

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING**  
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Health Authority (OHA), Division of Medical Assistance Programs (Division)	410	
Agency and Division	Administrative Rules Chapter Number	
Sandy Cafourek	500 Summer St NE, Salem, OR 97301	(503) 945-6430
Rules Coordinator	Address	Telephone

**RULE CAPTION**

Medicaid Prescription Drug Assistance for Fully Dual Eligible Medicare Part D Clients

**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

**RULEMAKING ACTION**

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

**AMEND:**

**REPEAL:** OAR 410-121-0149

**RENUMBER:**

**AMEND & RENUMBER:**

Stat. Auth.: ORS 413.042

Other Auth.:

Stats. Implemented: ORS 414.065

**RULE SUMMARY**

OAR 410-121-0149 was an emergency rule adopted in response to difficulties related to the roll-out of Medicare Part D. In January 2006, thousands of Oregonians who were dually eligible for Medicare and Medicaid were unable to fill prescriptions because pharmacies could not confirm their Medicare Part D eligibility. OAR 410-121-0149 provided relief by allowing pharmacies to obtain DMAP reimbursement. The issues have since been resolved. This rule is being repealed as it is no longer needed.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

August 19, 2014, by 5 p.m.

[dmap.rules@state.or.us](mailto:dmap.rules@state.or.us)

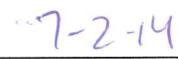
**Last Day for Public Comment** (Last day to submit written comments to the Rules Coordinator)



Signature



Printed name



Date

**Note:** Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the *Oregon Bulletin* at least 14 days before the hearing.

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Health Authority, Division of Medical Assistance Programs (Division)

410

Agency and Division

Administrative Rules Chapter Number

Medicaid Prescription Drug Assistance for Fully Dual Eligible Medicare Part D Clients

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: The repeal of OAR 410-121-0149

Statutory Authority: ORS 413.042

Other Authority:

Stats. Implemented: ORS 414.065

Need for the Rule(s):

OAR 410-121-0149 was an emergency rule adopted in response to difficulties related to the roll-out of Medicare Part D. In January 2006, thousands of Oregonians who were dually eligible for Medicare and Medicaid were unable to fill prescriptions because pharmacies could not confirm their Medicare Part D eligibility. OAR 410-121-0149 provided relief by allowing pharmacies to obtain DMAP reimbursement. The issues have since been resolved. This rule is being repealed as it is no longer needed.

Documents Relied Upon, and where they are available: None.

Fiscal and Economic Impact: Repealing this rule will have no fiscal impact on the Authority, other state agencies, local government, clients, the public, or businesses, including small businesses.

Statement of Cost of Compliance: There will be no cost of compliance.

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): N/A

2. Cost of compliance effect on small business (ORS 183.336): N/A

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

N/A

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

N/A

c. Equipment, supplies, labor and increased administration required for compliance:

N/A

How were small businesses involved in the development of this rule? N/A

Administrative Rule Advisory Committee consulted?: No.

If not, why?: Because this rule is no longer applicable, the Authority did not consult a RAC.

  
Signature

  
Printed name

7-2-14  
Date

**410-121-0149**

**Medicaid Temporary Prescription Drug Assistance for Fully Dual Eligible Medicare Part D Clients**

(1) This rule is a solution implemented because many pharmacies are not able to verify that the fully dual eligible client is enrolled in one of the federal Medicare prescription drug plans or that the client is eligible for low-income subsidy assistance. The Division shall continue to work with the federal Medicare program to resolve these implementation issues with Part D coverage.

(2) Effective January 14, 2006, for the purposes described in subsection (1), enrolled pharmacies may send the Division claims for Part D drugs and cost-sharing obligations of clients who have both Medicare and Medicaid coverage (fully dual eligible clients) if:

(a) The drug(s) was covered by the Division for fully dual eligible clients prior to January 1, 2006; and

(b) The pharmacy has attempted to bill Medicare's Part D system but cannot resolve the claim by:

(A) Continuing to bill the Medicare Part D plan as the primary payer identified through an E-1 query;

(B) Trying to resolve the issue with the Medicare Part D plan directly;

(C) Billing Medicare's Point-of-Sale Solution.

(3) If all the criteria in subsection (2) are met, then the Division shall consider paying the claim or a portion of the claim, as follows:

(a) The pharmacy must contact the Authority's Medicare Hotline at 1-877-585-0007 to obtain authorization for claim submission;

(b) The fully dual eligible client is responsible for paying the appropriate Medicare copayment;

(c) The Division's payment authorization shall be limited to not greater than a one-month supply; and

(d) The Division's reimbursement amount shall be limited to the amount the Part D drug plan would have paid, had the Part D drug plan adjudicated the claim first, or the amount the Division would pay for Medicaid clients who are not also Medicare beneficiaries.

(4) This rule supersedes all other rules relating to the limitations and exclusions of drug coverage for clients with Medicare Part D.

Stat. Auth. ORS 413.042

Statutes Implemented: ORS 414.065