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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 945
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
HEALTH INSURANCE MARKETPLACE

FILED
03/09/2018 4:35 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Payment of COFA Premium Assistance Program Claims and Establishing Effective Date of COFA Program Membership

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/27/2018 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.

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Filed By:
VIctor Garcia
Rules Coordinator

HEARING(S)

Auxilary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 04/27/2018
TIME: 10:00 AM
OFFICER: Victor Garcia
ADDRESS: Labor and Industries
Building, Room F
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NEED FOR THE RULE(S):

The Health Insurance Marketplace filed temporary administrative rules in the 4th quarter of 2017 to amend OARs 945-060-0000, -060-0020, and -060-0030. The rules define the establishment of an effective date for COFA Premium Assistance Program (program) applications, and clarify the criteria for payment of claims to comply with the COFA program statute (Oregon laws 2016, Ch. 94). This proposed rulemaking would make those temporary rules permanent.

The amendments to OARs 945-060-0000 and -060-0030 are needed because current rules in 945-060 for the COFA Premium Assistance Program ("program") do not contain a time limit for reimbursement claims submitted by a participant in the program, and also do not specify the types of documents needed to validate out-of-pocket costs for reimbursement. While some of these provisions are stated on the program application, they are not addressed in the program's administrative rules. This amendment establishes the close date of April 30 to submit claims for reimbursement from the prior calendar year, and codifies the existing program requirement to provide receipts and an explanation of benefits (EOB) in order to validate a reimbursement claim.

The program has limited funds, and having a finite close date for reimbursing expenses from a prior year ensures fair treatment of all program enrollees, and gives better accuracy to program expenditure projections. Additionally, the law establishing the program specifically requires that the out-of-pocket costs to be reimbursed are "copayments, coinsurance, deductibles and other cost-sharing requirements imposed under a qualified health plan for services, pharmaceuticals, devices and other health benefits that are covered by the plan and that are rendered by in-network providers." (Oregon Laws 2016, Ch. 94, §2(7)) Receipts and EOB's are required to ensure that the reimbursed costs meet these requirements, and are a current requirement of the program. Placing these requirements in rule will more clearly state the conditions for approval of reimbursement claims. The temporary rule was filed on December 12, 2017 to be effective before the end of the year to make the requirements clearer and more definite for program participants and the stakeholders that assist them, and to give participants four months to submit 2017 reimbursement claims while the permanent rule is
established in 2018.

The amendment to OAR 945-060-0020 is necessary in order to clarify the effective date of a program applicant's sponsorship. The rule as written doesn't specify the effective date of sponsorship. Establishing the effective date is necessary because the program has limited resources and benefits will be paid based upon the date claims are received. The earlier sponsorship is effective, the greater likelihood a member will be able to make claims eligible for reimbursement. The temporary rule was filed on October 31, 2017 in anticipation of the November 1, 2017 start of health care open enrollment to reduce confusion for the expected increased number of applicants.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Laws 2016, Chapter 94. Available in the published version of Oregon Laws 2016, and the Oregon Legislature website: https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2016orLaw0094.pdf

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FISCAL AND ECONOMIC IMPACT:

From a fiscal and economic perspective, these amendments will most directly impact COFA program participants and indirectly affect the stakeholders that assist them. The COFA population that qualifies for this program is low income. Delay in reimbursements of out-of pocket costs could be financially detrimental to this population, and these amendments seek to remedy some of the uncertainty for some aspects of this program in its second year. In theory, this indirectly could allow the insurance agents and community partners, some of which are small businesses, to spend less time per applicant for applications and reimbursement requests, allowing them to see more clients, but we would estimate that impact to be minimal.
Aside from these specific parties, there are no impacts generally to government, the public, or businesses large or small that have been identified.

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).

(1) The changes to the rule will not impact state agencies or units of local government. COFA citizens who are Oregon residents participating in the program may see an economic benefit realized from the more clearly defined membership effective date and reimbursement parameters for their out-of-pocket costs.
(a) This rule does not apply to small businesses directly. Insurance agents who assist program applicants, some of which are small businesses, may see a small time saving in dealing with clients due to the additional clarification of the rules.

(b) There are no additional reporting, recordkeeping or administrative activities or costs required to comply with the rule
(c) There are no additional professional services, equipment supplies, labor, or increased administration required to comply with the rule amendments

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

Small business owners, including insurance agents, participated in the advisory committees for these rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
945-060-0000, 945-060-0020, 945-060-0030

AMEND: 945-060-0000

RULE SUMMARY: Makes the temporary rule filed on 12/12/17 permanent. The amended rule refines an existing definition of a program participant, and adds definition for
"explanation of benefits" to rules in 945-060. These changes accompany the amendments to 945-060-0030 that more clearly define the parameters and timelines for payment of reimbursement claims to participants in the COFA Premium Assistance Program.

CHANGES TO RULE:

945-060-0000
Definitions ¶

The following definitions apply to Division 50 of this Chapter for purposes of administering the COFA Program:¶
(1) "COFA applicant" means an individual submitting a COFA application.¶
(2) "COFA application" means the application for the COFA Premium Assistance Program established by Oregon Laws 2016, Chapter 94, Section 3.¶
(3) "COFA participant," "participant," or "program participant" means a COFA applicant who has been accepted into the COFA Premium Assistance Program established by Oregon Laws 2016, Chapter 94, Section 3.¶
(4) "Coverage provided by the plan" as used in Oregon Laws 2016, Chapter 94, Section 3(2), means, for purposes of a prescription drug, the maximum out-of-pocket costs for a generic form of the drug prescribed when a generic form is available.¶
(45) "~~Participant" or "program participant" means a COFA applicant who has been accept~~Explanation of benefits" means a written statement from a participant's qualified health plan issuer that lists medical services provided ~~in~~ to the ~~COFA Premium Assistance Program established by Oregon Laws 2016, Chapter 94, Section 3~~participant, benefits paid by the participant's qualified health plan issuer, and out-of-pocket costs owed by the participant.¶
(56) "Program" means the COFA Premium Assistance Program established by Oregon Laws 2016, Chapter 94, Section 3.
Statutory/Other Authority: OL 2016, Ch. 94
Statutes/Other Implemented: OL 2016, Ch. 94

AMEND: 945-060-0020

RULE SUMMARY: This proposed amendment would make the temporary rule filed on 12/12/17 permanent. The amendments to 945-060-0030 clarify the process for payment of reimbursement claims made by a participant in the COFA Premium Assistance Program. These include the documentation required for reimbursement approval, conditions for denial of a reimbursement, timeframes for the department to reimburse a participant, and the time limit for submission of reimbursement claims by a participant.

CHANGES TO RULE:

945-060-0020
Review and, Approval of COFA Premium Assistance Program Application by the Department; Waiting List ¶

The department shall:¶
(1) Review and process applications in the order they are received;¶
(2) Provide language assistance services for purposes of completing and submitting the application to the department to COFA applicants with limited English proficiency as defined in ORS 413.550.¶
(3) Within three business days of receipt of an incomplete application:¶
(a) Notify the COFA applicant that the application is incomplete;¶
(b) Provide instructions to the COFA applicant on how to complete the application; and¶
(c) Notify the COFA applicant of the date, consistent with the timeline established in OAR 945-0~~5~~60-0015(2), by which the application must be completed and postmarked, or if not mailed, received by the department.¶
(4) Waitlist a COFA applicant who submits an application if enrollment in the program reaches a level at which the department reasonably determines that the COFA Premium Assistance Program Fund will be insufficient to pay the premium costs or out-of-pocket costs for the COFA applicant or one or more existing program participants during the entirety of the applicable plan year;¶
(5) Within five business days of receipt of a complete application:¶
(a) Approve or hold the application;¶
(b) Notify the COFA applicant of the approval or holding of the application; and¶
(c) If the application is held, notify the COFA applicant of the:¶
(A) Reason for holding the application; and¶
(B) COFA applicant's appeal rights under OAR 945-0~~5~~60-0040;¶
(d) Waitlist a COFA applicant if required by paragraph (4) of this rule; or¶
(e) If a COFA applicant is waitlisted, notify the COFA applicant of the:¶
(A) Reason the COFA applicant was waitlisted;¶
(B) COFA applicant's position on the waiting list and¶
(C) COFA applicant's appeal rights under OAR 945-0~~5~~60-0040.¶
(6) Enroll an applicant in the COFA Program effective:¶
(a) On the first of the month following submission of a complete application if the application is received on or before the fifteenth of the month in which the application was submitted; and¶
(b) On the first of the second month following the submission of a complete application if the application is received after the fifteenth of the month in which the application was submitted.¶
(7) Notwithstanding Paragraph (6) of this rule, enroll an applicant in the COFA Program effective:¶
(a) On the first of the month following the month of the submission of the application if:¶
(A) The application is complete and is received during the individual's birth month; and¶
(B) The applicant turns 19 years of age after the fifteenth of the month of the submission of the application or the applicant is covered by the Oregon Health Plan after the 15th of the month of the submission of the application; or¶
(C) The applicant is eligible for a special enrollment, but verification of the special enrollment is delayed beyond the fifteenth of the month due to action or inaction by the Center of Medicare and Medicaid Services.¶
(b) On the first of the second month following the month of the submission of the application if:¶

(A) The application is complete and is received by the Marketplace after the fifteenth of the month in which the application was submitted; and¶
(B) The applicant is eligible for a special enrollment, but verification of the special enrollment is delayed beyond the last day of the month of the submission of the application due to action or inaction by the Center of Medicare and Medicaid Services.
Statutory/Other Authority: OL 2016, Ch. 94
Statutes/Other Implemented: OL 2016, Ch. 94

AMEND: 945-060-0030

RULE SUMMARY: This proposed amendment would make the temporary rule filed on 10/31/17 permanent. The amendment to OAR 945-060-0020 establishes the effective date of an eligible COFA applicant's sponsorship in the COFA premium assistance program. In general, under the amended rule, a COFA applicant who submits a complete application an effective COFA program sponsorship date of the first of the month following the submission of the application if the application was received by DCBS by the 15th of the month. If DCBS receives a completed application after the 15th of the month, the member's sponsorship effective date is the first of the second month following receipt of the application.

There are two exceptions to the general propositions explained above. The first exception applies to an individual who (1) is covered under the Oregon Health Plan after the 15th of the month of the submission of the application and who submits a complete application after the individual turns 19 years of age; or (2) turns 19 after the 15th of month in which the application is submitted. Under either of these circumstances, if the application is submitted during the individual's birth month, the individual's sponsorship is effective on the first of the month following the submission of the application.

The second exception applies to an individual who submits a complete application pursuant to a special enrollment on or before the 15th of the month but whose healthcare.gov eligibility is delayed due to an action or inaction by CMS. Such an individual's sponsorship is effective on the first of the month following the submission of the application.

CHANGES TO RULE:

945-060-0030
Payment of Qualified Health Plan Premiums and Out-of-Pocket Costs ¶

(1) The department shall pay qualified health plan premium costs only to the issuer of a qualified health plan unless the department determines good cause exists to directly reimburse a program participant for premium costs; and¶
(2) The department may cease payment of qualified health plan premium costs or deny payment of, or reimbursement for, out-of-pocket costs incurred after the following:¶
(a) The COFA Premium Assistance Program Fund becomes insufficient to cover the payment or reimbursement;¶
(b) The department cannot verify the address or residency of the participant after reasonable attempt;¶
(c) The participant fails to comply with the requirements of OAR 945-0~~5~~60-0025(1);¶
(d) The participant is disenrolled pursuant to OAR 945-0~~5~~60-0025(2);¶
(e) The participant becomes ineligible for the program;¶
(f) The participant becomes ineligible for the qualified health plan described in OAR 945-0~~5~~60-0005;¶
(g) The participant becomes eligible for:¶
(A) Medicaid; or¶
(B) Minimum essential coverage.; or¶
(~~3~~h) ~~A COFA~~The participant ~~may request reimbursement for out-of-pocket costs:¶~~
~~(a) When t~~fails to submit a valid claim for reimbursement of out-of-pocket costs pursuant to paragraph (3) of this rule.¶
(3) The department shall reimburse a COFA participant for out-of-pocket costs when a participant requests reimbursement and:¶
(a) The participant's expenditures for out-of-pocket costs total $50 or more; or¶

(b) ~~No sooner than~~The participant's expenditures for out-of-pocket costs do not total $50 or more by the last day of a ~~month in which a participant's out-of-pocket costs do not total $50 or more,~~ny given month, and¶
(c) The participant provides to the department no later than April 30 of the year following the year in which the out-of-pocket costs were incurred:¶
(A) A valid explanation of benefits; and¶
(B) A valid receipt establishing that the out-of-pocket costs were paid.¶
(4) If the department reimburses a participant for out-of-pocket costs for a claim that is subsequently denied by a qualified health plan issuer or is invalid for any other reason, the department may:¶
(a) Withhold future payments to the participant until such payments equal the amount of the reimbursement; or¶
(b) Use all legal means available to collect from the participant the amount of the reimbursement if withholdings from future payments do not equal the amount of the reimbursement.
Statutory/Other Authority: OL 2016, Ch. 94
Statutes/Other Implemented: OL 2016, Ch. 94