsman for Injured Workers;

(l) For claims with dates of injury before January 1, 2005, the rate in dollars per degree at which permanent disability, if any, will be paid based on date of injury as identified in Bulletin 111;

(m) For claims with dates of injury on or after January 1, 2005, the state's average weekly wage applicable to the worker's date of injury;

(n) The worker's return to work status;

(o) A general statement that the insurer has the authority to recover an overpayment;

(p) A statement that the worker has the right to be represented by an attorney; and

(q) A statement that the worker has the right to request a vocational eligibility evaluation under ORS 656.340.

(7) The Notice of Closure (Form 1644) must be accompanied by the following:

(a) The brochure "Understanding Claim Closure and Your Rights";

(b) A copy of summary worksheet Form 2807 containing information and findings which result in the data appearing on the Notice of Closure;

(c) An accurate description of the physical requirements of the worker's job held at the time of injury unless it is not required under section (2)(a) of this rule or it was previously provided under section (2)(b)(A) of this rule;

(d) The Updated Notice of Acceptance at Closure which clearly identifies all accepted conditions in the claim and specifies those which have been denied and are on appeal or which were the basis for this opening of the claim; and

(e) A cover letter that:

(A) Specifically explains why the claim has been closed (e.g., expiration of a period of suspension without the worker resolving the problems identified, an attending physician stating the worker is medically stationary, worker failure to treat without attending physician authorization or establishing good cause for not treating, etc.);

(B) Lists and describes enclosed documents; and

(C) Notifies the worker about the end of temporary disability benefits, if any, and the anticipated start of permanent disability benefits, if any.

(8) A copy of the Notice of Closure must be mailed to each of the following persons at the same time, with each copy clearly identifying the intended recipient:

(a) The worker;

(b) The employer;

(c) The director; and

(d) The worker's attorney, if the worker is represented.

(9) If the worker is deceased at the time the Notice of Closure is issued:

(a) The worker's copy of the notice must be addressed to the estate of the worker and mailed to the worker's last known address.

(b) Copies of the notice may be mailed to any known or potential beneficiaries to the worker's estate. If a copy of the notice is mailed to a beneficiary, it must be mailed by both regular mail and certified mail return receipt requested.

(10) The worker's copy of the Notice of Closure must be mailed by both regular mail and certified mail return receipt requested.

(11) An insurer may use electronically produced Notice of Closure forms if consistent with the form and format prescribed by the director.

(12) Insurers may allow adjustments of benefits awarded to the worker under the documentation requirements of OAR 436-060-0170 for the following purposes:

(a) To recover payments for permanent disability which were made prematurely;

(b) To recover overpayments for temporary disability; and

(c) To recover overpayments for other than temporary disability such as prepaid travel expenses where travel was not completed, prescription reimbursements, or other benefits payable under ORS 656.001 to 656.794.

(13) The insurer may allow overpayments made on a claim with the same insurer to be deducted from compensation to which the worker is entitled but has not yet been paid.

(14) Under ORS 656.268(10), if, after claim closure, the worker becomes enrolled and actively engaged in an approved training program under OAR 436-120, the insurer must again close the claim consistent with the following:

(a) The claim must be closed when the worker ceases to be enrolled and actively engaged in the training and:

(A) The worker is medically stationary;

(B) The worker's accepted injury is no longer the major contributing cause of the worker's combined or consequential condition or conditions; or

(C) The claim otherwise qualifies for closure under OAR 436-030-0034.

(b) If the worker is medically stationary, there must be a current (within three months before closure) determination of medically stationary status.

(c) For claims with dates of injury on or after January 1, 2005, permanent disability must be redetermined for work disability only. For claims with dates of injury before January 1, 2005, permanent disability must be redetermined for unscheduled disability only.

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(d) Except for claims closed under ORS 656.268(1)(c), the insurer must have sufficient information to redetermine work disability or un-scheduled disability. The requirements in section (2) of this rule regarding sufficient information apply only as necessary for the redetermination, as follows:

(A) For claims with dates of injury on or after January 1, 2005, the insurer must have sufficient information to determine work disability under OAR 436-035-0012. An evaluation of the adaptability factor of work disability under OAR 436-035-0012(7) through (13) must be based on a current (within three months before closure) medical determination of the worker's residual functional capacity.

(B) For claims with dates of injury before January 1, 2005, the insurer must have sufficient information to determine un-scheduled disability under OAR 436-035-0008(2). An evaluation of un-scheduled disability must be based on a current (within three months before closure) medical determination.

(15) When, after a claim is closed, the insurer changes or is ordered to change the worker's weekly wage upon which calculation of the work disability portion of a permanent disability award may be based, the insurer must notify the parties and the division of the change and the effect of the change on any permanent disability award. For purposes of this rule, the insurer must complete Form 1502 consistent with the instructions of the director and distribute it within 14 days of the change.

Stat. Auth.: ORS 656.268, 656.726

Stats. Implemented: ORS 656.210, 656.212, 656.214, 656.268, 656.726, 656.745

Hist.: WCD 4-1980(Admin), f. 3-20-80, ef. 4-1-80; WCD 5-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-065-0006, 5-1-85; WCD 13-1987, f. 12-18-87, ef. 1-1-88; WCD 5-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 31-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 5-1992, f. 1-17-92, cert. ef. 2-20-92; WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 1-2015, f. 1-29-15, cert. ef. 3-1-15; WCD 4-2015(Temp), f. & cert. ef. 5-21-15 thru 11-16-15; WCD 6-2015, f. 10-12-15, cert. ef. 11-17-15; WCD 2-2017(Temp), f. 4-10-17, cert. ef. 4-11-17 thru 10-7-17; WCD 3-2017, f. 9-7-17, cert. ef. 10-8-17

436-030-0035

Determining Medically Stationary Status

(1) A worker is medically stationary in the following circumstances:

(a) In initial injury claims. In an initial injury claim, a worker is medically stationary when the attending physician, authorized nurse practitioner, or a preponderance of medical opinion declares that all accepted conditions and direct medical sequelae of accepted conditions are either "medically stationary" or "medically stable" or when the provider uses other language meaning the same thing.

(b) In new or omitted condition claims. In a new or omitted condition claim, a worker is medically stationary when the attending physician, authorized nurse practitioner, or a preponderance of medical opinion declares that all accepted new or omitted conditions and direct medical sequelae of accepted new or omitted conditions are either "medically stationary" or "medically stable" or when the provider uses other language meaning the same thing.

(c) In aggravation claims. In an aggravation claim, a worker is medically stationary when the attending physician, authorized nurse practitioner, or a preponderance of medical opinion declares that all accepted worsened conditions and direct medical sequelae of accepted worsened conditions are either "medically stationary" or "medically stable" or when the provider uses other language meaning the same thing.

(d) In occupational disease claims. In an occupational disease claim, a worker is medically stationary when the attending physician, authorized nurse practitioner, or a preponderance of medical opinion declares that all accepted occupational diseases and direct medical sequela of accepted occupational diseases are either "medically stationary" or "medically stable" or when the provider uses other language meaning the same thing.

(2) When there is a conflict in the medical opinions as to whether a worker is medically stationary, more weight is given to medical opinions that are based on the most accurate history, on the most objective findings, on sound medical principles, and clear and concise reasoning.

(3) Where there is not a preponderance of medical opinion stating a worker is or is not medically stationary, deference will generally be given to the opinion of the attending physician. However, in cases where expert analysis is important, deference is given to the opinion of the physician with the greatest expertise in, and understanding of, the worker's medical condition.

(4) When there is a conflict as to the date upon which a worker became medically stationary, the following conditions govern the determination of the medically stationary date. The date a worker is medically sta-

tionary is the earliest date that a preponderance is established under sections (1) and (2) of this rule. The date of the examination, not the date of the report, controls the medically stationary date.

(5) The insurer must request the attending physician, as defined in ORS 656.005(12)(b)(A), to concur or comment when the attending physician arranges or refers the worker for a closing examination with another physician to determine the extent of impairment or when the insurer refers a worker for an independent medical examination. A concurrence with another physician's report is an agreement in every particular, including the medically stationary impression and date, unless the physician expressly states to the contrary and explains the reasons for disagreement. Concurrence cannot be presumed in the absence of the attending physician's response.

(6) A worker is medically stationary on the date of the examination when so specified by a physician. When a specific date is not indicated, a worker is presumed medically stationary on the date of the last examination, prior to the date of the medically stationary opinion. Physician projected medically stationary dates cannot be used to establish a medically stationary date.

(7) If the worker is incarcerated or confined in some other manner and unable to freely seek medical treatment, the insurer must arrange for medical examinations to be completed at the facility where the worker is located or at some other location accessible to the worker.

(8) If a worker dies and the attending physician has not established a medically stationary date, for purposes of claim closure, the medically stationary date is the date of death.

Stat. Auth.: ORS 656.268, 656.726

Stats. Implemented: ORS 656.268

Hist.: WCD 5-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 31-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 5-1992, f. 1-17-92, cert. ef. 2-20-92; WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 1-2015, f. 1-29-15, cert. ef. 3-1-15; WCD 2-2017(Temp), f. 4-10-17, cert. ef. 4-11-17 thru 10-7-17; WCD 3-2017, f. 9-7-17, cert. ef. 10-8-17

436-035-0006

Determination of Benefits for Disability Caused by the Compensable Injury

(1) In initial injury claims. In an initial injury claim, permanent disability caused by the compensable injury includes disability caused by:

- (a) An accepted condition; or
- (b) A direct medical sequela of an accepted condition.

(2) In new or omitted condition claims. In a new or omitted condition claim, permanent disability caused by the compensable injury includes disability caused by:

- (a) An accepted new or omitted condition; or
- (b) A direct medical sequela of an accepted new or omitted condition.

(3) In aggravation claims. In an aggravation claim, permanent disability caused by the compensable injury includes disability caused by:

- (a) An accepted worsened condition; or
- (b) A direct medical sequela of an accepted worsened condition.

(4) In occupational disease claims. In an occupational disease claim, permanent disability caused by the compensable injury includes disability caused by:

- (a) An accepted occupational disease; or
- (b) A direct medical sequela of an accepted occupational disease.

Stat. Auth.: ORS 656.726

Stats. Impltd.: ORS 656.005, 656.214, 656.225, 656.268, 656.726 & 656.802

Hist.: WCD 1-2015, f. 1-29-15, cert. ef. 3-1-15; WCD 2-2017(Temp), f. 4-10-17, cert. ef. 4-11-17 thru 10-7-17; WCD 3-2017, f. 9-7-17, cert. ef. 10-8-17

436-035-0013

Findings of Impairment

(1) Findings of impairment, generally. Findings of impairment are objective medical findings that measure the extent to which a worker has suffered permanent loss of use or function of a body part or system.

(2) Findings of impairment when the worker is medically stationary. If the worker is medically stationary, findings of impairment are determined by performing the following steps:

- (a) In initial injury claims.
 - (A) Identify each body part or system in which use or function is permanently lost as a result of an accepted condition or a direct medical sequela of an accepted condition.

(B) For each body part or system identified in paragraph (A) of this subsection, establish the extent to which use or function of the body part or system is permanently lost; and

- (C) Establish the portion of the loss caused by:

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- (i) Any accepted condition;
- (ii) Any direct medical sequela of an accepted condition;
- (iii) Any condition that existed before the initial injury incident but does not qualify as a pre-existing condition;
- (iv) Any pre-existing condition that is not otherwise compensable;
- (v) Any denied condition; and
- (vi) Any superimposed condition.

Example: Accepted condition: Low back strain
- Superimposed condition: pregnancy (mid-term)

- Denied condition: lumbar disc herniation

- In the closing examination, the attending physician describes range of motion findings and states that 10% of the range of motion loss is due to the accepted condition, 50% of the loss is due to a lumbar disc herniation, and 40% of the loss is due to the pregnancy. The worker is eligible for an impairment award for the 10% of the range of motion loss that is due to the low back strain. Under these rules, the range of motion loss is valued at 10%. $10\% \times .10$ equals 1% impairment.

- (b) In new or omitted condition claims.

(A) Identify each body part or system in which use or function is permanently lost as a result of an accepted new or omitted condition or a direct medical sequela of an accepted new or omitted condition.

(B) For each body part or system identified in paragraph (A) of this subsection, establish the extent to which use or function of the body part or system is permanently lost; and

(C) Establish the portion of the loss caused by:

- (i) Any accepted new or omitted condition;
- (ii) Any direct medical sequela of an accepted new or omitted condition;

(iii) In a new condition claim, any condition that existed before the onset of the accepted new medical condition but does not qualify as a pre-existing condition;

(iv) In an omitted condition claim, any condition that existed before the initial injury incident but does not qualify as a pre-existing condition;

(v) Any pre-existing condition that is not otherwise compensable;

(vi) Any denied condition; and

(vii) Any superimposed condition.

(c) In aggravation claims.

(A) Identify each body part or system in which use or function is permanently lost as a result of an accepted worsened condition or a direct medical sequela of an accepted worsened condition. (B) For each body part or system identified in paragraph (A) of this subsection, establish the extent to which use or function of the body part or system is permanently lost; and

(C) Establish the portion of the loss caused by:

- (i) Any accepted worsened condition;
- (ii) Any direct medical sequela of an accepted worsened condition;
- (iii) Any condition that existed before the onset of the accepted worsened condition but does not qualify as a pre-existing condition;
- (iv) Any pre-existing condition that is not otherwise compensable;
- (v) Any denied condition; and
- (vi) Any superimposed condition.

(d) In occupational disease claims.

(A) Identify each body part or system in which use or function is permanently lost as a result of an accepted occupational disease or a direct medical sequela of an accepted occupational disease.

(B) For each body part or system identified in paragraph (A) of this subsection, establish the extent to which use or function of the body part or system is permanently lost; and

(C) Establish the portion of the loss caused by:

- (i) Any accepted occupational disease;
- (ii) Any direct medical sequela of an accepted occupational disease;
- (iii) Any pre-existing condition that is not otherwise compensable;
- (iv) Any denied condition; and
- (v) Any superimposed condition.

(3) Findings of impairment when the worker is not medically stationary. Except for a claim closed under ORS 656.268(1)(c), if the worker is not medically stationary, findings of impairment are determined by performing the following steps:

(a) In initial injury claims.

(A) Identify each body part or system in which use or function is likely to be permanently lost as a result of an accepted condition or a direct medical sequela of an accepted condition at the time the worker is likely to become medically stationary;

(B) For each body part or system identified in paragraph (A) of this subsection, estimate the extent to which the use or function of the body part or system is likely to be permanently lost at the time the worker is likely to become medically stationary; and

(C) Estimate the portion of the loss that is likely to be caused by:

- (i) Any accepted condition;

- (ii) Any direct medical sequela of an accepted condition;
- (iii) Any condition that existed before the initial injury incident but does not qualify as a pre-existing condition;

(iv) Any pre-existing condition that is not otherwise compensable;

(v) Any denied condition; and

(vi) Any superimposed condition.

(b) In new or omitted condition claims.

(A) Identify each body part or system in which use or function is likely to be permanently lost as a result of an accepted new or omitted condition or a direct medical sequela of an accepted new or omitted condition at the time the worker is likely to become medically stationary;

(B) For each body part or system identified in paragraph (A) of this subsection, estimate the extent to which the use or function of the body part or system is likely to be permanently lost at the time the worker is likely to become medically stationary; and

(C) Estimate the portion of the loss that is likely to be caused by:

(i) Any accepted new or omitted condition;

(ii) Any direct medical sequela of an accepted new or omitted condition;

(iii) In a new condition claim, any condition that existed before the onset of the accepted new medical condition but does not qualify as a pre-existing condition;

(iv) In an omitted condition claim, any condition that existed before the initial injury incident but does not qualify as a pre-existing condition;

(v) Any pre-existing condition that is not otherwise compensable;

(vi) Any denied condition; and

(vii) Any superimposed condition.

(c) In aggravation claims.

(A) Identify each body part or system in which use or function is likely to be permanently lost as a result of an accepted worsened condition or a direct medical sequela of an accepted worsened condition at the time the worker is likely to become medically stationary;

(B) For each body part or system identified in paragraph (A) of this subsection, estimate the extent to which the use or function of the body part or system is likely to be permanently lost at the time the worker is likely to become medically stationary; and

(C) Estimate the portion of the loss that is likely to be caused by:

(i) Any accepted worsened condition;

(ii) Any direct medical sequela of an accepted worsened condition;

(iii) Any condition that existed before the onset of the accepted worsened condition but does not qualify as a pre-existing condition;

(iv) Any pre-existing condition that is not otherwise compensable;

(v) Any denied condition; and

(vi) Any superimposed condition.

(d) In occupational disease claims.

(A) Identify each body part or system in which use or function is likely to be permanently lost as a result of an accepted occupational disease or a direct medical sequela of an accepted occupational disease at the time the worker is likely to become medically stationary;

(B) For each body part or system identified in paragraph (A) of this subsection, estimate the extent to which the use or function of the body part or system is likely to be permanently lost at the time the worker is likely to become medically stationary; and

(C) Estimate the portion of the loss that is likely to be caused by:

(i) Any accepted occupational disease;

(ii) Any direct medical sequela of an accepted occupational disease;

(iii) Any pre-existing condition that is not otherwise compensable;

(iv) Any denied condition; and

(v) Any superimposed condition.

(4) Age and education. The social-vocational factors of age and education (including SVP) are not apportioned, but are determined as of the date of issuance.

(5) Irreversible findings of impairment or surgical value. Workers with an irreversible finding of impairment or surgical value due to the compensable injury receive the full value awarded in these rules for the irreversible finding or surgical value.

Example: Accepted conditions: Low back strain with herniated disk at L5-S1 and discectomy.

- Noncompensable condition: pregnancy (mid-term)

- The worker is released to regular work. In the closing examination, the attending physician describes range of motion findings and states that 60% of the range of motion loss is due to the accepted conditions and 40% of the range of motion loss is due to the pregnancy. Under these rules, the range of motion loss is valued at 10%. $10\% \times .60$ equals 6%.

- Discectomy at L5-S1 (irreversible finding) = 9% per these rules.

- Combine 9% with 6% for a value of 14% impairment for the compensable injury. Stat. Auth.: ORS 656.726

Stats. Implemented.: ORS 656.005, 656.214, 656.268, 656.726

ADMINISTRATIVE RULES

Hist.: WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 2-2010, f. 5-5-10, cert. ef. 6-1-10; WCD 1-2015, f. 1-29-15, cert. ef. 3-1-15; WCD 2-2017(Temp), f. 4-10-17, cert. ef. 4-11-17 thru 10-7-17; WCD 3-2017, f. 9-7-17, cert. ef. 10-8-17

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Department of Corrections
Chapter 291

Rule Caption: Access to Law Libraries in Department of Corrections Facilities

Adm. Order No.: DOC 13-2017

Filed with Sec. of State: 8-23-2017

Certified to be Effective: 9-1-17

Notice Publication Date: 3-1-2017

Rules Adopted: 291-139-0100, 291-139-0110, 291-139-0120, 291-139-0130, 291-139-0140, 291-139-0150, 291-139-0160, 291-139-0170, 291-139-0180, 291-139-0190

Rules Repealed: 291-139-0005, 291-139-0010, 291-139-0015, 291-139-0020, 291-139-0025, 291-139-0028, 291-139-0030, 291-139-0035, 291-139-0040, 291-139-0045

Subject: These modifications are necessary to bring inmate access to law library service, supplies, and equipment current with established processes and practices of the department. These rules have not been revised since 1999, and many of the processes for access to law libraries services, supplies, and equipment are accomplished through electronic formats.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-139-0100

Authority, Purpose, and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of these rules is to establish Department of Corrections policy and procedure for affording inmates reasonable access to law library services and equipment and to necessary supplies for the preparation and filing of legal documents with the courts and paroling authorities.

(3) Policy: Within the inherent limitations of resources and the need to promote and maintain facility security, safety, health, and order, and subject to operational contingencies and needs, it is the policy of the Department of Corrections to afford inmates reasonable access to law library services and equipment, and to necessary supplies for the preparation and filing of legal documents with the courts and paroling authorities, on a prioritized basis, in accordance with these rules.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 13-2017, f. 8-23-17, cert. ef. 9-1-17

291-139-0110

Definitions

(1) Active Case: A case or proceeding that is pending before a court or paroling authority.

(2) Cursory Review: A quick scan of documents conducted by the library coordinator or other corrections staff to verify that the documents belong to the inmate and are legal in nature.

(3) Department of Corrections Facility: Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(4) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(5) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an Assistant Director, or an administrator and who has responsibility for delivery of program services or coordination of program operations.

(6) General Legal User: An inmate requesting access to law library services, equipment, or supplies in order to conduct legal research or to prepare a legal document in a matter that does not raise a legal challenge to the inmate's conviction or sentence, or to the conditions of the inmate's prison confinement, that is pending before or to be submitted to a court or paroling authority, including but not limited to the following matters: marriage dissolution(divorce), child custody, paternity, estate matters, DMV matters, social security benefits, wills, power of attorney, immigration, internal DOC administrative grievances, and general research

(7) Imminent Court Deadline: A deadline for the filing of a legal document with a court or paroling authority that must be received by the court or paroling authority within 30 calendar days.

(8) Indigent Inmate: An indigent inmate without sufficient funds in the inmate's trust account at the time of request to pay for supplies or services needed to prepare or make required filings with a court or paroling authority.

(9) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.

(10) Legal Documents: Pleadings (i.e., complaint, petition or answer), legal motions and memoranda, affidavits, court orders and judgments, or other necessary papers submitted to a court in connection with a legal action. For purposes of these rules "legal documents" include necessary papers submitted to the Oregon Board of Parole and Post-Prison Supervision and equivalent releasing authorities in other state and federal jurisdictions in connection with official actions and proceedings of such authorities.

(11) Legal Assistant: An inmate assigned to work in a facility law library to help guide and assist other inmates with legal research and preparation of legal documents for filing with a court or paroling authority.

(12) Library Coordinator: A department employee assigned to provide general and law library services to inmates in a Department of Corrections facility.

(13) Priority Legal User: An inmate requesting access to law library services, equipment, or supplies in order to conduct legal research or to prepare a legal document in a matter that raises a legal challenge to the inmate's conviction or sentence, or to the conditions of the inmate's prison confinement that is pending before or to be submitted to a court or paroling authority. Matters may include: direct appeals and collateral challenges to the inmate's conviction or sentence in state or federal court (i.e., direct appeals in Oregon Court of Appeals and Oregon Supreme Court, and United States Supreme Court; petitions for post-conviction relief in Oregon Circuit Court, and appeals in the Oregon Court of Appeals, Oregon Supreme Court, and United States Supreme Court; petitions for habeas corpus in United States District Court, and appeals in United States Courts of Appeal and United States Supreme Court; petitions for habeas corpus in in Oregon Circuit Court, and appeals in Oregon Court of Appeals and Oregon Supreme Court; actions for violation of federal civil rights under 42 USC Section 1983 in United States District Court, and appeals in United States Courts of Appeal and United States Supreme Court; and actions for violation of federal civil rights under 42 USC section 1983 filed in Oregon Circuit Court, and appeals in Oregon Court of Appeals and Oregon Supreme Court).

(14) Removable Media: Any storage device that can be portable, accessible, or connected to any computing device with the ability to process the contents held on that media. Examples include but are not limited to USB-based memory sticks, removable memory cards, portable audio/media players that support data storage, removable memory-based media, such DVDs, CDs, or floppy disks.

(15) Special Housing: Inmate housing assignments other than general population.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 13-2017, f. 8-23-17, cert. ef. 9-1-17

291-139-0120

Access to Law Library Services and Equipment

(1) General: Within the inherent limitation of resources and the need for facility security, safety, health, and order, and subject to operational contingencies, all inmates will be afforded reasonable opportunities to access law library services and equipment, and necessary supplies for the preparation and filing of legal documents with the courts and paroling authorities, on a prioritized basis, in accordance with these rules.

(2) Priority Access to Law Library Services and Equipment:

(a) Inmate access to law library services and equipment will be prioritized in the following order:

(A) Priority legal users with an imminent court deadline;

(B) General legal users with an imminent court deadline;

(C) Priority legal users without an imminent court deadline; and

(D) General legal users without an imminent court deadline.

(b) Library coordinators will consider whether the inmate has assigned legal counsel when determining priority within these categories.

(3) Submission of Access Request Form Required: In order to obtain access to law library services and equipment and necessary supplies, an

ADMINISTRATIVE RULES

inmate must submit to the library coordinator a written request using the appropriate access request forms.

(4) Inmates may be allowed a reasonable amount of time to do legal research and to prepare legal documents in the facility law library or in the inmate's assigned cell or living unit.

(a) A special time allowance for research and preparation of legal documents using law library services and equipment may be granted to a legal user who demonstrates such a need with verification of an imminent court deadline.

(b) In the event of extended facility operational modifications library staff will prioritize access to law library services and equipment for inmates in the order described in subsection (2) above.

(5) Inmates received from other state or federal jurisdictions who are incarcerated in a Department of Corrections facility will be afforded access to law library services and equipment and necessary supplies in the same manner as Oregon inmates; however, the department will not be responsible for providing inmates with legal research materials specific to other state jurisdictions other than those materials that are regularly made available to Oregon inmates. These inmates must contact their respective state or federal corrections authorities to acquire state-specific materials.

(6) Oregon inmates who are incarcerated in a correctional facility located in another state or in a federal correctional facility may request access to Oregon-specific legal research materials and assistance from an assigned inmate legal assistant through correspondence directed to the library coordinator at the Oregon facility they were last housed. Such requests will be processed with reasonable diligence.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 13-2017, f. 8-23-17, cert. ef. 9-1-17

291-139-0130

Law Library Services

(1) Operations and Procedures:

(a) Each facility will post normal law library hours of operation.

(b) Work space will be provided for inmate use in all facility law libraries.

(c) Assigned legal assistants will be provided work space and access to computer equipment for research and word processing.

(d) Commissary items, personal property, and other items that are unrelated to legal research or preparation of legal documents are not permitted in facility law libraries.

(2) Legal Research Materials: Legal research materials in either electronic or hard copy form will be maintained for inmate use in facility law libraries.

(3) Legal Assistants: Library coordinators may assign a legal assistant to help guide and assist another inmate in legal research and in the preparation of legal documents using available computerized and hard copy resources under the supervision and direction of the library coordinator in accordance with these rules.

(4) Legal Forms:

(a) Legal forms that are made available in facility law libraries for use by priority legal users will be provided upon request.

(b) Other legal forms may be made available in facility law library for use by general legal users at the discretion of the library coordinator, with the approval of the functional unit manager and Central Library Administrator.

(c) The department does not warrant or make any representation regarding the suitability of any legal form made available for inmate use in the facility law libraries for a particular legal matter or application or regarding the legal effect of any legal form. Inmates who request and use such forms do so at their own legal risk.

(d) An inmate may request and obtain access from the department to only those legal forms that are made available for inmate use in the facility law library where the inmate is housed.

(5) Word Processing and Other Equipment:

(a) The department may, in its discretion, make word processing and other equipment available for inmate use for conducting legal research, preparing legal documents, and for reviewing personal court records and discovery.

(b) When made available for inmate use, word processing and other equipment and its use must conform to the standards set forth in the department's rules on Inmate Access to Automation (OAR 291-086), law library operations for word processing and usage, and the provisions of OAR 291-139-0190(2).

(c) The department, in its discretion, may make available for inmate use in facility law libraries software used by state and federal courts and

paroling authorities for reviewing audio and video recordings of official proceedings before courts and paroling authorities. Electronic material sent into the facility by a court, paroling authority or attorney must be compatible with the software provided in the facility law library. Refer to OAR 291-139-0190(3) for storage, control, and disposition of audio and video recordings of courts and paroling authorities.

(6) Supplies: Supplies (e.g. pencil, paper, envelopes) will be available for inmate use in the facility law library only for legal research and the preparation of legal documents. Envelopes for mailing legal documents are available for purchase from the facility commissary or, at the discretion of the facility, may be made available for purchase through the facility law library. Envelopes will only be provided to indigent inmates for necessary court filings.

(7) Notary Services: Notary services for the notarizing of legal documents will be provided to inmates when necessary without charge in accordance with posted schedules. The requesting inmate must show that a notary is required by the court or paroling authority.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 13-2017, f. 8-23-17, cert. ef. 9-1-17

291-139-0140

Special Housing Law Library Services

(1) Inmates assigned to special housing will be afforded reasonable access to law library services through intra-facility telephone and loan systems, satellite law library materials, computer equipment in or near the special housing unit or some combination therein.

(2) Inmates assigned to special housing who do not have direct access to computerized legal research materials or to print legal research materials sufficient for their needs may request access to duplicated copies of specific reported cases or other legal research materials by using standard request forms.

(a) All loaned legal material items must be returned to the facility law library within the specified time period for the loan.

(b) Requests for legal research materials will be limited to five materials per inmate at any one time.

(3) Inmates assigned to special housing will be permitted to communicate with library coordinators or inmate legal assistants concerning legal research questions through writing, phone, or in person on a schedule that is posted at the facility.

(4) Inmates assigned to special housing with an active case may request a limited and reasonable amount of supplies. Necessary supplies will be made available for inmate use in accordance with security guidelines for the unit where the inmate is housed. No more than 30 pages of paper will be provided per month to inmates in special housing units, unless the requesting inmate can substantiate the need for more.

(5) Notary services, photocopying, and mailing services for legal work may be requested in accordance with these rules using the standard request forms. Mail and photocopy requests must be accompanied by a Request for Withdrawal of Funds (CD28).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 13-2017, f. 8-23-17, cert. ef. 9-1-17

291-139-0150

Library Coordinators

(1) Library coordinators are responsible for supervising facility legal libraries and the provision of law library services to inmates, including the activities of the assigned legal assistants.

(2) The library coordinator oversees the prioritization and assignment of legal services to an inmate, including the assignment of legal assistants.

(3) The library coordinator will track and manage the work of assigned legal assistants.

(4) The library coordinator may instruct inmates on how and where to access requested law library services and other resources, but may not offer advice or directly assist an inmate with their legal issues, case or matter.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 13-2017, f. 8-23-17, cert. ef. 9-1-17

291-139-0160

Legal Assistants

(1) Legal assistants are assigned to work in the facility law library by the library coordinator to help guide and assist other inmates in legal research and document preparation on a prioritized basis as assigned by the library coordinator. A minimum of one legal assistant will be assigned at each Department of Corrections facility that has a law library.

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(2) Legal assistants may conduct legal research and prepare legal documents for another inmate only if the inmate is not capable of doing their own legal research and document preparation.

(3) Legal assistants may not discuss the details of another inmate's legal work with other inmates.

(4) Legal assistants may not work for attorneys.

(5) Legal assistants may not charge or receive any form of compensation for assisting another inmate with legal work. Legal assistants who request or receive compensation for legal work are subject to discipline for violation of the department's rules on Prohibited Inmate Conduct (OAR 291-105). Inmates found in violation of the rules of Prohibited Inmate Conduct related to their work in the library may be ineligible for future work assignment as a legal assistant.

(6) Legal assistants may be removed from their work assignment in a facility law library at the discretion of the functional unit manager or designee, in consultation with the Central Library Administrator, for misconduct or other behavior determined to be inconsistent with their work assignment as a legal assistant. Inmates removed from a work assignment as a legal assistant may be ineligible for consideration for future work assignment as a legal assistant.

(7) Possession of Another Inmate's Legal Material:

(a) An inmate legal assistant may temporarily possess and store another inmate's legal documents and other material in the facility law library for purposes of assisting the inmate with the approval of the library coordinator.

(b) The legal assistant must clearly label and store the inmate's legal work in accordance with the library coordinator's instructions.

(c) The legal assistant must return all legal documents and other materials belonging to the inmate upon the conclusion of the assistance or at the direction of the library coordinator. The legal assistant may not retain any copies (electronic or paper) of the inmate's legal documents or other material.

(8) All files and documents prepared or compiled by the legal assistant, regardless of the form or format in which the file is created or maintained (i.e., computerized or hard copy), are subject to cursory review by the library coordinator, the library coordinator's immediate supervisor, and by such other corrections staff as designated by the functional unit manager.

(9) Legal Assistant Eligibility Criteria and Selection:

(a) A GED or high school diploma, non-cash Incentive Level 2 or 3, and a genuine interest in helping inmates with their legal needs are required and determined by interviews conducted by the library coordinator or designated staff.

(b) Qualified applicants will be selected based on, but not limited to, their knowledge of the legal system, legal research abilities, legal writing skills, ability to communicate, and typing skills.

(10) Performance Recognition and Award System (PRAS) Awards: Assigned legal assistants are eligible to receive monthly performance awards in accordance with the department's rules on Performance Recognition and Award System (OAR 291-077).

(11) Assignment and removal of inmate legal assistants by the library coordinator shall not be based upon retaliation for legitimate legal activities done in accordance with these rules.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 13-2017, f. 8-23-17, cert. ef. 9-1-17

291-139-0170

Print, Photocopy, and Mailing Services

(1) Printing and Photocopy Services:

(a) Printing and photocopy services will be made available to inmates in the facility law library for duplication of legal documents at the inmate's expense. An inmate must have sufficient funds in the inmate's trust account to cover the costs of duplication at the time of a request.

(b) Costs for Printing or Photocopying: Inmates receiving printing or photocopying services will be charged at the rate of 10 cents per page.

(c) Cursory Review: All documents, prior to photocopy or printing, may receive a cursory review by the library coordinator or other supervising staff.

(d) Duplication of materials provided to the inmate by the court, paroling authority or attorney may be approved only for inmates who have sufficient funds to pay for copies.

(e) Crime scene images and other inflammatory material from an inmate's criminal case will not be duplicated. Misuse of such material in violation of the department's rules of Prohibited Inmate Conduct (OAR 291-105) may result in discipline or in confiscation of the material.

(f) All inmate requests for photocopies must be approved by the library coordinator or other supervising staff member. Only legal documents in final form that are ready to be filed with the court or paroling authority will be approved for photocopying. Approval will be provided for only that number of copies needed to satisfy court or paroling authority filing requirements as established by applicable rules and procedures, and one additional copy for retention by the inmate for the inmate's personal records. If the library coordinator or other supervising staff have questions about copy requirements, the requesting inmate is responsible for providing staff with the citation to the applicable court or paroling authority rules and procedures.

(g) Copies of Non-Legal Documents: The library coordinator, in consultation with an immediate supervisor, may approve at the inmate's expense photocopying of non-legal documents in the facility law library when doing so serves a legitimate correctional, rehabilitative or programing need.

(2) Mailing Services:

(a) Mailing services (i.e., envelopes and postage) will be made available to inmates in facility law libraries for mailing legal documents at the inmate's expense as provided in these rules and in the department's rules on Mail (Inmate) (OAR 291-131).

(b) Electronic Filing of Legal Documents with a Court: Envelopes and postage will not be provided to inmates for filing of legal documents with a court if the department has entered into an agreement with the court for electronic filing of legal documents by inmates, and the court has provided for electronic filing as the exclusive means of filing legal documents with the court by inmates.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 13-2017, f. 8-23-17, cert. ef. 9-1-17

291-139-0180

Indigent Inmates

(1) Two categories of inmates will qualify for indigent status:

(a) A Priority Legal User who is without sufficient funds in the inmate's trust account to pay for the costs of necessary supplies, photocopies and mailing services at the time of the request will be provided necessary supplies, photocopies, and mailing services notwithstanding the inmate's indigent status in accordance with these rules.

(b) A General Legal User with an imminent Court Deadline who can demonstrate the inability to acquire funds or purchase necessary supplies or mailing services within the court deadline will be provided necessary supplies, photocopies and mailing services notwithstanding the inmate's indigent status in accordance with these rules.

(2) A General Legal User without sufficient funds in the inmate's trust account to pay for the costs of necessary supplies, photocopies, and mailing services at the time of the request will not be provided necessary supplies, photocopies, and mailing services notwithstanding the inmate's indigent status in accordance with these rules.

(3) Costs for any supplies, photocopies, and mailing services provided to indigent inmates will be charged to the requesting inmate's trust account and collected as funds become available in accordance with the department's rules on Trust Accounts (Inmate) (OAR 291-158).

(4) If the library coordinator or other supervising staff have questions about the inmate's eligibility for indigent supplies, photocopies, or mailing services the inmate is responsible for providing staff with sufficient information to verify the inmate's eligibility.

(5) Under these rules, sufficient envelopes and postage will be provided to mail out the original legal documents for filing with the court or paroling authority and for mailing out any required service copies.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 13-2017, f. 8-23-17, cert. ef. 9-1-17

291-139-0190

Storage, Control, and Disposition of Legal Materials

(1) General:

(a) Each inmate may possess and store their own legal materials as authorized by the department in accordance with the department's rules on Personal Property (Inmate) (OAR 291-117).

(b) Each inmate is responsible for maintaining custody of their own authorized legal materials except for those authorized legal materials that are maintained on digital or electronic storage media, which will be maintained in the facility law library.

(2) Removable Media Devices:

ADMINISTRATIVE RULES

Department of Fish and Wildlife Chapter 635

(a) The department, in its discretion, may make removable media devices available for inmate use for saving and storing legal documents created using word processing equipment in the facility law library.

(b) When made available by the department for inmate use, removable media devices that are owned by the department may be assigned to an inmate by the library coordinator. In order to receive authorization for assignment and use of a department-owned removable media device an inmate must agree to the terms and conditions of use set forth in a Removable Media Use Acknowledgment Statement (CD1761).

(c) An assigned removable media device may only be used by the inmate for the creation and storage of legal documents, and is subject to cursory review by the library coordinator and other correctional staff. Any material stored on an assigned removable media device that is not legal in nature, or which belongs to another inmate or pertains to another inmate's legal affairs will be confiscated in accordance with the department's rules on Personal Property (Inmate) (OAR 291-117). Misuse of removable media devices may result in loss of privileges.

(d) Assigned removable media devices will be securely stored in the facility law library or in another secure area designated by the functional unit manager or designee. Inmates may access their assigned removable media by checkout for use at an approved law library terminal.

(e) The use of removable media by inmates is governed by the department's rules on Inmate Access to Automation (OAR 291-086) and the Removable Media Use Acknowledgment Statement (CD1761).

(3) Audio or Video Recordings of Court and Paroling Authority Hearings and Proceedings:

(a) Inmates in Department of Corrections facilities may be authorized by the library coordinator to access recordings of their official court and paroling authority hearings and proceedings sent in from the court, paroling authority, or the inmate's attorney. Inmates can request access to those recordings by using the Law library Request Form for General Population (CD1714).

(b) Authorized audio or video recordings of hearings and proceedings sent into the facility from a court, paroling authority, or attorney will be securely stored in the law library.

(c) Authorized audio or video recordings hearings and proceedings sent into the facility from a court, paroling authority or attorney must be labeled to identify the inmate's name and State Identification ("SID") number, and the court and case caption and number that the records pertain to. The library coordinator may place additional labeling on electronic media sent in from a court, paroling authority, or the inmate's attorney for purposes of storage and tracking.

(d) Authorized audio or video recordings of hearings and proceedings sent into the facility from a court, paroling authority, or the inmate's attorney must be compatible with the media software made available for inmate use by the department. Any media that is not compatible with the department existing media software will be returned to the sender. Inmates are responsible for informing their attorney of department requirements.

(e) Only those inmates who are the subject of and a party to the court or paroling authority case or proceeding, or assigned legal assistants as requested by the inmate, will be authorized to review the audio or video recording of the court or paroling authority hearing or proceeding.

(4) Transfers Within the Department:

(a) Inmates who transfer to another Department of Corrections facility will have their legal property transferred with them.

(b) Electronic material stored on an assigned removable media device will be forwarded by the library coordinator or other supervising staff at the previous facility to the library coordinator at the receiving facility without charge to the inmate.

(5) Disposition of Legal Material:

(a) Department of Corrections staff will process the disposition of legal documents and materials in accordance with the provisions in the department's rules on Personal Property (Inmate) (OAR 291-117).

(b) Upon an inmate's release from a Department of Corrections or other facility upon completion of the inmate incarceration term or sentence, or upon the death of an inmate, all stored legal materials of the inmate will be processed in accordance with the department's rules on Personal Property (Inmate) (OAR 291-177.)

(c) Legal documents and other materials will be destroyed if department staff are unable to identify the inmate to which the materials belong in accordance with the rules on Personal Property (Inmate) (OAR 291-117).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 13-2017, f. 8-23-17, cert. ef. 9-1-17

Rule Caption: Zone 6 Treaty Indian and f Non-Treaty Fall Commercial Gillnet Fisheries Adopted.

Adm. Order No.: DFW 113-2017(Temp)

Filed with Sec. of State: 8-18-2017

Certified to be Effective: 8-18-17 thru 12-31-17

Notice Publication Date:

Rules Amended: 635-041-0075, 635-042-0031

Rules Suspended: 635-041-0075(T)

Subject: These rules authorize fall Treaty commercial gillnet fisheries for Zone 6 of the Columbia River. In addition, the non-Treaty commercial gillnet fisheries in Zones 4-5 are established for the early fall season. Modifications are consistent with action taken August 16, 2017 by the Departments of Fish & Wildlife for the States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-041-0075

Fall Salmon Season

(1) Salmon, steelhead, shad yellow perch, bass, catfish, carp and walleye may be taken for commercial purposes in Zone 6 and specific adjacent tributaries of the Columbia River as described below.

(a) Zone 6 platform and hook-and-line fishery:

(A) From 12:01 a.m. August 1 through 6:00 p.m. October 31, 2017.

(B) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line.

(C) Sturgeon from 38 to 54 inches fork length from the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes. In the John Day Pool, sturgeon of legal size may be sold if landed during the open setline fishery from 6:00 a.m. Tuesday August 1 through 6:00 p.m. August 12, 2017.

(b) Zone 6 gillnet fishery:

(A) 6:00 a.m. Monday August 21 to 6:00 p.m. Friday August 25 (4.5 days);

(B) 6:00 a.m. Monday August 28 to 6:00 p.m. Friday September 1 (4.5 days);

(C) 6:00 a.m. Monday September 4 to 6:00 p.m. Friday September 8 (4.5 days).

(D) Gear is restricted to set and drift gillnets with an 8-inch minimum mesh size.

(E) Sturgeon may not be sold, but sturgeon from 38 to 54 inches fork length in the Bonneville Dam and sturgeon from 43 to 54 inches fork length in The Dallas and John Day Pools may be kept for subsistence purposes.

(c) Zone 6 Yakama Nation tributary fisheries:

(A) 12:01 a.m. August 1 through 6:00 p.m. December 31, 2017.

(B) Klickitat River and Drano Lake only.

(C) Participation limited to Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods.

(D) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

(E) Sturgeon from 38 to 54 inches fork length may be kept for subsistence purposes.

(2) Closed areas are set forth in OAR 635-041-0045, including the larger closure at the mouth of Spring Creek as described in OAR 635-041-0045(11).

(3) Fish landed during the open periods are allowed to be sold after the period concludes.

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-

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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 98-90-1990, f. & cert. 8-31-90; FWC 96-1990(Temp), f. & cert. 9-7-90, 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. 9-10-91; FWC 97-91; 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. 9-7-92; FWC 91-1992(Temp), f. & cert. 9-16-92, cert. 9-17-92; FWC 96-1992(Temp), f. & 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. 8-9-93; 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 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. 9-24-98 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. 9-16-03 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. 9-8-06, 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. 10-13-06 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. 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. 9-25-07 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. 9-27-10 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. 8-7-12 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. 8-12-13 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; DFW 105-2014(Temp), f. & cert. 7-30-14, cert. 8-1-14 thru 10-31-14; DFW 118-2014(Temp), f. & cert. 8-7-14, cert. 8-18-14 thru 10-31-14; DFW 134-2014(Temp), f. & cert. 9-19-14, cert. 9-23-14 thru 10-31-14; DFW 140-2014(Temp), f. & cert. 9-24-14, cert. 9-25-14 thru 10-31-14; DFW 142-2014(Temp), f. & cert. 10-2-14, cert. 10-3-14 thru 10-31-14; DFW 146-2014(Temp), f. & cert. 10-8-14, cert. 10-13-14 thru 10-31-14; DFW 153-2014(Temp), f. & cert. 10-23-14, cert. 10-31-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 97-2015(Temp), f. & cert. 8-1-15 thru 10-31-15; DFW 108-2015(Temp), f. & cert. 8-13-15, cert. 8-17-15 thru 10-31-15; DFW 127-2015(Temp), f. & cert. 9-10-15, cert. 9-15-15 thru 10-31-15; DFW 130-2015(Temp), f. & cert. 9-17-15, cert. 9-18-15 thru 10-31-15; DFW 133-2015(Temp), f. & cert. 9-23-15, cert. 9-28-15 thru 10-31-15; DFW 137-2015(Temp), f. & cert. 10-1-15 thru 10-31-15; DFW 155-2015(Temp), f. & cert. 11-12-15, cert. 11-13-15 thru 12-31-15; Administrative correction, 1-22-16; DFW 98-2016(Temp), f. & cert. 7-28-16, cert. 8-1-16 thru 12-31-16; DFW 106-2016(Temp), f. & cert. 8-10-16, cert. 8-22-16 thru 12-31-16; DFW 120-2016(Temp), f. & cert. 9-15-16, cert. 9-16-16 thru 12-31-16; DFW 123-2016(Temp), f. & cert. 9-23-16 thru 12-31-16; DFW 130-2016(Temp), f. & cert. 9-29-16, cert. 10-1-16 thru 12-31-16; DFW 132-2016(Temp), f. & cert. 10-10-16 thru 10-14-16; DFW 133-2016(Temp), f. & cert. 10-13-16, cert. 10-17-16 thru 12-31-16; DFW 137-2016(Temp), f. & cert. 10-20-16, cert. 10-24-16 thru 11-30-16; Administrative correction, 6-5-17; DFW 100-2017, f. & cert. 7-31-17, cert. 8-1-17 thru 13-31-17; DFW 113-2017(Temp), f. & cert. 8-18-17 thru 12-31-17

635-042-0031

Early Fall Salmon Season

(1) Chinook, coho, pink and sockeye salmon and white sturgeon may be taken for commercial purposes in the waters of the Columbia River. In Zones 4 5, as identified in OAR 635-042-0001, except 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.

(2) Open fishing periods are;

(a) 9:00 p.m. Tuesday August 22 to 6:00 a.m. Wednesday August 23

(b) 9:00 p.m. Thursday August 24 to 6:00 a.m. Friday August 25

(c) 9:00 p.m. Sunday August 27 to 6:00 a.m. Monday August 28

(d) 9:00 p.m. Tuesday August 29 to 6:00 a.m. Wednesday August 30

(e) 9:00 p.m. Thursday August 31 to 6:00 a.m. Friday September 1

(3) Gear is restricted to drift gill nets only with a 9 inch minimum mesh size. The multiple net rule is not in effect. Nets not authorized for this fishery are prohibited to be onboard the vessel.

(4) A maximum of 6 white Sturgeon with a fork length of 44 to 50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Thursday). The six white sturgeon possession and sales limit applies to the mainstem Columbia fisheries only.

(5) As a condition of fishing or participating in this fishery, owners or operators of commercial fishing vessels must carry and accommodate a Department observer for the duration of the fishing trip when requested. It is unlawful to deny access or fail to carry a Department observer (defined as an employee of either Washington or Oregon Department of Fish and Wildlife or Pacific States Marine Fisheries Commission) upon request. When a Department observer is onboard, it is expected that any steelhead caught will be brought onboard for biological sampling prior to release.

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. 8-7-90, 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. 8-20-97, 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. 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. 8-7-01, cert. 8-8-01 thru 9-9-01; 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. 9-4-01 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. 8-16-02, 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. 8-23-07 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-

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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; 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 95-2013(Temp), f. 8-23-13, cert. ef. 8-25-13 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; DFW 113-2013(Temp), f. 9-27-13, cert. ef. 10-1-13 thru 10-16-13; Administrative correction, 11-22-13; DFW 107-2014(Temp), f. 7-30-14, cert. ef. 8-3-14 thru 8-31-14; DFW 121-2014(Temp), f. & cert. ef. 8-13-14 thru 9-30-14; DFW 124-2014(Temp), f. & cert. ef. 8-26-14 thru 9-30-14; DFW 130-2014(Temp), f. 9-11-14, cert. ef. 9-12-14 thru 9-30-14; DFW 137-2014(Temp), f. & cert. ef. 9-19-14 thru 9-30-14; DFW 138-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; Administrative correction 11-24-14; DFW 101-2015(Temp), f. 8-5-15, cert. ef. 8-9-15 thru 8-31-15; DFW 107-2015(Temp), f. 8-13-15, cert. ef. 8-24-15 thru 9-30-15; DFW 116-2015(Temp), f. 8-28-15, cert. ef. 8-30-15 thru 9-30-15; DFW 119-2015(Temp), f. 8-28-15, cert. ef. 8-31-15 thru 9-30-15; DFW 124-2015(Temp), f. 9-2-15, cert. ef. 9-4-15 thru 9-30-15; DFW 126-2015(Temp), f. 9-10-15, cert. ef. 9-15-15 thru 9-30-15; Administrative correction, 10-22-15; DFW 100-2016(Temp), f. 8-2-16, cert. ef. 8-7-16 thru 8-31-16; DFW 108-2016(Temp), f. 8-17-16, cert. ef. 8-22-16 thru 9-30-16; DFW 109-2016(Temp), f. 8-25-16, cert. ef. 8-28-16 thru 9-30-16; DFW 113-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 9-30-16; DFW 121-2016(Temp), f. 9-15-16, cert. ef. 9-16-16 thru 9-30-16; DFW 124-2016(Temp), f. & cert. ef. 9-23-16 thru 9-30-16; DFW 126-2016(Temp), f. & cert. ef. 9-27-16 thru 9-30-16; Administrative correction, 6-5-17; DFW 113-2017(Temp), f. & cert. ef. 8-18-17 thru 12-31-17

Rule Caption: Modifications to Sport Fishing Regulations in the Snake River Zone.

Adm. Order No.: DFW 114-2017(Temp)

Filed with Sec. of State: 8-24-2017

Certified to be Effective: 8-24-17 thru 12-31-17

Notice Publication Date:

Rules Amended: 635-023-0134

Rules Suspended: 635-023-0134(T)

Subject: This amended rule implements a fall Chinook fishery on the Snake River from the Oregon-Washington border upstream to the deadline below Hells Canyon Dam beginning September 1 through November 17, 2017. This rule also reduces daily bag limit of summer steelhead to zero (0) in the mainstem Snake River. Catch and release of summer steelhead will still be allowed. These rules coincide with State of Idaho regulations for this concurrent fishery and are consistent with the state of Idaho within an interstate waterway

Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0134

Snake River Fishery

(1) The **2017 Oregon Sport Fishing Regulations** provide requirements for 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 **2017 Oregon Sport Fishing Regulations**.

(2) Notwithstanding all other specifications and restrictions as outlined in the **2017 Oregon Sport Fishing Regulations**, the following conditions apply:

(a) The Snake River from the Oregon-Washington border upstream to the deadline below Hells Canyon Dam is open seven (7) days per week, effective September 1 through the close of fishing on October 31, 2017, or until further notice.

(b) The Snake River from Cliff Mountain Rapids (RM 246.7, 1.1 miles below Hell's Canyon Dam) upstream to the deadline below Hells Canyon Dam is open seven (7) days per week, effective Tuesday, November 1 through the close of fishing on Thursday, November 17, 2017, or until further notice.

(c) For fisheries described in sections (2)(a) and (2)(b) above: The daily bag limit is six (6) adipose fin-clipped fall Chinook salmon; there are no daily, possession, or season limits for jack fall Chinook salmon.

(d) All summer steelhead must be released.

(e) Barbless hooks are required.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 47-2005(Temp), f. 5-19-05, cert. ef. 5-21-05 thru 6-20-05; Administrative correction 7-20-05; DFW 31-2006(Temp), f. 5-18-06, cert. ef. 5-20-06 thru 6-19-06; Administrative correction 7-21-06; DFW 31-2007(Temp), f. 5-9-07, cert. ef. 5-11-07 thru 6-18-07; DFW 43-2007(Temp), f. 6-14-07, cert. ef. 6-19-07 thru 7-2-07; Administrative correction 2-8-08; DFW 43-2008(Temp), f. 4-25-08, cert. ef. 4-26-08 thru 7-20-08; DFW 64-2008(Temp), f. 6-18-08, cert. ef. 6-21-08 thru 7-31-08; Administrative correction 8-21-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 58-2009(Temp), f. 5-27-09, cert. ef. 5-30-09 thru 7-12-09; DFW 80-2009(Temp), f. 6-30-09, cert. ef. 7-1-09 thru 7-17-09; Administrative correction 7-21-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 42-2010(Temp), f. 4-13-10, cert. ef. 4-24-10 thru 7-31-10; DFW 107-2010(Temp), f. 7-26-10, cert. ef. 7-31-10 thru 8-4-10; Administrative correction, 8-18-10; DFW 119-2010(Temp), f. 8-18-10, cert. ef. 9-1-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 29-2011(Temp), f. 4-12-11, cert. ef. 4-23-11 thru 10-19-11; DFW 118-2011(Temp), f. 8-23-11, cert. ef. 9-1-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 35-2012(Temp), f. 4-16-12, cert. ef. 4-22-12 thru 9-30-12; DFW 93-2012(Temp), f. 7-24-12, cert. ef. 8-5-12 thru 9-30-12; DFW 109-2012(Temp), f. 8-21-12, cert. ef. 9-1-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 29-2013(Temp), f. 4-25-13, cert. ef. 5-4-13 thru 9-30-13; DFW 76-2013(Temp), f. 7-16-13, cert. ef. 7-21-13 thru 9-30-13; DFW 94-2013(Temp), f. 8-23-13, cert. ef. 9-1-13 thru 11-30-13; Administrative correction, 12-19-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 33-2014(Temp), f. 4-21-14, cert. ef. 4-26-14 thru 9-30-14; DFW 98-2014(Temp), f. 7-18-14, cert. ef. 7-21-14 thru 9-30-14; DFW 122-2014(Temp), f. 8-4-14, cert. ef. 9-1-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 32-2015(Temp), f. 4-27-15, cert. ef. 5-2-15 thru 9-30-15; DFW 96-2015(Temp), f. 7-29-15, cert. ef. 8-2-15 thru 9-30-15; DFW 103-2015(Temp), f. 8-12-15, cert. ef. 9-1-15 thru 11-30-15; Administrative correction, 12-22-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 27-2016(Temp), f. 4-6-16, cert. ef. 4-23-16 thru 9-30-16; DFW 61-2016(Temp), f. 5-31-16, cert. ef. 6-2-16 thru 6-15-16; DFW 107-2016(Temp), f. 8-10-16, cert. ef. 9-1-16 thru 11-30-16; DFW 153-2016, f. 12-28-16, cert. ef. 1-1-17; DFW 43-2017(Temp), f. 4-17-17, cert. ef. 4-22-17 thru 9-30-17; DFW 94-2017(Temp), f. 7-26-17, cert. ef. 7-31-17 thru 12-31-17; DFW 109-2017, f. 8-9-17, cert. ef. 1-1-18; DFW 114-2017(Temp), f. & cert. ef. 8-24-17 thru 12-31-17

Rule Caption: Reduce Steelhead Bag Limit in the Grande Ronde and Imnaha Rivers

Adm. Order No.: DFW 115-2017(Temp)

Filed with Sec. of State: 8-24-2017

Certified to be Effective: 8-24-17 thru 12-31-17

Notice Publication Date:

Rules Amended: 635-019-0090

Rules Suspended: 635-019-0090(T)

Subject: This rule reduces the summer steelhead daily bag limit from three (3) to one (1), in response to very low observed returns of steelhead to the Grande Ronde and Imnaha Rivers in 2017.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-019-0090

Inclusions and Modifications

(1) The **2017 Oregon Sport Fishing Regulations** provide requirements for the Northeast 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 **2017 Oregon Sport Fishing Regulations**.

(2) Summer Steelhead catch effective September 1 through December 31, 2017:

- The Grande Ronde River upstream to Meadow Creek.
- The Imnaha River downstream of Big Sheep Creek.
- The Wallowa River from the mouth upstream to Trout Creek.
- Big Sheep Creek downstream of Little Sheep Creek.
- The Wenaha River downstream of Crooked Creek.

(3) The daily bag limit is one (1) adipose fin-clipped steelhead.

(4) All other General, Statewide and Northeast Zone Regulations, as provided in the **2017 Oregon Sport Fishing Regulations**, remain in effect.

(5) Marr Pond is open to angling to all game species from July 21 through October 31, 2017 with the following restrictions:

- Allowed harvest methods are by hand, dip net or angling;
- There are no daily catch or possession limits; and
- There are no minimum length requirements.

(6) John Day River downstream of Tumwater Falls: the daily adult salmonid limit may not include more than one hatchery steelhead during June 16 through December 31, except closed for retention of steelhead (hatchery and wild) September 1 through October 31.

(7) Umatilla River is open:

(a) All year for warmwater fish.

(b) For hatchery steelhead Jan 1 – Apr 15 and Sept 1 – Dec 31, from the Hwy 730 Bridge upstream to the CTUIR reservation boundary which is located upstream of the Hwy 11 bridge.

(c) For hatchery spring Chinook salmon from Apr 16 – Jun 10 from the Hwy 730 Bridge upstream to Threemile Dam and from Apr 16 – Jun 30

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from Threemile Dam upstream to CTUIR reservation boundary located upstream of Hwy 11 bridge.

(d) 2 adult and 5 jack hatchery spring Chinook salmon per day.

(e) For coho and fall Chinook salmon from Sep 1 – Nov 30 from Hwy 730 Bridge upstream to CTUIR reservation boundary located upstream of Hwy 11 bridge.

(f) 3 adult fall Chinook salmon, coho salmon, or hatchery steelhead in aggregate per day and 5 jack salmon. In addition, 5 mini jack (8-15 inches) coho or fall Chinook salmon per day.

(g) 2 trout per day, 8 inch minimum length.

(h) Use of bait allowed upstream to Ryan Creek.

(i) Tribal angling permits required on the Umatilla Indian Reservation (541) 276-3165.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 57-1994(Temp), f. 8-30-94, cert. ef. 10-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 70-1995, f. 8-29-95, cert. ef. 9-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 27-1996(Temp), f. 5-24-96, cert. ef. 5-25-96; FWC 57-1996(Temp), f. 9-27-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 26-1997(Temp), f. 4-23-97, cert. ef. 5-17-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 13-1998(Temp), f. & cert. ef. 2-26-98 thru 4-15-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 5-1999(Temp), f. 2-5-99, cert. ef. 2-6-99 thru 2-19-99; DFW 8-1999(Temp), f. & cert. ef. 2-23-99 thru 4-15-99; DFW 37-1999(Temp), f. 5-24-99, cert. ef. 5-29-99 thru 6-5-99; DFW 43-1999(Temp), f. & cert. ef. 6-10-99 thru 6-13-99; DFW 45-1999(Temp), f. & cert. ef. 6-14-99 thru 6-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 17-2000(Temp), f. 4-10-00, cert. ef. 4-16-00 thru 6-30-00; DFW 64-2000(Temp), f. 9-21-00, cert. ef. 9-22-00 thru 3-20-01; 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 5-2001(Temp), f. 2-22-01, cert. ef. 2-24-01 thru 4-15-01; DFW 39-2001(Temp), f. 5-23-01, cert. ef. 5-26-01 thru 7-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 45-2001(Temp), f. 6-1-01, cert. ef. 6-2-01 thru 7-31-01; DFW 49-2001(Temp), f. 6-19-01, cert. ef. 6-22-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 96-2001(Temp), f. 10-4-01, cert. ef. 12-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 52-2002(Temp), f. 5-22-02, cert. ef. 5-26-02 thru 7-1-02; DFW 53-2002(Temp), f. 5-24-02, cert. ef. 5-26-02 thru 7-1-02; DFW 57-2002(Temp), f. & cert. ef. 5-30-02 thru 7-1-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 44-2003(Temp), f. 5-23-03, cert. ef. 5-28-03 thru 7-1-03; DFW 48-2003(Temp), f. & cert. ef. 6-5-03 thru 7-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 40-2004(Temp), f. 5-7-04, cert. ef. 5-13-04 thru 7-1-04; DFW 46-2004(Temp), f. 5-21-04, cert. ef. 5-22-04 thru 7-1-04; DFW 55-2004(Temp), f. 6-16-04, cert. ef. 6-19-04 thru 7-5-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 42-2005(Temp), f. & cert. ef. 5-13-05 thru 9-1-05; DFW 61-2005(Temp), f. 6-22-05, cert. ef. 6-25-05 thru 7-4-05; Administrative correction 7-20-05; DFW 99-2005(Temp), f. 8-24-05, cert. ef. 8-26-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 28-2006(Temp), f. & cert. ef. 5-15-06 thru 6-30-06; DFW 33-2006(Temp), f. 5-24-06, cert. ef. 5-25-06 thru 6-30-06; Administrative correction 7-21-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 12-2007(Temp), f. 2-28-07, cert. ef. 3-1-07 thru 8-27-07; DFW 30-2007(Temp), f. 5-9-07, cert. ef. 5-10-07 thru 9-30-07; DFW 34-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 56-2008(Temp), f. 5-30-08, cert. ef. 5-31-08 thru 6-30-08; DFW 76-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 131-2009(Temp), f. 10-14-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 54-2010(Temp), f. 5-6-10, cert. ef. 5-22-10 thru 9-1-10; DFW 95-2010(Temp), f. 7-1-10, cert. ef. 7-11-10 thru 9-1-10; DFW 102-2010(Temp), f. 7-20-10, cert. ef. 7-25-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 49-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; DFW 64-2011(Temp), f. 6-10-11, cert. ef. 6-13-11 thru 9-1-11; DFW 90-2011(Temp), f. & cert. ef. 7-11-11 thru 9-1-11; DFW 92-2011(Temp), f. 7-12-11, cert. ef. 7-16-11 thru 10-31-11; DFW 99-2011(Temp), f. 7-21-11, cert. ef. 7-23-11 thru 9-1-11; DFW 104-2011(Temp), f. 8-1-11, cert. ef. 8-7-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 48-2012(Temp), f. 5-18-12, cert. ef. 5-23-12 thru 9-1-12; DFW 50-2012(Temp), f. 5-22-12, cert. ef. 5-24-12 thru 9-1-12; DFW 61-2012(Temp), f. & cert. ef. 6-11-12 thru 8-31-12; DFW 69-2012(Temp), f. 6-20-12, cert. ef. 6-22-12 thru 9-1-12; DFW 70-2012(Temp), f. 6-26-12, cert. ef. 6-27-12 thru 9-1-12; DFW 72-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 8-31-12; DFW 86-2012(Temp), f. 7-10-12, cert. ef. 7-15-12 thru 9-1-12; Administrative correction 9-20-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 153-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 4-30-13; DFW 31-2013(Temp), f. 5-14-13, cert. ef. 5-16-13 thru 6-30-13; DFW 39-2013(Temp), f. 5-22-13, cert. ef. 5-24-13 thru 11-19-13; DFW 46-2013(Temp), f. 5-30-13, cert. ef. 6-1-13 thru 11-26-13; DFW 62-2013(Temp), f. 6-26-13, cert. ef. 7-5-13 thru 12-31-13; DFW 74-2013(Temp), f. 7-15-13, cert. ef. 7-19-13 thru 9-1-13; Administrative correction 11-1-13; DFW 121-2013(Temp), f. 10-24-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 42-2014(Temp), f. 5-12-14, cert. ef. 5-17-14 thru 6-1-14; DFW 47-2014(Temp), f. 5-27-14, cert. ef. 5-31-14 thru 7-31-14; DFW 53-2014(Temp), f. 5-28-14, cert. ef. 6-1-14 thru 7-31-14; DFW 58-2014(Temp), f. 6-9-14, cert. ef. 6-21-14 thru 8-31-14; DFW 71-2014(Temp), f. 6-16-14, cert. ef. 6-18-14 thru 9-1-14; DFW 72-2014(Temp), f. & cert. ef. 6-19-14 thru 9-1-14; DFW 75-2014(Temp), f. 6-23-14, cert. ef. 6-27-14 thru 9-1-14; DFW 82-2014(Temp), f. 7-1-14, cert. ef. 7-5-14 thru 9-1-14; DFW 86-2014(Temp), f. 7-2-14, cert. ef. 7-5-14 thru 9-1-14; DFW 97-2014(Temp), f. 7-18-14, cert. ef. 7-21-14 thru 9-30-14; Administrative correction, 10-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 45-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 6-30-15; DFW 53-2015(Temp), f. 5-27-15, cert. ef. 6-6-15 thru 8-31-15; DFW 64-2015(Temp), f. & cert. ef. 6-9-15 thru 8-31-15; DFW 81-2015(Temp), f. 7-1-15, cert. ef. 7-5-15 thru 8-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 99-2015(Temp), f. & cert. ef. 8-3-15 thru 12-31-15; DFW 121-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 45-2016(Temp), f. 5-5-16, cert. ef. 5-10-16 thru 6-5-16; DFW 54-2016(Temp), f. 5-23-16, cert. ef. 5-18-16 thru 6-5-16; DFW 62-2016(Temp), f. 6-1-16, cert. ef. 6-15-16 thru 8-31-16; DFW 80-2016(Temp), f. 6-24-16, cert. ef. 7-2-16 thru 8-31-16; DFW 82-2016(Temp), f. 6-27-16, cert. ef. 7-3-16 thru 8-31-16; DFW 94-2016(Temp), f. & cert. ef. 7-18-16 thru 8-31-16; Administrative correction, 9-23-16; DFW 153-2016, f. 12-28-16, cert. ef. 1-1-17; DFW 93-2017(Temp), f. & cert. ef. 7-21-17 thru 10-31-17; DFW 102-2017(Temp), f. & cert. ef. 8-2-

17 thru 12-31-17; DFW 109-2017, f. 8-9-17, cert. ef. 1-1-18; DFW 112-2017(Temp), f. & cert. ef. 8-14-17 thru 12-31-17; DFW 115-2017(Temp), f. & cert. ef. 8-24-17 thru 12-31-17

Rule Caption: Pacific Halibut Recreational Nearshore Season from Cape Falcon to Humbug Mt. Reopened

Adm. Order No.: DFW 116-2017(Temp)

Filed with Sec. of State: 8-28-2017

Certified to be Effective: 8-28-17 thru 10-31-17

Notice Publication Date:

Rules Amended: 635-039-0085

Rules Suspended: 635-039-0085(T)

Subject: This amended rule reopens the recreational nearshore Pacific halibut season in the area between Cape Falcon and Humbug Mt. beginning at 12:01 a.m., Sunday, September 3, 2017. The National Oceanic & Atmospheric Administration (NOAA), International Pacific Halibut Commission (IPHC), and the Department (ODFW) conferred on August 28, 2017 and determined that the enough quota remained in the Oregon recreational allocation to allow this fishery to reopen.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-039-0085

Halibut Seasons

(1) The Pacific halibut sport fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 039 incorporates into Oregon Administrative Rules, by reference:

(a) **Title 50 of the Code of Federal Regulations, Part 300, Subpart E** (October 1, 2016 ed.), as amended;

(b) **Federal Register Vol. 82, No. 43**, dated March 7, 2017; and

(c) **Federal Register Vol. 82, No. 75**, dated April 20, 2017.

(2) Therefore, persons must consult all publications referenced in this rule in addition to division 039 to determine applicable halibut fishing seasons.

(3) Effective 11:59 p.m., Thursday, May 25, 2017 the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) all-depth season is closed to the retention of Pacific halibut.

(4) Beginning 12:01 a.m., Thursday, June 8, 2017 the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) nearshore season is open to the retention of Pacific halibut seven days per week.

(5) Effective at 12:01 a.m., Saturday, June 17, 2017 through 11:59 p.m., Saturday, June 17, 2017 the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) all-depth season is open to the retention of Pacific halibut.

(6) Effective at 11:59 p.m. Friday, June 23, 2017, the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) nearshore season is closed to the retention of Pacific halibut.

(7) Effective at 11:59 p.m. Wednesday, July 12, 2017, the Central Oregon Coast Subarea (Cape Falcon to Humbug Mt) spring all-depth season is closed to the retention of Pacific halibut.

(8) Effective at 11:59 p.m. Sunday, July 30, 2017, the Central Oregon Coast Subarea (Cape Falcon to Humbug Mt.) nearshore season is closed to the retention of Pacific halibut.

(9) Effective at 12:01 a.m., Sunday, September 3, the Central Oregon Coast Subarea (Cape Falcon to Humbug Mt.) nearshore season is reopened to the retention of Pacific halibut.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 107-2005(Temp), f. 9-14-05, cert. ef. 9-15-05 thru 10-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-19-06; DFW 34-2006(Temp), f. 5-25-06, cert. ef. 5-27-06 thru 8-3-06; Administrative correction 8-22-06; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 35-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 8-2-07; DFW 67-2007(Temp), f. 8-9-07, cert. ef. 8-12-07 thru 9-30-07; DFW 76-2007(Temp), f. 8-17-07, cert. ef. 8-24-07 thru 9-30-07; DFW 84-2007(Temp), f. 9-5-07, cert. ef. 9-15-07 thru 9-30-07; DFW 87-2007(Temp), f. 9-10-07, cert. ef. 9-14-07 thru 10-28-07; DFW 90-2007(Temp), f. 9-19-07, cert. ef. 9-20-07 thru 10-31-07; Administrative correction 11-17-07; DFW 57-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 7-31-08; DFW 81-2008(Temp), f. 7-11-08, cert. ef. 8-2-08 thru 9-30-08; DFW 92-2008(Temp), f. & cert. ef. 8-14-09, cert. ef. 8-16-09 thru 12-31-09; Administrative correction 1-25-10; DFW 32-2010, f. & cert. ef. 3-15-10; DFW 37-2010, f. 3-30-10, cert. ef. 4-1-10; DFW 100-2010(Temp), f. 7-15-10, cert. ef. 7-17-10 thru 10-31-10; DFW 118-2010(Temp), f. & cert. ef. 8-13-10 thru 10-31-10; Administrative correction 11-23-10; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 58-

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2011(Temp), f. 5-27-11, cert. ef. 6-4-11 thru 8-4-11; DFW 82-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 8-4-11; DFW 85-2011(Temp), f. 7-5-11, cert. ef. 7-6-11 thru 10-31-11; DFW 114-2011(Temp), f. & cert. ef. 8-12-11 thru 10-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. ef. 10-1-11 thru 12-31-11; DFW 39-2012, f. & cert. ef. 4-24-12; DFW 84-2012(Temp), f. & cert. ef. 7-5-12 thru 8-2-12; DFW 91-2012(Temp), f. 7-19-12, cert. ef. 7-22-12 thru 10-31-12; DFW 111-2012(Temp), f. 8-23-12, cert. ef. 8-24-12 thru 12-31-12; DFW 123-2012(Temp), f. 9-19-12, cert. ef. 9-24-12 thru 10-31-12; Administrative correction 11-23-12; DFW 65-2013(Temp), f. 6-27-13, cert. ef. 6-28-13 thru 8-2-13; DFW 78-2013(Temp), f. & cert. ef. 7-23-13 thru 10-31-13; DFW 86-2013(Temp), f. & cert. ef. 8-8-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 36-2014, f. 4-29-14, cert. ef. 5-1-14; DFW 80-2014(Temp), f. 6-26-14, cert. ef. 6-27-14 thru 12-24-14; DFW 123-2014(Temp), f. & cert. ef. 8-21-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 34-2015, f. & cert. ef. 4-28-15; DFW 56-2015(Temp), f. 6-2-15, cert. ef. 6-3-15 thru 9-30-15; DFW 65-2015(Temp), f. 6-10-15, cert. ef. 6-15-15 thru 9-30-15; Administrative correction, 10-22-15; DFW 35-2016, f. & cert. ef. 4-26-16; DFW 63-2016(Temp), f. 6-1-16, cert. ef. 6-2-16 thru 9-30-16; DFW 66-2016(Temp), f. 6-6-16, cert. ef. 6-8-16 thru 9-30-16; DFW 46-2017, f. & cert. ef. 4-24-17; DFW 62-2017(Temp), f. 5-24-17, cert. ef. 5-25-17 thru 9-30-17; DFW 67-2017(Temp), f. 6-6-17, cert. ef. 6-8-17 thru 9-30-17; DFW 71-2017(Temp), f. 6-13-17, cert. ef. 6-17-17 thru 6-18-17; DFW 78-2017(Temp), f. 6-21-17, cert. ef. 6-23-17 thru 9-30-17; DFW 87-2017(Temp), f. 7-7-17, cert. ef. 7-12-17 thru 10-31-17; DFW 98-2017(Temp), f. 7-27-17, cert. ef. 7-30-17 thru 10-31-17; DFW 116-2017(Temp), f. & cert. ef. 8-28-17 thru 10-31-17

Rule Caption: Zone 6 Treaty Indian Fall Commercial Gillnet Fisheries Adopted.

Adm. Order No.: DFW 117-2017(Temp)

Filed with Sec. of State: 9-8-2017

Certified to be Effective: 9-11-17 thru 12-31-17

Notice Publication Date:

Rules Amended: 635-041-0075

Rules Suspended: 635-041-0075(T)

Subject: These rules authorize fall Treaty commercial gillnet fisheries for Zone 6 of the Columbia River. Modifications are consistent with action taken September 6, 2017 by the Departments of Fish & Wildlife for the States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-041-0075

Fall Salmon Season

(1) Salmon, steelhead, shad yellow perch, bass, catfish, carp and wall-eye may be taken for commercial purposes in Zone 6 and specific adjacent tributaries of the Columbia River as described below.

(a) Zone 6 platform and hook-and-line fishery:

(A) From 12:01 a.m. August 1 through 6:00 p.m. October 31, 2017.

(B) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line.

(C) Sturgeon from 38 to 54 inches fork length from the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes. In John Day Pool, sturgeon of legal size may be sold if landed during the open setline fishery from 6:00 a.m. Tuesday August 1 through 6:00 p.m. August 12, 2017.

(b) Zone 6 gillnet fishery:

(A) 6:00 a.m. Monday August 21 to 6:00 p.m. Friday August 25 (4.5 days);

(B) 6:00 a.m. Monday August 28 to 6:00 p.m. Friday September 1 (4.5 days);

(C) 6:00 a.m. Monday September 4 to 6:00 p.m. Friday September 8 (4.5 days);

(D) 6:00 a.m. Monday September 11 to 6:00 p.m. Friday September 15 (4.5 days).

(E) Gear is restricted to set and drift gillnets with an 8-inch minimum mesh size.

(F) Sturgeon may not be sold, but sturgeon from 38 to 54 inches fork length in the Bonneville Dam and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes.

(c) Zone 6 Yakama Nation tributary fisheries:

(A) 12:01 a.m. August 1 through 6:00 p.m. December 31, 2017.

(B) Klickitat River and Drano Lake only.

(C) Participation limited to Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods.

(D) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

(E) Sturgeon from 38 to 54 inches fork length may be kept for subsistence purposes.

(2) Closed areas are set forth in OAR 635-041-0045, including the larger closure at the mouth of Spring Creek as described in OAR 635-041-0045(11).

(3) Fish landed during the open periods are allowed to be sold after the period concludes.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & cert. ef. 8-2-79; FWC 36-1979(Temp), f. & cert. ef. 8-22-79; FWC 47-1979(Temp), f. & cert. ef. 9-21-79; FWC 44-1980(Temp), f. & cert. ef. 8-22-80; FWC 46-1980(Temp), f. & cert. ef. 9-13-80; FWC 33-1981(Temp), f. & cert. ef. 9-15-81; FWC 58-1982(Temp), f. & cert. ef. 8-27-82; FWC 62-1982(Temp), f. & cert. ef. 9-7-82; FWC 63-1982(Temp), f. & cert. ef. 9-14-82; FWC 75-1982(Temp), f. & cert. ef. 10-29-82; FWC 36-1983, f. & cert. ef. 8-18-83; FWC 49-1983(Temp), f. & cert. ef. 9-26-83; FWC 51-1983(Temp), f. & cert. ef. 9-30-83; FWC 55-1983(Temp), f. & cert. ef. 10-4-83; FWC 46-1984, f. & cert. ef. 8-30-84; FWC 55-1984(Temp), f. & cert. ef. 9-10-84; FWC 58-1984(Temp), f. & cert. ef. 9-17-84; FWC 61-1984(Temp), f. & cert. ef. 9-21-84; FWC 70-1984(Temp), f. & cert. ef. 10-9-84; FWC 47-1985, f. & cert. ef. 8-23-85; FWC 60-1985(Temp), f. & cert. ef. 9-13-85; FWC 63-1985(Temp), f. & cert. ef. 9-24-85; FWC 42-1986, f. & cert. ef. 8-15-86; FWC 53-1986(Temp), f. & cert. ef. 9-4-86; FWC 54-1986(Temp), f. & cert. ef. 9-5-86; FWC 57-1986(Temp), f. & cert. ef. 9-11-86; FWC 60-1986(Temp), f. & cert. ef. 9-26-86; FWC 62-1986(Temp), f. & cert. ef. 10-2-86; FWC 63-1987, f. & cert. ef. 8-7-87; FWC 74-1987(Temp), f. & cert. ef. 9-4-87; FWC 75-1987(Temp), f. & cert. ef. 9-1-87; FWC 78-1987(Temp), f. & cert. ef. 9-15-87; FWC 80-1987(Temp), f. & cert. ef. 9-18-87; FWC 87-1987(Temp), f. & cert. ef. 10-9-87; FWC 89-1987(Temp), f. & cert. 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. 9-27-88, 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. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, 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. 9-17-91, cert. ef. 9-18-91; 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. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, 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. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, 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. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; DFW 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 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 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; 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 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03, cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04, cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. 9-8-06, cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 107-2006(Temp), f. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. 8-17-07, cert. ef. 8-22-07 thru 12-31-07; DFW 88-2007(Temp), f. 9-10-07, cert. ef. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. 9-21-07, cert. ef. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. 9-28-07, cert. ef. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; DFW 109-2008(Temp), f. 9-12-08, cert. ef. 9-15-08 thru 10-31-08; DFW 112-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 10-31-08; DFW 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08; DFW 122-2008(Temp), f. & cert. ef. 9-29-08 thru 10-31-08; DFW 125-2008(Temp), f. 10-6-08, cert. ef. 10-7-08 thru 10-31-08; DFW 134-2008(Temp), f. & cert. ef. 10-17-08 thru 10-31-08; DFW 141-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 11-30-08; DFW 88-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 95-2009(Temp), f. 8-19-09, cert. ef. 8-24-09 thru 12-31-09; DFW 111-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 9-30-09; DFW 114-2009(Temp), f. 9-18-09, cert. ef. 9-21-09 thru 10-31-09; DFW 119-2009(Temp), f. & cert. ef. 9-29-09 thru 10-31-09; DFW 129-2009(Temp), f. 10-13-09, cert. ef. 10-14-09 thru 10-31-09; Administrative correction 11-19-09; DFW 111-2010(Temp), f. 7-

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30-10, cert. ef. 8-1-10 thru 10-31-10; DFW 120-2010(Temp), f. 8-18-10, cert. ef. 8-24-10 thru 10-31-10; DFW 128-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; DFW 136-2010(Temp), f. 9-24-10, cert. ef. 9-27-10 thru 10-31-10; DFW 142-2010(Temp), f. 10-8-10, cert. ef. 10-9-10 thru 10-31-10; DFW 149-2010(Temp), f. 10-18-10, cert. ef. 10-19-10 thru 10-31-10; Administrative correction 11-23-10; DFW 103-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; DFW 119-2011(Temp), f. 8-26-11, cert. ef. 8-29-11 thru 10-31-11; DFW 124-2011(Temp), f. 9-8-11, cert. ef. 9-12-11 thru 10-31-11; DFW 130-2011(Temp), f. 9-15-11, cert. ef. 9-19-11 thru 10-31-11; DFW 133-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 10-31-11; DFW 138-2011(Temp), f. 9-30-11, cert. ef. 10-3-11 thru 10-31-11; DFW 142-2011(Temp), f. 10-6-11, cert. ef. 10-8-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12; DFW 107-2012(Temp), f. 8-15-12, cert. ef. 8-21-12 thru 10-31-12; DFW 119-2012(Temp), f. 9-10-12, cert. ef. 9-11-12 thru 10-31-12; DFW 120-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; DFW 124-2012(Temp), f. 9-25-12, cert. ef. 9-26-12 thru 10-31-12; DFW 127-2012(Temp), f. & cert. ef. 10-2-12 thru 10-31-12; DFW 143-2012(Temp), f. 11-7-12, cert. ef. 11-8-12 thru 1-29-13; Administrative correction, 2-25-13; DFW 88-2013(Temp), f. 8-9-13, cert. ef. 8-12-13 thru 12-31-13; DFW 89-2013(Temp), f. 8-14-13, cert. ef. 8-19-13 thru 12-31-13; DFW 98-2013(Temp), f. 9-6-13, cert. ef. 9-10-13 thru 10-31-13; DFW 102-2013(Temp), f. 9-13-13, cert. ef. 9-16-13 thru 10-31-13; DFW 106-2013(Temp), f. 9-19-13, cert. ef. 9-24-13 thru 10-31-13; DFW 111-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; DFW 116-2013(Temp), f. 10-8-13, cert. ef. 10-9-13 thru 12-31-13; DFW 105-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 10-31-14; DFW 118-2014(Temp), f. 8-7-14, cert. ef. 8-18-14 thru 10-31-14; DFW 134-2014(Temp), f. 9-19-14, cert. ef. 9-23-14 thru 10-31-14; DFW 140-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; DFW 142-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 10-31-14; DFW 146-2014(Temp), f. 10-8-14, cert. ef. 10-13-14 thru 10-31-14; DFW 153-2014(Temp), f. 10-23-14, cert. ef. 10-31-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 97-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 10-31-15; DFW 108-2015(Temp), f. 8-13-15, cert. ef. 8-17-15 thru 10-31-15; DFW 127-2015(Temp), f. 9-10-15, cert. ef. 9-15-15 thru 10-31-15; DFW 130-2015(Temp), f. 9-17-15, cert. ef. 9-18-15 thru 10-31-15; DFW 133-2015(Temp), f. 9-23-15, cert. ef. 9-28-15 thru 10-31-15; DFW 137-2015(Temp), f. & cert. ef. 10-1-15 thru 10-31-15; DFW 155-2015(Temp), f. 11-12-15, cert. ef. 11-13-15 thru 12-31-15; Administrative correction, 1-22-16; DFW 98-2016(Temp), f. 7-28-16, cert. ef. 8-1-16 thru 12-31-16; DFW 106-2016(Temp), f. 8-10-16, cert. ef. 8-22-16 thru 12-31-16; DFW 120-2016(Temp), f. 9-15-16, cert. ef. 9-16-16 thru 12-31-16; DFW 123-2016(Temp), f. & cert. ef. 9-23-16 thru 12-31-16; DFW 130-2016(Temp), f. 9-29-16, cert. ef. 10-1-16 thru 12-31-16; DFW 132-2016(Temp), f. 10-6-16, cert. ef. 10-10-16 thru 10-14-16; DFW 133-2016(Temp), f. 10-13-16, cert. ef. 10-17-16 thru 12-31-16; DFW 137-2016(Temp), f. 10-20-16, cert. ef. 10-24-16 thru 11-30-16; Administrative correction, 6-5-17; DFW 100-2017(Temp), f. 7-31-17, cert. ef. 8-1-17 thru 12-31-17; DFW 113-2017(Temp), f. & cert. ef. 8-18-17 thru 12-31-17; DFW 117-2017(Temp), f. 9-8-17, cert. ef. 9-11-17 thru 12-31-17

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Rule Caption: Close Recreational Bottomfish Fishing for All Species Except for Flatfish; Opens Flatfish Fishing to All-Depths
Adm. Order No.: DFW 118-2017(Temp)

Filed with Sec. of State: 9-12-2017

Certified to be Effective: 9-18-17 thru 12-31-17

Notice Publication Date:

Rules Amended: 635-039-0090

Subject: Amended rule closes the recreational bottomfish fishery to retention of all species except for flatfish species and opens fishing for flatfish to all-depths. The rule changes are necessary to keep impacts from the Oregon recreational bottomfish fishery within specified harvest guidelines.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-039-0090

Inclusions and Modifications

(1) The 2017 Oregon Sport Fishing Regulations provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates 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 2017 Oregon Sport Fishing Regulations.

(2) For the purposes of this rule, a “sport harvest guideline” is defined as a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not automatically close a fishery. Upon attainment of a sport harvest guideline, the Department shall initiate consultation to determine if additional regulatory actions are necessary to achieve management objectives. The following sport harvest guidelines include the combined landings and other fishery related mortality by the Oregon sport fishery in a single calendar year:

(a) Black rockfish, 400.1 metric tons.

(b) Cabezon, 16.8 metric tons.

(c) Blue rockfish, deacon rockfish, and other nearshore rockfish combined, 33.1 metric tons.

(d) Greenling, 56.3 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. carnatius*); grass (*S. rastrelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. sericeus*).

(4) In addition to the regulations for Marine Fish in the 2017 Oregon Sport Fishing Regulations, the following apply for the sport fishery in the Marine Zone:

(a) Lingcod (including green colored lingcod): 2 fish daily bag limit, January 1 through September 17; prohibited September 18 through December 31.

(b) All rockfish (“sea bass” “snapper”), greenling (“sea trout”), cabezon, skates, and other marine fish species not listed in the 2017 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 six may be black rockfish, no more than four may be blue rockfish, deacon rockfish, China rockfish, copper rockfish, or quillback rockfish in aggregate, and no more than one may be a cabezon. Retention of the following species is prohibited:

(A) Yelloweye rockfish;

(B) Cabezon from January 1 through June 30 and September 18 through December 31.

(C) All rockfish, greenlings, skates and other marine fish species not listed in the 2017 Oregon Sport Fishing Regulations in the Marine Zone, except for flatfish species, from September 18 through December 31.

(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, flatfish, 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. 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 (4)(a), (4)(b) and (4)(c) including the following:

(A) Minimum length for lingcod, 22 inches.

(B) Minimum length for cabezon, 16 inches.

(C) May be taken by angling, hand, bow and arrow, spear, gaff hook, snag hook and herring jigs.

(D) Mutilating the fish so the size or species cannot be determined prior to landing or transporting mutilated fish across state waters is prohibited.

(E) When angling for groundfish or Pacific halibut in the Pacific Ocean or when in possession of groundfish or Pacific halibut, all vessels shall have a functional descending device on board and shall use a descending device when releasing any rockfish outside of the 30-fathom curve (defined by latitude and longitude) as shown in Title 50 Code of Federal Regulations Part 660 Section 71. Upon request, a descending device shall be presented for inspection by any person authorized to enforce the wildlife laws or a representative of the Department. In this subsection, “descending device” means a device capable of returning a rockfish back to a depth of at least 100 feet to assist the fish in recompression and to improve the fish’s chance of survival.

(f) Sport fisheries for species in subsections (4)(a), (4)(b) and (4)(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 4(b) and (4)(d). 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, except as provided in subsection 4(d); with the exception of flatfish species September 18 through September 30. 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, 2015 ed.). Within the YRCA, it is unlawful to fish for, take, or retain species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut using recreational fishing gear. A vessel engaged in recreational fishing within the YRCA is prohibited from possessing any species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut. Recreational fishing vessels in possession of species listed in subsections (4)(a), (4)(b) and (4)(c) and including leopard

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shark, soupfin shark, and Pacific halibut may transit the YRCA without fishing gear in the water.

[Table 1, as referenced, is available from the Department]

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. 7-13-03, 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; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 5-2015(Temp), f. 1-13-15, cert. ef. 1-15-15 thru 7-13-15; Temporary suspended by DFW 18-2015, f. & cert. ef. 3-10-15; DFW 34-2015, f. & cert. ef. 4-28-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 3-2016, f. & cert. ef. 1-19-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 35-2016, f. & cert. ef. 4-26-16; DFW 38-2016(Temp), f. & cert. ef. 4-26-16 thru 10-22-16; DFW 91-2016(Temp), f. 7-12-16, cert. ef. 7-14-16 thru 12-31-16; DFW 105-2016, f. & cert. ef. 8-10-16; DFW 117-2016(Temp), f. 9-14-16, cert. ef. 10-1-16 thru 12-31-16; DFW 148-2016, f. 12-7-16, cert. ef. 1-1-17; DFW 153-2016, f. 12-28-16, cert. ef. 1-1-17; DFW 46-2017, f. & cert. ef. 4-24-17; DFW 109-2017, f. 8-9-17, cert. ef. 1-1-18; DFW 118-2017(Temp), f. 9-12-17, cert. ef. 9-18-17 thru 12-31-17

Rule Caption: Non-Treaty Fall Commercial Gillnet Fisheries Adopted.

Adm. Order No.: DFW 119-2017(Temp)

Filed with Sec. of State: 9-14-2017

Certified to be Effective: 9-17-17 thru 10-31-17

Notice Publication Date:

Rules Amended: 635-042-0060

Subject: This rule authorizes late fall non-Treaty commercial gillnet fisheries in Zones 4-5 of the lower Columbia River. Modifications are consistent with action taken September 14, 2017 by the Departments of Fish & Wildlife for the States of Oregon and Washington at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0060

Late Fall Salmon Season

(1) Chinook, coho, pink, and sockeye salmon, white sturgeon and shad may be taken for commercial purposes from the Columbia River in Zones 4 and 5, as described in OAR 635-042-0001 except 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 during the following fishing periods:

(a) 8:00 p.m. Sunday, September 17 to 6:00 a.m. Monday, September 18, 2017 (10 hours);

(b) 8:00 p.m. Tuesday, September 19 to 6:00 a.m. Wednesday, September 20, 2017 (10 hours);and,

(c) 8:00 p.m. Thursday, September 21 to 6:00 a.m. Friday, September 22, 2017 (10 hours);

(2) For the fishing periods described in section (1)(a) through (1)(b) above, gear is restricted to drift gill nets with a 9 inch minimum mesh size. For the fishing period described in section (1)(c) above, gear is restricted to drift gill nets with an 8 inch minimum mesh size. Mesh size is determined as described in OAR 635-042-0010(3).

(3) A maximum of 5 white Sturgeon with a fork length of 44 to 50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Thursday). The five white sturgeon possession and sales limit applies to the mainstem Columbia fisheries only.

(4) As a condition of fishing or participating in this fishery, owners or operators of commercial fishing vessels must carry and accommodate a Department observer for the duration of the fishing trip when requested. It is unlawful to deny access or fail to carry a Department observer upon request. When a Department observer is onboard, it is expected that any steelhead caught will be brought onboard for biological sampling prior to release. As used in this rule, a Department observer is an employee of either the Washington or Oregon Department of Fish and Wildlife or Pacific States Marine Fisheries Commission.

(5) 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.

(6) For the fishing periods described in section (1)(a) through (1)(c) above, chum salmon may not be possessed or sold.

(7) For the fishing periods described in section (1)(a) through (1)(c) above, the Sandy River and Washougal sanctuaries apply.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 40-1979, f. & cert. ef. 9-10-79; FWC 45-1979(Temp), f. & cert. ef. 9-21-79; FWC 52-1979(Temp), f. & cert. ef. 11-2-79; FWC 48-1980(Temp), f. & cert. ef. 9-19-80; FWC 51-1980(Temp), f. & cert. ef. 9-22-80; FWC 55-1980(Temp), f. & cert. ef. 9-26-80; FWC 56-1980(Temp), f. & cert. ef. 9-29-80; FWC 58-1980(Temp), f. & cert. ef. 10-17-80; FWC 37-1981(Temp), f. & cert. ef. 9-24-81; FWC 38-1981(Temp), f. & cert. ef. 9-29-81; FWC 69-1982(Temp), f. & cert. ef. 9-30-82; FWC 72-1982(Temp), f. & cert. ef. 10-20-82; FWC 56-1983(Temp), f. & cert. ef. 10-5-83; FWC 54-1984(Temp), f. & cert. ef. 9-10-84; FWC 59-1984(Temp), f. & cert. ef. 9-18-84; FWC 66-1984(Temp), f. & cert. ef. 9-26-84; FWC 68-1984(Temp), f. & cert. ef. 10-2-84; FWC 58-1985(Temp), f. & cert. ef. 9-13-85; FWC 62-1985(Temp), f. & cert. ef. 9-24-85; FWC 66-1985(Temp), f. & cert. ef. 10-11-85; FWC 54-1986(Temp), f. & cert. ef. 9-5-86; FWC 64-1986(Temp), f. & cert. ef. 10-3-86; FWC 67-1986(Temp), f. & cert. ef. 10-17-86; FWC 74-1987(Temp), f. & cert. ef. 9-4-87; FWC 75-1987(Temp), f. & cert. ef. 9-11-87; FWC 80-1987(Temp), f. & cert. ef. 9-18-87; FWC 87-1987(Temp), f. & cert. ef. 10-9-87; FWC 91-1987(Temp), f. & cert. 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. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. 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. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992(Temp), f. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. 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; 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 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-at2000(Temp), f. 9-15-00, cert. ef. 9-19-00 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. 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 98-2001(Temp), f. 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. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 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. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. 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. 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. 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; DFW 126-2005(Temp), f. 10-21-05, cert. ef. 10-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 102-2006(Temp), f. 9-15-06, cert.

ADMINISTRATIVE RULES

ef. 9-19-06 thru 12-31-06; DFW 106-2006(Temp), f. 9-22-06, cert. ef. 9-25-06 thru 12-31-06; DFW 111-2006(Temp), f. 9-29-06, cert. ef. 10-2-06 thru 12-31-06; DFW 112-2006(Temp), f. 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 11-16-07; DFW 91-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 94-2007(Temp), f. 9-21-07, cert. ef. 9-24-07 thru 12-31-07; DFW 97-2007(Temp), f. 9-25-07, cert. ef. 9-26-07 thru 12-31-07; DFW 98-2007(Temp), f. 9-26-07, cert. ef. 9-27-07 thru 12-31-07; DFW 99-2007(Temp), f. 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. 10-16-07, cert. ef. 10-17-07 thru 12-31-07; DFW 111-2007(Temp), f. 10-22-07, cert. ef. 10-23-07 thru 12-31-07; DFW 112-2007(Temp), f. 10-24-07, cert. ef. 10-25-07 thru 12-31-07; DFW 113-2008(Temp), f. 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. 10-7-08, cert. ef. 10-8-08 thru 12-31-08; DFW 132-2008(Temp), f. 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. 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. 10-13-10, cert. ef. 10-14-10 thru 11-30-10; DFW 150-2010(Temp), f. 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. 10-3-12, cert. ef. 10-4-12 thru 10-31-12; DFW 133-2012(Temp), f. 10-15-12, cert. ef. 10-16-12 thru 10-31-12; Administrative correction 11-23-12; DFW 119-2013(Temp), f. 10-15-13, cert. ef. 10-16-13 thru 10-31-13; DFW 120-2013(Temp), f. 10-22-13, cert. ef. 10-23-13 thru 11-1-13; Administrative correction, 11-22-13; DFW 144-2014(Temp), f. 10-8-14, cert. ef. 10-9-14 thru 12-31-14; DFW 154-2014(Temp), f. & cert. ef. 10-23-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 129-2015(Temp), f. & cert. ef. 9-15-15 thru 10-31-15; DFW 131-2015(Temp), f. 9-18-15, cert. ef. 9-20-15 thru 10-31-15; DFW 132-2015(Temp), f. 9-23-15, cert. ef. 9-27-15 thru 10-31-15; DFW 138-2015(Temp), f. 10-7-15, cert. ef. 10-8-15 thru 10-31-15; Administrative correction, 11-20-15; DFW 119-2017(Temp), f. 9-14-17, cert. ef. 9-17-17 thru 10-31-17

Rule Caption: Zone 6 Treaty Indian Fall Commercial Gillnet Fisheries Adopted.

Adm. Order No.: DFW 120-2017(Temp)

Filed with Sec. of State: 9-14-2017

Certified to be Effective: 9-18-17 thru 12-31-17

Notice Publication Date:

Rules Amended: 635-041-0075

Rules Suspended: 635-041-0075(T)

Subject: These rules authorize fall Treaty commercial gillnet fisheries for Zone 6 of the Columbia River. Modifications are consistent with action taken September 14, 2017 by the Departments of Fish & Wildlife for the States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-041-0075

Fall Salmon Season

(1) Salmon, steelhead, shad yellow perch, bass, catfish, carp and walleye may be taken for commercial purposes in Zone 6 and specific adjacent tributaries of the Columbia River as described below.

(a) Zone 6 platform and hook-and-line fishery:

(A) From 12:01 a.m. August 1 through 6:00 p.m. October 31, 2017.

(B) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line.

(C) Sturgeon from 38 to 54 inches fork length from the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes. In John Day Pool, sturgeon of legal size may be sold if landed during the open setline fishery from 6:00 a.m. Tuesday August 1 through 6:00 p.m. August 12, 2017.

(b) Zone 6 gillnet fishery:

(A) 6:00 a.m. Monday August 21 to 6:00 p.m. Friday August 25 (4.5 days);

(B) 6:00 a.m. Monday August 28 to 6:00 p.m. Friday September 1 (4.5 days);

(C) 6:00 a.m. Monday September 4 to 6:00 p.m. Friday September 8 (4.5 days);

(D) 6:00 a.m. Monday September 11 to 6:00 p.m. Friday September 15 (4.5 days).

(E) 6:00 a.m. Monday September 18 to 6:00 p.m. Friday September 22 (4.5 days).

(F) Gear is restricted to set and drift gillnets with an 8-inch minimum mesh size.

(G) Sturgeon may not be sold, but sturgeon from 38 to 54 inches fork length in the Bonneville Dam and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes.

(c) Zone 6 Yakama Nation tributary fisheries:

(A) 12:01 a.m. August 1 through 6:00 p.m. December 31, 2017.

(B) Klickitat River and Drano Lake only.

(C) Participation limited to Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods.

(D) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

(E) Sturgeon from 38 to 54 inches fork length may be kept for subsistence purposes.

(2) Closed areas are set forth in OAR 635-041-0045, including the larger closure at the mouth of Spring Creek as described in OAR 635-041-0045(11).

(3) Fish landed during the open periods are allowed to be sold after the period concludes.

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 75-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. & cert. ef. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 96-1989(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, cert. ef. 9-10-90; FWC 98-1990(Temp), f. & cert. ef. 9-14-90, cert. ef. 9-17-90; 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. 9-18-91; FWC 100-1991(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, cert. ef. 9-2-92; FWC 87-1992(Temp), f. & cert. ef. 9-7-92; FWC 91-1992(Temp), f. & cert. ef. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. & cert. ef. 9-23-92; FWC 105-1992(Temp), f. & cert. ef. 10-2-92, cert. ef. 10-5-92; 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. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. & cert. ef. 8-29-94; FWC 61-1994(Temp), f. & cert. ef. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. & cert. ef. 8-29-95; 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. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. & cert. ef. 9-6-96, 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. 9-2-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. & cert. ef. 9-16-97, cert. ef. 9-17-97; DFW 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. & cert. ef. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. & cert. ef. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. & cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. & cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. & cert. ef. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. & cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. & cert. ef. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. & cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. & cert. ef. 9-11-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. & cert. ef. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. & cert. ef. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; 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 113-2002(Temp), f. & cert. ef. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. & cert. ef. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. & cert. ef. 9-12-03, cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. & cert. ef. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. & cert. ef. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. & cert. ef. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. & cert. ef. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. & cert. ef. 10-12-04, cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 11-19-06; DFW

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71-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. 9-8-06, cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 107-2006(Temp), f. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. 8-17-07, cert. ef. 8-22-07 thru 12-31-07; DFW 88-2007(Temp), f. 9-10-07, cert. ef. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. 9-21-07, cert. ef. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. 9-28-07, cert. ef. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; DFW 109-2008(Temp), f. 9-12-08, cert. ef. 9-15-08 thru 10-31-08; DFW 112-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 10-31-08; DFW 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08; DFW 122-2008(Temp), f. & cert. ef. 9-29-08 thru 10-31-08; DFW 125-2008(Temp), f. 10-6-08, cert. ef. 10-7-08 thru 10-31-08; DFW 134-2008(Temp), f. & cert. ef. 10-17-08 thru 10-31-08; DFW 141-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 11-30-08; DFW 88-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 95-2009(Temp), f. 8-19-09, cert. ef. 8-24-09 thru 12-31-09; DFW 111-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 9-30-09; DFW 114-2009(Temp), f. 9-18-09, cert. ef. 9-21-09 thru 10-31-09; DFW 119-2009(Temp), f. & cert. ef. 9-29-09 thru 10-31-09; DFW 129-2009(Temp), f. 10-13-09, cert. ef. 10-14-09 thru 10-31-09; Administrative correction 11-19-09; DFW 111-2010(Temp), f. 7-30-10, cert. ef. 8-1-10 thru 10-31-10; DFW 120-2010(Temp), f. 8-18-10, cert. ef. 8-24-10 thru 10-31-10; DFW 128-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; DFW 136-2010(Temp), f. 9-24-10, cert. ef. 9-27-10 thru 10-31-10; DFW 142-2010(Temp), f. 10-8-10, cert. ef. 10-9-10 thru 10-31-10; DFW 149-2010(Temp), f. 10-18-10, cert. ef. 10-19-10 thru 10-31-10; Administrative correction 11-23-10; DFW 103-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; DFW 119-2011(Temp), f. 8-26-11, cert. ef. 8-29-11 thru 10-31-11; DFW 124-2011(Temp), f. 9-8-11, cert. ef. 9-12-11 thru 10-31-11; DFW 130-2011(Temp), f. 9-15-11, cert. ef. 9-19-11 thru 10-31-11; DFW 133-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 10-31-11; DFW 138-2011(Temp), f. 9-30-11, cert. ef. 10-3-11 thru 10-31-11; DFW 142-2011(Temp), f. 10-6-11, cert. ef. 10-8-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12; DFW 107-2012(Temp), f. 8-15-12, cert. ef. 8-21-12 thru 10-31-12; DFW 119-2012(Temp), f. 9-10-12, cert. ef. 9-11-12 thru 10-31-12; DFW 120-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; DFW 124-2012(Temp), f. 9-25-12, cert. ef. 9-26-12 thru 10-31-12; DFW 127-2012(Temp), f. & cert. ef. 10-2-12 thru 10-31-12; DFW 143-2012(Temp), f. 11-7-12, cert. ef. 11-8-12 thru 1-29-13; Administrative correction, 2-25-13; DFW 88-2013(Temp), f. 8-9-13, cert. ef. 8-12-13 thru 12-31-13; DFW 89-2013(Temp), f. 8-14-13, cert. ef. 8-19-13 thru 12-31-13; DFW 98-2013(Temp), f. 9-6-13, cert. ef. 9-10-13 thru 10-31-13; DFW 102-2013(Temp), f. 9-13-13, cert. ef. 9-16-13 thru 10-31-13; DFW 106-2013(Temp), f. 9-19-13, cert. ef. 9-24-13 thru 10-31-13; DFW 111-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; DFW 116-2013(Temp), f. 10-8-13, cert. ef. 10-9-13 thru 12-31-13; DFW 105-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 10-31-14; DFW 118-2014(Temp), f. 8-7-14, cert. ef. 8-18-14 thru 10-31-14; DFW 134-2014(Temp), f. 9-19-14, cert. ef. 9-23-14 thru 10-31-14; DFW 140-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; DFW 142-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 10-31-14; DFW 146-2014(Temp), f. 10-8-14, cert. ef. 10-13-14 thru 10-31-14; DFW 153-2014(Temp), f. 10-23-14, cert. ef. 10-31-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 97-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 10-31-15; DFW 108-2015(Temp), f. 8-13-15, cert. ef. 8-17-15 thru 10-31-15; DFW 127-2015(Temp), f. 9-10-15, cert. ef. 9-15-15 thru 10-31-15; DFW 130-2015(Temp), f. 9-17-15, cert. ef. 9-18-15 thru 10-31-15; DFW 133-2015(Temp), f. 9-23-15, cert. ef. 9-28-15 thru 10-31-15; DFW 137-2015(Temp), f. & cert. ef. 10-1-15 thru 10-31-15; DFW 155-2015(Temp), f. 11-12-15, cert. ef. 11-13-15 thru 12-31-15; Administrative correction, 1-22-16; DFW 98-2016(Temp), f. 7-28-16, cert. ef. 8-1-16 thru 12-31-16; DFW 106-2016(Temp), f. 8-10-16, cert. ef. 8-22-16 thru 12-31-16; DFW 120-2016(Temp), f. 9-15-16, cert. ef. 9-16-16 thru 12-31-16; DFW 123-2016(Temp), f. & cert. ef. 9-23-16 thru 12-31-16; DFW 130-2016(Temp), f. 9-29-16, cert. ef. 10-1-16 thru 12-31-16; DFW 132-2016(Temp), f. 10-6-16, cert. ef. 10-10-16 thru 10-14-16; DFW 133-2016(Temp), f. 10-13-16, cert. ef. 10-17-16 thru 12-31-16; DFW 137-2016(Temp), f. 10-20-16, cert. ef. 10-24-16 thru 11-30-16; Administrative correction, 6-5-17; DFW 100-2017(Temp), f. 7-31-17, cert. ef. 8-1-17 thru 12-31-17; DFW 113-2017(Temp), f. & cert. ef. 8-18-17 thru 12-31-17; DFW 117-2017(Temp), f. 9-8-17, cert. ef. 9-11-17 thru 12-31-17; DFW 120-2017(Temp), f. 9-14-17, cert. ef. 9-18-17 thru 12-31-17

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Department of Human Services, Administrative Services Division and Director's Office Chapter 407

Rule Caption: Abuse Reporting and Protective Services in Community Mental Health Programs and Facilities

Adm. Order No.: DHSD 9-2017(Temp)

Filed with Sec. of State: 9-1-2017

Certified to be Effective: 9-1-17 thru 2-27-18

Notice Publication Date:

Rules Adopted: 407-045-0120, 407-045-0130, 407-045-0140, 407-045-0150, 407-045-0160, 407-045-0170, 407-045-0180, 407-045-0190, 407-045-0200, 407-045-0210, 407-045-0220, 407-045-0230, 407-045-0240

Rules Suspended: 407-045-0400

Subject: The Department of Human Services' (Department), Shared Services is adopting these rules to implement its duty for abuse reporting and protective services in community mental health programs and facilities to closely align with the statute.

Currently the administrative rules that implement the statute for abuse reporting and investigating for adults with mental illness are within OAR chapter 943, division 45, the Oregon Health Authority rule sequence. Since the function is with the Department's authority, moving the community mental health rules is needed to avoid confusion. The Department is also revising the rule to reflect the changes

in the delivery of mental health services, policies and procedures for conducting investigations and correct statutory references.

The Department is also suspending OAR 407-045-0400, as the rule references the Oregon Health Authority rule that is being suspended to correct statutory authority.

Proposed rules are available on the Department of Human Services website: <http://www.oregon.gov/DHS/POLICIES/Pages/ss-admin-rules.aspx>. For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-045-0120

Purpose and Scope

(1) These rules, OAR 407-045-0120 to 407-045-0240, prescribe standards and procedures for the investigation of reported abuse and the assessment for and provision of protective services in community programs and facilities for adults with mental illness.

(2) The Department's Office of Adult Abuse Prevention and Investigations (OAAPI) by agreement with the Authority, is delegated the duties, functions and powers of training, coordinating, assisting, directing and approving the services provided by the community mental health programs related to these rules.

(3) For the purpose of carrying out these rules, community mental health programs are Department designees.

(4) The Department or a designee must receive all reports of alleged abuse, assess the need for protective services and conduct the investigation to make findings as required by ORS 430.735 to 430.768.

Stat. Authority: ORS 409.010, 409.050, 413.032, 413.042, 413.085, & 430.731

Stats. Implemented: ORS 409.027, 413.036, 430.610 to 430.695, 430.731 to 430.765, 430.768, 443.400 to 443.465 & 443.705 – 443.875

Hist.: DHSD 9-2017(Temp), f. & cert. ef. 9-1-17 thru 2-27-18

407-045-0130

Definitions

As used in OAR 407-045-0120 to 407-045-0240, the following definitions apply:

(1) "Abuse" means one or more of the following:

(a) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 164.415, 163.425, 163.427, 163.465 or 163.467.

(b) Any death of an adult caused by other than accidental or natural means.

(c) Any physical injury to any adult caused by other than accidental means or that appears to be at variance with the explanation given for the injury.

(d) Willful infliction of physical pain or injury upon an adult.

(e) Neglect of the adult, which means withholding of services necessary to maintain the health and well-being of an adult, which leads to physical harm of an adult.

(f) Sexual abuse of an adult.

(A) "Sexual abuse" means:

(i) Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315;

(ii) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;

(iii) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver; or

(iv) Any sexual contact that is achieved through force, trickery, threat or coercion.

(B) Sexual abuse does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse or partner of the adult.

(C) "Sexual contact" has the meaning given that term in ORS 163.305.

(2) "Abuse Investigation Report" means a written report completed under these rules.

(3) "Adult" means an individual who is 18 years of age or older who:

(a) Has a mental illness and is receiving services from a community program or facility; and

(b) Is the alleged abuse victim.

(4) "Adult protective services" means the necessary actions taken to prevent abuse or exploitation of an adult, to prevent self-destructive acts, and to safeguard an allegedly abused adult's person, property, or funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to protect an adult must be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence.

(5) "Alleged perpetrator" means a person, facility or service provider who is the respondent in an abuse investigation under these rules, alleged or determined to have committed abuse of an adult.

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(6) "Authority" means the Oregon Health Authority.

(7) "Caregiver" means an individual, whether paid or unpaid, or a facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

(8) "Community program" means the community mental health program (CMHP) as established in ORS 430.610 to 430.695.

(a) A community mental health program may provide services by contracting with a public agency, private corporation or individual. All elements of service provided for in the contract must be considered as a part of a community mental health program.

(b) A community mental health program is considered a designee of the Department for the purposes of this rule and ORS 430.731 to 430.765.

(9) "Designee" means the community program.

(10) "Department" means the Department of Human Services.

(11) "Exception for religious practice" means an adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner shall for this reason alone not be considered subjected to abuse under ORS 430.735 to 430.765.

(12)(a) "Facility" means an Authority licensed:

(A) Residential treatment home (RTH) as defined in ORS 443.400;

(B) Residential treatment facility (RTF) as defined in ORS 443.400;

or

(C) Adult foster home (AFH) as defined in ORS 443.705.

(b) "Facility" does not include an Authority licensed facility for substance use disorders.

(13) "Good cause" for an extension means:

(a) When law enforcement is conducting an investigation;

(b) A material party or witness is temporarily unavailable; or

(c) New evidence is discovered that leads to additional allegations.

(14) "Investigator" means a Department employee or community program designee who is authorized and receives OAAPI approved training to screen and investigate allegations of abuse under these rules.

(15) "Inconclusive" means after diligent efforts have been made, the investigator is unable to locate the alleged perpetrator, the alleged victim or another individual who might have information critical to the investigation; or relevant records or documents are unavailable, so that the investigation cannot be completed.

(16) "Law enforcement agency" means:

(a) Any city or municipal police department;

(b) A police department established by a university under ORS 352.121 or 353.125;

(c) Any county sheriff's office;

(d) The Oregon State Police; or

(e) Any district attorney.

(17)(a) "Mandatory reporter" means any public or private official who has a duty to report abuse per ORS 430.765.

(b) Pursuant to ORS 430.765(2), psychiatrists, psychologists, clergy and attorneys are not required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295.

(18) "Not substantiated" means there is less than a preponderance of evidence to show that abuse occurred.

(19) "OAAPI" means the Department's Office of Adult Abuse Prevention and Investigations.

(20) "Provider" means a person or entity licensed by the Authority to provide residential services in a facility, or contracted with a community mental health program to provide mental health services.

(21) "Public or private official" means:

(a) Physician licensed under ORS Chapter 677, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician, psychologist or chiropractor, including any intern or resident;

(b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an in-home health services organization;

(c) Employee of the Authority, Department, local health department, community mental health or developmental disabilities program, or private agency contracting with a public body to provide any community services;

(d) Peace officer;

(e) Member of the clergy;

(f) Regulated social worker;

(g) Physical, speech or occupational therapist;

(h) Information and referral, outreach, or crisis worker;

(i) Attorney;

(j) Licensed professional counselor or licensed marriage and family therapist;

(k) Firefighter or emergency medical services;

(l) Any public official;

(m) Member of the Legislative Assembly;

(n) Personal support worker, as defined by the Home Care Commission; or

(o) Home Care Worker, as defined in ORS 410.600.

(22) "Self-defense" as used in OAR 407-045-0200(7) means the use of physical force upon another person in self-defense or to defend a third person.

(23) "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of the adult.

(24) "Substantiated" means that the preponderance of evidence establishes the abuse occurred.

(25) "Unbiased investigation" means an investigation that is conducted that does not have an actual or potential conflict of interest with the outcome.

Stat. Authority: ORS 409.010, 409.050, 413.032, 413.042, 413.085, & 430.731

Stats. Implemented: ORS 409.027, 413.036, 430.610 to 430.695, 430.731 to 430.765, 430.768, 443.400 to 443.465 & 443.705 - 443.875

Hist.: DHSD 9-2017(Temp), f. & cert. ef. 9-1-17 thru 2-27-18

407-045-0140

Training for Individuals Investigating Reports of Alleged Abuse

(1) The Department must provide sufficient and timely training and consultation to ensure that the investigator is able to conduct a thorough and unbiased investigation and make a determination about the alleged abuse. Training must include initial and continuing education of any individual designated to address initial action on complaints, screen and conduct abuse investigations.

(2) The training must address the cultural and social diversity of Oregon, and include trauma-informed practices.

(3) Each community program must designate at least one employee to conduct abuse investigations. Community programs must require their designated employee to participate in training, quarterly meetings and to demonstrate an understanding of investigative core competencies.

(4) Department employees conducting investigations under these rules must also be required to participate in the training provided community programs and demonstrate an understanding of investigative core competencies.

Stat. Authority: ORS 409.010, 409.050, 413.032, 413.042, 413.085, & 430.731

Stats. Implemented: ORS 409.027, 413.036, 430.610 to 430.695, 430.731 to 430.765, 430.768, 443.400 to 443.465 & 443.705 - 443.875

Hist.: DHSD 9-2017(Temp), f. & cert. ef. 9-1-17 thru 2-27-18

407-045-0150

Initial Action on Complaints of Alleged Abuse

(1) If a mandatory reporter has a reasonable cause to believe abuse of an adult has occurred, the reporter must report or cause a report to be made immediately by phone or otherwise to the community program, to a local law enforcement agency or to the Department.

(a) If law enforcement receives a report of abuse involving a victim who is known to have mental illness, coordination and communication with the local community program should occur via the established multi-disciplinary team agreement processes per ORS 430.739.

(b) If the Department receives the initial complaint, the Department will gather the information as detailed in section (2) and;

(A) Immediately screen the complaint for possible Department investigation if it involves an Authority-operated facility licensed under ORS 443.400, or

(B) Immediately transfer the information to the local community program for screening, assessment of protective services and investigation if required.

(2) The Department or community program receiving a complaint alleging abuse must document the reported information. The Department or community program must attempt to elicit the following information from the reporter:

(a) The name, age and present location of the allegedly abused adult;

(b) The names and addresses of the persons responsible for the adult's care, including the community program or facility;

(c) The nature and extent of the alleged abuse, including any evidence of previous abuse;

(d) Any information that led the reporter to suspect abuse occurred;

(e) Any other information that the reporter believes might be helpful in establishing the cause of the abuse and the identity of the alleged perpetrator; and

(f) The date of the incident.

ADMINISTRATIVE RULES

(3) If there is reason to believe a crime has been committed, the Department or community program must contact the law enforcement agency with jurisdiction within the county where the report was made.

(4) The Department or community program will ensure a follow-up with law enforcement if it was reported a police report was filed to:

(a) Ensure the suspected crime or alleged abuse has been reported; and

(b) Obtain all copies of any law enforcement reports.

(5) The Department, community program or law enforcement agency must notify the appropriate medical examiner in cases when there is reasonable cause to believe that an adult has died as a result of abuse.

(6) Upon receipt of a complaint of alleged abuse, the community program must immediately begin to:

(a) Determine whether an abuse investigation is required under these rules;

(b) Determine whether alleged victim sustained any serious injury, and

(c) Assess the need for protective services.

(7) The Department and community program must maintain all complaints of alleged abuse in a confidential location.

(8) Each community program must establish an after-hours reporting system.

Stat. Authority: ORS 409.010, 409.050, 413.032, 413.042, 413.085, & 430.731

Stats. Implemented: ORS 409.027, 413.036, 430.610 to 430.695, 430.731 to 430.765, 430.768, 443.400 to 443.465 & 443.705 – 443.875

Hist.: DHSD 9-2017(Temp), f. & cert. ef. 9-1-17 thru 2-27-18

407-045-0160

Screening Activities and Initial Notices

(1) All calls or reports of alleged abuse received by the Department or community program must be directed to the designated employee, who is trained to conduct abuse investigations, to assess and determine if an abuse investigation is required.

(2) Screening is the process used to gather and assess information in order to determine the responses and whether the complaint meets the definition of abuse of an adult requiring investigation as stated in these rules.

(a) The screener must document screening activities completed and the information supporting the decision to either assign an investigation or close the complaint at screening.

(b) The screener or investigator must assure initial notifications, referrals and required cross-reporting are completed.

(c) The Department and community program must have a protocol to track the outcome of every screening to ensure completion.

(d) The community program may request the Department screen a complaint of alleged abuse for instances where there is a potential conflict of interest, as an investigation may need to be conducted under OAR 407-045-0190(1)(a).

(e) The Department will screen all allegations involving adults receiving services in an Authority-operated facility licensed under ORS 443.400 for investigation under these rules.

(3) If the screener is unable to make a screening determination by the end of the next business day:

(a) The screener should consult with their supervisor or the Department about the delay.

(b) The screener must consult with the Department if a screening decision is not made within 5 days.

(4) If the complaint is within the definitions of an adult and abuse in these rules, an investigation will promptly begin.

(a) The community program will immediately notify the Department in the format provided.

(b) The Department will notify the community program of investigations conducted per OAR 407-045-0190 or 407-045-0230.

(c) The Department will notify the Authority's Health Systems Division of all investigations opened.

(5) Within five business days of a screening decision, the screener or investigator will provide written notice that a case has been assigned for investigation, identify the investigator and provide information regarding how the assigned investigator may be contacted.

(a) This notice will be provided to, if applicable:

(A) The facility or agency that oversees the service provider or caregiver,

(B) The alleged perpetrator when known,

(C) Case Manager, and

(D) Guardian.

(b) The initial notice may be delayed if:

(A) The adult's safety and health would be at risk by the notice, or

(B) The notice would compromise the integrity of the abuse investigation or a criminal investigation.

(6) If the complaint is not within the definitions of an adult and abuse in these rules, the screener will close the complaint as does not meet the definitions for an abuse investigation. The screener will:

(a) Notify the following in writing within five business days;

(A) The facility or agency that oversees the service provider,

(B) Case Manager and

(C) Guardian.

(b) Assess and complete a referral to another entity if appropriate.

(7) The Department or community program will immediately assess and assure protective services regardless if the complaint is assigned for investigation or closed at screening.

(8) If the Department or community program becomes aware a person accused of abuse is licensed or certified by a public agency or board, notification of the alleged abuse complaint will be provided to that agency or board, regardless if an abuse investigation is opened under these rule.

(9) The Department and community program must document how notices were provided and maintain a record of all notices.

Stat. Authority: ORS 409.010, 409.050, 413.032, 413.042, 413.085, & 430.731

Stats. Implemented: ORS 409.027, 413.036, 430.610 to 430.695, 430.731 to 430.765, 430.768, 443.400 to 443.465 & 443.705 – 443.875

Hist.: DHSD 9-2017(Temp), f. & cert. ef. 9-1-17 thru 2-27-18

407-045-0170

Assessment for and Provision of Protective Services to the Adult

(1) The Department or community program must ensure that appropriate and necessary protective services are provided to the adult to prevent further abuse and must be undertaken in a manner that is least intrusive to the adult and provide for the greatest degree of independence available within existing resources.

(a) An attempt at direct contact with the adult by the end of the next business day of receiving the complaint of alleged abuse will occur as part of assessing protective service needs, determining if the adult is in danger or in need of immediate protective services.

(A) The community program screener or investigator may confer with the case manager on who will complete the initial contact with the adult.

(B) The Department screener or investigator will complete the initial contact and confer with Authority staff on protective services.

(b) If the Department or community program is unable to gain access to the adult, the Department or community program may contact the local law enforcement agency for assistance.

(c) If the adult has a guardian, the Department or community program will immediately notify the guardian, unless the guardian is the alleged perpetrator.

(2) Assessment for the provision of protective services may include:

(a) Arranging for the immediate protection of the adult;

(b) In-person contact with the adult to assess their ability to protect their own interest or give informed consent;

(c) Determining the adult's ability to understand the nature of the protective service and their willingness to accept services;

(d) Coordinating evaluations to determine or verify the adult's physical and mental status, if necessary;

(e) Assisting in and arranging for appropriate services and alternative living arrangements;

(f) Assisting in or arranging the medical, legal, financial, or other necessary services to prevent further abuse;

(g) Providing advocacy to assure the adult's rights and entitlements are protected; and

(h) Consulting with the facility, community program, guardian or others as appropriate in developing recommendations or requirements to prevent further abuse.

(3) The screener or investigator must communicate and coordinate with case managers in coordinating the assessment and assurance of protective services for the adult. The screener, investigator and case manager may share confidential information appropriate or necessary for the health, safety and best interests of the adult in need of protection.

(4) The Department or community program will document the protective services assessment and provisions, including those needed, offered and declined, in the format provided by the Department to be maintained as part of the complaint record. The assessment is considered confidential client information.

Stat. Authority: ORS 409.010, 409.050, 413.032, 413.042, 413.085, & 430.731

Stats. Implemented: ORS 409.027, 413.036, 430.610 to 430.695, 430.731 to 430.765, 430.768, 443.400 to 443.465 & 443.705 – 443.875

Hist.: DHSD 9-2017(Temp), f. & cert. ef. 9-1-17 thru 2-27-18

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407-045-0180

Death Reporting

(1) If the Department, community program or law enforcement reported a death to the medical examiner in cases where there was reasonable cause to believe that an adult has died as a result of abuse, an abuse investigation will be immediately opened. Notifications will occur in the same manner as all allegations of alleged abuse, outlined in OAR 407-045-0160(4) and (5).

(2) Community programs must notify the Department of all the deaths of adults receiving services from a community program or facility within one business day of being informed of the adult's death.

(3) Community programs will report the death to the Department via the format developed for death reporting. Upon receipt of the death reporting notice, the Department will assign a distinct case number for this special screening.

(4) The investigator will complete a death review screening report using the provided format within 55 days of receiving the report of the adult's death.

(a) The review consists of ascertaining if abuse or neglect was a factor in the death and includes but is not limited to:

(A) A review of the community program's records for at least the past year;

(B) A review of service provider records if services were provided by a community program contractor;

(C) A review of facility records if the adult received licensed residential services; and

(D) Any other relevant records, including but not limited to medical records or police reports.

(b) The investigator will obtain a copy of the adult's death certificate or medical examiners report.

(c) The investigator may obtain an extension of the due date for good cause by submitting a request to the Department.

(d) Within 5 days of receiving a completed death review, the Department will review and approve for closing.

(5) If at any point the investigator ascertains during the death review that abuse was a factor, the Department is to be notified immediately and the death review screening will become an assigned abuse investigation.

(6) Nothing in this section affects the community program's duties and responsibilities related to case management following the death of an enrolled adult.

Stat. Authority: ORS 409.010, 409.050, 413.032, 413.042, 413.085, & 430.731
Stats. Implemented: ORS 409.027, 413.036, 430.610 to 430.695, 430.731 to 430.765, 430.768, 443.400 to 443.465 & 443.705 – 443.875
Hist.: DHSD 9-2017(Temp), f. & cert. ef. 9-1-17 thru 2-27-18

407-045-0190

Investigation of Alleged Abuse

(1) Investigation of abuse must be thorough and unbiased.

(a) Community programs may not investigate allegations of abuse made against employees of the same community program.

(b) Investigations of community program staff must be conducted by the Department or another community program not subject to an actual or potential conflict of interest.

(2) In conducting an abuse investigation, the investigator must attempt and, when possible, complete the following:

(a) Make in-person contact with the adult;

(b) Interview the adult, witnesses, the alleged perpetrator and other individuals who may have knowledge of the facts of the abuse allegation or related circumstances.

(A) Interviews must be conducted in-person where practicable.

(B) The investigator will attempt to elicit the date of birth for each individual interviewed and must obtain the date of birth of any alleged perpetrator.

(C) The investigator will ask the alleged perpetrator if they are a Department or Authority employee or volunteer and document the response as part of the investigation information.

(i) If affirmed, the alleged perpetrator will be given the Department form letter that outlines the required obligation to notify DHS Human Resource; and

(ii) The investigator will immediately notify OAAPI.

(iii) OAAPI will ensure notice of the investigation and the findings are provided to the Department's Human Resources for follow-up.

(D) The investigator will document any relevant investigative interviews that did not occur, efforts made and the reasoning.

(i) The investigator must make at least three attempts to contact the alleged perpetrator for an investigative interview when no response to an interview request occurs.

(ii) At least one attempt must be made by phone to the last known number and one by mail to the last known address.

(c) Review all records or evidence relevant and material to the complaint; and

(d) Photograph the adult's injuries consistent with trained guidelines, or arrange for the adult to be photographed, to preserve evidence of the condition of the alleged victim at the time of investigation, unless the adult knowingly refuses to be photographed.

(3) All community program or facility records necessary for the investigation must be available to the investigator for inspection and copying. A facility must provide the investigator access to employees, the adult and the premises for investigation purposes.

(4) When a law enforcement agency is conducting a criminal investigation of the alleged abuse:

(a) The Department or community program may also perform its own investigation as long as it does not interfere with the law enforcement agency investigation.

(b) The Department or community program will ensure regular and timely follow-up with the law enforcement agency related to:

(A) The status of the criminal investigation,

(B) Explanation for no criminal investigation or suspension of a criminal investigation, and

(C) Any actions taken by the district attorney.

(5) Department approval to close any abuse investigation opened under these rules by the community program is required.

(6) Any variance from the investigative processes in this rule must be staffed and approved by the Department. The reason for the variance and the name of the Department personnel who approved the variance must be documented clearly in the investigative report.

Stat. Authority: ORS 409.010, 409.050, 413.032, 413.042, 413.085, & 430.731
Stats. Implemented: ORS 409.027, 413.036, 430.610 to 430.695, 430.731 to 430.765, 430.768, 443.400 to 443.465 & 443.705 – 443.875
Hist.: DHSD 9-2017(Temp), f. & cert. ef. 9-1-17 thru 2-27-18

407-045-0200

Abuse Investigation Report

(1) The Department will provide the abuse investigation report format.

(2) Within 55 days of receiving the complaint alleging abuse, a completed abuse investigation report must be submitted to the Department for approval to close. The report must include:

(a) A statement of the allegation being investigated for each victim and alleged perpetrator;

(b) The assessment of protective services, including those offered or provided and determined as needed to the adult;

(c) A list of all witnesses interviewed and a summary of the information provided by each witness;

(d) Relevant records obtained;

(e) A summary of findings and a conclusion concerning the allegation of abuse;

(f) A specific finding of substantiated, inconclusive or not substantiated for each allegation investigated;

(g) Any recommended actions required of a community program or facility and the timeline for completing these actions;

(h) A list of any notices made to licensing or certifying agencies;

(i) The name and title of the individual completing the report;

(j) The name and title of the investigator's supervisor who reviewed the report; and

(k) The date the report is submitted for approval.

(3) In cases where the investigator cannot complete an investigation within 55 days and for good cause, the investigator may submit a request for an extension of time to the Department.

(a) When granting an extension, the Department may consult with the investigator about the need for an extension and the length of the extension.

(b) The investigator must notify the alleged perpetrator, facility, service provider agency, case manager and guardian when an extension is granted and advise them of the new due date.

(4) Within 5 days of receiving a completed abuse investigation report, the Department will review the report and:

(a) Approval to close and notify the investigator in writing, or

(b) Work with the investigator to obtain necessary information or corrections so the report can be approved to close.

ADMINISTRATIVE RULES

(5) The Department will forward copies of all approved confidential abuse investigation reports to the Authority's Health Systems Division.

(6) If applicable, the Department will forward copies of the approved confidential abuse investigation report to:

- (a) A law enforcement agency;
- (b) The public agency that licenses or certifies an alleged perpetrator practicing therein;
- (c) The public agency providing protective services for the adult;
- (d) Any private agency providing protective services for the adult;

and

- (e) To the system described in ORS 192.517.

(7) Department investigations for Authority-operated facilities licensed under ORS 443.400 that are located at State Hospital campuses described in ORS 426.010, must also address in the written report:

(a) Whether the alleged perpetrator made a claim of self-defense during the investigation; and

(b) A finding whether the alleged perpetrator was acting in self-defense.

(c) In making this finding, the investigator must find the allegation not substantiated when:

(A) The alleged perpetrator was acting in self-defense in response to the use or imminent use of physical force;

(B) The amount of force used was reasonably necessary to protect the alleged perpetrator from violence or assault; and

(C) The alleged perpetrator used the least restrictive procedures necessary under the circumstances in accordance with an approved behavior management plan or other method of response approved by the Department or Authority by rule.

Stat. Authority: ORS 409.010, 409.050, 413.032, 413.042, 413.085, & 430.731

Stats. Implemented: ORS 409.027, 413.036, 430.610 to 430.695, 430.731 to 430.765, 430.768, 443.400 to 443.465 & 443.705 – 443.875

Hist.: DHSD 9-2017(Temp), f. & cert. ef. 9-1-17 thru 2-27-18

407-045-0210

Notice of Outcome and Abuse Finding Reconsideration

(1) For all abuse allegations determined as substantiated and approved for closing:

(a) The Department will provide a written notice for each substantiated abuse finding and redacted information supporting the finding to the alleged perpetrator. Information on how to request a Department and/or judicial review of the substantiated finding will be provided to the substantiated person or substantiated facility.

(b) The investigator will assure a written notice of outcome is provided to all other persons or entities that received notice of the investigation being opened.

(c) The investigator may assure that notice of outcome is provided to the alleged victim by the case manager as part of protective services follow-up, in lieu of a written notice.

(2) For all allegations determined not substantiated or inconclusive:

(a) The investigator will assure a written notice of outcome is provided to:

(A) All persons or entities that received notice of the investigation being opened.

(B) The investigator may assure that notice of the outcome is provided to the alleged victim by the case manager as part of protective services follow-up, in lieu of a written notice.

(3) The Department or community program will prepare a redacted version of the approved or final abuse investigation report.

(a) The redacted report must not contain any confidential information which is prohibited from disclosure pursuant to state or federal law as described in OAR 407-045-0220.

(b) The redacted report will be submitted to the facility or agency that oversees the service provider within 10 days of the Department's approval to close.

(c) The Department will provide the redacted report if the alleged perpetrator is the facility and the allegation is substantiated, as described in (1)(a) of this section.

Stat. Authority: ORS 409.010, 409.050, 413.032, 413.042, 413.085, & 430.731

Stats. Implemented: ORS 409.027, 413.036, 430.610 to 430.695, 430.731 to 430.765, 430.768, 443.400 to 443.465 & 443.705 – 443.875

Hist.: DHSD 9-2017(Temp), f. & cert. ef. 9-1-17 thru 2-27-18

407-045-0220

Disclosure of the Abuse Investigation Report

(1) Portions of the abuse investigation report and underlying investigatory documents are confidential and are not available for public inspection.

(a) Pursuant to ORS 430.763, names of abuse reporters, witnesses and the adult, as well as photographs of the adult are confidential and shall not be available for public inspection.

(b) Investigatory documents, including portions of the abuse investigation report and the protective services assessment contains "individually identifiable health information" as defined under ORS 192.519 and 45 CFR 160.103, and are confidential under federal Health Insurance Portability and Accountability Act (HIPAA) privacy rules, 45 CFR Parts 160 and 164, ORS 192.520 and 179.505 to 179.509.

(2) Notwithstanding section (1) of this rule, the Department must make confidential information available, including any photographs if appropriate, to any law enforcement agency, public agency that licenses or certifies facilities or the individuals practicing therein, and any public agency providing protective services for the adult. The Department must make the protective services assessment report and underlying investigatory materials available to any private agency providing protective services for the adult and to the protection and advocacy system designated pursuant to ORS 192.517(1).

(3) Individuals or entities receiving confidential information pursuant to this rule must maintain the confidentiality of the information and must not re-disclose the confidential information to unauthorized individuals or entities, as required by state or federal law.

(4) When the abuse investigation is conducted by a community program, the abuse investigation report may be disclosed pursuant to this rule either by the community program or the Department.

(5) A centralized record of all abuse investigation reports must be maintained by community programs for all abuse investigations conducted in their county, and by the Department for all abuse investigations in the state.

(6) The Department or community program must provide a redacted version of the written report to the public for inspection upon written request.

Stat. Authority: ORS 409.010, 409.050, 413.032, 413.042, 413.085, & 430.731

Stats. Implemented: ORS 409.027, 413.036, 430.610 to 430.695, 430.731 to 430.765, 430.768, 443.400 to 443.465 & 443.705 – 443.875

Hist.: DHSD 9-2017(Temp), f. & cert. ef. 9-1-17 thru 2-27-18

407-045-0230

Department Investigation of Alleged Abuse

(1) If determined necessary or appropriate, the Department may conduct an investigation rather than allow the community program to investigate the alleged abuse or in addition to the investigation by the community program.

(2) Under such circumstances, the community program must receive authorization from the Department before conducting any separate investigation.

(3) The Department will conduct all investigations involving adults receiving services in an Authority-operated facility licensed under ORS 443.400 under these rules.

Stat. Authority: ORS 409.010, 409.050, 413.032, 413.042, 413.085, & 430.731

Stats. Implemented: ORS 409.027, 413.036, 430.610 to 430.695, 430.731 to 430.765, 430.768, 443.400 to 443.465 & 443.705 – 443.875

Hist.: DHSD 9-2017(Temp), f. & cert. ef. 9-1-17 thru 2-27-18

407-045-0240

County Multidisciplinary Teams

(1) The community program must participate in its county Multidisciplinary Team (MDT) to coordinate and collaborate on protective services for the abuse of adults with developmental disabilities or mental illness or both.

(2) All confidential information protected by state and federal law that is shared or obtained by MDT members in the exercise of their duties on the MDT is confidential and may not be further disclosed except as permitted by law.

(3) The community program or the Department must provide an annual report to the MDT reporting the number of investigated and substantiated allegations of abuse of adults and the number referred to law enforcement in the county.

Stat. Authority: ORS 409.010, 409.050, 413.032, 413.042, 413.085, & 430.731

Stats. Implemented: ORS 409.027, 413.036, 430.610 to 430.695, 430.731 to 430.765, 430.768, 443.400 to 443.465 & 443.705 – 443.875

Hist.: DHSD 9-2017(Temp), f. & cert. ef. 9-1-17 thru 2-27-18

407-045-0400

Purpose

These rules (OAR 407-045-0400 to 407-045-0520), which establish a policy prohibiting abuse and define procedures for reporting, investigating, and resolving alleged incidents of abuse of individuals in state hospitals and

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residential training centers, have been moved to the Oregon Health Authority rule chapter (OAR 943-045-0400 to 943-0520).

Stat. Auth.: ORS 179.040 & 409.050
Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735 - 430.765
Hist.: MHD 23, f. 8-5-74, ef. 8-25-74; MHD 19-1982(Temp), f. & ef. 9-10-82; MHD 4-1983, f. & ef. 3-4-83, Renumbered from 309-021-0010(1) and (2); MHD 3-1991, f. 6-21-91, cert. ef. 8-15-91; MHD 7-1995, f. 12-27-95, cert. ef. 1-1-96; Renumbered from 309-116-0000, OMAP 60-2005, f. 11-22-05, cert. ef. 1-1-06; Renumbered from 410-011-0000, DHSD 4-2007, f. 6-29-07, cert. ef. 7-1-07; DHSD 4-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; DHSD 10-2011, f. & cert. ef. 12-1-11; Suspended by DHSD 9-2017(Temp), f. & cert. ef. 9-1-17 thru 2-27-18

Rule Caption: Update Serious Neglect As Potentially Disqualifying; Update Preliminary Hire and Abuse Expedited Hearings

Adm. Order No.: DHSD 10-2017

Filed with Sec. of State: 9-1-2017

Certified to be Effective: 9-1-17

Notice Publication Date: 8-1-2017

Rules Adopted: 407-007-0210, 407-007-0250, 407-007-0290, 407-007-0315, 407-007-0320, 407-007-0330, 407-007-0335

Subject: The Department of Human Services (Department) is adding serious neglect of vulnerable adults as potentially disqualifying abuse during background check of subject individuals offered employment, volunteering or other placement at or through a qualified entity providing care to Department or Oregon Health Authority clients. Since 2010, the rules have considered serious physical abuse, financial abuse, and sexual abuse of vulnerable adults potentially disqualifying; these rules would expand this so serious neglect. In addition, these rules clarify that an intent to deny with expedited hearing rights would apply only to background checks in which the subject individual has potentially disqualifying abuse of an adult as the only potentially disqualifying conviction and condition, and in which the Department's Background Check Unit determines that the subject individual did not receive notice of substantiation or notice of appeal or review of the finding.

The rules also update a subject individual's ability to work without active supervision if the subject individual is approved to work and is going through a recheck due to program rules or the Long Term Care Registry rules (OAR 407-007-0600 to 407-007-0640).

These rules were recently updated on 7-1-2017. Deleted language was accidentally retained in the final version of the rules; this rule-making cleans up these errors.

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-007-0210

Definitions

OAR 125-007-0210 and 407-007-0010 include definitions for words and terms used in OAR chapter 407 division 007. The following definitions apply specifically to OAR 407-007-0200 to 407-007-0370:

(1) "Appointing authority" means an individual designated by the qualified entity (QE) who is responsible for appointing QE designees (QEDs). Examples include but are not limited to human resources staff with the authority to offer and terminate employment, a business owner, a member of the board of directors, a director, or a program administrator.

(2) "Ineligible due to ORS 443.004" means BCU has determined that an SI, subject to ORS 443.004 and either OAR 407-007-0275 or 407-007-0277, has one or more convictions that prohibit the SI from holding the position listed in the background check request.

(3) "Mandatory exclusion" means BCU has determined that an SI, subject to federal law or regulation, has one or more convictions or conditions that prohibit the SI from holding the position listed in the background check request.

(4) "Proctor foster parent" means an individual who is an applicant for certification or recertification of a proctor foster home by a child-caring agency pursuant to OAR 413-215-0301 to 413-215-0396.

(5) "Qualified entity (QE)" means a community mental health or developmental disability program, local health department, or an individual, business, or organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care, including a business or organization that licenses, certifies, or registers others to provide care (see ORS 181A.200).

(6) "QE designee (QED)" means an approved SI appointed by the QE's appointing authority to handle background checks on behalf of the QE.

(7) "QE Initiator (QEI)" means an approved SI to whom BCU has granted access to the Criminal Information Management System (CRIMS) for one QE for the purpose of entering background check request data.

(8) "Subject individual (SI)" means an individual on whom BCU conducts a criminal records check and an abuse check, and from whom BCU may require fingerprints for the purpose of conducting a national criminal records check.

(a) An SI includes any of the following:

(A) An individual who is licensed, certified, registered, or otherwise regulated or authorized for payment by the Department or Authority and who provides care.

(B) An employee, contractor, temporary worker, or volunteer who provides care or has access to clients, client information, or client funds within or on behalf of any entity or agency licensed, certified, registered, or otherwise regulated by the Department or Authority.

(C) Any individual who is paid directly or indirectly with public funds who has or will have contact with recipients of:

(i) Services within an adult foster home (defined in ORS 443.705); or
(ii) Services within a residential facility (defined in ORS 443.400).

(D) Any individual who works in a facility and provides care or has access to clients, client information, or client funds secured by any residential care or assisted living facility through the services of a personnel services or staffing agency.

(E) Any individual who works in a facility and provides care, or has access to clients, client information, or client funds secured by any nursing facility through the services of a personnel services or staffing agency.

(F) Except as excluded in section (8)(b)(C) and (D) of this rule, an individual who lives in a facility that is licensed, certified, registered, or otherwise regulated by the Department to provide care. The position of this SI includes but is not limited to resident manager, household member, or boarder.

(G) For child foster homes licensed by the Department's DD programs, or child foster or adoptive homes governed by OAR chapter 413 division 215:

(i) A foster parent or proctor foster parent;

(ii) An adoptive parent applicant or an approved adoptive parent;

(iii) A household member in an adoptive or foster home 18 years of age and over;

(iv) A household member in an adoptive or foster home under 18 years of age if there is reason to believe that the household member may pose a risk to children placed in the home; and

(v) A respite care provider.

(H) An individual with contact with clients, client information, or client funds, who is an employee, contractor, or volunteer for a child-caring agency governed by OAR chapter 413 division 215; an In-Home Safety and Reunification Services (ISRS) program; a Strengthening, Preserving and Reunifying Families (SPRF) provider; or a system of care contractor providing child welfare services pursuant to ORS chapter 418.

(I) A homecare worker as defined in ORS 410.600, a personal support worker as defined in ORS 410.600, a personal care services provider, or an independent provider employed by a Department or Authority client who provides care to the client if the Department or Authority helps pay for the services.

(J) Pursuant to OAR 461-165-0180, a child care provider reimbursed through the Department's child care program, associated individuals, and other individuals in child care facilities that are exempt from certification or registration by the Office of Child Care of the Oregon Department of Education. Childcare provider SIs include:

(i) The childcare provider;

(ii) Employees of the childcare provider;

(iii) Any individual the childcare provider uses to supervise a child in the absence of the childcare provider;

(iv) Each individual 16 years of age or older who lives in the provider's home if child care is provided in the home;

(v) Each individual who visits the provider's home during the hours care is provided and may have unsupervised access to a child in care.

(K) An appointing authority, QED, or QEI associated with any entity or agency licensed, certified, registered, otherwise regulated by the Department, or subject to these rules.

(L) An individual providing on the job certified nursing assistant classes to staff within a long term care facility.

(M) A student enrolled in a Board of Nursing approved nursing assistant training program in which the instruction and training occurs solely in a nursing facility.

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(N) Except for those excluded under section (8)(b)(B), a student or intern who provides care or has access to clients, client information, or client funds within or on behalf of a QE.

(O) Any individual serving as an owner, operator, or manager of a room and board facility pursuant to OAR chapter 411, division 68.

(P) An employee providing care to clients of the Department's Aging and People with Disabilities (APD) programs who works for an in-home care agency as defined by ORS 443.305 which has a contract with the Department's APD programs.

(Q) Any individual who is required to complete a background check pursuant to Department or Authority program rules or a contract with the Department or Authority, if the requirement is within the Department or Authority's statutory authority. Specific statutory authority or reference to these rules and the positions under the contract subject to a background check must be specified in the contract. The exceptions in section (8)(b) do not apply to these SIs .

(b) An SI does not include:

(A) Any individual under 16 years of age.

(B) A student or intern in a clinical placement at a clinical training setting subject to administrative rules implemented under ORS 413.435 and OAR 409-030-0100 to 409-030-0250.

(C) Department, Authority, or QE clients. The only circumstance in which BCU shall allow a check to be performed on a client pursuant to this paragraph is if the client falls within the definition of "subject individual" as listed in sections (8)(a)(A)-(E) and (8)(a)(G)-(Q) of this rule, or if the facility is dually licensed for different populations of vulnerable individuals.

(D) Individuals working in child care facilities certified or registered by OED.

(E) Volunteers providing any care or services for a QE's special event lasting no more than 2 weeks whose access to clients is no more than three days within the two-week period. These volunteers must always be actively supervised in accordance with OAR 407-007-0315 and have no unsupervised contact with clients.

(F) Individuals employed by a private business that provides services to clients and the general public and is not regulated by the Department or Authority.

(G) Individuals employed by a business that provides appliance or structural repair for clients and the general public and who are temporarily providing these services in a licensed or certified QE. The QE shall ensure active supervision of these individuals while on QE property and the QE may not allow unsupervised contact with QE clients or residents. This exclusion does not apply to a business that receives funds from the Department or Authority for care provided by an employee of the business.

(H) Individuals employed by a private business in which a client of the Department or Authority is working as part of a Department- or Authority-sponsored employment service program. This exclusion does not apply to an employee of a business that receives funds from the Department or Authority for care provided by the employee.

(I) Employees, contractors, students, interns, and volunteers working in hospitals, ambulatory surgical centers, outpatient renal dialysis facilities, and freestanding birthing centers, as defined in ORS 442.015, and special inpatient care facilities as defined by the Authority in administrative rule.

(J) Employees, contractors, students, interns, and volunteers working in home health agencies, in-home care agencies, or hospice programs as defined by the Authority in administrative rule.

(K) Volunteers, who are not under the direction and control of a licensed, certified, registered, or otherwise regulated QE.

(L) Individuals employed or volunteering in a Medicare-certified health care business which is not subject to licensure or certification by the State of Oregon.

(M) Individuals working in restaurants or at public swimming pools.

(N) Hemodialysis technicians.

(O) Employees, contractors, temporary workers, or volunteers who provide care, or have access to clients, client information, or client funds of an alcohol and drug program that is certified, licensed, or approved by the Authority's Health Systems Division to provide prevention, evaluation, or treatment services. This exclusion does not apply to programs specifically required by other Authority program rules to conduct criminal records checks in accordance with these rules.

(P) Individuals working for a transit service provider which conducts background checks pursuant to ORS 267.237.

(Q) Emergency medical technicians and first responders certified by the Authority's Emergency Medical Services and Trauma Systems program.

(R) Employees, contractors, temporary workers, or volunteers of continuing care retirement communities registered under OAR chapter 411, division 67.

(S) Individuals hired by or on behalf of a resident in a QE to provide care privately to the resident.

(T) An employee, contractor, temporary worker, or volunteer who provides care or has access to specific clients, client information, or client funds within or on behalf of any entity or agency licensed, certified, registered, or otherwise regulated by the Department or Authority, where the clients served permanently reside in another state.

Stat. Auth.: ORS 181A.200, 409.027 & 409.050

Stats. Implemented: ORS 181A.195, 181A.200, 409.010, 409.027, 443.004, & OL 2016, chapter 106, section 6

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0210, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 8-2010(Temp), f. & cert. ef. 8-12-10 thru 2-7-11; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 1-2013(Temp), f. & cert. ef. 2-5-13 thru 8-2-13; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16; DHSD 6-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DHSD 9-2016, f. & cert. ef. 12-1-16; DHSD 3-2017(Temp), f. & cert. ef. 3-15-17 thru 9-10-17; DHSD 6-2017, f. 6-30-17, cert. ef. 7-1-17; DHSD 10-2017, f. & cert. ef. 9-1-17

407-007-0250

Background Check Process

(1) A QE and SI shall use CRIMS to request a background check. In addition to information required in OAR 125-007-0220, the background check request shall include the following information regarding an SI:

(a) Position title and description of duties to be considered;

(b) Indication of the SI's direct contact with any of the following:

(A) Children (for a child-caring agency governed by OAR chapter 413 division 215, children includes an individual who is under 21 years of age who is residing in or receiving care or services);

(B) Adults;

(C) Seniors (65 years and older);

(D) Confidential information;

(E) Secure Facilities;

(F) Finances or financial records; or

(G) Information Technology Systems.

(c) Worksite location or locations where the SI will be working;

(d) Disclosure of all criminal history;

(A) The SI must disclose all arrests, charges, and convictions regardless of outcome or when the arrests, charges, or convictions occurred. Disclosure includes any juvenile record of arrests, charges, or the outcome of arrests or charges against a juvenile.

(B) The disclosed crimes and the dates must reasonably match the SI's criminal offender information and other criminal records information, as determined by BCU.

(e) Disclosure of other information to be considered in the event of a weighing test.

(A) The SI may provide mitigating information for BCU to review in a weighing test.

(B) BCU may require the SI to provide other information as needed to conduct the weighing test.

(C) The SI is not required to disclose any criminal history which has been expunged or set aside by a court in any jurisdiction. However, if the SI does disclose expunged or set aside criminal history, the Department may not consider the criminal history as potentially disqualifying or in a weighing test if the Department has proof that the criminal history has been expunged or set aside by a court in any jurisdiction.

(f) For an SI who is a proctor foster parent:

(A) The SI must provide a release of information allowing the Department to provide the QE with information regarding the open or pending abuse investigations or founded or substantiated allegations of abuse against the SI.

(B) The SI must also disclose:

(i) Any currently open or pending child or adult abuse investigations in which the SI is reported or alleged to be responsible for the abuse;

(ii) Any child or adult abuse investigations with an outcome of founded or substantiated in which the SI is determined to have been responsible for the abuse; and

(iii) Any restraining order or protective orders against the SI.

(C) If the SI has any of the following, the Department shall provide the QE notification:

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(i) Information regarding the open or pending abuse investigations in which the SI is a reported or alleged perpetrator.

(ii) Information regarding substantiated allegations of abuse against the SI.

(iii) Confirmation of the SI being certified or licensed by the Department as a child foster home parent.

(g) For childcare provider SIs listed in OAR 407-007-0210(8)(a)(J), the SI must disclose any involvement in protective services or abuse investigations regarding children or vulnerable adults.

(2) The background check request shall include the following notices to the SI:

(a) A notice regarding disclosure of Social Security number indicating that:

(A) The SI's disclosure is voluntary; and

(B) The Department requests the Social Security number solely for the purpose of positively identifying the SI during the criminal records check process.

(b) A notice that the SI may be subject to fingerprinting as part of a criminal records check.

(c) A notice that BCU shall conduct an abuse check on the SI. Unless required by rule, an SI is not required to disclose any history of potentially disqualifying abuse, but may provide BCU with mitigating or other information.

(3) Using identifying information submitted in a background check request, BCU shall conduct an abuse check to determine if the SI has potentially disqualifying abuse.

(4) BCU shall conduct an Oregon criminal records check. Using information submitted on the background check request, BCU may obtain criminal offender information from LEDS and may request other criminal records information as needed.

(5) BCU shall handle criminal offender information in accordance with applicable OSP requirements in ORS chapter 181 and the rules adopted pursuant thereto (see OAR chapter 125, division 007 and chapter 257, division 15).

(6) BCU may conduct a fingerprint-based national criminal records check.

(a) A fingerprint-based national criminal records check may be completed under any of the following circumstances:

(A) The SI has been outside Oregon for 60 or more consecutive days during the previous five years.

(B) The LEDS check, SI disclosures, or any other criminal records information obtained by BCU indicate there may be criminal records outside of Oregon.

(C) The LEDS check, SI disclosures, or any other criminal records information obtained by BCU do not provide enough information to confirm that there are no criminal records outside of Oregon.

(D) The SI has an out-of-state driver license or out-of-state identification card.

(E) BCU or the QE has reason to question the identity of the SI or the information on the criminal record found in LEDS.

(F) A fingerprint-based criminal records check is required by federal or state laws or regulations, other Department or Authority rules, or by contract with the Department or Authority.

(G) The SI is an employee of an agency which the Centers for Medicare and Medicaid Services has designated high risk pursuant to 42 CFR 424.518.

(H) Any SI applying to be or renewing the position with regard to child adoption or children in foster care licensed by the Department or child-caring agencies. Renewing SIs do not need a fingerprint-based criminal records check if BCU has a record of a previous fingerprint-based criminal records checks that is within three years from the date of the current background check request. Applicable SI positions include:

(i) A relative caregiver, foster parent, proctor foster parent, or adoptive parent in Oregon;

(ii) An adult household member in an adoptive or child foster home 18 years of age and over;

(iii) A household member in an adoptive or child foster home under 18 years of age if there is reason to believe that the household member may pose a risk to children placed in the home; or

(iv) A respite care provider in an adoptive or child foster home.

(I) BCU has reason to believe that fingerprints are needed to make a final fitness determination.

(b) BCU shall request a fingerprint capture for an SI under the age of 18 in accordance with OAR 125-007-0220(3).

(c) The SI shall complete and submit a fingerprint capture when requested by BCU within the time frame indicated in a written notice. BCU shall send the request to the QE and the QED shall notify the SI.

(A) BCU shall give the SI notice regarding the Social Security number as set forth in section (2)(a) of this rule.

(B) BCU may require new fingerprint capture and its submission if previous fingerprint captures result in a rejection by OSP or the FBI.

(7) For childcare provider SIs listed in OAR 407-007-0210(8)(a)(J), a background check shall include:

(a) A fingerprint-based national criminal records check;

(b) A search of the National Crime Information Center's National Sex Offender Registry and the Oregon state sex offender registry (these checks are included in the Oregon and fingerprint based national criminal records check); and

(c) In any state where the SI has resided for 60 or more consecutive days during the previous five years:

(A) A criminal records check;

(B) An abuse check;

(C) A state sex offender registry check.

(8) BCU may also conduct a state-specific criminal records check instead of or in addition to a national criminal records check. Reasons for a state-specific criminal records check include but are not limited to:

(a) When BCU has reason to believe that out-of-state criminal records may exist and a national criminal records check cannot be accomplished.

(b) When BCU has been unable to complete a national criminal records check due to illegible fingerprints.

(c) When the national criminal records check results show incomplete information about charges or criminal records without final disposition.

(d) When there is indication of residency or criminal records in a state that does not submit all criminal records to the FBI.

(e) When, based on available information, BCU has reason to believe that a state-specific criminal records check is necessary.

(9) In order to complete a background check and fitness determination, BCU may require additional information from the SI including but not limited to additional criminal, judicial, other background information, or proof of identity.

(10) If BCU determines that an SI has additional potentially disqualifying convictions or conditions which have occurred after receiving the background check request, BCU shall provide the SI, if available, the opportunity to disclose any information required in section (1)(d), (1)(e) or (1)(f) of this rule before completion of the final fitness determination.

(11) BCU may conduct a background check in situations of imminent danger.

(a) If the Department or Authority determines there is indication of criminal or abusive behavior that could more likely than not pose an immediate risk to vulnerable individuals, BCU shall conduct a new criminal records check on an SI without the completion of a new background check request.

(b) If BCU determines that a fitness determination based on the new background check would be adverse to the SI, BCU shall provide the SI, if available, the opportunity to disclose any information required in section (1)(d), (1)(e) or (1)(f) of this rule, and other information as indicated in OAR 407-007-0300 before completion of the final fitness determination.

(12) All criminal records checks conducted under this rule shall be documented.

Stat. Auth.: ORS 181A.200, 409.027 & 409.050

Stats. Implemented: ORS 181A.195, 181A.200, 409.010, & OL 2016, chapter 106, section 6
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0250, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16; DHSD 6-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DHSD 9-2016, f. & cert. ef. 12-1-16; DHSD 3-2017(Temp), f. & cert. ef. 3-15-17 thru 9-10-17; DHSD 6-2017, f. 6-30-17, cert. ef. 7-1-17; DHSD 10-2017, f. & cert. ef. 9-1-17

407-007-0290

Other Potentially Disqualifying Conditions

Pursuant to OAR 125-007-0270, the following are potentially disqualifying conditions, if they exist on the date of the final fitness determination unless otherwise noted:

(1) The SI makes a false statement to the QE or Department, including the provision of materially false information, false information regarding criminal records, or failure to disclose information regarding criminal

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records. Nondisclosure of violation or infraction charges may not be considered a false statement. Potentially disqualifying false statement includes:

(a) Significant criminal history without reasonable disclosure by the SI, as determined by the Department;

(b) Criminal history within the past 10 years without reasonable disclosure by the SI, as determined by the Department; or

(c) Non-disclosed criminal history, with nothing potentially disqualifying, indicates behavior that poses a risk to vulnerable individuals.

(2) The SI is a registered sex offender in any jurisdiction. There is a rebuttable presumption that an SI is likely to engage in conduct that would pose a significant risk to vulnerable individuals if the SI has been designated as a level three sex offender under ORS 163A.100(3), a predatory sex offender prior to January 1, 2014, or found to be a sexually violent dangerous offender under ORS 144.635 (or similar designations in other jurisdictions).

(3) The SI has an outstanding warrant for any crime in any jurisdiction.

(4) The SI has a deferred sentence, conditional discharge, or is participating in a diversion program for any crime in any jurisdiction.

(5) The SI is currently on probation, parole, or post-prison supervision for any crime in any jurisdiction, regardless of the original conviction date (or date of guilty or no contest plea if there is no conviction date).

(6) The SI has been found in violation of post-prison supervision, parole, or probation for any crime in any jurisdiction, regardless of the original conviction date (or date of guilty or no contest plea if there is no conviction date) within five years from the date the final fitness determination.

(7) The SI has an unresolved arrest, charge, or a pending indictment for any crime in any jurisdiction.

(8) The SI has been arrested in any jurisdiction as a fugitive from another state or a fugitive from justice, regardless of the date of arrest.

(9) The SI has an adjudication in a juvenile court in any jurisdiction, finding that the SI was responsible for a potentially disqualifying crime that would result in a conviction if committed by an adult. Subsequent adverse rulings from a juvenile court, such as probation violations, shall also be considered potentially disqualifying if within five years from the date of the final fitness determination.

(10) The SI has a finding of “guilty except for insanity,” “guilty except by reason of insanity,” “not guilty by reason of insanity,” “responsible except for insanity,” “not responsible by reason of mental disease or defect,” or similarly worded disposition in any jurisdiction regarding a potentially disqualifying crime, unless the local statutes indicate that such an outcome is considered an acquittal.

(11) The SI has potentially disqualifying abuse as determined from abuse investigation reports which have an outcome of founded or substantiated, and in which the SI is determined to have been responsible for the abuse. For the following SIs, potentially disqualifying abuse includes:

(a) For an SI associated with child foster homes licensed by the Department’s DD programs, or child foster or adoptive homes governed by OAR chapter 413 division 215:

(A) Child protective services history held or received by the Department or OAAPI regardless of the date of initial report;

(B) Child protective services history reviewed pursuant to the federal Adam Walsh Act requirements, determined by BCU to be potentially disqualifying; and

(C) Adult protective services investigations of neglect, physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by OAAPI and APD programs based on severity.

(b) For an SI on the background check registry maintained under OAR 407-007-0600 to 407-007-0640; licensed, certified, or otherwise regulated by the Department; associated with any QE licensed, certified, or otherwise regulated by the Department (any QE licensed, certified, or regulated only with the Authority and not the Department are not included):

(A) Child protective services history held or received by the Department or OAAPI regardless of the date of initial report; and

(B) Adult protective services investigations of neglect, physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by the OAAPI and APD programs based on severity.

(c) For any other SI with direct contact with children:

(A) Child protective services history held or received by the Department or OAAPI regardless of the date of initial report; and

(B) Adult protective services investigations of neglect, physical abuse, sexual abuse, or financial exploitation initiated on or after January 1,

2010, as provided to BCU by the OAAPI and APD programs based on severity.

(d) For all other SIs, adult protective services investigations of neglect, physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to the BCU by OAAPI and APD programs based on severity.

(12) For an SI who is a proctor foster parent, the SI has any restraining order or protective order against the SI.

(13) For an SI who is a proctor foster parent, the SI makes a false statement to the QE or Department, including the provision of materially false information, regarding abuse, restraining orders, or protective orders; or failure to disclose information regarding abuse, restraining orders, or protective orders. Nondisclosure of unsubstantiated or inconclusive abuse or dismissed restraining orders or protective orders, may not be considered a false statement.

Stat. Auth.: ORS 181A.200, 409.027 & 409.050

Stats. Implemented: ORS 181A.195, 181A.200, 409.010, 409.027, 443.004, & OL 2016, chapter 106, section 6

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0290, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 1-2013(Temp), f. & cert. ef. 2-5-13 thru 8-2-13; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2015(Temp), f. & cert. ef. 2-3-15 thru 8-1-15; DHSD 4-2015, f. 7-31-15, cert. ef. 8-1-15; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16; DHSD 6-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DHSD 9-2016, f. & cert. ef. 12-1-16; DHSD 10-2017, f. & cert. ef. 9-1-17

407-007-0315

Hired on a Preliminary Basis

(1) A preliminary fitness determination is required to determine if an SI may participate in training or orientation, work, volunteer, or otherwise perform in the position listed on the background check request prior to a final fitness determination. An SI may not be hired on a preliminary basis prior to the completion of a preliminary fitness determination.

(2) An SI may be hired on a preliminary basis only during the period of time prior to a final fitness determination and into the position listed on the background check request.

(3) The SI must provide information required for a background check request and the QED must review the information.

(4) The QED shall make one of the following determinations:

(a) If the SI makes no disclosures of criminal history, the QED may hire the SI on a preliminary basis in accordance with relevant program rules or QE policies.

(b) If the SI discloses any criminal history and all of the history occurred outside the five year period from the date the SI manually or electronically signed the background check request, the QED may hire the SI on a preliminary basis in accordance with relevant program rules or QE policies.

(c) If the SI indicates any criminal history occurring within the five year period from the date the SI manually or electronically signed the background check request:

(A) The QED may allow the SI to be hired on a preliminary basis if the disclosed criminal history has the outcome of “dismissed,” “no complaint filed,” “expunged,” or other outcome that BCU determines is not adverse.

(B) The QED may not allow the SI to be hired on a preliminary basis if the disclosed criminal history has an outcome of “pending outcome,” “diversion or conditional discharge,” “convicted,” “on probation,” “juvenile adjudication,” “unknown,” or other outcome that BCU determines is adverse.

(5) The QED shall submit the background check request to BCU immediately upon verification of the SI’s identity, the SI’s completion of the background check request, and the QED’s completion of the preliminary fitness determination.

(6) If requested by the QED, BCU may conduct a preliminary fitness determination with a weighing test pursuant to OAR 125-007-0250.

(7) The QE may not hire a SI on a preliminary basis under any of the following circumstances:

(a) Being hired on a preliminary basis or probationary status is not allowed under program rules.

(b) The SI has disclosed criminal history occurring within the past five years that has an outcome of “pending outcome,” “diversion or conditional discharge,” “convicted,” “on probation,” “juvenile adjudication,” “unknown” or other outcome BCU determines to be adverse and BCU has

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not completed a preliminary fitness determination resulting in the QE being allowed to hire the SI on a preliminary basis.

(c) The QE or BCU determines that:

(A) More likely than not, the SI poses a potential threat to vulnerable individuals, based on a preliminary fitness determination and weighing test;

(B) The SI's most recent background check under these rules or other Department or Authority criminal records check rules or abuse check rules resulted in a denial;

(C) The SI is currently involved in contesting a background check under these or other Department or Authority criminal records check rules or abuse check rules; or

(D) BCU has reason to believe hiring on a preliminary basis is not appropriate based on circumstances or compliance with the background check process of the SI, QED, or QE.

(d) An outcome of no hiring on a preliminary basis may only be overturned by the BCU.

(8) An SI hired on a preliminary basis shall be actively supervised at all times unless sections (9) or (10) of this rule apply.

(a) The individual providing active supervision at all times shall do the following:

(A) Be in the same building as the SI or, if outdoors of QE buildings or any location off the QE property, be within line-of-sight and hearing, except as provided in section (8)(b)(B) of this rule;

(B) Know where the SI is and what the SI is doing; and

(C) Periodically observe the actions of the SI.

(b) The individual providing the active supervision may be either:

(A) An SI who has been approved without restrictions pursuant to these rules or previous Department or Authority criminal records check rules; or

(B) The adult client, an adult client's adult relation, the client's legal representative, or a child's parent or guardian. Active supervision by these individuals is appropriate in situations where care is given directly to clients usually in a home such as but not limited to in-home care, home health, or care by home care workers, personal care assistants, or child care providers.

(i) The adult client may actively supervise a homecare worker, personal care services provider, independent provider, or an employee of an in-home care agency or home health agency if the client makes an informed decision to employ the provider. Someone related to the client may also provide active supervision if the relative has been approved by the Department, the Authority, the QED, or the private-pay client receiving services through an in-home care or home health agency.

(ii) A child client's parent or guardian shall be responsible for providing active supervision in the case of child care providers. The supervision is not required to be performed by someone in the same building as the child.

(9) An SI allowed to work on a preliminary basis is exempt from active supervision if SI is working under an approved background check and is currently going through a recheck required by program rules or OAR 407-007-0600 to 407-007-0640 unless there is evidence of criminal activity or potentially disqualifying abuse within the previous 24 months. If BCU finds evidence of criminal activity or potentially disqualifying abuse within the previous 24 months, BCU may revoke working on a preliminary basis.

(10) An SI approved without restrictions within the previous 24 months through a documented criminal records check or abuse check pursuant to these rules or prior Department or Authority criminal records check rules or abuse check rules may be hired on a preliminary basis without active supervision. Twenty-four months is calculated from date of previous approval to the date of hire in the new position. Exemption from active supervision is not allowed in any of the following situations:

(a) If the SI cannot provide documented proof that he or she worked continuously under the previous approval for at least one year.

(b) If there is evidence of criminal activity or potentially disqualifying abuse within the previous 24 months.

(c) If, as determined by the QE or BCU, the job duties in the new position are so substantially different from the previous position that the previous fitness determination is inadequate for the current position.

(11) Revocation of hired on a preliminary basis is not subject to hearing or appeal. The QE or BCU may immediately revoke hired on a preliminary basis for any of the following reasons:

(a) There is any indication of falsification of application.

(b) The SI fails to disclose convictions for any potentially disqualifying crimes, any arrests that did not result in convictions or any out of state arrests or convictions.

(c) The QE or BCU determines that allowing the SI to be hired on a preliminary basis is not appropriate, based on the application, criminal record, position duties, or Department program rules.

(12) Nothing in this rule is intended to require that an SI who is eligible to be hired on a preliminary basis be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the background check request prior to a final fitness determination.

(13) Preliminary fitness determinations must be documented in writing, including any details regarding a weighing test, if required.

Stat. Auth.: ORS 181A.200, 409.027 & 409.050

Stats. Implemented: ORS 181A.195, 181A.200, 409.010, 409.027 & 443.004

Hist.: DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16; DHSD 10-2017, f. & cert. ef. 9-1-17

407-007-0320

Final Fitness Determinations

(1) A final fitness determination pursuant to OAR 125-007-0260 and these rules will be made after all necessary background checks have been received and a weighing test, if necessary, has been completed. For the purpose of a final fitness determination as defined in OAR 407-007-0010(18), an authorized designee includes:

(a) A BCU staff trained to make a final fitness determination;

(b) A BCU hearing representative if a fitness determination is contested under OAR 407-007-0330, 407-007-0335, or 943-007-0501; or

(c) An administrative law judge if a contested fitness determination results under a contested case hearing through the Office of Administrative Hearings.

(2) The final fitness determination results in one of the following outcomes:

(a) The authorized designee may approve an SI if:

(A) The SI has no potentially disqualifying convictions or potentially disqualifying conditions; or

(B) The SI has potentially disqualifying convictions or potentially disqualifying conditions and, after a weighing test, the authorized designee determines that more likely than not, the SI poses no risk to the physical, emotional, or financial well-being of vulnerable individuals.

(b) The authorized designee may approve an SI with restrictions if the SI has potentially disqualifying convictions or potentially disqualifying conditions and, after a weighing test, the authorized designee determines that more likely than not the SI poses no risk to the physical, emotional, or financial well-being of vulnerable individuals if certain restrictions are placed on the SI. Restrictions may include but are not limited to restrictions to one or more specific clients, job duties, or environments. A new background check and fitness determination shall be completed on the SI before removing a restriction.

(c) The authorized designee shall deny an SI if the SI has potentially disqualifying convictions or potentially disqualifying conditions and, after a weighing test, the authorized designee determines more likely than not the SI poses a risk to the physical, emotional, or financial well-being of vulnerable individuals.

(d) In the following situations the SI shall have no hearing rights and the authorized designee shall consider a background check to have an outcome of incomplete fitness determination:

(A) The QE or SI discontinues the application or fails to cooperate with the background check or fitness determination process, including but not limited to failure to disclose all requested criminal, abuse or other information, refusal to be fingerprinted or failing to respond in a timely manner to written correspondence from BCU. The background check request is considered closed.

(B) BCU determines that the SI is ineligible due to ORS 443.004 in accordance with OAR 407-007-0275 or 407-007-0277. The background check request is considered completed.

(C) BCU or the QE withdraws or closes the background check request before a final fitness determination for any reason. The background check request is considered closed.

(D) The SI withdraws the application, leaves the position prior to completion of the background check, or the Department cannot locate or contact the SI. The background check request is considered closed.

(E) The QE determines that the SI is ineligible for the position for reasons other than the background check. The background check request is considered closed.

(F) The SI who is a proctor foster parent and fails to provide a release of information, the background check request is considered closed.

ADMINISTRATIVE RULES

(G) The authorized designee determines that the final fitness determination is a mandatory exclusion due to the SI being subject to OAR 407-007-0279 and having a conviction or condition listed in OAR 407-007-0279. The background check request is considered completed. The SI has hearing rights only if the determination of mandatory exclusion is made pursuant to OAR 407-007-0279(3)(c) or 407-007-0279(3)(d).

(H) The SI is a childcare provider and BCU makes a finding of failed in accordance with OAR 461-165-0180. The background check request is considered closed.

(e) BCU shall issue an intent to deny if the final fitness determination meets the criteria in OAR 407-007-0335(1). The SI has expedited hearings rights under OAR 407-007-0335.

(3) Upon completion of a final fitness determination, BCU or the QE shall provide notice to the SI.

(a) If approved, BCU shall provide notice to the QE through CRIMS. The QE shall provide the SI a copy of the notice or CRIMS documentation.

(b) If the final fitness determination is a denial based on potentially disqualifying abuse under OAR 407-007-0290(11)(d) and there are no other potentially disqualifying convictions or conditions, BCU shall issue a Notice of Intent to Deny and provide the SI hearing rights under OAR 407-007-0335.

(c) Except as required by section (3)(a) of this rule, if denied or approved with restrictions, BCU shall issue a notice of fitness determination to the SI which includes the potentially disqualifying convictions or conditions that the outcome was based upon, information regarding appeal rights, and the notice becoming a final order in the event of a withdrawal or failure to appear at the hearing.

(d) The effective date of action shall be recorded on the notice or CRIMS documentation.

(4) BCU shall provide the QE notification of the final fitness determination when the SI is being denied or approved with restrictions.

(5) BCU shall provide the childcare provider notification of the final fitness determination when an SI associated with the childcare provider is being denied. If the childcare provider has denied associated SIs and has not also been denied or mandatorily excluded, BCU shall fail the childcare provider in accordance with OAR 461-165-0180.

(6) BCU shall provide the childcare provider notification of the final decision when an SI associated with the childcare provider has a determination of mandatory exclusion. If the childcare provider has mandatorily excluded associated SIs and has not also been denied or mandatorily excluded, BCU shall fail the childcare provider in accordance with OAR 461-165-0180.

(7) When an SI is denied or the background check results in an incomplete fitness determination, the SI shall not be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the background check request. A denial applies only to the position and application in question. A denial or incomplete fitness determination shall result in immediate termination, dismissal, or removal of the SI.

(8) When an SI is approved with restrictions, the SI shall only be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the background check request and only under the stated restrictions. A restricted approval applies only to the position and application in question. A restricted approval shall result in immediate implementation of the restrictions.

(9) BCU shall maintain any documents obtained or created during the background check process.

(10) BCU shall make new fitness determinations for each background check request. The outcome of previous fitness determinations does not set a precedent for subsequent fitness determinations.

Stat. Auth.: ORS 181A.200, 409.027 & 409.050

Stats. Implemented: ORS 181A.195, 181A.200, 409.010, 409.027, 443.004, & OL 2016, chapter 106, section 6

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0320, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp), f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16; DHSD 6-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DHSD 9-2016, f. & cert. ef. 12-1-16; DHSD 3-2017(Temp), f. & cert. ef. 3-15-17 thru 9-10-17; DHSD 6-2017, f. 6-30-17, cert. ef. 7-1-17; DHSD 10-2017, f. & cert. ef. 9-1-17

407-007-0330

Contesting a Fitness Determination

(1) An SI may contest a final fitness determination of denied or approved with restrictions pursuant to OAR 125-007-0300 unless already granted contested case hearing rights under OAR 407-007-0335.

(2) If an SI is determined to have a mandatory exclusion pursuant to federal law and OAR 407-007-0279, the SI may have hearing rights only if allowed by federal law. For the purpose of this rule the term "adverse fitness determination" includes a mandatory exclusion pursuant to OAR 407-007-0279(1) if hearing rights are allowed by federal law.

(3) If an SI is denied or mandatorily excluded, the SI may not hold the position, provide services or be employed, licensed, certified, or registered, or otherwise perform in positions covered by these rules. An SI appealing a restricted approval may only work under the terms of the restriction during the appeal.

(4) If an adverse outcome is changed at any time during the appeal process, the change does not guarantee employment or placement.

(5) An SI may represent himself or herself or have legal representation during the appeal process. For the purpose of this rule, the term "SI" shall be considered to include the SI's legal representative.

(a) An SI who is appealing an adverse outcome regarding the position of homemaker worker as defined in ORS 410.600 or personal support worker as defined in ORS 410.600 may be represented by a labor union representative pursuant to ORS 183.459.

(b) For all other SIs, the SI may not be represented by a lay person.

(6) An SI may contest an adverse fitness determination by requesting a contested case hearing. The contested case hearing process is conducted in accordance with OAR 125-007-0300, ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings (OAH), OAR 137-003-0501 to 137-003-0700.

(a) To request a contested case hearing, the SI shall complete and sign the Hearing Request form.

(b) The completed and signed form must be received by the Department within 45 calendar days after the effective date of action.

(c) BCU shall accept a properly addressed hearing request that was not timely filed if it was postmarked within the time specified for timely filing.

(d) In the event an appeal is not timely by the date of receipt or by the date of postmark, BCU shall determine, based on a written statement from the SI and available information, if there is good cause to proceed with the appeal.

(e) BCU may refer an untimely request to the OAH for a hearing on the issue of timeliness.

(7) BCU may conduct an administrative review before referring the appeal to the OAH.

(a) The SI must participate in the administrative review. Participation may include but is not limited to providing additional information or additional documents requested by the BCU within a specified amount of time.

(b) The administrative review is not open to the public.

(8) BCU may conduct additional criminal records checks or abuse checks during the contested case hearing process to update or verify the SI's potentially disqualifying convictions or conditions and factors to consider in the weighing test. If BCU finds new potentially disqualifying convictions and conditions during the administrative review, BCU shall make a new final fitness determination and amend the notice of fitness determination while still maintaining the original hearing rights and deadlines.

(9) The Department shall be represented by a hearing representative in contested case hearings. The Department may also be represented by the Office of the Attorney General.

(a) The administrative law judge shall make a new final fitness determination based on evidence and the contested case hearing record.

(b) The only remedy an administrative law judge may grant is a final fitness determination that the SI is approved, approved with restrictions, denied, or mandatorily excluded pursuant to OAR 407-007-0279(1). Under no circumstances shall the Department or the QE be required to place an SI in any position, nor shall the Department or the QE be required to accept services or enter into a contractual agreement with an SI.

(10) The notice of final fitness determination issued is final as if the SI never requested a hearing in the following situations:

(a) The SI failed to request a hearing in the time allotted in this rule. No other document will be issued after the notice of final fitness determination.

(b) The SI withdraws the request for hearing at any time during the appeal process.

ADMINISTRATIVE RULES

(11) BCU may make an informal disposition based on the administrative review. The Department shall issue a final order and new notice of final fitness determination. If the resulting fitness determination is an adverse outcome, the appeal shall proceed to a contested case hearing.

(12) BCU shall issue a dismissal order in the following situations:

(a) The SI may withdraw a hearing request verbally or in writing at any time before the issuance of a final order. A dismissal order due to the withdrawal is effective the date the withdrawal is received by BCU or the OAH. The SI may cancel the withdrawal in writing within 14 calendar days after the date of withdrawal.

(b) BCU shall dismiss a hearing request when the SI fails to participate in the administrative review. Failure to participate in the administrative review shall result in termination of hearing rights. The order is effective on the due date for participation in the administrative review. BCU shall review a good cause request to reinstate hearing rights if received in writing by BCU within 14 calendar days.

(c) BCU shall dismiss a hearing request when the SI fails to appear at the time and place specified for the contested case hearing. The order is effective on the date scheduled for the hearing. BCU shall review a good cause request to reinstate hearing rights if received in writing by BCU within 14 calendar days of the order.

(13) After a hearing, the administrative law judge shall issue a proposed and final order.

(a) If no written exceptions are received by BCU within 14 calendar days after the service of the proposed and final order, the proposed and final order becomes the final order.

(b) If timely written exceptions to the proposed and final order are received by BCU, the Department's Director or designee shall consider the exceptions and serve a final order, or request a written response or a revised proposed and final order from the administrative law judge.

(14) Final orders, including dismissal and default orders, are subject to reconsideration or rehearing petitions within 60 calendar days after the order is served, pursuant to OAR 137-003-0675.

(15) BCU may provide the QED with the results of the appeal.

Stat. Auth.: ORS 181A.200, 183.459, 409.027 & 409.050

Stats. Implemented: ORS 181A.195, 181A.200, 183.459, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0330, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp), f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16; DHSD 9-2016, f. & cert. ef. 12-1-16; DHSD 3-2017(Temp), f. & cert. ef. 3-15-17 thru 9-10-17; DHSD 6-2017, f. 6-30-17, cert. ef. 7-1-17; DHSD 10-2017, f. & cert. ef. 9-1-17

407-007-0335

Decision and Hearing Rights for Potentially Disqualifying Abuse

(1) This rule applies only to background checks in which:

(a) An SI has potentially disqualifying abuse against an adult with no other potentially disqualifying convictions or conditions; and

(b) BCU determines that the individual found to be responsible for abuse was not provided any notice regarding the outcome of the abuse or was not provided any type of appeal or review of the finding; and

(c) After a weighing test under OAR 407-007-0300, BCU determines that more likely than not, the SI poses a risk to the physical, emotional, or financial well-being of vulnerable individuals.

(2) BCU shall provide the SI a Notice of Intent to Deny in writing.

(a) BCU shall indicate on the Notice of Intent to Deny the date the final fitness determination was made and the date of the intended action if the SI fails to request an expedited hearing.

(b) BCU shall mail the Notice of Intent to Deny to the SI using the mailing address provided by the SI by the next business day after the date of the final fitness determination.

(c) BCU shall include an Expedited Hearing Request form with the Notice of Intent to Deny.

(3) An SI may contest a Notice of Intent to Deny by requesting an expedited hearing. The expedited hearing process is conducted in accordance with ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings (OAH), OAR 137-003-0501 to 137-003-0700.

(4) To request an expedited hearing, the SI must submit a completed and signed Expedited Hearing Request form. The request for an expedited hearing must be received by the Department within 10 calendar days after the date of the Notice of Intent to Deny.

(a) BCU shall accept a properly addressed hearing request that was not timely filed if it was postmarked within the time specified for timely filing.

(b) In the event an appeal is not timely by the date of receipt or by the date of postmark, BCU shall determine, based on a written statement from the SI and available information, if there is good cause to proceed with the appeal.

(5) An SI has the right to represent him or herself or have legal representation during the expedited hearing process. For the purpose of this rule, the term "SI" shall be considered to include the SI's legal representative if the SI has provided BCU with such information.

(a) An SI who is appealing a Notice of Intent to Deny regarding the position of homecare worker as defined in ORS 410.600 or personal support worker as defined in ORS 410.600 may be represented by a labor union representative pursuant to ORS 183.459.

(b) For all other SIs, the SI may not be represented by a lay person.

(6) If the SI fails to request an expedited hearing under this rule within the allowed time, BCU shall issue a Notice of Denial to the SI and to the QE. The SI shall have no further hearing rights under OAR 407-007-0330.

(7) If the SI requests an expedited hearing in a timely manner, the SI shall remain in the same status made in a preliminary fitness determination under OAR 407-007-0315 until the date of a final order or the Notice of Denial, unless the Department determines that there is an immediate risk to vulnerable individuals.

(8) BCU may conduct an administrative review before referring the appeal to OAH.

(a) The SI must participate in the administrative review. Participation may include but is not limited to providing additional information or additional documents requested by BCU within a specified amount of time.

(b) The administrative review is not open to the public.

(c) BCU may make an informal disposition based on the administrative review. BCU shall issue a final order and a notice of fitness determination.

(9) The Department shall be represented by a hearing representative in expedited hearings. The Department may also be represented by the Office of the Attorney General.

(a) BCU shall provide the administrative law judge and the SI a complete copy of available information used during the background checks and fitness determinations. The claimant is entitled to reasonable notice of all hearing documents either through personal service, electronically, regular mail, or certified mail.

(b) An SI may not have access to confidential information contained in abuse investigation reports or other records collected or developed during the abuse check process without a protective order limiting further disclosure of the information.

(10) The expedited hearing shall be conducted by the OAH by telephone within 15 business days from the receipt of the completed and signed Expedited Hearing Request form.

(a) The expedited hearing is not open to the public.

(b) The administrative law judge shall make a new fitness determination based on evidence and the record.

(c) The only remedy an administrative law judge may grant is a fitness determination that the subject individual is approved, approved with restrictions, or denied. Under no circumstances shall the Department or the QE be required to place an SI in any position, nor shall the Department or the QE be required to accept services or enter into a contractual agreement with an SI.

(11) BCU shall issue a dismissal order in the following situations:

(a) The SI may withdraw an expedited hearing request verbally or in writing at any time before the issuance of a final order. A dismissal order due to the withdrawal is effective the date the withdrawal is received by BCU or the OAH. The SI may cancel the withdrawal in writing within four calendar days after the date of withdrawal.

(b) BCU shall dismiss a hearing request when the SI fails to participate in the administrative review. Failure to participate in the administrative review shall result in termination of hearing rights. The order is effective on the due date for participation in the administrative review.

(c) If the QE terminates employment or position of the SI for reasons unrelated to the potentially disqualifying abuse, BCU may close the application.

(d) BCU shall dismiss a hearing request when the SI fails to appear at the time specified for the expedited hearing. The order is effective on the date scheduled for the hearing.

(12) After an expedited hearing, the administrative law judge shall issue a final order within three business days.

ADMINISTRATIVE RULES

(a) If the final order maintains BCU's intent to deny, BCU shall issue a Notice of Denial by the next business day after the date of the final order. The SI shall have no further hearing rights under OAR 407-007-0330.

(b) If the final order reverses BCU's intent to deny to an approval or a restricted approval, BCU shall issue a Notice of fitness determination by the next business day after the date of the final order unless BCU formally stays the final order. The SI shall have no further hearing rights under OAR 407-007-0330.

(13) Final orders, including dismissal and default orders, are subject to reconsideration or rehearing petitions within 60 calendar days after the order is served, pursuant to OAR 137-003-0675.

Stat. Auth.: ORS 181.537, 183.459, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 183.459, 409.010, 409.027 & 443.004

Hist.: DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 2-2017(Temp), f. & cert. ef. 1-24-17 thru 7-22-17; DHSD 6-2017, f. 6-30-17, cert. ef. 7-1-17; DHSD 10-2017, f. & cert. ef. 9-1-17

Rule Caption: Implementation of 2017 SB 104; Expansion of BCU Long Term Care Registry

Adm. Order No.: DHSD 11-2017(Temp)

Filed with Sec. of State: 9-15-2017

Certified to be Effective: 9-15-17 thru 3-13-18

Notice Publication Date:

Rules Amended: 407-007-0600, 407-007-0610, 407-007-0620, 407-007-0630, 407-007-0640

Subject: During the 2017 Legislative session, SB 104 expanded the use of the Long Term Care Registry by amending ORS 443.006. The updated statute goes into effect September 5, 2017. The amendments to these rules implement the updated statute. The Long Term Care Registry is expanded to include most developmental disabilities programs and providers and mental health adult foster homes.

In addition, the statutes governing the criminal records check processes (ORS chapter 181) have been renumbered to ORS 181A. References to these statutes have been corrected.

Proposed rules are available on the DHS Website: <http://www.oregon.gov/DHS/POLICIES/Pages/ss-admin-rules.aspx>. For hard-copy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-007-0600

Purpose

(1) The purpose of these rules, OAR 407-007-0600 to 407-007-0640, is to provide for procedures and standards for the Background Check Registry pursuant to ORS 443.006.

(2) These rules apply to subject individuals (SIs), as defined in OAR 407-007-0210, who work or seek to work in facilities and positions subject to these rules.

Stat. Auth.: ORS 181A.195, 181A.200, 183.459, 409.025, 409.027, 409.050, 410.020, 411.060, 413.036, 443.006, 443.725 & 443.735

Stats. Implemented: ORS 181A.195, 181A.200, 183.459, 409.010, 409.025, 409.027, 411.060, 443.004 & 443.006

Hist.: DHSD 3-2014, f. & cert. ef. 12-1-14; DHSD 11-2017(Temp), f. & cert. ef. 9-15-17 thru 3-13-18

407-007-0610

Definitions

In addition to the definitions in OAR 407-007-0210, the following definitions apply to OAR 407-007-0600 to 407-007-0640:

(1) "Background check" means a criminal records check and an abuse check pursuant to OAR 407-007-0210 to 407-007-0370 and any additional checks as required per federal code or Oregon statute.

(2) "Background Check Registry (Registry)" means a comprehensive listing of subject individuals who meet the requirements of these rules.

(3) "Criminal Records Information Management System (CRIMS) user" means an individual who has been approved to use CRIMS.

(4) "Facility" means:

(a) A long term care facility in Oregon as defined in ORS 442.015 including skilled nursing facilities and intermediate care facilities.

(b) A residential care facility as defined in ORS 443.400 including but not limited to assisted living facilities and intermediate care facilities.

(c) An adult foster home as defined in ORS 443.705.

(d) Any programs licensed, certified, or otherwise regulated by the Department of Human Services that deliver services to individuals with intellectual or developmental disabilities.

(5) "Homecare worker" has the same meaning given in ORS 410.600, including but not limited to personal support workers and personal care attendants.

(6) "Permanent hire date" means:

(a) For an employee, temporary worker or contractor of a facility, the date the qualified entity (QE) considers the SI to be permanently hired, after the background check approval date and when the SI is no longer considered provisional or working under active supervision pursuant to OAR 407-007-0315.

(b) For a volunteer of a facility, the date the QE considers the SI to be approved to volunteer for the QE, after the background check approval date.

(c) For a homecare worker, the date the Department of Human Services (Department) or Authority enrolls the SI as a homecare worker and the homecare worker enrollment number is approved and active. For medical assistance programs this date is called the "enrollment" contract active dates.

(7) "Position" means the position listed in the background check request which determines whether the individual is an SI under OAR 407-007-0210.

(8) "Qualified entity (QE)" means:

(a) A facility;

(b) An Area Agency on Aging (AAA) office or a Department or Oregon county Aging and People with Disabilities program branch which enrolls homecare workers;

(c) An agency, program or county office in Oregon serving individuals with intellectual or developmental disabilities which hires, enrolls, or contracts personal support workers;

(d) An agency, program or county office in Oregon serving individuals with mental illness which assists an individual to complete personal support worker enrollment; or

(e) The Department's Children's Intensive In-home Services program. Stat. Auth.: ORS 181A.195, 181A.200, 183.459, 409.025, 409.027, 409.050, 410.020, 411.060, 413.036, 443.006, 443.725 & 443.735

Stats. Implemented: ORS 181A.195, 181A.200, 183.459, 409.010, 409.025, 409.027, 411.060 & 443.004

Hist.: DHSD 3-2014, f. & cert. ef. 12-1-14; DHSD 11-2017(Temp), f. & cert. ef. 9-15-17 thru 3-13-18

407-007-0620

Background Check Registry

(1) The background check registry includes SIs who work or seek to work as:

(a) An employee, contractor, temporary worker, or volunteer in a facility; or

(b) A homecare worker, including the position of personal support worker.

(2) The background check registry does not include SIs who work or seek to work as an employee or volunteer for a community developmental disabilities program (OAR 411-320-0010 to 411-320-0200) or a developmental disabilities brokerage (OAR 411-340-0010 to 411-340-0180).

(3) The registry includes SIs who have a record of a background check with an outcome of approved or approved with restrictions in CRIMS dated on or after January 1, 2015 with no subsequent background check with an outcome other than approved or approved with restrictions.

(4) The registry shall include information regarding the SI including but not limited to:

(a) Name and other identifying information.

(b) Date of background check approval.

(c) Current position.

(d) QE for each current position.

(e) Permanent hire date with each QE.

(f) Permanent hire date in the position at each QE.

(g) Last day of work for each position at each QE.

(5) An SI shall complete a new background check:

(a) At least every two years.

(b) If the Department requires a new background check due to a change in position by the SI.

(c) If the Department has reason to believe a new background check is needed.

(6) BCU shall immediately remove an SI from the registry if:

(a) BCU received information indicating that SI has any new potentially disqualifying convictions and conditions; or

(b) A subsequent background check results in any outcome other than approved.

Stat. Auth.: ORS 181A.195, 181A.200, 183.459, 409.025, 409.027, 409.050, 410.020, 411.060, 413.036, 443.006, 443.725 & 443.735

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Stats. Implemented: ORS 181A.195, 181A.200, 183.459, 409.010, 409.025, 409.027, 411.060, 443.004 & 443.006
Hist.: DHSD 3-2014, f. & cert. ef. 12-1-14; DHSD 11-2017(Temp), f. & cert. ef. 9-15-17 thru 3-13-18

407-007-0630

Reporting Requirements for Qualified Entities

(1) CRIMS users for facilities and homecare workers may access the registry online through CRIMS.

(2) If an SI is not found in a search of the registry, CRIMS users may enter a background check request in CRIMS to determine if the SI may be placed on the registry to work.

(3) QEs shall provide BCU with the following information regarding an SI on the registry including but not limited to:

(a) Permanent hire date of SI for each position.

(b) Initiation of a new background check due to report of any potentially disqualifying convictions or conditions (see OAR 125-007-0270 and 407-007-0290).

(c) Change of position with the QE.

(d) The SI's last day of work once the SI leaves a position.

Stat. Auth.: ORS 181A.195, 181A.200, 183.459, 409.025, 409.027, 409.050, 410.020, 411.060, 413.036, 443.004, 443.725 & 443.735

Stats. Implemented: ORS 181A.195, 181A.200, 183.459, 409.010, 409.025, 409.027, 411.060, 443.004 & 443.006

Hist.: DHSD 3-2014, f. & cert. ef. 12-1-14; DHSD 11-2017(Temp), f. & cert. ef. 9-15-17 thru 3-13-18

407-007-0640

Access and Release of Information

(1) BCU shall maintain the registry through CRIMS. CRIMS users for facilities and homecare workers may access the registry online through CRIMS.

(2) An SI may request in writing that BCU provide documentation of information included in the registry about the SI.

Stat. Auth.: ORS 181A.195, 181A.200, 183.459, 409.025, 409.027, 409.050, 410.020, 411.060, 413.036, 443.006, 443.725 & 443.735

Stats. Implemented: ORS 181A.195, 181A.200, 183.459, 409.010, 409.025, 409.027, 411.060, 443.004 & 443.006

Hist.: DHSD 3-2014, f. & cert. ef. 12-1-14; DHSD 11-2017(Temp), f. & cert. ef. 9-15-17 thru 3-13-18

Department of Human Services, Child Welfare Programs Chapter 413

Rule Caption: Suspending rules relating to Differential Response to implement SB 942 (2017)

Adm. Order No.: CWP 11-2017(Temp)

Filed with Sec. of State: 8-18-2017

Certified to be Effective: 8-18-17 thru 2-13-18

Notice Publication Date:

Rules Amended: 413-015-0400, 413-015-0445

Rules Suspended: 413-015-9000, 413-015-9010, 413-015-9020, 413-015-9030, 413-015-9040

Subject: The Department of Human Services, Office of Child Welfare Programs, is suspending OAR 413-015-9000 to 413-015-9040, the rules governing Differential Response (DR). DR is a child abuse assessment system that allows Child Protective Services (CPS) to respond differently to reports of child abuse and neglect that meet certain criteria.

The Department is also amending OAR 413-015-0400 and 413-015-0445 to remove language limiting community services that can be offered to families to non-contracted. This change allows counties that have adopted DR to continue to provide contracted services.

Rules Coordinator: Amie Fender—(503) 945-8986

413-015-0400

Purpose and Overview of the CPS Assessment Rules

(1) These rules, OAR 413-015-0400 to 413-015-0485, describe the activities required to sufficiently complete a CPS assessment.

(2) Completing a CPS assessment involves the following:

(a) Making face-to-face contact with the alleged victim, his or her siblings, his or her parent or caregiver, including the non-custodial legal parent, other children and adults living in the home, and the alleged perpetrator;

(b) Accessing the home environment;

(c) Gathering safety-related information through interviews and observation;

(d) Determining if there is a present danger safety threat;

(e) Determining if there is an impending danger safety threat by applying the safety threshold criteria:

(A) Imminent;

(B) Observable;

(C) Vulnerable child;

(D) Out of control; and

(E) Severity

(f) Developing a protective action plan when a child is determined to be unsafe due to a present danger safety threat;

(g) Developing an initial safety plan when a child is determined to be unsafe due to an impending danger safety threat;

(h) Developing an ongoing safety plan when a child is determined to be unsafe from an impending danger safety threat at the conclusion of a CPS assessment;

(i) Determining whether the initial safety plan or ongoing safety plan is the least intrusive plan sufficient to manage child safety by identifying how the impending danger safety threat is occurring and applying the in-home safety plan criteria;

(j) Developing conditions for return when an out-of-home ongoing safety plan is established;

(k) Determining whether a family has moderate to high needs when a child is determined to be safe;

(l) Offering and, if appropriate, referring a family with moderate to high needs to available community services; and

(m) Determining if there is reasonable cause to believe that child abuse or neglect has occurred.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 17-2014, f. & cert. ef. 12-24-14; CWP 11-2017(Temp), f. & cert. ef. 8-18-17 thru 2-13-18

413-015-0445

Make Child Safety Decision and Determine Whether to Open a Case

(1) After all the necessary information is gathered for the CPS assessment and the disposition has been determined, the CPS worker must determine if the child is safe or unsafe at the conclusion of the CPS assessment. To make a child safety decision at the conclusion of a CPS assessment, the CPS worker must again determine if an impending danger safety threat is present as outlined in OAR 413-015-0425, "Determine if there is a Present Danger Safety Threat or Impending Danger Safety Threat".

(2) When at the conclusion of the CPS assessment the CPS worker determines one or more impending danger safety threats are present, including a previously identified threat that has not been eliminated, the CPS worker must conclude the child is unsafe. When the CPS worker concludes the child is unsafe at the conclusion of the CPS assessment, the CPS worker must:

(a) Determine how the impending danger safety threat is occurring to support the development of an ongoing safety plan as outlined in OAR 413-015-0428, "Identify How the Impending Danger Safety Threat is Occurring";

(b) Develop an ongoing safety plan as outlined in OAR 413-015-0450, "Develop Safety Plans";

(c) Complete the CPS assessment; and

(d) Open a case.

(3) When at the conclusion of the CPS assessment the CPS worker determines no impending danger safety threats are present and any threat identified previously has been eliminated, the CPS worker must conclude the child is safe. When the CPS worker concludes the child is safe at the conclusion of the CPS assessment, the CPS worker must comply with all of the following subsections:

(a) Dismiss the protective action plan or initial safety plan if one is in place.

(b) Determine if the family has moderate to high needs unless completing a CPS assessment involving the home of a Department certified foster parent or relative caregiver, a child-caring agency, or a proctor foster home.

(A) If the family does not have moderate to high needs the CPS worker must complete and close the CPS assessment.

(B) If the family does have moderate to high needs the CPS worker must:

(i) Offer the family referrals to relevant community services as available; and

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(ii) If the family accepts the offer for referrals to community services, the CPS worker must refer the family to relevant community services as available.

(c) Complete the CPS assessment.

(d) Close the CPS assessment without opening a case.

(4) Documentation of the Child Safety Decision. The CPS worker must document in the Department's electronic information system the child safety decision including all of the following subsections as applicable:

(a) If the child is safe and the assessment will be closed or the child is unsafe and the case will be opened.

(b) If the child is safe:

(A) Whether the family was identified as having moderate to high needs; and

(B) If applicable, whether the family accepted the offer for community service referrals.

(c) The basis for the determination in subsection (a) of this section.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 11-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; CWP 23-2016, f. & cert. ef. 12-16; CWP 11-2017(Temp), f. & cert. ef. 8-18-17 thru 2-13-18

413-015-9000

Authority, Responsibility, and Applicability

(1) ORS 418.005 provides that, in order to establish, extend, and strengthen welfare services for the protection and care of dependent or neglected children, the Department of Human Services may make all necessary rules and regulations for administering child welfare services. Among other duties outlined by ORS 409.010, the Department is responsible for the delivery and administration of programs and services relating to children and families, including child protective services (CPS).

(2) The Department has determined that in order to effectively administer child protective services it is necessary to adopt a child abuse assessment system that allows CPS to respond differently to reports of child abuse and neglect that meet the criteria to assign for CPS assessment. This system is called "differential response" and includes two types of CPS assessments, traditional response assessments and alternative response assessments. These changes in the Department's practice will be implemented, over time, on a county-by-county basis.

(3) Only the Department local offices in those counties identified by the Department to implement the Differential Response system must comply with the requirements outlined in these rules, OAR 413-015-9000 through 413-015-9040. Those counties will be referred to as DR implementation counties and are listed in subsections (a) through (l) of this section. Department local offices in all other counties must comply with the rules in OAR chapter 413, but are not responsible for OAR 413-015-9000 through 413-015-9040.

(a) Benton County, effective April 6, 2015.

(b) Clackamas County, effective December 1, 2015.

(c) Coos County, effective November 16, 2015.

(d) Curry County, effective November 16, 2015.

(e) Jackson County, effective November 2, 2015.

(f) Josephine County, effective November 2, 2015.

(g) Klamath County, effective May 27, 2014.

(h) Lake County, effective May 27, 2014.

(i) Lane County, effective May 29, 2014.

(j) Lincoln County, effective April 6, 2015.

(k) Linn County, effective April 6, 2015.

(l) Washington County, effective April 20, 2015.

(4) Except as provided in OAR 413-015-9000 through 413-015-9040, employees in the DR implementation counties remain responsible for all other rules in OAR chapter 413.

Stat. Auth.: ORS 409.027, 409.050, 418.005, 418.598

Stats. Implemented: ORS 409.010, 409.027, 409.050, 409.185, 418.005, 418.015, 418.580, 418.598, 419B.020

Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 10-2015, f. & cert. ef. 4-1-15; CWP 23-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16; CWP 27-2015, f. 12-28-15, cert. ef. 1-1-16; Suspended by CWP 11-2017(Temp), f. & cert. ef. 8-18-17 thru 2-13-18

413-015-9010

Purpose

The purpose of Differential Response is to achieve the following objectives:

(1) Allow for different approaches to Child Protective Services assessments depending on severity and type of child abuse and neglect allegations;

(2) Identify a family's needs and connect the family to community services to meet those needs;

(3) Increase the number of children who can be safely at home and in their communities;

(4) Reduce the number of children who re-enter the Department's system;

(5) Reduce the number of referrals on a family; and

(6) Reduce disproportional representation of children of color in the Department's foster care system.

Stat. Auth.: ORS 409.027, 409.050, 418.005, 418.598

Stats. Implemented: ORS 409.010, 409.185, 418.005, 418.015, 418.580, 419B.020

Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; Suspended by CWP 11-2017(Temp), f. & cert. ef. 8-18-17 thru 2-13-18

413-015-9020

Definitions

In addition to the terms defined in OAR 413-015-0115, these terms are defined for use in these rules, OAR 413-015-9000 through 413-015-9040:

(1) "Alternative response assessment" means a type of CPS assessment that, in addition to the other requirements of a CPS assessment, utilizes community partners and support persons and assesses the strengths and needs of the family and child, but does not require a formal determination of whether there is reasonable cause to believe child abuse or neglect occurred.

(2) "Strengths and needs assessment" means a tool used to assess the strengths and needs, including service needs, of a family determined to have moderate to high needs.

(3) "Strengths and needs assessment provider" means an individual or organization trained to complete a strengths and needs assessment.

(4) "Traditional response assessment" means a type of CPS assessment used to assess reports of child abuse and neglect that require a formal determination of whether there is reasonable cause to believe child abuse or neglect occurred.

Stat. Auth.: ORS 409.027, 409.050, 418.005, 418.598

Stats. Implemented: ORS 409.010, 409.185, 418.005, 418.015, 418.580, 419B.020

Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 10-2015, f. & cert. ef. 4-1-15; Suspended by CWP 11-2017(Temp), f. & cert. ef. 8-18-17 thru 2-13-18

413-015-9030

Screening CPS Information — Determining Department's Response, Type of CPS Assessment, and Response Time Lines

Except as provided below, screeners in DR implementation counties must comply with OAR 413-015-0200 through 413-015-0225. OAR 413-015-0210(1) through (3) are replaced by the following:

(1) After the screener completes activities required by OAR 413-015-0205, and determines the information received is CPS information, the screener must determine the Department response, either CPS assessment required or close at screening. If a CPS assessment is required, the screener must determine the type of CPS assessment and the time line for the Department response.

(2) CPS assessment required. A CPS assessment is required if:

(a) The screener determines that information received constitutes a report of child abuse or neglect, as defined in ORS 419B.005, and the information indicates:

(A) The alleged perpetrator is a legal parent of the alleged child victim;

(B) The alleged perpetrator resides in the alleged child victim's home;

(C) The alleged perpetrator may have access to the alleged child victim, and the parent or caregiver may not be able or willing to protect the child; or

(D) The alleged child abuse occurred in a day care facility, or the home of a Department certified foster parent or relative caregiver.

(b) The screener determines that information received constitutes a report of abuse as defined in ORS 419B.005 or Oregon Laws 2016, chapter 106, section 36 and the report is the responsibility of the Department as outlined in OAR 413-015-0630.

(c) A tribe or law enforcement agency (LEA) requests assistance from the Department with an investigation of child abuse or neglect, and a CPS supervisor agrees that assistance from the Department is appropriate.

(3) Type of CPS Assessment. If the screener determines that a CPS assessment is required, the screener must:

(a) Determine the type of CPS assessment required. The screener must determine if the report is assigned for a traditional response assessment or an alternative response assessment.

(A) Traditional Response Assessment. This type of CPS assessment is required when the report alleges or the information gathered indicates:

(i) The child has suffered or could likely suffer severe harm;

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(ii) The abuse occurred in a day care facility, the home of a Department certified foster parent or relative caregiver, an Oregon Youth Authority (OYA) certified foster home, a child-caring agency, or a proctor foster home;

(iii) The perpetrator is a day care employee, certified foster parent or relative caregiver, an OYA certified foster parent, a child-caring agency employee, a proctor foster parent, a Department contracted service provider, an OYA employee, or a Department of Human Services employee;

(iv) There are multiple allegations in the same report and any of the allegations meet one of the criteria outlined in (i) through (iii) of this paragraph for a traditional response assessment;

(v) There is a prior report of child abuse or neglect that has not been assessed because the Department was unable to locate the family and the prior allegation or the current allegation meets the criteria for a traditional response assessment;

(vi) There is an open traditional response assessment and the date the open traditional response assessment was assigned is within 60 days of the date the new report will be assigned; or

(vii) There is an open Department case with an identified impending danger safety threat.

(B) Alternative Response Assessment. This type of CPS assessment is required when the report alleges or the information gathered indicates the child has suffered or could likely suffer harm, but the harm is not severe harm and none of the conditions outlined in (A)(i) through (vii) of this rule apply.

(b) Consult with a CPS supervisor. The screener must consult with the CPS supervisor or designee when the screener determines the type of CPS assessment required is a traditional response assessment and there is an open alternative response assessment.

(c) Document the type of CPS assessment required. The screener must document the type of CPS assessment required and document the justification for the determination.

(4) Response Time Lines. If the screener determines that a CPS assessment is required, the screener must:

(a) Determine the CPS assessment response time line. The time line for the Department response refers to the amount of time between when the report is received at screening and when the CPS worker is required to make an initial contact. When determining the response time, the screener must take into account the location of the child, how long the child will be in that location, and access that others have to the child.

(A) Traditional Response Assessment. The screener is required to assign the following response time lines for a traditional response assessment:

(i) A “within 24 hours” response time line unless (ii) below applies.

(ii) A “within five calendar days” response time line is only permitted for a traditional response assessment when the screener can clearly document how the information indicates child safety will not be compromised or an intentional delay to allow for a planned response is less likely to compromise the safety of the child.

(B) Alternative Response Assessment. The screener is required to assign the following response time lines for an alternative response assessment:

(i) A “within five calendar days” response time line is required unless (ii) below applies.

(ii) A “within 24 hours” response time line is only required for an alternative response assessment when the information indicates:

(I) A child is in danger right now; or

(II) A child has a current injury as a result of the alleged abuse or neglect.

(b) Complete a screening report form immediately when a “within 24 hour” response time line is assigned or the same day when a “within five calendar days” response time is assigned. A CPS supervisor may grant an extension for the completion of a screening report form as provided in OAR 413-015-0220.

(c) Refer the CPS assessment to the appropriate county as described in OAR 413-015-0213.

Stat. Auth: ORS 409.027, 409.050, 418.005, 418.598

Stats. Implemented: ORS 409.010, 409.185, 418.005, 418.015, 418.580, 419B.020

Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 17-2014, f. & cert. ef. 12-24-14;

CWP 11-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; CWP 23-2016, f. & cert. ef.

12-1-16; Suspended by CWP 11-2017(Temp), f. & cert. ef. 8-18-17 thru 2-13-18

413-015-9040

Assessment

(1) Except as provided in this rule, CPS workers in DR implementation counties must comply with OAR 413-015-0400 through 413-015-0485.

(2) Overview. The following outlines the primary components of all CPS assessments and the components unique to traditional response assessment and alternative response assessment.

(a) Completing a CPS assessment, whether traditional response assessment or alternative response assessment, involves all of the following:

(A) Making efforts to schedule the initial contact when a response timeline of “within five calendar” days is assigned.

(B) Making face-to-face contact with the alleged victim, his or her siblings, his or her parent or caregiver, other children and adults living in the home, and the alleged perpetrator.

(C) Accessing and viewing the home environment.

(D) Gathering safety-related information through interviews and observation.

(E) Determining if there is a present danger safety threat.

(F) Determining if there is an impending danger safety threat by applying the safety threshold criteria:

(i) Imminent;

(ii) Observable;

(iii) Vulnerable child;

(iv) Out of control; and

(v) Severity.

(G) Developing a protective action plan when a child is determined to be unsafe due to a present danger safety threat.

(H) Developing an initial safety plan when a child is determined to be unsafe due to an impending danger safety threat.

(I) Developing an ongoing safety plan when a child is determined to be unsafe from an impending danger safety threat at the conclusion of a CPS assessment.

(J) Determining whether the initial safety plan or ongoing safety plan is the least intrusive plan sufficient to manage child safety by identifying how the impending danger safety threat is occurring and applying the in-home safety plan criteria.

(K) Developing conditions for return when an out-of-home ongoing safety plan is established.

(L) Determining whether a family has moderate to high needs when a child is determined to be safe.

(M) Referring a family for a strengths and needs assessment and subsequently for community services when a family is determined to have moderate to high needs and accepts the referrals.

(b) In addition to the components of a CPS assessment outlined in paragraphs (a)(A) through (M) of this section, completing a traditional response assessment includes determining if there is reasonable cause to believe that child abuse or neglect occurred.

(c) In addition to the components of a CPS assessment outlined in paragraphs (a)(A) through (M) of this section, completing an alternative response assessment includes offering the family the option of having a community partner or support person accompany the worker when a response timeline of “within five calendar” days is assigned.

(3) Make Initial Contact. When completing a traditional response assessment or an alternative response assessment the CPS worker must comply with OAR 413-015-0420, “Make Initial Contact”, and the additional requirements outlined in this section when a response timeline of “within five calendar days” is assigned:

(a) The CPS worker must make efforts to schedule the initial contact; and

(b) The CPS worker must, when completing an alternative response assessment:

(A) Offer the family the option of having a community partner or support person accompany the worker on initial contact;

(B) Obtain a release of information signed by the parent or caregiver specific to the identified community partner or support person; and

(C) Document, if applicable, whether the CPS worker completed the initial contact with a community partner or support person. When a community partner or support person was not present at initial contact, the CPS worker must document why not. When a community partner or support person was present, the CPS worker must document who was present.

(4) Change from Alternative Response Assessment to Traditional Response Assessment. When changing the type of CPS assessment from

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alternative response assessment to traditional response assessment the CPS worker must:

(a) Ensure one of the following applies:

(A) Any of the criteria outlined in OAR 413-015-9030(3)(a)(A)(i) through (vi);

(B) A referral is received on an open alternative response assessment within 60 days of the date the open assessment was assigned and the new referral meets the screening criteria to assign as a traditional response assessment;

(C) The CPS worker filed a petition alleging the child is within the jurisdiction of the juvenile court pursuant to ORS 419B.100; or

(D) The CPS worker determined the child is unsafe at the conclusion of the CPS assessment and an ongoing safety plan will be established and the case will be opened for services.

(b) Ensure the decision is approved by a Department supervisor; and

(c) Document in the Department's electronic information system the decision to change from alternative response assessment to traditional response assessment and explain the basis for the decision.

(5) Make Child Safety Decision and Determine Whether to Open a Case. The CPS worker must comply with the requirements outlined in this section which replaces OAR 413-015-0445, "Child Safety Decision".

(a) After all the necessary information is gathered for the CPS assessment and the disposition has been determined, the CPS worker must determine if the child is safe or unsafe at the conclusion of the CPS assessment. To make a child safety decision at the conclusion of a CPS assessment, the CPS worker must again determine if an impending danger safety threat is present as outlined in OAR 413-015-0425, "Determine if there is a Present Danger Safety Threat or an Impending Danger Safety Threat".

(b) When at the conclusion of the CPS assessment the CPS worker determines one or more impending danger safety threats are present, including a previously identified impending danger safety threat that has not been eliminated, the CPS worker must conclude the child is unsafe. When the CPS worker concludes the child is unsafe at the conclusion of the CPS assessment, the CPS worker must:

(A) Determine how the impending danger safety threat is occurring to support the development of an ongoing safety plan as outlined in OAR 413-015-0428, "Identify How the Impending Danger Safety Threat is Occurring";

(B) Develop an ongoing safety plan as outlined in OAR 413-015-0450, "Develop an Ongoing Safety Plan";

(C) Complete the CPS assessment; and

(D) Open a case.

(c) When at the conclusion of the CPS assessment the CPS worker determines no present danger safety threats or impending danger safety threats are present and any identified previously have been eliminated, the CPS worker must conclude the child is safe. When the CPS worker concludes the child is safe at the conclusion of the CPS assessment, the CPS worker must:

(A) Dismiss the protective action plan or initial safety plan if one is in place; and

(B) Determine if the family has moderate to high needs unless completing a CPS assessment involving the home of a Department certified foster parent or relative caregiver, a child-caring agency, or a proctor foster home.

(d) When the CPS worker determines the family does not have moderate to high needs the CPS worker must complete and close the CPS assessment.

(e) When the CPS worker determines the family does have moderate to high needs, the CPS worker must offer the family the option to have a strengths and needs assessment completed by a strengths and needs assessment provider:

(A) If the family declines the offer to have a strengths and needs assessment completed the CPS worker must:

(i) Offer the family referrals to relevant non-contracted community services as available;

(ii) If the family accepts the offer, the CPS worker must refer the family to relevant non-contracted community services as available; and

(iii) Complete and close the CPS assessment.

(B) If the family accepts the offer to have a strengths and needs assessment completed the CPS worker must:

(i) Refer the family to a strengths and needs assessment provider;

(ii) Meet with the family and the strengths and needs assessment provider after the completion of the strengths and needs assessment, discuss contracted and non-contracted community service referral options,

offer relevant community service referrals as available, and identify the family's preferences;

(iii) If the family accepts the offer for community service referrals, refer the family to relevant contracted or non-contracted community services as available.

(C) Complete and close the CPS assessment.

(f) The CPS worker must document in the Department's electronic information system the child safety decision including all of the following:

(A) If the child is safe and the assessment will be closed, or if the child is unsafe and the case will be opened.

(B) If the child is safe:

(i) Whether the family was determined to have moderate to high needs and the basis for the determination;

(ii) Whether the family accepted or declined to participate in a strengths and needs assessment and if they declined whether the family accepted the offer for relevant non-contracted community service referrals;

(iii) Whether the family accepted or declined to participate in services recommended as the result of the strengths and needs assessment; and

(iv) If applicable, what contracted or non-contracted community services were declined or accepted.

(6) CPS Assessment Documentation, Supervisory Review Requirements, and Extensions.

(a) The CPS worker must comply with OAR 413-015-0475, "CPS Assessment Documentation and Supervisory Review Requirements", with the exception of section (2) which this subsection replaces. The CPS worker must complete the CPS assessment and electronically submit the CPS assessment for review by a CPS supervisor, within 45 days of the day that the information alleging child abuse or neglect is received by the screener, except as provided in subsection (b) of this section.

(b) This subsection replaces OAR 413-015-0480, "CPS Assessment Extensions". The CPS supervisor may approve a one-time extension of an additional 15 days for completion of the CPS assessment if the supervisor has confirmed critical information (information necessary to determine child safety or a child abuse or neglect disposition) is outstanding or, if applicable, the strengths and needs assessment is not complete. Additional extension of time may be approved by the Child Welfare program manager if the ability to obtain critical information is beyond the reasonable control of the CPS worker.

Stat. Auth: ORS 409.027, 409.050, 418.005 & 418.598

Stats. Implemented: ORS 409.010, 409.185, 418.005, 418.015, 418.580 & 419B.020

Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14; CWP 11-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; CWP 23-2016, f. & cert. ef. 12-1-16; Suspended by CWP 11-2017(Temp), f. & cert. ef. 8-18-17 thru 2-13-18

Rule Caption: Adopting rules to comply with SB 819 (2017) relating to Critical Incident Response Teams

Adm. Order No.: CWP 12-2017(Temp)

Filed with Sec. of State: 9-8-2017

Certified to be Effective: 9-8-17 thru 3-6-18

Notice Publication Date:

Rules Adopted: 413-017-0050, 413-017-0060, 413-017-0070, 413-017-0080, 413-017-0090, 413-017-0100, 413-017-0110

Subject: The Department of Human Services, Office of Child Welfare Programs, is adopting temporary rules to establish the Department's responsibilities when a child fatality occurs and a Critical Incident Response Team (CIRT) must be convened under ORS 419B.024 as amended by SB 819 (2017). The rules also describe when the Department has discretion to convene a review team (called a Discretionary Critical Incident Response Team (DCRIT)) even though a CIRT is not required by law.

Prior rules describing these requirements were suspended because they did not comply with recent legislation. These rules reflect the requirements of ORS 419B.024 as amended by SB 819 (2017).

The rule text showing proposed changes is available at http://www.dhs.state.or.us/policy/childwelfare/policy_releases.htm.

Rules Coordinator: Amie Fender—(503) 945-8986

413-017-0050

Definitions

Unless the context indicates otherwise, the following definitions apply to OAR chapter 413, division 017.

(1) "Child" means a person who:

(a) Is under 18 years of age; or

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(b) Is under 21 years of age and residing in or receiving care or services at a child-caring agency or proctor foster home.

(2) "Child abuse or neglect" means any form of child abuse, including abuse through neglect and abuse or neglect by a third party, as defined in ORS 419B.005 or, when applicable, Oregon Laws 2016, chapter 106, section 36.

(3) "Child protective services assessment (CPS assessment)" means an investigation into a report of child abuse or neglect pursuant to ORS 419B.020 that includes activities and interventions to identify and analyze threats to child safety, determine if there is reasonable cause to believe child abuse or neglect occurred, and assure child safety through protective action plans, initial safety plans, or ongoing safety planning.

(4) "Critical incident" means a child fatality or serious physical injury to a child involving a child known to the Department, where the fatality or serious physical injury was likely the result of child abuse or neglect.

(5) "Critical Incident Response Team (CIRT)" means a team, appointed by the DHS Director, to conduct an executive review of a critical incident involving a child fatality.

(6) "Custody" means legal custody described in ORS 419B.373.

(7) "Department" means the Department of Human Services, Child Welfare.

(8) "DHS" means the Oregon Department of Human Services.

(9) "Discretionary Critical Incident Response Team (DCIRT)" means a team, appointed by the DHS Director to conduct an executive review of a critical incident involving a serious physical injury as defined in ORS 161.015 that was likely the result of child abuse or neglect.

(10) "Known to the Department" means a child fatality or serious physical injury has occurred and:

(a) The child was in the custody of the Department at the time of death or injury;

(b) The child, the child's sibling, or any other child living in the household with the child was the subject of a CPS assessment by the Department within the 12 months preceding the fatality or injury;

(c) The child, the child's sibling, or any other child living in the household with the child had a pending child welfare or adoption case with the Department within the 12 months preceding the fatality or injury; or

(d) The child, the child's sibling, or any other child living in the household with the child was the subject of a report of abuse or neglect made to the Department or a law enforcement agency within the 12 months preceding the fatality or injury, whether or not the report was closed at screening without an investigation being commenced.

(11) "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:

(a) By blood or adoption through a common parent;

(b) Through the marriage of the legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent of the children or young adults.

Stat. Auth.: ORS 418.005, 419B.024

Stats. Implemented: ORS 418.005, 419B.024

Hist.: CWP 12-2017(Temp), f. & cert. ef. 9-8-17 thru 3-6-18

413-017-0060

Purpose of the Critical Incident Response Team (CIRT)

(1) The purpose of convening the CIRT is to increase child safety by:

(a) Rapidly drawing lessons from a specific incident to improve child welfare practice administered by the Department;

(b) Increasing transparency regarding the Department's processes and practice;

(c) Identifying and evaluating internal or external systemic issues from a child fatality that impact current practice; and

(d) Ensuring timely responses by the Department with respect to a critical incident.

(2) Reviews conducted as provided in these rules are in addition to and separate from reviews conducted by a local Multi-Disciplinary Team pursuant to ORS 418.747, a State Fatality Review team pursuant to ORS 418.748, or activities related to Department protocols on "Notification and Review of Child Fatalities" and "Notification and Review of Sensitive Issues."

Stat. Auth.: ORS 418.005, 419B.024

Stats. Implemented: ORS 418.005, 419B.024

Hist.: CWP 12-2017(Temp), f. & cert. ef. 9-8-17 thru 3-6-18

413-017-0070

CIRT Timelines and Reports

(1) The DHS Director or designee must assign a CIRT within three business days of the Department becoming aware a critical incident involving a child fatality has occurred.

(2) Reports.

(a) All CIRT reports must be submitted to the DHS Director or designee.

(b) Before submitting any report, the CIRT must consider whether submission of the report is likely to compromise an ongoing investigation of a law enforcement agency, pursuant to ORS 419B.024 as amended by SB 819 (2017).

(c) Initial Report. An initial report must be submitted within 60 days of the assignment of a CIRT.

(d) Progress Reports. If the initial report is not the result of a completed case review, the CIRT must submit a progress report every 30 days following the initial report until the final report is submitted.

(e) Final Report. Upon conclusion of the CIRT's case review, the CIRT must prepare and submit a final written report. The final written report must include all details required pursuant to ORS 419B.024 as amended by SB 819 (2017).

(f) Redacted Report. Upon conclusion of the CIRT's case review, the CIRT must prepare and submit a version of the final written report that does not contain confidential information or records that may not be disclosed to the public. The Department will make the redacted report available on its website.

(3) The DHS Director has the discretion to extend the deadline for submission of an initial report, progress report, or final report if:

(a) The DHS Director determines a delay is reasonable; or

(b) The report, even if modified, will compromise a law enforcement agency investigation and the public interest does not outweigh the potential consequences.

(4) If the DHS Director extends the deadline for a report under section (3) of this rule, the Department website will note the extension, current status of the report, and anticipated completion date.

Stat. Auth.: ORS 418.005, 419B.024

Stats. Implemented: ORS 418.005, 419B.024

Hist.: CWP 12-2017(Temp), f. & cert. ef. 9-8-17 thru 3-6-18

413-017-0080

CIRT Membership and Functioning

(1) Membership.

(a) The DHS Director or designee appoints members of the CIRT.

(b) CIRT members must include:

(A) The DHS Director;

(B) The Child Welfare Director;

(C) An attorney from the Department of Justice assigned to provide legal advice and representation to the Department on the matter of the CIRT;

(D) A representative of the Department's Child Protective Services program, designated by the Child Protective Services manager;

(E) The CIRT Coordinator; and

(F) A representative from the DHS Office of Public Affairs.

(c) The DHS Director has discretion to invite additional persons to an individual CIRT meeting as participants or appoint additional members to the team for the duration of a particular CIRT, including, but not limited to:

(A) Members of the public.

(B) A juvenile court judge appointed by the Chief Justice of the Oregon Supreme Court.

(C) A state senator appointed by the President of the Senate and a state representative appointed by the Speaker of the House of Representatives.

(D) A Department Human Resources representative;

(E) The District Manager for the county or region in which the critical incident occurred;

(F) The Program Manager for the county or region in which the critical incident occurred;

(G) Casework supervisors assigned to supervise the workers involved in the identified case; and

(H) Casework supervisors assigned to supervise the certification workers involved with the caregiver if the child was in foster care.

(d) A CIRT member may not send a delegate to appear for a meeting on the member's behalf.

(2) CIRT members must:

(a) Be provided with all information and records available to the Department regarding the incident that led to the fatality.

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(b) Attend meetings of the team in person, telephonically, or by other two-way electronic communication.

(3) A meeting of the team may be held even if one or more members are absent.

(4) The CIRT coordinator has the following responsibilities:

(a) Convenes the CIRT meetings;

(b) Ensures any members who are not DHS staff have signed a confidentiality agreement;

(c) Ensures all members receive the information and records required in subsection (2)(a) of this rule;

(d) Ensures a thorough review of all information and records related to the circumstances that led to the critical incident;

(e) Ensures the team identifies the internal or external systemic issues;

(f) Ensures all team conclusions and decisions are documented; and

(g) Prepares the CIRT reports based on input from the CIRT pursuant to OAR 413-017-0070.

(4) The CIRT has the following responsibilities:

(a) Reviews information and records related to the circumstances that led to the critical incident;

(c) Focuses the review and investigation on the safety and well-being of the child who was involved in the incident that led to the fatality and any other children who may be impacted by the circumstances surrounding the incident;

(d) During the course of its review, may include or consult with the District Attorney from the county in which the critical incident occurred pursuant to ORS 419B.024 as amended by SB 819 (2017);

(e) Identifies internal or external systemic or practice issues; and

(f) Provides input for the initial, progress, and final reports prepared by the CIRT coordinator.

(5) The DHS Director, or designee, must comply with the Oregon public records law ORS 192.410 through 192.505.

(6) The DHS Director or designee must:

(a) Review the recommendations of the CIRT; and

(b) Reconvene the CIRT team within six months of receipt of the final report to review the actions taken to improve practice.

Stat. Auth.: ORS 418.005, 419B.024

Stat. Implemented: 418.005, 419B.024

Hist.: CWP 12-2017(Temp), f. & cert. ef. 9-8-17 thru 3-6-18

413-017-0090

Purpose of the Discretionary Critical Incident Response Team (DCIRT)

(1) The purpose of convening the DCIRT is to increase child safety by:

(a) Rapidly drawing lessons from a specific incident to improve child welfare practice administered by the Department;

(b) Increasing transparency regarding the Department's processes and practice;

(c) Evaluating and identifying internal or external systemic issues from a serious physical injury as defined in ORS 161.015 that impact current practice; and

(d) Ensuring timely responses by the Department with respect to an incident of serious physical injury to a child.

(2) The determination of whether a serious physical injury has occurred is solely within the discretion of the DHS Director or designee.

(3) Reviews conducted as provided in these rules are in addition to and separate from reviews conducted by a local Multi-Disciplinary Team pursuant to ORS 418.747, a State Fatality Review team pursuant to ORS 418.748, or activities pursuant to Department protocols "Notification and Review of Child Fatalities" and "Notification and Review of Sensitive Issues."

Stat. Auth.: ORS 418.005, 419B.024

Stat. Implemented: 418.005, 419B.024

Hist.: CWP 12-2017(Temp), f. & cert. ef. 9-8-17 thru 3-6-18

413-070-0100

DCIRT Timelines and Reports

(1) The DHS Director or designee may assign a DCIRT any time after becoming aware a critical incident involving a serious physical injury to a child has occurred.

(2) Reports.

(a) All DCIRT reports must be submitted to the DHS Director or designee.

(b) Before submitting any report, the DCIRT must consider whether submission of the report is likely to compromise an ongoing investigation

of a law enforcement agency, pursuant to ORS 419B.024 as amended by SB 819 (2017).

(c) Initial Report. An initial report must be submitted within 60 days of the assignment of a CIRT.

(d) Progress Reports. Progress reports may be requested by the DHS director or designee.

(e) Final Report. Upon conclusion of the DCIRT's case review, the DCIRT must prepare and submit a final written report.

(f) Redacted Report. Upon conclusion of the DCIRT's case review, the DCIRT must prepare and submit a version of the final written report that does not contain confidential information or records that may not be disclosed to the public. The Department will make the redacted report available on its website.

(3) The DHS Director or designee has the discretion to extend the deadline for submission of an initial report, progress report, or final report if the DHS Director determines that a delay is reasonable.

(4) The DHS Director or designee may determine at any time that the DCIRT's work is complete and conclude the DCIRT review process.

Stat. Auth.: ORS 409.050, 418.005

Stat. Implemented: 409.050, 418.005

Hist.: CWP 12-2017(Temp), f. & cert. ef. 9-8-17 thru 3-6-18

413-017-0110

DCIRT Membership and Functioning

(1) Membership.

(a) The DHS Director or designee appoints members of the DCIRT.

(b) Unless a conflict of interest exists, DCIRT members must include:

(A) The Child Welfare Director or designee;

(B) An attorney from the Department of Justice assigned to provide legal advice and representation to the Department on the matter of the DCIRT;

(C) A representative of the Department's Child Protective Services program, designated by the Child Protective Services manager;

(D) The CIRT Coordinator; and

(E) A representative from the DHS Office of Public Affairs.

(3) The DHS Director has discretion to invite additional persons to an individual DCIRT meeting as participants or appoint additional members to the team for the duration of a particular DCIRT, including, but not limited to:

(A) Members of the public;

(B) A DHS Human Resources representative;

(C) The District Manager for the county or region in which the serious physical injury occurred;

(D) The Program Manager for the county or region in which the serious physical injury occurred;

(E) Casework supervisors assigned to supervise the workers involved in the identified case; and

(F) Casework supervisors assigned to supervise the certification workers involved with the caregiver if the child is in foster care.

(2) DCIRT members must:

(a) Be provided with all information and records available to the Department regarding the incident that led to the serious physical injury.

(b) Attend meetings of the team in person, telephonically, or by other two-way electronic communication.

(3) A meeting of the team may be held even if one or more members are absent.

(4) The CIRT coordinator has the following responsibilities:

(a) Convenes the DCIRT meetings;

(b) Ensures any members who are not DHS staff have signed a confidentiality agreement;

(c) Ensures all members receive the documents and information required in subsection (2)(a) of this rule;

(d) Ensures a thorough review of all information and records related to the circumstances that led to the critical incident;

(e) Ensures the team identifies the internal or external systemic issues;

(f) Ensures all team conclusions and decisions are documented; and

(g) Prepares the DCIRT reports based on input from the DCIRT pursuant to the timelines determined by the DHS Director or designee.

(5) The DCIRT has the following responsibilities:

(a) Reviews information and records related to the circumstances that led to the critical incident;

(b) Focuses the review and investigation on the safety and well-being of the child who was involved in the incident that led to the serious physical injury and any other children who may be impacted by the circumstances surrounding the critical incident;

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(c) During the course of its review, may include or consult with the District Attorney from the county in which the critical incident occurred pursuant to ORS 419B.024 as amended by SB 819 (2017);

(d) Identifies internal or external systemic or practice issues; and

(e) Provides input for the initial, final and any progress reports prepared by the DCIRT coordinator.

(6) The DHS Director, or the Director's designee, must comply with the Oregon public records law ORS 192.410 through 192.505.

(7) The DHS Director or the Director's designee must:

(a) Review the recommendations of the DCIRT; and

(b) Reconvene the DCIRT team within six months of receipt of the final report to review the actions taken to improve practice.

Stat. Auth.: ORS 409.050, 418.005

Stat. Implemented: 409.050, 418.005

Hist.: CWP 12-2017(Temp), f. & cert. ef. 9-8-17 thru 3-6-18

Rule Caption: Adopting rules to clarify required assessments and screenings for children entering substitute care.

Adm. Order No.: CWP 13-2017(Temp)

Filed with Sec. of State: 9-13-2017

Certified to be Effective: 9-13-17 thru 3-11-18

Notice Publication Date:

Rules Amended: 413-015-0465

Subject: The Department of Human Services, Office of Child Welfare Programs, is amending its rules to clarify what health assessments are required at what age, and by whom they should be performed, when a child enters substitute care.

Rules Coordinator: Amie Fender—(503) 945-8986

413-015-0465

Medical Assessment, Dental Assessment, and Mental Health Assessment for All Children in Substitute Care

(1) Each child placed in substitute care must receive the following:

(a) An intake nursing assessment by a DHS contracted nurse, shortly after entering care;

(b) A comprehensive health assessment by the child's primary health-care provider, within 30 days of entering care;

(c) A dental assessment for children age 1 and older, within 30 days of entering care;

(d) A Child and Adolescent Needs and Strengths (CANS) screening, within 60 days of entering care;

(e) A mental-health assessment for children age 3 and older, within 60 days of entering care; and

(f) An Early Intervention Screening for children ages 0–2, within 60 days of entering care. (See CPS Early Intervention Referral form CF323.)

(2) The caseworker of a child who is placed in substitute care must ensure that the child receives:

(a) All required assessments and screenings as described in section (1) of this rule; and

(b) All treatment and services that are recommended in the required assessments and screenings that are covered by either Oregon Health Plan (OHP) or the child's private health insurance.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 13-2017(Temp), f. & cert. ef. 9-13-17 thru 3-11-18

Department of Human Services, Self-Sufficiency Programs Chapter 461

Rule Caption: Changing rules relating to self-sufficiency programs

Adm. Order No.: SSP 22-2017

Filed with Sec. of State: 9-8-2017

Certified to be Effective: 10-1-17

Notice Publication Date: 8-1-2017

Rules Amended: 461-110-0350, 461-110-0430, 461-115-0030, 461-115-0040, 461-115-0050, 461-115-0190, 461-115-0651, 461-120-0125, 461-120-0510, 461-130-0305, 461-130-0310, 461-130-0315, 461-130-0328, 461-130-0330, 461-130-0335, 461-135-0070, 461-135-0075, 461-135-0475, 461-135-0915, 461-135-0930, 461-135-1270, 461-140-0110, 461-140-0210, 461-140-0220, 461-145-0001, 461-145-0110, 461-145-0200, 461-145-0250, 461-145-0360, 461-145-0420, 461-160-0010, 461-165-0180, 461-180-0010, 461-180-

0070, 461-190-0171, 461-190-0211, 461-190-0231, 461-190-0310, 461-190-0406

Rules Repealed: 461-115-0651(T), 461-165-0180(T)

Subject: OAR 461-110-0350 about who is considered part of the filing group for purposes of determining eligibility is being amended to include any parent of an unborn child in the ERDC filing group, consistent with current Department practices.

OAR 461-110-0430 regarding filing group membership for the Refugee and Refugee Medical is being amended to treat emancipated minors in the same manner as adults for these two programs, consistent with current practices. An 18 or 19 year old head of household may be placed into JOBS activities if they have completed high school (or equivalent) education, or into an educational track if not completed.

OAR 461-115-0030 about dates of request is being amended to align the REF, TA-DVS, and TANF programs with the SNAP program, using the filing date for application processing timeframes, reducing errors and confusion.

OAR 461-115-0040 about filing dates is being amended to align the REF and TANF programs with the SNAP program, using the filing date for application processing timeframes. This rule is also being amended to clarify the minimum required elements to establish a filing date. These changes will reduce errors and confusion.

OAR 461-115-0050 about when an application must be filed is being amended to clarify when a new or existing application may be used to establish eligibility in the Refugee, TA-DVS, and TANF programs, decreasing the burden on field staff to gather a new completed application, and provide increased customer service for applicants requesting benefits in the second month following a denial.

OAR 461-115-0190 about application processing time frames is being amended to align the TANF program with the SNAP program by making eligibility decisions within 30 days of the filing date, while allowing extensions to the 45th day, consistent with federal guidance. This rule is also being amended to indicate that the TANF program does not delay eligibility decisions beyond 45-days.

OAR 461-115-0651 regarding verification requirements in the SNAP program is being amended to make permanent a temporary rule change effective August 1, 2017 correcting the ABAWD verification requirements by referring to the new definition of time limit counties that includes Clackamas County at the present time.

OAR 461-120-0125 about alien status and qualified non-citizen requirements is being amended to add Amerasians as lawful permanent residents to categorize their immigration status correctly.

OAR 461-120-0510 regarding age requirements for clients to receive benefits is being amended to exclude minors who are married, married but separated, and minors who are legally emancipated from eligibility for TANF benefits as dependent children, consistent with other rules in the TANF program. This rule also being amended to indicate the age requirements for the Refugee Medical (REFM) program, removing an internal inconsistency.

OAR 461-130-0305, 461-130-0310, 461-130-0315, 461-130-0330, and 461-130-0335 are being amended to update the language used to describe the participation categories as JOBS Eligible (previously mandatory), JOBS Exempt, and JOBS Volunteer. These rules are also being amended indicate that those that are mandatory are eligible for the JOBS program. These amendments align the definitions of individuals that meet federal exemptions (JOBS Exempt) and those that meet the state exemptions (JOBS Volunteer). OAR 461-130-0310 is also being amended to define JOBS exemptions for pregnant individuals to match state exemptions. These amendments define individuals eligible for the JOBS program using strength-based language supportive of the new engagement model.

OAR 461-130-0328 regarding the effect on eligibility of clients missing work due to a strike is being amended to include caretaker relatives as ineligible for Emergency Assistance and TANF when they are on strike, making the eligibility rules consistent in how parents and caretaker relatives are treated for determining eligibility. This rule is also being amended to set the policy on this topic in the

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Refugee Medical program as to when a striker is ineligible for this program, consistent with federal guidance.

OAR 461-135-0070 about eligibility requirements in the TANF program is being amended to remove language that excluded caretaker relatives receiving foster care payments from TANF program eligibility. This rule is also being amended to remove the “essential person” category of benefit eligibility, use the filing date for program benefits instead of date of request, apply the same policy to parents and caretaker relatives, and clarify the length of pregnancy for program benefit eligibility.

OAR 461-135-0075 about exemptions to the 60-month limit on TANF benefits is being amended to provide specific direction about when the Indian Country exemption applies to improve the accuracy of benefit decisions and clarity for clients, consistent with federal guidance. This amendment also modifies the direction in the temporary rule effective July 1, 2017 by updating the counties considered for Indian Country exemptions.

OAR 461-135-0475 about requirements for the Pre-TANF program is being amended to limit the duration of the Pre-TANF program consistent with other changes to the TANF program application timeframes. This rule is also being amended to exempt non-citizens ineligible to work in the U.S. from completing employability screening information. These changes clarify the policy and will reduce errors.

OAR 461-135-0915 about requirements for the Refugee Program is being amended to use the filing date as the ending point for the 30-day eligibility restriction after quitting employment and as the starting point for the 30-day disability or medical condition for determining if an individual is in violation of employment separation requirement, aligning this program with the TANF policy.

OAR 461-135-0930 regarding the Refugee Medical (REFM) program is being amended to remove QMB and CAWEM programs from the list of Medicaid programs that must be reviewed prior to eligibility for the Refugee Medical (REFM) program. These programs should not be reviewed in this context because they are not full benefit programs on the same level as REFM.

OAR 461-135-1270 about requirements for employment payments is being amended to update the language used to describe the participation categories as JOBS Eligible (previously mandatory) consistent with other rule changes.

OAR 461-140-0110 regarding treatment of periodic income is being amended to state that periodic income in the Refugee Medical (REFM) program is averaged over the applicable time only if received in the month of application, so the rule accurately states Department practices.

OAR 461-140-0210 about the effect of asset transfers on eligibility is being amended to align the Refugee, Refugee Medical, and TANF programs with the SNAP program by referring to the filing date. This rule is also being amended to indicate in the Refugee and Refugee Medical programs that the asset transfer restrictions only apply to resources transferred in the United States.

OAR 461-140-0220 about transfers of assets that are not disqualifying is being amended to state for the SNAP program that asset transfers are not disqualifying when the compensation is at least equal to fair market value (instead of at least near market value), aligning the SNAP policy with APD medical program policy.

OAR 461-145-0001 about the effect of adoption assistance payments on financial eligibility for Department programs is being amended to state correctly that these payments are excluded from countable income in the TANF program, consistent with federal law and current Department practice.

OAR 461-145-0110 regarding the effect of Domestic Volunteer Services Act payments on financial eligibility for DHS programs is being amended to change the policy that applies to the REF, REFM, and TANF programs and exclude the value of the educational award

(instead of compensation if below minimum wage), consistent with current Department practices.

OAR 461-145-0200 about foster care payments and benefits from the Guardianship Assistance program is being amended to clarify the differences between children in foster care, adults in foster care, and foster care providers as to how they are treated in the eligibility groups for the TANF program.

OAR 461-145-0250 the treatment of income-producing property for determining financial eligibility for Department programs is being amended to treat this property in the same manner as self-employment income in the Refugee, Refugee Medical, and TANF programs, aligning this rule with other TANF rules.

OAR 461-145-0360 about the effect of motor vehicle value on program eligibility is being amended to change the exclusion that applies to the value of motor vehicles from \$10,000 for one vehicle to \$10,000 for the total value of all vehicles so the rule text matches current practices.

OAR 461-145-0420 about the effect of property on financial eligibility for Department programs is being amended to indicate the exclusion for Interim Assistance Agreements is not limited to the TANF program.

OAR 461-160-0010 regarding the use of resources in determining financial eligibility is being amended to indicate that individuals and families will be ineligible for the Refugee Medical (REFM) program if their resources exceed the resource limits. This amendment follows federal guidance.

OAR 461-165-0180 about the eligibility of child care providers is being amended to make permanent a temporary rule change effective June 1, 2017 and require approved child care providers to provide care within the state of Oregon, allowing the state to monitor compliance with its child safety requirements.

OAR 461-180-0010 about the effective date for adding a new person to an open case is being amended to state the date an additional child may start receiving subsidized child-care in the TA-DVS program. This rule is also being amended to reflect changes in the SFPSS and TANF programs in which the application time frame is generally shortened to 30 days, aligning with the SNAP program.

OAR 461-180-0070 regarding the date that benefits start is being amended to shorten the deadline in the Refugee and TANF programs by which an applicant must complete eligibility and interview requirements to preserve an earlier starting date for benefits. This change is consistent with federal regulation.

OAR 461-190-0171 about education requirements for teen parents in the JOBS program, OAR 461-190-0211 about case plan activities and standards for support service payments, OAR 461-190-0231 about re-engagement, and OAR 461-190-0406 about client eligibility are being amended to update the language used to describe the participation categories as JOBS Eligible (previously mandatory), JOBS Exempt, and JOBS Volunteer for individuals applying for TANF benefits. OAR 461-190-0211 is also being amended to remove the categories of job ready, near job ready, and not job ready; reduce support service payment restrictions, and set out the Department’s policy on payment of vehicle repairs. This rule is being further amended to include both Program Entry (PE) and Domestic Violence Intervention (DV), allowing support service payments as needed to engage in services. OAR 461-190-0231 is also being amended to clarify the policy about when the re-engagement process ends.

OAR 461-190-0310 is being amended to end the Oregon Food Stamps Employment and Training (OFSET) program in Benton, Lane, Lincoln, Linn, Marion, Polk, and Yamhill counties to prepare for implementation of the SNAP time limits. The SNAP program applies time limits to able-bodied individuals who are aged 18 through 49 and there is no child under age 18 in their SNAP filing group (ABAWD). Federal SNAP law allows ABAWDs who live in areas without a waiver to receive three months of benefits in a 36 month period without meeting the work requirements. New Employment and Training (E&T) contracts will begin October 1,

ADMINISTRATIVE RULES

2017 and the contracts for these counties will focus on services for ABAWDs only.

In addition, non-substantive edits were made to: ensure consistent terminology throughout self-sufficiency program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

Rules Coordinator: Robert Trachtenberg — (503) 947-5290

461-110-0350

Filing Group; ERDC

In the ERDC program:

(1) The filing group consists of each of the following applicants and household group (see OAR 461-110-0210) members, even if the individual does not meet nonfinancial eligibility requirements:

(a) The caretaker (see OAR 461-001-0000) of the child for whom ERDC benefits are requested, except this does not apply to a child care provider caring for the child of an individual:

(A) Who is a member of a National Guard or U.S. Armed Forces Reserve unit; and

(B) Who has been called to active duty away from the child's home for more than 30 days.

(b) An unmarried child and any sibling (see OAR 461-001-0000), less than 18 years of age or 18 years of age and attending secondary school or vocational training at least half time, in the care and custody of the caretaker. A foster child is included if the caretaker wants to include the child in the need group (see OAR 461-001-0000).

(c) Any parent (see OAR 461-001-0000) of a child required to be in the filing group.

(d) Any parent of an unborn child.

(e) The spouse (see OAR 461-001-0000) of the caretaker.

(2) A minor parent (see OAR 461-001-0000) may form a separate filing group with his or her dependent child or children when the minor parent applies as the caretaker.

Stat. Auth.: ORS 329A.500, 409.050, 411.060

Stats. Implemented: ORS 329A.500, 409.010, 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 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 32-2003(Temp), f. & cert. ef. 12-17-03 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 1-2014(Temp), f. & cert. ef. 1-8-14 thru 7-7-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

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 (2) 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 in the household group.

(2) For purposes of this rule, an "adult" means an individual who is not a child (see OAR 461-001-0000).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 412.006 & 412.049

Stats. Implemented: ORS 409.010, 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; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-115-0030

Date of Request

(1) For all programs covered by OAR chapter 461, an individual or someone authorized to act on behalf of an individual 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.

(2) The "date of request" is one of the following:

(a) In the EA, ERDC, and OSIP programs, the "date of request" is the day the request for benefits is received by the Department.

(b) In the REF, SNAP, TA-DVS, and TANF programs, this section does not apply. See OAR 461-115-0040.

(c) In the OSIPM, QMB, and REFM 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 paragraph (B) 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, QMB, and REFM programs, for a current recipient, the "date of request" is one of the following:

(A) The date the individual reports a change requiring a redetermination of eligibility (see OAR 461-001-0000).

(B) The date the Department initiates a review.

(C) The date the individual 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 individual signs the 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 329A.500, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.041, 414.685, 414.826, 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; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 22-2015(Temp), f. & cert. ef. 7-23-15 thru 1-18-16; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-115-0040

Filing Date; REF, SNAP, TANF

(1) In the REF, SNAP, and TANF programs, a filing group is entitled to establish a "filing date" on the date a member of the group requests benefits. The "filing date" establishes:

(a) The date for starting the application processing time frames.

(b) The date from which some effective dates are determined.

(2) In the REF and TANF programs, the "filing date" is established the date a signed written request for benefits is received by the Department or by the local contracted refugee resettlement agency for filing groups applying in accordance with OAR 461-115-0150. The written request must be a Department approved application that includes the applicant's name, address and signature.

(3) In the SNAP program, the "filing date" is the date a signed written request for benefits is received by the Department or by the Social Security Administration for filing groups applying in accordance with OAR 461-115-0150. The written request may be a Department-approved form or other written material that includes the client's name, address, and signature.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.816, 411.825, 412.006, 412.049, 412.054, 412.064

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; 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 17-2015, f. & cert. ef. 6-30-15; SSP 22-2015(Temp), f. & cert. ef. 7-23-15 thru 1-18-16; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-115-0050

When an Application Must Be Filed

(1) An individual must file an application, or may amend a completed application, as a prerequisite to receiving benefits as follows:

(a) An individual may apply for the GA program by completing an application for the OSIPM program.

(b) An individual may apply for the TA-DVS program as provided in OAR 461-135-1220.

(c) In all programs except the TA-DVS program:

(A) Except as provided otherwise in this rule, to apply for program benefits, an individual must submit a complete application on a form approved by the Department.

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(B) An application is complete if all of the following requirements are met:

(i) All information necessary to determine eligibility (see OAR 461-001-0000) and benefit amount is provided on the application for each individual in the filing group (see OAR 461-110-0310).

(ii) The applicant, even if homeless, provides a valid mailing address.

(iii) The application is signed by the individual, the authorized representative (see OAR 461-115-0090 and 461-115-0140) of the individual, or another individual applying for benefits on behalf of the individual, and received by the Department.

(I) An individual required but unable to sign the application may sign with a mark, witnessed by another individual.

(II) An individual submitting an electronic application (see OAR 461-001-0000) must submit the application with an electronic signature.

(2) A new application is not required in the following situations:

(a) In the GA program, when an individual is receiving OSIPM on the date of request (see OAR 461-115-0030) for GA.

(b) In the SNAP program, when a single application can be used both to determine an individual is ineligible in the month of application and to determine the individual is eligible the next month. This may 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 OAR 461-115-0040), under OAR 461-180-0080.

(c) In all programs except the SNAP program, when a single application can be used both to determine an individual is ineligible on the date of request (see OAR 461-115-0030) and to determine the individual is eligible when anticipated changes make the filing group eligible within 45 days from the date of request.

(d) When the case is closed and reopened during the same calendar month.

(e) 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.

(f) When reinstating medical benefits for a pregnant woman covered by OAR 461-135-0950, notwithstanding subsection (g) of this section.

(g) In the ERDC program, when a case closed during the certification period (see OAR 461-001-0000) and the individual reports a change in circumstances prior to the end of the month following the closure and the reported change will make the individual eligible.

(h) In the OSIPM and QMB programs, when the medical benefits of an individual are suspended because the individual 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.

(i) In the REF, TA-DVS, and TANF programs, when a single application can be used both to determine an individual is ineligible in the month of application and to determine the individual is eligible the next month. This may be done when –

(A) Anticipated changes make the filing group (see OAR 461-110-0330 and OAR 461-110-0430) eligible in the following month; or

(B) Amending a current application if the information is sufficient to determine eligibility; otherwise a new application is required.

(3) When an individual establishes a new date of request 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 individual'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 individual'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 (see OAR 461-001-0000) to a benefit group (see OAR 461-110-0750) according to the following requirements:

(a) In the ERDC and SNAP programs, an application is not required to add the child to the benefit group.

(b) In the OSIPM, QMB, and REFM programs, an additional application is not required to add an assumed eligible newborn (see OAR 461-135-0010) to a benefit group currently receiving Department medical program benefits.

(c) In the TANF program:

(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.”

(d) In all programs other than ERDC, 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) An individual whose TANF grant is closing may request ERDC orally or in writing.

(7) Except for an applicant for the OSIPM, QMB, or SNAP program, an individual may change between programs administered by the Department using the current application if the following conditions are met:

(a) The individual 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 individual 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 individual is currently receiving benefits from one of these programs.

(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 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.025, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 413.085, 414.025, 414.041, 414.231, 414.685, 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; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 28-2014(Temp), f. & cert. ef. 10-29-14 thru 4-26-15; SSP 16-2015, f. & cert. ef. 4-1-15; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-115-0190

Application Processing Time Frames; Not Pre-TANF or SNAP

(1) In all programs except the EA, Pre-TANF, REF, SFPSS, SNAP, TA-DVS, and TANF programs, the Department determines eligibility and sends a decision notice (see OAR 461-001-0000) not later than the 45th day after the date of request (see OAR 461-115-0030). The Department may extend the period if one or more of the following subsections applies:

(a) Information needed to determine eligibility is expected to be received after the 45-day deadline, and the client has no control over the information.

(b) Other circumstances beyond the control of the client prevent the Department from making the decision within the 45-day period.

(c) In the OSIPM program, the applicant has met all eligibility requirements except the Department must determine whether the applicant is blind or has a disability. In this case, the Department determines eligibility and sends a decision notice not later than the 90th day after the date of request. The Department may extend this period for any of the following reasons:

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(A) The Department cannot reach a decision because the client or an examining physician or psychologist has not taken an action necessary for the decision to be made.

(B) There is an administrative or other emergency beyond the Department's control that impairs its ability to make the decision.

(2) In the EA program, the Department determines eligibility within one working day of the date of application or as soon thereafter as verification of emergent need is completed. Verification of all other factors may be waived if it would delay the client's receipt of assistance.

(3) For support service payments in the JOBS program (authorized by OAR 461-190-0211) and in the SFPSS program, the Department determines eligibility as follows:

(a) If the participant is receiving an SFPSS or TANF grant, the eligibility for support services payments must be determined in time to meet the need and not later than the 30th day following the request for support services.

(b) If the participant is not covered by subsection (a) of this section, in time to meet the need for which the request is made.

(4) In REF and TANF programs, the Department determines eligibility and sends a decision notice (see OAR 461-001-0000) not later than the 30th day after the filing date (see OAR 461-115-0040).

(5) In the TANF program, the Department may extend the period if one or more of the following subsections applies:

(a) Information needed to determine eligibility is expected to be received after the 30-day deadline, and before the 45th day, and the participant has no control over the information.

(b) Other circumstances beyond the control of the participant prevent the Department from making the decision within the 30-day period, but not more than a 45-day period.

(6) In the TA-DVS program, OAR 461-135-1220 covers the following time requirements:

(a) Assessing the safety concerns of the participant and offering options to the participant for addressing immediate safety needs.

(b) Determining eligibility after the application is complete.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.117, 411.404, 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 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 8-1992, f. & cert. ef. 4-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; 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 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; 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 10-2017, f. 3-24-17, cert. ef. 4-1-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-115-0651

Required Verification and When to Verify; SNAP

(1) The Department must give households at least 10 days to provide required verification.

(2) All of the following information must be verified when an individual initially applies for SNAP benefits:

(a) The identity of the applicant and any authorized representative or alternate payee.

(b) Alien status.

(c) Social Security Number (SSN) or application for an SSN.

(d) Countable income.

(e) Medical expenses, if they are used as a deduction.

(f) An order to pay child support and the amount actually paid.

(g) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility (see OAR 461-001-0000) or the benefit amount.

(h) For an ABAWD who resides in a SNAP time limit county (see OAR 461-135-0520):

(A) Work hours.

(B) The number of countable months (see OAR 461-135-0520) used in another state if the individual is applying for food benefits after receiving food benefits in another state.

(3) All of the following information must be verified when an individual reapplies for SNAP benefits:

(a) Countable income.

(b) Previously unreported medical expenses, and recurring medical expenses which have changed by more than \$25.

(c) Any changes in the legal obligation to pay child support, the obligated amount, and the amount the individual is paying for children that live in a different household group.

(d) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.

(4) For cases using the Change Reporting System (CRS), each of the following changes reported during the certification period (see OAR 461-001-0000) must be verified:

(a) A change in source of income, or the amount of stable income has changed by more than \$50.

(b) The amount of variable income from any source.

(c) Changes in reported medical expenses by more than \$25, and previously unreported medical expenses.

(d) Any changes in the legal obligation to pay child support, the obligated amount, and the amount the individual is paying for children that live in a different household group.

(e) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.

(5) For cases using the Simplified Reporting System (SRS), each of the following changes reported during the certification period must be verified in accordance with OAR 461-170-0103:

(a) Alien status and SSN or application for an SSN when a new member joins the benefit group (see OAR 461-110-0750).

(b) Countable income.

(c) Medical expenses, if used as a deduction.

(d) An order to pay child support and the amount actually paid, if used as a deduction.

(6) A claimed expense or cost may be used to determine the SNAP benefit only when the individual provides the required or requested verification.

(7) In addition to the verification required by sections (2) to (5) of this rule, the income for an individual must be verified every six months for SRS cases certified for twelve months, except those in which every adult member of the filing group (see OAR 461-110-0370) is elderly (see OAR 461-001-0015) or an individual with a disability (see OAR 461-001-0015) and has no earned income (NED).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.081, 411.087, 411.816, 411.825, 411.837

Hist.: AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04; 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 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 17-2008, f. & cert. ef. 7-1-08; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 37-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 18-2017(Temp), f. 7-20-17, cert. ef. 8-1-17 thru 1-27-18; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

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). This includes:

(A) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(B) An Amerasian granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(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) A battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c), as determined by the U.S. Citizenship and Immigration Services.

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(i) A non-citizen who is 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).

(j) A non-citizen who is 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).

(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)).

(c) A qualified non-citizen who is any of the following:

(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, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in paragraphs (A) or (B) of this subsection.

(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 (see section (1) of this rule).

(b) A non-citizen who is currently a victim of domestic violence or who is at risk of becoming a victim of domestic violence.

(4) In the OSIPM and QMB programs an individual meets the alien status requirement if:

(a) The individual is a non-citizen who entered the United States or was given qualified non-citizen status on or after August 22, 1996 and has been in the U.S. for five years beginning on the date the non-citizen received his or her qualified non-citizen status; or

(b) The individual meets the requirements of one of the following subsections:

(A) 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.

(B) Effective October 1, 2009, an individual is a qualified non-citizen and is under 19 years of age.

(C) Was a qualified non-citizen before August 22, 1996.

(D) 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.

(E) Is under the age of 19 and is one of the following:

(i) 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.

(ii) 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.

(iii) 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).

(F) In the OSIPM program, is receiving SSI benefits.

(G) In the QMB program, is receiving SSI and Medicare Part A benefits.

(H) Meets the alien status requirements in section (2) or (5) of this rule.

(5) 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)).

(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.

(6) 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.

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(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.

(g) 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 provisional 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 329A.500, 409.050, 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.231, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826

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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 2-2016, f. & cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 10-2017, f. 3-24-17, cert. ef. 4-1-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

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);

(A) May not be legally married (see OAR 461-001-0000), legally married and separated, or legally emancipated; and

(B) Must be under 18 years of age; or 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.

(d) 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, or SNAP programs, a client may be any age.

(5) 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.

(6) 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.

(7) To be eligible for the OSIP-OAA or OSIPM-OAA programs, a client must be 65 years of age or older.

(8) To be eligible for the REF or REFM programs, a client must be one of the following:

(a) 18 years of age or older.

(b) A legally emancipated minor.

(c) In the REFM program, a newborn according to OAR 461-135-0930.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 10-2017, f. 3-24-17, cert. ef. 4-1-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-130-0305

General Provisions; Employment Programs

(1) This division of rules states:

(a) The requirements for an individual participating in the employment programs of the Post-TANF, Pre-TANF, REF, SNAP, and TANF programs. The employment programs are the Jobs Opportunity and Basic Skills (JOBS), REF employment program, and SNAP Employment and Training (see OAR 461-001-0020) employment programs. (The employment and training requirements for ABAWD individuals in the SNAP program are also covered in OAR 461-135-0520.)

(b) The effect of a labor strike on the eligibility of an individual for program benefits.

(2) The following definitions apply to OAR 461-130-0305 through 461-130-0335 and OAR 461-135-0520:

(a) "Exempt" means:

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(A) In all programs except the TANF program, an individual who the Department determines is not mandatory (see subsection (b) of this section) for an employment program in accordance with OAR 461-130-0310.

(B) In the TANF program, a parent (see OAR 461-001-0000) or caretaker relative (see OAR 461-001-0000) in the need group (see OAR 461-110-0630) who meets a federal exemption (see OAR 461-130-0310). "Exempt" individuals are not eligible to participate in the JOBS program.

(b) "Mandatory" means:

(A) In all programs except the SNAP and TANF programs, an individual in the need group who the Department determines must participate in an employment program in accordance with OAR 461-130-0310.

(B) In the SNAP program, an individual in the need group who the Department determines must register for an employment program in accordance with OAR 461-130-0310.

(C) In the TANF program, mandatory participants, who are not otherwise federally exempt, are JOBS eligible individuals in the need group who the Department determines must participate in an employment program in accordance with OAR 461-130-0310.

(c) "Volunteer" means:

(A) An individual who is not mandatory and chooses to participate in an employment program. (B) The following individuals may volunteer to participate in an employment program:

(i) In the SNAP program, an individual who is an ABAWD living in one of the SNAP time limit exempt counties (see OAR 461-135-0520) who is either exempt (see subsection (a) of this section) or mandatory and chooses to participate in SNAP Employment and Training;

(ii) An individual who is not an ABAWD and is either exempt or mandatory and chooses to participate in SNAP Employment and Training.

(iii) In the TANF program, a JOBS volunteer is an individual who is federally mandatory and eligible to participate in an employment program, but who may not be disqualified as they meet a state exemption according to OAR 461-130-0310.

(iv) In the REF program, a REF employment program volunteer is an individual who is exempt (see subsection (a) of this section) and chooses to participate in the REF employment program.

(3) An individual must provide the information necessary for the Department to determine each of the following:

(a) The participation classification of the individual (see OAR 461-130-0310);

(b) The level of participation of the individual; and

(c) If applicable, whether an individual had good cause (see OAR 461-130-0327) for any failure to meet a requirement of an employment program.

(4) In the SNAP program, a mandatory individual (see OAR 461-130-0310(3)(b)) is registered for the employment program when a member of the filing group (see OAR 461-110-0370) or an authorized representative (see OAR 461-115-0090 and 461-115-0140) signs the SNAP program application.

Stat. Auth.: ORS 409.050, 411.060, 411.816, 412.006, 412.009, 412.049
Stats. Implemented: ORS 409.010, 411.060, 411.816, 412.006, 412.009, 412.049
Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; SSP 7-2003, f. & cert. ef. 4-1-03; 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 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 38-2016(Temp), f. & cert. ef. 10-19-16 thru 4-16-17; SSP 45-2016, f. 12-20-16, cert. ef. 1-1-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-130-0310

Participation Classifications: Exempt, Mandatory, and Volunteer

(1) In the Post-TANF, Pre-TANF, REF, SNAP, and TANF programs:

(a) The Department assigns an individual to one or more employment program participation classifications: exempt, mandatory, and volunteer (see OAR 461-130-0305 for definitions of all three terms).

(b) Notwithstanding OAR 461-130-0503(2)(c), in the Post-TANF program or while receiving Employment Payments (see OAR 461-001-0025) under OAR 461-135-1270, an individual is classified as a volunteer.

(2) In the Pre-TANF, and TANF programs:

(a) An individual in the need group (see OAR 461-110-0630) is JOBS exempt from employment program participation and disqualification if the individual meets the requirements of at least one of the following paragraphs. The individual is:

(A) A parent (see OAR 461-001-0000) 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.

(B) A noncitizen who is not authorized to work in the United States.

(C) An individual who is eligible for and receives supplemental security income (SSI) from the Social Security Administration.

(D) A caretaker relative (see OAR 461-001-0000) who is non-needy.

(b) A caretaker relative of a dependent child or unborn who receives TANF program benefits is JOBS eligible if the caretaker relative is in the same filing group with the dependent child (see OAR 461-001-0000) or unborn (even if the caretaker relative is not in the TANF program benefit group under OAR 461-110-0750), unless the caretaker relative is otherwise JOBS exempt from participation under subsection (a) of this section.

(c) A JOBS volunteer is an individual who is federally mandatory and eligible to participate in an employment program, but who may not be disqualified as they meet at least one of the following state exemptions:

(A) Pregnant and the pregnancy has reached the first of the calendar month prior to the month in which the due date falls.

(B) Pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.

(C) A parent, 20 years old and older, during the first six months after the birth of the parent's dependent child 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 JOBS Eligible participant in each filing group (see OAR 461-110-0330).

(D) A parent under age 20 years old, during the first 16 weeks after the birth of the parent's dependent child except that the Department may require the parent to participate in parenting classes, a family stability activity, or an educational track if the parent has not completed high school, GED, or equivalency program.

(E) An individual whose participation is likely to cause undue hardship or is contrary to the best interests of the dependent child or needy caretaker relative.

(F) Pregnant and participating more than 10 hours per week during the first two months of the third trimester.

(G) A VISTA volunteer.

(3) In the SNAP program:

(a) An individual is exempt from registration in an employment program and disqualification if the individual meets the requirements of one of the following paragraphs. The individual is:

(A) An individual with a physical or mental condition that prevents performance of any work.

(B) Responsible for the care of a child (see OAR 461-001-0000) in the filing group under 6 years of age.

(C) Responsible for the care of 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) 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. An individual remains exempt during normal periods of class attendance, vacation, and recess but no longer qualifies 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).

(E) Participating in a drug or alcohol treatment and rehabilitation program.

(F) Pregnant.

(G) Chronically homeless. For purposes of this rule, "chronically homeless" means the individual is currently homeless (see OAR 461-001-0015), unable to obtain employment due to being homeless, and one of the following applies:

(i) The individual has been homeless for more than six months.

(ii) The individual has been homeless more than one time in the last 12 months.

(iii) The individual states that the individual is unable to meet the basic necessities of everyday life.

(b) An individual is mandatory for registration in an employment program and the requirements in OAR 461-130-0315 if the individual meets the requirements of one of the following paragraphs. These individuals may be disqualified under OAR 461-130-0330 for failing to meet the requirements in OAR 461-130-0315. The individual 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. An individual who is self-employed 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.

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(B) Receiving REF or TANF program benefits under Title IV of the Social Security Act.

(C) 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).

(c) 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.

(4) In the REF program, an individual in the need group is exempt from the REF employment program participation and disqualification if the individual meets the requirements of at least one of the following subsections. The individual is –

(a) 65 years of age or older.

(b) An individual providing care for a family member who is in the household group and has a disability. Medical documentation to support the need for the care is required.

(c) An individual whose participation is likely to cause undue hardship to that individual.

(d) Pregnant and the pregnancy has reached the first of the calendar month prior to the month in which the due date falls.

(e) Pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.

(f) Pregnant and participating more than 10 hours per week during the first two months of the third trimester.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.009, 412.014, 412.049
Stats. Implemented: ORS 409.010, 409.750, 411.060, 411.070, 411.816, 411.837, 412.006, 412.009, 412.014, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; 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 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; 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 28-2009, f. & cert. ef. 10-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; 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 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 13-2013, f. & cert. ef. 7-1-13; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 37-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 1-2016(Temp), f. & cert. ef. 1-1-16 thru 6-28-16; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 38-2016(Temp), f. & cert. ef. 10-19-16 thru 4-16-17; SSP 45-2016, f. 12-20-16, cert. ef. 1-1-17; SSP 10-2017, f. 3-24-17, cert. ef. 4-1-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-130-0315

Requirements for Mandatory Employment Program Clients; Pre-TANF, REF, SNAP, TANF

The following provisions apply to a mandatory (see OAR 461-130-0305) client:

(1) A mandatory client selected by the Department to participate in an employment program of the Pre-TANF, REF, SNAP, or TANF program must do all of the following:

(a) In the Pre-TANF, REF, or TANF programs, a JOBS eligible (see OAR 461-130-0310) individual must:

(A) Accept a bona fide offer of employment, whether temporary, permanent, full time, part time, or seasonal.

(B) Schedule and keep required employment-related appointments and interviews.

(C) Notify the Department's case manager or the JOBS contractor of the reason for not keeping employment-related appointments and interviews, not attending scheduled classes and activities, or not completing case management activities. Notification must be made within three working days from the date of a missed appointment, interview, class, or activity.

(D) Provide the Department, in the manner the Department requires, with verifiable documentation of JOBS participation hours, including paid work, job search, and educational participation hours.

(E) In the REF and TANF programs, complete all activities (see OAR 461-001-0025) specified on the case plan (see OAR 461-001-0025).

(b) In the SNAP program:

(A) Register for the SNAP Employment and Training program (see OAR 461-130-0305).

(B) Assist the Department in the exempt (see OAR 461-130-0305) or mandatory determination.

(C) Accept a bona fide offer of employment, whether temporary, permanent, full-time, part-time, or seasonal.

(D) Maintain employment:

(i) A client meeting the requirements of subparagraph (iii) of this paragraph fails to maintain employment when the criteria in at least one of the following sub-subparagraphs is met:

(I) Voluntarily leaving a job 30 days or less prior to the filing date (see OAR 461-115-0040) for SNAP benefits as provided in OAR 461-135-0521 or at any time thereafter;

(II) Being dismissed for striking while a federal, state, or county employee; or

(III) Reducing hours of work to less than 30 each week as defined in OAR 461-135-0521.

(ii) The following changes in employment status do not constitute failure to maintain employment:

(I) An employer reduces a client's hours of work;

(II) An employer fires a client from a job;

(III) A client terminates a self employment enterprise; and

(IV) A client resigns from a job at the demand of the employer.

(iii) Subparagraph (i) of this paragraph applies only if the client meets at least one of the following requirements. The client:

(I) Had a job that averaged not less than 30 hours each week or had provided average weekly earnings not less than the federal minimum wage multiplied by 30 hours, and the client quit the job without good cause (see OAR 461-130-0327); or

(II) Quits working under a JOBS Plus agreement more than twice (see OAR 461 190 0426).

(E) An ABAWD residing in one of the SNAP time limit counties (see OAR 461-135-0520) must do all of the following:

(i) Schedule and keep required employment-related appointments and interviews.

(ii) Complete all work activities and components specified in the case plan (see OAR 461-001-0020).

(iii) Provide the Department, in the manner required, with verifiable documentation of participation hours.

(iv) Notify the Department or the SNAP Employment and Training contractor of the reason for not doing the employment-related activities as set forth on the case plan.

(2) In the Pre-TANF, REF, and TANF programs a JOBS eligible individual who fails to meet a participation requirement without good cause is subject to disqualification in accordance with OAR 461-130-0330 only after the re-engagement process under OAR 461-190-0231 has been completed.

Stat. Auth.: ORS 409.050, 411.060, 411.816, 412.009, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.816, 412.009, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; 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 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 38-2016(Temp), f. & cert. ef. 10-19-16 thru 4-16-17; SSP 45-2016, f. 12-20-16, cert. ef. 1-1-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

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) An individual 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 and TANF programs, a filing group (see OAR 461-110-0310) is ineligible for program benefits during any month in which a parent (see OAR 461-001-0000) or caretaker relative (see OAR 461-001-0000) in the filing group is a striker (see section (1) of this rule). If any other member of the filing group is a striker, only that individual is ineligible.

(3) In the REF program, a filing group (see OAR 461-110-0430) is ineligible for program benefits during any month in which a member of the filing group is a striker.

(4) In the REFM program, if a filing group member is a striker during the month of application, the filing group (see OAR 461-110-0430) is

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ineligible for program benefits during any month in which a member of the filing group continues to be a striker.

(5) 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 (see OAR 461-001-0000) of a filing group (see OAR 461-110-0370) containing a striker is determined by adding to the income of the filing group members who are not strikers the greater of the current income of the striker or the income of the striker 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 409.050, 411.060, 411.404, 411.816, 412.049
Stats. Implemented: ORS 409.050, 411.060, 411.404, 411.816, 412.049
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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-130-0330

Disqualifications; Pre-TANF, REF, SNAP, TANF

(1) In the Pre-TANF, REF, SNAP, and TANF programs, the Department may not disqualify from program benefits an individual who is a volunteer (see OAR 461-130-0305 and 461-130-0310) participant in an employment program.

(2) In the Pre-TANF and TANF programs, a JOBS eligible (see OAR 461-130-0310) individual who fails to comply with an employment program participation requirement or a JOBS exempt (see OAR 461-130-0310) individual who fails to comply with the requirements of OAR 461-135-0085, and does not have good cause (see OAR 461-130-0327) for the failure to comply is subject to disqualification under this rule only after the individual has had the opportunity to participate in the re-engagement process under OAR 461-190-0231.

(3) In the REF program, a mandatory individual who fails to comply with an employment program participation requirement and does not have good cause for failure to comply is subject to disqualification under this rule only after the individual has had the opportunity to participate in the re-engagement process under OAR 461-190-0231.

(4) In the REF program, the effects of a disqualification are progressive. There are two levels of disqualification:

(a) At the first level of disqualification, the penalty is the removal of the disqualified individual from the need group (see OAR 461-110-0630) for three months. If the disqualified individual is the only member of the filing group (see OAR 461-110-0430), the assistance is terminated.

(b) At the second level, the penalty is the removal of the disqualified individual from the need group for six months. If the disqualified individual is the only member of the filing group, the assistance is terminated.

(5) In the TANF program, the effects of a JOBS disqualification or a disqualification imposed under OAR 461-135-0085 are progressive. There are four levels of disqualification. Once a disqualification is imposed, it affects benefits according to the following schedule until the disqualification ends in accordance with OAR 461-130-0335:

(a) At the first level, the penalty is a 25 percent reduction in benefits.

(b) At the second level, the penalty is a 50 percent reduction in benefits.

(c) At the third level, the penalty is a 75 percent reduction in benefits.

(d) At the fourth level, the penalty is a 100 percent reduction in benefits.

(e) At the end of the fourth level, program benefits are closed and the filing group (see OAR 461-110-0310 and 461-110-0330) may not receive program benefits for the following two consecutive months.

(6) In the SNAP program:

(a) A mandatory individual not covered under subsection (b) of this section who fails to comply with the requirements of an employment program (see OAR 461-130-0315) without good cause (see OAR 461-130-0327) is subject to disqualification. A disqualified individual is removed from the need group until he or she meets the employment program requirements and serves the applicable progressive disqualification under the following subsections:

(A) One calendar month for the first failure to comply.

(B) Three calendar months for the second failure to comply.

(C) Six calendar months for the third and subsequent failures to comply.

(b) A mandatory individual who is an ABAWD (see OAR 461-135-0520) residing in one of the time limit exempt counties (see OAR 461-135-0520) or a mandatory individual who is served by an office that does not offer OFSET (see OAR 461-190-0310) who fails to comply with the requirements in OAR 461-130-0315(1)(b)(A) to (D) is subject to disqualification as provided in subsection (a) of this section. See OAR 461-135-0520 for additional employment participation requirements for ABAWD individuals.

Stat. Auth.: ORS 409.050, 411.060, 411.816, 412.009, 412.049
Stats. Implemented: ORS 409.010, 411.060, 411.816, 411.837, 412.009, 412.049
Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; 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 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 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 37-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 38-2016(Temp), f. & cert. ef. 10-19-16 thru 4-16-17; SSP 45-2016, f. 12-20-16, cert. ef. 1-1-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-130-0335

Removing Disqualifications and Effect on Benefits

(1) An applicant who would be subject to an employment program disqualification under OAR 461-130-0330 but withdraws the application before benefits are approved is not subject to disqualification.

(2) In the REF, SNAP, and TANF programs, a filing group (see OAR 461-110-0330, 461-110-0370, and 461-110-0430) is not subject to the impact of a disqualification for a disqualified member who has left the household group (see OAR 461-110-0210). If the member joins another filing group, that group is subject to the member's most recent disqualification.

(3) In the REF program, a disqualification ends when:

(a) The Department changes the participation classification of the disqualified individual to exempt (see OAR 461-130-0305); or

(b) REF program benefits are closed for a reason other than described in OAR 461-130-0330(4).

(4) In the TANF program, the following subsections apply to an individual disqualified for failure to meet the requirements of an employment program under division 190 of these rules or the requirements of OAR 461-135-0085:

(a) At the first, second, third, and fourth level of disqualification, the individual must cooperate for two consecutive weeks with each activity (see OAR 461-001-0025) specified in the individual's current or revised case plan (see OAR 461-001-0025) before the Department may remove the disqualification. Cash benefits are restored effective the date the individual completes the two consecutive week cooperation period.

(b) When the fourth level of disqualification ends, TANF program benefits are closed and the filing group is ineligible for TANF program benefits for two consecutive months, unless the individual contacts a representative of the Department and agrees to each activity specified in the individual's current or revised case plan before the end of the fourth level. If the individual completes the two consecutive weeks of cooperation, cash benefits are restored effective the date the individual completes the two consecutive week cooperation period.

(c) Cash benefits are restored effective the date it is determined, by the Department, there are no appropriate activities or support services (see OAR 461-001-0025) necessary to support the activity available in order for the individual to demonstrate participation.

(5) In the TANF program, a disqualification ends when:

(a) The Department changes the participation classification of the disqualified individual to JOBS exempt or JOBS volunteer (see OAR 461-130-0305);

(b) A JOBS eligible (see OAR 461-130-0310) individual in the need group (see OAR 461-110-0630) complies with the requirements of the employment program as provided in section (4) of this rule;

(c) TANF program benefits are closed for a reason other than described in OAR 461-130-0330;

(d) The individual is no longer a member of the household group; or

(e) The individual is unable to participate because there is no appropriate activity or support services necessary to support the activity.

(6) In the SNAP program:

(a) The disqualification ends the first day of the month following the month in which information is provided to the Department justifying the change in the individual's participation classification (see OAR 461-130-

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0310), even if the date falls within the disqualification period provided in OAR 461-130-0330.

(b) A mandatory individual disqualified under OAR 461-130-0330 for failure to meet the requirements of a SNAP employment program must show compliance with the employment and training program for up to 30 days. The local DHS branch will determine the activities as either work activities or cooperation with the SNAP Employment and Training contractor.

(c) A mandatory ABAWD who is ineligible for exceeding the SNAP time limit may regain eligibility as provided in OAR 461-135-0520.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.009, 412.049
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837, 412.009, 412.049
Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; 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 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 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 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-135-0070

Specific Requirements; TANF

(1) To be eligible for TANF program benefits:

(a) An individual 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.

(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:

(i) The child is receiving SSI.

(ii) The child is in foster care, but is expected to return home within 30 days.

(D) A parent (see OAR 461-001-0000) of an unborn, as follows:

(i) 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.

(ii) For the TANF program, the parent of an unborn child, if there is another dependent child in the filing group.

(b) Unless the individual is exempt from JOBS participation and JOBS disqualification under OAR 461-130-0310, an individual must demonstrate two-consecutive weeks of cooperation in appropriate activities (see OAR 461-001-0025) if:

(A) TANF program benefits had closed within the prior three consecutive calendar months from the filing date (see OAR 461-115-0040) for TANF with an active level 1 through level 4 TANF program disqualification (see OAR 461-130-0330 and 461-135-0085); or

(B) The filing date for TANF program benefits is within the prior three consecutive calendar months after the end of a two consecutive month period of TANF ineligibility according to OAR 461-130-0330(5)(e).

(2) As used in this rule:

(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) Quit work, including in anticipation of discharge;

(B) Participated in behavior leading to the individual's discharge; or

(C) Voluntarily reduced work hours.

(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 the characteristics and qualities of such individual under similar circumstances would have:

(A) Quit work, including in anticipation of discharge;

(B) Participated in behavior leading to the individual's discharge; or

(C) Voluntarily reduced work hours.

(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 parent or caretaker relative was separated from or voluntarily reduced work hours at his or her last employment in which a parent or 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. This applies at initial certifica-

tion, recertification, and is a condition of ongoing eligibility (see OAR 461-001-0000).

(4) A need group (see OAR 461-110-0630) may not be reduced or denied TANF program benefits based on section (3) of this rule if the parent or 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 who is pregnant and the pregnancy has reached the first of the calendar month prior to the month in which the due date falls.

(e) An individual who is pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.

(f) 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 filing date for TANF program benefits.

(g) An individual who was separated from employment for a reason the Department determines is good cause as defined in section (2) of this rule.

(h) 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 (5) or (6) 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 409.050, 411.060, 411.070, 411.400, 411.404, 412.006, 412.016, 412.049, 412.124

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.400, 411.404, 412.006, 412.016, 412.049, 412.064, 412.124

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-

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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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-135-0075

TANF Time Limit; Exemptions

(1) The following months do not count toward the accrual of the time limit in OAR 461-135-0071:

(a) Months prior to July 1, 2003 in which a minor parent (see OAR 461-001-0000) head of household or an adult received a TANF grant in Oregon or another state.

(b) Months between July 1, 2003 and September 30, 2007 in which a minor parent head of household or adult received TANF in Oregon; and

(A) Participated in required JOBS activities or other education, employment, or job training program including teen parent (see OAR 461-001-0000) programs; or

(B) Was not required to participate in JOBS activities or other education, employment, or job training program including teen parent programs.

(c) Months between October 1, 2007 and June 30, 2009 and months between October 1, 2011 and April 30, 2012 in which the filing group (see OAR 461-110-0330) is a two-parent family receiving cash assistance in Oregon for which deprivation is based on unemployment or underemployment.

(d) Months beginning October 1, 2007 in which a minor parent head of household or adult received aid in Oregon and is a participant in the Degree Completion Initiative (DCI) activity (see OAR 461-001-0025) enrolled in an educational institution.

(e) Months beginning October 1, 2008 in which a minor parent head of household or adult received aid in Oregon and is a participant in the Parents as Scholars (PAS) activity (see OAR 461-001-0025) enrolled in an educational institution consistent with OAR 461-190-0199.

(f) Months between October 1, 2007 and March 31, 2016 in which the individual is unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the federally required participation rates (see OAR 461-001-0025) because the individual:

(A) Was a victim of domestic violence (see OAR 461-001-0000);

(B) Had a certified learning disability;

(C) Had a verified alcohol and drug or mental health condition;

(D) Had a child (see OAR 461-001-0000) with a disability (see OAR 461-001-0000), which prevented the parent (see OAR 461-001-0000) from obtaining or keeping employment;

(E) Was an individual with a disability;

(F) Was providing care for a family member who lived in the home and was an individual with a disability;

(G) Was deprived of needed medical care; or

(H) Was subjected to battery or extreme cruelty. For purposes of this rule, an individual was subjected to battery or extreme cruelty if the individual was subjected to one or more of the following:

(i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.

(ii) Sexual abuse.

(iii) Sexual activity involving a dependent child.

(iv) Being forced as the caretaker relative (see OAR 461-001-0000) of a dependent child (see OAR 461-001-0000) to engage in nonconsensual sexual acts or activities.

(v) Threats of, or attempts at, physical or sexual abuse.

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.

(g) Months beginning July 1, 2003 in which the parent or needy caretaker relative resided in Indian Country (as defined in 18 U.S.C. 1151) and 50 percent or more of the adult residents of that area were unemployed. The Department considers an individual to meet the requirements of this subsection if:

(A) The individual resides on an Indian reservation, tribal allotment, or Dependent Indian Community as defined by the Bureau of Indian Affairs; or

(B) The individual is a member of one of the nine federally-recognized tribes in Oregon and resides in a county listed in subparagraph (ii) of this paragraph.

(i) The nine federally-recognized tribes in Oregon are Burns Paiute Tribe; Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians; Confederated Tribes of the Grand Ronde Community of Oregon;

Confederated Tribes of the Siletz Indians; Confederated Tribes of the Umatilla Reservation; Confederated Tribes of Warm Springs; Coquille Indian Tribe; Cow Creek Band of the Umpqua Tribe of Indians; and Klamath Tribes.

(ii) The following Oregon counties are covered under paragraph (B) of this subsection for October 1, 2017 to September 30, 2018: Coos, Crook, Curry, Douglas, Josephine, and Lincoln.

(h) Months beginning October 1, 2007 in which the minor parent head of household or adult is a participant in the JOBS Plus, Pre-TANF, Post-TANF, or SFPSS program.

(i) Months beginning October 1, 2007 in which the individual who is now a parent or pregnant was in that month a minor child and neither the head of a household nor married to the head of a household.

(j) Months beginning October 1, 2011 in which the minor parent head of household or adult is a participant in the JPI program.

(k) Months in which the minor parent head of household or adult is a recipient of Employment Payments (see OAR 461-001-0025 and 461-135-1270) unless a TANF payment was issued in the same month.

(l) Months between July 1, 2008 and April 30, 2012 in which the individual did not qualify for any other TANF time-limit exemption under this rule, and was unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the federally required participation rates (see OAR 461-001-0025) when Oregon's statewide average unemployment rate as published by the Oregon Employment Department was equal to or greater than seven percent. For purposes of this rule, this determination:

(A) Through December 31, 2011 is calculated based on a six-month period as follows:

(i) The time period during July 1, 2008 through June 30, 2009 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period July 1, 2008 through December 31, 2008.

(ii) In each six-month period, starting July 1, 2009 and ending December 31, 2011:

(I) The time period during January 1 through June 30 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period April 1 through September 30 of the preceding year.

(II) The time period during July 1 through December 31 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period October 1 through December 31 of the preceding year and January 1 through March 31 of the current year.

(B) From January 1, 2012 through April 30, 2012 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period April 1 through September 30, 2011.

(2) Months that did not count toward the time limit based on a condition described in paragraphs (1)(f)(B) to (1)(f)(F) of this rule require documentation from a licensed or certified professional qualified to make such a determination.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.079
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 412.049, 412.079
Hist.: 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 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; 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 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 15-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 30-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; 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 24-2014, f. & cert. ef. 10-1-14; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 15-2017(Temp), f. 6-19-17, cert. ef. 7-1-17 thru 9-30-17; SSP 16-2017(Temp), f. 6-28-17, cert. ef. 7-1-17 thru 9-30-17; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-135-0475

Specific Requirements; Pre-TANF Program

(1) This rule explains specific requirements for the Pre-TANF program. The eligibility (see OAR 461-001-0000) criteria of the Pre-TANF program are the same as the TANF program. It is not the intent of the Pre-TANF program to delay the start of TANF program benefits. The purposes of the Pre-TANF program are:

(a) To help individuals find employment or other alternatives;

(b) To assess the employment potential of individuals;

(c) To help individuals determine the service level needed to enhance their employability and their likelihood of becoming self-sufficient;

(d) To determine if a needy caretaker relative (see OAR 461-001-0000) has or may have a barrier (see OAR 461-001-0025) to employment or to family stability (see OAR 461-001-0000).

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(e) To develop an individualized case plan (see OAR 461-001-0025), when appropriate, that establishes goals and identifies suitable activities (see OAR 461-001-0025) that promote family stability and financial independence.

(f) To provide basic living expenses, as described in section (5) of this rule, immediately to families in need.

(2) Applicants for the TANF program whose unverified application indicates the individual meets the TANF eligibility requirements participate in the Pre-TANF program. Their applications for the TANF program are also considered applications for the Pre-TANF program. The Pre-TANF program is open for not longer than 30 days following the filing date (see OAR 461-115-0040).

(3) Individuals in the Pre-TANF program are subject to the requirements of the JOBS program, described in divisions 130 and 190 of this chapter of rules, and they are subject to the requirements of OAR 461-135-0085 pertaining to substance abuse and mental health.

(4) During the Pre-TANF program, each caretaker relative authorized to work in the United States in the need group (see OAR 461-110-0630) must complete an employability screening (see OAR 461-135-0485). At least one caretaker relative in the need group must participate in an overview of the JOBS program (see OAR 461-135-0485). If the employability screening indicates there is or may be a barrier, the individual must be offered additional screenings, at no cost to the individual, by a person with relevant expertise or specialized training. When appropriate, per OAR 461-190-0211, the individual and the Department prepare a case plan that lists the activities of the individual and support services (see OAR 461-001-0025) payments if available.

(5) The Department may provide the individual with basic living expenses necessary to stabilize the household so the individual can accomplish the activities in the case plan. Basic living expenses covered by this section are limited to the current need of the individual for personal incidents that the individual cannot meet with other, immediately available resources. Payments under this section are limited to 100 percent of the payment standard in OAR 461-155-0030 for the benefit group (see OAR 461-110-0750). Payment for "past expenses" is made only when the need of the client cannot be adequately met by a less expensive alternative.

(6) During the Pre-TANF program, an individual may receive support services payments listed in the case plan pursuant to OAR 461-190-0211.

(7) The Pre-TANF program is closed, at any point during the 45 days following the date of request for TANF program benefits, in any of the following circumstances:

(a) The individual is unlikely to become employed due to the employability of the individual, the circumstances affecting the family, or other causes.

(b) The individual fails without good cause (see OAR 461-130-0327) to comply with a requirement of an employment program or the case plan.

(c) In any circumstance that would make an individual ineligible for TANF.

(d) Upon starting a JOBS Plus assignment.

(e) Upon employment and enrollment in Employment Payments (see OAR 461-001-0025) under OAR 461-135-1270 or the Post-TANF program.

(8) If Pre-TANF benefits are closed pursuant to subsection (7)(a) or (b) of this rule, TANF benefits may be opened if all TANF eligibility requirements are met.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049
Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.006, 412.049, 412.064,
Hist.: AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 2-1999,
f. 3-26-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; 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 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 6-2009(Temp), f. & cert. ef.
4-1-09 thru 9-28-09; SSP 16 2009(Temp), f. & cert. ef. 7-1-09 thru 9-28-09; Administrative
correction 10-22-09; SSP 20-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 27-
2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-28-11; SSP 34-2011, f. 12-27-11, cert. ef.
12-29-11; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP
22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-135-0915

Specific Requirements; REF

In the REF program:

(1) To be eligible, an individual must be determined ineligible for TANF.

(2) As used in this rule:

(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) Quit work, including in anticipation of discharge;

(B) Participated in behavior leading to the individual's discharge; or

(C) Voluntarily reduced work hours.

(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 the characteristics and qualities of such individual under similar circumstances would have:

(A) Quit work, including in anticipation of discharge;

(B) Participated in behavior leading to the individual's discharge; or

(C) Voluntarily reduced work hours.

(c) There is no "good cause" if the reason for separation from employment is a labor dispute.

(3) Except as provided otherwise under section (5) of this rule, a member of the need group (see OAR 461-110-0630) has a "violation" if that individual voluntarily quit employment or refused to accept an offer of employment in which that member was hired to work 100 or more hours per month or worked or was scheduled to work 100 or more hours:

(a) Within 30 days prior of the filing date (see OAR 461-115-0040) for REF benefits; or

(b) While receiving REF program benefits.

(4) A member of the need group is not eligible for REF program benefits:

(a) For the first violation (see section (3) of this rule), three payments months from the date that member of the need group was separated from their employment, voluntarily quit their employment, or refused to accept an offer of employment.

(b) For the second violation, six payments months from the date that member of the need group was separated from their employment, voluntarily quit their employment, or refused to accept an offer of employment.

(5) A need group does not have a violation based on section (3) of this rule if at least one of the following subsections applies:

(a) The member was 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 filing date for REF program benefits.

(b) The member was separated from employment for a reason the Department determines is good cause as defined in section (2) of this rule.

(c) The member was separated from employment as a result of a lay-off.

(d) The member was pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.

(e) The member was fleeing from or at risk of domestic violence (see OAR 461-001-0000).

Stat. Auth.: ORS 409.050, 411.060, 411.404

Stats. Implemented: ORS 409.010, 411.060, 411.404

Hist.: SSP 10-2017, f. 3-24-17, cert. ef. 4-1-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-135-0930

Medical Coverage for Refugees; REFM

(1) Benefits in the REFM program are the same medical coverage as any Medicaid or CHIP program, except the QMB and CAWEM programs.

(2) An individual is not required to meet the financial eligibility criteria for the REFM program if the individual meets all the non-financial eligibility criteria for the REFM program and the requirements of at least one of the following subsections:

(a) The individual loses eligibility for any Medicaid or CHIP program, except the QMB and CAWEM programs, due to income from employment.

(b) The individual loses eligibility for any Medicaid or CHIP program, except the QMB and CAWEM programs, and is currently receiving benefits in the REF program.

(c) The individual had medical assistance established in another state based on refugee status granted by the United States Citizenship and Immigration Services, and:

(A) Moved to Oregon and is still within the individual's first eight months in the United States; and

(B) Was found not eligible for any Medicaid or CHIP program other than the CAWEM and QMB programs.

(3) An individual who is determined eligible for the REFM program will maintain eligibility for the REFM program for the remainder of their first eight months in the United States even if the individual loses eligibility for the REF program due to having income equal to or over the countable (see OAR 461-001-0000) income and adjusted income (see OAR 461-001-0000) limits (see OAR 461-155-0030).

(4) An individual applying for the REFM program is not required to apply for or receive benefits in the REF program.

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(5) Except for the CAWEM and QMB programs, eligibility for all Medicaid and CHIP programs must be determined prior to determining eligibility for the REFM program.

(6) An REFM program benefit group (see OAR 461-110-0750) may continue to receive REFM program benefits for the remainder of the eight months, as stated in OAR 461-135-0900(4) of this rule, if:

(a) A newborn is born to a benefit group member while the benefit group member was receiving REFM program benefits; and

(b) The benefit group applied for Medicaid eligibility under MAGI rules (OAR 410-200) and was denied.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 413.085, 414.685

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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 10-2017, f. 3-24-17, cert. ef. 4-1-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-135-1270

Specific Requirements; Employment Payments

(1) Effective April 1, 2016, a benefit group (see OAR 461-110-0630) that includes an individual who meets the requirements in section (2) of this rule is eligible to receive \$225 in Employment Payments (see OAR 461-001-0025) paid over three months as provided in section (3) of this rule.

(2) To be eligible for three months of Employment Payments, an individual in the benefit group (see OAR 461-110-0750) or an individual not in the benefit group due to the time limit in OAR 461-135-0071 must meet all of the following requirements:

(a) Have obtained unsubsidized paid employment and reported it timely.

(b) Have been a JOBS eligible (see OAR 461-130-0310) individual who closed TANF for one of the following reasons:

(A) Became ineligible for the Pre-TANF, SFPSS or TANF programs due to income above the applicable income standard in OAR 461-155-0030.

(B) Voluntarily closed TANF to avoid accruing time toward the time limit in OAR 461-135-0071.

(C) Voluntarily closed TANF to be eligible for TBA (see OAR 461-135-0506).

(c) Meet the TANF residency requirements in OAR 461-120-0010.

(d) Remain at or below 350 percent FPL in OAR 461-155-0180.

(3) Employment Payments begin the month following the month in which Pre-TANF, SFPSS, or TANF benefits close. Payments are limited to one payment per month per benefit group. Payments may not be prorated and are paid in the following amounts and order:

(a) \$100 the first month after benefits close.

(b) \$75 the second month after benefits close.

(c) \$50 the third month after benefits close.

(4) An individual receiving Employment Payments is not eligible for JOBS Plus or JPI (see OAR 461-135-1260).

(5) Employment Payments end when an individual is approved for REF, Pre-TANF, SFPSS, or TANF program benefits or when the loss of unsubsidized paid employment is reported and verified.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.049, 412.124

Stats. Implemented: ORS 409.050, 411.060, 411.070, 412.049, 412.124

Hist.: SSP 15-2016, f. & cert. ef. 4-1-16; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-140-0110

Treatment of Periodic Income

(1) In the SNAP and TANF programs, for a filing group (see OAR 461-110-0330 and 461-110-0370) that includes at least one member who is working under a TANF JOBS Plus agreement, periodic income (see OAR 461-001-0000) is excluded.

(2) In the REF, SNAP, and TANF programs, for filing groups not covered under section (1) of this rule, periodic income is averaged over the applicable period.

(3) In the ERDC program, periodic income is averaged over the applicable period.

(4) In the OSIP-EPD and OSIPM-EPD programs, periodic income received during a certification period (see OAR 461-001-0000) is averaged among the months in the certification period.

(5) In the REFM program, periodic income is averaged over the applicable period if received in the month of application.

(6) In all programs not covered under sections (1) to (4) of this rule, periodic income is counted in the month received.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

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 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

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 REF and REFM programs, the filing group is disqualified if a member of the financial group (see OAR 461-110-0530) transferred the asset while that member was in the U.S. and the asset was located in the U.S.

(b) In the REF, REFM, 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 OSIP and OSIPM programs, a client in a nonstandard 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 REF and REFM programs, during the three years preceding the filing date (see OAR 461-115-0040), if:

(A) The member of the financial group was residing in the U.S. at the time of transfer; and

(B) The asset was a resource.

(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 TANF program, during the three years preceding the filing date (see OAR 461-115-0040) if the asset was a resource.

(5) In the 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(8)(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(9)(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(9)(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(9)(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 409.050, 411.060, 411.404, 411.710, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.404, 411.710, 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 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.

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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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 10-2017, f. 3-24-17, cert. ef. 4-1-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

f. & cert. ef. 7-1-04 thru 9-30-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-140-0220

Determining if a Transfer of an Asset is Disqualifying

A transfer of an asset is not disqualifying if the requirements of OAR 461-140-0242 or one of the following sections are met:

- (1) The asset was personal belongings as described in OAR 461-145-0390.
- (2) The asset was sold or traded for compensation equal to or greater than fair market value.
- (3) The asset was transferred between members of the same financial group, including members who are ineligible aliens or disqualified people.
- (4) The transfer settled a legally enforceable claim against the asset or client.
- (5) The amount of the resource was equal to or less than the amount that was excluded at the initial month (see OAR 461-001-0000) of eligibility under OAR 461-160-0855 due to payments received under a qualified partnership policy (see OAR 461-001-0000).
- (6) In all programs except the OSIP and OSIPM programs, a court ordered the transfer.
- (7) In the OSIP and OSIPM programs, a court ordered the transfer and:

- (a) The transfer occurs more than 36 months or 60 months before the date of request (see OAR 461-115-0030), whichever is applicable under OAR 461-140-0210(5); or

- (b) There is an institutionalized spouse, and, after performing the calculations required in OAR 461-160-0580(2), the amount of resources allocated to a community spouse does not exceed the largest of the four amounts set forth in OAR 461-160-0580(2)(f).

- (8) The client was a victim of fraud, misrepresentation, or coercion, and legal steps have been taken to recover the asset.

- (9) In the OSIP and OSIPM programs, for a client in a nonstandard living arrangement (see OAR 461-001-0000), the asset is an annuity purchased on or before December 31, 2005, the client or the spouse of the client is the annuitant, and the entire amount of principal and earned interest is paid in equal installments during the actuarial life expectancy of the annuitant. For purposes of this section, the actuarial life expectancy is established by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration.

- (10) In the OSIP and OSIPM programs, the client is in a standard living arrangement (see OAR 461-001-0000).

- (11) In the OSIP and OSIPM programs, for a client in a nonstandard living arrangement (see OAR 461-001-0000):

- (a) The asset is an annuity purchased from January 1, 2006 through June 30, 2006, and the client or the spouse of the client is the annuitant.

- (b) The asset is an annuity purchased on or after July 1, 2006, and the annuity meets the requirements of OAR 461-145-0022(10).

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.042, 414.685

Stats. Implemented: ORS 409.010, 410.070, 411.060, 411.070, 411.404, 411.708, 411.816, 412.049, 414.02

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; 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 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 2-2002(Temp), f. & cert. ef. 2-26-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; 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 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 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-145-0001

Adoption Assistance

(1) In all programs except the ERDC, SNAP, and TANF programs, adoption assistance (see OAR 461-001-0000) is treated as follows:

- (a) The portion of adoption assistance that is for the special needs of the child is excluded, including needs such as special diet, special clothing, counseling, and medical costs not covered under Title XIX.

- (b) The rest of the adoption assistance is counted as unearned income.

- (2) In the ERDC and TANF programs, adoption assistance is excluded.

- (3) In the SNAP program, adoption assistance is counted as unearned income.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.122, 411.404, 411.816, 412.014, 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 24-2001, f. & cert. ef. 11-1-01; SSP 16-2004(Temp),

461-145-0110

Domestic Volunteer Services Act (VISTA, RSVP) and Small Business Act (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, OSIP, OSIPM, and QMB programs, these payments are excluded, except that in the ERDC program, 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 all programs except the ERDC, OSIP, OSIPM, QMB, 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.

- (c) In the REF, REFM, and TANF programs, the value of the educational award is excluded; all remaining payments count as earned income.

- (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 15 USC 637(a)(1) (the Small Business Act), which include:

- (a) Service Corps of Retired Executives (SCORE); and

- (b) Active Corps of Executives (ACE).

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 14-2017, f. 6-5-17, cert. ef. 7-1-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-145-0200

Foster Care Payments and Guardianship Assistance Benefits

Payments for foster care and benefits from the Guardianship Assistance program are treated as follows:

- (1) In all programs except the ERDC, SNAP, and TANF programs:

- (a) If the provider of foster care or the guardian is in the financial group (see OAR 461-110-0530), the payments or benefits are treated as earned income except that it is excluded in the following situations:

- (A) The amount the placement agency identifies as being for room and board, clothing, or personal incidental needs (including recreational expenses) of the foster care client is excluded.

- (B) The amount designated for special need items of the foster care client is excluded.

- (b) If the provider of foster care or the guardian is not in the financial group, the payments or benefits are excluded.

- (2) In the ERDC program, the payments or benefits are excluded.

- (3) In the SNAP program:

- (a) The payments or benefits are counted as unearned income only if the person in foster care or under guardianship is in the filing group (see OAR 461-110-0370). The payments or benefits are excluded if the person in foster care or under guardianship is in the household group (see OAR 461-110-0210) but not in the filing group.

- (b) The payments or benefits are counted as self-employment income if the provider of foster care and the person receiving the care or the guardian and the person under guardianship are not in the same household group.

- (4) In the TANF program:

- (a) For adult foster care, if the provider or the guardian is in the financial group, the payments or benefits are treated as earned income except that they are excluded in the following situations:

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(A) The amount the placement agency identifies as being for room and board, clothing, or personal incidental needs (including recreational expenses) of the foster care client is excluded.

(B) The amount designated for special items of the foster care client is excluded.

(b) For adult foster care, if the provider or the guardian is not in the financial group, the payments or benefits are excluded.

(c) Payments or benefits for children in foster care are excluded.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.050, 409.610, 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 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 1-1993, f. & cert. ef. 2-1-93; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 2-2015(Temp), f. & cert. ef. 1-1-15 thru 6-29-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-145-0250

Income-Producing Property; Not OSIP, OSIPM, or QMB

(1) In all programs except the REF, REFM, and TANF programs, 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.

(2) In the REF, REFM, and TANF programs, income from income producing property is treated in the same manner as self-employment income (see OAR 461-145-0910, 461-145-0920, and 461-145-0930)

(3) 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 (see OAR 461-001-0000) 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 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 (see OAR 461-001-0025) component of the JOBS program.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.083, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.083, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685

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; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

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, Kelley Blue Book, or similar publication. 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, or 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 (see OAR 461-110-0530):

(a) In the REF, REFM, SNAP, and TANF programs, this exclusion is up to \$10,000 of the total equity value of all vehicles.

(b) Any remaining equity in the total equity value of all vehicles is counted as a resource.

(3) In the EA and ERDC programs, all motor vehicles are excluded.

(4) In the OSIP, OSIPM, and QMB-DW 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 329A.500, 409.050, 411.060, 411.070, 411.083, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 413.085, 414.065

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.083, 411.117, 411.404, 411.704, 411.706, 411.816, 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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

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 (see OAR 461-001-0000).

(2) The applicant has the burden of proof of establishing the fair market value (see OAR 461-001-0000) of real property. 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 an 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 OSIP, OSIPM, and QMB-DW 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 and 461-145-0252.

(5) The treatment of the home of the financial group is covered in OAR 461-145-0220.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.404, 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 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-

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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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-160-0010

Use of Resources in Determining Financial Eligibility

Countable (see OAR 461-001-0000) resources are used to determine eligibility (see OAR 461-001-0000) 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 ERDC, QMB-DW, REF, REFM, 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 (see 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 (see OAR 461-160-0015).

(a) When a child (see OAR 461-001-0000) is applying, the parental resources (see subsection (b) of this section) are deemed available to the child. The amount deemed available to the child is the amount the parental resources exceed the resource limit (see OAR 461-160-0015) of:

(A) A one person need group, if one parent (see OAR 461-001-0000) lives in the child's household; or

(B) A two person need group, if two parents (or one parent and the spouse (see OAR 461-001-0000) of that parent) live in the child's household.

(b) As used in this section, "parental resources" means 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 is not eligible for benefits if the financial group has countable resources above the resource limit (see 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.

(5) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all resources are excluded and have no effect on eligibility (see OAR 461-160-0015).

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.117, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685, 414.839

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; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-165-0180

Eligibility of Child Care Providers

(1) The Department must approve a child care provider to receive payment for child care if information available to the Department provides no basis for denying eligibility unless the Department determines, following a final fitness determination (see OAR 125-007-0260 and 407-007-0320) or Child Protective Service (CPS) records checks, that the provider or other subject individual (see OAR 125-007-0210 and 407-007-0210(8)(a)(J)) is not eligible for payment.

(2) Ineligibility for payment may result from any of the following:

(a) A finding of "denied".

(A) A provider may be "denied" under OAR 461-165-0410 and 461-165-0420. If, after conducting a weighing test as described in OAR 407-

007-0300, the Department finds substantial risk to the health or safety of a child (see OAR 461-001-0000) in the care of the provider, the provider must be "denied" and is ineligible for payment.

(B) A provider who has been "denied" has the right to a hearing under OAR 407-007-0335.

(b) A finding of "failed".

(A) A provider may be "failed" if the Department determines, based on a specific eligibility requirement and evidence, that a provider does not meet an eligibility requirement of this rule not covered in paragraph (c)(A) of this section.

(B) While the provider is in "failed" status:

(i) The Department does not pay any other child care provider for child care at the "failed" provider's site.

(ii) The Department does not pay a child care provider at another site if the "failed" provider is involved in the child care operation unless the Department determines that the reasons the provider is in "failed" status are not relevant to the new site.

(C) A provider with a status of "failed" may reapply at any time by providing the required documents and information to the Department for review.

(c) A finding of "suspended".

(A) A provider may be "suspended" if the Department determines and provides notice that the provider does not meet an eligibility requirement in the following subsections and paragraphs of section (7) of this rule: (d), (e), (h), (i), (j), (k), (L), (o)(H), (o)(I), (o)(L), or (t) or in section (10) of this rule. A provider who has been "suspended" may challenge this status by requesting a contested case hearing subject to the requirements and limitations of OAR 461-025.

(B) While the provider is in "suspended" status:

(i) The provider is ineligible for payment for at least six months.

(ii) The Department does not pay any other child care provider for child care at the "suspended" provider's site.

(iii) The Department does not pay a child care provider at another site if the "suspended" provider is involved in the child care operation unless the Department determines that the reasons the provider is in "suspended" status are not relevant to the new site.

(C) A provider with a status of "suspended" may be eligible for payments after the six month ineligibility period ends when the provider has been approved following reapplication, including providing the required documents and information to the Department for review.

(d) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.

(3) The provider must submit a completed Child Care Provider Listing Form (DHS 7494) to the Department within 30 calendar days from the date the Department issues the listing form to the client. The provider and each individual identified under section (4) of this rule must complete and sign the authorization for a records check through the Criminal History (CH) record system maintained by the Oregon State Police (OSP), Federal Bureau of Investigation (FBI), and the Child Protective Service (CPS) record system maintained by the Department and, if necessary, an authorization to release information and fingerprint cards. The provider, each individual described in section (4) of this rule, and each subject individual described in OAR 125-007-0210 and 407-007-0210(8)(a)(J) must fully disclose all requested information as part of the records check.

(4) This rule also establishes additional requirements for the following individuals:

(a) The site director of an exempt child care facility and each employee of the facility who may have unsupervised access to a child in care.

(b) The child care provider and each individual the provider uses to supervise a child in his or her absence.

(c) In the case of a provider who provides care for a child in the provider's home:

(A) Each individual 16 years of age or older who lives in the provider's home; and

(B) Each individual who visits the home of the provider during the hours care is provided and may have unsupervised access to a child in care.

(5) To receive payment or authorization for payment, the provider must comply with at least one of the following subsections:

(a) If the provider is not legally exempt (see section (11) of this rule):

(A) Be currently certified or registered with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250 and be in compliance with the applicable rules;

(B) Complete the Department's background check process;

(C) Complete the Department's listing process; and

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- (D) Be approved by the Department.
- (b) If the provider is legally exempt and a legally exempt relative (see section (11) of this rule):
- (A) Complete the Department's background check process;
 - (B) Complete the Department's listing process; and
 - (C) Be approved by the Department.
- (c) If the provider is legally exempt and not a legally exempt relative for all children in care:
- (A) Meet all OCC Regulated Subsidy Provider requirements under OAR 414-180-0005 through 414-180-0100;
 - (B) Submit to and pass a site visit at the location where care will be provided;
 - (C) Complete the Department's background check process;
 - (D) Complete the Department's listing process; and
 - (E) Be approved by the Department.
- (6) Each individual described in section (4) of this rule must:
- (a) Allow the Department to conduct a national criminal history records check through the Oregon State Police and the Federal Bureau of Investigation as specified in OAR 407-007-0250.
 - (b) Provide, in a manner specified by the Department, information required to conduct CH, FBI, OSP, and CPS records checks and determine whether the provider meets health and safety requirements.
 - (c) Have a history of behavior that indicates no substantial risk to the health or safety of a child in the care of the provider.
- (7) Each provider must:
- (a) Obtain written approval from their certifier or certifier's supervisor if the provider is also certified as a foster parent.
 - (b) Be 18 years of age or older and in such physical and mental health as will not affect adversely the ability to meet the needs of safety, health, and well-being of a child in care.
 - (c) Not be in the same filing group (see OAR 461-110-0310 and 461-110-0350) as the child cared for; the parent (see OAR 461-001-0000) of a child in the filing group; or a sibling living in the home of a child in the filing group.
 - (d) Allow the Department to inspect the site of care while child care is provided.
 - (e) Keep daily attendance records showing the arrival and departure times for each child in care and billing records for each child receiving child care benefits from the Department. These written records must be retained for a minimum of 12 months and provided to the Department upon request.
 - (f) Be the individual or facility listed as providing the child care. The provider may only use someone else to supervise a child on a temporary basis if the person was included on the most current listing form and the provider notifies the Department's Direct Pay Unit.
 - (g) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.
 - (h) Report to the Department's Direct Pay Unit within five days of occurrence:
 - (A) Any arrest or conviction of any subject individual or individual described in section (4) of this rule.
 - (B) Any involvement of any subject individual or individual described in section (4) of this rule with CPS or any other agencies providing child or adult protective services.
 - (C) Any change to the provider's name or address including any location where care is provided.
 - (D) The addition of any subject individual or individual described in section (4) of this rule.
 - (E) Any reason the provider no longer meets the requirements under this rule.
 - (i) Report suspected child abuse of any child in his or her care to CPS or a law enforcement agency.
 - (j) Supervise each child in care at all times.
 - (k) Prevent any individual who behaves in a manner that may harm children from having access to a child in the care of the provider. This includes anyone under the influence (see section (11) of this rule).
 - (L) Allow the custodial parent of a child in his or her care to have immediate access to the child at all times.
 - (m) Inform a parent of the need to obtain immunizations for a child and have a completed, up-to-date Oregon shot record called the "Certification of Immunization Status" (CIS) form on file for each child in care.
 - (n) Take reasonable steps to protect a child in his or her care from the spread of infectious diseases.
 - (o) Ensure that the home or facility where care is provided meets all of the following standards:
 - (A) Each floor level used by a child has two usable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a usable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency.
 - (B) The home or facility has safe drinking water.
 - (C) The home or facility has a working smoke detector on each floor level and in any area where a child naps.
 - (D) Each fireplace, space heater, electrical outlet, wood stove, stairway, pool, pond, and any other hazard has a barrier to protect a child. Any gate or barrier may not pose a risk or hazard to any child in care.
 - (E) Any firearm, ammunition, and other items that may be dangerous to children, including but not limited to alcohol, inhalants, tobacco and e-cigarette products, matches and lighters, any legally prescribed or over-the-counter medicine, cleaning supplies, paint, plastic bags, and poisonous and toxic materials are kept in a secure place out of a child's reach.
 - (F) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard free condition.
 - (G) The home or facility has a telephone in operating condition.
 - (H) No one may smoke or carry any lighted smoking instrument, including e-cigarettes or vaporizers, in the home or facility or within ten feet of any entrance, exit, window that opens, or any ventilation intake that serves an enclosed area, during child care operational hours or anytime child care children are present. No one may use smokeless tobacco in the home or facility during child care operational hours or anytime child care children are present. No one may smoke or carry any lighted smoking instrument, including e-cigarettes and vaporizers, or use smokeless tobacco in motor vehicles while child care children are passengers.
 - (I) No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) on the premises (see section (11) of this rule) during child care operational hours or anytime child care children are present. No one under the influence of alcohol, controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) may be on the premises during child care operational hours or anytime child care children are present. No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) in motor vehicles while child care children are passengers.
 - (J) Is not a half-way house, hotel, motel, shelter, or other temporary housing such as a tent, trailer, or motor home. The restriction in this paragraph does not apply to licensed (registered or certified) care approved in a hotel, motel, or shelter.
 - (K) Is not a structure.
 - (i) Designed to be transportable; and
 - (ii) Not attached to the ground, another structure, or to any utilities system on the same premises.
 - (L) Controlled substances (except lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana, marijuana edibles, and other products containing marijuana), marijuana plants, derivatives, and associated paraphernalia may not be on the premises during child care operational hours or anytime child care children are present.
 - (p) Complete and submit a new listing form every two years, or sooner at the request of the Department, so that the Department may review the provider's eligibility.
 - (q) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.
 - (r) Comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, and crib standards under 16 CFR 1219 and 1220.
 - (s) Place infants to sleep on their backs.
 - (t) Not hold a medical marijuana card; or distribute, grow, or use marijuana (including medical marijuana) or any controlled substance (except lawfully prescribed and over-the-counter medications).
 - (u) Develop and communicate expulsion and suspension policies to parents and caretakers.
 - (v) Provide care at a location within the state of Oregon.
- (8) Legally exempt providers must complete the "Introduction to Child Care Health and Safety" two-hour, web-based training as provided in the following subsections:

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(a) Legally exempt providers with a list date prior to November 1, 2016, must complete the "Introduction to Child Care Health and Safety" training by June 30, 2017.

(b) Legally exempt providers with a list date of November 1, 2016 or later must complete the "Introduction to Child Care Health and Safety" prior to Department approval.

(9) Legally exempt providers must complete an orientation provided by the Department or a Child Care Resource and Referral agency within 90 days of being approved by the Department if he or she:

(a) Receives funds from the Department; and

(b) Begins providing child care services after June 30, 2010, or resumes providing child care services, after a break of more than one year that began after June 30, 2010.

(10) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be under the influence.

(11) For purposes of these rules:

(a) "Premises" means the home or facility structure and grounds, including indoors and outdoors and space not directly used for child care.

(b) "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.

(c) "Legally exempt" means the child care provider is exempt from licensing with the OCC because the provider is not subject to the licensing requirements under OAR 414-205-0000 to 414-205-0170, 414-350-000 to 414-350-0405, and 414-300-0000 to 414-300-0415.

(d) "Legally exempt relative" means a legally exempt provider who is a relative to all children in care including a great-grandparent, grandparent, aunt, uncle, or sibling not living in the home of any child in care.

(12) Legally exempt providers that are not a legally exempt relative to all children in care must meet all of the requirements in this section before approval by the Department, unless otherwise noted:

(a) Have an up-to-date, in-person infant and child CPR and first aid certification or have a currently valid waiver of this requirement from the Child Care Resource and Referral program.

(b) Complete the Recognizing and Reporting Child Abuse and Neglect (RRCAN) web-based training.

(c) Complete six hours of ongoing education in each two-year listing period as provided in this subsection. All trainings must be accepted by the Oregon Center for Career Development (OCCD) and be part of the OCCD's 10 Core Knowledge Categories recognized by Oregon Registry Online to count toward the six hours.

(A) Two of the six hours must fall under the "Human Growth and Development" category; and

(B) Two of the six hours must cover "Understanding & Guiding Behavior".

(13) Child care centers or programs that are legally exempt from certification or registration with the OCC, are located in a commercial or institutional facility, and receive payment from the Department on behalf of a family receiving a child care subsidy, may not exceed the following staff to children in care ratios:

(a) Six weeks through 23 months of age, the minimum number of staff to children is one to four. The maximum number of children in a group is eight.

(b) 24 months through 35 months of age, the minimum number of staff to children is one to five. The maximum number of children in a group is 10.

(c) 36 months of age to attending kindergarten, minimum number of staff to children is one to 10. The maximum number of children in a group is 20.

(d) Attending kindergarten and older, the minimum number of staff to children is one to 15. The maximum number of children in a group is 30.

(e) In a mixed-age group of children, the number of staff and group size shall be determined by the age of the youngest child in the group.

Stat. Auth.: ORS 181.537, 329A.500, 409.050, 411.060, 411.070

Stats. Implemented: ORS 181.537, 329A.340, 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 17-1994(Temp), f. & cert. ef. 8-15-94; 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 2-1997, f. 2-27-97, cert. ef. 3-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 12-1997, f. & cert. ef. 8-25-97; AFS 14-1999, f. & cert. ef. 11-1-99; 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 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 13-2004, f. 4-29-04, cert. ef. 5-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 6-2005(Temp), f. & cert. ef. 4-25-05 thru 9-30-05; 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 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 5-2014(Temp), f. 2-4-14, cert. ef. 3-1-14 thru 8-28-14; SSP 10-2014(Temp), f. & cert. ef. 4-1-14 thru 8-28-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 21-2014(Temp), f. & cert. ef. 8-13-14 thru 2-9-15; SSP 6-2015, f. 1-30-15, cert. ef. 2-1-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 3-2016(Temp), f. & cert. ef. 1-20-16 thru 7-17-16; SSP 12-2016(Temp), f. & cert. ef. 3-14-16 thru 7-17-16; SSP 22-2016(Temp), f. & cert. ef. 5-23-16 thru 11-18-16; SSP 27-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 11-18-16; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 29-2016, f. & cert. ef. 8-1-16; SSP 37-2016(Temp), f. 9-30-16, cert. ef. 10-1-16 thru 3-29-17; SSP 41-2016(Temp), f. & cert. ef. 11-1-16 thru 4-29-17; SSP 40-2016, f. & cert. ef. 11-1-16; SSP 45-2016, f. 12-20-16, cert. ef. 1-1-17; SSP 12-2017(Temp), f. & cert. ef. 6-1-17 thru 11-27-17; SSP 19-2017(Temp), f. & cert. ef. 8-8-17 thru 11-27-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

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 OSIPM program, the date benefits are requested for the individual establishes a date of request (see OAR 461-115-0030) for the individual. The effective date for the individual is determined in accordance with OAR 461-180-0090.

(b) In the REFM program, it is whichever occurs first:

(A) The date the individual requests benefits, if the individual was eligible as of that date.

(B) The date all eligibility requirements are met.

(c) In the SNAP program:

(A) If adding the individual increases benefits, it is the first of the month after the filing group (see OAR 461-110-0310 and 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).

(d) 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).

(e) 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.

(f) 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.

(g) In the SFPSS, TA-DVS, and TANF programs, for adding a child (see OAR 461-001-0000) 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 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 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 30 days after the birth; or

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(B) The date all eligibility factors are met and verified, if the verification is completed more than 30 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 329A.500, 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 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 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; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 32-2015(Temp), f. & cert. ef. 12-15-15 thru 6-11-16; SSP 4-2016(Temp), f. & cert. ef. 1-22-16 thru 6-11-16; SSP 13-2016, f. 3-21-16, cert. ef. 4-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-180-0070

Effective Dates; Initial Month Benefits

(1) In the EA program, the effective date for opening the case is the day benefits are issued to the benefit group (see OAR 461-110-0750). For a benefit group whose only eligible child is an unborn, the effective date cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.

(2) In the ERDC program, the effective date for starting benefits is one of the following:

(a) The first day of the month in which the request for benefits is made if:

(A) All eligibility (see OAR 461-001-0000) requirements are met in that month; and

(B) Verification is provided within the application processing timeframes.

(b) If all eligibility requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification is provided within the application processing timeframes.

(c) For a benefit group that received TANF program benefits within the 30 days before applying for ERDC program benefits, the effective date is the first of the month following closure of their TANF program benefits.

(3) In the GA program, the effective date for the initial month (see OAR 461-001-0000) of benefits is the first of the month following the day all eligibility requirements are met and verified.

(4) In the OSIP program, the effective date for the initial month of benefits is whichever of the following occurs first:

(a) The date an individual requests benefits, if the individual was eligible as of that date.

(b) The date all eligibility requirements are met.

(5) In the REF program, when a filing group (see OAR 461-110-0430) makes an initial application, the effective date for starting benefits is:

(a) If all eligibility requirements, including an interview, are completed by the 30th day from the filing date (see OAR 461-115-0040), the effective date for starting benefits is the filing date.

(b) If all eligibility requirements are not met by the 30th day from the filing date, a new filing date must be established.

(6) In the TANF program, when a filing group (see OAR 461-110-0330) makes an initial application or applies after the end of the certification period (see OAR 461-001-0000), the effective date for starting TANF benefits is one of the following:

(a) Except as provided in subsections (b) to (d) of this section, if all eligibility requirements, including a TANF interview, are completed by the 30th day from the filing date, the effective date for starting benefits is the filing date. If all eligibility requirements are not met by the 30th day from the filing date, a new filing date must be established.

(b) If the only eligible child is an unborn, the effective date may not be earlier than the first day of the calendar month prior to the month in which the due date falls.

(c) For an individual in the Pre-TANF program, the effective date for the initial month of benefits is the date the Pre-TANF program ends as provided in OAR 461-135-0475.

(d) For a JOBS support service payment, the effective date is the date the individual meets all eligibility requirements in OAR 461-190-0211.

(7) In the SFPSS program, when moving a TANF program recipient to SFPSS, the effective date for the initial month of SFPSS program benefits is:

(a) Except as provided in subsection (b) of this section, the first of the month following the day all eligibility requirements are met and verified.

(b) If the day all eligibility requirements are met and verified falls after the "compute deadline," the initial month of SFPSS program benefits will be the first of the month following the month after "compute deadline." For purposes of this rule, "compute deadline" means the Department computer system monthly deadline after which changes will not take effect until the month following the first of the next month.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 412.064, 413.085, 414.685

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 2-1992, f. 7-31-92, cert. ef. 8-1-92; 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; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 32-2015(Temp), f. & cert. ef. 12-15-15 thru 6-11-16; SSP 4-2016(Temp), f. & cert. ef. 1-22-16 thru 6-11-16; SSP 13-2016, f. 3-21-16, cert. ef. 4-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-190-0171

Education Requirements for Teen Parents; JOBS

(1) Except as provided in section (2) of this rule, a teen parent (see OAR 461-001-0025) who participates in the JOBS program and does not have a high school diploma or GED must participate in the basic education component (see OAR 461-001-0025).

(2) A teen parent is excused from the requirements of section (1) of this rule if any of the following subsections apply:

(a) The teen parent is a JOBS volunteer (see OAR 461-130-0310) from the requirement to participate in the JOBS program 16 weeks after the birth of a child, except that the teen parent may be required to participate in suitable activities with a preference for educational activities, parenting classes, and family stability activities (see OAR 461-001-0000).

(b) The teen parent is under age 18, has been excused by the local school district from state compulsory school attendance, and meets the following conditions:

(A) The employment goal of the teen parent is an occupation or occupational field that does not require a high school diploma or GED, there is a labor market demand for it, and the goal is appropriate for the teen parent and likely to lead to self-sufficiency; and

(B) The teen parent is participating in the job skills training component (see OAR 461-001-0025) and an education component (see OAR 461-001-0025) designed to result in a literacy level of at least grade 8.9.

(c) The teen parent is age 18 or 19 and can be assigned to employment training to prepare for occupations or occupational fields for which there is a labor market demand, and either the teen parent has failed to achieve good or satisfactory progress (see OAR 461-001-0025) in completing educational activities (see OAR 461-001-0025) or educational activities are inappropriate for the education and employment goals of the teen parent.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.009, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.006, 412.009, 412.049

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; 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 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; 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 22-2017, f. 9-8-17 & cert. ef. 10-1-17

ADMINISTRATIVE RULES

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 available to the following individuals:

(a) An individual who is an adult parent, needy caretaker relative (see OAR 461-001-0000), or teen parent (see OAR 461-001-0000) receiving TANF who is not otherwise exempt (see OAR 461-130-0305) and in accordance with participation requirements in OAR 461-130-0310.

(b) An individual who is an applicant or recipient in the Pre-TANF, Post-TANF, or SFPSS program.

(c) Subject to local services and budget, an individual who is a JOBS volunteer (see OAR 461-130-0310).

(d) 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).

(e) An individual who has become over-income for the TANF program due to earnings in an on-the-job training (see OAR 461-001-0000) activity is eligible to receive support services (see OAR 461-001-0025) for no more than three months, unless circumstances unique to the situation are identified and warrant the Department to approve a limited number of additional months. Eligibility for support services under this subsection is only permitted while the individual continues to participate in the on-the-job training activity.

(2) For eligible individuals, subject to the requirements and limitations in sections (1), (5), (6), and (7) of this rule, the following activities are 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) 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) activity.

(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) Rehabilitation activities (see OAR 461-001-0025).

(E) Crisis Intervention (see OAR 461-001-0025).

(F) SSI application process.

(G) Domestic violence (see OAR 461-001-0000) intervention.

(h) Vocational training (see OAR 461-001-0025).

(i) Life skills (see OAR 461-001-0025).

(j) On-the-job training.

(k) Unsubsidized employment (work).

(L) Adult Basic Education (see OAR 461-001-0025).

(m) Job skills training (see OAR 461-001-0025).

(n) Self-initiated training (see OAR 461-001-0025).

(o) Program entry (see OAR 461-001-0025)

(3) The following activities do not include support services payments:

(a) Family Support & Connections.

(b) Microenterprise (see OAR 461-001-0000).

(c) Post-TANF.

(4) In approving JOBS program support services payments, the Department must consider lower cost alternatives. This rule is not intended to supplant Department funding with other funding that is available in the community. The expectation of the Department is that Department staff and participants work collaboratively to seek resources that are reasonably available to the participant in order to participate in activities.

(5) 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.

(6) 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 individuals to participate in

an approved JOBS program activity specified in the individual's case plan, including an individual approved by the district to complete a family stability activity. If authorized, payment for child care is:

(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 an individual for transportation costs incurred in travel to and from an approved JOBS program activity or an individual approved by the district to complete a family stability activity. Payment is made only for the cost of public transportation, the cost of fuel, or for minimal vehicle repairs. 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 provided if the participant or individual providing the transportation reports having a valid driver's license and vehicle insurance and either of the following is true:

(i) No public transportation is available or the participant 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) Payment for vehicle repairs may be authorized at the discretion of the district if the following are true:

(i) No reasonable public transportation is available; and

(ii) The costs to repair the participant's vehicle is reasonable in relation to the value of the vehicle and the minimum necessary.

(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 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 JOBS Exempt (see OAR 461-130-0310) individuals.

(F) Pet-related costs.

(G) ERDC co-payments.

(7) 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.

(8) The Department may reduce, close, or deny in whole or in part a 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.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.121, 412.006, 412.009, 412.014, 412.049, 412.124

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.121, 412.001, 412.006, 412.009, 412.014, 412.049, 412.124

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-

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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; SSP 6-2014(Temp), f. & cert. ef. 3-5-14 thru 9-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 3-2015(Temp), f. & cert. ef. 1-1-15 thru 6-29-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 18-2015(Temp), f. 6-30-15, cert. ef. 7-1-15 thru 12-27-15; SSP 34-2015, f. 12-22-15, cert. ef. 12-28-15; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 3-2017(Temp), f. 2-28-17, cert. ef. 3-1-17 thru 6-30-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-190-0231

Re-engagement; JOBS, Pre-TANF, REF Employment Program, SFPSS, TA-DVS

In the JOBS, Pre-TANF, REF Employment Program, SFPSS, and TA-DVS programs:

(1) When aspects of the case plan have not been met or are in dispute, the re-engagement process provides an opportunity for the individual and the Department to:

- (a) Review and re-evaluate the case plan and other information gathered related to the strengths and barriers of the individual;
- (b) Identify participation expectations, concerns related to participation, and completion of activities in the case plan;
- (c) Consider whether the case plan is still appropriate;
- (d) Develop options that support full participation; and
- (e) Revise the case plan if appropriate.

(2) The re-engagement process is intended to assist the Department in identifying whether the individual is unable to fully participate or whether the individual is refusing to participate in the case plan of the individual.

(a) In the JOBS, Pre-TANF, REF Employment Program, and SFPSS programs, if:

(A) A screening for physical or mental health needs, substance abuse, domestic violence (see OAR 461-001-0000), or learning needs has not been completed, the re-engagement process requires an additional opportunity to initiate those screenings for potential barriers to participation not previously identified.

(B) A screening described in paragraph (A) of this subsection indicates follow-up is needed. The re-engagement process requires an opportunity to initiate the follow-up for potential barriers to participation not previously identified.

(b) Circumstances that require a determination of whether good cause (see OAR 461-130-0327) exists include disagreements about the case plan, irregular attendance at activities, missed appointments, failure to participate in a component of the case plan, and (in the JOBS program) refusal to accept or maintain employment.

(c) In the TA-DVS program, there are no participation requirements. The re-engagement process is intended to provide an opportunity to address problems with the case plan (see OAR 461-135-1230) and an opportunity to modify the case plan.

(3) In the JOBS and REF Employment programs, the re-engagement process must include:

(a) Assessing the risk of harm posed to the children in the filing group by the reduction in aid payments and taking steps to ameliorate the risk.

(b) An attempted home visit.

(4) The individual, the Department, or the Department's contractor may initiate the re-engagement process. The re-engagement process is not a required activity. The Department may not disqualify individuals based on their failure to participate in the re-engagement process.

(5) The individual or Department may invite partner agencies, Department contractors, persons currently working with the individual, or other individuals who have information relevant to the re-engagement process to any appointments or meetings scheduled as part of the process.

(6) The re-engagement process ends when any of the following subsections applies:

(a) In the JOBS and Pre-TANF programs, when any of the following paragraphs applies:

(A) The Department has determined the individual has met federally required participation rates (see OAR 461-001-0025).

(B) The Department and the participant agree to a modified case plan.

(C) The Department has determined the individual is exempt from JOBS Employment Program participation and disqualification under OAR 461-130-0310.

(D) The Department has determined the individual is a JOBS volunteer (see OAR 461-130-0310).

(E) The efforts to re-engage are unsuccessful for any of the following reasons:

(i) The individual clearly indicates an intent not to participate in the re-engagement process;

(ii) The individual refuses to participate in the individual's case plan and has the ability to engage;

(iii) The individual has no barriers or refuses to take appropriate steps to address identified barriers to participation in the program; or

(iv) The Department determines that an individual did not have good cause (see OAR 461-130-0327) for not complying with a requirement of the JOBS employment program, and the individual is able but unwilling to address the issue through activities that address barriers or through case plan modifications.

(b) In the REF Employment Program, when any of the following paragraphs applies:

(A) The Department has determined the individual is exempt from REF Employment Program participation and disqualification under OAR 461-130-0310(2)(a).

(B) The individual clearly indicates an intent not to participate in the re-engagement process.

(C) The individual is willfully non-compliant and has the ability to be fully engaged.

(D) A decision is made by the Department that an individual did not have good cause for not complying with a requirement of the REF Employment Program.

(c) In the SFPSS program, after a review team consisting of SFPSS program staff including the case manager, disability analyst, and appropriate medical professional determine the individual does not have good cause for non-cooperation and no accommodations or modifications can be made to support the client being re-engaged.

(7) The re-engagement process must end unsuccessfully before the Department begins the process of disqualifying an individual for a failure to comply with a requirement of the JOBS or REF Employment programs.

(8) In the SFPSS program, when the re-engagement process ends unsuccessfully, an individual removed from the program is returned to the TANF program.

(9) For a participant in the Parents as Scholars (PAS) component of the JOBS program, when re-engagement ends unsuccessfully, PAS is ended pursuant to OAR 461-190-0199.

Stat. Auth.: ORS 409.050, 411.060, 412.009, 412.014, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.117, 412.009, 412.014, 412.049

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 21-1995, 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 18-1998, f. & cert. ef. 10-2-98; 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 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 10-2017, f. 3-24-17, cert. ef. 4-1-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

461-190-0310

Limits to SNAP Employment and Training Components and Activities

(1) The SNAP Employment and Training Program for all clients except mandatory ABAWD living in SNAP time limit counties (see OAR 461-135-0520):

(a) In Multnomah and Washington Counties ends effective November 30, 2015.

(b) In Clackamas County ends effective September 30, 2016.

(c) In Benton, Lane, Lincoln, Linn, Marion, Polk and Yamhill Counties ends effective September 30, 2017.

(d) Is not offered to clients served by APD or AAA offices.

(e) Is voluntary for all other clients effective September 30, 2016.

(2) For an ABAWD (see OAR 461-135-0520) residing in one of the SNAP time limit counties:

(a) The case plan may not require more than 20 hours of activities per week.

(b) Except for Workforce Innovation and Opportunity Act (WIOA) (see OAR 461-001-0020) and Workfare (see OAR 461-190-0500), a client may not be required to participate in job search activities more than nine hours per week. The balance of the 20 hours per week must be in work-related or training (not job search) activities.

(c) The client may participate in a Workfare program under OAR 461-190-0500.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 18-1998, f. & cert. ef. 10-2-98; 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 13-2002, f. & cert. ef. 10-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

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461-190-0406

Eligibility of Clients

(1) Any participant not excluded from participation by law, if eligible for the TANF program, may volunteer to participate in the JOBS Plus program. If there are no volunteers available to participate, the Department may select participants from among eligible participants. Recipients of SSI and teenage parents who remain in high school, if they are making progress toward receiving a diploma, are exempt from participation in the JOBS Plus program.

(2) Participants remain eligible to participate as long as they would, except for participating in the JOBS Plus program, be eligible for TANF.

(3) The benefits of participants remain suspended until the first day of the month following the month in which they last perform work under a JOBS Plus agreement. TANF participants cannot receive TANF cash benefits and a JOBS Plus supplement for the same month.

Stat. Auth.: ORS 409.050, 411.060, 411.816

Stats. Implemented: ORS 409.010, 411.060, 411.816

Hist.: AFS 18-1998, f. & cert. ef. 10-2-98; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17

Rule Caption: Amending rules relating to APD medical programs

Adm. Order No.: SSP 23-2017

Filed with Sec. of State: 9-11-2017

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Notice Publication Date: 8-1-2017

Rules Amended: 461-001-0000, 461-110-0210, 461-110-0410, 461-110-0530, 461-115-0090, 461-120-0310, 461-120-0315, 461-120-0330, 461-135-0745, 461-135-0750, 461-135-0780, 461-135-0875, 461-135-0950, 461-140-0070, 461-145-0010, 461-145-0080, 461-145-0140, 461-145-0261, 461-145-0330, 461-145-0370, 461-145-0380, 461-155-0250, 461-155-0600, 461-155-0610, 461-155-0680, 461-160-0620, 461-160-0630, 461-175-0230, 461-180-0090

Rules Repealed: 461-115-0090(T), 461-135-0950(T), 461-180-0090(T)

Subject: OAR 461-001-0000 defining terms is being amended to add definitions of “blind work expenses” and “impairment related work expenses” as well as to revise the definitions of “child”, “long term care” and “nonstandard living arrangement” to support program requirements, make the rules consistent, and follow federal requirements. This rule is also being amended to treat emancipated minors in the same manner as adults for the REF and REFM programs and change the definition of “teen parent” to support program requirements for teens and participation in the JOBS, REF, REFM, and TANF programs.

OAR 461-110-0210 which sets out who is considered part of the household group for determining eligibility is being amended to add a reference to the acute care setting rule and replace the “home and community based and nursing facility care” with a reference to OAR 461-135-0750. This rule is also being amended to specify that OSIPM recipients who remain in an acute care hospital for 30 days or more are no longer in the household group. This rule is further being amended to remove the 30-day limit on household membership for the Refugee and Refugee Medical programs when the absence is due to emergent need, correcting an error in the rule.

OAR 461-110-0410 about filing group OSIPM and QMB, and OAR 461-110-0530 about financial group are being amended to add a reference to the acute care setting rule. The service settings language is being changed from home and community based and nursing facility care to a reference to OAR 461-135-0750.

OAR 461-110-0530 about financial groups is being amended to add a reference to the acute care setting rule along with the existing references to service settings to clarify that individuals in acute care settings are treated like those applying for or receiving services when determining financial eligibility. This rule is also being amended indicate that individuals outside the household in the filing group may be included in the financial group, aligning the rule text with current practices.

OAR 461-115-0090 about authorized representatives, OAR 461-135-0950 about eligibility for inmates and residents of state hospitals, and OAR 461-180-0090 about the effective date for starting

medical benefits are being amended to make permanent temporary rule amendments effective July 1, 2017 that follow state statutes and state that incarcerated individuals and individuals in a state hospital may receive benefits under OSIPM and QMB when temporarily released for hospital procedures; remove a provision in the definition of serious mental illness regarding the substance abuse and the likelihood that a person will no longer meet an applicable diagnosis if the substance abuse discontinues or declines; substitute the term “state hospital” to clarify OAR 461-135-0950; remove the 12-month limit on suspension of benefits for individuals entering public institutions or the state hospital; replace the name of the specific former contractor for certification services with a general statement of certification; allow eligibility to certain state hospital residents who entered the state hospital before reaching age 22 (instead of age 21); authorize a designee of a correctional facility to apply for OSIPM and QMB on behalf of a person residing in that correctional facility; specify legitimate uses of confidential information for an applicant who is a resident of a correctional facility and when that information may be disclosed; and specify that the effective date for starting medical benefits under the OSIPM program for a person released from a correctional institution is the release date or the date the person begins hospitalization outside of the correctional facility.

OAR 461-120-0310 about assignment of support rights is being amended to state that the requirement to pursue healthcare/cash medical support applies only to the individual who can legally assign the rights and not someone who cannot legally assign rights (such as a child). OAR 461-120-0315 about medical assignment is being amended to clarify that the assignment of rights is automatic and not dependent on an individual’s consent. The amendment also makes a further distinction between who actually has to assign to stay eligible for the OSIPM and QMB programs and whose rights that person must assign. The changes to both rules also clarify that those whose rights are automatically assigned or must be assigned do not have to be in the OSIPM/QMB filing or benefit group - rights are and must be assigned for anyone receiving any type of medical assistance under the state plan.

OAR 461-120-0330 regarding requirements to pursue assets is being amended to clarify that the penalty for failure to comply can only be applied while it is still possible to do so and that for OSIPM, cashing out or closing would constitute a conversion of a resource. This rule is also being amended to remove the requirement to pursue assets in an individual’s home country for REF and REFM, consistent with federal requirements.

OAR 461-135-0745 about eligibility of individuals in acute care settings for the OSIPM program is being amended to add specific language regarding evaluating these individuals as if they were applying for services to clarify that individuals in acute care settings are treated like those applying for or receiving services when determining financial eligibility.

OAR 461-135-0750 about eligibility for individuals in long-term care or home and community-based care for the OSIPM program is being amended to clarify that individuals should be subject to the special income limit only if they do not otherwise qualify for OSIPM. The title of the rule is also being changed as the current name implies the rule is about specific requirements for receiving services rather than requirements for receiving OSIPM as a service applicant or recipient.

OAR 461-135-0780 is being amended to add language regarding the treatment of a spouse of an applicant or recipient who may be eligible under the provisions of the Pickle Amendment to the Social Security Act. These changes will bring the rule into compliance with federal law.

OAR 461-135-0875 regarding retroactive eligibility for medical assistance is being amended to clarify evaluation for retroactive eligibility and in the OSIPM program address when individuals received Medicaid-covered medical services prior to the date of request. This amendment sets out policy for the QMB-DW program, when individuals paid or incurred Medicaid-covered Medicare Part

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A premiums, or were eligible for but not enrolled in Medicare Part A prior to the date of request and received Medicare Part A-covered services, including deceased individuals who would have been eligible for Medicaid-covered premiums had they, or someone acting on their behalf, applied. This amendment also clarifies that for the QMB-SMB and QMB-SMF programs, when individuals paid or incurred Medicaid-covered Medicare Part B premiums, or were eligible for but not enrolled in Medicare Part B prior to the date of request and received Medicare Part B-covered services, including deceased individuals who would have been eligible for Medicaid-covered premiums had they, or someone acting on their behalf, applied. This rule is also being amended to clarify that Refugee Medical (REFM) is not Medicaid. These amendments are intended to comply with federal law.

OAR 461-140-0070 about treatment of excluded income is being amended to establish that commingling of excluded assets is acceptable in APD medical programs as long as they are identifiable, and explain (for OSIPM) that if funds are made from an account containing commingled funds, the assumption is that non-excluded funds are withdrawn first. Also, if excluded funds are withdrawn, they can be added to, or built up again, by deposits of funds excluded under another rule in the 461 chapter of rules. This rule is also being amended to change the title to Treatment of Excluded Assets, since this rule deals with both income and resources. These changes align the rule with federal policy.

OAR 461-145-0010 about the consideration of the value of and income from animals in the eligibility process is being amended to add an exclusion in the OSIP, OSIPM, and QMB-DW programs for animals used in self-employment to be consistent with other rules about work-related capital assets, equipment, and inventory.

OAR 461-145-0080 about child support and cash medical support is being amended to add provisions about when to count and when to exclude child support in the OSIP, OSIPM, and QMB programs. These amendments exclude one-third of cash child support paid to an individual applying for or receiving child support; exclude child support collected by the state on behalf of children in the custody of the state; c) set out how to count other child support collected by the state on behalf of a person applying for or receiving benefits; and state when child support is allowed as an income deduction. These changes follow federal guidance and provide consistency with other Department rules.

OAR 461-145-0140 is being amended to state how the exclusion of the Earned Income Tax Credit (EITC) is limited in duration, aligning with federal regulations.

OAR 461-145-0261 is being amended to state that in the OSIP, OSIPM, and QMB programs, emergency withdrawals from an Individual Development Account are excluded, consistent with federal guidance.

OAR 461-145-0330 about loans and interest on loans is being amended to revise when certain loans are treated as resources in the OSIPM program. This amendment affects purchases of loans or notes from others, or loans made to others that either occurred prior to 2006, or occurred after 2006 and after the first continuous period of care (which is when the Department starts counting marital assets) and were not considered disqualifying. This rule is also being amended to change language that makes it appear as though only the client's life expectancy is taken into consideration when determining whether or not a loan is a disqualifying transfer. This particular change will clarify that the life expectancy of the owner of the loan is used to determine whether the requirements are met, and also clarify that if the loan is jointly owned, the repayment must be paid over either the spouse's or the client's life expectancy. These changes correct an error and clarify the rule.

OAR 461-145-0370 about the effect on financial eligibility of benefits under the Older Americans Act is being amended to remove unnecessary language about persons 55 and older. The provisions of

Title V of the Older Americans Act only apply to individuals over the age of 55.

OAR 461-145-0380 about pension and retirement plans is being amended to refer to the pursuit of assets rule, and removes language that suggests the rule only applies to pension and retirement plans that are purchased with funds from other pension and retirement plans, rather than a self-funded IRA (for example). This amendment also adds language to specify that the equity value of a non-applying spouse's retirement plan would be excluded as a resource for non-service applicants/recipients. For a child, the pension fund of a parent is also excluded. These amendments clarify the rule.

OAR 461-155-0250 about income and payment standard for the OSIPM program is being amended with regard to the income standards for service settings by referring to the acute care setting rule instead of the definition of a nonstandard living arrangement as part of changes to treat individuals in acute care settings similarly to service applicants and recipients.

OAR 461-155-0600 about special needs payments for home repairs is being amended to allow the Department to grant a hardship waiver to certain low-income Medicaid clients whose homes are in need of repair.

OAR 461-155-0610 about special needs payments for moving costs is being amended to increase the maximum payment that the Department may issue a client to pay for the client's expenses associated with moving and clarify the circumstances under which a client may qualify for the payment.

OAR 461-155-0680 about special needs payments for telephone allowances is being amended to broaden the rule and allow the Department to pay a portion of the cost of either telephone or broadband service for certain clients to better address how clients currently communicate.

OAR 461-160-0620 about income deductions and client liability in the OSIPM program is being amended to eliminate the \$85 earned income deduction individuals in the Aid to the Blind subprogram, eliminate private health insurance premiums as a medical deduction, and update references to individuals with intellectual disabilities. These changes align the rule with federal requirements.

OAR 461-160-0630 about the deduction for maintaining a home for long-term care clients is being amended to change how these deductions are calculated because the rule on which this deduction is based is being repealed.

OAR 461-175-0230 about notices to individuals in nonstandard living situations is being amended to state that the continuing benefit decision notice the Department sends to increase the liability of an individual must be a timely notice, consistent with federal requirements.

In addition, non-substantive edits were made to: ensure consistent terminology throughout self-sufficiency program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

Rules Coordinator: Robert Trachtenberg—(503) 947-5290

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 means the Department of Human Services (DHS), except:

(a) The rule in which reference occurs only regulates programs covered by OAR chapter 461.

(b) OCCS medical program eligibility rules are in OAR chapter 410, division 200.

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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 (see section (24) of this rule), sexual assault, or stalking.

(3) "Adjusted income" means the amount determined by subtracting income deductions from countable (see section (18) of this rule) income (see OAR 461-140-0010). Specific rules on the deductions are in OAR chapter 461, division 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 (see section (20) of this rule) mailed no later than the date of action given in the notice.

(7) "Blind Work Expenses" has the meaning given in OAR 461-001-0035.

(8) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.

(9) "Budgeting" means the process of calculating the benefit level.

(10) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine eligibility (see section (27) of this rule) and benefit level for the payment month (see section (50) of this rule).

(11) "Cafeteria plan" means a written benefit plan offered by an employer in which:

(a) All participants are employees; and

(b) Participants may 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).

(12) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a microenterprise (see section (43) of this rule), 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.

(13) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child (see section (15) of this rule). The status of "caretaker" ends once the individual no longer exercises care, control, and supervision of the child for 30 days.

(14) "Caretaker relative" means a caretaker (see section 12 of this rule) who meets the requirements of one of the following subsections:

(a) Is one of the following relatives of the dependent child (see section (22) of this rule):

(A) 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.

(B) Stepfather, stepmother, stepbrother, and stepsister.

(C) 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 (see section (62) of this rule) of an individual listed in subsection (a) of this section.

(c) Met the definition of "caretaker relative" under subsection (a) or (b) of this section before the child was adopted (notwithstanding the subsequent adoption of the child).

(15) "Certification period" means the period for which an individual is certified eligible for a program.

(16) "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 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 who:

(A) Is not considered a decision-maker in the household;

(B) Is under the age of 18; and

(C) Has at least one natural or adoptive parent in the same household.

(d) In the REF and REFM programs, a "child" is an individual who is not an emancipated minor and is:

(A) Under the age of 18; or

(B) 18 years of age and attending secondary school full-time or pursuing a GED full-time.

(17) "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 people with disabilities 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 — Individuals 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).

(18) "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.

(19) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.

(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 TANF program means an individual who has not been legally emancipated and who is one of the following:

(a) An individual who is not a caretaker relative (see section (13) of this rule) 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 (see section (44) of this rule) 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-DVSS, 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.

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(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 (see section (42) of this rule), 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 (see section (29) of this rule) 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 an individual, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain family stability (see section (30) of this rule).

(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) “Homeless” in the ERDC program means lacking a fixed regular and adequate nighttime residence and includes living in an emergency shelter, shared housing with others due to loss of housing or economic hardship, staying in motels, cars, parks, public places, tents, trailers, or other similar settings.

(35) “Impairment-Related Work Expenses” have the meaning found in OAR 461-001-0035.

(36) “Income producing property” means:

(a) In all programs except OSIP, OSIPM, and QMB, real or personal property that generates income for the financial group (see OAR 461-110-0530). 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, and condominiums.

(b) In the OSIP, OSIPM, and QMB programs, “income-producing property” means any real or personal property not used in self-employment (see OAR 461-145-0600 and 461-145-0915) that produces income for the financial group. “Income-producing property” includes:

(A) Livestock, poultry, or other animals that produce marketable products sold by the financial group.

(B) Farmland not excluded under OAR 461-145-0220 that is farmed or rented out by the financial group.

(C) Real property other than the home (including vacation homes and condominiums), that is rented out.

(c) In the OSIP, OSIPM, and QMB programs, “income-producing property” does not include:

(A) Rooms or other space for rent in the home (see OAR 461-145-0220).

(B) Livestock, poultry, or other animals kept for resale (see OAR 461-145-0010).

(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) For a new applicant to the OSIP or OSIPM program applying for care in a nonstandard living arrangement (see section (45) of this rule), for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the individual would have been eligible had it not been for the disqualifying transfer of assets (see section (5) of this rule).

(e) For a current recipient of the OSIP or OSIPM program receiving or applying for care in a nonstandard living arrangement, for the purpose of calculating the correct divisor in OAR 461-140-0296, the later of the following:

(A) The month the disqualifying transfer occurred.

(B) The month of application for long-term care (see section (40) of this rule) services if the individual 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 two individuals according to:

(a) The statutes of the state where the marriage occurred;

(b) Except in the SNAP program, the common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the two individuals 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 the individual’s life, certain rights to that property. In addition, a “life estate” is established when a member of the financial group 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 (see OAR 461-110-0310); and

(b) Pays the filing group:

(A) In all programs except the OSIP, OSIPM, and QMB programs, for room and board.

(B) In the OSIP, OSIPM, and QMB programs, for room with or without board.

(42) “Long term care” means the system through which the Department provides a broad range of social and health services for extended periods of time to eligible adults who are aged, blind, or have disabilities. This includes nursing facilities and the Oregon State Hospital.

(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 two individuals who are legally married (see section (37) of this rule).

(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 and TANF programs means a parent under the age of 18.

(47) “Nonstandard living arrangement” is defined as follows:

(a) In the GA, OSIP, OSIPM, and QMB programs, an individual is considered to be in a “nonstandard living arrangement” when the individual is applying for or receiving services in any of the following locations:

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(A) A nursing facility in which the individual 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 individuals with intellectual disabilities (ICF/ID).

(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 “non-standard living arrangement”.

(b) In all programs except GA, 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) “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.

(49) “OCCS Medical Programs” refers to programs for which eligibility policy can be found in OAR chapter 410, division 200, and includes CEC, CEM, MAA, MAF, EXT, OHP, Substitute Care, BCCTP, and MAGI Medicaid/CHIP programs, including:

(a) MAGI Adult;

(b) MAGI Child;

(c) MAGI Parent or Other Caretaker Relative;

(d) MAGI Pregnant Woman; and

(e) MAGI CHIP.

(50) “Ongoing month” means one of the following:

(a) For all programs except the SNAP program, any month following the initial month (see section (35) of this rule) 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 (see section (14) of this rule) following the initial month of eligibility.

(51) “Parent” for all programs except JPI (see OAR 461-135-1260) and the SNAP program means the biological or legal mother or father of an individual or unborn. For JPI and the SNAP program, “parent” means the biological or legal 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 has given up care, control, and supervision of the child.

(52) “Payment month” means, for all programs except EA, the calendar month for which benefits are issued.

(53) “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.

(54) “Periodic income” means income received on a regular basis less often than monthly.

(55) “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) In the TANF program, the parent or caretaker relative.

(b) In the ERDC program, the caretaker.

(c) In the SNAP program, see OAR 461-001-0015.

(d) In the GA, OSIP, OSIPM, QMB, REF, and REFM programs, the client or client’s spouse.

(56) “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 individual was a resident in Oregon on January 1, 2008 or later; or

(b) Issued in another state while the individual 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.

(57) “Real property” means land, buildings, and whatever is erected on or affixed to the land and taxed as “real property”.

(58) “Reimbursement” means money or in-kind compensation provided specifically for an identified expense.

(59) “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.

(60) “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.

(61) “Shelter in kind” means an agency or individual outside the financial group provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs (see section (58) of this rule) 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.

(62) “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.

(63) “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.

(64) “Spouse” means an individual who is legally married to another individual.

(65) “Stable income” means income that is the same amount each time it is received.

(66) “Standard living arrangement” means a location that does not qualify as a nonstandard living arrangement.

(67) “Teen parent” means, in the JOBS, REF, REFM, and TANF programs, a parent who is the age of 18 or 19.

(68) “Timely continuing benefit decision notice” means a decision notice that informs the individual of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.

(69) “Trust funds” mean money, securities, or similar property held by an individual or institution for the benefit of another individual.

(70) “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.

(71) “Variable income” means earned or unearned income that is not always received in the same amount each month.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 411.837, 412.001, 412.006, 412.014, 412.049, 413.085, 414.685

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; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 39-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 14-2014(Temp), f. & cert. ef. 6-26-14 thru 12-23-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 18-2014(Temp), f. & cert. ef. 7-1-14 thru 12-23-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16; SSP 36-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 25-2016(Temp), f. & cert. ef. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 40-2016, f. & cert. ef. 11-1-16; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

ADMINISTRATIVE RULES

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 individuals, 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 who are being evaluated under OAR 461-135-0745 or 461-135-0750 are a household group of one regardless of others living in the individual's dwelling or facility.

(7) 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 OSIPM and SNAP programs, an individual in an acute care medical facility remains in the household group unless the individual enters long-term care (see OAR 461-001-0000).

(b) In the ERDC 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:

(A) Absent because of education, training, or employment, including long-haul truck driving, fishing, or active duty in the U.S. armed forces;

(B) Absent to care for an emergent need of an individual related to illness, injury, or death; or

(C) Absent but reasonably anticipated to return within 90 days.

(d) In the TANF program, when a filing group (see OAR 461-110-0310 and 461-110-0330) includes more than one caretaker relative, a caretaker relative in the household group who is absent:

(A) 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; or

(B) For up to 60 days solely due to the regulations of a homeless or domestic violence shelter or other circumstances beyond the individual's control but who would otherwise be included in the household group.

(e) In the REF and REFM programs, an individual in the household group who was absent:

(A) For up to 90 days while in a residential alcohol or drug treatment facility;

(B) To care for an emergent need of an individual related to illness, injury, or death;

(C) 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; or

(D) For up to 60 days solely due to the regulations of a homeless or domestic violence shelter or other circumstances beyond the individual's control but who would otherwise be included in the household group.

(f) In the REF, REFM, and TANF programs, the Department may approve one or more 30-day extensions of this time period if the Department receives sufficient information to assure the Department that the absent individual will return within the extension period.

(8) In the OSIP-EPD and OSIPM-EPD programs, the household group consists only of the individual applying for or receiving benefits.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.001, 412.006, 412.049, 413.085, 414.685, 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; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 10-2017, f. 3-24-17, cert. ef. 4-1-17; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-110-0410

Filing Group; OSIPM, QMB

(1) In the OSIPM program (except OSIPM-EPD), for applicants who live in a standard living arrangement (see OAR 461-001-0000), the filing group consists of each applicant and the following household members:

(a) The spouse (see OAR 461-001-0000) of an applicant.

(b) Each parent (see OAR 461-001-0000) of a child (see OAR 461-001-0000), if the child is applying and not assumed eligible.

(2) In the OSIPM program (except OSIPM-EPD), for individuals being evaluated under OAR 461-135-0745 or OAR 461-135-0750, the filing group consists only of the individual applying for benefits.

(3) In the OSIPM-EPD program, the filing group consists only of the individual applying for benefits.

(4) In the QMB program, whether in a standard living arrangement or a nonstandard living arrangement, the filing group consists of each applicant and the following household members:

(a) The spouse of an applicant.

(b) Each parent of a child, if the child is applying and not assumed eligible.

(c) Each child of the applicant, if the applicant wants to include the child in the need group (see OAR 461-110-0630).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685

ADMINISTRATIVE RULES

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.706
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; 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 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 17-2008, f. & cert. ef. 7-1-08; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-110-0530

Financial Group

(1) Except as provided in section (4) of this rule, the “financial group” consists of the filing group (see OAR 461-110-0310) members whose income and resources the Department considers in determining eligibility (see OAR 461-001-0000) and benefits.

(2) In the ERDC, 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 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, whose eligibility is not determined under certain protected groups (see OAR 461-135-0771 to OAR 461-135-0830), is married, not assumed eligible (see OAR 461-135-0010) for OSIPM, and the individual’s spouse (see OAR 461-001-0000) is considered “ineligible” (see subsection (a) of this section):

(i) If the individual’s adjusted income (see OAR 461-001-0000) using the deductions allowed under OAR 461-160-0550(4) is greater than the OSIPM program adjusted income standard for a need group of one under OAR 461-155-0250, the individual is in his or her own “financial group” and not eligible for OSIPM.

(ii) When there are children in the home, if the ineligible spouse’s remaining countable (see OAR 461-001-0000) 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 is not included in the “financial group” when determining income eligibility; however, the spouse is included in the “financial group” when determining resource eligibility.

(iii) When there are no children in the home, if the ineligible spouse’s countable income is less than the difference between the couple and the individual SSI standards: the spouse is not included in the “financial group” when determining income eligibility; however, the spouse is included in the “financial group” when determining resource eligibility.

(c) When an individual or is being evaluated under OAR 461-135-0745 or OAR 461-135-0750, 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 as follows:

(A) At initial eligibility, the resources of the community spouse are considered and the provisions of OAR 461-160-0580 apply.

(B) 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 who is eligible for and receives an SSI cash payment.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 412.064, 412.124, 413.085, 414.685, 414.712

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 412.064, 412.124, 414.712, 414.826, 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. 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 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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 32-2016(Temp), f. & cert. ef. 9-1-16 thru 2-27-17; SSP 40-2016, f. & cert. ef. 11-1-16; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-115-0090

Authorized Representatives; General

(1) The head of household, spouse (see OAR 461-001-0000), or any other responsible member of the household may designate an authorized representative to act on behalf of the household in making application for the program, in reporting changes, in obtaining benefits, or in using benefits.

(2) In all programs except the SNAP program, the Department must allow a person or persons of the applicant’s choice to act as the authorized representative unless the person may cause harm to the client or may be considered as having a conflict of interest.

(3) In all programs except the SNAP program, if an authorized representative is needed but has not been designated by the client, the Department will appoint one.

(4) In the SNAP program:

(a) Except as limited by sections (5) and (6) this rule, the selection of an authorized representative must be made in writing by an adult member of the household.

(b) The selection and authority of an authorized representative is further limited by OAR 461-115-0140.

(5) A client who resides in a drug addiction or alcoholic treatment center identified in OAR 461-135-0550(2) may apply for SNAP program benefits only through an authorized representative. The authorized representative must be an employee of and designated by the center.

(6) A client with a disability (see OAR 461-001-0015) who participates in the SNAP program while residing in a group living facility (see OAR 461-001-0015) may participate through an authorized representative or on his or her own behalf, at the option of the group living facility (see OAR 461-135-0510(2)(e)).

(7) In the TANF program, a person not related to the dependent child may serve as authorized representative or alternate payee for not more than 60 days.

(8) A designee of a correctional facility may apply for OSIPM and QMB on behalf of an individual, while the individual is residing in a correctional facility, for the purpose of establishing eligibility for medical assistance until the release of the individual from the correctional facility or during a period of hospitalization that occurs outside of the correctional facility.

(a) The designee may obtain information necessary to determine eligibility for medical assistance, including the person’s Social Security number or information that is not otherwise subject to disclosure under ORS 411.320 or 413.175.

(b) The information obtained under subsection (a) of this section may be used only for the purpose of assisting the person in applying for medical assistance and may not be re-disclosed without the authorization of the individual.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685
Stats. Implemented: ORS 409.010, 411.060, 411.404, 411.447, 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 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 17-2017(Temp), f. 6-28-17, cert. ef. 7-1-17 thru 12-27-17; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

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 (see OAR 461-110-0310) 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.

ADMINISTRATIVE RULES

(3) To be eligible for the OSIPM program, an individual must assign to the state the rights to medical support of the individual, or the rights to medical support of any other individual eligible for medical assistance under the state plan for whom the individual can legally make an assignment.

(4) Cash medical support received by the Department is 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. To allow adequate time for reporting and payment of incurred medical services, the Department initiates reconciliation 12 months after termination of OSIPM benefits and subsequently issues any resulting refund to the individual or the individual's legal guardian.

(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 409.050, 411.060, 411.070, 411.404, 411.706, 412.024, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 412.001, 412.024, 412.049, 413.085, 414.025, 414.685, 659.830, 743B.470

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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-120-0315

Medical Assignment

(1) This rule applies to all applicants for and recipients of medical assistance offered under the state plan.

(2) To the extent that payment for covered expenses has been made under the state medical assistance program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the state is considered to have acquired the rights of the individual to payment by any other party for those health care items or services. This assignment of rights is automatic in accordance with ORS 659.830 and 743B.470 and does not require the consent of any individual.

(3) When an individual has long-term care insurance, the individual complies with the requirements of this rule by reducing the Department's share of the long-term care (see OAR 461-001-0000) service costs by taking the following actions for the entire period of time that the individual is eligible for Department-covered long-term care services:

(a) For an individual in a nursing facility:

(A) 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

(B) 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 an individual in community based care (see OAR 461-001-0000):

(A) 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

(B) 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.

(c) This section of the rule does not supercede section (2) of this rule. The Department may seek payment directly from a long-term care insurer as permitted by ORS 659.830 or 743B.470.

(4) Except as outlined in OAR 461-120-0350, as a condition of eligibility, legally-able individuals must cooperate with the Department to:

(a) Identify any third party liable or potentially liable for medical costs paid by the Department, the Oregon Health Authority, Coordinated Care Organization (CCO), or prepaid managed care health services organization to or on behalf of an individual or any individual applying for or receiving medical assistance under the state plan for whom the individual is legally able;

(b) Provide information about liability or other insurance that may cover or pay for medical costs paid by the Department, the Authority, CCO, or prepaid managed care health services organization to or on behalf of a medical assistance applicant or recipient;

(c) Provide other information as required by the CCO, or prepaid managed care health services organization to assist in pursuing payment from any third party who may be liable for medical costs paid by the Department, the Authority, CCO, or prepaid managed care health services organization to or on behalf of a medical assistance applicant or recipient; and

(d) Comply with the personal injury claim provisions in accordance with OAR 461-195-0303.

(5) The amount the Department may collect in reimbursement is limited to the amount of medical services paid by the Department on behalf of the individual.

(6) The Department establishes an overpayment if it is discovered after-the-fact that during any period of time a long-term care insurance claim is on behalf of the individual and the individual received a long-term care insurance payment that was not turned over to the long-term care facility or Department as required under this rule.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.706, 413.085, 414.231, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.404, 411.706, 414.231, 659.830, 743B.470
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; ; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-120-0330

Requirement to Pursue Assets

(1) In all programs, except the ERDC and SNAP programs, an individual must make a good faith effort to obtain any asset (other than support and medical coverage, which are covered in OAR 461-120-0340 and 461-120-0345, respectively) to which the individual has a legal right or claim, except as follows:

(a) A parent (see OAR 461-001-0000) or caretaker relative (see OAR 461-001-0000) who is exempt from participation in the JOBS program is not required to apply for unemployment insurance benefits.

(b) Except as specified by law, an individual applying for or receiving any program benefits from the Department is not required to apply for other programs it administers or for supplemental security income (SSI).

(c) An individual applying for the EA program is required to pursue, obtain, and use an asset only if the asset can be made available in time to meet the emergent need.

(d) An individual is not required to borrow money.

(e) An individual is not required to make a good faith effort to obtain any asset if the individual can show good cause for not doing so. Good cause means a circumstance beyond the ability of the individual to control.

(f) In the REF and REFM programs, an individual is not required to pursue assets that remain in their country of origin.

(2) In all programs except the ERDC, OSIP, OSIPM, QMB, and SNAP programs:

(a) The effect of failing to comply with this rule is that everyone in the filing group is ineligible. In addition, when a REF, SFPSS, or TANF program payment ends due to the penalty described in this subsection, eligibility for and the level of SNAP benefits are determined as if the individual were receiving benefits without the effects of this rule.

(b) The penalty provided by subsection (2)(a) of this rule is effective until all members of the filing group comply with the requirements of section (1) of this rule.

(3) In the OSIP, OSIPM, and QMB programs:

(a) If an individual is eligible for monthly or periodic payments from a retirement or pension plan (see OAR 461-145-0380), the individual must apply for those benefits to be eligible for OSIP, OSIPM, and QMB program benefits. This requirement does not apply to a non-applying spouse (see OAR 461-001-0000).

(A) When an individual can choose a lump sum or monthly or periodic payments, the individual must choose monthly or periodic payments; and if the individual can choose between monthly or periodic payments, the individual must choose monthly payments.

(B) 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 Chief Actuary of the Social Security Administration of the individual.

ADMINISTRATIVE RULES

(C) Where an application has been made for a lump sum withdrawal of the monies on which a potential annuitization is based and the benefit source permits the individual to change the individual's decision and apply for the annuitization, the individual must pursue the change to be eligible for medical benefits. If the benefit source does not permit such a change, accept the individual's word that the decision is irreversible, absent evidence to the contrary.

(D) An individual is not required to file when only a lump sum payment is available. See OAR 461-145-0380 for information on the treatment of such plans.

(b) An individual is ineligible for benefits until one of the following occurs, whichever is earlier:

(A) The individual complies with the requirements of section (1) of this rule and subsection (a) of this section.

(B) The individual cashes out or closes the retirement or pension plan. The proceeds would then be evaluated as a resource under the applicable rule for the specific asset.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 414.231

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 414.231

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 2-1992, 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 30-1996, f. & cert. ef. 9-23-96; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 24-2016, f. 6-29-16, cert. ef. 7-1-16; SSP 8-2017, f. 3-17-17, cert. ef. 4-1-17; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-135-0745

Eligibility for Individuals in Acute Care Settings; OSIPM

An individual in an acute care hospital or nursing facility is evaluated for the OSIPM program as follows:

(1) The individual must meet all non-financial eligibility requirements for OSIPM.

(2) Individuals are considered in their own household group (see OAR 461-110-0210) and filing group (see OAR 461-110-0410).

(3) The financial group (see OAR 461-110-0530) consists only of the individual applying for benefits, except that the spouse (see OAR 461-001-0000) is included in the financial group to determine initial eligibility as follows:

(a) At initial eligibility, the resources of the spouse are considered and the provisions of OAR 461-160-0580 apply.

(b) The income of the spouse is not considered in determining initial eligibility, and the spouse is not included in any other eligibility group.

(4) The individual must have countable (see OAR 461-001-0000) income at or below 300 percent of the full SSI standard or have established a qualifying trust as specified in OAR 461-145-0540(10)(c); and

(5) The individual must require a continuous period of care (see OAR 461-001-0030).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 413.085, 414.685

Hist.: SSP 10-2007, f. & cert. ef. 10-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-135-0750

Individuals Applying for or Receiving Long-Term Care or Home and Community-Based Care

(1) An individual who does not meet the income requirements for OSIPM under sections (3) or (5) of OAR 461-155-0250 and who meets the requirements of subsections (a) and (b) of this section is subject to the OSIPM income limit specified in OAR 461-155-0250(2):

(a) The individual meets at least 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-ID.

(C) The service eligibility standards for medically fragile children in OAR 411-350-0010.

(D) The service eligibility standards for the CIHS (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 OAR chapter 411, division 355.

(b) The individual resides in or will reside in one of the following locations for a continuous period of care (see OAR 461-001-0030) and is

applying for or receiving long-term care services authorized by the Department (eligibility for OSIPM is not effective prior to the first day of the month that includes the effective date for long-term care under OAR 461-180-0040):

(A) A Medicaid-certified nursing facility.

(B) An intermediate care facility for the mentally retarded (ICF-ID).

(C) A home and community-based care setting.

(2) An individual in a home and community-based care setting must receive Title 1915(c) waived services.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 413.085, 414.685

Stats. Implemented: ORS 409.010, 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; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 32-2015(Temp), f. & cert. ef. 12-15-15 thru 6-11-16; SSP 13-2016, f. 3-21-16, cert. ef. 4-1-16; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-135-0780

Pickle Amendment Clients; OSIPM

In the OSIPM program:

(1) The countable (see OAR 461-001-0000) SSB income of an individual is determined according to sections (2) to (4) of this rule if the individual meets all of the following requirements:

(a) Is receiving Social Security Benefits (SSB);

(b) Was eligible for and receiving SSI or state supplements but became ineligible for those payments after April 1977; and

(c) Would be eligible for SSI or state supplement if the SSB COLA increases paid under section 215(i) of the Social Security Act, after the last month the individual was both eligible for and received SSI or a supplement and was entitled to SSB, were deducted from current SSB.

(2) The SSB amount received by the individual when the individual became ineligible for SSI or OSIP is used as the individual's countable SSB income, for the purposes of the Pickle Amendment. If the spouse (see OAR 461-001-0000) of the individual also had Social Security benefits at the time the individual lost SSI benefits, SSB amount at that time of the spouse is considered the countable income of the spouse. If the amount cannot be determined using the information provided by the SSA, it is calculated in accordance with section (3) of this rule.

(3) The Department determines the month in which the individual was entitled to SSB and received SSI in the same month. The Department uses the table in section (4) of this rule to find the percentage that applies to that month. The Department multiplies the present amount of the SSB of the individual by the applicable percentage. If the spouse of the individual also had SSB at the time the individual lost SSI benefits, the Department adjusts the SSB of the spouse using the same multiplier that was used for the individual's calculation under this section. This amount, rounded down to the next lower whole dollar, is the individual's countable SSB income.

(4) The following guide contains the calculations used to determine the SSB for prior years (the Department uses this table only if the prior year's amount using information provided by SSA): [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.704, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30, f. 12-31-90, cert. ef. 1-1-91; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; 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 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 14-2003(Temp), f. & cert. ef. 6-18-03 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 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 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 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; 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 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 4-2015, f. & cert. ef. 1-1-15; SSP 5-2016, f. & cert. ef. 2-3-16; SSP 44-2016, f. 12-7-16, cert. ef. 1-1-17; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-135-0875

Specific Requirements; Retroactive Eligibility

(1) Individuals are evaluated for retroactive eligibility as follows:

(a) In the OSIPM program, when individuals received Medicaid-covered medical services prior to the date of request (see OAR 461-115-0030). This includes deceased individuals who would have been eligible for

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Medicaid covered services had they, or someone acting on their behalf, applied.

(b) In the QMB-DW program, when individuals paid or incurred Medicaid-covered Medicare Part A premiums, or were eligible for but not enrolled in Medicare Part A prior to the date of request and received Medicare Part A-covered services. This includes deceased individuals who would have been eligible for Medicaid-covered premiums had they, or someone acting on their behalf, applied.

(c) In the QMB-SMB and QMB-SMF programs, when individuals paid or incurred Medicaid-covered Medicare Part B premiums, or were eligible for but not enrolled in Medicare Part B prior to the date of request and received Medicare Part B-covered services. This includes deceased individuals who would have been eligible for Medicaid-covered premiums had they, or someone acting on their behalf, applied.

(d) Individuals applying for medical assistance through the REFM program are evaluated for retroactive eligibility.

(e) Individuals found ineligible for the OSIPM program solely because they do not meet the citizenship requirements of OAR 461-120-0125. Individuals eligible under this subsection are eligible only for CAWEM program benefits (see OAR 461-135-1070).

(2) If eligible for medical assistance retroactively, the eligibility of the individual may not start earlier than the date indicated by OAR 461-180-0140.

(3) In the QMB-BAS program, there are no retroactive medical benefits.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 413.085, 414.685
Stats. Implemented: ORS 409.010, 411.060, 411.404, 413.085, 414.685
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; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

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 (see section (3) of this rule) 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;

(D) Receiving care as an outpatient while residing involuntarily in a public institution; or

(E) In the OSIPM and QMB programs, released from the public institution during a temporary period of hospitalization in a medical institution outside of the correctional facility.

(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) 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):

(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.

(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 caused primarily by substance abuse.

(5) An individual who resides in a state hospital (see subsection (3)(a) of this rule), 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 state hospital 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) In the OSIPM and QMB programs, a client who becomes a resident of a state hospital has medical benefits suspended if the client is at least 21 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, or when the individual is admitted to a medical institution outside of the state hospital for a period of hospitalization, 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 hospital may be eligible for OSIPM benefits if the individual:

(a) Receives services on a certified ward;

(b) Receives a Certificate of Need for Services from the State-authorized agency; and

(c) Meets one of the following:

(A) Is 65 years of age or older;

(B) Is under 21 years of age; or

(C) Is 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 22 years of age.

(8) For all programs covered under chapter 461 of the Oregon Administrative Rules:

(a) Except as provided otherwise in this rule, an inmate of a public institution is not eligible for benefits.

(b) If a pregnant woman receiving medical assistance through the OSIPM 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 OSIPM or QMB program becomes an inmate of a correctional facility, medical benefits are suspended during the incarceration period. In the OSIPM or QMB program, when the Department is notified that an individual with suspended benefits has been released or has been admitted to a hospital outside of the public institution for a period of hospitalization, 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 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.447, 411.816, 412.014, 412.049, 414.426

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 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.

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ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 17-2017(Temp), f. 6-28-17, cert. ef. 7-1-17 thru 12-27-17; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-140-0070

Treatment of Excluded Assets

Unless stated otherwise in another rule in this chapter of rules:

(1) In the OSIP, OSIPM, and QMB programs:

(a) Excludable funds must be identifiable in order to be excluded.

Identifiable does not require that excluded funds be kept physically apart from other funds.

(b) In the OSIP and OSIPM programs:

(A) There is a rebuttable presumption that when withdrawals are made from an account with commingled funds non-excluded funds are withdrawn first.

(B) If excluded funds are withdrawn, the excluded funds left in the account may be added to only by deposits of subsequently received funds that are excluded under the same rule or another rule in this chapter of rules.

(2) In all programs except the OSIP, OSIPM, and QMB programs:

(a) Excluded income remains excluded as long as it is kept in a separate account and not commingled with other funds.

(b) Excluded income that is commingled in an account with funds not excluded remains excluded for six months from the date it is commingled, after which it is counted as a resource.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

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 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-145-0010

Animals

(1) Animals that are kept as pets or raised as food for the filing group (OAR 461-110-0310) are excluded.

(2) The treatment of an animal considered income-producing property (see OAR 461-001-0000) is covered by the income-producing property rules (see OAR 461-145-0250 and 461-145-0252).

(3) In the OSIP, OSIPM, and QMB-DW programs:

(a) The fair market value (see OAR 461-001-0000) of animals that are kept or retained for sale or resale is a countable (see OAR 461-001-0000) resource.

(b) If an animal is a source of both food and income for the filing group:

(A) The fair market value of the animal remains excluded.

(B) The proceeds of any sales of the animal or its products are counted as unearned income.

(c) Animals that are used, kept, or raised for the purpose of self-employment are excluded.

(4) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all animals are excluded as a resource.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

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) "Absent parent" means a parent (see OAR 461-001-0000) whose parental rights have not been legally severed or a stepparent currently legally married (see OAR 461-001-0000) to a parent of a child (see OAR 461-001-0000) who does not live in the same household as the child.

(b) "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.

(c) "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 remain-

ing 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, in the TANF program:

(a) In determining initial eligibility (see OAR 461-001-0000), 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, child support and cash medical support paid to the financial group are considered countable unearned income, except as follows:

(a) The Department excludes one-third of all cash child support paid to an individual who is applying for or receiving OSIP, OSIPM, or QMB. The Department excludes all in-kind child support paid to the individual.

(b) Child support collected from an absent parent (see section (2) of this rule) by the State on behalf of a child in the custody of the State of Oregon (such as foster care) that is not given to the child or the custodial parent of the child is excluded. Such payments that are given to the individual or the custodial parent of the child are treated according to subsection (a) of this section.

(c) Child support payments collected by the State of Oregon that are given to the individual or to the custodial parent are counted in accordance with subsection (a) of this section.

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(d) Child support and cash medical support paid by the financial group are not deductible from income except as provided in OAR 461-160-0550 and OAR 461-160-0551.

(7) In the SFPSS 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 329A.500, 409.050, 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049, 413.085, 414.685

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. 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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 38-2015, f. 12-25-15, cert. ef. 1-1-16; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-145-0140

Earned Income Tax Credit (EITC)

There are federal and state earned income tax credit (EITC) programs for low-income families.

(1) An EITC may be received in one of two ways:

(a) As one annual payment received at the time of the normal income tax returns.

(b) As an advance in the employee's paycheck.

(2) The EITC is excluded from assets (see OAR 461-001-0000) in the month of receipt and then for a maximum of 12 calendar full months starting with the month following the month of receipt of the refund or payment. All funds remaining after the 12-month period are counted as a resource.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.404, 411.706, 411.816, 412.049, 413.085, 414.231, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.083, 411.404, 411.706, 411.816, 412.049, 414.231

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 6-1991(Temp), f. & cert. ef. 2-8-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; 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 10-2002, f. & cert. ef. 7-1-02; 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 11-2010(Temp), f. & cert. ef. 4-22-10 thru 10-19-10; 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 17-2011, f. & cert. ef. 7-1-11; SSP 44-2016, f. 12-7-16, cert. ef. 1-1-17; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-145-0261

Individual Development Account (IDA)

(1) An Individual Development Account (IDA) is a trust-like savings account established under P.L. 105-285 designed to help low-income individuals save for specified purposes. The individual makes deposits from his

or her earnings, and these are matched by a combination of government and private-sector funds.

(2) For eligibility determinations in all programs:

(a) Except for SNAP, deposits from the account holder's earnings are excluded from gross earned income. For SNAP, the deposit remains countable earned income.

(b) Matching deposits from government and private-sector funds are excluded from income.

(c) The IDA savings account is excluded from resources.

(d) Interest earned by the IDA savings account is excluded from income.

(3) For client liability calculations (see OAR 461-160-0610), all income deposited into an IDA savings account is counted as earned income.

(4) In all programs except the OSIP, OSIPM, and QMB programs, if an individual makes an emergency withdrawal from the IDA savings account, that income is counted as lump-sum income. In the OSIP, OSIPM, and QMB programs, emergency withdrawals from an IDA savings account are excluded.

Stat. Auth.: ORS 329A.500, 509.050, 411.060, 411.404, 411.700, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 411.060, 411.700, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Hist.: SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

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 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 (see paragraph (A) of this subsection) 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 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 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 OSIP, OSIPM, and QMB-DW programs:

(A) If the loan is a bona fide loan agreement (see paragraph (2)(a)(A) of this rule), 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.

(d) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:

(A) If the loan is a bona fide loan agreement, the money provided by the lender is not considered income.

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(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.

(6) In the OSIPM program, if a client or a spouse (see OAR 461-001-0000) 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 (see OAR 461-001-0000), 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 life expectancy per the actuarial life expectancy of that individual as established by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration. If the loan, promissory note, or mortgage are jointly owned by the client and their spouse, the requirements of this section are met if the transaction is repaid according to the life expectancy of either the client or their spouse.

(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.

(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) If the loan is both a negotiable loan agreement (see paragraph (2)(a)(B) of this rule) and a bona fide loan agreement, the loan is counted as a resource valued at the outstanding principal balance.

(C) If the loan does not qualify under paragraph (B) of this subsection, payments against the principal are counted as unearned income.

(7) In the OSIP and QMB-DW 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 the QMB-BAS, QMB-SMB, and QMB-SMF programs:

(a) Interest income is treated as unearned income.

(b) Payments against the principal of all loans are excluded as income.

(9) In all programs other than the OSIP, OSIPM, and QMB programs:

(a) The interest payment is counted as unearned income.

(b) The payment of principal is excluded.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 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 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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-145-0370

Older Americans Act

(1) In all programs except the SNAP program, benefits under Title III of the Older Americans Act of 1965 (Nutrition Program for the Elderly) are excluded. In the SNAP program, these benefits are considered unearned income.

(2) In all programs except the SNAP program:

(a) A wage or salary paid under Title V of the Older Americans Act of 1965 (Experience Works, American Association of Retired Persons, National Association for Spanish-Speaking Elderly, National Council on Aging, National Council on Black Aging, National Council of Senior Citizens, National Urban League, U.S. Forest Service) is considered earned income.

(b) Payments under Title V of the Older Americans Act of 1965 that are not a wage or salary are excluded.

(3) In the SNAP program, payments under Title V of the Older Americans Act of 1965 are excluded.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.083, 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 28-1992, f. & cert. ef. 10-1-92; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

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 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).

(d) Retirement plans authorized by section 403 of the Internal Revenue Code of 1986 at subsections (a) or (b).

(e) The following retirement plans and annuities 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 an individual with funds from a plan authorized under subsection (c), (d), or (f) of this section.

(2) An annuitized retirement plan described in subsection (1)(e) of this rule, purchased by the spouse (see OAR 461-001-0000), is not considered a retirement plan and is treated in accordance with OAR 461-145-0020 and OAR 461-145-0022.

(3) Except as provided in subsection (c) of this section, benefits an individual 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 income (see OAR 461-001-0000 and 461-140-0110) or lump-sum income (see OAR 461-001-0000 and 461-140-0120).

(c) In the OSIP, OSIPM, and QMB-DW programs, if the equity value (see OAR 461-001-0000) of the pension or retirement plan is counted as a resource under section (4) of this rule, any payments received are considered the conversion of a resource and are not counted as income.

(4) In the OSIP, OSIPM, and QMB-DW 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 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 in accordance with OAR 461-120-0330. 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.

ADMINISTRATIVE RULES

(B) Except when OAR 461-120-0330 has resulted in ineligibility, the equity value of all pension and retirement plans not covered by paragraph (A) of this subsection that allows an individual to withdraw funds, minus any penalty for withdrawal, is counted as a resource.

(b) The equity value of an annuitized 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.

(c) For an individual in a standard living arrangement (see OAR 461-001-0000), the equity value of pension and retirement plans owned by a non-applying spouse or parent (see OAR 461-001-0000) is excluded as a resource. Dividends and interest earned on pension funds owned by a non-applying spouse or parent are excluded as income.

(5) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, dividends and interest earned on pension funds owned by a non-applying spouse are excluded as income.

(6) In the SNAP program, the value of retirement accounts identified in sections 401(a), 401(k), 403(a), 403(b), 408, 408(k), 408(p), 408A, 457(b), 501(c)(18), or 529A of the Internal Revenue Code are excluded as resources. The value of retirement accounts designated as a Federal Thrift Savings Plan account, IRA, myRA, Roth IRA, SEP, Simple IRA, and any other retirement plan designated as tax-exempt under a successor or similar provision of the Internal Revenue Code of 1986 are excluded resources.

(7) In all programs except the OSIP, OSIPM, QMB, and SNAP programs, the equity value of a pension and retirement plan that allows an individual to withdraw funds before retirement, minus any penalty for early withdrawal, is counted as a resource.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.010, 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 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 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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 24-2016, f. 6-29-16, cert. ef. 7-1-16; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-155-0250

Income and Payment Standard; OSIPM

(1) An individual who is assumed eligible per OAR 461-135-0010 is presumed to meet the income limits for the OSIPM program.

(2) An individual meeting the requirements of OAR 461-135-0745 or OAR 461-135-0750, who is not assumed eligible and does not meet the income standards set out in sections (3) or (5) of this rule, must have countable (see OAR 461-001-0000) income that is equal to or less than 300 percent of the full SSI standard for a single individual or have established a qualifying trust as specified in OAR 461-145-0540(10)(c).

(3) An individual, other than one identified in section (1), (2), or (5) of this rule, must have adjusted income below the standard in this section. The Department determines the adjusted number in the household under OAR 461-155-0020. [Table not included. See ED. NOTE.]

(4) In the OSIPM (except OSIPM-EPD) program, an individual in a nursing facility or an ICF-MR is allowed the following amounts for clothing and personal incidentals:

(a) For an individual who receives a VA pension based on unreimbursed medical expenses (UME), \$90 is allowed.

(b) For all other individuals, \$60.18 is allowed.

(c) For an individual identified in subsection (b) of this section with countable income (including any SSI) that is less than \$60.18, the payment standard is equal to the difference between the individual's countable income (including any SSI) and \$60.18. For the purposes of this subsection, countable income includes income that would otherwise be countable for an individual who is assumed eligible under OAR 461-135-0010.

(5) In the OSIPM-EPD program, the adjusted earned income limit is 250 percent of the federal poverty level for a family of one.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 413.085, 414.685

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 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 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; 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 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 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; 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 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03; SSP 26-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 4-2006, f. & cert. ef. 3-1-06; 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 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; Suspended by SSP 3-2007(Temp), f. & cert. ef. 3-9-07 thru 6-30-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; Suspended by SSP 5-2007(Temp), f. 3-30-07, cert. ef. 4-1-07 thru 6-30-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; 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 2-2009(Temp), f. 2-27-09, cert. ef. 3-1-09 thru 8-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; 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 5-2012(Temp), f. & cert. ef. 2-1-12 thru 7-30-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 17-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 4-2015, f. & cert. ef. 1-1-15; SSP 44-2016, f. 12-7-16, cert. ef. 1-1-17; SSP 11-2017(Temp), f. 3-28-17, cert. ef. 4-1-17 thru 9-27-17; SSP 20-2017, f. 8-11-17, cert. ef. 9-1-17; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-155-0600

Special Need; Home Repairs; OSIP and OSIPM

In the OSIP and OSIPM programs, the Department will authorize a special need payment for home repairs for homeowners or buyers as a one-time special need within the following limits:

(1) The repairs must be needed to remove a physical hazard to the health and safety of the client.

(2) Payment for repairs authorized by this rule:

(a) Is limited to the least expensive means possible;

(b) May not exceed \$1,000 in any 24-month period; and

(c) When the home is jointly owned, is limited to a percentage of the cost of the repairs equal to the percentage of client ownership.

(3) The repairs must cost less than moving to another home.

(4) Payment is limited to the lowest possible cost that will provide adequate facilities. The client must provide three competitive bids for the repairs, unless there are not three providers of the service in the local area.

(5) Before approving payment for repairs or new installations, the Department must consider the use value and determine whether it is consistent with the service plan for the client to remain in the house.

(6) Providers of the repairs or new installations must ensure that the work being completed meets current building codes.

(7) Payment is only made for home adaptations performed by a licensed and bonded construction contractor.

(8) Repairs or replacements include, but are not limited to:

(a) Electrical wiring that does not constitute conversion to electrical space heating but that is needed:

(A) To avoid condemnation; or

(B) To remove a definite fire or shock hazard as documented by appropriate public officials.

(b) Plumbing, but not including the costs of plumbing items with which the house is not already equipped except that a toilet may be paid for when newly required by the creation or extension of a sewer district. Examples of what plumbing-related items may be covered include:

(A) Toilets and sinks.

(B) Cleaning or replacing septic tanks or cesspools.

(C) Installing sewer connections from house to street, but not sewer installation, if required by the creation of a new sewer district or the extension of an existing district.

(c) Repair or replacement of existing electric pumps for wells needed to continue the water supply. This does not include drilling a new well.

(d) Heating equipment, repair of heating stoves, furnaces and water heaters and, if repair is not possible, replacement with the least expensive adequate equipment.

(e) Repair of roofs.

(f) Repair or replacement of steps and repair of floors.

(9) A client with a life estate is not eligible for this special need allowance. The individual who will benefit from the life estate, following the death of the client, is considered responsible for the home repairs.

(10) When a home is jointly owned by an institutionalized spouse (see OAR 461-001-0030) receiving in-home services under OAR chapter 411 division 030 and a community spouse (see OAR 461-001-0030), subsection (2)(c) of this rule may be waived by the Department if requiring the community spouse to pay a percentage of the costs of the repairs would impose an undue hardship on the client.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685

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; 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 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 18-2008(Temp), f. &

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cert. ef. 8-1-08 thru 1-28-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 14-2017, f. 6-5-17, cert. ef. 7-1-17; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

cert. ef. 1-4-04; SSP 10-2007, f. & cert. ef. 10-1-07; 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 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-155-0610

Special Need; Moving Costs; OSIP and OSIPM

For clients who are 18 years of age or older in the OSIP and OSIPM programs:

(1) The Department will authorize payment for the cost of moving a client's household effects as a one-time special need if the requirements of at least one of the following subsections are met:

(a) Moving is essential to provide nonhazardous housing. "Hazardous" housing means a building so deteriorated and unsafe that it is uninhabitable or subject to condemnation. If no official certification to that effect can be obtained, the condition of the dwelling must have been seen by a Department employee and documented in the case record.

(b) The client has been evicted for reasons other than his or her own neglect or failure to make rent or house payments.

(c) The move is necessary to protect the safety of the client and is a result of the client being the victim of domestic violence (see OAR 461-001-0000) or abuse (see OAR 411-020-0002).

(d) For a client in a nonstandard living arrangement (see OAR 461-001-0000), a move is necessary because the level of services of the client increases or decreases.

(e) The needs of the client would be better met out of state.

(2) Payment for moving costs authorized by this rule:

(a) May be authorized for not more than one move in any 12-month period;

(b) Is limited to the least expensive means possible; and

(c) May not exceed \$1000 in any 12-month period.

(3) Payments necessary for a one-time move may be made over a period not to exceed 30 consecutive days.

(4) A filing group that has received a payment for moving costs under this rule is not eligible for a moving cost payment again until the first day of the 12th month following the receipt by the filing group of the most recent payment for moving costs.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.704, 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 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 18-2008(Temp), f. & cert. ef. 8-1-08 thru 1-28-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

461-155-0680

Special Need — Supplemental Communication Allowance; OSIPM

In the OSIPM program:

(1) The Department provides a communication allowance to clients meeting the requirements of at least one of the following subsections if the client is 18 years of age or older and unable to leave the residence of the client due to a documented medical condition without the assistance of another person:

(a) Clients receiving SSI.

(b) Clients whose adjusted income is less than the OSIPM program standard under OAR 461-155-0250.

(c) Clients receiving in-home services under OAR chapter 411 division 030.

(2) The communication allowance may cover the following costs:

(a) The least expensive appropriate monthly telephone service or the basic monthly rate, whichever is less.

(b) The cost of telephone adaptive equipment, if the client has a medically documented need (for instance, TDD, a special headset, dialing mechanism, or emergency response system).

(c) Necessary landline telephone installation charges.

(d) Broadband internet service.

(3) A client described in section (1) of this rule is ineligible for a communication allowance unless the client applies for or receives payments through the Oregon Lifeline program.

(4) Communication allowances are limited to no more than \$25 per month per client.

(5) Each client eligible under section (1) of this rule may receive a single communication allowance. The communication allowance is valid for either telephone service or broadband service.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.704, 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; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 33-2003, f. 12-31-03,

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 an individual 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 individual 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 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 \$60.18 personal needs allowance for an individual receiving long-term care services.

(B) A \$90 personal needs allowance for an individual 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) For an individual who receives home and community-based care:

(i) Except as provided in subparagraph (ii) of this paragraph, the OSIPM maintenance standard.

(ii) For an individual who receives in-home services, the OSIPM maintenance standard plus \$500.

(d) A community spouse (see OAR 461-001-0030) monthly income allowance is deducted from the income of the institutionalized spouse (see OAR 461-001-0030) 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. \$2,030 is added to the amount over \$609 that is needed to pay monthly shelter expenses for the principal residence of the couple. This sum or \$3,022.50, 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). If an all-inclusive rate covers items that are not allowable shelter expenses, including meals or house-keeping in an assisted living facility, or the rate includes utilities, to the extent they can be distinguished, these items must be deducted from the all-inclusive rate to determine allowable shelter expenses.

(B) Step 2 — Compare maintenance needs allowance with community spouse's countable income. The countable (see OAR 461-001-0000) 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 \$2,030. To determine the income allowance of each eligible dependent:

(i) The monthly income of the eligible dependent is deducted from \$2,030.

(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 individual and eligible dependents.

(ii) The TANF standard is not reduced by the income of the dependent.

(f) Costs for maintaining a home if the individual 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.

(h) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income.

(i) The individual's liability is determined as follows:

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(A) For an individual receiving home and community-based care (except an individual 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 individual, 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 an individual who resides in a nursing facility, a state psychiatric hospital, an Intermediate Care Facility for People with Intellectual Disabilities, or a mental health facility, there is a liability as described at OAR 461-160-0610.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.065, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.065, 414.685

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; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 3-2014, f. 1-31-14, cert. ef. 2-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 17-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 4-2015, f. & cert. ef. 1-1-15; SSP 21-2015, f. & cert. ef. 7-1-15; SSP 24-2016, f. 6-29-16, cert. ef. 7-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 44-2016, f. 12-7-16, cert. ef. 1-1-17; SSP 14-2017, f. 6-5-17, cert. ef. 7-1-17; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

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 \$451; 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 409.050, 411.060, 411.404, 413.085, 414.685

Stats. Implemented: ORS 409.010, 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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

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, or the client loses Medicaid eligibility while in the 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.

(E) When there is an increase in the client liability as described in OAR 461-160-0610 and 461-160-0620

(B) A basic decision notice when there is a decrease in the client liability.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.101, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 411.060, 411.085, 411.095, 411.099, 411.101, 411.103, 411.816, 412.014, 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; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

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 OSIPM and QMB-DW programs:

(a) Except as provided for in subsections (b) to (h) of this section:

(A) If the client meets all eligibility requirements on the date of request (see OAR 461-115-0030), it is the first day of the month that includes the date of request. An OSIPM program client who is assumed eligible under OAR 461-135-0010(5) 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, but meets all requirements after the date of request, within the application processing time frames of OAR 461-115-0190, it is the first day of the month that includes the date 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 as provided for in subsections (d) and (e) of this section, for a new applicant who is an inmate (see OAR 461-135-0950) on any day of the month during the month that the applicant is determined to meet all eligibility requirements, the effective date is determined in accordance with subsections (a) and (b) of this section, except that coverage is not in effect for any day during the month that the applicant is an inmate other than the date of incarceration and the date of release.

(d) The effective date for an individual residing in a public institution (see OAR 461-135-0950) meeting the requirements of OAR 461-135-0950 regarding applications received by individuals with a serious mental illness is determined in accordance with OAR 461-135-0950.

(e) The effective date for an individual meeting the eligibility requirements of OAR 461-135-0950 regarding residents of a state psychiatric institution is the date that all eligibility requirements are met, including other chapter 461 eligibility requirements, if those requirements are met

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within the application processing time frames of OAR 461-115-0190. Otherwise the requirements of subsection (b) of this section apply.

(f) The effective date for an inmate or a resident of state hospital with suspended benefits that will be reinstated is determined in accordance with OAR 461-135-0950. If benefits will not be reinstated the inmate is considered a new applicant and the effective date is determined in accordance with subsection (c) of this section.

(g) The effective date for a new applicant who is receiving Medicaid in another state on the date of request, but meets the requirements of OAR 461-165-0030 regarding receipt of medical benefits in another state is:

(A) The date of request if all eligibility requirements are met on the date of request or after the date of request, but during the month that includes the date of request.

(B) If all eligibility requirements are not met during the month that includes the date of request the effective date is determined in accordance with paragraph (1)(a)(B) and subsection (b) of this section.

(h) The effective date for an applicant receiving Medicaid in another state prior to the date of request, but during the month that includes the date of request, is the day following the day that Medicaid benefits end in the other state if all eligibility requirements are met during the month that includes the date of request. If all requirements are not met in the month that includes the date of request the effective date is determined in accordance with paragraph (1)(a)(B) and subsection (b) of this section.

(2) In the OSIPM program, if an individual has been released from a correctional institution and is determined eligible for OSIPM, the effective date of beginning the individual's medical assistance is the date the individual is released from the correctional facility or the date the individual begins the period of hospitalization outside of the correctional facility.

(3) 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.

(4) 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.

(5) In the REFM program:

(a) Except as provided in subsection (b) of this section:

(A) If the individual meets all eligibility requirements on the date of request (see OAR 461-115-0030), it is the date of request.

(B) If the individual 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 individual 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.

(6) 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, 413.085, 414.685, 414.839

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.439, 411.447, 411.704, 411.706, 413.085, 414.685, 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; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 32-2015(Temp), f. & cert. ef. 12-15-15 thru 6-11-16; SSP 4-2016(Temp), f. & cert. ef. 1-22-16 thru 6-11-16; SSP 13-2016, f. 3-21-16, cert. ef. 4-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 17-2017(Temp), f. 6-28-17, cert. ef. 7-1-17 thru 12-27-17; SSP 23-2017, f. 9-11-17, cert. ef. 10-1-17

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Rule Caption: Accommodation allowances for APD medical clients
Adm. Order No.: SSP 24-2017(Temp)
Filed with Sec. of State: 9-14-2017

Certified to be Effective: 10-1-17 thru 3-29-18

Notice Publication Date:

Rules Amended: 461-155-0660

Subject: OAR 461-155-0660 about accommodation allowances is being amended to remove references to live-in services, and clarify the methodology the Department uses in calculating an accommodation allowance.

The rule text showing these changes is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_temporary.htm.

Rules Coordinator: Robert Trachtenberg—(503) 947-5290

461-155-0660

Special Need; Accommodation Allowance

An OSIPM recipient may receive an accommodation allowance as follows:

(1) Temporary absence of individual from home.

(a) A temporary accommodation allowance may be authorized if an individual meets all the following requirements:

(A) The individual owns, rents or leases a primary residence.

(B) The individual leaves his or her home or rental property and temporarily receives services in a hospital, nursing facility, residential care facility, assisted living facility, adult foster home, specialized living facility or state psychiatric institution.

(C) Except for a temporary absence from the primary residence, the individual must be eligible to receive in-home services under OAR chapter 411 division 030.

(D) The individual cannot afford to keep the home or rental property without the allowance.

(E) The individual will be able to return home or rental property within six months of leaving, according to a written statement from a primary practitioner, RN, or PAS (pre-admission screening) RN.

(F) The home or rental property will accommodate the service plan of the individual when the individual returns.

(b) The allowance may be authorized for six months. If, after six months, the individual 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 individual's housing cost, including taxes and insurance, plus the limited standard utility allowance for the SNAP program provided in OAR 461-160-0420.

(2) Disability-associated accommodation allowance.

(a) In order to be eligible for an accommodation allowance under this section, an individual must meet the requirements of each of the following paragraphs:

(A) The individual must meet the requirements of at least one of the following subparagraphs:

(i) Receive SSI.

(ii) Have adjusted income less than the OSIPM program income standard.

(iii) Be receiving or be eligible to receive home and community-based care in-home services under OAR chapter 411 division 030 and be 18 years of age or older

(B) The individual's shelter costs exceed \$451 for a one-person need group or \$559 for a two-person need group; and

(C) The individual has a documented increase in rent associated with access by an individual with a disability.

(b) The amount of the accommodation allowance is limited to the amount of the increase in housing cost associated with the individual's access needs.

(3) Accommodation allowance based on increased costs associated with an individual's need for a home with an additional bedroom for a service provider.

(a) In order to be eligible for an accommodation allowance under this section, an individual must meet the requirements of all of the following paragraphs:

(A) Receive in-home services under OAR Chapter 411 Division 030.

(B) Require full assistance in at least four of the six activities of daily living as determined by the assessment described in OAR Chapter 411 Division 015.

(C) Receive services from one or more homecare workers who routinely sleep at the individual's home as part of the individual's service plan.

(b) 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

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(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 individual 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 is from the refinancing.

(i) If the refinancing requirement is met under this paragraph, 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 individual remains eligible only for the limited standard utility allowance portion under OAR 461-160-0420.

(4) Special requirements.

(a) An individual who rents and qualifies for an allowance under section (2) or (3) of this rule must take the steps necessary to obtain subsidized housing under any federal or state housing program. An individual who fails, at any time, to take the steps necessary to obtain reasonably available subsidized housing is ineligible for the allowance. An individual who has been denied or revoked from participation in any rent subsidy program based on the individual's own actions is ineligible for benefits under this rule.

(b) An individual 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 individual continues to have increased costs related to accommodations in the individual's current living situation, the accommodation allowance may continue until such time as appropriate subsidized housing is found.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 413.085, 414.685
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 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; SSP 11-2017(Temp), f. 3-28-17, cert. ef. 4-1-17 thru 9-27-17; SSP 20-2017, f. 8-11-17, cert. ef. 9-1-17; SSP 24-2017(Temp), f. 9-14-17, cert. ef. 10-1-17 thru 3-29-18

Rule Caption: Revising rules about self-sufficiency programs

Adm. Order No.: SSP 25-2017(Temp)

Filed with Sec. of State: 9-15-2017

Certified to be Effective: 10-1-17 thru 1-31-18

Notice Publication Date:

Rules Amended: 461-110-0370, 461-130-0310, 461-135-0505, 461-135-0520, 461-155-0150, 461-155-0190, 461-160-0015, 461-160-0420, 461-160-0430, 461-165-0030, 461-165-0180

Subject: OAR 461-110-0370 about filing groups in the SNAP program, OAR 461-155-0190 about income and payment standards in the SNAP program, OAR 461-160-0015 about resource limits, OAR 461-160-0420 about shelter costs in the SNAP program, and OAR 461-160-0430 about income deductions in the SNAP program are being amended to comply with changes to federal SNAP standards that will be effective on October 1st, 2017

OAR 461-130-0310 about participation classifications is being amended to align its employment program exemptions for the SNAP program more closely with the federal regulations, including the removal of categorical exemptions for pregnant and chronically homeless individuals as well as broadening the exemption for caring for an individual with a disability.

OAR 461-135-0505 about categorical eligibility for the SNAP program is being amended to narrow the group of individuals who become ineligible for categorical eligibility due to liquid assets, allowing more retirees to qualify.

OAR 461-135-0520 about time limits and special requirements for able-bodied adults without dependents (ABAWD) in the SNAP pro-

gram is being amended to clarify the rule and align its countable month exemptions more closely with the federal regulations.

OAR 461-155-0150 about the child care eligibility standard, payment rates, and copayments is being amended to remove its requirement for providers to make their own determination about the need for a higher level of care to qualify for a special needs rate for child-care benefits. This rule is also being amended to reflect the negotiated 1.5 percent increase in some of the child care provider rates.

OAR 461-165-0030 about concurrent and duplicate program benefits is being amended to state that a child in the last month of receiving ERDC (Employee Related Daycare) benefits may apply for and receive TANF benefits in the same month, aligning with current practices.

OAR 461-165-0180 is being amended add language that extended the deadline from June 30, 2017 to July 31, 2017 for license-exempt child care providers who were approved for DHS subsidy payments prior to November 1, 2016 to take the required Introduction to Child Care Health and Safety trainings. This rule is also being amended to allow more time for parents who are still using a license-exempt child care provider to find a new provider by allowing these providers until September 30, 2017 to take the required training. These amendments were added by temporary rule on August 8, 2017 and are now re-filed because they were not part of the earlier notice of proposed rulemaking which became permanent on October 1, 2017.

Rules Coordinator: Robert Trachtenberg—(503) 947-5290

461-110-0370

Filing Group; SNAP

In the SNAP program:

(1) Except as provided in this rule, the filing group (see OAR 461-110-0370) 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:

(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

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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 may not participate in the SNAP program independently of the household group.

(b) A lodger may participate in the SNAP program with the household group when the lodger pays a reasonable amount (see subsection (d) of this section) for room and board.

(c) A lodger must participate in the SNAP program with the household group when the lodger does not pay a reasonable amount for room and board.

(d) 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.

(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 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

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 through 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; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 45-2016, f. 12-20-16, cert. ef. 1-1-17; SSP 25-2017(Temp), f. 9-15-17, cert. ef. 10-1-17 through 1-31-18

461-130-0310

Participation Classifications: Exempt, Mandatory, and Volunteer

(1) In the Post-TANF, Pre-TANF, REF, SNAP, and TANF programs:

(a) The Department assigns an individual to one or more employment program participation classifications—exempt, mandatory, and volunteer (see OAR 461-130-0305 for definitions of all three terms).

(b) Notwithstanding OAR 461-130-0503(2)(c), in the Post-TANF program or while receiving Employment Payments (see OAR 461-001-0025) under OAR 461-135-1270, an individual is classified as a volunteer.

(2) In the Pre-TANF, and TANF programs:

(a) An individual in the need group (see OAR 461-110-0630) is JOBS exempt from employment program participation and disqualification if the

individual meets the requirements of at least one of the following paragraphs. The individual is --

(A) A parent (see OAR 461-001-0000) 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.

(B) A noncitizen who is not authorized to work in the United States.

(C) An individual who is eligible for and receives supplemental security income (SSI) from the Social Security Administration.

(D) A caretaker relative (see OAR 461-001-0000) who is non-needy.

(b) A caretaker relative of a dependent child or unborn who receives TANF program benefits is JOBS eligible if the caretaker relative is in the same filing group with the dependent child (see OAR 461-001-0000) or unborn (even if the caretaker relative is not in the TANF program benefit group under OAR 461-110-0750), unless the caretaker relative is otherwise JOBS exempt from participation under subsection (a) of this section.

(c) A JOBS volunteer is an individual who is federally mandatory and eligible to participate in an employment program, but who may not be disqualified as they meet at least one of the following state exemptions:

(A) Pregnant and the pregnancy has reached the first of the calendar month prior to the month in which the due date falls.

(B) Pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.

(C) A parent, 20 years old and older, during the first six months after the birth of the parent's dependent child 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 JOBS Eligible participant in each filing group (see OAR 461-110-0330).

(D) A parent under age 20 years old, during the first 16 weeks after the birth of the parent's dependent child except that the Department may require the parent to participate in parenting classes, a family stability activity, or an educational track if the parent has not completed high school, GED, or equivalency program.

(E) An individual whose participation is likely to cause undue hardship or is contrary to the best interests of the dependent child or needy caretaker relative.

(F) Pregnant and participating more than 10 hours per week during the first two months of the third trimester.

(G) A VISTA volunteer.

(3) In the SNAP program:

(a) An individual is exempt from registration in an employment program and disqualification if the individual meets the requirements of one of the following paragraphs. The individual is --

(A) An individual with a physical or mental condition that prevents performance of any work.

(B) Responsible for the care of a child (see OAR 461-001-0000) in the filing group under 6 years of age.

(C) Responsible for the care of an individual with a disability (see OAR 461-001-0015) that substantially reduces or eliminates the individual's ability to care for himself or herself.

(D) A student 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. An individual remains exempt during normal periods of class attendance, vacation, and recess but no longer qualifies 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).

(E) A regular participant in a drug addiction or alcoholic treatment and rehabilitation program.

(b) An individual is mandatory for registration in an employment program and the requirements in OAR 461-130-0315 if the individual meets the requirements of one of the following paragraphs. These individuals may be disqualified under OAR 461-130-0330 for failing to meet the requirements in OAR 461-130-0315. The individual 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. An individual who is self-employed 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.

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(B) Engaged in the TANF JOBS program under Title IV-A of the Social Security Act.

(C) 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).

(c) 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.

(4) In the REF program, an individual in the need group is exempt from the REF employment program participation and disqualification if the individual meets the requirements of at least one of the following subsections. The individual is –

(a) 65 years of age or older.

(b) An individual providing care for a family member who is in the household group and has a disability. Medical documentation to support the need for the care is required.

(c) An individual whose participation is likely to cause undue hardship to that individual.

(d) Pregnant and the pregnancy has reached the first of the calendar month prior to the month in which the due date falls.

(e) Pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.

(f) Pregnant and participating more than 10 hours per week during the first two months of the third trimester.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.009, 412.014, 412.049
Stats. Implemented: ORS 409.010, 409.750, 411.060, 411.070, 411.816, 411.837, 412.006, 412.009, 412.014, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; 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 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; 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 28-2009, f. & cert. ef. 10-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; 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 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 13-2013, f. & cert. ef. 7-1-13; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 37-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 1-2016(Temp), f. & cert. ef. 1-1-16 thru 6-28-16; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 38-2016(Temp), f. & cert. ef. 10-19-16 thru 4-16-17; SSP 45-2016, f. 12-20-16, cert. ef. 1-1-17; SSP 10-2017, f. 3-24-17, cert. ef. 4-1-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17; SSP 25-2017(Temp), f. 9-15-17, cert. ef. 10-1-17 thru 1-31-18

461-135-0505

Categorical Eligibility for SNAP

(1) An individual is categorically eligible for SNAP benefits if the individual:

(a) Receives or is authorized to receive GA or SSI benefits;

(b) Receives or is authorized to receive cash, in-kind benefits, or services funded either under Title IV-A of the Social Security Act or by the state as part of the TANF maintenance of effort;

(c) Is deemed to be receiving SSI under Section 1619(a) or 1619(b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)); or

(d) Is a member of a financial group (see OAR 461-110-0530) with countable (see OAR 461-001-0000) income less than 185 percent of the federal poverty level as described in OAR 461-155-0180(4), does not have liquid assets from lottery winnings in excess of \$25,000, and has received a pamphlet about Information and Referral Services. Liquid assets are assets that are easily accessible and do not need to be sold to access their value.

(2) For an entire filing group to be categorically eligible for SNAP benefits, it must contain only clients who are categorically eligible for SNAP benefits. For the purpose of determining who is categorically eligible for SNAP benefits, in the ERDC and TA-DVS programs all members of the filing group are considered receiving the benefits of the program even if not all members receive the benefit.

(3) A filing group that is eligible for transition services or the TA-DVS program is considered receiving benefits for the entire period of eligibility even if benefits are not received during each month of that period.

(4) An individual categorically eligible for the SNAP program is presumed to meet the eligibility requirements for resources and countable and adjusted income limits. The individual is also presumed to meet the require-

ments for a social security number, sponsored alien information, and residency, if verified in a public assistance or medical assistance program.

(5) When a filing group contains both members who are categorically eligible for SNAP benefits and those who are not, a resource owned in whole or in part by a categorically eligible member is excluded.

(6) An individual may not be categorically eligible for SNAP benefits in either of the following circumstances:

(a) The individual is disqualified from receiving SNAP benefits because of an intentional program violation.

(b) The individual is a primary person (see OAR 461-001-0015) disqualified from receiving SNAP benefits for failure to comply with an OFSET activity or component contained in an OFSET case plan (see OAR 461-001-0020).

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 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 19-1993, f. & cert. ef. 10-1-93; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 29-2000(Temp), f. & cert. ef. 12-1-00 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; 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 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 39-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 25-2017(Temp), f. 9-15-17, cert. ef. 10-1-17 thru 1-31-18

461-135-0520

Time Limit and Special Requirements for ABAWD; SNAP

This rule establishes the time limit and special requirements for receipt of SNAP benefits for certain adults.

(1) Unless the context indicates otherwise, the following definitions apply to rules in OAR chapter 461:

(a) “Able-bodied adult without dependents (ABAWD)” means an individual 18 years of age or over, but under the age of 50, without dependents. For the purpose of this definition, “without dependents” means there is no child (see OAR 461-001-0000) under the age of 18 years in the filing group (see OAR 461-110-0310 and 461-110-0370).

(b) “SNAP time-limit counties” means Oregon counties in which the limitation on eligibility (see OAR 461-001-0000) for SNAP benefits for ABAWD in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)) applies. “SNAP time-limit counties” are Clackamas, Multnomah, and Washington counties.

(c) “SNAP time-limit exempt counties” means Oregon counties in which the limitation on eligibility for SNAP benefits contained in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)) does not apply per a waiver approved by the United States Department of Agriculture. “Exempt counties” are Baker, Benton, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Malheur, Marion, Marrow, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Wheeler, and Yamhill counties.

(2) Except as provided otherwise in this rule, an ABAWD who resides in one of the SNAP time-limit counties (see section (1) of this rule) is ineligible to receive food benefits as a member of any household after the individual received food benefits for three countable months (see section (3) of this rule) during January 1, 2016 to December 31, 2018.

(3) “Countable months” means months within the 36-month period of January 1, 2016 to December 31, 2018 in which an individual as a member of any household receives SNAP benefits in Oregon or in any other state, unless at least one of the following applies:

(a) The individual resided for any part of the month in one of the SNAP time-limit exempt counties (see section (1) of this rule).

(b) Benefits were prorated for the month.

(c) The individual was exempt from the SNAP time limit for any part of the month under OAR 461-130-0310(3)(a) or (b) for any of the following reasons:

(A) The individual resided in one of the SNAP time-limit exempt counties.

(B) The individual was pregnant.

(C) A child under the age of 18 years joined the filing group.

(D) The individual met the criteria under OAR 461-130-0310(3)(a) or (b).

(d) The individual participated in one or more of the activities in paragraphs (A) to (D) of this subsection for 20 hours per week averaged over the month. For purposes of this rule, 20 hours per week averaged monthly means 80 hours per month. (Activities may be combined in one month to meet the 20 hours per week averaged monthly requirement.)

(A) Work for pay, in exchange for goods or services, or unpaid work as a volunteer.

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(i) Work in exchange for goods and services includes bartering and in-kind work.

(ii) Unpaid or voluntary work hours must be verified by the employer.

(iii) For self-employed individuals, countable income after deducting the costs of producing income must average at least the federal minimum wage times 20 hours per week.

(B) Participate in a program under the Workforce Investment Act of 1998, Pub. L. No. 105 220, 112 Stat. 936 (1998).

(C) Participate in a program under section 236 of the Trade Act of 1974, Pub. L. 93 618, 88 Stat. 2023, (1975) (19 U.S.C. 2296).

(D) Comply with the employment and training requirements described in OAR 461-001-0020, 461-130-0305, and 461-130-0315. Work search activities must be combined with other work-related activities to equal 20 hours per week and may not exceed 9 hours per week.

(e) The individual complied with the Workfare requirements in OAR 461-190-0500.

(4) An ABAWD must submit evidence to the Department on the issue of whether a month is countable within 90 days following the last day of the month in question.

(5) An ABAWD who is ineligible under section (2) of this rule but otherwise eligible may regain eligibility if the requirements of subsections (a) or (b) of this section are met.

(a) The individual becomes exempt under OAR 461-130-0310(3)(a). Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual is exempt and is otherwise eligible. If not eligible on the filing date (see OAR 461-115-0040), eligibility begins the date all other eligibility requirements are met.

(b) The individual, during a consecutive 30-day period during which the individual is not receiving SNAP benefits, meets the requirements of subsection (3)(d) or (3)(e) of this rule.

(A) Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual meets the requirements of subsection (3)(d) or (3)(e) of this rule and is otherwise eligible. If not eligible on the filing date, eligibility begins the date all other eligibility requirements are met.

(B) There is no limit to how many times an individual may regain eligibility under this subsection during January 1, 2016 to December 31, 2018.

(c) See OAR 461-180-0010 to add an individual to an open SNAP case after the individual has regained eligibility under this section.

(6) An individual who regains eligibility under section (5) of this rule and later fails to comply with the participation requirements of subsection (3)(d) or (3)(e) of this rule may receive a second set of food benefits for three consecutive countable months. The countable months are determined as follows:

(a) If the individual stopped participation in a work program, countable months start when the Department notifies the individual he or she is no longer meeting the work requirement.

(b) If the individual stopped participation in a work program, countable months start when the individual notifies the Department he or she is no longer meeting the work requirement.

(c) If a change occurred which results in an individual becoming subject to the time limit in section (2) of this rule and the change was required to be reported under rules in OAR chapter 461, division 170, the countable months start when the change occurred.

(d) If a change occurred which results in an individual becoming subject to the time limit and the change was not required to be reported under rules in OAR chapter 461, division 170, countable months start when the Department notifies the individual he or she must meet the work requirement.

(e) An individual may only receive benefits without meeting the requirements of subsection (3)(d) or (3)(e) of this rule for a total of six countable months during January 1, 2016 to December 31, 2018.

(7) This section is a placeholder to establish criteria the Department will use to grant exemptions to ABAWD who are ineligible if the Department receives special exemptions from the Food and Nutrition Service.

(8) An ABAWD involved in the activities specified in subsection (3)(d) or (3)(e) of this rule or an activity listed in the individual's case plan (see OAR 461-001-0020) is eligible for support service payments necessary for transportation or other costs related to completing the activity as allowed by OAR 461-190-0360.

[Publication.: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.121, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.121, 411.816, 411.825, 411.837

Hist.: AFS 39-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; 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 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; 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 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; 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 8-2001, f. & cert. ef. 5-1-01; AFS 8-2002, f. & cert. ef. 5-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 37-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 6-2016(Temp), f. & cert. ef. 2-5-16 thru 8-2-16; SSP 10-2016(Temp), f. & cert. ef. 3-2-16 thru 8-2-16; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 16-2016(Temp), f. & cert. ef. 4-5-16 thru 4-30-16; SSP 18-2016(Temp), f. 4-29-16, cert. ef. 5-1-16 thru 6-30-16; Administrative correction, 7-28-16; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 38-2016(Temp), f. & cert. ef. 10-19-16 thru 4-16-17; SSP 45-2016, f. 12-20-16, cert. ef. 1-1-17; SSP 25-2017(Temp), f. 9-15-17, cert. ef. 10-1-17 thru 1-31-18

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.

(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 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 subsection (b) of this section.

(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

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that the provider has met the requirements of subsection (b) or (f) of this section.

(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.

(h) Child care providers are eligible to receive an incentive payment upon achieving and maintaining a three star or higher rating with the Quality Rating Improvement System (QRIS) subject to all of the following provisions.

(A) The incentive payment is in addition to the Department maximum rate.

(B) A provider may receive an incentive payment for any ERDC child that the Department paid the provider for full-time care (136 hours or more).

(C) Providers who are contracted for child care services through the ERDC program are not eligible to receive incentive payments.

(D) Eligibility for the incentive payment is effective the month after the QRIS rating has been achieved.

(E) The incentive payment amount is based on the provider's star QRIS rating as follows: [Table not included. See ED. NOTE.]

(4) The following are the child care rates 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), (13), or (14) of this rule or for children in contracted child care (see OAR 461-135-0405 and 461-135-0407), this section establishes the ERDC eligibility standard and the client's copayment (copay).

(a) At initial certification, the ERDC eligibility standard is met for a need group (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. The eligibility standard for a need group of eight applies to any need group larger than eight.

(b) During the certification period (see OAR 461-001-0000) and at recertification the ERDC eligibility standard is met for a need group of eight or less if monthly countable income for the need group during the 12 month period is less than 250 percent FPL or 85 percent state median income (SMI), whichever is higher, as described in OAR 461-155-0180. The eligibility standard for a need group of eight applies to any need group larger than eight.

(c) The minimum monthly ERDC copay is \$25.

(d) The filing group may not exceed the resource limit in OAR 461-160-0015.

(e) For a filing group (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.

(f) For a filing group whose countable income is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:

(A) Divide the filing group's countable income by the 2007 FPL, drop all digits beyond two decimal points, subtract 0.5, and multiply this difference by 0.12.

(B) Add .015 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income used to determine the copay amount. Multiply this sum by the filing group's countable income and round to the nearest whole dollar.

(f) The 2007 federal poverty level used to determine copay amounts under subsections (e) and (e) 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 the amounts in paragraphs (A) or (B) of this subsection:

(A) 125 percent of the number of child care hours authorized:

(i) Under OAR 461-160-0040(2) and (5); or

(ii) 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.

(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).

(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.

(d) In the ERDC program, employed caretakers eligible under OAR 461-135-0400 may have education hours added to the authorized work hours. Education hours may not exceed authorized work hours and combined hours may not exceed 215 hours per month. Education hours are hours required to participate in coursework that leads to a certificate, degree, or job-related knowledge or skills attainment at an institution of higher education approved to receive federal financial aid.

(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 required to keep current employment, not including self-employment. 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.

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(d) The caretaker consistently works more than 40 hours per week.

(11) The payment available for care of a child who meets the special needs criteria described in subsection (e) of section (1) 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.

(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) Effective 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 copay amount set under section (5) of this rule by multiplying the copay amount by 1.1 and rounding down to the nearest whole dollar.

(13) Effective April 1, 2016, the ERDC copay is \$27 for no more than three months after closure of Pre-TANF, SFPSS, or TANF benefits when:

(a) The closure is because an individual in the need group had earned income that led to the TANF closure;

(b) An ERDC date of request (see OAR 461-115-0030) is established within 90 days of closure; and

(c) The individual is eligible for ERDC.

(14) The ERDC copay will be reduced starting the month after the ERDC case has been electronically connected to a Department approved child care provider with a Quality Rating and Improvement System (QRIS) star rating of 3, 4, or 5. The copay will be reduced by the following amounts:

(a) A copay set at \$27 is waived, unless the copay is \$27 under section (13) of this rule in which case the copay is not waived under this section.

(b) Copay amounts of \$28 to \$200 are reduced by \$20.

(c) Copay amounts of \$201 or more are reduced by 10 percent rounded to the nearest dollar.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 412.006, 412.040

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122, 411.141, 412.006, 412.049, 412.124, 418.485

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 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; SSP 35-2013, f. & cert. ef. 11-1-13 thru 3-30-14; SSP 8-2014, f. & cert. ef. 3-31-14; SSP 14-2015(Temp), f. & cert. ef. 3-23-15 thru 9-18-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15; SSP 33-2015(Temp), f. 12-18-15, cert. ef. 1-1-16 thru 6-28-16; SSP 7-2016(Temp), f. 2-17-16, cert. ef. 3-1-16 thru 6-28-16; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 30-2016, f. & cert. ef. 9-1-16; SSP 45-2016, f. 12-20-16, cert. ef. 1-1-17; SSP 25-2017(Temp), f. 9-15-17, cert. ef. 10-1-17 thru 1-31-18

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 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

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. 10-1-13; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 25-2017(Temp), f. 9-15-17, cert. ef. 10-1-17 thru 1-31-18

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 program, the limit is \$1,000,000.

(3) In the 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) \$5,000 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 QMB-BAS, QMB-SMB, and QMB-SMF programs, all resources are excluded.

(5) In the QMB-DW program, the resource limit is \$4,000 for a one-person need group and \$6,000 for a need group containing two or more individuals.

(6) In the REF and REFM programs, the resource limit is:

(a) \$2,500 for any of the following:

(A) A new REF or REFM applicant for benefits.

(B) In the REF program, the need group that has at least one mandatory (see OAR 461-130-0305) participant in an employment program who is:

(i) Receiving REF and not progressing in a required activity of an open case plan; or

(ii) Serving a current employment program disqualification (see OAR 461-130-0330).

(b) \$10,000 for a REF need group not covered under subsection (a) of this section.

(7) In the SNAP program, the resource limit is:

(a) \$3,500 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) \$2,250 for all other financial groups.

(8) In the TANF program, the resource limit is:

(a) \$2,500 for any of the following:

(A) A new TANF applicant for benefits.

(B) TANF need group that does not have at least one caretaker relative (see OAR 461-001-0000) or parent (see OAR 461-001-0000) who is receiving TANF.

(C) TANF need group that has 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 (see OAR 461-130-0330).

(b) \$10,000 for a need group not covered under subsection (a) of this section.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 411.837, 412.049, 413.085, 414.685, 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; SSP 30-2013(Temp), f. & cert. ef. 10-1-13

ADMINISTRATIVE RULES

thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 26-2014(Temp), f. & cert. ef. 10-1-14 thru 3-30-15; SSP 4-2015, f. & cert. ef. 1-1-15; SSP 35-2015, f. 12-23-15, cert. ef. 1-1-16; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 34-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 10-2017, f. 3-24-17, cert. ef. 4-1-17; SSP 25-2017(Temp), f. 9-15-17, cert. ef. 10-1-17 thru 1-31-18

461-160-0420

Shelter Cost; SNAP

(1) This rule explains how to calculate the 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 individual 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 an individual outside the filing group cannot be ascertained, the cost is apportioned among the individuals 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 \$454 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). This energy assistance payment must be greater than \$20 annually.

(B) Allowance without heating or cooling.

(i) A limited standard utility allowance of \$344 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 \$56 per month is used if the filing group is not billed for heating or cooling costs but is billed for 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 \$64 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 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837
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; SSP 13-2014(Temp), f. & cert. ef. 5-20-14 thru 11-16-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 25-2017(Temp), f. 9-15-17, cert. ef. 10-1-17 thru 1-31-18

461-160-0430

Income Deductions; SNAP

(1) Deductions from income are subtracted from countable (see OAR 461-001-0000) 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) \$160 per month for a benefit group (see OAR 461-110-0750) of one, two, or three individuals.

(B) \$170 per month for a benefit group of four individuals.

(C) \$199 per month for a benefit group of five individuals.

(D) \$228 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--

(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 (see OAR 461-001-0015) individuals and individuals 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 Department uses the resulting amount to determine the allowable deduction as follows:

(A) For an amount less than \$0, no deduction is allowed.

(B) For an amount greater than \$0 but less than \$170.01, a deduction of \$170 is allowed.

(C) For an amount greater than \$170, a deduction of the amount determined under this subsection is allowed.

(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 (see OAR 461-001-0000) 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:

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(i) The cost of room and board, minus the payment standard for the benefit group; or

(ii) The actual room cost, if the individual 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. The limit is \$535 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 individual 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 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837
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. 12-19-96; 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.10-31-0, 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; 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 28-2009, f. & cert. ef. 10-1-09; SSP 39-2010(Temp), f. & cert. ef. 11-4-10 thru 5-3-11; 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; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 35-2016, f. 9-30-16, cert. ef. 10-1-16; SSP 1-2017(Temp), f. & cert. ef. 2-1-17 thru 7-30-17; SSP 13-2017, f. 6-5-17, cert. ef. 7-1-17; SSP 25-2017(Temp), f. 9-15-17, cert. ef. 10-1-17 thru 1-31-18

461-165-0030

Concurrent and Duplicate Program Benefits

(1) Except as noted in this rule, 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 allowed in subsection (g) of this section, 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) An individual may receive EA, HSP, and TA-DVS benefits and cash payments from other programs for the same time period.

(b) If a GA recipient becomes eligible for the TANF program, the GA recipient may not receive a TANF cash payment for themselves in the month a GA cash payment was received.

(c) A 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 TANF filing group (see OAR 461-110-0310 and 461-110-0330).

(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 parent (see OAR 461-001-0000) of the child.

(C) A TANF benefit group when living with a needy caretaker relative receiving SSL.

(e) An individual in the SNAP program who leaves a filing group (see OAR 461-110-0310 and 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 individual enters the domestic violence shelter or safe home.

(f) Except in the QMB-DW and QMB-SMF programs, a QMB recipient may also receive medical benefits from OSIPM, REFM, MAGI Child, MAGI Parent or Other Caretaker Relative, or MAGI Pregnant Woman. QMB-DW and QMB-SMF recipients may not receive any other medical assistance program offered under the state plan (see OAR 461-135-0730).

(g) An individual may receive Chafee (see OAR 413-030-0400 to 413-030-0455) and TANF benefits during the same time period. As of January 1, 2013, receipt of both Chafee and TANF benefits will not result in an overpayment.

(h) An individual receiving Employment Payments (see OAR 461-001-0025 and 461-135-1270) who becomes eligible for TANF in the same month may receive both benefits in the same month.

(i) An individual receiving JPI (see OAR 461-135-1260) who becomes eligible for Pre-TANF or TANF in the same month may receive both benefits in the same month.

(j) An individual may start TANF benefits in the same and final month that ERDC benefits are being received.

(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 individual if the individual's provider refuses to submit a bill to the Medicaid agency of another state and the individual would not otherwise receive medical care.

(b) Cash benefits may be authorized for an individual in the Pre-TANF program if benefits from another state will end by the last day of the month in which the individual 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.

(4) An REF or TANF filing group may not receive REF or TANF benefits during the same month that an individual in that group was enrolled in or received assistance from the Office of Refugee Resettlement Matching Grant Program.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 412.124, 413.085, 414.025, 414.685, 414.826, 414.839

Stats. Implemented: ORS 329A.500, 409.050, 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 412.124, 413.085, 414.025, 414.685, 414.826, 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; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 29-2014(Temp), f. & cert. ef. 11-3-14 thru 5-1-15; SSP 12-2015, f. 3-16-15, cert. ef. 4-1-15; SSP 38-2015, f. 12-25-15, cert. ef. 1-1-16; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 10-2017, f. 3-24-17, cert. ef. 4-1-17; SSP 14-2017, f. 6-5-17, cert. ef. 7-1-17; SSP 25-2017(Temp), f. 9-15-17, cert. ef. 10-1-17 thru 1-31-18

461-165-0180

Eligibility of Child Care Providers

(1) The Department must approve a child care provider to receive payment for child care if information available to the Department provides no basis for denying eligibility unless the Department determines, following a final fitness determination (see OAR 125-007-0260 and 407-007-0320) or Child Protective Service (CPS) records checks, that the provider or other subject individual (see OAR 125-007-0210 and 407-007-0210(8)(a)(J)) is not eligible for payment.

(2) Ineligibility for payment may result from any of the following:

(a) A finding of "denied".

(A) A provider may be "denied" under OAR 461-165-0410 and 461-165-0420. If, after conducting a weighing test as described in OAR 407-007-0300, the Department finds substantial risk to the health or safety of a child (see OAR 461-001-0000) in the care of the provider, the provider must be "denied" and is ineligible for payment.

(B) A provider who has been "denied" has the right to a hearing under OAR 407-007-0335.

(b) A finding of "failed".

(A) A provider may be "failed" if the Department determines, based on a specific eligibility requirement and evidence, that a provider does not meet an eligibility requirement of this rule not covered in paragraph (c)(A) of this section.

(B) While the provider is in "failed" status:

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(i) The Department does not pay any other child care provider for child care at the “failed” provider’s site.

(ii) The Department does not pay a child care provider at another site if the “failed” provider is involved in the child care operation unless the Department determines that the reasons the provider is in “failed” status are not relevant to the new site.

(C) A provider with a status of “failed” may reapply at any time by providing the required documents and information to the Department for review.

(c) A finding of “suspended”.

(A) A provider may be “suspended” if the Department determines and provides notice that the provider does not meet an eligibility requirement in the following subsections and paragraphs of section (7) of this rule: (d), (e), (h), (i), (j), (k), (L), (o)(H), (o)(I), (o)(L), or (t) or in section (10) of this rule. A provider who has been “suspended” may challenge this status by requesting a contested case hearing subject to the requirements and limitations of OAR 461-025.

(B) While the provider is in “suspended” status:

(i) The provider is ineligible for payment for at least six months.

(ii) The Department does not pay any other child care provider for child care at the “suspended” provider’s site.

(iii) The Department does not pay a child care provider at another site if the “suspended” provider is involved in the child care operation unless the Department determines that the reasons the provider is in “suspended” status are not relevant to the new site.

(C) A provider with a status of “suspended” may be eligible for payments after the six month ineligibility period ends when the provider has been approved following reapplication, including providing the required documents and information to the Department for review.

(d) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.

(3) The provider must submit a completed Child Care Provider Listing Form (DHS 7494) to the Department within 30 calendar days from the date the Department issues the listing form to the client. The provider and each individual identified under section (4) of this rule must complete and sign the authorization for a records check through the Criminal History (CH) record system maintained by the Oregon State Police (OSP), Federal Bureau of Investigation (FBI), and the Child Protective Service (CPS) record system maintained by the Department and, if necessary, an authorization to release information and fingerprint cards. The provider, each individual described in section (4) of this rule, and each subject individual described in OAR 125-007-0210 and 407-007-0210(8)(a)(J) must fully disclose all requested information as part of the records check.

(4) This rule also establishes additional requirements for the following individuals:

(a) The site director of an exempt child care facility and each employee of the facility who may have unsupervised access to a child in care.

(b) The child care provider and each individual the provider uses to supervise a child in his or her absence.

(c) In the case of a provider who provides care for a child in the provider’s home--

(A) Each individual 16 years of age or older who lives in the provider’s home; and

(B) Each individual who visits the home of the provider during the hours care is provided and may have unsupervised access to a child in care.

(5) To receive payment or authorization for payment, the provider must comply with at least one of the following subsections:

(a) If the provider is not legally exempt (see section (11) of this rule):

(A) Be currently certified or registered with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250 and be in compliance with the applicable rules;

(B) Complete the Department’s background check process;

(C) Complete the Department’s listing process; and

(D) Be approved by the Department.

(b) If the provider is legally exempt and a legally exempt relative (see section (11) of this rule):

(A) Complete the Department’s background check process;

(B) Complete the Department’s listing process; and

(C) Be approved by the Department.

(c) If the provider is legally exempt and not a legally exempt relative for all children in care:

(A) Meet all OCC Regulated Subsidy Provider requirements under OAR 414-180-0005 through 414-180-0100;

(B) Submit to and pass a site visit at the location where care will be provided;

(C) Complete the Department’s background check process;

(D) Complete the Department’s listing process; and

(E) Be approved by the Department.

(6) Each individual described in section (4) of this rule must:

(a) Allow the Department to conduct a national criminal history records check through the Oregon State Police and the Federal Bureau of Investigation as specified in OAR 407-007-0250.

(b) Provide, in a manner specified by the Department, information required to conduct CH, FBI, OSP, and CPS records checks and determine whether the provider meets health and safety requirements.

(c) Have a history of behavior that indicates no substantial risk to the health or safety of a child in the care of the provider.

(7) Each provider must:

(a) Obtain written approval from their certifier or certifier’s supervisor if the provider is also certified as a foster parent.

(b) Be 18 years of age or older and in such physical and mental health as will not affect adversely the ability to meet the needs of safety, health, and well-being of a child in care.

(c) Not be in the same filing group (see OAR 461-110-0310 and 461-110-0350) as the child cared for; the parent (see OAR 461-001-0000) of a child in the filing group; or a sibling living in the home of a child in the filing group.

(d) Allow the Department to inspect the site of care while child care is provided.

(e) Keep daily attendance records showing the arrival and departure times for each child in care and billing records for each child receiving child care benefits from the Department. These written records must be retained for a minimum of 12 months and provided to the Department upon request.

(f) Be the individual or facility listed as providing the child care. The provider may only use someone else to supervise a child on a temporary basis if the person was included on the most current listing form and the provider notifies the Department’s Direct Pay Unit.

(g) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.

(h) Report to the Department’s Direct Pay Unit within five days of occurrence:

(A) Any arrest or conviction of any subject individual or individual described in section (4) of this rule.

(B) Any involvement of any subject individual or individual described in section (4) of this rule with CPS or any other agencies providing child or adult protective services.

(C) Any change to the provider’s name or address including any location where care is provided.

(D) The addition of any subject individual or individual described in section (4) of this rule.

(E) Any reason the provider no longer meets the requirements under this rule.

(i) Report suspected child abuse of any child in his or her care to CPS or a law enforcement agency.

(j) Supervise each child in care at all times.

(k) Prevent any individual who behaves in a manner that may harm children from having access to a child in the care of the provider. This includes anyone under the influence (see section (11) of this rule).

(L) Allow the custodial parent of a child in his or her care to have immediate access to the child at all times.

(m) Inform a parent of the need to obtain immunizations for a child and have a completed, up-to-date Oregon shot record called the “Certification of Immunization Status” (CIS) form on file for each child in care.

(n) Take reasonable steps to protect a child in his or her care from the spread of infectious diseases.

(o) Ensure that the home or facility where care is provided meets all of the following standards:

(A) Each floor level used by a child has two usable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a usable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency.

(B) The home or facility has safe drinking water.

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(C) The home or facility has a working smoke detector on each floor level and in any area where a child naps.

(D) Each fireplace, space heater, electrical outlet, wood stove, stairway, pool, pond, and any other hazard has a barrier to protect a child. Any gate or barrier may not pose a risk or hazard to any child in care.

(E) Any firearm, ammunition, and other items that may be dangerous to children, including but not limited to alcohol, inhalants, tobacco and e-cigarette products, matches and lighters, any legally prescribed or over-the-counter medicine, cleaning supplies, paint, plastic bags, and poisonous and toxic materials are kept in a secure place out of a child's reach.

(F) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard free condition.

(G) The home or facility has a telephone in operating condition.

(H) No one may smoke or carry any lighted smoking instrument, including e-cigarettes or vaporizers, in the home or facility or within ten feet of any entrance, exit, window that opens, or any ventilation intake that serves an enclosed area, during child care operational hours or anytime child care children are present. No one may use smokeless tobacco in the home or facility during child care operational hours or anytime child care children are present. No one may smoke or carry any lighted smoking instrument, including e-cigarettes and vaporizers, or use smokeless tobacco in motor vehicles while child care children are passengers.

(I) No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) on the premises (see section (11) of this rule) during child care operational hours or anytime child care children are present. No one under the influence of alcohol, controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) may be on the premises during child care operational hours or anytime child care children are present. No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) in motor vehicles while child care children are passengers.

(J) Is not a half-way house, hotel, motel, shelter, or other temporary housing such as a tent, trailer, or motor home. The restriction in this paragraph does not apply to licensed (registered or certified) care approved in a hotel, motel, or shelter.

(K) Is not a structure –

(i) Designed to be transportable; and

(ii) Not attached to the ground, another structure, or to any utilities system on the same premises.

(L) Controlled substances (except lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana, marijuana edibles, and other products containing marijuana), marijuana plants, derivatives, and associated paraphernalia may not be on the premises during child care operational hours or anytime child care children are present.

(p) Complete and submit a new listing form every two years, or sooner at the request of the Department, so that the Department may review the provider's eligibility.

(q) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.

(r) Comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, and crib standards under 16 CFR 1219 and 1220.

(s) Place infants to sleep on their backs.

(t) Not hold a medical marijuana card; or distribute, grow, or use marijuana (including medical marijuana) or any controlled substance (except lawfully prescribed and over-the-counter medications).

(u) Develop and communicate expulsion and suspension policies to parents and caretakers.

(v) Provide care at a location within the state of Oregon.

(8) Legally exempt providers must complete the "Introduction to Child Care Health and Safety" two-hour, web-based training as provided in the following subsections:

(a) Legally exempt providers with a list date prior to November 1, 2016, must complete the "Introduction to Child Care Health and Safety" training by July 31, 2017. Providers who have continued to actively provide care and receive payment for Department subsidy families may be granted an extension to September 30, 2017 to complete the training.

(b) Legally exempt providers with a list date of November 1, 2016 or later must complete the "Introduction to Child Care Health and Safety" prior to Department approval.

(9) Legally exempt providers must complete an orientation provided by the Department or a Child Care Resource and Referral agency within 90 days of being approved by the Department if he or she:

(a) Receives funds from the Department; and

(b) Begins providing child care services after June 30, 2010, or resumes providing child care services, after a break of more than one year that began after June 30, 2010.

(10) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be under the influence.

(11) For purposes of these rules:

(a) "Premises" means the home or facility structure and grounds, including indoors and outdoors and space not directly used for child care.

(b) "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.

(c) "Legally exempt" means the child care provider is exempt from licensing with the OCC because the provider is not subject to the licensing requirements under OAR 414-205-0000 to 414-205-0170, OAR 414-350-000 to 414-350-0405, and OAR 414-300-0000 to 414-300-0415.

(d) "Legally exempt relative" means a legally exempt provider who is a relative to all children in care including a great-grandparent, grandparent, aunt, uncle, or sibling not living in the home of any child in care.

(12) Legally exempt providers that are not a legally exempt relative to all children in care must meet all of the requirements in this section before approval by the Department, unless otherwise noted:

(a) Have an up-to-date, in-person infant and child CPR and first aid certification or have a currently valid waiver of this requirement from the Child Care Resource and Referral program.

(b) Complete the Recognizing and Reporting Child Abuse and Neglect (RRCAN) web-based training.

(c) Complete six hours of ongoing education in each two-year listing period as provided in this subsection. All trainings must be accepted by the Oregon Center for Career Development (OCCD) and be part of the OCCD's 10 Core Knowledge Categories recognized by Oregon Registry Online to count toward the six hours.

(A) Two of the six hours must fall under the "Human Growth and Development" category; and

(B) Two of the six hours must cover "Understanding & Guiding Behavior".

(13) Child care centers or programs that are legally exempt from certification or registration with the OCC, are located in a commercial or institutional facility, and receive payment from the Department on behalf of a family receiving a child care subsidy, may not exceed the following staff to children in care ratios:

(a) Six weeks through 23 months of age, the minimum number of staff to children is one to four. The maximum number of children in a group is eight.

(b) 24 months through 35 months of age, the minimum number of staff to children is one to five. The maximum number of children in a group is 10.

(c) 36 months of age to attending kindergarten, minimum number of staff to children is one to 10. The maximum number of children in a group is 20.

(d) Attending kindergarten and older, the minimum number of staff to children is one to 15. The maximum number of children in a group is 30.

(e) In a mixed-age group of children, the number of staff and group size shall be determined by the age of the youngest child in the group.

Stat. Auth.: ORS 181.537, 329A.500, 409.050, 411.060, 411.070

Stats. Implemented: ORS 181.537, 329A.340, 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 17-1994(Temp), f. & cert. ef. 8-15-94; 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 2-1997, f. 2-27-97, cert. ef. 3-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 12-1997, f. & cert. ef. 8-25-97; AFS 14-1999, f. & cert. ef. 11-1-99; 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 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2002, f. 12-31-02, cert. 1-1-03; SSP 13-2004, f. 4-29-04, cert. ef. 5-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 6-2005(Temp), f. & cert. ef. 4-25-05 thru 9-30-05; 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 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 5-2014(Temp), f. 2-4-14, cert. ef. 3-1-14 thru 8-28-14;

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SSP 10-2014(Temp), f. & cert. ef. 4-1-14 thru 8-28-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 21-2014(Temp), f. & cert. ef. 8-13-14 thru 2-9-15; SSP 6-2015, f. 1-30-15, cert. ef. 2-1-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 3-2016(Temp), f. & cert. ef. 1-20-16 thru 7-17-16; SSP 12-2016(Temp), f. & cert. ef. 3-14-16 thru 7-17-16; SSP 22-2016(Temp), f. & cert. ef. 5-23-16 thru 11-18-16; SSP 27-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 11-18-16; SSP 23-2016, f. 6-28-16, cert. ef. 7-1-16; SSP 29-2016, f. & cert. ef. 8-1-16; SSP 37-2016(Temp), f. 9-30-16, cert. ef. 10-1-16 thru 3-29-17; SSP 41-2016(Temp), f. & cert. ef. 11-1-16 thru 4-29-17; SSP 40-2016, f. & cert. ef. 11-1-16; SSP 45-2016, f. 12-20-16, cert. ef. 1-1-17; SSP 12-2017(Temp), f. & cert. ef. 6-1-17 thru 11-27-17; SSP 19-2017(Temp), f. & cert. ef. 8-8-17 thru 11-27-17; SSP 22-2017, f. 9-8-17 & cert. ef. 10-1-17; SSP 25-2017(Temp), f. 9-15-17, cert. ef. 10-1-17 thru 1-31-18

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

Rule Caption: Documents Equivalent to Manufacturer's Certificate of Origin

Adm. Order No.: DMV 13-2017

Filed with Sec. of State: 8-23-2017

Certified to be Effective: 8-23-17

Notice Publication Date: 7-1-2017

Rules Amended: 735-022-0060

Subject: The amendment to OAR 735-022-0060 establishes a specific situation where a vehicle rental business may submit a new type of ownership document in lieu of a Manufacturer's Certificate of Origin (MCO) when titling and registering a brand new vehicle for the first time through the Electronic Vehicle Registration (EVR) Program. Specific requirements that vehicle rental businesses must meet are established by rule. There is also specific content that will be required to be submitted to the EVR integrator for submission of the new type of ownership document to DMV. This amendment will allow a vehicle rental business to efficiently title and register rental vehicles to be operated on the roads.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-022-0060

Documents Equivalent to Manufacturer's Certificate of Origin (MCO)

(1) DMV may accept other documents in place of an MCO if:

(a) The original MCO has been lost or destroyed;

(b) The vehicle was not manufactured for sale in the U.S. and an MCO was never issued;

(c) The vehicle was manufactured in multiple stages and an MCO was not issued for the first stage, or if any part of the vehicle has already been titled or registered;

(d) The manufacturer did not issue an MCO; or

(e) A vehicle rental business with a valid Oregon dealer certificate issued under ORS 822.020:

(A) Participates in the Electronic Vehicle Registration (EVR) Program; and

(B) Completes the vehicle transaction with an EVR Program integrator prior to receiving an MCO from the manufacturer.

(2) Documents that may be accepted under this rule must include evidence of releases of interest forming a complete chain of ownership from the current applicant back to the point of manufacture. If any part of the vehicle has been titled or registered, the chain of ownership for that part of the vehicle must go back to the last owner of record.

(3) Examples of documents DMV may consider under this rule include:

(a) If the MCO is lost or destroyed, a copy of the manufacturer's invoice to the dealer. The invoice must be signed by the owner or office manager of the dealership and provide information as to the disposition of the original MCO; or

(b) A letter from the manufacturer indicating to whom the interest of the vehicle was assigned with connecting bills of sale from subsequent purchasers.

(c) A New Vehicle Report of Sale when a vehicle rental business described in this rule has not received the MCO at the time the business completes the title and registration transaction using an EVR Program integrator. DMV must receive the New Vehicle Report of Sale from the EVR Program integrator in accordance with terms of DMV's contract with the integrator. The vehicle rental business must destroy the original MCO, if it is received for a vehicle after a New Vehicle Report of Sale has been submitted to title that vehicle.

(4) DMV may withhold issuance of title even if equivalent documents are provided if it has reason to believe the MCO is available or that it may be in the possession of a third party.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.045 & 803.050

Stats. Implemented: ORS 801.402

Hist.: MV 6-1987, f. & ef. 6-17-87; Administrative Renumbering 3-1988, Renumbered from 735-090-0530; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 3-2014, f. & cert. ef. 5-19-14; DMV 13-2017, f. & cert. ef. 8-23-17

Employment Department Chapter 471

Rule Caption: Align definition of "Reasonable Assurance" with federal guidance.

Adm. Order No.: ED 4-2017

Filed with Sec. of State: 8-25-2017

Certified to be Effective: 8-25-17

Notice Publication Date: 8-1-2017

Rules Amended: 471-030-0075

Subject: This change in rule enables employees working for educational institutions who voluntarily quit work for good cause, as determined by the Employment Department, to be eligible for unemployment insurance.

Rules Coordinator: Cristina Koreski—(503) 947-1471

471-030-0075

"Reasonable Assurance" Defined

(1) With respect to the application of ORS 657.167 and 657.221, "reasonable assurance" means a written contract, written notification or any agreement, express or implied, that the employee will perform services immediately following the academic year, term, vacation period or holiday recess which is in the same or similar capacity, unless the economic terms and conditions of the employment in the second year or period are substantially less than the employment in the first year or period. A finding of reasonable assurance may be based on the totality of circumstances.

(2) As used in this rule, "substantially less" means:

(a) The gross weekly wage offered is less than 90% of the gross weekly wage earned in the prior academic year or term which preceded the weeks of unemployment or,

(b) The average number of hours the individual will be working is less than 90% of the average number of hours worked in the prior academic year or term, which preceded the weeks of unemployment;

(c) For the purpose of this section, employer paid benefits are not to be considered.

(3) With respect to (1) of this rule, "same or similar capacity" refers to the type of services provided: i.e., a "professional" capacity as provided by ORS 657.167 or a "nonprofessional" capacity as provided by 657.221.

(4) An individual who voluntarily leaves work for good cause, as defined under OAR 471-030-0038, does not have reasonable assurance with the employer from whom the person left.

Stat. Auth.: ORS 657

Stats. Implemented: ORS 657.167 & 657.221

Hist.: 1DE 150, f. & ef. 2-9-76; 1DE 152, f. 9-28-77, ef. 10-4-77; 1DE 1-1984, f. & ef. 3-21-84; 1DE 3-1985, f. & ef. 12-16-85; ED 4-2004, f. 7-30-04, cert. ef. 8-1-04; ED 13-2006(Temp), f. 12-1-06, cert. ef. 12-3-06 thru 6-1-07; ED 1-2007, f. & cert. ef. 1-29-07; ED 2-2017(Temp), f. & cert. ef. 2-27-17 thru 8-25-17; ED 4-2017, f. & cert. ef. 8-25-17

Rule Caption: Align rule for offsetting employer debts through the federal Treasury Offset Program with state statute.

Adm. Order No.: ED 5-2017

Filed with Sec. of State: 8-25-2017

Certified to be Effective: 8-25-17

Notice Publication Date: 8-1-2017

Rules Amended: 471-030-0058

Subject: The Employment Department is updating the language in the existing rule to be consistent with the changes to Oregon Revised Statute 657.312 resulting from the passage of Senate Bill 242 in the 2015 Legislative Session. The law expanded the department's authority to intercept the federal tax refunds of employers with delinquent

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Unemployment Insurance tax obligations through the federal Treasury Offset Program (TOP).

The proposed amendment makes four changes to the existing rule:

1) Delinquent taxes are included in the types of debts which are eligible for referral to TOP for offset and which the department will notify about the intent to offset against federal tax refunds;

2) Update the references to the federal laws used to grant states with the authority to use TOP for offset against federal tax refunds;

3) The terminology used in the rule is being updated to identify the parties subject to the offsetting of refunds from “claimant” to “debtor” and the nature of the outstanding amount from “overpayment” to “debt”; and

4) A new stipulation that the department does not need to consider the merits of claim that a debt is not legally enforceable if the issue has already been adjudicated by a court of competent jurisdiction (in addition to the Office of Administrative Hearings and Employment Appeals Board).

Rules Coordinator: Cristina Koreski—(503) 947-1471

471-030-0058

Benefits and Claims: Offset of Unemployment Compensation Debt Through U.S. Treasury Offset Program

(1) The Oregon Employment Department may submit liquidated unemployment insurance overpayments and delinquent taxes for offset against federal tax refunds through the "Treasury Offset Program" under 26 USC 6402(f) and 31 CFR 285.8. For purposes of this rule, “liquidated” means legally enforceable because:

(a) The liability is assessed by the department;

(b) The department has made written demand for payment of the liability;

(c) The debtor is not in bankruptcy; and

(d) All relevant appeal periods for contesting the liability have expired.

(2) Notice of intent to offset. Before submitting an unemployment insurance overpayment or delinquent tax debt to Financial Management Service, U.S. Treasury for offset against a federal refund, the Oregon Employment Department must send written notice of intent to offset to the debtor by mail.

(3) Disagreement procedures. If a debtor disagrees with the notice of intent to offset and wants reconsideration, the debtor must submit a letter of disagreement within 60 days of the date shown on the notice of intent to offset. The debtor must provide, and the department will limit consideration to, evidence that the debt scheduled for offset is not:

(a) Past due; or

(b) Legally enforceable.

(4) If the debtor claims that the debt is not legally enforceable, the department will consider the merits of such a claim unless the issue has already been finally adjudicated by the Office of Administrative Hearings, Employment Appeals Board, or court of competent jurisdiction in a proceeding to which the department is a party.

(5) Review of disagreement. For each letter of disagreement provided by the debtor, the department will:

(a) Review evidence provided by the debtor, and

(b) Remove debtor’s name from the federal refund offset list for this debt if evidence supports the debtor’s position that the debt is not past due or is not legally enforceable.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.610, 657.155, 657.260 & SB 259 2013

Hist.: ED 2-2013(Temp), f. 8-22-13, cert. ef. 9-1-13 thru 2-26-14; ED 1-2014, f. 1-3-14, cert. ef. 2-23-14; ED 2-2014, f. 1-15-14, cert. ef. 2-23-14; ED 5-2017, f. & cert. ef. 8-25-17

Rule Caption: Establish time frames in rule for unemployment recipients to respond to requests to furnish information.

Adm. Order No.: ED 6-2017

Filed with Sec. of State: 9-1-2017

Certified to be Effective: 9-1-17

Notice Publication Date: 8-1-2017

Rules Amended: 471-030-0025

Subject: This change establishes the requirement in rule that unemployment insurance (UI) recipients respond to requests to furnish

information by the Employment Department within the following time frames, unless specifically instructed otherwise:

1) Five (5) calendar days for requests provided by letter; and

2) 48 hours for requests provided by phone, fax, email, or other electronic means.

Getting timely and accurate information from UI recipients is necessary to be able to meet federal and state requirements regarding the issuance of timely payments to recipients who meet eligibility requirements while avoiding improper payments.

Rules Coordinator: Cristina Koreski—(503) 947-1471

471-030-0025

Benefits and Claims: Claimant’s Responsibilities

(1) With all claims, an individual shall furnish the Director with their social security number and other information required for processing their claim. Such information may include, but is not limited to, information pertaining to prior work history, separations from work, current work activity and earnings, licenses or permits held, self-employment, entitlement to pay and allowances of various kinds, work seeking activity, working restrictions, and working ability. With respect to work activity or self-employment during any week claimed, the information required may include the type of work activity, the amount of time devoted to such activity, the gross and net amount of compensation, remuneration, wages, commission, salary, or income, if any, received or expected to be received, and any other factors material to a determination of eligibility for benefits.

(2) The claimant is required to furnish such information required for processing their claim within the time frame provided by the Director or an authorized representative of the Employment Department. Unless the time frame is otherwise defined under Employment Department statute or rule, or is specifically directed otherwise by an authorized representative of the Employment Department, the claimant is required to respond to all requests for information within the following time frames:

(a) For requests for information by letter mailed to the address of record, the claimant shall have five (5) calendar days to respond from the date the letter was mailed. When responding by mail, the date of the response shall be the date of the postmark affixed by the United States Postal Service. In the absence of a postmarked date, the date of the response shall be the most probable date of mailing as determined by the Employment Department.

(b) For requests for information by telephone message, fax, email, or other electronic means, the claimant shall have 48 hours to respond.

Stat. Auth.: ORS 657

Stats. Implemented: ORS 657

Hist.: 1DE 150, f. & ef. 2-9-76; 1DE 152, f. 9-28-77, ef. 10-4-77; 1DE 3-1985, f. & ef. 12-16-85; ED 6-2017, f. & cert. ef. 9-1-17

Oregon Board of Accountancy Chapter 801

Rule Caption: Update rules on complaint disciplinary authority.

Adm. Order No.: BOA 3-2017

Filed with Sec. of State: 9-11-2017

Certified to be Effective: 9-11-17

Notice Publication Date: 9-1-2017

Rules Amended: 801-030-0020

Subject: Clarifies disciplinary authority of the Board. Please note this rule filing is an amendment to the permanent rules filed August 8, 2017. The original submission for Division 030 omitted subsections (2) through (13) of 801-030-0020 in error. The Board only changed subsection (1) and did not vote to delete the remainder of this rule section.

Rules Coordinator: Kimberly Fast—(503) 378-2268

801-030-0020

Other Responsibilities and Practices

(1) Professional misconduct.

(a) A licensee shall not commit any act or engage in any conduct that reflects adversely on the licensee’s fitness to practice public accountancy.

(b) Professional misconduct may be established by reference to acts or conduct that would cause a reasonable person to have substantial doubts about the individual’s honesty, fairness and respect for the rights of others or for the laws of the state and the Nation. The acts or conduct in question must be rationally connected to the person’s fitness to practice public accountancy.

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(c) A licensee shall not act in a way that would cause the licensee to be disciplined for violation of laws or rules on ethics by a federal or state agency or by any jurisdiction for the practice of public accountancy.

(d) Professional Misconduct may be established by violation of a disciplinary order by a federal or state agency or by any jurisdiction for the practice of public accountancy.

(e) A licensee shall not engage in acts of gross negligence including, but not limited to:

(A) Failure to disclose a known material fact which is not disclosed in the financial statements, but disclosure of which is necessary to make the financial statements complete or not misleading, or

(B) Failure to report any known material misstatement which appears in the financial statements.

(2) Reporting requirements

(a) In addition to the reporting requirements on any application for initial registration or licensure, or application for renewal thereof, registered firms and Oregon licensees are required to provide written notice to the Board within 45 calendar days of the initiation of any regulatory or civil action, lawsuit, or arbitration relating to the professional services or business operations or practices of the registered firm or any Oregon licensee affiliated with the registered firm, including but not limited to claims for negligence, malpractice, breach or violation of the standard of care, breach of a fiduciary duty, securities violations, unlawful or unfair trade practices, fraud, dishonesty or misrepresentation. The reporting requirements under this provision also apply to the initiation of any regulatory action by an agency or entity that has issued a professional certification, license or other credential to a registered firm or Oregon licensee of the Board.

(b) In addition to the requirement in (2)(a), Oregon licensees and firms must provide written notice within 10 calendar days of the initiation of any criminal investigation or action against an Oregon licensee, a registered firm, or against any Oregon partner, owner or other professional employee or agent of the registered firm, and an additional notice within 10 calendar days of any conviction against a licensee, registered firm or any Oregon partner, owner or professional employee or agent of the registered firm. The term conviction under this rule includes the initial plea, verdict or finding of guilt, pleas of no contest or pronouncement of sentence by a trial court, regardless of whether a judgment of conviction has been entered, sentence imposed or an appeal of the conviction has been undertaken.

(c) The notices required by this rule shall be signed by the person or persons against whom the regulatory action, civil action and/or criminal investigation or action is raised. If the regulatory action, civil action or criminal investigation or action is against a registered firm only, the notice(s) must be signed by an authorized Oregon partner or owner of the firm.

(d) The notice required by this rule shall state the facts that constitute the reportable event(s) and identify the event by the name of the agency or court, the title of the matter, the docket number and the date of occurrence of the event, the name of any legal representatives involved, and, if available, copies of any regulatory notice, civil complaint or criminal charging document(s). (e) In addition to the notice and reporting requirements set forth in 2(a), (b) and (c) above, registered firms and Oregon licensees are required to provide written notice of the resolution of any and all actions to which the reporting requirements apply within 45 days of the resolution, whether or not the action was previously reported to the Board.

(f) The reporting requirements set forth in this rule may not be negated by the terms of a non-disclosure agreement or court protective order.

(3) Verification of experience for CPA or PA applicants.

(a) Licensees who supervise the work experience of CPA or PA applicants for the purpose of verifying the applicant's eligibility under ORS 673.040 shall provide to the Board an accurate and complete certificate of experience for the applicant. Licensees who provide any certificate of experience for an applicant shall not:

(A) Make any false or misleading statement as to material matters in any certificate of experience, or

(B) Commit any act that would unjustly jeopardize an applicant's ability to obtain a certificate in this or any other jurisdiction.

(4) Acting through others.

(a) A licensee shall not permit others to perform any acts on behalf of the licensee, either with or without compensation, which, if performed by the licensee would place the licensee in violation of the Code of Professional Conduct.

(b) A licensee shall not ratify, endorse, facilitate, solicit, plan or otherwise assist another licensee to violate any Board law or rule.

(c) A licensee is bound by the Board laws and rules notwithstanding that the licensee acted at the direction of another person.

(A) A subordinate licensee does not violate this rule if the licensee acts in accordance with a supervisory licensee's reasonable resolution of an arguable question of professional duty.

(5) Public communications and advertising. A licensee shall not use or participate in the use of any form of public communication, including the use of internet domains, e-mail names, advertising or solicitation by direct personal communication, having reference to the licensee's professional services that contains a false, fraudulent, misleading, or deceptive statement or claim. A false, fraudulent, misleading, or deceptive statement or claim includes, but is not limited to, a statement or claim that:

(a) Includes a misrepresentation of fact;

(b) Is intended or likely to mislead or deceive because it fails to disclose relevant facts;

(c) Is intended or likely to create false or unjustified expectations of favorable results;

(d) Falsely states or implies educational or professional attainments or licensing recognition;

(e) Falsely states or implies that the licensee has received formal recognition as a specialist in any aspect of the practice of public accountancy;

(f) Falsely represents that professional services can or will be competently performed for a stated fee, or misrepresents fees for professional services by failing to disclose all variables affecting the fees that will in fact be charged; or

(g) Contains other representations or implications of fact that would cause a reasonable person to misunderstand or be deceived.

(6) Professional designations. A licensee shall not represent that the licensee is a member of any professional society, association, organization or an association of firms, or that the licensee has a correspondent relationship with another licensee unless the representation is true at the time it is made or published.

(7) Board communications and investigations.

(a) Communications from the Board to licensees shall be sent by first class mail or certified mail and addressed to the licensee at the last official address or the alternate address furnished to the Board by the licensee.

(b) Licensees who receive any Board communication requesting the licensee to provide a written response shall:

(A) Provide a written response to the Board within 21 days of the date the Board communication was mailed,

(B) Respond fully and truthfully to inquiries from and comply with all Board requests.

(c) The Board of Accountancy shall provide written notice to licensees of complaints filed against the licensee and of any Board investigation that affects the licensee. Licensees who receive notice of a complaint investigation:

(A) Shall cooperate fully with all Board investigations, including any request to appear to answer questions concerning such investigations, and (B) Shall not engage in any conduct or activity that would hinder or obstruct a Board investigation.

(8) Business transactions with clients.

(a) Except for business transactions that occur in the ordinary course of business, licensees shall not enter into a business transaction with a client if the licensee and client have differing interests therein unless the client has consented in writing to the transaction after receiving full written disclosure of the differing interests from the licensee. Both written disclosure and client's written consent shall be made prior to the time the business transaction is accepted.

(b) A loan transaction between a licensee and a client does not require disclosure under this rule if the client is in the business of making loans of the type obtained by the licensee and the loan terms are not more favorable than loans extended to other persons of similar credit worthiness and the transaction is not prohibited by other professional standards.

(9) Notification of change of address, employer or assumed business name. Licensees are required to maintain a current record with the Board of the information described in this rule, and to provide written notice to the Board of any change in such information within 30 days of such change. Written notice required under this rule may be provided by US mail, private delivery service, fax transmittal, e-mail or personal delivery. The information required under this rule will not be accepted over the telephone:

(a) Licensee's current business and residential addresses. If the number of a post office box, mail drop or pick-up service is provided for either address, the licensee must also provide the physical address;

(b) The name and address of licensee's current employer; and

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(c) Any assumed business name used by licensee, if licensee is conducting the practice of public accountancy under an assumed business name.

(10) Child support defaults. In accordance with ORS 25.750 to 25.783, the Board shall provide the Support Enforcement Division of the Department of Justice with certification and licensing information which may be electronically cross-matched with Support Enforcement Division's records for persons under order of judgment to pay monthly child support and who are in arrears according to 25.750(a), (b) and/or (c).

(a) The Board shall suspend a licensee's certificate or license and permit to practice upon notice from the Support Enforcement Division or the appropriate District Attorney that such licensee is in arrears of any judgment or order requiring the payment of child support and such payment is being enforced under the provisions of ORS 25.080.

(b) Pursuant to ORS 25.762 or 25.765, the Board shall notify the licensee of the action being taken and refer such licensee to the Support Enforcement Division or the District Attorney for resolution of the support payment issue.

(c) Upon notification by the Support Enforcement Division or District Attorney and receipt of a release notice that the conditions resulting in the action have been resolved, the Board shall reinstate the licensee's certificate or license and permit to practice upon compliance with any additional requirements for issuance, renewal or reinstatement.

(11) State tax defaults. In accordance with ORS 305.385, and upon request by the Department of Revenue (DOR), the Board shall provide DOR with license information for the purpose of determining whether a licensee has neglected or refused to file any tax return, or neglected or refused to pay any tax without filing a petition with DOR as stated in ORS 305.385(4)(a).

(a) The Board shall issue a notice of proposed action against a licensee who is identified by DOR under this rule. The licensee shall be provided with the opportunity for hearing as provided in ORS 183.310 to 183.550 for contested cases.

(b) Upon notification by DOR and receipt of a certificate issued by DOR that the certificate/license holder is in good standing with respect to any returns due and taxes payable to DOR as of the date of the certificate, the Board shall renew or reinstate the certificate or license and permit to practice upon compliance with any additional requirements of the Board for issuance, renewal or reinstatement.

(12) Continuing violation. A continuing violation is a violation of any provision of ORS 673.010 – 673.457 or OAR chapter 801 that remains in place (“continues”) without additional conduct on the part of the violator. For example the continued existence of an office sign purporting to offer public accounting services by an unregistered firm would be a continuing violation. The Board shall provide written notice of the alleged continuing violation to the individual or firm. The duration of the violation prior to the date of notice from the Board shall be deemed a single violation, and each day of continuance after the date of notice from the Board is a separate violation and may be subject to a civil penalty.

(13) Non-Disclosure Agreement. “Non-disclosure agreement” means any written or oral agreement that inhibits any party to the agreement from reporting an alleged violation of ORS Chapter 673 or OAR chapter 801 to the Board, or that inhibits any party from cooperating with an investigation by the Board, an agency of any state, or an agency of the Federal government.

(a) Licensees shall not enter into, nor benefit directly or indirectly from, any non-disclosure agreement.

(b) Any licensee who is a party to a non-disclosure agreement and who receives written notice from the Board, an agency of any state, or an agency of the Federal government requesting information that is subject to the provisions of such non-disclosure agreement, shall provide a written release for information requested within 30 days of the date of notice.

Stat. Auth.: ORS 670.310 & 673.410

Stats. Implemented: ORS 673.160, 673.410 & 673.445

Hist.: AB 1-1978, f. & ef. 1-11-78; 1AB 1-1981, f. 1-6-81, ef. 6-1-81; 1AB 3-1981, f. & ef. 1-6-81; 1AB 2-1984, f. & ef. 5-21-84; 1AB 3-1986, f. & ef. 11-17-86; AB 3-1989, f. & cert. ef. 10-3-89; AB 6-1993(Temp), f. 11-2-93, cert. ef. 11-4-93; AB 1-1994, f. & cert. ef. 1-21-94; AB 3-1994, f. & cert. ef. 8-10-94; AB 4-1994, f. & cert. ef. 9-27-94; AB 3-1996, f. & cert. ef. 9-25-96; BOA 6-1998, f. & cert. ef. 7-29-98; BOA 1-1999, f. & cert. ef. 1-20-99; BOA 5-1999, f. & cert. ef. 7-23-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 5-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 5-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 6-2003, f. 12-23-03, cert. ef. 1-1-04; BOA 4-2005, f. & cert. ef. 8-12-05; BOA 9-2005, f. 11-22-05, cert. ef. 1-1-06; BOA 3-2006, f. 12-22-06, cert. ef. 1-1-07; BOA 3-2007, f. 12-27-07, cert. ef. 1-1-08; BOA 3-2008, f. 12-30-08, cert. ef. 1-1-09; BOA 5-2009, f. 12-15-09, cert. ef. 1-1-10; BOA 2-2014, f. 12-15-14, cert. ef. 1-8-15; BOA 1-2017, f. & cert. ef. 1-4-17; BOA 2-2017, f. & cert. ef. 8-8-17; BOA 3-2017, f. & cert. ef. 9-11-17

Oregon Criminal Justice Commission Chapter 213

Rule Caption: Amends Justice Reinvestment Rules for Increased Flexibility Regarding Unknown Funding Level

Adm. Order No.: CJC 1-2017

Filed with Sec. of State: 8-16-2017

Certified to be Effective: 8-16-17

Notice Publication Date: 6-1-2017

Rules Amended: 213-060-0050, 213-060-0060, 213-060-0070, 213-060-0080, 213-060-0095, 213-060-0130, 213-060-0140, 213-060-0030

Subject: Under 2013 Oregon Laws ch 649, sec 52-56, the Oregon Criminal Justice Commission administers the Justice Reinvestment Grant Program. The Program is funded each biennium in the state budget and the Commission then distributes the funds to counties via a grant process. The Commission will not know the level of grant funding for any given biennium until the end of legislative session in odd-numbered years, which in 2017 is at the end of the first week in July. The 2015-2017 biennium was the first biennium that the Commission reviewed detailed county grant applications as part of the grant administration process. These changes to Division 60 of Chapter 213 of the Oregon Administrative Rules give the Commission increased flexibility around how the grant funds are distributed and focuses the grant application process on the goals of Justice Reinvestment (per 2013 Oregon Laws ch 649 sec 52-56). The Commission needs this flexibility because the level of funding could vary drastically from the level of funding in the 2015-2017 biennium and the grant administration process needs to be able to respond accordingly. Additionally, these amendments to the OARs streamline the grant reporting process for counties based on lessons learned by the Commission in the 2015-2017 grant administration process and shorten the OARs by removing unnecessary language that was originally included before the grant administration process had begun, and update internal citations and references.

Rules Coordinator: Julie Vaughn — (503) 378-4830

213-060-0030

Definitions

As used in OAR 213-060-0010 to 213-060-0140, unless the context indicates otherwise:

- (1) “Commission” means the Oregon Criminal Justice Commission.
- (2) “Community — based programs” includes:
 - (a) Work release programs;
 - (b) Structured, transitional leave programs;
 - (c) Evidence — based programs designed to reduce recidivism that include the balanced administration of sanctions, supervision and treatment;
 - (d) Administering a reentry court under Section 29, Chapter 649, 2013 Oregon Laws;
 - (e) Specialty courts aimed at medium-risk and high-risk offenders; and
 - (f) Evidence — based policing strategies.
- (3) “County” includes a regional collection of counties.
- (4) “Grant Review Committee” means the Justice Reinvestment Grant Review Committee established under Section 53, Chapter 649, 2013 Oregon Laws.
- (5) “Program” means a program that is cost — effective as defined in ORS 182.515(2) that is an evidence based program as defined in ORS 182.515(3), that is a program as defined in ORS 182.515(4), and that utilizes scientifically based research as defined in ORS 182.515(5).
- (6) “Recidivism” has the meaning provided in ORS 423.557(1)(a).
- (7) “Trauma informed services” means providing the foundation for a basic understanding of the psychological, neurological, biological, and social impact that trauma and violence have on individuals, while incorporating proven practices into current operations to deliver services that acknowledge the role that violence and victimization play in their lives.

Stat. Auth.: 2013 OL Ch.649 § 52-56

Stats. Implemented: 2013 OL Ch.649 § 52-56

Hist.: CJC 2-2014, f. 12-9-14, cert. ef. 1-1-15; CJC 1-2017, f. & cert. ef. 8-16-17

ADMINISTRATIVE RULES

213-060-0050

Grant Applications

(1) The grant application cycle will be determined by the Commission. At the beginning of each grant application cycle, the Commission will determine the proportion of grant funds available to each county in accordance with the formula used to distribute baseline funding under ORS 423.483. The Commission will include those amounts in its grant application solicitation. Each qualifying county pursuant to criteria in subsection 213-060-0060 shall receive a grant award of no less than \$100,000 per grant application cycle.

(2) Each county may submit only one application for a justice reinvestment grant to fund one or more community-based programs. The application must be submitted by the local public safety coordinating council and include proof of approval by the county governing body.

(3) The county may use up to 10 percent of the funds payable under the justice reinvestment grant for administrative costs, including activities such as purchasing, budgeting, payroll, accounting, staff services, and other costs as deemed appropriate by the Commission. Administrative costs may also include funds to incentivize compliance by law enforcement agencies with completing Uniform Crime Reporting and other timely law enforcement data collection activities.

(4) The Commission may communicate directly with an applicant to clarify the intent of its application or to recommend modifications in furtherance of the purpose of the Justice Reinvestment Program.

(5) The Commission may, in its sole discretion, waive solicitation requirements or cancel any solicitation in whole or in part if it deems such action to be in the best interests of the Justice Reinvestment Program.

(6) Within 90 days following the expiration of the grant application deadline, the Commission shall make award notifications to counties in accordance with these rules. If there are extenuating circumstances, the Commission may, in its sole discretion, extend the deadline for award notification.

(7) If unallocated funds remain at the conclusion of the grant acceptance period, the Commission shall distribute all remaining funds in the manner provided in OAR 213-060-0080.

Stat. Auth.: 2013 OL Ch.649 § 52-56

Stats. Implemented: 2013 OL Ch.649 § 52-56

Hist.: CJC 2-2014, f. 12-9-14, cert. ef. 1-1-15; CJC 1-2017, f. & cert. ef. 8-16-17

213-060-0060

Grant Application Review Criteria

The Grant Review Committee and the Commission will review and evaluate each grant application based on the following criteria:

(1) Whether the applicant's program is designed to reduce recidivism of offenders.

(2) Whether the applicant's program is designed to reduce utilization of prison capacity by offenders convicted of felonies described in ORS 137.717, 475.752 to 475.935, 811.182, 813.010, or 813.011.

(3) Whether the applicant's program would increase public safety

(4) Whether the applicant's program would hold offenders accountable

(5) For purposes of evaluating the portion of the grant to be distributed to community — based nonprofit organizations that provide services to victims of crime, whether the grant application illustrates how use of funds will positively impact victims. The Grant Review Committee and the Commission will review and evaluate each grant application based on the following criteria:

(a) Demonstrated need for the proposed services in the community to be served by the applicant with emphasis on services that target marginalized, underserved populations.

(b) Services address access barriers, such as but not limited to: language, literacy, disability, cultural practices and transportation issues.

(c) Funding increases capacity for areas where services are difficult to access, limited or non-existent.

(d) Demonstration that the award will be invested in trauma — informed services.

(e) Data collection, including but not limited to, demographic information of victims served.

(6) Other criteria that the Commission chooses to include in the solicitation.

Stat. Auth.: 2013 OL Ch.649 § 52-56

Stats. Implemented: 2013 OL Ch.649 § 52-56

Hist.: CJC 2-2014, f. 12-9-14, cert. ef. 1-1-15; CJC 1-2017, f. & cert. ef. 8-16-17

213-060-0070

Grant Application Processing

(1) Commission staff will evaluate each county's application based on the criteria provided in OAR 213-060-0060, and will make recommendations to the Grant Review Committee. If the recommendation by staff to the Grant Review Committee would be to not fund the grant proposal, the Commission staff shall first work with applicant to attempt to rehabilitate the application.

(2) The Grant Review Committee will review each county's grant application and the recommendations of Commission staff, and notify the Commission regarding which applications it has approved. The Grant Review Committee may reject portions of the application that fail to meet the criteria set forth in OAR 213-060-0060. Approval by the Grant Review Committee is subject to final approval by the Commission.

(3) The Commission will review and evaluate the approvals of the Grant Review Committee, and provide a final approval or denial, in whole or in part. The Commission will notify applicants of the decision of the Commission within 60 days from the expiration of the grant application deadline. If there are extenuating circumstances, the Commission may, in its sole discretion, extend the deadline for award notification. The Commission will prepare a grant award agreement for each grant awarded, which will set forth the terms, conditions, and requirements of the grant. The Commission may issue a provisional one year award with continued funding contingent upon improved performance and progress toward the goals of justice reinvestment as set forth in OAR 213-060-0060.

(4) The Commission may amend a grant awarded under this rule. After the grant is awarded the Commission may amend the amount originally awarded based on non-compliance with the terms of the award. If the recommendation by staff to the Commission would be not to continue to fund the grant proposal, the Commission staff shall first work with applicant to attempt to rehabilitate the application.

Stat. Auth.: 2013 OL Ch.649 § 52-56

Stats. Implemented: 2013 OL Ch.649 § 52-56

Hist.: CJC 2-2014, f. 12-9-14, cert. ef. 1-1-15; CJC 1-2017, f. & cert. ef. 8-16-17

213-060-0080

Supplemental Grant Period

If unallocated funds remain at the conclusion of the grant acceptance period or become available during the biennium, the Commission shall establish a supplemental grant period to distribute some or all of those unallocated funds. The Commission may:

(1) Use those funds to supplement and expand the scope of one or more grant programs that were awarded, without the need for further grant solicitation, but using the criteria provided in OAR 213-060-0060.

(2) Issue a supplemental competitive grant application solicitation, and allow counties to submit applications, using the criteria and process provided in OAR 213-060-0050 through 213-060-0070.

Stat. Auth.: 2013 OL Ch.649 § 52-56

Stats. Implemented: 2013 OL Ch.649 § 52-56

Hist.: CJC 2-2014, f. 12-9-14, cert. ef. 1-1-15; CJC 1-2017, f. & cert. ef. 8-16-17

213-060-0095

Community Based Victim Services Advisory Panel

(1) The Commission may appoint a Community Based Victim Services Advisory Panel, consisting of up to 9 members, taking into account regional representation, knowledge in the delivery of victim services, and diversity of experience in types of victim services.

(2) If the Commission appoints a panel as described in this section, the panel shall review each application for the grant criteria specified in OAR 213-060-0060(5f), and make recommendations to the Commission staff.

Stat. Auth.: 2013 OL Ch.649 § 52-56

Stats. Implemented: 2013 OL Ch.649 § 52-56

Hist.: CJC 2-2014, f. 12-9-14, cert. ef. 1-1-15; CJC 1-2017, f. & cert. ef. 8-16-17

213-060-0130

Evaluating Efficacy; Termination; Report to Legislature

(1)(a) Each program that is funded will be evaluated by the Commission on a quarterly basis, based on the county's performance and progress towards the goals of Justice Reinvestment as outlined in OAR 213-060-0060.

(b) A county that is not achieving criteria as outlined in OAR 213-060-0060 will be given notice and an opportunity to improve performance. The Commission may terminate the county's grant award if the county has not satisfactorily improved performance.

(2) The Commission will report the results of the evaluation conducted under this rule to a committee of the Legislative Assembly related to the judiciary.

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Stat. Auth.: 2013 OL Ch.649 § 52-56
Stats. Implemented: 2013 OL Ch.649 § 52-56
Hist.: CJC 2-2014, f. 12-9-14, cert. ef. 1-1-15; CJC 1-2017, f. & cert. ef. 8-16-17

213-060-0140

Outcome Evaluations of Programs Funded

(1) The Commission may choose one or more Justice Reinvestment grants for a randomized controlled trial or other outcome evaluation. Counties selected for a randomized controlled trial or other outcome evaluation shall partner with the Commission in order to successfully complete the evaluation of their program.

(2) Up to three percent of the total amount of Justice Reinvestment Grant funds may be used to support randomized controlled trials or outcome evaluations for grant awards selected for such evaluations. Subject to approval by the Commission, the funds may also be used to offset any increased costs to the county associated with undergoing a randomized controlled trial or other outcome evaluation.

(3) A county selected for a randomized controlled trial or other outcome evaluation shall contract with the Commission, or an entity approved by the Commission, to conduct such randomized controlled trial or other outcome evaluation.

(4) Any randomized controlled trial or other outcome evaluation funds not allocated or budgeted by July 1 of an even-numbered year shall be dispersed back to the counties participating in the Justice Reinvestment Grant Program according to the formula provided in ORS 423.483.

(5) A program selected for randomized controlled trial or other outcome evaluation shall have preference to be funded in future grant application cycles so long as study participants are still in the program.

(6) The Commission will report the results of evaluations conducted under this rule to a committee of the Legislative Assembly related to the judiciary and the Office of the Governor, and will post the report on the Commission's website.

(7) In choosing programs for randomized controlled trials or other outcome evaluations, the Commission will consider the following factors:

(a) The proposed program is promising and has the capability of being reproduced in other counties.

(b) The proposed program is capable of being evaluated through randomized controlled trials when taking into account sample size and other practical requirements.

(c) The proposed randomized controlled trial will meet the requirements of the institutional review board process.

(d) Studying the program will benefit the State and more broadly the field of criminal justice by adding to the body of knowledge currently available.

Stat. Auth.: 2013 OL Ch.649 § 52-56
Stats. Implemented: 2013 OL Ch.649 § 52-56
Hist.: CJC 2-2014, f. 12-9-14, cert. ef. 1-1-15; CJC 1-2017, f. & cert. ef. 8-16-17

Oregon Health Authority Chapter 943

Rule Caption: Suspension of Rules for Office of Investigations and Training in Administrative Rules Chapter 943

Adm. Order No.: OHA 2-2017(Temp)

Filed with Sec. of State: 9-14-2017

Certified to be Effective: 9-14-17 thru 2-28-18

Notice Publication Date:

Rules Suspended: 943-045-0000, 943-045-0250, 943-045-0260, 943-045-0280, 943-045-0290, 943-045-0300, 943-045-0310, 943-045-0320, 943-045-0330, 943-045-0340, 943-045-0350, 943-045-0360, 943-045-0370, 943-045-0400, 943-045-0410, 943-045-0420, 943-045-0430, 943-045-0440, 943-045-0460, 943-045-0470, 943-045-0480, 943-045-0490, 943-045-0500, 943-045-0510, 943-045-0520, 943-045-0450

Subject: The Authority needs to suspend OAR chapter 943, division 45 related to Office of Investigations and Training rules related to:

- Abuse reporting and protective services in community programs and facilities for adults with mental illness;
- Abuse of Individuals Living in State Hospitals; and
- Review of Substantiated Physical Abuse When Self-Defense is Asserted at State Hospitals.

To address this suspended rule:

- The Department's Shared Services will be adopting new rules though its rulemaking process to implement this statutory duty in

community mental health programs and facilities to be effective 09/01/2017;

- The Oregon State Hospital will be adopting employment policies and procedures as part of patient rights to address investigation of public employee mistreatment of adults receiving services through the Oregon State Hospital; and

- The Department will continue to afford a review of substantiated abuse findings when self-defense is asserted at state hospitals under OAR 407-045-0000 through 4007-045-0010; when an abuse investigation involves an adult with developmental disabilities or an adult with mental illness receiving services from an Authority-operated licensed residential treatment facility, per ORS 430.731 to 430.765 and 430.768.

Rules Coordinator: Keely L. West—(503) 945-6292

943-045-0000

Review of Substantiated Physical Abuse When Self-Defense is Asserted at State Hospitals

Protective service investigations and review of findings of alleged abuse in state hospitals are handled by the Office of Investigations and Training (OIT) State hospitals are administered by the Oregon Health Authority (Authority).

(1) The Authority adopts and incorporates by reference OAR 407-045-0000 to 407-045-0110 (Review of Substantiated Physical Abuse When Self-Defense is Asserted at State Hospitals).

(2) Any reference to any rule from OAR 407-045-0000 to 407-045-0110 in rules or contracts of the Authority are deemed to be references to the requirements of this rule, and shall be construed to apply to employees, volunteers, providers, or contractors that work at those locations that are administered by the Authority.

(3) References in OAR 407-045-0000 to 407-045-0110 to the Department of Human Services (Department) or to the Authority shall be construed to be references to either or both agencies.

(4) The Authority authorizes the Department to act on its behalf in carrying out protective service investigations and review of findings of alleged abuse at those locations that are administered by the Authority.

(5) Appeals will be handled by the Authority under the procedures set out in OAR 407-045-0000 to 407-045-0110, however, references to agency actions or decisions that qualify as orders under ORS 183.310(6) that are issued by "the Department" or by "the Director" are hereby incorporated as references to "the Oregon Health Authority" and "the Authority Director."

(6) References in OAR 407-045-0000 to 407-045-0110 to the Human Services Abuse Review Committee (HSARC), the OIT Substantiation Review Committee (OSRC) or "Office of Developmental Disability Services Review Committee" (ODDSRC) shall be construed to be references to committees for either the Department or the Authority.

Stat. Auth.: ORS 179.040 & 413.042

Other Auth.: HB 2009, OL Ch. 595, sec. 19-25

Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.755 - 430.768

Hist.: OHA 10-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 28-2011, f. 12-1-11, cert. ef. 12-4-11; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0250

Purpose

These rules, OAR 943-045-0250 to 943-045-0370, shall be effective December 5, 2011. these rules prescribe standards and procedures for the investigation of, assessment for, and provision of protective services in community programs and community facilities, and the nature and content of the abuse or mistreatment investigation and protective services report.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735-430.765, 443.400 - 443.460, 443.705 - 443.825

Hist.: OHA 11-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 29-2011, f. 12-1-11, cert. ef. 12-5-11; OHA 3-2012, f. & cert. ef. 6-28-12; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0260

Definitions

As used in OAR 943-045-0250 to 943-045-0370, the following definitions apply:

(1) "Abuse of an adult with mental illness" means:

(a) Death of an adult caused by other than accidental or natural means or occurring in unusual circumstances.

(b) "Neglect" means the active or passive withholding of services necessary to maintain the health and well-being of an adult, which leads to physical harm of an adult. "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance

ADMINISTRATIVE RULES

with bathing or personal hygiene, or any other services essential to the well-being of the adult.

(c) "Physical abuse" means:

(A) Any physical injury by other than accidental means or that appears to be at variance with the explanation given for the injury.

(B) Willful infliction of physical pain or injury.

(C) Physical abuse is presumed to cause physical injury, including pain, to adults otherwise incapable of expressing pain.

(D) Physical abuse does not include physical emergency restraint to prevent immediate injury to an adult who is in danger of physically harming himself or herself or others, provided only that the degree of force reasonably necessary for protection is used for the least amount of time necessary.

(d) "Sexual abuse" including:

(A) An act that constitutes a crime under ORS 163.375 (rape in the first degree), 163.405 (sodomy in the first degree), 163.411 (unlawful penetration in the first degree), 164.415 (sexual abuse in the third degree), 163.425 (sexual abuse in the second degree), 163.427 (sexual abuse in the first degree), 163.456 (public indecency) or 163.467 (private indecency).

(B) Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315.

(C) Sexual harassment, sexual exploitation, or inappropriate exposure to sexually explicit material or language including requests for sexual favors. Sexual harassment or exploitation includes but is not limited to any sexual contact or failure to discourage sexual contact between an employee of a community facility or community program, provider, or other caregiver and an adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome physical sexual contact including requests for sexual favors and other physical conduct directed toward an adult.

(D) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver. Sexual abuse does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse or partner of the adult.

(E) Any sexual contact that is achieved through force, trickery, threat, or coercion.

(F) As defined in ORS 163.305, "sexual contact" means any touching of sexual or other intimate parts of a person or causing such person to touch sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

(G) An adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner shall for this reason alone not be considered subjected to mistreatment.

(2) "Abuse or Mistreatment Investigation and Protective Services Report" means a completed report.

(3) "Adult" means an individual who is 18 years of age or older who:

(a) Has a mental illness and is receiving services from a community program or facility;

(b) Receives services in a residential treatment home, residential care facility, adult foster home, or is in a facility approved by the Addictions and Mental Health Division (Division) for acute care services or crisis respite when the adult is in custody in the facility pursuant to ORS 426.072, and;

(c) Is the alleged abuse or mistreatment victim.

(4) "Adult Foster Home" means any home licensed by the Authority's Addictions and Mental Health Division pursuant to OAR 309-040-0300 et.seq., in which residential care is provided to five or fewer adults who are not related to the provider by blood or marriage as described in ORS 443.705 through 443.825.

(5) "Adult protective services" means the necessary actions taken to prevent abuse or mistreatment or exploitation of an adult, to prevent self-destructive acts, and to safeguard an allegedly abused or mistreated adult's person, property, or funds.

(6) "Authority" means the Oregon Health Authority.

(7) "Caregiver" means an individual or facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

(8) "Community facility" means a community residential treatment home, residential care facility, adult foster home. "Community facility" also means a facility approved by the Division for acute care services or crisis respite when the adult is in custody in the facility pursuant to ORS 426.072.

(9) "Community program" means the community mental health program as established in ORS 430.610 to 430.695.

(10) "Designee" means the community program.

(11) "Department" means the Department of Human Services.

(12) "Inconclusive" means there is insufficient evidence to conclude the alleged abuse or mistreatment occurred or did not occur by a preponderance of the evidence. The inconclusive determination may be used only in the following circumstances:

(a) After diligent efforts have been made, the protective services investigator is unable to locate the person alleged to have committed the abuse or mistreatment, or cannot locate the alleged victim or another individual who might have information critical to the investigation; or

(b) Relevant records or documents are unavailable, or there is conflicting or inconsistent information from witnesses, documents, or records with the result that after the investigation is complete, there is insufficient evidence to support a substantiated or not substantiated conclusion.

(13) "Law enforcement agency" means any city or municipal police department, county sheriff's office, the Oregon State Police, or any district attorney.

(14) "Mandatory reporter" means any public or private official who, while acting in an official capacity, comes in contact with and has reasonable cause to believe that an adult has suffered abuse, or that any individual with whom the official comes in contact while acting in an official capacity has abused an adult. Pursuant to ORS 430.765(2), psychiatrists, psychologists, clergy, and attorneys are not mandatory reporters with regard to information received through communications that are privileged under ORS 40.225 to 295.

(15) "Mistreatment" means mistreatment as defined in OAR 309-035-0105, 309-035-0260 and 309-040-0305.

(16) "Not substantiated" means the preponderance of evidence establishes the alleged abuse or mistreatment did not occur.

(17) "Office of Investigations and Training" (OIT) means the Department's Shared Services Division responsible for the investigation of allegations of abuse or mistreatment made in community programs and community facilities for adults with mental illness

(18) "Provider agency" means an entity licensed or certified to provide services to adults in Adult Foster Homes (AFH), Residential Treatment Homes (RTH) or Residential Care Facilities (RCF). "Provider agency" also means a facility approved by the Division for acute care services or crisis respite when the adult is in custody in the facility pursuant to ORS 426.072.

(19) "Public or private official" means:

(a) Physician, naturopathic physician, osteopathic physician, psychologist, chiropractor, or podiatrist, including any intern or resident;

(b) Licensed practical nurse, registered nurse, nurse's aide, home health aide, or employee of an in-home health services organization;

(c) Employee of the Authority, Department, county health department, community mental health or developmental disabilities program, or private agency contracting with a public body to provide any community services;

(d) Peace officer;

(e) Member of the clergy;

(f) Licensed clinical social worker;

(g) Physical, speech, or occupational therapist;

(h) Information and referral, outreach, or crisis worker;

(i) Attorney;

(j) Licensed professional counselor or licensed marriage and family therapist;

(k) Firefighter or emergency medical technician; or

(l) Any public official who comes in contact with adults in the performance of the official's duties.

(20) "Residential Care Facility (RCF)" means a facility licensed by the Division that is operated to provide services on a 24-hour basis for six or more residents pursuant to OAR 309-035-0100 et.seq..

(21) "Residential Treatment Home (RTH)" means a home licensed by the Division that is operated to provide services on a 24-hour basis for five or fewer residents pursuant to OAR 309-035-0250 et.seq..

(22) "Substantiated" means that the preponderance of evidence establishes the abuse or mistreatment occurred.

(23) "Unbiased investigation" means an investigation that is conducted by a community program that does not have an actual or potential conflict of interest with the outcome of the investigation.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735-430.765, 443.400 - 443.460, 443.705 - 443.825
Hist.: OHA 11-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 29-2011, f. 12-1-11, cert. ef. 12-5-11; OHA 3-2012, f. & cert. ef. 6-28-12; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

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943-045-0280

Training for Individuals Investigating Reports of Alleged Abuse or Mistreatment

(1) The Authority shall provide sufficient and timely training and consultation to community programs to ensure that the community program is able to conduct a thorough and unbiased investigation and reach a conclusion about the abuse or mistreatment. Training shall include initial and continuing education of any individual designated to conduct protective services investigations.

(2) The training shall address the cultural and social diversity of the State of Oregon.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731
Stats. Implemented: ORS 413.032, 430.735–430.765, 443.400 – 443.460, 443.705 – 443.825
Hist.: OHA 11-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 29-2011, f. 12-1-11, cert. ef. 12-5-11; OHA 3-2012, f. & cert. ef. 6-28-12; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0290

General Duties of the Community Program and Initial Action on Report of Alleged Abuse or Mistreatment

(1) For the purpose of carrying out these rules, community programs are Authority designees.

(2) If mandatory reporters have reasonable cause to believe abuse of an adult has occurred, the reporter must report the abuse to the community program, to a local law enforcement agency, or to the Authority when the reporter believes a crime may have been committed.

(3) Each community program shall designate at least one employee to conduct protective services investigations. Community programs shall require their designated protective services investigators to participate in training and to demonstrate an understanding of investigative core competencies.

(4) If the Authority or community program has reasonable cause to believe abuse or mistreatment occurred, it must immediately notify the appropriate public licensing or certifying agency and provide a copy of the abuse investigation and completed protective services report.

(5) If the Authority or community program has reasonable cause to believe that an individual licensed or certified by any state agency to provide care has committed abuse or mistreatment, it must immediately notify the appropriate state licensing or certifying agency and provide that agency with a copy of the abuse or mistreatment investigation and completed protective services report.

(6) The Authority or community program may share information prior to the completion of the abuse or mistreatment investigation and protective services report if the information is necessary for:

- (a) The provision of protective services; or
- (b) The function of licensing and certifying agencies or law enforcement agencies.

(7) Each community program must establish an after hours reporting system.

(8) Upon receipt of any report of alleged abuse or mistreatment or upon receipt of a report of a death that may have been caused by other than accidental or natural means, the community program must begin:

(a) Investigation into the nature and cause of the alleged abuse or mistreatment within one working day of receipt of the report to determine if abuse or mistreatment occurred or whether a death was caused by abuse or mistreatment;

- (b) Assessment of the need for protective services; and
- (c) Provision of protective services, if protective services are needed.

(9) The community program receiving a report alleging abuse or mistreatment must document the information required by ORS 430.743(1) and any additional reported information. The community program must attempt to elicit the following information from the individual making a report:

- (a) The name, age, and present location of the adult;
- (b) The names and addresses of the adult's programs or facilities responsible for the adult's care;
- (c) The nature and extent of the alleged abuse or mistreatment, including any evidence of previous abuse or mistreatment of the adult or evidence of previous abuse or mistreatment by the person alleged to have committed the abuse or mistreatment;
- (d) Any information that led the individual making the report to suspect abuse or mistreatment had occurred;
- (e) Any information that the individual believes might be helpful in establishing the cause of the abuse or mistreatment and the identity of the person alleged to have committed the abuse or mistreatment; and
- (f) The date of the incident.

(10) The community program shall maintain all reports of abuse or mistreatment in a confidential location.

(11) If there is reason to believe a crime has been committed, the community program must contact the law enforcement agency with jurisdiction in the county where the report is made.

(12) Upon receipt of a report of abuse or mistreatment, the community program must notify the case manager providing primary case management services to the adult. The community program must also notify the guardian of the adult unless doing so would undermine the integrity of the abuse or mistreatment investigation or a criminal investigation because the guardian or case manager is suspected of committing abuse or mistreatment.

(13) If there is reasonable cause to believe that abuse or mistreatment has occurred, the community program must determine if the adult is in danger or in need of immediate protective services and shall provide those services immediately. Under these circumstances, the community program must also advise the provider agency or guardian about the allegation, and must include any information appropriate or necessary for the health, safety, and best interests of the adult in need of protection.

(14) The community program shall immediately, but no later than one working day, notify the Authority it has received a report of abuse or mistreatment, in the format provided by the Authority.

(15) In addition to the notification required by section (12) of these rules, if the community program determines that a report will be assigned for investigation, the community program must notify the provider agency, guardian, and any other individual with responsibility for providing services and protection, unless doing so would compromise the safety, health, or best interests of the adult in need of protection, or would compromise the integrity of the abuse or mistreatment investigation or a criminal investigation. The notice shall include information that the case shall be assigned for investigation, identify the investigator, and provide information regarding how the assigned investigator may be contacted. The notice must be provided within five working days from the date the report was received.

(16) If the community program determines from the report that there is no reasonable cause to believe abuse or mistreatment occurred, the community program shall notify the provider agency within five working days that a protective services investigation shall not commence and explain the reasons for that decision. The community program shall document the notice and maintain a record of all notices.

(17) The community program or law enforcement agency shall notify the appropriate medical examiner in cases where the community program or law enforcement agency finds reasonable cause to believe that an adult has died as a result of abuse or mistreatment or where the death occurred under suspicious or unknown circumstances.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731
Stats. Implemented: ORS 413.032, 430.735–430.765, 443.400 – 443.460, 443.705 – 443.825
Hist.: OHA 11-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 29-2011, f. 12-1-11, cert. ef. 12-5-11; OHA 3-2012, f. & cert. ef. 6-28-12; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0300

Investigation of Alleged Abuse or Mistreatment

(1) Investigation of abuse or mistreatment shall be thorough and unbiased. Community programs may not investigate allegations of abuse or mistreatment made against employees of the community program. Investigations of community program staff shall be conducted by the Authority or other community programs not subject to an actual or potential conflict of interest.

(2) In conducting an abuse or mistreatment investigation, the investigator must:

- (a) Make in-person contact with the adult;
- (b) Interview the adult, witnesses, the person alleged to have committed the abuse or mistreatment, and other individuals who may have knowledge of the facts of the abuse or mistreatment allegation or related circumstances. Interviews must be conducted in-person where practicable. The investigator must attempt to elicit the date of birth for each individual interviewed and shall obtain the date of birth of any person alleged to have committed the alleged abuse or mistreatment;
- (c) Review all evidence relevant and material to the complaint; and
- (d) Photograph the adult consistent with forensic guidelines, or arrange for the adult to be photographed, to preserve evidence of the alleged abuse or mistreatment and of the adult's physical condition at the time of investigation, unless the adult knowingly refuses.

(3) All records necessary for the investigation shall be available to the community program for inspection and copying. A community facility shall provide community programs access to employees, the adult, and the premises for investigation purposes.

(4) When a law enforcement agency is conducting a criminal investigation of the alleged abuse or mistreatment, the community program shall

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also perform its own investigation as long as it does not interfere with the law enforcement agency investigation under the following circumstances:

- (a) There is potential for action by a licensing or certifying agency;
- (b) Timely investigation by law enforcement is not probable; or
- (c) The law enforcement agency does not complete a criminal investigation.

(5) When a law enforcement agency is conducting an investigation of the alleged abuse or mistreatment, the community program must communicate and cooperate with the law enforcement agency.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735-430.765, 443.400 - 443.460, 443.705 - 443.825
Hist.: OHA 11-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 29-2011, f. 12-1-11, cert. ef. 12-5-11; OHA 3-2012, f. & cert. ef. 6-28-12; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0310

Assessment for and Provision of Protective Services to the Adult

The community program shall ensure that appropriate and necessary protective services are provided to the adult to prevent further abuse or mistreatment and must be undertaken in a manner that is least intrusive to the adult and provide for the greatest degree of independence available within existing resources. Assessment for the provision of protective services may include:

- (1) Arranging for the immediate protection of the adult;
- (2) Contacting the adult to assess his or her ability to protect his or her own interest or give informed consent;
- (3) Determining the ability of the adult to understand the nature of the protective service and his or her willingness to accept services;
- (4) Coordinating evaluations to determine or verify the adult's physical and mental status, if necessary;
- (5) Assisting in and arranging for appropriate services and alternative living arrangements;
- (6) Assisting in or arranging the medical, legal, financial, or other necessary services to prevent further abuse or mistreatment;
- (7) Providing advocacy to assure the adult's rights and entitlements are protected; and
- (8) Consulting with the community facility, program, or others as appropriate in developing recommendations or requirements to prevent further abuse or mistreatment.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735-430.765, 443.400 - 443.460, 443.705 - 443.825
Hist.: OHA 11-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 29-2011, f. 12-1-11, cert. ef. 12-5-11; OHA 3-2012, f. & cert. ef. 6-28-12; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0320

Abuse or Mistreatment Investigation and Protective Services Report

(1) The Authority shall provide abuse or mistreatment investigation and protective services report formats.

(2) Upon completion of the investigation and within 45 calendar days of the date the community program has assigned a report alleging abuse or mistreatment for investigation, the community programs shall prepare an abuse or mistreatment investigation and protective services report. This 45-day time period does not include an additional five-working day period allowing OIT to review and approve the report. The protective services report shall include:

- (a) A statement of the allegations being investigated, including the date, location, and time;
 - (b) A list of protective services provided to the adult;
 - (c) An outline of steps taken in the investigation, a list of all witnesses interviewed, and a summary of the information provided by each witness;
 - (d) A summary of findings and conclusion concerning the allegation of abuse or mistreatment;
 - (e) A specific finding of "substantiated," "inconclusive," or "not substantiated";
 - (f) A plan of action necessary to prevent further abuse or mistreatment of the adult;
 - (g) Any additional corrective action required by the community program and deadlines for completing these actions;
 - (h) A list of any notices made to licensing or certifying agencies;
 - (i) The name and title of the individual completing the report; and
 - (j) The date the report is written.
- (3) In cases where, for good cause shown, the protective services investigator cannot complete the report within 45 days, the investigator shall submit a request for time extension to OIT.

(a) An extension may be granted for good cause shown which includes but is not limited to:

- (A) When law enforcement is conducting an investigation;
 - (B) A material party or witness is temporarily unavailable;
 - (C) New evidence is discovered;
 - (D) The investigation is complex (e.g. large numbers of witnesses need to be interviewed taking into account scheduling difficulties and limitations, consultation with experts, or a detailed review of records over an extended period of time is required); or
 - (E) For some other mitigating reason.
- (b) When granting an extension, OIT shall consult with the program about the need for an extension and determine the length of the extension as necessary.

(c) The community program shall notify the provider agency and guardian when an extension is granted and advise them of the new report due date.

(4) A copy of the final abuse or mistreatment investigation and protective services report shall be provided to the Authority within five working days of the report's completion and approval by OIT.

(5) The community program must provide notice of the outcome of the investigation, or assure that notice is provided to the alleged victim, guardian, provider agency, accused person, and to any law enforcement agency which previously received notice of the initial report. Notice of outcome shall be provided to a reporter upon the reporter's request. Notice of outcome must be made within five working days after the date the case is completed and approved by OIT. The community program must document how the notice was provided.

(6) A centralized record of all abuse or mistreatment investigation and protective services reports shall be maintained by community programs for all abuse or mistreatment investigations conducted in their county, and by the Authority for all abuse or mistreatment investigations in the state.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735-430.765, 443.400 - 443.460, 443.705 - 443.825
Hist.: OHA 11-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 29-2011, f. 12-1-11, cert. ef. 12-5-11; OHA 3-2012, f. & cert. ef. 6-28-12; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0330

Disclosure of the Abuse or Mistreatment Investigation and Protective Services Report and Related Documents

(1) Portions of the abuse or mistreatment investigation and protective services report and underlying investigatory documents are confidential and are not available for public inspection. Pursuant to ORS 430.763, names of abuse or mistreatment reporters, witnesses, and the alleged abuse or mistreatment victim are confidential and shall not be available for public inspection. Investigatory documents, including portions of the abuse or mistreatment investigation and protective services report that contains "individually identifiable health information," as that term is defined under ORS 192.519 and 45 CFR 160.103, are confidential under federal Health Insurance Portability and Accountability Act (HIPAA) privacy rules, 45 CFR Parts 160 and 164, and ORS 192.520 and 179.505-179.509.

(2) Notwithstanding section (1) of this rule, the Authority shall make confidential information available, including any photographs if appropriate, to any law enforcement agency, public agency that licenses or certifies facilities or licenses or certifies the individuals practicing therein, and any public agency providing protective services for the adult. The Authority shall make the protective services report and underlying investigatory materials available to any private agency providing protective services for the adult and to the protection and advocacy system designated pursuant to ORS 192.517(1).

(3) Individuals or entities receiving confidential information pursuant to this rule shall maintain the confidentiality of the information and shall not redisclose the confidential information to unauthorized individuals or entities, as required by state or federal law.

(4) The community program shall prepare a redacted version of the final completed abuse or mistreatment investigation report within 10 days after the date of the final report. The redacted report shall not contain any confidential information which is prohibited from disclosure pursuant to state or federal law. The redacted report shall be submitted to the provider agency.

(5) The community program shall provide a redacted version of the written report to the public for inspection upon written request.

(6) When the abuse or mistreatment investigation and protective services report is conducted by a community program as the Authority's designee, the protective services investigation may be disclosed pursuant to this rule either by the community program or the Authority.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735-430.765, 443.400 - 443.460, 443.705 - 443.825

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Hist.: OHA 11-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 29-2011, f. 12-1-11, cert. ef. 12-5-11; OHA 3-2012, f. & cert. ef. 6-28-12; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0340

Prohibition Against Retaliation

(1) A community facility, community program, or individual shall not retaliate against any individual who reports suspected abuse or mistreatment in good faith, including the adult.

(2) Any community facility, community program, or individual that retaliates against any individual because of a report of suspected abuse or mistreatment shall be liable, according to ORS 430.755, in a private action to that individual for actual damages and, in addition, a civil penalty up to \$1,000, notwithstanding any other remedy provided by law.

(3) Any adverse action creates a presumption of retaliation if taken within 90 days of a report of abuse or mistreatment. For purposes of this sub-section, "adverse action" means any action taken by a community facility, community program, or individual involved in a report against the individual making the report or against the adult because of the report and includes but is not limited to:

- (a) Discharge or transfer from the community facility, except for clinical reasons;
- (b) Termination of employment;
- (c) Demotion or reduction in remuneration for services; or
- (d) Restriction or prohibition of access to the community facility or its residents.

(4) Adverse action may also be evidence of retaliation after 90 days even though the presumption no longer applies.

Stat. Auth.: ORS 179.040 & 413.042, 414.715 & 430.731
Stats. Implemented: ORS 413.032, 430.735-430.765, 443.400 - 443.460, 443.705 - 443.825
Hist.: OHA 11-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 29-2011, f. 12-1-11, cert. ef. 12-5-11; OHA 3-2012, f. & cert. ef. 6-28-12; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0350

Immunity of Individuals Making Reports in Good Faith

(1) Any individual who makes a good faith report and who had reasonable grounds for making the report shall have immunity from civil liability with respect to having made the report.

(2) The reporter shall have the same immunity in any judicial proceeding resulting from the report as may be available in that proceeding.

(3) An individual who has personal knowledge that an employee or former employee of the adult was found to have committed abuse is immune from civil liability for the disclosure to a prospective employer of the employee of known facts concerning the abuse.

Stat. Auth.: ORS 179.040 & 413.042, 414.715 & 430.731
Stats. Implemented: ORS 413.032, 430.735-430.765, 443.400 - 443.460, 443.705 - 443.825
Hist.: OHA 11-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 29-2011, f. 12-1-11, cert. ef. 12-5-11; OHA 3-2012, f. & cert. ef. 6-28-12; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0360

Authority Investigation of Alleged Abuse or Mistreatment

(1) If determined necessary or appropriate, the Authority may conduct an investigation rather than allow the community program to investigate the alleged abuse or mistreatment or in addition to the investigation by the community program. Under such circumstances, the community program must receive authorization from the Authority before conducting any separate investigation.

(2) The community program shall make all records necessary for the investigation available to the Authority for inspection and copying. The community facilities and community programs must provide the Authority access to employees, the adult, and the premises for investigation purposes.

Stat. Auth.: ORS 179.040 & 413.042, 414.715 & 430.731
Stats. Implemented: ORS 413.032, 430.735-430.765, 443.400 - 443.460, 443.705 - 443.825
Hist.: OHA 11-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 29-2011, f. 12-1-11, cert. ef. 12-5-11; OHA 3-2012, f. & cert. ef. 6-28-12; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0370

County Multidisciplinary Teams

(1) The community program must participate in its county Multidisciplinary Team (MDT) to coordinate and collaborate on protective services for the abuse or mistreatment of adults with developmental disabilities or mental illness or both.

(2) All confidential information protected by state and federal law that is shared or obtained by MDT members in the exercise of their duties on the MDT is confidential and may not be further disclosed except as permitted by law.

(3) The community program or OIT shall provide an annual report to the MDT reporting the number of investigated and substantiated allegations of abuse or mistreatment of adults and the number referred to law enforcement in the county.

Stat. Auth.: ORS 179.040 & 413.042, 414.715 & 430.731
Stats. Implemented: ORS 413.032, 430.735-430.765, 443.400 - 443.460, 443.705 - 443.825
Hist.: OHA 11-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 29-2011, f. 12-1-11, cert. ef. 12-5-11; OHA 3-2012, f. & cert. ef. 6-28-12; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0400

Purpose

The purpose of these rules is to establish a policy prohibiting abuse and to define procedures for reporting, investigating, and resolving alleged incidents of abuse of individuals in state hospitals.

Stat. Auth.: ORS 179.040, 413.042
Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735-430.768
Hist.: OHA 12-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 30-2011, f. 12-22-11, cert. ef. 12-23-11; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0410

Definitions

(1) "Abuse" means any act or absence of action by a staff or visitor inconsistent with prescribed treatment and care that violates the well-being or dignity of the individual.

(2) "Authority" means the Oregon Health Authority.

(3) "Derogatory" means an expression of a low opinion or a disparaging remark.

(4) "Director" means the Director of the Oregon Health Authority's Addictions and Mental Health Division or their designee.

(5) "Disrespectful" means lacking regard or concern; or to treat as unworthy or lacking value as a human being.

(6) "Division" means the Oregon Health Authority's Addictions and Mental Health Division.

(7) "Employee" means an individual employed by the state and subject to rules for employee conduct.

(8) "Inconclusive" means there is insufficient evidence to conclude the alleged abuse occurred or did not occur by a preponderance of the evidence.

(9) "Individual" means a person who is receiving services at a state hospital for people with mental illness.

(10) "Not Substantiated" means the preponderance of evidence establishes the alleged abuse did not occur.

(11) "Office of Investigations and Training (OIT)" means the Department of Human Services' Shared Services Division office responsible for the investigation of allegations of abuse made at state hospitals on behalf of the Authority.

(12) "Staff" means employees, contractors and their employees, and volunteers.

(13) "Substantiated" means that the preponderance of evidence establishes the abuse occurred.

(14) "Superintendent" refers to the chief executive officer of a state hospital who serves as the designee of the Director to receive allegations of abuse concerning individuals and his or her designee.

(15) "Visitor" means all others persons not included as staff who visit the facility for business purposes or to visit individuals or staff.

Stat. Auth.: ORS 179.040, 413.042
Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735-430.768
Hist.: OHA 12-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 30-2011, f. 12-22-11, cert. ef. 12-23-11; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0420

General Policy

(1) The Authority believes every individual is deserving of safe, respectful and dignified treatment provided in a caring environment. To that end, all employees, volunteers, contractors and their employees, as well as visitors shall conduct themselves in such a manner that individuals are free from abuse.

(2) In these rules, the term "abuse" is given a broad definition because of the unique vulnerability of individuals served by the Authority. While some examples are listed later in these rules (including specific conduct listed in ORS 430.735(1)), it must be clearly understood that all possible situations cannot be anticipated and each case must be evaluated based on the particular facts available.

Stat. Auth.: ORS 179.040, 413.042
Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735-430.768
Hist.: OHA 12-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 30-2011, f. 12-22-11, cert. ef. 12-23-11; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

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943-045-0430

Policy Regarding Abuse

(1) All Forms of Abuse Prohibited. Staff, visitors, volunteers, contractors and their employees must continually be aware of the potential for abuse in interactions with individuals.

(2) Listed below are examples of the type of conduct which constitutes abuse. This list of examples is by no means exhaustive and represents general categories of prohibited conduct. Conduct of a like or similar nature is also obviously prohibited. Examples include, but are not limited to:

(a) Physical Abuse: Examples include hitting, kicking, scratching, pinching, choking, spanking, pushing, slapping, twisting of head, arms, or legs, tripping, the use of physical force which is unnecessary or excessive or other physical contact with an individual inconsistent with prescribed treatment or care;

(b) Verbal Abuse: Verbal conduct may be abusive because of either the manner of communicating with or the content of the communication with individuals. Examples include yelling, ridicule, harassment, coercion, threats, intimidation, cursing, foul language or other forms of communication which are derogatory or disrespectful of the individual, or remarks intended to provoke a negative response by the individual;

(c) Abuse by Failure to Act: This includes neglecting the care of the individual resulting in death (including suicide), physical or psychological harm, or a significant risk of harm to the individual either by failing to provide authorized and prescribed treatment or by failing to intervene when an individual needs assistance such as denying food or drink or leaving the individual unattended when staff presence is mandated;

(d) Sexual Abuse: Examples include:

(A) Contact of a sexual nature between staff and individuals;

(B) Failure to discourage sexual advances toward staff by individuals; and

(C) Permitting the sexual exploitation of individuals or use of individual sexual activity for staff entertainment or other improper purpose.

(e) Condoning Abuse: Permitting abusive conduct toward an individual by any other staff, individual, or person; and

(f) Statutory Terms of Abuse: As defined in ORS 430.735: any death caused by other than accidental or natural means; any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury; willful infliction of physical pain or injury, sexual harassment or exploitation, including but not limited to any sexual contact between an employee of a facility or community program and an adult, and neglect that leads to physical harm or significant mental injury through withholding of services necessary to maintain health and well being.

(3) At times, persons may be required to utilize self-defense. This includes control procedures that are designed to minimize physical injury to the individual or other persons. Employees must use the least restrictive procedures necessary under the circumstances for dealing with an individual's behaviors or defending against an individual's attack. Abuse does not include acts of self-defense or defense of an individual or other person in response to the use or imminent use of physical force provided that only the degree of force reasonably necessary for protection is used. When excessively severe methods of control are used or when any conduct designed as self-defense is carried beyond what is necessary under the circumstances to protect the individual or other persons from further violence or assault, then that conduct then becomes abuse.

Stat. Auth.: ORS 179.040, 413.042

Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735-430.768

Hist.: OHA 12-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 30-2011, f. 12-22-11, cert. ef. 12-23-11; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0440

Reporting Requirements

(1) Oregon law requires mandatory reports and investigations of allegations of abuse of individuals with disabilities. Therefore, any person who has reasonable cause to believe that an incident of abuse has occurred to an individual residing at a state hospital must immediately report the incident according to the procedures set forth in the applicable state hospital policy on abuse reporting.

(2) Any person participating in good faith in reporting alleged abuse and who has reasonable grounds for reporting has immunity from any civil liability that otherwise might be imposed or incurred based on the reporting or the content of the report under ORS 430.753(1).

(3) The identity of the person reporting alleged abuse is confidential. The Authority or OIT may reveal the names of abuse reporters to law enforcement agencies, public agencies who certify or license facilities or persons practicing therein, public agencies providing services to the indi-

viduals, private agencies providing protective services for the individuals, and the protection and advocacy system for individuals designated by federal law. The identity of the person reporting alleged abuse may also be disclosed in certain legal proceedings including, but not limited to, Human Resources or other administrative proceedings and criminal prosecution.

Stat. Auth.: ORS 179.040, 413.042

Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735-430.768

Hist.: OHA 12-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 30-2011, f. 12-22-11, cert. ef. 12-23-11; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0450

Preliminary Procedures

(1) Once a report of alleged abuse is made, the following steps shall be taken to ensure both a proper investigation and appropriate action are taken to ensure that individuals are free from any threat of abuse:

(a) No later than two hours after receipt of the allegation except for circumstances with good cause the Superintendent shall notify OIT of the report of alleged abuse. OIT shall determine whether the allegation, if true, would fit within the definition of abuse. This determination shall be made in consultation with the Superintendent. The determination must be made by OIT within 24 hours of receipt of the report of abuse;

(b) If the allegation is determined not to fit the definition of abuse, the Superintendent may take other appropriate action, such as a referral to Human Resources for review as a performance issue, worksite training, or take other systemic measures to resolve problems identified;

(c) The Superintendent with OIT shall ensure that if the allegation meets the definition of child abuse under ORS 419B.005, or elder abuse under 124.050 that the allegation has been reported to the appropriate agency.

(2) Immediately and no later than 24 hours after determining that the allegation falls within the definition of abuse under this policy or other applicable laws, the Superintendent shall:

(a) Provide appropriate protective services to the individual that may include arranging for immediate protection of the individual and the provision of appropriate services including medical, legal, or other services necessary to prevent further abuse;

(b) Determine with OIT if there is reason to believe that an investigation by an appropriate law enforcement agency is necessary, and if so, request that such agency determine whether there is reason to believe a crime has been committed;

(c) Make a report to any other appropriate agencies.

(d) Promptly notify the legal guardian (of an adjudicated incapacitated individual) of the alleged incident and give an explanation of the procedures that will be used to investigate and resolve the matter; as well as the hospital's responsibility and plan to provide appropriate protective services;

(e) Contact the Director if the individual has sustained serious injury.

Stat. Auth.: ORS 179.040, 413.042

Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735-430.768

Hist.: OHA 12-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 30-2011, f. 12-22-11, cert. ef. 12-23-11; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0460

Investigation by the Office of Investigations and Training

(1) Investigation of allegations of abuse shall be thorough and unbiased. OIT shall conduct an investigation of the allegation.

(2) OIT shall conduct interviews with any party alleging an incident of abuse, the individual allegedly abused, and the person accused. OIT shall also include interviews with persons appearing to be involved in or having knowledge of the alleged abuse or surrounding circumstances.

(3) All records necessary for the investigation shall be available to OIT for inspection and copying. OIT shall collect information which has relevance to the alleged event. This may include, but is not limited to, individual or facility records, statements, diagrams, photographs, and videos.

(4) If the facts in the case are disputed and a law enforcement agency does not conduct a timely investigation or complete a criminal investigation, OIT shall determine the manner and methods of conducting the investigation.

(5) When a law enforcement agency is conducting a criminal investigation of the alleged abuse, OIT shall also perform its own investigation unless OIT is advised by the law enforcement agency that a concurrent OIT investigation would interfere with the criminal investigation.

Stat. Auth.: ORS 179.040, 413.042

Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735-430.768

Hist.: OHA 12-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 30-2011, f. 12-22-11, cert. ef. 12-23-11; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

ADMINISTRATIVE RULES

943-045-0470

Abuse Investigation Report

(1) OIT shall complete the investigation and submit a draft report to the Superintendent within 30 calendar days after initiating an investigation. The investigation must be completed within 30 calendar days unless the Director grants an extension. The Director may grant an extension for good cause shown when law enforcement is conducting an investigation, when a key party is unavailable, new evidence is discovered, the investigation is complex (e.g. large numbers of witnesses need to be interviewed, taking into account scheduling difficulties and limitations, consultation with experts, or a detailed review of records over an extended period of time is required) or for some other mitigating reason. The Director shall determine the length of the extension.

(2) The Superintendent and OIT shall review the OIT or law enforcement investigation report. The Superintendent and OIT shall also review and discuss any other relevant reports or information.

(3) OIT shall determine whether the evidence substantiates the allegation of abuse. In some instances, OIT may determine that the evidence is inconclusive. The determination must be made within 15 calendar days from completion of the draft investigation report, unless a key party is unavailable, additional evidence is discovered, or the Director grants an extension for some other mitigating reason. Any determination not made within the 15-day period must be made as soon as reasonably possible thereafter.

(4) Once this review is complete, OIT shall prepare a final report, which shall include:

- (a) A statement of the allegations being investigated, including the date, location and time;
- (b) A list of protective services provided to the adult;
- (c) An outline of steps taken in the investigation, a list of all witnesses interviewed and a summary of the information provided by each witness;
- (d) A summary of evidence and conclusion concerning the allegation of abuse;
- (e) A specific finding of substantiated, inconclusive, or not substantiated;
- (f) A plan of action necessary to prevent further abuse of the individual;
- (g) Any additional corrective action required by the hospital and deadlines for the completion of these actions;
- (h) A list of any notices made to licensing or certifying agencies;
- (i) The name and title of the person completing the report; and
- (j) The date written.

(5) If the allegation of abuse is substantiated, the Superintendent shall direct that appropriate action be taken against the responsible person commensurate with the seriousness of the conduct and any aggravating or mitigating circumstances, including consideration of previous conduct of record. If Human Resources are involved, as necessary to comply with laws related to employee rights, additional investigation may be conducted.

(6) If the allegations are found to be inconclusive; the Superintendent may request a review by Human Resources to determine the need for any training or disciplinary action, as warranted by the facts and any follow-up investigative work.

(7) The Superintendent shall ensure that appropriate documentation exists as to the action taken as a result of an abuse investigation.

(8) The Superintendent shall ensure that a copy of the law enforcement investigation report is forwarded to OIT.

Stat. Auth.: ORS 179.040, 413.042
Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735-430.768
Hist.: OHA 12-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 30-2011, f. 12-22-11, cert. ef. 12-23-11; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0480

Disclosure of Investigation Report and Related Documents

(1) Investigation reports prepared by OIT are subject to the following:

(a) Portions of the abuse investigation report and investigatory documents are confidential and not available for public inspection. Pursuant to ORS 430.763, names of persons who make reports of abuse, witnesses, and the alleged abuse victim are confidential and shall not be available for public inspection. Investigatory documents, including portions of the abuse investigation report that contains "Individually identifiable health information", as that term is defined under ORS 192.519 and 45 CFR 160.103, are confidential under HIPAA privacy rules, 45 CFR Part 160 and 164, and ORS 192.520 and 179.505 to 509.

(b) Notwithstanding subsection (a) of this rule, the Authority and OIT shall make the confidential information, including any photographs, available, if appropriate, to any law enforcement agency, to any public agency

that licenses or certifies facilities or licenses or certifies the persons practicing therein, and to any public agency providing protective services for the adult. The Authority and OIT shall also make the protective services report and underlying investigatory materials available to any private agency providing protective services for the adult and to the protection and advocacy system designated pursuant to ORS 192.517(1).

(c) Persons or entities receiving confidential information pursuant to this rule must maintain the confidentiality of the information and may not disclose the confidential information to unauthorized persons or entities, as required by state or federal law.

(d) When the report is completed, a redacted version of the abuse investigation report not containing any confidential information, the disclosure of which would be prohibited by state or federal law shall be available for public inspection.

(2) The OIT report shall be disclosed by OIT or the Superintendent to:

- (a) The Director of the Division and
- (b) Any person designated by the Superintendent for purposes related to the proper administration of the state hospital such as assessing patterns of abuse or to respond to personnel actions and may be disclosed in the Superintendent's discretion;
- (c) The individual involved;
- (d) The guardian of an adjudicated incapacitated person; and
- (e) The person who allegedly abused the individual.

(3) Copies of all reports shall be maintained by the Superintendent separate from employee personnel files. The chart of the individual allegedly abused must contain a reference to the report sufficient to enable authorized persons to retrieve and review the report.

Stat. Auth.: ORS 179.040, 413.042
Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735-430.768
Hist.: OHA 12-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 30-2011, f. 12-22-11, cert. ef. 12-23-11; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0490

Consequences of Abuse

(1) All persons shall be subject to appropriate action if found responsible for:

- (a) Abusing an individual;
- (b) Failing to report an alleged incident of abuse; or
- (c) Refusing to give information or giving untruthful information during an investigation of alleged abuse.

(2) Any discipline of an employee as a result of the above-described conduct must be in conformance with any applicable standards contained in state law or in a Collective Bargaining Agreement.

(3) Any employee dismissed for violating the abuse policy may not be rehired in any capacity, may not be permitted to visit or have any type of contact with individuals.

(4) Any volunteer found violating the abuse policy may be denied visitation or any other contact with individuals.

(5) The Authority may immediately terminate the contract of any contractor found violating the abuse policy. Any employee of the contractor found violating the abuse policy may be excluded from the grounds and may be subject to appropriate disciplinary action by the employer.

(6) Any visitor found in violation of the abuse policy may be excluded from the grounds and will be subject to other appropriate actions as determined by the Superintendent.

(7) Any employee, volunteer, contractor, contractor's employee, or visitor may be subject to criminal prosecution depending on the outcome of any allegation referred to law enforcement for investigation.

(8) Any staff found to have violated the abuse policy shall be reported to any appropriate professional licensing or certification boards or associations.

Stat. Auth.: ORS 179.040, 413.042
Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735-430.768
Hist.: OHA 12-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 30-2011, f. 12-22-11, cert. ef. 12-23-11; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0500

Notice of Abuse Policy

(1) Upon admission each individual, and guardian if any, and family must be informed orally and in writing of the rights, policies, abuse definitions and procedures concerning prohibition of abuse of individuals.

(2) A clear and simple statement of the title and number of this policy and how to seek advice about its content must be prominently displayed in areas frequented by individuals at the state hospital.

(3) All staff shall be provided a copy of this rule, either at the commencement of their employment, or duties, or, for current staff, within 90 days of the effective date of this rule and once a year thereafter. All staff

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must sign a form acknowledging receipt of this information on the date of receipt.

(4) A summary of this policy shall be posted in the state hospital in areas regularly frequented by visitors and in a manner designed to notify visitors of the policy. Copies of the complete policy shall be provided to visitors upon request.

Stat. Auth.: ORS 179.040, 413.042
Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735-430.768
Hist.: OHA 12-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 30-2011, f. 12-22-11, cert. ef. 12-23-11; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0510

Retaliation

(1) No state hospital staff or other person shall retaliate against any person who reports in good faith suspected abuse or against the individual with respect to any report.

(2) Any state hospital staff or other person who retaliates against any person because of a report of suspected abuse or neglect shall be liable according to ORS 430.755, in a private action to that person for actual damages and, in addition, may be subject to a penalty of up to \$1,000, notwithstanding any other remedy provided by law.

Stat. Auth.: ORS 179.040, 413.042
Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735-430.768
Hist.: OHA 12-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 30-2011, f. 12-22-11, cert. ef. 12-23-11; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

943-045-0520

Quality Assurance Review

(1) The State Hospitals shall report on critical indicators, identified by the Authority; and on quality improvement activities undertaken to improve any identified issues.

(2) These reports must be provided to the Authority monthly.

(3) Representatives from the State Hospitals and OIT shall meet quarterly with the Authority's Director or designee. They shall regularly review quality indicators and any other Authority generated information regarding the abuse and neglect system in the State Hospitals.

(4) The Authority must make the information part of any quality improvement activities of the Authority.

Stat. Auth.: ORS 179.040, 413.042
Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735-430.768
Hist.: OHA 12-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; OHA 30-2011, f. 12-22-11, cert. ef. 12-23-11; Suspended by OHA 2-2017(Temp), f. & cert. ef. 9-14-17 thru 2-28-18

Oregon Health Authority,

Health Systems Division: Medical Assistance Programs Chapter 410

Rule Caption: Authorization Approval Criteria Guide

Adm. Order No.: DMAP 32-2017(Temp)

Filed with Sec. of State: 8-24-2017

Certified to be Effective: 8-24-17 thru 12-27-17

Notice Publication Date:

Rules Amended: 410-121-0040

Subject: The Pharmaceutical Services program administrative rules (division 121) govern Division payments for services provided to certain clients. The Authority needs to amend this rule to update the Oregon Medicaid Fee for Service Prior Authorization Criteria Guide found at <http://www.oregon.gov/oha/HSD/OHP/Pages/Policy-Pharmacy.aspx> based on the P&T (Pharmacy and Therapeutic) Committee recommendations.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners shall obtain prior authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures set forth in OAR 410-121-0060.

(2) All drugs and categories of drugs including, but not limited to, those drugs and categories of drugs that require PA shall meet the following requirements for coverage:

(a) Each drug shall be prescribed for conditions funded by the Oregon Health Plan (OHP) in a manner consistent with the Health Evidence Review Commission (HERC) Prioritized List of Health Services (OAR 410-141-0480 through 410-141-0520). If the medication is for a non-covered diagnosis, the medication may not be covered unless there is a co-morbid condition for which coverage would be allowed. The use of the medication shall meet corresponding treatment guidelines and be included with-

in the client's benefit package of covered services and not otherwise excluded or limited;

(b) Each drug shall also meet other criteria applicable to the drug or category of drug in these pharmacy provider rules, including PA requirements imposed in this rule.

(3) The Authority may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs that the Authority requires PA for this purpose are found in the Oregon Medicaid Fee-for-Service Prior Authorization Approval Criteria (PA Criteria guide) dated August 21, 2017, adopted and incorporated by reference and found at: <http://www.oregon.gov/OHA/healthplan/pages/pharmacy-policy.aspx>

(4) The Authority may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Pharmacy & Therapeutics Committee (P&T) and adopted by the Authority in this rule. The drugs and categories of drugs for which the Authority requires PA for this purpose are found in the Pharmacy PA Criteria Guide.

(5) New drugs shall be evaluated when added to the weekly upload of the First Databank drug file:

(a) If the new drug is in a class where current PA criteria apply, all associated PA criteria shall be required at the time of the drug file load;

(b) If the new drug is indicated for a condition below the funding line on the Prioritized List of Health Services, PA shall be required to ensure that the drug is prescribed for a condition funded by OHP;

(c) PA criteria for all new drugs shall be reviewed by the DUR/P&T Committee.

(6) PA shall be obtained for brand name drugs that have two or more generically equivalent products available and that are not determined Narrow Therapeutic Index drugs by the DUR/P&T Committee:

(a) Immunosuppressant drugs used in connection with an organ transplant shall be evaluated for narrow therapeutic index within 180 days after United States patent expiration;

(b) Manufacturers of immunosuppressant drugs used in connection with an organ transplant shall notify the Authority of patent expiration within 30 days of patent expiration for section (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in section (3) or (4) of this rule applies, follow that criteria;

(B) If section (6)(A) does not apply, the prescribing practitioner shall document that the use of the generically equivalent drug is medically contraindicated and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(7) PA shall be obtained for non-preferred Preferred Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior to 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV, or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Authority;

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP; or

(c) If a drug is in a class not evaluated from the Practitioner-Managed Prescription Drug Plan under ORS 414.334.

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.330 to 414.414, 414.312, 414.316
Stats. Implemented: 414.065, 414.334, 414.361, 414.371, 414.353, 414.354
Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 6-31-06, cert. ef. 9-1-06; OMAP 41-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08;

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DMAP 14-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 23-2012(Temp), f. & cert. ef. 4-20-12 thru 10-15-12; DMAP 27-2012(Temp), f. & cert. ef. 5-14-12 thru 10-15-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 14-2014(Temp), f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 27-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 38-2014, f. & cert. ef. 6-30-14; DMAP 46-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 49-2014(Temp), f. & cert. ef. 8-13-14 thru 1-11-15; DMAP 62-2014(Temp), f. 10-13-14, cert. ef. 10-14-14 thru 1-11-15; DMAP 75-2014, f. & cert. ef. 12-12-14; DMAP 76-2014(Temp), f. & cert. ef. 12-12-14 thru 6-7-15; DMAP 89-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-26-15; DMAP 4-2015(Temp), f. & cert. ef. 2-3-15 thru 6-26-15; DMAP 25-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 34-2015, f. 6-25-15, cert. ef. 6-26-15; DMAP 36-2015(Temp), f. 6-26-15, cert. ef. 7-1-15 thru 12-27-15; DMAP 41-2015(Temp), f. & cert. ef. 8-7-15 thru 2-2-16; DMAP 44-2015(Temp), f. 8-21-15, cert. ef. 8-25-15 thru 12-27-15; DMAP 58-2015(Temp), f. & cert. ef. 10-9-15 thru 12-27-15; DMAP 80-2015, f. 12-23-15, cert. ef. 12-27-15; DMAP 83-2015(Temp), f. 12-23-15, cert. ef. 1-1-16 thru 6-28-16; DMAP 6-2016(Temp), f. 2-11-16, cert. ef. 2-12-16 thru 6-28-16; DMAP 19-2016(Temp), f. 4-28-16, cert. ef. 5-1-16 thru 6-28-16; DMAP 26-2016, f. 6-24-16, cert. ef. 6-28-16; DMAP 35-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; DMAP 54-2016(Temp), f. & cert. ef. 8-26-16 thru 12-27-16; DMAP 62-2016(Temp), f. & cert. ef. 10-13-16 thru 12-27-16; DMAP 68-2016, f. & cert. ef. 12-1-16; DMAP 79-2016(Temp), f. 12-29-16, cert. ef. 1-1-17 thru 6-29-17; DMAP 5-2017(Temp), f. & cert. ef. 2-21-17 thru 6-29-17; DMAP 10-2017(Temp), f. 3-31-17, cert. ef. 4-1-17 thru 6-29-17; DMAP 11-2017(Temp), f. 3-31-17, cert. ef. 6-1-17 thru 6-29-17; DMAP 22-2017, f. & cert. ef. 6-29-17; DMAP 28-2017(Temp), f. 6-30-17, cert. ef. 7-1-17 thru 12-27-17; DMAP 32-2017(Temp), f. & cert. ef. 8-24-17 thru 12-27-17

Rule Caption: Amending PDL May 25, 2017 DUR/P&T Action
Adm. Order No.: DMAP 33-2017(Temp)
Filed with Sec. of State: 8-24-2017
Certified to be Effective: 9-1-17 thru 12-27-17
Notice Publication Date:

Rules Amended: 410-121-0030

Subject: The Pharmaceutical Services program administrative rules (division 121) govern Division payments for services provided to certain clients. The Division needs to amend OAR 410-121-0030 per the Drug Use Review (DUR) Pharmacy & Therapeutics (P&T) Committee's recommendations made during the March 23, 2017 meeting. The Authority needs to implement changes to the Preferred Drug List to ensure the safe and appropriate use of cost effective prescription drugs for the Oregon Health Plan's fee-for-service recipients.

410-121-0030:

Preferred:

Ranitidine 150mg & 300mg tablets

Famotidine 20mg & 40mg tablets

Irbesartan

Valsartan

Non-Preferred:

Daklinza™ (daclatasvir)

Sovaldi® (sofosbuvir)

Clerical - Various clerical changes were made to system class, drug and form names.

Rules Coordinator: Sandy Cafourek —(503) 945-6430

410-121-0030

Practitioner-Managed Prescription Drug Plan

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures that OHP fee-for-service clients have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Licensed health care practitioners, who are informed by the latest peer reviewed research, make decisions concerning the clinical effectiveness of the prescription drugs;

(b) Licensed health care practitioners also consider the client's health condition, personal characteristics, and the client's gender, race, or ethnicity.

(2) PMPDP Preferred Drug List (PDL):

(a) The PDL is the primary tool the Division uses to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL contains a list of prescription drugs that the Division, in consultation with the Drug Use Review (DUR)/Pharmacy & Therapeutics

Committee (P&T), has determined represent the most effective drugs available at the best possible price;

(c) The PDL shall include drugs that are Medicaid reimbursable and the Food and Drug Administration (FDA) has determined to be safe and effective.

(3) PMPDP PDL Selection Process:

(a) The Division shall utilize the recommendations made by the P&T that result from an evidence-based evaluation process as the basis for selecting the most effective drugs;

(b) The Division shall ensure the drugs selected in section (3)(a) that are available for the best possible price and shall consider any input from the P&T about other FDA-approved drugs in the same class that are available for a lesser relative price. The Division shall determine relative price using the methodology described in section (4);

(c) The Division shall evaluate selected drugs for the drug classes periodically:

(A) The Division may evaluate more frequently if new safety information or the release of new drugs in a class or other information makes an evaluation advisable;

(B) New drugs in classes already evaluated for the PDL shall be non-preferred until the new drug has been reviewed by the P&T;

(C) The Division shall make all revisions to the PDL using the rule-making process and shall publish the changes on the Division's Pharmaceutical Services provider rules website.

(4) Relative cost and best possible price determination:

(a) The Division shall determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) The Division may also consider dosing issues, patterns of use, and compliance issues. The Division shall weigh these factors with any advice provided by the P&T in reaching a final decision.

(5) Pharmacy providers shall dispense prescriptions in the generic form unless:

(a) The practitioner requests otherwise pursuant to OAR 410-121-0155;

(b) The Division notifies the pharmacy that the cost of the brand name particular drug, after receiving discounted prices and rebates, is equal to or less than the cost of the generic version of the drug.

(6) The exception process for obtaining non-preferred physical health drugs that are not on the PDL shall be as follows:

(a) If the prescribing practitioner in their professional judgment wishes to prescribe a physical health drug not on the PDL, they may request an exception subject to the requirements of OAR 410-121-0040;

(b) The prescribing practitioner must request an exception for physical health drugs not listed in the PDL subject to the requirements of OAR 410-121-0060;

(c) Exceptions shall be granted when:

(A) The prescriber in their professional judgment determines the non-preferred drug is medically appropriate after consulting with the Division or the Oregon Pharmacy Call Center; or

(B) Where the prescriber requests an exception subject to the requirement of section (6)(b) and fails to receive a report of PA status within 24 hours, subject to OAR 410-121-0060.

(7) Table 121-0030-1, PMPDP PDL dated September 1, 2017 is adopted and incorporated by reference and is found at: www.orpd.org.

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325, 414.330 - 414.414, 414.312, 414.316
Stats. Implemented: ORS 414.065, 414.325, 414.334, 414.361, 414.369, 414.371, 414.353, 414.354

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04; OMAP 82-2003, f. 10-31-03, cert. ef. 11-1-03; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 29-2004, f. 4-23-04 cert. ef. 5-1-04; OMAP 34-2004, f. 5-26-04 cert. ef. 6-1-04; OMAP 45-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 81-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 19-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 32-2005, f. 6-21-05, cert. ef. 7-1-05; OMAP 58-2005, f. 10-27-05, cert. ef. 11-1-05; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 48-2006, f. 12-28-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 2-2011(Temp), f. & cert. ef. 3-1-11 thru 8-20-11; DMAP 19-2011, f. 7-15-11, cert. ef. 7-17-11; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 26-2012, f. & cert. ef. 5-14-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 14-2014(Temp), f. & cert. ef. 1-10-14 thru 7-9-14; DMAP 15-2014, f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 28-

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2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 37-2014, f. & cert. ef. 6-30-14; DMAP 47-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 52-2014(Temp), f. & cert. ef. 9-16-14 thru 1-11-15; DMAP 64-2014(Temp), f. 10-24-14, cert. ef. 10-29-14 thru 12-30-14; DMAP 77-2014, f. & cert. ef. 12-12-14; DMAP 78-2014(Temp), f. & cert. ef. 12-12-14 thru 6-9-15; DMAP 88-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 10-2015(Temp), f. & cert. ef. 3-3-15 thru 8-29-15; DMAP 26-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 35-2015, f. 6-25-15, cert. ef. 6-26-15; DMAP 37-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; DMAP 57-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 12-27-15; DMAP 64-2015(Temp), f. & cert. ef. 11-3-15 thru 12-27-15; DMAP 66-2015(Temp), f. & cert. ef. 11-6-15 thru 12-27-15; DMAP 79-2015, f. 12-22-15, cert. ef. 12-27-15; DMAP 84-2015(Temp), f. 12-23-15, cert. ef. 1-1-16 thru 6-28-16; DMAP 18-2016(Temp), f. 4-28-16, cert. ef. 5-1-16 thru 6-28-16; DMAP 27-2016, f. 6-24-16, cert. ef. 6-28-16; DMAP 43-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DMAP 57-2016(Temp), f. 9-30-16, cert. ef. 10-1-16 thru 3-29-17; DMAP 69-2016, f. & cert. ef. 12-1-16; DMAP 80-2016(Temp), f. 12-30-16, cert. ef. 1-1-17 thru 6-29-17; DMAP 14-2017(Temp), f. 4-28-17, cert. ef. 5-1-17 thru 6-29-17; DMAP 23-2017, f. & cert. ef. 6-29-17; DMAP 27-2017(Temp), f. 6-30-17, cert. ef. 7-1-17 thru 12-27-17; DMAP 33-2017(Temp), f. 8-24-17, cert. ef. 9-1-17 thru 12-27-17

Rule Caption: The Eligibility Criteria for TCM Children and Infant Eligibility

Adm. Order No.: DMAP 34-2017(Temp)

Filed with Sec. of State: 8-25-2017

Certified to be Effective: 8-25-17 thru 2-20-18

Notice Publication Date:

Rules Amended: 410-138-0040

Subject: Amending to include full eligibility table from corresponding state plan amendment.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-138-0040

Targeted Case Management Public Health Nurse Home Visiting, Expanded Babies First!, CaCoon, and Nurse-Family Partnership Program Risk Criteria

(1) This rule is in effect for expanded services approved by CMS effective for services rendered beginning January 1, 2017, and sets forth the criteria for risk factors for the TCM Expanded Babies First! programs for infants and preschool children (birth through age four) to include perinatal and parental eligibility criteria in Table 1 and risk factors for TCM infant and children eligibility criteria and diagnosis in Table 2.

(2) Table 1 risk criteria for TCM perinatal and parental eligibility and Table 2 risk criteria for TCM infant and children eligibility and diagnosis criteria become effective January 1, 2017, and may be obtained by clicking on the PDF copy below:

[Note: Tables referenced are available from the agency.]

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 20-1992, f. & cert. ef. 7-1-92; HR 37-1994, f. 12-30-94, cert. ef. 1-1-95; OMAR 50-2004, f. 9-9-04, cert. ef. 10-1-04; DMAP 22-2010, f. 6-30-10, cert. ef. 7-1-10; DMAP 41-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 76-2016, f. 12-29-16, cert. ef. 1-1-17; DMAP 2-2017(Temp), f. & cert. ef. 1-13-17 thru 7-11-17; DMAP 4-2017(Temp), f. 2-2-17, cert. ef. 2-10-17 thru 7-11-17; DMAP 9-2017, f. 3-31-17, cert. ef. 4-1-17; DMAP 34-2017(Temp), f. & cert. ef. 8-25-17 thru 2-20-18

Rule Caption: Annual Updates; Relative Value Unit (RVU) Weight; Clinical Lab, ASC

Adm. Order No.: DMAP 35-2017

Filed with Sec. of State: 9-12-2017

Certified to be Effective: 9-15-17

Notice Publication Date: 7-1-2017

Rules Amended: 410-120-1340

Rules Repealed: 410-120-1340(T)

Subject: The Oregon Health Authority, Health Systems Division (Division) General Rules govern payments for services provided to certain eligible clients. The Division amends OAR 410-120-1340 to implement the annual updates by the Centers for Medicare and Medicaid (CMS) Relative Value Unit (RVU) weights for physician services, Clinical Lab and Ambulatory Surgical Centers.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-120-1340

Payment

(1) The Health Systems Division (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) The 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 2017 Total RVU weights published in the Federal Register, Vol. 81, November 15, 2016 to be effective for dates of services on or after January 1, 2017:

(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) \$27.82 for Oregon primary care providers. A current list of primary care CPT, HCPCS, and provider specialty codes is available at <http://www.oregon.gov/oha/healthplan/Pages/providers.aspx>

(iii) \$25.48 for all remaining RVU weight based CPT/HCPCS codes.

(D) Rate calculation: Effective January 1, 2017, the Division shall 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) + (Practice Expense RVU) X (Practice GPCI of 0.974) + (Malpractice RVU) X (Malpractice GPCI of 0.746);

(ii) Sum in paragraph (D)(i) multiplied by the applicable conversion factor in paragraph (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 percent of the 2017 Medicare clinical lab fee schedule;

(C) All approved Ambulatory Surgical Center (ASC) procedures are reimbursed at 80 percent of the 2017 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 percent. 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 section (6) are updated periodically and posted on the Authority web site at <http://www.oregon.gov/oha/healthplan/pages/feeschedule.aspx>.

(8) The Division reimburses inpatient hospital service under the DRG methodology, unless specified otherwise in the Hospital Services program administrative rules (chapter 410, division 125). Reimbursement for services, including claims paid at DRG rates, may 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 (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) Aging and People with Disabilities (APD) may 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 and 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

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(c) The rate established by APD for out-of-state nursing facilities.

(12) The Division may 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 may 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);

(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 that 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 may not be made for services included in the core package of services as outlined in chapter 410, division 142.

(15) For 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 may not exceed the co-insurance and deductible amounts due;

(b) The Division pays the allowable rate for covered services that are not covered by Medicare.

(16) For clients with third-party resources (TPR), the Division pays the 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, payment in full includes:

(a) Zero payments for claims when 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, 414.727, 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, ef. 5-1-82; AFS 52-1982, f. 5-28-82, ef. 6-30-82; 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; DMAP 71-2013, f. & cert. ef. 12-27-13; DMAP 24-2014, f. & cert. ef. 4-4-14; DMAP 83-2014(Temp), f. 12-23-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 11-2015, f. & cert. ef. 3-4-15; DMAP 86-2015(Temp), f. 12-24-15, cert. ef. 1-1-16 thru 6-28-16; DMAP 9-2016, f. 2-24-16, cert. ef. 3-1-16; DMAP 16-2017(Temp), f. 5-23-17, cert. ef. 5-26-17 thru 11-21-17; DMAP 35-2017, f. 9-12-17, cert. ef. 9-15-17

Rule Caption: Amending DMEPOS Rules; Adding a New Rule to Meet Current Medicaid Regulations 42 CFR 440.70

Adm. Order No.: DMAP 36-2017(Temp)

Filed with Sec. of State: 9-14-2017

Certified to be Effective: 9-15-17 thru 3-13-18

Notice Publication Date:

Rules Adopted: 410-122-0090

Rules Amended: 410-122-0010, 410-122-0020, 410-122-0080, 410-122-0184, 410-122-0320, 410-122-0325, 410-122-0330, 410-122-0340, 410-122-0720

Subject: The rule revisions and new rule are intended to meet new Medicaid regulations at 42 CFR 440.70 adding requirements for a face-to-face encounter for certain durable medical equipment (DME) and supplies, amending the definition of DME and supplies, removing the in-home criteria, and clarifying that there are no absolute exclusions of DME.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-122-0010

Definitions

In addition to the definitions in OAR 410-120-0000 the following definitions in these rules apply:

(1) "Activities of Daily Living (ADL's)" means activities related to personal care including but not limited to tasks such as eating, toileting, grooming, dressing, and bathing that are necessary to maintain or improve the client's health.

(2) "Buy-up" means a situation in which a client wants to upgrade to a higher level of service than he or she is eligible for; e.g., a heavy duty walker instead of a standard walker.

(3) "Consecutive Months" means any period of continuous use where no more than a 60-day break occurs.

(4) "Durable Medical Equipment" means equipment furnished by a durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider or a home health agency that is primarily and customarily used to serve a medical purpose; generally is not useful to a client in the absence of a medical disability, illness, or injury; can withstand repeated use; can be reusable or removable; and is appropriate for use in any non-institutional setting in which normal life activities take place. Some examples include wheelchairs, crutches, and hospital beds. Durable medical equipment extends to supplies and accessories that are necessary for the effective use of covered durable medical equipment.

(5) "Home" means for purposes of purchase, rental, and repair of durable medical equipment (DME) that is used primarily as a supportive measure to support a client's basic daily living activities a place of permanent residence, such as an assisted living facility (includes the common dining area), a 24-hour residential care facility, an adult foster home, a child foster home, or a private home. This does not include hospitals, nursing facilities, intermediate care facilities for individuals with intellectual disabilities, any setting that exists primarily for the purpose of providing medical/nursing care, or any setting in which payment is or could be made under Medicaid for inpatient services that include room and board. Separate payment may not be made to DME providers for equipment and medical supplies provided to a client when the cost of such items is already included in the capitated (per diem) rate paid to a facility or organization.

(6) "Lifetime Need" means 99 months or more.

(7) "Manufacturer Part Number (MPN)" means:

(a) Each manufacturer provides an MPN to identify that manufacturer's part. It is a specification used by the manufacturer to store a part in an illustrated part catalog (graphics and text);

(b) An MPN uniquely identifies a part when used together with manufacturer code (external manufacturer), which is the own name used by the manufacturer and not the manufacturer name provided by other.

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(8) "Medical Records" means the physician's office records, hospital records, nursing facility records, home health agency records, records from other healthcare professionals, and diagnostic and test reports. This documentation must be made available to the Health Systems Division (Division) upon request.

(9) "Medical Supplies" means health care related items that are disposable or cannot withstand repeated use by more than one individual and are required to address an individual's medical disability, illness, or injury. Examples of medical supplies include diapers, syringes, gauze bandages, and tubing. Some medical supplies may also be used on a repeated, limited duration basis.

(10) "Medically Appropriate" has the meaning given that term in OAR 410-120-0000.

(11) "Mobility-related Activities of Daily Living (MRADL's)" means personal care activities including but not limited to tasks such as toileting, eating, dressing, grooming, and bathing.

(12) "Morbidity" means a diseased state, often used in the context of a "morbidity rate" (i.e., the rate of disease or proportion of diseased people in a population). In common clinical usage, any disease state including diagnosis and complications is referred to as morbidity.

(13) "Morbidity Rate" means the rate of illness in a population. The number of people ill during a time period is divided by the number of people in the total population.

(14) "The Division Maximum Allowable Rate" means the maximum amount paid by the Division for a service.

(15) "Practitioner" means an individual licensed pursuant to federal and state law to engage in the provision of health care services within the scope of the practitioner's license and certification.

(16) "Prosthetic and Orthotic Devices" means devices that replace all or part of an internal body organ, including ostomy bags and supplies directly related to ostomy care and replacement of such devices and supplies. Prosthetic and orthotic devices also include leg, arm, back, and neck braces, and artificial legs, arms, and eyes, including replacements if required because of a change in the client's physical condition.

(17) "Purchase price" means:

- (a) Delivery;
- (b) Assembly;
- (c) Adjustments, if needed; and
- (d) Training in the use of the equipment or supply.

(18) "Rental fees" means:

- (a) Delivery;
- (b) Training in the use of the equipment;
- (c) Pick-up;
- (d) Routine service, maintenance, and repair; and
- (e) Moving equipment to a new residence, if coverage is to continue.

(19) "Technician" means a DMEPOS provider staff professionally trained through product or vendor-based training, technical school training (e.g., electronics), or through apprenticeship programs with on-the-job training.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 54-2004, f. 9-10-04, cert. ef. 10-1-04;

OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 25-2006, f. 6-14-06, cert. ef. 7-1-06;

DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 36-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

410-122-0020

Orders

(1) The purchase, rental, or modifications of durable medical equipment and the purchase of supplies must have an order prior to dispensing items to a client.

(2) For any durable medical equipment, prosthetics, orthotics and supplies (DMEPOS), a provider must have a written order signed and dated by the prescribing practitioner prior to submitting a claim to the Division.

(3) A provider may dispense some items based on a verbal order from the prescribing practitioner, except those items requiring a written order prior to delivery (see below) or as specified in a particular rule:

(a) A provider must maintain documentation of the verbal order, and this documentation must be available to the Division upon request;

(b) The verbal order must include all of the following elements:

- (A) Client's name;
- (B) Practitioner's name;
- (C) Description of the item;
- (D) Start date of the order;
- (E) Primary ICD-10 diagnosis code for the equipment/supplies requested.

(c) For items that are dispensed based on a verbal order, the provider must obtain a written order that meets the requirements outlined below for written orders.

(4) When specified in rule, a nurse practitioner may provide the dispensing order and sign the detailed written order only when the following are met:

(a) They are treating the client for the condition for which the item is needed; and

(b) They are practicing independently of a physician.

(5) The DMEPOS provider must have on file a written order, information from the prescribing practitioner concerning the client's diagnosis and medical condition, and any additional information required in a specific rule.

(6) The Division accepts any of the following forms of orders and Certificates of Medical Necessity (CMN): a photocopy, facsimile image, electronically maintained or original "pen and ink" document:

(a) An electronically maintained document is one that has been created, modified, and stored via electronic means such as commercially available software packages and servers;

(b) The provider shall ensure the authenticity and validity of a facsimile image, electronically maintained or photocopied order;

(c) A provider must also ensure the security and integrity of all electronically maintained orders and certificates of medical necessity;

(d) The written order may serve as the order to dispense the item if the written order is obtained before the item is dispensed.

(7) A written order must be legible and contain the following elements:

(a) Client's name;

(b) Detailed description of the item that can either be a narrative description (e.g., lightweight wheelchair base) or a brand name/model number including medically appropriate options or additional features;

(c) The detailed description of the item may be completed by someone other than the practitioner. However, the prescribing practitioner must review the detailed description and personally indicate agreement by his signature and the date that the order is signed:

(A) Practitioners shall sign for services they order;

(B) This signature must be handwritten or electronic, and it must be in the client's medical record;

(C) The ordering practitioner shall ensure the authenticity of the signature;

(d) Primary ICD-10 diagnosis code for the equipment and supplies requested.

(8) Use of signature stamps may not be used on any medical record.

(9) When a DMEPOS provider submits a Centers for Medicare & Medicaid Services (CMS) CMN form to the Division as documentation, it must include the following:

(a) The corresponding instructions for completing the specific CMN form must be followed; and

(b) Section B on the CMN may not be completed by the DMEPOS provider.

(10) The DMEPOS provider shall obtain as much documentation from the client's medical record as necessary for assurance that the Division coverage criteria for an item is met.

(11) Certain items require one or more of the following additional elements in the written order:

(a) For accessories or supplies that will be provided on a periodic basis:

(A) Quantity used;

(B) Specific frequency of change or use. "As needed" or "prn" orders are not acceptable;

(C) Number of units;

(D) Length of need. For example, an order for surgical dressings might specify one "4 x 4" hydrocolloid dressing that is changed one to two times per week for one month or until the ulcer heals.

(b) For orthoses, if a custom-fabricated orthosis is ordered by the practitioner, this must be clearly indicated on the written order;

(c) Length of need:

(A) If the coverage criteria in a rule specifies length of need; or

(B) If the order is for a rental item.

(d) Any other medical documentation required by rule.

(12) Repairs, labor for repairs, parts for durable medical equipment (DME) repairs, and replacement parts for DME (e.g., batteries) do not require a written order.

(13) A new order is required:

(a) When required by Medicare for a Medicare covered service;

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- (b) When there is a change in the original order for an item;
- (c) When an item is permanently replaced;
- (d) When indicated by the prescribing practitioner:
- (A) A new order is required when an item is being replaced because the item is worn or the client's condition has changed;
- (B) The provider's records should also include client-specific information regarding the need for the replacement item;
- (C) This information should be maintained in the provider's files and be available to the Division upon request;
- (D) A new order is required before replacing lost, stolen, or irreparably damaged items to reaffirm the medical appropriateness of the item.
- (e) When there is a change in a DMEPOS provider or in cases where two or more providers merge, the recipient provider should make all reasonable attempts to secure copies of all active CMN's and written orders from the transferring provider. This document should be kept on file by the recipient provider and made available upon request by the Division;
- (f) On a regular or specific basis (even if there is no change in the order) only if it is so specified in a particular rule.
- (14) A provider shall maintain and provide legible copies of facsimile images and electronic transmissions of orders.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: AFS 41-1982, f. 4-29-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 in the North Salem, Woodburn, McMinnville, Lebanon, Albany and Corvallis branch offices, ef. 6-30-82 in the balance of the state; AFS 20-1983, f. 5-5-83, ef. 6-1-83; AFS 49-1987, f. 10-16-87, ef. 11-1-87; AFS 48-1989, f. & cert. ef. 8-24-89; HR 13-1991, f. & cert. ef. 3-1-91, Renumbered from 461-024-0004; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 17-1996, f. & cert. ef. 8-1-96; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 72-2002(Temp), f. & cert. ef. 12-24-02 thru 5-15-03; OMAP 36-2003, f. & cert. ef. 5-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15; DMAP 36-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

410-122-0080

Conditions of Coverage, Limitations, and Restrictions

- (1) The Division may pay for durable medical equipment, prosthetics, orthotics and medical supplies (DMEPOS) when the item meets all the criteria in this rule, including all of the following conditions. The item:
 - (a) Is approved for marketing and registered or listed as a medical device by the Food and Drug Administration (FDA) and is otherwise generally considered to be safe and effective for the intended purpose. In the event of delay in FDA approval and registration, the Division shall review purchase options on a case-by-case basis;
 - (b) Is reasonable and medically appropriate for the client;
 - (c) Is primarily and customarily used to serve a medical purpose;
 - (d) Is generally not useful to an individual in the absence of medical disability, illness, or injury;
 - (e) Is suitable for use in a client's home or any non-institutional setting in which normal life activities take place;
 - (f) Specifically for durable medical equipment can withstand repeated use and can be reusable or removable;
 - (g) Meets the coverage criteria as specified in this division and subject to service limitations of the Division rules;
 - (h) Is requested in relation to a diagnosis and treatment pair that is above the funding line and consistent with treatment guidelines on the Health Evidence Review Commission's (HERC) Prioritized List of Health Services (Prioritized List of Health Services or List) found in OAR 410-141-0520 and not otherwise excluded under OAR 410-141-0500;
 - (i) Is included in the Oregon Health Plan (OHP) client's benefit package of covered services; and
 - (j) Is the least costly, medically appropriate item that meets the medical needs of the client.
- (2) Conditions for Medicare-Medicaid Services:
 - (a) If Medicare is the primary payer and Medicare denies payment, an appeal to Medicare must be filed timely prior to submitting the claim to the Division for payment. If Medicare denies payment based on failure to submit a timely appeal, the Division may reduce any amount the Division determines could have been paid by Medicare;
 - (b) If Medicare denies payment on appeal, the Division shall apply DMEPOS coverage criteria in this rule to determine whether the item or service is covered under the OHP.
 - (3) The Division may not cover DMEPOS items when the item or the use of the item is:
 - (a) Not primarily medical in nature;
 - (b) For personal comfort or convenience of the client or caregiver;
 - (c) A self-help device;

- (d) Not therapeutic or diagnostic in nature;
- (e) Used for precautionary reasons (e.g., pressure-reducing support surface for prevention of decubitus ulcers);
- (f) Inappropriate for client use in the home or non-institutional setting (e.g., institutional equipment like an oscillating bed);
- (g) For a purpose where the medical effectiveness is not supported by evidence-based clinical practice guidelines; or
- (h) Reimbursed as part of the bundled rate in a nursing facility as described in OAR 411-070-0090 or as part of a home and community-based care waiver service or by any other public, community, or third party resource.
- (4) Codes that are identified in these rules or in fee schedules are provided as a mechanism to facilitate payment for covered items and supplies consistent with OAR 410-122-0186, but codes do not determine coverage. If prior authorization is required, the request for reimbursement shall document that prior authorization was obtained in compliance with the rules in this division.
- (5) DMEPOS providers shall have documentation on file that supports coverage criteria are met.
- (6) Billing records shall demonstrate that the provider has not exceeded any limitations and restrictions in the DMEPOS rules. The Division may require additional claim information from the provider consistent with program integrity review processes.
- (7) Documentation described in sections (4), (5), and (6) above shall be made available to the Division upon request.
- (8) To identify non-covered items at a code level, providers can refer to the Division fee schedule, subject to the limitation that fee schedules and codes do not determine coverage and are solely provided as a mechanism to facilitate payment for covered services and supplies consistent with OAR 410-122-0186. If an item or supply is not covered for an OHP client in accordance with these rules, there is no basis for payment regardless of whether there is a code for the item or supply on the fee schedule.
- (9) Some benefit packages do not cover equipment and supplies (see OAR 410-120-1210, Medical Assistance Benefit Packages and Delivery System).
- (10) Buy-ups are prohibited. Advanced Beneficiary Notices (ABN) constitute a buy-up and is prohibited. Refer to the Division General Rules (chapter 410, division 120) for specific rules on buying up.
- (11) Equipment purchased by the Division for a client becomes the property of the client.
- (12) Rental charges starting with the initial date of service, regardless of payer, apply to the purchase price.
- (13) A provider who supplies rented equipment shall continue furnishing the same item throughout the entire rental period, except under documented reasonable circumstances.
- (14) Before renting, providers must consider purchase for long-term requirements.
- (15) The Division may not pay DMEPOS providers for medical supplies separately while a client is under a home health plan of care and covered home health care services.
- (16) The Division may not pay DMEPOS providers for medical supplies separately while a client is under a hospice plan of care where the supplies are included as part of the written plan of care and for which payment may otherwise be made by Medicare, the Division, or other carrier.
- (17) Separate payment may not be made to DMEPOS providers for equipment and medical supplies provided to a client when the cost of the items is already included in the capitated (per diem) rate paid to a facility or organization.
- (18) Certain specified medical equipment and supplies require a face-to-face examination as described in these rules consistent with federal regulations at 42 CFR 440.70. See OAR 410-122-0090 for the face-to-face requirements.
- (19) Non-contiguous out-of-state DMEPOS providers may seek Medicaid payment only under the following circumstances:
 - (a) Medicare/Medicaid clients:
 - (A) For Medicare covered services and then only Medicaid payment of a client's Medicare cost-sharing expenses for DMEPOS services when all of the following criteria are met:
 - (i) Client is a qualified Medicare beneficiary (QMB);
 - (ii) Service is covered by Medicare;
 - (iii) Medicare has paid on the specific code. Prior authorization is not required.
 - (B) Services not covered by Medicare:
 - (i) Only when the service or item is not available in the State of Oregon, and this is clearly substantiated by supporting documentation from

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the prescribing practitioner and maintained in the DMEPOS provider's records;

(ii) Some examples of services not reimbursable to a non-contiguous out-of-state provider include but are not limited to incontinence supplies, grab bars;

(iii) Services billed must be covered under the OHP;

(iv) Services provided and billed to the Division shall be in accordance with all applicable Division rules.

(b) Medicaid-only clients:

(A) For a specific Oregon Medicaid client who is temporarily outside Oregon and only when the prescribing practitioner has documented that a delay in service may cause client harm;

(B) For foster care or subsidized adoption children placed out of state;

(C) Only when the service or item is not available in the State of Oregon, and this is clearly substantiated by supporting documentation from the prescribing practitioner and maintained in the DMEPOS provider's records;

(D) Services billed must be covered under the OHP;

(E) Services provided and billed to the Division shall be in accordance with all applicable Division rules.

(20) A request may be made on any DMEPOS item, related supplies, or services that are not already identified as covered by the Division:

(a) The client's physician must submit sufficient client-specific information and clinical documentation to the Division that demonstrates there is no equally effective, less costly covered item or service that meets the client's medical needs;

(b) The client's physician must certify that the less costly alternatives have been tried and failed or could be reasonably expected to fail or is inappropriate for the client;

(c) In no case may a requested service or item be approved unless it is medically appropriate as defined in OAR 410-120-0000 and 410-141-0000 and meets all requirements of this rule;

(d) Requests under this section shall be directed in accordance with OAR 410-122-0040(2).

(21) See General Rules OAR 410-120-1200 Excluded Services and Limitations for more information on general scope of coverage and limitations.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: 414.065

Hist.: AFS 3-1982, f. 1-20-82, ef. 2-1-82; AFS 6-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; HR 24-1990(Temp), f. & cert. ef. 7-27-90; HR 6-1991, f. & cert. ef. 1-18-91, Renumbered from 461-024-0020; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993 f. & cert. ef. 4-1-93; HR 26-1994, f. & cert. ef. 7-1-94; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 46-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 25-2006, f. 6-14-06, cert. ef. 7-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 15-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 26-2010(Temp), f. 9-24-10, cert. ef. 10-1-10 thru 3-25-11; DMAP 28-2010(Temp), f. & cert. ef. 10-7-10 thru 3-25-11; DMAP 29-2010(Temp), f. & cert. ef. 10-13-10 thru 3-25-11; DMAP 3-2011, f. 3-23-11, cert. ef. 3-25-11; DMAP 87-2014, f. 12-31-14, cert. ef. 1-1-15; DMAP 36-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

410-122-0090

Face-to-Face Encounter Requirements (for Fee-For-Service Clients)

(1) For initial ordering of DME items identified in section (5) of this rule, an in-person face-to-face encounter that is related to the primary reason the client requires the medical equipment or supplies must occur no more than six months prior to the start of services:

(a) The face-to-face encounter shall be conducted and documented by the treating physician (MD or DO) or an authorized non-physician practitioner (NPP);

(b) Authorized non-physician practitioners (NPP) for medical equipment and supplies are nurse practitioners, clinical nurse specialists working in collaboration with a physician, or physician assistants under the supervision of a physician;

(c) The physician or NPP conducting the face-to-face encounter shall document that the client was evaluated or treated for a condition that supports the need for the DME item ordered within six months prior to completing the written order for the equipment;

(d) If the NPP performing the face-to-face encounter does not have prescribing authority, the NPP shall communicate the clinical findings to the ordering physician;

(e) The ordering physician shall incorporate the clinical findings into a written or electronic document included in the client's medical record.

(2) If a dually eligible client is evaluated for medical equipment or supplies under Medicare and transitions to Medicaid, the Medicare face-to-

face encounter documentation shall meet the Medicaid face-to-face requirement.

(3) The DME supplier shall maintain documentation of the qualifying face-to-face encounter and provide the documentation when the item requires prior authorization or at the Division's request.

(4) The DME supplier shall have documentation on file that supports all coverage criteria in the DMEPOS rules are met.

(5) The table at https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Medical-Review/Downloads/DME_List_of_Specified_Covered_Items_updated_March_26_2015.pdf identifies the DME items subject to these face-to-face requirements.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: DMAP 36-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

410-122-0184

Repairs, Servicing, Replacement, Delivery, and Dispensing

(1) For indications and limitations of coverage and medical appropriateness, the Division may cover reasonable and necessary repairs, servicing, and replacement of medically appropriate, covered durable medical equipment, prosthetics, and orthotics, including those items purchased or in use before the client enrolled with the Division:

(a) Repairs:

(A) To repair means to fix or mend and to put the equipment back in good condition after damage or wear to make the equipment serviceable;

(B) If the expense for repairs exceeds the estimated expense of purchasing or renting another item of equipment for the remaining period of medical need, no payment may be made for the amount of the excess;

(C) Payment for repairs is not covered when:

(i) The skill of a technician is not required;

(ii) The equipment has been previously denied;

(iii) Equipment is being rented, including separately itemized charges for repair;

(iv) Parts and labor are covered under a manufacturer's or supplier's warranty.

(D) Code K0739 may not be used on an initial claim for equipment. Payment for any labor involved in assembling, preparing, or modifying the equipment on an initial claim is included in the allowable rate.

(b) Servicing:

(A) Additional payment for routine periodic servicing, such as testing, cleaning, regulating, and checking the client's equipment is not covered. However, more extensive servicing that, based on the manufacturers' recommendations may only be performed by authorized technicians, may be covered for medically appropriate client-owned equipment;

(B) Payment for maintenance/service is not covered for rented equipment. The Division may authorize payment for covered servicing of capped rental items after six months have passed from the end of the final paid rental month. Use the corresponding Healthcare Common Procedure Coding System (HCPCS) code for the equipment in need of servicing at no more than the rental fee schedule allowable amount;

(C) Up to one month's rental shall be reimbursed at the level of either the equipment provided or the equipment being repaired, whichever is less costly;

(D) Maintenance and servicing that includes parts and labor covered under a manufacturer's or supplier's warranty is not covered.

(c) Replacement refers to the provision of an identical or nearly identical item:

(A) Temporary Replacement: One month's rental of temporary replacement equipment (K0462) may be reimbursed when client-owned equipment, such as a wheelchair, is being repaired. The equipment in need of repair must be unavailable for use for more than one day;

(B) Permanent Replacement: Situations involving the provision of medically appropriate items when there is a change in the client's condition that warrants a new device or when reasonable wear and tear renders the item non-functioning and not repairable, and there is coverage for the specific item identified in chapter 410, division 122;

(C) Equipment that the client owns or is a capped rental item may be replaced in cases of loss or irreparable damage. Irreparable damage refers to a specific accident or to a natural disaster. Irreparable wear refers to deterioration sustained from day-to-day usage over time and a specific event cannot be identified. Replacement of equipment due to irreparable wear takes into consideration the reasonable useful lifetime of the equipment:

(i) Reasonable useful lifetime of DME is no less than five years;

(ii) Computation of the useful lifetime is based on when the equipment is delivered to the client, not the age of the equipment;

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(iii) Replacement due to wear is not covered during the reasonable useful lifetime of the equipment;

(iv) During the reasonable useful lifetime, repair up to the cost of replacement (but not actual replacement for medically appropriate equipment owned by the client) may be covered.

(D) Cases suggesting malicious damage, culpable neglect, or wrongful disposition of equipment may not be covered.

(d) Delivery:

(A) Providers may deliver directly to the client or the authorized designee;

(B) Providers, their employees, or anyone else having a financial interest in the delivery of an item may not sign and accept an item on behalf of a client;

(C) A provider may deliver DMEPOS to a client in a hospital or nursing facility for the purpose of fitting or training the client in its proper use. This may be done up to two days prior to the client's anticipated discharge to home. On the claim, bill the date of service as the date of discharge and specify the place of service as the client's home. The item must be for subsequent use in the client's home;

(D) A provider may deliver DMEPOS to a client's home in anticipation of a discharge from a hospital or nursing facility. The provider may arrange for actual delivery approximately two days prior to the client's anticipated discharge to home. On the claim, bill the date of service as the date of discharge and specify the place of service as the client's home;

(E) No payment is made on dates of service the client receives training or fitting in the hospital or nursing facility for a particular DMEPOS item.

(e) For Dispensing Refills:

(A) For DMEPOS products that are supplied as refills to the original order, providers must contact the client or designee prior to dispensing the refill to check the quantity on hand and continued need for the product;

(B) Contact with the client or designee regarding refills may only take place no sooner than approximately seven days prior to the delivery/shipping date;

(C) For subsequent deliveries of refills, the provider may deliver the DMEPOS product no sooner than approximately fifteen days prior to the end of usage for the current product. This is regardless of which delivery method is utilized. The Division shall allow for the processing of claims for refills delivered/shipped prior to the client exhausting their supply, but the provider must not dispense supplies that exceed a client's expected utilization;

(D) Supplies dispensed are based on the practitioner's order. Regardless of utilization, a provider may not dispense more than a three-month quantity of supplies at a time. This three-month dispensing restriction for supplies may be further limited by rule limitations of coverage;

(E) The provider may not automatically ship, dispense, or deliver a quantity of supplies on a predetermined regular basis, even if the client or designee has "authorized" this in advance;

(F) Shipping and handling charges are not covered.

(f) The following services are not covered:

(A) Pick-up, delivery, shipping, and handling charges for DMEPOS, whether rented or purchased including travel time:

(i) These costs are included in the calculations for allowable rates;

(ii) These charges are not billable to the client.

(B) Supplies used with DME or a prosthetic device prior to discharge from a hospital or nursing facility;

(C) Surgical dressings, urological supplies, or ostomy supplies applied in the hospital or nursing facility, including items worn home by the client.

(2) Documentation Requirements:

(a) For repairs, servicing, and temporary replacement, a new CMN or physician's order is not required;

(b) Submit the following documentation with the prior authorization request:

(A) For repairs and servicing:

(i) Narrative description, manufacturer and brand name/model name and number, serial number, and original date of purchase for the covered equipment in need of repair;

(ii) Itemized statement of parts needed for repair including the estimated date of service, manufacturer's name (if billing for parts, include manufacturer's name and part number for each part), product name, part number, manufacturer's suggested retail price or manufacturer's invoice price, and estimated labor time; and

(iii) Justification of the client's medical need for the item and statement that the client owns the equipment in need of repair.

(B) For temporary replacement:

(i) Narrative description, manufacturer and brand name/model name and number, serial number, and original date of purchase for the covered equipment in need of repair;

(ii) Narrative description, manufacturer and brand name/model name, and number of the replacement equipment;

(iii) Itemized statement of parts needed for repair including the estimated date of service, manufacturer's name (if billing for parts, include manufacturer's name and part number for each part), product name, part number, manufacturer's suggested retail price or manufacturer's invoice price, and estimated labor time;

(iv) Justification of the client's medical need for the item and statement that the client owns the equipment in need of repair; and

(v) Description of why the repair takes more than one day to complete.

(C) For permanent replacement, see specific coverage criteria in chapter 410, division 122 for more information;

(D) For proof of delivery, DMEPOS providers shall:

(i) Maintain proof of delivery documentation to the client in their records for seven years;

(ii) Maintain documentation that supports conditions of coverage in this rule are met;

(iii) Make proof of delivery documentation available to the Division upon request.

(c) Proof of delivery requirements are based on the method of delivery;

(d) A signed and dated delivery slip is required for items delivered directly by the provider to the client or designee. The delivery slip must include the following:

(A) When a designee signs the delivery slip, their relationship to the client must be noted and the signature legible;

(B) The client or designee's signature with the date the items were received;

(C) Client's name;

(D) Quantity, brand name, serial number, and a detailed description of the items being delivered;

(E) The date of signature on the delivery slip must be the date the DMEPOS item is received by the client or designee; and

(F) The date the client receives the item is the date of service.

(e) If the provider uses a delivery or shipping service or mail order, an example of proof of delivery would include the service's tracking slip and the provider's own shipping invoice:

(A) The provider's shipping invoice must include the:

(i) Client's name;

(ii) Quantity, brand name, serial number, and a detailed description of the items being delivered;

(iii) Delivery service's package identification number associated with each individual client's package with a unique identification number and delivery address, including the actual date of delivery, if possible; and

(iv) The shipping date must be used as the date of service, unless the actual date of delivery is available, then use this date as the date of service.

(B) The delivery service's tracking slip must reference:

(i) Each client's packages; and

(ii) The delivery address and corresponding package identification number given by the delivery service.

(f) Providers may utilize a signed and dated return postage-paid delivery or shipping invoice from the client or designee as a form of proof of delivery that must contain the following information:

(A) Client's name;

(B) Quantity, brand name, serial number, and a detailed description of items being delivered;

(C) Required signatures from either the client or the designee.

(g) Delivery to nursing facilities or hospitals:

(A) The date of service is the date the DMEPOS item is received by the nursing facility if delivered by the DMEPOS provider;

(B) The date of service is the shipping date (unless the actual delivery date is known and documented) if the DMEPOS provider uses a delivery or shipping service.

(h) For those clients who are residents of an assisted living facility, a twenty-four hour residential facility, an adult foster home, a child foster home, a private home or other similar living environment, providers must ensure supplies are identified and labeled for use only by the specific client for whom the supplies or items are intended.

(3) Procedure codes:

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(a) Replacement parts for wheelchair repair are billed using the specific HCPCS code, if one exists, or code K0108 (other accessories);

(b) K0739:

(A) Repair or non-routine service for durable medical equipment other than oxygen equipment requiring the skill of a technician, labor component, per 15 minutes;

(B) This code is used for services not covered by other codes or combination of codes in reference to the repairs of DMEPOS.

(c) K0108 – Other wheelchair accessories - PA;

(d) K0462 – Temporary replacement for client-owned equipment being repaired, any type – Prior authorization (PA) required – PA.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05;

OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08;

DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 36-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

410-122-0320

Manual Wheelchair Base

(1) Indications and limitations of coverage and medical appropriateness:

(a) The Division may cover a manual wheelchair when conditions of coverage in OAR 410-122-0080(1) and all of the following criteria are met:

(A) The client has a mobility limitation that significantly impairs their ability to participate in one or more mobility-related activities of daily living (MRADLs in or out of the home. MRADLs include but are not limited to tasks such as eating, toileting, grooming, dressing, and bathing. A mobility limitation is one that:

(i) Prevents the client from accomplishing an MRADL entirely;

(ii) Places the client at reasonably determined heightened risk of morbidity or mortality secondary to attempts to perform an MRADL; or

(iii) Prevents the client from completing an MRADL within a reasonable time frame.

(B) An appropriately fitted cane or walker cannot sufficiently resolve the client's mobility limitation;

(C) If the client will be using the wheelchair in the home, the home provides adequate maneuvering space, maneuvering surfaces, and access between rooms for use of the manual wheelchair that is being requested;

(D) Use of a manual wheelchair will significantly improve the client's ability to participate in their MRADLs. For clients with severe cognitive or physical impairments, participation in MRADLs may require the assistance of a caregiver;

(E) The client is willing to use the requested manual wheelchair on a regular basis;

(F) The client has either:

(i) Sufficient upper extremity function and other physical and mental capabilities needed to safely self-propel the requested manual wheelchair during a typical day. Proper assessment of upper extremity function shall consider limitations of strength, endurance, range of motion, coordination, presence of pain, and deformity or absence of one or both upper extremities; or

(ii) A caregiver who is available, willing, and able to provide assistance with the wheelchair.

(b) The Division may authorize a manual wheelchair for any of the following situations, only when conditions of coverage as specified in section (1)(a) of this rule are met:

(A) When the wheelchair can be reasonably expected to improve the client's ability to complete MRADLs by compensating for other limitations in addition to mobility deficits, and the client is compliant with treatment:

(i) Besides MRADLs deficits, when other limitations exist, and these limitations can be ameliorated or compensated sufficiently such that the additional provision of a manual wheelchair will be reasonably expected to significantly improve the client's ability to perform or obtain assistance to participate in MRADLs, a manual wheelchair may be considered for coverage;

(ii) If the amelioration or compensation requires the client's compliance with treatment, for example medications or therapy, substantive non-compliance, whether willing or involuntary, can be grounds for denial of manual wheelchair coverage if it results in the client continuing to have a significant limitation. It may be determined that partial compliance results in adequate amelioration or compensation for the appropriate use of a manual wheelchair.

(B) For a purchase request, when a client's current wheelchair is no longer medically appropriate, or repair and modifications to the wheelchair exceed replacement cost;

(C) When a covered, client-owned wheelchair is in need of repair, the Division may pay for one month's rental of a wheelchair. (See OAR 410-122-0184 Repairs, Maintenance, Replacement, Delivery and Dispensing.)

(c) The Division may not reimburse for another wheelchair if the client has a medically appropriate wheelchair, regardless of payer;

(d) If the client will be using the wheelchair in the home, the home must be able to accommodate and allow for the effective use of the requested wheelchair. The Division does not reimburse for adapting living quarters;

(e) The Division may not cover services or upgrades that primarily allow performance of leisure or recreational activities. Such services include but are not limited to backup wheelchairs, backpacks, accessory bags, awnings, additional positioning equipment if wheelchair needs the same need, custom colors, and wheelchair gloves;

(f) Reimbursement for wheelchair codes includes all labor charges involved in the assembly of the wheelchair, as well as support services such as emergency services, delivery, set-up, pick-up and delivery for repairs/modifications, education, and ongoing assistance with the use of the wheelchair;

(g) The Division may cover an adult tilt-in-space wheelchair (E1161) when a client meets all of the following conditions:

(A) A standard base with a reclining back option will not meet the client's needs;

(B) Requires assistance with transfers;

(C) The client's plan of care addresses the need to change position at frequent intervals, and the client is not left in the tilt position most of the time; and

(D) Has one of the following:

(i) High risk of skin breakdown;

(ii) Poor postural control, especially of the head and trunk;

(iii) Hyper/hypotonia;

(iv) Need for frequent changes in position and has poor upright sitting.

(h) One month's rental for a manual adult tilt-in-space wheelchair (E1161) may be covered for a client residing in a nursing facility when all of the following conditions are met:

(A) The anticipated nursing facility length of stay is 30 days or less;

(B) The conditions of coverage for a manual tilt-in-space wheelchair as described in section (1) (g) (A) (E) are met;

(C) The client is expected to have an ongoing need for this same wheelchair after discharge from the nursing facility;

(D) Coverage is limited to one month's rental.

(i) The Division may cover a standard hemi (low seat) wheelchair (K0002) when a client requires a lower seat height (17" to 18") because of short stature or needing assistance to place his feet on the ground for propulsion;

(j) The Division may cover a lightweight wheelchair (K0003) when a client:

(A) Cannot self-propel in a standard wheelchair using arms or legs; and

(B) Can and does self-propel in a lightweight wheelchair.

(k) High-strength lightweight wheelchair (K0004):

(A) The Division may cover a high-strength lightweight wheelchair (K0004) when a client:

(i) Self-propels the wheelchair while engaging in frequent activities that cannot be performed in a standard or lightweight wheelchair; or

(ii) Requires a seat width, depth, or height that cannot be accommodated in a standard, lightweight or hemi-wheelchair and spends at least two hours per day in the wheelchair.

(B) If the expected duration of need is less than three months (e.g., post-operative recovery), a high-strength lightweight wheelchair is rarely medically appropriate.

(L) The Division may cover an ultra-lightweight wheelchair (K0005) when a client has medical needs that require determination on a case-by-case basis;

(m) The Division may cover a heavy-duty wheelchair (K0006) when a client weighs more than 250 pounds or has severe spasticity;

(n) The Division may cover an extra heavy-duty wheelchair (K0007) when a client weighs more than 300 pounds;

(o) For a client residing in a nursing facility, an extra heavy-duty wheelchair (K0007) may only be covered when a client weighs more than 350 pounds;

(p) For more information on coverage criteria regarding repairs and maintenance, see 410-122-0184 Repairs, Maintenance, Replacement and Delivery;

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(q) The wheelchair requested must be the most appropriate and least costly alternative that will meet the client's medical and functional needs.

(2) Coding Guidelines:

(a) Adult manual wheelchairs (K0001-K0007, K0009, E1161) have a seat width and a seat depth of 15" or greater;

(b) For codes K0001-K0007 and K0009, the wheels must be large enough and positioned so that the user can self-propel the wheelchair;

(c) In addition, specific codes are defined by the following characteristics:

(A) Adult tilt-in-space wheelchair (E1161):

(i) Ability to tilt the frame of the wheelchair greater than or equal to 45 degrees from horizontal while maintaining the same back-to-seat angle; and

(ii) Lifetime warranty on side frames and crossbraces.

(B) Standard wheelchair (K0001):

(i) Weight: Greater than 36 pounds;

(ii) Seat height: 19" or greater; and

(iii) Weight capacity: 250 pounds or less.

(C) Standard hemi (low seat) wheelchair (K0002):

(i) Weight: Greater than 36 pounds;

(ii) Seat height: Less than 19"; and

(iii) Weight capacity: 250 pounds or less.

(D) Lightweight wheelchair (K0003):

(i) Weight: 34-36 pounds; and

(ii) Weight capacity: 250 pounds or less.

(E) High strength, lightweight wheelchair (K0004):

(i) Weight: Less than 34 pounds; and

(ii) Lifetime warranty on side frames and crossbraces.

(F) Ultra-lightweight wheelchair (K0005):

(i) Weight: Less than 30 pounds;

(ii) Adjustable rear axle position; and

(iii) Lifetime warranty on side frames and crossbraces.

(G) Heavy duty wheelchair (K0006) has a weight capacity greater than 250 pounds;

(H) Extra heavy duty wheelchair (K0007) has a weight capacity greater than 300 pounds.

(d) Coverage of all adult manual wheelchairs includes the following features:

(A) Seat width: 15"-19";

(B) Seat depth: 15"-19";

(C) Arm style: Fixed, swing-away, or detachable, fixed height;

(D) Footrests: Fixed, swing-away, or detachable.

(e) Codes K0003-K0007 and E1161 include any seat height;

(f) For individualized wheelchair features that are medically appropriate to meet the needs of a particular client, use the correct codes for the wheelchair base, options and accessories (see OAR 410-122-0340 Wheelchair Options/Accessories);

(g) For wheelchair frames that are modified in a unique way to accommodate the client, submit the code for the wheelchair base used and submit the modification with code K0108 (wheelchair component or accessory, not otherwise specified).

(3) Documentation requirements:

(a) Functional mobility evaluation:

(A) Providers must submit medical documentation that supports conditions of coverage in this rule are met for purchase and modifications of all covered, client-owned manual wheelchairs except for K0001, K0002, or K0003 (unless modifications are required);

(B) Information must include but is not limited to:

(i) Medical justification needs assessment, order, and specifications for the wheelchair completed by a physical therapist (PT), occupational therapist (OT), treating physician, or nurse practitioner. The person who provides this information must have no direct or indirect financial relationship, agreement, or contract with the durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider requesting authorization;

(ii) Client identification and rehab technology supplier identification information that may be completed by the DMEPOS provider; and

(iii) Signature and date by the treating physician or nurse practitioner and the PT or OT.

(C) If the information on this form includes all the elements of an order, the provider may submit the completed form in lieu of an order.

(b) Additional documentation:

(A) Information from a PT, OT, treating physician, or nurse practitioner that specifically indicates:

(i) A brief description of the client's impairment in functional mobility that establishes that they have a mobility limitation and how it interferes with the performance of activities of daily living;

(ii) Why an appropriately fitted cane or walker cannot sufficiently resolve the client's mobility limitation.

(B) Pertinent information from a PT, OT, treating physician, or nurse practitioner about the following elements that support coverage criteria are met for a manual wheelchair; only relevant elements need to be addressed:

(i) Symptoms;

(ii) Related diagnoses;

(iii) History:

(I) How long the condition has been present;

(II) Clinical progression;

(III) Interventions that have been tried and the results;

(IV) Past use of walker, manual wheelchair, power-operated vehicle (POV), or power wheelchair and the results.

(iv) Physical exam:

(I) Weight;

(II) Impairment of strength, range of motion, sensation, or coordination of arms and legs;

(III) Presence of abnormal tone or deformity of arms, legs, or trunk;

(IV) Neck, trunk, and pelvic posture and flexibility;

(V) Sitting and standing balance.

(v) Functional assessment indicating any problems with performing the following activities including the need to use a cane, walker, or the assistance of another individual:

(I) Transferring between a bed, chair, and a manual wheelchair or power mobility device;

(II) Walking around their home or community Provide information on distance walked, speed, and balance.

(C) Documentation from a PT, OT, treating physician, or nurse practitioner that clearly distinguishes the client's abilities and needs within the home and community;

(D) For all requested equipment and accessories, the manufacturer's name, product name, model number, standard features, specifications, dimensions, and options;

(E) Detailed information about client-owned equipment (including serial numbers), as well as any other equipment being used or available to meet the client's medical needs, including how long it has been used by the client and why it cannot be grown (expanded) or modified, if applicable;

(F) If the client will be using the wheelchair in the home prior to delivery of the wheelchair, the DMEPOS provider or practitioner must perform an on-site, written evaluation of the client's living quarters. This assessment must support that the client's home can accommodate and allow for the effective use of a wheelchair. This assessment must include but is not limited to evaluation of physical layout, doorway widths, doorway thresholds, surfaces, counter/table height, accessibility (e.g., ramps), electrical service, etc.; and

(G) All HCPCS codes, including the base, options and accessories, whether prior authorization (PA) is required or not, that will be billed separately.

(c) A written order by the treating physician or nurse practitioner identifying the specific type of manual wheelchair needed. If the order does not specify the type requested by the DMEPOS provider on the authorization request, the provider must obtain another written order that lists the specific manual wheelchair that is being ordered and any options and accessories requested. The DMEPOS provider may enter the items on this order. This order must be signed and dated by the treating physician or nurse practitioner, received by the DMEPOS provider, and submitted to the authorizing authority;

(d) For purchase of K0001, K0002 or K0003 (without modifications), send documentation listed in (3) (b)(A-E);

(e) For an ultralight wheelchair (K0005), documentation from a PT, OT, treating physician, or nurse practitioner that includes a description of the client's mobility needs within the home, even though a client who qualifies for coverage of a manual wheelchair may use the wheelchair outside the home. This may include what types of activities the client frequently encounters and whether the client is fully independent in the use of the wheelchair. Describe the features of the K0005 base that are needed compared to the K0004 base;

(f) When code K0009 is requested, send all information from a PT, OT, treating physician, or nurse practitioner that justifies the medical appropriateness for the item;

(g) Any additional documentation that supports indications of coverage are met as specified in this policy;

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(h) For a manual wheelchair rental, submit all of the following:

(A) A written order from the treating physician or nurse practitioner identifying the specific type of manual wheelchair needed:

(i) If the order does not specify the type of wheelchair requested by the DMEPOS provider on the authorization request, the provider must obtain another written order that lists the specific manual wheelchair that is being ordered and any options and accessories requested;

(ii) The DMEPOS provider may enter the items on this order;

(iii) This order must be signed and dated by the treating physician or nurse practitioner, received by the DMEPOS provider, and submitted to the authorizing authority.

(B) HCPCS codes;

(C) Documentation from the DMEPOS provider that supports the client's home can accommodate and allow for the effective use of the requested wheelchair.

(i) All documentation listed in section (3) of this rule must be kept on file by the DMEPOS provider;

(j) Documentation that coverage criteria have been met must be present in the client's medical records, and this documentation must be made available to the Division upon request.

(4) Table 122-0320 – Manual Wheelchair Base.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993 f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 18-1994(Temp), f. & cert. ef. 4-1-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 25-2006, f. 6-14-06, cert. ef. 7-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 15-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 15-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 36-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

410-122-0325

Power Wheelchair Base

(1) Indications and limitations of coverage and medical appropriateness:

(a) The Division may cover a power wheelchair (PWC) when conditions of coverage in OAR 410-122-0080(1) and all of the following criteria are met:

(A) The client has a mobility limitation that significantly impairs their ability to participate in one or more mobility-related activities of daily living (MRADLs) in or out of the home. MRADLs include but are not limited to tasks such as toileting, feeding, dressing, grooming, and bathing. A mobility limitation is one that:

(i) Prevents the client from accomplishing an MRADL entirely; or

(ii) Places the client at reasonably determined heightened risk of morbidity or mortality secondary to attempts to perform an MRADL; or

(iii) Prevents the client from completing an MRADL within a reasonable time frame.

(B) An appropriately fitted cane or walker cannot sufficiently resolve the client's mobility limitation;

(C) The client does not have sufficient upper extremity function to self-propel an optimally-configured manual wheelchair to perform MRADLs during a typical day:

(i) Assessment of upper extremity function shall consider limitations of strength, endurance, range of motion or coordination, presence of pain, and deformity or absence of one or both upper extremities;

(ii) An optimally-configured manual wheelchair is one with an appropriate wheelbase, device weight, seating options, and other appropriate non-powered accessories.

(D) If the client will be using the PWC in the home, the home provides adequate maneuvering space, maneuvering surfaces, and access between rooms for the operation of the PWC that is being requested;

(E) Use of a PWC will significantly improve the client's ability to participate in MRADLs. For clients with severe cognitive and physical impairments, participation in MRADLs may require the assistance of a caregiver;

(F) The client is willing to use the requested PWC on a regular basis;

(G) There is objective evidence that demonstrates that the client cannot use a power-operated vehicle (POV);

(H) The client has sufficient mental and physical capabilities to safely operate the PWC;

(I) If the client is unable to safely operate the PWC and has a caregiver, the Division may cover the PWC if the caregiver is unable to ade-

quately propel an optimally-configured manual wheelchair and is available, willing, and able to safely operate the PWC being requested;

(J) The client's weight is less than or equal to the weight capacity of the PWC requested.

(b) Only when conditions of coverage as specified in section (1) (a) of this rule are met may the Division authorize a PWC for any of the following situations:

(A) When the PWC can be reasonably expected to improve the client's ability to complete MRADLs by compensating for other limitations in addition to mobility deficits, and the client is compliant with treatment:

(i) Besides MRADLs deficits, when other limitations exist, and these limitations can be ameliorated or compensated sufficiently such that the additional provision of a PWC will be reasonably expected to significantly improve the client's ability to perform or obtain assistance to participate in MRADLs, a PWC may be considered for coverage;

(ii) If the amelioration or compensation requires the client's compliance with treatment, for example medications or therapy, substantive non-compliance, whether willing or involuntary, can be grounds for denial of PWC coverage if it results in the client continuing to have a significant limitation. It may be determined that partial compliance results in adequate amelioration or compensation for the appropriate use of a PWC.

(B) When a client's current wheelchair is no longer medically appropriate, or repair and modifications to the wheelchair exceed replacement costs;

(C) When a covered client-owned wheelchair is in need of repair, the Division may pay for one month's rental of a wheelchair.

(c) For a PWC to be covered, the treating physician or nurse practitioner must conduct a face-to-face examination of the client before writing the order, and the durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider must receive a written report of this examination within 45 days after the face-to-face examination and prior to delivery of the device:

(A) When this examination is performed during a hospital or nursing facility stay, the DMEPOS provider must receive the report of the examination within 45 days after date of discharge;

(B) The physician or nurse practitioner may refer the client to a licensed/certified medical professional, such as a physical therapist (PT) or occupational therapist (OT), to perform part of this face-to-face examination. This individual may not be an employee of the DMEPOS provider or have any direct or indirect financial relationship, agreement, or contract with the DMEPOS provider. When the DMEPOS provider is owned by a hospital, a PT/OT working in the inpatient or outpatient hospital setting may perform part of the face-to-face examination:

(i) If the client was referred to the PT/OT before being seen by the physician or nurse practitioner, then once the physician or nurse practitioner has received and reviewed the written report of this examination, the physician or nurse practitioner must see the client and perform any additional examination that is needed. The physician's or nurse practitioner's report of the visit should state concurrence or any disagreement with the PT/OT examination. In this situation, the physician or nurse practitioner must provide the DMEPOS provider with a copy of both examinations within 45 days of the face-to-face examination with the physician or nurse practitioner;

(ii) If the physician or nurse practitioner examined the client before referring the client to a PT/OT, then again in person after receiving the report of the PT/OT examination, the 45-day period begins on the date of that second physician or nurse practitioner visit. However, it is also acceptable for the physician or nurse practitioner to review the written report of the PT/OT examination, to sign and date that report, and to state concurrence or any disagreement with that examination. In this situation, the physician or nurse practitioner must send a copy of the note from his initial visit to evaluate the client plus the annotated, signed, and dated copy of the PT/OT examination to the DMEPOS provider. The 45-day period begins when the physician or nurse practitioner signs and dates the PT/OT examination;

(iii) If the PWC is a replacement of a similar item that was previously covered by the Division or when only PWC accessories are being ordered and all other coverage criteria in this rule are met, a face-to-face examination is not required.

(d) The Division does not reimburse for another chair if a client has a medically appropriate wheelchair, regardless of payer;

(e) If the client will be using the PWC in the home, the home must be able to accommodate and allow for the effective use of the requested PWC. The Division does not reimburse for adapting the living quarters;

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(f) The equipment must be supplied by a DMEPOS provider that employs a Rehabilitation Engineering and Assistive Technology Society of North America (RESNA)-certified Assistive Technology Professional (ATP) who specializes in wheelchairs and who has direct, in-person involvement in the wheelchair selection for the client;

(g) The provider's ATP must be employed by a provider in a full-time, part-time, or contracted capacity as is acceptable by state law. The provider's ATP, if part-time or contracted, must be under the direct control of the provider;

(h) Documentation must be complete and detailed enough so a third party would be able to understand the nature of the provider's ATP involvement, if any, in the licensed/certified medical professional (LCMP) specialty evaluation;

(i) The provider's ATP may not conduct the provider evaluation at the time of delivery of the power mobility device to the client's residence;

(j) Reimbursement for wheelchair codes includes all labor charges involved in the assembly of the wheelchair and all covered additions or modifications. Reimbursement also includes support services such as emergency services, delivery, set-up, pick-up and delivery for repairs/modifications, education, and ongoing assistance with use of the wheelchair;

(k) The delivery of the PWC must be within 120 days following completion of the face-to-face examination;

(L) A PWC may not be ordered by a podiatrist;

(m) The following services are not covered:

(A) A PWC for functionally ambulatory clients;

(B) A PWC used to replace private or public transportation such as automobile, bus, or taxi;

(C) A PWC with a captain's chair for a client who needs a separate wheelchair seat and/or back cushion;

(D) Items or upgrades that primarily allow performance of leisure or recreational activities including but not limited to backup wheelchairs, backpacks, accessory bags, awnings, additional positioning equipment if wheelchair meets the same need, custom colors, wheelchair gloves, head lights, and tail lights;

(E) Power mobility devices, not coded by the Pricing, Data Analysis and Coding (PDAC) contractor or does not meet criteria;

(F) Power wheelchairs, not otherwise classified (K0898).

(2) Coding Guidelines:

(a) Specific types of PWCs:

(A) A Group 1 PWC (K0813-K0816) or a Group 2 Heavy Duty (HD), Very Heavy Duty (VHD), or Extra Heavy Duty (EHD) wheelchair (K0824-K0829) may be covered when the coverage criteria for a PWC are met;

(B) A Group 2 Standard PWC with a sling or solid seat (K0820, K0822) may be covered when:

(i) The coverage criteria for a PWC are met; and

(ii) The client is using a skin protection and/or positioning seat and/or back cushion that meets the coverage criteria defined in OAR 410-122-0340 Wheelchair Options/Accessories.

(C) A Group 2 Single Power Option PWC (K0835 – K0840) may be covered when the coverage criteria for a PWC are met; and

(i) The client either:

(I) Requires a drive control interface other than a hand or chin-operated standard proportional joystick (examples include but are not limited to head control, sip and puff, switch control); or

(II) Meets the coverage criteria for a power tilt or recline seating system and the system is being used on the wheelchair.

(ii) The client has had a specialty evaluation that was performed by a licensed/certified medical professional, such as a PT or OT, nurse practitioner, or physician who has specific training and experience in rehabilitation wheelchair evaluations and that documents the medical appropriateness for the wheelchair and its special features (see Documentation Requirements in section (3) of this rule). The PT, OT, nurse practitioner, or physician may have no financial relationship with the DMEPOS provider.

(D) A Group 2 Multiple Power Option PWC (K0841-K0843) may be covered when the coverage criteria for a PWC are met, and:

(i) The client either:

(I) Meets the coverage criteria for a power tilt or recline seating system; or

(II) Uses a ventilator that is mounted on the wheelchair.

(ii) The client has had a specialty evaluation that was performed by a licensed/certified medical professional, such as a PT, OT, nurse practitioner, or physician who has specific training and experience in rehabilitation wheelchair evaluations and that documents the medical appropriateness for the wheelchair and its special features (see Documentation Requirements

section). The PT, OT, nurse practitioner, or physician may have no financial relationship with the DMEPOS provider.

(E) A Group 3 PWC with no power options (K0848-K0855) may be covered when:

(i) The coverage criteria for a PWC are met; and

(ii) The client's mobility limitation is due to a neurological condition, myopathy, or congenital skeletal deformity; and

(iii) The client has had a specialty evaluation that was performed by a licensed/certified medical professional, such as a PT or OT, or physician who has specific training and experience in rehabilitation wheelchair evaluations and that documents the medical necessity for the wheelchair and its special features (see Documentation Requirements section). The PT, OT, physician, or nurse practitioner may have no financial relationship with the DMEPOS provider.

(F) A Group 3 PWC with Single Power Option (K0856-K0860) or with Multiple Power Options (K0861-K0864) may be covered when:

(i) The Group 3 criteria in section (2)(a)(E) (i-ii) are met; and

(ii) The Group 2 Single Power Option in section (2)(a)(C)(i)(I) or (II) and section (2)(a)(C)(ii) or Multiple Power Options section (2)(a)(D)(i)(I) or (II) and section (2)(a)(D)(ii) (respectively) are met.

(G) Requests for Group 4 PWCs will be reviewed on a case-by-case basis. Client specific clinical documentation must be submitted that supports the medical need for this level of PWC and demonstrates that there is no equally effective, less costly PWC that meets the client's medical needs.

(b) PWC Basic Equipment Package: Each PWC code is required to include the following items on initial issue (i.e., no separate billing/payment at the time of initial issue, unless otherwise noted):

(A) Lap belt or safety belt;

(B) Battery charger single mode;

(C) Complete set of tires and casters any type;

(D) Legrests. There is no separate billing/payment if fixed or swing-away detachable non-elevating legrests with/without calf pad are provided. Elevating legrests may be billed separately;

(E) Fixed/swingaway detachable footrests with/without angle adjustment footplate/platform;

(F) K0040 may be billed separately with K0848 through K0864;

(G) Armrests. There is no separate billing or payment if fixed or swingaway detachable non-adjustable armrests with arm pad are provided. Adjustable height armrests may be billed separately;

(H) Upholstery for seat and back of proper strength and type for patient weight capacity of the power wheelchair;

(I) Weight specific components (braces, bars, upholstery, brackets, motors, gears) as required by patient weight capacity;

(J) Controller and Input Device. There is no separate billing or payment if a non-expandable controller and a standard proportional joystick (integrated or remote) is provided. An expandable controller, a non-standard joystick (i.e., non-proportional or mini, compact or short throw proportional), or other alternative control device may be billed separately.

(c) If a client needs a seat and/or back cushion but does not meet coverage criteria for a skin protection and/or positioning cushion, it may be appropriate to request a captain's chair seat rather than a sling/solid seat/back and a separate general use seat and/or back cushion;

(d) A PWC with a seat width or depth of 14" or less is considered a pediatric PWC base and is coded E1239, PWC, pediatric size, not otherwise specified (see OAR 410-122-0720 Pediatric Wheelchairs);

(e) Contact the Medicare Pricing, Data Analysis and Coding (PDAC) contractor regarding correct coding. See 410-122-0180 Healthcare Common Procedure Coding System (HCPCS) Level II Coding for more information.

(3) Documentation Requirements: Submit all of the following documentation with the prior authorization (PA) request:

(a) A copy of the written report of the face-to-face examination of the client by the physician or nurse practitioner:

(A) This report must include information related to the following:

(i) This client's mobility limitation and how it interferes with the performance of activities of daily living;

(ii) Why a cane or walker cannot sufficiently resolve the client's mobility limitation;

(iii) Why a manual wheelchair cannot sufficiently resolve the client's mobility limitation;

(iv) Why a POV/scooter cannot sufficiently resolve the client's mobility limitation;

(v) The client's physical and mental abilities to operate a PWC safely;

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(I) Besides a mobility limitation, if other conditions exist that limit a client's ability to participate in activities of daily living (ADLs), how these conditions will be ameliorated or compensated by use of the wheelchair;

(II) How these other conditions will be ameliorated or compensated sufficiently such that the provision of a PWC will be reasonably expected to significantly improve the client's ability to perform or obtain assistance to participate in MRADLs.

(B) The face-to-face examination should provide pertinent information about the following elements, but may include other details. Only relevant elements need to be addressed:

(i) Symptoms;

(ii) Related diagnoses;

(iii) History;

(I) How long the condition has been present;

(II) Clinical progression;

(III) Interventions that have been tried and the results;

(IV) Past use of walker, manual wheelchair, POV, or PWC and the results.

(iv) Physical exam:

(I) Weight;

(II) Impairment of strength, range of motion, sensation, or coordination of arms and legs;

(III) Presence of abnormal tone or deformity of arms, legs, or trunk;

(IV) Neck, trunk, and pelvic posture and flexibility;

(V) Sitting and standing balance.

(v) Functional assessment indicating any problems with performing the following activities including the need to use a cane, walker, or the assistance of another person:

(I) Transferring between a bed, chair, and power mobility device;

(II) Walking around their home or community. Provide information on distance walked, speed, and balance.

(C) The examination must clearly distinguish the client's abilities and needs within the home and community.

(b) The physician's or nurse practitioner's written order received by the DMEPOS provider within 45 days (date stamp or equivalent must be used to document receipt date) after the physician's or nurse practitioner's face-to-face examination. The order must include all of the following elements:

(A) Client's name;

(B) Description of the item that is ordered. This may be general (e.g., "power wheelchair" or "power mobility device") or may be more specific:

(i) If this order does not identify the specific type of PWC that is being requested, the DMEPOS provider must clarify this by obtaining another written order that lists the specific PWC that is being ordered and any options and accessories requested;

(ii) The items on this clarifying order may be entered by the DMEPOS provider. This subsequent order must be signed and dated by the treating physician or nurse practitioner, received by the DMEPOS provider, and submitted to the authorizing authority, but does not have to be received within 45 days following the face-to-face examination.

(C) Date of the face-to-face examination;

(D) Pertinent diagnoses/conditions and diagnosis codes that relate specifically to the need for the PWC;

(E) Length of need;

(F) Physician's or nurse practitioner's signature;

(G) Date of physician's or nurse practitioner's signature.

(c) For all requested equipment and accessories, the manufacturer's name, product name, model number, standard features, specifications, dimensions, and options;

(d) Detailed information about client-owned equipment (including serial numbers) as well as any other equipment being used or available to meet the client's medical needs, including how long it has been used by the client and why it cannot be grown (expanded) or modified, if applicable;

(e) If the client will be using the PWC in the home prior to delivery of a PWC, the DMEPOS provider or practitioner must perform an on-site, written evaluation of the client's living quarters. This assessment must support that the client's home can accommodate and allow for the effective use of a PWC. Assessment must include but is not limited to evaluation of physical layout, doorway widths, doorway thresholds, surfaces, counter or table height, accessibility (e.g., ramps), electrical service, etc.;

(f) A written document (termed a detailed product description) prepared by the DMEPOS provider and signed and dated by the physician or nurse practitioner that includes:

(i) The specific base (HCPCS code and manufacturer name/model) and all options and accessories (including HCPCS codes), whether PA is required or not, that will be billed separately;

(ii) The DMEPOS provider's charge and the Division fee schedule allowance for each separately billed item;

(iii) If there is no Division fee schedule allowance, the DMEPOS provider must enter "not applicable";

(iv) The DMEPOS provider must receive the signed and dated detailed product description from the physician or nurse practitioner prior to delivery of the PWC;

(v) A date stamp or equivalent must be used to document receipt date of the detailed product description.

(g) Any additional documentation that supports indications of coverage are met as specified in this rule;

(h) The DMEPOS provider must keep the above documentation on file;

(i) Documentation that the coverage criteria have been met must be present in the client's medical records and made available to the Division upon request.

(4) Prior Authorization:

(a) All codes in this rule require PA and may be purchased, rented, and repaired;

(b) Codes specified in this rule are not covered for clients residing in nursing facilities;

(c) Reimbursement on standard Group 1 and Group 2 wheelchairs without power option (K0813-K0816, K0820-K0829) shall only be made on a monthly rental basis;

(d) Rented equipment is considered purchased when the Division fee schedule allowable for purchase is met or the actual charge from the provider is met, whichever is the lowest.

(5) Table 122-0325.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 25-2006, f. 6-14-06, cert. ef. 7-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 15-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 15-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 31-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 12-27-12; DMAP 57-2012, f. & cert. ef. 12-27-12; DMAP 36-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

410-122-0330

Power-Operated Vehicle

(1) Indications and limitations of coverage and medical appropriateness:

(a) The Division may cover a power-operated vehicle (POV) when conditions of coverage in OAR 410-122-0080(1) and all of the following criteria are met:

(A) The client has a mobility limitation that significantly impairs their ability to participate in one or more mobility-related activities of daily living (MRADLs) in or out of the home. MRADLs include but are not limited to tasks such as toileting, feeding, dressing, grooming, and bathing. A mobility limitation is one that:

(i) Prevents the client from accomplishing an MRADL entirely; or

(ii) Places the client at reasonably determined heightened risk of morbidity or mortality secondary to attempts to perform an MRADL; or

(iii) Prevents the client from completing an MRADL within a reasonable time frame.

(B) An appropriately fitted cane or walker cannot resolve the client's mobility limitation;

(C) The client does not have sufficient upper extremity function to self-propel an optimally-configured manual wheelchair to perform MRADLs during a typical day:

(i) Assessment of upper extremity function should consider limitations of strength, endurance, range of motion, or coordination, presence of pain, and deformity or absence of one or both upper extremities;

(ii) An optimally-configured manual wheelchair features an appropriate wheelbase, device weight, seating options, and other appropriate non-powered accessories.

(D) The client has sufficient strength, postural stability, or other physical or mental capabilities needed to safely operate a POV;

(E) If the client will be using the POV in the home, the client's home provides adequate maneuvering space, maneuvering surfaces, and access between rooms for the operation of the POV being requested. The Division does not reimburse for adapting living quarters;

(F) The client is able to:

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- (i) Safely transfer to and from the POV;
 - (ii) Operate the tiller steering system, and
 - (iii) Maintain postural stability and position while operating the POV.
- (G) Use of a POV will significantly improve the client's ability to participate in their MRADLs;

(H) The client is willing to use the requested POV on a regular basis;

(I) The Division does not cover services or upgrades that primarily allow performance of leisure or recreational activities. Such services include but are not limited to backup POVs, backpacks, accessory bags, awnings, additional positioning equipment if the POV meets the same need, custom colors, and wheelchair gloves.

(b) For a POV to be covered, the treating physician or nurse practitioner must conduct a face-to-face examination of the client before writing the order:

(A) The durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider must receive a written report of this examination within 45 days after the face-to-face examination and prior to delivery of the device;

(B) When this examination is performed during a hospital or nursing facility stay, the DMEPOS provider must receive the report of the examination within 45 days after date of discharge;

(C) The physician or nurse practitioner may refer the client to a licensed/certified medical professional, such as a physical therapist (PT) or occupational therapist (OT), to perform part of this face-to-face examination. This person may not be an employee of the DMEPOS provider or have any direct or indirect financial relationship, agreement, or contract with the DMEPOS provider. When the DMEPOS provider is owned by a hospital, a PT/OT working in the inpatient or outpatient hospital setting may perform part of the face-to-face examination:

(i) If the client was referred to the PT/OT before being seen by the physician or nurse practitioner, then once the physician or nurse practitioner has received and reviewed the written report of this examination, the physician or nurse practitioner must see the client and perform any additional examination that is needed. The physician's or nurse practitioner's report of the visit shall state concurrence or any disagreement with the PT/OT examination. In this situation, the physician or nurse practitioner must provide the DMEPOS provider with a copy of both examinations within 45 days of the face-to-face examination with the physician or nurse practitioner;

(ii) If the physician or nurse practitioner examined the client before referring the client to a PT/OT, then again in person after receiving the report of the PT/OT examination, the 45-day period begins on the date of that second physician or nurse practitioner visit. However, it is also acceptable for the physician or nurse practitioner to review the written report of the PT/OT examination, to sign and date that report, and to state concurrence or any disagreement with that examination. In this situation, the physician or nurse practitioner must send a copy of the note from his initial visit to evaluate the client plus the annotated, signed, and dated copy of the PT/OT examination to the DMEPOS provider. The 45-day period begins when the physician or nurse practitioner signs and dates the PT/OT examination;

(iii) If the POV is a replacement of a similar item that was previously covered by the Division or when only POV accessories are being ordered and all other coverage criteria in this rule are met, a face-to-face examination is not required.

(c) The Division may authorize a new POV when a client's existing POV is no longer medically appropriate or repair and modifications to the POV exceed replacement costs;

(d) If a client has a medically appropriate POV regardless of payer, the Division may not reimburse for another POV;

(e) The cost of the POV includes all options and accessories that are provided at the time of initial purchase, including but not limited to batteries, battery chargers, weight appropriate upholstery and seating system, tiller steering, non-expandable controller with proportional response to input, complete set of tires, and all accessories needed for safe operation;

(f) Reimbursement for the POV includes all labor charges involved in the assembly of the POV and all covered additions or modifications. Reimbursement also includes support services such as emergency services, delivery, set-up, pick-up and delivery for repairs/modifications, education, and on-going assistance with use of the POV;

(g) If a client-owned POV meets coverage criteria, medically appropriate replacement items including but not limited to batteries may be covered;

(h) If a POV is covered, a manual or power wheelchair provided at the same time or subsequently shall be denied as not medically appropriate;

(i) The Division shall cover one month's rental of a POV if a client-owned POV is being repaired;

(j) The following services are not covered:

(A) POV for functionally ambulatory clients;

(B) A POV used to replace private or public transportation such as an automobile, bus, or taxi;

(C) A POV for a client residing in a nursing facility.

(2) Coding guidelines:

(a) Group 1 POVs (K0800 — K0802) are typically used only inside the home;

(b) Group 2 POVs (K0806–K0808) have added capabilities not needed for in home use. Client specific clinical documentation must be submitted that supports the medical need for this level of POV and demonstrates that there is no equally effective, less costly alternative that meets the client's medical needs;

(c) A replacement item including but not limited to replacement batteries shall be requested using the specific wheelchair option or accessory code if one exists (see 410-122-0340, Wheelchairs Options/Accessories). If a specific code does not exist, use code K0108 (wheelchair component or accessory, not otherwise specified);

(d) For guidance on correct coding, DMEPOS providers shall contact the Pricing, Data Analysis and Coding (PDAC) Contractor by the Centers for Medicare and Medicaid Services. See 410-122-0180 Healthcare Common Procedure Coding System (HCPCS) Level II Coding for more information.

(3) Documentation requirements: Submit all of the following documentation with the prior authorization (PA) request:

(a) A copy of the written report of the face-to-face examination of the client by the physician or nurse practitioner:

(A) The report must include information related to the following:

(i) The client's mobility limitation and how it interferes with the performance of activities of daily living;

(ii) Why a cane or walker cannot sufficiently resolve the client's mobility limitations;

(iii) Why a manual wheelchair cannot sufficiently resolve the client's mobility limitations;

(iv) The client's physical and mental abilities to operate a POV (scooter):

(I) Besides a mobility limitation, if other conditions exist that limit a client's ability to participate in MRADLs, how these conditions will be ameliorated or compensated;

(II) How these other conditions will be ameliorated or compensated sufficiently such that the additional provision of mobility assistive equipment (MAE) will be reasonably expected to significantly improve the client's ability to perform or obtain assistance to participate in MRADLs.

(B) The face-to-face examination shall provide pertinent information about the following elements but may include other details. Only relevant elements need to be addressed:

(i) Symptoms;

(ii) Related diagnoses;

(iii) History:

(I) How long the condition has been present;

(II) Clinical progression;

(III) Interventions that have been tried and the results;

(IV) Past use of walker, manual wheelchair, POV, or power wheelchair and the results;

(iv) Physical exam:

(I) Weight;

(II) Impairment of strength, range of motion, sensation, or coordination of arms and legs;

(III) Presence of abnormal tone or deformity of arms, legs, or trunk;

(IV) Neck, trunk, and pelvic posture and flexibility;

(V) Sitting and standing balance.

(v) Functional assessment indicating any problems with performing the following activities including the need to use a cane, walker, or the assistance of another person:

(I) Transferring between a bed, chair, and power mobility device;

(II) Walking around their home or community. Provide information on distance walked, speed, and balance.

(b) The physician's or nurse practitioner's written order, received by the DMEPOS provider within 30 days after the physician's or nurse practitioner's face-to-face examination that includes all of the following elements:

(A) Client's name;

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(B) Description of the item that is ordered. This may be general (e.g., "POV" or "power mobility device") or may be more specific:

(i) If this order does not identify the specific type of POV that is being requested, the DMEPOS provider must clarify this by obtaining another written order that lists the specific POV that is being ordered and any options and accessories requested;

(ii) The items on this order may be entered by the DMEPOS provider. This subsequent order must be signed and dated by the treating physician or nurse practitioner, received by the DMEPOS provider, and submitted to the authorizing authority, but does not have to be received within 45 days following the face-to-face examination.

(C) Most significant ICD-10 diagnosis code that relates specifically to the need for the POV;

(D) Length of need;

(E) Physician's or nurse practitioner's signature;

(F) Date of physician's or nurse practitioner's signature.

(c) For all requested equipment and accessories, include the manufacturer's name, product name, model number, standard features, specifications, dimensions, and options;

(d) Detailed information about client-owned equipment (including serial numbers) as well as any other equipment being used or available to meet the client's medical needs, including the age of the equipment and why it cannot be grown (expanded) or modified, if applicable;

(e) A written evaluation of the client's living quarters performed by the DMEPOS provider. This assessment must support that the client's home can accommodate and allow for the effective use of a POV, including but is not limited to evaluation of door widths, counter/table height, accessibility (e.g., ramps), electrical service, etc.;

(f) All HCPCS to be billed on this claim (both codes that require authorization and those that do not require authorization);

(g) Any additional documentation that supports indications of coverage are met as specified in this rule;

(h) The above documentation must be kept on file by the DMEPOS provider;

(i) Documentation that the coverage criteria have been met must be present in the client's medical record. This documentation and any additional medical information from the DMEPOS provider must be made available to the Division upon request.

(4) Billing:

(a) Procedure Codes:

(A) K0800 Power operated vehicle, Group 1 standard, patient weight capacity up to and including 300 pounds — PA;

(B) K0801 Power operated vehicle, Group 1 heavy duty, patient weight capacity, 301 to 450 pounds — PA;

(C) K0802 Power operated vehicle, Group 1 very heavy duty, patient weight capacity, 451 to 600 pounds — PA.

(b) The Division shall purchase, rent, and repair;

(c) Item considered purchased after 13 months of rent or the Division fee schedule purchase price is met, whichever is less.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 25-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 15-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 37-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15; DMAP 36-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

410-122-0340

Wheelchair Options/Accessories

(1) Indications and limitations of coverage and medical appropriateness:

(a) The Division may cover options and accessories for covered wheelchairs when the following criteria are met:

(A) The client has a wheelchair that meets Division coverage criteria; and

(B) The client requires the options/accessories to participate in one or more mobility-related activities of daily living (MRADLs) in the home, community or any non-institutional setting in which normal life activities take place. See OAR 410-122-0010, Definitions for definition of MRADLs.

(b) The Division does not cover options/accessories whose primary benefit is allowing the client to perform leisure or recreational activities;

(c) Arm of Chair:

(A) Adjustable arm height option (E0973, K0017, K0018, and K0020) may be covered when the client:

(i) Requires an arm height that is different than what is available using nonadjustable arms; and

(ii) Spends at least two hours per day in the wheelchair.

(B) An arm trough (E2209) is covered if the client has quadriplegia, hemiplegia, or uncontrolled arm movements.

(d) Footrest/Legrest:

(A) Elevating legrests (E0990, K0046, K0047, K0053, and K0195) may be covered when:

(i) The client has a musculoskeletal condition or the presence of a cast or brace that prevents 90 degree flexion at the knee;

(ii) The client has significant edema of the lower extremities that requires having an elevating legrest; or

(iii) The client meets the criteria for and has a reclining back on the wheelchair.

(B) Elevating legrests that are used with a wheelchair that is purchased or owned by the patient are coded E0990. This code is per legrest;

(C) Elevating legrests that are used with a capped rental wheelchair base shall be coded K0195. This code is per pair of legrests.

(e) Nonstandard Seat Frame Dimensions:

(A) For all adult wheelchairs, the Division includes payment for seat widths or seat depths of 15-19 inches in the payment for the base code. These seat dimensions may not be billed separately;

(B) Codes E2201-E2204 and E2340-E2343 describe seat widths or depths of 20 inches or more for manual or power wheelchairs;

(C) A nonstandard seat width or depth (E2201-E2204 and E2340-E2343) is covered only if the patient's dimensions justify the need.

(f) Rear Wheels for Manual Wheelchairs. Code E2213 (flat free insert) is used to describe either:

(A) A removable ring of firm material that is placed inside of a pneumatic tire to allow the wheelchair to continue to move if the pneumatic tire is punctured; or

(B) Non-removable foam material in a foam filled rubber tire;

(C) E2213 is not used for a solid self-skinning polyurethane tire.

(g) Batteries/Chargers:

(A) Up to two batteries (E2360-E2365) at any one time are allowed if required for a power wheelchair;

(B) Batteries/chargers for power wheelchairs are payable separately from the purchased wheelchair base.

(h) Seating:

(A) The Division may cover a general use seat cushion and a general-use wheelchair back-cushion for a client whose wheelchair meets Division coverage criteria;

(B) A skin protection seat cushion may be covered for a client who meets both of the following criteria:

(i) The client has a wheelchair that meets Division coverage criteria; and

(ii) The client has either of the following:

(I) Current pressure ulcer or past history of a pressure ulcer on the area of contact with the seating surface; or

(II) Absent or impaired sensation in the area of contact with the seating surface or inability to carry out a functional weight shift.

(C) A positioning seat cushion, positioning back cushion, and positioning accessory (E0955-E0957, E0960) may be covered for a client who meets both of the following criteria:

(i) The client has a wheelchair that meets Division coverage criteria; and

(ii) The client has any significant postural asymmetries.

(D) A combination skin protection and positioning seat cushion may be covered when a client meets the criteria for both a skin protection seat cushion and a positioning seat cushion;

(E) Separate payment is allowed for a seat cushion solid support base (E2231) with mounting hardware when it is used on an adult manual wheelchair (K0001-K0009, E1161);

(F) There is no separate payment for a solid insert (E0992) that is used with a seat or back cushion because a solid base is included in the allowance for a wheelchair seat or back cushion;

(G) There is no separate payment for mounting hardware for a seat or back cushion;

(H) There is no separate payment for a headrest (E0955, E0966) on a captain's seat on a power wheelchair;

(I) A custom fabricated seat cushion (E2609) and a custom fabricated back cushion (E2617) are cushions that are individually made for a specific patient:

(i) Basic materials include liquid foam or a block of foam and sheets of fabric or liquid coating material:

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(I) A custom fabricated cushion may include certain prefabricated components (e.g., gel or multi-cellular air inserts). These components may not be billed separately;

(II) The cushion must have a removable vapor permeable or waterproof cover or it must have a waterproof surface.

(ii) The cushion must be fabricated using molded-to-patient-model technique, direct molded-to-patient technique, computer-aided design and computer-aided manufacturing (CAD-CAM) technology, or detailed measurements of the patient used to create a configured cushion:

(I) If foam-in-place or other material is used to fit a substantially prefabricated cushion to an individual client, the cushion must be billed as a prefabricated cushion, not custom fabricated;

(II) The cushion must have structural features that significantly exceed the minimum requirements for a seat or back positioning cushion.

(iii) If a custom fabricated seat and back are integrated into a one-piece cushion, code as E2609 plus E2617.

(J) A custom fabricated seat cushion may be covered if criteria in subparagraph (i) and (iii) are met. A custom fabricated back cushion may be covered if criteria subparagraph (ii) and (iii) are met:

(i) Client meets all of the criteria for a prefabricated skin protection seat cushion or positioning seat cushion;

(ii) Client meets all of the criteria for a prefabricated positioning back cushion;

(iii) There is a comprehensive written evaluation by a licensed clinician who is not an employee of or otherwise paid by a durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider that clearly explains why a prefabricated seating system is not sufficient to meet the client's seating and positioning needs.

(K) A prefabricated seat cushion, a prefabricated positioning back cushion, or a brand name custom fabricated seat or back cushion that has not received a written coding verification as published by the Pricing, Data Analysis and Coding (PDAC) contractor by the Centers for Medicare and Medicaid Services; or that does not meet the criteria stated in this rule is not covered;

(L) A headrest extension (E0966) is a sling support for the head. Code E0955 describes any type of cushioned headrest;

(M) The code for a seat or back cushion includes any rigid or semi-rigid base or posterior panel, respectively, that is an integral part of the cushion;

(N) A solid insert (E0992) is a separate rigid piece of wood or plastic that is inserted in the cover of a cushion to provide additional support and is included in the allowance for a seat cushion;

(O) A solid support base for a seat cushion is a rigid piece of plastic or other material that is attached with hardware to the seat frame of a wheelchair in place of a sling seat. A cushion is placed on top of the support base. Use code E2231 for this solid support base.

(i) The Division shall only cover accessories billed under the following codes when PDAC makes written confirmation of use of the code for the specific product being billed: E2601-E2608, E2611-E2616, E2620, E2621; E2609 and E2617 (brand-name products); K0108 (for wheelchair cushions):

(A) Information concerning the documentation that must be submitted to PDAC for a Coding Verification Request can be found on the PDAC website or by contacting PDAC;

(B) A product classification list with products that have received a coding verification can be found on the PDAC website.

(j) Code E1028 (swingaway or removable mounting hardware upgrade) may be billed in addition to codes E0955-E0957. It may not be billed in addition to code E0960. It may not be used for mounting hardware related to a wheelchair seat cushion or back cushion code;

(k) Power seating systems:

(A) A power-tilt seating system (E1002):

(i) Includes all the following:

(I) A solid seat platform and a solid back; any frame width and depth;

(II) Detachable or flip-up fixed height or adjustable height armrests;

(III) Fixed or swingaway detachable legrests;

(IV) Fixed or flip-up footplates;

(V) Motor and related electronics with or without variable speed programmability;

(VI) Switch control that is independent of the power wheelchair drive control interface;

(VII) Any hardware that is needed to attach the seating system to the wheelchair base.

(ii) It does not include a headrest;

(iii) It must have the following features:

(I) Ability to tilt to greater than or equal to 45 degrees from horizontal;

(II) Ability for the supplier to adjust the seat to back angle;

(III) Ability to support patient weight of at least 250 pounds.

(B) A power recline seating system (E1003-E1005):

(i) Includes all the following:

(I) A solid seat platform and a solid back;

(II) Any frame width and depth;

(III) Detachable or flip-up fixed height or adjustable height arm rests;

(IV) Fixed or swingaway detachable legrests;

(V) Fixed or flip-up footplates;

(VI) A motor and related electronics with or without variable speed programmability;

(VII) A switch control that is independent of the power wheelchair drive control interface;

(VIII) Any hardware that is needed to attach the seating system to the wheelchair base.

(ii) It does not include a headrest;

(iii) It must have the following features:

(I) Ability to recline to greater than or equal to 150 degrees from horizontal;

(II) Back height of at least 20 inches;

(III) Ability to support patient weight of at least 250 pounds.

(C) A power tilt and recline seating system (E1006-E1008):

(i) Includes the following:

(I) A solid seat platform and a solid back;

(II) Any frame width and depth; detachable or flip-up fixed height or adjustable height armrests;

(III) Fixed or swing-away detachable legrests; fixed or flip-up footplates;

(IV) Two motors and related electronics with or without variable speed programmability;

(V) Switch control that is independent of the power wheelchair drive control interface;

(VI) Any hardware that is needed to attach the seating system to the wheelchair base.

(ii) It does not include a headrest;

(iii) It must have the following features:

(I) Ability to tilt to greater than or equal to 45 degrees from horizontal;

(II) Ability to recline to greater than or equal to 150 degrees from horizontal;

(III) Back height of at least 20 inches; ability to support patient weight of at least 250 pounds.

(D) A mechanical shear reduction feature (E1004 and E1007) consists of two separate back panels. As the posterior back panel reclines or raises, a mechanical linkage between the two panels allows the client's back to stay in contact with the anterior panel without sliding along that panel;

(E) A power shear reduction feature (E1005 and E1008) consists of two separate back panels. As the posterior back panel reclines or raises, a separate motor controls the linkage between the two panels and allows the client's back to stay in contact with the anterior panel without sliding along that panel;

(F) A power leg elevation feature (E1010) involves a dedicated motor and related electronics with or without variable speed programmability that allows the legrest to be raised and lowered independently of the recline and/or tilt of the seating system. It includes a switch control that may or may not be integrated with the power tilt and recline controls.

(L) Codes E2310 and E2311 (Power Wheelchair Accessory):

(A) Describe the electronic components that allow the client to control two or more of the following motors from a single interface (e.g., proportional joystick, touchpad, or non-proportional interface): Power wheelchair drive, power tilt, power recline, power shear reduction, power leg elevation, power seat elevation, power standing;

(B) Include a function selection switch that allows the client to select the motor that is being controlled and an indicator feature to visually show which function has been selected;

(C) When the wheelchair drive function is selected the indicator feature may also show the direction that is selected (forward, reverse, left, right). This indicator feature may be in a separate display box or may be integrated into the wheelchair interface;

(D) Payment for the code includes an allowance for fixed mounting hardware for the control box and for the display box (if present);

(E) When a switch is medically appropriate and a client has adequate hand motor skills, a switch shall be considered the least costly alternative;

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(F) E2310 or E2311 may be considered for coverage when a client does not have hand motor skills or presents with cognitive deficits, contractures, or limitation of movement patterns that prevents operation of a switch;

(G) In addition, an alternate switching system must be medically appropriate and not hand controlled (not running through a joystick).

(m) Power Wheelchair Drive Control Systems:

(A) The term interface in the code narrative and definitions describes the mechanism for controlling the movement of a power wheelchair. Examples of interfaces include but are not limited to joystick, sip and puff, chin control, head control, etc.;

(B) A proportional interface is one in which the direction and amount of movement by the client controls the direction and speed of the wheelchair. One example of a proportional interface is a standard joystick;

(C) A non-proportional interface is one that involves a number of switches. Selecting a particular switch determines the direction of the wheelchair, but the speed is pre-programmed. One example of a non-proportional interface is a sip-and-puff mechanism;

(D) The term controller describes the microprocessor and other related electronics that receive and interpret input from the joystick (or other drive control interface) and convert that input into power output to the motor and gears in the power wheelchair base;

(E) A switch is an electronic device that turns power to a particular function either "on" or "off." The external component of a switch may be either mechanical or non-mechanical. Mechanical switches involve physical contact in order to be activated. Examples of the external components of mechanical switches include but are not limited to toggle, button, ribbon, etc. Examples of the external components of non-mechanical switches include but are not limited to proximity, infrared, etc. Some of the codes include multiple switches. In those situations, each functional switch may have its own external component, or multiple functional switches may be integrated into a single external switch component, or multiple functional switches may be integrated into the wheelchair control interface without having a distinct external switch component;

(F) A stop switch allows for an emergency stop when a wheelchair with a non-proportional interface is operating in the latched mode. (Latched mode is when the wheelchair continues to move without the patient having to continually activate the interface.) This switch is sometimes referred to as a kill switch;

(G) A direction change switch allows the client to change the direction that is controlled by another separate switch or by a mechanical proportional head control interface. For example, it allows a switch to initiate forward movement one time and backward movement another time;

(H) A function selection switch allows the client to determine what operation is being controlled by the interface at any particular time. Operations may include but are not limited to drive forward, drive backward, tilt forward, recline backward, etc.;

(I) An integrated proportional joystick and controller is an electronics package in which a joystick and controller electronics are in a single box that is mounted on the arm of the wheelchair;

(J) The interfaces described by codes E2321-E2322, E2325, and E2327-E2330 must have programmable control parameters for speed adjustment, tremor dampening, acceleration control, and braking;

(K) A remote joystick (E2321) is one in which the joystick is in one box that is mounted on the arm of the wheelchair and the controller electronics are located in a different box that is typically located under the seat of the wheelchair;

(L) When code E2321 is used for a chin control interface, the chin cup is billed separately with code E2324;

(M) Code E2322 describes a system of 3-5 mechanical switches that are activated by the client touching the switch. The switch that is selected determines the direction of the wheelchair. A mechanical stop switch and a mechanical direction change switch, if provided, are included in the allowance for the code;

(N) Code E2323 includes prefabricated joystick handles that have shapes other than a straight stick, e.g., U shape or T shape or that have some other nonstandard feature, e.g., flexible shaft;

(O) A sip and puff interface (E2325) is a non-proportional interface in which the client holds a tube in their mouth and controls the wheelchair by either sucking in (sip) or blowing out (puff). A mechanical stop switch is included in the allowance for the code. E2325 does not include the breath tube kit that is described by code E2326;

(P) A proportional, mechanical head control interface (E2327) is one in which a headrest is attached to a joystick-like device. The direction and amount of movement of the client's head pressing on the headrest control

the direction and speed of the wheelchair. A mechanical direction control switch is included in the code;

(Q) A proportional, electronic head control interface (E2328) is one in which a client's head movements are sensed by a box placed behind the client's head. The direction and amount of movement of the client's head (which does not come in contact with the box) control the direction and speed of the wheelchair. A proportional, electronic extremity control interface (E2328) is one in which the direction and amount of movement of the client's arm or leg control the direction and speed of the wheelchair;

(R) A non-proportional, contact switch head control interface (E2329) is one in which a client activates one of three mechanical switches placed around the back and sides of their head. These switches are activated by pressure of the head against the switch. The switch that is selected determines the direction of the wheelchair. A mechanical stop switch and a mechanical direction change switch are included in the allowance for the code;

(S) A non-proportional, proximity switch head control interface (E2330) is one in which a client activates one of three switches placed around the back and sides of their head. These switches are activated by movement of the head toward the switch, though the head does not touch the switch. The switch that is selected determines the direction of the wheelchair. A mechanical stop switch and a mechanical direction change switch are included in the allowance for the code;

(T) The KC modifier (replacement of special power wheelchair interface):

(i) Is used in the following situations:

(I) Due to a change in the client's condition an integrated joystick and controller is being replaced by another drive control interface, e.g., remote joystick, head control, sip and puff, etc.; or

(II) The client has a drive control interface described by codes E2320-E2322, E2325, or E2327-E2330 and both the interface (e.g., joystick, head control, sip and puff), and the controller electronics are being replaced due to irreparable damage.

(ii) The KC modifier is never used at the time of initial issue of a wheelchair;

(iii) The KC modifier specifically states replacement; therefore, the RP modifier is not required.

(n) Other power wheelchair accessories. An electronic interface (E2351) to allow a speech generating device to be operated by the power wheelchair control interface may be covered if the client has a covered speech generating device (See chapter 410, division 129, Speech-Language Pathology, Audiology and Hearing Aid Services.);

(o) Miscellaneous accessories:

(A) Anti-rollback device (E0974) is covered if the client propels himself and needs the device because of ramps;

(B) A safety belt/pelvic strap (E0978) is covered if the client has weak upper body muscles, upper body instability, or muscle spasticity that requires use of this item for proper positioning;

(C) A shoulder harness/straps or chest strap (E0960) and a safety belt/pelvic strap (E0978) are covered only to treat a client's medical symptoms:

(i) A medical symptom is defined as an indication or characteristic of a physical or psychological condition;

(ii) E0960 and E0978 are not covered when intended for use as a physical restraint or for purposes intended for discipline or convenience of others.

(D) One example (not all-inclusive) of a covered indication for swingaway, retractable, or removable hardware (E1028) would be to move the component out of the way so that a client could perform a slide transfer to a chair or bed;

(E) A fully reclining back option (E1226) is covered if the client spends at least two hours per day in the wheelchair and has one or more of the following conditions/needs:

(i) Quadriplegia;

(ii) Fixed hip angle;

(iii) Trunk or lower extremity casts/braces that require the reclining back feature for positioning;

(iv) Excess extensor tone of the trunk muscles; or

(v) The need to rest in a recumbent position two or more times during the day, and transfer between wheelchair and bed is very difficult.

(2) Documentation Requirements. Submit documentation that supports coverage criteria in this rule are met and the specified information as follows with the prior authorization (PA) request:

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(a) When code K0108 is billed, a narrative description of the item, the manufacturer, the model name or number (if applicable), and information justifying the medical appropriateness for the item;

(b) Options/accessories for individual consideration might include documentation on the client's diagnosis, the client's abilities and limitations as they relate to the equipment (e.g., degree of independence/dependence, frequency and nature of the activities the client performs, etc.), the duration of the condition, the expected prognosis, past experience using similar equipment;

(c) For a custom-fabricated seat cushion:

(A) A comprehensive written evaluation by a licensed clinician (who is not an employee of or otherwise paid by a DMEPOS provider) that clearly explains why a prefabricated seating system is not sufficient to meet the client's seating and positioning needs;

(B) Diagnostic reports that support the medical condition;

(C) Dated and clear photographs;

(D) Body contour measurements.

(d) Documentation that the coverage criteria in this rule have been met must be present in the client's medical record. This documentation and any additional medical information from the DMEPOS provider must be made available to the Division upon request.

(3) Table 122-0340 – 1.

(4) Table 122-0340 – 2.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 25-2006, f. 6-14-06, cert. ef. 7-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 37-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 15-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 17-2012, f. 3-30-12, cert. ef. 4-1-12; DMAP 36-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

410-122-0720

Pediatric Wheelchairs

(1) Indications and limitations of coverage and medical appropriateness:

(a) The Division may cover a pediatric wheelchair when all of the following criteria are met:

(A) The client has a mobility limitation that significantly impairs their ability to participate in one or more mobility-related activities of daily living (MRADLs) in or out of the home. MRADLs include but are not limited to tasks such as toileting, feeding, dressing, grooming, and bathing. A mobility limitation is one that:

(i) Prevents the client from completing an MRADL entirely;

(ii) Places the client at reasonably determined heightened risk of morbidity or mortality secondary to the attempts to perform a MRADL; or

(iii) Prevents the client from completing an MRADL within a reasonable timeframe.

(B) An appropriately fitted cane or walker cannot sufficiently resolve the client's mobility limitation;

(C) If the client will be using the wheelchair in the home, the client's home provides adequate maneuvering space, maneuvering surfaces, and access between rooms for use of the pediatric wheelchair that is being requested;

(D) Use of a pediatric wheelchair will significantly improve the client's ability to participate in MRADLs. For clients with severe cognitive and physical impairments, participation in MRADLs may require the assistance of a caregiver;

(E) The client is willing to use the requested pediatric wheelchair on a regular basis;

(F) The client has either:

(i) Sufficient upper extremity function and other physical and mental capabilities needed to safely self-propel the requested pediatric wheelchair in the home and community during a typical day. Proper assessment of upper extremity function should consider limitations of strength, endurance, range of motion, coordination, presence of pain, and deformity or absence of one or both upper extremities; or

(ii) A caregiver who is available, willing, and able to provide assistance with the wheelchair.

(b) Only when conditions of coverage as specified in section (1)(a) of this rule are met may the Division authorize a pediatric wheelchair for any of the following situations:

(A) When the wheelchair can be reasonably expected to improve the client's ability to complete MRADLs by compensating for other limitations in addition to mobility deficits and the client is compliant with treatment:

(i) Besides MRADLs deficits, when other limitations exist, and these limitations can be ameliorated or compensated sufficiently such that the additional provision of a pediatric wheelchair will be reasonably expected to significantly improve the client's ability to perform or obtain assistance to participate in MRADLs, a pediatric wheelchair may be considered for coverage;

(ii) If the amelioration or compensation requires the client's compliance with treatment, for example medications or therapy, substantive non-compliance whether willing or involuntary can be grounds for denial of pediatric wheelchair coverage if it results in the client continuing to have a significant limitation. It may be determined that partial compliance results in adequate amelioration or compensation for the appropriate use of a pediatric wheelchair.

(B) For a purchase request, when a client's current wheelchair is no longer medically appropriate or repair or modifications to the wheelchair exceed replacement cost;

(C) When a covered, client-owned wheelchair is in need of repair (for one month's rental of a wheelchair). See OAR 410-122-0184 Repairs, Maintenance, Replacement, Delivery and Dispensing.

(c) A pediatric tilt-in-space wheelchair (E1231-E1234) may be covered when a client meets all of the following conditions:

(A) A standard base with a reclining back option will not meet the client's needs;

(B) Requires assistance for transfers;

(C) The plan of care addresses the need to change position at frequent intervals, and the client is not left in the tilt position most of the time; and

(D) Has one of the following:

(i) High risk of skin breakdown;

(ii) Poor postural control, especially of the head and trunk;

(iii) Hyper/hypotonia;

(iv) Need for frequent changes in position and has poor upright sitting.

(d) One month's rental for a manual pediatric tilt-in-space wheelchair (E1231-E1234) may be covered for a client residing in a nursing facility when all of the following conditions are met:

(A) The anticipated nursing facility length of stay is 30 days or less;

(B) The conditions of coverage for a manual tilt-in-space wheelchair as described in section (1) (c) (A) (E) are met;

(C) The client is expected to have an ongoing need for this same wheelchair after discharge from the nursing facility;

(D) Coverage is limited to one month's rental.

(e) The Division does not reimburse for another wheelchair if the client has a medically appropriate wheelchair, regardless of payer;

(f) If the client will be using the wheelchair in the home, the client's living quarters must be able to accommodate and allow for the effective use of the requested wheelchair. The Division does not reimburse for adapting living quarters;

(g) The Division may not cover services or upgrades that primarily allow performance of leisure or recreational activities. Such services include but are not limited to backup wheelchairs, backpacks, accessory bags, clothing guards, awnings, additional positioning equipment if wheelchair meets the same need, custom colors, and wheelchair gloves;

(h) Reimbursement for wheelchair codes includes all labor charges involved in the assembly of the wheelchair, as well as support services such as emergency services, delivery, set-up, pick-up and delivery for repairs/modifications, education, and ongoing assistance with the use of the wheelchair;

(i) Power mobility devices and related options and accessories must be supplied by a DMEPOS provider that employs a Rehabilitation Engineering and Assistive Technology Society of North America (RESNA)-certified Assistive Technology Professional (ATP) who specializes in wheelchairs and who has direct, in-person involvement in the wheelchair selection for the client;

(j) The provider's ATP must be employed by a provider in a full-time, part-time, or contracted capacity as is acceptable by state law. The provider's ATP, if part-time or contracted, must be under the direct control of the provider;

(k) Documentation must be complete and detailed enough so a third party would be able to understand the nature of the provider's ATP involve-

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ment, if any, in the licensed/certified medical professional (LCMP) specialty evaluation;

(L) The provider's ATP may not conduct the provider evaluation at the time of delivery of the power mobility device to the client's residence;

(m) A Group 5 (Pediatric) power wheelchair (PWC) with Single Power Option (K0890) or with Multiple Power Options (K0891) may be covered when:

(i) The coverage criteria for a PWC in OAR 410-122-0325, Power Wheelchair Base) are met;

(ii) The client is expected to grow in height; and

(iii) Either of the following criteria is met:

(I) The Group 2 Single Power Option in OAR 410-122-0325, Power Wheelchair Base, (2)(a)(C)(i)(I-II); or

(II) Multiple Power Options in OAR 410-122-0325, Power Wheelchair Base, (2) (a)(D) (i) (I-II);

(iv) The delivery of a PWC must be within 120 days following completion of the face-to-face examination with the physician;

(v) A PWC may not be ordered by a podiatrist.

(n) For more information on coverage criteria regarding repairs and maintenance, see OAR 410-122-0184 Repairs, Maintenance, Replacement, Delivery and Dispensing.

(2) Coding Guidelines:

(a) For individualized wheelchair features that are medically appropriate to meet the needs of a particular client, use the correct codes for the wheelchair base, options, and accessories (see OAR 410-122-0340 Wheelchair Options/Accessories);

(b) For wheelchair frames that are modified in a unique way to accommodate the client, submit the code for the wheelchair base used, and submit the modification with code K0108 (wheelchair component or accessory, not otherwise specified);

(c) Wheelchair "poundage" (pounds) represents the weight of the usual configuration of the wheelchair with a seat and back, but without front riggings.

(3) Documentation requirements:

(a) Functional mobility evaluation:

(A) Durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) providers must submit medical documentation that supports conditions of coverage in this rule are met for purchase and modifications of all covered, client-owned pediatric wheelchairs;

(B) Information must include but is not limited to:

(i) Medical justification, needs assessment, order, and specifications for the wheelchair, completed by a PT, OT, or treating physician. The individual who provides this information must have no direct or indirect financial relationship, agreement, or contract with the DMEPOS provider requesting authorization;

(ii) Client identification and rehab technology supplier identification information that may be completed by the DMEPOS provider; and

(iii) Signature and date by the treating physician and PT or OT.

(C) If the information on this form includes all the elements of an order, the provider may submit the completed form in lieu of an order.

(b) Additional documentation:

(A) Information from a PT, OT, or treating physician that specifically indicates:

(i) The client's mobility limitation and how it interferes with the performance of activities of daily living;

(ii) Why a cane or walker cannot sufficiently resolve the client's mobility limitations.

(B) Pertinent information from a PT, OT, or treating physician about the following elements that support coverage criteria are met for a pediatric wheelchair, only relevant elements need to be addressed:

(i) Symptoms;

(ii) Related diagnoses;

(iii) History;

(I) How long the condition has been present;

(II) Clinical progression;

(III) Interventions that have been tried and the results;

(IV) Past use of walker, pediatric wheelchair, power-operated vehicle (POV), or PWC and the results.

(iv) Physical exam:

(I) Weight;

(II) Impairment of strength, range of motion, sensation, or coordination of arms and legs;

(III) Presence of abnormal tone or deformity of arms, legs, or trunk;

(IV) Neck, trunk, and pelvic posture and flexibility;

(V) Sitting and standing balance.

(v) Functional assessment indicating any problems with performing the following activities including the need to use a cane, walker, or the assistance of another individual:

(I) Transferring between a bed, chair, and a wheelchair or power mobility device;

(II) Walking around their home or community. Provide information on distance walked, speed, and balance.

(C) Documentation from a PT, OT, or treating physician that clearly distinguishes the client's abilities and needs within the home from any additional needs for use outside the home since the Division determines coverage of a wheelchair solely by the client's mobility needs within the home, even though a client who qualifies for coverage of a pediatric wheelchair may use the wheelchair outside the home;

(D) For all requested equipment and accessories, the manufacturer's name, product name, model number, standard features, specifications, dimensions, and options, including growth capabilities;

(E) Detailed information about client-owned equipment (including serial numbers), as well as any other equipment being used or available to meet the client's medical needs, including how long it has been used by the client and why it cannot be grown (expanded) or modified, if applicable;

(F) For the home assessment, prior to delivery of the wheelchair, the DMEPOS provider or practitioner must perform an on-site, written evaluation of the client's living quarters. This assessment must support that the client's home can accommodate and allow for the effective use of a wheelchair. This assessment must include but is not limited to evaluation of physical layout, doorway widths, doorway thresholds, surfaces, counter or table height, accessibility (e.g., ramps), electrical service, etc.; and

(G) All HCPCS codes, including the base, options and accessories, whether prior authorization (PA) is required or not, that will be billed separately.

(c) A written order by the treating physician, identifying the specific type of pediatric wheelchair needed. If the order does not specify the type requested by the DMEPOS provider on the authorization request, the provider must obtain another written order that lists the specific pediatric wheelchair that is being ordered and any options and accessories requested. The DMEPOS provider may enter the items on this order. This order must be signed and dated by the treating physician, received by the DMEPOS provider, and submitted to the authorizing authority;

(d) For a PWC request, see OAR 410-122-0325 Power Wheelchair Base for documentation requirements;

(e) Any additional documentation that supports indications of coverage are met as specified in this policy;

(f) For a manual wheelchair rental, submit all of the following:

(A) A written order from the treating physician, identifying the specific type of manual wheelchair needed:

(i) If the order does not specify the type of wheelchair requested by the DMEPOS provider on the authorization request, the provider must obtain another written order that lists the specific manual wheelchair that is being ordered and any options and accessories requested;

(ii) The DMEPOS provider may enter the items on this order;

(iii) This order must be signed and dated by the treating physician, received by the DMEPOS provider, and submitted to the authorizing authority.

(B) HCPCS codes;

(C) Documentation from the DMEPOS provider that supports that the client's home can accommodate and allow for the effective use of the requested wheelchair.

(g) The above documentation must be kept on file by the DMEPOS provider; and

(h) Documentation that the coverage criteria have been met must be present in the client's medical records, and this documentation must be made available to the Division upon request.

(4) Table 122-0720 – Pediatric Wheelchairs.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 15-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 15-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 36-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

Rule Caption: Remove Hippotherapy from the Exclusion List to Align with SPA and HERC

Adm. Order No.: DMAP 37-2017(Temp)

Filed with Sec. of State: 9-15-2017

ADMINISTRATIVE RULES

Certified to be Effective: 10-1-17 thru 3-29-18

Notice Publication Date:

Rules Amended: 410-131-0120

Subject: This rule amendment is needed to comply with SPA and HERC removal of Hippotherapy from the exclusion list, effective January 1, 2018.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-131-0120

Limitations of Coverage and Payment

(1) The provision of PT/OT evaluations and therapy services require a prescribing practitioner referral, and services shall be supported by a therapy plan of care signed and dated by the prescribing practitioner as specified in 42 CFR 440.1110.

(2) PT/OT initial evaluations and re-evaluations do not require PA but are limited to the following:

- (a) Up to two initial evaluations in any 12-month period; and
- (b) Up to four re-evaluation services in any 12-month period.

(3) Reimbursement is limited to the initial evaluation when both the initial evaluation and a re-evaluation are provided on the same day.

(4) School-sponsored therapy services are considered supplemental to other plan-covered therapy services that the student receives. School-based therapy services may not apply toward the client's maximum therapy allowances. (See OAR chapter 410, division 133 SBHS rules.)

(5) All other occupational and physical therapy treatments require PA following 30 visits in a calendar year. See OAR 410-131-0160 and Table 131-0160-1.

(6) A licensed occupational or physical therapist or a licensed occupational or physical therapy assistant under the supervision of a therapist shall be in constant attendance while therapy treatments are performed:

(a) Rehabilitative and habilitative therapy treatments may not exceed one hour per day each for occupational and physical therapy;

(b) Modalities:

(A) Require PA;

(B) Up to two modalities may be authorized per day of treatment;

(C) Need to be billed in conjunction with a therapeutic procedure code; and

(D) Each individual supervised modality code may be reported only once for each client encounter. See Table 131-0160-1.

(c) Massage therapy is limited to two units per day of treatment and shall be authorized only in conjunction with another therapeutic procedure or modality.

(7) Supplies and materials for the fabrication of splints shall be billed at the acquisition cost, and reimbursement may not exceed the Division's maximum allowable in accordance with the physician fee schedule. Acquisition cost is purchase price plus shipping. Off-the-shelf splints, even when modified, are not included in this service.

(8) The following services are not covered:

(a) Services not medically appropriate;

(b) Services that are not paired with a funded diagnosis on the Health Evidence Review Commission's (HERC) Prioritized List of Health Services pursuant to OAR 410-141-0520;

(c) Work hardening;

(d) Back school and back education classes;

(e) Services included in OAR 410-120-1200 (Excluded Services Limitations);

(f) Durable medical equipment and medical supplies other than those splint supplies listed in Table 131-0120-1 and OAR 410-131-0280.

(9) Physical capacity examinations are not a part of the PT/OT program but may be reimbursed as administrative examinations when ordered by the local branch office. See OAR chapter 410, division 150, for information on administrative examinations and report billing.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 688.135, 414.065

Hist.: HR 8-1991, f. 1-25-91, cert. ef. 2-1-91; HR 19-1992, f. & cert. ef. 7-1-92; HR 28-1993, f. & cert. ef. 10-1-93; HR 43-1994, f. 12-30-94, cert. ef. 1-1-95; HR 2-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 8-1998, f. & cert. ef. 3-2-98; OMAP 18-1999, f. & cert. ef. 4-1-99; OMAP 32-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 53-2002, f. & cert. ef. 10-1-02; OMAP 64-2003, f. 9-8-03, cert. ef. 10-1-03; OMAP 59-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 15-2005, f. 3-11-05, cert. ef. 4-1-05; DMAP 35-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14; DMAP 49-2016, f. 7-26-16, cert. ef. 8-1-16; DMAP 70-2016(Temp), f. 12-5-16, cert. ef. 1-1-17 thru 6-29-17; DMAP 19-2017, f. & cert. ef. 6-9-17; DMAP 37-2017(Temp), f. 9-15-17, cert. ef. 10-1-17 thru 3-29-18

Oregon Health Authority, Health Systems Division: Mental Health Services Chapter 309

Rule Caption: Temporary Revisions Providing Technical Corrections of Rules That Created Regulation Barriers/Conflicts with Related Rules

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Rules Suspended: 309-018-0120, 309-019-0120, 309-019-0152, 309-019-0205

Subject: These temporary rules include technical and content revisions that allow the Authority to avoid unintended interpretation and actions due to inconsistencies between the two rule sets. The amendments include definitions alignment, language updates, and clarification of certain requirements. They also address implementation of the Authority's policies related to the Oregon Performance Plan, Peer Delivered Services and Medication Assisted Treatment.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

309-018-0105

Definitions

(1) "Abuse of an adult" means the circumstances defined in OAR 407-045-0260 for abuse of an adult with mental illness.

(2) "Abuse of a child" means the circumstances defined in ORS 419B.005.

(3) "Health Systems Services and Supports" means all services and supports including but not limited to, Outpatient Community Mental Health Services and Supports for Children and Adults, Intensive Treatment Services for Children, Outpatient and Residential Substance Use Disorders Treatment Services and Outpatient and Residential Problem Gambling Treatment Services.

(4) "Adolescent" means an individual from 12 through 17 years of age, or those individuals who are determined to be developmentally appropriate for youth services.

(5) "Adult" means a person 18 years of age or older, or an emancipated minor. An individual with Medicaid eligibility, who is in need of services specific to children, adolescents, or young adults in transition, shall be considered a child until age 21 for the purposes of these rules. Adults who are between the ages of 18 and 21, who are considered children for purposes of these rules, shall have all rights afforded to adults as specified in these rules.

(6) "Assessment" means the process of obtaining sufficient information, through a face-to-face interview to determine a diagnosis and to plan individualized services and supports.

(7) "ASAM Criteria" means the most current edition of the American Society of Addiction Medicine (ASAM) for the Treatment of Addictive, Substance-related, and Co-Occurring Conditions, which is a clinical guide to develop patient-centered service plans and make objective decisions about admission, continuing care, and transfer or discharge for individuals and is incorporated by reference in these rules.

(8) "Authority" means the Oregon Health Authority.

(9) "Behavioral Health Treatment" means treatment for mental health, substance use disorders, and problem gambling.

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(10) "Case Management" means the services provided to assist individuals, who reside in a community setting, or are transitioning to a community setting, in gaining access to needed medical, social, educational, entitlement and other applicable services.

(11) "Certificate" means the document or documents issued by the Division, which identifies and declares certification of a provider pursuant to OAR 309-008-0100 to 309-008-1600. A letter accompanying issuance of the certificate will detail the scope and approved service delivery locations of the certificate.

(12) "Child" means an individual under the age of 18. An individual with Medicaid eligibility, who is in need of services specific to children, adolescents, or young adults in transition, shall be considered a child until age 21 for purposes of these rules.

(13) "Chief Officer" means the Chief Health Systems Officer of the Health Systems Division, or designee.

(14) "Clinical Supervision" means oversight by a qualified Clinical Supervisor of addictions and mental health services and supports provided according to this rule, including ongoing evaluation and improvement of the effectiveness of those services and supports.

(15) "Clinical Supervisor" means a person qualified to oversee and evaluate addictions or mental health services and supports.

(16) "Co-occurring substance use and mental health disorders (COD)" means the existence of a diagnosis of both a substance use disorder and a mental health disorder.

(17) "Court" means the last convicting or ruling court unless specifically noted.

(18) "Criminal Records Check" means the Oregon Criminal Records Check and the processes and procedures required by OAR 943-007-0010 through 943-007-0501.

(19) "Crisis" means either an actual or perceived urgent or emergent situation that occurs when an individual's stability or functioning is disrupted and there is an immediate need to resolve the situation to prevent a serious deterioration in the individual's mental or physical health or to prevent referral to a significantly higher level of care.

(20) "Cultural Competence" means the process by which people and systems respond respectfully and effectively to people of all cultures, languages, classes, races, ethnic backgrounds, disabilities, religions, genders, sexual orientations and other diversity factors in a manner that recognizes, affirms, and values the worth of individuals, families and communities and protects and preserves the dignity of each.

(21) "Culturally Specific Program" means a program that is designed to meet the unique service needs of a specific culture and that provides services to a majority of individuals representing that culture.

(22) "Diagnosis" means the principal mental health, substance use or problem gambling diagnosis listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM). The diagnosis is determined through the assessment and any examinations, tests, or consultations suggested by the assessment, and are the medically appropriate reason for services.

(23) "Division" means the Health Systems Division.

(24) "DSM" means the most recent version of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(25) "Emergent" means the onset of symptoms requiring attention within 24 hours to prevent serious deterioration in mental or physical health or threat to safety.

(26) "Entry" means the act or process of acceptance and enrollment into services regulated by this rule.

(27) "Family" means the biological or legal parents, siblings, other relatives, foster parents, legal guardians, spouse, domestic partner, caregivers and other primary relations to the individual whether by blood, adoption, legal or social relationships. Family also means any natural, formal or informal support persons identified as important by the individual.

(28) "Gender Identity" means a person's self-identification of gender, without regard to legal or biological identification, including, but not limited to persons identifying themselves as male, female, transgender and transsexual.

(29) "Gender Presentation" means the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, mannerisms, speech patterns and social interactions.

(30) "Grievance" means a formal complaint submitted to a provider verbally, or in writing, by an individual, or the individual's chosen representative, pertaining to the denial or delivery of services and supports.

(31) "Guardian" means an individual appointed by a court of law to act as guardian of a minor or a legally incapacitated person.

(32) "HIPAA" means the federal Health Insurance Portability and Accountability Act of 1996 and the regulations published in Title 45, parts 160 and 164, of the Code of Federal Regulations (CFR).

(33) "Incident Report" means a written description of any incident involving an individual, or child of an individual receiving services, occurring on the premises of the program, or involving program staff or a Service Plan activity including, but not limited to, injury, major illness, accident, act of physical aggression, medication error, suspected abuse or neglect, or any other unusual incident that presents a risk to health and safety.

(34) "Individual" means any individual being considered for or receiving services and supports regulated by these rules.

(35) "Informed Consent for Services" means that the service options, risks and benefits have been explained to the individual and guardian, if applicable, in a manner that they comprehend, and the individual and guardian, if applicable, have consented to the services on, or prior to, the first date of service.

(36) "Interim Referral and Information Services" means services provided by an substance use disorders treatment provider to individuals on a waiting list, and whose services are funded by the Substance Abuse Prevention and Treatment (SAPT) Block Grant, to reduce the adverse health effects of substance use, promote the health of the individual and reduce the risk of disease transmission.

(37) "Intern" or "Student" means an individual who provides a paid or unpaid program service to complete a credentialed or accredited educational program recognized by the state of Oregon.

(38) "Level of Care" means the range of available services provided from the most integrated setting to the most restrictive and most intensive in an inpatient setting.

(39) "Licensed Health Care Professional" means a practitioner of the healing arts, acting within the scope of his or her practice under State law, who is licensed by a recognized governing board in Oregon.

(40) "Licensed Medical Practitioner (LMP)" means an individual who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

- (a) Physician licensed to practice in the State of Oregon; or
- (b) Nurse practitioner licensed to practice in the State of Oregon; or
- (c) Physician's Assistant licensed to practice in the State of Oregon;

and

(d) Whose training, experience and competence demonstrate the ability to conduct a mental health assessment and provide medication management.

(41) "Local Mental Health Authority (LMHA)" means one of the following entities:

(a) The board of county commissioners of one or more counties that establishes or operates a CMHP;

(b) The tribal council, in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or

(c) A regional local mental health authority comprised of two or more boards of county commissioners.

(42) "Medicaid" means the federal grant-in-aid program to state governments to provide medical assistance to eligible persons, under Title XIX of the Social Security Act.

(43) "Medical Director" means a physician licensed to practice medicine in the State of Oregon and who is designated by a substance use disorders treatment program to be responsible for the program's medical services, either as an employee or through a contract.

(44) "Medically Appropriate" means services and medical supplies required for prevention, diagnosis or treatment of a physical or behavioral health condition, or injuries, and which are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an individual or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies that can be safely provided to an individual.

(45) "Medication Administration Record" means the documentation of the administration of written or verbal orders for medication, laboratory and other medical procedures issued by a LMP acting within the scope of his or her license.

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(46) “Medication Assisted Treatment (MAT)” means the use of medication in combination with counseling and behavioral therapies for the treatment of substance use disorders.

(47) “Oregon Health Authority” means the Oregon Health Authority of the State of Oregon.

(48) “Outreach” means the delivery of behavioral health services, referral services and case management services in non-traditional settings, such as, but not limited to, the individual’s residence, shelters, streets, jails, transitional housing sites, drop-in centers, single room occupancy hotels, child welfare settings, educational settings or medical settings. It also refers to attempts made to engage or re-engage an individual in services by such means as letters or telephone calls.

(49) “Peer” means any individual supporting an individual or the individual’s family member who has similar life experience, either as a current or former recipient of addictions or mental health services, or as a family member of an individual who is a current or former recipient of addictions or mental health services.

(50) “Peer Delivered Services” means an array of agency or community-based services and supports provided by peer support specialists and peer wellness specialists to individuals or family members with similar lived experience that are designed to support the needs of individuals and families as applicable.

(51) “Peer Support Specialist” means an individual providing peer delivered services to an individual or family member with similar life experience under the supervision of a qualified clinical supervisor and a qualified peer delivered services supervisor, as practicable. A peer support specialist shall be certified by the Authority’s Office of Equity and Inclusion as required by OAR 410-180-0300 to 0380 and be:

(a) A self-identified individual currently or formerly receiving addictions or mental health services;

(b) A self-identified individual in recovery from an addiction disorder who meets the abstinence requirements for recovering staff in alcohol or other drug treatment programs;

(c) A self-identified individual in recovery from problem gambling; or

(d) A person who has experience parenting a child who:

(A) Is a current or former consumer of mental health or addiction treatment; or

(B) Is facing or has faced difficulties in accessing education, health and wellness services due to a mental health or behavioral health barrier.

(52) “Peer Support and Peer Wellness Specialist Supervision” means supervision by a certified PSS or PWS with at least one year of experience as a PSS or PWS in behavioral health services or supervision by a qualified PSS/PWS supervisor and a qualified clinical supervisor. The supports provided include guidance in the unique discipline of peer delivered services and the roles of peer support specialists and peer wellness specialists.

(53) “Peer Delivered Services Supervisor” means an individual qualified to evaluate and guide PSS and PWS program staff in the delivery of peer delivered services and supports.

(54) “Peer Wellness Specialist” means an individual who supports an individual in identifying mental health service and support needs through community outreach, assisting individuals with access to available services and resources, addressing barriers to services, and providing education and information about available resources and mental health issues in order to reduce stigmas and discrimination toward consumers of mental health services and to provide direct services to assist individuals in creating and maintaining recovery, health, and wellness. A peer wellness specialist shall be certified by the Authority’s Office of Equity and Inclusion as required by OAR 410-180-0300 to 0380 and be:

(a) A self-identified individual currently or formerly receiving mental health services; or

(b) A self-identified individual in recovery from a substance use or gambling disorder who meets the abstinence requirements for recovering staff in substance use disorders or gambling treatment programs; or

(c) A family member of an individual who is a current or former recipient of addictions or mental health services.

(55) “Problem Gambling Treatment Staff” means a person certified or licensed by a health or allied provider agency to provide problem gambling treatment services that include assessment, development of a Service Plan, group and family counseling.

(56) “Program” means a particular type or level of service that is organizationally distinct.

(57) “Program Administrator” or “Program Director” means a person with appropriate professional qualifications and experience, who is designated to manage the operation of a program.

(58) “Program Staff” means an employee or person who, by contract with the program, provides a service and who has the applicable competencies, qualifications or certification, required in this rule to provide the service.

(59) “Provider” means an organizational entity, or qualified individual, that is operated by or contractually affiliated with, a community mental health program, or contracted directly with the Division, for the direct delivery of addictions, problem gambling or mental health services and supports.

(60) “Publicly Funded” means financial support, in part or in full, with revenue generated by a local, state or federal government.

(61) “Quality Assessment and Performance Improvement” means the structured, internal monitoring and evaluation of services to improve processes, service delivery and service outcomes.

(62) “Recovery” means a process of healing and transformation for a person to achieve full human potential and personhood in leading a meaningful life in communities of his or her choice.

(63) “Representative” means a person who acts on behalf of an individual, at the individual’s request, with respect to a grievance, including, but not limited to a relative, friend, employee of the Division, attorney or legal guardian.

(64) “Resilience” means the universal capacity that a person uses to prevent, minimize, or overcome the effects of adversity. Resilience reflects a person’s strengths as protective factors and assets for positive development.

(65) “Residential Substance Use Disorders Treatment Program” means a publicly or privately operated program as defined in ORS 430.010 that provides assessment, treatment, rehabilitation, and twenty-four hour observation and monitoring for individuals with alcohol and other drug dependence, consistent with Level III of ASAM PCC.

(66) “Residential Problem Gambling Treatment Program” means a publicly or privately operated program that is licensed in accordance with OAR 415-021-0100 through 415-021-0225, that provides assessment, treatment, rehabilitation, and twenty-four hour observation and monitoring for individuals with gambling related problems.

(67) “Screening” means the process to determine whether the individual needs further assessment to identify circumstances requiring referrals or additional services and supports.

(68) “Service Delivery Rules” means the OAR describing specific regulatory standards for the possible array of services covered by certificates issued under Chapter 309, Division 8.

(69) “Service Plan” means a comprehensive plan for services and supports provided to or coordinated for an individual and his or her family, as applicable, that is reflective of the assessment and the intended outcomes of service.

(70) “Service Note” means the written record of services and supports provided, including documentation of progress toward intended outcomes, consistent with the timelines stated in the service plan.

(71) “Service Record” means the documentation, written or electronic, regarding an individual and resulting from entry, assessment, orientation, services and supports planning, services and supports provided, and transfer.

(72) “Services” means those activities and treatments described in the Service Plan that are intended to assist the individual’s transition to recovery from a substance use disorder, problem gambling disorder or mental health condition, and to promote resiliency, and rehabilitative and functional individual and family outcomes.

(73) “Signature” means any written or electronic means of entering the name, date of authentication and credentials of the person providing a specific service or the person authorizing services and supports. Signature also means any written or electronic means of entering the name and date of authentication of the individual receiving services, the guardian of the individual receiving services, or any authorized representative of the individual receiving services.

(74) “Skills Training” means providing information and training to individuals and families designed to assist with the development of skills in areas including, but not limited to, anger management, stress reduction, conflict resolution, self-esteem, parent-child interactions, peer relations, drug and alcohol awareness, behavior support, symptom management, accessing community services and daily living.

(75) “Substance Abuse Prevention and Treatment Block Grant” or “SAPT Block Grant” means the federal block grants for prevention and treatment of substance abuse under Public Law 102-321 (31 U.S.C. 7301-7305) and the regulations published in Title 45 Part 96 of the Code of Federal Regulations.

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(76) “Substance Use Disorders” means disorders related to the taking of a drug of abuse including alcohol, to the side effects of a medication, and to a toxin exposure. The disorders include substance use disorders such as substance dependence and substance abuse, and substance-induced disorders, including substance intoxication, withdrawal, delirium, and dementia, as well as substance induced psychotic disorder, mood disorder, etc., as defined in DSM criteria.

(77) “Substance Use Disorders Treatment and Recovery Services” means outpatient, intensive outpatient, and residential services and supports for individuals with substance use disorders.

(78) “Substance Use Disorders Treatment Staff” means a person certified or licensed by a health or allied provider agency to provide substance use disorders treatment services that include assessment, development of a Service Plan, and individual, group and family counseling.

(79) “Supports” means activities, referrals and supportive relationships designed to enhance the services delivered to individuals and families for the purpose of facilitating progress toward intended outcomes.

(80) “Transfer” means the process of assisting an individual to transition from the current services to the next appropriate setting or level of care.

(81) “Trauma Informed Services” means services that are reflective of the consideration and evaluation of the role that trauma plays in the lives of people seeking mental health and addictions services, including recognition of the traumatic effect of misdiagnosis and coercive treatment. Services are responsive to the vulnerabilities of trauma survivors and are delivered in a way that avoids inadvertent re-traumatization and facilitates individual direction of services.

(82) “Treatment” means the planned, medically appropriate, individualized program of medical, psychological, and rehabilitative procedures, experiences and activities designed to remediate symptoms of a DSM diagnosis, that are included in the Service Plan.

(83) “Urinalysis Test” means an initial test and, if positive, a confirmatory test:

(a) An initial test shall include, at a minimum, a sensitive, rapid, and inexpensive immunoassay screen to eliminate “true negative” specimens from further consideration;

(b) A confirmatory test is a second analytical procedure used to identify the presence of a specific drug or metabolite in a urine specimen. The confirmatory test shall be by a different analytical method from that of the initial test to ensure reliability and accuracy;

(c) All urinalysis tests shall be performed by laboratories meeting the requirements of OAR 333-024-0305 to 333-024-0365.

(84) “Urgent” means the onset of symptoms requiring attention within 48 hours to prevent a serious deterioration in an individual’s mental or physical health or threat to safety.

(85) “Variance” means an exception from a provision of these rules, granted in writing by the Division, upon written application from the provider. Duration of a variance is determined on a case-by-case basis.

(86) “Volunteer” means an individual who provides a program service or who takes part in a program service and who is not an employee of the program and is not paid for services. The services shall be non-clinical unless the individual has the required credentials to provide a clinical service.

(87) “Wellness” means an approach to healthcare that emphasizes good physical and mental health, preventing illness, and prolonging life.

Stat. Auth.: ORS 413.042, 430.256, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 109.675, 179.505, 413.520 - 413.522, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168
Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 17-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0107

Certification Required

Entities providing or seeking to provide residential treatment services under these rules shall also hold or successfully obtain from the Division a certificate to provide behavioral health treatment services under OAR 309-008-0100 to 309-008-1600 if they intend to provide an outpatient service regulated by the Division’s service delivery rules.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168
Hist.: MHS 10-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 17-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0110

Provider Policies

(1) All providers shall develop and implement written policies and procedures, compliant with these rules.

(2) Policies shall be available to individuals, guardians, and family members upon request.

(3) Providers shall develop and implement written policies and procedures including, but not limited to:

(a) Personnel Qualifications, Credentialing and Training;

(b) Criminal Records Checks, compliant with ORS 181.533 through 181.575 and OAR 943-007-0001 - 0501; and

(c) Fraud, waste and abuse in Federal Medicaid and Medicare programs compliant with OAR 410-120-1380 and 410-120-1510;

(d) Fee agreements;

(e) Confidentiality and compliance with HIPAA, Federal Confidentiality Regulations (42 CFR, Part 2), and State confidentiality regulations as specified in ORS 179.505 and 192.518 through 192.530;

(f) Compliance with Title 2 of the Americans with Disabilities Act of 1990 (ADA);

(g) Grievances and Appeals;

(h) Individual Rights;

(i) Quality Assessment and Performance Improvement;

(j) Crisis Prevention and Response;

(k) Incident Reporting;

(L) Family Involvement;

(m) Trauma-informed service delivery, consistent with the Division’s Trauma Informed Services Policy;

(n) Provision of culturally and linguistically appropriate services;

(o) Medical Protocols;

(p) Medication Administration, Storage and Disposal;

(q) Facility Standards; and

(r) General Safety and Emergency Procedures.

(4) Additionally, providers shall establish written policies that:

(a) Prohibit physical or other forms of aversive action to discipline an individual;

(b) Prohibit seclusion, personal restraint, mechanical restraint and chemical restraint;

(c) Prohibit withholding shelter, regular meals, clothing or aids to physical functioning;

(d) Prohibit discipline of one individual receiving services by another; and

(e) Prohibit titration of medications prescribed for the treatment of opioid dependence as a condition of receiving, or continuing to receive, treatment

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168
Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0115

Individual Rights

(1) In addition to all applicable statutory and constitutional rights, every individual receiving services has the right to:

(a) Choose from available services and supports, those that are consistent with the Service Plan, culturally competent, provided in the most integrated setting in the community and under conditions that are least restrictive to the individual’s liberty, that are least intrusive to the individual and that provide for the greatest degree of independence;

(b) Be treated with dignity and respect;

(c) Participate in the development of a written Service Plan, receive services consistent with that plan and participate in periodic review and reassessment of service and support needs, assist in the development of the plan, and to receive a copy of the written Service Plan;

(d) Have all services explained, including expected outcomes and possible risks;

(e) Confidentiality, and the right to consent to disclosure in accordance with ORS 107.154, 179.505, 179.507, 192.515, 192.507, 42 CFR Part 2 and 45 CFR Part 205.50;

(f) Give informed consent in writing prior to the start of services, except in a medical emergency or as otherwise permitted by law. Minor children may give informed consent to services in the following circumstances:

(A) Under age 18 and lawfully married;

(B) Age 16 or older and legally emancipated by the court; or

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(C) Age 14 or older for outpatient services only. For purposes of informed consent, outpatient service does not include service provided in residential programs or in day or partial hospitalization programs;

(g) Inspect their Service Record in accordance with ORS 179.505;

(h) Refuse participation in experimentation;

(i) Receive medication specific to the individual's diagnosed clinical needs, including medications used to treat opioid dependence;

(j) Receive prior notice of transfer, unless the circumstances necessitating transfer pose a threat to health and safety;

(k) Be free from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation;

(L) Have religious freedom;

(m) Be free from seclusion and restraint;

(n) Be informed at the start of services, and periodically thereafter, of the rights guaranteed by this rule;

(o) Be informed of the policies and procedures, service agreements and fees applicable to the services provided, and to have a custodial parent, guardian, or representative, assist with understanding any information presented;

(p) Have family and guardian involvement in service planning and delivery;

(q) Make a declaration for mental health treatment, when legally an adult;

(r) File grievances, including appealing decisions resulting from the grievance;

(s) Exercise all rights set forth in ORS 109.610 through 109.697 if the individual is a child, as defined by these rules;

(t) Exercise all rights set forth in ORS 426.385 if the individual is committed to the Authority; and

(u) Exercise all rights described in this rule without any form of reprisal or punishment.

(2) In addition to the rights specified in section (1) of this rule, every individual receiving residential services has the right to:

(a) A safe, secure and sanitary living environment;

(b) A humane service environment that affords reasonable protection from harm, reasonable privacy and daily access to fresh air and the outdoors;

(c) Keep and use personal clothing and belongings, and to have an adequate amount of private, secure storage space. Reasonable restriction of the time and place of use, of certain classes of property may be implemented if necessary to prevent the individual or others from harm, provided that notice of this restriction is given to individuals and their families, if applicable, upon entry to the program, documented, and reviewed periodically;

(d) Express sexual orientation, gender identity, and gender presentation;

(e) Have access to and participate in social, religious and community activities;

(f) Private and uncensored communications by mail, telephone, and visitation, subject to the following restrictions:

(A) 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 shall be specified in reasonable detail, and any restriction of the right to communicate shall be no broader than necessary to prevent this harm; and

(B) The individual and his or her guardian, if applicable, shall be given specific written notice of each restriction of the individual's right to private and uncensored communication. The provider shall 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.

(g) Communicate privately with public or private rights protection programs or rights advocates, clergy, and legal or medical professionals;

(h) Have access to and receive available and applicable educational services in the most integrated setting in the community;

(i) Participate regularly in indoor and outdoor recreation;

(j) Not be required to perform labor;

(k) Have access to adequate food and shelter; and

(L) A reasonable accommodation if, due to a disability, the housing and services are not sufficiently accessible.

(3) The provider shall give to the individual and, if appropriate, the guardian, a document that describes the applicable individual's rights as follows:

(a) Information given to the individual shall be in written form or, upon request, in an alternative format or language appropriate to the individual's need;

(b) The rights, and how to exercise them, shall be explained to the individual, and if appropriate, to her or his guardian; and

(c) Individual rights shall be posted in writing in a common area.

Stat. Auth.: ORS 413.042, 430.256, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168

Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0120

Licensing and Credentialing

Program staff in the following positions must meet applicable credentialing or licensing standards, including those outlined in these rules:

(1) Substance Use Disorders Treatment Staff;

(2) Clinical Supervisors;

(3) LMPs;

(4) Medical Directors;

(5) Peer Support Specialists; and

(6) Problem Gambling Treatment Staff.

Stat. Auth.: ORS 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.055 & 813.200 - 813.270

Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; Suspended by MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0125

Specific Staff Qualifications and Competencies

Program staff shall meet the following qualifications, credentialing or licensing standards and competencies:

(1) Program Administrators or Program Directors shall demonstrate competence in leadership, program planning and budgeting, fiscal management, supervision of program staff, personnel management, program staff performance assessment, use of data, reporting, program evaluation, quality assurance, and developing and coordinating community resources.

(2) Clinical Supervisors in all programs shall demonstrate competence in leadership, wellness, oversight and evaluation of services, staff development, service planning, case management and coordination, utilization of community resources, group, family and individual therapy or counseling, documentation and rationale for services to promote intended outcomes and implementation of all provider policies.

(3) Clinical Supervisors in substance use disorders treatment and recovery programs shall be certified or licensed by a health or allied provider agency as follows:

(a) For supervisors holding a certification or license in addiction counseling, qualifications for the certificate or license shall have included at least:

(A) 4000 hours of supervised experience in substance use counseling;

(B) 300 contact hours of education and training in substance use related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(b) For supervisors holding a health or allied provider license, the license or registration shall have been issued by one of the following state bodies and the supervisor shall possess documentation of at least 120 contact hours of academic or continuing professional education in the treatment of substance use disorders:

(A) Board of Medical Examiners;

(B) Board of Psychologist Examiners;

(C) Board of Licensed Social Workers;

(D) Board of Licensed Professional Counselors and Therapists; or

(E) Board of Nursing.

(c) Additionally, clinical supervisors in substance use disorders programs shall have one of the following qualifications:

(A) Five years of paid full-time experience in the field of substance use disorders counseling; or

(B) A Bachelor's degree and four years of paid full-time experience in the social services field, with a minimum of two years of direct substance use disorders counseling experience; or

(C) A Master's degree and three years of paid full-time experience in the social services field with a minimum of two years of direct substance use disorders counseling experience;

(4) Clinical Supervisors in problem gambling treatment and recovery programs shall meet the requirements for clinical supervisors in either mental health or substance use disorders treatment and recovery programs, and

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have completed 10 hours of gambling specific training within two years of designation as a problem gambling services supervisor.

(5) Peer Delivered Services Supervisors shall be a certified Peer Support Specialist (PSS) or Peer Wellness Specialist (PWS) with at least one year experience.

(6) Substance use disorders treatment staff shall:

(a) Demonstrate competence in treatment of substance-use disorders including individual assessment and individual, group, family and other counseling techniques, program policies and procedures for service delivery and documentation, and identification, implementation and coordination of services identified to facilitate intended outcomes; and

(b) Be certified or licensed by a health or allied provider agency, as defined in these rules, to provide addiction treatment within two years of the first hire date and shall make application for certification no later than six months following that date. The two years is not renewable if the person ends employment with a provider and becomes re-employed with another provider;

(c) For treatment staff holding certification in addiction counseling, qualifications for the certificate shall have included at least:

(A) 750 hours of supervised experience in substance use counseling;

(B) 150 contact hours of education and training in substance use related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(d) For treatment staff holding a health or allied provider license, the license or registration shall have been issued by one of the following state bodies and the person shall possess documentation of at least 60 contact hours of academic or continuing professional education in substance use disorders treatment:

(A) Board of Medical Examiners;

(B) Board of Psychologist Examiners;

(C) Board of Licensed Social Workers;

(D) Board of Licensed Professional Counselors and Therapists; or

(E) Board of Nursing.

(7) Problem gambling treatment staff shall demonstrate competence in treatment of problem gambling including individual assessment and individual, group, family and other counseling techniques, program policies and procedures for service delivery and documentation, and identification, implementation and coordination of services identified to facilitate intended outcomes:

(a) For treatment staff holding certification in problem gambling counseling, qualifications for the certificate shall have included at least:

(A) 100 hours of supervised experience in problem gambling counseling;

(B) 30 contact hours of education and training in problem gambling related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(b) For treatment staff holding a health or allied provider license, the license or registration shall have been issued by one of the following state bodies and the person shall possess documentation of at least 60 contact hours of academic or continuing professional education in problem gambling treatment:

(A) Board of Medical Examiners;

(B) Board of Psychologist Examiners;

(C) Board of Licensed Social Workers;

(D) Board of Licensed Professional Counselors and Therapists; or

(E) Board of Nursing.

(8) Peer support specialists and Peer Wellness specialists, including family and youth support and wellness specialists, shall meet the requirements in OAR 410-180-0300 to 0380 for certification and continuing education. They shall also:

(a) Demonstrate the ability to support others in their recovery or resiliency; and

(b) Demonstrate personal life experience and tools of self-directed recovery and resiliency.

Stat. Auth.: ORS 413.042, 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168

Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0130

Documentation, Training and Supervision

(1) Providers shall maintain personnel records for each program staff that contains all of the following documentation:

(a) Where required, verification of a criminal record check consistent with OAR 943-007-0001 through 943-007-0501;

(b) A current job description that includes applicable competencies;

(c) Copies of relevant licensure or certification, diploma, or certified transcripts from an accredited college, indicating that the program staff meets applicable qualifications;

(d) Periodic performance appraisals;

(e) Staff orientation documentation;

(f) Disciplinary documentation; and

(g) Results of a Tuberculosis screening as per OAR 333-071-0057(7)(b)(A).

(2) Providers shall maintain the following documentation for contractors, interns or volunteers, as applicable:

(a) A contract or written agreement;

(b) A signed confidentiality agreement;

(c) Orientation documentation;

(d) For subject individuals, verification of a criminal records check consistent with OAR 943-007-0001 through 943-007-0501; and

(e) Results of a Tuberculosis screening as per OAR 333-071-0057(7)(b)(A).

(3) Providers shall ensure that program staff receives training applicable to the specific population for whom services are planned, delivered, or supervised. The program shall document appropriate orientation training for each program staff, or person providing services, within 30 days of the hire date. At minimum, orientation training for all program staff shall include, but not be limited to:

(a) A review of crisis prevention and response procedures;

(b) A review of emergency evacuation procedures;

(c) A review of program policies and procedures;

(d) A review of rights for individuals receiving services and supports;

(e) Mandatory abuse reporting procedures;

(f) HIPAA, and Fraud, Waste and Abuse; and

(g) Care Coordination.

(4) Persons providing direct services shall receive supervision by a qualified Clinical Supervisor, as defined in these rules, related to the development, implementation, and outcome of services. Clinical supervision shall be provided to assist program staff and volunteers to increase their skills, improve quality of services to individuals, and supervise program staff and volunteers' compliance with program policies and procedures, including:

(a) Documentation of two hours per month of supervision for each person supervised. The two hours shall include one hour of individual face-to-face contact for each person supervised, or a proportional level of supervision for part-time program staff. Individual face-to-face contact may include real time, two-way audio visual conferencing; or

(b) Documentation of two hours of quarterly supervision for program staff holding a health or allied provider license, including at least one hour of individual face-to-face contact for each person supervised;

(c) As practicable, for persons providing direct Peer Delivered Services, one hour of supervision shall be provided by a qualified Peer Delivered Services Supervisor.

Stat. Auth.: ORS 413.042, 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168

Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0135

Entry

(1) Entry Process: The program shall utilize an entry procedure to ensure the following:

(a) Individuals shall be considered for entry without regard to race, ethnicity, gender, gender identity, gender presentation, sexual orientation, religion, creed, national origin, age, except when program eligibility is restricted to children, adults or older adults, familial status, marital status, source of income, and disability;

(b) Individuals shall receive services in the most timely manner feasible consistent with the presenting circumstances;

(c) The provider may not deny entry to individuals who are prescribed medication to treat opioid dependence; and

(d) For individuals receiving services funded by the SAPT Block Grant, entry of pregnant women to services shall occur no later than 48 hours from the date of first contact, and no less than 14 days after the date of first contact for individuals using substances intravenously. If services are not available within the required timeframe, the provider shall document the reason and provide interim referral and informational services as defined in these rules, within 48 hours.

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(2) Entry of individuals whose services are funded by the SAPT Block Grant shall be prioritized in the following order:

- (a) Women who are pregnant and using substances intravenously;
- (b) Women who are pregnant;
- (c) Individuals who are using substances intravenously; and
- (d) Individuals with dependent children.

(3) Written informed consent for services shall be obtained from the individual or guardian, if applicable, prior to the start of services. If such consent is not obtained, the reason shall be documented and further attempts to obtain informed consent shall be made as appropriate.

(4) The provider shall develop and maintain service records and other documentation for each individual that demonstrates the specific services and supports..

(5) The provider shall report the entry of all individuals on the mandated state data system.

(6) In accordance with ORS 179.505 and HIPAA, an authorization for the release of information shall be obtained for any confidential information concerning the individual being considered for, or receiving, services.

(7) At the time of entry, the program shall offer to the individual and guardian if applicable, written program orientation information. The written information shall be in a language understood by the individual and shall include:

- (a) A description of individual rights consistent with these rules;
- (b) Policies concerning grievances and appeals consistent with these rules, including an example grievance form;
- (c) Notice of privacy practices; and
- (d) An opportunity to register to vote.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168
Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0140 Assessment

(1) At the time of entry, an assessment shall be completed.

(2) The assessment shall be completed by qualified program staff as follows:

(a) Supervisory or treatment staff in substance use disorders treatment and recovery programs, and

(b) Supervisory or treatment staff in problem gambling treatment and recovery programs.

(3) Each assessment shall include:

(a) Sufficient information and documentation to justify the presence of a diagnosis that is the medically appropriate reason for services;

(b) Screening for the presence of substance use, problem gambling, mental health conditions, and chronic medical conditions;

(c) Screening for the presence of symptoms related to psychological and physical trauma;

(d) Suicide potential shall be assessed and individual service records shall contain follow-up actions and referrals when an individual reports symptoms indicating risk of suicide.

(4) Each assessment shall be consistent with the dimensions described in the ASAM PPC and shall document a diagnosis and level of care determination consistent with the DSM and ASAM PPC.

(5) When the assessment process determines the presence of co-occurring substance use and mental health disorders, or any significant risk to health and safety, all providers shall document referral for further assessment, planning and intervention from an appropriate professional, either with the same provider or with a collaborative community provider.

(6) Providers shall periodically update assessments as applicable, when there are changes in clinical circumstances.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168
Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0145

Service Plan and Service Notes

(1) The Service Plan shall be a written, individualized plan to improve the individual's condition to the point where the individual's continued participation in the program is no longer necessary. The Service Plan is included in the individual's service records and shall:

- (a) Be completed prior to the start of services;
- (b) Reflect the full assessment and the level of care to be provided;
- (c) Include the participation of the individual;
- (d) Include the participation of family members as applicable; and

(e) Be completed by qualified program staff as follows:

(A) Supervisory or treatment staff in substance use disorders treatment and recovery programs, and

(B) Supervisory or treatment staff in problem gambling treatment and recovery programs.

(2) At minimum, each Service Plan shall include:

(a) Treatment objectives that are:

(A) Individualized to meet the assessed needs of the individual; and
(B) Measurable for the purpose of evaluating, including a baseline evaluation.

(b) The specific services and supports that will be used to meet the treatment objectives;

(c) A projected schedule for service delivery, including the expected frequency and duration of each type of planned therapeutic session or encounter;

(d) The type of personnel that will be furnishing the services; and

(e) A projected schedule for re-evaluating the Service Plan.

(3) Providers shall document each service and support in a Service Note to include:

(a) The specific services rendered;

(b) The specific service plan objectives being addressed by the services provided;

(c) The date, time of service, and the actual amount of time the services were rendered;

(d) The personnel rendering the services, including name and credential;

(e) The setting in which the services were rendered;

(f) Periodic updates describing the individual's progress.

(4) Decisions to transfer individuals shall be documented, including:

(a) The reason for the transfer;

(b) Referrals to follow up services and other behavioral health providers; and

(c) Outreach efforts made, as indicated.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168
Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0150

Service Record

(1) Documentation Standards: Documentation shall be appropriate in quality and quantity to meet professional standards applicable to the provider and any additional standards for documentation in the provider's policies and any pertinent contracts.

(2) General Requirements for Individual Service Record: All providers shall develop and maintain a Service Record for each individual upon entry. The record shall, at a minimum, include:

(a) Identifying information, or documentation of attempts to obtain the information, including:

(A) The individual's name, address, telephone number, date of birth, gender, and for adults, marital status and military status;

(B) Name, address, and telephone number of the parent or legal guardian, primary care giver or emergency contact; and

(C) Contact information for medical and dental providers.

(b) Informed Consent for Service, including medications, or documentation specifying why the provider could not obtain consent by the individual or guardian as applicable;

(c) Written refusal of any services and supports offered, including medications;

(d) A signed fee agreement, when applicable;

(e) Assessment and updates to the assessment;

(f) A Service Plan;

(g) Service notes;

(h) Transfer documentation;

(i) Other plans as made available, such as, but not limited to recovery plans, wellness action plans, education plans, and advance directives for physical and mental health care; and

(j) Applicable signed consents for release of information;

(k) A personal belongings inventory created upon entry and updated whenever an item of significant value is added or removed, or on the date of transfer;

(L) Documentation indicating that the individual and guardian, as applicable, were provided with the required orientation information upon entry;

(m) Background information including strengths and interests, all available previous mental health or substance use assessments, previous

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living arrangements, service history, behavior support considerations, education service plans if applicable, and family and other support resources;

(n) Medical information including a brief history of any health conditions, documentation from a LMP or other qualified health care professional of the individual's current physical health, and a written record of any prescribed or recommended medications, services, dietary specifications, and aids to physical functioning;

(o) Copies of documents relating to guardianship or any other legal considerations, as applicable;

(p) A copy of the individual's most recent Service Plan, if applicable, or in the case of an emergency or crisis-respite entry, a summary of current addictions or mental health services;

(q) Documentation of the individual's ability to evacuate the home consistent with the program's evacuation plan developed in accordance with the Oregon Structural Specialty Code and Oregon Fire Code;

(r) Documentation of any safety risks; and

(s) Incident reports.

(3) When medical services are provided, the following documents shall be part of the Service Record as applicable:

(a) Medication Administration Records as per these rules;

(b) Laboratory reports; and

(c) LMP orders for medication, protocols or procedures.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168

Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0155

Transfer and Continuity of Care

(1) Planned Transfer: Providers shall meet the following requirements for planned transfer:

(a) Decisions to transfer individuals shall be documented in a transfer summary; and

(b) The documentation shall include the reason for transfer and shall be consistent with ASAM criteria established in the assessment.

(2) Transfer Process and Continuity of Care: Prior to transfer, providers shall:

(a) When applicable, coordinate and provide appropriate referrals for medical care and medication management. The transferring provider shall assist the individual to identify the medical provider who will provide continuing care and to arrange an initial appointment with that provider;

(b) Coordinate recovery and ongoing support services for individuals and their families including identifying resources and facilitating linkage to other service systems necessary to sustain recovery, including peer delivered services;

(c) Complete a Transfer Summary;

(d) When services are transferred due to the absence of the individual, the provider shall document outreach efforts made to re-engage the individual, or document the reason why such efforts were not made; and

(e) The provider shall report all instances of Transfer on the mandated state data system.

(3) A Transfer Summary shall include:

(a) The date and reason for the transfer;

(b) A summary statement that describes the effectiveness of services in assisting the individual and his or her family to achieve intended outcomes identified in the Service Plan;

(c) Where appropriate, a plan for personal wellness and resilience, including relapse prevention; and

(d) Identification of resources to assist the individual and family, if applicable, in accessing recovery and resiliency services and supports.

(4) If the transfer is to services with another provider, all documentation contained in the Service Record requested by the receiving provider shall be furnished, compliant with applicable confidentiality policies and procedures, within 14 days of receipt of a written request for the documentation.

(5) A complete transfer summary shall be sent to the receiving provider within 30 days of the transfer.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168

Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0160

Co-Occurring Mental Health and Substance Use Disorders (COD)

Providers approved under OAR 309-008-0100 to 309-008-1600 and designated to provide services and supports for individuals diagnosed with

COD shall provide concurrent service and support planning and delivery for substance use and mental health diagnosis, including integrated assessment, Service Plan and Service Record.

Stat. Auth.: ORS 413.042, 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168

Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 17-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0165

Residential Problem Gambling Treatment Services

These services include group, individual, and family treatment consistent with the following requirements:

(1) The first offered service appointment shall be five business days or less from the date of request for services.

(2) Service sessions shall address the challenges of the individual as they relate, directly or indirectly, to the problem gambling behavior.

(3) Providers may provide telephone counseling when person-to-person contact would involve an unwise delay, as follows:

(a) Individuals shall be currently enrolled in the problem gambling treatment program;

(b) Phone counseling shall be provided by a qualified program staff within their scope of practice;

(c) Service Notes for phone counseling shall follow the same criteria as face-to-face counseling and identify the session was conducted by phone and the clinical rationale for the phone session;

(d) Telephone counseling shall meet HIPAA and 42 CFR standards for privacy; and

(e) There shall be an agreement of informed consent for phone counseling that is discussed with the individual and documented in the individual's service record.

(4) Family counseling includes face-to-face or non-face-to-face service sessions between a program staff member delivering the service and a family member whose life has been negatively impacted by gambling:

(a) Service sessions shall address the problems of the family member as they relate directly or indirectly to the problem gambling behavior; and

(b) Services to the family shall be offered even if the individual identified as a problem gambler is unwilling or unavailable to accept services.

(5) 24-hour crisis response accomplished through agreement with other crisis services, on-call program staff or other arrangement acceptable to the Division.

(6) A financial assessment shall be included in the entry process and documented in the assessment.

(7) The service plan shall include a financial component, consistent with the financial assessment.

Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.055 & 813.200 - 813.270

Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0170

Residential Substance Use Disorders Treatment and Recovery Services

(1) Pregnant women or other individuals using substances intravenously, whose services are funded by the SAPT Block Grant, shall receive interim referrals and information prior to entry, to reduce the adverse health effects of substance use, promote the health of the individual, and reduce the risk of transmission of disease. At a minimum, interim referral and informational services shall include:

(a) Counseling and education about blood borne pathogens including Hepatitis, HIV, STDs and Tuberculosis (TB); the risks of needle and paraphernalia sharing and the likelihood of transmission to sexual partners and infants;

(b) Counseling and education about steps that can decrease the likelihood of Hepatitis, HIV, STD, and TB transmission;

(c) Referral for Hepatitis, HIV, STD and TB testing, vaccine or care services if necessary; and

(d) For pregnant women, counseling on the likelihood of blood borne pathogen transmission as well as the effects of alcohol, tobacco and other drug use on the fetus and referral for prenatal care.

(2) Programs approved and designated as culturally specific programs shall meet the following criteria:

(a) Serve a majority of individuals representing culturally specific populations;

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(b) Maintain a current demographic and cultural profile of the community;

(c) Ensure that individuals from the identified cultural group receive effective and respectful care that is provided in a manner compatible with their cultural health beliefs, practices, and preferred language;

(d) Implement strategies to recruit, retain, and promote a diverse staff at all levels of the organization that are representative of the population being served;

(e) Ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery;

(f) Ensure that a majority of the substance use disorders treatment staff be representative of the specific culture being served;

(g) Ensure that individuals are offered customer satisfaction surveys that address all areas of service and that the results of the surveys are used for quality improvement;

(h) Consider race, ethnicity, and language data in measuring customer satisfaction;

(i) Develop and implement cultural competency policies;

(j) Ensure that data on individual's race, ethnicity, and spoken and written language are collected in health records, integrated into the organization's management information systems, and periodically updated;

(k) Develop and maintain a Governing or Advisory Board as follows:

(A) Have a majority representation of the culturally specific group being served;

(B) Receive training concerning the significance of culturally relevant services and supports;

(C) Meet at least quarterly; and

(D) Monitor agency quality improvement mechanisms and evaluate the ongoing effectiveness and implementation of culturally relevant services (CLAS) and supports within the organization.

(L) Maintain accessibility to culturally specific populations including:

(A) The physical location of the program shall be within close proximity to the culturally specific populations;

(B) Where available, public transportation shall be within close proximity to the program; and

(C) Hours of service, telephone contact, and other accessibility issues shall be appropriate for the population.

(m) The physical facility where the culturally specific services are delivered shall be psychologically comfortable for the group including:

(A) Materials displayed shall be culturally relevant; and

(B) Mass media programming (radio, television, etc.) shall be sensitive to cultural background.

(n) Other cultural differences shall be considered and accommodated when possible, such as the need or desire to bring family members to the facility, play areas for small children and related accommodations; and

(o) Ensure that grievance processes are culturally and linguistically sensitive and capable of identifying, preventing and resolving cross-cultural conflicts or complaints.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168

Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0175

Residential Adolescent Substance Use Disorders Treatment and Recovery Services

Programs approved to provide adolescent substance use disorders treatment services or those with adolescent-designated service funding shall meet the following standards:

(1) Development of Service Plans and case management services shall include participation of parents, other family members, schools, children's services agencies, and juvenile corrections, as appropriate.

(2) Services, or appropriate referrals, shall include:

(a) Family counseling;

(b) Education services;

(c) Community and social skills training; and

(d) Smoking cessation service.

(3) Continuing care services shall be of appropriate duration and designed to maximize recovery opportunities. The services shall include:

(a) Reintegration services and coordination with family and schools;

(b) Youth dominated self-help groups where available;

(c) Linkage to emancipation services when appropriate; and

(d) Linkage to physical or sexual abuse counseling and support services when appropriate.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168

Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0180

Residential Women's Substance Use Disorders Treatment and Recovery Programs

(1) Programs approved to provide women's substance use disorders treatment services or those with women-specific designated service funding shall meet the following standards:

(a) The Assessment shall contain an evaluation that identifies and assesses needs specific to women's issues in service such as social isolation, self-reliance, parenting issues, domestic violence, women's physical health, housing and financial considerations;

(b) The service plan shall address all areas identified in the assessment and applicable service coordination details to address the identified needs;

(c) The program shall provide or coordinate services and supports that meet the special access needs of women such as childcare, mental health services, and transportation, as indicated; and

(d) The program shall provide, or coordinate, the following services and supports unless clinically contraindicated:

(A) Gender-specific services and supports;

(B) Family services, including therapeutic services for children in the custody of women in treatment;

(C) Reintegration with family;

(D) Peer delivered supports;

(E) Smoking cessation;

(F) Housing; and

(G) Transportation.

(2) Services shall include the participation of family and other agencies as appropriate, such as social service, child welfare, or corrections agencies.

(3) The program shall coordinate services with the following, if indicated:

(a) Agencies providing services to women who have experienced physical abuse, sexual abuse, or other types of domestic violence; and

(b) Parenting training; and

(c) Continuing care treatment services shall be consistent with the ASAM PPC and shall include referrals to female dominated support groups where available.

(4) Programs that receive SAPT Block Grant funding shall provide or coordinate the following services for pregnant women and women with dependent children, including women who are attempting to regain custody of their children:

(a) Primary medical care for women, including referral for prenatal care and, while the women are receiving such services, child care;

(b) Primary pediatric care, including immunizations for their children;

(c) Gender specific substance abuse treatment and other therapeutic interventions for women that may include, but are not limited to:

(A) Relationship issues;

(B) Sexual and physical abuse;

(C) Parenting;

(D) Access to child care while the women are receiving these services; and

(E) Therapeutic interventions for children in the custody of women in treatment that may include, but are not limited to:

(i) Their developmental needs;

(ii) Any issues concerning sexual and physical abuse and neglect; and

(iii) Sufficient case management and transportation to ensure that women and their children have access to services.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168

Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0185

Medical Protocols in Residential Substance Use Disorders Treatment Programs

Medical protocols shall be approved by a medical director under contract with a program or written reciprocal agreement with a medical practitioner under managed care. The protocols shall:

(1) Require a medical history be included in the Assessment.

(2) Designate those medical symptoms and conditions that, when found, require further investigation, physical examinations, treatment, or laboratory testing.

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(3) Require that individuals admitted to the program who are currently injecting or intravenously using a drug, or have injected or intravenously used a drug within the past 30 days, or who are at risk of withdrawal from a drug, or who may be pregnant, shall be referred for a physical examination and appropriate lab testing within 30 days of entry to the program. This requirement may be waived by the medical director if these services have been received within the past 90 days and documentation is provided.

(4) Require pregnant women be referred for prenatal care within two weeks of entry to the program.

(5) Require that the program provide HIV and AIDS, TB, sexually transmitted disease, Hepatitis and other infectious disease information and risk assessment, including any needed referral, within 30 days of entry.

(6) Specify the steps for follow up and coordination with physical health care providers in the event the individual is found to have an infectious disease or other major medical problem.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168
Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0190

Administration of Medications

The following guidelines shall be followed in policies on administration of medications in residential programs:

(1) Medications prescribed for one individual may not be administered to or self-administered by another individual or program staff.

(2) When an individual self-administers medication in a residential program, self-administration shall be approved in writing by a physician and closely monitored by the residential program staff.

(3) No unused, outdated, or recalled drugs shall be kept in a program. On a monthly basis any unused, outdated, or recalled drugs shall be disposed of in a manner that assures they cannot be retrieved.

(4) A written record of all disposal of prescription drugs in a residential program shall be maintained in the program and shall include:

- (a) A description of the drug, including the amount;
- (b) The individual for whom the medication was prescribed;
- (c) The reason for disposal; and
- (d) The method of disposal.

(5) All prescription drugs stored in the residential program shall be kept in a locked stationary container. Medications requiring refrigeration shall be stored in a refrigerator using a locked container.

(6) Written documentation of medications prescribed for the individual by an LMP shall be maintained in the Individual Service Record. Documentation for each medication prescribed shall include the following:

- (a) A copy or detailed written description of the signed prescription order;
 - (b) The name of the medication prescribed;
 - (c) The prescribed dosage and method of administration;
 - (d) The date medications were prescribed, reviewed, or renewed;
 - (e) The date and the signature and credentials of program staff administering or prescribing medications; and
 - (f) Medication records that contain:
 - (A) Observed side effects including laboratory findings; and
 - (B) Medication allergies and adverse reaction.
- Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168
Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0195

Building Requirements

All substance use disorders treatment and recovery programs shall:

(1) Comply with all applicable state and local building, electrical, plumbing, fire, safety, and zoning codes.

(2) Maintain up-to-date documentation verifying that they meet applicable local business license, zoning and building codes, and federal, state, and local fire and safety regulations. It is the responsibility of the program to check with local government to make sure all applicable local codes have been met.

(3) Provide space for services including but not limited to intake, assessment, counseling, and telephone conversations that assures the privacy and confidentiality of individuals and is furnished in an adequate and comfortable fashion including plumbing, sanitation, heating, and cooling.

(4) Provide rest rooms for individuals, visitors, and staff that are accessible to persons with disabilities pursuant to Title II of the Americans

with Disabilities Act if the program receives any public funds or Title III of the Act if no public funds are received.

(5) Adopt and implement emergency policies and procedures, including an evacuation plan and emergency plan in case of fire, explosion, accident, death, or other emergency. The policies and procedures and emergency plans shall be current and posted in a conspicuous area.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168
Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0200

Facility Standards for Substance Use Disorders Residential Treatment and Recovery Programs

(1) Residential programs shall meet the following standards:

(a) Prior to construction of a new building or major alteration of or addition to an existing building:

(b) One set of plans and specifications shall be submitted to the State Fire Marshal for approval;

(c) Plans shall be in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations;

(d) Plans for construction containing 4,000 square feet or more shall be prepared and bear the stamp of an Oregon licensed architect or engineer; and

(e) The water supply, sewage, and garbage disposal system shall be approved by the agency having jurisdiction.

(2) All rooms used by individuals shall have floors, walls, and ceilings that meet the interior finish requirements of the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations:

(a) A separate dining room or area shall be provided for exclusive use of individuals, program staff, and invited guests, and shall:

(A) Seat at least one-half of the individuals at a time with a minimum of 15 square feet per occupant; and

(B) Be provided with adequate ventilation.

(b) A separate living room or lounge area shall be provided for the exclusive use of individuals, program staff, and invited guests and shall:

(A) Provide a minimum of 15 square feet per occupant; and

(B) Be provided with adequate ventilation.

(c) Bedrooms shall be provided for all individuals and shall:

(A) Be separate from the dining, living, multi-purpose, laundry, kitchen, and storage areas;

(B) Be an outside room with a window that can be opened and is at least the minimum required by the State Fire Marshal;

(C) Have a ceiling height of at least seven feet, six inches;

(D) Provide a minimum of 60 square feet per individual with at least three feet between beds;

(E) Provide permanently wired light fixtures located and maintained to give light to all parts of the room; and

(F) Provide a curtain or window shade at each window to assure privacy.

(d) Bathrooms shall be provided and conveniently located in each building containing a bedroom and shall:

(A) Provide a minimum of one toilet and one hand-washing sink for each eight individuals and one bathtub or shower for each ten individuals;

(B) Provide one hand-washing sink convenient to every room containing a toilet;

(C) Provide permanently wired light fixtures located and maintained to give adequate light to all parts of the room;

(D) Provide arrangements for personal privacy for individuals;

(E) Provide a privacy screen at each window;

(F) Provide a mirror; and

(G) Be provided with adequate ventilation.

(e) A supply of hot and cold water installed and maintained in compliance with rules of the Authority, the Division, and Public Health Division shall be distributed to taps conveniently located throughout the residential program;

(f) All plumbing shall comply with applicable codes;

(g) Laundry facilities, when provided, shall be separate from:

(A) Resident living areas, including bedrooms;

(B) Kitchen and dining areas; and

(C) Areas used for the storage of unrefrigerated perishable foods.

(h) Storage areas shall be provided appropriate to the size of the residential program. Separate storage areas shall be provided for:

(A) Food, kitchen supplies, and utensils;

(B) Clean linens;

(C) Soiled linens and clothing;

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(D) Cleaning compounds and equipment; and
(E) Poisons, chemicals, insecticides, and other toxic materials that shall be properly labeled, stored in the original container, and kept in a locked storage area.

(i) Furniture shall be provided for each individual and shall include:

(A) A bed with a frame and a clean mattress and pillow;

(B) A private dresser or similar storage area for personal belongings that is readily accessible to the individual; and

(C) Access to a closet or similar storage area for clothing.

(j) Linens shall be provided for each individual and shall include:

(A) Sheets and pillowcases;

(B) Blankets, appropriate in number and type for the season and the individual's comfort; and

(C) Towel and washcloth.

(3) The residential program shall meet the requirements of the State of Oregon Sanitary Code for Eating and Drinking Establishments relating to the preparation, storage, and serving of food. At minimum:

(a) Menus shall be prepared in advance to provide a sufficient variety of foods served in adequate amounts for each resident at each meal;

(b) Records of menus as served shall be filed and maintained in the residential program records for at least 30 days;

(c) All modified or special diets shall be ordered by a physician;

(d) At least three meals shall be provided daily;

(e) Supplies of staple foods for a minimum of one week and of perishable foods for a minimum of a two-day period shall be maintained on the premises;

(f) Food shall be stored and served at proper temperature;

(g) All utensils, including dishes, glassware, and silverware used in the serving or preparation of drink or food for individuals shall be effectively washed, rinsed, sanitized, and stored after each individual use to prevent contamination in accordance with Division standards; and

(h) Raw milk and home-canned vegetables, meats, and fish may not be served or stored in a residential program.

(4) The residential program shall meet the following safety requirements:

(a) At no time shall the number of individuals served exceed the approved capacity;

(b) A written emergency plan shall be developed and posted next to the telephone used by program staff and shall include:

(A) Instructions for the program staff or designated resident in the event of fire, explosion, accident, death, or other emergency and the telephone numbers of the local fire department, law enforcement agencies, hospital emergency rooms, and the residential program's designated physician and on-call back-up program staff;

(B) The telephone number of the administrator or clinical supervisor and other persons to be contacted in case of emergency; and

(C) Instructions for the evacuation of individuals and program staff in the event of fire, explosion, or other emergency.

(c) The residential program shall provide fire safety equipment appropriate to the number of individuals served and meeting the requirements of the State of Oregon Structural Specialty Code and Fire and Life Safety regulations:

(A) Fire detection and protection equipment shall be inspected as required by the State Fire Marshal;

(B) All flammable and combustible materials shall be properly labeled and stored in the original container in accordance with the rules of the State Fire Marshal; and

(C) The residential program shall conduct unannounced fire evacuation drills at least monthly. At least once every three months the monthly drill shall occur between 10 p.m. and 6 a.m. Written documentation of the dates and times of the drills, time elapsed to evacuate, and program staff conducting the drills shall be maintained.

(d) At least one program staff who is trained in First Aid and CPR shall be onsite at all times; and

(5) The residential program shall meet the following sanitation requirements:

(a) All floors, walls, ceilings, window, furniture, and equipment shall be kept in good repair, clean, neat, orderly, and free from odors;

(b) Each bathtub, shower, hand-washing sink, and toilet shall be kept clean and free from odors;

(c) The water supply in the residential program shall meet the requirements of the rules of the Public Health Division governing domestic water supplies;

(d) Soiled linens and clothing shall be stored in an area separate from kitchens, dining areas, clean linens and clothing, and unrefrigerated food;

(e) All measures necessary to prevent the entry into the program of mosquitoes and other insects shall be taken;

(f) All measures necessary to control rodents shall be taken;

(g) The grounds of the program shall be kept orderly and free of litter, unused articles, and refuse;

(h) Garbage and refuse receptacles shall be clean, durable, water-tight, insect- and rodent proof and kept covered with a tight-fitting lid;

(i) All garbage solid waste shall be disposed of at least weekly and in compliance with the rules of the Department of Environmental Quality; and

(j) Sewage and liquid waste shall be collected, treated, and disposed of in compliance with the rules of the Department of Environmental Quality.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168

Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0205

Quality Assessment

Providers shall develop and implement a structured and ongoing process to assess, monitor, and improve the quality and effectiveness of services provided to individuals and their families.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168

Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0210

Grievances and Appeals

(1) Any individual receiving services, or the parent or guardian of the individual receiving services, may file a grievance with the provider, the individual's managed care plan, or the Division.

(2) For individuals whose services are funded by Medicaid, grievance and appeal procedures outlined in OAR 410-141-0260 through 410-141-0266 shall be followed.

(3) For individuals whose services are not funded by Medicaid, providers shall:

(a) Notify each individual or guardian of the grievance procedures by reviewing a written copy of the policy upon entry;

(b) Assist individuals and parents or guardians, as applicable, to understand and complete the grievance process and notify them of the results and basis for the decision;

(c) Encourage and facilitate resolution of the grievance at the lowest possible level;

(d) Complete an investigation of any grievance within 30 calendar days;

(e) Implement a procedure for accepting, processing, and responding to grievances including specific timelines for each;

(f) Designate a program staff person to receive and process the grievance;

(g) Document any action taken on a substantiated grievance within a timely manner; and

(h) Document receipt, investigation, and action taken in response to the grievance.

(4) The provider shall have a Grievance Process Notice that shall be posted in a conspicuous place stating the telephone number of:

(a) The Division complaints representative;

(b) Disability Rights Oregon; and

(c) The applicable Coordinated Care Organization; and

(d) The Governor's Advocacy Office.

(5) In circumstances where the matter of the grievance is likely to cause harm to the individual before the grievance procedures outlined in these rules are completed, the individual or guardian of the individual may request an expedited review. The program administrator shall review and respond in writing to the grievance within 48 hours of receipt of the grievance. The written response shall include information about the appeal process.

(6) A grievant, witness, or staff member of a provider may not be subject to retaliation by a provider for making a report or being interviewed about a grievance or being a witness. Retaliation may include but is not limited to dismissal or harassment; reduction in services, wages or benefits; or basing service or a performance review on the action.

(7) The grievant is immune from any civil or criminal liability with respect to the making or content of a grievance made in good faith.

(8) Individuals and their legal guardians, as applicable, shall have the right to appeal entry, transfer and grievance decisions as follows:

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(a) If the individual or guardian, if applicable, is not satisfied with the decision, the individual or guardian may file an appeal in writing within ten working days of the date of the program administrator's response to the grievance or notification of denial for services as applicable. The appeal shall be submitted to the CMHP director in the county where the provider is located or to the Division as applicable;

(b) If requested, program staff shall be available to assist the individual;

(c) The CMHP director or Division shall provide a written response within ten working days of the receipt of the appeal; and

(d) If the individual or guardian, if applicable, is not satisfied with the appeal decision, he or she may file a second appeal in writing to the Director within ten working days of the date of the written response.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168
Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 17-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-018-0215

Variations

(1) Variations may be granted to a provider holding a license under this rule:

(a) If there is a lack of resources to implement the standards required in these rules; or

(b) If implementation of the proposed alternative services, methods, concepts, or procedures would result in improved outcomes for the individual.

(2) Application for a Variance:

(a) Providers may submit their variance request directly to the Division;

(b) Provider requesting a variance shall submit a written application to the Division; and

(c) Variance requests shall contain the following:

(A) The section of the rule from which the variance is sought;

(B) The reason for the proposed variance;

(C) The alternative practice, service, method, concept, or procedure proposed;

(D) A proposal for the duration of the variance; and

(E) A plan and timetable for compliance with the section of the rule for which the variance applies.

(3) The Division shall approve or deny the request for a variance and shall notify the provider in writing of the decision to approve or deny the requested variance within 30 days of receipt of the variance. The written notification shall include the specific alternative practice, service, method, concept, or procedure that is approved and the duration of the approval.

(4) Appeal of the denial of a variance request shall be made in writing to the Chief Officer of the Division, whose decision will be final and shall be provided in writing within 30 days of receipt of the appeal.

(5) The LMHA, CMHP, or provider may implement a variance only after written approval from the Division.

(6) The provider shall submit a request to extend a variance in writing prior to a variance expiring. Extensions shall be approved in writing by the Division.

(7) Granting a variance for one request does not set a precedent that shall be followed by the Division when evaluating subsequent requests for variance.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168
Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14; MHS 10-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 17-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0105

Definitions

(1) "Abuse of an Adult" means the circumstances defined in OAR 943-045-0250 through 943-045-0370 for abuse of an adult with mental illness.

(2) "Abuse of a Child" means the circumstances defined in ORS 419B.005.

(3) "Acute Care Psychiatric Hospital" means a hospital or facility that provides 24 hours-a-day psychiatric, multi-disciplinary, inpatient or residential stabilization, care, and treatment.

(4) "Addictions and Mental Health Services and Supports" means all services and supports including but not limited to Outpatient Behavioral

Health Services and Supports for Children and Adults, Intensive Treatment Services for Children, Outpatient and Residential Substance Use Disorders Treatment Services, and Outpatient and Residential Problem Gambling Treatment Services.

(5) "Adolescent" means an individual from 12 through 17 years of age or those individuals determined to be developmentally appropriate for youth services.

(6) "Adult" means an individual 18 years of age or older or an emancipated minor. An individual with Medicaid eligibility who is in need of services specific to children, adolescents, or young adults in transition shall be considered a child until age 21 for the purposes of these rules. Adults who are between the ages of 18 and 21 who are considered children for purposes of these rules shall have all rights afforded to adults as specified in these rules.

(7) "Assertive Community Treatment (ACT)" means an evidence-based practice designed to provide comprehensive treatment and support services to individuals with serious and persistent mental illness. ACT is intended to serve individuals who have severe functional impairments and who have not responded to traditional psychiatric outpatient treatment. ACT services are provided by a single multi-disciplinary team that typically includes a psychiatrist, a nurse, and at least two case managers and are designed to meet the needs of each individual and to help keep the individual in the community and out of a structured service setting, such as residential and hospital care. ACT is characterized by the following:

(a) Low client to staff ratios;

(b) Providing services in the community rather than in the office;

(c) Shared caseloads among team members;

(d) Twenty-four hour staff availability;

(e) Direct provision of all services by the team (rather than referring individuals to other agencies); and

(f) Time-unlimited services.

(8) "Assessment" means the process of obtaining sufficient information through a face-to-face interview to determine a diagnosis and to plan individualized services and supports.

(9) "ASAM Criteria" means the most current edition of the American Society of Addiction Medicine (ASAM) for the Treatment of Addictive, Substance-related, and Co-Occurring Conditions, which is a clinical guide to develop patient-centered service plans and make objective decisions about admission, continuing care, and transfer or discharge for individuals and is incorporated by reference in these rules.

(10) "Authority" means the Oregon Health Authority.

(11) "Behavioral Health Treatment" means treatment for mental health, substance use disorders, and problem gambling.

(12) "Behavior Support Plan" means the individualized proactive support strategies used to support positive behavior.

(13) "Behavior Support Strategies" means proactive supports designed to replace challenging behavior with functional, positive behavior. The strategies address environmental, social, neuro-developmental, and physical factors that affect behavior.

(14) "Best Practice Risk Assessment" has the meaning given that term in OAR 309-023-0110.

(15) "Care Coordination" means a process-oriented activity to facilitate ongoing communication and collaboration to meet multiple needs. Care coordination includes facilitating communication between the family, natural supports, community resources, and involved providers and agencies; organizing, facilitating and participating in team meetings; and providing for continuity of care by creating linkages to and managing transitions between levels of care and transitions for young adults in transition to adult services.

(16) "Case Management" means the services provided to assist individuals who reside in a community setting or are transitioning to a community setting in gaining access to needed medical, social, educational, entitlement, and other applicable services.

(17) "Certificate of Approval" means the document issued by the Authority that identifies and declares certification of a provider pursuant to OAR 309-008-0000 through 309-008-1300.

(18) "Chief Officer" means the Chief Health Systems Officer of the Division or designee.

(19) "Child" means an individual under the age of 18. An individual with Medicaid eligibility who is in need of services specific to children, adolescents, or young adults in transition shall be considered a child until age 21 for purposes of these rules.

(20) "Clinical Supervision" means oversight by a qualified clinical supervisor of addictions and mental health services and supports provided

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according to these rules, including ongoing evaluation and improvement of the effectiveness of those services and supports.

(21) “Clinical Supervisor” means an individual qualified to oversee and evaluate addictions or mental health services and supports.

(22) “Co-occurring Substance Use and Mental Health Disorders (COD)” means the existence of a diagnosis of both a substance use disorder and a mental health disorder.

(23) “Community Mental Health Program (CMHP)” means the organization of various services for individuals with a mental health diagnosis or addictive disorders operated by or contractually affiliated with a local mental health authority and operated in a specific geographic area of the state under an agreement with the Division pursuant to OAR chapter 309, division 014.

(24) “Coordinated Care Organization (CCO)” means a corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization’s members.

(25) “Conditional Release” means placement by a court or the Psychiatric Security Review Board (PSRB) of an individual who has been found eligible under ORS 161.327 or 161.336 for supervision and treatment in a community setting.

(26) “Court” means the last convicting or ruling court unless specifically noted.

(27) “Criminal Records Check” means the Oregon Criminal Records Check and the processes and procedures required by OAR 943-007-0001 through 0501.

(28) “Crisis” means an actual or perceived urgent or emergent situation that occurs when an individual’s stability or functioning is disrupted, and there is an immediate need to resolve the situation to prevent a serious deterioration in the individual’s mental or physical health or to prevent referral to a significantly higher level of care or death.

(29) “Crisis Intervention” has the meaning given that term in OAR 309-023-0110.

(30) “Crisis Line Services” means phone-based services that establish immediate communication links and provide supportive interventions and information for individuals in an urgent or emergent situation.

(31) “Crisis Plan” means an individualized document designed to help anticipate and prevent future crisis episodes and direct interventions in the instance of a crisis.

(32) “Cultural Awareness” means the process by which individuals and systems respond respectfully and effectively to individuals of all cultures, languages, classes, races, ethnic backgrounds, disabilities, religions, genders, gender identity, gender expression, sexual orientations, and other diversity factors in a manner that recognizes, affirms, and values the worth of individuals, families, and communities and protects and preserves the dignity of each.

(33) “Culturally Specific Program” means a program designed to meet the unique service needs of a specific culture and that provides services to a majority of individuals representing that culture.

(34) “Declaration for Mental Health Treatment” means a written statement of an individual’s preferences concerning their mental health treatment. The declaration is made when the individual is able to understand and legally make decisions related to such treatment. It is honored, as clinically appropriate, in the event the individual becomes unable to make such decisions.

(35) “Diagnosis” means the principal mental health, substance use, or problem gambling diagnosis listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM). The diagnosis is determined through the assessment and any examinations, tests, or consultations suggested by the assessment and is the medically appropriate reason for services.

(36) “Division” means the Health Systems Division.

(37) “DSM” means the most recent version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(38) “Driving Under the Influence of Intoxicants (DUII) Substance Use Disorders Rehabilitation Program” means a program of treatment and therapeutically oriented education services for an individual who is either:

(a) A violator of ORS 813.010 (Driving Under the Influence of Intoxicants); or

(b) A defendant participating in a diversion agreement under ORS 813.200.

(39) “Emergent” means the onset of symptoms requiring attention within 24 hours to prevent serious deterioration in mental or physical health or threat to safety.

(40) “Enhanced Care Services (ECS)” and “Enhanced Care Outreach Services (ECOS)” means intensive behavioral and rehabilitative mental health services to eligible individuals who reside in Aging and People with Disabilities (APD) licensed homes or facilities.

(41) “Entry” means the act or process of acceptance and enrollment into services regulated by this rule.

(42) “Family” means the biological or legal parents, siblings, other relatives, foster parents, legal guardians, spouse, domestic partner, caregivers, and other primary relations to the individual whether by blood, adoption, or legal or social relationships. Family also means any natural, formal, or informal support persons identified as important by the individual.

(43) “Family Support” means the provision of peer delivered services to people defined as family to the individual. It includes support to caregivers at community meetings, assistance to families in system navigation and managing multiple appointments, supportive home visits, peer support, parent mentoring and coaching, advocacy, and furthering efforts to develop natural and informal community supports.

(44) “Gender Identity” means an individual’s self-identification of gender without regard to legal or biological identification including but not limited to individuals identifying themselves as male, female, transgender, transsexual, non-binary, and gender diverse.

(45) “Gender Expression” means the external characteristics and behaviors that are socially defined as masculine, feminine, or androgynous such as dress, mannerisms, speech patterns, and social interactions.

(46) “Geographic Service Area” means the geographic area within the county boundaries in which the CMHP operates.

(47) “Grievance” means a formal complaint submitted to a provider verbally or in writing by an individual or the individual’s representative pertaining to the denial or delivery of services and supports.

(48) “Guardian” means an individual appointed by a court of law to act as guardian of a minor or a legally incapacitated individual.

(49) “HIPAA” means the federal Health Insurance Portability and Accountability Act of 1996 and the regulations published in Title 45, parts 160 and 164, of the Code of Federal Regulations (CFR).

(50) “Individual” means any individual being considered for or receiving services and supports regulated by these rules.

(51) “Informed Consent for Services” means that the service options, risks, and benefits have been explained to the individual and guardian, if applicable, in a manner that they comprehend, and the individual and guardian have consented to the services on or prior to the first date of service.

(52) “Intensive Outpatient Substance Use Disorders Treatment Services” means structured, nonresidential evaluation, treatment, and continued care services for individuals with substance use disorders who need a greater number of therapeutic contacts per week than are provided by traditional outpatient services. Intensive outpatient services may include but are not limited to day treatment, correctional day treatment, evening treatment, and partial hospitalization.

(53) “Intensive Outpatient Services and Supports (IOSS)” means a specialized set of comprehensive in-home and community-based supports and mental health treatment services for children that are developed by the child and family team and delivered in the most integrated setting in the community.

(54) “Interdisciplinary Team (IDT)” means a group of professional and direct care staff that have primary responsibility for the development of a Service Plan for an individual receiving services.

(55) “Interim Referral and Information Services” means services provided by a substance use disorders treatment provider to individuals on a waiting list and whose services are funded by the Substance Abuse Prevention and Treatment (SAPT) Block Grant to reduce the adverse health effects of substance use, promote the health of the individual, and reduce the risk of disease transmission.

(56) “Intern” or “Student” means an individual providing paid or unpaid program services to complete a credentialed or accredited educational program recognized by the State of Oregon.

(57) “Juvenile Psychiatric Security Review Board (JPSRB)” means the entity described in ORS 161.385.

(58) “Lethal Means Counseling” means best practice research-based counseling strategies to help patients at risk for suicide and their families reduce access to lethal means, including but not limited to firearms.

(59) “Level of Care” means the range of available services provided from the most integrated setting to the most restrictive and most intensive in an inpatient setting.

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(60) “Licensed Health Care Professional” means a practitioner of the healing arts acting within the scope of their practice under state law who is licensed by a recognized governing board in Oregon.

(61) “Licensed Medical Practitioner (LMP)” means an individual who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

- (a) Physician licensed to practice in the State of Oregon; or
- (b) Nurse practitioner licensed to practice in the State of Oregon; or
- (c) Physician’s assistant licensed to practice in the State of Oregon;

and

(d) Whose training, experience, and competence demonstrate the ability to conduct a mental health assessment and provide medication management;

(e) For IOSS and ITS providers, LMP means a board-certified or board-eligible child and adolescent psychiatrist licensed to practice in the State of Oregon.

(62) “Linkage agreement” has the meaning given that term in OAR 309-032-0860

(63) “Local Mental Health Authority (LMHA)” means one of the following entities:

(a) The board of county commissioners of one or more counties that establishes or operates a CMHP;

(b) The tribal council in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or

(c) A regional local mental health authority composed of two or more boards of county commissioners.

(64) “Mandatory Reporter” means any public or private official, as defined in ORS 419B.005, who comes in contact with or has reasonable cause to believe that an individual has suffered abuse or that any individual with whom the official comes in contact with has abused the individual. Pursuant to ORS 430.765, psychiatrists, psychologists, clergy, and attorneys are not mandatory reporters with regard to information received through communications that are privileged under ORS 40.225 to 40.295.

(65) “Medicaid” means the federal grant-in-aid program to state governments to provide medical assistance to eligible individuals under Title XIX of the Social Security Act.

(66) “Medical Director” means a physician licensed to practice medicine in the State of Oregon and is designated by a substance use disorders treatment program to be responsible for the program’s medical services, either as an employee or through a contract.

(67) “Medical Supervision” means an LMP’s review and approval, at least annually, of the medical appropriateness of services and supports identified in the service plan for each individual receiving mental health services for one or more continuous years.

(68) “Medically Appropriate” means services and medical supplies required for prevention, diagnosis, or treatment of a physical or behavioral health condition or injuries that are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an individual or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies that can be safely provided to an individual.

(69) “Medication Assisted Treatment (MAT)” means the use of medication in combination with counseling and behavioral therapies for the treatment of substance use disorders.

(70) “Mental Health Intern” means an individual who meets qualifications for QMHA but does not have the necessary graduate degree in psychology, social work, or behavioral science field to meet the educational requirement of QMHP. The individual shall:

(a) Be currently enrolled in a graduate program for a master’s degree in psychology, social work, or in a behavioral science field;

(b) Have a collaborative educational agreement with the CMHP or other provider and the graduate program;

(c) Work within the scope of practice and competencies identified by the policies and procedures for credentialing of clinical staff as established by the provider; and

(d) Receive, at a minimum, weekly supervision by a qualified clinical supervisor employed by the provider of services.

(71) “Mobile Crisis Services” means mental health services for individuals in crisis provided by mental health practitioners who respond to

behavioral health crises onsite at the location in the community where the crisis arises and who provide a face-to-face therapeutic response. The goal of mobile crisis services is to help an individual resolve a psychiatric crisis in the most integrated setting possible and to avoid unnecessary hospitalization, inpatient psychiatric treatment, involuntary commitment, and arrest or incarceration.

(72) “Mobile Crisis Response Time” means the time from the point when a professional decision is made that a face-to-face intervention is required to the time the actual face-to-face intervention takes place in the community.

(73) “Nursing Services” means services that are provided by a registered nurse (RN) or a licensed practical nurse (LPN) within the scope of practice as defined in OAR 851-045-0060.

(74) “Outpatient Substance Use Disorders Treatment Program” means a program that provides assessment, treatment, and rehabilitation on a regularly scheduled basis or in response to crisis for individuals with alcohol or other drug use disorders and their family members or significant others.

(75) “Outpatient Community Mental Health Services and Supports” means all outpatient mental health services and supports provided to children, youth, and adults.

(76) “Outpatient Problem Gambling Treatment Services” means all outpatient treatment services and supports provided to individuals with gambling related problems and their families.

(77) “Outreach” means the delivery of behavioral health services, referral services, and case management services in non-traditional settings including but not limited to the individual’s residence, shelters, streets, jails, transitional housing sites, drop-in centers, single room occupancy hotels, child welfare settings, educational settings, or medical settings. It also means attempts made to engage or re-engage an individual in services by such means as letters or telephone calls.

(78) “Peer” means any individual supporting an individual or the individual’s family member who has similar life experience, either as a current or former recipient of addictions or mental health services, or as a family member of an individual who is a current or former recipient of addictions or mental health services.

(79) “Peer Delivered Services” means an array of agency or community-based services and supports provided by peer support specialists and peer wellness specialists to individuals or family members with similar lived experience that are designed to support the needs of individuals and families as applicable.

(80) “Peer Support Specialist” means an individual providing peer delivered services to an individual or family member with similar life experience under the supervision of a qualified clinical supervisor and a qualified peer delivered services supervisor, as practicable. A peer support specialist shall be certified by the Authority’s Office of Equity and Inclusion as required by OAR 410-180-0300 to 0380 and be:

(a) A self-identified individual currently or formerly receiving addictions or mental health services;

(b) A self-identified individual in recovery from an addiction disorder who meets the abstinence requirements for recovering staff in alcohol or other drug treatment programs;

(c) A self-identified individual in recovery from problem gambling; or

(d) A person who has experience parenting a child who:

(A) Is a current or former consumer of mental health or addiction treatment; or

(B) Is facing or has faced difficulties in accessing education and health and wellness services due to a mental health or behavioral health barrier.

(81) “Peer Support and Peer Wellness Specialist Supervision” means supervision by a certified PSS or PWS with at least one year of experience as a PSS or PWS in behavioral health services or supervision by a qualified PSS/PWS supervisor and a qualified clinical supervisor. The supports provided include guidance in the unique discipline of peer delivered services and the roles of peer support specialists and peer wellness specialists.

(82) “Peer Delivered Services Supervisor” means an individual qualified to evaluate and guide PSS and PWS program staff in the delivery of peer delivered services and supports.

(83) “Peer Wellness Specialist” means an individual who supports an individual in identifying mental health service and support needs through community outreach, assisting individuals with access to available services and resources, addressing barriers to services, and providing education and information about available resources and mental health issues in order to reduce stigmas and discrimination toward consumers of mental health services and to provide direct services to assist individuals in creating and

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maintaining recovery, health, and wellness. A peer wellness specialist shall be certified by the Authority's Office of Equity and Inclusion as required by OAR 410-180-0300 to 0380 and be:

(a) A self-identified individual currently or formerly receiving mental health services; or

(b) A self-identified individual in recovery from a substance use or gambling disorder who meets the abstinence requirements for recovering staff in substance use disorders or gambling treatment programs; or

(c) A family member of an individual who is a current or former recipient of addictions or mental health services.

(84) "Problem Gambling Treatment Staff" means an individual certified or licensed by a health or allied provider agency to provide problem gambling treatment services that include assessment, development of a service plan, and group and family counseling.

(85) "Program" means a particular type or level of service that is organizationally distinct.

(86) "Program Administrator" or "Program Director" means an individual with appropriate professional qualifications and experience who is designated to manage the operation of a program.

(87) "Program Staff" means an employee or individual who by contract with the program provides a service and has the applicable competencies, qualifications, or certification required to provide the service.

(88) "Provider" means an individual, organizational provider, or Community Mental Health Program as designated under ORS 430.637(1)(b) that holds a current certificate to provide outpatient behavioral health treatment or prevention services pursuant to these and other applicable service delivery rules.

(89) "Psychiatric Security Review Board (PSRB)" means the entity described in ORS 161.295 through 161.400.

(90) "Psychiatrist" means a physician licensed pursuant to ORS 677.010 to 677.228 and 677.410 to 677.450 by the Board of Medical Examiners for the State of Oregon and who has completed an approved residency training program in psychiatry.

(91) "Psychologist" means a psychologist licensed by the Oregon Board of Psychologist Examiners.

(92) "Publicly Funded" means financial support in part or in full with revenue generated by a local, state, or federal government.

(93) "Qualified Mental Health Associate (QMHA)" means an individual delivering services under the direct supervision of a QMHP who meets the minimum qualifications as authorized by the LMHA or designee and specified in OAR 309-019-0125.

(94) "Qualified Mental Health Professional (QMHP)" means a LMP or any other individual meeting the minimum qualifications as authorized by the LMHA or designee and specified in OAR 309-019-0125.

(95) "Qualified Person" means an individual who is a QMHP or a QMHA and is identified by the PSRB and JPSRB in its Conditional Release Order. This individual is designated by the provider to deliver or arrange and monitor the provision of the reports and services required by the Conditional Release Order.

(96) "Quality Assessment and Performance Improvement" means the structured, internal monitoring and evaluation of services to improve processes, service delivery, and service outcomes.

(97) "Recovery" means a process of healing and transformation for an individual to achieve full human potential and personhood in leading a meaningful life in communities of their choice.

(98) "Representative" means an individual who acts on behalf of an individual at the individual's request with respect to a grievance including but not limited to a relative, friend, Division employee, attorney, or legal guardian.

(99) "Resilience" means the universal capacity that an individual uses to prevent, minimize, or overcome the effects of adversity. Resilience reflects an individual's strengths as protective factors and assets for positive development.

(100) "Respite Care" means planned and emergency supports designed to provide temporary relief from care giving to maintain a stable and safe living environment. Respite care may be provided in or out of the home. Respite care includes supervision and behavior support consistent with the strategies specified in the service plan.

(101) "Safety Plan" means a best practice research-based individual directed document developed through a collaborative process in which the provider assists the individual in listing strategies to use when suicide ideation is elevated or after a suicide attempt.

(102) "Screening" means the process to determine whether the individual needs further assessment to identify circumstances requiring referrals or additional services and supports.

(103) "Screening Specialist" means an individual who possesses valid certification issued by the Division to conduct DUII evaluations.

(104) "Service Plan" means a comprehensive plan for services and supports provided to or coordinated for an individual and their family, as applicable, that is reflective of the assessment and the intended outcomes of service.

(105) "Service Note" means the written record of services and supports provided, including documentation of progress toward intended outcomes consistent with the timelines stated in the service plan.

(106) "Service Record" means the written or electronic documentation regarding an individual and resulting from entry, assessment, orientation, services and supports planning, services and supports provided, and transfer.

(107) "Services" means activities and treatments described in the service plan that are intended to assist the individual's transition to recovery from a substance use disorder, problem gambling disorder, or mental health condition and to promote resiliency and rehabilitative and functional individual and family outcomes.

(108) "Signature" means any written or electronic means of entering the name, date of authentication, and credentials of the individual providing a specific service or the individual authorizing services and supports. Signature also means any written or electronic means of entering the name and date of authentication of the individual, guardian, or any authorized representative of the individual receiving services.

(109) "Skills Training" means providing information and training to individuals and families designed to assist with the development of skills in areas including but not limited to anger management, stress reduction, conflict resolution, self-esteem, parent-child interactions, peer relations, drug and alcohol awareness, behavior support, symptom management, accessing community services, and daily living.

(110) "Substance Abuse Prevention and Treatment Block Grant" or "SAPT Block Grant" means the federal block grants for prevention and treatment of substance abuse under Public Law 102-321 (31 U.S.C. 7301-7305) and the regulations published in Title 45 Part 96 of the Code of Federal Regulations.

(111) "Substance Use Disorders" means disorders related to the taking of a drug of abuse including alcohol to the side effects of a medication and to a toxin exposure. The disorders include substance use disorders such as substance dependence and substance abuse and substance-induced disorders, including substance intoxication, withdrawal, delirium, and dementia, and includes but is not limited to substance induced psychotic disorder, mood disorder, as defined in DSM criteria.

(112) "Substance Use Disorders Treatment and Recovery Services" means outpatient, intensive outpatient, and residential services and supports for individuals with substance use disorders.

(113) "Substance Use Disorders Treatment Staff" means an individual certified or licensed by a health or allied provider agency to provide substance use disorders treatment services that include assessment, development of a service plan, and individual, group, and family counseling.

(114) "Successful DUII Completion" means that the DUII program has documented in its records that for the period of service deemed necessary by the program, the individual has:

(a) Met the completion criteria approved by the Division;

(b) Met the terms of the fee agreement between the provider and the individual; and

(c) Demonstrated 90 days of continuous abstinence prior to completion.

(115) "Suicide Risk Assessment" means a best practice assessment supported by research to determine an individual's risk for suicide.

(116) "Supports" means activities, referrals, and supportive relationships designed to enhance the services delivered to individuals and families for the purpose of facilitating progress toward intended outcomes.

(117) "Transfer" means the process of assisting an individual to transition from the current services to the next appropriate setting or level of care.

(118) "Trauma Informed Services" means services that are reflective of the consideration and evaluation of the role that trauma plays in the lives of people seeking mental health and addictions services, including recognition of the traumatic effect of misdiagnosis and coercive treatment. Services are responsive to the vulnerabilities of trauma survivors and are delivered in a way that avoids inadvertent re-traumatization and facilitates individual direction of services.

(119) "Treatment" means the planned, medically appropriate, individualized program of medical, psychological, and rehabilitative proce-

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dures, experiences, and activities designed to remediate symptoms of a DSM diagnosis that are included in the service plan.

(120) "Triage" means a classification process to determine priority needs.

(121) "Urinalysis Test" means an initial test and, if positive, a confirmatory test:

(a) An initial test shall include, at a minimum, a sensitive, rapid, and inexpensive immunoassay screen to eliminate "true negative" specimens from further consideration;

(b) A confirmatory test is a second analytical procedure used to identify the presence of a specific drug or metabolite in a urine specimen. The confirmatory test shall be by a different analytical method from that of the initial test to ensure reliability and accuracy;

(c) All urinalysis tests shall be performed by laboratories meeting the requirements of OAR 333-024-0305 through 0365.

(122) "Urgent" means the onset of symptoms requiring attention within 48 hours to prevent a serious deterioration in an individual's mental or physical health or threat to safety.

(123) "Variance" means an exception from a provision of these rules granted in writing by the Division pursuant to the process regulated by OAR 309-008-1600 upon written application from the provider. Duration of a variance is determined on a case-by-case basis.

(124) "Volunteer" means an individual who provides a program service or takes part in a program service and is not a program employee and is not paid for services. The services shall be non-clinical unless the individual has the required credentials to provide a clinical service.

(125) "Warm Handoff" has the meaning given that term in OAR 309-032-0860

(126) "Wellness" means an approach to healthcare that emphasizes good physical and mental health, preventing illness, and prolonging life.

(127) "Wraparound" means a high fidelity model of team-based intensive care coordination for children and their families based on National Wraparound Initiative values and principles.

(128) "Young Adult in Transition" means an individual who is developmentally transitioning into independence, sometime between the ages of 14 and 25.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640
Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0110

Provider Policies

(1) All providers shall develop and implement written personnel policies and specific procedures compliant with these rules including:

(a) Personnel Qualifications and Credentialing;

(b) Mandatory abuse reporting compliant with ORS 430.735 - 430.768 and OAR 943-045-0250 through 943-045-0370;

(c) Criminal Records Checks compliant with ORS 181.533 through 181.575 and 943-007-0001 through 0501; and

(d) Fraud, waste, and abuse in federal Medicaid and Medicare programs compliant with OAR 410-120-1380 and 410-120-1510.

(2) All providers shall develop and implement written service delivery policies and specific procedures compliant with these rules:

(a) Service delivery policies shall be available to individuals and family members upon request; and

(b) Service delivery policies and procedures shall include at a minimum:

(A) Fee agreements;

(B) Confidentiality and compliance with HIPAA, Federal Confidentiality Regulations (42 CFR, Part 2), and state confidentiality regulations as specified in ORS 179.505 and 192.518 through 192.530;

(C) Compliance with Title 2 of the Americans with Disabilities Act of 1990 (ADA);

(D) Grievances and appeals;

(E) Individual rights;

(F) Quality assessment and performance improvement;

(G) Trauma informed service delivery consistent with the Division Trauma Informed Services Policy;

(H) Provision of culturally and linguistically appropriate services;

(I) Crisis prevention and response, including suicide risk assessment, safety planning, and lethal means counseling;

(J) Incident reporting; and

(K) Peer delivered services.

(3) Providers of ECS services shall develop behavior support policies consistent with OAR 309-019-0155(3).

(4) Community Mental Health Programs shall develop policies for linkage agreements compliant with OAR 309-032-0870.

(5) The provider's policies and procedures shall:

(a) Prohibit titration of medications prescribed for the treatment of opioid dependence as a condition of receiving treatment;

(b) Allow continued use of medications prescribed for opioid dependence based on individual choice and physician recommendation; and

(c) Prohibit transfer of individuals who are prescribed medication for the treatment of opioid dependence based solely on the individual's initial or continued use of the medication.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 179.505, 413.520 - 413.522, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0115

Individual Rights

(1) In addition to all applicable statutory and constitutional rights, every individual receiving services has the right to:

(a) Choose from services and supports that are consistent with the assessment and service plan, culturally competent, provided in the most integrated setting in the community and under conditions that are least restrictive to the individual's liberty, that are least intrusive to the individual, and that provide for the greatest degree of independence;

(b) Be treated with dignity and respect;

(c) Participate in the development of a written service plan, receive services consistent with that plan and participate in periodic review and reassessment of service and support needs, assist in the development of the plan, and receive a copy of the written service plan;

(d) Have all services explained, including expected outcomes and possible risks;

(e) Confidentiality and the right to consent to disclosure in accordance with ORS 107.154, 179.505, 179.507, 192.515, 192.507, 42 CFR Part 2 and 45 CFR Part 205.50;

(f) Give informed consent in writing prior to the start of services, except in a medical emergency or as otherwise permitted by law. Minor children may give informed consent to services in the following circumstances:

(A) Under age 18 and lawfully married;

(B) Age 16 or older and legally emancipated by the court; or

(C) Age 14 or older for outpatient services only. For purposes of informed consent, outpatient service does not include service provided in residential programs or in day or partial hospitalization programs.

(g) Inspect their service record in accordance with ORS 179.505;

(h) Refuse participation in experimentation;

(i) Receive medication specific to the individual's diagnosed clinical needs, including medications used to treat opioid dependence;

(j) Receive prior notice of transfer, unless the circumstances necessitating transfer pose a threat to health and safety;

(k) Be free from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation;

(L) Have religious freedom;

(m) Be free from seclusion and restraint;

(n) Be informed at the start of services and periodically thereafter of the rights guaranteed by this rule;

(o) Be informed of the policies and procedures, service agreements and fees applicable to the services provided, and to have a custodial parent, guardian, or representative assist with understanding any information presented;

(p) Be informed of suicide risk;

(q) Have family and guardian involvement in service planning and delivery;

(r) Make a Declaration for Mental Health Treatment when legally an adult;

(s) File grievances, including appealing decisions resulting from the grievance;

(t) Exercise all rights set forth in ORS 109.610 through 109.697 if the individual is a child, as defined by these rules;

(u) Exercise all rights set forth in ORS 426.385 if the individual is committed to the Authority; and

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(v) Exercise all rights described in this rule without any form of reprisal or punishment.

(2) The provider shall give to the individual and, if appropriate, the guardian a document that describes the applicable individual's rights as follows:

(a) Information given to the individual shall be in written form or, upon request, in an alternative format or language appropriate to the individual's need;

(b) The rights and how to exercise them shall be explained to the individual, and if applicable the guardian; and

(c) Individual rights shall be posted in writing in a common area.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 426.495, 430.640, 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 426.380-426.395, 426.490 - 426.500, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0120

Licensing and Credentialing

Program staff in the following positions must meet applicable credentialing or licensing standards, including those set forth in these rules:

(1) Substance Use Disorders Treatment Staff.

(2) Clinical Supervisors.

(3) LMPs.

(4) Medical Directors.

(5) Peer Support Specialists.

(6) Peer Wellness Specialists.

(7) Peer Delivered Services Supervisor;

(8) Problem Gambling Treatment Staff.

(9) QMHAs.

(10) QMHPs.

Stat. Auth.: ORS 430.256, 430.640

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 430.010, 428.205 - 428.270, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; Suspended by MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0125

Specific Staff Qualifications and Competencies

Program staff shall meet the following qualifications, credentialing or licensing standards and competencies:

(1) Program administrators or program directors shall demonstrate competence in leadership, program planning and budgeting, fiscal management, supervision of program staff, personnel management, program staff performance assessment, use of data, reporting, program evaluation, quality assurance, and developing and coordinating community resources.

(2) Clinical supervisors in all programs shall demonstrate competence in leadership, wellness, oversight and evaluation of services, staff development, service planning, case management and coordination, utilization of community resources; group, family, and individual therapy or counseling; best practices for suicide risk assessment, lethal means counseling, and safety planning; documentation and rationale for services to promote intended outcomes; and implementation of all provider policies.

(3) Clinical supervisors in mental health programs shall meet QMHP requirements and have completed two years of post-graduate clinical experience in a mental health treatment setting.

(4) Clinical supervisors in substance use disorders treatment programs shall be certified or licensed by a health or allied provider agency as follows:

(a) For supervisors holding a certification or license in addiction counseling, qualifications for the certificate or license shall have included at least:

(A) 4000 hours of supervised experience in substance use counseling;

(B) 300 contact hours of education and training in substance use related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(b) For supervisors holding a health or allied provider license, the license or registration shall have been issued by one of the following state bodies, and the supervisor shall possess documentation of at least 120 contact hours of academic or continuing professional education in the treatment of substance use disorders:

(A) Board of Medical Examiners;

(B) Board of Psychologist Examiners;

(C) Board of Licensed Social Workers;

(D) Board of Licensed Professional Counselors and Therapists; or
(E) Board of Nursing.

(c) Additionally, clinical supervisors in substance use disorders programs shall have one of the following qualifications:

(A) Five years of paid full-time experience in the field of substance use disorders counseling; or

(B) A Bachelor's degree and four years of paid full-time experience in the social services field with a minimum of two years of direct substance use disorders counseling experience; or

(C) A Master's degree and three years of paid full-time experience in the social services field with a minimum of two years of direct substance use disorders counseling experience.

(5) Clinical supervisors in problem gambling treatment programs shall meet the requirements for clinical supervisors in either mental health or substance use disorders treatment programs and have completed ten hours of gambling specific training within two years of designation as a problem gambling services supervisor.

(6) Peer Delivered Services Supervisors shall be a certified Peer Support Specialist (PSS) or Peer Wellness Specialist (PWS) with at least one year experience.

(7) Substance use disorders treatment staff shall:

(a) Demonstrate competence in treatment of substance-use disorders including individual assessment and individual, group, family, and other counseling techniques, program policies and procedures for service delivery and documentation, suicide risk associated with problem gambling, and identification, implementation, and coordination of services identified to facilitate intended outcomes; and

(b) Be certified or licensed by a health or allied provider agency, as defined in these rules, to provide addiction treatment within two years of the first hire date and shall make application for certification no later than six months following that date. The two years is not renewable if the individual ends employment with a provider and becomes re-employed with another provider;

(c) For treatment staff holding certification in addiction counseling, qualifications for the certificate shall have included at least:

(A) 750 hours of supervised experience in substance use counseling;

(B) 150 contact hours of education and training in substance use related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(d) For treatment staff holding a health or allied provider license, the license or registration shall have been issued by one of the following state bodies, and the individual shall possess documentation of at least 60 contact hours of academic or continuing professional education in substance use disorders treatment:

(A) Board of Medical Examiners;

(B) Board of Psychologist Examiners;

(C) Board of Licensed Social Workers;

(D) Board of Licensed Professional Counselors and Therapists; or

(E) Board of Nursing.

(8) Problem Gambling treatment staff shall:

(a) Demonstrate competence in treatment of problem gambling including individual assessment and individual, group, family, and other counseling techniques, program policies and procedures for service delivery and documentation, and identification, implementation, and coordination of services identified to facilitate intended outcomes;

(b) Be certified or licensed by a health or allied provider agency, as defined in these rules, to provide problem gambling treatment within two years of the first hire date and shall make application for certification no later than six months following that date. The two years is not renewable if the individual ends employment with a provider and becomes re-employed with another provider;

(c) For treatment staff holding certification in problem gambling counseling, qualifications for the certificate shall include at least:

(A) 500 hours of supervised experience in problem gambling counseling;

(B) 60 contact hours of education and training in problem gambling related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(d) For treatment staff holding a health or allied provider license, the license or registration shall be issued by one of the following state bodies, and the individual shall possess documentation of at least 60 contact hours of academic or continuing professional education in problem gambling treatment:

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- (A) Board of Medical Examiners;
- (B) Board of Psychologist Examiners;
- (C) Board of Licensed Social Workers;
- (D) Board of Licensed Professional Counselors and Therapists; or
- (E) Board of Nursing.

(9) QMHAs shall demonstrate the ability to communicate effectively; understand mental health assessment, treatment, and service terminology as well as suicide risk assessment, lethal means counseling, and safety planning; and apply each of these concepts, implement skills development strategies, and identify, implement, and coordinate the services and supports identified in a service plan. In addition, QMHAs shall meet the following minimum qualifications:

- (a) Bachelor's degree in a behavioral science field; or
- (b) A combination of at least three years of relevant work, education, training, or experience; or
- (c) A qualified Mental Health Intern, as defined in OAR 309-019-0105.

(10) QMHPs shall demonstrate the ability to conduct an assessment including identifying precipitating events; gathering histories of mental and physical health, substance use, past mental health services, and criminal justice contacts; assessing family, cultural, social, and work relationships; conducting a mental status examination; completing a DSM diagnosis; conducting best practice suicide risk assessments, lethal means counseling, and safety planning; writing and supervising the implementation of a service plan; and providing individual, family, or group therapy within the scope of their training. In addition, QMHPs shall meet the following minimum qualifications:

- (a) Bachelor's degree in nursing and licensed by the State of Oregon;
- (b) Bachelor's degree in occupational therapy and licensed by the State of Oregon;
- (c) Graduate degree in psychology;
- (d) Graduate degree in social work;
- (e) Graduate degree in recreational, art, or music therapy;
- (f) Graduate degree in a behavioral science field; or
- (g) A qualified Mental Health Intern, as defined in 309-019-0105.

(11) Peer support specialists and peer wellness specialists, including family and youth support and wellness specialists, shall meet the requirements in OARs 410-180-0310, 410-180-0312, and 410-180-0320 for certification and continuing education. They shall also:

- (a) Demonstrate the ability to support others in their recovery or resiliency; and
- (b) Demonstrate personal life experience and tools of self-directed recovery and resiliency.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640
Stats. Implemented: ORS 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 1-2015(Temp), f. & cert. ef. 3-25-15 thru 9-20-15; MHS 3-2015, f. & cert. ef. 5-28-15; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0130

Personnel Documentation, Training and Supervision

(1) Providers shall maintain personnel records for each program staff that contains all of the following documentation:

- (a) When required, verification of a criminal record check consistent with OAR 943-007-0001 through 0501;
- (b) A current job description that includes applicable competencies;
- (c) Copies of relevant licensure or certification, diploma, or certified transcripts from an accredited college, indicating that the program staff meets applicable qualifications;
- (d) Periodic performance appraisals;
- (e) Staff orientation documentation; and
- (f) Disciplinary documentation;
- (g) Documentation of trainings required by this or other applicable rules; and
- (h) Documentation of clinical and non-clinical supervision. Documentation shall include the date supervision took place, the amount of supervision time, and a brief description of relevant topics discussed.

(2) Providers utilizing contractors, interns, or volunteers shall maintain the following documentation, as applicable:

- (a) A contract or written agreement;
- (b) A signed confidentiality agreement;
- (c) Orientation documentation; and
- (d) For subject individuals, verification of a criminal records check consistent with OAR 943-007-0001 through 0501.

(3) Providers shall ensure that program staff receives training applicable to the specific population for whom services are planned, delivered, or supervised. The program shall document appropriate orientation for each program staff or individual providing services within 30 days of the hire date. At a minimum, training and orientation for all program staff shall include but not be limited to:

- (a) A review of crisis prevention and response procedures;
- (b) A review of emergency evacuation procedures;
- (c) A review of program policies and procedures;
- (d) A review of rights for individuals receiving services and supports;
- (e) Mandatory abuse reporting procedures;
- (f) HIPAA and Fraud, Waste and Abuse;
- (g) Care Coordination;
- (h) For Enhanced Care Services, positive behavior support training; and
- (i) Declaration for Mental Health Treatment.

(4) Program staff providing direct services shall receive clinical supervision by a qualified clinical supervisor related to the development, implementation, and outcome of services:

(a) Supervision shall be provided to assist program staff to increase their skills within their scope of practice, improve quality of services to individuals, and supervise program staff and volunteers' compliance with program policies and procedures;

(b) Documentation of two hours per month of supervision for each individual supervised. The two hours shall include one hour of individual face-to-face contact or a proportional level of supervision for part-time program staff. Individual face-to-face contact may include real time, two-way audio visual conferencing;

(c) Documentation of two hours of quarterly supervision for program staff holding a health or allied provider license. The two hours shall include at least one hour of individual face-to-face contact for each individual supervised. Individual face-to-face contact may include real time, two-way audio visual conferencing;

(d) Documentation of weekly supervision for program staff meeting the definition of mental health intern; or

(e) As practicable, for persons providing direct Peer Delivered Services, one hour of supervision shall be provided by a qualified Peer Delivered Services Supervisor, as practicable.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640
Stats. Implemented: ORS 109.675, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0135

Entry and Assessment

(1) The program shall utilize an entry procedure that at a minimum shall ensure the provision and documentation of the following:

(a) Individuals shall be considered for entry without regard to race, ethnicity, gender, gender identity, gender expression, sexual orientation, religion, creed, national origin, age (except when program eligibility is restricted to children, adults, or older adults), familial status, marital status, source of income, and disability;

(b) The provider may not deny entry to individuals who are prescribed medication to treat opioid dependence;

(c) Individuals shall receive services in the most timely manner feasible consistent with the presenting circumstances;

(d) Written voluntary informed consent for services shall be obtained from the individual or guardian prior to the start of services. If consent is not obtained, the reason shall be documented and further attempts to obtain informed consent shall be made as appropriate;

(e) The provider shall develop and maintain service records and other documentation for each individual that demonstrates the specific services and supports for which payment has been requested;

(f) The provider shall report the entry of all individuals on the mandated state data system;

(g) In accordance with ORS 179.505 and HIPAA, an authorization for the release of information shall be obtained for any confidential information concerning the individual being considered for or receiving services;

(h) At the time of entry, the program shall offer to the individual and guardian, if applicable, written program orientation information. The written information shall be in a language understood by the individual and shall include:

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(A) An opportunity to complete a Declaration for Mental Health Treatment with the individual's participation and informed consent;

(B) A description of individual rights consistent with these rules;

(C) Policy concerning grievances and appeals consistent with these rules including an example grievance form;

(D) Notice of privacy practices; and

(E) An opportunity to register to vote.

(2) Entry of individuals whose services are funded by the Substance Abuse Prevention Treatment (SAPT) Block Grant shall be prioritized in the following order:

(a) Women who are pregnant and using substances intravenously;

(b) Women who are pregnant;

(c) Individuals who are using substances intravenously; and

(d) Women with dependent children.

(3) Pregnant women or other individuals using substances intravenously, whose services are funded by the SAPT Block Grant, shall receive interim referrals and information prior to entry to reduce the adverse health effects of substance use, promote the health of the individual, and reduce the risk of transmission of disease. At a minimum, interim referral and informational services shall include:

(a) Counseling and education about blood borne pathogens including Hepatitis, HIV, STDs, and Tuberculosis (TB); the risks of needle and paraphernalia sharing and the likelihood of transmission to sexual partners and infants;

(b) Counseling and education about steps that can decrease the likelihood of Hepatitis, HIV, STD, and TB transmission;

(c) Referral for Hepatitis, HIV, STD, and TB testing, vaccine or care services if necessary;

(d) For pregnant women, counseling on the likelihood of blood borne pathogen transmission as well as the effects of alcohol, tobacco, and other drug use on the fetus and referral for prenatal care; and

(e) Peer Delivered Services that address parenting and youth in transition support.

(4) Assessment:

(a) At the time of entry, an assessment shall be completed;

(b) The assessment shall be completed by qualified program staff as follows:

(A) A QMHP in mental health programs. A QMHA may assist in the gathering and compiling of information to be included in the assessment;

(B) Supervisory or treatment staff in substance use disorders treatment programs; and

(C) Supervisory or treatment staff in problem gambling treatment programs.

(c) Each assessment shall include sufficient information and documentation to justify the presence of a diagnosis that is the medically appropriate reason for services;

(d) For substance use disorders services, each assessment shall be consistent with the dimensions described in the ASAM and shall document a diagnosis and level of care determination consistent with the DSM and ASAM;

(e) When the assessment process determines the presence of co-occurring substance use and mental health disorders or any significant risk to health and safety, all providers shall document referral for further assessment, planning, and intervention from an appropriate professional, either with the same provider or with a collaborative community provider;

(f) Providers shall periodically update assessments, including suicide risk assessments, as applicable, when there are changes in clinical circumstances or risk factors for suicide; and

(g) Any individual continuing to receive mental health services for one or more continuous years shall receive an annual assessment, including a suicide risk assessment by a QMHP.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0140

Service Plan and Service Notes

(1) In addition to any program specific service delivery requirements, the service plan shall be an individualized plan designed to improve the individual's condition to the point where the individual's continued participation in the program is no longer necessary. The service plan is included in the individual's service record and shall:

(a) Reflect the full assessment and the level of care to be provided;

(b) Include the participation of the individual and family members, as applicable;

(c) Be completed and signed by qualified program staff as follows:

(A) A QMHP in mental health programs;

(B) Supervisory or treatment staff in substance use disorders treatment programs; and

(C) Supervisory or treatment staff in problem gambling treatment programs.

(d) For mental health services, a QMHP who is also a licensed health care professional shall recommend the services and supports by signing the service plan within ten business days of the start of services; and

(e) An LMP shall approve the service plan at least annually for each individual receiving mental health services for one or more continuous years. The LMP may designate annual clinical oversight by documenting the designation to a specific licensed health care professional.

(2) At minimum, each service plan shall include:

(a) Treatment objectives that are:

(A) Individualized to meet the assessed needs of the individual;

(B) Measurable for the purpose of evaluating individual progress, including a baseline evaluation.

(b) The specific services and supports indicated by the assessment that shall be used to meet the treatment objectives;

(c) A projected schedule for service and support delivery, including the expected frequency and duration of each type of planned therapeutic encounter and peer support services;

(d) The credentials of the personnel that will be providing each service and support; and

(e) A projected schedule for re-evaluating the service plan.

(3) Providers shall document each service and support in a Service Note to include:

(a) The specific services rendered;

(b) The specific service plan objectives being addressed by the services provided;

(c) The date, time of service, and the actual amount of time the services were rendered;

(d) The relationship of the services provided to the treatment objective described in the service plan;

(e) The personnel rendering the services, including their signature and credential;

(f) The setting in which the services were rendered.

(4) Decisions to transfer individuals shall be documented including:

(a) The reason for the transfer;

(b) Referrals to follow up services and other behavioral health providers; and

(c) Outreach efforts made as indicated.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0145

Co-Occurring Mental Health and Substance Use Disorders (COD)

Providers approved under OAR 309-008-0000 and designated to provide services and supports for individuals diagnosed with COD shall provide concurrent service and support planning and delivery for substance use disorders, gambling disorder, and mental health diagnosis, including integrated assessment addressing co-occurring behavioral health diagnoses, service plan, and service record.

Stat. Auth.: ORS 413.042, 430.640

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0150

Community Mental Health Programs: Outpatient Mental Health Services to Children and Adults

(1) Crisis services shall be provided directly or through linkage to a local crisis services provider and shall include the following:

(a) Twenty-four hours, seven days per week telephone or face-to-face screening within one hour of notification of the crisis event to determine an individual's need for immediate community mental health services; and

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(b) Twenty-four hours, seven days per week capability to conduct, by or under the supervision of a QMHP, an assessment, including suicide risk assessment, resulting in a service plan that includes the crisis services necessary to assist the individual and family to stabilize and transition to the appropriate level of care.

(2) Available case management services shall be provided including the following:

(a) Program staff shall assist individuals in gaining access to and maintaining resources such as Social Security benefits, general assistance, food stamps, vocational rehabilitation, and housing. When needed, program staff shall arrange transportation or accompany individuals to help them apply for benefits; and

(b) Referral and coordination to help individuals gain access to services and supports identified in the service plan;

(c) Assistance with a warm handoff process, as indicated, compliant with OAR 309-032-0870;

(d) Assistance with a follow-up visit within seven days of discharge from an acute care psychiatric hospital, as indicated, compliant with OAR 309-032-0870; and

(e) Referral and coordination to help individuals at risk of suicide and their families.

(3) When significant health and safety concerns are identified, program staff shall ensure that necessary services or actions occur to address the identified health and safety needs for the individual, including services to individuals at imminent risk of suicide as determined by the suicide risk assessment.

(4) Peer Delivered Services shall be made available.

Stat. Auth.: ORS 413.042

Stats Implemented: ORS 430.630

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0151

Community Mental Health Programs: Mobile Crisis Services

(1) By July 1, 2018, or when the CMHP is contracted to provide the service, CMHP or their designee shall provide mobile crisis services as a component of crisis services according to OAR 309-019-0150 for individuals experiencing mental health crisis within their respective geographic service area to meet the following objectives:

(a) Reduce acute psychiatric hospitalization of individuals experiencing mental health crisis; and

(b) Reduce the number of individuals with mental health diagnoses who are incarcerated as a result of mental health crisis events involving law enforcement.

(2) Mobile crisis services include, at a minimum but is not limited to:

(a) Twenty-four hours a day, seven days a week screening to determine the need for immediate services for any individual requesting assistance or for whom assistance is requested;

(b) Within appropriate safety considerations, a face-to-face therapeutic response delivered in a public setting at locations in the community where the crisis arises including but not limited to an individual's home, schools, residential programs, nursing homes, group home settings, and hospitals to enhance community integration;

(c) Mental health crisis assessment;

(d) Crisis intervention;

(e) Assistance with placement in crisis respite, peer respite, or residential services as defined in OAR 309-035-0100;

(f) Assistance to families and families of choice in managing suicide risk until the individual is engaged in outpatient services or when the individual is to receive services on an outpatient basis;

(g) Initiation of involuntary services if applicable;

(h) Assistance with hospital placement; and,

(i) Connecting individuals with ongoing supports and services.

(3) Counties shall track and report response time. Counties shall respond to crisis events in their respective geographic service area with the following maximum response times:

(a) Counties defined as "urban" shall respond within one hour;

(b) Counties defined as "rural" shall respond within two hours;

(c) Counties defined as "frontier" shall respond within three hours;

(d) Counties defined as "rural" and "frontier" shall contact an individual experiencing a crisis event via telephone by a staff member who is trained in crisis management within one hour of being notified of the crisis event.

(4) By July 1, 2018, each CMHP shall develop and implement policies and procedures to monitor the number of instances that mobile crisis

response times exceed the maximum response times established in OAR 309-019-0151.

(5) The CMHP shall submit electronically a written quarterly report using forms and procedures prescribed by the Authority to the Division contract administrator no later than 45 calendar days following the end of each reporting quarter.

(6) The CMHP shall track and report the number of individuals receiving a mobile crisis services contact to include the following information:

(a) Location of mobile crisis service;

(b) Disposition of the mobile crisis contact;

(c) Whether the crisis contact resulted in admission to acute care; or

(d) If the mobile crisis contact resulted in referral in mental health treatment and stabilization in a community setting.

(7) Counties shall track and report response time consistent with required response time.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 109.675, 161.390 – 161.400, 413.520 – 413.520 – 413.522, 430.010, 430.205 – 430.210, 430.254 – 430.640, 430.850 – 430.955, 461.549, 743A.168, 813.010 – 813.052, 813.200 – 813.270

Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0152

Mobile Crisis Response Reporting Requirements

(1) The CMHP shall submit electronically a written quarterly report using forms and procedures prescribed by the Authority to the Division contract administrator no later than 45 calendar days following the end of each reporting quarter:

(2) The CMHP shall track and report the number of individuals receiving a mobile crisis services contact to include the following information:

(a) Location of mobile crisis service;

(b) Disposition of the mobile crisis contact;

(c) Whether the crisis contact resulted in admission to acute care; or

(d) If the mobile crisis contact resulted in referral in mental health treatment and stabilization in a community setting.

(3) Counties shall track and report response time:

(a) Counties classified as "urban" shall respond within one hour;

(b) Counties classified as "rural" shall respond within two hours;

(c) Counties classified as "frontier" shall respond within three hours.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 430.630 & 430.634

Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; Suspended by MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0155

Enhanced Care Services (ECS) and Enhanced Care Outreach Services (ECOS)

(1) To be eligible for ECS/ECOS, an individual shall:

(a) Be APD service eligible;

(b) Meet the diagnostic criteria of severe mental illness with complex behaviors or be approved by the enhanced care services team;

(c) Require intensive community mental health services to transition to a lower level of care;

(d) Have a history of multiple APD placements due to complex behaviors; and

(e) Be currently or have been a patient at the Oregon State Hospital or have received inpatient services in an acute psychiatric unit for over 14 days and have been referred to non-enhanced APD facilities and denied admission due to severe mental illness with complex behaviors and be currently exhibiting two or more of the following: self-endangering behavior, aggressive behavior, intrusive behavior, intractable psychiatric symptoms, complex medication needs, sexually inappropriate behavior, and elopement behavior.

(2) ECS/ECOS providers shall:

(a) For ECS, provide a minimum of four hours per day or additional hours as required to support the needs of the enhanced care facility, seven days per week of mental health staffing provided or arranged for by the contracted mental health provider;

(b) Coordinate interdisciplinary team meetings (IDT) to develop the service plan, review the behavior support plan, and to coordinate care planning with the Department of Human Services (Department) licensed provider staff, APD case manager, QMHP, prescriber and related professionals such as the Department licensed facility or program direct care staff,

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the Department licensed facility RN, and facility administrator. IDTs in ECS programs shall be held weekly and at least quarterly for ECOS;

(c) Coordinate quarterly behavioral health trainings for Department-licensed providers and related program staff providing services to ECS and ECOS recipients; and

(d) Ensure the availability of consultation and crisis services staffed by a QMHP or the local CMHP available to the ECS and ECOS provider and the Department licensed facility direct care staff 24-hours per day.

(3) Behavior support services shall be designed to facilitate positive alternatives to challenging behavior and to assist the individual in developing adaptive and functional living skills. Providers shall:

(a) Develop and implement individual behavior support strategies based on a functional or other clinically appropriate assessment of challenging behavior;

(b) Document the behavior support strategies and measures for tracking progress as a behavior support plan in the service plan;

(c) Establish a framework that ensures individualized positive behavior support practices throughout the program and articulates a rationale consistent with the philosophies supported by the Division, including the Division's trauma-informed services policy;

(d) Obtain informed consent from the individual or guardian, if one is appointed, in the use of behavior support strategies and communicate both verbally and in writing the information to the individual or guardian, if one is appointed, in a language understood;

(e) Establish outcome-based tracking methods to measure the effectiveness of behavior support strategies in:

(A) The use of least restrictive interventions possible; and

(B) Increasing positive behavior.

(f) Require all program staff to receive quarterly mental health in-service training in evidence-based practices to promote positive behavior support and related to needs of each individual; and

(g) Review and update behavior support policies, procedures, and practices annually.

(4) Providers shall develop a transition plan for each individual as part of the initial assessment process. Each individual's mental health service plan shall reflect their transition goal and the supports necessary to achieve transition.

(5) Staffing requirements include:

(a) Each ECS and ECOS program shall have a minimum of one FTE QMHP for programs serving five or more individuals who is responsible for coordinating entries, transitions, and required IDT's; assuring the completion of individual assessments, mental health service, and behavior support plans; providing supervision of QMHP's and QMHA's; and coordinating services and trainings with facility staff;

(b) Each ECS and ECOS program shall have psychiatric consultation available. For ECS programs serving more than ten individuals, the psychiatrist shall participate.

(6) In ECS programs, the CMHP and the Department licensed provider shall develop a written collaborative agreement that addresses at a minimum: risk management, census management, staff levels, training, treatment and activity programs, entry and transition procedures, a process for reporting and evaluating critical incidents, record keeping, policy and procedure manuals, dispute resolution, and service coordination.

Stat. Auth.: ORS 161.390, 413.042, 430.640, 443.450

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0160

Psychiatric Security Review Board and Juvenile Psychiatric Security Review Board

(1) Services and supports shall include all appropriate services, including peer delivered services, determined necessary to assist the individual in maintaining community placement and that are consistent with Conditional Release Orders and the Agreement to Conditional Release.

(2) Providers of PSRB and JPSRB services acting through the designated qualified individual shall submit reports to the PSRB or JPSRB as follows:

(a) For individuals under the jurisdiction of the PSRB or the JPSRB, providers shall take the following action upon receipt of an Order for Evaluation:

(A) Within 15 days of receipt of the Order, schedule an interview with the individual for the purpose of initiating or conducting the evaluation;

(B) Appoint a QMHP to conduct the evaluation and to provide an evaluation report to the PSRB or JPSRB;

(C) Within 30 days of the evaluation interview, submit the evaluation report to the PSRB or JPSRB responding to the questions asked in the Order for Evaluation; and

(D) If supervision by the provider is recommended, notify the PSRB or JPSRB of the name of the individual designated to serve as the individual's qualified person who shall be primarily responsible for delivering or arranging for the delivery of services and the submission of reports under these rules.

(b) Monthly reports consistent with PSRB or JPSRB reporting requirements as specified in the Conditional Release Order that summarize the individual's adherence to Conditional Release requirements and general progress; and

(c) Interim reports including immediate reports by phone, if necessary, to ensure the public or individual's safety including:

(A) At the time of any significant change in the individual's health, legal, employment, or other status that may affect compliance with Conditional Release orders;

(B) Upon noting major symptoms requiring psychiatric stabilization or hospitalization;

(C) Upon noting any other major change in the individual's service plan;

(D) Upon learning of any violations of the Conditional Release Order; and

(E) At any other time when, in the opinion of the qualified person, such an interim report is needed to assist the individual.

(3) PSRB and JPSRB providers shall submit copies of all monthly reports and interim reports to both the PSRB or JPSRB and the Division.

(4) When the individual is under the jurisdiction of the PSRB or JPSRB, providers shall include the following additional documentation in the service record:

(a) Monthly reports to the PSRB or JPSRB;

(b) Interim reports, as applicable;

(c) The PSRB or JPSRB initial evaluation; and

(d) A copy of the Conditional Order of Release.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 426.490 - 426.500, 430.640, 443.450
Stats. Implemented: ORS 161.390 - 161.400, 179.505, 426.380 - 426.395, 426.490 - 426.500, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0165

Intensive Outpatient Services and Supports (IOSS) for Children

(1) IOSS services may be delivered at a clinic, facility, home, school, other provider or allied agency location, or other setting as identified by the child and family team. In addition to services specified by the service plan and the standards for outpatient mental health services, IOSS services shall include:

(a) Provider participation on the child and family team or wraparound team;

(b) A documented proactive safety and crisis plan developed by the child and family team. The proactive safety and crisis plan shall at minimum include:

(A) Strategies designed to facilitate positive alternatives to challenging behavior and to assist the individual in developing adaptive and functional living skills;

(B) Strategies to avert potential crisis without placement disruptions;

(C) Professional and natural supports to provide 24 hours, seven days per week flexible response; and

(D) Documented informed consent from the parent or guardian.

(2) IOSS providers shall include the following additional documentation in the service record:

(a) Identified care coordinator and care coordination provider as well as documentation of provider participation on child and family team or wraparound team;

(b) Documented identification of strengths and needs;

(c) A summary and review of service coordination planning by the provider or by the child and family team or wraparound team when applicable; and

(d) A documented proactive safety and crisis plan.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

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309-019-0170

Outpatient Problem Gambling Treatment and Recovery Services

Outpatient problem gambling treatment services include group, individual, and family treatment consistent with the following requirements:

(1) The first offered service appointment shall be five or fewer business days from the date of request for services.

(2) Service sessions shall address the challenges of the individual as they relate, directly or indirectly, to the problem gambling behavior.

(3) Providers may provide telephone counseling when face-to-face contact would involve an unwise delay, as follows:

(a) The individual shall be currently enrolled in the problem gambling treatment program;

(b) Phone counseling shall be provided by a qualified program staff within their scope of practice;

(c) Service notes for phone counseling shall follow the same criteria as face-to-face counseling and identify the session was conducted by phone and the clinical rationale for the phone session;

(d) Telephone counseling shall meet HIPAA and 42 CFR standards for privacy; and

(e) There shall be an agreement of informed consent for phone counseling that is discussed with the individual and documented in the individual's service record.

(4) Family counseling includes face-to-face or non-face-to-face service sessions between a program staff member delivering the service and a family member whose life has been negatively impacted by gambling:

(a) Service sessions shall address the problems of the family member as they relate directly or indirectly to the problem gambling behavior; and

(b) Services to the family shall be offered even if the individual identified as a problem gambler is unwilling or unavailable to accept services.

(5) Twenty-four hour crisis response shall be accomplished through agreement with other crisis services, on-call program staff, or other arrangement acceptable to the Division.

(6) A financial assessment shall be included in the entry process and documented in the assessment.

(7) The service plan shall include a financial component consistent with the financial assessment.

(8) A risk assessment for suicide ideation shall be included in the entry process and documented in the assessment as well as appropriate referrals made.

(9) The service plan shall address suicidal risks if determined within the assessment process.

Stat. Auth.: ORS 161.390, 430.640, 461.549
Stats. Implemented: ORS 161.390 - 161.400, 179.505, 413.520 - 413.522, 426.380 - 426.395, 426.490 - 426.500, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 1-2015(Temp), f. & cert. ef. 3-25-15 thru 9-20-15; MHS 3-2015, f. & cert. ef. 5-28-15; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0175

Culturally Specific Substance Use Disorders Treatment and Recovery Services

(1) Programs approved and designated as culturally specific programs shall meet the following criteria:

(a) Serve a majority of individuals representing culturally specific populations;

(b) Maintain a current demographic and cultural profile of the community;

(c) Ensure that individuals from the identified cultural group receive effective and respectful care that is provided in a manner compatible with their cultural health beliefs, practices, and preferred language;

(d) Implement strategies to recruit, retain, and promote a diverse staff at all levels of the organization that are representative of the population being served;

(e) Ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery;

(f) Ensure that a majority of the substance use disorders treatment staff be representative of the specific culture being served;

(g) Ensure that individuals are offered customer satisfaction surveys that address all areas of service and that the results of the surveys are used for quality improvement;

(h) Consider race, ethnicity, and language data in measuring customer satisfaction;

(i) Develop and implement cultural awareness policies;

(j) Ensure that data on an individual's race, ethnicity, and spoken and written language are collected in health records, integrated into the organization's management information systems, and periodically updated;

(k) Develop and maintain a governing or advisory board as follows:

(A) Have a majority representation of the culturally specific group being served;

(B) Receive training concerning the significance of culturally relevant services and supports;

(C) Meet at least quarterly; and

(D) Monitor agency quality improvement mechanisms and evaluate the ongoing effectiveness and implementation of culturally relevant services (CLAS) and supports within the organization.

(L) Maintain accessibility to culturally specific populations including:

(A) The physical location of the program shall be within close proximity to the culturally specific populations;

(B) Where available, public transportation shall be within close proximity to the program; and

(C) Hours of service, telephone contact, and other accessibility issues shall be appropriate for the population.

(m) The physical facility where the culturally specific services are delivered shall be psychologically comfortable for the group including:

(A) Materials displayed shall be culturally relevant; and

(B) Mass media programming shall be sensitive to cultural background.

(n) Other cultural differences shall be considered and accommodated when possible, such as the need or desire to bring family members to the facility, play areas for small children, and related accommodations; and

(o) Ensure that grievance processes are culturally and linguistically sensitive and capable of identifying, preventing, and resolving cross-cultural conflicts or complaints.

Stat. Auth.: ORS 413.042, 430.640, 443.450

Stats. Implemented: ORS 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0180

Outpatient Adolescent Substance Use Disorders Treatment and Recovery Services

Programs approved to provide adolescent substance use disorders treatment services or those with adolescent-designated service funding shall meet the following standards:

(1) Development of service plans and case management services shall include participation of parents, other family members, schools, children's services agencies, and juvenile corrections, as appropriate.

(2) Services or appropriate referrals shall include:

(a) Family counseling;

(b) Community and social skills training; and

(c) Smoking cessation service.

(3) Continuing care services shall be of appropriate duration and designed to maximize recovery opportunities. The services shall include:

(a) Reintegration services and coordination with family and schools;

(b) Youth dominated self-help groups where available;

(c) Referral to emancipation services when appropriate;

(d) Referral to physical or sexual abuse counseling and support services when appropriate; and

(e) Referral for peer delivered services.

Stat. Auth.: ORS 161.390, 413.042, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 430.010, 428.205 - 428.270, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0185

Outpatient Women's Substance Use Disorders Treatment and Recovery Programs

(1) Programs approved to provide women's substance use disorders treatment services or those with women-specific designated service funding shall meet the following standards:

(a) The assessment shall contain an evaluation that identifies and assesses needs specific to women's issues in service such as social isolation, self-reliance, parenting issues, domestic violence, women's physical health, housing, and financial considerations;

(b) The service plan shall address all areas identified in the assessment and applicable service coordination details to address the identified needs;

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(c) The program shall provide or coordinate services and supports that meet the special access needs of women such as childcare, mental health services, and transportation as indicated; and

(d) The program shall provide or coordinate the following services and supports unless clinically contraindicated:

- (A) Gender-specific services and supports;
- (B) Family services, including therapeutic services for children in the custody of women in treatment;
- (C) Reintegration with family;
- (D) Peer delivered services;
- (E) Smoking cessation;
- (F) Housing; and
- (G) Transportation.

(2) Services shall include the participation of family and other agencies as appropriate, such as social service, child welfare, or corrections agencies.

(3) The program shall coordinate referral services with the following, if indicated:

- (a) Agencies providing services to women who have experienced physical abuse, sexual abuse, or other types of domestic violence;
- (b) Parenting training;
- (c) Continuing care treatment services shall be consistent with the ASAM and shall include referrals to female dominated support groups where available.

Stat. Auth.: ORS 161.390, 413.042, 430.640
Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0187

Substance Abuse Prevention Treatment (SAPT) Block Grant

Programs that receive SAPT Block Grant funding shall provide or coordinate the following services for individuals:

- (1) Primary medical care, including referral for prenatal care if applicable, and child care and transportation where needed;
- (2) Primary pediatric care, including immunizations for their children;
- (3) Gender specific substance use disorders treatment and other therapeutic interventions that may include but are not limited to:

- (a) Relationship issues;
- (b) Sexual and physical abuse;
- (c) Parenting;
- (d) Access to child care and transportation while receiving these services; and

(e) Therapeutic interventions for children in the custody of women or men in treatment that may include but are not limited to:

- (A) Their developmental needs;
- (B) Any issues concerning sexual and physical abuse and neglect; and
- (C) Sufficient case management and transportation to ensure that women and their children have access to services.

Stat. Auth.: ORS 161.390, 413.042, 430.640
Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0190

Community-Based Substance Use Treatment Programs for Individuals in the Criminal Justice System

(1) For individuals in the criminal justice system, community-based substance use treatment services and supports are for individuals who are under the supervision of a probation officer or on parole or post-prison supervision or participating in a drug treatment court program or otherwise under the direct supervision of the court.

(2) Services and supports shall incorporate interventions and strategies that target criminogenic risk factors and include:

- (a) Cognitive behavioral interventions;
- (b) Motivational interventions;
- (c) Relapse prevention; and
- (d) Healthy relationships education.

(3) Providers shall demonstrate coordination of services with criminal justice partners through written protocols, program staff activities, and individual record documentation.

(4) Program directors or clinical supervisors shall have experience in community-based offender treatment programs and have specific training and experience applying effective, evidence-based clinical strategies and services for individuals receiving community-based substance use disorders treatment services to individuals in the criminal justice system.

(5) Within the first six months of hire, program staff shall:

(a) Receive training on effective principles of evidenced-based practices for individuals with criminogenic risk factors; and

(b) Have documented knowledge, skills, and abilities demonstrating treatment strategies for individuals with criminogenic risk factors.

Stat. Auth.: ORS 161.390, 413.042, 430.640
Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0200

Medical Protocols in Outpatient Substance Use Disorders Treatment and Recovery Programs

Medical protocols shall be approved by a medical director under contract with a program or written reciprocal agreement with a medical practitioner under coordinated care. The protocols shall:

(1) Require a medical history be included in the assessment.

(2) Designate those medical symptoms and conditions that, when found, require further investigation, physical examinations, treatment, or laboratory testing.

(3) Require that individuals admitted to the program who are currently injecting or intravenously using a drug or have injected or intravenously used a drug within the past 30 days or who are at risk of withdrawal from a drug or who may be pregnant shall be referred for a physical examination and appropriate lab testing within 30 days of entry to the program. This requirement may be waived by the medical director if these services have been received within the past 90 days and documentation is provided.

(4) Require pregnant women be referred for prenatal care within two weeks of entry to the program.

(5) Require that the program provide HIV and AIDS, TB, sexually transmitted disease, Hepatitis and other infectious disease information and risk assessment, including any needed referral, within 30 days of entry.

(6) Specify the steps for follow up and coordination with physical health care providers in the event the individual is found to have an infectious disease or other major medical problem.

Stat. Auth.: ORS 430.640, 443.450
Stats. Implemented: ORS 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0205

Building Requirements in Outpatient Substance Use Disorders Treatment Programs

All substance use disorders treatment programs must:

(1) Comply with all applicable state and local building, electrical, plumbing, fire, safety, and zoning codes.

(2) Maintain up-to-date documentation verifying that they meet applicable local business license, zoning, and building codes and federal, state, and local fire and safety regulations. It is the responsibility of the program to check with local government to make sure all applicable local codes have been met.

(3) Provide space for services including but not limited to intake, assessment, counseling, and telephone conversations that assure the privacy and confidentiality of individuals and is furnished in an adequate and comfortable fashion including plumbing, sanitation, heating, and cooling.

(4) Provide rest rooms for individuals, visitors, and staff that are accessible to individuals with disabilities pursuant to Title II of the Americans with Disabilities Act if the program receives any public funds or Title III of the Act if no public funds are received.

(5) Adopt and implement emergency policies and procedures, including an evacuation plan and emergency plan in case of fire, explosion, accident, death, or other emergency. The policies and procedures and emergency plans must be current and posted in a conspicuous area.

(6) Outpatient programs may not allow tobacco use in program facilities and on program grounds.

Stat. Auth.: ORS 413.042, 430.640, 443.450
Stats. Implemented: ORS 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.524 - 430.640, 430.850 - 430.955, 443.400 - 443.460
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 6-2017, f. & cert. ef. 6-23-17; Suspended by MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

ADMINISTRATIVE RULES

309-019-0215

Grievances and Appeals

(1) Any individual or parent or guardian receiving services may file a grievance with the provider, the individual's coordinated care plan, or the Division.

(2) For individuals whose services are funded by Medicaid, grievance and appeal procedures are set forth in OAR 410-141-0260 through 410-141-0266.

(3) For individuals whose services are not funded by Medicaid, providers shall:

(a) Notify each individual or guardian of the grievance procedures by reviewing a written copy of the policy upon entry;

(b) Assist individuals and parents or guardians to understand and complete the grievance process and notify them of the results and basis for the decision;

(c) Encourage and facilitate resolution of the grievance at the lowest possible level;

(d) Complete an investigation of any grievance within 30 calendar days;

(e) Implement a procedure for accepting, processing, and responding to grievances including specific timelines for each;

(f) Designate a program staff individual to receive and process the grievance;

(g) Document any action taken on a substantiated grievance within a timely manner; and

(h) Document receipt, investigation, and action taken in response to the grievance.

(4) The provider shall have a Grievance Process Notice that shall be posted in a conspicuous place stating the telephone number of:

(a) The Division complaints representative;

(b) Disability Rights Oregon;

(c) Any applicable Coordinated Care Organization; and

(d) The Governor's Advocacy Office.

(5) In circumstances where the matter of the grievance is likely to cause harm to the individual before the grievance procedures are completed, the individual or guardian of the individual may request an expedited review. The program administrator shall review and respond in writing to the grievance within 48 hours of receipt of the grievance. The written response shall include information about the appeal process.

(6) A grievant, witness, or staff member of a provider may not be subject to retaliation by a provider for making a report or being interviewed about a grievance or being a witness. Retaliation may include but is not limited to dismissal or harassment, reduction in services, wages, or benefits, or basing service or a performance review on the action.

(7) The grievant is immune from any civil or criminal liability with respect to the making or content of a grievance made in good faith.

(8) Individuals and their legal guardians may appeal entry, transfer, and grievance decisions as follows:

(a) If the individual or guardian is not satisfied with the decision, the individual or guardian may file an appeal in writing within ten working days of the date of the program administrator's response to the grievance or notification of denial for services. The appeal shall be submitted to the Division;

(b) If requested, program staff shall be available to assist the individual;

(c) The Division shall provide a written response within ten working days of the receipt of the appeal; and

(d) If the individual or guardian is not satisfied with the appeal decision, they may file a second appeal in writing within ten working days of the date of the written response to the chief officer.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 179.505, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0220

Variations

(1) Requirements and standards for requesting and granting variations or exceptions are found in OAR 309-008-1600.

(2) The Division's chief officer or designee shall approve or deny the request for a variance to these rules. The request shall be made in writing using the Division approved variance request form and following the variance request procedure pursuant to OAR 309-008-1600.

(3) Granting a variance for one request does not set a precedent that shall be followed by the Division when evaluating subsequent requests for variance.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 179.505, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0225

Assertive Community Treatment (ACT) Definitions

(1) In addition to the definitions in OAR 309-019-0105, the definitions below apply to this and subsequent rule sections.

(2) "Collateral Contacts" means members of the individual's family or household or significant others (e.g., landlord, employer) who regularly interact with the individual and are directly affected by or have the capability of affecting their condition and are identified in the treatment plan as having a role in the individual's recovery. For the purpose of the Assertive Community Treatment (ACT) program, a collateral contact does not include contacts with other mental health service providers or individuals who are providing a paid service that would ordinarily be provided by the ACT team (e.g., meeting with a shelter staff who is assisting an ACT recipient in locating housing).

(3) "Community-Based" means services and supports that shall be provided in a participant's home and surrounding community and not solely based in a traditional office-setting. ACT services may not be provided to individuals residing in an RTF or RTH licensed by the Division unless:

(a) The individual is not being provided rehabilitative services; or

(b) The individual has been identified for transition to a less intensive level of care. When identified for transition to a less intensive level of care, the individual may receive ACT services for up to six months prior to discharge from the RTH or RTF.

(4) "Competency" means one year of experience or training in the specialty area and demonstration of the specific skills or knowledge.

(5) "Competitive Integrated Employment" means full-time or part time work:

(a) At minimum wage or higher;

(b) At a rate that is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skill;

(c) With eligibility for the level of benefits provided to other employees;

(d) At a location where the employee interacts with other individuals who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other individuals; and

(e) That present opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(6) "Comprehensive Assessment" means the organized process of gathering and analyzing current and past information with each individual and the family and support system and other significant individuals to evaluate:

(a) Mental and functional status;

(b) Effectiveness of past treatment;

(c) Current treatment, rehabilitation, and support needs to achieve individual goals and support recovery; and,

(d) The range of individual strengths (e.g., knowledge gained from dealing with adversity, personal or professional roles, talents, personal traits) that may act as resources to the individual and the recovery planning team in pursuing goals. The results of the information gathering and analysis are used to:

(A) Establish immediate and longer-term service needs with each individual;

(B) Set goals and develop the first person directed recovery plan with each individual; and,

(C) Optimize benefits that can be derived from existing strengths and resources of the individual and family and natural support network in the community.

(7) "Co-Occurring Disorders (COD) Services" means integrated assessment and treatment for individuals who have co-occurring mental health and substance use condition.

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(8) "Division Approved Reviewer" means the Division's contracted entity that is responsible for conducting ACT fidelity reviews, training, and technical assistance to support new and existing ACT programs statewide.

(9) "Fidelity" for the purposes of the ACT program means the provider is providing services that are faithful to the evidence-based practice model and obtains a satisfactory score from the Oregon Center of Excellence for ACT as part of their regular reviews.

(10) "Fixed Point of Responsibility" means the ACT team provides virtually all needed services, rather than sending clients to different providers. If the team cannot provide a service, the team ensures that the service is provided.

(11) "Full-Time Equivalent" (FTE) means a way to measure how many full-time employees are required to provide the appropriate level of services to fulfill minimum fidelity requirements.

(12) "Hospital Discharge Planning" means a process that begins upon admission to the Oregon State Hospital (OSH) or an acute care psychiatric hospital and that is based on the presumption that with sufficient supports and services, all individuals can live in an integrated community setting. Discharge planning is developed and implemented through a person-centered planning process in which the individual has a primary role and is based on principles of self-determination. For OSH, discharge planning teams include a representative of a community mental health provider from the county where the individual is likely to transition.

(13) "Individual Placement and Support (IPS) Supported Employment Services" means individualized services that assist individuals to obtain and maintain integrated, paid, competitive employment. Supported employment services are provided in a manner that seeks to allow individuals to work the maximum number of hours consistent with their preferences, interests, and abilities and are individually planned, based on person-centered planning principles and evidence-based practices.

(14) "Individual Treatment Team (ITT)" means a group or combination of three to five ACT team staff members who together have a range of clinical and rehabilitation skills and expertise. The core members are the case manager, the psychiatrist or psychiatric nurse practitioner, one clinical or rehabilitation staff individual who backs up and shares case coordination tasks and substitutes for the service coordinator when they are not working, and a peer support and wellness specialist.

(15) "Initial Assessment and Individualized Treatment Plan" means the initial evaluation of:

- (a) The individual's mental and functional status;
- (b) The effectiveness of past treatment; and
- (c) The current treatment, rehabilitation, and support service needs.

The results of the information gathering and analysis are used to establish the initial treatment plan to support recovery and help the individual achieve their goals.

(16) "Large ACT Team" means an ACT team serving 80 to 120 individuals.

(17) "Life Skills Training" means training that helps individuals develop skills and access resources needed to increase their capacity to be successful and satisfied in the living, working, learning, and social environments of their choice.

(18) "Medication Management" means the prescribing and administering and reviewing of medications and their side effects, including both pharmacological management as well as supports and training to the individual. For the purposes of ACT, medication management is a collaborative effort between the individual receiving services and the prescribing psychiatrist or psychiatric nurse practitioner with the ACT treatment team.

(19) "Mid-Size Act Team" means an ACT team serving between 41 and 79 individuals.

(20) "Natural Supports" means personal associations and relationships typically developed in the community that enhance the quality and security of life for individuals, including but not limited to family relationships, friendships reflecting the diversity of the neighborhood and the community, association with fellow students or employees in regular classrooms and work places, and associations developed through participation in clubs, organizations, and other civic activities.

(21) "Psychiatry Services" means the prescribing and administering and reviewing of medications and their side effects, including both pharmacological management as well as supports and training to the individual. Psychiatry services shall be provided by a psychiatrist or a psychiatric nurse practitioner licensed by the Oregon Medical Board.

(22) "Single Point of Contact" (SPOC) means a designated individual in a service region that is responsible for coordinating and tracking referrals to ACT programs within their geographic service area.

(23) "Small ACT Team" means an ACT team serving between ten to 40 individuals.

(24) "Symptom Management" means to prevent or treat as early as possible the symptoms of a disease, side effects caused by treatment of a disease, and psychological, social, and spiritual problems related to a disease or its treatment.

(25) "Telepsychiatry" means the application of telemedicine to the specialty field of psychiatry. The term describes the delivery of psychiatric assessment and care through telecommunications technology, usually videoconferencing.

(26) "Time-unlimited Services" means services that are provided not on the basis of predetermined timelines but if they are medically appropriate.

(27) "Vocational Services" means employment support services that will lead to competitive integrated employment. The Division encourages the use of fidelity IPS Supported Employment for providing vocational services within the ACT program.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 430.630

Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0226

Assertive Community Treatment (ACT) Overview

(1) The Substance Abuse and Mental Health Services Administration (SAMHSA) characterizes ACT as an evidence-based practice for individuals with a serious and persistent mental illness. ACT is characterized by:

- (a) A team approach;
- (b) Community based;
- (c) A small client to staff caseload, typically 10:1, to consistently provide necessary staffing diversity and coverage;
- (d) Time-unlimited services;
- (e) Flexible service delivery;
- (f) A fixed point of responsibility; and
- (g) 24/7 availability for response to psychiatric crisis.

(2) ACT services shall include but are not limited to:

- (a) Hospital discharge planning, including OSH and acute care psychiatric hospitals;
- (b) Case management;
- (c) Symptom management;
- (d) Psychiatry services;
- (e) Nursing services;
- (f) Co-occurring substance use and mental health disorders treatment services;
- (g) Individual Placement and Support (IPS) supported employment services;
- (h) Life skills training; and
- (i) Peer delivered services.

(3) SAMHSA characterizes a high fidelity ACT program as one that includes the following staff members:

- (a) Psychiatrist or Psychiatric Nurse Practitioner;
- (b) Psychiatric Nurse;
- (c) Qualified Mental Health Professional (QMHP) ACT Team Supervisor;
- (d) Qualified Mental Health Professional (QMHP) Mental Health Clinician;
- (e) Substance Abuse Treatment Specialist;
- (f) Employment Specialist;
- (g) Mental Health Case Manager; and
- (h) Certified Peer Support Specialist.

(4) SAMHSA characterizes high fidelity ACT programs as those that adhere to the following:

- (a) Providing explicit admission criteria with an identified mission to serve a particular population using quantitative and operationally defined criteria;
- (b) Managing intake rates. ACT eligible individuals are admitted to the program at a low rate to maintain a stable service environment;
- (c) Maintaining full responsibility for treatment services that includes, at a minimum, the services required under OAR 309-019-0230(2)(a)-(i);
- (d) Twenty-four hour responsibility for covering psychiatric crises;
- (e) Involvement in hospital admissions, including OSH and acute care psychiatric hospitals;
- (f) Involvement in planning for hospital discharges, including OSH and acute care psychiatric hospitals; and
- (g) As long as medically appropriate, time-unlimited services.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640
Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0230

ACT Provider Qualifications

(1) In order to be eligible for Medicaid or State General Fund reimbursement, ACT services shall be provided only by those providers meeting the following minimum qualifications:

(a) The provider shall hold and maintain a certificate issued under the authority established in OAR chapter 309, division 008 issued by the Division for the purpose of providing outpatient behavioral health treatment services; and

(b) The provider shall hold and maintain a certificate issued by the Division under OAR 309-019-0225 through 025 for the purpose of providing ACT; and

(c) A provider certified to provide ACT services shall be reviewed annually for fidelity adherence by the Division approved reviewer and achieve a minimum score of 114 on the fidelity scale. Providers may not bill Medicaid or use General Funds for the provision of ACT services unless they complete an annual fidelity review by the Division approved reviewer:

(A) The Division approved reviewer shall forward a copy of the annual fidelity review report to the Division and provide a copy of the review to the provider;

(B) The provider shall forward a copy of the annual fidelity review report to the appropriate CCO.

(2) A provider already holding a certificate of approval under OAR chapter 309, division 008 may request the addition of ACT services be added to their certificate of approval using the procedure outlined in OAR 309-008-0400 and 309-008-1000(1), in addition to application materials required in OAR chapter 309, division 008 and this rule. The provider shall also submit to the Division a letter of support that indicates receipt of technical assistance and training from the Division approved ACT reviewer.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0235

ACT Continued Fidelity Requirements

(1) In addition to the minimum requirements established in OAR 309-019-0230 to maintain an ACT provider designation on the Division issued certificate, a provider shall submit to their CCO an annual fidelity review report by the Division approved reviewer with a minimum score of 114. Extension of a certification period has no bearing on the frequency or scope of fidelity reviews or re-certification reviews required under OAR chapter 309, division 008.

(2) Fidelity reviews shall be conducted utilizing the Substance Abuse and Mental Health Services ACT Toolkit Fidelity Scale, which the Division shall make available to providers electronically.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640
Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0240

ACT Failure to Meet Fidelity Standards

(1) In addition to any plan of correction requirements issued by the Division under OAR 309-008-0800(4)(c), if a certified ACT provider does not receive a minimum score of 114 on any fidelity review, the following shall occur:

(a) Technical assistance shall be made available by the Division approved reviewer to address problem areas identified in the fidelity review;

(b) Technical assistance shall be available for a period of 90 days from the date of the fidelity review where the provider scored below the minimum established in section one of this rule;

(c) At the end of the 90 day period, a follow-up review shall be conducted by the Division approved reviewer;

(d) The provider shall forward a copy of the amended fidelity review report to the provider's CCO; and

(e) The Division approved reviewer shall forward a copy of the fidelity review report to the Division.

(2) In addition to the standards set for suspension and revocation of a certificate in OAR 309-008-1100(1) and (2), a provider of ACT services may also have their certificate of approval suspended or revoked if the 90 day re-review results in a fidelity score of less than 114.

(3) A provider who is issued a notice of intent to apply a condition, revoke, suspend, or refusal to renew its certificate under these rules shall be entitled to request a hearing in accordance with ORS Chapter 183 and OAR 309-008-1300.

Stat. Auth.: ORS 413.042, 430.256, 430.640
Stats. Implemented: ORS 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0241

Waiver of Minimum Fidelity Requirements

(1) The Division may grant a waiver of minimum ACT fidelity requirements and extend an ACT program's certification period if the waiver to the requirement would not diminish the effectiveness of the ACT model, violate the purposes of the program, or adversely affect the program participants' health and welfare:

(a) Waivers may not be granted that are inconsistent with the individual participant's rights or federal, state, or local laws and regulations;

(b) The Division shall review waivers to minimum fidelity requirements on a case-by-case basis.

(2) Waivers granted to ACT minimum fidelity requirements shall result in an extension to the ACT program's certification period. An ACT program that is a Division approved waiver period is eligible to receive Medicaid and State General Fund reimbursement for ACT services if the ACT program meets the following criteria:

(a) The ACT program shall receive technical assistance from the Division approved reviewer and develop a plan to meet the minimum fidelity requirements; and

(b) The ACT program shall notify the appropriate CCO that the program is operating under the Division approved waiver of minimum fidelity requirements.

(3) The Division shall grant waivers of minimum fidelity requirements for a period that may not exceed 180 days.

(4) A waiver of minimum fidelity requirements may only be granted to ACT programs that have received a fidelity review within 12 months prior to the request.

(5) Requests for a waiver of minimum fidelity requirements shall be submitted to the Division's ACT program coordinator for approval.

Stat. Auth.: ORS 413.042, 430.256, 430.640
Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0242

ACT Program Operational Standards

(1) All ACT teams shall be available seven days a week, 24 hours a day by direct phone link and regularly accessible to individuals who work or are involved in other scheduled vocational or rehabilitative services during the daytime hours. ACT teams may utilize split staff assignment schedules to achieve coverage.

(2) ACT teams are primarily responsible for crisis response and for after-hour calls related to individuals they serve. The ACT team shall operate continuous and direct after-hours on-call system with staff experienced in the program and skilled in crisis intervention procedures. The ACT team shall have the capacity to respond rapidly to emergencies, both in person and by telephone. To ensure direct access to the ACT team, individuals shall be given a phone list with the responsible ACT staff to contact after hours.

(3) Service Intensity:

(a) The ACT team shall have the capacity to provide the frequency and duration of staff-to-individual contact required by each individual's service plan and their immediate needs;

(b) The ACT team shall provide a minimum of 40 percent of all services in-community as demonstrated by the average in-community encounters reviewed in case record reviews;

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(c) The ACT team shall have the capacity to increase and decrease contacts based upon daily assessment of the individual's clinical need with a goal of maximizing independence;

(d) The team shall have the capacity to provide multiple contacts to individuals in high need and a rapid response to early signs of relapse;

(e) The team shall have the capacity to provide support and skills development services to individuals' natural supports and collateral contacts;

(f) Natural supports and collateral contacts may include family, friends, landlords, or employers, consistent with the service plan. Natural supports and collateral contacts are typically not supports that are paid for services;

(g) The ACT team Psychiatrist and the Psychiatric Nurse Practitioner (PNP) shall have scheduling flexibility to accommodate individual needs. If the individual will not come to meet the Psychiatrist or the PNP at the ACT office, the Psychiatrist or PNP shall provide services as clinically indicated for that individual in the community. Secure telepsychiatry may be used when clinically indicated;

(h) The ACT team shall have the capacity to provide services via group modalities as clinically appropriate, including but not limited to individuals with substance abuse disorders and for family psychoeducation and wellness self-management services.

(4) An ACT team shall have sufficient staffing to meet the varying needs of individuals. As an all-inclusive treatment program, a variety of expertise shall be represented on the team. Staffing shall be clearly defined and dedicated to the operation of the team.

(5) Staffing Guidelines for ACT teams:

(a) A single ACT team may not serve more than 120 individuals unless:

(A) It is expanding for the expressed purpose of splitting into two ACT teams within a 12-month period; and

(B) It hires the appropriate staff to meet the required 1:10 staff ratio to individuals served.

(b) ACT team individual to clinical staff ratio may not exceed 10:1;

(c) ACT team staff shall be composed of individual staff members in which a portion or all of their job responsibilities are defined as providing ACT services;

(d) Other than for coverage when a staff member has a leave of absence, ACT teams may not rotate staff members into the ACT team that are not specifically assigned to the team as part of their position's job responsibilities.

(6) No individual ACT staff member shall be assigned less than .20 FTE for their role on the team unless filling the role of psychiatrist or PNP. The ACT team psychiatrist or PNP may not be assigned less than .10 FTE.

(7) Maximum ACT team staffing requirements: ACT teams may not exceed the following upper staffing limits:

(a) No more than eight individual staff members per small ACT team;

(b) No more than 12 individual staff members per mid-size ACT team;

(c) No more than 18 individual staff members per large ACT team.

(8) ACT team staffing is multi-disciplinary. The core minimum staffing for an ACT team includes:

(a) A team leader position that shall be occupied by only one individual. The team leader is a QMHP level clinician qualified to provide direct supervision to all ACT staff except the psychiatric care provider and nurse. Pursuant to the table in OAR 309-019-0242(13), the Team Leader FTE is dictated by the number of individuals served by the ACT team;

(b) Pursuant to the table in OAR 309-019-0242(11), Psychiatric Care Provider (Psychiatrist or PNP) FTE is dictated by the number of individuals served by the ACT team;

(c) Pursuant to the table in OAR 309-019-0242(11), the Nurse FTE is dictated by the number of individuals served by the ACT team;

(d) The Program Administrative Assistant FTE is not counted in the clinical staff ratio.

(9) ACT team minimum staffing shall include clinical staff with the following FTE and specialized competencies:

(a) Pursuant to the table in OAR 309-019-0242(11), the Substance Abuse Specialist FTE is dictated by the number of individuals served by the ACT team. A Substance Abuse Specialist specialized competencies shall include:

(A) Substance abuse assessment and substance abuse diagnosis;

(B) Principles and practices of harm reduction;

(C) Knowledge and application of motivational interviewing strategies.

(b) Pursuant to the table in OAR 309-019-0242(11), the Employment Specialist FTE is dictated by the number of individuals served by the ACT team. An Employment Specialist specialized competencies shall include:

(A) Competence in the IPS Supported Employment fidelity model;

(B) Vocational assessment;

(C) Job exploration and matching to individual's interest and strengths;

(D) Skills development related to choosing, securing, and maintaining employment.

(c) Pursuant to the table in OAR 309-019-0242(11), the Peer Support and Wellness Specialist FTE is dictated by the number of individuals served by the ACT team.

(d) See a Certified Peer Support Specialist or Peer Wellness Specialist as described in OAR 410-180-0300 and 410-180-0380. A registry of certified Peer Support Specialist Specialists and Peer Wellness Specialists may be found at the Office of Equity and Inclusion's Traditional Health Worker's website.

(10) ACT Team Staffing Core Competencies:

(a) Upon hiring, all clinical staff on an ACT team shall have experience in providing direct services related to the treatment and recovery of individuals with a serious and persistent mental illness. Staff shall be selected consistent with the ACT core operating principles and values. Clinical staff shall have demonstrated competencies in clinical documentation and motivational interviewing;

(b) All staff shall demonstrate basic core competencies in designated areas of practice, including the Assertive Community Treatment core principles, integrated mental health and substance abuse treatment, supported employment, psycho-education, and wellness self-management;

(c) All staff shall receive ACT 101 training from the Division approved reviewer prior to receiving the Division provisional certification; and

(d) All professional ACT team staff shall obtain the appropriate licensure to provide services in Oregon for their respective area of specialization.

(11) ACT Team Size Staff (FTE) to Individual Ratio Table: [Table not included. See ED. NOTE.]

(12) The ACT team shall conduct daily organizational staff meetings at least four days per week and regularly scheduled times per a schedule established by the team leader. These meetings shall be conducted in accordance with the following procedures:

(a) The ACT team shall maintain in writing:

(A) A roster of the individuals served in the program; and

(B) For each individual, a brief documentation of any treatment or service contacts that have occurred during the last 24 hours and a concise, behavioral description of the individual's status that day.

(b) The daily organizational staff meeting includes a review of the treatment contacts that occurred the day before and provides a systematic means for the team to assess the day-to-day progress and status of all clients;

(c) During the daily organizational staff meeting, the ACT team shall also review treatment plans as needed, plan for emergency and crisis situations, and add service contacts to the daily staff assignment schedule per the revised treatment plans.

(13) The ACT team shall conduct treatment planning meetings under the supervision of the team leader and the Psychiatrist or PNP. These treatment planning meetings shall:

(a) Convene at regularly scheduled times per a written schedule set by the team leader;

(b) Occur and be scheduled when the majority of the team members can attend, including the psychiatrist or psychiatric nurse practitioner, team leader, and all members of the treatment team;

(c) Require individual staff members to present and systematically review and integrate an individual's information into a holistic analysis and prioritize problems; and

(d) Occur with sufficient frequency and duration to make it possible for all staff to:

(A) Be familiar with each individual and their goals and aspirations;

(B) Participate in the ongoing assessment and reformulation of problems;

(C) Problem-solve treatment strategies and rehabilitation options;

(D) Participate with the individual and the treatment team in the development and the revision of the treatment plan; and

(E) Fully understand the treatment plan rationale in order to carry out each individual's plan.

(14) ACT Assessment and Individualized Treatment Planning:

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(a) An initial assessment and treatment plan is completed upon each individual's admission to the ACT program; and

(b) Individualized treatment plans for ACT team-served individuals shall be updated at least every six months.

(15) Service Note Content:

(a) More than one intervention, activity, or goal may be reported in one service note, if applicable;

(b) ACT team staff shall complete a service note for each contact or intervention provided to an individual. Each service note shall include all of the following:

(A) Individual's name;

(B) Medicaid identification number or client identification number;

(C) Date of service provision;

(D) Name of service provided;

(E) Type of contact;

(F) Place of service;

(G) Purpose of the contact as it relates to the goals on the individual's treatment plan;

(H) Description of the intervention provided. Documentation of the intervention shall accurately reflect substance abuse related treatment for the duration of time indicated;

(I) Amount of time spent performing the intervention;

(J) Assessment of the effectiveness of the intervention and the individual's progress towards the individual's goal;

(K) Signature and credentials or job title of the staff member who provided the service; and

(L) Each service note page shall be identified with the beneficiary's name and client identification number.

(c) Documentation of discharge or transition to lower levels of care shall include all of the following:

(A) The reasons for discharge or transition as stated by both the individual and the ACT team;

(B) The individual's biopsychosocial status at discharge or transition;

(C) A written final evaluation summary of the individual's progress toward the goals set forth in the person-centered treatment plan;

(D) A plan for follow-up treatment, developed in conjunction with the individual; and

(E) The signatures of the individual, the team leader, and the psychiatrist or PNP.

[Ed Note: Tables referenced are available from the Agency.]

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 430.630

Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0245

ACT Admission Criteria

(1) Participants shall meet the medically appropriate standard as designated in OAR 309-019-0105. Participants who are medically appropriate shall have the following characteristics:

(a) Participants diagnosed with severe and persistent mental illness as listed in the Diagnostic and Statistical Manual, Fifth Edition (DSM V) of the American Psychiatric Association that seriously impair their functioning in community living. Priority is given to people with schizophrenia, other psychotic disorders (e.g., schizoaffective disorder), and bipolar disorder because these illnesses more often cause long-term psychiatric disability;

(b) Individuals with a primary diagnosis of a substance use disorder or intellectual developmental disabilities or borderline personality disorder or traumatic brain injury or an autism spectrum disorder are not the intended recipients of ACT and may not be referred to ACT if they do not have a co-occurring, qualifying psychiatric disorder;

(c) Participants with other psychiatric illnesses are eligible dependent on the level of the long-term disability;

(d) Participants with significant functional impairments as demonstrated by at least one of the following conditions:

(A) Significant difficulty consistently performing the range of practical daily living tasks required for basic adult functioning in the community (e.g., caring for personal business affairs; obtaining medical, legal, and housing services; recognizing and avoiding common dangers or hazards to self and possessions; meeting nutritional needs; maintaining personal hygiene) or persistent or recurrent difficulty performing daily living tasks except with significant support or assistance from others such as friends, family, or relatives;

(B) Significant difficulty maintaining consistent employment at a self-sustaining level or significant difficulty consistently carrying out the

homemaker role (e.g., household meal preparation, washing clothes, budgeting, or child-care tasks and responsibilities);

(C) Significant difficulty maintaining a safe living situation (e.g., repeated evictions or loss of housing).

(e) Participants with one or more of the following problems, which are indicators of continuous high service needs (e.g., greater than eight hours per month):

(A) High use of acute care psychiatric hospitals or emergency departments for psychiatric reasons, including psychiatric emergency services as defined in OAR 309-023-0110(e.g., two or more readmissions in a six month period);

(B) Intractable (e.g., persistent or very recurrent) severe major symptoms, affective, psychotic, suicidal);

(C) Coexisting substance abuse disorder of significant duration (e.g., greater than six months);

(D) High risk or recent history of criminal justice involvement (e.g., arrest, incarceration);

(E) Significant difficulty meeting basic survival needs, residing in substandard housing, homelessness, or imminent risk of becoming homeless;

(F) Residing in an inpatient or supervised community residence in the community where ACT services are available, but clinically assessed to be able to live in a more independent living situation if intensive services are provided or requiring a residential or institutional placement if more intensive services are not available;

(G) Difficulty effectively utilizing traditional office-based outpatient services.

(2) The ACT program provides community-based, long-term or time-unlimited services and is not intended to be in and of itself a transitional program.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0248

ACT Admission Process

(1) A comprehensive assessment as described in OAR 309-019-0105(6) that demonstrates medical appropriateness shall be completed prior to the provision of this service. If a substantially equivalent assessment is available that reflects current level of functioning and contains standards consistent with OAR 309-019-0135 to include sufficient information and documentation to justify the presence of a diagnosis that is the medically appropriate reason for services, the equivalent assessment may be used to determine admission eligibility for the program.

(2) Admission to ACT is managed through a referral process that is coordinated by a designated single point of contact (SPOC) that represents the Coordinated Care Organization's (CCO) or the Community Mental Health Program's (CMHP) geographical service area:

(a) The designated single point of contact shall accept referrals and verify the required documentation supports and the referral for services when an approximate, reasonable date of admission to the ACT program is anticipated;

(b) The Authority shall work with the CCOs and the CMHPs to identify regional SPOCs;

(c) The Authority shall work with the CCOs and the CMHPs to identify a process where referrals can be received and tracked.

(3) An admission decision by the designated SPOC shall be completed and reported to the Division within seven business days of receiving the referral. To accomplish this, the SPOC shall be fully informed as to the current capacity of ACT programs within the SPOC's geographic service area at all times.

(4) All referrals for ACT services shall be submitted through the designated regional SPOC, regardless of the origin of the referral when an approximate, reasonable date of admission to the ACT program is anticipated. The designated regional SPOC shall accept and evaluate referrals from mental health outpatient programs, residential treatment facilities or homes, families or individuals, and other referring sources.

(5) Given the severity of mental illness and functional impairment of individuals who qualify for ACT services, the final decision to admit a referral rests with the provider. Any referral to a provider shall therefore present a full picture of the individual by means of the supporting medical documentation attached to the Universal ACT Referral and Tracking Form and include an approximate date the referred individual will be able to

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enroll in an ACT program. A tentative admission decision and an agreement to screen by the ACT services provider shall be completed within five business days of receiving the referral:

(a) The individual's decision not to take psychiatric medication is not a sufficient reason for denying admission to an ACT program;

(b) ACT capacity in a geographic regional service area is not a sufficient reason for not providing ACT services to an ACT eligible individual. If an individual who is ACT eligible cannot be served due to capacity, the SPOC shall provide the individual with the option of being added to a waiting list until such time as the ACT eligible individual may be admitted to a certified ACT program:

(A) The ACT eligible individual who is not accepted into an ACT program due to capacity shall be offered alternative community-based rehabilitative services as described in the Oregon Medicaid State Plan that includes evidence-based practices to the extent possible;

(B) Alternative rehabilitative services shall be made available to the individual:

(i) Until the individual is admitted into an ACT program;

(ii) Alternative rehabilitative services are medically appropriate and meet the individual's treatment goals; or

(iii) The individual refuses alternative medically appropriate rehabilitative services.

(6) Upon the decision to admit an individual to the ACT program, the Authority's Universal ACT Referral and Tracking Form shall be updated to include:

(a) A tentative admission is indicated;

(b) When an admission is not indicated, notation shall be made of the following:

(A) The reasons for not admitting;

(B) The disposition of the case; and

(C) Any referrals or recommendations made to the referring agency, as appropriate.

(7) Individuals who meet admission criteria and are not admitted to an ACT program due to program capacity may elect to be placed on a waiting list. The waiting list will be maintained by the appropriate regional SPOC. The Authority shall monitor each regional waiting list until sufficient ACT program capacity is developed to meet the needs of the ACT eligible population.

(8) In addition, if an individual is denied ACT services and has met the admission criteria set forth in OAR 309-019-0245, the individual who is denied services or their guardian may appeal the decision by filing a grievance in the manner set forth in OAR 309-008-1500.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0250

ACT Transition to Less Intensive Services and Discharge

(1) Transition to less intensive services shall occur when the individual no longer requires ACT level of care and is no longer medically appropriate for ACT services.

(2) This transition shall occur when individuals receiving ACT:

(a) Have successfully reached individually established goals for transition;

(b) Have successfully demonstrated an ability to function in all major role areas including but not limited to work, social, and self-care without ongoing assistance from the ACT provider;

(c) Requests discharge or declines or refuses services;

(d) Moves outside of the geographic area of the ACT program's responsibility. In such cases, the ACT team shall arrange for transfer of mental health service responsibility to an ACT provider or another provider wherever the individual is moving. The ACT team shall maintain contact with the individual until this service is implemented.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0255

ACT Reporting Requirements

(1) Providers certified by the Division to provide ACT shall submit quarterly outcome reports using forms and procedures prescribed by the Division.

(2) Providers shall submit quarterly outcome reports within 45 days following the end of each subject quarter to the Division or the Division reviewer. Each quarterly report shall provide the following information:

(a) Individuals served:

(A) Individuals who are homeless at any point during a quarter;

(B) Individuals with safe stable housing for six months;

(C) Individuals using emergency departments during each quarter for a mental health reason;

(D) Individuals hospitalized in OSH or in an acute psychiatric facility during each quarter;

(E) Individuals hospitalized in an acute care psychiatric facility during each quarter;

(F) Individuals in jail at any point during each quarter;

(G) Individuals receiving supported employment services during each quarter;

(H) Individuals who are employed in competitive integrated employment, as defined above;

(I) Individuals receiving ACT services that are not enrolled in Medicaid.

(b) Referrals and Outcomes:

(A) Number of referrals received during each quarter;

(B) Number of individuals accepted during each quarter;

(C) Number of individuals admitted during each quarter; and

(D) Number of individuals denied during each quarter and the reason for each denial.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0280

Supported Employment Providers

(1) To be eligible for Medicaid or State General Fund reimbursement, supported employment services shall be provided only by those providers meeting the following minimum qualifications:

(a) The provider shall hold and maintain a current certificate under OAR chapter 309, division 008 issued by the Division for the purpose of providing behavioral health treatment services; and

(b) A provider certified to provide supported employment services shall be reviewed annually for fidelity adherence by the Division approved reviewer and achieve a minimum score of 100 on the fidelity scale. Providers may not bill Medicaid or use general funds unless they are subject to an annual fidelity review by the Division approved reviewer:

(A) The Division approved reviewer shall forward a copy of the annual fidelity review report to the Division and provide a copy of the review to the provider;

(B) The provider shall forward a copy of the annual fidelity review report to the appropriate CCO.

(2) To be eligible for Medicaid reimbursement, supported employment services shall be provided by a certified supported employment provider.

(3) A provider holding a certificate of approval under OAR chapter 309, division 008 may request the addition of IPS supported employment services to their certificate of approval via the procedure outlined in OAR 309-008-0400 and 309-008-1000(1):

(a) In addition to application materials required in OAR chapter 309, division 008, and this rule, the provider shall also submit to the Division a letter of support that indicates receipt of technical assistance and training from the Division approved supported employment reviewer;

(b) New providers of IPS supported employment services shall submit a letter to the Division that indicates the intention to implement a high-fidelity IPS supported employment program.

Stat. Auth.: ORS 413.042

Stats Implemented: ORS 430.630

Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

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309-019-0285

Continued Fidelity Requirements

(1) In addition to the minimum requirements established in OAR 309-019-0275 to maintain an IPS supported employment provider designation on the Division issued certificate, a provider shall submit to their CCO an annual fidelity review report by the Division approved reviewer with a minimum score of 100 of 125.

(2) Providers certified to provide IPS supported employment services that achieve a fidelity score of 100 or better when reviewed by the Division approved supported employment reviewer are certified for 12 months.

(3) Fidelity reviews shall be conducted utilizing the Substance Abuse and Mental Health Services Supported Employment Fidelity Scale, which shall be made available to providers electronically.

(4) Providers shall cooperate with the Division approved supported employment reviewer for the purpose of improving supported employment services.

Stat. Auth.: ORS 413.042

Stats Implemented: ORS 430.630

Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0300

Service Requirements

(1) Crisis line services shall be provided directly or through linkages to a crisis line services provider 24/7.

(2) Crisis line services shall include but is not limited to:

(a) 24/7 accessibility to a QMHP;

(b) 24/7 bi-lingual or interpreter availability;

(c) 24/7 telephone screening to determine the need for immediate intervention;

(d) 24/7 linkage to emergency service providers, including first responders and mobile crisis services;

(e) Best practice risk assessment, including suicide risk assessment;

(f) Suicide intervention and prevention;

(g) Lethal means counseling and safety planning for individuals at risk for suicide;

(h) Crisis intervention;

(i) Crisis plan development;

(j) Triage;

(k) Providing information regarding services and resources in the community; and

(L) Procedures for de-escalation for calls from suicidal individuals.

Stat. Auth.: ORS 413.042 & 430.640

Stats Implemented: ORS 430.630, 430.640, 430.644 - 430.646

Hist.: MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0305

Provider Standards

(1) Crisis line services providers shall develop and implement written policies and procedures to address provider standards.

(2) Provider standards shall include but is not limited to:

(a) Training curriculum and ongoing education programs to meet training requirements;

(b) Coordination with other treatment providers including mobile crisis services and other crisis line services providers to support seamless transitions of care;

(c) Linkages to emergency services providers including first responders to address imminent risks and to support seamless transitions of care;

(d) De-escalation procedures;

(e) Follow-up procedures when indicated and appropriate;

(f) Documentation;

(g) Code of ethics; and

(h) Security of information protocols.

Stat. Auth.: ORS 413.042 & 430.640

Stats Implemented: ORS 430.630, 430.640, 430.644 - 430.646

Hist.: MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

309-019-0310

Minimum Staffing Requirements

(1) At least one QMHP shall be available by phone or face-to-face 24/7 for consultation.

(2) At least one QMHP shall provide regular clinical supervision to staff.

Stat. Auth.: ORS 413.042 & 430.640

Stats Implemented: ORS 430.630, 430.640, 430.644 - 430.646

Hist.: MHS 6-2017, f. & cert. ef. 6-23-17; MHS 10-2017(Temp), f. 9-14-17, cert. ef. 9-15-17 thru 3-13-18

Oregon Health Authority, Public Employees' Benefit Board Chapter 101

Rule Caption: This filing, the result of a rules review, cleans up language and OAR references.

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Subject: This filing, the result of a rules review, cleans up language and OAR references.

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) "ACA" means the Patient Protection and Affordable Care Act and regulations promulgated under the Act by any federal agencies as of the effective date of the amended rule, including but not limited to Shared Responsibility for Employers Regarding Health Coverage, 79 Fed. Reg. 8544 (Feb. 12, 2014).

(2) "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.

(3) "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.

(4) "Administrative Period" means ACA period of no longer than 90 days beginning immediately following the end of a Standard Measurement Period and no longer than 90 days beginning immediately following the end of an Initial Measurement Period and ending immediately before the start of the associated Stability Period. During this time period the employer completes administrative tasks, for example but not limited to, calculating measurement period hours, eligibility determination, providing the employee with enrollment materials.

(5) "Affidavit of Dependency" means a notarized document that attests a dependent child meets the criteria for a dependent child under OAR 101-015-0011.

(6) "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).

(7) "Agency" means a PEBB participating organization such as an individual state of Oregon public agency, semi-independent agency, and individual OUS University.

(8) "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.

(9) "Benefit eligible" means an employee who has met the eligibility requirements of (18) of this rule and is eligible to enroll in PEBB core benefits and optional plans.

(10) "CBIW" means Continuation of Benefits for Injured Workers.

(11) "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.

(12) "COBRA" means the federal Consolidated Omnibus Reconciliation Act of 1985.

(13) "Core Benefits" means specific benefit plans that a PEBB employer may contribute a benefit amount towards the cost of the premiums for active eligible employees (e.g., medical, dental, vision, and employee basic term life coverage).

(14) "Commuter Accounts" means either a Transportation or Parking account as permitted under Commuter Benefits 26 CFR 1.132-9. This benefit allows benefit enrolled employees to contribute to one or both accounts on a pretax basis to pay for work-related commuting expenses.

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(15) “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.

(16) “Dependent child” means a child that satisfies the conditions of OAR 101-015-0011, as applicable.

(17) “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).

(18) “Eligible employee” means an individual eligible to enroll in PEBB plan benefits by reason of his or her employment with a PEBB-participating employer, and includes:

(a) “Active eligible employee” means an employee of a PEBB participating employer, including a state official, in an exempt, unclassified, classified, or management service position who works at least half-time or in a position classified as job share and is expected to work at least 90 days. The term active eligible employee can apply to an employee in an initial or standard measurement period, or in a stability period, and includes:

(A) A permanent employee who is appointed to a permanent position (as defined by OAR 105-010-0000(40)) that is a benefit eligible position, including but not limited to a full time, half-time, job share, or seasonal position; or

(B) A temporary or impermanent worker who is not appointed to a permanent position, but by following the ACA regulations and policy for full time employees, becomes benefit eligible on a specific date after appointment due to work expectations or becomes benefit eligible following an initial measurement period.

(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 can enroll in PEBB retiree benefit plans as established in Division 50 of this chapter, and must self-pay the premiums.

(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.

(19) “Family member” means a spouse, domestic partner, or a qualifying child.

(20) “FMLA” means the federal Family Medical Leave Act.

(21) “FTE” means full time equivalent job position.

(22) “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).

(23) “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.

(24) “Health Flexible Spending Account” or “Health FSA” means the health flexible spending arrangement that PEBB has adopted in accordance with the Internal Revenue Code.

(25) “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.

(26) “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.

(27) “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: 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.

(28) “Measurement Period” means the required ACA look-back period during which hours are calculated to determine if an employee has averaged at least 30 hours per week. There are two types of measurement periods:

(a) “Standard Measurement Period” means the twelve (12) consecutive month period starting November 1 and ending October 31.

(b) “Initial Measurement Period” means the twelve (12) consecutive month period starting with the first day of the employee’s employment.

(29) “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 benefit plan elections. Not all events allow changes to all plans, only enrollment changes that are consistent with the event are allowed. Permissible midyear events fall into three broad groups with allowable subgroups. The broad groups are:

(a) Change in status,

(b) Cost or coverage changes; or

(c) Other laws or court orders.

(30) “OFLA” means the Oregon Family Leave Act.

(31) “OSPS” means the Oregon State Payroll System.

(32) “OUS” means the Oregon University System.

(33) “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.

(34) “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);

(g) Long Term Care insurance; and

(h) Commuter Accounts (Transportation and Parking)

(35) “Paid regular status” means in current payroll status, and receiving payment for work time. Paid regular status includes the use of vacation, sick, holiday, personal leave accruals, compensatory time, or other employer approved status such as furlough.

(36) “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.

(37) “PEBB participating organization” means a state agency, board, commission, university, or other entity that receives approval to participate in PEBB benefit plans.

(38) “Plan change period” means a period chosen by PEBB when retirees can make limited benefit plan changes.

(39) “Plan year” means a period of twelve consecutive months. PEBB’s plan year is a calendar year.

(40) “Qualified status change” (QSC) means a midyear change event generally associated with a family change or a work status change that affects plan eligibility. Plan changes are allowed when consistent with the event.

(41) “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.

(42) “Reinstate” means to reactivate previous benefits and enrollments, if available, to an eligible employee returning to eligible status within a specific time frame. Reinstated enrollment does not include FSAs, Long Term Care or Commuter plans.

(43) “Spouse” means an individual who is legally married. A marriage or a relationship recognized as a legal marriage between two individuals in Oregon, or another state or foreign country, 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 the marriage in Oregon. The definition of spouse does not include a former spouse and a former spouse does not qualify as a dependent.

(44) “Stability Period” means the twelve (12) consecutive month period that immediately follows a Standard Measurement Period or an Initial Measurement Period, and, the Administrative Period associated with that Standard Measurement Period or Initial Measurement Period. An employee remains benefit eligible for the duration of a given stability period if the employee had an average of 30 hours of service per week, or 130 hours per month, for the duration of the measurement period immediately preceding the stability period.

(a) The stability period following a standard measurement period begins on January 1 of the year after the standard measurement period ends, and ends on December 31 of that year.

(b) The stability period following an initial measurement period begins on the first day of the second full calendar month after the date on which the initial measurement period ends.

Stat. Auth.: ORS 243.061 - 243.302

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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; 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; PEBB 2-2014(Temp), f. & cert. ef. 6-9-14 thru 12-5-14; PEBB 3-
2014(Temp), f. & cert. ef. 11-12-14 thru 5-10-15; PEBB 1-2015, f. & cert. ef. 5-12-15; PEBB
2-2017, f. & cert. ef. 8-17-17

101-020-0002

Plan Effective Dates, Employee Eligibility Continuation, and Plan Termination Dates

(1) Irrevocability Rule. Except as otherwise provided in OAR chapter 101, all eligible employee benefit plan elections or mid-year plan changes are irrevocable for the plan year and must have a prospective effective date.

(2) PEBB's eligible employee benefits are in whole month increments for coverage and premium cost. PEBB's core benefits are part of an Internal Revenue Service Code 125 Cafeteria plan, requiring an employee's monthly pay deduction for premium contribution is in advance of the coverage.

(3) The coverage effective date for newly eligible employees or for employees who receive approved qualified midyear changes is the first of the month following the later of the agency's receipt of all required appropriate forms, electronic enrollment, or the actual event date.

(a) The employee must be actively at work as specified in OAR 101-010-0005(2) for medical and dental coverage to become effective and as specified by optional plans in optional plan policies or certificates.

(b) When an optional plan requires medical underwriting prior to coverage approval, coverage will be effective the first of the month following plan approval.

(4) Employee Continuation of Coverage. An enrolled benefit eligible employee continuing employment:

(a) Within a current stability period, remains benefit eligible for that stability period regardless of the number of paid regular status hours accrued in the month.

(b) Not within a current stability period, must accrue a minimum of 80 paid regular status hours in a month to qualify for benefit coverage in the following month. If the employee accrues less than 80 paid regular status hours in a given month, the employee's benefits will end the last day of that month. The agency must send the employee a self-pay COBRA Enrollment Notice. Employees within an approved FMLA, CBIW or other protected leave are not required to accrue 80 paid regular hours for benefits in the following month, see division 30.

(5) Open enrollment elections are effective on the first day of the new plan year. When an optional plan requires a medical underwriting prior to coverage approval, coverage will be effective the first of the month following plan approval in the new plan year.

(6) Coverage effective date for Special Enrollment Rights. An eligible employee or family member losing other group medical coverage is eligible to enroll in PEBB plans within 30 days of the date of the loss of other group coverage. When enrolled within 30 days of the loss, PEBB coverage will be effective the first day of the month that coverage is lost. When notified after 30 days from the loss of coverage, if approved, the effective date will be prospective only to the first day of the month following submission of forms.

Example 1: Joe loses coverage under his spouse's plan Oct. 15. Joe submits enrollment update forms Oct. 16. Joe's coverage effective date is October 1.

Example 2: Joe loses coverage under his spouse's plan October 31. Joe submits enrollment update forms November 16. Joe's coverage effective date is November 1.

Example 3: Joe loses coverage under his spouse's plan October 15. Joe submits the enrollment update forms November 23 (after 30 days from loss of coverage). If approved, Joe's coverage effective date is December 1.

(7) Active benefit eligible employee core benefit termination dates:

(a) When any employee terminates employment, benefit coverage for the employee and covered family members will end regardless of whether the employee is within a current stability period as follows:

(A) On the last day of the month, when the employee accrues less than 80 paid regular status hours during the month the employment terminates.

(B) On the last day of the following month, when the employee accrues more than 80 paid regular status hours during the month the employment terminates.

(b) When the employee is a temporary or impermanent worker who is benefit eligible for the current stability period and has no paid regular status hours for at least 13 weeks, or for a period at least four weeks and longer than the prior period during which the employee was working, the employee's benefits will end the last day of the month of that period. If the employ-

ee returns to work for the employer the employee must be considered a new employee.

(c) For employees of educational organizations, the time period applicable under this subsection is either 26 weeks or, if the employee's prior period of employment was less than 26 weeks, a period that is at least four weeks long and one week longer than the prior period of employment.

(d) When an employee is in an employer approved period of leave without pay, (e.g., FMLA, CBIW), or is in a benefit eligible current stability period a termination of coverage occurs when the employee's premium share is more than 30 days late from the designated payment due date. In order to terminate the coverage the agency:

(A) Must provide written notice to the employee that payment has not been received. The notice must be mailed to the employee at least 15 days before coverage terminates and the notice must advise the employee that coverage will be dropped on a specified date at least 15 days after the letter date, unless the payment is received by that specified date (30 days).

(B) When the employee has received the 15 day notice and payment is not received by the due date, coverage is terminated retroactively to the last day of the last month that employee premium was received. The agency and PEBB may adjust premiums for one month when the termination is caused by an employee's premium non-payment, this is not rescission

(C) When coverage is terminated because of the employee's failure to pay the premium share timely and the employee returns from the leave within 12 months from the loss of coverage, the agency must reinstate employee to the benefits equivalent to those the employee would have if the leave had not been taken and premium payments missed. See OAR 101-20-0045 Returning to Work.

Example: John is in a benefit eligible current stability period. His August premium share was paid by his agency with his August 1 pay (July pays August). John starts a leave without pay on August 1. His current stability period status allows John to continue enrollment in his health benefits for September, but only if he pays his September premium share to his agency as designated. His agency requires the premium share payments by the 15th of each month. John's agency does not receive his August 15 payment for September coverage. The agency sends John a notice of non-payment by August 17. The notice provides a 15 day notice that payment must be made to the agency by September 15 or his enrollment will retroactively terminate to August 31 (the last day, of the last month that premium was paid). The agency pays full premium for the September coverage. John's payment is not received by September 15. John's enrollment is terminated back to August 31 and he is sent a COBRA Election Notice. If the agency paid the premiums for September, reconciliation adjustments are made by PEBB and the agency. John later returns to work in the middle of September, his previous benefits will reinstate for an October 1 effective date. He does not need to work 80 hours in the month of return for benefits in the following month, because he returned within his current stability period status. (If John was not in a current benefit eligible stability status, or was not in a leave without pay connected to a FMLA, CBIW, or other protected leave, he would need to work 80 hours in the month of return.)

(8) Self-pay individuals and retired employees' benefits terminate the last day of the last period for which the required premium contribution is paid.

(9) Optional plan coverages end according to the individual optional plan's policy or certificate directives. Refer to OAR 101-020-0060 and 101-020-0065 for FSA termination dates.

Stat. Auth.: ORS 243.061 - 302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 743.600 - 602 & 743.707

Hist.: PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 2-2008, f. & cert. ef. 8-1-08; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11; PEBB 3-2014(Temp), f. & cert. ef. 11-12-14 thru 5-10-15; PEBB 1-2015, f. & cert. ef. 5-12-15; PEBB 2-2017, f. & cert. ef. 8-17-17

101-020-0005

Newly Hired and Newly Eligible Employee

(1) All newly hired or a newly eligible active employees have 30 days from the date of hire or date of eligibility to enroll in PEBB core and optional benefit plans. Benefit plan elections are irrevocable for the plan year except as specified in OAR 101-020-0050.

(a) Full time temporary or impermanent employees that will be benefit eligible by the fourth month of employment enroll for benefits during the third employment month for benefits to be effective by the first of the third month.

(b) Variable hour temporary or impermanent employees that become benefit eligible after an initial measurement period have 30 days from their benefit eligibility date to enroll.

(2) A newly hired benefit eligible employee or newly eligible employee can enroll in benefit plans for the following month regardless of the number of paid regular hours in the month of hire or eligibility. The employee must be actively at work, as specified in OAR 101-010-005(2) on the coverage effective date. In the months following initial eligibility and enrollment, to continue to receive coverage a benefit eligible employee:

(a) Not in a current benefit eligible stability period must meet the requirement of a minimum of 80 hours paid regular status each month to receive benefits the following month.

ADMINISTRATIVE RULES

(b) In a current benefit eligible stability period is eligible for benefits the following month regardless of the number of paid regular status hours in the month.

Example: Sarah was a new hire and she enrolled in benefit plans on June 25. Sarah was in paid regular status on July 1; her coverage is effective July 1. Sarah will need to be in paid regular status for 80 hours in July in order to receive August coverage.

(c) Who enrolls in benefit plans and terminates employment before the effective date of insurance coverage will not receive active employee benefits or COBRA.

Example 1: Sarah was a new hire into a benefit eligible position, she enrolled in benefit plans on June 25. Sarah was in paid regular status on July 1; on July 2, she terminated employment. Sarah's coverage was effective July 1 and will remain in place through July 31. Sarah will not receive PEBB coverage in August, but will receive a COBRA notice.

Example 2: Ron was a new hire into a benefit eligible position, he enrolled in benefit plans on June 25. He terminated employment on June 30. Ron is not eligible for insurance coverage because he was not in paid regular status on July 1. He will not receive a COBRA notice because he did not receive active coverage.

(3) Any employee that becomes eligible for benefits during or after the open enrollment period but before the start of the new plan year must receive the opportunity to complete open enrollment elections before the start of the plan year.

Stat. Auth.: ORS 243.061 - 302

Stats. Implemented: ORS 243.061 - 302

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 1-2004, 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 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 3-2009, f. 9-29-09 cert. ef. 10-1-09; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11; PEBB 3-2014(Temp), f. & cert. ef. 11-12-14 thru 5-10-15; PEBB 1-2015, f. & cert. ef. 5-12-15; PEBB 2-2017, f. & cert. ef. 8-17-17

101-020-0015

Opting Out of Medical Insurance Coverage

(1) A benefit eligible employee can Opt Out of medical coverage and receive cash in lieu of medical insurance coverage. PEBB determines the amount of cash paid to an employee who Opts Out of medical coverage. Opt Out cash is included in employee income and is subject to taxes.

(2) Opting Out of medical coverage is an enrollment choice, it is not an enrollment in a PEBB medical plan.

(3) PEBB can require eligible employees who enroll in Opt Out to also enroll in other core benefits, such as dental, vision, and employee basic life coverage. Opt out enrolled employees who enroll for a core benefit plan are responsible to pay any premium share required.

(4) Eligible employees choosing to enroll in medical Opt Out must have minimum essential medical coverage for themselves and all other individuals for whom the employee can reasonably expect to claim a personal tax exemption deduction for. The alternative medical coverage must be a group sponsored medical plan. The employee must attest to the coverage at enrollment and annually thereafter.

(5) The agency or PEBB will cancel an employee's Opt Out enrollment when the attestation is not completed during initial enrollment or annually during the open enrollment period. If the Opt Out election is cancelled:

(a) The agency will enroll a new benefit eligible employee in the Employee Only tier of a PEBB medical plan that provides statewide coverage. All other employee plan elections will take effect as enrolled.

(b) When the Opt Out enrollment is to replace an enrolled employee's PEBB medical plan, the employee and any eligible dependents will reinstate to the previous medical plan. All other employee plan elections will take effect as enrolled.

(6) An employee is not eligible for Opt Out if their alternative group medical coverage is one of the following Medicaid, Veterans' Administration Health Benefit Programs, Student Health Insurance, or individual market coverage.

(7) An employee enrolled in Opt Out will not receive money in lieu of a PEBB medical plan enrollment when he or she is in a leave without pay status, regardless if the leave is a protected leave; e.g., FMLA, CBIW, Military Duty, etc., or other administratively approved leave.

(8) Employees enrolled in Opt Out experiencing a federal HIPAA Special Enrollment Right event are eligible for a qualified midyear change medical plan enrollment, for example, a loss of group medical coverage, or a change in family status such as a birth, adoption, etc.

(9) A PEBB retiree enrolled in the PEBB retiree or COBRA plan receiving a premium subsidy, such as an early retirement premium subsidy, returning as an active benefit eligible employee, and choosing to continue coverage under the retiree or COBRA plan is not eligible to enroll for Opt Out as an active employee.

(10) Opt Out cash will not be paid if the agency or PEBB has knowledge or reason to know that the employee or any other member of the

employee's expected tax family does not have or will not have the required alternative coverage.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061 - 243.302

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 1-2002, 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 3-2009, f. 9-29-09 cert. ef. 10-1-09; PEBB 3-2010, f. 9-23-10, cert. ef. 10-1-10; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11; PEBB 4-2014, f. & cert. ef. 12-31-14; PEBB 2-2016, f. & cert. ef. 8-24-16; PEBB 2-2017, f. & cert. ef. 8-17-17

101-020-0018

Declining Benefits

(1) An active eligible employee who declines PEBB core benefits waives the employee's right to the benefit amount and enrollment in any PEBB sponsored plans.

(2) An eligible employee may decline benefits at the time of hire or meeting eligibility, consistent with a qualifying midyear plan change event, or during the open enrollment period.

(3) An eligible employee who previously declined benefits may enroll in benefit plans consistent with a qualifying midyear plan change event or during the open enrollment period.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061 - 302

Hist.: 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 7-2010, f. 12-10-10, cert. ef. 1-1-11; PEBB 2-2017, f. & cert. ef. 8-17-17

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. Under COBRA regulations 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.

(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.

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(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 1-2004, 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; PEBB 2-2017, f. & cert. ef. 8-17-17

101-020-0032

Open Enrollment

(1) Active and other eligible employees may make benefit plan changes, new plan elections, enroll eligible individuals, or terminate only certain individuals during the annual open enrollment period. All plan elections or enrollments are subject to paragraph (6) of this rule. Eligible employees must submit plan elections, enrollments, or enrollment terminations as instructed during the designated period.

(2) Open enrollment coverage begins the first day of the new plan year. When coverage must receive plan-underwriting approval, the effective date of the coverage will be the first day of the month after approval in the new plan year. The exception would be UNUM which has an effective date of coverage the first of the month following approval.

(3) During the open enrollment period, the eligible employee is accountable for enrolling and providing coverage to only those individuals who will meet PEBB eligibility criteria for coverage the first day in the new plan year. The eligible employee is accountable during open enrollment for ensuring that only those individuals who meet PEBB eligibility are enrolled in the new plan year.

(a) Employees can terminate an individual currently receiving coverage, electronically or by using a form, if they know the individual will be ineligible for coverage the first day of the plan year or the employee no longer wants to provide coverage to the individual even though the individual will continue to meet eligibility. When terminated by an employee as part of the open enrollment period the individual's coverage ends the last day of the last month of the current plan year. PEBB can audit an employee's benefit record and investigate the reason why an individual will no longer receive coverage in the new plan year. When necessary PEBB can correct the coverage termination date of a terminated individual and take the appropriate termination of coverage action as provided by OAR 101-020-0025.

(b) Employees are not to use the open enrollment period to remove individuals who have lost eligibility or will lose eligibility. Employees must remove individuals who lose eligibility from their coverage and benefit record by submitting the correct midyear change forms to the agency or to PEBB. See OAR 101-020-0025.

(4) The agency must provide an eligible employee who becomes newly eligible or hired after the open enrollment period but before the start of the new plan year an opportunity for open enrollment elections.

(5) The agency must provide eligible employees away from work due to FMLA, CBIW, active military duty, or other approved employer leave status where the employer continues the employee's core benefits, an opportunity for open enrollment elections before the start of the new plan year.

(6) Benefit plan elections are irrevocable for the new plan year except as specified in OAR 101-020-0050 or 101-020-0037.

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; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11; PEBB 2-2017, f. & cert. ef. 8-17-17

101-020-0037

Correcting Enrollment and Processing Errors

(1) Employee enrollment errors occur when an eligible employee provides incorrect information or fails to make correct selections when making benefit plan elections. An employee's failure to take an enrollment action is not considered an employee enrollment error. For the purpose of this rule, an enrollment action means that the employee during the allowable enrollment times must take an action to enroll, add to, save, or change

benefit plan enrollment elections, or enroll, add to, save, or change coverage of individuals. The eligible employee is responsible for identifying enrollment errors.

(a) PEBB authorizes the agency to correct employee enrollment errors when reported by the employee within 30 days of the original eligibility date or midyear plan change date. Corrections are prospective to the first of the month following the date the agency received the correction request.

(A) PEBB must review all employee requests to correct enrollment errors received after 30 days of the original eligibility date or the midyear plan change date. If the correction is approved, the effective date is the first of the month following the receipt of the employee's correction request.

(B) Enrollment error correction requests considered beyond 30 days of the eligibility date or the midyear plan change date must demonstrate facts and circumstances that clearly establish an employee error occurred.

Example: As a new employee, Anne enrolled in the Dependent Care Flexible Spending Account. Anne does not have any eligible dependents. Six months later Anne realizes the error after her first Health FSA claim is rejected. Anne may request an enrollment correction from PEBB.

(b) PEBB authorizes the agency to correct an employee's open enrollment error. The agency may receive employee correction request after the open enrollment end date but no later than January 31st of the new plan year. The exception is university FSA enrollments. University FSA corrections must be received no later than the last day of February in the new plan year. PEBB must review all employee correction requests received beyond the timelines for corrections. Employee open enrollment corrections received before the first day of the new plan year will be effective January 1st. Correction requests received after the first day of the new plan year and before January 31st will be prospective.

(2) Administrative processing errors occur when benefit plan elections are processed incorrectly in the payroll and benefit system by the agency, PEBB, or third party administrative staff, or when a newly eligible employee does not receive correct enrollment information or materials within 30 days of the eligibility date.

(a) PEBB authorizes the agency to correct processing errors identified within 30 days of the eligibility date or the midyear plan change date. Corrections are retroactive to the first of the month following the date the agency received the paper form or electronic equivalent. The exception is a correction to core benefit enrollments once the enrollment is effective, the enrollments may terminate prospectively only. The agency must reconcile all premium discrepancies as described by contract with the insurer.

(b) PEBB must review all processing error correction requests identified after 30 days of the eligibility date or the midyear plan change date. If approved, corrections are retroactive to the first of the month following the date the paper form or electronic equivalent was first received by the agency. The exception is a correction to core benefit enrollments once the enrollment is effective, the enrollments may terminate prospectively only. The agency must reconcile all premium discrepancies as described by contract with the insurer.

(c) PEBB authorizes the agency to correct open enrollment processing errors. The agency must receive requests for correction after the open enrollment end date but no later than January 31st of the new plan year. PEBB must review all open enrollment correction requests received after January 31st of the new plan year. All processing error corrections received before January 31st are effective the first day of the new plan year.

(d) When a newly eligible employee fails to receive enrollment information within 30 days of the eligibility date or receives incorrect information, benefit plan elections will be effective retroactive to the first of the month following the eligibility date.

Stat. Auth.: ORS 243.061 - 302

Stats. Implemented: ORS 243.061 - 302

Hist.: 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 3-2005, f. 8-31-05, cert. ef. 9-1-05; PEBB 1-2006, f. & cert. ef. 11-28-06; Renumbered from 101-040-0080, 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; PEBB 2-2017, f. & cert. ef. 8-17-17

101-020-0045

Returning to Work

(1) Refer to the following rules for an employee returning to paid regular status from the following leave status:

(a) Continuation of Benefits for Injured Workers (CBIW). See OAR 101-030-0010.

(b) Federal Family Medical Leave Act (FMLA). See OAR 101-030-0015.

(c) Oregon Family Leave Act (OFLA). See OAR 101-030-0015.

(d) Active Military Duty Leave (USERRA). See OAR 101-030-0022.

ADMINISTRATIVE RULES

(2) A benefit eligible employee who is not in a current benefit eligible stability period and is returning to paid regular status must work at least half-time in the month of return to be eligible for core benefits and optional plan coverage the following month if returning from:

(a) A leave without pay that is not listed in subsection (1) of this rule and has a break in active employee coverage; or

(b) A reduction in hours below benefit eligibility criteria, unless the employee is a benefit eligible employee in a job share position.

(3) Any benefit eligible employee returning to paid regular status within 30 days without a break in core coverage from either a leave not listed in (1) of this rule or from an employment termination will have all available previous coverage reinstated. The employee cannot make benefit plan changes. A benefit eligible employee who:

(a) Is not in a current benefit eligible stability period, must work at least half-time in the month of return for benefits to be active the following month.

(b) Is in a current benefit eligible stability period will receive benefits in the month following the return to work regardless of the number of paid regular status hours in the month of return.

Example 1: Gary is employed by an agency and receives PEBB benefits. On May 20 Gary begins a leave without pay that does not provide for continued benefits throughout the leave. Gary worked more than 80 hours in May, and the agency correctly schedules his benefit coverage end date as June 30. Gary returns to paid regular status June 5, within 30 days of the leave start and with no break in core coverage. If Gary is in a current benefit eligible stability period, his return to paid regular status will reinstate his coverage for July 1. If he is not in a current benefit eligible stability period, he must work 80 hours in June for his coverage to continue in July. Gary cannot make any election changes to his enrollments.

Example 2: Mark terminates employment at his agency on May 31. At the time of his termination he is in a current benefit stability period. Mark had 80 paid hours in the month of May; therefore, his agency ends his coverage on June 30. Mark is rehired by an agency as a temporary employee, his hire date is July 1. This is less than 30 days; however, a break in coverage occurred on June 30. Even if Mark is in a current benefit eligible stability period his benefits will not be reinstated until August 1.

(4) A temporary or impermanent position benefit eligible employee who is in a current benefit eligible stability period and has no hours of service for either 13 weeks, or a period lasting at least four weeks and longer than the employee's prior employment, is considered a new employee upon return to regular pay status. Benefits are not reinstated.

(5) A permanent previously benefit eligible employee returning to a permanent benefit eligible position within 12 months of the prior core benefit termination date is not required to work at least half-time in the month of return to be eligible for benefits the following month. The agency will reinstate the previous plan enrollments, if available, effective the first of the month following the employee's return to work. The reinstatement excludes Health and Dependent Care Flexible Spending Accounts, Commuter Accounts, and Long Term Care. The employee may make midyear plan changes to their enrollments within 30 days of the return to work date. This rule applies regardless of the employee's current stability period status.

(6) A permanent benefit eligible employee who terminates employment for at least 13 weeks, and later returns to work must start a new initial measurement period.

(a) When returning to a permanent position benefits are reinstated according to (5) or (6) of this rule.

(b) When returning as a temporary worker the employee is not reinstated to benefits and will enroll for benefits according to temporary employee benefit policy.

(7) Any previously active benefit eligible employee returning to paid regular status in a benefit eligible position after a termination of core benefits of 12 months or longer must enroll as a newly eligible employee.

Stat. Auth.: ORS 243.061 - 302

Stats. Implemented: ORS 243.061 - 302 & 659A.060-069

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 1-2004, 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 2-2007, 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; PEBB 3-2014(Temp), f. & cert. ef. 11-12-14 thru 5-10-15; PEBB 1-2015, f. & cert. ef. 5-12-15; PEBB 2-2017, f. & cert. ef. 8-17-17

101-020-0050

Midyear Benefit Plan Changes

(1) Eligible employee plan elections are irrevocable for the plan year. There are limited exceptions to the irrevocability rule if certain conditions or events are met. These events fall into three broad groups:

(a) Qualified Status Changes (QSC), which include:

(A) Changes in the eligible employee's legal marital status, such as marriage or divorce;

(B) Changes in the eligible employee's number of dependents, such as birth or adoption of a child;

(C) Changes in the employment status of the eligible employee or family member, such as the start or end of employment, or a change from part-time to full time;

(D) Changes in the eligibility of a dependent, such as attaining a certain age;

(E) Changes in the residence of the eligible employee, or;

(F) Changes in the eligible employee's domestic partnership.

(b) Cost or coverage changes. For example:

(A) An increase in out-of-pocket premium cost imposed by the employer;

(B) A reduction or a loss in the spouse's or domestic partner's group plan benefits, or;

(C) A reduction or a loss of plan coverage.

(c) Other laws or court orders. For example: National Medical Support Notice, Medicare, or HIPAA related special enrollments.

(2) The eligible employee may request only those midyear plan change elections that are consistent with the event.

Example: In the middle of the plan year, John moves from his current medical plan's service area and can no longer access the plan's closed panel of providers. However, all of John's other coverages (dental, life, etc.) remain active for his new address. John may request to change his medical plan, because it is consistent with the event due to a move from his current medical plan's service area. John may not request to change or add any other elections at this time because that would not be consistent with the allowable midyear event occurrence.

(3) Eligible employees experiencing a qualified midyear event, and who request a change of enrollment elections must complete and submit to their agency the correct update forms and all required documentation within 30 days of the event. Agencies receiving employee midyear change requests can make only those changes that are consistent with the event. All election changes are effective the later of the first of the month after receiving all required update forms and documents or the event date. Agencies will not process enrollment request changes when enrollment and change request information is incomplete or missing required documentation.

(4) The tag-a-long rule applies when the eligible employee experiences a QSC addition of a new family member, domestic partner, or domestic partner's child. The rule allows the employee to add another eligible family member, domestic partner, or domestic partner's child who was previously eligible for PEBB plan coverage but never added to coverage, to be added to coverage.

Stat. Auth.: ORS 243.061 - 302

Stats. Implemented: ORS 243.061 - 302, 659A.060 - 069, 743.600 - 602 & 743.707

Hist.: PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11; PEBB 2-2017, f. & cert. ef. 8-17-17

101-020-0060

Dependent Care Flexible Spending Account

(1) Employees can use a Dependent Care Flexible Spending account (Dependent Care FSA) to be reimbursed for employment-related dependent care expenses that allow the employee and his or her spouse to be "gainfully employed." The plan is subject to federal Revenue Code requirements and Internal Revenue Service regulations.

(2) Employees enrolled in a Dependent Care FSA contribute a pre-tax amount from each month's salary during the plan year. Employees receive reimbursement from the account during the plan year for incurred qualified Dependent Care expenses by submitting a claim.

(3) FSA plans are annual plans, eligible employees must enroll for each plan year to participate. The enrollment does not roll over from one plan year to the next. All plan year FSA enrollments terminate December 31. The period of coverage is the 12 months during the plan year.

(4) An employee's pretax contribution under a Dependent Care FSA in a calendar year is (not exhaustive list):

(a) \$5,000 if the employee is married and filing a joint return or if the employee is single parent.

(b) \$2,500 if the employee is married but files separately.

(c) When a spouse's employer also has a dependent care FSA plan, the \$5000 limit applies to the total amount of pre-tax dependent care assistance that the employee and his or her spouse, as a couple, can receive in any tax year from all employer-sponsored plans.

(d) The limit is not affected by the number of qualified persons an employee has.

(5) To qualify as employment-related dependent care expenses, the expenses must be incurred in order to enable the employee (and the employee's spouse) to be gainfully employed. The dependent care must have been for qualifying individuals. In general (not exhaustive) a qualifying individual is a tax dependent who is:

(a) A dependent of the taxpayer (i.e., a qualifying child) who has not attained age 13; or

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(b) A dependent of the taxpayer (i.e., a qualifying child or a qualifying relative) who is physically or mentally incapable of caring for himself or herself; and has the same principal place of residence as the taxpayer for more than half of the year; or

(c) The spouse of the taxpayer if the spouse is physically or mentally incapable of caring for himself or herself and has the same principal place of residence as the taxpayer for more than half the year.

(6) The annual contribution to the account cannot exceed the allowable federal annual maximum.

(a) The employee's monthly contribution is the annual contribution election amount pro-rated per each month of the plan year.

(b) PEBB requires a minimum monthly contribution amount.

(c) An employee may make only one FSA contribution each month of the plan year.

(d) An employee may not change their contribution unless they experience a qualified mid-year plan change event that allows the change.

(e) Some higher education agency employees may have fewer months (9 or 10) of contribution during the plan year.

(7) Claims are reimbursed for qualified expenses incurred while the dependent care FSA coverage was actively in force. Active participation ends the last day of the month that a contribution is received for that month.

(a) The amount of reimbursement available to a participant at any time during the period of coverage is restricted to the amount previously contributed by the participant, less any amounts reimbursed.

(b) A reimbursement exception is made for eligible expenses incurred in the month following the employee's end of participation or loss of plan eligibility, if the month is in the current plan year (not during the grace period) and the employee submits a claim within 90 days after the plan participation end date.

(8) A qualified claim and reimbursement grace period extends through March 15 of each new plan year. During the grace period, FSA participants may incur claims against any remaining previous plan year FSA funds up to March 15 in the new plan year. The qualified claim submission deadline for previous plan year account fund reimbursements is March 31 of the new plan year.

(9) FSAs are "use it or lose it" accounts. Any previous plan year funds remaining in the account beyond March 31 of the new plan year forfeit to PEBB plan administration.

(10) The Dependent Care FSA contributions can continue during a protected leave such as FMLA/OFLA, CBIW, or Active Military Duty; however, in general, most claims incurred during the leave will not be eligible for reimbursement.

(a) Employees may revoke the FSA account enrollment during the approved protected leave.

(b) Employees taking a LWOP and not in a protected leave will have their Dependent Care FSA revoked during the leave.

(c) Employees canceling the Dependent Care FSA when going on a leave can reenroll in the plan when they return to work.

(11) Final contribution at termination of employment or leave.

(a) An OUS employee will not have a contribution taken from their final paycheck.

Example: Ann's last day of work is September 16. Her final check will not have a contribution taken. Ann's participation ends September 30 and her period of coverage could be through October 31.

(b) An OUS employee who meets the 80-hour work rule will have a contribution taken from their final paycheck, in accordance with OAR 101-020-0002.

Example 1: Ann's last day of work is June 6. She has less than 80 hours of work for the month. Ann's final check will not have a contribution taken. Ann's participation ends May 31 and her period of coverage could be through June 30.

Example 2: Ann's last day of work is June 20. She has more than 80 hours of work for the month. Ann's final check will have a contribution taken. Ann's participation ends June 30, and her period of coverage could be through July 31.

(12) An eligible employee who separates from the employer and returns to work in a benefit eligible position within 12 months is not reinstated in the Dependent Care FSA. They may enroll within 30 days of their new benefit eligible date.

Stat. Auth.: ORS 243.061 - 302

Stats. Implemented: ORS 243.061 - 302

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; 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; Renumbered from 101-040-0050, PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 3-2009, f. 9-29-09 cert. ef. 10-1-09; PEBB 1-2016, f. & cert. ef. 7-12-16; PEBB 2-2016, f. & cert. ef. 8-24-16; PEBB 2-2017, f. & cert. ef. 8-17-17

101-020-0065

Health Flexible Spending Arrangement

(1) An eligible employee may enroll in a pretax Health Flexible Spending Arrangement (Health FSA). A Health Care Flexible Spending Arrangement (Health Care FSA) is regulated by various federal government regulations. Health Care FSAs can be defined in part by the following categories.

(a) It is a self-insured medical reimbursement plan subject to certain Internal Revenue Code requirements.

(b) It is a flexible spending account subject to additional requirements in the IRS regulations.

(c) It is a group health plan subject to CORBA, HIPAA, health care reform and other federal mandates that affect group health plans.

(2) Employees enrolled in a health care FSA contribute a pre-tax amount from each month's salary during the plan year. Employees receive reimbursement from the account for qualified incurred health expenses during the plan year by submitting claims.

(3) FSA plans are annual plans, eligible employees must enroll for each plan year in order to participate. FSA plan enrollments do not roll over from one plan year to the next. All plan year FSA enrollments terminate December 31. The period of coverage is the 12 months during PEBB's plan year.

(4) The annual employee contribution to the FSA account cannot exceed the allowable federal annual maximum.

(a) The employee's monthly contribution is the employee's elected annual contribution amount pro-rated per each month of the plan year.

(b) PEBB requires a minimum monthly contribution amount.

(c) An employee may make only one FSA contribution each month of the plan year.

(d) An employee may not change their monthly contribution unless they experience a qualified mid-year plan change event that allows the change.

(e) Some higher education agency employees may have fewer months (9 or 10) of contribution during the plan year.

(5) FSA accounts have uniform coverage. Uniform coverage means that an employee's maximum contribution amount for the plan year is available at all times while the account is active. The amount available is reduced for prior reimbursements made in the current plan year. Uniform coverage is provided throughout the period of coverage.

(6) Expenses must be incurred by the employee, spouse, the employee's children who have not attained age 27 as of the end of the employee's taxable year, or who are the employee's tax dependents for health coverage purposes.

(7) A grace period for qualified claim and reimbursement extends through March 15 of each new plan year. During the grace period, FSA participants may incur claims against any remaining previous plan year FSA funds up to March 15 in the new plan year. The qualified claim submission deadline for previous plan year account fund reimbursements is March 31 of the new plan year.

(8) FSAs are "use it or lose it" accounts. Any previous plan year funds remaining in the account beyond March 31 of the new plan year forfeit to PEBB plan administration.

(9) Employees taking an approved protected leave, for example FMLA/OFLA, CBIW, or Active Military Duty Leave are entitled to continuation of the their health FSA while on the leave.

(a) If the leave is a substituted paid leave, then the employee's contribution for continuation must be paid by payroll deduction.

(b) An agency may offer one or more of the following options to an employee who continues the FSA account coverage while on a protected unpaid leave. Before commencing the leave, or shortly thereafter, the employee and the agency must agree to one of the following options for employee contribution.

(A) Prepay. The employee is given the opportunity to prepay their premium share due during the leave period before the leave begins. The prepay option cannot be the sole option offered to employees on approved protected leave.

(B) Pay as you go. The employee pays the cost of coverage in installments during the leave. Contributions are paid with after-tax dollars or with pre-tax dollars to the extent that the employee receives compensation (e.g., unused sick or vacation days) during the leave.

(C) Catch-up options. The employer and employee agree in advance that the employer will advance payment of the employee's share of the contribution during the leave and that the employee will repay the advanced amounts when the employee returns to work.

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(D) Revoke Coverage. Employees may revoke the FSA account enrollment during the leave.

(10) An employer is not required to continue the benefits of an employee who fails to make required payments while on a protected leave provided notice procedures are followed. Refer to OAR 101-20-0002(7)(d) for employee non-payment notices and benefit termination. If the employer chooses to continue the health coverage of an employee who fails to pay his or her share of the premium or contribution payments, the employer is permitted to recoup the employee's premium.

(11) Employees who terminate FSA participation during the plan year can receive reimbursement for qualified claim expenses incurred while the health FSA coverage was actively in force. No reimbursement is allowed for expenses incurred after the account terminates. Active participation ends the last day of the month that a contribution is received for that month.

(12) OUS and some academic OSPS employees that enroll based on their 9- or 10-month pay contributions are considered actively participating during the months of no contribution. For example, during months of June and July when they are not actively at work.

(13) Final contribution at termination of employment or a leave without pay terminating the FSA:

(a) OSPS, the employee will not have a contribution taken from their final paycheck.

Example: Ann's last day of work is September 16. Her final check will not have a contribution taken. Ann's participation ends September 30 and her period of coverage is through September 30.

(b) An OUS employee who meets the 80-hour work rule will have a contribution taken from their final paycheck, in accordance with OAR 101-020-0002.

Example 1: Ann's last day of work is June 6. She has less than 80 hours of work for the month. Ann's final check will not have a contribution taken. Ann's participation ends May 31 and her period of coverage is through May 31.

Example 2: Ann's last day of work is June 20. She has more than 80 hours of work for the month. Ann's final check will have a contribution taken. Ann's participation ends June 30, and her period of coverage is through June 30.

(14) An eligible employee terminating employment or going on an approved unprotected leave of absence, may continue to participate in the Health FSA up to the end of the current plan year through COBRA. There must be a positive FSA account balance and all contributions are paid post tax to the COBRA administrator.

(15) When called to active duty for a period of at least 180 days or for an indefinite period, and employee can request a qualified reservist distribution from a Health FSA. The eligible employee must be a member of the Army National Guard of the United States, the Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard of the United States, Air Force Reserve, Coast Guard Reserve, or Reserve Corps of the Public Health Service.

(a) The following conditions must be met by the eligible employee in order to elect the qualified reservist distribution:

(A) Contributions to the Health FSA account for the plan year as of the date of the request for a distribution exceed the reimbursements received from the Health FSA Account for the plan year as of that date.

(B) The agency receives a copy of the order or call to active duty along with the distribution request form. An order or call to active duty of less than 180 days duration must be supplemented by subsequent calls or orders to reach a total of 180 or more days.

(C) During the period beginning with the date of the order or call to active duty and ending on the last eligible day of the plan year during which the order or call occurred, the employee submits a qualified reservist distribution election form to the agency.

Example: An eligible employee is called to active duty on September 13, of the current plan year and wants a Health FSA qualified reservist distribution. The employee must request the qualified reservist distribution between September 13, and March of the following plan year.

(b) The distribution amount paid to the eligible employee is equal to the contributions to the Health FSA Account for the plan year as of the date of the distribution request, minus any reimbursements received by the employee for the plan year as of that date. A qualified reservist distribution is included in an eligible employee's gross income and reported as wages for the year it is paid.

Example: An eligible employee elects Health FSA benefits of \$1,000 for the current plan year, and during the first six months of the plan year, makes Health FSA contributions of \$500 and receives Health FSA reimbursements of \$200 for qualified medical care expenses. The employee is called to active duty for an indefinite period and on June 30 requests a reservist distribution from the agency. The employee will receive a distribution of \$300, and the agency must add that amount to the employee's taxable wages for the current tax year.

(c) The Health FSA Account is closed as of the date of the request for a reservist distribution. An employee forfeits the right to receive reimbursements for medical care expenses incurred during the period that

begins on the date of the distribution request and ending on the last day of the Plan Year.

(16) An employee who separates from the employer and returns to work in a benefit eligible position within 12 months is not reinstated in the Health Care FSA. They may enroll within 30 days of their new benefit eligible date.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061 - 243.302

Hist.: PEBB 2-2004(Temp), f. 7-13-04, cert. ef. 8-31-04 thru 2-27-05; PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 3-2005, f. 8-31-05, cert. ef. 9-1-05; Renumbered from 101-040-0055, PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 3-2009, f. 9-29-09 cert. ef. 10-1-09; PEBB 1-2016, f. & cert. ef. 7-12-16; PEBB 2-2017, f. & cert. ef. 8-17-17

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 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 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 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

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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 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; PEBB 2-2017, f. & cert. ef. 8-17-17

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.

(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, 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 date of the COBRA notice to activate their COBRA rights of continuation. PEBB-sponsored insurance coverage must be continuous through COBRA implementation.

(4) 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.

(5) 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; PEBB 2-2017, f. & cert. ef. 8-17-17

101-030-0010

Continuation of Group Health Benefit Coverage for Injured Workers (CBIW)

(1) The state is required by ORS 659A.060-069 to continue to pay the benefit amount for PEBB health benefit coverage in effect at the time an eligible employee has a work-related injury or illness. The benefit amount may continue for up to 12 consecutive months or until one of the events listed in ORS 659A.063 occurs, whichever occurs first. Health benefit coverage for this purpose includes the medical, dental, vision, and prescription drug coverage of the employee, family members, and domestic partner.

(2) An eligible employee may continue coverage for life, accidental death and dismemberment and Long Term Care insurance plans for up to 12 months if they self-pay the premiums to the agency.

(3) Refer to OAR 101-020-0002(7)(d) for employee premium payment requirements.

(4) When an employee returns to work within 12 months, they will have their previous enrollment for medical, dental, life, and disability insurance reinstated the first of the month following their return to work. The employee may make midyear plan changes within 30 days of the date they return to work.

(5) An employee returning to work will not be reinstated in any pre-tax Flexible Spending Accounts, or PEBB Commuter Accounts. They may reenroll within 30 days of the date they return to work.

(6) A previously benefit eligible employee returning to paid regular status immediately following CBIW is not required to work at least half-time in the month they return to be eligible for benefits the following month.

(7) A COBRA qualifying event occurs at the end of the CBIW continuation period, or when the current benefit eligible stability period ends the allowable benefit period, if the employee has not returned to paid regular status.

Stat. Auth.: ORS 243.061 - 302 & 659A.060 - 069

Stats. Implemented: ORS 243.061 - 302 & 659A.060 - 069

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; 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 7-2010, f. 12-10-10, cert. ef. 1-1-11; PEBB 3-2014(Temp), f. & cert. ef. 11-12-14 thru 5-10-15; PEBB 1-2015, f. & cert. ef. 5-12-15; PEBB 2-2017, f. & cert. ef. 8-17-17

101-030-0015

Continuation of Core Benefit Coverage for Employees Covered under the Federal Family Medical Leave Act (FMLA) and the Oregon Family Leave Act (OFLA)

(1) Employees taking approved FMLA or OFLA leave are entitled to the continuation of employer provided health coverage. The agency is obligated to maintain the employee's health coverage under the same conditions that would have applied had the employee not been in leave.

(a) If the FMLA or OFLA leave is substituted paid leave, then the employee's share of premiums for continuation must be paid by payroll deduction.

(b) An agency may offer one or more of the following options, to an employee who continues core benefit coverage while on an unpaid FMLA or OFLA leave. Before commencing the leave, or shortly thereafter, the employee and the agency must agree to one of the following options for employee premium share.

(A) Prepay. The employee is given the opportunity to prepay their premium share due during the leave period before the leave begins. The prepay option cannot be the sole option offered to employees on FMLA or OFLA leave.

(B) Pay as you go. The employee pays the cost of coverage in installments during the leave. Contributions are paid with after-tax dollars or with pre-tax dollars to the extent that the employee receives compensation (e.g. unused sick or vacation days) during the leave.

(C) Catch-up options. The employer and employee agree in advance that the employer will advance payment of the employee's share of the cost of coverage during the leave and that the employee will repay the advanced amounts when the employee returns to work.

(D) Revoke Coverage. Employees may revoke the employer offered core health coverages during the leave. In this event the agency sends a COBRA notice of availability.

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(2) Employees enrolled as Opt Out, receiving cash in lieu of medical benefits, do not receive the monthly payment when in leave without pay status, regardless of approved FMLA or OFLA leave.

(3) An employer is not required to continue the benefits of an employee who fails to make required payments while on FMLA or OFLA leave provided notice procedures are followed. Refer to OAR 101-020-0002(7)(d) for employee non-payment notices and benefit termination. If the employer chooses to continue the health coverage of an employee who fails to pay his or her share of the premium payments the employer is permitted to recoup the employee's premium.

(4) A Health Care FSA is a group health plan under FMLA or OFLA. Refer to OAR 101-020-0065(9) regarding required payment options during a FMLA or OFLA leave. Prepayment cannot be the only method offered for FSA continuation during FMLA or OFLA leaves.

(5) An eligible employee may continue the following optional plans during the approved FMLA or OFLA leave by self-paying premiums or contributions to the agency:

- (a) All Optional Life Insurances;
- (b) Short Term and Long Term Disability;
- (c) Accidental Death and Dismemberment Insurance;
- (d) Long Term Care

(6) An agency must provide a benefit eligible employee who is in FMLA or OFLA leave during the annual open enrollment period the opportunity to select benefits for the coming plan year.

(7) An employee returning to paid regular status the first day following the end of an approved FMLA or OFLA leave or as scheduled, or an employee in a current benefit eligible stability period is not required to work at least half-time in the month of return to be eligible for benefits the following month. Core benefits and optional coverages are reinstated if available retroactive to the first day of the month that the employee returns to work.

(a) The employee must self-pay premiums for optional insurance plan reinstatements for the month in which they return.

(b) An employee returning to work will not be reinstated in Long Term Care unless the employee had continued the coverage by self-paying premiums during the leave.

(c) An employee's FSA enrollment status, active or terminated, will depend on the employee's FSA continuation status during the leave. If the employee's FSA enrollment terminated during the leave the employee may enroll.

(8) An employee that waives all coverages for the leave period and returns to paid regular status beyond 30 days of loss of coverage but within 12 months from the loss of coverage, is reinstated to coverage and can make midyear plan changes within 30 days of the date they return to work. This includes enrollment for a FSA account or long term care.

(9) An employee who does not return to paid regular status the first work day immediately following the end of approved FMLA or OFLA leave as scheduled, and is not in a current benefit eligible stability period is considered the same as if returning from an unprotected leave without pay. The employee is required to work at least half time 80 hours in the month of return to receive reinstated benefits the following month. See OAR 101-020-0045(2)(a).

(10) A COBRA qualifying event occurs when (i) the employee does not return to work as scheduled the first day after the qualified leave ends and is not in a current stability status, or (ii) the employee terminates employment.

Stat. Auth.: ORS 243.061 - 302
Stats. Implemented: ORS 243.061 - 302, 659.A150 - 186
Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; 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 7-2010, f. 12-10-10, cert. ef. 1-1-11; PEBB 3-2014(Temp), f. & cert. ef. 11-12-14 thru 5-10-15; PEBB 1-2015, f. & cert. ef. 5-12-15; PEBB 1-2016, f. & cert. ef. 7-12-16; PEBB 2-2017, f. & cert. ef. 8-17-17

101-030-0022 Continuation of Benefit Coverage for Employees on Active Military Leave

(1) The state will continue to pay the benefit amount for core benefit coverage in effect at the time an eligible employee begins active military duty. This benefit coverage will continue for the duration of the active military leave, up to 24 consecutive months. The agency may end this coverage before or during the 24 months of active duty only if the member submits a signed written request to end the coverage.

(2) An eligible employee may continue the following optional plans during active military duty up to 12 months by self-paying premiums or contributions to the agency:

- (a) Optional Life Insurances,

(b) Accidental Death and Dismemberment Insurance,

(c) Long Term Care (LTC), and,

(d) Health Flexible Spending Account (FSA).

(3) An eligible employee on active military leave during open enrollment may make open enrollment benefit elections. The employee may allow another individual to make plan elections in the employee's absence by providing documentation of a power of attorney to the agency. Enrollment in a Health FSA must occur during open enrollment in order to participate in the new plan year.

(4) An eligible employee who returns to work within 24 months will have available previous optional plan enrollments reinstated retroactive to the first day of the month the employee returns. A returning employee is not required to work at least half-time in the month they return to be eligible for benefits the following month.

(a) The employee must self-pay premiums for optional insurance plan reinstatements for the month in which they return.

(b) An employee returning to work will not be reinstated in Long Term Care, Commuter Accounts or any FSA, unless contributions to their Health FSA and Long Term Care while on military leave continued.

(c) The employee may make midyear plan changes within 30 days of the date they return to work.

(5) A COBRA qualifying event occurs when an eligible employee:

(a) Is no longer in active duty status or paid regular status, and does not return to work following the allowed decompression time;

(b) Remains in active duty status after 24 months of active duty, or;

(c) Terminates employment.

Stat. Auth.: ORS 243.061 - 302
Stats. Implemented: ORS 243.061-302 & 408.240
Hist.: 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 2-2007, 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; PEBB 2-2017, f. & cert. ef. 8-17-17

101-030-0027 Non-medical Leave Without Pay (LWOP) — Continuation of Optional Insurance Plans

An eligible employee who is in a non-medical LWOP status may continue coverage for optional life insurances, accidental death and dismemberment insurance plans and Long Term Care (LTC) for up to 12 months if they self-pay the premium to the agency. The employee is not eligible to continue short term or long term disability insurance plans while on LWOP.

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; PEBB 2-2017, f. & cert. ef. 8-17-17

101-050-0005 PEBB Retiree Health Plan Eligibility

(1) An active employee enrolled in PEBB plans immediately prior to retirement and who meets PEBB retiree plan eligibility may continue participation in PEBB health plans upon retiring.

(2) To be eligible a retiring employee must not be eligible for Medicare and be:

(a) Receiving a service or disability retirement allowance under the Public Employees Retirement System (PERS) or under any other retirement or disability benefit plan or system offered by the State of Oregon for its officers and employees;

(b) Eligible to receive a service retirement allowance under PERS and have reached earliest retirement age under ORS Chapter 238; or;

(c) Eligible to receive a service retirement allowance or pension under another retirement benefit plan or system offered by the State of Oregon and has reached earliest retirement age under the plan or system.

(3) Retiree plan eligibility for other individuals: A spouse, domestic partner, dependent child, and domestic partner's dependent child who each meet PEBB eligibility, are not Medicare eligible, and received coverage through the employee's active PEBB plans immediately prior to retirement are eligible for retiree plan coverage. When the retiring employee is Medicare eligible and not eligible for PEBB retiree plans, individuals receiving active coverage through the employee immediately prior to the retirement are eligible for retiree plan enrollment.

(4) If an individual covered by a PEBB retiree plan becomes Medicare eligible or loses PEBB eligibility while receiving retiree plan coverage, the individual must terminate from the plan. The exception is for Medicare eligibility because of end-stage renal disease. Individuals on the retiree plan who are not Medicare eligible and continue to meet PEBB eligibility may remain on the plan.

(5) A former eligible employee who first elects COBRA and later becomes eligible as a retired employee may enroll in PEBB retiree health plans at any time during or immediately following COBRA.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 243.061 - 243.302
Stats. Implemented: ORS 243.061 - 302 & 659A.060 - 659A.069
Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2001, f. & cert. ef. 9-6-01; 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 3-2005, f. 8-31-05, cert. ef. 9-1-05; PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 3-2010, f. 9-23-10, cert. ef. 10-1-10; PEBB 2-2017, f. & cert. ef. 8-17-17

cert. ef. 10-7-04; PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 2-2017, f. & cert. ef. 8-17-17

Oregon State Lottery Chapter 177

101-050-0010

Retiree Plan Enrollment and Termination

(1) An active employee meeting PEBB retiree eligibility may enroll themselves and other eligible individuals in PEBB retiree health plans.

(2) Retiree plan coverage must be continuous with active or COBRA PEBB plan enrollments. Employees that retire and receive PEBB plan coverage through another active employee may move to PEBB retiree coverage when the other employee coverage ends.

(3) An active employee meeting PEBB retiree eligibility must submit retiree enrollment forms within 30 days of the date the active employee insurance terminates. Enrollments submitted within this 30-day window are retroactive to the date of active coverage termination.

(4) A Retiree may elect any PEBB full time or part-time health plan. A Retiree may elect medical only, dental only, or medical and dental insurance coverage. If the retiree does not initially enroll in both medical and dental insurance plans, they may not add the other plan later.

(5) PEBB may offer a plan change period for retiree insurance plan participants. The plan change period allows the retiree to change benefit plans. The plan change period does not allow the retiree to add dependents or coverage not already in place.

(6) A retired eligible employee electing to continue PEBB health plans under COBRA can transfer to a PEBB retiree health plan at any time during or immediately following COBRA.

(7) A retired eligible employee and their eligible individuals must terminate from PEBB retiree plans when they:

- Fail to self-pay the premiums; or
 - Fail to continue to meet PEBB eligibility; or
 - Become Medicare eligible; or
 - PEBB no longer offers retiree health plan coverage.
- (8) Retiree plan coverage termination dates due to loss of eligibility:
- Coverage terminates the last day of the month before the month of Medicare eligibility.

Medicare eligibility.

Example: Joe becomes Medicare-eligible May 1st because his 65th birthday will be May 15th. Joe's retiree health coverage will terminate April 30th.

(b) Failure to meet PEBB eligibility requirements; e.g., a dependent ages out of coverage, coverage terminates the last day of the month that the eligibility is lost.

(8) Division 20 Enrollment Rules apply to retirees in the following situations:

(a) Midyear benefit plan changes such as those resulting in the addition of a family member, domestic partner, or domestic partner's dependent child to the retiree's insurance coverage. See OAR 101-020-0050.

(b) Removing an ineligible individual from the retiree's insurance coverage. See OAR 101-020-0025.

(c) Enrollment or processing errors. See OAR 101-020-0037.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061 - 243.302

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 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 3-2010, f. 9-23-10, cert. ef. 10-1-10; PEBB 2-2017, f. & cert. ef. 8-17-17

101-060-0010

Eligibility for Medical and Dental Insurance Coverage

(1) A newly eligible employee may enroll in medical and dental insurance coverage within 30 days of their contract effective date. Insurance coverage will be effective on the first day of the month following:

- The signing of the standard OLCC contract;
- The receipt of the completed applicable forms for enrollment in PEBB medical and dental insurance coverage; and
- The authorization of a monthly premium payment deduction from the contracted amount.

(2) An eligible employee not enrolling in PEBB medical and dental insurance plans during the initial 30 days following their contract effective date may apply during an open enrollment period. Enrollment of a family member, domestic partner and domestic partner's dependent child during a subsequent open enrollment period will be subject to benefit plan limitations for late enrollment of an eligible individual.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061 - 243.302

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 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. &

Rule Caption: Housekeeping changes to Division 40; remove obsolete provisions; clarify meaning and requirements; update references

Adm. Order No.: LOTT 4-2017

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Subject: The Oregon Lottery has amended the above administrative rules to remove obsolete or redundant provisions; clarify meaning and requirements; update references; and make grammatical and language changes.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-040-0000

Definitions

For purposes of OAR Chapter 177 Division 40, the following definitions apply except as otherwise specifically provided in OAR Chapter 177 or unless the context requires otherwise:

(1) "Age-controlled area" means an area where a natural person who is under 21 years of age is prohibited from entering or remaining as posted by either the Lottery or the Oregon Liquor Control Commission.

(2) "Applicant" means a person applying for a contract with the Lottery for the purpose of selling Lottery tickets or shares to the public, and any key person.

(3) "Application" means the forms, documents, or other information that the Lottery requires an applicant to submit to the Lottery in order to apply for or maintain a retailer contract.

(4) "Business" includes:

- A commercial activity engaged in for profit or gain; or
- The activity engaged in by a nonprofit organization; or
- The activity engaged in by a private club as described in ORS 471.175(8).

(5) "Complete application" means an application that is completely filled out, and when required, is signed by the applicant, and includes all the documentation and information requested by the Lottery.

(6) "Premises" means the building and grounds occupied by a business (including those areas not normally open to the public), where traditional Lottery game tickets and shares, Video LotterySM game shares, or both, are sold. Premises includes an area designated by the Lottery at any single location identified in an application as a proposed site for Oregon Video LotterySM terminals.

(7) "Key person" means:

(A) Corporations: For any corporation, including a subsidiary of a parent corporation:

(A) Stockholders: Any stockholder of a corporation who owns 10 percent or more of the outstanding stock in such corporation.

(B) Directors: Any director of a corporation who owns or controls 3 percent or more of the voting stock in such corporation.

(C) Officers: Officers of a corporation.

(b) Private Clubs: For a private club as described in ORS 471.175(8):

- The treasurer;
- Any officers, directors, or trustees who oversee or direct the operation of the food, beverage, Lottery, or other gambling-related activities of the private club; and

(C) Each manager in charge of the food, beverage, Lottery, or other gambling-related activities of the private club. The provisions of paragraphs (7)(a)(A), (B), and (C) of this rule do not apply to private clubs.

(c) Trusts: The trustee and all persons entitled to receive income or benefit from the trust.

(d) Associations: The members, officers, and directors.

(e) Partnerships and Joint Ventures:

(A) All general partners;

(B) All limited partners whose partnership interest is 10 percent or more in the partnership; and

(C) All joint venturers whose investment commitment is 10 percent or more in the joint venture.

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(f) Limited Liability Companies:

(A) Any manager of the limited liability company; and

(B) Any member of the limited liability company whose investment commitment or membership interest is 10 percent or more in the limited liability company.

(g) Layered Ownership: If the parent company, general partner, limited partner, joint venturer, stockholder, member or manager of a limited liability company is itself a corporation, trust, association, subsidiary, partnership, joint venture or limited liability company, then the Director may require that the applicant provide disclosure for such entity as if such entity were a key person itself.

(h) Family Members: Immediate family members as required in ORS 461.300(2)(b)(G) and (H).

(i) Sole Proprietors: The sole proprietor, if the retailer is a sole proprietor.

(j) Managers:

(A) General: A person, regardless of title, who acts or who has real or apparent authority to act on behalf of the owner in most matters concerning the operation of the owner's business during all business hours.

(B) Specific Duties: A person, regardless of title, who routinely performs all of the following duties:

(i) Hires and fires employees;

(ii) Makes purchasing decisions relating to the buying of supplies and inventory; and

(iii) Conducts banking functions for the business.

(C) Corporate or Absentee Owner: A person who operates the business for a corporate or absentee owner.

(D) Area Manager: A person who operates multiple locations or supervises multiple store managers.

(E) Exception: The definition of "manager" contained in this subsection (j) does not include a person who manages or operates a single convenience store as that term is defined in OAR 177-045-0000(2).

(k) Landlord: A landlord who receives 40 percent or more of the retailer's Lottery commissions as a part of lease payments or rent, or any landlord who the Director finds, based on reasonably reliable information, exerts influence over the operation of the retailer's business.

(l) Contractual Relationship: Any person who has a lease, contract, or other agreement with the applicant or retailer or anyone else, to provide food service or to manage or operate any part of the business in a Video LotterySM retailer's premises other than as an employee.

(m) Control Person: Any reference to a "control person" of a retailer in OAR Chapter 177, a Lottery retailer contract, or Lottery form in effect or in use on or after the effective date of this rule shall be deemed to refer to a "key person" as defined in this section.

(8) "Personal disclosure" means those documents and information that are part of the application which relate to a natural person's personal, criminal, and financial background, and associations with other people.

(9) "Mediation" has the meaning as defined in ORS 36.110(4).

(10) "Mediator" means a person who performs mediation.

(11) "Multi-State Retail Chain" means a retailer, including an applicant, who:

(a) Operates five or more retailer locations within the State of Oregon and one or more retail locations outside of the State of Oregon, all of which engage in similar business activities;

(b) Has common ownership and control over each location; and

(c) Sells no Oregon Lottery® games except traditional lottery games within the State of Oregon.

(12) "Public Company" means a retailer, including an applicant, who is a business entity that offers securities registered for sale by the federal Securities and Exchange Commission to the general public and sells no Oregon Lottery® games except traditional lottery games within the State of Oregon.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert., ef. 11-25-02; LOTT 12-2008, f. 12-23-08, cert. ef. 1-1-09; LOTT 13-2010, f. 12-20-10, cert. ef. 1-1-11; LOTT 7-2016, f. 9-30-16, cert. ef. 10-4-16; LOTT 4-2017, f. 8-25-17, cert. ef. 9-1-17

177-040-0001

General Application Requirements

(1) General: Any person may request an application from the Lottery.

(2) Disclosure Required: The Director may require any degree or type of disclosure necessary of the applicant or any other person in order to ensure the fairness, integrity, security, and honesty of the Lottery. An applicant must disclose to the Lottery all information required by the Director.

(3) Application Required: An applicant must file a complete application with the Oregon Lottery. The applicant must provide a complete personal disclosure, including documents and other information requested by the Lottery relating to the applicant's personal, financial, and criminal background and an applicant's associations with other persons. The application shall also include, but not be limited to:

(a) Authorization: An authorization, signed by the applicant, to investigate the applicant.

(b) Consent: Written consent to allow the examination of all accounts and records to be considered by the Director to be material to the application.

(c) Disclosure: Disclosure of the source of funds, financing, and business income used for the purchase and operation of the applicant's business.

(d) Premises Ownership: If the premises are not wholly owned by the applicant, the applicant shall furnish to the Lottery:

(A) Any document requested by the Lottery showing the applicant is entitled to possession of the premises; and

(B) Such other information as the Lottery may require.

(4) Alternative Disclosure Process: Notwithstanding section (3) of this rule:

(a) Large Public Companies or Multi-State Retail Chains: If an applicant for a traditional lottery game retailer contract is a public company or a multi-state chain retailer that meets the following additional criteria of:

(A) 30 or more individual retail locations; and

(B) Gross annual revenues of \$10 million or more; and

(C) 300 or more employees;

then the Lottery may use an alternative disclosure process that has been approved by the Lottery Commission as authorized under ORS 461.300(2)(b). This alternative disclosure process will focus its disclosure requirements on the public company or the multi-state chain itself. Using supplied disclosure information, the Lottery will conduct an investigation. The Director may determine at any time that additional disclosure is necessary to ensure the fairness, integrity, security, and honesty of the Lottery.

(b) Commission Approval: After the Lottery's Security Section has completed its investigation of an applicant under the alternative disclosure process, the Director may request that the Commission waive the personal disclosure requirements for an applicant that successfully passes the alternative disclosure process.

(A) Approval: If the Commission approves the waiver, the Director may then enter into a contract with the applicant.

(B) Denial: If the Commission does not approve the waiver, the applicant must provide the personal disclosure otherwise required under the Lottery's governing statutes and rules, and if the Director concludes based on that disclosure that the applicant is not a potential threat to the fairness, integrity, security, and honesty of the Lottery, the Director may then enter into a contract with the applicant.

(5) Waiver of Personal Disclosure for Certain Managers: If the applicant for a traditional lottery game retailer contract is a public company or a multi-state retail chain, the Lottery may waive the personal disclosure requirements for the manager of each retailer location unless the Director determines such disclosure is necessary to ensure the fairness, integrity, security, and honesty of the Lottery.

(6) Compliance Required: An applicant's failure to comply with any application or disclosure requirement may be grounds for denial or rejection of the application.

(7) Material Change: An applicant must immediately report to the Lottery, in writing, any material changes to the application during the application process. A "material change" means any change that may affect the Lottery's evaluation of the application based on the requirements contained in Division 40 of these rules.

(8) Waiver: In submitting an application, the applicant expressly waives any claim against the State of Oregon, its agents, officers, employees, and representatives, and the Oregon State Lottery, its Director, agents, officers, employees, and representatives for damages that may result. Each applicant also accepts any risk of adverse public notice, embarrassment, criticism, damages, or claims which may result from any disclosure or publication by a third party of any public information on file with the Lottery.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert., ef. 11-25-02; LOTT 12-2008, f. 12-23-08, cert. ef. 1-1-09; LOTT 13-2010, f. 12-20-10, cert. ef. 1-1-11; LOTT 7-2016, f. 9-30-16, cert. ef. 10-4-16; LOTT 4-2017, f. 8-25-17, cert. ef. 9-1-17

177-040-0005

Criteria Precluding Entering Into a Contract

The Lottery will not enter into a retailer contract when an applicant:

ADMINISTRATIVE RULES

(1) Age: Is under 18 years of age for a traditional Lottery retailer contract or under 21 years of age for a Video LotterySM retailer contract.

(2) Exclusivity: Will be engaged exclusively in the business of selling Lottery tickets or shares.

(3) Lottery Employee: Is an employee of the Lottery.

(4) Supplier/Manufacturer: Is or will be owned or controlled by any entity or any subsidiary or parent corporation thereof, that is a supplier of instant tickets or a manufacturer of computer equipment used to determine winners in Lottery games.

(5) Unauthorized Entity: Is a corporation or other form of business that is not incorporated in Oregon or is a person, a partnership, a corporation, or other form of business that is not authorized to work or to do business in Oregon.

(6) Smoking: Operates a business where selling Lottery tickets or shares would expose Oregon State Lottery employees, representatives, or agents, or Lottery equipment, terminals, tickets, or shares to a smoking environment, as defined in OAR 177-045-0000.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Hist.: Implemented: ORS 461

SLC 3-1985(Temp), f. & ef. 1-15-85; SLC 8-1985, f. & ef. 6-21-85; LC 4-1990, f. & cert. ef. 4-3-90; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 12-2008, f. 12-23-08, cert. ef. 1-1-09; LOTT 2-2011, f. 4-29-11, cert. ef. 5-1-11; LOTT 4-2017, f. 8-25-17, cert. ef. 9-1-17

177-040-0010

Personal Criteria Which May Be Grounds for Denial of a Lottery Retailer Contract or a Key Person

(1) General Personal Criteria: Before approving or denying an application for a Lottery retailer contract or for a key person, the Director shall consider whether the applicant:

(a) Character: Is a person of good character, honesty, and integrity.

(b) Background: Is a person whose background, including criminal, civil, and financial records, and reputation, does not jeopardize the public interest of the state or the fairness, integrity, security, honesty, or reputation of the Lottery.

(c) Associations: Has an association with persons or businesses of known criminal background, or associates with persons who have direct or indirect involvement in the applicant's business who could jeopardize the public interest of the state or the fairness, integrity, security, honesty, or reputation of the Lottery. The Director may also consider whether the applicant associates with persons who have no involvement in the applicant's business when the applicant's association with such persons could create a real or perceived conflict with the Lottery's security or integrity interests.

(d) Public Interest: Is a person whose experience, character, or general fitness is such that approving the applicant would be consistent with the public interest, convenience, and trust in keeping with the sensitive nature of the Lottery.

(e) Financial: Demonstrates responsibility and integrity in financial transactions, and is creditworthy and currently in a satisfactory financial condition. The Lottery may use the services of a commercial credit reporting agency in order to evaluate the applicant's creditworthiness, financial responsibility, and financial condition. The Director may deny an application if the applicant has outstanding judgments, collections, liens, or is not in compliance with all state, federal, or local tax laws.

(f) Omissions: Has omitted any material facts or has provided any material misstatement or any untrue statement of material facts.

(g) Compliance History: Has a history with the Oregon Lottery, or the Oregon Liquor Control Commission, or state and local law enforcement, which shows that the applicant could pose a threat to the security and integrity of the Lottery based upon any significant and material compliance or adjudicated violation history.

(2) General Financial Criteria: Any person applying for a Lottery retailer contract must:

(a) Business Ability: Adequately demonstrate, either individually or through the person's employees, the business ability and experience necessary to successfully establish, operate, and maintain the business for which application is made.

(b) Business Funding: Demonstrate adequate funding and ongoing business income sufficient to open, maintain, and operate the business as proposed by the applicant. The Director shall consider whether funding is from a source that may pose a threat to the fairness, integrity, security, or honesty of the Lottery.

(3) Criminal Behavior: The Director shall consider the criminal history or conduct of an applicant as follows:

(a) Mandatory Denial: The Director will deny an application when the applicant:

(A) Felony Conviction: Has been convicted of any felony within 10 years of the date the Lottery accepts the application.

(B) Gambling Conviction: Has been convicted of violating any federal, state, or local gambling law (other than ORS 91.240) within 15 years of the date the Lottery accepts the application.

(C) Controlled Substances Conviction: Has been convicted of felony possession of a controlled substance, or any crime involving the manufacture, sale, or delivery of a controlled substance, within 15 years of the date the Lottery accepts the application.

(D) Gambling Devices: Owns, manufactures, possesses, operates, has interest in, or gains income or reimbursement from, any unlawful gambling device in any jurisdiction unless the device is approved and certified by another state lottery or federal, state, or local gaming control agency, and such ownership, manufacture, possession, operation, or income is disclosed to and approved by the Lottery.

(b) Discretionary Denial: The Director may deny an application when:

(A) Felony Conviction: The applicant has any felony conviction more than 10 years old on the date the Lottery accepts the application.

(B) Gambling Conviction: The applicant has a conviction more than 15 years old on the date the Lottery accepts the application for violating any state, federal, or local gambling laws.

(C) Controlled Substances Conviction: The applicant has been convicted of felony possession of a controlled substance, or has been convicted of any crime involving the manufacture, sale, or delivery of a controlled substance, more than 15 years old on the date the Lottery accepts the application.

(D) Gambling Leases: The applicant has ever engaged in conduct which violates ORS 91.240.

(E) Criminal Conduct: The applicant has engaged in conduct which constitutes a violation of any gambling law or any law which defines a felony or misdemeanor based on reasonably reliable information.

(F) Fraudulent Behavior: The applicant has been held responsible, by judgment, settlement, consent decree, or otherwise, in any court proceeding, or proceeding before an administrative body which was based in whole or in part on allegations of misleading or dishonest conduct including, but not limited to, fraud, deceit, misrepresentation, embezzlement, breach of fiduciary responsibility.

(G) Offenses: The applicant has been convicted of, or otherwise subject to official sanction for, any offense other than an offense described in subsection (3)(a) of this rule, except traffic infractions, unless the applicant has engaged in conduct which demonstrates the applicant's habitual disregard for the law.

(H) Miscellaneous: The Director has reasonably reliable information that the applicant has engaged in conduct which constitutes an offense as described under paragraph (G).

(I) Misleading or Dishonest Conduct: The Director has reasonably reliable information that the applicant has engaged in misleading or dishonest conduct in any court proceeding or before an administrative body.

(4) Ownership and Gaming Interests: The Director may deny an application when the applicant:

(a) Ownership Interests: Is qualified, but there is an ownership interest in the applicant's business or premises by a person who is unqualified to hold a Lottery contract based on the requirements of OAR 177-040-0010 or any retailer contract, regardless of the qualifications of the applicant;

(b) Denial of Gaming Licenses: Has been denied any type of gaming license, gaming permit, or gaming contract in any state or jurisdiction for a reason(s) that in the judgment of the Director would jeopardize the security, integrity, honesty, fairness, or reputation of the Lottery;

(c) Cancellation of Gaming Licenses: Has had any type of gaming license, gaming permit, or gaming contract canceled, suspended, or revoked in any state or jurisdiction for a reason(s) that in the judgment of the Director would jeopardize the fairness, integrity, security, honesty, or reputation of the Lottery; or

(d) Termination of Gaming Contract: Has had any type of gaming contract terminated in any state or jurisdiction for a reason that in the judgment of the Director would jeopardize the fairness, integrity, security, honesty, or reputation of the Lottery.

(5) Mitigating Circumstances: Where denial of an application is discretionary with the Director under this rule, the Director may consider the following mitigating factors:

(a) Nature: The nature and severity of the conduct, incident, offense, or circumstance;

(b) Time: The passage of time since the conduct, incident, offense, or circumstance;

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(c) Intervening Factors: Any intervening factors since the conduct, incident, offense, or circumstance;

(d) Number of Offenses: The number of offenses, crimes, or incidents;

(e) Relevance: The relevance of the conduct, incident, offense, or circumstance to the performance of duties under the Lottery retailer contract; or

(f) Other: Any extenuating circumstances.

(6) Application to Existing Contracts: The criteria described in this rule apply to any existing Lottery retailer contract and may provide grounds for the Director to terminate an existing Lottery retailer contract.

(7) Finality of Determination: The denial by the Director of an application is final.

(8) Re-Application: If an application is denied by the Director, an applicant, or an applicant that is similar to the previously denied applicant, must wait one year from the date of denial to reapply. In the Director's sole discretion, the Director may waive this requirement based on a showing of good cause by the applicant.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.300

Hist.: SLC 3-1985(Temp), f. & ef. 1-15-85; SLC 8-1985, f. & ef. 6-21-85; LC 4-1990, f. & cert. ef. 4-3-90; LC 6-1993, f. & cert. ef. 7-2-93; LC 4-1995, f. 4-27-95, cert. ef. 5-1-95; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 17-2001(Temp), f. & cert. ef. 12-20-01 thru 6-7-02; LOTT 4-2002, f. & cert. ef. 3-25-02; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 22-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 2-2007, f. 3-1-07, cert. ef. 3-4-07; LOTT 4-2017, f. 8-25-17, cert. ef. 9-1-17

177-040-0024

Compensation Rate Study for Video LotterySM Retailers

(1) Purpose: The purpose of this rule is to direct the Director of the Oregon State Lottery to conduct a comprehensive Video LotterySM retailer compensation study to assist the Lottery Commission in determining what retailer compensation system will best fulfill its legal obligation to determine the compensation to be paid to Video LotterySM retailers for their sales of Lottery tickets or shares by undertaking to develop a compensation system that maximizes the net revenue to the state for the public purpose consistent with providing a reasonable rate of return for Video LotterySM retailers, prior to the start of the term of any new Lottery Retailer Contract.

(2) Selection of Independent Consulting Company or Consultant: The Video LotterySM retailer compensation study shall be completed by an independent economic consulting company or economic consultant chosen by the Director. The Director may select a consulting company or consultant using any procurement process deemed appropriate by the Director, but in selecting the consulting company or consultant, the Director shall determine that the company or consultant has the requisite experience, expertise, and knowledge for this type of study. The Director shall submit a report to the Lottery Commission before entering into any contract for services with the consulting company or consultant selected by the Director.

(3) Analysis of Video LotterySM Retailer Compensation Systems: The study shall provide an analysis and comparison of various Video LotterySM retailer compensation systems, and shall set forth the pros and cons for each system and the estimated costs to Lottery if it were to use each system. The analysis shall include, but is not limited to, the following Video LotterySM retailer compensation systems:

(a) Tiered System: Tiered compensation rate system where retailer compensation is calculated as a percentage of net receipts, but the percentage declines as net receipts increase over a business year. The higher the net receipts, the lower the percentage paid. This analysis shall include, but is not limited to, the current compensation system described in OAR 177-040-0026.

(b) Single Rate System: Single compensation rate system where the retailer compensation is calculated by applying a single, specified percentage to a retailer's net receipts over a business year. This analysis shall include a method or methods for determining the single percentage rate.

(c) Individualized System: Individualized compensation rate system where compensation is calculated based on a percentage of net receipts as determined individually for each Video LotterySM retailer. This analysis shall include the method or methods the Lottery would use to determine the percentage rate or rates for each individual retailer.

(4) Lottery Commission Responsibilities To Be Addressed: In analyzing the various compensation rate systems, as required in section (3) of this rule, the study must consider and address the following constitutional and statutory responsibilities of the Lottery Commission and the Lottery Director to:

(a) Ensure the fairness, integrity, security, and honesty of the Lottery (Article XV, section 4, 4(a), and ORS 461.150);

(b) Undertake to develop a system to maximize net revenue while providing a reasonable rate of return for contractors (ORS 461.445);

(c) Select as Lottery game retailers such persons to best serve the public convenience and promote the sale of Lottery tickets or shares (ORS 461.300);

(d) Provide adequate and convenient availability of Video LotterySM games in both rural and metropolitan locations to promote sales (ORS 461.300);

(e) Determine retailer compensation (ORS 461.310); and

(f) Make ongoing study and comparison of the operations of lotteries in other states and countries (ORS 461.180).

(5) Other Factors: Notwithstanding section (4) of this rule, the Director shall determine what other factors are necessary for consideration and review in order to complete a comprehensive Video LotterySM retailer compensation rate study.

(6) Completion: The studies required under this rule are to be completed no later than nine months prior to the start of the term of a new Video LotterySM retailer contract.

Stat. Auth.: ORS 461

Stats. Implemented: ORS 461.300, 461.310, 461.445

Hist.: LOTT 14-2010, f. 12-30-10, cert. ef. 1-1-11; LOTT 4-2017, f. 8-25-17, cert. ef. 9-1-17

177-040-0026

Retailer Compensation — Video LotterySM Games

(1) General: The compensation the Lottery shall pay a retailer for the sale of Video LotterySM game shares is calculated on a percentage of net receipts during a business year. "Net receipts" means the amount of money that is received at a retailer's premises from the sale of Video LotterySM game shares after payment for prizes.

(2) Compensation When Net Receipts Exceed Tier Threshold: During the course of a business year, when a Video LotterySM retailer's net receipts exceed the threshold of a tier applicable to the retailer under this rule, the Video LotterySM compensation rate shall remain unchanged for the remainder of the business day on which the threshold is exceeded. The compensation rate for that tier, as set forth in this rule shall apply at the start of the next business day.

For example, if a retailer has chosen option (a) under OAR 177-040-0026(4)(a) and on Wednesday the net receipts reach \$175,001, the retailer is compensated at 27.5 percent of the net receipts for the remainder of the business day. At 5:00 a.m. on the next day, Thursday, which is the start of the next business day, the compensation rate is reduced to 23 percent of net receipts.

(3) Applicability: The compensation rates for the sale of Video LotterySM game shares set forth in this rule apply to compensation for the sale of shares on all Video LotterySM game terminals at all Video LotterySM retailers effective as of the start of the business day beginning June 27, 2010.

(4) General: At the time a retailer signs a Retailer Contract, the retailer must choose in writing to receive compensation in accordance with either subsection (4)(a) or subsection (4)(b) of this section. If the retailer fails to choose as required, the Lottery shall compensate the retailer pursuant to subsection (4)(a) of this section for the first business year the Retailer Contract is in effect. For each subsequent business year that the Retailer Contract is in effect, no less than 14 days before the beginning of the upcoming business year, a retailer may submit a written notice to the Lottery that the retailer chooses to be compensated under the alternative compensation method for the upcoming business year. If the retailer does not submit or fails to timely submit a written notice, the Lottery shall compensate the retailer using the retailer's current compensation method for that business year.

(a) 4-Tier Option: Net Receipts per Year — Compensation-Percent of Net Receipts

Up to \$175,000 — 27.5%

\$175,000.01 to \$475,000 — 23%

\$475,000.01 to \$800,000 — 14%

\$800,000.01 and up — 11%

(b) 3-Tier Option: Net Receipts per Year — Compensation-Percent of Net Receipts

Up to \$600,000 — 22%

\$600,000.01 to \$1,800,000 — 17.5%

\$1,800,000.01 and up — 11%

Stat. Auth.: ORS 461, OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.300

Hist.: LOTT 4-2004(Temp), f. 4-6-04, cert. ef. 6-27-04 thru 12-23-04; LOTT 8-2004, f. 5-26-04, cert. ef. 5-27-04; LOTT 1-2005, f. 4-11-05, cert. ef. 7-31-05; LOTT 4-2005(Temp), f. & cert. ef. 5-10-05 thru 7-30-05; LOTT 6-2005(Temp), f. 7-27-05, cert. ef. 7-31-05 thru 8-1-05; Administrative correction 8-17-05; LOTT 14-2005(Temp), f. & cert. ef. 11-23-05 thru 5-1-06; LOTT 1-2006, f. & cert. ef. 1-25-06; LOTT 7-2010, f. 6-21-10, cert. ef. 7-27-10; LOTT 4-2017, f. 8-25-17, cert. ef. 9-1-17

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177-040-0050

Retailer Duties

(1) General: This rule contains duties to be performed by a Lottery retailer beyond those duties described in the Lottery retailer contract. The duties listed herein are not meant to be exclusive. Other duties and requirements for retailers may be contained elsewhere in OAR Division 177, ORS Chapter 461, or in the Lottery retailer contract.

(2) All Retailers: All Lottery retailers shall:

(a) Stock Equipment: Keep all Lottery equipment on the retailer's premises stocked with a variety of Scratch-itSM tickets, play slips, computer-generated tickets, and any other Oregon Lottery[®] product required to be sold. Unless exempted by the Lottery, if a Lottery retailer fails to stock or replenish these items as they are made available for sale by the Lottery, or as they are depleted because of purchase or use, the Lottery may remove the equipment.

(b) Perform Minor Maintenance: Replace ticket stock and clear paper jams as may be required for any of the equipment provided by the Lottery for the sale of Lottery tickets or shares.

(c) Maintain Paper Stock: Install and use only approved Lottery-provided paper stock which has been specifically assigned to the selling retailer when selling Lottery tickets and shares.

(d) Obtain Permits: Be required to arrange for and obtain all necessary permits required by federal, state, and local governments for electrical installation, electrical power, telephone service, fiber optic lines and connections, and coaxial cable and connections required to sell Lottery tickets or shares at the retail site.

(e) Pay Amounts Due: Pay the amount due to the Lottery for the sale of Lottery tickets or shares by the use of an electronic funds transfer (EFT). In most instances, this EFT shall occur at the end of the fourth day after the close of each Lottery business week. When an applicant operates multiple Lottery retail sites before the effective date of this rule, the routine date of the EFT collection may be set beyond the fourth day after the close of the business week in order to accommodate the needs of the combined sites.

(3) Traditional Lottery Game Retailers: A Lottery retailer authorized to sell traditional Lottery games is required to:

(a) Scratch-ItSM Tickets:

(A) Activate Scratch-itSM tickets prior to sale.

(B) Validate Scratch-ItSM tickets presented to the retailer by a player through equipment provided by the Lottery connected to the Lottery's central computer system.

(C) Destroy winning tickets after validation and payment of the prize; (Any Lottery retailer who does not destroy a winning ticket after validation and payment of the prize is liable for a prize paid by another Lottery retailer who subsequently pays the ticket.)

(D) Return non-winning tickets to the player.

(b) Draw Game Validation: Validate a Draw game ticket through the Draw game terminal before paying a Draw game prize.

(c) Underage Play: Monitor Lottery player-operated vending machines, as defined in OAR 177-045-0000, to prevent underage play.

(4) Video Retailers: A Video LotterySM game retailer is required to:

(a) Cash Slip Validation: Validate any Video LotterySM cash slip presented for payment that was issued at the retailer's location, through the Lottery's on-site video validation terminal before paying a Video LotterySM prize, except for those cash slips required to be validated and paid at Lottery Headquarters in Salem, or other locations designated by the Director.

(b) Restrict Visibility: Restrict Video LotterySM game terminals from visibility from areas outside of the business and from view of dining areas or other areas where minors are permitted to linger.

(c) Age-Posted Area: Maintain Video LotterySM game terminals in an area of the business that is prohibited to minors. The area must be posted as such by the Oregon State Lottery or the Oregon Liquor Control Commission. This restriction against minors does not apply to minors who qualify under the exceptions permitted by the Oregon Liquor Control Commission for access to areas normally prohibited to minors.

(5) Sanctions: The Director may sanction a Lottery retailer for the loss, damage, or destruction of any winning game ticket or share. This includes, but is not limited to: Imposing a requirement for remedial training for the retailer or the retailer's employees, and any other actions for failure to perform contract duties or requirements as described in the Lottery retailer contract or OAR Chapter 177.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461

Hist.: LC 4-1995, f. 4-27-95, cert. ef. 5-1-95; LOTT 5-1999(Temp), f. & cert. ef. 5-26-99 thru 6-26-99; Administrative correction 11-17-99; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 3-2004(Temp), f. & cert. ef. 4-6-04 thru 10-1-04; LOTT 6-2004, f. & cert.

ef. 5-26-04; LOTT 12-2008, f. 12-23-08, cert. ef. 1-1-09; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 4-2010(Temp), f. 3-10-10, cert. ef. 3-15-10 thru 9-4-10; LOTT 9-2010, f. 8-30-10, cert. ef. 9-5-10; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13; LOTT 2-2013, f. 6-24-13, cert. ef. 7-1-13; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15; LOTT 4-2017, f. 8-25-17, cert. ef. 9-1-17

177-040-0055

Advertising Lottery Games and Inducements to Play

(1) Prohibitions: A retailer must not conduct false or misleading advertising, in any form, regarding the Lottery or Lottery games including, but not limited to, claiming the odds of winning a Lottery game are different at the retailer's business than at any other Lottery retailer's business.

(2) Requests for Use: The Director or the Director's designee must approve all requests from a retailer for the use of trade or service marks registered by the Lottery. Trade or service marks registered by the Lottery include, but are not limited to, the Lottery's name, logo, and promotional names.

(a) Requirements: All requests from a retailer must be in writing and must include a sample of the proposed use of the trade or service mark. The request must also explain how and where the trade or service mark will be used.

(b) Permission: Permission for use of a trade or service mark may be granted in the exercise of the sole and exclusive discretion of the Lottery, taking into account the particularly sensitive nature of the Lottery and insuring the integrity of its operations and image. Approval for use of a trade or service mark shall not be given for display of the mark in an inappropriate manner or format.

(c) Rights: Nothing in this rule shall be construed to grant, or create any expectation or right to display, publish or use, in any manner, in whole or in part, any trade or service mark registered by the Lottery. Any display, publication or use by a retailer of any trade or service mark registered by the Lottery without the express, written prior consent and agreement of the Lottery is unauthorized and unlawful, and the Lottery expressly reserves the right to take any action to enforce its rights in such trade and service marks.

(3) Inducements: For purposes of this section:

(a) Credit and Credit Cards: A Lottery retailer shall not extend credit to persons to play Lottery games. This does not include the use of a credit or debit card by a player for the purchase of Lottery tickets or shares. An example of the use of a credit or debit card for the purchase of Lottery tickets or shares includes, but is not limited to, the purchase of Scratch-It tickets with a grocery purchase.

(b) Loans: A Lottery retailer shall not provide any form of financial assistance to a Video LotterySM player for the purpose of playing Lottery games. An example of providing financial assistance to a Video LotterySM player includes, but is not limited to, a loan of money for any amount of time for the purpose of playing Lottery games.

(c) Alcohol: A Lottery retailer shall not provide alcoholic beverages as an inducement to play Lottery games.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.150

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 4-2017, f. 8-25-17, cert. ef. 9-1-17

177-040-0061

Casino Prohibition

(1) General: The operation of a casino is constitutionally prohibited in the state of Oregon. It is the policy of the Oregon State Lottery to place Video LotterySM terminals only in an establishment that does not operate as a casino. The purpose of this rule is to provide a framework and a process for determining when an establishment is operating or may operate as a casino. This framework and process are in addition to other methods the Oregon State Lottery uses to prevent Video LotterySM retailers from operating an establishment as a casino. Other methods include, but are not limited to:

(a) A limit on the number of Video LotterySM terminals in any establishment;

(b) Limiting public view of Video LotterySM terminals;

(c) A limitation on certain advertising and promotional activities by retailers; and

(d) Considering the sale of Lottery tickets and shares by retailers an adjunct to their businesses.

(2) Definitions: For purposes of this rule:

(a) "Establishment" means any single location in which Video LotterySM games are operated or which is identified in a Video LotterySM Retailer Application as the proposed site for such activity. An establishment must be owned or operated by a person licensed to sell alcoholic beverages

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for consumption in a specific age-controlled area of the establishment. The final determination of what constitutes an establishment shall be made by the Director.

(b) "Total Annual Lottery Compensation" means the actual, or in the case of an applicant, the reasonably projected total annual compensation received from the Lottery for the sale of all Lottery tickets and shares at the establishment over a selected twelve-month period, including, but not limited to, compensation resulting from participation in Lottery incentive and bonus programs, as described in the Retailer Contract, other than those programs awarding bonuses on the basis of the sale of winning and validated Scratch-itSM or On-Line tickets for which a prize of \$10,000 or more is paid.

(c) "Annual Non-Lottery Sales" means the actual, or in the case of an applicant, the reasonably projected revenue from the sale of products or services other than Lottery tickets and shares to retail customers at the establishment over a selected twelve-month period. Projected sales will only be deemed reasonable if they are based on a detailed business plan which is fact and evidence based or meets industry standards for business plans. Only the sale of products or services to retail customers in return for which the establishment receives cash or any instrument evidencing cash consideration shall be included in the calculation of annual non-Lottery sales. Examples of products and services not considered for annual non-Lottery sales for purposes of this rule include, but are not limited to:

(A) The sale of products or services which are not usually sold by or associated with the type of retail establishment being reviewed. For example, the sale of a car by a tavern would not be included;

(B) The wholesale sale of products. "Wholesale" means the sale of goods in quantity, as to retailers or jobbers, for resale to the public. This includes the sale or transfer of cigarettes or other products between two or more establishments operated by the same retailer;

(C) The gifting of complimentary or promotional products; or the value of promotional discounts/coupons;

(D) The retail sale of products or services sold or rendered outside of the establishment (such as catering) unless the work is substantially completed at the establishment and the services are provided substantially by employees of the establishment;

(E) The sale of products or services for which the retailer receives a commission, except that the amount of the commission received may be considered; and

(F) Income from other than the sale of a product or service (such as a cover charge) will not be included in the calculation of annual non-Lottery sales.

(3) Director's Casino Determination: The Director shall determine whether an establishment is operating or may operate as a casino before entering into a Video LotterySM contract for that establishment. The Director may also initiate a review of an existing Video LotterySM retailer whenever the Director has reason to believe that an establishment is operating as a casino, or may operate as a casino. The Director may rely on whatever resources and information are available in deciding to initiate a review of an existing Video LotterySM retailer. A Video LotterySM retailer, or person applying to become a Video LotterySM retailer, has the burden of proof to show to the satisfaction of the Director that an establishment is not operating, or will not be operating, as a casino. The Director's determination is final.

(4) Conclusive Evidence that an Establishment Is Not a Casino: The following establishments are not casinos for purposes of this rule:

(a) An establishment whose annual non-Lottery sales are at least 50 percent of the establishment's total income as defined in section (5) of this rule. This subsection does not apply if the Director determines that the establishment is a convenience store or a business not normally associated with the on-premise consumption of food and alcoholic beverages as described in OAR 177-045-0030(2).

(b) A private club as described in ORS 471.175 so long as the private club is not engaged exclusively in the business of selling Lottery tickets and shares.

(5) Income Analysis: In determining whether an establishment meets the criteria set forth in subsection (4)(a) of this rule, the Director shall conduct an income analysis as set forth below.

(a) General: The Director shall conduct a review of the establishment's total income which, for the purpose of this rule, shall equal the sum of the establishment's total annual Lottery compensation and the establishment's annual non-Lottery sales. For a person applying to become a Video LotterySM retailer, the Director shall conduct a review of the establishment's projected total income which, for the purposes of this rule, shall equal the sum of the establishment's projected total annual Lottery com-

penetration and the establishment's reasonably projected annual non-Lottery sales. If the review of an establishment's total income shows that the establishment's annual non-Lottery sales are less than 50 percent of total income or projected total income, and there is no conclusive evidence that the establishment is not a casino as explained in section (4) above, the Director shall consider other factors as set forth in section (6) below in determining whether the establishment is operating or may operate as a casino. The twelve-month period selected for the review will be chosen by Lottery staff. The ratio of an establishment's total annual Lottery compensation to its total income shall be determined by dividing the establishment's total annual Lottery compensation by the sum of:

(A) The establishment's actual, or in the case of an applicant, reasonably projected annual non-Lottery sales; and

(B) The establishment's actual or projected total annual Lottery compensation.

(b) CPA Review: The retailer or applicant may request that a Certified Public Accountant (CPA), engaged and paid for by the retailer or the applicant, verify the accuracy of the Lottery's calculation of the retailer's annual non-Lottery sales or the applicant's reasonably projected annual non-Lottery sales. The CPA must use procedures specified by the Lottery and document his or her analysis as required by the Lottery. The Director may consider the CPA's analysis in making the final determination.

(c) Director's Determination: The final determination of the ratio of an establishment's actual or projected total annual Lottery compensation to the establishment's actual or projected total income shall be made by the Director.

(d) Business Records: For the purposes of this rule, a Lottery retailer must acquire, compile, retain, and make readily available to the Lottery all business sales and expense records that are pertinent to the calculation and determination of the establishment's total income for a period of 24 months. Required records of the gross non-Lottery sales must be detailed and correct including, but not limited to, records of the cost, price and amount of goods sold, bank statements, records of daily sales, and other relevant sales records. Lottery staff shall be allowed to perform examinations of these records, and make any copies necessary to complete the review. Records and accounting information must be provided, at the retailer's expense, in any form or format reasonably requested by Lottery staff. Retailers operating multiple establishments must maintain separate and complete records as specified in this subsection for each establishment they operate. In the absence of adequate records, Lottery staff will make a reasonable estimate of annual non-Lottery sales based on available records and information. In making a reasonable estimate, the Lottery will only rely on records and information that the Director concludes are credible and accurate.

(6) Factors to Consider: If the income analysis indicates that the establishment's annual non-Lottery sales are less than 50 percent of total income or projected total income, and there is no conclusive evidence that the establishment is not a casino as explained in section (4) above, the Director shall consider additional relevant factors such as those described below to make a final determination whether the establishment, taken as a whole, is operating as a casino or may operate as a casino. Such factors include, but are not limited to:

(a) History: The history of the establishment's operation, or lack of history. If, for example, an establishment has a longstanding history as a neighborhood pub or a family restaurant, this factor may demonstrate that the establishment is not operating as a casino.

(b) Appearance: The appearance of the premises, as perceived by a reasonable person and determined by the Director, as it relates to the type of establishment. If, for example, a reasonable person, as determined by the Director, would perceive the establishment to be a place to eat, drink, socialize, and engage in a variety of activities or forms of entertainment, this factor may demonstrate that the establishment is not operating as a casino.

(c) Floor Space: The ratio of floor space dedicated for the use of Video LotterySM games to the total floor space of the establishment. Any space or portion of an establishment which is designated as a common area, is shared with other establishments or businesses, or is not contiguous with the area(s) where the Video LotterySM terminals are located or are proposed to be located, shall not be considered as part of an establishment's total floor space. Any areas of the establishment not normally open to patrons shall not be considered as part of an establishment's total floor space. For purposes of this rule, 24 square feet per Video LotterySM terminal shall be used to compute such a ratio. If the amount of floor space dedicated for the use of Video LotterySM games is 20 percent or less of the establishment's total floor space, this factor may demonstrate that the establishment is not operating as a casino.

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(d) Food Service Accoutrements: The availability of menus, dining tables and chairs, tableware for the consumption of food and beverages, and other accoutrements intended specifically for use by patrons for eating and drinking. For example, an ample number of tables and chairs, proportionate to the size of the area, that are set up with napkins, salt and pepper, etc., and are available to patrons for eating and drinking, combined with the availability of food and beverages, the staff and means to cook, prepare and serve food and beverages, the availability of tableware, a menu or reader board, may demonstrate that the establishment is not operating as a casino.

(e) Meals and Menus: The number and variety of meals and menu items available on a daily basis. For example, serving two meals per day, such as lunch and dinner, and a variety of entrees and side dishes for each meal, as opposed to serving only one or two items, or only a variety of sandwiches, throughout the day, may demonstrate that the establishment is not operating as a casino.

(f) Non-Lottery Products and Entertainment: The number and variety of non-Lottery products and forms of entertainment available. If, for example, an establishment offers snacks, gum, and cigarettes for sale, and has pool, darts, and live music and dancing, as opposed to only one or two products or services, this factor may demonstrate that the establishment does not operate as a casino. This factor acknowledges that a retailer's efforts to sell or serve non-Lottery products or services are not always successful. The mere fact that the non-Lottery products or services are readily available, as evidenced by observation and records, is a factor.

(g) Business Name: The name of the business. For example, if the business name does not contain words, references or allusions to gambling or gambling related objects or activities, good luck or good fortune, or winning, directly or indirectly, this factor may demonstrate that the establishment does not operate as a casino.

(h) Advertising: Advertising and promotional activities. If, for example, the retailer advertises food and other non-Lottery products, services or forms of entertainment at least equivalent to advertising for Lottery products; and, if the retailer offers promotions, such as discount coupons for food and other non-Lottery products at least equivalent to promotional activities related to Lottery products, this factor may demonstrate that the establishment does not operate as a casino.

(i) Records: The retailer's financial records. If the retailer's financial records, including expenses, show that the volume of non-Lottery products and services sold, and the number and variety of non-Lottery forms of entertainment made available to patrons is greater than indicated by the establishment's annual non-Lottery sales, this factor may demonstrate that the establishment does not operate as a casino.

(j) Atmosphere: The general atmosphere of the establishment and the attitude and approach of the retailer. If the retailer, and the retailer's employees encourage and promote food and beverage service; if the general environment is clean and inviting to patrons for purposes of dining or engaging in entertainment activities; if the retailer and the retailer's employees are equally courteous and accommodating to non-Lottery playing patrons as they are to those playing Lottery games; and if the retailer demonstrates cooperation with the Lottery and approaches this matter with a demonstrated willingness to keep the establishment in compliance, this factor may demonstrate that the establishment does not operate as a casino.

(7) Compliance Plan:

(a) General: For purposes of selling Video LotterySM tickets and shares, the Lottery Director shall determine whether a Lottery retailer is operating an establishment as a casino, or in the case of an applicant, will be operating as a casino in violation of this rule. When the Director determines that an existing Video LotterySM establishment is operating as a casino pursuant to review under section (6) of this rule, the Director shall notify the retailer of the determination in writing, and set forth the reasons for the determination. The Director shall provide the retailer the opportunity to develop and implement a plan to bring the establishment into compliance with this rule within six months from the date of this written notification. The plan must be submitted within 30 days from the date the notification is issued by the Lottery. The plan shall include an analysis of the retailer's business operation to show that the retailer has made a reasonable determination of what changes need to be made and the steps the retailer intends to take to bring the establishment into compliance. A retailer may not restrict access to any Lottery game to achieve compliance with this rule without prior written approval from the Director. The retailer's submission of the plan is for the purpose of demonstrating to the Lottery that the retailer seeks to bring the establishment into compliance. The Lottery will review the retailer's plan and may offer guidance to help the retailer bring the establishment into compliance. The retailer is solely responsible for implementing the plan and for its success or failure during the six month period.

(b) Four Month Review: At the end of the first four months of the six-month period, the Lottery will review the retailer's progress toward compliance, and may provide the retailer with factual information, analysis, or recommendations if it appears to Lottery staff that doing so will assist the retailer in bringing the establishment into compliance.

(c) Determination at End of Six-Month Period: At the end of the six-month period, the Director shall determine whether the establishment is in compliance. A retailer shall be deemed to be in compliance if either:

(A) The establishment's total Lottery compensation was not more than 50 percent % of the establishment's total income, as set forth in section (5) of this rule, over the entire six-month period; or

(B) Based upon an analysis of some or all of the factors set forth in section (6) of this rule, or other additional factors, the Director determines that the establishment is not operating as a casino.

(d) Sixth Month: If the establishment's total Lottery compensation was not more than 50 percent of the establishment's total income, as set forth in section (5) of this rule, for the sixth month of the plan (but not the entire six months), the Director may extend the original six month period of the compliance plan up to three additional months if, in the opinion of the Director, the retailer will become compliant within that time. At the end of the additional time period, the Director shall determine whether the establishment is in compliance based upon subsection (7)(c) of this rule.

(e) Termination: If, at the end of the compliance period, the Director determines that the establishment continues to operate as a casino, the retailer's contract to sell Video LotterySM tickets and shares shall be immediately terminated.

(f) One Year Review: If, at the end of the compliance period, the Director determines that the establishment is no longer operating as a casino, the Director shall send a notice of compliance to the retailer. At the end of one year commencing on the first day of the month following notification of compliance, the Lottery will conduct another compliance review as set forth in this rule. If the Director determines that the establishment is again operating as a casino, the retailer's contract to sell Video LotterySM tickets and shares shall be immediately terminated. The retailer shall not be given the opportunity to implement a compliance plan as described in subsections (7)(a), (b), (c), and (d) of this rule in these circumstances. Nothing in this subsection prohibits the Director from initiating another review at any time as set forth in section (3) of this rule.

(g) Application Denial: If a person applying to become a Video LotterySM retailer is projected by the Lottery not to be in compliance with the requirements of this rule, the Director shall deny the application.

(8) Re-Application: Re-application after an application denial is covered under OAR 177-040-0010(8). Re-application after a contract termination is covered under OAR 177-040-0120.

Stat. Auth.: ORS 461

Stats. Implemented: OR Const. Art. XV, § 4(4), ORS 461.215 & 461.217

Hist.: LC 10-1994, f. 11-23-94, cert. ef. 12-1-94; LC 2-1997, f. 2-27-97, cert. ef. 3-1-97, Renumbered from 177-100-0015; LOTT 4-1998, f. & cert. ef. 6-26-98, Renumbered from 177-040-0060; LOTT 5-1998(Temp), f. & cert. ef. 7-7-98 thru 12-31-98; LOTT 1-1999, f. & cert. ef. 2-1-99; LOTT 8-1999, f. 5-27-99, cert. ef. 5-30-99; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00, Renumbered from 177-100-0155; LOTT 1-2007, f. 1-21-07, cert. ef. 2-1-07; LOTT 6-2008(Temp), f. 10-29-08, cert. ef. 11-1-08 thru 4-28-09; LOTT 1-2009, f. 1-30-09, cert. ef. 2-1-09; LOTT 4-2017, f. 8-25-17, cert. ef. 9-1-17

177-040-0070

Retailer Wheelchair Accessibility Program

(1) Purpose: The purpose of this rule is to require that all new and existing Lottery retailers provide and maintain access to Oregon Lottery® games and related services to persons who use wheelchairs. Access to Video LotterySM games may be achieved by providing access to at least one Video LotterySM game terminal, regardless of slight variations in game theme or play between the different types of Video LotterySM game terminals.

(2) General Requirements: All Lottery retailers shall provide and maintain access to all persons who use wheelchairs to enable their full and equal enjoyment of Lottery games and related services. Retailers shall comply with the Retailer Wheelchair Accessibility Program by installing required accessibility features, by removing identified barriers through structural modifications, or by creating alternative methods of providing access to Lottery games and related services.

(a) Barrier Removal and Accessibility Features: All barriers must be removed that impede wheelchair access to Lottery games and related services. Examples of barrier removal or accessibility features include, but are not limited to:

(A) Installing ramps;

(B) Making curb cuts in sidewalks and entrances;

(C) Creating designated accessible parking spaces;

(D) Widening doors;

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(E) Rearranging tables, chairs, vending machines, display racks, and other furniture;

(F) Installing offset hinges to widen doorways;

(G) Installing accessible door hardware;

(H) Installing elevators; and

(I) Relocating Lottery games and related services within the retailer's premises to accommodate persons who use wheelchairs.

(b) Alternative Methods: Alternative methods of providing access to Lottery games and related services must be appropriate or reasonable for the person using a wheelchair, and will apply only when accessibility to the Lottery game or related service does not require physical access by the person using a wheelchair to a specific area of the premises. (For example, playing Keno does not require physical access to a Lottery terminal if the retailer provides table service to persons who use wheelchairs. Conversely, playing Video LotterySM games does require physical access to the Video LotterySM game terminal.) All alternative methods of providing access must be approved by the Director and will only be permitted when the retailer demonstrates to the satisfaction of the Director the necessity of offering alternative methods of access instead of removing barriers or installing accessibility features. The Director's decision is final.

(c) Costs of Modifications: The retailer is responsible for all costs related to removing barriers, installing accessibility features, or offering alternative methods of access for the purpose of making a retailer's premises wheelchair accessible.

(3) Retailer Wheelchair Accessibility Certification: All applicants for a Lottery retailer contract shall submit with the application, a signed Wheelchair Accessibility Certification form certifying that the retail location is wheelchair accessible. The Certification form shall be provided by the Lottery and shall contain the Lottery's wheelchair accessibility standards. The Wheelchair Accessibility Certification form must be completed and signed by the applicant for the retailer contract.

(4) Permitted Exemptions:

(a) The Director may grant the following exemptions to the requirements of this rule. The Director shall review the circumstances and supporting documentation provided by a retailer to determine if a retailer's request for an exemption should be granted. The Director shall determine the type and scope of documentation to be required for each exemption classification. All decisions made by the Director are final. A retailer or applicant whose request for an exemption is denied by the Director is required to satisfy the requirements of this rule as a condition for maintaining its eligibility for a Lottery retailer contract.

(A) Historic Properties: To the extent a historic building or facility is exempt under federal law, this rule does not apply to a qualified historic building or facility that is listed in or eligible for listing in the National Register of Historic Places under the National Historic Preservation Act or is designated as historic under state or local law. Qualified means exempt from accessibility requirements under the federal historic preservation laws.

(B) Legal Impediment to Barrier Removal: Any law, act, ordinance, state regulation, ruling or decision which prohibits a Lottery retailer from removing a structural impediment or for making a required improvement may be the basis for an exemption to this rule. A Lottery retailer requesting an exemption under this subsection will not be required to seek a zoning variance to establish the legal basis for the impediment, but is required to document and attest to the legal impediment.

(C) Landlord Refusal: An exemption granted to an existing Lottery retailer based on the refusal of a landlord to grant permission to a Lottery retailer to make the structural improvements required by the Lottery under this rule shall only apply to the retailer's current lease term. No new landlord refusal exemptions are authorized after August 1, 2000. All existing exemptions granted before August 1, 2000 may be continued until the retailer's contract expires.

(D) Undue Financial Hardship: Undue financial hardship exemptions are not authorized. Any existing exemptions granted before August 1, 2000 may be continued until the retailer's contract expires.

(5) Complaints Relating to Non-Accessibility: The Director will receive and process all accessibility complaints concerning a Lottery retailer as follows:

(a) Initial Complaint and Investigation: When possible, complaints must be in writing and submitted to the Lottery on a Lottery retailer wheelchair accessibility complaint form. The Lottery will investigate the complaint. If the retailer is found to be in compliance with this rule, a letter will be mailed to the retailer and complainant.

(b) Letter of Impending Rule Violation: If the Lottery determines that there are any violations of this rule, the Lottery shall issue a letter of

impending rule violation to the retailer. The retailer shall submit a response no later than 30 days after mailing of the letter of impending rule violation. The Director shall determine if the retailer's response is acceptable under this rule. If the retailer is found to be in compliance with this rule, a letter will be mailed to the retailer and the complainant.

(c) Letter of Rule Violation: If the retailer's response to the Lottery's letter of impending rule violation is unacceptable under this rule, or if the retailer does not provide an explanation in the 30 day response period, the Lottery shall issue a letter of rule violation. The letter of rule violation shall describe the violations found at the retailer's location under the terms of this rule.

(d) Corrective Action Plan: The Lottery retailer shall submit a corrective action plan to the Lottery within 30 days of the issuance of the letter of rule violation. The Director may extend the response time for reasons beyond the reasonable control of the retailer. The plan shall describe in detail how the retailer will comply with this rule. The Lottery shall notify the retailer of the Lottery's acceptance or rejection of the plan. If the plan is rejected, the notification shall contain the reasons for rejection of the plan and the corrections needed to make the plan acceptable to the Lottery. If the retailer agrees to make the required corrections, the Lottery shall accept the plan as modified. If a retailer fails to submit a plan within 30 days of issuance of the letter of rule violation and has not requested an extension of time to submit a plan, or if a retailer has requested an extension but the request is denied by the Lottery, the Lottery may terminate the retailer contract.

(e) Time Line for Implementation of Corrective Actions: The retailer must complete corrective actions within 90 days of the date the Lottery accepts the retailer's corrective action plan. If the retailer has not eliminated the violations cited in the letter of rule violation within 90 days of mailing, but has requested an extension of time, the Lottery may grant an extension of no more than 90 days. The Lottery will send a notice of the extension to the retailer and the complainant. Any extension commences immediately upon expiration of the original 90 day period. In no event shall the total amount of time exceed 180 days from the date the Lottery accepts the retailer's corrective action plan.

(f) Notice of Rule Compliance: If the retailer corrects the violations specified in the letter of rule violation, and the retailer has provided an updated Wheelchair Accessibility Certification form certifying full compliance, the Lottery will issue a notice of rule compliance. Until this notice is issued, a complaint is considered pending.

(g) Termination: Failure of the retailer to make timely corrections in compliance with this rule and the retailer's corrective action plan may result in termination of the retailer contract.

(6) Inspections and Audits: The Director may inspect and audit any Lottery retailer's premises for compliance with this rule at any time including random compliance audits. The Lottery will conduct the audit and inspection during the retailer's regular business hours or at such other time as agreed upon by the retailer and the Lottery. The burden of proof to establish that a retailer's premises are in compliance with this rule is on the Lottery retailer.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.300

Hist.: LC 5-1997, f. 6-13-97, cert. ef. 7-1-97; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 8-2003, f. & cert. ef. 6-30-03; LOTT 13-2010, f. 12-20-10, cert. ef. 1-1-11; LOTT 4-2017, f. 8-25-17, cert. ef. 9-1-17

177-040-0130

Adding a Location

An existing Lottery retailer may apply for and may receive approval for a contract for an additional location prior to that site being open to the public.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.300

Hist.: LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03; LOTT 9-2003, f. & cert. ef. 6-30-03; LOTT 4-2017, f. 8-25-17, cert. ef. 9-1-17

177-040-0320

Alternative Dispute Resolution Process

(1) Application and Limitations: The Lottery, in its discretion, may agree to an alternative dispute resolution process to resolve a dispute between a retailer and the Lottery subject to the following limitations:

(a) No Surrender of Authority: The Lottery will not agree to any process in which its ultimate settlement or decision making authority is given to a third party.

(b) Voluntary Process: All participants must voluntarily agree to the use of an alternative dispute resolution process. The process is voluntary and the Lottery and any other participant may withdraw from the process at any time and for any reason.

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(c) Mediator: A mediator does not represent the interests of any of the participants including the Lottery, may not offer legal advice, and has no decision making power to determine facts or impose a resolution, settlement, or other decision on the participants.

(d) Settlement: Nothing in this rule obligates the Lottery to agree to an alternative dispute resolution process to resolve a dispute, to offer funds to settle any dispute or controversy, to accept a particular settlement or resolution, to alter its standards for accepting settlements, to submit to binding arbitration, or to alter any existing delegation of settlement or litigation authority.

(e) Alternative Dispute Resolution Precluded: An alternative dispute resolution process may not be used if a contract termination is issued under the circumstances described in subsection (3)(b) of this rule.

(f) Legal Action Filed: An alternative dispute resolution process as described in this rule may not be used if a legal action has been filed in court covering the same subject matter.

(2) Prerequisites: Before Lottery will consider the use of an alternative dispute resolution process as described in this rule for a dispute resulting from a contract denial, a key person denial, or a contract termination, the contract applicant or the retailer must first have requested reconsideration under the process provided in OAR 177-040-0300. If the Lottery agrees to an alternative dispute resolution process, the Lottery, in its sole and absolute discretion, may stay the denial or the termination order pending completion of the process.

(3) Mediation: When a retailer has complied with section (2) of this rule, a retailer may request mediation. The request is subject to section (1) of this rule and the following:

(a) Factors to Consider: The Lottery may consider the factors set forth in OAR 137-005-0020 before agreeing to mediation.

(b) Contract Termination Actions Where Mediation Precluded: The Lottery will not agree to mediation if a contract termination is issued under the following circumstances:

(A) Third NSF: When a Lottery retailer's EFT payment is not made to the Lottery due to non-sufficient funds in the retailer's EFT account for a third time within one year of the retailer's first NSF.

(B) OLCC Suspension or Termination: The OLCC has terminated a video lottery retailer's liquor license.

(C) Other: Any of the bases for mandatory denial specified in OAR 177-040-0010(3)(a) apply.

(c) Written Agreement: If the Lottery agrees to mediation, the Lottery and the retailer must enter into a written agreement to mediate as described in OAR 137-005-0030.

(d) Time Limit: For a dispute resulting from a contract denial, a key person denial, or a contract termination, a request for mediation must be made within 10 days of issuance of the order upon reconsideration or a denial of reconsideration under OAR 177-040-0300. The Lottery will respond to the request within 7 business days. A request for mediation does not toll the 60 day period for requesting judicial review under ORS 183.484, unless the Lottery agrees to mediation and the contract termination order is withdrawn. The mediation process must be concluded within 60 days of the request.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4), HB 2237 (2005)

Stats. Implemented: ORS 461.300

Hist.: LOTT 3-2006, f. 2-16-06, cert. ef. 3-1-06; LOTT 4-2017, f. 8-25-17, cert. ef. 9-1-17

**Secretary of State,
Elections Division
Chapter 165**

Rule Caption: Timelines for a January 23, 2018, Special Election, if necessary

Adm. Order No.: ELECT 4-2017(Temp)

Filed with Sec. of State: 8-25-2017

Certified to be Effective: 8-25-17 thru 1-23-18

Notice Publication Date:

Rules Adopted: 165-007-2018

Subject: This rule adopts timelines, as directed by SB 229 (2017), necessary to conduct a possible special election on January 23, 2018. The rule addresses timelines for the filing of the ballot title, explanatory and fiscal impact statements. It also provides a process for the public to comment on the ballot title drafted by the legislative committee.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-007-2018

Timelines for the January 23, 2018, Special Election

(1) This rule adopts timelines to conduct a special state election for Referendum Petition #301 on January 23, 2018. SB 229 directs the Secretary of State to conduct a special election on that date if all or parts of HB 2391 is referred to the people by petition pursuant to Article IV, section 1(3)(b) of the Oregon Constitution.

(2) When a document is to be filed with the Secretary of State, Elections Division under this rule, the document must be delivered to and actually received, in its entirety, in the office of the Secretary of State, Elections Division not later than 5:00 p.m. on the designated filing deadline date.

(3) The following timeline is adopted for a statewide special election on January 23, 2018, as directed in SB 229 sections 55 through 61:

(a) September 8, 2017: Last day for financial estimate committee to submit to the Secretary a draft financial estimate and estimate of fiscal effects.

(b) September 22, 2017:

(A) Last day for joint legislative committee to file final ballot title and explanatory statement with the Secretary.

(B) Last day for financial estimate committee to file financial estimates and estimate of fiscal effects, if necessary, as provided in ORS 250.125.

(c) September 29, 2017: Last day for an elector dissatisfied with the ballot title, explanatory statement, or financial estimate and estimate of fiscal effects to petition the Oregon Supreme Court for a different ballot title, explanatory statement, or financial estimate and estimate of fiscal effects.

(d) November 6, 2017: Last day for court ordered changes to ballot title, explanatory statement, or financial estimate and estimate of fiscal effects to be filed with the Secretary.

(e) November 13, 2017:

(A) Last day to file measure arguments to be included in the state voters' pamphlet.

(B) Last day for Legislative Assembly to submit arguments in support of the measure, as provided in ORS 251.245.

(f) November 17, 2017:

(A) Measure arguments become available for public inspection (ORS 251.145).

(B) Last day for court ordered changes to explanatory statement and financial estimates and estimate of fiscal effects to be filed with the Secretary.

(g) November 20, 2017: Secretary of State certifies the ballot to the county election officials.

(h) December 9, 2017: Last day for county election officials to mail ballots to military and overseas electors.

(i) December 26, 2017: First day for county election officials to mail out-of-state ballots.

(j) December 27-29, 2017: Voters' pamphlet mailing.

(k) January 2, 2018: Voter registration deadline.

(l) January 3, 2018 to January 9, 2018: County election officials mail ballots to electors other than long-term and out-of-state absent electors.

Stat. Auth.: ORS 246.150 & 2017 SB 229

Stats. Implemented: 2017 SB 229

Hist.: ELECT 4-2017(Temp), f. & cert. ef. 8-25-17 thru 1-23-18

**Water Resources Department
Chapter 690**

Rule Caption: Modifies back-siphon prevention device standards for irrigation systems using groundwater to chemigate or fertigate.

Adm. Order No.: WRD 3-2017

Filed with Sec. of State: 8-25-2017

Certified to be Effective: 8-25-17

Notice Publication Date: 5-1-2017

Rules Amended: 690-215-0017

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Subject: The changes include:

- Clarifying the installation requirements for down well water treatment systems.
- Specifying the requirements for chemicals used to treat down well groundwater.
- Clarifying back-siphon prevention device testing requirements.
- Clarifying back-siphon prevention device options for irrigation wells with a mainline diameter four inches or larger when used to chemigate or fertigate.
- Clarifying back-siphon prevention device options for irrigation wells with a mainline diameter less than four inches when used to chemigate or fertigate.
- Clarifying the options for individuals that wish to utilize other methods to prevent backflow when applying chemicals or fertilizers through an irrigation system.
- Adding information regarding other agencies that also have back-flow assembly requirements.
- Adding detailed requirements for bypass piping installed around approved back-siphon prevention devices.
- Specifying Department authority to require back-siphon prevention devices on any water supply well.

Rules Coordinator: Diana Enright—(503) 986-0874

690-215-0017

Down Well Continuous Water Treatment and Back-Siphon Prevention Devices

(1) The following definitions apply solely to OAR 690-215-0017:

(a) “Backflow” means the flow of a mixture of water, fertilizer and/or chemicals in the opposite direction of that intended.

(b) “Backpressure” means an elevation of pressure downstream of the distribution system that would cause, or tend to cause, water to flow opposite of its intended direction.

(c) “Back-siphonage” means a drop in distribution system pressure below atmospheric pressure (partial vacuum), that would cause, or tend to cause, water to flow opposite of its intended direction.

(d) “Reduced Pressure Principle Backflow Prevention Assembly (RP)” means an assembly containing two independently acting approved check valves, together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The unit shall include properly located resilient seated test cocks and tightly closing resilient seated shutoff valves at each end of the assembly. This assembly is designed to protect against a non-health hazard or a health hazard.

(e) “University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research (USC FCCCHR)” is an agency that conducts laboratory and field tests to evaluate and grant “Certificates of Approval” to backflow prevention assemblies meeting approved standards.

(2) If a chemical is used to treat well water, it shall not be allowed to come into contact with the inside of the well casing above the water level. Down well treatment of well water will only be allowed if a commercial water treatment system is used. Delivery pipes or tubes designed for use with the treatment chemicals shall be used to place the chemicals into the water in the well. This rule does not apply when disinfecting the well and the pumping equipment.

(3) Only chemicals approved by the National Sanitation Foundation to treat drinking water may be allowed to enter a well. In no event shall agricultural chemicals or fertilizers be allowed to enter a well.

(4) Back-siphon prevention devices shall be installed on any irrigation system connected to a groundwater source when chemicals or fertilizers are applied through the system. The landowner or other responsible party shall ensure that back-siphon prevention devices are installed and function properly prior to the irrigation system being used for the application of chemicals or fertilizers. (See Figure 215-1 and Figure 215-2.) The landowner or other responsible party shall test the devices at the time of installation and prior to the first use of each calendar year to ensure that the devices are installed and function properly. The Department may require the landowner or other responsible party to submit a copy of the back-siphon prevention device test results for review. The installation of chemical or fertilizer injection equipment into an irrigation system connected to a groundwater source shall not result in contamination of the groundwater resource.

(a) Irrigation systems with a mainline diameter 4-inches or greater shall contain:

(A) An automatic low-pressure drain or similar device approved by the Water Resources Department which shall:

(i) Be installed between the irrigation pump and the irrigation mainline check valve at the lowest point of the horizontal water supply mainline;

(ii) Be designed to drain all incidental leakage from the check valve out of the irrigation mainline before that leakage enters the groundwater supply;

(iii) Be at least 3/4 inch in diameter with a closing pressure of not less than 5 psi;

(iv) Use a corrosion-resistant tube, pipe, or similar conduit that is sloped to discharge the solution a distance of at least 20 feet away and down-gradient from the irrigation groundwater source and any other water sources. At the discharge point there shall be an air gap between the discharge pipe and the discharged solution. The air gap shall be a minimum of six inches;

(v) Not have any valves located on the outlet side of the drain tube; and

(vi) Have a dam, collection reservoir or similar means to prevent the discharged solution from pooling and draining back toward the groundwater source.

(B) An inspection port or direct access point which shall:

(i) Be located on top of the mainline between the irrigation pump and the irrigation mainline check valve, directly overhead of the low-pressure drain; and

(ii) Have a minimum diameter opening of four inches from which the check valves and low-pressure drain shall be visible. If a four-inch inspection port or direct access point is not possible, a proposed alternative access system may be submitted for review and approval by the Department.

(C) An irrigation mainline check valve which shall:

(i) Consist of at least a single check valve;

(ii) Be located in the irrigation mainline between the irrigation pump and the point of chemical or fertilizer injection into the irrigation mainline, and downstream from the vacuum relief valve and automatic low-pressure drain;

(iii) Be of heavy-duty construction with all materials being compatible with and resistant to any chemicals or fluids that it is expected to come into contact with;

(iv) Be resistant to corrosion or protected to resist corrosion;

(v) Be spring-loaded and provide and maintain a watertight seal against backflow;

(vi) Be labeled with the following information: manufacturer’s name and model number, working pressure in pounds per square inch (psi), maximum flow rate, and direction of flow;

(vii) Not consist of metal-to-metal seal surfaces; and

(viii) Be designed and rated for pressures expected to be encountered, including those caused by pumping, water hammers, back-pressure, or other sources. Installation, operation, maintenance and testing shall be according to design and manufacturer’s specifications and recommendations.

(D) An air/vacuum relief valve which shall:

(i) Be located on top of the horizontal irrigation mainline between the irrigation pump and the irrigation mainline check valve; and

(ii) Have a total (individually or combined) orifice size of at least 3/4-inch diameter for a 4-inch pipe, a 1-inch diameter for a 5- to 8-inch pipe, a 2-inch diameter for 9- to 18-inch pipe, and a 3-inch diameter for a 19-inch and greater pipe.

(E) An automatic, quick-closing chemical injection line check valve which shall:

(i) Be attached to the irrigation mainline or located between the chemical injection unit and the point of chemical or other fluid injection into the irrigation mainline;

(ii) Be made of material that is compatible with and resistant to any chemicals or fluids to be injected;

(iii) Prevent backflow of irrigation water into the chemical injection line; and

(iv) Prevent siphoning or seepage from the chemical supply tank when the irrigation system is either automatically or manually shut down.

(F) A system interlock which shall: mechanically or electrically connect the water supply pump and the chemical injection unit for the purpose of automatically shutting down the chemical injection unit in the event of water supply pump shutdown or failure. The landowner or other responsible party shall demonstrate system interlock operation if requested by the Department.

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(G) An emergency shut-off that can be operated manually by the landowner or other responsible party so that the irrigation system or the chemical injection unit can be shut down in the event it becomes necessary.

(H) A pressure switch that will stop the chemical injection unit when the water pressure decreases to the point where chemical or fertilizer distribution is adversely affected.

(b) Irrigation systems with a mainline diameter less than 4-inches shall contain:

(A) A lead free reduced pressure principle backflow prevention assembly (RP) which shall:

(i) Be approved by the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, or other equivalent testing laboratory;

(ii) Be installed horizontal unless they are specifically approved for vertical installation;

(iii) Be located in the irrigation mainline between the irrigation pump and the point of chemical or fertilizer injection into the irrigation mainline;

(iv) Be of heavy-duty construction with all materials compatible with and resistant to any chemicals or fluids that it is expected to come into contact with;

(v) Be resistant to corrosion or protected to resist corrosion;

(vi) Provide and maintain a watertight seal against reverse flow;

(vii) Be labeled with the following information: manufacturer's name and model number, working pressure in pounds per square inch (psi), maximum flow rate, and direction of flow;

(viii) Not consist of metal-to-metal seal surfaces;

(ix) Be designed and rated for pressures expected to be encountered, including those caused by pumping, water hammers, back-pressure, or other sources. Installation, operation, maintenance and testing shall be according to design and manufacturer's specifications and recommendations; and

(x) Include an approved air gap and drain line. The diameter of the drain line shall be at least as large as the mainline diameter. The drain line shall be sloped in such a manner as to drain all incidental leakage a distance of at least 20 feet away and down-gradient from the irrigation groundwater source and the RP assembly. The air gap shall be a minimum of one and one-half times the diameter of the mainline. The outlet side of the drain line shall have a dam, collection reservoir or similar means to prevent the discharged solution from pooling and draining back toward the groundwater source.

(B) An automatic, quick-closing chemical injection line check valve which shall:

(i) Be attached to the irrigation mainline or located between the chemical injection unit and the point of chemical or fertilizer injection into the irrigation mainline;

(ii) Be made of material that is compatible with and resistant to any chemicals or fluids to be injected;

(iii) Prevent backflow of irrigation water into the chemical injection line; and

(iv) Prevent siphoning or seepage from the chemical supply tank when the irrigation system is either automatically or manually shut down.

(C) A system interlock which shall: mechanically or electrically connect the water supply pump and the chemical injection unit for the purpose of automatically shutting down the chemical injection unit in the event of water supply pump shutdown or failure. The landowner or other responsible party shall demonstrate system interlock operation if requested by the Department.

(D) An emergency shut-off that can be operated manually by the landowner or other responsible party so that the irrigation system or the chemical injection unit can be shut down in the event it becomes necessary.

(E) A pressure switch that will stop the chemical injection unit when the water pressure decreases to the point where chemical or fertilizer distribution is adversely affected.

(c) The Director may allow modifications or changes in materials, design, or technology in lieu of that specified herein. Requests for modifications or changes shall be in writing, detailing the current or proposed system and the desired changes, and shall include component specifications, a detailed drawing of the proposed system, and the system's uses. Once installed, the modified system shall provide at least as much protection to the groundwater resource as that provided by the devices required in this regulation;

(d) The injection of chemicals or fertilizers into an irrigation system connected to a groundwater source shall not occur within ten feet from a wellhead.

(e) An additional vacuum relief valve may be installed downstream of the irrigation mainline check valve to prevent potential collapse of the irrigation mainline in the event of rapid mainline drainage.

(f) The landowner or other responsible party shall ensure that additional inspections and testing of approved back-siphon prevention devices are conducted:

(A) At the time of any repair or relocation;

(B) More frequently than annually for back-siphon prevention devices that repeatedly fail; or

(C) After a backflow incident.

(g) These regulations are in addition to equipment requirements for chemical application under the Federal Insecticide, Fungicide and Rodenticide Act, and are not intended to replace those regulations;

(h) Irrigation systems that are subject to OAR 690-215-0017(4) and are connected to:

(A) A public water system, shall also comply with Oregon Health Authority cross-connection control requirements in OAR Chapter 333 and backflow prevention requirements in the Oregon Plumbing Specialty Code. Contact the Oregon Health Authority and the Oregon Building Codes Division for more information;

(B) A private water system, shall also meet the backflow prevention requirements in the Oregon Plumbing Specialty Code. Contact the Oregon Building Codes Division for more information.

(i) Before each chemical application, the treatment site and surrounding area should be assessed to determine if the application will endanger or be a potential hazard to workers, bystanders, domestic animals, fish or wildlife, ground or surface water, or neighboring crops.

(5) Back-siphon prevention devices found not to be functioning properly shall be either repaired or replaced. Repair or replacement shall take place prior to the irrigation system being used for the application of chemicals or fertilizers.

(6) Bypass piping installed around approved back-siphon prevention devices must be equipped with approved back-siphon prevention devices and must:

(a) Afford at least the same level of protection as the approved back-siphon prevention devices being bypassed; and

(b) Comply with all other requirements.

(7) The landowner or other responsible party shall provide access and clearance for required operation, testing, maintenance, and repair of back-siphon prevention devices.

(8) In cold climate areas, back-siphon prevention devices shall be protected from freezing.

(9) Back-siphon prevention devices shall:

(a) Not be located in any area containing fumes that are toxic, poisonous, or corrosive;

(b) Be installed in a manner that precludes the possibility of continuous submersion of back-siphon prevention devices; and

(c) Be installed in a manner that precludes the possibility of any submersion of the air/vacuum relief valve.

(10) The Director may require a landowner or other responsible party to install a back-siphon prevention device on any water supply well, including wells which are exempted by ORS 537.545. The Director also may require a landowner or other responsible party to install a back-siphon prevention device as a condition of a water right permit. When required to be installed:

(a) Back-siphon prevention devices shall be specifically designed and manufactured to prevent backflow, back-siphonage, backpressure, siphoning, seepage, suction, or leakage and shall prevent used, unclean, polluted, or contaminated water, mixtures, or substances from entering the groundwater resource;

(b) The landowner or other responsible party shall test the back-siphon prevention devices at the time of installation and once per calendar year to ensure that they are functioning properly;

(c) The Department may require the landowner or other responsible party to test the back-siphon prevention devices more frequently than annually to ensure that they are functioning properly; and

(d) The Department may require the landowner or other responsible party to submit a copy of the back-siphon prevention device test results for review.

(11) Whenever the Director deems it appropriate, the Department may investigate alleged violation of statutes, standards or rules governing back-siphon prevention devices to determine whether a violation has occurred. Violations of OAR 690-215-0017 may be administered under ORS 536.900(1)(b), 537.990(3), or OAR Chapter 690, Division 260, as appropriate to gain compliance.

ADMINISTRATIVE RULES

(12) Additional Oregon Health Authority standards apply to wells used for public water systems. See OAR Chapter 333 or contact the Oregon Health Authority for more information.

(13) Additional requirements in the Oregon Plumbing Specialty Code apply to wells used for public or private water systems. Contact the Oregon Building Codes Division for more information.

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented:

Hist.: WRD 7-1988, f. & cert. ef. 6-29-88; WRD 1-1991, f. & cert. ef. 2-8-91; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 3-2017, f. & cert. ef. 8-25-17

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141-075-0470	1-12-2017	Repeal	2-1-2017	150-310-0560	6-15-2017	Amend	7-1-2017
141-075-0475	1-12-2017	Repeal	2-1-2017	150-311-0100	6-15-2017	Amend	7-1-2017
141-075-0480	1-12-2017	Repeal	2-1-2017	150-311-0120	1-1-2017	Repeal	2-1-2017
141-075-0520	1-12-2017	Repeal	2-1-2017	150-311-0130	1-1-2017	Repeal	2-1-2017
141-075-0525	1-12-2017	Repeal	2-1-2017	150-311-0510	1-1-2017	Repeal	2-1-2017
141-075-0530	1-12-2017	Repeal	2-1-2017	150-311-0760	1-1-2017	Amend	2-1-2017
141-075-0535	1-12-2017	Repeal	2-1-2017	150-311-0800	6-15-2017	Amend	7-1-2017
141-075-0540	1-12-2017	Repeal	2-1-2017	150-312-0010	6-15-2017	Amend	7-1-2017
141-075-0545	1-12-2017	Repeal	2-1-2017	150-312-0020	6-15-2017	Amend	7-1-2017
141-075-0550	1-12-2017	Repeal	2-1-2017	150-312-0040	6-28-2017	Amend	8-1-2017
141-075-0555	1-12-2017	Repeal	2-1-2017	150-314-0020	6-1-2017	Repeal	7-1-2017
141-075-0560	1-12-2017	Repeal	2-1-2017	150-314-0078	8-1-2017	Amend	9-1-2017
141-075-0565	1-12-2017	Repeal	2-1-2017	150-314-0082	6-28-2017	Amend	8-1-2017
141-075-0570	1-12-2017	Repeal	2-1-2017	150-314-0084	6-28-2017	Amend	8-1-2017
141-075-0575	1-12-2017	Repeal	2-1-2017	150-314-0115	8-1-2017	Amend	9-1-2017
141-125-0100	1-12-2017	Amend	2-1-2017	150-314-0120	8-2-2017	Amend	9-1-2017
141-125-0110	1-12-2017	Amend	2-1-2017	150-314-0140	1-1-2017	Amend	2-1-2017
141-125-0120	1-12-2017	Amend	2-1-2017	150-314-0150	1-1-2017	Amend	2-1-2017
141-125-0140	1-12-2017	Amend	2-1-2017	150-314-0240	6-1-2017	Amend	7-1-2017
141-125-0160	1-12-2017	Amend	2-1-2017	150-314-0246	6-28-2017	Amend	8-1-2017
141-125-0170	1-12-2017	Amend	2-1-2017	150-314-0317	8-1-2017	Amend	9-1-2017
141-141-0100	7-1-2017	Adopt	7-1-2017	150-314-0327	6-28-2017	Amend	8-1-2017
141-141-0110	7-1-2017	Adopt	7-1-2017	150-314-0353	8-2-2017	Amend	9-1-2017
141-141-0120	7-1-2017	Adopt	7-1-2017	150-314-0355	8-2-2017	Amend	9-1-2017
141-141-0130	7-1-2017	Adopt	7-1-2017	150-314-0380	6-28-2017	Amend	8-1-2017
141-141-0140	7-1-2017	Adopt	7-1-2017	150-314-0406	7-21-2017	Amend	9-1-2017
141-141-0150	7-1-2017	Adopt	7-1-2017	150-314-0460	8-2-2017	Amend	9-1-2017
141-141-0160	7-1-2017	Adopt	7-1-2017	150-314-0485	1-1-2017	Amend	2-1-2017
150-090-0020	1-1-2017	Adopt	2-1-2017	150-315-0070	1-1-2017	Amend	2-1-2017
150-118-0050	7-24-2017	Amend	9-1-2017	150-315-0080	1-1-2017	Repeal	2-1-2017
150-118-0150	1-1-2017	Amend	2-1-2017	150-315-0082	1-1-2017	Repeal	2-1-2017
150-198-0900	6-8-2017	Amend	7-1-2017	150-315-0084	1-1-2017	Repeal	2-1-2017
150-222-0110	8-11-2017	Amend	9-1-2017	150-315-0090	7-21-2017	Amend	9-1-2017
150-280-0010	6-8-2017	Amend	7-1-2017	150-315-0120	1-1-2017	Repeal	2-1-2017
150-294-0430	1-1-2017	Amend	2-1-2017	150-315-0121	1-1-2017	Adopt	2-1-2017

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150-315-0130	6-1-2017	Repeal	7-1-2017	150-418-0010	1-1-2017	Adopt	2-1-2017
150-315-0132	6-1-2017	Repeal	7-1-2017	150-457-0450	8-8-2017	Amend	9-1-2017
150-315-0144	8-1-2017	Amend	9-1-2017	161-006-0000	7-28-2017	Amend	9-1-2017
150-315-0190	1-1-2017	Repeal	2-1-2017	161-006-0025	7-28-2017	Repeal	9-1-2017
150-316-0005	8-2-2017	Amend	9-1-2017	161-006-0030	7-28-2017	Repeal	9-1-2017
150-316-0060	6-1-2017	Amend	7-1-2017	161-006-0050	7-28-2017	Repeal	9-1-2017
150-316-0070	8-2-2017	Amend	9-1-2017	161-006-0060	7-28-2017	Amend	9-1-2017
150-316-0075	1-1-2017	Repeal	2-1-2017	161-006-0070	7-28-2017	Repeal	9-1-2017
150-316-0086	1-1-2017	Amend	2-1-2017	161-006-0080	7-28-2017	Repeal	9-1-2017
150-316-0100	1-1-2017	Repeal	2-1-2017	161-006-0110	7-28-2017	Repeal	9-1-2017
150-316-0105	6-1-2017	Repeal	7-1-2017	161-006-0120	7-28-2017	Repeal	9-1-2017
150-316-0107	6-1-2017	Repeal	7-1-2017	161-006-0140	7-28-2017	Amend	9-1-2017
150-316-0120	6-1-2017	Amend	7-1-2017	161-006-0155	7-28-2017	Amend	9-1-2017
150-316-0125	7-21-2017	Amend	9-1-2017	161-006-0160	7-28-2017	Amend	9-1-2017
150-316-0135	8-2-2017	Amend	9-1-2017	161-006-0175	7-28-2017	Amend	9-1-2017
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150-316-0155	7-21-2017	Amend	9-1-2017	162-050-0030	1-5-2017	Adopt	2-1-2017
150-316-0195	8-2-2017	Amend	9-1-2017	165-005-0180	6-16-2017	Adopt	8-1-2017
150-316-0210	1-1-2017	Repeal	2-1-2017	165-007-0030	6-16-2017	Amend	8-1-2017
150-316-0215	1-1-2017	Repeal	2-1-2017	165-007-2018	8-25-2017	Adopt(T)	10-1-2017
150-316-0220	6-1-2017	Repeal	7-1-2017	165-012-0005	4-7-2017	Amend	5-1-2017
150-316-0235	6-1-2017	Amend	7-1-2017	166-035-0005	7-14-2017	Adopt	8-1-2017
150-316-0332	8-2-2017	Amend	9-1-2017	166-035-0010	7-14-2017	Adopt	8-1-2017
150-316-0359	1-1-2017	Amend	2-1-2017	166-035-0015	7-14-2017	Adopt	8-1-2017
150-316-0415	8-2-2017	Amend	9-1-2017	166-037-0010	7-14-2017	Adopt	8-1-2017
150-316-0425	8-2-2017	Amend	9-1-2017	166-037-0020	7-14-2017	Adopt	8-1-2017
150-316-0435	1-1-2017	Amend	2-1-2017	166-150-0005	1-13-2017	Amend	2-1-2017
150-316-0470	6-1-2017	Amend	7-1-2017	166-150-0110	1-13-2017	Amend	2-1-2017
150-316-0493	6-1-2017	Amend	7-1-2017	166-400-0010	1-13-2017	Amend	2-1-2017
150-316-0505	8-3-2017	Amend	9-1-2017	166-400-0015	1-13-2017	Amend	2-1-2017
150-316-0509	7-21-2017	Amend	9-1-2017	166-400-0020	1-13-2017	Amend	2-1-2017
150-316-0511	8-3-2017	Amend	9-1-2017	166-400-0025	1-13-2017	Amend	2-1-2017
150-316-0515	7-21-2017	Amend	9-1-2017	166-400-0030	1-13-2017	Amend	2-1-2017
150-316-0517	1-1-2017	Repeal	2-1-2017	166-400-0035	1-13-2017	Amend	2-1-2017
150-316-0525	8-3-2017	Amend	9-1-2017	166-400-0040	1-13-2017	Amend	2-1-2017
150-316-0535	8-8-2017	Amend	9-1-2017	166-400-0045	1-13-2017	Amend	2-1-2017
150-316-0557	8-8-2017	Amend	9-1-2017	166-400-0050	1-13-2017	Amend	2-1-2017
150-316-0565	8-8-2017	Amend	9-1-2017	166-400-0055	1-13-2017	Amend	2-1-2017
150-316-0575	8-3-2017	Amend	9-1-2017	166-400-0060	1-13-2017	Amend	2-1-2017
150-316-0615	6-1-2017	Amend	7-1-2017	166-400-0065	1-13-2017	Amend	2-1-2017
150-316-0620	6-1-2017	Repeal	7-1-2017	170-002-0010	5-25-2017	Amend	7-1-2017
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150-317-0310	8-8-2017	Amend	9-1-2017	170-063-0000	2-23-2017	Amend	4-1-2017
150-317-0370	8-8-2017	Amend	9-1-2017	170-080-0001	4-19-2017	Adopt	6-1-2017
150-317-0460	7-21-2017	Amend	9-1-2017	170-080-0002	4-19-2017	Adopt	6-1-2017
150-317-0600	8-3-2017	Amend	9-1-2017	170-080-0005	4-19-2017	Adopt	6-1-2017
150-317-0660	8-8-2017	Amend	9-1-2017	170-080-0010	4-19-2017	Adopt	6-1-2017
150-320-0010	1-1-2017	Repeal	2-1-2017	170-080-0015	4-19-2017	Adopt	6-1-2017
150-320-0040	1-1-2017	Amend	2-1-2017	170-080-0015	6-22-2017	Amend	8-1-2017
150-321-0210	7-21-2017	Amend	9-1-2017	170-080-0020	4-19-2017	Adopt	6-1-2017
150-321-0340	1-1-2017	Amend	2-1-2017	170-080-0025	4-19-2017	Adopt	6-1-2017
150-321-0340	6-1-2017	Amend	7-1-2017	170-080-0030	4-19-2017	Adopt	6-1-2017
150-321-0810	1-1-2017	Amend	2-1-2017	170-080-0035	4-19-2017	Adopt	6-1-2017
150-321-0810	6-1-2017	Amend	7-1-2017	170-080-0040	4-19-2017	Adopt	6-1-2017
150-323-0130	1-1-2017	Amend	2-1-2017	170-080-0045	4-19-2017	Adopt	6-1-2017

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170-080-0060	4-19-2017	Adopt	6-1-2017	250-030-0110	8-1-2017	Amend	9-1-2017
170-080-0065	4-19-2017	Adopt	6-1-2017	255-005-0005	4-5-2017	Amend	5-1-2017
177-010-0100	4-1-2017	Amend	5-1-2017	255-060-0011	1-3-2017	Amend(T)	2-1-2017
177-036-0030	2-1-2017	Amend	3-1-2017	255-060-0011	4-5-2017	Amend	5-1-2017
177-036-0030(T)	2-1-2017	Repeal	3-1-2017	255-060-0016	1-3-2017	Amend(T)	2-1-2017
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177-040-0001	9-1-2017	Amend	10-1-2017	255-080-0001	4-5-2017	Amend	5-1-2017
177-040-0005	9-1-2017	Amend	10-1-2017	255-085-0010	1-3-2017	Amend(T)	2-1-2017
177-040-0010	9-1-2017	Amend	10-1-2017	255-085-0010	3-21-2017	Amend(T)	5-1-2017
177-040-0024	9-1-2017	Amend	10-1-2017	255-085-0010	7-1-2017	Amend	8-1-2017
177-040-0026	9-1-2017	Amend	10-1-2017	255-085-0020	1-3-2017	Amend(T)	2-1-2017
177-040-0050	9-1-2017	Amend	10-1-2017	255-085-0020	3-21-2017	Amend(T)	5-1-2017
177-040-0055	9-1-2017	Amend	10-1-2017	255-085-0020	7-1-2017	Amend	8-1-2017
177-040-0061	9-1-2017	Amend	10-1-2017	255-085-0030	3-21-2017	Amend(T)	5-1-2017
177-040-0070	9-1-2017	Amend	10-1-2017	255-085-0030	7-1-2017	Amend	8-1-2017
177-040-0130	9-1-2017	Amend	10-1-2017	255-085-0040	3-21-2017	Amend(T)	5-1-2017
177-040-0320	9-1-2017	Amend	10-1-2017	255-085-0040	7-1-2017	Amend	8-1-2017
177-099-0000	5-21-2017	Amend	6-1-2017	255-085-0050	3-21-2017	Amend(T)	5-1-2017
177-099-0020	5-21-2017	Amend	6-1-2017	255-085-0050	7-1-2017	Amend	8-1-2017
177-099-0030	5-21-2017	Amend	6-1-2017	255-085-0060	3-21-2017	Adopt(T)	5-1-2017
177-099-0050	5-21-2017	Amend	6-1-2017	255-085-0060	7-1-2017	Adopt	8-1-2017
177-099-0095	5-21-2017	Amend	6-1-2017	257-050-0050	11-18-2016	Amend(T)	1-1-2017
177-099-0100	5-21-2017	Amend	6-1-2017	257-050-0050	3-8-2017	Amend	4-1-2017
177-099-0105	5-21-2017	Adopt	6-1-2017	257-050-0145	11-18-2016	Amend(T)	1-1-2017
199-001-0010	11-17-2016	Amend	1-1-2017	257-050-0145	3-8-2017	Amend	4-1-2017
199-005-0080	11-17-2016	Adopt	1-1-2017	257-095-0000	12-14-2016	Adopt(T)	1-1-2017
199-040-0027	11-17-2016	Adopt	1-1-2017	257-095-0000	6-6-2017	Adopt	7-1-2017
213-003-0001	1-1-2017	Amend	2-1-2017	257-095-0010	12-14-2016	Adopt(T)	1-1-2017
213-004-0001	1-1-2017	Amend	2-1-2017	257-095-0010	6-6-2017	Adopt	7-1-2017
213-017-0004	1-1-2017	Amend	2-1-2017	257-095-0030	12-14-2016	Adopt(T)	1-1-2017
213-017-0005	1-1-2017	Amend	2-1-2017	257-095-0030	6-6-2017	Adopt	7-1-2017
213-017-0006	1-1-2017	Amend	2-1-2017	257-095-0040	12-14-2016	Adopt(T)	1-1-2017
213-017-0008	1-1-2017	Amend	2-1-2017	257-095-0040	6-6-2017	Adopt	7-1-2017
213-017-0011	1-1-2017	Amend	2-1-2017	257-095-0050	12-14-2016	Adopt(T)	1-1-2017
213-018-0075	1-1-2017	Amend	2-1-2017	257-095-0050	6-6-2017	Adopt	7-1-2017
213-019-0007	1-1-2017	Amend	2-1-2017	257-095-0060	12-14-2016	Adopt(T)	1-1-2017
213-019-0008	1-1-2017	Amend	2-1-2017	257-095-0060	6-6-2017	Adopt	7-1-2017
213-019-0011	1-1-2017	Amend	2-1-2017	257-095-0070	12-14-2016	Adopt(T)	1-1-2017
213-019-0012	1-1-2017	Amend	2-1-2017	257-095-0070	6-6-2017	Adopt	7-1-2017
213-019-0015	1-1-2017	Amend	2-1-2017	257-095-0080	12-14-2016	Adopt(T)	1-1-2017
213-060-0030	8-16-2017	Amend	10-1-2017	257-095-0080	6-6-2017	Adopt	7-1-2017
213-060-0050	8-16-2017	Amend	10-1-2017	257-095-0090	12-14-2016	Adopt(T)	1-1-2017
213-060-0060	8-16-2017	Amend	10-1-2017	257-095-0090	6-6-2017	Adopt	7-1-2017
213-060-0070	8-16-2017	Amend	10-1-2017	257-095-0100	12-14-2016	Adopt(T)	1-1-2017
213-060-0080	8-16-2017	Amend	10-1-2017	257-095-0100	6-6-2017	Adopt	7-1-2017
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213-060-0140	8-16-2017	Amend	10-1-2017	259-008-0010	8-1-2017	Amend	9-1-2017
213-071-0010	12-29-2016	Adopt	2-1-2017	259-008-0011	4-1-2017	Amend	5-1-2017
213-071-0015	12-29-2016	Adopt	2-1-2017	259-008-0011	8-1-2017	Amend	9-1-2017
213-071-0020	12-29-2016	Adopt	2-1-2017	259-008-0020	5-1-2017	Amend	6-1-2017
230-020-0330	12-1-2016	Amend	1-1-2017	259-008-0025	12-22-2016	Amend	2-1-2017
230-030-0150	2-28-2017	Amend	4-1-2017	259-008-0025	7-1-2017	Amend	8-1-2017
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259-008-0065	3-22-2017	Amend	5-1-2017	291-058-0060	5-17-2017	Amend	7-1-2017
259-008-0070	8-1-2017	Amend	9-1-2017	291-058-0065	5-17-2017	Amend	7-1-2017
259-008-0075	4-1-2017	Amend	5-1-2017	291-058-0066	5-17-2017	Adopt	7-1-2017
259-008-0080	4-1-2017	Amend	5-1-2017	291-058-0067	5-17-2017	Adopt	7-1-2017
259-008-0080	8-1-2017	Amend	9-1-2017	291-058-0070	5-17-2017	Amend	7-1-2017
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259-008-0090	3-22-2017	Amend	5-1-2017	291-061-0061	6-21-2017	Amend	8-1-2017
259-009-0005	7-1-2017	Amend	8-1-2017	291-062-0100	5-17-2017	Amend	7-1-2017
259-009-0062	12-22-2016	Amend	2-1-2017	291-062-0110	5-17-2017	Amend	7-1-2017
259-009-0062	7-1-2017	Amend	8-1-2017	291-062-0120	5-17-2017	Amend	7-1-2017
259-060-0010	3-22-2017	Amend	5-1-2017	291-062-0130	5-17-2017	Amend	7-1-2017
259-060-0015	3-22-2017	Amend	5-1-2017	291-062-0140	5-17-2017	Amend	7-1-2017
259-060-0130	3-22-2017	Amend	5-1-2017	291-062-0150	5-17-2017	Amend	7-1-2017
259-060-0200	3-22-2017	Adopt	5-1-2017	291-062-0160	5-17-2017	Amend	7-1-2017
259-060-0300	6-23-2017	Amend	8-1-2017	291-062-0165	5-17-2017	Adopt	7-1-2017
259-060-0450	3-22-2017	Amend	5-1-2017	291-062-0170	5-17-2017	Amend	7-1-2017
259-060-0600	3-22-2017	Amend	5-1-2017	291-063-0005	6-12-2017	Am. & Ren.	7-1-2017
259-061-0010	3-22-2017	Amend	5-1-2017	291-063-0010	6-12-2017	Am. & Ren.	7-1-2017
259-061-0018	3-22-2017	Amend	5-1-2017	291-063-0016	6-12-2017	Am. & Ren.	7-1-2017
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274-030-0520	7-21-2017	Amend(T)	9-1-2017	291-063-0060	6-12-2017	Am. & Ren.	7-1-2017
274-030-0525	7-21-2017	Amend(T)	9-1-2017	291-063-0130	6-12-2017	Adopt	7-1-2017
274-030-0530	7-21-2017	Suspend	9-1-2017	291-063-0150	6-12-2017	Adopt	7-1-2017
274-030-0535	7-21-2017	Amend(T)	9-1-2017	291-063-1000	6-12-2017	Adopt	7-1-2017
274-030-0541	7-21-2017	Adopt(T)	9-1-2017	291-063-1010	6-12-2017	Adopt	7-1-2017
274-030-0545	7-21-2017	Amend(T)	9-1-2017	291-065-0006	3-17-2017	Amend	5-1-2017
274-030-0550	7-21-2017	Amend(T)	9-1-2017	291-065-0007	3-17-2017	Amend	5-1-2017
274-030-0555	7-21-2017	Suspend	9-1-2017	291-079-0030	11-30-2016	Repeal	1-1-2017
274-030-0560	7-21-2017	Amend(T)	9-1-2017	291-079-0040	11-30-2016	Repeal	1-1-2017
274-030-0565	7-21-2017	Amend(T)	9-1-2017	291-139-0005	9-1-2017	Repeal	10-1-2017
274-030-0570	7-21-2017	Amend(T)	9-1-2017	291-139-0010	9-1-2017	Repeal	10-1-2017
274-030-0575	7-21-2017	Suspend	9-1-2017	291-139-0015	9-1-2017	Repeal	10-1-2017
274-030-0600	7-21-2017	Suspend	9-1-2017	291-139-0020	9-1-2017	Repeal	10-1-2017
274-030-0602	7-21-2017	Suspend	9-1-2017	291-139-0025	9-1-2017	Repeal	10-1-2017
274-030-0610	7-21-2017	Suspend	9-1-2017	291-139-0028	9-1-2017	Repeal	10-1-2017
274-030-0615	7-21-2017	Suspend	9-1-2017	291-139-0030	9-1-2017	Repeal	10-1-2017
274-030-0620	7-21-2017	Suspend	9-1-2017	291-139-0035	9-1-2017	Repeal	10-1-2017
274-030-0621	7-21-2017	Suspend	9-1-2017	291-139-0040	9-1-2017	Repeal	10-1-2017
274-030-0630	7-21-2017	Amend(T)	9-1-2017	291-139-0045	9-1-2017	Repeal	10-1-2017
274-030-0640	7-21-2017	Suspend	9-1-2017	291-139-0100	9-1-2017	Adopt	10-1-2017
291-001-0110	6-8-2017	Amend	7-1-2017	291-139-0110	9-1-2017	Adopt	10-1-2017
291-001-0115	3-9-2017	Adopt	4-1-2017	291-139-0120	9-1-2017	Adopt	10-1-2017
291-013-0104	6-22-2017	Amend	8-1-2017	291-139-0130	9-1-2017	Adopt	10-1-2017
291-058-0010	5-17-2017	Amend	7-1-2017	291-139-0140	9-1-2017	Adopt	10-1-2017
291-058-0020	5-17-2017	Amend	7-1-2017	291-139-0150	9-1-2017	Adopt	10-1-2017
291-058-0030	5-17-2017	Amend	7-1-2017	291-139-0160	9-1-2017	Adopt	10-1-2017
291-058-0040	5-17-2017	Amend	7-1-2017	291-139-0170	9-1-2017	Adopt	10-1-2017
291-058-0045	5-17-2017	Amend	7-1-2017	291-139-0180	9-1-2017	Adopt	10-1-2017

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291-210-0010	2-15-2017	Amend(T)	3-1-2017	309-011-0036	12-27-2016	Amend	2-1-2017
291-210-0010	6-8-2017	Amend	7-1-2017	309-012-0130	12-1-2016	Repeal	1-1-2017
291-210-0010(T)	6-8-2017	Repeal	7-1-2017	309-012-0140	12-1-2016	Repeal	1-1-2017
291-210-0020	2-15-2017	Amend(T)	3-1-2017	309-012-0150	12-1-2016	Repeal	1-1-2017
291-210-0020	6-8-2017	Amend	7-1-2017	309-012-0160	12-1-2016	Repeal	1-1-2017
291-210-0020(T)	6-8-2017	Repeal	7-1-2017	309-012-0170	12-1-2016	Repeal	1-1-2017
291-210-0030	2-15-2017	Amend(T)	3-1-2017	309-012-0180	12-1-2016	Repeal	1-1-2017
291-210-0030	6-8-2017	Amend	7-1-2017	309-012-0190	12-1-2016	Repeal	1-1-2017
291-210-0030(T)	6-8-2017	Repeal	7-1-2017	309-012-0200	12-1-2016	Repeal	1-1-2017
291-210-0040	2-15-2017	Adopt(T)	3-1-2017	309-012-0210	12-1-2016	Repeal	1-1-2017
291-210-0040	6-8-2017	Adopt	7-1-2017	309-012-0220	12-1-2016	Repeal	1-1-2017
291-210-0040(T)	6-8-2017	Repeal	7-1-2017	309-012-0230	12-1-2016	Repeal	1-1-2017
291-210-0050	2-15-2017	Adopt(T)	3-1-2017	309-014-0000	12-1-2016	Amend	1-1-2017
291-210-0050	6-8-2017	Adopt	7-1-2017	309-014-0005	12-1-2016	Amend	1-1-2017
291-210-0050(T)	6-8-2017	Repeal	7-1-2017	309-014-0010	12-1-2016	Amend	1-1-2017
309-008-0100	11-30-2016	Adopt	1-1-2017	309-014-0015	12-1-2016	Amend	1-1-2017
309-008-0200	11-30-2016	Adopt	1-1-2017	309-014-0020	12-1-2016	Amend	1-1-2017
309-008-0250	11-30-2016	Adopt	1-1-2017	309-014-0021	12-1-2016	Adopt	1-1-2017
309-008-0300	11-30-2016	Adopt	1-1-2017	309-014-0022	12-1-2016	Adopt	1-1-2017
309-008-0400	11-30-2016	Adopt	1-1-2017	309-014-0023	12-1-2016	Adopt	1-1-2017
309-008-0500	11-30-2016	Adopt	1-1-2017	309-014-0025	12-1-2016	Amend	1-1-2017
309-008-0600	11-30-2016	Adopt	1-1-2017	309-014-0030	12-1-2016	Amend	1-1-2017
309-008-0700	11-30-2016	Adopt	1-1-2017	309-014-0035	12-1-2016	Amend	1-1-2017
309-008-0800	11-30-2016	Adopt	1-1-2017	309-014-0036	12-1-2016	Adopt	1-1-2017
309-008-0800	1-1-2017	Amend(T)	2-1-2017	309-014-0037	12-1-2016	Amend	1-1-2017
309-008-0800	6-1-2017	Amend	7-1-2017	309-014-0040	12-1-2016	Amend	1-1-2017
309-008-0800(T)	6-1-2017	Repeal	7-1-2017	309-018-0100	11-28-2016	Amend	1-1-2017
309-008-0900	11-30-2016	Adopt	1-1-2017	309-018-0105	11-28-2016	Amend	1-1-2017
309-008-0900	1-1-2017	Amend(T)	2-1-2017	309-018-0105	9-15-2017	Amend(T)	10-1-2017
309-008-0900	6-1-2017	Amend	7-1-2017	309-018-0107	11-28-2016	Adopt	1-1-2017
309-008-0900(T)	6-1-2017	Repeal	7-1-2017	309-018-0107	9-15-2017	Amend(T)	10-1-2017
309-008-0905	1-1-2017	Adopt(T)	2-1-2017	309-018-0110	9-15-2017	Amend(T)	10-1-2017
309-008-0905	6-1-2017	Adopt	7-1-2017	309-018-0115	9-15-2017	Amend(T)	10-1-2017
309-008-0905(T)	6-1-2017	Repeal	7-1-2017	309-018-0120	9-15-2017	Suspend	10-1-2017
309-008-1000	11-30-2016	Adopt	1-1-2017	309-018-0125	9-15-2017	Amend(T)	10-1-2017
309-008-1100	11-30-2016	Adopt	1-1-2017	309-018-0130	9-15-2017	Amend(T)	10-1-2017
309-008-1100	1-1-2017	Amend(T)	2-1-2017	309-018-0135	9-15-2017	Amend(T)	10-1-2017
309-008-1100	6-1-2017	Amend	7-1-2017	309-018-0140	9-15-2017	Amend(T)	10-1-2017
309-008-1100(T)	6-1-2017	Repeal	7-1-2017	309-018-0145	9-15-2017	Amend(T)	10-1-2017
309-008-1200	11-30-2016	Adopt	1-1-2017	309-018-0150	9-15-2017	Amend(T)	10-1-2017
309-008-1200	1-1-2017	Amend(T)	2-1-2017	309-018-0155	9-15-2017	Amend(T)	10-1-2017
309-008-1200	6-1-2017	Amend	7-1-2017	309-018-0160	11-28-2016	Amend	1-1-2017
309-008-1200(T)	6-1-2017	Repeal	7-1-2017	309-018-0160	9-15-2017	Amend(T)	10-1-2017
309-008-1300	11-30-2016	Adopt	1-1-2017	309-018-0165	9-15-2017	Amend(T)	10-1-2017
309-008-1300	1-1-2017	Amend(T)	2-1-2017	309-018-0170	9-15-2017	Amend(T)	10-1-2017
309-008-1300	6-1-2017	Amend	7-1-2017	309-018-0175	9-15-2017	Amend(T)	10-1-2017
309-008-1300(T)	6-1-2017	Repeal	7-1-2017	309-018-0180	9-15-2017	Amend(T)	10-1-2017
309-008-1400	11-30-2016	Adopt	1-1-2017	309-018-0185	9-15-2017	Amend(T)	10-1-2017
309-008-1500	11-30-2016	Adopt	1-1-2017	309-018-0190	9-15-2017	Amend(T)	10-1-2017
309-008-1600	11-30-2016	Adopt	1-1-2017	309-018-0195	9-15-2017	Amend(T)	10-1-2017
309-011-0024	12-27-2016	Amend	2-1-2017	309-018-0200	9-15-2017	Amend(T)	10-1-2017
309-011-0026	12-27-2016	Amend	2-1-2017	309-018-0205	9-15-2017	Amend(T)	10-1-2017
309-011-0028	12-27-2016	Amend	2-1-2017	309-018-0210	11-28-2016	Amend	1-1-2017
309-011-0031	12-27-2016	Adopt	2-1-2017	309-018-0210	9-15-2017	Amend(T)	10-1-2017
309-011-0032	12-27-2016	Amend	2-1-2017	309-018-0215	11-28-2016	Amend	1-1-2017

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309-019-0100	11-30-2016	Amend	1-1-2017	309-019-0152	6-23-2017	Adopt	8-1-2017
309-019-0100	6-23-2017	Amend	8-1-2017	309-019-0152	9-15-2017	Suspend	10-1-2017
309-019-0105	11-30-2016	Amend	1-1-2017	309-019-0152(T)	6-23-2017	Repeal	8-1-2017
309-019-0105	12-28-2016	Amend(T)	2-1-2017	309-019-0155	12-28-2016	Amend(T)	2-1-2017
309-019-0105	6-23-2017	Amend	8-1-2017	309-019-0155	6-23-2017	Amend	8-1-2017
309-019-0105	9-15-2017	Amend(T)	10-1-2017	309-019-0155	9-15-2017	Amend(T)	10-1-2017
309-019-0105(T)	6-23-2017	Repeal	8-1-2017	309-019-0155(T)	6-23-2017	Repeal	8-1-2017
309-019-0110	11-30-2016	Amend	1-1-2017	309-019-0160	12-28-2016	Amend(T)	2-1-2017
309-019-0110	12-28-2016	Amend(T)	2-1-2017	309-019-0160	6-23-2017	Amend	8-1-2017
309-019-0110	6-23-2017	Amend	8-1-2017	309-019-0160	9-15-2017	Amend(T)	10-1-2017
309-019-0110	9-15-2017	Amend(T)	10-1-2017	309-019-0160(T)	6-23-2017	Repeal	8-1-2017
309-019-0110(T)	6-23-2017	Repeal	8-1-2017	309-019-0165	12-28-2016	Amend(T)	2-1-2017
309-019-0115	12-28-2016	Amend(T)	2-1-2017	309-019-0165	6-23-2017	Amend	8-1-2017
309-019-0115	6-23-2017	Amend	8-1-2017	309-019-0165	9-15-2017	Amend(T)	10-1-2017
309-019-0115	9-15-2017	Amend(T)	10-1-2017	309-019-0165(T)	6-23-2017	Repeal	8-1-2017
309-019-0115(T)	6-23-2017	Repeal	8-1-2017	309-019-0170	6-23-2017	Amend	8-1-2017
309-019-0120	12-28-2016	Amend(T)	2-1-2017	309-019-0170	9-15-2017	Amend(T)	10-1-2017
309-019-0120	6-23-2017	Amend	8-1-2017	309-019-0175	11-30-2016	Amend	1-1-2017
309-019-0120	9-15-2017	Suspend	10-1-2017	309-019-0175	12-28-2016	Amend(T)	2-1-2017
309-019-0120(T)	6-23-2017	Repeal	8-1-2017	309-019-0175	6-23-2017	Amend	8-1-2017
309-019-0125	11-30-2016	Amend	1-1-2017	309-019-0175	9-15-2017	Amend(T)	10-1-2017
309-019-0125	12-28-2016	Amend(T)	2-1-2017	309-019-0175(T)	6-23-2017	Repeal	8-1-2017
309-019-0125	6-23-2017	Amend	8-1-2017	309-019-0180	12-28-2016	Amend(T)	2-1-2017
309-019-0125	9-15-2017	Amend(T)	10-1-2017	309-019-0180	6-23-2017	Amend	8-1-2017
309-019-0125(T)	6-23-2017	Repeal	8-1-2017	309-019-0180	9-15-2017	Amend(T)	10-1-2017
309-019-0130	11-30-2016	Amend	1-1-2017	309-019-0180(T)	6-23-2017	Repeal	8-1-2017
309-019-0130	12-28-2016	Amend(T)	2-1-2017	309-019-0185	12-28-2016	Amend(T)	2-1-2017
309-019-0130	6-23-2017	Amend	8-1-2017	309-019-0185	6-23-2017	Amend	8-1-2017
309-019-0130	9-15-2017	Amend(T)	10-1-2017	309-019-0185	9-15-2017	Amend(T)	10-1-2017
309-019-0130(T)	6-23-2017	Repeal	8-1-2017	309-019-0185(T)	6-23-2017	Repeal	8-1-2017
309-019-0135	11-30-2016	Amend	1-1-2017	309-019-0187	9-15-2017	Adopt(T)	10-1-2017
309-019-0135	12-28-2016	Amend(T)	2-1-2017	309-019-0190	6-23-2017	Amend	8-1-2017
309-019-0135	6-23-2017	Amend	8-1-2017	309-019-0190	9-15-2017	Amend(T)	10-1-2017
309-019-0135	9-15-2017	Amend(T)	10-1-2017	309-019-0195	11-30-2016	Amend	1-1-2017
309-019-0135(T)	6-23-2017	Repeal	8-1-2017	309-019-0195	6-23-2017	Amend	8-1-2017
309-019-0140	11-30-2016	Amend	1-1-2017	309-019-0200	6-23-2017	Amend	8-1-2017
309-019-0140	12-28-2016	Amend(T)	2-1-2017	309-019-0200	9-15-2017	Amend(T)	10-1-2017
309-019-0140	6-23-2017	Amend	8-1-2017	309-019-0205	6-23-2017	Amend	8-1-2017
309-019-0140	9-15-2017	Amend(T)	10-1-2017	309-019-0205	9-15-2017	Suspend	10-1-2017
309-019-0140(T)	6-23-2017	Repeal	8-1-2017	309-019-0210	11-30-2016	Amend	1-1-2017
309-019-0145	11-30-2016	Amend	1-1-2017	309-019-0210	6-23-2017	Amend	8-1-2017
309-019-0145	12-28-2016	Amend(T)	2-1-2017	309-019-0215	11-30-2016	Amend	1-1-2017
309-019-0145	6-23-2017	Amend	8-1-2017	309-019-0215	12-28-2016	Amend(T)	2-1-2017
309-019-0145	9-15-2017	Amend(T)	10-1-2017	309-019-0215	6-23-2017	Amend	8-1-2017
309-019-0145(T)	6-23-2017	Repeal	8-1-2017	309-019-0215	9-15-2017	Amend(T)	10-1-2017
309-019-0150	12-28-2016	Amend(T)	2-1-2017	309-019-0215(T)	6-23-2017	Repeal	8-1-2017
309-019-0150	1-18-2017	Amend(T)	3-1-2017	309-019-0220	11-30-2016	Amend	1-1-2017
309-019-0150	6-23-2017	Amend	8-1-2017	309-019-0220	6-23-2017	Amend	8-1-2017
309-019-0150	9-15-2017	Amend(T)	10-1-2017	309-019-0220	9-15-2017	Amend(T)	10-1-2017
309-019-0150(T)	6-23-2017	Repeal	8-1-2017	309-019-0225	11-30-2016	Adopt	1-1-2017
309-019-0151	12-28-2016	Adopt(T)	2-1-2017	309-019-0225	12-28-2016	Amend(T)	2-1-2017
309-019-0151	1-18-2017	Amend(T)	3-1-2017	309-019-0225	1-18-2017	Amend(T)	3-1-2017
309-019-0151	6-23-2017	Adopt	8-1-2017	309-019-0225	6-23-2017	Amend	8-1-2017
309-019-0151	9-15-2017	Amend(T)	10-1-2017	309-019-0225	9-15-2017	Amend(T)	10-1-2017
309-019-0151(T)	6-23-2017	Repeal	8-1-2017	309-019-0225(T)	6-23-2017	Repeal	8-1-2017

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309-019-0226	1-18-2017	Amend(T)	3-1-2017	309-019-0280	6-23-2017	Adopt	8-1-2017
309-019-0226	6-23-2017	Adopt	8-1-2017	309-019-0280	9-15-2017	Amend(T)	10-1-2017
309-019-0226	9-15-2017	Amend(T)	10-1-2017	309-019-0280(T)	6-23-2017	Repeal	8-1-2017
309-019-0226(T)	6-23-2017	Repeal	8-1-2017	309-019-0285	12-28-2016	Adopt(T)	2-1-2017
309-019-0230	11-30-2016	Adopt	1-1-2017	309-019-0285	1-18-2017	Amend(T)	3-1-2017
309-019-0230	12-28-2016	Amend(T)	2-1-2017	309-019-0285	6-23-2017	Adopt	8-1-2017
309-019-0230	6-23-2017	Amend	8-1-2017	309-019-0285	9-15-2017	Amend(T)	10-1-2017
309-019-0230	9-15-2017	Amend(T)	10-1-2017	309-019-0285(T)	6-23-2017	Repeal	8-1-2017
309-019-0230(T)	6-23-2017	Repeal	8-1-2017	309-019-0290	12-28-2016	Adopt(T)	2-1-2017
309-019-0235	11-30-2016	Adopt	1-1-2017	309-019-0290	1-18-2017	Amend(T)	3-1-2017
309-019-0235	1-18-2017	Amend(T)	3-1-2017	309-019-0290	6-23-2017	Adopt	8-1-2017
309-019-0235	6-23-2017	Amend	8-1-2017	309-019-0290(T)	6-23-2017	Repeal	8-1-2017
309-019-0235	9-15-2017	Amend(T)	10-1-2017	309-019-0295	12-28-2016	Adopt(T)	2-1-2017
309-019-0235(T)	6-23-2017	Repeal	8-1-2017	309-019-0295	1-18-2017	Amend(T)	3-1-2017
309-019-0240	11-30-2016	Adopt	1-1-2017	309-019-0295	6-23-2017	Adopt	8-1-2017
309-019-0240	12-28-2016	Amend(T)	2-1-2017	309-019-0295(T)	6-23-2017	Repeal	8-1-2017
309-019-0240	6-23-2017	Amend	8-1-2017	309-019-0300	6-23-2017	Adopt	8-1-2017
309-019-0240	9-15-2017	Amend(T)	10-1-2017	309-019-0300	9-15-2017	Amend(T)	10-1-2017
309-019-0240(T)	6-23-2017	Repeal	8-1-2017	309-019-0305	6-23-2017	Adopt	8-1-2017
309-019-0241	12-28-2016	Adopt(T)	2-1-2017	309-019-0305	9-15-2017	Amend(T)	10-1-2017
309-019-0241	6-23-2017	Adopt	8-1-2017	309-019-0310	6-23-2017	Adopt	8-1-2017
309-019-0241	9-15-2017	Amend(T)	10-1-2017	309-019-0310	9-15-2017	Amend(T)	10-1-2017
309-019-0241(T)	6-23-2017	Repeal	8-1-2017	309-019-0315	6-23-2017	Adopt	8-1-2017
309-019-0242	12-28-2016	Adopt(T)	2-1-2017	309-019-0320	6-23-2017	Adopt	8-1-2017
309-019-0242	1-18-2017	Amend(T)	3-1-2017	309-022-0100	12-1-2016	Amend	1-1-2017
309-019-0242	6-23-2017	Adopt	8-1-2017	309-022-0105	12-1-2016	Amend	1-1-2017
309-019-0242	9-15-2017	Amend(T)	10-1-2017	309-022-0105	12-29-2016	Amend(T)	2-1-2017
309-019-0242(T)	6-23-2017	Repeal	8-1-2017	309-022-0105	6-23-2017	Amend	8-1-2017
309-019-0245	11-30-2016	Adopt	1-1-2017	309-022-0105(T)	6-23-2017	Repeal	8-1-2017
309-019-0245	12-28-2016	Amend(T)	2-1-2017	309-022-0110	12-29-2016	Amend(T)	2-1-2017
309-019-0245	6-23-2017	Amend	8-1-2017	309-022-0110	6-23-2017	Amend	8-1-2017
309-019-0245	9-15-2017	Amend(T)	10-1-2017	309-022-0110(T)	6-23-2017	Repeal	8-1-2017
309-019-0245(T)	6-23-2017	Repeal	8-1-2017	309-022-0115	12-29-2016	Amend(T)	2-1-2017
309-019-0248	11-30-2016	Adopt	1-1-2017	309-022-0115	6-23-2017	Amend	8-1-2017
309-019-0248	1-18-2017	Amend(T)	3-1-2017	309-022-0115(T)	6-23-2017	Repeal	8-1-2017
309-019-0248	6-23-2017	Amend	8-1-2017	309-022-0125	12-29-2016	Amend(T)	2-1-2017
309-019-0248	9-15-2017	Amend(T)	10-1-2017	309-022-0125	6-23-2017	Amend	8-1-2017
309-019-0248(T)	6-23-2017	Repeal	8-1-2017	309-022-0125(T)	6-23-2017	Repeal	8-1-2017
309-019-0250	11-30-2016	Adopt	1-1-2017	309-022-0130	12-29-2016	Amend(T)	2-1-2017
309-019-0250	1-18-2017	Amend(T)	3-1-2017	309-022-0130	6-23-2017	Amend	8-1-2017
309-019-0250	6-23-2017	Amend	8-1-2017	309-022-0130(T)	6-23-2017	Repeal	8-1-2017
309-019-0250	9-15-2017	Amend(T)	10-1-2017	309-022-0135	12-1-2016	Amend	1-1-2017
309-019-0250(T)	6-23-2017	Repeal	8-1-2017	309-022-0140	12-29-2016	Amend(T)	2-1-2017
309-019-0255	11-30-2016	Adopt	1-1-2017	309-022-0140	6-23-2017	Amend	8-1-2017
309-019-0255	6-23-2017	Amend	8-1-2017	309-022-0140(T)	6-23-2017	Repeal	8-1-2017
309-019-0255	9-15-2017	Amend(T)	10-1-2017	309-022-0155	12-29-2016	Amend(T)	2-1-2017
309-019-0270	12-28-2016	Adopt(T)	2-1-2017	309-022-0155	6-23-2017	Amend	8-1-2017
309-019-0270	1-18-2017	Amend(T)	3-1-2017	309-022-0155(T)	6-23-2017	Repeal	8-1-2017
309-019-0270	6-23-2017	Adopt	8-1-2017	309-022-0160	12-29-2016	Amend(T)	2-1-2017
309-019-0270(T)	6-23-2017	Repeal	8-1-2017	309-022-0160	6-23-2017	Amend	8-1-2017
309-019-0275	12-28-2016	Adopt(T)	2-1-2017	309-022-0160(T)	6-23-2017	Repeal	8-1-2017
309-019-0275	1-18-2017	Amend(T)	3-1-2017	309-022-0175	12-1-2016	Amend	1-1-2017
309-019-0275	6-23-2017	Adopt	8-1-2017	309-022-0175	12-29-2016	Amend(T)	2-1-2017
309-019-0275(T)	6-23-2017	Repeal	8-1-2017	309-022-0175	6-23-2017	Amend	8-1-2017
309-019-0280	12-28-2016	Adopt(T)	2-1-2017	309-022-0175(T)	6-23-2017	Repeal	8-1-2017

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309-022-0180	6-23-2017	Amend	8-1-2017	309-035-0110	6-8-2017	Amend	7-1-2017
309-022-0180(T)	6-23-2017	Repeal	8-1-2017	309-035-0110(T)	6-8-2017	Repeal	7-1-2017
309-022-0192	12-29-2016	Adopt(T)	2-1-2017	309-035-0113	3-4-2017	Suspend	4-1-2017
309-022-0192	6-23-2017	Adopt	8-1-2017	309-035-0113	6-8-2017	Repeal	7-1-2017
309-022-0192(T)	6-23-2017	Repeal	8-1-2017	309-035-0115	3-4-2017	Amend(T)	4-1-2017
309-022-0195	12-29-2016	Amend(T)	2-1-2017	309-035-0115	6-8-2017	Amend	7-1-2017
309-022-0200	12-29-2016	Amend(T)	2-1-2017	309-035-0115(T)	6-8-2017	Repeal	7-1-2017
309-022-0205	12-1-2016	Amend	1-1-2017	309-035-0117	3-4-2017	Suspend	4-1-2017
309-022-0205	12-29-2016	Amend(T)	2-1-2017	309-035-0117	6-8-2017	Repeal	7-1-2017
309-022-0210	12-29-2016	Amend(T)	2-1-2017	309-035-0120	3-4-2017	Amend(T)	4-1-2017
309-022-0215	12-29-2016	Amend(T)	2-1-2017	309-035-0120	6-8-2017	Amend	7-1-2017
309-022-0220	12-29-2016	Amend(T)	2-1-2017	309-035-0120(T)	6-8-2017	Repeal	7-1-2017
309-022-0225	12-29-2016	Amend(T)	2-1-2017	309-035-0125	3-4-2017	Amend(T)	4-1-2017
309-022-0230	12-29-2016	Amend(T)	2-1-2017	309-035-0125	6-8-2017	Amend	7-1-2017
309-023-0100	12-29-2016	Adopt	2-1-2017	309-035-0125(T)	6-8-2017	Repeal	7-1-2017
309-023-0110	12-29-2016	Adopt	2-1-2017	309-035-0130	3-4-2017	Amend(T)	4-1-2017
309-023-0120	12-29-2016	Adopt	2-1-2017	309-035-0130	6-8-2017	Amend	7-1-2017
309-023-0130	12-29-2016	Adopt	2-1-2017	309-035-0130(T)	6-8-2017	Repeal	7-1-2017
309-023-0140	12-29-2016	Adopt	2-1-2017	309-035-0135	3-4-2017	Amend(T)	4-1-2017
309-023-0150	12-29-2016	Adopt	2-1-2017	309-035-0135	6-8-2017	Amend	7-1-2017
309-023-0160	12-29-2016	Adopt	2-1-2017	309-035-0135(T)	6-8-2017	Repeal	7-1-2017
309-023-0170	12-29-2016	Adopt	2-1-2017	309-035-0140	3-4-2017	Amend(T)	4-1-2017
309-023-0180	12-29-2016	Adopt	2-1-2017	309-035-0140	6-8-2017	Amend	7-1-2017
309-027-0010	12-5-2016	Adopt	1-1-2017	309-035-0140(T)	6-8-2017	Repeal	7-1-2017
309-027-0020	12-5-2016	Adopt	1-1-2017	309-035-0145	3-4-2017	Amend(T)	4-1-2017
309-027-0030	12-5-2016	Adopt	1-1-2017	309-035-0145	6-8-2017	Amend	7-1-2017
309-027-0040	12-5-2016	Adopt	1-1-2017	309-035-0145(T)	6-8-2017	Repeal	7-1-2017
309-027-0050	12-5-2016	Adopt	1-1-2017	309-035-0150	3-4-2017	Amend(T)	4-1-2017
309-027-0060	12-5-2016	Adopt	1-1-2017	309-035-0150	6-8-2017	Amend	7-1-2017
309-032-0311	6-23-2017	Amend	8-1-2017	309-035-0150(T)	6-8-2017	Repeal	7-1-2017
309-032-0850	12-1-2016	Amend	1-1-2017	309-035-0155	3-4-2017	Amend(T)	4-1-2017
309-032-0850	6-23-2017	Amend	8-1-2017	309-035-0155	6-8-2017	Amend	7-1-2017
309-032-0860	12-1-2016	Amend	1-1-2017	309-035-0155(T)	6-8-2017	Repeal	7-1-2017
309-032-0860	6-23-2017	Amend	8-1-2017	309-035-0157	3-4-2017	Suspend	4-1-2017
309-032-0870	12-1-2016	Amend	1-1-2017	309-035-0157	6-8-2017	Repeal	7-1-2017
309-032-0870	6-23-2017	Amend	8-1-2017	309-035-0159	3-4-2017	Suspend	4-1-2017
309-032-0890	12-1-2016	Amend	1-1-2017	309-035-0159	6-8-2017	Repeal	7-1-2017
309-032-0890	6-23-2017	Amend	8-1-2017	309-035-0163	3-4-2017	Adopt(T)	4-1-2017
309-033-0210	12-29-2016	Amend	2-1-2017	309-035-0163	6-8-2017	Adopt	7-1-2017
309-033-0410	12-29-2016	Amend	2-1-2017	309-035-0163(T)	6-8-2017	Repeal	7-1-2017
309-033-0432	12-29-2016	Amend	2-1-2017	309-035-0165	3-4-2017	Amend(T)	4-1-2017
309-033-0510	12-29-2016	Amend	2-1-2017	309-035-0165	6-8-2017	Amend	7-1-2017
309-033-0530	12-29-2016	Amend	2-1-2017	309-035-0165(T)	6-8-2017	Repeal	7-1-2017
309-033-0610	12-29-2016	Amend	2-1-2017	309-035-0167	3-4-2017	Suspend	4-1-2017
309-033-0710	12-29-2016	Amend	2-1-2017	309-035-0167	6-8-2017	Repeal	7-1-2017
309-033-0720	12-29-2016	Amend	2-1-2017	309-035-0170	3-4-2017	Amend(T)	4-1-2017
309-033-0740	12-29-2016	Amend	2-1-2017	309-035-0170	6-8-2017	Amend	7-1-2017
309-033-0910	12-29-2016	Amend	2-1-2017	309-035-0170(T)	6-8-2017	Repeal	7-1-2017
309-033-0970	12-29-2016	Amend	2-1-2017	309-035-0175	3-4-2017	Amend(T)	4-1-2017
309-035-0100	3-4-2017	Amend(T)	4-1-2017	309-035-0175	6-8-2017	Amend	7-1-2017
309-035-0100	6-8-2017	Amend	7-1-2017	309-035-0175(T)	6-8-2017	Repeal	7-1-2017
309-035-0100(T)	6-8-2017	Repeal	7-1-2017	309-035-0183	3-4-2017	Adopt(T)	4-1-2017
309-035-0105	3-4-2017	Amend(T)	4-1-2017	309-035-0183	6-8-2017	Adopt	7-1-2017
309-035-0105	6-8-2017	Amend	7-1-2017	309-035-0183(T)	6-8-2017	Repeal	7-1-2017
309-035-0105(T)	6-8-2017	Repeal	7-1-2017	309-035-0185	3-4-2017	Amend(T)	4-1-2017

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309-035-0185(T)	6-8-2017	Repeal	7-1-2017	309-035-0400	6-8-2017	Repeal	7-1-2017
309-035-0190	3-4-2017	Amend(T)	4-1-2017	309-035-0410	3-4-2017	Suspend	4-1-2017
309-035-0190	6-8-2017	Amend	7-1-2017	309-035-0410	6-8-2017	Repeal	7-1-2017
309-035-0190(T)	6-8-2017	Repeal	7-1-2017	309-035-0420	3-4-2017	Suspend	4-1-2017
309-035-0195	3-4-2017	Adopt(T)	4-1-2017	309-035-0420	6-8-2017	Repeal	7-1-2017
309-035-0195	6-8-2017	Adopt	7-1-2017	309-035-0430	3-4-2017	Suspend	4-1-2017
309-035-0195(T)	6-8-2017	Repeal	7-1-2017	309-035-0430	6-8-2017	Repeal	7-1-2017
309-035-0200	3-4-2017	Adopt(T)	4-1-2017	309-035-0440	3-4-2017	Suspend	4-1-2017
309-035-0200	6-8-2017	Adopt	7-1-2017	309-035-0440	6-8-2017	Repeal	7-1-2017
309-035-0200(T)	6-8-2017	Repeal	7-1-2017	309-035-0450	3-4-2017	Suspend	4-1-2017
309-035-0205	3-4-2017	Adopt(T)	4-1-2017	309-035-0450	6-8-2017	Repeal	7-1-2017
309-035-0205	6-8-2017	Adopt	7-1-2017	309-035-0460	3-4-2017	Suspend	4-1-2017
309-035-0205(T)	6-8-2017	Repeal	7-1-2017	309-035-0460	6-8-2017	Repeal	7-1-2017
309-035-0210	3-4-2017	Adopt(T)	4-1-2017	309-035-0500	3-4-2017	Suspend	4-1-2017
309-035-0210	6-8-2017	Adopt	7-1-2017	309-035-0500	6-8-2017	Repeal	7-1-2017
309-035-0210(T)	6-8-2017	Repeal	7-1-2017	309-035-0550	3-4-2017	Suspend	4-1-2017
309-035-0215	3-4-2017	Adopt(T)	4-1-2017	309-035-0550	6-8-2017	Repeal	7-1-2017
309-035-0215	6-8-2017	Adopt	7-1-2017	309-035-0560	3-4-2017	Suspend	4-1-2017
309-035-0215(T)	6-8-2017	Repeal	7-1-2017	309-035-0560	6-8-2017	Repeal	7-1-2017
309-035-0220	3-4-2017	Adopt(T)	4-1-2017	309-035-0570	3-4-2017	Suspend	4-1-2017
309-035-0220	6-8-2017	Adopt	7-1-2017	309-035-0570	6-8-2017	Repeal	7-1-2017
309-035-0220(T)	6-8-2017	Repeal	7-1-2017	309-035-0580	3-4-2017	Suspend	4-1-2017
309-035-0225	3-4-2017	Adopt(T)	4-1-2017	309-035-0580	6-8-2017	Repeal	7-1-2017
309-035-0225	6-8-2017	Adopt	7-1-2017	309-035-0590	3-4-2017	Suspend	4-1-2017
309-035-0225(T)	6-8-2017	Repeal	7-1-2017	309-035-0590	6-8-2017	Repeal	7-1-2017
309-035-0250	3-4-2017	Suspend	4-1-2017	309-035-0600	3-4-2017	Suspend	4-1-2017
309-035-0250	6-8-2017	Repeal	7-1-2017	309-035-0600	6-8-2017	Repeal	7-1-2017
309-035-0260	3-4-2017	Suspend	4-1-2017	309-039-0500	11-30-2016	Amend	1-1-2017
309-035-0260	6-8-2017	Repeal	7-1-2017	309-039-0510	11-30-2016	Amend	1-1-2017
309-035-0270	3-4-2017	Suspend	4-1-2017	309-039-0530	11-30-2016	Amend	1-1-2017
309-035-0270	6-8-2017	Repeal	7-1-2017	309-039-0580	11-30-2016	Amend	1-1-2017
309-035-0280	3-4-2017	Suspend	4-1-2017	309-040-0300	3-4-2017	Amend(T)	4-1-2017
309-035-0280	6-8-2017	Repeal	7-1-2017	309-040-0300	7-1-2017	Amend	8-1-2017
309-035-0290	3-4-2017	Suspend	4-1-2017	309-040-0300(T)	7-1-2017	Repeal	8-1-2017
309-035-0290	6-8-2017	Repeal	7-1-2017	309-040-0305	3-4-2017	Amend(T)	4-1-2017
309-035-0300	3-4-2017	Suspend	4-1-2017	309-040-0305	7-1-2017	Amend	8-1-2017
309-035-0300	6-8-2017	Repeal	7-1-2017	309-040-0305(T)	7-1-2017	Repeal	8-1-2017
309-035-0310	3-4-2017	Suspend	4-1-2017	309-040-0307	3-4-2017	Adopt(T)	4-1-2017
309-035-0310	6-8-2017	Repeal	7-1-2017	309-040-0307	7-1-2017	Adopt	8-1-2017
309-035-0320	3-4-2017	Suspend	4-1-2017	309-040-0307(T)	7-1-2017	Repeal	8-1-2017
309-035-0320	6-8-2017	Repeal	7-1-2017	309-040-0310	3-4-2017	Amend(T)	4-1-2017
309-035-0330	3-4-2017	Suspend	4-1-2017	309-040-0310	7-1-2017	Amend	8-1-2017
309-035-0330	6-8-2017	Repeal	7-1-2017	309-040-0310(T)	7-1-2017	Repeal	8-1-2017
309-035-0340	3-4-2017	Suspend	4-1-2017	309-040-0315	3-4-2017	Amend(T)	4-1-2017
309-035-0340	6-8-2017	Repeal	7-1-2017	309-040-0315	7-1-2017	Amend	8-1-2017
309-035-0350	3-4-2017	Suspend	4-1-2017	309-040-0315(T)	7-1-2017	Repeal	8-1-2017
309-035-0350	6-8-2017	Repeal	7-1-2017	309-040-0320	3-4-2017	Amend(T)	4-1-2017
309-035-0360	3-4-2017	Suspend	4-1-2017	309-040-0320	7-1-2017	Amend	8-1-2017
309-035-0360	6-8-2017	Repeal	7-1-2017	309-040-0320(T)	7-1-2017	Repeal	8-1-2017
309-035-0370	3-4-2017	Suspend	4-1-2017	309-040-0325	3-4-2017	Amend(T)	4-1-2017
309-035-0370	6-8-2017	Repeal	7-1-2017	309-040-0325	7-1-2017	Amend	8-1-2017
309-035-0380	3-4-2017	Suspend	4-1-2017	309-040-0325(T)	7-1-2017	Repeal	8-1-2017
309-035-0380	6-8-2017	Repeal	7-1-2017	309-040-0330	3-4-2017	Amend(T)	4-1-2017
309-035-0390	3-4-2017	Suspend	4-1-2017	309-040-0330	7-1-2017	Amend	8-1-2017
309-035-0390	6-8-2017	Repeal	7-1-2017	309-040-0330(T)	7-1-2017	Repeal	8-1-2017

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309-040-0335	7-1-2017	Amend	8-1-2017	309-040-0420	3-4-2017	Amend(T)	4-1-2017
309-040-0335(T)	7-1-2017	Repeal	8-1-2017	309-040-0420	7-1-2017	Amend	8-1-2017
309-040-0340	3-4-2017	Amend(T)	4-1-2017	309-040-0420(T)	7-1-2017	Repeal	8-1-2017
309-040-0340	7-1-2017	Amend	8-1-2017	309-040-0425	3-4-2017	Amend(T)	4-1-2017
309-040-0340(T)	7-1-2017	Repeal	8-1-2017	309-040-0425	7-1-2017	Amend	8-1-2017
309-040-0345	3-4-2017	Amend(T)	4-1-2017	309-040-0425(T)	7-1-2017	Repeal	8-1-2017
309-040-0345	7-1-2017	Amend	8-1-2017	309-040-0430	3-4-2017	Amend(T)	4-1-2017
309-040-0345(T)	7-1-2017	Repeal	8-1-2017	309-040-0430	7-1-2017	Amend	8-1-2017
309-040-0350	3-4-2017	Amend(T)	4-1-2017	309-040-0430(T)	7-1-2017	Repeal	8-1-2017
309-040-0350	7-1-2017	Amend	8-1-2017	309-040-0435	3-4-2017	Amend(T)	4-1-2017
309-040-0350(T)	7-1-2017	Repeal	8-1-2017	309-040-0435	7-1-2017	Amend	8-1-2017
309-040-0355	3-4-2017	Amend(T)	4-1-2017	309-040-0435(T)	7-1-2017	Repeal	8-1-2017
309-040-0355	7-1-2017	Amend	8-1-2017	309-040-0440	3-4-2017	Amend(T)	4-1-2017
309-040-0355(T)	7-1-2017	Repeal	8-1-2017	309-040-0440	7-1-2017	Amend	8-1-2017
309-040-0360	3-4-2017	Amend(T)	4-1-2017	309-040-0440(T)	7-1-2017	Repeal	8-1-2017
309-040-0360	7-1-2017	Amend	8-1-2017	309-040-0445	3-4-2017	Amend(T)	4-1-2017
309-040-0360(T)	7-1-2017	Repeal	8-1-2017	309-040-0445	7-1-2017	Amend	8-1-2017
309-040-0365	3-4-2017	Amend(T)	4-1-2017	309-040-0445(T)	7-1-2017	Repeal	8-1-2017
309-040-0365	7-1-2017	Amend	8-1-2017	309-040-0450	3-4-2017	Amend(T)	4-1-2017
309-040-0365(T)	7-1-2017	Repeal	8-1-2017	309-040-0450	7-1-2017	Amend	8-1-2017
309-040-0370	3-4-2017	Amend(T)	4-1-2017	309-040-0450(T)	7-1-2017	Repeal	8-1-2017
309-040-0370	7-1-2017	Amend	8-1-2017	309-040-0455	3-4-2017	Amend(T)	4-1-2017
309-040-0370(T)	7-1-2017	Repeal	8-1-2017	309-040-0455	7-1-2017	Amend	8-1-2017
309-040-0375	3-4-2017	Amend(T)	4-1-2017	309-040-0455(T)	7-1-2017	Repeal	8-1-2017
309-040-0375	7-1-2017	Amend	8-1-2017	325-005-0015	3-1-2017	Amend	4-1-2017
309-040-0375(T)	7-1-2017	Repeal	8-1-2017	325-005-0015	6-30-2017	Amend	7-1-2017
309-040-0380	3-4-2017	Amend(T)	4-1-2017	325-005-0015	8-1-2017	Amend	9-1-2017
309-040-0380	7-1-2017	Amend	8-1-2017	330-001-0015	5-24-2017	Repeal	7-1-2017
309-040-0380(T)	7-1-2017	Repeal	8-1-2017	330-001-0025	5-24-2017	Amend	7-1-2017
309-040-0385	3-4-2017	Amend(T)	4-1-2017	330-007-0200	5-8-2017	Amend	6-1-2017
309-040-0385	7-1-2017	Amend	8-1-2017	330-007-0210	5-8-2017	Amend	6-1-2017
309-040-0385(T)	7-1-2017	Repeal	8-1-2017	330-007-0220	5-8-2017	Repeal	6-1-2017
309-040-0390	3-4-2017	Amend(T)	4-1-2017	330-007-0230	5-8-2017	Repeal	6-1-2017
309-040-0390	7-1-2017	Amend	8-1-2017	330-007-0240	5-8-2017	Amend	6-1-2017
309-040-0390(T)	7-1-2017	Repeal	8-1-2017	330-007-0250	5-8-2017	Repeal	6-1-2017
309-040-0393	3-4-2017	Adopt(T)	4-1-2017	330-007-0260	5-8-2017	Repeal	6-1-2017
309-040-0393	7-1-2017	Adopt	8-1-2017	330-007-0270	5-8-2017	Repeal	6-1-2017
309-040-0393(T)	7-1-2017	Repeal	8-1-2017	330-007-0280	5-8-2017	Repeal	6-1-2017
309-040-0394	3-4-2017	Adopt(T)	4-1-2017	330-007-0290	5-8-2017	Repeal	6-1-2017
309-040-0394	7-1-2017	Adopt	8-1-2017	330-007-0300	5-8-2017	Repeal	6-1-2017
309-040-0394(T)	7-1-2017	Repeal	8-1-2017	330-007-0310	5-8-2017	Repeal	6-1-2017
309-040-0395	3-4-2017	Amend(T)	4-1-2017	330-007-0320	5-8-2017	Amend	6-1-2017
309-040-0395	7-1-2017	Amend	8-1-2017	330-007-0330	5-8-2017	Amend	6-1-2017
309-040-0395(T)	7-1-2017	Repeal	8-1-2017	330-063-0010	12-21-2016	Amend	2-1-2017
309-040-0400	3-4-2017	Amend(T)	4-1-2017	330-063-0015	12-21-2016	Amend	2-1-2017
309-040-0400	7-1-2017	Amend	8-1-2017	330-063-0020	12-21-2016	Amend	2-1-2017
309-040-0400(T)	7-1-2017	Repeal	8-1-2017	330-063-0025	12-21-2016	Amend	2-1-2017
309-040-0405	3-4-2017	Amend(T)	4-1-2017	330-070-0010	1-1-2017	Amend	2-1-2017
309-040-0405	7-1-2017	Amend	8-1-2017	330-070-0013	1-1-2017	Amend	2-1-2017
309-040-0405(T)	7-1-2017	Repeal	8-1-2017	330-070-0014	1-1-2017	Amend	2-1-2017
309-040-0410	3-4-2017	Amend(T)	4-1-2017	330-070-0022	1-1-2017	Amend	2-1-2017
309-040-0410	7-1-2017	Amend	8-1-2017	330-070-0024	1-1-2017	Amend	2-1-2017
309-040-0410(T)	7-1-2017	Repeal	8-1-2017	330-070-0025	1-1-2017	Amend	2-1-2017
309-040-0415	3-4-2017	Amend(T)	4-1-2017	330-070-0026	1-1-2017	Amend	2-1-2017
309-040-0415	7-1-2017	Amend	8-1-2017	330-070-0027	1-1-2017	Amend	2-1-2017

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330-070-0060	1-1-2017	Amend	2-1-2017	331-915-0040	1-6-2017	Amend	2-1-2017
330-070-0073	1-1-2017	Amend	2-1-2017	331-915-0045	1-6-2017	Repeal	2-1-2017
330-092-0015	12-21-2016	Amend	2-1-2017	331-915-0050	1-6-2017	Amend	2-1-2017
330-110-0042	1-25-2017	Amend(T)	3-1-2017	331-915-0055	1-6-2017	Amend	2-1-2017
330-130-0010	8-15-2017	Amend	9-1-2017	331-915-0060	1-6-2017	Amend	2-1-2017
330-130-0020	8-15-2017	Amend	9-1-2017	331-915-0065	1-6-2017	Amend	2-1-2017
330-130-0025	8-15-2017	Repeal	9-1-2017	331-915-0070	1-6-2017	Amend	2-1-2017
330-130-0030	8-15-2017	Amend	9-1-2017	331-915-0075	1-6-2017	Amend	2-1-2017
330-130-0040	8-15-2017	Amend	9-1-2017	331-915-0080	1-6-2017	Amend	2-1-2017
330-130-0050	8-15-2017	Amend	9-1-2017	331-915-0085	1-6-2017	Amend	2-1-2017
330-130-0060	8-15-2017	Amend	9-1-2017	332-010-0002	8-15-2017	Adopt	9-1-2017
330-130-0070	8-15-2017	Amend	9-1-2017	332-010-0004	8-15-2017	Adopt	9-1-2017
330-130-0080	8-15-2017	Amend	9-1-2017	332-010-0006	8-15-2017	Adopt	9-1-2017
330-130-0090	8-15-2017	Amend	9-1-2017	332-020-0010	8-15-2017	Amend	9-1-2017
330-130-0100	8-15-2017	Amend	9-1-2017	333-004-0000	1-10-2017	Amend	2-1-2017
330-160-0015	12-21-2016	Amend	2-1-2017	333-004-0010	1-10-2017	Amend	2-1-2017
330-160-0015	7-24-2017	Amend(T)	9-1-2017	333-004-0020	1-10-2017	Amend	2-1-2017
330-160-0030	12-21-2016	Amend	2-1-2017	333-004-0030	1-10-2017	Amend	2-1-2017
330-160-0035	12-21-2016	Amend	2-1-2017	333-004-0040	1-10-2017	Amend	2-1-2017
330-160-0080	12-21-2016	Adopt	2-1-2017	333-004-0050	1-10-2017	Amend	2-1-2017
330-160-0090	12-21-2016	Adopt	2-1-2017	333-004-0060	1-10-2017	Amend	2-1-2017
330-220-0000	1-25-2017	Amend	3-1-2017	333-004-0070	1-10-2017	Amend	2-1-2017
330-220-0010	1-25-2017	Amend	3-1-2017	333-004-0080	1-10-2017	Amend	2-1-2017
330-220-0020	1-25-2017	Amend	3-1-2017	333-004-0110	1-10-2017	Amend	2-1-2017
330-220-0030	1-25-2017	Amend	3-1-2017	333-004-0120	1-10-2017	Amend	2-1-2017
330-220-0040	1-25-2017	Amend	3-1-2017	333-004-0130	1-10-2017	Amend	2-1-2017
330-220-0050	1-25-2017	Amend	3-1-2017	333-004-0140	1-10-2017	Amend	2-1-2017
330-220-0070	1-25-2017	Amend	3-1-2017	333-004-0150	1-10-2017	Amend	2-1-2017
330-220-0080	1-25-2017	Amend	3-1-2017	333-004-0160	1-10-2017	Amend	2-1-2017
330-220-0090	1-25-2017	Amend	3-1-2017	333-007-0010	11-28-2016	Amend	1-1-2017
330-220-0100	1-25-2017	Amend	3-1-2017	333-007-0010(T)	11-28-2016	Repeal	1-1-2017
330-220-0150	1-25-2017	Amend	3-1-2017	333-007-0090	11-28-2016	Amend	1-1-2017
331-910-0000	1-6-2017	Amend	2-1-2017	333-007-0090	12-2-2016	Amend(T)	1-1-2017
331-910-0005	1-6-2017	Amend	2-1-2017	333-007-0090	12-15-2016	Amend(T)	1-1-2017
331-910-0010	1-6-2017	Amend	2-1-2017	333-007-0090	5-31-2017	Amend	7-1-2017
331-910-0015	1-6-2017	Amend	2-1-2017	333-007-0090(T)	5-31-2017	Repeal	7-1-2017
331-910-0025	1-6-2017	Amend	2-1-2017	333-007-0100	11-28-2016	Amend	1-1-2017
331-910-0030	1-6-2017	Amend	2-1-2017	333-007-0100(T)	11-28-2016	Repeal	1-1-2017
331-910-0035	1-6-2017	Amend	2-1-2017	333-007-0200	11-28-2016	Amend	1-1-2017
331-910-0040	1-6-2017	Amend	2-1-2017	333-007-0200	5-31-2017	Amend	7-1-2017
331-910-0045	1-6-2017	Amend	2-1-2017	333-007-0210	11-28-2016	Amend	1-1-2017
331-910-0050	1-6-2017	Amend	2-1-2017	333-007-0210	5-31-2017	Amend	7-1-2017
331-910-0055	1-6-2017	Amend	2-1-2017	333-007-0220	11-28-2016	Amend	1-1-2017
331-910-0060	1-6-2017	Amend	2-1-2017	333-007-0220	5-31-2017	Amend	7-1-2017
331-910-0070	1-6-2017	Amend	2-1-2017	333-007-0300	11-28-2016	Amend	1-1-2017
331-910-0075	1-6-2017	Amend	2-1-2017	333-007-0300	5-31-2017	Amend	7-1-2017
331-910-0080	1-6-2017	Amend	2-1-2017	333-007-0310	12-2-2016	Amend(T)	1-1-2017
331-910-0085	1-6-2017	Amend	2-1-2017	333-007-0310	5-31-2017	Amend	7-1-2017
331-915-0000	1-6-2017	Amend	2-1-2017	333-007-0310(T)	5-31-2017	Repeal	7-1-2017
331-915-0005	1-6-2017	Amend	2-1-2017	333-007-0315	12-2-2016	Amend(T)	1-1-2017
331-915-0007	1-6-2017	Adopt	2-1-2017	333-007-0315	5-31-2017	Amend	7-1-2017
331-915-0015	1-6-2017	Amend	2-1-2017	333-007-0315(T)	5-31-2017	Repeal	7-1-2017
331-915-0020	1-6-2017	Amend	2-1-2017	333-007-0320	12-2-2016	Amend(T)	1-1-2017
331-915-0025	1-6-2017	Amend	2-1-2017	333-007-0320	12-15-2016	Amend(T)	1-1-2017
331-915-0030	1-6-2017	Amend	2-1-2017	333-007-0320	5-31-2017	Amend	7-1-2017

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333-007-0330	5-31-2017	Amend	7-1-2017	333-008-1205	5-31-2017	Amend	7-1-2017
333-007-0340	5-31-2017	Amend	7-1-2017	333-008-1220	5-31-2017	Repeal	7-1-2017
333-007-0345	5-31-2017	Amend	7-1-2017	333-008-1225	11-28-2016	Repeal	1-1-2017
333-007-0350	12-2-2016	Amend(T)	1-1-2017	333-008-1230	11-28-2016	Amend	1-1-2017
333-007-0350	12-15-2016	Amend(T)	1-1-2017	333-008-1230	12-31-2016	Amend(T)	2-1-2017
333-007-0350	5-31-2017	Amend	7-1-2017	333-008-1230	5-31-2017	Amend	7-1-2017
333-007-0350(T)	5-31-2017	Repeal	7-1-2017	333-008-1230(T)	11-28-2016	Repeal	1-1-2017
333-007-0360	12-2-2016	Amend(T)	1-1-2017	333-008-1230(T)	5-31-2017	Repeal	7-1-2017
333-007-0360	12-15-2016	Amend(T)	1-1-2017	333-008-1245	5-31-2017	Amend	7-1-2017
333-007-0360	5-31-2017	Amend	7-1-2017	333-008-1248	5-31-2017	Amend	7-1-2017
333-007-0360(T)	5-31-2017	Repeal	7-1-2017	333-008-1255	11-28-2016	Adopt	1-1-2017
333-007-0370	5-31-2017	Amend	7-1-2017	333-008-1500	11-28-2016	Amend	1-1-2017
333-007-0390	5-31-2017	Amend	7-1-2017	333-008-1500	5-31-2017	Repeal	7-1-2017
333-007-0400	5-31-2017	Amend	7-1-2017	333-008-1500(T)	11-28-2016	Repeal	1-1-2017
333-007-0410	12-2-2016	Amend(T)	1-1-2017	333-008-1501	5-31-2017	Repeal	7-1-2017
333-007-0410	5-31-2017	Amend	7-1-2017	333-008-1505	11-28-2016	Amend	1-1-2017
333-007-0410(T)	5-31-2017	Repeal	7-1-2017	333-008-1505	5-31-2017	Repeal	7-1-2017
333-007-0420	5-31-2017	Amend	7-1-2017	333-008-1505(T)	11-28-2016	Repeal	1-1-2017
333-007-0430	12-2-2016	Amend(T)	1-1-2017	333-008-1620	11-28-2016	Amend	1-1-2017
333-007-0430	5-31-2017	Amend	7-1-2017	333-008-1620	5-31-2017	Amend	7-1-2017
333-007-0430(T)	5-31-2017	Repeal	7-1-2017	333-008-1630	5-31-2017	Amend	7-1-2017
333-007-0440	12-2-2016	Amend(T)	1-1-2017	333-008-1690	5-31-2017	Amend	7-1-2017
333-007-0440	12-15-2016	Amend(T)	1-1-2017	333-008-1730	11-28-2016	Amend	1-1-2017
333-007-0440	5-31-2017	Amend	7-1-2017	333-008-1740	11-28-2016	Amend	1-1-2017
333-007-0440(T)	5-31-2017	Repeal	7-1-2017	333-008-1740(T)	11-28-2016	Repeal	1-1-2017
333-007-0450	12-2-2016	Amend(T)	1-1-2017	333-008-1760	11-28-2016	Amend	1-1-2017
333-007-0450	5-31-2017	Amend	7-1-2017	333-008-1760	5-31-2017	Amend	7-1-2017
333-007-0450(T)	5-31-2017	Repeal	7-1-2017	333-008-1770	11-28-2016	Amend	1-1-2017
333-007-0480	12-2-2016	Amend(T)	1-1-2017	333-008-1810	5-31-2017	Amend	7-1-2017
333-007-0480	5-31-2017	Amend	7-1-2017	333-008-1820	11-28-2016	Amend	1-1-2017
333-007-0480(T)	5-31-2017	Repeal	7-1-2017	333-008-1830	5-31-2017	Amend	7-1-2017
333-007-0490	12-2-2016	Suspend	1-1-2017	333-008-2080	11-28-2016	Amend	1-1-2017
333-007-0490	5-31-2017	Repeal	7-1-2017	333-008-2120	11-28-2016	Amend	1-1-2017
333-007-0500	5-31-2017	Adopt	7-1-2017	333-008-2130	11-28-2016	Repeal	1-1-2017
333-007-2000	3-2-2017	Adopt(T)	4-1-2017	333-008-2180	5-31-2017	Amend	7-1-2017
333-007-2000	5-31-2017	Adopt	7-1-2017	333-008-2190	11-28-2016	Amend	1-1-2017
333-007-2000(T)	5-31-2017	Repeal	7-1-2017	333-008-2210	5-31-2017	Adopt	7-1-2017
333-008-0010	11-28-2016	Amend	1-1-2017	333-008-9900	11-28-2016	Amend	1-1-2017
333-008-0023	11-28-2016	Amend	1-1-2017	333-008-9900	5-31-2017	Repeal	7-1-2017
333-008-0033	5-31-2017	Amend	7-1-2017	333-008-9910	12-31-2016	Adopt(T)	2-1-2017
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333-008-0550	5-31-2017	Amend	7-1-2017	333-010-0405	12-12-2016	Amend	1-1-2017
333-008-0570	5-31-2017	Amend	7-1-2017	333-010-0415	12-12-2016	Amend	1-1-2017
333-008-0600	11-28-2016	Amend	1-1-2017	333-010-0435	12-12-2016	Amend	1-1-2017
333-008-0600	5-31-2017	Amend	7-1-2017	333-016-2035	12-1-2016	Adopt	1-1-2017
333-008-1020	11-28-2016	Amend	1-1-2017	333-016-2040	12-1-2016	Adopt	1-1-2017
333-008-1020	5-31-2017	Amend	7-1-2017	333-016-2040	2-1-2017	Amend	3-1-2017
333-008-1030	5-31-2017	Amend	7-1-2017	333-016-2050	12-1-2016	Adopt	1-1-2017
333-008-1070	5-31-2017	Amend	7-1-2017	333-016-2060	12-1-2016	Adopt	1-1-2017
333-008-1110	11-28-2016	Amend	1-1-2017	333-016-2060	2-1-2017	Amend	3-1-2017
333-008-1190	11-28-2016	Repeal	1-1-2017	333-016-2070	12-1-2016	Adopt	1-1-2017
333-008-1200	11-28-2016	Amend	1-1-2017	333-016-2070	2-1-2017	Amend	3-1-2017
333-008-1200	12-31-2016	Amend(T)	2-1-2017	333-016-2080	2-1-2017	Adopt	3-1-2017
333-008-1200	5-31-2017	Amend	7-1-2017	333-016-2090	12-1-2016	Adopt	1-1-2017
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333-023-0830	1-10-2017	Adopt	2-1-2017	333-070-0075	1-1-2017	Repeal	1-1-2017
333-028-0220	7-1-2017	Amend	2-1-2017	333-070-0080	1-1-2017	Repeal	1-1-2017
333-028-0230	7-1-2017	Amend	2-1-2017	333-070-0085	1-1-2017	Repeal	1-1-2017
333-028-0234	7-1-2017	Adopt	2-1-2017	333-070-0090	1-1-2017	Repeal	1-1-2017
333-028-0238	7-1-2017	Adopt	2-1-2017	333-070-0095	1-1-2017	Repeal	1-1-2017
333-028-0240	7-1-2017	Amend	2-1-2017	333-070-0100	1-1-2017	Repeal	1-1-2017
333-028-0250	7-1-2017	Amend	2-1-2017	333-070-0105	1-1-2017	Repeal	1-1-2017
333-028-0320	11-18-2016	Amend	1-1-2017	333-070-0110	1-1-2017	Repeal	1-1-2017
333-046-0010	12-22-2016	Adopt	2-1-2017	333-070-0115	1-1-2017	Am. & Ren.	1-1-2017
333-046-0020	12-22-2016	Adopt	2-1-2017	333-070-0120	1-1-2017	Am. & Ren.	1-1-2017
333-046-0030	12-22-2016	Adopt	2-1-2017	333-070-0125	1-1-2017	Repeal	1-1-2017
333-046-0040	12-22-2016	Adopt	2-1-2017	333-070-0130	1-1-2017	Repeal	1-1-2017
333-046-0050	12-22-2016	Adopt	2-1-2017	333-070-0135	1-1-2017	Repeal	1-1-2017
333-046-0060	12-22-2016	Adopt	2-1-2017	333-070-0140	1-1-2017	Repeal	1-1-2017
333-046-0070	12-22-2016	Adopt	2-1-2017	333-070-0145	1-1-2017	Am. & Ren.	1-1-2017
333-046-0080	12-22-2016	Adopt	2-1-2017	333-070-0150	1-1-2017	Repeal	1-1-2017
333-046-0090	12-22-2016	Adopt	2-1-2017	333-070-0160	1-1-2017	Am. & Ren.	1-1-2017
333-046-0100	12-22-2016	Adopt	2-1-2017	333-070-0200	1-1-2017	Adopt	1-1-2017
333-046-0110	12-22-2016	Adopt	2-1-2017	333-102-0005	2-1-2017	Amend	3-1-2017
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333-064-0100	12-2-2016	Amend(T)	1-1-2017	333-106-0325	2-1-2017	Amend	3-1-2017
333-064-0100	12-15-2016	Amend(T)	1-1-2017	333-125-0040	2-1-2017	Amend	3-1-2017
333-064-0100	5-31-2017	Amend	7-1-2017	333-125-0120	2-1-2017	Amend	3-1-2017
333-064-0100(T)	5-31-2017	Repeal	7-1-2017	333-250-0000	3-21-2017	ReNUMBER	5-1-2017
333-064-0110	12-2-2016	Amend(T)	1-1-2017	333-250-0010	3-21-2017	Am. & Ren.	5-1-2017
333-064-0110	12-15-2016	Amend(T)	1-1-2017	333-250-0020	3-21-2017	Am. & Ren.	5-1-2017
333-064-0110	5-31-2017	Amend	7-1-2017	333-250-0030	3-21-2017	Am. & Ren.	5-1-2017
333-064-0110(T)	5-31-2017	Repeal	7-1-2017	333-250-0031	3-21-2017	Repeal	5-1-2017
333-068-0005	1-1-2017	Repeal	1-1-2017	333-250-0040	3-21-2017	Am. & Ren.	5-1-2017
333-068-0010	1-1-2017	Repeal	1-1-2017	333-250-0041	3-21-2017	Am. & Ren.	5-1-2017
333-068-0015	1-1-2017	Repeal	1-1-2017	333-250-0042	3-21-2017	Repeal	5-1-2017
333-068-0020	1-1-2017	Repeal	1-1-2017	333-250-0043	3-21-2017	Am. & Ren.	5-1-2017
333-068-0025	1-1-2017	Repeal	1-1-2017	333-250-0044	3-21-2017	Repeal	5-1-2017
333-068-0030	1-1-2017	Repeal	1-1-2017	333-250-0045	3-21-2017	Repeal	5-1-2017
333-068-0035	1-1-2017	Repeal	1-1-2017	333-250-0046	3-21-2017	Am. & Ren.	5-1-2017
333-068-0040	1-1-2017	Repeal	1-1-2017	333-250-0047	3-21-2017	Am. & Ren.	5-1-2017
333-068-0045	1-1-2017	Repeal	1-1-2017	333-250-0048	3-21-2017	Repeal	5-1-2017
333-068-0050	1-1-2017	Repeal	1-1-2017	333-250-0049	3-21-2017	Repeal	5-1-2017
333-068-0055	1-1-2017	Repeal	1-1-2017	333-250-0050	3-21-2017	Am. & Ren.	5-1-2017
333-068-0060	1-1-2017	Repeal	1-1-2017	333-250-0060	3-21-2017	Am. & Ren.	5-1-2017
333-068-0065	1-1-2017	Repeal	1-1-2017	333-250-0070	3-21-2017	Am. & Ren.	5-1-2017
333-069-0005	1-1-2017	Repeal	1-1-2017	333-250-0080	3-21-2017	Am. & Ren.	5-1-2017
333-069-0010	1-1-2017	Repeal	1-1-2017	333-250-0085	3-21-2017	Am. & Ren.	5-1-2017
333-069-0015	1-1-2017	Repeal	1-1-2017	333-250-0100	3-21-2017	Repeal	5-1-2017
333-069-0020	1-1-2017	Repeal	1-1-2017	333-250-0220	3-21-2017	Adopt	5-1-2017
333-069-0030	1-1-2017	Repeal	1-1-2017	333-250-0225	3-21-2017	Adopt	5-1-2017
333-069-0040	1-1-2017	Repeal	1-1-2017	333-250-0230	3-21-2017	Adopt	5-1-2017
333-069-0050	1-1-2017	Repeal	1-1-2017	333-250-0235	3-21-2017	Adopt	5-1-2017
333-069-0060	1-1-2017	Repeal	1-1-2017	333-250-0255	3-21-2017	Adopt	5-1-2017
333-069-0070	1-1-2017	Repeal	1-1-2017	333-250-0265	3-21-2017	Adopt	5-1-2017
333-069-0080	1-1-2017	Repeal	1-1-2017	333-250-0310	3-21-2017	Adopt	5-1-2017
333-069-0085	1-1-2017	Am. & Ren.	1-1-2017	333-250-0320	3-21-2017	Adopt	5-1-2017
333-069-0090	1-1-2017	Repeal	1-1-2017	333-250-0350	3-21-2017	Adopt	5-1-2017
333-069-0100	1-1-2017	Adopt	1-1-2017	333-250-0360	3-21-2017	Adopt	5-1-2017

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333-250-0390	3-21-2017	Adopt	5-1-2017	340-090-0045	1-19-2017	Repeal	3-1-2017
333-250-0410	3-21-2017	Adopt	5-1-2017	340-090-0050	1-19-2017	Amend	3-1-2017
333-265-0000	3-30-2017	Amend	5-1-2017	340-090-0060	1-19-2017	Amend	3-1-2017
333-265-0010	3-30-2017	Amend	5-1-2017	340-090-0068	1-19-2017	Adopt	3-1-2017
333-265-0011	3-30-2017	Repeal	5-1-2017	340-090-0070	1-19-2017	Amend	3-1-2017
333-265-0012	3-30-2017	Amend	5-1-2017	340-090-0080	1-19-2017	Amend	3-1-2017
333-265-0014	3-30-2017	Amend	5-1-2017	340-090-0090	1-19-2017	Amend	3-1-2017
333-265-0015	3-30-2017	Amend	5-1-2017	340-090-0100	1-19-2017	Amend	3-1-2017
333-265-0016	3-30-2017	Amend	5-1-2017	340-090-0110	1-19-2017	Amend	3-1-2017
333-265-0018	3-30-2017	Amend	5-1-2017	340-090-0120	1-19-2017	Amend	3-1-2017
333-265-0020	3-30-2017	Amend	5-1-2017	340-090-0130	1-19-2017	Amend	3-1-2017
333-265-0022	3-30-2017	Amend	5-1-2017	340-090-0140	1-19-2017	Amend	3-1-2017
333-265-0023	3-30-2017	Amend	5-1-2017	340-090-0150	1-19-2017	Amend	3-1-2017
333-265-0024	3-30-2017	Amend	5-1-2017	340-090-0180	1-19-2017	Amend	3-1-2017
333-265-0025	3-30-2017	Amend	5-1-2017	340-090-0190	1-19-2017	Amend	3-1-2017
333-265-0030	3-30-2017	Amend	5-1-2017	340-090-0310	1-19-2017	Amend	3-1-2017
333-265-0040	3-30-2017	Amend	5-1-2017	340-090-0320	1-19-2017	Amend	3-1-2017
333-265-0050	3-30-2017	Amend	5-1-2017	340-090-0330	1-19-2017	Amend	3-1-2017
333-265-0056	3-30-2017	Amend	5-1-2017	340-090-0340	1-19-2017	Amend	3-1-2017
333-265-0060	3-30-2017	Amend	5-1-2017	340-090-0350	1-19-2017	Amend	3-1-2017
333-265-0070	3-30-2017	Amend	5-1-2017	340-090-0360	1-19-2017	Amend	3-1-2017
333-265-0080	3-30-2017	Amend	5-1-2017	340-090-0370	1-19-2017	Amend	3-1-2017
333-265-0083	3-30-2017	Amend	5-1-2017	340-090-0380	1-19-2017	Amend	3-1-2017
333-265-0085	3-30-2017	Amend	5-1-2017	340-090-0390	1-19-2017	Amend	3-1-2017
333-265-0087	3-30-2017	Amend	5-1-2017	340-090-0400	1-19-2017	Amend	3-1-2017
333-265-0090	3-30-2017	Amend	5-1-2017	340-090-0410	1-19-2017	Amend	3-1-2017
333-265-0100	3-30-2017	Am. & Ren.	5-1-2017	340-090-0420	1-19-2017	Amend	3-1-2017
333-265-0105	3-30-2017	Amend	5-1-2017	340-090-0430	1-19-2017	Amend	3-1-2017
333-265-0110	3-30-2017	Amend	5-1-2017	340-090-0510	1-19-2017	Amend	3-1-2017
333-265-0140	3-30-2017	Amend	5-1-2017	340-100-0002	7-12-2017	Amend	8-1-2017
333-265-0150	3-30-2017	Amend	5-1-2017	340-101-0004	7-12-2017	Amend	8-1-2017
333-265-0160	3-30-2017	Amend	5-1-2017	340-102-0200	7-12-2017	Adopt	8-1-2017
333-265-0170	3-30-2017	Amend	5-1-2017	340-143-0005	3-1-2017	Amend	3-1-2017
333-510-0130	1-23-2017	Amend	3-1-2017	340-143-0010	3-1-2017	Amend	3-1-2017
333-510-0130(T)	1-23-2017	Repeal	3-1-2017	340-143-0050	3-1-2017	Amend	3-1-2017
333-535-0086	12-23-2016	Amend	2-1-2017	340-200-0040	1-19-2017	Amend	3-1-2017
334-001-0012	7-1-2017	Amend	7-1-2017	340-200-0040	7-13-2017	Amend	8-1-2017
334-010-0005	7-1-2017	Amend	7-1-2017	340-200-0050	7-13-2017	Amend	8-1-2017
334-010-0046	7-1-2017	Amend	7-1-2017	340-202-0090	7-13-2017	Amend	8-1-2017
334-010-0050	7-1-2017	Amend	7-1-2017	340-220-0030	1-19-2017	Amend	3-1-2017
337-010-0011	8-9-2017	Amend	9-1-2017	340-220-0040	1-19-2017	Amend	3-1-2017
337-030-0010	8-9-2017	Amend	9-1-2017	340-220-0050	1-19-2017	Amend	3-1-2017
339-010-0005	2-15-2017	Amend	3-1-2017	340-222-0060	7-13-2017	Amend	8-1-2017
339-010-0005	3-13-2017	Amend	4-1-2017	340-230-0500	7-13-2017	Amend	8-1-2017
339-010-0020	1-27-2017	Amend	3-1-2017	340-238-0040	7-13-2017	Amend	8-1-2017
339-010-0020	2-16-2017	Amend	4-1-2017	340-238-0060	7-13-2017	Amend	8-1-2017
340-041-0004	7-18-2017	Amend	9-1-2017	340-244-0030	7-13-2017	Amend	8-1-2017
340-041-0305	7-18-2017	Amend	9-1-2017	340-244-0220	7-13-2017	Amend	8-1-2017
340-090-0005	1-19-2017	Amend	3-1-2017	345-021-0010	3-8-2017	Amend	4-1-2017
340-090-0010	1-19-2017	Amend	3-1-2017	345-022-0000	3-8-2017	Amend	4-1-2017
340-090-0015	1-19-2017	Amend	3-1-2017	345-022-0060	3-8-2017	Amend	4-1-2017
340-090-0020	1-19-2017	Amend	3-1-2017	350-010-0000	4-1-2017	Adopt	4-1-2017
340-090-0030	1-19-2017	Amend	3-1-2017	350-010-0010	4-1-2017	Adopt	4-1-2017
340-090-0040	1-19-2017	Amend	3-1-2017	350-010-0020	4-1-2017	Adopt	4-1-2017
340-090-0041	1-19-2017	Adopt	3-1-2017	350-010-0030	4-1-2017	Adopt	4-1-2017

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350-010-0050	4-1-2017	Adopt	4-1-2017	407-045-0180	9-1-2017	Adopt(T)	10-1-2017
350-081-0017	4-1-2017	Repeal	4-1-2017	407-045-0190	9-1-2017	Adopt(T)	10-1-2017
407-007-0210	12-1-2016	Amend	1-1-2017	407-045-0200	9-1-2017	Adopt(T)	10-1-2017
407-007-0210	3-15-2017	Amend(T)	4-1-2017	407-045-0210	9-1-2017	Adopt(T)	10-1-2017
407-007-0210	7-1-2017	Amend	8-1-2017	407-045-0220	9-1-2017	Adopt(T)	10-1-2017
407-007-0210	9-1-2017	Adopt	10-1-2017	407-045-0230	9-1-2017	Adopt(T)	10-1-2017
407-007-0210(T)	12-1-2016	Repeal	1-1-2017	407-045-0240	9-1-2017	Adopt(T)	10-1-2017
407-007-0210(T)	7-1-2017	Repeal	8-1-2017	407-045-0400	9-1-2017	Suspend	10-1-2017
407-007-0250	12-1-2016	Amend	1-1-2017	407-045-0800	12-1-2016	Amend	1-1-2017
407-007-0250	3-15-2017	Amend(T)	4-1-2017	407-045-0800	7-17-2017	Amend(T)	9-1-2017
407-007-0250	7-1-2017	Amend	8-1-2017	407-045-0810	12-1-2016	Repeal	1-1-2017
407-007-0250	9-1-2017	Adopt	10-1-2017	407-045-0820	12-1-2016	Amend	1-1-2017
407-007-0250(T)	12-1-2016	Repeal	1-1-2017	407-045-0820	7-17-2017	Amend(T)	9-1-2017
407-007-0250(T)	7-1-2017	Repeal	8-1-2017	407-045-0825	12-1-2016	Adopt	1-1-2017
407-007-0279	12-1-2016	Amend	1-1-2017	407-045-0830	12-1-2016	Repeal	1-1-2017
407-007-0279	3-15-2017	Amend(T)	4-1-2017	407-045-0850	12-1-2016	Repeal	1-1-2017
407-007-0279	7-1-2017	Amend	8-1-2017	407-045-0860	12-1-2016	Repeal	1-1-2017
407-007-0279(T)	12-1-2016	Repeal	1-1-2017	407-045-0870	12-1-2016	Repeal	1-1-2017
407-007-0279(T)	7-1-2017	Repeal	8-1-2017	407-045-0880	12-1-2016	Repeal	1-1-2017
407-007-0290	12-1-2016	Amend	1-1-2017	407-045-0885	12-1-2016	Adopt	1-1-2017
407-007-0290	9-1-2017	Adopt	10-1-2017	407-045-0885	7-17-2017	Amend(T)	9-1-2017
407-007-0290(T)	12-1-2016	Repeal	1-1-2017	407-045-0886	12-1-2016	Adopt	1-1-2017
407-007-0315	9-1-2017	Adopt	10-1-2017	407-045-0887	12-1-2016	Adopt	1-1-2017
407-007-0320	12-1-2016	Amend	1-1-2017	407-045-0890	12-1-2016	Amend	1-1-2017
407-007-0320	3-15-2017	Amend(T)	4-1-2017	407-045-0895	12-1-2016	Adopt	1-1-2017
407-007-0320	7-1-2017	Amend	8-1-2017	407-045-0895	7-17-2017	Amend(T)	9-1-2017
407-007-0320	9-1-2017	Adopt	10-1-2017	407-045-0900	12-1-2016	Repeal	1-1-2017
407-007-0320(T)	12-1-2016	Repeal	1-1-2017	407-045-0910	12-1-2016	Amend	1-1-2017
407-007-0320(T)	7-1-2017	Repeal	8-1-2017	407-045-0920	12-1-2016	Repeal	1-1-2017
407-007-0330	12-1-2016	Amend	1-1-2017	407-045-0930	12-1-2016	Repeal	1-1-2017
407-007-0330	3-15-2017	Amend(T)	4-1-2017	407-045-0940	12-1-2016	Amend	1-1-2017
407-007-0330	7-1-2017	Amend	8-1-2017	407-045-0940	1-13-2017	Amend(T)	2-1-2017
407-007-0330	9-1-2017	Adopt	10-1-2017	407-045-0940	7-1-2017	Amend	8-1-2017
407-007-0330(T)	12-1-2016	Repeal	1-1-2017	407-045-0940(T)	7-1-2017	Repeal	8-1-2017
407-007-0330(T)	7-1-2017	Repeal	8-1-2017	407-045-0950	12-1-2016	Amend	1-1-2017
407-007-0335	1-24-2017	Amend(T)	3-1-2017	407-045-0955	12-1-2016	Adopt	1-1-2017
407-007-0335	7-1-2017	Amend	8-1-2017	407-045-0960	12-1-2016	Repeal	1-1-2017
407-007-0335	9-1-2017	Adopt	10-1-2017	407-045-0970	12-1-2016	Repeal	1-1-2017
407-007-0335(T)	7-1-2017	Repeal	8-1-2017	407-045-0980	12-1-2016	Repeal	1-1-2017
407-007-0600	9-15-2017	Amend(T)	10-1-2017	409-025-0100	1-1-2018	Amend	8-1-2017
407-007-0610	9-15-2017	Amend(T)	10-1-2017	409-025-0110	1-1-2018	Amend	8-1-2017
407-007-0620	9-15-2017	Amend(T)	10-1-2017	409-025-0120	5-3-2017	Amend	6-1-2017
407-007-0630	9-15-2017	Amend(T)	10-1-2017	409-025-0120	1-1-2018	Amend	8-1-2017
407-007-0640	9-15-2017	Amend(T)	10-1-2017	409-025-0130	1-1-2018	Amend	8-1-2017
407-014-0200	5-15-2017	Amend(T)	6-1-2017	409-025-0150	1-1-2018	Amend	8-1-2017
407-014-0200	5-16-2017	Amend	7-1-2017	409-055-0030	12-22-2016	Amend	2-1-2017
407-014-0200(T)	5-16-2017	Repeal	7-1-2017	409-055-0030(T)	12-22-2016	Repeal	2-1-2017
407-014-0205	5-15-2017	Amend(T)	6-1-2017	409-055-0040	12-22-2016	Amend	2-1-2017
407-014-0205	5-16-2017	Amend	7-1-2017	409-055-0045	12-22-2016	Amend	2-1-2017
407-014-0205(T)	5-16-2017	Repeal	7-1-2017	409-055-0050	12-22-2016	Amend	2-1-2017
407-045-0120	9-1-2017	Adopt(T)	10-1-2017	409-060-0110	12-22-2016	Amend	2-1-2017
407-045-0130	9-1-2017	Adopt(T)	10-1-2017	409-060-0120	12-22-2016	Amend	2-1-2017
407-045-0140	9-1-2017	Adopt(T)	10-1-2017	409-060-0140	12-22-2016	Amend	2-1-2017
407-045-0150	9-1-2017	Adopt(T)	10-1-2017	409-060-0150	12-22-2016	Amend	2-1-2017
407-045-0160	9-1-2017	Adopt(T)	10-1-2017	409-110-0025	11-29-2016	Renumber	1-1-2017

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409-110-0035	11-29-2016	Renumber	1-1-2017	410-127-0065	7-15-2017	Amend(T)	8-1-2017
409-110-0040	11-29-2016	Renumber	1-1-2017	410-127-0080	7-15-2017	Amend(T)	8-1-2017
409-110-0045	11-29-2016	Renumber	1-1-2017	410-127-0200	7-15-2017	Amend(T)	8-1-2017
410-050-0861	7-1-2017	Amend	8-1-2017	410-129-0020	1-1-2017	Amend(T)	1-1-2017
410-120-0000	1-1-2017	Amend	2-1-2017	410-129-0020	6-9-2017	Amend	7-1-2017
410-120-0000(T)	1-1-2017	Repeal	2-1-2017	410-129-0020(T)	6-9-2017	Repeal	7-1-2017
410-120-0006	3-1-2017	Amend(T)	4-1-2017	410-129-0040	1-1-2017	Amend(T)	1-1-2017
410-120-0006	7-1-2017	Amend	8-1-2017	410-129-0040	6-9-2017	Repeal	7-1-2017
410-120-0006(T)	7-1-2017	Repeal	8-1-2017	410-129-0070	1-1-2017	Amend(T)	1-1-2017
410-120-1230	1-1-2017	Amend	2-1-2017	410-129-0070	6-9-2017	Amend	7-1-2017
410-120-1340	5-26-2017	Amend(T)	7-1-2017	410-129-0070(T)	6-9-2017	Repeal	7-1-2017
410-120-1340	9-15-2017	Amend	10-1-2017	410-129-0100	6-9-2017	Amend	7-1-2017
410-121-0030	12-1-2016	Amend	1-1-2017	410-129-0190	1-1-2017	Suspend	1-1-2017
410-121-0030	1-1-2017	Amend(T)	2-1-2017	410-129-0190	6-9-2017	Repeal	7-1-2017
410-121-0030	5-1-2017	Amend(T)	6-1-2017	410-130-0015	5-1-2017	Amend(T)	6-1-2017
410-121-0030	6-29-2017	Amend	8-1-2017	410-130-0015	5-25-2017	Amend(T)	7-1-2017
410-121-0030	7-1-2017	Amend	8-1-2017	410-131-0040	1-1-2017	Amend(T)	1-1-2017
410-121-0030	9-1-2017	Amend(T)	10-1-2017	410-131-0040	6-9-2017	Amend	7-1-2017
410-121-0030(T)	12-1-2016	Repeal	1-1-2017	410-131-0040(T)	6-9-2017	Repeal	7-1-2017
410-121-0030(T)	6-29-2017	Repeal	8-1-2017	410-131-0080	1-1-2017	Amend(T)	1-1-2017
410-121-0040	12-1-2016	Amend	1-1-2017	410-131-0080	6-9-2017	Amend	7-1-2017
410-121-0040	1-1-2017	Amend(T)	2-1-2017	410-131-0080(T)	6-9-2017	Repeal	7-1-2017
410-121-0040	2-21-2017	Amend(T)	4-1-2017	410-131-0100	1-1-2017	Amend(T)	1-1-2017
410-121-0040	4-1-2017	Amend(T)	5-1-2017	410-131-0100	6-9-2017	Repeal	7-1-2017
410-121-0040	6-1-2017	Amend(T)	5-1-2017	410-131-0120	1-1-2017	Amend(T)	1-1-2017
410-121-0040	6-29-2017	Amend	8-1-2017	410-131-0120	6-9-2017	Amend	7-1-2017
410-121-0040	7-1-2017	Amend	8-1-2017	410-131-0120	10-1-2017	Amend(T)	10-1-2017
410-121-0040	8-24-2017	Amend(T)	10-1-2017	410-131-0120(T)	6-9-2017	Repeal	7-1-2017
410-121-0040(T)	12-1-2016	Repeal	1-1-2017	410-138-0000	1-1-2017	Amend	2-1-2017
410-121-0040(T)	6-1-2017	Suspend	5-1-2017	410-138-0000	1-13-2017	Amend(T)	2-1-2017
410-121-0040(T)	6-29-2017	Repeal	8-1-2017	410-138-0000	2-10-2017	Amend(T)	3-1-2017
410-122-0010	9-15-2017	Amend(T)	10-1-2017	410-138-0000	4-1-2017	Amend	5-1-2017
410-122-0020	9-15-2017	Amend(T)	10-1-2017	410-138-0000(T)	4-1-2017	Repeal	5-1-2017
410-122-0080	9-15-2017	Amend(T)	10-1-2017	410-138-0005	1-1-2017	Amend	2-1-2017
410-122-0090	9-15-2017	Adopt(T)	10-1-2017	410-138-0005	1-13-2017	Amend(T)	2-1-2017
410-122-0184	9-15-2017	Amend(T)	10-1-2017	410-138-0005	2-10-2017	Amend(T)	3-1-2017
410-122-0320	9-15-2017	Amend(T)	10-1-2017	410-138-0005	4-1-2017	Amend	5-1-2017
410-122-0325	9-15-2017	Amend(T)	10-1-2017	410-138-0005(T)	4-1-2017	Repeal	5-1-2017
410-122-0330	9-15-2017	Amend(T)	10-1-2017	410-138-0007	1-1-2017	Amend	2-1-2017
410-122-0340	9-15-2017	Amend(T)	10-1-2017	410-138-0007	1-13-2017	Amend(T)	2-1-2017
410-122-0720	9-15-2017	Amend(T)	10-1-2017	410-138-0007	2-10-2017	Amend(T)	3-1-2017
410-123-1220	1-1-2017	Amend(T)	2-1-2017	410-138-0007	4-1-2017	Amend	5-1-2017
410-123-1220	6-29-2017	Amend	8-1-2017	410-138-0007(T)	4-1-2017	Repeal	5-1-2017
410-123-1220(T)	6-29-2017	Repeal	8-1-2017	410-138-0009	1-1-2017	Amend	2-1-2017
410-123-1260	1-1-2017	Amend(T)	2-1-2017	410-138-0009	1-13-2017	Amend(T)	2-1-2017
410-123-1260	6-29-2017	Amend	8-1-2017	410-138-0009	2-10-2017	Amend(T)	3-1-2017
410-123-1260(T)	6-29-2017	Repeal	8-1-2017	410-138-0009	4-1-2017	Amend	5-1-2017
410-125-0085	1-1-2017	Amend	2-1-2017	410-138-0009(T)	4-1-2017	Repeal	5-1-2017
410-125-0085(T)	1-1-2017	Repeal	2-1-2017	410-138-0020	1-1-2017	Amend	2-1-2017
410-125-0360	1-1-2017	Amend	2-1-2017	410-138-0020	1-13-2017	Amend(T)	2-1-2017
410-125-0360(T)	1-1-2017	Repeal	2-1-2017	410-138-0020	2-10-2017	Amend(T)	3-1-2017
410-127-0020	7-15-2017	Amend(T)	8-1-2017	410-138-0020	4-1-2017	Amend	5-1-2017
410-127-0040	7-15-2017	Amend(T)	8-1-2017	410-138-0020(T)	4-1-2017	Repeal	5-1-2017
410-127-0045	7-15-2017	Adopt(T)	8-1-2017	410-138-0040	1-1-2017	Amend	2-1-2017
410-127-0050	7-15-2017	Suspend	8-1-2017	410-138-0040	1-13-2017	Amend(T)	2-1-2017

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410-138-0040	4-1-2017	Amend	5-1-2017	410-149-0130	8-1-2017	Adopt(T)	9-1-2017
410-138-0040	8-25-2017	Amend(T)	10-1-2017	410-149-0140	8-1-2017	Adopt(T)	9-1-2017
410-138-0040(T)	4-1-2017	Repeal	5-1-2017	410-149-0150	8-1-2017	Adopt(T)	9-1-2017
410-138-0060	1-1-2017	Amend	2-1-2017	410-165-0000	2-2-2017	Amend(T)	3-1-2017
410-138-0060	1-13-2017	Amend(T)	2-1-2017	410-165-0000	6-2-2017	Amend	7-1-2017
410-138-0060	2-10-2017	Amend(T)	3-1-2017	410-165-0000(T)	6-2-2017	Repeal	7-1-2017
410-138-0060	4-1-2017	Amend	5-1-2017	410-165-0020	2-2-2017	Amend(T)	3-1-2017
410-138-0060(T)	4-1-2017	Repeal	5-1-2017	410-165-0020	6-2-2017	Amend	7-1-2017
410-138-0080	1-1-2017	Amend	2-1-2017	410-165-0020(T)	6-2-2017	Repeal	7-1-2017
410-138-0080	1-13-2017	Amend(T)	2-1-2017	410-165-0040	6-2-2017	Amend	7-1-2017
410-138-0080	2-10-2017	Amend(T)	3-1-2017	410-165-0060	2-2-2017	Amend(T)	3-1-2017
410-138-0080	4-1-2017	Amend	5-1-2017	410-165-0060	6-2-2017	Amend	7-1-2017
410-138-0080(T)	4-1-2017	Repeal	5-1-2017	410-165-0060(T)	6-2-2017	Repeal	7-1-2017
410-138-0390	1-1-2017	Amend	2-1-2017	410-165-0080	2-2-2017	Amend(T)	3-1-2017
410-138-0390	1-13-2017	Amend(T)	2-1-2017	410-165-0080	6-2-2017	Amend	7-1-2017
410-138-0390	2-10-2017	Amend(T)	3-1-2017	410-165-0080(T)	6-2-2017	Repeal	7-1-2017
410-138-0390	4-1-2017	Amend	5-1-2017	410-170-0110	11-29-2016	Amend	1-1-2017
410-138-0390(T)	4-1-2017	Repeal	5-1-2017	410-170-0110	7-25-2017	Amend(T)	9-1-2017
410-138-0420	1-1-2017	Amend	2-1-2017	410-170-0110(T)	11-29-2016	Repeal	1-1-2017
410-138-0420	1-13-2017	Amend(T)	2-1-2017	410-172-0650	4-4-2017	Amend	5-1-2017
410-138-0420	2-10-2017	Amend(T)	3-1-2017	410-172-0650(T)	4-4-2017	Repeal	5-1-2017
410-138-0420	4-1-2017	Amend	5-1-2017	410-172-0760	4-4-2017	Amend	5-1-2017
410-138-0420(T)	4-1-2017	Repeal	5-1-2017	410-172-0760(T)	4-4-2017	Repeal	5-1-2017
410-141-0000	7-1-2017	Amend(T)	8-1-2017	410-172-0770	4-4-2017	Amend	5-1-2017
410-141-0520	12-1-2016	Amend	1-1-2017	410-172-0770(T)	4-4-2017	Repeal	5-1-2017
410-141-0520	1-1-2017	Amend(T)	2-1-2017	410-200-0315	3-1-2017	Amend(T)	4-1-2017
410-141-0520	3-1-2017	Amend	4-1-2017	410-200-0315	5-1-2017	Amend	6-1-2017
410-141-0520(T)	12-1-2016	Repeal	1-1-2017	410-200-0315(T)	5-1-2017	Repeal	6-1-2017
410-141-0520(T)	3-1-2017	Repeal	4-1-2017	411-004-0000	7-1-2017	Amend	8-1-2017
410-141-3015	1-1-2017	Amend	2-1-2017	411-004-0010	7-1-2017	Amend	8-1-2017
410-141-3015	1-13-2017	Amend	2-1-2017	411-004-0020	7-1-2017	Amend	8-1-2017
410-141-3015(T)	1-1-2017	Repeal	2-1-2017	411-004-0030	7-1-2017	Amend	8-1-2017
410-141-3015(T)	1-13-2017	Repeal	2-1-2017	411-004-0040	12-28-2016	Amend	2-1-2017
410-141-3070	1-1-2017	Amend	2-1-2017	411-004-0040	7-1-2017	Amend	8-1-2017
410-141-3145	1-1-2017	Amend	2-1-2017	411-019-0000	3-1-2017	Adopt	4-1-2017
410-141-3145	1-13-2017	Amend	2-1-2017	411-019-0010	3-1-2017	Adopt	4-1-2017
410-141-3145(T)	1-1-2017	Repeal	2-1-2017	411-019-0020	3-1-2017	Adopt	4-1-2017
410-141-3145(T)	1-13-2017	Repeal	2-1-2017	411-019-0030	3-1-2017	Adopt	4-1-2017
410-141-3160	1-1-2017	Amend(T)	2-1-2017	411-027-0170	12-28-2016	Amend	1-1-2017
410-141-3160	6-29-2017	Amend	7-1-2017	411-030-0020	8-1-2017	Amend(T)	9-1-2017
410-141-3160	7-1-2017	Amend(T)	8-1-2017	411-030-0033	12-28-2016	Amend	2-1-2017
410-141-3160(T)	6-29-2017	Repeal	7-1-2017	411-030-0068	12-28-2016	Amend	2-1-2017
410-141-3260	1-1-2017	Amend	2-1-2017	411-030-0068	8-1-2017	Amend(T)	9-1-2017
410-141-3260	1-13-2017	Amend	2-1-2017	411-030-0070	12-28-2016	Amend	2-1-2017
410-141-3260(T)	1-1-2017	Repeal	2-1-2017	411-030-0070	8-1-2017	Amend(T)	9-1-2017
410-141-3260(T)	1-13-2017	Repeal	2-1-2017	411-030-0080	8-1-2017	Amend(T)	9-1-2017
410-141-3300	1-1-2017	Amend	2-1-2017	411-030-0090	5-30-2017	Am. & Ren.	7-1-2017
410-141-3300	1-1-2017	Amend	2-1-2017	411-032-0050	7-1-2017	Amend	8-1-2017
410-141-3300	1-13-2017	Amend	2-1-2017	411-033-0000	5-30-2017	Adopt	7-1-2017
410-141-3300(T)	1-1-2017	Repeal	2-1-2017	411-033-0010	5-30-2017	Adopt	7-1-2017
410-141-3300(T)	1-13-2017	Repeal	2-1-2017	411-033-0030	5-30-2017	Adopt	7-1-2017
410-141-3395	1-1-2017	Amend	2-1-2017	411-050-0615	5-1-2017	Amend(T)	6-1-2017
410-141-3435	12-1-2016	Amend	1-1-2017	411-050-0650	5-1-2017	Amend(T)	6-1-2017
410-149-0100	8-1-2017	Adopt(T)	9-1-2017	411-050-0665	5-1-2017	Amend(T)	6-1-2017
410-149-0110	8-1-2017	Adopt(T)	9-1-2017	411-054-0005	8-1-2017	Amend(T)	9-1-2017

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411-054-0038	8-1-2017	Amend(T)	9-1-2017	411-450-0060	2-28-2017	Amend	4-1-2017
411-054-0060	8-1-2017	Amend(T)	9-1-2017	411-450-0070	2-28-2017	Amend	4-1-2017
411-054-0105	5-1-2017	Amend(T)	6-1-2017	413-010-0000	12-1-2016	Amend	1-1-2017
411-300-0110	2-28-2017	Amend	4-1-2017	413-010-0035	1-1-2017	Amend	2-1-2017
411-300-0120	2-28-2017	Amend	4-1-2017	413-010-0035(T)	1-1-2017	Repeal	2-1-2017
411-305-0010	1-1-2017	Am. & Ren.	2-1-2017	413-010-0500	12-1-2016	Amend	1-1-2017
411-305-0020	1-1-2017	Am. & Ren.	2-1-2017	413-010-0501	12-1-2016	Repeal	1-1-2017
411-305-0023	1-1-2017	Am. & Ren.	2-1-2017	413-010-0502	12-1-2016	Amend	1-1-2017
411-305-0025	1-1-2017	Am. & Ren.	2-1-2017	413-010-0505	12-1-2016	Amend	1-1-2017
411-305-0027	1-1-2017	Repeal	2-1-2017	413-010-0510	12-1-2016	Amend	1-1-2017
411-305-0030	1-1-2017	Am. & Ren.	2-1-2017	413-010-0525	12-1-2016	Amend	1-1-2017
411-305-0050	1-1-2017	Repeal	2-1-2017	413-010-0535	12-1-2016	Amend	1-1-2017
411-305-0080	1-1-2017	Am. & Ren.	2-1-2017	413-015-0100	12-1-2016	Amend	1-1-2017
411-305-0090	1-1-2017	Am. & Ren.	2-1-2017	413-015-0100(T)	12-1-2016	Repeal	1-1-2017
411-305-0105	1-1-2017	Repeal	2-1-2017	413-015-0115	12-1-2016	Amend	1-1-2017
411-305-0110	1-1-2017	Repeal	2-1-2017	413-015-0115	2-7-2017	Amend(T)	3-1-2017
411-305-0115	1-1-2017	Repeal	2-1-2017	413-015-0115	8-6-2017	Amend	9-1-2017
411-305-0120	1-1-2017	Am. & Ren.	2-1-2017	413-015-0125	12-1-2016	Amend	1-1-2017
411-305-0140	1-1-2017	Am. & Ren.	2-1-2017	413-015-0125(T)	12-1-2016	Repeal	1-1-2017
411-305-0160	1-1-2017	Repeal	2-1-2017	413-015-0205	12-1-2016	Amend	1-1-2017
411-305-0170	1-1-2017	Repeal	2-1-2017	413-015-0205	2-7-2017	Amend(T)	3-1-2017
411-305-0180	1-1-2017	Repeal	2-1-2017	413-015-0205	8-6-2017	Amend	9-1-2017
411-317-0000	2-28-2017	Amend	4-1-2017	413-015-0205(T)	12-1-2016	Repeal	1-1-2017
411-317-0000	5-1-2017	Amend(T)	5-1-2017	413-015-0210	4-3-2017	Amend	5-1-2017
411-317-0000	6-5-2017	Amend	7-1-2017	413-015-0210	8-8-2017	Amend(T)	9-1-2017
411-317-0000(T)	6-5-2017	Repeal	7-1-2017	413-015-0212	12-1-2016	Amend	1-1-2017
411-323-0050	12-16-2016	Amend(T)	2-1-2017	413-015-0212(T)	12-1-2016	Repeal	1-1-2017
411-323-0050	4-22-2017	Amend	6-1-2017	413-015-0215	2-7-2017	Amend(T)	3-1-2017
411-323-0050(T)	12-16-2016	Suspend	2-1-2017	413-015-0215	8-6-2017	Amend	9-1-2017
411-325-0020	2-28-2017	Amend	4-1-2017	413-015-0215	8-8-2017	Amend(T)	9-1-2017
411-328-0560	2-28-2017	Amend	4-1-2017	413-015-0300	12-1-2016	Amend	1-1-2017
411-345-0020	2-28-2017	Amend	4-1-2017	413-015-0300(T)	12-1-2016	Repeal	1-1-2017
411-360-0020	2-28-2017	Amend	4-1-2017	413-015-0400	8-18-2017	Amend(T)	10-1-2017
411-360-0140	2-15-2017	Amend(T)	3-1-2017	413-015-0409	12-1-2016	Amend	1-1-2017
411-360-0140	6-9-2017	Amend	7-1-2017	413-015-0409(T)	12-1-2016	Repeal	1-1-2017
411-360-0140(T)	6-9-2017	Repeal	7-1-2017	413-015-0415	2-7-2017	Amend(T)	3-1-2017
411-375-0010	2-28-2017	Amend	4-1-2017	413-015-0415	8-6-2017	Amend	9-1-2017
411-375-0020	2-28-2017	Amend	4-1-2017	413-015-0415	8-8-2017	Amend(T)	9-1-2017
411-375-0035	2-28-2017	Amend	4-1-2017	413-015-0420	12-1-2016	Amend	1-1-2017
411-375-0040	2-28-2017	Amend	4-1-2017	413-015-0420(T)	12-1-2016	Repeal	1-1-2017
411-375-0050	2-28-2017	Amend	4-1-2017	413-015-0432	2-7-2017	Amend(T)	3-1-2017
411-375-0055	2-28-2017	Amend	4-1-2017	413-015-0432	8-6-2017	Amend	9-1-2017
411-375-0070	2-28-2017	Amend	4-1-2017	413-015-0440	12-1-2016	Amend	1-1-2017
411-380-0020	2-28-2017	Amend	4-1-2017	413-015-0440(T)	12-1-2016	Repeal	1-1-2017
411-380-0030	2-28-2017	Amend	4-1-2017	413-015-0445	12-1-2016	Amend	1-1-2017
411-380-0060	2-28-2017	Amend	4-1-2017	413-015-0445	8-18-2017	Amend(T)	10-1-2017
411-380-0090	2-28-2017	Amend	4-1-2017	413-015-0445(T)	12-1-2016	Repeal	1-1-2017
411-415-0020	2-28-2017	Amend	4-1-2017	413-015-0450	12-1-2016	Amend	1-1-2017
411-415-0060	2-28-2017	Amend	4-1-2017	413-015-0450(T)	12-1-2016	Repeal	1-1-2017
411-415-0070	2-28-2017	Amend	4-1-2017	413-015-0455	2-7-2017	Amend(T)	3-1-2017
411-435-0020	2-28-2017	Amend	4-1-2017	413-015-0455	8-6-2017	Amend	9-1-2017
411-435-0050	2-28-2017	Amend	4-1-2017	413-015-0465	9-13-2017	Amend(T)	10-1-2017
411-435-0060	2-28-2017	Amend	4-1-2017	413-015-0470	8-8-2017	Amend(T)	9-1-2017
411-435-0070	2-28-2017	Amend	4-1-2017	413-015-0620	12-1-2016	Adopt	1-1-2017
411-450-0020	2-28-2017	Amend	4-1-2017	413-015-0620(T)	12-1-2016	Repeal	1-1-2017

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413-015-0630	12-1-2016	Adopt	1-1-2017	413-030-0460	8-6-2017	Amend	9-1-2017
413-015-0630(T)	12-1-2016	Repeal	1-1-2017	413-040-0000	2-7-2017	Amend(T)	3-1-2017
413-015-0640	12-1-2016	Adopt	1-1-2017	413-040-0000	8-6-2017	Amend	9-1-2017
413-015-0640(T)	12-1-2016	Repeal	1-1-2017	413-040-0010	2-7-2017	Amend(T)	3-1-2017
413-015-1000	12-1-2016	Amend	1-1-2017	413-040-0010	8-6-2017	Amend	9-1-2017
413-015-1000(T)	12-1-2016	Repeal	1-1-2017	413-040-0155	2-7-2017	Amend(T)	3-1-2017
413-015-9000	8-18-2017	Suspend	10-1-2017	413-040-0155	8-6-2017	Amend	9-1-2017
413-015-9010	8-18-2017	Suspend	10-1-2017	413-040-0159	2-7-2017	Amend(T)	3-1-2017
413-015-9020	8-18-2017	Suspend	10-1-2017	413-040-0159	8-6-2017	Amend	9-1-2017
413-015-9030	12-1-2016	Amend	1-1-2017	413-040-0310	2-7-2017	Amend(T)	3-1-2017
413-015-9030	8-18-2017	Suspend	10-1-2017	413-040-0310	8-6-2017	Amend	9-1-2017
413-015-9030(T)	12-1-2016	Repeal	1-1-2017	413-040-0325	2-7-2017	Amend(T)	3-1-2017
413-015-9040	12-1-2016	Amend	1-1-2017	413-040-0325	8-6-2017	Amend	9-1-2017
413-015-9040	8-18-2017	Suspend	10-1-2017	413-070-0000	2-7-2017	Amend(T)	3-1-2017
413-015-9040(T)	12-1-2016	Repeal	1-1-2017	413-070-0000	8-6-2017	Amend	9-1-2017
413-017-0000	2-7-2017	Adopt(T)	3-1-2017	413-070-0010	2-7-2017	Amend(T)	3-1-2017
413-017-0000(T)	7-27-2017	Suspend	9-1-2017	413-070-0010	8-6-2017	Amend	9-1-2017
413-017-0010	2-7-2017	Adopt(T)	3-1-2017	413-070-0072	2-7-2017	Amend(T)	3-1-2017
413-017-0010(T)	7-27-2017	Suspend	9-1-2017	413-070-0072	8-6-2017	Amend	9-1-2017
413-017-0020	2-7-2017	Adopt(T)	3-1-2017	413-070-0100	2-7-2017	Suspend	3-1-2017
413-017-0020(T)	7-27-2017	Suspend	9-1-2017	413-070-0100	8-6-2017	Repeal	9-1-2017
413-017-0030	2-7-2017	Adopt(T)	3-1-2017	413-070-0130	2-7-2017	Suspend	3-1-2017
413-017-0030(T)	7-27-2017	Suspend	9-1-2017	413-070-0130	8-6-2017	Repeal	9-1-2017
413-017-0040	2-7-2017	Adopt(T)	3-1-2017	413-070-0140	2-7-2017	Suspend	3-1-2017
413-017-0040(T)	7-27-2017	Suspend	9-1-2017	413-070-0140	8-6-2017	Repeal	9-1-2017
413-017-0050	9-8-2017	Adopt(T)	10-1-2017	413-070-0150	2-7-2017	Suspend	3-1-2017
413-017-0060	9-8-2017	Adopt(T)	10-1-2017	413-070-0150	8-6-2017	Repeal	9-1-2017
413-017-0070	9-8-2017	Adopt(T)	10-1-2017	413-070-0160	2-7-2017	Suspend	3-1-2017
413-017-0080	9-8-2017	Adopt(T)	10-1-2017	413-070-0160	8-6-2017	Repeal	9-1-2017
413-017-0090	9-8-2017	Adopt(T)	10-1-2017	413-070-0170	2-7-2017	Suspend	3-1-2017
413-017-0100	9-8-2017	Adopt(T)	10-1-2017	413-070-0170	8-6-2017	Repeal	9-1-2017
413-017-0110	9-8-2017	Adopt(T)	10-1-2017	413-070-0180	2-7-2017	Suspend	3-1-2017
413-020-0000	2-7-2017	Amend(T)	3-1-2017	413-070-0180	8-6-2017	Repeal	9-1-2017
413-020-0000	8-6-2017	Amend	9-1-2017	413-070-0190	2-7-2017	Suspend	3-1-2017
413-020-0010	2-7-2017	Amend(T)	3-1-2017	413-070-0190	8-6-2017	Repeal	9-1-2017
413-020-0010	8-6-2017	Amend	9-1-2017	413-070-0200	2-7-2017	Suspend	3-1-2017
413-020-0020	2-7-2017	Amend(T)	3-1-2017	413-070-0200	8-6-2017	Repeal	9-1-2017
413-020-0020	8-6-2017	Amend	9-1-2017	413-070-0210	2-7-2017	Suspend	3-1-2017
413-020-0050	2-7-2017	Amend(T)	3-1-2017	413-070-0210	8-6-2017	Repeal	9-1-2017
413-020-0050	8-6-2017	Amend	9-1-2017	413-070-0220	2-7-2017	Suspend	3-1-2017
413-020-0075	2-7-2017	Amend(T)	3-1-2017	413-070-0220	8-6-2017	Repeal	9-1-2017
413-020-0075	8-6-2017	Amend	9-1-2017	413-070-0230	2-7-2017	Suspend	3-1-2017
413-020-0090	2-7-2017	Amend(T)	3-1-2017	413-070-0230	8-6-2017	Repeal	9-1-2017
413-020-0090	8-6-2017	Amend	9-1-2017	413-070-0240	2-7-2017	Suspend	3-1-2017
413-030-0000	2-7-2017	Amend(T)	3-1-2017	413-070-0240	8-6-2017	Repeal	9-1-2017
413-030-0000	8-6-2017	Amend	9-1-2017	413-070-0250	2-7-2017	Suspend	3-1-2017
413-030-0009	2-7-2017	Amend(T)	3-1-2017	413-070-0250	8-6-2017	Repeal	9-1-2017
413-030-0009	8-6-2017	Amend	9-1-2017	413-070-0260	2-7-2017	Suspend	3-1-2017
413-030-0210	2-7-2017	Amend(T)	3-1-2017	413-070-0260	8-6-2017	Repeal	9-1-2017
413-030-0210	8-6-2017	Amend	9-1-2017	413-070-0512	2-7-2017	Amend(T)	3-1-2017
413-030-0300	1-1-2017	Repeal	2-1-2017	413-070-0512	8-6-2017	Amend	9-1-2017
413-030-0310	1-1-2017	Repeal	2-1-2017	413-070-0516	1-1-2017	Amend	2-1-2017
413-030-0320	1-1-2017	Repeal	2-1-2017	413-070-0516	2-7-2017	Amend(T)	3-1-2017
413-030-0445	2-7-2017	Amend(T)	3-1-2017	413-070-0516	8-6-2017	Amend	9-1-2017

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413-070-0518	1-19-2017	Amend	3-1-2017	413-110-0286	1-1-2017	Repeal	2-1-2017
413-070-0519	2-7-2017	Amend(T)	3-1-2017	413-110-0288	1-1-2017	Repeal	2-1-2017
413-070-0519	8-6-2017	Amend	9-1-2017	413-110-0290	1-1-2017	Repeal	2-1-2017
413-070-0625	2-7-2017	Amend(T)	3-1-2017	413-110-0291	1-1-2017	Repeal	2-1-2017
413-070-0670	1-1-2017	Amend	2-1-2017	413-110-0292	1-1-2017	Repeal	2-1-2017
413-070-0900	1-1-2017	Amend	2-1-2017	413-110-0293	1-1-2017	Repeal	2-1-2017
413-070-0900(T)	1-1-2017	Repeal	2-1-2017	413-110-0295	1-1-2017	Repeal	2-1-2017
413-070-0917	1-1-2017	Amend	2-1-2017	413-110-0297	1-1-2017	Repeal	2-1-2017
413-070-0917(T)	1-1-2017	Repeal	2-1-2017	413-110-0299	1-1-2017	Repeal	2-1-2017
413-070-0959	1-1-2017	Amend	2-1-2017	413-110-0300	2-7-2017	Amend(T)	3-1-2017
413-070-0959(T)	1-1-2017	Repeal	2-1-2017	413-110-0300	8-6-2017	Amend	9-1-2017
413-070-1020	1-1-2017	Amend	2-1-2017	413-115-0000	2-7-2017	Adopt(T)	3-1-2017
413-070-1050	2-7-2017	Amend(T)	3-1-2017	413-115-0000	8-6-2017	Adopt	9-1-2017
413-070-1050	8-6-2017	Amend	9-1-2017	413-115-0010	2-7-2017	Adopt(T)	3-1-2017
413-080-0050	12-1-2016	Amend	1-1-2017	413-115-0010	8-6-2017	Adopt	9-1-2017
413-080-0050	2-7-2017	Amend(T)	3-1-2017	413-115-0020	2-7-2017	Adopt(T)	3-1-2017
413-080-0050	8-6-2017	Amend	9-1-2017	413-115-0020	8-6-2017	Adopt	9-1-2017
413-080-0050(T)	12-1-2016	Repeal	1-1-2017	413-115-0030	2-7-2017	Adopt(T)	3-1-2017
413-080-0051	12-1-2016	Adopt	1-1-2017	413-115-0030	5-12-2017	Adopt(T)	6-1-2017
413-080-0051(T)	12-1-2016	Repeal	1-1-2017	413-115-0030	8-6-2017	Adopt	9-1-2017
413-080-0052	12-1-2016	Amend	1-1-2017	413-115-0030(T)	5-12-2017	Suspend	6-1-2017
413-080-0052(T)	12-1-2016	Repeal	1-1-2017	413-115-0040	2-7-2017	Adopt(T)	3-1-2017
413-080-0053	1-1-2017	Amend	2-1-2017	413-115-0040	8-6-2017	Adopt	9-1-2017
413-080-0053(T)	1-1-2017	Repeal	2-1-2017	413-115-0050	2-7-2017	Adopt(T)	3-1-2017
413-080-0054	12-1-2016	Amend	1-1-2017	413-115-0050	5-12-2017	Adopt(T)	6-1-2017
413-080-0054(T)	12-1-2016	Repeal	1-1-2017	413-115-0050	8-6-2017	Adopt	9-1-2017
413-080-0059	12-1-2016	Amend	1-1-2017	413-115-0050(T)	5-12-2017	Suspend	6-1-2017
413-080-0059(T)	12-1-2016	Repeal	1-1-2017	413-115-0060	2-7-2017	Adopt(T)	3-1-2017
413-080-0062	1-1-2017	Amend	2-1-2017	413-115-0060	8-6-2017	Adopt	9-1-2017
413-080-0062(T)	1-1-2017	Repeal	2-1-2017	413-115-0070	2-7-2017	Adopt(T)	3-1-2017
413-080-0070	12-1-2016	Adopt	1-1-2017	413-115-0070	8-6-2017	Adopt	9-1-2017
413-080-0070(T)	12-1-2016	Repeal	1-1-2017	413-115-0080	2-7-2017	Adopt(T)	3-1-2017
413-090-0000	12-1-2016	Amend	1-1-2017	413-115-0080	8-6-2017	Adopt	9-1-2017
413-090-0000(T)	12-1-2016	Repeal	1-1-2017	413-115-0090	2-7-2017	Adopt(T)	3-1-2017
413-090-0051	7-5-2017	Adopt	8-1-2017	413-115-0090	8-6-2017	Adopt	9-1-2017
413-090-0055	12-1-2016	Amend	1-1-2017	413-115-0100	2-7-2017	Adopt(T)	3-1-2017
413-090-0055(T)	12-1-2016	Repeal	1-1-2017	413-115-0100	8-6-2017	Adopt	9-1-2017
413-090-0065	12-1-2016	Amend	1-1-2017	413-115-0110	2-7-2017	Adopt(T)	3-1-2017
413-090-0065(T)	12-1-2016	Repeal	1-1-2017	413-115-0110	8-6-2017	Adopt	9-1-2017
413-090-0070	12-1-2016	Amend	1-1-2017	413-115-0120	2-7-2017	Adopt(T)	3-1-2017
413-090-0070(T)	12-1-2016	Repeal	1-1-2017	413-115-0120	5-12-2017	Adopt(T)	6-1-2017
413-090-0075	12-1-2016	Amend	1-1-2017	413-115-0120	8-6-2017	Adopt	9-1-2017
413-090-0075(T)	12-1-2016	Repeal	1-1-2017	413-115-0120(T)	5-12-2017	Suspend	6-1-2017
413-090-0080	12-1-2016	Amend	1-1-2017	413-115-0130	2-7-2017	Adopt(T)	3-1-2017
413-090-0080(T)	12-1-2016	Repeal	1-1-2017	413-115-0130	8-6-2017	Adopt	9-1-2017
413-090-0085	7-26-2017	Amend(T)	9-1-2017	413-115-0140	2-7-2017	Adopt(T)	3-1-2017
413-090-0090	12-1-2016	Amend	1-1-2017	413-115-0140	8-6-2017	Adopt	9-1-2017
413-090-0090(T)	12-1-2016	Repeal	1-1-2017	413-115-0150	2-7-2017	Adopt(T)	3-1-2017
413-100-0020	2-7-2017	Amend(T)	3-1-2017	413-115-0150	8-6-2017	Adopt	9-1-2017
413-100-0020	8-6-2017	Amend	9-1-2017	413-120-0000	2-7-2017	Amend(T)	3-1-2017
413-100-0240	2-7-2017	Amend(T)	3-1-2017	413-120-0000	8-6-2017	Amend	9-1-2017
413-100-0240	8-6-2017	Amend	9-1-2017	413-120-0020	2-7-2017	Amend(T)	3-1-2017
413-110-0000	2-7-2017	Amend(T)	3-1-2017	413-120-0020	8-6-2017	Amend	9-1-2017
413-110-0000	8-6-2017	Amend	9-1-2017	413-120-0021	2-7-2017	Amend(T)	3-1-2017
413-110-0280	1-1-2017	Repeal	2-1-2017	413-120-0021	8-6-2017	Amend	9-1-2017

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413-120-0025	8-6-2017	Amend	9-1-2017	413-215-0061(T)	12-1-2016	Repeal	1-1-2017
413-120-0057	2-7-2017	Amend(T)	3-1-2017	413-215-0066	12-1-2016	Amend	1-1-2017
413-120-0057	8-6-2017	Amend	9-1-2017	413-215-0066(T)	12-1-2016	Repeal	1-1-2017
413-120-0060	2-7-2017	Amend(T)	3-1-2017	413-215-0071	12-1-2016	Amend	1-1-2017
413-120-0060	8-6-2017	Amend	9-1-2017	413-215-0071(T)	12-1-2016	Repeal	1-1-2017
413-120-0165	2-7-2017	Amend(T)	3-1-2017	413-215-0076	12-1-2016	Amend	1-1-2017
413-120-0165	8-6-2017	Amend	9-1-2017	413-215-0076(T)	12-1-2016	Repeal	1-1-2017
413-120-0175	2-7-2017	Amend(T)	3-1-2017	413-215-0081	12-1-2016	Amend	1-1-2017
413-120-0175	8-6-2017	Amend	9-1-2017	413-215-0081	2-7-2017	Amend(T)	3-1-2017
413-120-0625	2-7-2017	Amend(T)	3-1-2017	413-215-0081	8-6-2017	Amend	9-1-2017
413-120-0625	8-6-2017	Amend	9-1-2017	413-215-0081(T)	12-1-2016	Repeal	1-1-2017
413-120-0730	2-7-2017	Amend(T)	3-1-2017	413-215-0086	12-1-2016	Amend	1-1-2017
413-120-0730	8-6-2017	Amend	9-1-2017	413-215-0086(T)	12-1-2016	Repeal	1-1-2017
413-120-0750	2-7-2017	Amend(T)	3-1-2017	413-215-0091	12-1-2016	Amend	1-1-2017
413-120-0750	8-6-2017	Amend	9-1-2017	413-215-0091(T)	12-1-2016	Repeal	1-1-2017
413-120-0760	2-7-2017	Amend(T)	3-1-2017	413-215-0096	12-1-2016	Repeal	1-1-2017
413-120-0760	8-6-2017	Amend	9-1-2017	413-215-0101	12-1-2016	Amend	1-1-2017
413-120-0870	2-7-2017	Amend(T)	3-1-2017	413-215-0101(T)	12-1-2016	Repeal	1-1-2017
413-120-0870	8-6-2017	Amend	9-1-2017	413-215-0106	12-1-2016	Amend	1-1-2017
413-120-0880	2-7-2017	Amend(T)	3-1-2017	413-215-0106(T)	12-1-2016	Repeal	1-1-2017
413-120-0880	8-6-2017	Amend	9-1-2017	413-215-0111	12-1-2016	Amend	1-1-2017
413-120-0925	2-7-2017	Amend(T)	3-1-2017	413-215-0111(T)	12-1-2016	Repeal	1-1-2017
413-120-0925	8-6-2017	Amend	9-1-2017	413-215-0116	12-1-2016	Amend	1-1-2017
413-120-0950	2-7-2017	Amend(T)	3-1-2017	413-215-0116(T)	12-1-2016	Repeal	1-1-2017
413-200-0260	2-7-2017	Amend(T)	3-1-2017	413-215-0121	12-1-2016	Amend	1-1-2017
413-200-0260	8-6-2017	Amend	9-1-2017	413-215-0121(T)	12-1-2016	Repeal	1-1-2017
413-200-0306	2-7-2017	Amend(T)	3-1-2017	413-215-0126	12-1-2016	Amend	1-1-2017
413-200-0306	8-6-2017	Amend	9-1-2017	413-215-0126(T)	12-1-2016	Repeal	1-1-2017
413-215-0000	12-1-2016	Adopt	1-1-2017	413-215-0131	12-1-2016	Amend	1-1-2017
413-215-0000	2-7-2017	Amend(T)	3-1-2017	413-215-0131(T)	12-1-2016	Repeal	1-1-2017
413-215-0000	8-6-2017	Amend	9-1-2017	413-215-0201	12-1-2016	Amend	1-1-2017
413-215-0000(T)	12-1-2016	Repeal	1-1-2017	413-215-0201(T)	12-1-2016	Repeal	1-1-2017
413-215-0001	12-1-2016	Amend	1-1-2017	413-215-0206	12-1-2016	Repeal	1-1-2017
413-215-0001(T)	12-1-2016	Repeal	1-1-2017	413-215-0211	12-1-2016	Amend	1-1-2017
413-215-0006	12-1-2016	Repeal	1-1-2017	413-215-0211(T)	12-1-2016	Repeal	1-1-2017
413-215-0011	12-1-2016	Amend	1-1-2017	413-215-0216	12-1-2016	Amend	1-1-2017
413-215-0011(T)	12-1-2016	Repeal	1-1-2017	413-215-0216(T)	12-1-2016	Repeal	1-1-2017
413-215-0016	12-1-2016	Amend	1-1-2017	413-215-0218	12-1-2016	Adopt	1-1-2017
413-215-0016(T)	12-1-2016	Repeal	1-1-2017	413-215-0221	12-1-2016	Amend	1-1-2017
413-215-0021	12-1-2016	Amend	1-1-2017	413-215-0221(T)	12-1-2016	Repeal	1-1-2017
413-215-0021(T)	12-1-2016	Repeal	1-1-2017	413-215-0226	12-1-2016	Amend	1-1-2017
413-215-0026	12-1-2016	Amend	1-1-2017	413-215-0226(T)	12-1-2016	Repeal	1-1-2017
413-215-0026(T)	12-1-2016	Repeal	1-1-2017	413-215-0231	12-1-2016	Amend	1-1-2017
413-215-0031	12-1-2016	Amend	1-1-2017	413-215-0231(T)	12-1-2016	Repeal	1-1-2017
413-215-0031(T)	12-1-2016	Repeal	1-1-2017	413-215-0236	12-1-2016	Amend	1-1-2017
413-215-0036	12-1-2016	Amend	1-1-2017	413-215-0236(T)	12-1-2016	Repeal	1-1-2017
413-215-0036(T)	12-1-2016	Repeal	1-1-2017	413-215-0241	12-1-2016	Amend	1-1-2017
413-215-0041	12-1-2016	Amend	1-1-2017	413-215-0241(T)	12-1-2016	Repeal	1-1-2017
413-215-0041(T)	12-1-2016	Repeal	1-1-2017	413-215-0246	12-1-2016	Amend	1-1-2017
413-215-0046	12-1-2016	Amend	1-1-2017	413-215-0246(T)	12-1-2016	Repeal	1-1-2017
413-215-0046(T)	12-1-2016	Repeal	1-1-2017	413-215-0251	12-1-2016	Amend	1-1-2017
413-215-0051	12-1-2016	Amend	1-1-2017	413-215-0251(T)	12-1-2016	Repeal	1-1-2017
413-215-0051(T)	12-1-2016	Repeal	1-1-2017	413-215-0256	12-1-2016	Repeal	1-1-2017
413-215-0056	12-1-2016	Amend	1-1-2017	413-215-0261	12-1-2016	Amend	1-1-2017
413-215-0056(T)	12-1-2016	Repeal	1-1-2017	413-215-0261(T)	12-1-2016	Repeal	1-1-2017

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413-215-0266(T)	12-1-2016	Repeal	1-1-2017	413-215-0421(T)	12-1-2016	Repeal	1-1-2017
413-215-0271	12-1-2016	Amend	1-1-2017	413-215-0426	12-1-2016	Amend	1-1-2017
413-215-0271(T)	12-1-2016	Repeal	1-1-2017	413-215-0426	2-7-2017	Amend(T)	3-1-2017
413-215-0276	12-1-2016	Amend	1-1-2017	413-215-0426	8-6-2017	Amend	9-1-2017
413-215-0276(T)	12-1-2016	Repeal	1-1-2017	413-215-0426(T)	12-1-2016	Repeal	1-1-2017
413-215-0301	12-1-2016	Amend	1-1-2017	413-215-0431	12-1-2016	Amend	1-1-2017
413-215-0301(T)	12-1-2016	Repeal	1-1-2017	413-215-0431	2-7-2017	Amend(T)	3-1-2017
413-215-0306	12-1-2016	Repeal	1-1-2017	413-215-0431	8-6-2017	Amend	9-1-2017
413-215-0311	12-1-2016	Amend	1-1-2017	413-215-0431(T)	12-1-2016	Repeal	1-1-2017
413-215-0311(T)	12-1-2016	Repeal	1-1-2017	413-215-0436	12-1-2016	Amend	1-1-2017
413-215-0313	12-1-2016	Amend	1-1-2017	413-215-0436(T)	12-1-2016	Repeal	1-1-2017
413-215-0313(T)	12-1-2016	Repeal	1-1-2017	413-215-0441	12-1-2016	Amend	1-1-2017
413-215-0316	12-1-2016	Amend	1-1-2017	413-215-0441	2-7-2017	Amend(T)	3-1-2017
413-215-0316(T)	12-1-2016	Repeal	1-1-2017	413-215-0441	8-6-2017	Amend	9-1-2017
413-215-0318	12-1-2016	Adopt	1-1-2017	413-215-0441(T)	12-1-2016	Repeal	1-1-2017
413-215-0321	12-1-2016	Amend	1-1-2017	413-215-0446	12-1-2016	Amend	1-1-2017
413-215-0321(T)	12-1-2016	Repeal	1-1-2017	413-215-0446(T)	12-1-2016	Repeal	1-1-2017
413-215-0326	12-1-2016	Amend	1-1-2017	413-215-0451	12-1-2016	Amend	1-1-2017
413-215-0326(T)	12-1-2016	Repeal	1-1-2017	413-215-0451(T)	12-1-2016	Repeal	1-1-2017
413-215-0331	12-1-2016	Amend	1-1-2017	413-215-0456	12-1-2016	Amend	1-1-2017
413-215-0331(T)	12-1-2016	Repeal	1-1-2017	413-215-0456(T)	12-1-2016	Repeal	1-1-2017
413-215-0336	12-1-2016	Amend	1-1-2017	413-215-0461	12-1-2016	Amend	1-1-2017
413-215-0336(T)	12-1-2016	Repeal	1-1-2017	413-215-0461(T)	12-1-2016	Repeal	1-1-2017
413-215-0341	12-1-2016	Amend	1-1-2017	413-215-0466	12-1-2016	Amend	1-1-2017
413-215-0341(T)	12-1-2016	Repeal	1-1-2017	413-215-0466(T)	12-1-2016	Repeal	1-1-2017
413-215-0346	12-1-2016	Repeal	1-1-2017	413-215-0471	12-1-2016	Amend	1-1-2017
413-215-0349	12-1-2016	Amend	1-1-2017	413-215-0471(T)	12-1-2016	Repeal	1-1-2017
413-215-0349(T)	12-1-2016	Repeal	1-1-2017	413-215-0476	12-1-2016	Amend	1-1-2017
413-215-0351	12-1-2016	Amend	1-1-2017	413-215-0476(T)	12-1-2016	Repeal	1-1-2017
413-215-0351(T)	12-1-2016	Repeal	1-1-2017	413-215-0481	12-1-2016	Amend	1-1-2017
413-215-0356	12-1-2016	Amend	1-1-2017	413-215-0481(T)	12-1-2016	Repeal	1-1-2017
413-215-0356(T)	12-1-2016	Repeal	1-1-2017	413-215-0501	12-1-2016	Amend	1-1-2017
413-215-0361	12-1-2016	Amend	1-1-2017	413-215-0501(T)	12-1-2016	Repeal	1-1-2017
413-215-0361(T)	12-1-2016	Repeal	1-1-2017	413-215-0506	12-1-2016	Repeal	1-1-2017
413-215-0366	12-1-2016	Amend	1-1-2017	413-215-0511	12-1-2016	Amend	1-1-2017
413-215-0366(T)	12-1-2016	Repeal	1-1-2017	413-215-0511(T)	12-1-2016	Repeal	1-1-2017
413-215-0371	12-1-2016	Amend	1-1-2017	413-215-0516	12-1-2016	Amend	1-1-2017
413-215-0371(T)	12-1-2016	Repeal	1-1-2017	413-215-0516(T)	12-1-2016	Repeal	1-1-2017
413-215-0376	12-1-2016	Amend	1-1-2017	413-215-0521	12-1-2016	Amend	1-1-2017
413-215-0376(T)	12-1-2016	Repeal	1-1-2017	413-215-0521(T)	12-1-2016	Repeal	1-1-2017
413-215-0381	12-1-2016	Amend	1-1-2017	413-215-0526	12-1-2016	Amend	1-1-2017
413-215-0381(T)	12-1-2016	Repeal	1-1-2017	413-215-0526(T)	12-1-2016	Repeal	1-1-2017
413-215-0386	12-1-2016	Amend	1-1-2017	413-215-0531	12-1-2016	Amend	1-1-2017
413-215-0386(T)	12-1-2016	Repeal	1-1-2017	413-215-0531(T)	12-1-2016	Repeal	1-1-2017
413-215-0391	12-1-2016	Amend	1-1-2017	413-215-0536	12-1-2016	Amend	1-1-2017
413-215-0391(T)	12-1-2016	Repeal	1-1-2017	413-215-0536(T)	12-1-2016	Repeal	1-1-2017
413-215-0396	12-1-2016	Amend	1-1-2017	413-215-0541	12-1-2016	Amend	1-1-2017
413-215-0396(T)	12-1-2016	Repeal	1-1-2017	413-215-0541(T)	12-1-2016	Repeal	1-1-2017
413-215-0401	12-1-2016	Amend	1-1-2017	413-215-0546	12-1-2016	Amend	1-1-2017
413-215-0401(T)	12-1-2016	Repeal	1-1-2017	413-215-0546(T)	12-1-2016	Repeal	1-1-2017
413-215-0406	12-1-2016	Repeal	1-1-2017	413-215-0551	12-1-2016	Amend	1-1-2017
413-215-0411	12-1-2016	Amend	1-1-2017	413-215-0551(T)	12-1-2016	Repeal	1-1-2017
413-215-0411(T)	12-1-2016	Repeal	1-1-2017	413-215-0554	12-1-2016	Amend	1-1-2017
413-215-0416	12-1-2016	Amend	1-1-2017	413-215-0554(T)	12-1-2016	Repeal	1-1-2017
413-215-0416(T)	12-1-2016	Repeal	1-1-2017	413-215-0556	12-1-2016	Amend	1-1-2017

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413-215-0941(T)	12-1-2016	Repeal	1-1-2017	414-180-0055	1-31-2017	Amend	3-1-2017
413-215-0946	12-1-2016	Amend	1-1-2017	414-205-0040	3-27-2017	Amend	5-1-2017
413-215-0946(T)	12-1-2016	Repeal	1-1-2017	414-205-0055	3-27-2017	Amend	5-1-2017
413-215-0951	12-1-2016	Amend	1-1-2017	414-205-0100	3-27-2017	Amend	5-1-2017
413-215-0951(T)	12-1-2016	Repeal	1-1-2017	414-205-0110	3-27-2017	Amend	5-1-2017
413-215-0956	12-1-2016	Amend	1-1-2017	414-205-0110	6-27-2017	Amend	8-1-2017
413-215-0956(T)	12-1-2016	Repeal	1-1-2017	414-205-0120	3-27-2017	Amend	5-1-2017
413-215-0961	12-1-2016	Amend	1-1-2017	414-300-0040	3-27-2017	Amend	5-1-2017
413-215-0961(T)	12-1-2016	Repeal	1-1-2017	414-300-0120	3-27-2017	Amend	5-1-2017
413-215-0966	12-1-2016	Amend	1-1-2017	414-300-0170	3-27-2017	Amend	5-1-2017
413-215-0966(T)	12-1-2016	Repeal	1-1-2017	414-300-0180	3-27-2017	Amend	5-1-2017
413-215-0971	12-1-2016	Amend	1-1-2017	414-300-0220	3-27-2017	Amend	5-1-2017
413-215-0971(T)	12-1-2016	Repeal	1-1-2017	414-300-0295	3-27-2017	Amend	5-1-2017
413-215-0976	12-1-2016	Amend	1-1-2017	414-300-0350	3-27-2017	Amend	5-1-2017
413-215-0976(T)	12-1-2016	Repeal	1-1-2017	414-300-0350	6-27-2017	Amend	8-1-2017
413-215-0981	12-1-2016	Amend	1-1-2017	414-350-0050	3-27-2017	Amend	5-1-2017
413-215-0981(T)	12-1-2016	Repeal	1-1-2017	414-350-0060	3-27-2017	Amend	5-1-2017
413-215-0986	12-1-2016	Amend	1-1-2017	414-350-0100	3-27-2017	Amend	5-1-2017
413-215-0986(T)	12-1-2016	Repeal	1-1-2017	414-350-0115	3-27-2017	Amend	5-1-2017
413-215-0991	12-1-2016	Amend	1-1-2017	414-350-0160	3-27-2017	Amend	5-1-2017
413-215-0991(T)	12-1-2016	Repeal	1-1-2017	414-350-0170	3-27-2017	Amend	5-1-2017
413-215-0992	12-1-2016	Amend	1-1-2017	414-350-0180	3-27-2017	Amend	5-1-2017
413-215-0992(T)	12-1-2016	Repeal	1-1-2017	414-350-0220	3-27-2017	Amend	5-1-2017
413-215-0996	12-1-2016	Amend	1-1-2017	414-350-0250	3-27-2017	Amend	5-1-2017
413-215-0996(T)	12-1-2016	Repeal	1-1-2017	414-350-0250	6-27-2017	Amend	8-1-2017
413-215-1001	12-1-2016	Amend	1-1-2017	414-525-0015	10-1-2017	Amend	9-1-2017
413-215-1001(T)	12-1-2016	Repeal	1-1-2017	415-012-0000	12-14-2016	Amend	1-1-2017
413-215-1006	12-1-2016	Amend	1-1-2017	415-012-0010	12-14-2016	Amend	1-1-2017
413-215-1006(T)	12-1-2016	Repeal	1-1-2017	415-012-0010	2-2-2017	Amend(T)	3-1-2017
413-215-1011	12-1-2016	Amend	1-1-2017	415-012-0010	7-1-2017	Amend	8-1-2017
413-215-1011(T)	12-1-2016	Repeal	1-1-2017	415-012-0010(T)	7-1-2017	Repeal	8-1-2017
413-215-1016	12-1-2016	Amend	1-1-2017	415-012-0020	12-14-2016	Amend	1-1-2017
413-215-1016(T)	12-1-2016	Repeal	1-1-2017	415-012-0020	2-2-2017	Amend(T)	3-1-2017
413-215-1021	12-1-2016	Amend	1-1-2017	415-012-0020	7-1-2017	Amend	8-1-2017
413-215-1021(T)	12-1-2016	Repeal	1-1-2017	415-012-0020(T)	7-1-2017	Repeal	8-1-2017
413-215-1026	12-1-2016	Amend	1-1-2017	415-012-0030	12-14-2016	Amend	1-1-2017
413-215-1026(T)	12-1-2016	Repeal	1-1-2017	415-012-0030	2-2-2017	Amend(T)	3-1-2017
413-215-1031	12-1-2016	Amend	1-1-2017	415-012-0030	7-1-2017	Amend	8-1-2017
413-215-1031(T)	12-1-2016	Repeal	1-1-2017	415-012-0030(T)	7-1-2017	Repeal	8-1-2017
414-061-0020	12-19-2016	Amend	2-1-2017	415-012-0035	12-14-2016	Amend	1-1-2017
414-061-0040	12-19-2016	Amend	2-1-2017	415-012-0035	2-2-2017	Amend(T)	3-1-2017
414-061-0050	12-19-2016	Amend	2-1-2017	415-012-0035	7-1-2017	Amend	8-1-2017
414-061-0080	1-26-2017	Amend(T)	3-1-2017	415-012-0035(T)	7-1-2017	Repeal	8-1-2017
414-061-0080	8-3-2017	Amend	9-1-2017	415-012-0040	12-14-2016	Amend	1-1-2017
414-061-0100	12-19-2016	Amend	2-1-2017	415-012-0050	12-14-2016	Amend	1-1-2017
414-061-0110	12-19-2016	Amend	2-1-2017	415-012-0055	12-14-2016	Amend	1-1-2017
414-061-0120	12-19-2016	Amend	2-1-2017	415-012-0060	12-14-2016	Amend	1-1-2017
414-180-0005	1-31-2017	Amend	3-1-2017	415-012-0060	2-2-2017	Amend(T)	3-1-2017
414-180-0010	1-31-2017	Amend	3-1-2017	415-012-0060	7-1-2017	Amend	8-1-2017
414-180-0015	1-31-2017	Amend	3-1-2017	415-012-0060(T)	7-1-2017	Repeal	8-1-2017
414-180-0015	3-27-2017	Amend	5-1-2017	415-012-0065	12-14-2016	Amend	1-1-2017
414-180-0020	1-31-2017	Amend	3-1-2017	415-012-0067	12-14-2016	Amend	1-1-2017
414-180-0020	3-27-2017	Amend	5-1-2017	415-012-0075	2-2-2017	Adopt(T)	3-1-2017
414-180-0025	1-31-2017	Amend	3-1-2017	415-012-0075	7-1-2017	Adopt	8-1-2017
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415-020-0005	12-14-2016	Amend	1-1-2017	436-050-0060	1-1-2017	Repeal	1-1-2017
415-020-0010	12-14-2016	Amend	1-1-2017	436-050-0110	1-1-2017	Amend	1-1-2017
415-020-0090	12-14-2016	Amend	1-1-2017	436-050-0120	1-1-2017	Amend	1-1-2017
415-055-0000	12-5-2016	Amend	1-1-2017	436-050-0150	1-1-2017	Amend	1-1-2017
415-055-0010	12-5-2016	Amend	1-1-2017	436-050-0160	1-1-2017	Amend	1-1-2017
415-055-0035	12-5-2016	Amend	1-1-2017	436-050-0165	1-1-2017	Amend	1-1-2017
415-060-0010	12-14-2016	Repeal	1-1-2017	436-050-0170	1-1-2017	Amend	1-1-2017
415-060-0020	12-14-2016	Repeal	1-1-2017	436-050-0175	1-1-2017	Amend	1-1-2017
415-060-0030	12-14-2016	Repeal	1-1-2017	436-050-0180	1-1-2017	Amend	1-1-2017
415-060-0040	12-14-2016	Repeal	1-1-2017	436-050-0180	1-1-2017	Amend	2-1-2017
415-060-0050	12-14-2016	Repeal	1-1-2017	436-050-0185	1-1-2017	Amend	1-1-2017
416-070-0010	1-31-2017	Amend	3-1-2017	436-050-0190	1-1-2017	Amend	1-1-2017
416-070-0020	1-31-2017	Amend	3-1-2017	436-050-0195	1-1-2017	Amend	1-1-2017
416-070-0040	1-31-2017	Amend	3-1-2017	436-050-0200	1-1-2017	Amend	1-1-2017
416-070-0050	1-31-2017	Amend	3-1-2017	436-050-0205	1-1-2017	Amend	1-1-2017
416-070-0060	1-31-2017	Amend	3-1-2017	436-050-0210	1-1-2017	Amend	1-1-2017
416-335-0090	12-8-2016	Amend	1-1-2017	436-050-0220	1-1-2017	Amend	1-1-2017
416-335-0090	7-25-2017	Amend(T)	9-1-2017	436-050-0230	1-1-2017	Amend	1-1-2017
436-009-0004	1-1-2017	Amend(T)	2-1-2017	436-050-0260	1-1-2017	Amend	1-1-2017
436-009-0004	4-1-2017	Amend	4-1-2017	436-050-0270	1-1-2017	Amend	1-1-2017
436-009-0010	1-1-2017	Amend(T)	2-1-2017	436-050-0280	1-1-2017	Amend	1-1-2017
436-009-0010	4-1-2017	Amend	4-1-2017	436-050-0290	1-1-2017	Amend	1-1-2017
436-009-0020	4-1-2017	Amend	4-1-2017	436-050-0300	1-1-2017	Amend	1-1-2017
436-009-0023	4-1-2017	Amend	4-1-2017	436-050-0340	1-1-2017	Amend	1-1-2017
436-009-0025	4-1-2017	Amend	4-1-2017	436-050-0400	1-1-2017	Amend	1-1-2017
436-009-0030	4-1-2017	Amend	4-1-2017	436-050-0410	1-1-2017	Amend	1-1-2017
436-009-0040	1-1-2017	Amend(T)	2-1-2017	436-050-0420	1-1-2017	Amend	1-1-2017
436-009-0040	4-1-2017	Amend	4-1-2017	436-050-0440	1-1-2017	Amend	1-1-2017
436-009-0060	4-1-2017	Amend	4-1-2017	436-050-0450	1-1-2017	Amend	1-1-2017
436-009-0110	4-1-2017	Amend	4-1-2017	436-050-0455	1-1-2017	Amend	1-1-2017
436-010-0001	4-11-2017	Amend(T)	5-1-2017	436-050-0460	1-1-2017	Amend	1-1-2017
436-010-0210	4-1-2017	Amend	4-1-2017	436-050-0470	1-1-2017	Amend	1-1-2017
436-010-0280	4-11-2017	Amend(T)	5-1-2017	436-050-0480	1-1-2017	Amend	1-1-2017
436-010-0280	10-8-2017	Amend	10-1-2017	436-060-0001	1-1-2017	Repeal	1-1-2017
436-030-0003	4-11-2017	Amend(T)	5-1-2017	436-060-0002	1-1-2017	Repeal	1-1-2017
436-030-0020	4-11-2017	Amend(T)	5-1-2017	436-060-0003	1-1-2017	Amend	1-1-2017
436-030-0020	10-8-2017	Amend	10-1-2017	436-060-0005	1-1-2017	Amend	1-1-2017
436-030-0035	4-11-2017	Amend(T)	5-1-2017	436-060-0006	1-1-2017	Repeal	1-1-2017
436-030-0035	10-8-2017	Amend	10-1-2017	436-060-0008	1-1-2017	Amend	1-1-2017
436-035-0003	4-11-2017	Amend(T)	5-1-2017	436-060-0009	1-1-2017	Amend	1-1-2017
436-035-0006	4-11-2017	Amend(T)	5-1-2017	436-060-0010	1-1-2017	Amend	1-1-2017
436-035-0006	10-8-2017	Amend	10-1-2017	436-060-0011	1-1-2017	Adopt	1-1-2017
436-035-0013	4-11-2017	Amend(T)	5-1-2017	436-060-0015	1-1-2017	Amend	1-1-2017
436-035-0013	10-8-2017	Amend	10-1-2017	436-060-0017	1-1-2017	Amend	1-1-2017
436-050-0001	1-1-2017	Repeal	1-1-2017	436-060-0018	1-1-2017	Amend	1-1-2017
436-050-0002	1-1-2017	Repeal	1-1-2017	436-060-0019	1-1-2017	Amend	1-1-2017
436-050-0003	1-1-2017	Amend	1-1-2017	436-060-0020	1-1-2017	Amend	1-1-2017
436-050-0005	1-1-2017	Amend	1-1-2017	436-060-0025	1-1-2017	Amend	1-1-2017
436-050-0006	1-1-2017	Repeal	1-1-2017	436-060-0030	1-1-2017	Amend	1-1-2017
436-050-0008	1-1-2017	Amend	1-1-2017	436-060-0035	1-1-2017	Amend	1-1-2017
436-050-0015	1-1-2017	Amend	1-1-2017	436-060-0040	1-1-2017	Amend	1-1-2017
436-050-0025	1-1-2017	Amend	1-1-2017	436-060-0045	1-1-2017	Amend	1-1-2017
436-050-0040	1-1-2017	Amend	1-1-2017	436-060-0055	1-1-2017	Amend	1-1-2017
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436-060-0135	1-1-2017	Amend	1-1-2017	436-120-0002	1-1-2017	Repeal	1-1-2017
436-060-0137	1-1-2017	Amend	1-1-2017	436-120-0003	1-1-2017	Amend	1-1-2017
436-060-0140	1-1-2017	Amend	1-1-2017	436-120-0005	1-1-2017	Amend	1-1-2017
436-060-0147	1-1-2017	Amend	1-1-2017	436-120-0006	1-1-2017	Repeal	1-1-2017
436-060-0150	1-1-2017	Amend	1-1-2017	436-120-0007	1-1-2017	Am. & Ren.	1-1-2017
436-060-0153	1-1-2017	Amend	1-1-2017	436-120-0008	1-1-2017	Amend	1-1-2017
436-060-0155	1-1-2017	Amend	1-1-2017	436-120-0012	1-1-2017	Amend	1-1-2017
436-060-0160	1-1-2017	Amend	1-1-2017	436-120-0014	1-1-2017	Repeal	1-1-2017
436-060-0170	1-1-2017	Amend	1-1-2017	436-120-0016	1-1-2017	Repeal	1-1-2017
436-060-0180	1-1-2017	Amend	1-1-2017	436-120-0017	1-1-2017	Repeal	1-1-2017
436-060-0190	1-1-2017	Amend	1-1-2017	436-120-0018	1-1-2017	Repeal	1-1-2017
436-060-0195	1-1-2017	Amend	1-1-2017	436-120-0115	1-1-2017	Amend	1-1-2017
436-060-0200	1-1-2017	Amend	1-1-2017	436-120-0125	1-1-2017	Repeal	1-1-2017
436-060-0400	1-1-2017	Amend	1-1-2017	436-120-0135	1-1-2017	Repeal	1-1-2017
436-060-0500	1-1-2017	Amend	1-1-2017	436-120-0145	1-1-2017	Amend	1-1-2017
436-060-0510	1-1-2017	Amend	1-1-2017	436-120-0155	1-1-2017	Am. & Ren.	1-1-2017
436-105-0001	1-1-2017	Repeal	1-1-2017	436-120-0165	1-1-2017	Amend	1-1-2017
436-105-0002	1-1-2017	Repeal	1-1-2017	436-120-0175	1-1-2017	Amend	1-1-2017
436-105-0003	1-1-2017	Amend	1-1-2017	436-120-0185	1-1-2017	Amend	1-1-2017
436-105-0005	1-1-2017	Amend	1-1-2017	436-120-0340	1-1-2017	Am. & Ren.	1-1-2017
436-105-0006	1-1-2017	Amend	1-1-2017	436-120-0400	1-1-2017	Am. & Ren.	1-1-2017
436-105-0008	1-1-2017	Amend	1-1-2017	436-120-0410	1-1-2017	Amend	1-1-2017
436-105-0500	1-1-2017	Amend	1-1-2017	436-120-0430	1-1-2017	Am. & Ren.	1-1-2017
436-105-0510	1-1-2017	Amend	1-1-2017	436-120-0443	1-1-2017	Amend	1-1-2017
436-105-0511	1-1-2017	Amend	1-1-2017	436-120-0445	1-1-2017	Amend	1-1-2017
436-105-0512	1-1-2017	Amend	1-1-2017	436-120-0448	1-1-2017	Am. & Ren.	1-1-2017
436-105-0520	1-1-2017	Amend	1-1-2017	436-120-0449	1-1-2017	Repeal	1-1-2017
436-105-0530	1-1-2017	Amend	1-1-2017	436-120-0451	1-1-2017	Am. & Ren.	1-1-2017
436-105-0540	1-1-2017	Amend	1-1-2017	436-120-0455	1-1-2017	Am. & Ren.	1-1-2017
436-105-0550	1-1-2017	Amend	1-1-2017	436-120-0500	1-1-2017	Amend	1-1-2017
436-105-0560	1-1-2017	Amend	1-1-2017	436-120-0510	1-1-2017	Amend	1-1-2017
436-110-0001	1-1-2017	Repeal	1-1-2017	436-120-0520	1-1-2017	Amend	1-1-2017
436-110-0002	1-1-2017	Repeal	1-1-2017	436-120-0530	1-1-2017	Amend	1-1-2017
436-110-0003	1-1-2017	Amend	1-1-2017	436-120-0700	1-1-2017	Amend	1-1-2017
436-110-0005	1-1-2017	Amend	1-1-2017	436-120-0710	1-1-2017	Amend	1-1-2017
436-110-0006	1-1-2017	Amend	1-1-2017	436-120-0720	1-1-2017	Amend	1-1-2017
436-110-0007	1-1-2017	Amend	1-1-2017	436-120-0755	1-1-2017	Amend	1-1-2017
436-110-0150	1-1-2017	Amend	1-1-2017	436-120-0755	1-1-2017	Amend	1-1-2017
436-110-0240	1-1-2017	Amend	1-1-2017	436-120-0800	1-1-2017	Amend	1-1-2017
436-110-0290	1-1-2017	Amend	1-1-2017	436-120-0810	1-1-2017	Amend	1-1-2017
436-110-0310	1-1-2017	Amend	1-1-2017	436-120-0820	1-1-2017	Amend	1-1-2017
436-110-0320	1-1-2017	Amend	1-1-2017	436-120-0830	1-1-2017	Repeal	1-1-2017
436-110-0325	1-1-2017	Amend	1-1-2017	436-120-0840	1-1-2017	Amend	1-1-2017
436-110-0330	1-1-2017	Amend	1-1-2017	436-120-0900	1-1-2017	Amend	1-1-2017
436-110-0335	1-1-2017	Amend	1-1-2017	436-120-0915	1-1-2017	Amend	1-1-2017
436-110-0336	1-1-2017	Amend	1-1-2017	437-001-0700	1-1-2018	Amend	9-1-2017
436-110-0337	1-1-2017	Amend	1-1-2017	437-002-0005	11-1-2017	Amend	7-1-2017
436-110-0345	1-1-2017	Amend	1-1-2017	437-002-0020	11-1-2017	Amend	7-1-2017
436-110-0346	1-1-2017	Amend	1-1-2017	437-002-0022	11-1-2017	Amend	7-1-2017
436-110-0347	1-1-2017	Amend	1-1-2017	437-002-0023	11-1-2017	Repeal	7-1-2017
436-110-0350	1-1-2017	Amend	1-1-2017	437-002-0026	11-1-2017	Amend	7-1-2017
436-110-0351	1-1-2017	Amend	1-1-2017	437-002-0027	11-1-2017	Repeal	7-1-2017
436-110-0352	1-1-2017	Amend	1-1-2017	437-002-0028	11-1-2017	Repeal	7-1-2017
436-110-0850	1-1-2017	Amend	1-1-2017	437-002-0030	11-1-2017	Repeal	7-1-2017
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437-002-0033	11-1-2017	Amend	7-1-2017	440-007-0272	1-6-2017	Repeal	2-1-2017
437-002-0060	11-1-2017	Amend	7-1-2017	440-007-0275	1-6-2017	Repeal	2-1-2017
437-002-0072	11-1-2017	Repeal	7-1-2017	440-007-0280	1-6-2017	Repeal	2-1-2017
437-002-0074	11-1-2017	Repeal	7-1-2017	440-007-0285	1-6-2017	Repeal	2-1-2017
437-002-0076	11-1-2017	Repeal	7-1-2017	440-007-0290	1-6-2017	Repeal	2-1-2017
437-002-0120	11-1-2017	Amend	7-1-2017	440-007-0300	1-6-2017	Repeal	2-1-2017
437-002-0134	11-1-2017	Amend	7-1-2017	441-025-0005	2-1-2017	Amend	3-1-2017
437-002-0170	1-1-2018	Amend	3-1-2017	441-025-0010	2-1-2017	Repeal	3-1-2017
437-002-0182	11-1-2017	Amend	7-1-2017	441-025-0020	2-1-2017	Amend	3-1-2017
437-002-0220	11-1-2017	Amend	7-1-2017	441-025-0050	2-1-2017	Amend	3-1-2017
437-002-0300	11-1-2017	Amend	7-1-2017	441-025-0121	2-1-2017	Amend	3-1-2017
437-002-0300	11-1-2017	Amend	10-1-2017	441-035-0005	2-1-2017	Amend	3-1-2017
437-002-0309	11-1-2017	Amend	7-1-2017	441-035-0030	2-1-2017	Amend	3-1-2017
437-002-0310	11-1-2017	Amend	7-1-2017	441-035-0040	2-1-2017	Repeal	3-1-2017
437-002-0311	11-1-2017	Amend	7-1-2017	441-035-0045	2-1-2017	Amend	3-1-2017
437-002-0312	11-1-2017	Amend	7-1-2017	441-035-0080	7-12-2017	Amend	8-1-2017
437-002-0314	11-1-2017	Amend	7-1-2017	441-035-0090	7-12-2017	Amend	8-1-2017
437-002-0382	3-12-2018	Amend	8-1-2017	441-035-0120	7-12-2017	Amend	8-1-2017
437-002-2021	11-1-2017	Adopt	7-1-2017	441-035-0130	7-12-2017	Amend	8-1-2017
437-002-2022	11-1-2017	Adopt	7-1-2017	441-035-0140	7-12-2017	Amend	8-1-2017
437-002-2024	3-12-2018	Adopt	8-1-2017	441-035-0150	7-12-2017	Amend	8-1-2017
437-002-2025	3-12-2018	Adopt	8-1-2017	441-035-0300	2-1-2017	Adopt	3-1-2017
437-002-2025	3-12-2018	Amend	9-1-2017	441-049-1001	2-1-2017	Amend	3-1-2017
437-002-2026	3-12-2018	Adopt	8-1-2017	441-049-1011	2-1-2017	Amend	3-1-2017
437-002-2027	11-1-2017	Adopt	7-1-2017	441-049-1051	2-1-2017	Amend	3-1-2017
437-002-2028	3-12-2018	Adopt	8-1-2017	441-065-0270	2-1-2017	Repeal	3-1-2017
437-002-2029	3-12-2018	Adopt	8-1-2017	441-175-0002	2-1-2017	Amend	3-1-2017
437-002-2030	3-12-2018	Adopt	8-1-2017	441-175-0020	2-1-2017	Amend	3-1-2017
437-002-2031	11-1-2017	Adopt	7-1-2017	441-175-0030	2-1-2017	Amend	3-1-2017
437-002-2032	3-12-2018	Adopt	8-1-2017	441-500-0020	2-1-2017	Amend	3-1-2017
437-002-2033	3-12-2018	Adopt	8-1-2017	441-505-3030	2-1-2017	Amend	3-1-2017
437-002-2034	3-12-2018	Adopt	8-1-2017	441-505-3090	2-1-2017	Amend	3-1-2017
437-002-2035	3-12-2018	Adopt	8-1-2017	441-730-0026	4-1-2017	Amend	3-1-2017
437-002-2036	3-12-2018	Adopt	8-1-2017	441-745-0000	4-14-2017	Amend	5-1-2017
437-002-2037	3-12-2018	Adopt	8-1-2017	441-745-0300	4-14-2017	Amend	5-1-2017
437-002-2038	3-12-2018	Adopt	8-1-2017	441-745-0310	4-14-2017	Amend	5-1-2017
437-002-2040	3-12-2018	Adopt	8-1-2017	441-745-0330	4-14-2017	Amend	5-1-2017
437-002-2045	3-12-2018	Adopt	8-1-2017	441-810-0020	4-14-2017	Amend	5-1-2017
437-002-2306	11-1-2017	Amend	7-1-2017	441-810-0030	4-14-2017	Amend	5-1-2017
437-002-2307	11-1-2017	Amend	7-1-2017	441-810-0040	4-14-2017	Amend	5-1-2017
437-003-1000	3-12-2018	Amend	8-1-2017	441-810-0050	4-14-2017	Amend	5-1-2017
437-004-6000	1-1-2018	Amend	3-1-2017	441-810-0080	4-14-2017	Amend	5-1-2017
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437-004-6501	1-1-2018	Adopt	3-1-2017	441-860-0050	4-1-2017	Amend	3-1-2017
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437-004-6508	1-1-2018	Adopt	3-1-2017	441-885-0010	4-1-2017	Amend	3-1-2017
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440-007-0200	1-6-2017	Repeal	2-1-2017	441-910-0050	4-14-2017	Amend	5-1-2017
440-007-0210	1-6-2017	Repeal	2-1-2017	441-910-0055	4-14-2017	Amend	5-1-2017
440-007-0230	1-6-2017	Repeal	2-1-2017	459-005-0225	7-28-2017	Amend	9-1-2017
440-007-0240	1-6-2017	Repeal	2-1-2017	459-005-0525	1-27-2017	Amend	3-1-2017
440-007-0250	1-6-2017	Repeal	2-1-2017	459-005-0545	1-27-2017	Amend	3-1-2017
440-007-0260	1-6-2017	Repeal	2-1-2017	459-007-0007	7-28-2017	Amend	9-1-2017

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459-017-0060	1-1-2017	Amend	1-1-2017	461-130-0330	10-1-2017	Amend	10-1-2017
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461-025-0310	1-1-2017	Amend	2-1-2017	461-135-0070	10-1-2017	Amend	10-1-2017
461-101-0010	4-1-2017	Amend	5-1-2017	461-135-0075	7-1-2017	Amend	8-1-2017
461-110-0210	4-1-2017	Amend	5-1-2017	461-135-0075	7-1-2017	Amend	8-1-2017
461-110-0210	10-1-2017	Amend	10-1-2017	461-135-0075	10-1-2017	Amend	10-1-2017
461-110-0350	10-1-2017	Amend	10-1-2017	461-135-0075(T)	7-1-2017	Suspend	8-1-2017
461-110-0370	1-1-2017	Amend	2-1-2017	461-135-0085	4-1-2017	Amend	5-1-2017
461-110-0370	10-1-2017	Amend(T)	10-1-2017	461-135-0400	8-1-2017	Amend(T)	9-1-2017
461-110-0410	10-1-2017	Amend	10-1-2017	461-135-0475	10-1-2017	Amend	10-1-2017
461-110-0430	10-1-2017	Amend	10-1-2017	461-135-0485	7-1-2017	Amend	7-1-2017
461-110-0530	10-1-2017	Amend	10-1-2017	461-135-0491	7-1-2017	Amend	7-1-2017
461-110-0630	4-1-2017	Amend	5-1-2017	461-135-0493	7-1-2017	Amend	7-1-2017
461-110-0750	4-1-2017	Amend	5-1-2017	461-135-0505	10-1-2017	Amend(T)	10-1-2017
461-115-0020	1-1-2017	Amend	2-1-2017	461-135-0520	1-1-2017	Amend	2-1-2017
461-115-0020(T)	1-1-2017	Repeal	2-1-2017	461-135-0520	10-1-2017	Amend(T)	10-1-2017
461-115-0030	10-1-2017	Amend	10-1-2017	461-135-0520(T)	1-1-2017	Repeal	2-1-2017
461-115-0040	10-1-2017	Amend	10-1-2017	461-135-0560	4-1-2017	Amend	5-1-2017
461-115-0050	10-1-2017	Amend	10-1-2017	461-135-0730	1-1-2017	Amend	1-1-2017
461-115-0090	7-1-2017	Amend	8-1-2017	461-135-0745	10-1-2017	Amend	10-1-2017
461-115-0090	10-1-2017	Amend	10-1-2017	461-135-0750	10-1-2017	Amend	10-1-2017
461-115-0090(T)	10-1-2017	Repeal	10-1-2017	461-135-0780	1-1-2017	Amend	1-1-2017
461-115-0190	4-1-2017	Amend	5-1-2017	461-135-0780	10-1-2017	Amend	10-1-2017
461-115-0190	10-1-2017	Amend	10-1-2017	461-135-0820	1-1-2017	Amend	1-1-2017
461-115-0230	4-1-2017	Amend	5-1-2017	461-135-0832	2-13-2017	Amend(T)	3-1-2017
461-115-0610	4-1-2017	Amend	5-1-2017	461-135-0832	7-1-2017	Amend	7-1-2017
461-115-0651	8-1-2017	Amend(T)	9-1-2017	461-135-0832(T)	7-1-2017	Repeal	7-1-2017
461-115-0651	10-1-2017	Amend	10-1-2017	461-135-0835	2-13-2017	Amend(T)	3-1-2017
461-115-0651(T)	10-1-2017	Repeal	10-1-2017	461-135-0835	7-1-2017	Amend	7-1-2017
461-120-0010	7-1-2017	Amend	7-1-2017	461-135-0835(T)	7-1-2017	Repeal	7-1-2017
461-120-0125	4-1-2017	Amend	5-1-2017	461-135-0875	10-1-2017	Amend	10-1-2017
461-120-0125	10-1-2017	Amend	10-1-2017	461-135-0900	4-1-2017	Amend	5-1-2017
461-120-0310	10-1-2017	Amend	10-1-2017	461-135-0915	4-1-2017	Adopt	5-1-2017
461-120-0315	10-1-2017	Amend	10-1-2017	461-135-0915	10-1-2017	Amend	10-1-2017
461-120-0330	4-1-2017	Amend	5-1-2017	461-135-0930	4-1-2017	Amend	5-1-2017
461-120-0330	10-1-2017	Amend	10-1-2017	461-135-0930	10-1-2017	Amend	10-1-2017
461-120-0345	1-1-2017	Amend	1-1-2017	461-135-0950	7-1-2017	Amend	8-1-2017
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461-120-0510	10-1-2017	Amend	10-1-2017	461-140-0040	4-1-2017	Amend	5-1-2017
461-130-0305	1-1-2017	Amend	2-1-2017	461-140-0070	10-1-2017	Amend	10-1-2017
461-130-0305	10-1-2017	Amend	10-1-2017	461-140-0110	10-1-2017	Amend	10-1-2017
461-130-0305(T)	1-1-2017	Repeal	2-1-2017	461-140-0210	4-1-2017	Amend	5-1-2017
461-130-0310	1-1-2017	Amend	2-1-2017	461-140-0210	10-1-2017	Amend	10-1-2017
461-130-0310	4-1-2017	Amend	5-1-2017	461-140-0220	10-1-2017	Amend	10-1-2017
461-130-0310	10-1-2017	Amend	10-1-2017	461-140-0296	1-1-2017	Amend	1-1-2017
461-130-0310	10-1-2017	Amend(T)	10-1-2017	461-140-0296(T)	1-1-2017	Repeal	1-1-2017
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461-130-0315	1-1-2017	Amend	2-1-2017	461-145-0001	10-1-2017	Amend	10-1-2017
461-130-0315	10-1-2017	Amend	10-1-2017	461-145-0005	1-1-2017	Amend	1-1-2017
461-130-0315(T)	1-1-2017	Repeal	2-1-2017	461-145-0005	4-1-2017	Amend	5-1-2017
461-130-0327	4-1-2017	Amend	5-1-2017	461-145-0010	10-1-2017	Amend	10-1-2017

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461-145-0040	7-1-2017	Amend	7-1-2017	461-155-0180(T)	7-1-2017	Repeal	7-1-2017
461-145-0050	7-1-2017	Amend	7-1-2017	461-155-0190	10-1-2017	Amend(T)	10-1-2017
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461-145-0088	4-1-2017	Amend	5-1-2017	461-155-0250	1-1-2017	Amend	1-1-2017
461-145-0108	7-1-2017	Amend	7-1-2017	461-155-0250	4-1-2017	Amend(T)	5-1-2017
461-145-0110	7-1-2017	Amend	7-1-2017	461-155-0250	9-1-2017	Amend	9-1-2017
461-145-0110	10-1-2017	Amend	10-1-2017	461-155-0250	10-1-2017	Amend	10-1-2017
461-145-0140	1-1-2017	Amend	1-1-2017	461-155-0250(T)	9-1-2017	Repeal	9-1-2017
461-145-0140	10-1-2017	Amend	10-1-2017	461-155-0270	1-1-2017	Amend	1-1-2017
461-145-0145	7-1-2017	Amend	7-1-2017	461-155-0290	3-1-2017	Amend	4-1-2017
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461-145-0200	10-1-2017	Amend	10-1-2017	461-155-0300	1-1-2017	Amend	1-1-2017
461-145-0210	7-1-2017	Amend	7-1-2017	461-155-0300	4-1-2017	Suspend	5-1-2017
461-145-0220	1-1-2017	Amend	1-1-2017	461-155-0300	9-1-2017	Repeal	9-1-2017
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461-145-0250	10-1-2017	Amend	10-1-2017	461-155-0580	7-1-2017	Amend	7-1-2017
461-145-0261	10-1-2017	Amend	10-1-2017	461-155-0600	7-1-2017	Amend	7-1-2017
461-145-0285	7-1-2017	Adopt	7-1-2017	461-155-0600	10-1-2017	Amend	10-1-2017
461-145-0300	4-1-2017	Amend	5-1-2017	461-155-0610	10-1-2017	Amend	10-1-2017
461-145-0320	7-1-2017	Amend	7-1-2017	461-155-0620	7-1-2017	Amend	7-1-2017
461-145-0330	10-1-2017	Amend	10-1-2017	461-155-0630	7-1-2017	Amend	7-1-2017
461-145-0348	7-1-2017	Adopt	7-1-2017	461-155-0640	7-1-2017	Repeal	7-1-2017
461-145-0360	10-1-2017	Amend	10-1-2017	461-155-0660	4-1-2017	Amend(T)	5-1-2017
461-145-0365	4-1-2017	Amend	5-1-2017	461-155-0660	9-1-2017	Amend	9-1-2017
461-145-0370	10-1-2017	Amend	10-1-2017	461-155-0660	10-1-2017	Amend(T)	10-1-2017
461-145-0380	10-1-2017	Amend	10-1-2017	461-155-0660(T)	9-1-2017	Repeal	9-1-2017
461-145-0417	1-1-2017	Adopt	1-1-2017	461-155-0670	4-1-2017	Amend(T)	5-1-2017
461-145-0420	10-1-2017	Amend	10-1-2017	461-155-0670	7-1-2017	Amend	7-1-2017
461-145-0430	4-1-2017	Amend	5-1-2017	461-155-0670(T)	7-1-2017	Repeal	7-1-2017
461-145-0435	7-1-2017	Amend	7-1-2017	461-155-0680	10-1-2017	Amend	10-1-2017
461-145-0440	7-1-2017	Amend	7-1-2017	461-155-0688	7-1-2017	Amend	7-1-2017
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461-145-0470	9-1-2017	Amend	9-1-2017	461-160-0015	10-1-2017	Amend(T)	10-1-2017
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461-145-0510	7-1-2017	Amend	7-1-2017	461-160-0420	10-1-2017	Amend(T)	10-1-2017
461-145-0520	7-1-2017	Amend	7-1-2017	461-160-0430	2-1-2017	Amend(T)	3-1-2017
461-145-0530	4-1-2017	Amend	5-1-2017	461-160-0430	7-1-2017	Amend	7-1-2017
461-145-0540	1-1-2017	Amend	2-1-2017	461-160-0430	10-1-2017	Amend(T)	10-1-2017
461-145-0540	3-13-2017	Amend(T)	4-1-2017	461-160-0430(T)	7-1-2017	Repeal	7-1-2017
461-145-0540	9-1-2017	Amend	9-1-2017	461-160-0551	7-1-2017	Amend	7-1-2017
461-145-0540(T)	1-1-2017	Repeal	2-1-2017	461-160-0580	1-1-2017	Amend	1-1-2017
461-145-0540(T)	9-1-2017	Repeal	9-1-2017	461-160-0590	7-1-2017	Amend	7-1-2017
461-145-0550	1-1-2017	Amend	1-1-2017	461-160-0620	1-1-2017	Amend	1-1-2017
461-145-0930	1-1-2017	Amend	1-1-2017	461-160-0620	7-1-2017	Amend	7-1-2017
461-145-0930	4-1-2017	Amend	5-1-2017	461-160-0620	10-1-2017	Amend	10-1-2017
461-150-0050	1-1-2017	Amend	1-1-2017	461-160-0630	10-1-2017	Amend	10-1-2017
461-155-0020	4-1-2017	Amend(T)	5-1-2017	461-160-0780	7-1-2017	Amend	7-1-2017
461-155-0020	9-1-2017	Amend	9-1-2017	461-165-0010	1-1-2017	Amend	2-1-2017
461-155-0020(T)	9-1-2017	Repeal	9-1-2017	461-165-0030	4-1-2017	Amend	5-1-2017
461-155-0150	1-1-2017	Amend	2-1-2017	461-165-0030	7-1-2017	Amend	7-1-2017
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461-165-0160(T)	9-1-2017	Repeal	9-1-2017	573-050-0016	12-6-2016	Amend	1-1-2017
461-165-0180	1-1-2017	Amend	2-1-2017	573-050-0025	12-6-2016	Amend	1-1-2017
461-165-0180	6-1-2017	Amend(T)	7-1-2017	573-050-0040	12-6-2016	Amend	1-1-2017
461-165-0180	8-8-2017	Amend(T)	9-1-2017	573-050-0045	12-6-2016	Amend	1-1-2017
461-165-0180	10-1-2017	Amend	10-1-2017	575-039-0080	8-11-2017	Amend(T)	9-1-2017
461-165-0180	10-1-2017	Amend(T)	10-1-2017	581-002-0090	7-5-2017	Amend	8-1-2017
461-165-0180(T)	1-1-2017	Repeal	2-1-2017	581-002-1800	2-1-2017	Adopt	3-1-2017
461-165-0180(T)	8-8-2017	Suspend	9-1-2017	581-002-1805	2-1-2017	Adopt	3-1-2017
461-165-0180(T)	10-1-2017	Repeal	10-1-2017	581-002-1810	2-1-2017	Adopt	3-1-2017
461-170-0011	3-10-2017	Amend(T)	4-1-2017	581-013-0005	3-1-2017	Adopt	4-1-2017
461-170-0011	9-1-2017	Amend	9-1-2017	581-013-0010	3-1-2017	Adopt	4-1-2017
461-170-0011(T)	9-1-2017	Repeal	9-1-2017	581-013-0015	3-1-2017	Adopt	4-1-2017
461-170-0101	3-10-2017	Amend(T)	4-1-2017	581-013-0020	3-1-2017	Adopt	4-1-2017
461-170-0101	9-1-2017	Amend	9-1-2017	581-013-0025	3-1-2017	Adopt	4-1-2017
461-170-0101(T)	9-1-2017	Repeal	9-1-2017	581-013-0030	3-1-2017	Adopt	4-1-2017
461-170-0120	7-1-2017	Repeal	7-1-2017	581-013-0035	3-1-2017	Adopt	4-1-2017
461-175-0220	4-1-2017	Amend	5-1-2017	581-015-2150	7-5-2017	Amend	8-1-2017
461-175-0230	10-1-2017	Amend	10-1-2017	581-020-0600	12-20-2016	Amend	2-1-2017
461-180-0010	10-1-2017	Amend	10-1-2017	581-020-0603	12-20-2016	Amend	2-1-2017
461-180-0050	1-1-2017	Amend	1-1-2017	581-020-0606	12-20-2016	Amend	2-1-2017
461-180-0070	10-1-2017	Amend	10-1-2017	581-020-0609	12-20-2016	Amend	2-1-2017
461-180-0090	7-1-2017	Amend	8-1-2017	581-020-0612	12-20-2016	Amend	2-1-2017
461-180-0090	10-1-2017	Amend	10-1-2017	581-020-0613	12-20-2016	Adopt	2-1-2017
461-180-0090(T)	10-1-2017	Repeal	10-1-2017	581-020-0615	12-20-2016	Amend	2-1-2017
461-190-0171	10-1-2017	Amend	10-1-2017	581-020-0621	12-20-2016	Adopt	2-1-2017
461-190-0211	3-1-2017	Amend(T)	4-1-2017	581-020-0624	12-20-2016	Adopt	2-1-2017
461-190-0211	10-1-2017	Amend	10-1-2017	581-021-0037	6-29-2017	Amend	8-1-2017
461-190-0231	4-1-2017	Amend	5-1-2017	581-021-0041	5-4-2017	Amend	6-1-2017
461-190-0231	10-1-2017	Amend	10-1-2017	581-021-0570	7-1-2017	Amend	8-1-2017
461-190-0310	10-1-2017	Amend	10-1-2017	581-022-0405	7-5-2017	Renumber	8-1-2017
461-190-0360	1-1-2017	Amend	2-1-2017	581-022-0413	7-5-2017	Renumber	8-1-2017
461-190-0406	10-1-2017	Amend	10-1-2017	581-022-0416	7-5-2017	Renumber	8-1-2017
461-190-0500	1-1-2017	Amend	2-1-2017	581-022-0421	7-5-2017	Renumber	8-1-2017
461-193-0031	4-1-2017	Amend	5-1-2017	581-022-0606	7-5-2017	Renumber	8-1-2017
461-195-0501	1-1-2017	Amend	2-1-2017	581-022-0610	7-5-2017	Renumber	8-1-2017
461-195-0601	4-1-2017	Amend	5-1-2017	581-022-0612	7-5-2017	Renumber	8-1-2017
462-200-0665	1-23-2017	Adopt	3-1-2017	581-022-0615	7-5-2017	Renumber	8-1-2017
471-007-0200	4-5-2017	Amend	5-1-2017	581-022-0617	7-5-2017	Renumber	8-1-2017
471-007-0210	4-5-2017	Amend	5-1-2017	581-022-0705	7-5-2017	Renumber	8-1-2017
471-007-0220	4-5-2017	Repeal	5-1-2017	581-022-0711	7-5-2017	Renumber	8-1-2017
471-007-0230	4-5-2017	Repeal	5-1-2017	581-022-0807	7-5-2017	Renumber	8-1-2017
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471-007-0250	4-5-2017	Repeal	5-1-2017	581-022-1030	7-5-2017	Repeal	8-1-2017
471-007-0260	4-5-2017	Repeal	5-1-2017	581-022-1060	7-5-2017	Renumber	8-1-2017
471-007-0270	4-5-2017	Repeal	5-1-2017	581-022-1130	7-5-2017	Renumber	8-1-2017
471-007-0280	4-5-2017	Repeal	5-1-2017	581-022-1131	7-5-2017	Renumber	8-1-2017
471-007-0285	4-5-2017	Amend	5-1-2017	581-022-1133	7-5-2017	Renumber	8-1-2017
471-007-0290	4-5-2017	Repeal	5-1-2017	581-022-1134	7-5-2017	Renumber	8-1-2017
471-007-0300	4-5-2017	Amend	5-1-2017	581-022-1135	7-5-2017	Renumber	8-1-2017
471-007-0310	4-5-2017	Amend	5-1-2017	581-022-1140	7-5-2017	Renumber	8-1-2017
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471-030-0058	8-25-2017	Amend	10-1-2017	581-022-1210	7-5-2017	Renumber	8-1-2017
471-030-0075	2-27-2017	Amend(T)	4-1-2017	581-022-1215	7-5-2017	Repeal	8-1-2017
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581-022-1340	7-5-2017	Renumber	8-1-2017	581-027-0045	6-1-2017	Amend	7-1-2017
581-022-1350	7-5-2017	Renumber	8-1-2017	581-027-0050	3-1-2017	Amend	4-1-2017
581-022-1362	7-5-2017	Repeal	8-1-2017	581-027-0050	6-1-2017	Amend	7-1-2017
581-022-1363	7-5-2017	Repeal	8-1-2017	581-051-0120	6-1-2017	Adopt	7-1-2017
581-022-1364	7-5-2017	Repeal	8-1-2017	581-051-0125	6-1-2017	Adopt	7-1-2017
581-022-1365	7-5-2017	Repeal	8-1-2017	584-010-0004	2-1-2017	Adopt	3-1-2017
581-022-1366	7-5-2017	Repeal	8-1-2017	584-010-0050	7-1-2017	Amend	8-1-2017
581-022-1367	7-5-2017	Repeal	8-1-2017	584-010-0125	2-1-2017	Adopt	3-1-2017
581-022-1368	7-5-2017	Repeal	8-1-2017	584-017-1030	4-12-2017	Repeal	5-1-2017
581-022-1370	7-5-2017	Repeal	8-1-2017	584-017-1037	7-1-2017	Adopt	8-1-2017
581-022-1371	7-5-2017	Repeal	8-1-2017	584-017-1100	7-1-2017	Amend	8-1-2017
581-022-1372	7-5-2017	Repeal	8-1-2017	584-020-0005	7-1-2017	Amend	8-1-2017
581-022-1420	7-5-2017	Renumber	8-1-2017	584-020-0040	7-1-2017	Amend	8-1-2017
581-022-1430	7-5-2017	Renumber	8-1-2017	584-020-0060	2-1-2017	Am. & Ren.	3-1-2017
581-022-1440	7-5-2017	Renumber	8-1-2017	584-042-0008	7-1-2017	Repeal	8-1-2017
581-022-1510	7-5-2017	Renumber	8-1-2017	584-042-0012	7-1-2017	Repeal	8-1-2017
581-022-1520	7-5-2017	Renumber	8-1-2017	584-042-0021	7-1-2017	Repeal	8-1-2017
581-022-1530	7-5-2017	Renumber	8-1-2017	584-042-0022	7-1-2017	Repeal	8-1-2017
581-022-1610	7-5-2017	Renumber	8-1-2017	584-042-0031	7-1-2017	Repeal	8-1-2017
581-022-1620	7-5-2017	Renumber	8-1-2017	584-042-0036	7-1-2017	Repeal	8-1-2017
581-022-1622	7-5-2017	Renumber	8-1-2017	584-042-0044	7-1-2017	Repeal	8-1-2017
581-022-1630	7-5-2017	Renumber	8-1-2017	584-042-0051	7-1-2017	Repeal	8-1-2017
581-022-1640	7-5-2017	Renumber	8-1-2017	584-042-0060	7-1-2017	Repeal	8-1-2017
581-022-1650	7-5-2017	Renumber	8-1-2017	584-042-0070	7-1-2017	Repeal	8-1-2017
581-022-1660	7-5-2017	Renumber	8-1-2017	584-042-0081	7-1-2017	Repeal	8-1-2017
581-022-1661	7-5-2017	Renumber	8-1-2017	584-042-0090	7-1-2017	Repeal	8-1-2017
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581-022-1710	7-5-2017	Renumber	8-1-2017	584-050-0020	4-12-2017	Amend	5-1-2017
581-022-1720	7-5-2017	Renumber	8-1-2017	584-050-0035	7-1-2017	Amend	8-1-2017
581-022-1723	7-5-2017	Amend	8-1-2017	584-200-0005	2-1-2017	Amend	3-1-2017
581-022-1723	7-5-2017	Renumber	8-1-2017	584-200-0005	7-1-2017	Amend	8-1-2017
581-022-1724	7-5-2017	Renumber	8-1-2017	584-200-0010	4-12-2017	Amend	5-1-2017
581-022-1725	7-5-2017	Renumber	8-1-2017	584-200-0020	7-1-2017	Amend	8-1-2017
581-022-1730	7-5-2017	Renumber	8-1-2017	584-200-0030	2-1-2017	Amend	3-1-2017
581-022-1920	2-1-2017	Amend(T)	3-1-2017	584-200-0050	4-12-2017	Amend	5-1-2017
581-022-1940	7-1-2017	Am. & Ren.	8-1-2017	584-210-0030	4-12-2017	Amend	5-1-2017
581-022-1941	7-1-2017	Am. & Ren.	8-1-2017	584-210-0040	2-1-2017	Amend	3-1-2017
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581-027-0005	3-1-2017	Amend	4-1-2017	584-210-0050	2-1-2017	Amend	3-1-2017
581-027-0010	3-1-2017	Amend	4-1-2017	584-210-0050	7-1-2017	Amend	8-1-2017
581-027-0010	6-1-2017	Amend	7-1-2017	584-210-0060	2-1-2017	Amend	3-1-2017
581-027-0015	3-1-2017	Amend	4-1-2017	584-210-0070	2-1-2017	Amend	3-1-2017
581-027-0015	6-1-2017	Amend	7-1-2017	584-210-0090	4-12-2017	Amend	5-1-2017
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581-027-0020	6-1-2017	Amend	7-1-2017	584-210-0140	7-1-2017	Amend	8-1-2017
581-027-0023	6-1-2017	Adopt	7-1-2017	584-210-0150	7-1-2017	Amend	8-1-2017
581-027-0025	3-1-2017	Amend	4-1-2017	584-210-0160	7-1-2017	Amend	8-1-2017
581-027-0025	6-1-2017	Amend	7-1-2017	584-220-0010	7-1-2017	Amend	8-1-2017
581-027-0030	3-1-2017	Amend	4-1-2017	584-220-0120	7-1-2017	Amend	8-1-2017
581-027-0030	6-1-2017	Amend	7-1-2017	584-220-0185	4-12-2017	Amend	5-1-2017
581-027-0035	3-1-2017	Amend	4-1-2017	584-225-0050	2-1-2017	Amend	3-1-2017
581-027-0035	6-1-2017	Amend	7-1-2017	584-225-0065	2-1-2017	Adopt	3-1-2017
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584-230-0040	7-1-2017	Adopt	8-1-2017	603-048-0700	3-15-2017	Amend(T)	4-1-2017
584-230-0050	7-1-2017	Adopt	8-1-2017	603-048-0700	7-13-2017	Amend	8-1-2017
584-230-0060	7-1-2017	Adopt	8-1-2017	603-048-0700	8-30-2017	Amend	10-1-2017
584-230-0070	7-1-2017	Adopt	8-1-2017	603-048-0700(T)	7-13-2017	Repeal	8-1-2017
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584-230-0100	7-1-2017	Adopt	8-1-2017	603-048-0800	8-30-2017	Amend	10-1-2017
584-255-0010	7-1-2017	Amend	8-1-2017	603-048-0800(T)	8-30-2017	Repeal	10-1-2017
584-420-0015	2-1-2017	Adopt	3-1-2017	603-048-0900	3-15-2017	Amend(T)	4-1-2017
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584-420-0300	4-12-2017	Repeal	5-1-2017	603-048-1000	8-30-2017	Amend	10-1-2017
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584-420-0310	2-1-2017	Amend	3-1-2017	603-048-2300	3-15-2017	Adopt(T)	4-1-2017
584-420-0345	2-1-2017	Amend	3-1-2017	603-048-2300	8-30-2017	Adopt	10-1-2017
584-420-0360	2-1-2017	Amend	3-1-2017	603-048-2300(T)	8-30-2017	Repeal	10-1-2017
584-420-0365	2-1-2017	Amend	3-1-2017	603-048-2305	3-15-2017	Adopt(T)	4-1-2017
584-420-0375	4-12-2017	Repeal	5-1-2017	603-048-2305	8-30-2017	Adopt	10-1-2017
584-420-0390	4-12-2017	Repeal	5-1-2017	603-048-2305(T)	8-30-2017	Repeal	10-1-2017
584-420-0415	2-1-2017	Amend	3-1-2017	603-048-2310	3-15-2017	Adopt(T)	4-1-2017
584-420-0420	2-1-2017	Amend	3-1-2017	603-048-2310	8-30-2017	Adopt	10-1-2017
584-420-0425	2-1-2017	Amend	3-1-2017	603-048-2310(T)	8-30-2017	Repeal	10-1-2017
584-420-0440	2-1-2017	Amend	3-1-2017	603-048-2315	3-15-2017	Adopt(T)	4-1-2017
584-420-0460	2-1-2017	Amend	3-1-2017	603-048-2315	8-30-2017	Adopt	10-1-2017
584-420-0490	2-1-2017	Amend	3-1-2017	603-048-2315(T)	8-30-2017	Repeal	10-1-2017
584-420-0630	2-1-2017	Amend	3-1-2017	603-048-2320	3-15-2017	Adopt(T)	4-1-2017
585-010-0310	2-7-2017	Amend	3-1-2017	603-048-2320	8-30-2017	Adopt	10-1-2017
589-002-0120	7-1-2017	Amend	6-1-2017	603-048-2320(T)	8-30-2017	Repeal	10-1-2017
603-001-0005	8-30-2017	Amend	10-1-2017	603-048-2330	3-15-2017	Adopt(T)	4-1-2017
603-011-0255	3-22-2017	Amend	5-1-2017	603-048-2330	8-30-2017	Adopt	10-1-2017
603-011-0388	8-8-2017	Amend	9-1-2017	603-048-2330(T)	8-30-2017	Repeal	10-1-2017
603-018-0005	3-24-2017	Amend(T)	5-1-2017	603-048-2340	3-15-2017	Adopt(T)	4-1-2017
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603-025-0400	2-2-2017	Adopt(T)	3-1-2017	603-048-2340(T)	8-30-2017	Repeal	10-1-2017
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603-048-0100	8-30-2017	Amend	10-1-2017	603-048-2440	8-30-2017	Adopt	10-1-2017
603-048-0200	3-15-2017	Amend(T)	4-1-2017	603-048-2450	3-15-2017	Adopt(T)	4-1-2017
603-048-0200	8-30-2017	Amend	10-1-2017	603-048-2450	8-30-2017	Adopt	10-1-2017
603-048-0300	3-15-2017	Amend(T)	4-1-2017	603-048-2450(T)	8-30-2017	Repeal	10-1-2017
603-048-0300	8-30-2017	Amend	10-1-2017	603-048-2480	3-15-2017	Adopt(T)	4-1-2017
603-048-0400	3-15-2017	Amend(T)	4-1-2017	603-048-2480	8-30-2017	Adopt	10-1-2017
603-048-0400	8-30-2017	Amend	10-1-2017	603-048-2480(T)	8-30-2017	Repeal	10-1-2017
603-048-0500	3-15-2017	Amend(T)	4-1-2017	603-052-0127	4-15-2017	Amend(T)	5-1-2017
603-048-0500	8-30-2017	Amend	10-1-2017	603-052-0360	2-17-2017	Amend(T)	4-1-2017
603-048-0500(T)	8-30-2017	Repeal	10-1-2017	603-075-0005	1-17-2017	Amend	3-1-2017
603-048-0600	3-15-2017	Amend(T)	4-1-2017	603-075-0010	1-17-2017	Adopt	3-1-2017
603-048-0600	8-30-2017	Amend	10-1-2017	603-075-0015	1-17-2017	Repeal	3-1-2017
603-048-0650	3-15-2017	Amend(T)	4-1-2017	603-075-0025	1-17-2017	Amend	3-1-2017
603-048-0650	8-30-2017	Amend	10-1-2017	603-075-0050	1-17-2017	Amend	3-1-2017

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603-075-0110	1-17-2017	Amend	3-1-2017	635-003-0003	4-24-2017	Amend	6-1-2017
603-075-0120	1-17-2017	Amend	3-1-2017	635-003-0085	4-24-2017	Amend	6-1-2017
603-075-0130	1-17-2017	Amend	3-1-2017	635-004-0215	1-1-2017	Amend	1-1-2017
603-075-0140	1-17-2017	Amend	3-1-2017	635-004-0223	1-1-2017	Adopt	1-1-2017
629-041-0005	7-1-2017	Amend	7-1-2017	635-004-0275	2-15-2017	Amend	3-1-2017
629-043-0005	7-1-2017	Amend	7-1-2017	635-004-0275	7-14-2017	Amend	8-1-2017
629-043-0010	7-1-2017	Am. & Ren.	7-1-2017	635-004-0330	1-1-2017	Amend	1-1-2017
629-043-0015	7-1-2017	Amend	7-1-2017	635-004-0350	1-1-2017	Amend	1-1-2017
629-043-0020	7-1-2017	Amend	7-1-2017	635-004-0355	1-1-2017	Amend	1-1-2017
629-043-0025	7-1-2017	Amend	7-1-2017	635-004-0355	7-5-2017	Amend	8-1-2017
629-043-0026	7-1-2017	Amend	7-1-2017	635-004-0375	7-3-2017	Amend	8-1-2017
629-043-0030	7-1-2017	Amend	7-1-2017	635-004-0585	4-24-2017	Amend	6-1-2017
629-043-0036	7-1-2017	Amend	7-1-2017	635-005-0240	1-1-2017	Amend	1-1-2017
629-043-0040	7-1-2017	Amend	7-1-2017	635-005-0263	1-1-2017	Adopt	1-1-2017
629-600-0100	7-1-2017	Amend	7-1-2017	635-005-0355	12-15-2016	Amend(T)	1-1-2017
629-600-0100	9-1-2017	Amend	9-1-2017	635-005-0355	3-24-2017	Amend(T)	5-1-2017
629-605-0170	7-1-2017	Amend	7-1-2017	635-005-0355	8-2-2017	Amend(T)	9-1-2017
629-605-0173	7-1-2017	Amend	7-1-2017	635-005-0355	8-8-2017	Amend(T)	9-1-2017
629-605-0500	7-1-2017	Amend	7-1-2017	635-005-0355(T)	8-2-2017	Suspend	9-1-2017
629-611-0000	7-1-2017	Amend	7-1-2017	635-005-0465	11-23-2016	Amend(T)	1-1-2017
629-615-0300	7-1-2017	Amend	7-1-2017	635-005-0465	12-18-2016	Amend(T)	1-1-2017
629-620-0300	7-1-2017	Amend	7-1-2017	635-005-0465	12-22-2016	Amend(T)	2-1-2017
629-620-0400	7-1-2017	Amend	7-1-2017	635-005-0465	2-2-2017	Amend(T)	3-1-2017
629-620-0800	7-1-2017	Amend	7-1-2017	635-005-0465	2-8-2017	Amend(T)	3-1-2017
629-623-0300	7-1-2017	Amend	7-1-2017	635-005-0465	2-10-2017	Amend(T)	3-1-2017
629-625-0100	7-1-2017	Amend	7-1-2017	635-005-0465(T)	12-18-2016	Suspend	1-1-2017
629-625-0430	7-1-2017	Amend	7-1-2017	635-005-0465(T)	12-22-2016	Suspend	2-1-2017
629-625-0700	7-1-2017	Amend	7-1-2017	635-005-0465(T)	2-2-2017	Suspend	3-1-2017
629-630-0600	7-1-2017	Amend	7-1-2017	635-005-0465(T)	2-8-2017	Suspend	3-1-2017
629-630-0700	7-1-2017	Amend	7-1-2017	635-005-0465(T)	2-10-2017	Suspend	3-1-2017
629-630-0800	7-1-2017	Amend	7-1-2017	635-005-0505	11-21-2016	Amend(T)	1-1-2017
629-635-0100	7-1-2017	Amend	7-1-2017	635-005-0915	1-1-2017	Amend	1-1-2017
629-635-0110	7-1-2017	Amend	7-1-2017	635-006-0210	1-1-2017	Amend	1-1-2017
629-635-0200	7-1-2017	Amend	7-1-2017	635-006-0210	2-2-2017	Amend(T)	3-1-2017
629-635-0210	7-1-2017	Amend	7-1-2017	635-006-0210	7-30-2017	Amend(T)	9-1-2017
629-635-0310	7-1-2017	Amend	7-1-2017	635-006-0210(T)	2-2-2017	Suspend	3-1-2017
629-640-0000	7-1-2017	Am. & Ren.	7-1-2017	635-006-0212	6-14-2017	Amend(T)	7-1-2017
629-640-0100	7-1-2017	Am. & Ren.	7-1-2017	635-006-0215	6-14-2017	Amend(T)	7-1-2017
629-640-0105	7-1-2017	Am. & Ren.	7-1-2017	635-006-0215	8-11-2017	Amend(T)	9-1-2017
629-640-0110	7-1-2017	Am. & Ren.	7-1-2017	635-006-0215(T)	8-11-2017	Suspend	9-1-2017
629-640-0200	7-1-2017	Am. & Ren.	7-1-2017	635-006-0225	6-14-2017	Amend(T)	7-1-2017
629-640-0210	7-1-2017	Am. & Ren.	7-1-2017	635-006-0232	1-23-2017	Amend	3-1-2017
629-640-0300	7-1-2017	Am. & Ren.	7-1-2017	635-007-0605	7-20-2017	Amend(T)	9-1-2017
629-640-0400	7-1-2017	Am. & Ren.	7-1-2017	635-008-0120	3-2-2017	Amend	4-1-2017
629-640-0500	7-1-2017	Renumber	7-1-2017	635-008-0120	4-24-2017	Amend	6-1-2017
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629-642-0110	7-1-2017	Adopt	7-1-2017	635-008-0153	8-16-2017	Amend(T)	9-1-2017
629-665-0100	9-1-2017	Amend	9-1-2017	635-008-0170	11-17-2016	Amend	1-1-2017
629-665-0120	9-1-2017	Amend	9-1-2017	635-008-0175	11-17-2016	Amend	1-1-2017
629-665-0130	9-1-2017	Adopt	9-1-2017	635-011-0100	1-1-2017	Amend	2-1-2017
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629-665-0210	9-1-2017	Amend	9-1-2017	635-011-0102	4-22-2017	Amend(T)	5-1-2017
629-665-0220	9-1-2017	Repeal	9-1-2017	635-011-0104	4-22-2017	Amend(T)	5-1-2017
629-665-0230	9-1-2017	Repeal	9-1-2017	635-013-0003	4-24-2017	Amend	6-1-2017
629-665-0240	9-1-2017	Repeal	9-1-2017	635-013-0004	1-1-2017	Amend	2-1-2017

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635-014-0080	1-1-2017	Amend	2-1-2017	635-021-0090	8-11-2017	Amend(T)	9-1-2017
635-014-0080	1-1-2018	Amend	9-1-2017	635-021-0090	1-1-2018	Amend	9-1-2017
635-014-0090	1-1-2017	Amend	2-1-2017	635-021-0090(T)	8-11-2017	Suspend	9-1-2017
635-014-0090	1-25-2017	Amend	3-1-2017	635-023-0080	1-1-2017	Amend	2-1-2017
635-014-0090	1-1-2018	Amend	9-1-2017	635-023-0080	1-1-2018	Amend	9-1-2017
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635-016-0080	1-1-2018	Amend	9-1-2017	635-023-0090	1-25-2017	Amend	3-1-2017
635-016-0090	1-1-2017	Amend	2-1-2017	635-023-0090	1-1-2018	Amend	9-1-2017
635-016-0090	5-15-2017	Amend(T)	6-1-2017	635-023-0095	1-1-2017	Amend	2-1-2017
635-016-0090	1-1-2018	Amend	9-1-2017	635-023-0095	3-25-2017	Amend(T)	4-1-2017
635-017-0080	1-1-2017	Amend	2-1-2017	635-023-0095	3-30-2017	Amend(T)	5-1-2017
635-017-0080	4-1-2017	Amend(T)	5-1-2017	635-023-0095	6-5-2017	Amend(T)	7-1-2017
635-017-0080	1-1-2018	Amend	9-1-2017	635-023-0095	6-15-2017	Amend(T)	7-1-2017
635-017-0090	1-1-2017	Amend	2-1-2017	635-023-0095	1-1-2018	Amend	9-1-2017
635-017-0090	1-25-2017	Amend	3-1-2017	635-023-0095(T)	6-15-2017	Suspend	7-1-2017
635-017-0090	4-24-2017	Amend(T)	6-1-2017	635-023-0125	1-1-2017	Amend	2-1-2017
635-017-0090	4-25-2017	Amend(T)	6-1-2017	635-023-0125	3-1-2017	Amend(T)	4-1-2017
635-017-0090	5-1-2017	Amend(T)	6-1-2017	635-023-0125	4-7-2017	Amend(T)	5-1-2017
635-017-0090	5-8-2017	Amend(T)	6-1-2017	635-023-0125	4-13-2017	Amend(T)	5-1-2017
635-017-0090	5-13-2017	Amend(T)	6-1-2017	635-023-0125	5-16-2017	Amend(T)	6-1-2017
635-017-0090	6-1-2017	Amend(T)	7-1-2017	635-023-0125	1-1-2018	Amend	9-1-2017
635-017-0090	6-8-2017	Amend(T)	7-1-2017	635-023-0128	1-1-2017	Amend	2-1-2017
635-017-0090	6-8-2017	Amend(T)	7-1-2017	635-023-0128	6-16-2017	Amend(T)	7-1-2017
635-017-0090	6-27-2017	Amend	8-1-2017	635-023-0128	7-1-2017	Amend	8-1-2017
635-017-0090	1-1-2018	Amend	9-1-2017	635-023-0128	7-7-2017	Amend	8-1-2017
635-017-0090(T)	6-1-2017	Suspend	7-1-2017	635-023-0128	1-1-2018	Amend	9-1-2017
635-017-0090(T)	6-8-2017	Suspend	7-1-2017	635-023-0128(T)	7-1-2017	Suspend	8-1-2017
635-017-0090(T)	6-8-2017	Suspend	7-1-2017	635-023-0128(T)	7-7-2017	Suspend	8-1-2017
635-017-0095	1-1-2017	Amend	2-1-2017	635-023-0130	1-1-2017	Amend	2-1-2017
635-017-0095	1-1-2018	Amend	9-1-2017	635-023-0130	8-1-2017	Amend(T)	9-1-2017
635-018-0080	1-1-2017	Amend	2-1-2017	635-023-0130	1-1-2018	Amend	9-1-2017
635-018-0080	1-1-2018	Amend	9-1-2017	635-023-0134	1-1-2017	Amend	2-1-2017
635-018-0090	1-1-2017	Amend	2-1-2017	635-023-0134	4-22-2017	Amend(T)	6-1-2017
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635-018-0090	4-15-2017	Amend(T)	3-1-2017	635-023-0134	8-24-2017	Amend(T)	10-1-2017
635-018-0090	8-2-2017	Amend(T)	9-1-2017	635-023-0134	1-1-2018	Amend	9-1-2017
635-018-0090	8-7-2017	Amend(T)	9-1-2017	635-023-0134(T)	7-31-2017	Suspend	9-1-2017
635-018-0090	1-1-2018	Amend	9-1-2017	635-023-0134(T)	8-24-2017	Suspend	10-1-2017
635-018-0090(T)	4-15-2017	Suspend	3-1-2017	635-023-0140	1-1-2017	Amend	2-1-2017
635-018-0090(T)	4-17-2017	Suspend	6-1-2017	635-023-0140	1-1-2018	Amend	9-1-2017
635-018-0090(T)	8-7-2017	Suspend	9-1-2017	635-039-0080	1-1-2017	Amend	2-1-2017
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635-019-0080	1-1-2018	Amend	9-1-2017	635-039-0080	1-1-2018	Amend	9-1-2017
635-019-0090	1-1-2017	Amend	2-1-2017	635-039-0085	4-24-2017	Amend	6-1-2017
635-019-0090	7-21-2017	Amend(T)	9-1-2017	635-039-0085	5-25-2017	Amend(T)	7-1-2017
635-019-0090	8-2-2017	Amend(T)	9-1-2017	635-039-0085	6-8-2017	Amend(T)	7-1-2017
635-019-0090	8-14-2017	Amend(T)	9-1-2017	635-039-0085	6-17-2017	Amend(T)	7-1-2017
635-019-0090	8-24-2017	Amend(T)	10-1-2017	635-039-0085	6-23-2017	Amend	8-1-2017
635-019-0090	1-1-2018	Amend	9-1-2017	635-039-0085	7-12-2017	Amend	8-1-2017
635-019-0090(T)	8-14-2017	Suspend	9-1-2017	635-039-0085	7-30-2017	Amend(T)	9-1-2017
635-019-0090(T)	8-24-2017	Suspend	10-1-2017	635-039-0085	8-28-2017	Amend(T)	10-1-2017
635-021-0080	1-1-2017	Amend	2-1-2017	635-039-0085(T)	6-8-2017	Suspend	7-1-2017
635-021-0080	1-1-2018	Amend	9-1-2017	635-039-0085(T)	6-17-2017	Suspend	7-1-2017
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635-039-0085(T)	8-28-2017	Suspend	10-1-2017	635-042-0145(T)	5-29-2017	Suspend	7-1-2017
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635-039-0090	1-1-2017	Amend	2-1-2017	635-042-0160	2-6-2017	Amend(T)	3-1-2017
635-039-0090	4-24-2017	Amend	6-1-2017	635-042-0160	3-20-2017	Amend(T)	5-1-2017
635-039-0090	9-18-2017	Amend(T)	10-1-2017	635-042-0160	3-30-2017	Amend(T)	5-1-2017
635-039-0090	1-1-2018	Amend	9-1-2017	635-042-0160	4-6-2017	Amend(T)	5-1-2017
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635-041-0025	2-21-2017	Amend	3-1-2017	635-042-0160	5-22-2017	Amend(T)	7-1-2017
635-041-0030	2-21-2017	Amend	3-1-2017	635-042-0160	6-15-2017	Amend(T)	7-1-2017
635-041-0045	6-15-2017	Amend(T)	7-1-2017	635-042-0160	7-13-2017	Amend	8-1-2017
635-041-0045	8-1-2017	Amend(T)	9-1-2017	635-042-0160	8-1-2017	Amend(T)	9-1-2017
635-041-0050	2-21-2017	Amend	3-1-2017	635-042-0160(T)	2-6-2017	Suspend	3-1-2017
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635-041-0063	2-21-2017	Amend	3-1-2017	635-042-0170	2-6-2017	Amend(T)	3-1-2017
635-041-0063	8-1-2017	Amend(T)	9-1-2017	635-042-0170	3-20-2017	Amend(T)	5-1-2017
635-041-0065	2-1-2017	Amend(T)	3-1-2017	635-042-0170	3-30-2017	Amend(T)	5-1-2017
635-041-0065	2-7-2017	Amend(T)	3-1-2017	635-042-0170	5-22-2017	Amend(T)	7-1-2017
635-041-0065	2-15-2017	Amend(T)	3-1-2017	635-042-0170	6-15-2017	Amend(T)	7-1-2017
635-041-0065	2-22-2017	Amend(T)	4-1-2017	635-042-0170	7-13-2017	Amend	8-1-2017
635-041-0065	3-1-2017	Amend(T)	4-1-2017	635-042-0170	8-1-2017	Amend(T)	9-1-2017
635-041-0065	3-17-2017	Amend(T)	4-1-2017	635-042-0170(T)	2-6-2017	Suspend	3-1-2017
635-041-0065(T)	2-7-2017	Suspend	3-1-2017	635-042-0170(T)	7-13-2017	Suspend	8-1-2017
635-041-0075	8-1-2017	Amend(T)	9-1-2017	635-042-0180	2-6-2017	Amend(T)	3-1-2017
635-041-0075	8-18-2017	Amend(T)	10-1-2017	635-042-0180	3-30-2017	Amend(T)	5-1-2017
635-041-0075	9-11-2017	Amend(T)	10-1-2017	635-042-0180	5-22-2017	Amend(T)	7-1-2017
635-041-0075	9-18-2017	Amend(T)	10-1-2017	635-042-0180	8-1-2017	Amend(T)	9-1-2017
635-041-0075(T)	8-18-2017	Suspend	10-1-2017	635-042-0180(T)	2-6-2017	Suspend	3-1-2017
635-041-0075(T)	9-11-2017	Suspend	10-1-2017	635-043-0156	8-9-2017	Adopt(T)	9-1-2017
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635-041-0076	7-3-2017	Amend	8-1-2017	635-044-0005	1-24-2017	Repeal	3-1-2017
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635-041-0076(T)	7-3-2017	Suspend	8-1-2017	635-044-0020	1-24-2017	Repeal	3-1-2017
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635-042-0100	6-26-2017	Amend	8-1-2017	635-044-0050	1-24-2017	Repeal	3-1-2017
635-042-0130	2-2-2017	Amend(T)	3-1-2017	635-044-0051	1-24-2017	Repeal	3-1-2017
635-042-0133	7-26-2017	Amend(T)	9-1-2017	635-044-0060	1-24-2017	Repeal	3-1-2017
635-042-0145	2-6-2017	Amend(T)	3-1-2017	635-044-0075	1-24-2017	Repeal	3-1-2017
635-042-0145	3-30-2017	Amend(T)	5-1-2017	635-044-0080	1-24-2017	Repeal	3-1-2017
635-042-0145	4-6-2017	Amend(T)	5-1-2017	635-044-0120	1-24-2017	Repeal	3-1-2017
635-042-0145	4-13-2017	Amend(T)	5-1-2017	635-044-0125	1-24-2017	Repeal	3-1-2017
635-042-0145	4-27-2017	Amend(T)	6-1-2017	635-044-0130	1-24-2017	Repeal	3-1-2017
635-042-0145	5-3-2017	Amend(T)	6-1-2017	635-044-0132	1-24-2017	Repeal	3-1-2017
635-042-0145	5-15-2017	Amend(T)	6-1-2017	635-044-0400	1-24-2017	Adopt	3-1-2017
635-042-0145	5-22-2017	Amend(T)	7-1-2017	635-044-0410	1-24-2017	Adopt	3-1-2017
635-042-0145	5-29-2017	Amend(T)	7-1-2017	635-044-0420	1-24-2017	Adopt	3-1-2017
635-042-0145	6-1-2017	Amend(T)	7-1-2017	635-044-0430	1-24-2017	Adopt	3-1-2017
635-042-0145	6-15-2017	Amend(T)	7-1-2017	635-044-0440	1-24-2017	Adopt	3-1-2017

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635-044-0460	1-24-2017	Adopt	3-1-2017	635-075-0024	4-24-2017	Adopt	6-1-2017
635-044-0470	1-24-2017	Adopt	3-1-2017	635-100-0125	4-25-2017	Amend	6-1-2017
635-044-0475	1-24-2017	Adopt	3-1-2017	635-200-0010	7-14-2017	Amend	8-1-2017
635-044-0480	1-24-2017	Adopt	3-1-2017	635-200-0080	7-14-2017	Amend	8-1-2017
635-044-0490	1-24-2017	Adopt	3-1-2017	635-200-0135	7-14-2017	Adopt	8-1-2017
635-044-0500	1-24-2017	Adopt	3-1-2017	635-200-0140	7-14-2017	Adopt	8-1-2017
635-044-0500	3-9-2017	Amend	4-1-2017	635-500-6705	1-25-2017	Amend	3-1-2017
635-044-0510	1-24-2017	Adopt	3-1-2017	635-500-6705	4-4-2017	Amend	5-1-2017
635-044-0520	1-24-2017	Adopt	3-1-2017	635-500-6715	12-15-2016	Amend	1-1-2017
635-044-0530	1-24-2017	Adopt	3-1-2017	635-500-6715	1-25-2017	Amend	3-1-2017
635-044-0540	1-24-2017	Adopt	3-1-2017	635-500-6715	4-4-2017	Amend	5-1-2017
635-044-0550	1-24-2017	Adopt	3-1-2017	635-500-6720	12-15-2016	Amend	1-1-2017
635-044-0560	1-24-2017	Adopt	3-1-2017	635-500-6720	1-25-2017	Amend	3-1-2017
635-044-0570	1-24-2017	Adopt	3-1-2017	635-500-6720	4-4-2017	Amend	5-1-2017
635-044-0580	1-24-2017	Adopt	3-1-2017	635-500-6725	12-15-2016	Amend	1-1-2017
635-044-0590	1-24-2017	Adopt	3-1-2017	635-500-6725	1-25-2017	Amend	3-1-2017
635-045-0000	4-24-2017	Amend	6-1-2017	635-500-6730	12-15-2016	Amend	1-1-2017
635-045-0002	3-2-2017	Amend	4-1-2017	635-500-6730	1-25-2017	Amend	3-1-2017
635-050-0045	3-9-2017	Amend(T)	4-1-2017	635-500-6730	4-4-2017	Amend	5-1-2017
635-051-0000	4-24-2017	Amend	6-1-2017	635-500-6735	12-15-2016	Amend	1-1-2017
635-052-0000	4-24-2017	Amend	6-1-2017	635-500-6735	1-25-2017	Amend	3-1-2017
635-053-0000	4-24-2017	Amend	6-1-2017	635-500-6735	4-4-2017	Amend	5-1-2017
635-053-0005	8-8-2017	Amend(T)	9-1-2017	635-500-6740	12-15-2016	Amend	1-1-2017
635-054-0000	4-24-2017	Amend	6-1-2017	635-500-6740	1-25-2017	Amend	3-1-2017
635-056-0010	7-14-2017	Amend	8-1-2017	635-500-6745	12-15-2016	Amend	1-1-2017
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635-056-0070	7-14-2017	Amend	8-1-2017	635-500-6750	12-15-2016	Amend	1-1-2017
635-056-0075	7-14-2017	Amend	8-1-2017	635-500-6750	1-25-2017	Amend	3-1-2017
635-056-0076	7-14-2017	Adopt	8-1-2017	647-010-0010	4-25-2017	Amend	6-1-2017
635-056-0140	7-14-2017	Amend	8-1-2017	647-015-0010	4-25-2017	Amend	6-1-2017
635-056-0150	7-14-2017	Amend	8-1-2017	660-023-0030	2-10-2017	Amend	3-1-2017
635-060-0000	3-2-2017	Amend	4-1-2017	660-023-0115	5-25-2017	Amend	7-1-2017
635-060-0000	4-24-2017	Amend	6-1-2017	660-023-0200	2-10-2017	Amend	3-1-2017
635-060-0046	4-24-2017	Amend	6-1-2017	660-025-0030	2-28-2017	Amend	4-1-2017
635-065-0625	3-2-2017	Amend	4-1-2017	660-038-0020	2-28-2017	Amend	4-1-2017
635-065-0625	3-31-2017	Amend(T)	5-1-2017	660-038-0210	2-28-2017	Adopt	4-1-2017
635-065-0760	3-2-2017	Amend	4-1-2017	660-039-0000	2-27-2017	Adopt	4-1-2017
635-066-0000	3-2-2017	Amend	4-1-2017	660-039-0010	2-27-2017	Adopt	4-1-2017
635-066-0000	8-7-2017	Amend(T)	9-1-2017	660-039-0020	2-27-2017	Adopt	4-1-2017
635-066-0010	3-2-2017	Amend	4-1-2017	660-039-0030	2-27-2017	Adopt	4-1-2017
635-066-0010	8-7-2017	Amend(T)	9-1-2017	660-039-0040	2-27-2017	Adopt	4-1-2017
635-066-0020	3-2-2017	Amend	4-1-2017	660-039-0050	2-27-2017	Adopt	4-1-2017
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635-068-0000	3-2-2017	Amend	4-1-2017	660-039-0080	2-27-2017	Adopt	4-1-2017
635-069-0000	3-2-2017	Amend	4-1-2017	660-039-0090	2-27-2017	Adopt	4-1-2017
635-069-0000	5-16-2017	Amend(T)	7-1-2017	660-039-0100	2-27-2017	Adopt	4-1-2017
635-070-0000	3-2-2017	Amend	4-1-2017	660-044-0000	3-1-2017	Amend	4-1-2017
635-071-0000	3-2-2017	Amend	4-1-2017	660-044-0005	3-1-2017	Amend	4-1-2017
635-071-0010	3-31-2017	Amend(T)	5-1-2017	660-044-0010	3-1-2017	Repeal	4-1-2017
635-072-0000	3-2-2017	Amend	4-1-2017	660-044-0020	3-1-2017	Amend	4-1-2017
635-073-0000	5-16-2017	Amend(T)	7-1-2017	660-044-0025	3-1-2017	Amend	4-1-2017
635-075-0020	4-24-2017	Amend	6-1-2017	660-044-0030	3-1-2017	Amend	4-1-2017
635-075-0022	3-21-2017	Amend	5-1-2017	660-044-0035	3-1-2017	Amend	4-1-2017
635-075-0022	4-24-2017	Amend	6-1-2017	660-044-0040	3-1-2017	Amend	4-1-2017

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661-010-0005	1-1-2017	Amend	2-1-2017	715-045-0007	1-1-2017	Amend	2-1-2017
661-010-0015	1-1-2017	Amend	2-1-2017	715-045-0033	1-1-2017	Amend	2-1-2017
661-010-0021	1-1-2017	Amend	2-1-2017	731-001-0025	5-25-2017	Amend(T)	7-1-2017
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661-010-0030	1-1-2017	Amend	2-1-2017	734-010-0285	11-28-2016	Adopt	1-1-2017
661-010-0035	1-1-2017	Amend	2-1-2017	734-010-0290	11-28-2016	Amend	1-1-2017
661-010-0050	1-1-2017	Amend	2-1-2017	734-010-0300	11-28-2016	Amend	1-1-2017
661-010-0068	1-1-2017	Amend	2-1-2017	734-010-0320	11-28-2016	Amend	1-1-2017
661-010-0075	1-1-2017	Amend	2-1-2017	734-010-0330	11-28-2016	Amend	1-1-2017
669-010-0020	8-25-2017	Amend	10-1-2017	734-010-0340	11-28-2016	Amend	1-1-2017
669-010-0025	6-9-2017	Amend	7-1-2017	734-010-0350	11-28-2016	Repeal	1-1-2017
690-210-0320	2-16-2017	Amend	4-1-2017	734-010-0360	11-28-2016	Amend	1-1-2017
690-215-0017	8-25-2017	Amend	10-1-2017	734-010-0380	11-28-2016	Amend	1-1-2017
690-240-0005	2-16-2017	Amend	4-1-2017	734-050-0105	12-16-2016	Am. & Ren.	2-1-2017
690-507-0010	5-22-2017	Amend	7-1-2017	734-059-0015	11-28-2016	Amend	1-1-2017
690-507-0020	5-22-2017	Amend	7-1-2017	734-059-0200	11-28-2016	Amend	1-1-2017
690-507-0030	5-22-2017	Amend	7-1-2017	734-060-0000	11-28-2016	Amend	1-1-2017
690-507-0040	5-22-2017	Amend	7-1-2017	734-060-0010	11-28-2016	Repeal	1-1-2017
690-507-0050	5-22-2017	Amend	7-1-2017	734-060-0175	11-28-2016	Amend	1-1-2017
690-507-0060	5-22-2017	Amend	7-1-2017	734-060-0180	11-28-2016	Adopt	1-1-2017
690-507-0070	5-22-2017	Amend	7-1-2017	734-060-0190	11-28-2016	Amend	1-1-2017
690-507-0080	5-22-2017	Amend	7-1-2017	734-065-0010	11-28-2016	Amend	1-1-2017
690-507-0090	5-22-2017	Amend	7-1-2017	734-065-0015	11-28-2016	Amend	1-1-2017
690-507-0610	5-22-2017	Amend	7-1-2017	734-065-0020	11-28-2016	Amend	1-1-2017
690-507-0620	5-22-2017	Amend	7-1-2017	734-065-0025	11-28-2016	Amend	1-1-2017
690-507-0630	5-22-2017	Amend	7-1-2017	734-065-0035	11-28-2016	Amend	1-1-2017
690-507-0635	5-22-2017	Amend	7-1-2017	734-065-0040	11-28-2016	Amend	1-1-2017
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690-507-0647	5-22-2017	Amend	7-1-2017	734-072-0005	5-23-2017	Amend	7-1-2017
690-507-0650	5-22-2017	Amend	7-1-2017	734-072-0007	5-23-2017	Adopt	7-1-2017
690-507-0660	5-22-2017	Amend	7-1-2017	734-072-0010	5-23-2017	Amend	7-1-2017
690-507-0670	5-22-2017	Amend	7-1-2017	734-072-0011	5-23-2017	Amend	7-1-2017
690-507-0680	5-22-2017	Amend	7-1-2017	734-072-0015	5-23-2017	Amend	7-1-2017
690-507-0690	5-22-2017	Amend	7-1-2017	734-072-0020	5-23-2017	Amend	7-1-2017
690-507-0790	5-22-2017	Amend	7-1-2017	734-072-0022	5-23-2017	Amend	7-1-2017
695-005-0010	5-2-2017	Amend	6-1-2017	734-072-0023	5-23-2017	Amend	7-1-2017
695-005-0030	5-2-2017	Amend	6-1-2017	734-072-0025	5-23-2017	Amend	7-1-2017
695-005-0040	5-2-2017	Amend	6-1-2017	734-072-0030	5-23-2017	Amend	7-1-2017
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695-005-0060	5-2-2017	Amend	6-1-2017	735-010-0020	1-24-2017	Amend	3-1-2017
695-010-0020	5-2-2017	Amend	6-1-2017	735-010-0130	7-24-2017	Amend	9-1-2017
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695-015-0020	7-31-2017	Amend	9-1-2017	735-024-0025	11-22-2016	Amend	1-1-2017
695-015-0030	7-31-2017	Repeal	9-1-2017	735-040-0115	1-24-2017	Amend	3-1-2017
695-015-0040	7-31-2017	Adopt	9-1-2017	735-061-0210	3-20-2017	Amend	5-1-2017
695-015-0050	7-31-2017	Adopt	9-1-2017	735-061-0210(T)	3-20-2017	Repeal	5-1-2017
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695-015-0080	7-31-2017	Adopt	9-1-2017	735-062-0040	4-26-2017	Amend	6-1-2017
695-015-0090	7-31-2017	Adopt	9-1-2017	735-062-0090	3-20-2017	Amend	5-1-2017
695-015-0100	7-31-2017	Adopt	9-1-2017	735-062-0090(T)	3-20-2017	Repeal	5-1-2017
695-015-0110	7-31-2017	Adopt	9-1-2017	735-150-0005	2-22-2017	Amend	4-1-2017
695-015-0120	7-31-2017	Adopt	9-1-2017	735-150-0005	3-7-2017	Amend	4-1-2017
695-015-0130	7-31-2017	Repeal	9-1-2017	735-150-0010	5-25-2017	Amend	7-1-2017

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735-150-0027	5-25-2017	Amend	7-1-2017	801-010-0115	1-4-2017	Amend	2-1-2017
735-150-0030	5-25-2017	Amend	7-1-2017	801-010-0120	1-4-2017	Amend	2-1-2017
735-150-0031	7-24-2017	Adopt	9-1-2017	801-010-0130	1-4-2017	Amend	2-1-2017
735-150-0110	5-25-2017	Amend	7-1-2017	801-010-0340	1-4-2017	Amend	2-1-2017
735-150-0110	7-24-2017	Amend	9-1-2017	801-010-0345	1-4-2017	Amend	2-1-2017
735-150-0120	5-25-2017	Amend	7-1-2017	801-020-0690	1-4-2017	Amend	2-1-2017
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735-150-0140	7-24-2017	Amend	9-1-2017	801-030-0005	1-4-2017	Amend	2-1-2017
735-150-0160	5-25-2017	Amend	7-1-2017	801-030-0020	1-4-2017	Amend	2-1-2017
735-152-0000	5-25-2017	Amend	7-1-2017	801-030-0020	8-8-2017	Amend	9-1-2017
735-152-0005	5-25-2017	Amend	7-1-2017	801-030-0020	9-11-2017	Amend	10-1-2017
735-152-0031	5-25-2017	Amend	7-1-2017	801-040-0020	1-4-2017	Amend	2-1-2017
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736-040-0100	2-2-2017	Adopt	3-1-2017	801-040-0050	1-4-2017	Amend	2-1-2017
736-040-0110	2-2-2017	Adopt	3-1-2017	801-040-0090	1-4-2017	Repeal	2-1-2017
738-080-0030	4-28-2017	Amend	6-1-2017	801-050-0020	1-4-2017	Amend	2-1-2017
738-080-0045	7-12-2017	Amend	8-1-2017	801-050-0040	1-4-2017	Amend	2-1-2017
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738-125-0020	3-8-2017	Amend(T)	4-1-2017	804-035-0000	2-10-2017	Adopt	3-1-2017
738-125-0020	7-12-2017	Amend	8-1-2017	804-035-0010	2-10-2017	Amend	3-1-2017
738-125-0020(T)	7-12-2017	Repeal	8-1-2017	804-035-0020	2-10-2017	Amend	3-1-2017
740-100-0010	7-25-2017	Amend	9-1-2017	804-035-0030	2-10-2017	Amend	3-1-2017
740-100-0065	7-25-2017	Amend	9-1-2017	804-035-0035	2-10-2017	Amend	3-1-2017
740-100-0070	7-25-2017	Amend	9-1-2017	804-035-0040	2-10-2017	Amend	3-1-2017
740-100-0080	7-25-2017	Amend	9-1-2017	804-040-0000	2-10-2017	Amend	3-1-2017
740-100-0085	7-25-2017	Amend	9-1-2017	804-040-0000	7-1-2017	Amend	7-1-2017
740-100-0090	7-25-2017	Amend	9-1-2017	804-050-0005	2-10-2017	Amend	3-1-2017
740-110-0010	7-25-2017	Amend	9-1-2017	804-050-0010	2-10-2017	Amend	3-1-2017
740-200-0010	2-22-2017	Amend	4-1-2017	804-050-0015	2-10-2017	Amend	3-1-2017
740-200-0010	3-7-2017	Amend	4-1-2017	806-001-0003	5-15-2017	Amend	6-1-2017
740-200-0020	2-22-2017	Amend	4-1-2017	806-001-0003	6-8-2017	Amend	7-1-2017
740-200-0020	3-7-2017	Amend	4-1-2017	808-001-0008	7-1-2017	Amend	7-1-2017
740-200-0040	2-22-2017	Amend	4-1-2017	808-001-0020	8-1-2017	Amend	9-1-2017
740-200-0040	3-7-2017	Amend	4-1-2017	808-002-0480	8-1-2017	Amend	9-1-2017
740-200-0045	5-23-2017	Amend	7-1-2017	808-002-0685	8-1-2017	Adopt	9-1-2017
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800-010-0035	1-27-2017	Amend	3-1-2017	808-003-0700(T)	12-19-2016	Repeal	2-1-2017
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800-020-0015	1-27-2017	Amend	3-1-2017	809-010-0025	7-1-2017	Amend	7-1-2017
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800-020-0022	1-27-2017	Amend	3-1-2017	811-010-0015	1-6-2017	Amend	2-1-2017
800-025-0060	1-27-2017	Amend	3-1-2017	811-010-0025	1-6-2017	Amend	2-1-2017
801-001-0005	1-4-2017	Amend	2-1-2017	811-010-0040	1-6-2017	Amend	2-1-2017
801-001-0035	1-4-2017	Amend	2-1-2017	811-010-0066	1-6-2017	Amend	2-1-2017
801-001-0040	8-8-2017	Amend	9-1-2017	811-010-0071	1-6-2017	Amend	2-1-2017
801-005-0010	1-4-2017	Amend	2-1-2017	811-010-0084	1-6-2017	Amend	2-1-2017
801-010-0060	1-4-2017	Amend	2-1-2017	811-010-0084	1-1-2018	Amend	6-1-2017
801-010-0065	1-4-2017	Amend	2-1-2017	811-010-0086	1-1-2018	Amend	6-1-2017

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811-010-0093	1-6-2017	Amend	2-1-2017	812-007-0330	9-1-2017	Amend	10-1-2017
811-010-0095	1-6-2017	Amend	2-1-2017	812-007-0340	9-1-2017	Repeal	10-1-2017
811-010-0110	1-1-2018	Amend	6-1-2017	812-007-0350	9-1-2017	Amend	10-1-2017
811-035-0001	4-21-2017	Amend	6-1-2017	812-007-0370	9-1-2017	Repeal	10-1-2017
812-003-0131	1-1-2017	Amend	2-1-2017	812-007-0372	9-1-2017	Repeal	10-1-2017
812-003-0131	7-1-2017	Amend	8-1-2017	812-007-0374	9-1-2017	Repeal	10-1-2017
812-003-0142	7-1-2017	Amend	8-1-2017	812-020-0071	7-1-2017	Amend	8-1-2017
812-003-0171	1-1-2017	Amend	2-1-2017	812-020-0083	7-1-2017	Adopt	8-1-2017
812-003-0171	7-1-2017	Amend	8-1-2017	812-020-0085	7-1-2017	Amend	8-1-2017
812-003-0221	1-1-2017	Amend	2-1-2017	812-022-0000	7-1-2017	Amend	8-1-2017
812-003-0221	7-1-2017	Amend	8-1-2017	812-022-0016	7-1-2017	Repeal	8-1-2017
812-004-0001	7-1-2017	Repeal	8-1-2017	812-022-0021	7-1-2017	Amend	8-1-2017
812-004-0110	7-1-2017	Repeal	8-1-2017	812-022-0025	7-1-2017	Amend	8-1-2017
812-004-0120	7-1-2017	Repeal	8-1-2017	812-022-0026	7-1-2017	Repeal	8-1-2017
812-004-0140	7-1-2017	Repeal	8-1-2017	812-022-0027	7-1-2017	Repeal	8-1-2017
812-004-0160	7-1-2017	Repeal	8-1-2017	812-022-0028	7-1-2017	Amend	8-1-2017
812-004-0180	7-1-2017	Repeal	8-1-2017	812-022-0029	7-1-2017	Repeal	8-1-2017
812-004-0195	7-1-2017	Repeal	8-1-2017	812-022-0040	7-1-2017	Amend	8-1-2017
812-004-0210	7-1-2017	Repeal	8-1-2017	813-005-0005	12-14-2016	Amend	1-1-2017
812-004-0240	7-1-2017	Repeal	8-1-2017	813-005-0005(T)	12-14-2016	Repeal	1-1-2017
812-004-0250	7-1-2017	Repeal	8-1-2017	813-005-0025	12-14-2016	Adopt	1-1-2017
812-004-0260	7-1-2017	Repeal	8-1-2017	813-005-0025(T)	12-14-2016	Repeal	1-1-2017
812-004-0300	7-1-2017	Repeal	8-1-2017	813-006-0005	12-19-2016	Amend	2-1-2017
812-004-0320	7-1-2017	Repeal	8-1-2017	813-006-0005(T)	12-19-2016	Repeal	2-1-2017
812-004-0340	7-1-2017	Repeal	8-1-2017	813-006-0010	12-19-2016	Amend	2-1-2017
812-004-0350	7-1-2017	Repeal	8-1-2017	813-006-0010(T)	12-19-2016	Repeal	2-1-2017
812-004-0360	7-1-2017	Repeal	8-1-2017	813-046-0011	4-19-2017	Amend	6-1-2017
812-004-0400	7-1-2017	Repeal	8-1-2017	813-046-0011(T)	4-19-2017	Repeal	6-1-2017
812-004-0420	7-1-2017	Repeal	8-1-2017	813-053-0000	6-20-2017	Adopt(T)	8-1-2017
812-004-0440	7-1-2017	Repeal	8-1-2017	813-053-0010	6-20-2017	Adopt(T)	8-1-2017
812-004-0450	7-1-2017	Repeal	8-1-2017	813-053-0020	6-20-2017	Adopt(T)	8-1-2017
812-004-0460	7-1-2017	Repeal	8-1-2017	813-053-0030	6-20-2017	Adopt(T)	8-1-2017
812-004-0470	7-1-2017	Repeal	8-1-2017	813-053-0040	6-20-2017	Adopt(T)	8-1-2017
812-004-0480	7-1-2017	Repeal	8-1-2017	813-053-0050	6-20-2017	Adopt(T)	8-1-2017
812-004-0500	7-1-2017	Repeal	8-1-2017	813-053-0060	6-20-2017	Adopt(T)	8-1-2017
812-004-0510	7-1-2017	Repeal	8-1-2017	813-053-0070	6-20-2017	Adopt(T)	8-1-2017
812-004-0520	7-1-2017	Repeal	8-1-2017	813-053-0080	6-20-2017	Adopt(T)	8-1-2017
812-004-0530	7-1-2017	Repeal	8-1-2017	813-053-0090	6-20-2017	Adopt(T)	8-1-2017
812-004-0535	7-1-2017	Repeal	8-1-2017	813-055-0001	7-20-2017	Amend(T)	9-1-2017
812-004-0537	7-1-2017	Repeal	8-1-2017	813-055-0040	7-20-2017	Amend(T)	9-1-2017
812-004-0540	7-1-2017	Repeal	8-1-2017	813-135-0010	3-9-2017	Adopt	4-1-2017
812-004-0550	7-1-2017	Repeal	8-1-2017	813-135-0010(T)	3-9-2017	Repeal	4-1-2017
812-004-0560	7-1-2017	Repeal	8-1-2017	813-135-0020	3-9-2017	Adopt	4-1-2017
812-004-0590	7-1-2017	Repeal	8-1-2017	813-135-0020(T)	3-9-2017	Repeal	4-1-2017
812-004-0600	7-1-2017	Repeal	8-1-2017	813-135-0030	3-9-2017	Adopt	4-1-2017
812-004-1001	7-1-2017	Amend	8-1-2017	813-135-0030(T)	3-9-2017	Repeal	4-1-2017
812-005-0800	9-1-2017	Amend	10-1-2017	813-135-0040	3-9-2017	Adopt	4-1-2017
812-007-0000	9-1-2017	Amend	10-1-2017	813-135-0040	7-13-2017	Amend	8-1-2017
812-007-0015	9-1-2017	Adopt	10-1-2017	813-135-0040(T)	3-9-2017	Repeal	4-1-2017
812-007-0020	9-1-2017	Amend	10-1-2017	813-135-0050	3-9-2017	Adopt	4-1-2017
812-007-0140	9-1-2017	Repeal	10-1-2017	813-135-0050(T)	3-9-2017	Repeal	4-1-2017
812-007-0150	9-1-2017	Amend	10-1-2017	813-135-0060	3-9-2017	Adopt	4-1-2017
812-007-0240	9-1-2017	Repeal	10-1-2017	813-135-0060(T)	3-9-2017	Repeal	4-1-2017
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813-330-0040	8-14-2017	Amend(T)	9-1-2017	830-040-0090	8-1-2017	Amend	8-1-2017
813-360-0030	7-24-2017	Amend(T)	9-1-2017	833-020-0011	8-15-2017	Amend	9-1-2017
813-360-0060	7-24-2017	Suspend	9-1-2017	833-020-0081	6-10-2017	Amend	7-1-2017
818-021-0011	3-1-2017	Amend	3-1-2017	833-020-0081	8-15-2017	Amend	9-1-2017
818-021-0025	3-1-2017	Amend	3-1-2017	833-030-0021	6-10-2017	Amend	7-1-2017
819-005-0005	1-3-2017	Adopt	2-1-2017	833-040-0021	6-10-2017	Amend	7-1-2017
819-020-0015	1-3-2017	Adopt	2-1-2017	833-040-0041	12-12-2016	Amend(T)	1-1-2017
819-020-0020	1-3-2017	Adopt	2-1-2017	833-040-0041	6-12-2017	Amend	7-1-2017
819-020-0035	1-3-2017	Adopt	2-1-2017	833-040-0041(T)	6-12-2017	Repeal	7-1-2017
819-020-0045	1-3-2017	Adopt	2-1-2017	833-050-0031	1-1-2018	Amend	7-1-2017
819-020-0055	1-3-2017	Adopt	2-1-2017	833-050-0041	1-1-2018	Amend	7-1-2017
819-020-0065	1-3-2017	Adopt	2-1-2017	833-050-0091	1-1-2018	Amend	7-1-2017
819-020-0075	1-3-2017	Adopt	2-1-2017	833-070-0011	7-1-2017	Amend(T)	7-1-2017
819-020-0085	1-3-2017	Adopt	2-1-2017	833-070-0011	8-15-2017	Amend	9-1-2017
819-020-0090	1-3-2017	Adopt	2-1-2017	833-070-0011(T)	8-15-2017	Repeal	9-1-2017
819-030-0000	1-3-2017	Adopt	2-1-2017	833-075-0050	1-1-2018	Amend	7-1-2017
819-040-0005	1-3-2017	Adopt	2-1-2017	833-075-0070	1-1-2018	Amend	7-1-2017
820-001-0025	5-12-2017	Amend	6-1-2017	833-100-0011	1-1-2018	Amend	7-1-2017
820-010-0505	7-12-2017	Amend	8-1-2017	833-100-0012	1-1-2018	Adopt	7-1-2017
820-010-0505	9-15-2017	Amend	10-1-2017	833-100-0021	1-1-2018	Amend	7-1-2017
820-010-0510	7-12-2017	Amend	8-1-2017	833-100-0031	1-1-2018	Repeal	7-1-2017
820-010-0520	12-29-2016	Amend	2-1-2017	833-100-0041	1-1-2018	Repeal	7-1-2017
820-010-0520	7-12-2017	Amend	8-1-2017	833-100-0051	1-1-2018	Repeal	7-1-2017
820-010-0720	12-29-2016	Amend	2-1-2017	833-100-0061	1-1-2018	Repeal	7-1-2017
820-010-1000	5-12-2017	Amend	6-1-2017	833-100-0071	1-1-2018	Repeal	7-1-2017
820-010-1010	5-12-2017	Amend	6-1-2017	833-110-0031	8-15-2017	Adopt	9-1-2017
820-010-1020	7-12-2017	Amend	8-1-2017	834-030-0010	1-17-2017	Amend(T)	3-1-2017
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820-010-2020	7-12-2017	Amend	8-1-2017	834-050-0000	1-9-2017	Amend	2-1-2017
820-010-3000	5-12-2017	Amend	6-1-2017	834-050-0010	1-9-2017	Amend	2-1-2017
820-010-3010	7-12-2017	Amend	8-1-2017	836-005-0405	1-10-2017	Adopt	2-1-2017
820-010-4000	7-1-2017	Amend	7-1-2017	836-010-0011	9-11-2017	Amend	10-1-2017
820-010-5000	7-12-2017	Amend	8-1-2017	836-010-0135	1-9-2017	Amend	2-1-2017
820-020-0035	5-12-2017	Amend	6-1-2017	836-010-0140	1-9-2017	Amend	2-1-2017
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820-025-0005	7-12-2017	Amend	8-1-2017	836-011-0000	4-20-2017	Amend	6-1-2017
820-040-0005	6-13-2017	Amend(T)	7-1-2017	836-011-0000	4-27-2017	Amend	6-1-2017
820-040-0030	5-12-2017	Amend	6-1-2017	836-011-0000(T)	4-20-2017	Repeal	6-1-2017
820-080-0010	7-12-2017	Amend	8-1-2017	836-011-0000(T)	4-27-2017	Repeal	6-1-2017
820-080-0010	9-15-2017	Amend	10-1-2017	836-011-0030	12-21-2016	Adopt	2-1-2017
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824-030-0010	1-1-2017	Amend	1-1-2017	836-053-0011	7-26-2017	Adopt	9-1-2017
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824-030-0040	7-28-2017	Amend	9-1-2017	836-053-0015	3-9-2017	Amend	4-1-2017
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824-036-0001	1-1-2017	Adopt	1-1-2017	837-039-0010	7-1-2017	Am. & Ren.	8-1-2017
824-040-0010	1-1-2017	Amend	1-1-2017	837-039-0015	7-1-2017	Am. & Ren.	8-1-2017
824-050-0010	1-1-2017	Amend	1-1-2017	837-039-0035	7-1-2017	Adopt	8-1-2017
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824-070-0005	1-1-2017	Adopt	1-1-2017	837-039-0055	7-1-2017	Am. & Ren.	8-1-2017
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837-120-0520	2-1-2017	Adopt	3-1-2017	845-025-2910	12-27-2016	Adopt	2-1-2017
837-120-0530	2-1-2017	Adopt	3-1-2017	845-025-3215	12-27-2016	Amend	2-1-2017
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839-025-0700	4-1-2017	Amend	4-1-2017	845-025-3255	1-1-2017	Adopt(T)	2-1-2017
839-025-0700	7-1-2017	Amend	7-1-2017	845-025-3255	6-30-2017	Adopt	8-1-2017
845-005-0306	5-1-2017	Amend	6-1-2017	845-025-3260	12-27-2016	Amend	2-1-2017
845-005-0412	1-1-2017	Adopt	1-1-2017	845-025-3300	12-27-2016	Adopt	2-1-2017
845-006-0443	7-1-2017	Amend	8-1-2017	845-025-3310	12-27-2016	Adopt	2-1-2017
845-006-0500	12-1-2016	Amend	1-1-2017	845-025-3500	12-27-2016	Amend	2-1-2017
845-007-0020	7-1-2017	Amend	8-1-2017	845-025-3510	12-27-2016	Adopt	2-1-2017
845-013-0100	3-1-2017	Amend	4-1-2017	845-025-3600	12-27-2016	Adopt	2-1-2017
845-015-0142	3-1-2017	Adopt	4-1-2017	845-025-5000	12-27-2016	Amend	2-1-2017
845-025-1015	12-27-2016	Amend	2-1-2017	845-025-5300	12-27-2016	Amend	2-1-2017
845-025-1030	12-27-2016	Amend	2-1-2017	845-025-5350	12-27-2016	Amend	2-1-2017
845-025-1045	12-27-2016	Amend	2-1-2017	845-025-5500	12-27-2016	Amend	2-1-2017
845-025-1060	12-27-2016	Amend	2-1-2017	845-025-5540	12-27-2016	Amend	2-1-2017
845-025-1060	5-1-2017	Amend	6-1-2017	845-025-5700	12-27-2016	Amend	2-1-2017
845-025-1060	8-1-2017	Amend(T)	9-1-2017	845-025-5700	3-3-2017	Amend(T)	4-1-2017
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845-025-1115	12-27-2016	Amend	2-1-2017	845-025-7020	12-27-2016	Amend	2-1-2017
845-025-1160	12-27-2016	Amend	2-1-2017	845-025-7030	12-27-2016	Amend	2-1-2017
845-025-1175	12-27-2016	Amend	2-1-2017	845-025-7060	12-27-2016	Amend	2-1-2017
845-025-1230	12-27-2016	Amend	2-1-2017	845-025-7520	12-27-2016	Amend	2-1-2017
845-025-1335	7-1-2017	Adopt(T)	8-1-2017	845-025-7580	12-27-2016	Amend	2-1-2017
845-025-1360	12-27-2016	Amend	2-1-2017	845-025-7700	12-27-2016	Amend	2-1-2017
845-025-1410	12-27-2016	Amend	2-1-2017	845-025-7750	12-27-2016	Amend	2-1-2017
845-025-1420	12-27-2016	Amend	2-1-2017	845-025-8040	12-27-2016	Amend	2-1-2017
845-025-1440	12-27-2016	Amend	2-1-2017	845-025-8060	12-27-2016	Amend	2-1-2017
845-025-1450	12-27-2016	Amend	2-1-2017	845-025-8520	12-27-2016	Amend	2-1-2017
845-025-1470	12-27-2016	Amend	2-1-2017	845-025-8560	12-27-2016	Amend	2-1-2017
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845-025-2070	1-1-2017	Amend(T)	2-1-2017	847-035-0030	1-6-2017	Amend	2-1-2017
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845-025-2520	5-1-2017	Adopt	6-1-2017	851-001-0005	8-1-2017	Amend	8-1-2017
845-025-2520	8-1-2017	Suspend	9-1-2017	851-001-0010	8-1-2017	Amend	8-1-2017
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845-025-2530	8-1-2017	Suspend	9-1-2017	851-001-0020	8-1-2017	Amend	8-1-2017
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845-025-2540	8-1-2017	Suspend	9-1-2017	851-001-0100	8-1-2017	Amend	8-1-2017
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851-010-0015	1-1-2017	Amend	1-1-2017	855-041-1045	2-23-2017	Amend	4-1-2017
851-010-0020	1-1-2017	Repeal	1-1-2017	855-041-1046	2-23-2017	Adopt	4-1-2017
851-010-0024	1-1-2017	Amend	1-1-2017	855-041-1120	7-1-2017	Amend	8-1-2017
851-010-0035	1-1-2017	Amend	1-1-2017	855-041-2340	12-14-2016	Adopt	1-1-2017
851-045-0030	8-1-2017	Amend	8-1-2017	855-041-2340(T)	12-14-2016	Repeal	1-1-2017
851-045-0035	8-1-2017	Adopt	8-1-2017	855-041-4100	2-23-2017	Amend	4-1-2017
851-045-0040	8-1-2017	Amend	8-1-2017	855-041-4120	2-23-2017	Amend	4-1-2017
851-045-0050	8-1-2017	Amend	8-1-2017	855-041-5005	2-23-2017	Amend	4-1-2017
851-045-0060	8-1-2017	Amend	8-1-2017	855-044-0001	2-23-2017	Amend	4-1-2017
851-045-0070	8-1-2017	Amend	8-1-2017	855-044-0030	2-23-2017	Amend	4-1-2017
851-045-0080	8-1-2017	Repeal	8-1-2017	855-065-0010	7-1-2017	Amend	8-1-2017
851-045-0090	8-1-2017	Amend	8-1-2017	855-080-0021	12-14-2016	Amend	1-1-2017
851-045-0100	8-1-2017	Amend	8-1-2017	855-080-0105	2-23-2017	Amend	4-1-2017
851-050-0001	3-1-2017	Amend	4-1-2017	856-010-0014	5-2-2017	Amend(T)	6-1-2017
851-050-0004	4-15-2017	Amend(T)	5-1-2017	856-010-0015	4-7-2017	Amend	5-1-2017
851-050-0004	10-1-2017	Amend	10-1-2017	856-010-0016	7-1-2017	Amend	8-1-2017
851-052-0000	3-1-2017	Amend	4-1-2017	856-030-0040	11-22-2016	Amend	1-1-2017
851-052-0010	3-1-2017	Amend	4-1-2017	858-010-0034	2-16-2017	Amend	4-1-2017
851-052-0020	3-1-2017	Amend	4-1-2017	858-010-0075	5-24-2017	Amend	7-1-2017
851-052-0030	3-1-2017	Amend	4-1-2017	858-020-0055	3-20-2017	Amend	5-1-2017
851-052-0040	3-1-2017	Amend	4-1-2017	859-010-0005	11-18-2016	Amend	1-1-2017
851-052-0050	3-1-2017	Adopt	4-1-2017	859-020-0020	7-2-2017	Repeal	8-1-2017
851-052-0060	3-1-2017	Adopt	4-1-2017	859-510-0005	12-13-2016	Amend	1-1-2017
851-052-0100	3-1-2017	Amend	4-1-2017	860-021-0407	5-30-2017	Adopt	7-1-2017
851-056-0026	4-15-2017	Amend(T)	5-1-2017	860-024-0010	2-21-2017	Amend	4-1-2017
851-056-0026	10-1-2017	Amend	10-1-2017	860-032-0060	2-7-2017	Amend	3-1-2017
851-061-0030	8-1-2017	Amend	8-1-2017	860-032-0610	11-22-2016	Am. & Ren.	1-1-2017
851-063-0080	8-1-2017	Repeal	8-1-2017	860-032-0620	11-22-2016	Am. & Ren.	1-1-2017
851-063-0110	8-1-2017	Repeal	8-1-2017	860-032-0630	11-22-2016	Am. & Ren.	1-1-2017
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852-005-0005	7-1-2017	Amend	4-1-2017	860-032-0650	11-22-2016	Renumber	1-1-2017
852-010-0080	2-14-2017	Amend	3-1-2017	860-032-0660	11-22-2016	Renumber	1-1-2017
852-010-0080	3-14-2017	Amend	4-1-2017	860-032-0670	11-22-2016	Renumber	1-1-2017
852-010-0080	4-26-2017	Amend(T)	6-1-2017	860-033-0005	12-2-2016	Amend(T)	1-1-2017
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852-020-0045	3-14-2017	Amend	4-1-2017	860-033-0030	12-2-2016	Amend(T)	1-1-2017
852-050-0001	2-14-2017	Amend	3-1-2017	860-033-0030	5-31-2017	Amend	7-1-2017
852-050-0001	3-14-2017	Amend	4-1-2017	860-033-0046	12-2-2016	Amend(T)	1-1-2017
852-050-0025	2-14-2017	Amend	3-1-2017	860-033-0046	5-31-2017	Amend	7-1-2017
852-050-0025	3-14-2017	Amend	4-1-2017	860-033-0050	12-2-2016	Amend(T)	1-1-2017
852-060-0025	2-14-2017	Amend	3-1-2017	860-033-0050	5-31-2017	Amend	7-1-2017
852-060-0025	3-14-2017	Amend	4-1-2017	860-033-0110	5-31-2017	Amend	7-1-2017
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855-007-0060	2-23-2017	Amend	4-1-2017	860-036-0005	1-24-2017	Repeal	3-1-2017
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855-019-0450	12-14-2016	Adopt	1-1-2017	860-036-0020	1-24-2017	Repeal	3-1-2017
855-019-0450(T)	12-14-2016	Repeal	1-1-2017	860-036-0025	1-24-2017	Repeal	3-1-2017
855-019-0455	12-14-2016	Adopt	1-1-2017	860-036-0030	1-24-2017	Repeal	3-1-2017
855-019-0455(T)	12-14-2016	Repeal	1-1-2017	860-036-0035	1-24-2017	Repeal	3-1-2017
855-019-0460	12-14-2016	Adopt	1-1-2017	860-036-0040	1-24-2017	Repeal	3-1-2017
855-019-0460(T)	12-14-2016	Repeal	1-1-2017	860-036-0045	1-24-2017	Repeal	3-1-2017
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860-036-1420	1-24-2017	Adopt	3-1-2017	860-036-2310	1-24-2017	Adopt	3-1-2017
860-036-1430	1-24-2017	Adopt	3-1-2017	860-036-2350	1-24-2017	Adopt	3-1-2017
860-036-1440	1-24-2017	Adopt	3-1-2017	860-036-2360	1-24-2017	Adopt	3-1-2017
860-036-1450	1-24-2017	Adopt	3-1-2017	860-036-2370	1-24-2017	Adopt	3-1-2017
860-036-1500	1-24-2017	Adopt	3-1-2017	860-036-2380	1-24-2017	Adopt	3-1-2017
860-036-1510	1-24-2017	Adopt	3-1-2017	860-036-2390	1-24-2017	Adopt	3-1-2017
860-036-1520	1-24-2017	Adopt	3-1-2017	860-036-2400	1-24-2017	Adopt	3-1-2017
860-036-1530	1-24-2017	Adopt	3-1-2017	860-036-2410	1-24-2017	Adopt	3-1-2017
860-036-1540	1-24-2017	Adopt	3-1-2017	860-087-0001	11-22-2016	Adopt	1-1-2017
860-036-1550	1-24-2017	Adopt	3-1-2017	860-087-0010	11-22-2016	Adopt	1-1-2017
860-036-1560	1-24-2017	Adopt	3-1-2017	860-087-0030	11-22-2016	Adopt	1-1-2017
860-036-1570	1-24-2017	Adopt	3-1-2017	860-087-0040	11-22-2016	Adopt	1-1-2017
860-036-1580	1-24-2017	Adopt	3-1-2017	860-088-0005	6-30-2017	Adopt	8-1-2017
860-036-1590	1-24-2017	Adopt	3-1-2017	860-088-0010	6-30-2017	Adopt	8-1-2017
860-036-1600	1-24-2017	Adopt	3-1-2017	860-088-0020	6-30-2017	Adopt	8-1-2017
860-036-1610	1-24-2017	Adopt	3-1-2017	860-088-0030	6-30-2017	Adopt	8-1-2017
860-036-1620	1-24-2017	Adopt	3-1-2017	860-088-0040	6-30-2017	Adopt	8-1-2017
860-036-1630	1-24-2017	Adopt	3-1-2017	860-088-0050	6-30-2017	Adopt	8-1-2017
860-036-1640	1-24-2017	Adopt	3-1-2017	860-088-0060	6-30-2017	Adopt	8-1-2017
860-036-1650	1-24-2017	Adopt	3-1-2017	860-088-0070	6-30-2017	Adopt	8-1-2017
860-036-1660	1-24-2017	Adopt	3-1-2017	860-088-0080	6-30-2017	Adopt	8-1-2017
860-036-1670	1-24-2017	Adopt	3-1-2017	860-088-0090	6-30-2017	Adopt	8-1-2017
860-036-1680	1-24-2017	Adopt	3-1-2017	860-088-0100	6-30-2017	Adopt	8-1-2017
860-036-1690	1-24-2017	Adopt	3-1-2017	860-088-0110	6-30-2017	Adopt	8-1-2017
860-036-1700	1-24-2017	Adopt	3-1-2017	860-088-0120	6-30-2017	Adopt	8-1-2017
860-036-1710	1-24-2017	Adopt	3-1-2017	860-088-0130	6-30-2017	Adopt	8-1-2017
860-036-1720	1-24-2017	Adopt	3-1-2017	860-088-0140	6-30-2017	Adopt	8-1-2017
860-036-1800	1-24-2017	Adopt	3-1-2017	860-088-0150	6-30-2017	Adopt	8-1-2017
860-036-1810	1-24-2017	Adopt	3-1-2017	860-088-0160	6-30-2017	Adopt	8-1-2017
860-036-1820	1-24-2017	Adopt	3-1-2017	860-088-0170	6-30-2017	Adopt	8-1-2017
860-036-1830	1-24-2017	Adopt	3-1-2017	860-088-0180	6-30-2017	Adopt	8-1-2017
860-036-1840	1-24-2017	Adopt	3-1-2017	860-088-0190	6-30-2017	Adopt	8-1-2017
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860-036-1900	1-24-2017	Adopt	3-1-2017	860-100-0005	11-22-2016	Adopt	1-1-2017
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860-036-1920	1-24-2017	Adopt	3-1-2017	875-010-0031	5-16-2017	Amend	7-1-2017
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860-036-1950	1-24-2017	Adopt	3-1-2017	875-010-0045	12-14-2016	Amend(T)	1-1-2017
860-036-2000	1-24-2017	Adopt	3-1-2017	875-010-0045	1-12-2017	Amend	2-1-2017
860-036-2010	1-24-2017	Adopt	3-1-2017	875-010-0045	5-16-2017	Amend	7-1-2017
860-036-2020	1-24-2017	Adopt	3-1-2017	875-010-0090	12-12-2016	Amend	1-1-2017
860-036-2030	1-24-2017	Adopt	3-1-2017	875-010-0090	1-12-2017	Amend	2-1-2017
860-036-2100	1-24-2017	Adopt	3-1-2017	875-015-0030	12-12-2016	Amend(T)	1-1-2017
860-036-2110	1-24-2017	Adopt	3-1-2017	875-015-0030	5-16-2017	Amend	7-1-2017
860-036-2120	1-24-2017	Adopt	3-1-2017	875-030-0010	12-13-2016	Amend	1-1-2017
860-036-2130	1-24-2017	Adopt	3-1-2017	875-030-0010	1-12-2017	Amend	2-1-2017
860-036-2140	1-24-2017	Adopt	3-1-2017	875-030-0050	12-13-2016	Amend	1-1-2017
860-036-2150	1-24-2017	Adopt	3-1-2017	875-030-0050	1-12-2017	Amend	2-1-2017
860-036-2160	1-24-2017	Adopt	3-1-2017	877-001-0009	1-23-2017	Amend	3-1-2017
860-036-2170	1-24-2017	Adopt	3-1-2017	877-001-0030	7-25-2017	Adopt	9-1-2017
860-036-2200	1-24-2017	Adopt	3-1-2017	877-015-0108	1-23-2017	Amend	3-1-2017
860-036-2210	1-24-2017	Adopt	3-1-2017	877-020-0009	1-23-2017	Amend	3-1-2017
860-036-2220	1-24-2017	Adopt	3-1-2017	877-020-0010	1-23-2017	Amend	3-1-2017

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918-001-0014	4-1-2017	Adopt	5-1-2017	918-525-0055	1-19-2017	Suspend	3-1-2017
918-001-0016	4-1-2017	Adopt	5-1-2017	918-525-0055	7-1-2017	Repeal	8-1-2017
918-001-0034	4-1-2017	Amend	5-1-2017	918-525-0055(T)	7-1-2017	Repeal	8-1-2017
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918-020-0380	7-1-2017	Adopt	8-1-2017	918-525-0060(T)	7-1-2017	Repeal	8-1-2017
918-098-1305	1-19-2017	Amend(T)	3-1-2017	918-525-0065	1-19-2017	Amend(T)	3-1-2017
918-098-1305	7-1-2017	Amend	8-1-2017	918-525-0065	7-1-2017	Amend	8-1-2017
918-098-1325	1-19-2017	Amend(T)	3-1-2017	918-525-0065(T)	7-1-2017	Repeal	8-1-2017
918-098-1325	7-1-2017	Amend	8-1-2017	918-525-0070	1-19-2017	Amend(T)	3-1-2017
918-098-1325(T)	7-1-2017	Repeal	8-1-2017	918-525-0070	7-1-2017	Am. & Ren.	8-1-2017
918-098-1505(T)	7-1-2017	Repeal	8-1-2017	918-525-0070(T)	7-1-2017	Repeal	8-1-2017
918-282-0465	2-1-2017	Adopt(T)	3-1-2017	918-525-0080	1-19-2017	Amend(T)	3-1-2017
918-282-0470	2-1-2017	Adopt(T)	3-1-2017	918-525-0080	7-1-2017	Am. & Ren.	8-1-2017
918-282-0475	2-1-2017	Adopt(T)	3-1-2017	918-525-0080(T)	7-1-2017	Repeal	8-1-2017
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918-305-0030	10-1-2017	Amend	10-1-2017	918-525-0090	7-1-2017	Amend	8-1-2017
918-305-0100	10-1-2017	Amend	10-1-2017	918-525-0090(T)	7-1-2017	Repeal	8-1-2017
918-305-0105	10-1-2017	Amend	10-1-2017	918-525-0100	1-19-2017	Amend(T)	3-1-2017
918-306-0005	10-1-2017	Amend	10-1-2017	918-525-0100	7-1-2017	Amend	8-1-2017
918-306-0010	10-1-2017	Amend	10-1-2017	918-525-0100(T)	7-1-2017	Repeal	8-1-2017
918-308-0000	1-1-2017	Amend	2-1-2017	918-525-0120	7-1-2017	Repeal	8-1-2017
918-308-0010	1-1-2017	Amend	2-1-2017	918-525-0130	7-1-2017	Repeal	8-1-2017
918-308-0160	1-1-2017	Amend	2-1-2017	918-525-0140	7-1-2017	Repeal	8-1-2017
918-460-0015	5-2-2017	Amend(T)	6-1-2017	918-525-0150	7-1-2017	Repeal	8-1-2017
918-460-0017	9-14-2017	Adopt(T)	10-1-2017	918-525-0160	7-1-2017	Repeal	8-1-2017
918-480-0005	10-1-2017	Amend	10-1-2017	918-525-0170	7-1-2017	Repeal	8-1-2017
918-480-0010	10-1-2017	Amend	10-1-2017	918-525-0210	1-19-2017	Amend(T)	3-1-2017
918-480-0150	10-1-2017	Amend	10-1-2017	918-525-0210	7-1-2017	Repeal	8-1-2017
918-500-0450	1-19-2017	Amend(T)	3-1-2017	918-525-0210(T)	7-1-2017	Repeal	8-1-2017
918-500-0450	7-1-2017	Amend	8-1-2017	918-525-0220	1-19-2017	Amend(T)	3-1-2017
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918-525-0000	7-1-2017	Amend	8-1-2017	918-525-0240	7-1-2017	Repeal	8-1-2017
918-525-0000(T)	7-1-2017	Repeal	8-1-2017	918-525-0250	7-1-2017	Repeal	8-1-2017
918-525-0005	1-19-2017	Amend(T)	3-1-2017	918-525-0260	1-19-2017	Amend(T)	3-1-2017
918-525-0005	7-1-2017	Amend	8-1-2017	918-525-0260	7-1-2017	Repeal	8-1-2017
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918-525-0015	1-19-2017	Amend(T)	3-1-2017	918-525-0270	1-19-2017	Amend(T)	3-1-2017
918-525-0015	7-1-2017	Amend	8-1-2017	918-525-0270	7-1-2017	Repeal	8-1-2017
918-525-0015(T)	7-1-2017	Repeal	8-1-2017	918-525-0270(T)	7-1-2017	Repeal	8-1-2017
918-525-0020	1-19-2017	Amend(T)	3-1-2017	918-525-0310	1-19-2017	Amend(T)	3-1-2017
918-525-0020	7-1-2017	Amend	8-1-2017	918-525-0310	7-1-2017	Amend	8-1-2017
918-525-0020(T)	7-1-2017	Repeal	8-1-2017	918-525-0310(T)	7-1-2017	Repeal	8-1-2017
918-525-0035	1-19-2017	Amend(T)	3-1-2017	918-525-0320	1-19-2017	Amend(T)	3-1-2017
918-525-0035	7-1-2017	Amend	8-1-2017	918-525-0320	7-1-2017	Amend	8-1-2017
918-525-0035(T)	7-1-2017	Repeal	8-1-2017	918-525-0320(T)	7-1-2017	Repeal	8-1-2017
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918-525-0040	7-1-2017	Amend	8-1-2017	918-525-0325	7-1-2017	Repeal	8-1-2017
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918-525-0042	1-19-2017	Amend(T)	3-1-2017	918-525-0330	1-19-2017	Amend(T)	3-1-2017
918-525-0042	7-1-2017	Amend	8-1-2017	918-525-0330	7-1-2017	Amend	8-1-2017
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918-525-0350(T)	7-1-2017	Repeal	8-1-2017	918-530-0100	1-19-2017	Suspend	3-1-2017
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918-525-0370	7-1-2017	Repeal	8-1-2017	918-530-0110	1-19-2017	Suspend	3-1-2017
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918-525-0410	1-19-2017	Amend(T)	3-1-2017	918-530-0110(T)	7-1-2017	Repeal	8-1-2017
918-525-0410	7-1-2017	Amend	8-1-2017	918-530-0120	1-19-2017	Suspend	3-1-2017
918-525-0410(T)	7-1-2017	Repeal	8-1-2017	918-530-0120	7-1-2017	Repeal	8-1-2017
918-525-0420	1-19-2017	Amend(T)	3-1-2017	918-530-0120(T)	7-1-2017	Repeal	8-1-2017
918-525-0420	7-1-2017	Amend	8-1-2017	918-530-0310	1-19-2017	Suspend	3-1-2017
918-525-0420(T)	7-1-2017	Repeal	8-1-2017	918-530-0310	7-1-2017	Repeal	8-1-2017
918-525-0430	1-19-2017	Amend(T)	3-1-2017	918-530-0310(T)	7-1-2017	Repeal	8-1-2017
918-525-0430	7-1-2017	Amend	8-1-2017	918-530-0320	1-19-2017	Suspend	3-1-2017
918-525-0430(T)	7-1-2017	Repeal	8-1-2017	918-530-0320	7-1-2017	Repeal	8-1-2017
918-525-0440	1-19-2017	Amend(T)	3-1-2017	918-530-0320(T)	7-1-2017	Repeal	8-1-2017
918-525-0440	7-1-2017	Amend	8-1-2017	918-530-0340	1-19-2017	Suspend	3-1-2017
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918-525-0450	7-1-2017	Amend	8-1-2017	918-550-0000	2-1-2017	Amend(T)	3-1-2017
918-525-0450(T)	7-1-2017	Repeal	8-1-2017	918-550-0000	7-31-2017	Amend	9-1-2017
918-525-0460	1-19-2017	Suspend	3-1-2017	918-550-0010	2-1-2017	Amend(T)	3-1-2017
918-525-0460	7-1-2017	Repeal	8-1-2017	918-550-0010	7-31-2017	Amend	9-1-2017
918-525-0460(T)	7-1-2017	Repeal	8-1-2017	918-550-0020	2-1-2017	Adopt(T)	3-1-2017
918-525-0510	1-19-2017	Amend(T)	3-1-2017	918-550-0020	7-31-2017	Adopt	9-1-2017
918-525-0510	7-1-2017	Amend	8-1-2017	918-550-0030	2-1-2017	Adopt(T)	3-1-2017
918-525-0510(T)	7-1-2017	Repeal	8-1-2017	918-550-0030	7-31-2017	Adopt	9-1-2017
918-525-0520	1-19-2017	Amend(T)	3-1-2017	918-550-0040	2-1-2017	Adopt(T)	3-1-2017
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918-530-0005	1-19-2017	Suspend	3-1-2017	918-550-0100	7-31-2017	Amend	9-1-2017
918-530-0005	7-1-2017	Repeal	8-1-2017	918-550-0120	2-1-2017	Amend(T)	3-1-2017
918-530-0005(T)	7-1-2017	Repeal	8-1-2017	918-550-0120	7-31-2017	Amend	9-1-2017
918-530-0010	1-19-2017	Suspend	3-1-2017	918-550-0140	2-1-2017	Amend(T)	3-1-2017
918-530-0010	7-1-2017	Repeal	8-1-2017	918-550-0140	7-31-2017	Amend	9-1-2017
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918-530-0060	1-19-2017	Suspend	3-1-2017	943-014-0200	5-17-2017	Amend	7-1-2017
918-530-0060	7-1-2017	Repeal	8-1-2017	943-014-0205	5-17-2017	Amend	7-1-2017
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