

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING**

A Statement of Need and Fiscal Impact accompanies this form.

<u>Oregon Health Authority (OHA), Division of Medical Assistance Programs (Division)</u>	410
Agency and Division	Administrative Rules Chapter Number
<u>Sandy Cafourek</u>	<u>500 Summer St NE, Salem, OR 97301</u>
Rules Coordinator	Address
	Telephone

**RULE CAPTION**

Income Eligibility Guidelines for OCCS Medical Programs

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

<u>June 17, 2014</u>	<u>10:30 a.m.</u>	<u>500 Summer St. NE, Salem, OR 97301 Room 137B</u>	<u>Sandy Cafourek</u>
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:** 410-200-0315

**REPEAL:** 410-200-0315(T)

**RENUMBER:**

**AMEND & RENUMBER:**

Stat. Auth. : ORS 411.402, 411.404, 413.042, 414.534

Other Auth.: 42 CFR: 435.110, 435.112, 435.115, 435.116, 435.118, 435.403, 435.940, 435.1200, 457.80, 457.340, 458.350, 435.3, 435.4, 435.406, 435.407, 435.940, 435.952, 435.956, 435.1008, 457.320, 457.380, 435.940, 435.956, 435.406, 457.380, 435.117, 435.170, 435.190, 435.916, 435.917, 435.926, 435.952, 435.1200, 435.1205, 447.56, 457.340, 457.350, 457.360, 457.805, 433.145, 433.147, 433.148, 433.146, 435.610, 435.115, 435.403, 435.1200, 457.80, 457.340, 458.350, 435.119, 435.222, 435.118, 433.138, 433.147, 433.148, 435.602 435.608

Stats. Implemented: ORS 411.060, 411.095, 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706

**RULE SUMMARY**

Every year the Federal Poverty Levels (FPL) are adjusted and published to the Federal Register. A number of OCCS medical programs and income disregards are based on percentages of the FPL and must be updated now that the FPLs have been published and must be aligned with Cover Oregon's implementation timeline.

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.

June 20, 2014 by 5 p.m.      Send written 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)



Karen House

4/17/14

Signature

Printed name

Date

**Note:** Hearing Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*.

**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

Income Eligibility Guidelines for OCCS Medical Programs

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

In the Matter of: The amending of OAR 410-200-0315

Statutory Authority: ORS 411.402, 411.404, 413.042, 414.534

Other Authority: 42 CFR: 435.110, 435.112, 435.115, 435.116, 435.118, 435.403, 435.940, 435.1200, 457.80, 457.340, 458.350, 435.3, 435.4, 435.406, 435.407, 435.940, 435.952, 435.956, 435.1008, 457.320, 457.380, 435.940, 435.956, 435.406, 457.380, 435.117, 435.170, 435.190, 435.916, 435.917, 435.926, 435.952, 435.1200, 435.1205, 447.56, 457.340, 457.350, 457.360, 457.805, 433.145, 433.147, 433.148, 433.146, 435.610, 435.115, 435.403, 435.1200, 457.80, 457.340, 458.350, 435.119, 435.222, 435.118, 433.138, 433.147, 433.148, 435.602, 435.608

Stats. Implemented: ORS 411.060, 411.095, 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706

Need for the Rule(s): Every year the Federal Poverty Levels (FPL) are adjusted and published to the Federal Register. A number of OCCS medical programs and income disregards are based on percentages of the FPL and must be updated now that the FPLs have been published and must be aligned with Cover Oregon's implementation timeline.

Documents Relied Upon, and where they are available: Federal Register:

<https://www.federalregister.gov/articles/2014/01/22/2014-01303/annual-update-of-the-hhs-poverty-guidelines>

Fiscal and Economic Impact:

The Authority estimates that amending OAR 410-200-0315 will result in a positive fiscal impact for some clients in OCCS medical programs by increasing the uppermost income limits. The Authority is unable to estimate the magnitude of this impact because the changes are not yet published. The Department estimates that these amendments will have no fiscal impact on other state agencies, local government, and business, including small business. There is no cost of compliance for small business. No small businesses are subject to these rules.

Statement of Cost of Compliance:

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

None

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

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?

N/A

Administrative Rule Advisory Committee consulted?:

If not, why?: RAC Exception



Signature

Printed name: Karen House

Date: 4/17/14

## 410-200-0315

### Standards and Determining Income Eligibility

(1) *MAGI-based income* not specifically excluded is countable, and its value is used in determining the eligibility and benefit level of an *applicant* or *beneficiary*.

(2) *MAGI-based income* is considered available on the date it is received or the date a member of the *household group* has a legal right to the payment and the legal ability to make it available, whichever is earlier, except as follows:

(a) Income usually paid monthly or on some other regular payment schedule is considered available on the regular payment date if the date of payment is changed because of a holiday or weekend.

(b) Income withheld or diverted at the request of an individual is considered available on the date the income would have been paid without the withholding or diversion.

(c) An advance or draw of earned income is considered available on the date it is received.

(3) In determining financial eligibility for each *applicant*, the sum of the *budget month MAGI-based income* of all *household group* members is combined and compared to the applicable income standard for the *family size*. If the income is at or below the *MAGI income standard*, the individual meets the financial eligibility requirements. Except as provided in section (4)(a), if income exceeds the *MAGI income standard*, the individual is ineligible.

(4) This section applies to MAGI Medicaid/CHIP programs that became effective January 1, 2014:

(a) If an individual is ineligible for MAGI Medicaid based solely on income, and would otherwise be eligible for MAGI CHIP or be referred to the Exchange for *APTC*, a disregard equivalent to five percentage points of the *federal poverty level* for the applicable *family size* shall be applied to the *household group's* income. If the resulting amount is below the income standard for the applicable program and *family size*, the individual meets the financial eligibility requirements in the following programs:

(A) The MAGI Parent or Other Caretaker Relative Program;

(B) The MAGI Child Program;

(C) The MAGI Adult Program; and

(D) The MAGI Pregnant Woman Program.

(b) If an individual is ineligible for MAGI CHIP based solely on income, and would otherwise be referred to the Exchange for APTC, a disregard equivalent to ~~5~~five percentage points of the *federal poverty level* for the applicable *family size* shall be applied to the *household group's* income. If the resulting amount is below the income standard for the applicable program and *family size*, the individual meets the financial eligibility requirements in the MAGI CHIP.

(c) Effective April 12, 2014, ~~the~~ MAGI income standard for the MAGI Parent or Other Caretaker-Relative program is set as follows:

<i>Family size</i>	<b>Standard</b>	<b>If Income Exceeds Standard, for Individuals who are 65+ and Ineligible for Medicare</b>	<b>Income Prior to Applying Disregard</b>
1	\$399	<del>\$49</del> \$48	<del>\$448</del> \$447
2	515	<del>66</del> 65	<del>581</del> 580
3	611	<del>83</del> 82	<del>694</del> 693
4	747	<del>100</del> 99	<del>847</del> 846
5	872	<del>117</del> 115	<del>989</del> 987
6	998	<del>134</del> 132	<del>1132</del> 1,130
7	1,114	<del>151</del> 149	<del>1,265</del> 1,263
8	1,230	<del>168</del> 166	<del>1,398</del> 1,396
9	1,321	<del>184</del> 182	<del>1,505</del> 1,503
10	1,456	<del>201</del> 199	<del>1,657</del> 1,655
+1	+136	+17	+153

(d) Effective April 12, 2014, ~~the~~ MAGI income standard for the MAGI Child Program and the MAGI Adult Program is set at 133 percent% of the *FPL* as follows. If an individual's *household group* income exceeds the income standard for their *family size*, the appropriate disregard for their *family size* described in section (4)(a) shall be applied:

<i>Family size</i>	<b>Standard</b>	<b>If income Exceeds</b>	<b>Income</b>
--------------------	-----------------	--------------------------	---------------

	<b>133% 2014 FPL</b>	<b>133%, Disregard</b>	<b>Prior to Applying Disregard</b>
1	<u>\$1,294</u> \$1,274	<u>\$49</u> \$48	<u>\$1,343</u> \$1,322
2	<u>1,744</u> 1,720	<u>66</u> 65	<u>1,810</u> 1,785
3	<u>2,194</u> 2,165	<u>83</u> 82	<u>2,277</u> 2,247
4	<u>2,644</u> 2,611	<u>100</u> 99	<u>2,744</u> 2,710
5	<u>3,094</u> 3,056	<u>117</u> 115	<u>3,211</u> 3,171
6	<u>3,544</u> 3,502	<u>134</u> 132	<u>3,678</u> 3,634
7	<u>3,994</u> 3,947	<u>151</u> 149	<u>4,145</u> 4,096
8	<u>4,444</u> 4,393	<u>168</u> 166	<u>4,612</u> 4,559
9	<u>4,894</u> 4,838	<u>184</u> 182	<u>5,078</u> 5,020
10	<u>5,344</u> 5,284	<u>201</u> 199	<u>5,545</u> 5,483
+1	<u>+450</u> +446	<u>+17</u>	<u>+467</u> +463

(e) Effective April 12, 2014, The MAGI income standard for the MAGI Pregnant Woman Program and for MAGI Child Program recipients under age one is set at 185 percent% FPL. If an individual's household group income exceeds the income standard for their family size, the appropriate disregard for their family size described in section (4)(a) shall be applied:

Family size	Standard	If income Exceeds	Income
-------------	----------	-------------------	--------

	<b>185% 2014 FPL</b>	<b>185%, Disregard</b>	<b>Prior to Applying Disregard</b>
1	<u>\$1,800</u> <del>\$1,772</del>	<u>\$49</u> <del>\$48</del>	<u>\$1,849</u> <del>\$1,820</del>
2	<u>2,426</u> <del>2,392</del>	<u>66</u> <del>65</del>	<u>2,492</u> <del>2,457</del>
3	<u>3,051</u> <del>3,014</del>	<u>83</u> <del>82</del>	<u>3,134</u> <del>3,093</del>
4	<u>3,677</u> <del>3,631</del>	<u>100</u> <del>99</del>	<u>3,777</u> <del>3,730</del>
5	<u>4,303</u> <del>4,251</del>	<u>117</u> <del>115</del>	<u>4,420</u> <del>4,366</del>
6	<u>4,929</u> <del>4,871</del>	<u>134</u> <del>132</del>	<u>5,063</u> <del>5,003</del>
7	<u>5,555</u> <del>5,490</del>	<u>151</u> <del>149</del>	<u>5,706</u> <del>5,639</del>
8	<u>6,181</u> <del>6,110</del>	<u>168</u> <del>166</del>	<u>6,349</u> <del>6,276</del>
9	<u>6,807</u> <del>6,730</del>	<u>184</u> <del>182</del>	<u>6,991</u> <del>6,912</del>
10	<u>7,433</u> <del>7,350</del>	<u>201</u> <del>199</del>	<u>7,634</u> <del>7,549</del>
+1	<u>+ 626</u> <del>+620</del>	<u>+17</u>	<u>+643</u> <del>-637</del>

(f) Effective April 12, 2014, The MAGI income standard for the MAGI CHIP program is set through 300 percent% of FPL as follows. If a child's household group income exceeds the income standard for their family size, and the child would be otherwise ineligible for MAGI CHIP, the appropriate disregard for their family size described in section (5)(a)(B) shall be applied:

<i>Family size</i>	Standard 300% 2014 FPL	If Income Exceeds 300%, Disregard	Income Prior to Applying Disregard
1	<u>\$2,918</u> <del>\$2,874</del>	<u>\$49,548</u>	<u>\$2,967</u> <del>\$2,922</del>
2	<u>3,933</u> <del>3,879</del>	<u>66,65</u>	<u>3,999</u> <del>3,944</del>
3	<u>4,948</u> <del>4,884</del>	<u>83,82</u>	<u>5,031</u> <del>4,966</del>
4	<u>5,963</u> <del>5,889</del>	<u>100,99</u>	<u>6,063</u> <del>5,988</del>
5	<u>6,978</u> <del>6,894</del>	<u>117,115</u>	<u>7,095</u> <del>7,009</del>
6	<u>7,993</u> <del>7,899</del>	<u>134,132</u>	<u>8,127</u> <del>8,031</del>
7	<u>9,008</u> <del>8,904</del>	<u>151,149</u>	<u>9,159</u> <del>9,053</del>
8	<u>10,023</u> <del>9,909</del>	<u>168,166</u>	<u>10,191</u> <del>10,075</del>
9	<u>11,038</u> <del>10,914</del>	<u>184,182</u>	<u>11,222</u> <del>11,096</del>
10	<u>12,053</u> <del>11,919</del>	<u>201,199</u>	<u>12,254</u> <del>12,118</del>
+1	<u>+1,015</u> <del>1,005</del>	<u>±17</u>	<u>+1,032</u> <del>1,022</del>

(g) When the Department makes an *ELE* determination and the *child* meets all MAGI CHIP or MAGI Child Program nonfinancial eligibility requirements, the household size determined by the Department is used to determine eligibility regardless of the *family size*. The countable

income of the household is determined by the ELA. A *child* is deemed eligible for MAGI CHIP or MAGI Child Program as follows:

(A) Effective April 12, 2014, if the MAGI-based income of the household group is below 163 percent of the 2014 federal poverty level as listed below, the Department deems the child eligible for the MAGI Child Program.

<u>Household Size</u>	<u>Standard 163% 2014 FPL</u>
<u>1</u>	<u>\$1,586</u>
<u>2</u>	<u>2,137</u>
<u>3</u>	<u>2,689</u>
<u>4</u>	<u>3,240</u>
<u>5</u>	<u>3,792</u>
<u>6</u>	<u>4,343</u>
<u>7</u>	<u>4,895</u>
<u>8</u>	<u>5,446</u>
<u>9</u>	<u>5,998</u>
<u>10</u>	<u>6,549</u>
<u>+1</u>	<u>552</u>

(B) If the MAGI-based income of the household group is at or above 163 percent of the FPL through 300% percent of the FPL as listed in section (4)(f) of this rule, the Agency deems the child eligible for MAGI CHIP.

-(5) For eligibility decisions effective October 1, 2013 through December 31, 2013, the MAGI income standards listed in this section are used.

(a) Individuals who apply from October 1, 2013 through December 31, 2013 shall first be considered for the programs described in OAR 410-200-0510. Individuals found ineligible based

on information from all *budget months* of October, November, or December 2013 shall have their eligibility determined as follows:

(A) For individuals who would be eligible for programs based on eligibility and income standards found in section (4)(c) through (e) as of January 1, 2014, eligibility for the applicable program shall begin as of that date.

(B) For individuals who are ineligible for programs which begin on January 1, 2014 who would otherwise be eligible for MAGI CHIP or be referred to the Exchange for APTC as of January 1, 2014, a disregard equivalent to ~~five~~5 percentage points of the *federal poverty level* for the applicable *family size* will be applied to the household group's income. If the resulting amount is below the January 1, 2014 income standard found in section (4)(c) through (e) for the applicable program and *family size*, the individual meets the financial eligibility requirements for MAGI Medicaid/CHIP.

(b) The 2013 MAGI-based income standard for the MAA and SAC programs is as follows. If a *child's household group* income exceeds the income standard for their *family size*, and the *child* would be otherwise ineligible for Medicaid, the appropriate disregard for their *family size* described in section (5)(a)(B) shall be applied:

<b>Family size</b>	<b>Standard</b>	<b>If <i>child's household group</i> is over the MAA income limit and <i>child</i> is otherwise ineligible for Medicaid, Disregard</b>	<b>Income Prior to Applying Disregard</b>
1	\$399	\$48	\$447
2	515	65	580
3	611	82	693
4	747	99	846
5	872	115	987
6	998	132	1,130
7	1,114	149	1,263
8	1,230	166	1,396

9	1,321	182	1,503
10	1,456	199	1,655
+1	136	17	153

(c) The 2013 MAGI-based income standard for the OHP-OPU program is set at 100 percent of the 2013 federal poverty level:——

<b>Family size</b>	<b>Standard 100% 2013 FPL</b>
1	\$958
2	1,293
3	1,628
4	1,963
5	2,298
6	2,633
7	2,968
8	3,303
9	3,638
10	3,973
+1	+335

(d) The MAGI-based income standard for the OHP-OPC program is set to 100 percent of the 2013 federal poverty level. If a *child's household group* income exceeds the income standard for their *family size*, and the *child* would be otherwise ineligible for Medicaid, the appropriate disregard for their *family size* described in section (5)(a)(B) shall be applied:

<b>Family size</b>	<b>Standard 100%</b>	<b>If <i>child's household group</i> income</b>	<b>Income Prior to</b>
------------------------	--------------------------	-----------------------------------------------------	----------------------------

	<b>2013 FPL</b>	<b>exceeds 100% and <i>child</i> would otherwise be ineligible for Medicaid, Disregard</b>	<b>Applying Disregard</b>
1	\$958	\$48	\$1,006
2	1,293	65	1,358
3	1,628	82	1,710
4	1,963	99	2,062
5	2,298	115	2,413
6	2,633	132	2,765
7	2,968	149	3,117
8	3,303	166	3,469
9	3,638	182	3,820
10	3,973	199	4,172
+1	+335	17	352

(e) The 2013 MAGI-based income standard for the OHP-OP6 program is set at 133 percent of the 2013 federal poverty level. If a *child's household group* income exceeds the income standard for their *family size*, and the *child* would be otherwise ineligible for Medicaid, the appropriate disregard for their *family size* described in section (5)(a)(B) shall be applied:

<b><i>Family size</i></b>	<b>Standard 133% <u>2013 FPL</u></b>	<b>If a <i>child's household group</i> income exceeds 133%, Disregard</b>	<b>Income Prior to Applying Disregard</b>
1	\$1,274	\$48	\$1,322
2	1,720	65	1,785
3	2,165	82	2,247

4	2,611	99	2,710
5	3,056	115	3,171
6	3,502	132	3,634
7	3,947	149	4,096
8	4,393	166	4,559
9	4,838	182	5,020
10	5,284	199	5,483
+1	+446	17	463

(f) The 2013 MAGI-based income standard for the OHP-OPP program is set at 185 percent of the 2013 federal poverty level. If a child's household group income exceeds the income standard for their family size, and the child would be otherwise ineligible for Medicaid, the appropriate disregard for their family size described in section (5)(a)(B) shall be applied:

<b>Family size</b>	<b>Standard 185% <u>2013 FPL</u></b>	<b>If income Exceeds 185%, Disregard</b>	<b>Income Prior to Applying Disregard</b>
1	\$1,772	\$48	\$1,820
2	2,392	65	2,457
3	3,011	82	3,093
4	3,631	99	3,730
5	4,251	115	4,366
6	4,871	132	5,003
7	5,490	149	5,639
8	6,110	166	6,276
9	6,730	182	6,912

10	7,350	199	7,549
+1	+620	17	637

(g) The 2013 MAGI income standard for the MAGI CHIP program is set through 300 percent% of the 2013 FPL as follows:

<i>Family size</i>	<b>Standard 300% <u>2013 FPL</u></b>
1	\$2,874
2	3,879
3	4,884
4	5,889
5	6,894
6	7,899
7	8,904
8	9,909
9	10,914
10	11,919
+1	1,005

~~-(h) In the MAGI CHIP and MAGI Child Program, w~~When the Department uses a finding made ~~during an~~ makes an ELE determination and the *child* meets all ~~other~~ MAGI CHIP, or MAGI Child Program nonfinancial eligibility requirements, ~~the standard for the household size number of~~ eligibility group members determined by the Department is used to determine eligibility regardless of the *family size*. The countable income of the household ~~group is the same as the~~ income amount determined by the *ELA*. A *child* is deemed eligible for MAGI CHIP, or MAGI Child Program as follows:

(A) If the *MAGI-based income* of the *household group* is below 163 percent of the 2013 federal poverty level as listed below, the Department deems the *child* eligible for the MAGI Child Program.

Household Size	Standard <u>163% 2013</u> <u>FPL</u>
1	\$1,561
2	2,107
3	2,653
4	3,199
5	3,745
6	4,291
7	4,838
8	5,384
9	5,930
10	6,476
+1	+547

(B) If the *MAGI-based income* of the *household group* is at or above 163 percent of the 2013 FPL through 300% percent of the *FPL* as listed in section (5)(b)(gE) of this rule, the Agency deems the *child* eligible for MAGI CHIP.

~~[Ed. Note This rule replaces and amends information previously found in OAR 461-140-0010, 461-140-0040, 461-150-0055, 461-155-0180, and 461-155-0225.~~

Stat. Auth.: ORS 7, 411.402, 411.404, 413.042,,

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440, 414.706