



NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

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

FILED

09/14/2020 11:37 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Eligibility Policy Changes Related To The Covid-19 Public Health Emergency Period

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/21/2020 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S):

In accordance with the Families First Coronavirus Response Act (FFCRA) and OAR 410-120-0011, following the declaration of a national public health emergency, the Authority adopted temporary measures related to HSD Medical program eligibility. These policy changes must be maintained through the end of the public health emergency period, and 410-200-0520 must be made permanent. These policies ensure access to COVID-19 testing and treatment for all HSD Medical Program recipients.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

The Families First Coronavirus Response Act: <https://www.congress.gov/bill/116th-congress/house-bill/6201/text>;
The Coronavirus Relief and Economic Stimulus Act: <https://www.congress.gov/bill/116th-congress/house-bill/748/text>.

FISCAL AND ECONOMIC IMPACT:

There is an expected fiscal impact of this rule to the Authority as these emergency policies will increase the number of OHP enrollees during the emergency period; however, the applicable legislation includes increased FMAP for the impacted populations.

The Authority also estimates that these rule amendments will result in little to no fiscal impact for applicants/beneficiaries of HSD medical programs. The authority estimates that these amendments will have no fiscal impact on other state agencies, local government, and business, including small business. There is no cost of compliance for small business. No small businesses are subject to these rules.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

The cost of compliance consists of system updates to support new policies, increased OHP enrollment, and operational cost.

1) Adoption of this rule will have a positive impact on other state agencies, units of local government, the public, or businesses, including small businesses. By increasing access to coverage and reducing churn, the public will maintain eligibility with fewer interruptions.

2a-c) n/a

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

There is no cost of compliance for small business. No small businesses are subject to these rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The contents of this rule are federally mandated by the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). These policy changes were communicated internally via policy transmittal and training materials. The information has also been shared publicly via the OHA and DHS communications units and provider liaisons. Therefore a RAC exception was granted.

ADOPT: 410-200-0520

RULE SUMMARY: In accordance with the Families First Coronavirus Response Act (FFCRA) and OAR 410-120-0011, following the declaration of a national public health emergency, the Authority adopted temporary measures related to HSD Medical program eligibility. These policy changes must be maintained through the end of the public health emergency period, and 410-200-0520 must be made permanent. These policies ensure access to COVID-19 testing and treatment for all HSD Medical Program recipients.

CHANGES TO RULE:

410-200-0520

COVID-19 Emergency Policies

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) The recipient dies;

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

(C) The recipient is confirmed to no longer be a resident of Oregon; or

- (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