



TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DMAP 59-2020

CHAPTER 410
OREGON HEALTH AUTHORITY
HEALTH SYSTEMS DIVISION: MEDICAL ASSISTANCE PROGRAMS

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending Notice Requirement Policy Related to Termination for Voluntary Request to Close Benefits

EFFECTIVE DATE: 11/17/2020 THROUGH 05/15/2021

AGENCY APPROVED DATE: 11/16/2020

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NEED FOR THE RULE(S):

The current rule text is out of alignment with CFR and eligibility system functionality.

JUSTIFICATION OF TEMPORARY FILING:

The Authority finds that failure to act promptly will result in serious prejudice to the public interest, the Authority, beneficiaries, the Oregon Department of Human Services, CCOs, and Providers. This rule amendment needs to be adopted promptly so that the Authority may assure that OARs are aligned with federal regulation and the functionality of the Oregon Eligibility system.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

42 CFR §431.213 – Exceptions from advance notice. (Section (b)(1))
<https://www.law.cornell.edu/cfr/text/42/431.213>

AMEND: 410-200-0120

RULE TITLE: Notices

RULE SUMMARY: OAR 410-200-0120 describes notice requirements for various eligibility actions. Current rule text is not aligned with CFR or system functionality related to closure in response to a voluntary request to close; it's been updated to support the policy of sending basic decision notice when an individual has requested their benefits close, and provided a written or recorded verbal signature.

RULE TEXT:

- (1) Except as provided in this rule, the Authority shall send:
- (a) A basic decision notice whenever an application for HSD Medical Program benefits is approved or denied;
 - (b) A timely continuing benefit decision notice whenever HSD Medical Program benefits are reduced or closed.
- (2) Exceptions to the requirement to provide timely continuing decision notice when HSD Medical Program benefits are reduced or closed:

- (a) When a beneficiary becomes an inmate of a public institution or a correctional facility, the Agency shall send a basic decision notice to close, reduce, or suspend benefits;
 - (b) When a beneficiary has been placed in skilled nursing care, intermediate care, or long-term hospitalization, the Agency shall send a basic decision notice to close, suspend, or reduce benefits;
 - (c) When returned postal mail is received without a forwarding address and the beneficiary's whereabouts are unknown, the Authority shall send a basic decision notice to end benefits.
 - (d) When a beneficiary ceases to be an Oregon Resident and the Agency is informed that they're eligible for medical benefits in another state, the Agency shall send a basic decision notice to end benefits;
 - (e) When a beneficiary, another adult member of the EDG, or the authorized representative requests benefits be closed, and the request includes a written or recorded verbal signature, the Agency shall send a basic decision notice to end benefits;
 - (f) When an individual who is not a recipient of any Medicaid/CHIP benefits makes a request to withdraw an application for benefits, the Agency shall send a basic decision notice.
- (3) No decision notice is required in the following situations:
- (a) The only individual in the EDG dies;
 - (b) A hearing was requested after a notice was received and either the hearing request is dismissed, or a final order is issued.
- (4) Decision notices shall be written in plain language and be accessible to individuals who are limited English proficient and individuals with disabilities.
- (5) All decision notices shall include:
- (a) A statement of the action taken;
 - (b) A clear statement listing the specific reasons why the decision was made and the effective date of the decision;
 - (c) Rules supporting the action;
 - (d) Information about the individual's right to request a hearing and the method and deadline to request a hearing;
 - (e) A statement indicating under what circumstances a default order may be taken;
 - (f) Information about the right to counsel at a hearing and the availability of free legal services.
- (6) A decision notice approving HSD Medical Program benefits, including approvals for retroactive medical, shall include:
- (a) The level of benefits and services approved;
 - (b) If applicable, information relating to premiums, enrollment fees, and cost sharing; and
 - (c) The changes that must be reported and the process for reporting changes.
- (7) A decision notice reducing, denying, or closing HSD Medical Program benefits shall include information about a beneficiary's right to continue receiving benefits.
- (8) When electronic-only is the preferred communication method, and the Agency is unable to successfully deliver an electronic notification, the Agency shall send the notice by postal mail within three business days. The date on the notice shall be the date the notice is sent by postal mail.
- (9) The Authority may amend:
- (a) A decision notice with another decision notice; or
 - (b) A contested case notice.
- (10) Except as the notice is amended, or when a delay results from the client's request for a hearing, a notice to reduce or close benefits becomes void if the reduction or closure is not made effective on the date stated on the notice.
- (11) The Authority shall provide individuals with a choice to receive decision notices and information referenced in this rule in an electronic format or by postal mail. If an individual chooses to receive notices and information electronically and has established an online account with the Applicant Portal of Oregon Eligibility (ONE), the Authority shall:
- (a) Send confirmation of this decision by postal mail;
 - (b) Post notices to the individual's electronic account within one business day of the date on the notice;
 - (c) Send an email or SMS text message alerting the individual that a notice has been posted to their electronic account;

- (d) At the request of the individual, send by postal mail any notice or information delivered electronically;
- (e) Inform the individual of the right to stop receiving electronic notices and information and begin receiving these through postal mail; and
- (f) If any electronic communication referenced above is undeliverable, send the notice by postal mail within three business days of the failed communication.

STATUTORY/OTHER AUTHORITY: ORS 411.402, 411.404, 413.042, 414.534

STATUTES/OTHER IMPLEMENTED: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.447, 414.534, 414.536, 414.706