

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

Oregon Health Authority, Division of Medical Assistance Programs (Division)	410-141-3060	
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**

Revise CCO Enrollment Requirement and Remove Sunset Date for Third Trimester Pregnancy Exemption  
**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

November 18, 2014	10:30am	500 Summer St NE, Salem, OR 97301, Room 137C	Sandy Cafourek
Hearing Date	Time	Location	Hearings Officer

*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

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

**ADOPT:**

**AMEND:** OAR 410-141-3060

**REPEAL:** OAR 410-141-3060(T)

**RENUMBER:**

**AMEND & RENUMBER:**

Stat. Auth : ORS 413.042, 414.615, 414.625, 414.635, 414.651

Other Auth.:

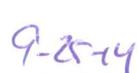
Stats. Implemented: ORS 414.610 – 414.685

**RULE SUMMARY**

This rule provides the framework for Coordinated Care Organization (CCO) enrollment requirements, including any existing exemptions from CCO enrollment. The Authority requested stakeholder and public comment on the following: The Licensed Direct Entry Midwives (LDEM) Staff Advisory Workgroup made recommendations related to perinatal service options for Medicaid enrollees. The Authority's Director Suzanne Hoffman responded with a letter dated May 21, 2014, stating the Division would implement changes, necessitating the removal of the sunset date and allowing for time to make further program implementations and additional rule revisions. The Authority decided to implement the CCO enrollment exemption criteria on which to build additional program specific criteria later in 2015 outlining the detail level of the program requirements.

November 20, 2014, by 5 p.m. (Send comments to [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

\*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

**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

410

Agency and Division

Administrative Rules Chapter Number

Revise CCO Enrollment Requirement and Remove Sunset Date for Third Trimester Pregnancy Exemption

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

In the Matter of: The amendment of OAR 410-141-3060 and the repeal of OAR 410-141-3060(T)

Statutory Authority: ORS 413.042, 414.615, 414.625, 414.635 and 414.651

Other Authority:

Stats. Implemented: ORS 414.610 – 414.685

Need for the Rule(s): The Division needs to amend this rule to align with current enrollment requirements for CCOs. Additionally, the Division removed the sunset date of July 1, 2014, for the third trimester pregnancy CCO enrollment exemption. The CCO enrollment exemption will shift from third trimester only and will span the entire length of pregnancy, effective January 1, 2015.

Documents Relied Upon, and where they are available: The Licensed Direct Entry Midwives (LDEM) Staff Advisory Workgroup made recommendations related to perinatal service options for Medicaid enrollees. The Authority director Suzanne Hoffman responded with a letter dated May 21, 2014, stating the Division would implement changes, necessitating the removal of the sunset date and allowing for time to make further program implementations and additional rule revisions. Minutes from the May 27, 2014 Medical Management Committee meeting are available through DMAP. These materials can be found as follows: I:\DMAP Policy and Planning Section\_PPSAdmin\Medical Management Committee Meeting.

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

The Authority estimates there will be no significant fiscal impact with this rule change. No change is anticipated to the total number of home births that OHP pays for. Home births are generally paid for fee-for-service (FFS) and not from CCO budgets. It is unknown if FFS will gain a few more low risk, less costly home births, and therefore, resulting in a few more high risk, high cost home births to be paid for by CCOs. It is anticipated that any shift in numbers between FFS and CCO will be very slight and will not have a significant fiscal impact.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
2. Cost of compliance effect on small business (ORS 183.336): None.
  - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: None.
  - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: None.
  - c. Equipment, supplies, labor and increased administration required for compliance: None.

How were small businesses involved in the development of this rule? This rule only removes the sunset date. Small businesses will be involved when other changes to the rule are proposed for a 1/1/15 implementation.

Administrative Rule Advisory Committee consulted? : No. If not, why? : This rule only removes the sunset date. A RAC will be convened to address other changes to the rule for a 1/1/15 implementation.

Rhonda Busek

9-25-14

Signature

Printed name

Date

## 410-141-3060

### Enrollment Requirements in a CCO

(1) A client who is eligible for or receiving health services must enroll in a CCO as required by ORS 414.631, except as provided in ORS 414.631(2), (3), (4), and (5) and 414.632(2) or exempted by this rule.

(2) If, upon application or redetermination, a client does not select a CCO, the Authority shall enroll the client and the client's household in a CCO that has adequate health care access and capacity.

(3) For existing members of a PHP that has transitioned to a CCO, the Authority shall enroll those members in the CCO when the Authority certifies and contracts with the CCO. The Authority shall provide notice to the enrollees 30 days before the effective date.

(4) Existing members of a PHP that is on the path to becoming a CCO shall retain those members. The Authority shall enroll those members in the CCO when certification and contracting are complete. The Authority shall provide notice to the clients 30 days before the effective date.

(5) Unless otherwise exempted by sections (17) and (18) of this rule, existing clients receiving their physical health care services on a fee-for-service (FFS) basis shall enroll in a CCO serving their area that has adequate health care access and capacity. They must enroll by November 1, 2012. The Authority shall send a notice to the clients 30 days before the effective date.

(6) The following apply to clients receiving physical health care services on a fee-for-service basis but managed or coordinated behavioral health services:

(a) The Authority shall enroll the client in a CCO that is serving the client's area before November 1, 2012;

(b) The client shall receive their behavioral health care services from that CCO;

(c) The client shall continue to receive their physical health care services on a fee-for-service basis; and

(d) On or after November 1, 2012, the Authority shall enroll the client in a CCO for both physical health and behavioral health care services, unless otherwise exempted by sections (17) and (18) of this rule.

(e) On or after November 1, 2012, for the client exempt from coordinated physical health services by sections (17) and (18) shall receive managed or coordinated behavioral health services from a CCO or MHO.

(7) The following apply to clients enrolled in Medicare:

(a) A client may enroll in a CCO regardless of whether they are enrolled in Medicare Advantage;

(b) A client enrolled in Medicare Advantage, whether or not they pay their own premium, may enroll in a CCO, even if the CCO does not have a corresponding Medicare Advantage plan.

(c) A client may enroll with a CCO, even if the client withdrew from that CCO's Medicare Advantage plan. The CCO shall accept the client's enrollment if the CCO has adequate health access and capacity;

(d) A client may enroll with a CCO even if the client is enrolled in Medicare Advantage with another entity.

(8) From August 1, 2012, until November 1, 2012, enrollment is required in service areas with adequate health care access and capacity to provide health care services through a CCO or PHP. The following outlines the priority of enrollment during this period in service areas where enrollment is required:

(a) Priority 1: The client ~~must~~ shall enroll in a CCO that serves that area and has adequate health care access and capacity;

(b) Priority 2: The client ~~must~~ shall enroll in a PHP if:

(A) A PHP serves an area that a CCO does not serve; or

(B) A PHP serves an area that a CCO serves, but the CCO has inadequate health care access and capacity to accept new members;

(c) Priority 3: The client shall receive services on a fee-for-service basis.

(9) From August 1, 2012, until November 1, 2012, enrollment is voluntary in service areas without adequate access and capacity to provide health care services through a CCO or PHP. If a client decides to enroll in a CCO or PHP, the priority of enrollment in section (8) applies.

(10) On or after November 1, 2012, CCO enrollment is required in all areas. The following outlines the priority of options to enroll in all service areas:

(a) Priority 1: The client ~~must~~ shall enroll in a CCO that serves that area and has adequate health care access and capacity;

(b) Priority 2: The client ~~must~~ shall enroll in a PHP on the path to becoming a CCO if:

(A) The PHP serves an area that a CCO does not serve; or

(B) The PHP serves an area that a CCO serves, but the CCO has inadequate health care services capacity to accept new members;

(c) Priority 3: The client ~~must~~shall enroll in a PHP that is not on the path to becoming a CCO if:

(A) The PHP serves an area that a CCO does not serve; or

(B) The PHP serves an area that a CCO serves, but the CCO has inadequate health care access or capacity to accept new members;

(d) Priority 4: The client shall receive physical services on a fee-for-service basis.

(11) On or after July 1, 2013, a client ~~must~~shall enroll in a CCO or managed dental care organization (DCO) in a service area where a CCO or DCO has adequate dental care access and capacity, and a CCO or DCO is open to enrollment.

(12) If a client receives physical health care through a PHP, PCM, or on a fee-for-service basis, under circumstances allowed by this rule, the client ~~must~~shall enroll in a CCO or mental (behavioral) health organization (MHO) in a service area where MHO enrollment is required. The following determines if a service area requires CCO or MHO enrollment:

(a) CCO: The service area has adequate CCO behavioral health care access and capacity;

(b) MHO: A CCO does not serve in the area; or

(c) MHO: A CCO serves the area, but the CCO has inadequate health care access and capacity to accept new members:

~~(12)~~(13) From August 1, 2012, until November 1, 2012, if a service area changes from required enrollment to voluntary enrollment, the member shall remain with the PHP for the remainder of their eligibility period or until the Authority or Department redetermines eligibility, whichever comes sooner, unless otherwise eligible to disenroll pursuant to OAR 410-41-3080.

~~(13)~~ At the time of application or recertification, the primary person in the household shall select the CCO on behalf of all household members on the same household case. If the client is not able to choose a CCO, the client's representative shall make the selection.

(14) The Department or OYA shall select the CCO for a child in the legal custody of the Department or OYA, except for children in subsidized adoptions.

(15) The following populations are exempt from CCO enrollment:

(a) Populations expressly exempted by ORS 414.631(2) (a), (b) and (c), which includes:

(A) Persons who are non-citizens who are eligible for labor and delivery services and emergency treatment services;

(B) Persons who are American Indian and Alaskan Native beneficiaries; and

(C) Persons who are dually eligible for Medicare and Medicaid and enrolled in a program of all-inclusive care for the elderly.

(b) Newly eligible clients are exempt from enrollment with a CCO if the client became eligible when admitted as an inpatient in a hospital. The client shall receive health care services on a fee-for-service basis only until the hospital discharges the client. The client is not exempt from enrollment in a DCO. The client is not exempt from enrollment in a DCO.

(c) Children in the legal custody of the Department or OYA where the child is expected to be in a substitute care placement for less than 30 calendar days, unless:

(A) Access to health care on a fee-for-service basis is not available; or

(B) Enrollment would preserve continuity of care.

(d) Clients with major medical health insurance coverage, also known as third party liability, except as provided in OAR 410-141-3050;

(e) Clients receiving prenatal services through the Citizen/Alien Waivered-Emergency Medical program; and

(f) Clients receiving premium assistance through the Specified Low-Income Medicare Beneficiary, Qualified Individuals, Qualified Disabled Working Individuals and Qualified Medicare Beneficiary programs.

(16) The following populations are exempt from CCO enrollment until specified below:

(a) From August 1, 2012, until November 1, 2012, children under 19 years of age who are medically fragile and who have special health care needs. Beginning November 1, 2012, the Authority may enroll these children in CCOs on a case-by-case basis; children not enrolled in a CCO shall continue to receive services on a FFS basis.

(b) ~~Until July 1, 2014~~ women ~~Women~~ who are in their third trimester of pregnancy when first determined eligible for OHP or at re-determination may qualify as identified below to receive OHP benefits on a ~~Fee-for-Service (FFS)~~ Service basis until 60 days after the birth of

her child. After the 60 day period the OHP member ~~must~~ shall enroll in a CCO. In order to qualify for the FFS third trimester exemption the member must:

(A) Not have been enrolled with a service area CCO, FCHP<sub>1</sub> or PCO during the three months preceding re-determination,

(B) Have an established relationship with a licensed qualified practitioner who is not a participating provider with the service area CCO, FCHP<sub>1</sub> or PCO and wishes to continue obtaining maternity services from the non-participating provider on a FFS basis, and

(C) Make a request to change to FFS prior to the date of the delivery if enrolled with a CCO, FCHP<sub>1</sub> or PCO.

(c) From August 1, 2012 until November 1, 2012, clients receiving health care services through the Breast and Cervical Cancer Program are exempt. Beginning November 1, 2012, enrollment is required;

(d) Existing clients who had organ transplants are exempt until the Authority enrolls them in a CCO on a case-by-case basis; and

(e) From August 1, 2012, until November 1, 2012, clients with end-stage renal disease. Beginning November 1, 2012, enrollment is required.

(17) The following clients who are exempt from CCO enrollment and who receive services on a fee-for-service basis may enroll in a CCO:

(a) Clients who are eligible for both Medicare and Medicaid;

(b) Clients who are American Indian and Alaskan Native beneficiaries;

(18) The Authority may exempt clients or temporarily exempt clients for other just causes as determined by the Authority through medical review. The Authority may set an exemption period on a case-by-case basis. Other just causes include the following considerations:

(a) Enrollment would pose a serious health risk; and

(b) The Authority finds no reasonable alternatives.

(19) The following pertains to the effective date of the enrollment. If the enrollment occurs:

(a) On or before Wednesday, the date of enrollment shall be the following Monday; or

(b) After Wednesday, the date of enrollment shall be one week from the following Monday.

(20) Coordinated care services shall begin on the first day of enrollment with the CCO except for:

(a) A newborn's date of birth when the mother was a member of a CCO at the time of birth;

(b) For members who are re-enrolled within 30 calendar days of disenrollment, the date of enrollment shall be the date specified by the Authority that may be retroactive to the date of disenrollment;

(c) For adopted children or children placed in an adoptive placement, the date of enrollment shall be the date specified by the Authority.

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635, and 414.651

Stats. Implemented: ORS 414.610 - 414.685