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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**HMP 5-2017**  
CHAPTER 945  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
HEALTH INSURANCE MARKETPLACE

**FILED**  
10/31/2017 4:05 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Establishes Effective Date of COFA Membership Based on the Date of Application Receipt by DCBS

EFFECTIVE DATE: 10/31/2017 THROUGH 04/28/2018

AGENCY APPROVED DATE: 10/31/2017

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Filed By:  
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Rules Coordinator

**NEED FOR THE RULE(S):**

The amendment to OAR 945-060-0020 is necessary in order to clarify the effective date of a COFA Premium Assistance Program applicant's sponsorship. The rule as written doesn't specify the effective date of sponsorship. Establishing the effective date is necessary because the COFA 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. Health care open enrollment begins on November 1, and with the greater influx of applications expected, a temporary rule will provide immediate relief while a permanent rule is established.

An advisory committee of stakeholders was already consulted in anticipation of the permanent rulemaking process, and had additional input in developing the language of the temporary rule.

**JUSTIFICATION OF TEMPORARY FILING:**

- (1) Failure to immediately amend this rule may result in inconsistent designation of effective dates for COFA Premium Assistance Program applications. Because there is no current rule that specifies how an effective date is established, there is no specific guidance in rule for the stakeholders that assist applicants to estimate when health insurance coverage would qualify for premium assistance under the program. This could cause delays in getting coverage, or result in coverage and/or out-of-pocket costs incurred before the application effective date that the applicants could not otherwise afford without the premium assistance.
- (2) Applicants to the COFA premium assistance program would suffer these consequences directly, while the stakeholders that assist them would be indirectly affected.
- (3) Failure to immediately take rulemaking action will add to the cases where the lack of specificity has caused hardships for applicants. In addition, health care open enrollment begins on November 1, and with the greater influx of applications expected, we would expect the potential number of adversely affected COFA enrollees to rise at a faster rate.
- (4) A temporary rule will provide immediate relief by outlining specific timelines for the effective date of an application. In addition, the special circumstances unique to COFA enrollees that may qualify for an exception to the effective date timelines are addressed in the temporary rule after fleshing those out in an advisory committee. We are beginning a

permanent rulemaking process for this rule, and because of the input we have already received from the advisory committee, we expect few changes from the temporary rule.

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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None

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AMEND: 945-060-0020

RULE TITLE: Review and, Approval of COFA Premium Assistance Program Application by the Department; Waiting List

RULE SUMMARY: 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.

RULE TEXT:

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 945-060-0015(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 945-060-0040;
  - (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 945-060-0040.
- (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