



Oregon

Kate Brown, Governor

Department of Human Services

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DATE: January 31, 2020

TO: Legislative Assembly

FROM: Colleen Needham, Administrative Rules Program Manager
Department of Human Services

RE: HB 4106 – Report on Rulemaking

In compliance with ORS 183.403 (House Bill 4106, 2016) which requires state agencies to report annually on their rulemaking actions, both permanent and temporary, please find the Department of Human Services report attached. The official reports come from the Secretary of State's OAR Filing System and include rules filed with SOS January 1, 2019 through December 31, 2019.

Pursuant to ORS 418.780-418.786, the responsibilities for the Advisory Council on Child Abuse Assessment (OAR chapter 417) are now with the Department of Justice and are located in OAR chapter 137.

In its counts, DHS includes the Home Care Commission (OAR 418), which is a separate agency under Article XV, Section 11, of the Oregon Constitution and uses DHS employees for its rule process under ORS 410.604.

The DHS rule chapters included in this report are 407, 411, 413, 418, 461, and 582.

Chapter Number	Division Name	Permanent Rules filed	Temporary Rules filed
407	DHS General	100	87
411	Aging and People with Disabilities (APD); Office of Developmental Disabilities Services (ODDS)	315	39

413	Child Welfare Programs (CWP)	147	31
418	Home Care Commission	7	0
461	Self-Sufficiency Programs (SSP)	103	20
582	Vocational Rehabilitation Services	9	0

In 2019, using the process set out in ORS 183.335(2) and (3), DHS adopted, amended, or repealed a total of 681 Permanent rules.

In 2019, using the process set out in ORS 183.335(5), DHS adopted, amended, or suspended a total of 177 Temporary rules.

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

Administrative Rules Annual Report

HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2019 and December 31, 2019

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	30
Amended	56
Repealed	14

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	10
Amended	63
Suspended	14

DHSD 1-2019

Filed: 02/12/2019 4:40 PM

407-045-0120	Amend
407-045-0130	Amend
407-045-0140	Amend
407-045-0150	Amend
407-045-0160	Amend
407-045-0170	Amend
407-045-0180	Amend
407-045-0190	Amend
407-045-0200	Amend
407-045-0210	Amend
407-045-0220	Amend
407-045-0230	Amend
407-045-0240	Amend

Statement of Need

The Department is proposing to temporarily amend these rules (OAR 407-045-0120 through 407-045-0240) that prescribe the standards and procedures for screening and investigating reported abuse; and assessing and assuring the provision of protective services upon receipt of the complaint, which are the responsibility of the Department and their designee. These rules state the requirements the Department's Office of Investigations, Training and Safety (OTIS) and their designees (Community Mental Health Programs, CMHP) follow upon receipt of mandatory abuse reports or complaints of alleged abuse of adults with mental illness, as described in ORS 430.735 to 403.765. Recent legislative changes and Department leadership decisions require these rule changes to ensure effective implementation.

ORS 430.735 was amended by Section 2 of 2018 Senate Bill 1540 (Oregon Law 2018, Chapter 77) enacted on 04/03/2018; changes to the definitions used in ORS 430.735 to 430.765. As it relates to these rules, include:

- Additional “abuse” definitions in the areas of abandonment, financial exploitation, verbal (emotional) abuse, wrongful restraint, involuntary seclusion, sex abuse and neglect.
- Prohibiting sexual contact between any individual receiving mental health services and the person providing the treatment.
- Revising “adult with mental illness” from only enrolled CMHP service recipients to “adults with a severe and persistent mental illness who is receiving mental health treatment from a community program.”
- Including Oregon Health Authority paid (direct/indirectly) mental health treatment providers as “community programs.”

OVERVIEW OF CHANGES

- Updated definitions to reflect the 2018 law change to ORS 430.735, and terminology and definition changes align with other OTIS rules when appropriate.
- These rules assure an assessment of adult protective services occurs upon receipt of all complaints of alleged abuse for all adults with severe and persistent mental illness who are receiving mental health treatment from a community program.
- Abuse investigations conducted under these rules by OTIS or the community mental health program designee are limited to incidents involving residents of mental health facilities; or adults with severe and persistent mental illness who are receiving mental health treatment from a community program and the accused is either a mental health treatment service provider, or a caregiver for the adult.
- Update notification requirements to various parties at the approved closure of an investigation to align with OTIS rules for due process and issuing final orders; following either a contested case process for cases closed as of 03/01/2019, or other than contested case process for cases closed prior to or on 02/28/2019.

Justification

The Department needs to immediately temporarily amend these rules as described in the rule summary to be in compliance with 2018 Senate Bill 1540, Section 2 enacted on 04/03/2018.

- To ensure requirements in ORS 430.731, 430.735 to 430.765 and 430.768 are reflected in these rules for OTIS and community mental health programs; responsibilities for initial action on abuse reported, assessing protective services and investigation to make findings to reflect legislative changes from Section 2 of 2018 SB 1540 (2018 OL chapter 77).
- To increase consistency across vulnerable adult abuse programs responsible for responding to mandatory reports or complaints of alleged abuse by using similar terminology and practices when appropriate; to reflect recent Department leadership decisions about policy standardization, and updated program rules.
- To add references and align terminology for the OTIS substantiated abuse review process rules that ensures all accused persons or accused providers receive notice of the investigation outcome; including when applicable, a notice of substantiated outcome that details their due process rights to an abuse review process as required by the Administrative Procedures Act in ORS chapter 183.

The Department finds that failure to act promptly by amending these rules in OAR 407-045-0120 through 407-045-0240 will result in serious prejudice to the public interest and adults with mental illness. The Department needs to proceed by immediately filing temporary rule changes because the public, Department, residential providers and adults receiving mental health treatment services from a community program will immediately benefit with these rules reflecting the additional defined abuses for adults covered by mandatory abuse reporting under ORS 430.735 to 430.765.

DHSD 2-2019 **Filed: 03/01/2019 8:59 AM**

407-045-0605 Adopt

407-045-0615 Adopt

Statement of Need

These rules need to be adopted immediately to reflect the Department's new contested case hearings process that the Office of Training, Investigations and Safety (OTIS) is implementing to provide due process to an AP (accused person/provider) who are respondents determined to be responsible for adult abuse under OTIS rules in OAR division 407, chapter 45 that implement ORS 430.731, ORS 430.735 to 430.765 and ORS 430.768.

These new rules meet this need by ensuring the Department rules on investigating reports of alleged adult abuse under ORS 430.735, direct OTIS to provide notice to an AP about their rights for requesting a contested case hearing; describe how an AP can request a contested case hearing in accordance with OAR 407-045-0605 and the Oregon Department of Justice Model Rules on Contested Case Hearings; and state the requirements in OAR 407-045-0615 for OTIS use of lay representatives in contested case hearings conducted under these two rules.

Justification

The Department finds that failure to act promptly by adopting these two temporary rules will result in serious prejudice to the public interest, the Department, and persons or providers who are respondents in an adult abuse investigation conducted by the Department's OTIS or the Department's designee (community mental health or developmental disabilities programs, CMHP/CDDP). The Department needs to proceed by immediately filing temporary rules because the public, the Department, CDDP/CMHP, DHS/OHA service providers for mental health or developmental disabilities services, including residential facilities, adult foster homes and the state hospitals, and accused persons/providers in an OTIS or CDDP/CMHP adult abuse investigation will immediately benefit when the Department's rules reflect the OTIS contested case hearings process that provides a more robust due process to an accused person/provider.

DHSD 3-2019 **Filed: 03/01/2019 9:09 AM**

407-045-0405 Amend

407-045-0415 Amend

407-045-0425 Amend

407-045-0435 Amend

407-045-0445 Amend

407-045-0455 Amend

407-045-0465 Amend

407-045-0475 Amend

407-045-0485 Amend

407-045-0495 Amend

Statement of Need

The Department is proposing to temporarily amend these rules (OAR 407-045-0405 through 407-045-0495) that prescribe the standards and procedures for screening and investigating reported patient abuse by staff or visitors at the Oregon State Hospital; and communicating with OSH in their assessing and assuring the provision of protective services for the patient, upon receipt of the abuse complaint. These rules state the requirements the Department's Office of Investigations, Training and Safety (OTIS) follow upon receipt of a mandatory abuse report or complaint of alleged

patient abuse, as described in Oregon Laws 2018 Chapter 77, Section 2, ORS 430.735 to 403.765 and ORS 430.768. Recent Department leadership decisions to implement effective March 1, 2019, a contested case hearing process for all substantiated allegations of abuse defined in OL 2018, Chapter 77, Section 2 (ORS 430.735), require these rule changes to ensure effective implementation.

The changes relate to the written outcome notification information that OTIS will provide all named accused persons or providers and others as applicable when an abuse investigation conducted at OSH is approved to close with a determination made on an allegation(s); including when patient abuse is substantiated. Final orders will be issued through that process being adopted in OAR 407-045-0605 and 407-045-0615.

OVERVIEW OF CHANGES

- Updated definitions to reflect the definition changes to align with other OTIS adult abuse investigation rules when appropriate.
- Updated notification requirements to various parties at the approved closure of an investigation to align with OTIS rules for due process and issuing final orders; following a contested case process for cases closed as of 03/01/2019, with a substantiated abuse finding
- Minor edits to correct numbering, clarity of text and add a subtitle to these rules, OAR 407-045-0405 through 407-045-0495.

Justification

The Department needs to immediately temporarily amend these rules as described in the rule summary to add references and align terminology for the OTIS substantiated abuse review process rules that ensures all accused persons receive notice of the investigation outcome; including when applicable, a notice of abuse determination when an allegation is substantiated, which details the AP's due process rights to a contested case hearing, as stated by the Administrative Procedures Act in ORS chapter 183.

These rules changes ensure the Department rules on investigating reports of alleged patient abuse under ORS 430.735 and ORS 430.768, direct OTIS to provide notice to an AP about their rights for requesting a contested case hearing; describe how an AP can request a contested case hearing in accordance with other OTIS rules (OAR 407-045-0605 and 407-045-0615) and the Oregon Department of Justice Model Rules on Contested Case Hearings.

The Department finds that failure to act promptly by amending these rules in OAR 407-045-0405 through 407-045-0495 will result in serious prejudice to the public interest and adults who are patients at the Oregon State Hospital (OSH). The Department needs to proceed by immediately filing temporary rule changes because the public, Department, Authority, OSH employees, visitors at OSH, and patients in the care and custody of OSH will immediately benefit with these rules reflecting the implementation of a contested case hearing process for abuses substantiated under ORS 430.735 to 430.765 and ORS 430.768.

DHSD 4-2019	Filed: 03/01/2019 9:16 AM
407-045-0250	Amend
407-045-0260	Amend
407-045-0280	Amend

407-045-0285	Amend
407-045-0291	Amend
407-045-0295	Amend
407-045-0298	Amend
407-045-0300	Amend
407-045-0320	Amend
407-045-0325	Amend
407-045-0330	Amend
407-045-0360	Amend
407-045-0370	Amend

Statement of Need

The Department is proposing to temporarily amend these rules (OAR 407-045-0250 through 407-045-0370) that prescribe the standards and procedures for assessing protective services and investigating reports of alleged abuse of an adult with developmental disabilities, upon receipt of the abuse complaint. These rules state the requirements the Department's Office of Investigations, Training and Safety (OTIS) and the Department's designee (CDDP, Community Developmental Disabilities Programs) follow upon receipt of a report or complaint of alleged abuse, as described in Oregon Laws 2018 Chapter 77, Section 2, ORS 430.735 to 403.765 and ORS 430.768. Recent Department leadership decisions to adopt rules (OAR 407-045-0605 and 407-045-0615, effective March 1, 2019), a contested case hearing process for all substantiated allegations of adult abuse defined in OL 2018, Chapter 77, Section 2 (ORS 430.735), require these rule changes to ensure effective implementation.

The changes relate to the written outcome notification information that OTIS will provide all named accused persons or accused providers with others as applicable, when an abuse investigation is approved by OTIS to close with abuse determined. Final orders will be issued through the OTIS process being adopted in OAR 407-045-0605 and 407-045-0615.

OVERVIEW OF CHANGES

- Updated definitions to reflect the definition changes to align with other OTIS adult abuse investigation rules when appropriate.
- Updated notification requirements to various parties at the approved closure of an investigation to align with OTIS rules for due process and issuing final orders; following a contested case process for cases closed as of 03/01/2019, with a substantiated abuse finding
- Minor edits to correct numbering, clarity of text and add a subtitle to these rules, OAR 407-045-0250 through 407-045-0370.

Justification

The Department needs to immediately temporarily amend these rules as described in the rule summary to add references and align terminology for the OTIS substantiated abuse review process rules that ensures all accused persons receive notice of the investigation outcome; including when applicable, a notice of abuse determination that details their due process rights to a contested case hearing, as stated by the Administrative Procedures Act in ORS chapter 183.

These rules changes ensure the Department rules for investigating reports of alleged abuse of adults with developmental

disabilities per ORS 430.731, ORS 430.735 to 430.765 and ORS 430.768, direct OTIS to provide notice to an AP when an investigation conducted by OTIS or the CDDP designee is approved to close with a determination; with a revised notification about their rights for requesting a contested case hearing; describe how an AP can request a contested case hearing in accordance with other OTIS rules (OAR 407-045-0605 and 407-045-0615) and the Oregon Department of Justice Model Rules on Contested Case Hearings.

The Department finds that failure to act promptly by amending these rules in OAR 407-045-0250 through 407-045-0370 will result in serious prejudice to the public interest and adults with developmental disabilities. The Department needs to proceed by immediately filing temporary rule changes because the public, adults determined eligible for developmental disabilities services, the Department, community developmental disabilities programs, brokerages, service providers including residential training homes, adult foster homes and the Stabilization and Crisis Units for adults with developmental disabilities, and their families will immediately benefit with these rules reflecting the implementation of a contested case hearing process for abuses substantiated under ORS 430.735 to 430.765 and ORS 430.768.

DHSD 5-2019	Filed: 03/01/2019 9:22 AM
407-045-0800	Amend
407-045-0820	Amend
407-045-0885	Amend
407-045-0895	Amend
407-045-0905	Amend
407-045-0910	Suspend
407-045-0913	Adopt
407-045-0915	Suspend
407-045-0940	Suspend

Statement of Need

These rules need to be amended immediately to reflect the new contested case hearings process that the Office of Training, Investigations and Safety (OTIS) is implementing to provide due process to respondents who are determined to be responsible for child abuse under OTIS rules that implement ORS 418.257-418.259 and 419B.005-419B.050. These temporary changes meet this need by ensuring the OTIS rules on screening and investigating reports of child abuse direct OTIS to provide meaningful notice to respondents about their right to request a contested case hearing; describe how a respondent can request a contested case hearing in accordance with OTIS rules and the Department of Justice Model Rules on Contested Case Hearings; and state the requirements for OTIS use of lay representatives in contested case hearings conducted under these rules.

Justification

The Department finds that failure to act promptly by amending these rules will result in serious prejudice to the public interest, the Department, respondents in OTIS child abuse investigations. The Department needs to proceed by immediately filing temporary rules because the public, the Department, and respondents in OTIS child abuse investigations will immediately benefit when the Department's rules reflect the OTIS contested case hearings process that provides a more robust due process to respondents.

DHSD 7-2019 **Filed: 03/18/2019 9:31 AM**

407-045-0000	Suspend
407-045-0010	Suspend
407-045-0025	Suspend
407-045-0030	Suspend
407-045-0055	Suspend
407-045-0060	Suspend
407-045-0080	Suspend
407-045-0085	Suspend
407-045-0090	Suspend
407-045-0110	Suspend
407-045-0115	Suspend

Statement of Need

The Department of Human Services, Office of Training, Investigations and Safety (OTIS) is proposing to suspend the rules in OAR 407-045-0000 through 407-045-0115. These rules stated the requirements of OTIS to provide an AP (accused person, accused provider, alleged perpetrator) a written notice of a substantiated abuse allegation and described the rights of the AP to request an OTIS review as another than contested case for investigations approved to closed before March 1, 2019; when OTIS implemented OAR 407-045-0605, a contested case hearing process.

Justification

The Department needs to immediately suspend these rules as described in the rule summary to reflect the Office of Training, Investigations and Safety (OTIS) change to a contested case hearing as described in OAR 407-045-0605; related to notice and issuing final orders to individuals with a substantiated adult abuse finding.

Failure to act promptly and immediately to suspend these rules will result in serious prejudice to the public interest or the interest of parties concerned, including the Department, community mental health programs, community developmental disability programs, residential facilities, service providers, caregivers and vulnerable adults. These rules need to be suspended promptly to ensure clarity of process for persons or entities who were investigated and determined to have either abused an adult with developmental disabilities or mental illness.

DHSD 9-2019 **Filed: 07/26/2019 1:35 PM**

407-007-0317	Adopt
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Statement of Need

This rule allows for making a special approval decision for certain subject individuals if all but one specific part of the background check has been completed. Details are provided for who is subject to this rule and what conditions must be met to allow for this decision. This needs to be added to the Background Check Unit rules immediately as there is no current avenue to allow these subject individuals now pending the completion of the out of state check.

Justification

The out of state child abuse check is a required part of the Family First background check for subject individuals who have lived outside Oregon in the past five years. Every state has different procedures for requesting information and different timelines for returning results. Some responses may take months. The Department has been requesting similar

out of state child abuse checks for the Adam Walsh Act of 2008 and has yet to receive any negative results that have led to a background check denial. The Department needs to file these rules immediately to allow child caring agencies to hire staff for the safety of clients and maintain required staff ratios.

DHSD 17-2019 **Filed: 09/25/2019 11:40 AM**

407-045-0298	Amend
407-045-0330	Amend
407-045-0645	Adopt

Statement of Need

Effective November 1, 2019, the Department's Office of Developmental Disabilities Services (ODDS) is implementing a revised policy for serious incident reporting procedures related to adults enrolled in developmental disabilities services, in coordination with the Department's Office of Training, Investigations and Safety (OTIS).

Justification

The Department finds that failure to act promptly by adopting these rules to align with the statewide policy change will result in serious prejudice to the public interest and adults who are receiving developmental disabilities services from ODDS. The Department's OTIS needs to proceed by immediately filing these temporary rules because the public, Department staff, community developmental disabilities programs, developmental disabilities service providers and adults enrolled in services will benefit with these rules reflecting the coordinated policy change in reporting the death of adults enrolled in developmental disabilities case management services. These rules specify additional abuse investigator duties for adults with developmental disabilities; procedures for these quality assurance reviews of an adult's care and services upon their death when there is no indication of alleged abuse.

DHSD 18-2019 **Filed: 09/26/2019 4:00 PM**

407-007-0010	Amend
407-007-0020	Amend
407-007-0030	Amend
407-007-0041	Adopt
407-007-0050	Amend
407-007-0060	Amend
407-007-0065	Amend
407-007-0070	Amend
407-007-0090	Amend
407-007-0210	Amend
407-007-0220	Amend
407-007-0250	Amend
407-007-0275	Amend
407-007-0277	Amend
407-007-0281	Adopt
407-007-0290	Amend

407-007-0300	Amend
407-007-0315	Amend
407-007-0340	Amend
407-007-0610	Amend
407-007-0620	Amend
407-007-0630	Amend

Statement of Need

Oregon Law 2019, chapter 423 (2019 Legislative Session, SB725) impacts all background checks and fitness determinations conducted the Department of Human Services and the Oregon Health Authority by:

- Limiting who is subject to a fitness determination (based on being subject to federal law or ORS 443.004)
- Categorizing convictions and criminal conditions and potentially disqualifying depending on time since the conviction, or the type of crime
- Determining time frames for conducting criminal records checks on subject individuals who are subject to ORS 443.004.

To meet the Legislative requirement of OL 2019, ch 423 becoming effective the 91 day after sine die, the Department is updating its rules to comply with this new law. This requires the adoption of OAR 407-007-0041 and 407-007-0281 as well in changes to several other rules to make the ensure consistency across the rules.

This filing includes changes within three broader sets of rules:

OAR 407-007-0000 to 407-007-0100 Criminal Records Check Rules for "DHS Employees, Volunteers, and Contractors"

OAR 407-007-0200 to 407-007-0370 "Criminal Records Checks and Abuse Checks on Providers"

OAR 407-007-0600 to 407-007-0640 "Long Term Care Registry"

In addition, OL2016 ch 106 section 6 has been published as ORS 418.248. References to this statute has been corrected.

Justification

2019 Oregon Law 423 becomes effective September 29, 2019. The Department must make updates to its rules to meet the new statutory requirements immediately to ensure adherence with all requirements.

DHSD 19-2019	Filed: 10/01/2019 11:50 AM
407-007-0041	Adopt
407-007-0281	Adopt

Statement of Need

The Department accidentally omitted text in OAR 407-007-0041(T) and 407-007-0281(T), impacting the meaning of the rule. This temporary rule immediately fixes the error.

Justification

Because the omission of text impacted the meaning of the rule, it is necessary to immediately correct the error so that the DHS stakeholders and general public have the correct information.

Statement of Need

In July, the Department file this temporary rule, allowing for making a special approval decision for certain subject individuals if all but one specific part of the background check has been completed. Details are provided for who is subject to this rule and what conditions must be met to allow for this decision.

Since the July Filing, the federal government has informally responded to several states regarding the issues this rule addressed. This new filing brings the rule into immediate compliance with federal guidelines.

The out of state child abuse check is a required part of the Family First background check for subject individuals who have lived outside Oregon in the past five years. Every state has different procedures for requesting information and different timelines for returning results. Some response may take months. The Department needs to files these rules to allow child caring agencies to hire staff for the safety of clients and to maintain compliance with federal directives.

Justification

This rule allows for making a special approval decision for certain subject individuals if all but one specific part of the background check has been completed. Details are provided for who is subject to this rule and what conditions must be met to allow for this decision. This needs to be added to the Background Check Unit rules immediately as there is no current avenue to allow these subject individuals now pending the completion of the out of state check.

The out of state child abuse check is a required part of the Family First background check for subject individuals who have lived outside Oregon in the past five years. Every state has different procedures for requesting information and different timelines for returning results. Some response may take months. The Department has been requesting similar out of state child abuse checks for the Adam Walsh Act of 2008 and has yet to receive any negative results that have led to a background check denial. The federal government has provided information guidance to several states including Oregon on handling out of state CPS checks. This rule needs to be filed immediately to comply with the newly received guidance.

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

Administrative Rules Annual Report

HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2019 and December 31, 2019

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	127
Amended	144
Repealed	44

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	14
Amended	25
Suspended	0

APD 1-2019

Filed: 01/07/2019 12:05 PM

411-455-0000	Adopt
411-455-0010	Adopt
411-455-0020	Adopt
411-455-0030	Adopt
411-455-0040	Adopt
411-455-0050	Adopt
411-455-0060	Adopt

Statement of Need

ODDS needs to immediately adopt rules in OAR chapter 411, division 455 to prescribe standards, responsibilities, and procedures for the delivery of State Plan personal care services to individuals who are eligible for services through Community Developmental Disabilities Programs, Brokerages, or Children's Intensive In-Home Services.

ODDS needs to proceed by filing temporary rules because ODDS, Community Developmental Disabilities Programs, Brokerages, case managers for Children's Intensive In-Home Services, and individuals applying for, or receiving State Plan personal care services, will immediately benefit when ODDS' rules reflect standards for State Plan personal care services.

ODDS is adopting the following rules in OAR chapter 411, division 455 to prescribe standards, responsibilities, and procedures for the delivery of State Plan personal care services for individuals with intellectual or developmental disabilities:

OAR 411-455-0000, Statement of Purpose;

OAR 411-455-0010, Definitions and Acronyms;

OAR 411-455-0020, Eligibility;

OAR 411-455-0030, Needs Assessment, Service Authorization, and Monitoring;

OAR 411-455-0040, Exceptions;
OAR 411-455-0050, Services; and
OAR 411-455-0060, Standards for Providers.

Justification

Failure to act promptly and immediately adopt OAR chapter 411, division 455 will result in serious prejudice to ODDS, Community Developmental Disabilities Programs, Brokerages, case managers for Children's Intensive In-Home Services, and individuals applying for, or receiving, State Plan personal care services, and the individuals' family members and legal and designated representatives.

Failure to act promptly and immediately adopt OAR chapter 411, division 455 will prevent the Department from having standards for the delivery of State Plan personal care services for individuals with intellectual or developmental disabilities.

OAR chapter 411, division 455 need to be immediately adopted to prescribe standards, responsibilities, and procedures for the delivery of State Plan personal care services to individuals who are eligible for services through Community Developmental Disabilities Programs, Brokerages, or Children's Intensive In-Home Services.

APD 2-2019

Filed: 01/07/2019 10:54 PM

411-425-0005	Adopt
411-425-0015	Adopt
411-425-0025	Adopt
411-425-0035	Adopt
411-425-0045	Adopt
411-425-0055	Adopt

Statement of Need

ODDS needs to immediately adopt rules in OAR chapter 411, division 425 about Functional Needs Assessments to fix a filing error which allowed the previous temporary rules in OAR chapter 411, division 425 to expire. ODDS needs to proceed by filing temporary rules because ODDS, case management entities, and individuals applying for, or receiving services, will immediately benefit when ODDS' rules prescribe standards, responsibilities, and procedures for conducting an Oregon Needs Assessment (ONA).

OAR 411-425-0005 (previously OAR 411-425-0010) is being adopted to include the purpose of the ONA and new language specifying the rules are effective as of July 1, 2018.

OAR 411-425-0015 (previously OAR 411-425-0020) is being adopted to define terms and acronyms used in OAR chapter 411, division 425.

OAR 411-425-0025 (previously OAR 411-425-0030) is being adopted to include policies and procedures for case

management entities and prohibit conflicts of interest.

OAR 411-425-0035 (previously OAR 411-425-0040) is being adopted to include the qualifications and training requirements for an assessor and supervisor.

OAR 411-425-0045 (previously OAR 411-425-0050) is being adopted to include direction to allow the Department or the Oregon Health Authority to provide quality assurance.

OAR 411-425-0055 (previously OAR 411-425-0060) is being adopted to include the ONA standards.

Justification

Failure to act promptly and immediately adopt rules in OAR chapter 411, division 425 will result in serious prejudice to ODDS, case management entities, and individuals applying for, or receiving, developmental disabilities services, and the individuals' family members and legal and designated representatives.

Failure to act promptly and immediately adopt rules in OAR chapter 411, division 425 will prevent the Department from fixing a filing error which allowed the previous temporary rules in OAR chapter 411, division 425 to expire.

The rules in OAR chapter 411, division 425 need to be immediately adopted to comply with ODDS' 1915(c) Home and Community-Based Services waivers by prescribing standards, responsibilities, and procedures for conducting an Oregon Needs Assessment.

APD 14-2019

Filed: 02/27/2019 9:59 AM

411-015-0030

Amend

Statement of Need

The Department needs to amend the Extended Waiver Eligibility (EWE) criteria in 411-015-0030 because APD needs to increase access to individuals that demonstrate a continued need to utilize services. This is being done by expanding the SPL criteria to include individuals who are assessed as SPL 18.

The Department must also amend the rule to correct the re-assessment timeline from every six months to every 12 calendar months. This is being done by changing the timeframe in the rule to the correct period.

Finally, the Department needed to add language to clarify who is eligible for EWE. The Department added in language to clarify that individuals who have been determined eligible for Medicaid OHP Plus under OAR 410-200 are not eligible for Extended Waiver Eligibility.

Justification

Failure to act promptly and immediately amend OAR 411-015-0030 will result in serious prejudice to the public interest, the Department, and individuals being assessed as SPL 18. These rules need to be adopted promptly, so that APD may

begin serving individuals assessed at SPL 18, withdraw from administrative hearings of individuals who fall within that service priority level, and so the Department can communicate changes to field staff for implementation. Without this change individuals eligible for EWE may not receive the benefit and in turn experience negative health consequences.

APD 31-2019 **Filed: 08/30/2019 11:11 AM**

411-032-0050 Amend

Statement of Need

The Department needs to immediately amend the Oregon Project Independence Pilot rule in 411-032-0050 to continue providing services to adults with physical disabilities that are currently receiving such services in regionally diverse pilot locations through the Area Agencies on Aging. 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 expired on June 30, 2019.

Justification

Failure to act promptly and immediately to amend OAR chapter 411, division 032 will result in serious prejudice to the public interest, the Commission, and Area Agencies on Aging (AAA) operating the pilot expansion and serving 300+ individuals. These rules need to be amended promptly so that the pilot program can continue in the designated AAA programs through the 2019-2021 biennium, as directed by the Legislature and APD administration.

APD 32-2019 **Filed: 09/03/2019 10:40 AM**

411-032-0050 Amend

Statement of Need

The Department needs to immediately amend the Oregon Project Independence Pilot rule in 411-032-0050 to continue providing services to adults with physical disabilities that are currently receiving such services in regionally diverse pilot locations through the Area Agencies on Aging. 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 expired on June 30, 2019.

Justification

Failure to act promptly and immediately to amend OAR chapter 411, division 032 will result in serious prejudice to the public interest, the Commission, and Area Agencies on Aging (AAA) operating the pilot expansion and serving 300+ individuals. These rules need to be amended promptly so that the pilot program can continue in the designated AAA programs through the 2019-2021 biennium, as directed by the Legislature and APD administration.

APD 50-2019 **Filed: 12/19/2019 11:27 AM**

411-052-0005 Amend

411-052-0025 Amend

411-052-0035 Amend

Statement of Need

The Department needs to immediately amend rule to be in compliance with SB 917 (2019). Although this law applies to nursing facilities, residential living facilities and adult foster homes, the administrative rules for both nursing facilities and residential care facility regulations do not need to be amended because they already contain language that meets the intent of this law. However, adult foster home rules did not contain comparable language, and needed to be amended.

Justification

Failure to act promptly and immediately amend OAR chapter 411, division 052 will result in serious prejudice to the public interest, the Department, and residents of adult foster homes. These rules need to be adopted promptly so that adult foster homes will not be able to interfere with or retaliate against a whistleblower who discloses information regarding mistreatment in the adult foster home. Since residential care/assisted living facilities and nursing facilities are already in compliance with this new statute, it is important to focus only on adult foster home rules at this time, in order to fully implement SB 917 (2019).

OAR chapter 411, division 052 needs to be amended promptly because it is important to protect staff and volunteers who disclose information concerning potential mistreatment within facilities (protect whistleblowers). Since adult foster homes are the only SOQ facility type that does not have that administrative rule protection in place, it is important to draft this rule as soon as possible. (implements SB 917)

APD 51-2019 **Filed: 12/19/2019 2:01 PM**
411-050-0720 Amend

Statement of Need

OAR chapter 411, division 050 needs to be amended promptly since there is an element missing from rule that requires clarification. This rule is pertinent to the safety of residents who may reside in adult foster homes that are licensed in manufactured homes, providing clarification to potential Adult Foster Home licensees and licensors. This language was in rule previously and was removed during a large update. This language clarifies standards for mobile homes, specific to fire and life safety standards for manufactured homes built prior to 1976. The suspension of this language may potentially allow for manufactured homes that do not meet fire and life safety standards to be licensed creating a significant safety risk to Adult Foster Home residents.

Justification

The Department finds failure to act promptly will result in serious prejudice to the public interest, the Department, and Adult Foster Home licensees and residents. These rules need to be adopted promptly so Adult Foster Home remain in compliance with Code of Federal Regulations requirements.

OAR chapter 411, division 050 must be amended promptly since there is an element missing from rule that requires clarification. This section was in rule previously and was removed during a large update. This language clarifies standards for mobile homes, specific to fire and life safety standards for manufactured homes built prior to 1976. The suspension of this language may potentially allow for manufactured homes that do not meet fire and life safety standards to be licensed creating a significant safety risk to Adult Foster Home residents.

APD 52-2019 **Filed: 12/20/2019 10:36 AM**
411-057-0100 Amend
411-057-0110 Amend
411-057-0120 Amend
411-057-0130 Amend
411-057-0140 Amend

411-057-0150	Amend
411-057-0155	Adopt
411-057-0160	Amend
411-057-0170	Amend
411-057-0180	Amend
411-057-0190	Amend

Statement of Need

The Department needs to immediately amend rule to be in compliance with HB 3359 (2017).

Justification

Failure to act promptly and immediately amend OAR chapter 411, division 057 will result in serious prejudice to the public interest, the Department, and residents of memory care communities that are licensed as residential care, assisted living, and nursing facilities. These rules need to be adopted promptly so that memory care communities will be in compliance with new additional dementia training requirements, as required by HB 3359.

OAR chapter 411, division 054 needs to be amended promptly so that memory care communities are providing the latest evidence-based trainings on dementia. Having staff fully trained on dementia training is necessary if these facilities are to provide quality care to residents in those facilities. (Implements HB 3559)

APD 53-2019 Filed: 12/23/2019 11:18 AM

411-051-0110	Amend
411-054-0030	Amend
411-086-0040	Amend

Statement of Need

The Department needs to immediately amend rule to be in compliance with HB 2524 (2019).

Justification

Failure to act promptly and immediately amend OAR chapter 411, divisions 051, 054 and 086 will result in serious prejudice to the public interest, the Department, and residents of adult foster homes and residential care, assisted living, and nursing facilities. These rules need to be adopted promptly so that all these facility types will provide information from the Office of Long Term Care Ombudsman (LTCO) to residents at the time of admission.

OAR chapter 411, divisions 051, 054 and 086 need to be amended promptly so that, at admission, residents will receive information approved by the LTCO concerning the services provided by that office. This required information will also include contact information, so residents will know how to contact the LTCO, if needed. (Implements HB 2524 (2019))

APD 54-2019 Filed: 12/23/2019 12:00 PM

411-054-0005	Amend
411-054-0012	Amend
411-054-0065	Amend

Statement of Need

The Department needs to immediately amend rule to be in compliance with HB 4129 (2018).

Justification

Failure to act promptly and immediately amend OAR chapter 411, division 054 may result in serious prejudice to the public interest, the Department, and residents of residential care and assisted living facilities. These rules need to be adopted promptly so that these facilities will be run by licensed administrators, as regulated by the Health Licensing Office.

OAR chapter 411, division 054 needs to be amended promptly so that residents will be in the care of a facility overseen by a licensed administrator who has successfully completed a rigorous review before receiving a license. Obtaining a license requires completing training, taking a test, and completing ongoing education, per OAR chapter 853 as regulated by HLO. Every administrator must have successfully obtained a license by January 1, 2022, as required by HB 4129 (2018).

APD 55-2019	Filed: 12/23/2019 1:41 PM
411-054-0025	Amend
411-054-0320	Amend

Statement of Need

The Department needs to immediately amend rule to be in compliance with SB 815 (2019).

Justification

Failure to act promptly and immediately amend OAR chapter 411, division 054 will result in serious prejudice to the public interest, the Department, and residents of residential care and assisted living facilities. These rules need to be adopted promptly so that residential care and assisted living facilities will be in compliance with new requirements for providing this consumer summary statement. In addition, residential care and assisted living facilities need to be aware of the new deadline for the initial launch of the Quality Metrics program.

OAR chapter 411, division 054 needs to be amended promptly so, at admission, residents will be provided with a summary of services that facilities do and do not provide, as well as an explanation that residents will be asked to leave the facility, should facility leadership determine the facility can no longer provide services the resident needs. Also, the Quality Metrics program will require residential care and assisted living facilities to track and report data; facilities need to be aware that the program is beginning in 2020, since facilities will need to immediately begin tracking data. (Implements SB 815)

Department of Human Services, Child Welfare Programs

Administrative Rules Annual Report

HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2019 and December 31, 2019

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	12
Amended	116
Repealed	19

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	2
Amended	28
Suspended	1

CWP 12-2019 **Filed: 01/23/2019 11:36 AM**

413-015-0210 Suspend

Statement of Need

At the completion of the comment period, based in part on comments received, it was determined to suspend the temporary modifications to this rule and continue with the language unchanged.

Justification

The Department finds that failure to act promptly by amending the rule will result in serious prejudice to the public interest and children served by the Department. The Department needs to proceed by filing a temporary rule because the public, the Department, will immediately benefit when the Department's rule reflects the obligations of the Department.

CWP 20-2019 **Filed: 04/02/2019 4:36 PM**

413-100-0060 Amend

Statement of Need

The Department has need for additional placement services, and these resources are reimbursable under Title IV-E.

Justification

The Department would like use of these funds as soon as possible. The Department finds that failure to act promptly by amending these rules will result in serious prejudice to the public interest and children served by the Department. The Department needs to proceed by filing a temporary rule because the public and the Department will immediately benefit when the Department's rule reflects the obligations of the Department pursuant to law.

CWP 22-2019 **Filed: 04/05/2019 3:16 PM**

413-015-0115 Amend

413-015-0200 Amend

413-015-0205 Amend

413-015-0211	Amend
413-015-0212	Amend
413-015-0213	Amend
413-015-0214	Amend
413-015-0215	Amend
413-015-0220	Amend
413-015-0225	Amend
413-015-0230	Adopt
413-015-0310	Amend
413-015-0404	Amend
413-015-0405	Amend
413-015-0432	Amend
413-015-0435	Amend

Statement of Need

The date for implementation of centralized screening is April 8, 2019. These rules must be filed temporary to ensure they are effective on this date. The modifications to the rules address the centralization of screening from multiple locations around the state to one location at the Oregon Child Abuse Hotline. In addition, the changes are an effort to remove procedure from the administrative rule. The procedural elements removed will be addressed in the Child Welfare Procedure Manual.

Justification

The failure to have updated rules in place at the time of centralization can result in the improper handling of reports of abuse.

The Department finds that failure to act promptly by amending the rule will result in serious prejudice to the public interest and children served by the Department. The Department needs to proceed by filing a temporary rule because the public, the Department, will immediately benefit when the Department's rule reflects the obligations of the Department.

CWP 23-2019 **Filed: 04/08/2019 1:05 PM**

413-015-0210	Amend
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Statement of Need

The date for implementation of centralized screening is April 8, 2019. This rule must be filed temporary to ensure changes are effective on this date. The modifications address the centralization of screening from multiple locations around the state to one location at the Oregon Child Abuse Hotline. In addition, the changes are an effort to remove procedure from the administrative rule. The procedural elements removed will be addressed in the Child Welfare Procedure Manual.

Justification

The failure to have updated rules in place at the time of centralization can result in the improper handling of reports of abuse.

The Department finds that failure to act promptly by amending the rule will result in serious prejudice to the public interest and children served by the Department. The Department needs to proceed by filing a temporary rule because the public, the Department, will immediately benefit when the Department's rule reflects the obligations of the

Department.

CWP 24-2019 **Filed: 05/01/2019 3:43 PM**

413-015-0115 Amend

413-015-0211 Amend

413-015-0404 Amend

413-015-0432 Amend

413-015-0435 Amend

Statement of Need

The Department needs to immediately amend OARs 413-015-0115, 413-015-0211, 413-015-0404, 413-015-0432, and 413-015-0435 to include language that was removed from temporary rules that became effective on April 8, 2019 and to provide clarification based on feedback received. The changes will immediately benefit those served by the Department in that the rules restored will receive additional review prior to a decision to modify them.

OAR 413-015-0115 about Definitions for CPS is being amended to update the definitions for "Abuse", "Protective Action Plan", and "Screener".

OAR 413-015-0211 about a Report of Abuse is being amended to clarify when collaterals are contacted.

OAR 413-015-0404 about Receipt of New Information on an Open CPS Assessment is being amended to restore language requiring the way in which a CPS worker addresses a new assigned report of abuse on an open CPS assessment.

OAR 413-015-0432 about Developing Safety Plans is being amended to specify actions a CPS worker must take when a Safety Plan includes a parent or caregiver, who is the alleged perpetrator and consents to leave the family home without their children or have their children leave the family home without them.

OAR 413-015-0435 about Developing a Protective Action Plan is being amended to restore language specific to the maximum length of time for a Protective Action Plan.

Justification

Failure to act promptly and immediately amend OARs 413-015-0115, 413-015-0211, 413-015-0404, 413-015-0432, and 413-015-0435 will prevent the necessary review of the rules and possible changes to the rules and therefore could result in serious prejudice to the Department, CPS workers, and children in unsafe situations.

Failure to act promptly and immediately amend OARs 413-015-0115, 413-015-0211, 413-015-0404, 413-015-0432, and 413-015-0435 will prevent the Department from having a transparent process to assure protection of children after a report of alleged abuse is received by a CPS worker.

OARs 413-015-0115, 413-015-0211, 413-015-0404, 413-015-0432, and 413-015-0435 need to be immediately amended to provide clear direction to CPS workers by including language that was removed from temporary rules that became effective on April 8, 2019.

CWP 26-2019 **Filed: 05/31/2019 9:48 AM**

413-010-0035 Amend

413-010-0075 Amend

Statement of Need

The Department needs to immediately amend OARs 413-010-0035 and 413-010-0075 to expeditiously eliminate the backlog, and especially the overdue backlog, of public records requests pursuant to the Governor's Executive Order. Not immediately amending these rules will delay the completion of records requests in general and will specifically delay the completion of records requests that include requests for law enforcement reports or protective service assessments.

OAR 413-010-0035 about Prohibited Disclosures is being amended to allow the Department to release reports law enforcement agencies have cross reported to, or shared with, the Department without consulting with law enforcement or a prosecutor when the Department can determine, without consultation, that the information can be disclosed without interfering with an ongoing law enforcement investigation or prosecution of a criminal case. The rule amendment would also allow an assessment to be considered completed when the protective service assessment is complete rather than when the protective services assessment and any related criminal investigation is complete.

OAR 413-010-0075 about Disclosure Procedures is being amended to allow the Department to disclose client information without written manager or manager designee approval.

Justification

Failure to act promptly and immediately amend OARs 413-010-0035 and 413-010-0075 will result in serious prejudice to the Department, individual citizens, advocacy groups and any others making records requests of the Department.

Failure to act promptly and immediately amend OARs 413-010-0035 and 413-010-0075 will result in the Department not being able to comply with the Governor's Executive Order or come into compliance with public records request statute (ORS 192.324). Public records requesters will continue to not receive timely completion of their requests and the Department will be unable to adhere to its value of transparency.

OARs 413-010-0035 and 413-010-0075 need to be immediately amended to provide clear direction to Department staff that will allow them to process and complete records request responses more timely and to address the backlog of these requests, and especially the overdue backlog, then effectively manage that backlog while measures are put into place to sustain the ongoing, timely completion of records requests.

CWP 30-2019 **Filed: 06/27/2019 3:26 PM**

413-095-0060 Amend

Statement of Need

OAR 413-095-0060 needs to be amended due to Oregon Health Authority revising the BRS Table and effective date.

Justification

The Department of Human Services, Child Welfare finds that failure to act promptly by amending this rule will result in serious prejudice to the public interest, the Department, Behavioral Rehabilitation Services (BRS) and the welfare of children and youth in Oregon. As DHS has incorporated Oregon Health Authority's BRS rate table into the rule, the rule needs to be promptly amended to comport with the rate changes. This will help to ensure access to the needed BRS services for vulnerable youth.

CWP 32-2019 **Filed: 08/01/2019 2:12 PM**

413-090-0010 Amend

Statement of Need

The proposed rule changes are necessary to allow the Department to expand the population that will be able to receive this reimbursement to care for foster children.

Justification

The Department finds that failure to act promptly by amending the rule will result in serious prejudice to the public interest and children served by the Department. The Department needs to proceed by filing a temporary rule because the public and children will immediately benefit from more foster parents and relative placements receiving reimbursements for some of the cost of child care.

CWP 33-2019 **Filed: 08/01/2019 2:13 PM**

413-105-0010 Amend

413-105-0030 Amend

Statement of Need

The proposed amendments are necessary to incorporate changes made by SB 905 during the 2019 Legislature Session.

Justification

The Department finds that failure to act promptly by amending the rule will result in serious prejudice to the public interest and children served by the Department. The Department needs to proceed by filing a temporary rule because the public and children will immediately benefit from the Department being consistent with the current law regarding educational services. This rule needs to be in place prior to the 2019 school year to appropriately place and transport children.

CWP 54-2019 **Filed: 12/30/2019 12:40 PM**

413-002-0000 Adopt

Statement of Need

Adoption of the rule is necessary to incorporate changes made by House Bill 2033 during the 2019 Legislature Session.

Justification

The Department finds that failure to act promptly by adopting the rule will result in serious prejudice to the public interest and children served by the Department. The Department needs to proceed by filing a temporary rule because the public and children will immediately benefit from the Department being consistent with the current law regarding minimum qualifications for persons conducting investigations or making determinations regarding children. This rule

needs to be in place by January 1, 2020 pursuant to House Bill 2033.

Department of Human Services, Home Care Commission

Administrative Rules Annual Report

HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2019 and December 31, 2019

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	1
Amended	6
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0

Department of Human Services, Self-Sufficiency Programs

Administrative Rules Annual Report

HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2019 and December 31, 2019

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	97
Repealed	6

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	18
Suspended	2

SSP 2-2019

Filed: 01/24/2019 3:58 PM

461-165-0180

Amend

Statement of Need

OAR 461-165-0180 about the eligibility of child care providers needs to be amended to protect children receiving Department-subsidized child care from lead exposure by requiring child care providers who are exempt from licensing by the Office of Child Care and who are not related to children in care to test for lead in all water faucets or fixtures used for drinking, cooking, preparing infant formula or preparing food.

Justification

The Department finds that failure to act promptly by amending OAR 461-165-0180 will result in serious prejudice to the public interest, the Department, and children in subsidized child care not regulated by the Office of Child Care (OCC). This amendment is needed to support the health of children. This amendment protects children receiving Department-subsidized child care from lead exposure by requiring child care providers who are exempt from licensing by the OCC and who are not related to children in care to test for lead in all water faucets or fixtures used for drinking, cooking, preparing infant formula or preparing food. As the OCC does not regulate lead testing of water for license exempt providers that was put in place on September 30, 2018, this amendment is needed for the Department to continue to regulate water quality for license exempt child care providers.

SSP 4-2019

Filed: 02/22/2019 1:36 PM

461-155-0180

Amend

Statement of Need

OAR 461-155-0180 needs to be amended because the current rule would be outdated for federal poverty guidelines and

the state median income levels. This amendment promotes accurate benefit decisions in self-sufficiency programs by updating these standards.

Justification

The Department finds that failure to act promptly by amending OAR 461-155-0180 will result in serious prejudice to the public interest, the Department, and clients of its programs. The Department needs to proceed by temporary rule because the Department is determining eligibility for its clients on a continuous basis and the updated standards as of March 1, 2019 will allow more clients to qualify for its programs, which provide essential support for them.

SSP 5-2019	Filed: 02/27/2019 3:49 PM
461-115-0090	Amend
461-115-0140	Suspend
461-165-0035	Amend
461-165-0040	Suspend
461-195-0521	Amend
461-195-0541	Amend

Statement of Need

The Department needs to amend OAR 461-115-0090, OAR 461-165-0035, OAR 461-195-0521, and OAR 461-195-0541 and suspend OAR 461-115-0140 and OAR 461-165-0040 because the upcoming Integrated Eligibility system does not (without a multi-million dollar change and a delay in the start date) accommodate multiple representatives. These changes set out one authorized representative for all programs (except the TA-DVS program), align related policies about who can serve, the functions they can perform, and the responsibilities of an authorized representative. OAR 461-115-0090 about authorized representatives is being amended to establish that an authorized representative designated for one Department program must be the authorized representative for all Department programs except the TA-DVS program; revise who can be an authorized representative, who can appoint an authorized representative, what functions the authorized representative can fulfill, the requirements to which an authorized representative is subject, and establish that an individual's long-term care provider may not serve as that individual's authorized representative for the application for or administration of long-term care services. OAR 461-115-0140 about authorized representatives and alternate payees in the SNAP program is being suspended and this topic will be covered in OAR 461-115-0090 and OAR 461-165-0035. OAR 461-165-0035 about alternate payees is being amended to revise who can serve as an alternate payee, who can designate an alternate payee, and what requirements and responsibilities apply to those who serve as an alternate payee. OAR 461-165-0040 about assigning payees is being suspended and this topic will be covered in OAR 461-165-0035. OAR 461-195-0521 about the calculation of overpayments is being amended to remove outdated program names and clarify overpayment liability in OCCS medical programs related to the actions of an authorized representative. OAR 461-195-0541 about liability for overpayments is being amended to update cross-references and indicate when authorized representatives are liable for overpayments.

Justification

The Department finds that failure to act promptly by amending OAR 461-195-0521, 461-115-0090 and OAR 461-195-0541, and suspending OAR 461-115-0140 and OAR 461-165-0040 will result in serious prejudice to the public interest, the Department, the Oregon Health Authority, and recipients of DHS and OHA benefits who have designated an authorized representative. Without these rule changes, individuals who have an authorized representative for only one program in which they participate or who have multiple authorized representatives at the time of conversion will be

converted to Integrated Eligibility without an authorized representative. For individuals who are not able to manage their own affairs, this could result in a loss of benefits and place them at risk. In addition, without adopting these rule changes by March 1, 2019, there will be insufficient time to implement the policy and complete the necessary case actions and coding in time for implementation of Integrated Eligibility. A change to the Integrated Eligibility system to accommodate multiple authorized representatives would cost several million dollars and delay the date on which the system is scheduled to go live. If the conversion of cases results in loss of authorized representative designations, the Department will be out of compliance with federal regulations that require Medicaid agencies to allow individuals to choose an authorized representative. These changes set out one authorized representative for all programs (except the TA-DVS program), align related policies about who can serve, the functions they can perform, and the responsibilities of an authorized representative.

SSP 9-2019

Filed: 03/26/2019 8:42 AM

461-155-0180

Amend

Statement of Need

OAR 461-155-0180 about income standards for self-sufficiency standards, which was amended by temporary rule effective March 1, 2019, needs to be amended because the standards that apply for 100, 130, 200, 250 and 350 percent of the federal guidelines were updated in error and prematurely, prior to the start of the federal fiscal year on October 1, 2019. This amendment restores the 2018 standards, retroactive to March 1, 2019.

Justification

The Department finds that failure to act promptly by amending OAR 461-155-0180 will result in serious prejudice to the public interest and the Department. The standards that apply for 100, 130, 200, 250 and 350 percent of the federal guidelines were updated in error and prematurely, prior to the start of the federal fiscal year on October 1, 2019. This amendment restores the 2018 standards, retroactive to March 1, 2019. This amendment is needed at this time because benefits are determined continuously for a large number of clients, and the rules need to match the practices in the field.

SSP 10-2019

Filed: 04/01/2019 1:23 PM

461-160-0855

Amend

Statement of Need

OAR 461-160-0855 about excluded resources in the OSIPM program for payments received under a qualified partnership policy (QPP) needs to be amended to correct an error made when amending this rule permanently effective April 1, 2019. This error resulted in the QPP exclusion amount not applying to other countable resources, when in fact the opposite is true. This amendment maintains the correct conditions for excluding other countable resources.

Justification

The Department finds that failure to act promptly by amending OAR 461-160-0855 will result in serious prejudice to the public interest, the Department, and some OSIPM clients receiving payments under a qualified partnership policy (QPP). Without this change, individuals with QPPs who apply for medical and long-term-care services starting April 1, 2019 may be denied for OSIPM incorrectly for excess resources and subsequently denied for long-term-care services.

SSP 11-2019

Filed: 04/01/2019 1:35 PM

461-135-0520	Amend
461-155-0150	Amend
461-165-0160	Amend

Statement of Need

OAR 461-135-0520 about time limits and special requirements in the SNAP program for able-bodied adults without dependents (ABAWD), which was amended April 1, 2019 by permanent rule change needs to be further amended to allow the Department to make an additional attempt to engage the participant with the Oregon Employment Department for employment services and training by establishing for April through September 2019 a discretionary exemption from time limits that allows an ABAWD to continue to receive SNAP for one or more additional months without having to meet work requirements.

OAR 461-155-0150 about child care eligibility standards, payment rates, and copayments and OAR 461-165-0160 about direct provider payments need to be amended to eliminate barriers for families to access Certified Centers while using the ERDC subsidy. OAR 461-155-0150 is amended to increase the number of absent days a child care centers certified by the Office of Child Care bill in a month along with related requirements. This rule is also being amended to registration and related fees for licensed providers, and to add incentive payments for providers doing alternative hour care from January 1, 2019 through September 30, 2019. OAR 461-160-0160 is amended to allow child care centers certified by the Office of Child Care to bill DHS for ERDC subsidy families in advance for anticipated child care attendance hours.

Justification

The Department finds that failure to act promptly by amending OAR 461-135-0520 will result in serious prejudice to the public interest, the Department, and ABAWD clients in the SNAP program. This amendment is needed immediately to prevent the loss of SNAP benefits starting April 1, 2019 while the Department makes an additional attempt to engage the participant with the Oregon Employment Department for employment services and training.

The Department finds that failure to act promptly by amending OAR 461-155-0150 and OAR 461-165-0160 will result in serious prejudice to the public interest, the Department, and clients eligible for subsidized child care. These rules need to be amended as of April 1, 2019 to eliminate barriers for families to access Certified Centers while using the ERDC subsidy. The Department must certify to its federal funding source that these families have equal access to all types of child care providers. Without removing these barriers, only about half of the certified child care centers accept the Department subsidy, as occurs currently. This limits the access to child care for low-income working families who qualify for the Department subsidy. Incentive payments for alternative hour care will also increase access to child care for ERDC subsidy families who work non-traditional hours.

SSP 16-2019	Filed: 06/28/2019 10:40 AM
461-160-0620	Amend

Statement of Need

OAR 461-160-0620 about income deductions and client liability for Long Term Care Services or Home and Community Based Care needs to be amended to keep the Department in line with current federal standards for Medicaid programs and changes to the Minimum Monthly Maintenance Needs Allowance (MMMNA) and community spouse monthly housing allowance under the Spousal Impoverishment laws by updating the minimum community spouse income allowance (MMMNA) and the community spouse monthly housing allowance, which are published by the federal

government each year.

Justification

The Department finds that failure to act promptly by amending OAR 461-160-0620 will result in serious prejudice to the public interest, the Department, and some individuals residing in or entering a long-term care facility or receiving home and community-based care because the Department continually determines eligibility for the OSIPM program and must comply with updated federal eligibility standards.

SSP 17-2019

Filed: 07/10/2019 2:11 PM

461-110-0370

Amend

Statement of Need

OAR 461-110-0370 about filing groups in the SNAP program needs to be amended to allow inclusion of individuals receiving SSI from California in the SNAP filing group. The amendment will align SNAP filing group rules with recent legislative changes to SSI and SNAP program benefits in California.

Justification

The Department finds that failure to act promptly by amending OAR 461-110-0370 will result in serious prejudice to the public interest, the Department, and clients in the SNAP program. This amendment is needed immediately to allow Oregon residents receiving SSI from California to be included in SNAP eligibility groups.

SSP 18-2019

Filed: 07/23/2019 9:51 AM

461-135-0780

Amend

Statement of Need

OAR 461-135-0780 about eligibility for Pickle Amendment clients in the OSIPM program needs to be changed to correct the multipliers for SSB income and keep Oregon in line with current federal standards for Department Medicaid programs. This amendment is needed to keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living by adjusting these standards to correctly reflect the annual federal cost of living adjustments that happen every January.

Justification

The Department finds that failure to act promptly by amending OAR 461-135-0780 will result in serious prejudice to the public interest, the Department, and some individuals receiving or applying for the OSIPM program because the Department continually determines eligibility for the OSIPM program and must comply with updated federal eligibility standards and use accurate multipliers when making eligibility determinations.

SSP 19-2019

Filed: 07/30/2019 9:05 AM

461-135-0570

Amend

Statement of Need

OAR 461-135-0570 about eligible and ineligible students in the SNAP program needs to be amended to ease certain SNAP eligibility requirements. This amendment expands SNAP eligibility to students enrolled in an employment and training program or course of study that would lead to employment in a non-post-baccalaureate program that is designed to be completed in no more than four years, consistent with federal regulations. It also needs to be amended to ease student eligibility for students with a meal plan that provides 50 percent or less of their weekly meals and to clarify

SNAP eligibility requirements for students approved for federal or state work study.

Justification

The Department finds that failure to act promptly by amending OAR 461-135-0570 will result in serious prejudice to the public interest, the Department, and clients in the SNAP program. This amendment is needed immediately to ease SNAP benefit restrictions for certain Oregon residents who are students and subject to the amendments.

SSP 21-2019

Filed: 09/30/2019 8:05 AM

461-135-0520

Amend

Statement of Need

OAR 461-135-0520 about time limits and special requirements in the SNAP program for able-bodied adults without dependents (ABAWD), needs to be amended to allow the Department to authorize the use of discretionary exemptions, granted by the Food and Nutrition Service, for ABAWDs residing in certain areas of Oregon. This will be done by establishing, for October 2019 to December 2019, a discretionary exemption from time limits. This amendment needs to be done to allow the identified ABAWDs who have earned three counting months to continue to receive SNAP for one or more additional months, rather than have their SNAP benefits closed. This rule also needs to be amended to adjust a term and rule references within the rule, in order to make the rule more accurate, understandable, and concise.

Justification

The Department finds that failure to act promptly by amending OAR 461-135-0520 will result in serious prejudice to the public interest, the Department, and ABAWD clients in the SNAP program. This amendment is needed immediately to prevent the loss of SNAP benefits for participants residing in certain areas of Oregon starting October 1, 2019 and allow the Department to implement federally granted discretionary exemption months of SNAP benefits.

SSP 22-2019

Filed: 10/01/2019 9:52 AM

461-160-0420

Amend

Statement of Need

OAR 461-160-0420 about the shelter cost in the SNAP program, used to set the shelter deduction from income, which was amended by permanent rule effective October 1, 2019, needs to be further amended per guidance received from the federal government related to Oregon's pilot Standard Medical Deduction waiver. This amendment will increase the Full Utility Allotment deduction.

Justification

The Department finds that failure to act promptly by further amending OAR 461-160-0420 will result in serious prejudice to the public interest, the Department, and clients in the SNAP program. This amendment is needed immediately to increase the Full Utility Allotment (FUA) to the federally required amount for SNAP clients who qualify for the FUA deduction.

SSP 24-2019

Filed: 12/17/2019 10:46 AM

461-025-0316

Amend

Statement of Need

OAR 461-025-0316 about Intentional Program Violation (IPV) Hearings in the SNAP program needs to be amended to create clarity for the Office of Administrative Hearings, the Department, and claimants, about how IPV Hearings are

handled in the SNAP program and non-SNAP programs. This temporary amendment broadens the rule's provisions to the SNAP, TANF, SFPSS, REF, and REFM programs. The Department intends to make this amendment permanent effective April 1, 2020.

Justification

The Department finds that failure to act promptly by amending OAR 461-025-0316 will result in serious prejudice to the public interest, the Department, and claimants defending themselves in a non-SNAP program IPV Hearing. This amendment is needed immediately to create provisions, in rule, that create non-SNAP program IPV hearing procedures and rights and provide guidance to the Office of Administrative Hearings regarding procedures in these hearings.

Department of Human Services, Vocational Rehabilitation Services

Administrative Rules Annual Report

HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2019 and December 31, 2019

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	0
Amended	9
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	0
Amended	0
Suspended	0