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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DHSD 3-2020

CHAPTER 407
DEPARTMENT OF HUMAN SERVICES
ADMINISTRATIVE SERVICES DIVISION AND DIRECTOR'S OFFICE

FILED
02/10/2020 9:22 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Adopt Approval rule for "Family First" Subject Individuals

EFFECTIVE DATE: 02/10/2020 THROUGH 08/07/2020

AGENCY APPROVED DATE: 02/10/2020

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Filed By:
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NEED FOR THE RULE(S):

The text for this rule was original drafted in OAR 407-007-0317. This previous rules was scheduled for permanent filing on 1/24/2020 but, due to other rules regarding background checks not being filed until February, this rule expired. The text of it is not being re-adopted in OAR 407-007-0318.

JUSTIFICATION OF TEMPORARY FILING:

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.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

The Family First Act specifically Section 471(a)(20)(D) of the federal 2018 Family First Prevention Services Act at <https://www.acf.hhs.gov/>

ADOPT: 407-030-0318

RULE TITLE: Approval for "Family First" Subject Individuals

RULE SUMMARY: This rule provides special criteria for the approval of subject individuals subject to the Family First Act of 2018 when out of state child abuse checks are not yet returned to the Department.

RULE TEXT:

(1) Approval in this rule applies to the background check process for certain employees of a child caring agency which is subject to the federal 2018 Family First Prevention Services Act and receives title IV-E funds. Specifically, this rule applies to an SI who:

(a) Is an employee of a child caring agency licensed by DHS Child Welfare, OAR 413-215-0001 to 413-215-1031;
(b) Resided outside of Oregon for 60 or more consecutive days during the previous five years requiring a check of child abuse and neglect registries from states other than Oregon.

(2) An SI is eligible for an Approval if all the following conditions are met:

(a) The QED has submitted the background check to BCU.

(b) The SI has submitted fingerprint capture and the fingerprint criminal records check has been completed and the results have been returned to BCU;

(c) Requested documentation required for the out of state child abuse check has been completed by the SI and BCU, and BCU has submitted the documentation to the state for the abuse check; and

(d) Based on all the information currently available to BCU on the SI's Oregon and national criminal records check and Oregon adult and child abuse checks, the final fitness determination appears to be "approved" in accordance with OAR 407-007-0320.

(3) Should BCU at any time after an Approval receive a negative finding response from a request to another state made in section (2) of this rule, BCU shall either:

(a) Rescind the Approval and continue with the background check process which may include gathering further information and conducting a weighing test pursuant to OAR 407-007-0300.

(b) Notify the QE that a new background check is required.

STATUTORY/OTHER AUTHORITY: 181A.200, 409.027, 409.050

STATUTES/OTHER IMPLEMENTED: 181A.200, 409.027, 181A.195, 409.010