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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION
DOC 5-2026
CHAPTER 291
DEPARTMENT OF CORRECTIONS

FILED
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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Cost of Care

EFFECTIVE DATE: 03/04/2026 THROUGH 06/07/2026

AGENCY APPROVED DATE: 03/03/2026

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NEED FOR THE RULE(S):

This amendment is needed to pursue cost of care collections for all adults in custody.

JUSTIFICATION OF TEMPORARY FILING:

The Department of Corrections finds that following the permanent rulemaking process, rather than taking this temporary rulemaking action, will result in serious prejudice to the public interest. The Department's obligations regarding cost of care determinations and collections are an existing and ongoing obligation, and there is an important public interest in ensuring that the Department's administrative rules are clear and consistent with state statutory requirements. The Department of Corrections finds that immediate implementation through the temporary rulemaking process is in the public's interest because it is necessary to clarify the Department's procedure for cost of care collections for all adults in custody, regardless of the type of sentence being served, to provide clarity for adults in custody and the public, and to ensure consistency and fairness in the implementation of state law regarding cost-of-care determinations and collections.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None.

AMEND: 291-203-0040

SUSPEND: Temporary 291-203-0040 from DOC 22-2025

RULE SUMMARY: Amends rule to clarify the procedure for cost of care determinations involving adults in custody with indeterminate sentences.

CHANGES TO RULE:

291-203-0040
Ability to Pay Order 1

(1) An ~~inmate~~ adult in custody and the personal estate of an ~~inmate~~ adult in custody, or a decedent's estate, is liable

for the full cost of care as established in ORS 179.701. The Department may collect charges in advance for ~~inmates with determinate sentences~~adults in custody.¶

(2) The Department ~~shall~~may make a determination of the ~~inmate~~adult in custody's ability to pay which is set forth in the Ability to Pay Order. The two types of Ability to Pay Orders are: determination of charges and a modification of charges. Each order shall be given one of these titles to identify the type of determination it sets forth, based on the factors and criteria described in the following sections.¶

(3) The ~~inmate~~adult in custody's ability to pay will be investigated and an Ability to Pay Order may be issued when the Department is aware of an ~~inmate or the inmate~~adult in custody or the adult in custody's representative with cash assets or liquid reserves in excess of the current biennial cost of care or \$55,000 whichever is greater. This Ability to Pay threshold is applicable only to the determination of who will be reviewed for an Ability to Pay Order. (ORS 179.640(1)(b).¶

(4) The determination of the ability to pay may be assessed at intake or any time during the ~~inmate~~adult in custody's sentence, based on notification by sources the Department considers reliable. These sources include, but are not limited to, the District Attorney's Office, the Social Security and Veterans Administration, Oregon Department of Revenue, State of Oregon agencies, or any other sources the Department deems credible.¶

(5) When determining an ~~inmate~~adult in custody's ability to pay, in addition to other relevant factors, the Department will consider the ~~inmate~~adult in custody's personal estate, the ~~inmate~~adult in custody's need for funds for personal support after release, and the availability of third-party benefits such as, but not limited to, Medicare or private insurance.

Statutory/Other Authority: ORS 179.040, 179.610 - 179.770, 423.020, 423.030, 423.075

Statutes/Other Implemented: ORS 179.040, 179.610 - 179.770, 423.020, 423.030, 423.075