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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DMAP 15-2021

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

FILED
04/13/2021 10:34 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Aligning OAR With CMS Guidance On Eligibility And Enrollment During The Covid-19 PHE

EFFECTIVE DATE: 04/15/2021 THROUGH 10/09/2021

AGENCY APPROVED DATE: 04/09/2021

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NEED FOR THE RULE(S):

CMS provided clarification related to Medicaid eligibility and enrollment policies during the COVID-19 Public Health Emergency: the agency may terminate medical coverage when eligibility was obtained or maintained due to administrative error, convicted fraud, or substantiated abuse.

JUSTIFICATION OF TEMPORARY FILING:

The Authority finds that failure to act promptly will result in serious prejudice to the public interest and the Authority because erroneous eligibility cannot be corrected until rule allowance is in place.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Interim Federal Rule CMS-9912-IFC: <https://www.cms.gov/files/document/covid-vax-ifc-4.pdf>

AMEND: 410-200-0520

RULE TITLE: COVID-19 Emergency Policies

RULE SUMMARY: OAR 410-200-0520 describes eligibility policies put in place as a result of the COVID-19 Public Health Emergency (PHE) and the passage of the FFCRA and CARES Act. CMS provided clarification related to the requirement to maintain coverage during the PHE: the agency may terminate medical coverage when eligibility was obtained or maintained due to administrative error, convicted fraud, or substantiated abuse.

RULE TEXT:

- The provisions in this rule apply to all HSD Medical Program eligibility determinations made as of March 18, 2020.
- (1) In accordance with the Families First Coronavirus Response Act (FFCRA) and OAR 410-120-0011, following the declaration of a national public health emergency (PHE), the Authority adopts temporary measures related to HSD Medical program eligibility.
 - (2) Notwithstanding any other rule to the contrary in these Chapter 410, division 200 rules, during the COVID-19 PHE, HSD Medical program eligibility shall be determined as set forth in this rule.
 - (3) Except for individuals receiving coverage during a period of presumptive eligibility (see section 4 of this rule),

individuals who were receiving HSD Medical Program benefits on March 18, 2020, or who begin receiving coverage following that date via full eligibility determination shall not have benefits terminated during the national emergency period, with the following exceptions:

(a) Terminations of coverage shall be limited to the following reasons:

(A) Eligibility was approved for an HSD medical program at either initial application or during a redetermination, and it is later determined the decision was incorrect due one of the following:

(i) Administrative error; or

(ii) When a court determines the individual made a false or misleading statement, or misrepresented, concealed, or withheld a fact for the purpose of establishing or maintaining eligibility.

(B) The recipient dies;

(C) The recipient or someone authorized to act on their behalf requests voluntary termination of coverage; or

(D) The recipient is confirmed to no longer be a resident of Oregon.

(b) Coverage will be suspended for individuals who become incarcerated (see OAR 410-200-0140).

(4) Individuals receiving coverage during a period of presumptive eligibility are not subject to the provisions described in section (3) of this rule, as a full eligibility determination has not been made.

(5) Community Partners (see OAR 410-200-0015(27)) are granted authority to perform Presumptive Eligibility determinations pursuant to the policies outlined for Hospital Presumptive Eligibility in OAR 410-200-0105 for the duration of the PHE.

(6) The agency shall accept self-attestation of all eligibility criteria necessary to determine eligibility with the following exception:

(a) In the event that an individual's attestation of US citizenship, US national, or non-citizen status cannot be verified via FDSH or electronic verification sources available to the agency, the individual shall be provided a reasonable opportunity period (see OAR 410-200-0015(66)) to provide verification of their attestation;

(b) The reasonable opportunity period has been extended to 180 days for the duration of the emergency period;

(c) If the beneficiary fails to submit verification as requested, and the reasonable opportunity period ends during the emergency period, coverage will not be terminated for the duration of the emergency period; and

(d) Upon receipt of verification, the agency will determine ongoing eligibility in accordance with citizenship/non-citizen status requirements described in OAR 410-200-0215.

(7) Federal Pandemic Unemployment Compensation (FPUC) is treated as follows:

(a) FPUC is excluded for all eligibility determinations based on monthly income, as described in 410-200-0310(4)(a).

(b) FPUC is counted for all eligibility determinations based on annual income, as described in 410-200-0310(4)(b).

(8) Disaster relief payments as described in 26 U.S. Code §139 are excluded for all HSD Medical Program eligibility determinations, including determinations made based on both monthly (410-200-0310(4)(a)) and annual (410-200-0310(4)(b)) income.

(9) Individuals receiving Reproductive Health Equity Fund benefits (see OAR 410-200-0240(2)(b)) on March 18, 2020, or who begin receiving RHEF benefits following that date, shall retain RHEF benefits for the duration of the emergency period.

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

STATUTES/OTHER IMPLEMENTED: ORS 411.402, 411.404, 414.534, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.536, 414.706, ORS 411.060, 411.095, 411.400, 411.406, 411.439