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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DMAP 57-2023

CHAPTER 410

OREGON HEALTH AUTHORITY

HEALTH SYSTEMS DIVISION: MEDICAL ASSISTANCE PROGRAMS

FILED

07/17/2023 3:19 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Updating OARs to support implementation of Continuous Eligibility policy, approved via 1115 waiver

EFFECTIVE DATE: 07/18/2023 THROUGH 01/12/2024

AGENCY APPROVED DATE: 07/17/2023

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NEED FOR THE RULE(S):

Rule updates have been made to support the implementation of expanded Continuous Eligibility policy, approved via Oregon's 2022-2027 1115 waiver. These rules are needed to ensure Oregonian's are able to access the benefits of Continuous Eligibility through age 6, or 24-months, whichever is greater, for individuals of all ages.

JUSTIFICATION OF TEMPORARY FILING:

(1) Failure to file these rules would result in failure to meet deadlines committed by the Oregon Health Authority to the Governor's office, and would fall out of compliance with approvals from the federal Centers for Medicaid and Medicare Services (CMS).

The state must also have rules in place to furnish the coverage that is expected to be deployed into the OregONEligibility (ONE) system on July 19, 2023. Failure to have rules in place would delay the implementation of a policy that will be beneficial to the vast majority of OHP recipients.

(2) The state/OHA would be responsible for management and consequences of missed deadlines/non-compliance. Oregonians would be directly impacted by continuing to lose OHP eligibility when circumstances change, rather than receiving a minimum period of continuous eligibility.

(3) OHA would be responsible for the consequences resulting from federal and state non-compliance. Additionally, failure to implement Continuous Eligibility policy would erode the agency's public trust and accountability, as implementation of this program has been publicized widely.

(4) Filing these rules as temporary allows the agency to receive finalized policy decisions driven by late-coming budget and organizational approvals. That way, our public comment and rules advisory committee process will have the opportunity to review the implementation of actual decisions, rather than our anticipated outcomes.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon's final 1115 wavier application:

<https://www.oregon.gov/oha/HSD/Medicaid-Policy/Documents/2022-2027-Waiver-Application-Final.pdf>

RULES:

410-200-0135, 410-200-0420

AMEND: 410-200-0135

RULE SUMMARY: Describes the eligibility concepts: Assumed, Continuous, and Protected Eligibility

CHANGES TO RULE:

410-200-0135

~~Assumed, Continuous, and Protected Eligibility for Children and Pregnant Individuals~~

~~(1) Assumed Eligibility:~~

~~(a) A child born to an individual who is eligible for and receiving Medicaid/CHIP children's Health Insurance Program (CHIP) benefits at the time of the birth is an assumed eligible until newborn (AEN);~~

~~(b) An AEN is eligible for MAGI Child benefits (410-200-0415) effective the date of birth through the end of the month in which the child turns one year of age, unless:~~

~~(a) The child dies;~~

~~(b) The child is no longer a resident of Oregon; or~~

~~(c) The child's representative requests a voluntary termination of the child's eligibility.~~

~~(2) Continuous Eligibility for children – When eligibility for a child under age 19 is redetermined and would result in a loss of eligibility for any Medicaid/CHIP program administered by the agency prior to the end of the renewal month, eligible A new application or request for coverage is not required for an AEN.~~

~~(d) An AEN is entitled to assumed eligibility without providing a Social Security Number (SSN). An SSN is required to maintain coverage after the assumed eligibility period ends.~~

~~(2) Continuous Eligibility:~~

~~(a) The Continuous Eligibility (CE) period is the period of time an individual who is determined eligible for an HSD medical benefit shall be maintained in the current program through the end coverage despite changes in circumstance that would of the renewal month, unless the loss of eligibility is due to any of the following or preclude eligibility, with consideration of exceptions described in section (2)(b):~~

~~(b) Coverage may be terminated during the CE period in the following circumstances:~~

~~(a) The child/individual is no longer an Oregon resident;~~

~~(b) The child/individual dies;~~

~~(c) The child becomes incarcerated/individual or someone authorized to act on their behalf requests voluntary termination of eligibility;~~

~~(d) The child turns age 19;~~

~~(e) For children in the CHIP program, receipt of minimum essential coverage;~~

~~(f) An adult in the EDG requests the medical benefits are closed; agency determines that eligibility was erroneously granted at the most recent determination or renewal of eligibility because of agency error or fraud, abuse, or perjury attributed to the individual or someone authorized to act on their behalf; or~~

~~(E) For recipients of the MAGI Expanded Adult Program (410-200-0436), the program ends.~~

~~(c) The CE period is established when an individual is determined eligible for HSD medical benefits with no outstanding requests for information, as follows:~~

~~(g) The child begins receiving Supplemental Security Income (SSI); or~~

~~(h) At initial approval of eligibility, the CE period begins on the first of the month in which the individual established a Date of Request (DOR);~~

~~(B) When approved for renewal of eligibility renewal or redetermination cannot be completed because requested information is not submitted by the deadline established by the agency, the new CE period begins on the first of the month following the renewal due-date.~~

~~(d) The length of the CE period is based on age, as follows:~~

~~(A) Children age 18 years and younger are entitled 12 months of CE;~~

~~(B) Effective July 1, 2023, children under 6 years of age are entitled to CE through the end of the month of their sixth birthday or 24 months, whichever is later;~~

~~(3) Protected Eligibility for pregnant individuals:~~

~~(a) Pregnant Effective July 1, 2023, individuals age 6 and above are entitled to 24 months of CE.~~

~~(e) An individual's benefits are protected as described may be adjusted during this section regardless of changes~~

in circumstance that would otherwise affect eligibility, unless the individual:

(A) Is no longer an Oregon resident;

(B) Becomes incarcerated;

(C) Dies;

(D) Begins receiving SSI; or

(E) Requests a voluntary termination of eligibility, including a request made by an individual authorized to act on the individual's behalf.

(b) Effective April 1, 2022, except as described in subsection (d) of this section, e continuous eligibility as long as the adjustment does not result in the reduction or termination of coverage;

(f) If an individual's eligibility is redetermined during the continuous eligibility period and they no longer meet financial eligibility requirements for any HSD Medical Program of the same or better benefit, they shall retain coverage through the program with the uppermost income eligibility threshold for which the individual meets non-financial eligibility requirements;

(g) If an individual's eligibility is redetermined during the continuous eligibility period and they no longer meet financial or non-financial eligibility requirements for any HSD Medical Program of the same or better benefit, they shall retain coverage through the Parent and Caretaker Relative program (OAR 410-200-0420).

(3) Protected Eligibility:

(a) An individuals who are is eligible for and receiving HSD Medical Program benefits for any portion of their pregnancy shall maintain coverage through the 12 calendar months following the month in which is entitled to protected eligibility for the duration of the pregnancy eands;

(c) Individuals whose pregnancy ended within the year prior to April 1, 2022, are the postpartum eligibility period;

(b) The postpartum eligible for protected benefits as of April 1, 2022, through the end of the 12ility period is;

(A) Except as described in subsection (3)(b)(B), the postpartum eligibility period is 12 calendar months following the month in which their pregnancy ends;

(d) B) For individuals who do not meet the citizen and non-citizen status requirements, who are eligible for and receiving HSD Medical Program benefits for any portion of their pregnancy shall maintain CWM Plus coverage through the Citizenship Waived Medical (CWM) Plus coverage for any portion of their pregnancy, the postpartum eligibility period is the two calendar months following the month in which the pregnancy ends.

(c) Benefits may not be terminated or reduced during a period of protected eligibility unless:

(A) The individual is no longer an Oregon resident;

(B) The individual dies;

(C) The individual or someone authorized two calendar months following the month in which the pregnancy endsact on their behalf requests a voluntary termination of eligibility; or

(D) The agency determines that eligibility was erroneously granted at the most recent determination, redetermination or renewal of eligibility because of agency error or fraud, abuse, or perjury attributed to the individual or someone authorized to act on their behalf.

Statutory/Other Authority: ORS 411.095, 411.402, 411.404, 413.038, 414.025, 414.534

Statutes/Other Implemented: ORS 411.095, 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

AMEND: 410-200-0420

RULE SUMMARY: Rule describes eligibility for the MAGI Parent or Caretaker Relative program, which will be utilized to furnish continuous eligibility coverage.

CHANGES TO RULE:

410-200-0420

Specific Requirements; MAGI Parent or Caretaker Relative ¶

In addition to eligibility requirements applicable to the MAGI Parent or Caretaker Relative program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the MAGI Parent or Caretaker Relative program.¶

(1) To be eligible for the MAGI Parent or Caretaker Relative program, an individual must be:¶

~~(a) Meet the criteria outlined in section (2) or (3) of this rule.¶~~

(2) An individual is eligible for the MAGI Parent or Caretaker Relative program who assumes primary responsibility for a dependent child; or¶

~~(b) The spouse of the individual described in subsection (a) of this part.¶~~

~~(2) To be eligible for the MAGI Program if they meet the financial and non-financial eligibility requirements as follows:¶~~

~~(a) Is a parent, caretaker relative, or spouse of the parent or Caretaker Relative program, an individual must have who assumes primary responsibility for a dependent child living in the home; and~~¶

~~(b) Has EDG income at or below income standard for the applicable family size as identified in OAR 410-200-0315.¶~~

~~(3) To be~~An individual is eligible for the MAGI Parent or Caretaker Relative program, an individual must have a dependent child in the home. However, a dependent child for who foster care payments are made for more than 30 days is not eligible while the payments are being made for the dependent child if they are entitled to a period of Continuous Eligibility (OAR 410-200-0240(2)) and do not meet the financial and non-financial eligibility requirements for any HSD medical or OSIPM program subject to Continuous Eligibility (OAR 461-135-0010) of the same benefit level.

Statutory/Other Authority: ORS 411.402, 411.404, 413.042

Statutes/Other Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.447, 414.706