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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DMAP 46-2025

CHAPTER 410

OREGON HEALTH AUTHORITY

HEALTH SYSTEMS DIVISION: MEDICAL ASSISTANCE PROGRAMS

FILED

06/02/2025 6:07 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Repealing the medical Pursuit of Assets requirement and clarifying the medical Assignment of Rights requirement

EFFECTIVE DATE: 06/03/2025 THROUGH 11/29/2025

AGENCY APPROVED DATE: 05/30/2025

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NEED FOR THE RULE(S):

To streamline Medicaid and CHIP eligibility, the Center for Medicare and Medicaid Services (CMS) passed a final rule effective June 3, 2024, removing the requirement for people to apply for other benefits by repealing 42 CFR 435.608. This rule needs to be updated to comply with federal requirements.

JUSTIFICATION OF TEMPORARY FILING:

(1) To streamline Medicaid and CHIP eligibility, the Center for Medicare and Medicaid Services (CMS) passed a final rule effective June 3, 2024, removing the requirement for people to apply for other benefits by repealing 42 CFR 435.608. This requirement mandates states come into compliance with this rule change no later than June 3, 2025. OAR 410-200-0220 needs to be repealed effective 06/03/2025. OAR 410-200-0220 contains medical cooperation and assignment of rights requirements that need to be retained and are therefore being moved to 410-200-0225. These rule changes need to be filed immediately to bring Oregon into federal compliance by June 3, 2025.

(2) The requirement to apply for other benefits as a condition of eligibility creates a barrier for people to access medical benefits if they are otherwise eligible. Anyone entitled to a benefit who fails to apply for and obtain such benefits are ineligible for medical. This includes adults and children. The requirement continues to apply unless or until the benefit is no longer available or the person establishes good cause not to apply for the benefits.

(3) Failing to immediately file this rule change will put Oregon at risk of being federally non-compliant. This will also delay removal of this requirement, maintaining the current eligibility barrier for a longer period of time than necessary. Community partners and others providing medical application assistance will need to continue to provide support to individuals to help them meet this requirement. Administrative costs will continue to be incurred to support this requirement. Those who are denied or lose their medical coverage often reapply for medical benefits. Until this requirement is repealed, the individual establishes good cause, or the benefit is no longer available, individuals will continue to be subject to this requirement and be at risk of being found ineligible when they otherwise would have been eligible.

(4) Filing the rule changes immediately will bring Oregon into federal compliance by the mandated 06/03/2025 effective date and will provide medical to those who are otherwise eligible. This rule change also clarifies the medical

assignment of rights requirements by bringing into OAR 410-200-0225 requirements under OAR 410-200-0220 that are actually assignment of rights requirements.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Websites: final rule - Medicaid Program; Streamlining the Medicaid, Children's Health Insurance Program, and Basic Health Program Application, Eligibility Determination, Enrollment, and Renewal Processes 42 CFR 435.608

RULES:

410-200-0220, 410-200-0225

AMEND: 410-200-0220

RULE SUMMARY: The Center for Medicare and Medicaid Services (CMS) passed a final rule, effective June 3rd, 2024, removing the requirement for people to pursue assets. Repealing this rule will bring the state into federal compliance.

CHANGES TO RULE:

410-200-0220

Requirement to Pursue Assets ¶¶

~~(1) For all HSD Medical Programs except for OHP Bridge–Basic Health Program, as a condition of ongoing eligibility, an applicant or beneficiary shall make a good faith effort to obtain an asset to which they have a legal right or claim, except an applicant or beneficiary is not required to:¶¶~~

~~(a) Apply for Supplemental Security Income (SSI) from the Social Security Administration;¶¶~~

~~(b) Borrow money;¶¶~~

~~(c) Pursue an asset if the individual can show good cause for not doing so (see section (6) of this rule).¶¶~~

~~(2) For all HSD Medical Programs, pursuable assets include but are not limited to:¶¶~~

~~(a) Claims related to an injury;¶¶~~

~~(b) Disability benefits;¶¶~~

~~(c) Healthcare coverage;¶¶~~

~~(d) Retirement benefits;¶¶~~

~~(e) Survivorship benefits (including inheritance, devise or elective share);¶¶~~

~~(f) Discretionary or mandatory distribution from a trust;¶¶~~

~~(g) Unemployment compensation; and¶¶~~

~~(h) Veteran's compensation and pensions.¶¶~~

~~(3) For all HSD Medical Programs except MAGI CHIP and eligibility granted under Cover All Kids (OAR 410-200-0240) or during a period of Hospital Presumptive Eligibility (OAR 410-200-0105), Each caretaker in the EDG shall assist the Agency and the Division of Child Support (DCS) in establishing paternity for each child receiving medical assistance and in obtaining an order directing the non-custodial parent of a child receiving benefits to provide cash medical support and health care coverage for that child;¶¶~~

~~(4) An individual involved in a personal injury shall pursue a claim for the personal injury. If the claim or action to enforce such claim was initiated prior to the application for medical assistance, the individual shall notify the Agency during the eligibility verification process (OAR 410-200-0230). The following information is required:¶¶~~

~~(a) The names and addresses of all parties against whom the action is brought or claim is made;¶¶~~

~~(b) A copy of each claim demand; and¶¶~~

~~(c) If an action is brought, the case number and the county where the action is filed.¶¶~~

~~(5) Except as outlined in section (6) of this rule, a caretaker who has the authority to pursue an asset on behalf of a child applying for or receiving Medicaid/CHIP and fails to do so is ineligible for assistance. The child's eligibility is not impacted by the caretaker's failure to pursue an asset on their behalf.¶¶~~

~~(6) The requirement for an individual to pursue an asset does not apply when good cause exists. An individual is considered to have good cause if any of the following are true:¶¶~~

~~(a) Pursuing the asset may result in emotional or physical harm to the dependent child or to the caretaker. The statement of the caretaker serves as prima facie evidence that harm may result;¶¶~~

~~(b) For individuals with the authority to pursue child support on behalf of a child who is applying for or receiving Medicaid benefits, the individual is considered to have good cause if:¶¶~~

~~(A) The child was conceived as a result of incest or rape and efforts to obtain support may be detrimental to the dependent child. The statement of the caretaker serves as prima facie evidence on the issues of conception and~~

detrimental effect to the dependent child;¶¶

(B) Legal proceedings are pending for adoption of the child;¶¶

(C) The parent is being helped by a public or licensed private social agency to resolve the issue of whether to release the child for adoption;¶¶

(D) The individual is pregnant; or¶¶

(E) Other good cause reasons exist for non-cooperation.¶¶

(7) Unless specified otherwise in this rule, an individual who fails to comply with the requirements of this rule is ineligible for benefits until the individual meets the requirements of this rule. The Center for Medicare and Medicaid Services (CMS) passed a final rule, effective June 3rd, 2024, removing the requirement for people to pursue assets.

Statutory/Other Authority: ORS 411.402, 411.404, 413.042

Statutes/Other Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 414.025, 414.231, 414.706

AMEND: 410-200-0225

RULE SUMMARY: This amendment adds clarification and identifies assignment of rights requirements around Third Party Liability, child support cooperation, and injury claims. This rule change also clarifies the medical assignment of rights requirements by bringing into OAR 410-200-0225 requirements under OAR 410-200-0220 that are actually assignment of rights requirements. Subsections of this rule will be renumbered.

CHANGES TO RULE:

410-200-0225

Assignment of Rights ¶¶

~~(1) The signature of the applicant or authorized representative on the application for assistance signifies the applicant's agreement to assign the rights to reimbursement for medical care costs to the Agency.¶¶~~

~~(2) As a condition of eligibility, each applicant shall~~The requirements of this rule apply to all Health Systems Division Medical Programs except for the OHP Bridge - Basic Health Program, Compact of Free Association (COFA) Dental Program, and Veteran Dental Program.¶¶

~~(1) As a condition of eligibility, the applicant, beneficiary, or person legally responsible for the applicant or beneficiary must cooperate with the Agency to:¶¶~~

~~(a) Identify any third party liable or potentially liable for medical costs paid by the Agency, Coordinated Care Organization (CCO), or prepaid managed care health services organization to, or on behalf of, an individual or any individual applying for or receiving medical assistance;¶¶~~

~~(b) Provide information about liability of third parties or other insurance that may cover or pay for medical costs paid by the Agency, CCO, or prepaid managed care health services organization to or on behalf of a medical assistance applicant or recipient;¶¶~~

~~(c) Provide other information as required by the CCO or prepaid managed care health services organization to assist in pursuing payment from any third party who may be liable for medical costs paid by the Agency, CCO, or prepaid managed care health services organization to or on behalf of a medical assistance applicant or recipient; and¶¶~~

~~(d) Comply with the personal injury claim provisions in accordance with OAR 461-195-0303 and 461-195-0310.¶¶~~

~~(2) As a condition of eligibility, the applicant, beneficiary, or person legally responsible for the applicant or beneficiary must cooperate with the Agency to assign their rights to third party payments as follows:¶¶~~

~~(a) Assign to the Agency any rights of each EDGhousehold member receiving benefits to reimbursement for medical care costs to the Agency including any third party payments for medical care and any medical care support available under an order of a court or an administrative agency;¶¶~~

~~(b) Assign to the Agency any rights to payment for medical care from any third party and, once they receive assistance, to assist the Agency in pursuing any third party who may be liable for medical care or services paid by the Agency, including health services paid for pursuant to ORS 414.706 to 414.75074 as set forth in OAR 410-200-0220, 461-195-0303 and 461-195-0310 and;¶¶~~

~~(c) Unless good cause exists as established in OAR 410-200-0220 (Requirement to Pursue Assets), failure to assign the right~~Except for eligibility granted under Healthier Oregon (OAR 410-200-0240) or during a period of Hospital Presumptive Eligibility (OAR 410-200-0105):¶¶

~~(A) An applicant shall assign to the state the right of any Medicaid-eligible individual in the household to receive any cash medical support that accrues while the individual receives assistance, not to exceed the total amount of assistance paid; and¶¶~~

~~(B) Cash medical support received by the Agency shall be retained as necessary to reimbursement the Agency for medical care costs to the Agency shall result in ineligibility for the EDG until the requirements of this rule are met.¶¶~~

~~(3) Except for the MAGI CHIP program, and eligibility granted under Cover All Kids (OAR 410-200-0240); assistance payments made on behalf of an individual with respect to whom such assignment was executed.¶¶~~

~~(C) Each caretaker who is legally able shall assist the Agency and the Oregon Child Support Program (OCSP) in establishing paternity for each child receiving medical assistance and in obtaining an order directing the non-custodial parent of a child receiving benefits to provide cash medical support or health care coverage for that child;¶¶~~

~~(3) The signature of the applicant, person legally responsible for the applicant, or authorized representative on the application for assistance signifies the applicant's agreement to cooperate with the Agency and assign the rights to reimbursement for medical care costs to the Agency.¶¶~~

~~(a4) An applicant shall assign to the state the right of any Medicaid-eligible individual in the EDG to receive any~~

cash medical support that accrues while the individual receives assistance, not to exceed the total amount of assistance paid; and¶¶

(b) Cash medical support received by the Agency shall be retained as necessary to reimburse To the extent that payment for covered expenses has been made under the state medical assistance program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the state is considered to have acquired the rights of the individual to payment by any other party for those health care items or services. This assignment of rights is automatic in accordance with ORS 659.830 and 743B.470 and does not require the consent of any individual.¶¶

(5) The individual who is legally able to cooperate and assign rights, including a caretaker who has the authority to cooperate and assign rights on behalf of a child applying for or receiving Medicaid/CHIP and fails to do so, is ineligible for assistance until the requirements of this rule are met or unless good cause exists. An individual is considered to have good cause if any of the following are true:¶¶

(a) Cooperation may result in emotional or physical harm;¶¶

(b) Other good cause reasons exist; or¶¶

(c) In addition to (5)(a) and (5)(b), for individuals with the legal authority to pursue the Agency for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed child support on behalf of a child who is applying for or receiving Medicaid benefits:¶¶

(A) The child was conceived as a result of incest or rape and efforts to obtain support may be detrimental to the child.¶¶

(B) Legal proceedings are pending for adoption of the child;¶¶

(C) The parent is being helped by a public or licensed private social agency to resolve the issue of whether to release the child for adoption; or¶¶

(D) The individual is pregnant.

Statutory/Other Authority: ORS 411.402, 411.404, 413.042

Statutes/Other Implemented: ORS 411.402, 411.404, 411.406, 413.032, 414.025, 414.231, 414.706, ~~ORS~~ 411.400