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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**DMAP 14-2022**

CHAPTER 410

OREGON HEALTH AUTHORITY

HEALTH SYSTEMS DIVISION: MEDICAL ASSISTANCE PROGRAMS

**FILED**

02/16/2022 8:55 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Program Name Change And Replacement Of The Word "Alien" To "Non-citizen".

EFFECTIVE DATE: 02/16/2022 THROUGH 07/06/2022

AGENCY APPROVED DATE: 02/15/2022

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Filed By:

Nita Kumar

Rules Coordinator

NEED FOR THE RULE(S):

Current rule language is not appropriate. Changing the program name from Citizen/Alien Waived Emergency Medical (CAWEM) to Citizenship Waived Medical (CWM) and replacing the word Alien with non-citizen, to align with Oregon Health Authorities health equity initiative.

JUSTIFICATION OF TEMPORARY FILING:

The Authority finds that failure to act promptly will result in serious prejudice to the public interest, the Authority, and recipients of Medicaid benefits. These rules need to be adopted promptly so that the Authority may remove prejudice language from the CWM program.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None

AMEND: 410-120-1210

SUSPEND: Temporary 410-120-1210 from DMAP 4-2022

RULE SUMMARY: Changing the Citizen/Alien Waived Emergency Medical (CAWEM) program name to Citizenship Waived Medical (CWM) and removing inappropriate language in reference to this population.

CHANGES TO RULE:

410-120-1210

Medical Assistance Benefit Packages and Delivery System ¶¶

Rule changes effective January 1, 2022.¶¶

(1) The services clients are eligible to receive are based on their benefit package. Not all packages receive the same benefits.¶¶

(2) The Health Systems Division (Division), Medical Assistance Programs benefit package description, codes, eligibility criteria, coverage, limitations and exclusions are identified in these rules.¶¶

- (3) The limitations and exclusions listed here are in addition to those described in OAR 410-120-1200 and in any chapter 410 OARs.¶
- (4) Benefit package descriptions:¶
- (a) Oregon Health Plan (OHP) Plus:¶
- (A) Benefit package identifier: BMH;¶
- (B) Eligibility criteria: As defined in federal regulations and in the 1115 OHP waiver demonstration, a client is categorically eligible for medical assistance if he or she is eligible under a federally defined mandatory, selected, optional Medicaid program or the Children's Health Insurance Program (CHIP) and also meets Oregon Health Authority (Authority) adopted income and other eligibility criteria;¶
- (C) Coverage includes:¶
- (i) Services above the funding line on the Health Evidence Review Commission (HERC) Prioritized List of Health Services (Prioritized List), (OAR 410-141-3820 through 410-141-3830);¶
- (ii) Ancillary services, (OAR 410-141-3820);¶
- (iii) Substance use disorder treatment and recovery services provided through local substance use disorder treatment and recovery providers;¶
- (iv) Mental health services based on the Prioritized List to be provided by Board licensed, certified, or credentialed providers or through Community Mental Health Programs certified and credentialed providers;¶
- (v) Hospice;¶
- (vi) Post-hospital extended care benefit up to a 20-day stay in a nursing facility for non-Medicare Division clients who meet Medicare criteria for a post-hospital skilled nursing placement. This benefit requires prior authorization by pre-admission screening (OAR 411-070-0043) or by the Coordinated Care Organization (CCO) for clients enrolled in a CCO.¶
- (D) Limitations: The following services have limited coverage for non-pregnant adults age 21 and older. (Refer to the cited OAR chapters and divisions for details):¶
- (i) Selected dental (OAR chapter 410, division 123);¶
- (ii) Vision services such as frames, lenses, contacts corrective devices and eye exams for the purpose of prescribing glasses or contacts (OAR chapter 410, division 140).¶
- (b) OHP with Limited Drugs:¶
- (A) Benefit package identifier: BMM, BMD;¶
- (B) Eligibility criteria: Eligible clients are eligible for Medicare and Medicaid benefits;¶
- (C) Coverage includes: Services covered by Medicare and OHP Plus as described in this rule;¶
- (D) Limitations:¶
- (i) The same as OHP Plus as described in this rule;¶
- (ii) Drugs excluded from Medicare Part D coverage that are also covered under the medical assistance programs, subject to applicable limitations for covered prescription drugs (Refer to OAR chapter 410, division 121 for specific limitations). These drugs include but are not limited to:¶
- (I) Over-the-counter (OTC) drugs;¶
- (II) Barbiturates (except for dual eligible individuals when used in the treatment of epilepsy, cancer or a chronic mental health disorder as Part D will cover those indications).¶
- (E) Exclusions: Drugs or classes of drugs covered by Medicare Part D Prescription Drug;¶
- (F) Payment for services is limited to the Medicaid-allowed payment less the Medicare payment up to the amount of co-insurance and deductible;¶
- (G) Cost sharing related to Medicare Part D is not covered since drugs covered by Part D are excluded from the benefit package.¶
- (c) Qualified Medicare Beneficiary (QMB)-Only:¶
- (A) Benefit Package identifier code MED;¶
- (B) Eligibility criteria: Eligible clients are Medicare Part A and B beneficiaries who have limited income but do not meet the income standard for full medical assistance coverage;¶
- (C) Coverage: Is limited to the co-insurance or deductible for the Medicare service. Payment is based on the Medicaid-allowed payment less the Medicare payment up to the amount of co-insurance and deductible but no more than the Medicare allowable;¶
- (D) Providers may not bill QMB-only clients for the deductible and coinsurance amounts due for services that are covered by Medicare;¶
- (E) Medicare is the source of benefit coverage for service; therefore, an OHP 3165 is not required for this eligibility group. A Medicare Advance Beneficiary Notice of Noncoverage (ABN) may be required by Medicare, refer to Medicare for ABN requirements.¶
- (d) ~~Citizen/Alien-Waived Emergencyship~~ Waived Medical (CAWEWM):¶
- (A) Benefit Package identifier CWM;¶
- (B) Eligibility criteria: Eligible clients are non-qualified aliens that are 19 years and older, not eligible for other

Medicaid programs solely because they do not meet the citizen and immigration status requirement pursuant to Oregon Administrative Rules (OAR) 410-200-0215;¶

(C) Coverage is limited to:¶

(i) Emergency medical services as defined by 42 CFR 440.255; Sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in: placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part (the "prudent layperson standard" does not apply to the CAWEWM emergency definition);¶

(I) The Authority determines if the primary condition requiring treatment meets the definition of an emergency medical condition in 42 CFR 440.255, and the condition is confirmed through review of clinical records;¶

(II) The Authority pays for all related medically necessary health care services and professional services provided. These services include, but are not limited to such things as Anesthesia, surgical, and recovery services; Emergency medical transportation; Laboratory, x-ray, and other diagnostics and the professional interpretations; Medical equipment and supplies; Medications.¶

(ii) Labor and Delivery;¶

(iii) Behavioral health crisis as defined in OAR chapter 309 division 19;¶

(iv) Emergency Dialysis to treat acute renal failure or end stage renal disease is considered an emergency and is covered under CAWEWM emergency assistance, when received through a hospital emergency department or Hospital facility, which includes fistula placement and other required access. ~~OHAT~~The Authority does not pay for diagnostics or predialysis intervention, such as surgery for fistula placement anticipating the need for dialysis, or any services related to preparing for dialysis under CAWEWM emergency assistance.¶

~~(D) Exclusions: The following services are not covered even if they are sought as emergency services:¶~~

~~(i) Prenatal or postpartum care;¶~~

~~(ii) Sterilization;¶~~

~~(iii) Family Planning;¶~~

~~(v) Outpatient dialysis including diagnostics or predialysis intervention, such as surgery for fistula placement anticipating the need for dialysis, or any services related to preparing for dialysis.¶~~

~~(D) Exclusions: The following services are not covered even if they are sought as emergency services:¶~~

~~(i) Prenatal or postpartum care (See OAR chapter 333, division 004 for supplemental coverage);¶~~

~~(ii) Sterilization (See OAR chapter 333, division 004 for supplemental coverage);¶~~

~~(iii) Family Planning (See OAR chapter 333, division 004 for supplemental coverage);¶~~

~~(iv) Preventive care;¶~~

~~(v) Organ transplants and transplant-related services, including pre-evaluations and post-operative care;¶~~

~~(vi) Chemotherapy;¶~~

~~(vii) Hospice;¶~~

~~(viii) Home health;¶~~

~~(viii) Private duty nursing;¶~~

~~(ix) Eyeglasses and exams;¶~~

~~(xi) Dental services provided outside of an emergency department hospital setting;¶~~

~~(xii) Outpatient drugs or over-the-counter products, except when prescribed on the same day and associated with the qualifying emergency service;¶~~

~~(xiii) Non-emergency medical transportation;¶~~

~~(xiv) Therapy services;¶~~

~~(xv) Durable medical equipment and medical supplies;¶~~

~~(xvi) Rehabilitation services.¶~~

(e) CAWEWM Reproductive Health Equity Fund Act (RHEFA) benefit:¶

(A) Benefit Package identifier CWM;¶

(B) Eligibility criteria: Eligible clients are those individuals eligible under the CAWEWM benefit in subsection (3)(d) of these rules;¶

(C) Coverage: This is a state-funded women's reproductive health benefit administered by the Public Health Division. For full coverage and criteria, refer to OAR chapter 333, division 004. The Health Systems Division administers a subset of the benefits described in OAR chapter 333, division 004 as follows:¶

(i) Abortion services occurring in a hospital;¶

(ii) Sterilization.¶

(f) CAWEWM Plus:¶

(A) Benefit Package identifier code CWX;¶

(B) Eligibility criteria: As defined in federal regulations and in the Children's Health Insurance Program (CHIP) state plan, eligible clients are non-qualified aliens that are pregnant women, 19 years and older, at or below 185 percent of the Federal Poverty Level (FPL), and not eligible for other Medicaid programs solely because they do

not meet the citizen and immigration status requirement, pursuant to Oregon Administrative Rules (OAR) 410-200-0215;¶

(C) Coverage includes: services covered by OHP Plus as described above;¶

(D) Exclusions: The following services are not covered for this program:¶

(i) Postpartum care (except when provided and billed as part of a global obstetric package code that includes the delivery procedure);¶

(ii) Sterilization;¶

~~(iii) Abortion (See OAR chapter 333, division 004 for supplemental coverage);¶~~

(ii) Sterilization (See OAR chapter 333, division 004 for supplemental coverage);¶

(iii) Abortion (See OAR chapter 333, division 004 for supplemental coverage);¶

(iv) Death with dignity services;¶

(v) Hospice.¶

(E) The day after pregnancy ends, eligibility for medical services shall be based on eligibility categories established in OAR chapters 461 and 410 (See OAR chapter 333, division 004 for supplemental coverage).¶

(g) CAWEWM Plus RHEFA benefit:¶

(A) Benefit Package identifier code CWX;¶

(B) Eligibility criteria: Eligible clients are CAWEWM pregnant women not eligible for Medicaid based on immigration status, at or below 185 percent of the Federal Poverty Level (FPL). These ~~Qualified~~-aliens eligible for the CAWEWM Plus prenatal program are also eligible for a state-funded benefit pursuant to ORS 414.432;¶

(C) Coverage includes:¶

(i) Postpartum care delivered outside of the global obstetric package not included under the CAWEWM Plus benefit, 60 days following the pregnancy end date. Postpartum eligibility period is as described in OAR 410-200-0240;¶

(ii) Services covered by OHP Plus for 60 days following the pregnancy end date as described in (4)(a)(C) of these rules;¶

(iii) Services as described in subsection (e)(C) of these rules.¶

(h) Cover All Kids benefit:¶

(A) Benefit Package identifier code BMH, PERC CK, CL, CM, CN, CO, CP, CR;¶

(B) Eligibility criteria: Eligible clients are non-qualified aliens that are under age 19, not eligible for other Medicaid programs solely because they do not meet the citizen and immigration status requirement pursuant to Oregon Administrative Rules (OAR) 410-200-0215. Coverage is a state funded medical benefit pursuant to ORS 414.231;¶

(C) Coverage is an OHP Plus equivalent benefit that includes:¶

(i) Services above the funding line on the Health Evidence Review Commission (HERC) Prioritized List of Health Services (Prioritized List), (OAR 410-141-3820 through 410-141-3830);¶

(ii) Ancillary services, (OAR 410-141-3820);¶

(iii) Substance use disorder treatment and recovery services provided through local substance use disorder treatment and recovery providers;¶

(iv) Mental health services based on the Prioritized List to be provided by Board licensed, certified, or credentialed providers or through Community Mental Health Programs certified and credentialed providers;¶

(v) Hospice;¶

(vi) Post-hospital extended care benefit, up to a 20-day stay in a nursing facility for non-Medicare Division clients who meet Medicare criteria for a post-hospital skilled nursing placement. This benefit requires prior authorization by pre-admission screening (OAR 411-070-0043), or by the Coordinated Care Organization for clients enrolled in a CCO.¶

(5) Division clients are enrolled for covered health services to be delivered through one of the following means:¶

(a) Coordinated Care Organization (CCO):¶

(A) These clients are enrolled in a CCO that provides integrated and coordinated health care;¶

(B) CCO services are obtained from the CCO or by referral from the CCO that is responsible for the provision and reimbursement for physical health, substance use disorder treatment and recovery, mental health services or dental care.¶

(b) Fee-for-service (FFS):¶

(A) These clients are not enrolled in a CCO;¶

(B) Subject to limitations and restrictions in the Division's individual program rules, the client can receive health care from any Division-enrolled provider that accepts FFS clients. The provider shall bill the Division directly for any covered service and shall receive a fee for the service provided.

Statutory/Other Authority: ORS 413.042

Statutes/Other Implemented: ORS 414.025, 414.065, 414.329, 414.706, 414.710, 414.231, 414.432