

OFFICE OF THE SECRETARY OF STATE
BEV CLARNO
SECRETARY OF STATE

JEFF MORGAN
INTERIM DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

PH 24-2020
CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

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& LEGISLATIVE COUNSEL

FILING CAPTION: Oregon Medical Marijuana Program (OMMP) Operations During Declared Emergency

EFFECTIVE DATE: 04/17/2020 THROUGH 10/13/2020

AGENCY APPROVED DATE: 04/12/2020

CONTACT: Brittany Hall
971-673-1234
publichealth.rules@state.or.us

800 NE Oregon St. Suite 930
Portland, OR 97232

Filed By:
Brittany Hall
Rules Coordinator

NEED FOR THE RULE(S):

The Oregon Health Authority, Public Health Division, Oregon Medical Marijuana Program (OMMP) is adopting a temporary rule in response to the COVID-19 pandemic. The infectious disease and accompanying social distancing measurements have made certain application and program requirements more difficult or impossible to implement. The temporary rule adjusts program requirements to facilitate both patients' applications and OMMP's review and approval process of applications. The temporary rule provides more time in the application process for patients, caregivers or growers to submit additional or missing information to the Authority. The rule also recognizes that OMMP will notify patients of upcoming registration expiration to the extent possible as impacts from the COVID-19 pandemic may prevent the program from performing this in-person onsite function. The rule allows OMMP to accept government ID cards that expired in 2020 whenever the current rules require a valid government ID is required to be submitted due to the expected difficulty in renewing government identification cards during the pandemic. The temporary rule allows OMMP to accept un-notarized documents that current rule requires notarization.

In addition, the temporary rule waives the replacement card fee for patients who currently do not have a caregiver and are designating a new caregiver to assist the patient with obtaining or administering medical marijuana. Current rules require a patient to submit a change form and a fee of \$100 in order to add a new caregiver if their application has already been approved. Designating a caregiver at the time of application does not incur this additional fee. The unforeseeable pandemic may require patients to rely on caregivers when those patients would otherwise obtain or administer medical marijuana themselves. Therefore, the temporary rule waives the fee to allow a patient to modify their registration to add a caregiver to assist them and not incur a financial hardship through this action.

The temporary rule is effective only during the Governor's Executive Order No. 20-03 declaring a state of emergency or a public health emergency due to the COVID-19 outbreak in Oregon and will be suspended when the declared emergency is terminated. This temporary rulemaking reduces the burden on OMMP patients when applying to the program while following the Governor's Executive Order No. 20-12 requiring individuals to stay home unless travel is

essential.

JUSTIFICATION OF TEMPORARY FILING:

The Authority finds that failure to act promptly will result in serious prejudice to the public interest, the Authority, and medical marijuana patients. The COVID-19 pandemic and associated social distancing requirements create barriers to medical marijuana patients' ability to obtain certain documentation required for application. It also may impact OMMP's ability to perform certain functions that require action onsite. These rules need to be adopted promptly so that medical marijuana patients can continue to register with the program and minimize the burden of COVID-19 on their ability to register.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes chapter 475B

https://www.oregonlegislature.gov/bills_laws/ors/ors475B.html

Governor's Executive Orders No. 20-03 and 20-12: <https://www.oregon.gov/gov/admin/Pages/executive-orders.aspx>

ADOPT: 333-008-9902

RULE TITLE: OMMP Operations During Declared Emergency

RULE SUMMARY: Temporary adoption of OAR 333-008-9902:

- Adjusts program requirements to facilitate both patients' applications and OMMP's review and approval process of applications.
- Provides more time in the application process for patients, caregivers or growers to submit additional or missing information to the Authority.
- Recognizes that OMMP will notify patients of upcoming registration expiration to the extent possible as impacts from the COVID-19 pandemic may prevent the program from performing this in-person onsite function.
- Allows OMMP to accept government ID cards that expired in 2020 whenever the current rules require a valid government ID is required to be submitted due to the expected difficulty in renewing government identification cards during the pandemic.
- Allows OMMP to accept un-notarized documents that current rule requires notarization.
- Waives the replacement card fee for patients who currently do not have a caregiver and are designating a new caregiver to assist the patient with obtaining or administering medical marijuana. Current rules require a patient to submit a change form and a fee of \$100 in order to add a new caregiver if their application has already been approved. Designating a caregiver at the time of application does not incur this additional fee. The unforeseeable pandemic may require patients to rely on caregivers when those patients would otherwise obtain or administer medical marijuana themselves. Therefore, the temporary rule waives the fee to allow a patient to modify their registration to add a caregiver to assist them and not incur a financial hardship through this action.

RULE TEXT:

(1) During a state of emergency declared by the Governor under ORS 401.165, or a public health emergency declared under ORS 433.441, the Authority may:

- (a) Accept government issued photographic identification that expired in 2020 as valid government issued photographic identification.
- (b) Accept an APS or written documentation that may consist of relevant portions of the applicant's medical record,

signed by the applicant's attending physician within 120 days of the date of receipt by the Authority.

(c) Accept as timely any submission received within 21 calendar days after notification by the Authority any time the rules require submission within 14 calendar days after notification by the Authority.

(d) Accept as valid documents and forms without notarization.

(e) Waive the replacement card fee if the patient does not have a caregiver and is designating a new caregiver.

(f) Accept as valid any documentation demonstrating proof of eligibility for a reduced fee described in OAR 333-008-0021(3) if it demonstrates the applicant received the applicable benefit at any time in 2020.

(2) During a state of emergency declared by the Governor under ORS 401.165, or a public health emergency declared under ORS 433.441, the Authority shall to the extent reasonably possible notify patients of an upcoming expiration date before expiration, notwithstanding the notification requirements in OAR 333-008-0040(4), if staffing shortages, social distancing recommendations, or the Authority's emergency response efforts prevent notification in accordance with that rule.

(3) This rule will be suspended when the state of emergency or public health emergency is terminated.

STATUTORY/OTHER AUTHORITY: ORS 475B.797, 475B.804, 475B.810, 475B.949, Governor's Executive Order No. 20-03, Governor's Executive Order No. 20-12

STATUTES/OTHER IMPLEMENTED: ORS 475B.797, 475B.804, 475B.810, 475B.949, Governor's Executive Order No. 20-03, Governor's Executive Order No. 20-12