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PERMANENT ADMINISTRATIVE ORDER

DMAP 72-2018

CHAPTER 410
OREGON HEALTH AUTHORITY
HEALTH SYSTEMS DIVISION: MEDICAL ASSISTANCE PROGRAMS

FILED
06/21/2018 8:14 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Revising Rule about Limits on Estate Claims to Comply with OAR 461-135-0835

EFFECTIVE DATE: 07/01/2018

AGENCY APPROVED DATE: 06/04/2018

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AMEND: 410-120-0006

RULE TITLE: Medical Eligibility Standards

NOTICE FILED DATE: 04/18/2018

RULE SUMMARY: In OAR 410-120-0006, the Division adopts and incorporates Department rules. The Division is amending this rule that incorporates rules established in OAR Chapter 461 for all overpayment, personal injury liens, and estate administration for Authority programs covered under OAR 410-200. References to OAR Chapter 461 in contracts of the Authority are deemed to be references to the requirements of this rule. OAR 461-135-0835 about limits on estate claims is being amended to use defined terms consistently, clarifying the rule. This rule is also being amended to limit when claims include benefits provided while an individual was under 55 years of age, consistent with limits on the Department's authority. This rule is being further amended to revise what happens with respect to first party special needs trust with a payback provision that must reimburse any state when the trust is terminated early or the original beneficiary dies. Only certain administrative wrapping up costs are paid before any state that provided medical assistance to the original beneficiary. Conservator or trustee fees for the month of death and prior month are considered administrative wrapping up costs. Trustee fees after the month of death must be reasonable and approved by the Department. Conservator fees after the date of death must be approved by the court after the Department has had notice and an opportunity to object. The amendment also includes examples of certain expenses that are expressly prohibited before the any state is reimbursed. These changes for trusts are consistent with SSA guidance.

RULE TEXT:

As the state Medicaid and CHIP agency, the Oregon Health Authority (Authority) is responsible for establishing and implementing eligibility policies and procedures consistent with applicable law. As outlined in OAR 943-001-0020, the Authority and the Department of Human Services (Department) work together to adopt rules to assure that medical assistance eligibility procedures and determinations are consistent across both agencies.

- (1) The Authority adopts and incorporates by reference the rules established in OAR Chapter 461 for all overpayment, personal injury liens, and estates administration for Authority programs covered under OAR chapter 410, division 200.
- (2) Any reference to OAR chapter 461 in contracts of the Authority are deemed to be references to the requirements of this rule and shall be construed to apply to all eligibility policies, procedures, and determinations by or through the

Authority.

(3) For purposes of this rule, references in OAR chapter 461 to the Department or to the Authority shall be construed to be references to both agencies.

STATUTORY/OTHER AUTHORITY: ORS 413.042

STATUTES/OTHER IMPLEMENTED: ORS 413.042, 414.065