PERMANENT ADMINISTRATIVE ORDER

DMV 35-2019
CHAPTER 735
DEPARTMENT OF TRANSPORTATION
DRIVER AND MOTOR VEHICLE SERVICES DIVISION

FILING CAPTION: Hardship Permits for “Necessary Services”

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RULES:
735-064-0005, 735-064-0040, 735-064-0060

AMEND: 735-064-0005

NOTICE FILED DATE: 10/28/2019

RULE SUMMARY: DMV amended OAR 735-064-0005, 735-064-0040, and 735-064-0060 because Oregon Laws 2019, Chapter 215 (HB 3214) amended ORS 807.240 and now requires DMV to provide necessary services on hardship driver permits for customers who qualify. The amendments to these rules define “necessary services” and determine the days and times in which a person with this restriction can operate a motor vehicle. These amendments also make minor rule changes, which include specifying when a customer with a hardship permit can obtain fuel and clarifying several definitions.

CHANGES TO RULE:

735-064-0005
Definitions ¶

As used in Division 64 rules, unless the context requires otherwise:¶
(1) “DMV” means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.¶
(2) “DUII” means driving under the influence of intoxicants.¶
(3) “Fee” means an amount described in ORS 807.370.¶
(4) “IID” means ignition interlock device.¶
(5) “Intoxicants” means intoxicating liquor, cannabis, a controlled substance, an inhalant or any combination of the four.¶
(6) “Immediate family” means the applicant’s spouse or partner in a domestic partnership, children, stepchildren, brother, sister, mother, father, mother-in-law, father-in-law, grandmother or grandfather.¶
(7) “Family member” means any of the following relatives who live within the same household as the applicant: the applicant’s spouse or partner in a domestic partnership, children, stepchildren, brother, sister, mother, father, mother-in-law, father-in-law, grandmother or grandfather.¶
(8) "Necessary Services" means driving to and from grocery shopping, driving the applicant or the applicant's children to and from school, driving to and from medical appointments and caring for elderly family members.

(9) "Care for elderly family member" means driving to and from the residence of the elderly family member.

(10) "Oregon resident" means a person who is domiciled in this state as defined by ORS 803.355 or is a resident of this state as defined by ORS 807.062(4) and (5).

(11) "Private transportation" means family members, friends or fellow employees who are able to serve the applicant's transportation needs.

(12) "Public transportation" means bus, shuttle or commuter service that is able to serve the applicant's transportation needs.

Statutory/Other Authority: ORS 184.619, 802.010, 807.240, 807.270
Statutes/Other Implemented: ORS 807.240, 813.520
AMEND: 735-064-0040

NOTICE FILED DATE: 10/28/2019

RULE SUMMARY: DMV amended OAR 735-064-0005, 735-064-0040, and 735-064-0060 because Oregon Laws 2019, Chapter 215 (HB 3214) amended ORS 807.240 and now requires DMV to provide necessary services on hardship driver permits for customers who qualify. The amendments to these rules define “necessary services” and determine the days and times in which a person with this restriction can operate a motor vehicle. These amendments also make minor rule changes, which include specifying when a customer with a hardship permit can obtain fuel and clarifying several definitions.

CHANGE TO RULE:

735-064-0040
Application Requirements for a Hardship Permit ¶

(1) An Oregon resident whose driving privileges are suspended, or revoked under ORS 809.600 as a habitual offender, may apply for a hardship permit. DMV may not issue a hardship permit when:¶
   (a) DMV is prohibited by law from issuing a hardship permit.¶
   (b) The suspension of the person’s driving privileges is ordered under ORS 809.419 whereby the person is unable to demonstrate that the person is not incompetent to drive because of a mental or physical condition or impairment that affects the person’s ability to safely operate a motor vehicle.¶
   (c) The suspension is an immediate suspension of the person’s driving privileges ordered under ORS 809.417(3)(c) for causing or contributing to an accident resulting in death while operating a motor vehicle. When DMV has reason to believe that the person may endanger people or property if the person’s driving privileges are not immediately suspended, a condition of the immediate suspension is that the person may not be issued a hardship permit.¶

(2) Documents required to obtain a hardship permit depend on the reason(s) for the suspension or revocation. An applicant must comply with any sections of this rule that apply to the applicant’s suspension, revocation or combination of suspension(s) and revocation(s). All applicants must:¶
   (a) Complete a Hardship Application, (DMV Form 735-6044). This form is available at any DMV office and on the Internet at www.oregondmv.com; and¶
   (b) Pay the hardship permit fee and the reinstatement fee.¶

(3) An applicant, whose driving privileges are suspended under ORS 809.310(3) or 809.411(8) for committing a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or identification card, must:¶
   (a) Provide proof of a verifiable Social Security number or proof of not being eligible for one;¶
   (b) Provide proof of legal presence;¶
   (c) Submit to the collection of biometric data and establish identity as provided in ORS 807.024; and¶
   (d) Provide proof of identity and date of birth.¶

(4) An applicant for a hardship permit must submit a SR22 insurance certificate or other proof of financial responsibility as described in ORS 806.240. The SR22 insurance certificate for an applicant whose driving privileges are suspended for a DUII conviction must show at least the minimum coverage amounts specified in ORS 806.075.¶

(5) An applicant must provide information to DMV that justifies the specific request for driving privileges as follows:¶
   (a) To and from work: A letter from the applicant’s employer confirming employment, work hours and address where work is performed. If self-employed, the applicant must provide evidence such as a business license, business tax statement, newspaper advertisement or business receipts that DMV may review to verify that the applicant is self-employed.¶
   (b) During the course and scope of the person’s employment: The letter from the applicant’s employer must that
states that the applicant's job duties include driving and must provide information regarding what times and in which counties the applicant must drive to perform those duties. If self-employed, the applicant must provide the times and counties in which the applicant must drive.

(c) Seeking employment: The applicant must provide the days of the week and times of day and in which counties the applicant will seek employment. DMV will only grant driving privileges within normal business hours (8 a.m. - 5 p.m. Monday through Friday) and within the state of Oregon for an applicant to seek employment while on a hardship permit.

(d) For a treatment or rehabilitation program: An applicant needing to drive to a program for treatment of an alcohol, drug or gambling addiction must provide the name and address of the program, along with the days and times the applicant is required to drive to and from the program.

(e) For regular medical treatment: An applicant must provide the name and address of the medical treatment facility and the hours and days of the week treatment is provided. DMV will only grant driving privileges within normal business hours (8 a.m. - 5 p.m. Monday through Friday) and within the state of Oregon for an applicant needing regular medical treatment while on a hardship permit, unless the person demonstrates the need for treatment outside of those restrictions.

(f) For necessary services: The name and address of the person to whom or facility to which the applicant is driving for the necessary services and the day(s) and time(s) for which the privilege is needed.

(A) DMV will grant driving privileges for grocery shopping one day a week (Monday through Sunday), 8:00 a.m. - noon or 1:00 p.m. - 5:00 p.m.

(B) DMV will grant driving privileges for medical appointments two days a week (Monday through Friday), 8:00 a.m. - noon or 1:00 p.m. - 5:00 p.m.

(C) DMV will grant driving privileges for the care of elderly family members two days a week (Monday through Sunday), 8:00 a.m. - noon or 1:00 p.m. - 5:00 p.m. unless the applicant demonstrates the need for more frequent care.

(d) DMV will deny an application for a hardship permit when DMV has reviewed the application and the applicant does not meet the qualifications for the permit or one or more of the requirements for the permit is missing. If within 60 days of the letter of denial from DMV, the applicant provides all necessary documents to meet any missing requirement or qualification for a hardship permit, DMV will apply the original application fee when issuing the permit.

Statutory/Other Authority: ORS 184.619, 802.010, 807.240
Statutes/Other Implemented: ORS 807.240, 807.370
AMEND: 735-064-0060

NOTICE FILED DATE: 10/28/2019

RULE SUMMARY: DMV amended OAR 735-064-0005, 735-064-0040, and 735-064-0060 because Oregon Laws 2019, Chapter 215 (HB 3214) amended ORS 807.240 and now requires DMV to provide necessary services on hardship driver permits for customers who qualify. The amendments to these rules define “necessary services” and determine the days and times in which a person with this restriction can operate a motor vehicle. These amendments also make minor rule changes, which include specifying when a customer with a hardship permit can obtain fuel and clarifying several definitions.

CHANGES TO RULE:

735-064-0060
Standards for Issuance of Hardship Permits ¶

(1) All hardship permits are restricted to minimally meet the applicant’s needs. Upon request, the permit holder must submit verification of those needs to DMV or law enforcement. The person must have the hardship permit in addition to a valid driver license in the person's possession at all times when driving. ¶

(2) DMV may issue hardship permits only for the following purposes: ¶
(a) Occupational and employment purposes; ¶
(b) Occupational training or education that is required by the applicant’s employer; ¶
(c) Transportation to and from a gambling addiction, alcohol or drug treatment or rehabilitation program; ¶
(d) To seek employment; and ¶
(e) To obtain medical treatment on a regular basis for the person or a member of the person’s immediate family; and ¶
(f) For necessary services, as defined in OAR 735-064-0005. ¶

(3) A hardship permit will not be issued for more than 12 hours of driving on any one day, except for transportation to and from a gambling addiction, alcohol or drug treatment or rehabilitation program. ¶

(4) A hardship permit issued to look for work holder may obtain vehicle fuel while driving within the restrictions of the permit. ¶

(5) A hardship permit issued to seek employment will not be issued for a period of more than 120 days at a time. ¶

(6) DMV may deny a hardship permit to an applicant who has public or private transportation available which is sufficient to serve the applicant's transportation needs as established in section (2) of this rule. ¶

(7) DMV will determine whether public or private transportation is sufficient to serve the applicant's need based upon the following criteria: ¶
(a) Convenience in terms of hours and distance; ¶
(b) Requirements of occupation or employment; ¶
(c) Physical limitations of applicant; and ¶
(d) Personal safety of applicant. ¶

(8) An applicant with multiple suspensions, multiple revocations under ORS 809.600, or combination of suspensions(s) and revocations(s), must satisfy the requirements for each type of suspension and revocation to obtain a hardship permit. ¶

(9) If the applicant is suspended under ORS 809.260 the applicant may apply either for privileges granted under a hardship permit as described in this rule or an emergency permit as described in OAR 735-064-0230, but not both.

Statutory/Other Authority: ORS 184.619, 807.240, 802.010
Statutes/Other Implemented: ORS 807.240