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TEMPORARY ADMINISTRATIVE ORDER INCLUDING STATEMENT OF NEED & JUSTIFICATION

HMP 10-2017

CHAPTER 945

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

HEALTH INSURANCE MARKETPLACE

FILED

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ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Payment of COFA Premium Assistance Program claims

EFFECTIVE DATE: 12/12/2017 THROUGH 06/08/2018

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NEED FOR THE RULE(S):

The 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 temporary rule 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 Marketplace Advisory Committee was consulted while drafting these temporary rules. The Marketplace intends to convene an advisory committee of COFA-specific stakeholders to begin a permanent rulemaking process in early 2018.

JUSTIFICATION OF TEMPORARY FILING:

(1) Consequences of failure to adopt: Unless the rule is adopted prior to January 1, 2018, COFA members and the stakeholders that assist them will lack sufficient notice of the claims reimbursement requirements. This could delay claims reimbursement for participants. (2) Who would suffer these consequences: COFA program participants. The COFA population that qualifies for this program is low income. Delay in reimbursement could be financially detrimental to this population. (3) How failure to immediately take rulemaking action would cause these consequences: Unless adopted prior to January 1, 2018, when members continue to submit claims for 2017 and may start incurring claims for 2018, reimbursement of claims could be delayed. There is not enough time left in 2017 to complete a permanent rulemaking process, and the Marketplace would like to take the time to carefully consider the impact of a permanent

rule with stakeholders. (4) How the temporary rule will avoid or mitigate the consequences: The rule codifies the requirements for reimbursement of claims, and sets the close date for submitting reimbursement claims from a prior year. This will make the requirements clearer and more definite for program participants and the stakeholders that assist them. It will also give participants four months to submit 2017 reimbursement claims while a permanent rule is established in 2018.

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

RULES:

945-060-0000, 945-060-0030

AMEND: 945-060-0000

RULE TITLE: Definitions

RULE SUMMARY: This amendment 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.

RULE TEXT:

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.
- (5) "Explanation of benefits" means a written statement from a participant's qualified health plan issuer that lists medical services provided to the participant, benefits paid by the participant's qualified health plan issuer, and out-of-pocket costs owed by the participant.
- (6) "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: 945-060-0030

RULE TITLE: Payment of Qualified Health Plan Premiums and Out-of-Pocket Costs

RULE SUMMARY: The changes 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.

RULE TEXT:

- (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 945-060-0025(1);
 - (d) The participant is disenrolled pursuant to OAR 945-060-0025(2);
 - (e) The participant becomes ineligible for the program;
 - (f) The participant becomes ineligible for the qualified health plan described in OAR 945-060-0005;
 - (g) The participant becomes eligible for:
 - (A) Medicaid; or
 - (B) Minimum essential coverage; or
 - (h) The participant 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) The participant's expenditures for out-of-pocket costs do not total \$50 or more by the last day of any 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