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## PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on December 17, 2015 by the

Department of Human Services, Office of Child Welfare Programs			413
<b>Agency and Division</b>			<b>Chapter Number</b>
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To become effective December 21, 2015. Rulemaking Notice was published in the November 2015 Oregon Bulletin.

**Rule Caption:** *Amending rules relating to medical care for children and young adults*

**AMEND:** 413-100-0400, 413-100-0410, 413-100-0420, 413-100-0435

**REPEAL:** 413-100-0457

ORS 409.050, 418.005

**Stat. Auth.**

None.

**Other Auth.**

ORS 97.170, 109.319, 409.010, 409.050, 409.225, 411.141, 418.005, 418.015, Or Laws 2015, ch 511

**Stats. Implemented**

## Rule Summary

The Department of Human Services, Office of Child Welfare Programs, is removing references to the Former Foster Care Youth (FFCY) Medical Program from OAR 413-100-0400, 413-100-0410, and 413-100-0420 and the FFCY eligibility rule, OAR 413-100-0457, is being repealed. Effective December 1, 2015, this program is administered by the Oregon Health Authority under OAR 410-200-0407. The definition of "Children's Medical Unit" in OAR 413-100-0410 is also being updated and a clarification is being made to OAR 413-100-0435 regarding Title XIX Medicaid eligibility for a child or young adult who is subject of a guardianship assistance agreement.

# Child Welfare Children's Medical Eligibility

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## 413-100-0400

### Purpose

(Amended ~~06/12/14~~ [12/21/15](#))

The purpose of ~~these rules~~ (OAR 413-100-0400 to 413-100-0530) is to set forth policies and criteria the Department uses to determine eligibility for:

- (1) Medical assistance under Title XIX of the Social Security Act for a *child* or *young adult* in *substitute care* and in the care and *custody* of the Department or another state;
- (2) Medical assistance under Title XIX for a *child* or *young adult* under an *adoption assistance agreement* or *guardianship assistance agreement* through the Department or another state;
- (3) *General Assistance* medical for a *child* or *young adult* who does not meet the eligibility criteria for *Title XIX Medicaid*; and
- ~~(4) *The Former Foster Care Youth Medical Program* for individuals at least age 18 and under age 26; and~~
- (54) Medical eligibility for children entering Oregon under an *Interstate Compact for the Placement of Children* (ICPC) or *Interstate Compact on Adoption and Medical Assistance* (ICAMA) agreement.

Stat. Auth.: ORS [418.005](#)

Stats. Implemented: ORS [418.005](#)

## 413-100-0410

### Definitions

(Amended ~~06/12/14~~ [12/21/15](#))

As used in OAR 413-100-0400 to 413-100-0530:

- (1) "Adjudication" means the legal process by which a *child* or *young adult* is under a court's jurisdiction as a result of having engaged in delinquent behavior and not having a legal guardian that could be responsible for the *child* or *young adult*.
- (2) "Adoption assistance" means assistance provided on behalf of an eligible *child* or *young adult* to offset the costs associated with adopting and meeting the ongoing needs of the *child* or *young adult*. "Adoption assistance" may be in the form of payments, medical coverage, reimbursement of nonrecurring expenses, or special payments.

- (3) "Adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the *pre-adoptive family* or adoptive family of an eligible *child* or *young adult*, setting forth the assistance the Department is to provide on behalf of the *child* or *young adult*, the responsibilities of the *pre-adoptive family* or adoptive family and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.
- (4) "Child" means a person under 18 years of age.
- (5) "Children's Medical Unit" means the unit in Child Welfare Central Office where medical eligibility is completed for children in the ICPC, ICAMA, [Non-IV-E Tribal](#), and [FFCY Karly's Law](#) programs.
- (6) "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985 which is a federal mandate that requires employers sponsoring group health plans for twenty (20) or more employees to offer continuation of coverage to employees, their spouses, and dependent children who become unemployed.
- (7) "Custody" means legal custody described in ORS [419B.373](#).
- (8) "Department" means the Department of Human Services, Child Welfare.
- ~~(9) "Former Foster Care Youth Medical Program" or "FFCY" means a medical program for individuals at least age 18 and under age 26 who were formerly in foster care and meet the program requirements in OAR 413-100-0457.~~
- (109) "Foster care" means 24 hour *substitute care* for children placed away from their parents or guardians and for whom the Department has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A *child* is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the Department or local agency for the care of the *child*, whether adoption subsidy payments are being made prior to the finalization of the adoption, or whether there is Federal matching of any payments that are made.
- (140) "General Assistance" means services paid using the state General Fund.
- (121) "Guardianship assistance" means assistance on behalf of an eligible *child* or *young adult* to offset the costs associated with establishing the guardianship and meeting the ongoing needs of the *child* or *young adult*. "Guardianship assistance" may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.
- (132) "Guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian setting forth the assistance the Department is to provide on behalf of the *child* or *young adult*, the

responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

- (143) "ICAMA" means the Interstate Compact on Adoption and Medical Assistance, which was established in 1986 to safeguard and protect the interstate interests of children covered by an *adoption assistance agreement* when they move or are adopted across state lines.
- (154) "ICPC" means the Interstate Compact for the Placement of Children. It is an agreement among states to coordinate the transfer and placement of children across state lines. (See ORS 417.200)
- (165) "Independent Living Program" or "ILP" means the services provided by the Department to an eligible foster child or former foster child.
- (176) "OCCS Medical" means Title XIX and Title XXI Medical provided through the Office of Client and Community Services under the Oregon Health Authority.
- (187) "Pre-adoptive family" means an individual or individuals who:
  - (a) Has been selected to be a child's adoptive family; and
  - (b) Is in the process of legalizing the relationship to the *child* through the judgment of the court.
- (198) "Substitute care" means the out-of-home placement of a *child* or *young adult* who is in the legal or physical *custody* and care of the Department.
- (2019) "Title IV-E" means Title IV-E of the Social Security Act, which provides federal payments to the states for foster care maintenance, *adoption assistance*, and *guardianship assistance* on behalf of certain eligible children and young adults.
- (240) "Title XIX Medicaid" means federal and state funded medical assistance established by Title XIX of the Social Security Act.
- (221) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## 413-100-0420

### Child Welfare Title XIX Medicaid Program Eligible Populations

(Amended ~~06/12/14~~ 12/21/15)

Only the following children and young adults may be eligible for Child Welfare *Title XIX Medicaid*:

- (1) A *child* or *young adult* in *substitute care*, which may include:
  - (a) A *child* or *young adult* in *foster care*.
  - (b) A *child* or *young adult* receiving Supplemental Security Income (SSI).
  - (c) A *child* or *young adult* held temporarily in a county or state juvenile detention facility.
  - (d) A *child* or *young adult* in a subsidized *Independent Living Program*.
  - (e) A *child* or *young adult* who returned home in a trial reunification for up to six months.
  - (f) A *child* or *young adult* in a pre-adoptive placement.
  - (g) A *child* or *young adult* on runaway status who would otherwise be in *substitute care*, as long as the Department retains *custody* of the *child* or *young adult* and the *child* or *young adult* would continue to be in *substitute care* and Child Welfare *Title XIX Medicaid* eligible if not on runaway status.
  - (h) A *child* or *young adult* hospitalized while under the Department's protective *custody* is eligible, if at the time of hospitalization, the Department's intent was to place the *child* or *young adult* in *substitute care*.
  - (i) A *child* or *young adult* from Oregon placed in *substitute care* in another state through ICPC and the receiving state has denied the *child* or *young adult* medical coverage.
  - (j) A *child* or *young adult* admitted to the hospital prior to entering *substitute care* and a newborn released from the hospital into *substitute care*. Eligibility for a *child* or *young adult* is effective on the date the Department finds the *child* or *young adult* is eligible but not earlier than the date the Department obtains *custody* of the *child* or *young adult*.
  - (k) Newborns in the following situations:
    - (A) A baby born to a mother receiving medical benefits under *Title XIX Medicaid* from the Oregon Health Authority is eligible for *Title XIX Medicaid* due to the mother's coverage.

- (B) A baby born to a mother not receiving medical benefits under *Title XIX Medicaid* from the Oregon Health Authority, to ensure coverage of birth expenses if:
  - (i) The Department obtains *custody* of the baby during its hospitalization; and
  - (ii) Child Welfare *Title XIX Medicaid* coverage is entered in the Department's electronic information system effective the date of birth.
- (2) A *child* or *young adult* who is the subject of an effective *adoption assistance agreement* administered by the Department.
- (3) A *child* or *young adult* who is the subject of an effective *guardianship assistance agreement* administered by the Department.
- ~~(4) Individuals at least age 18 and under age 26 who meet the eligibility criteria for the Former Foster Care Youth Medical Program (see OAR 413-100-0457).~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

### **413-100-0430**

#### **Eligibility Determination for a Child or Young Adult in Substitute Care**

(Amended 06/12/14)

Except as provided in OAR 413-100-0435(7), the following policies apply to a *child* or *young adult* in *substitute care*:

- (1) Before a *child* or *young adult* in *substitute care* may receive a medical card providing Child Welfare *Title XIX Medicaid* services, the Department must determine the eligibility of the *child* or *young adult* for Child Welfare *Title XIX Medicaid*.
- (2) A *child* or *young adult* covered by OAR 413-100-0420 who meets one of the following criteria is categorically eligible for Child Welfare *Title XIX Medicaid*:
  - (a) Is eligible for *Title IV-E foster care* payments; or
  - (b) Is receiving Supplemental Security Income (SSI).
- (3) As part of the eligibility determination for Child Welfare *Title XIX Medicaid*:
  - (a) The *child* or *young adult* must meet the citizenship and alien status requirements in OAR 413-100-0460.

- (b) All income and resources will be disregarded except as described in (3)(d) of this section.
- (c) The *child* or *young adult* must have a verified Social Security number (SSN) or verification that an application for an SSN has been made and is documented in the case file.
- (d) The Department must determine if the *child* or *young adult* has other insurance.
  - (A) All known or potential health insurance benefits or resources and all other third-party medical benefits, including casualty insurance available to the *child* or *young adult*, must be assigned to the Department.
  - (B) The form MSC 415H, "Notification of Other Health Insurance", must be completed by a parent or the caseworker and sent to the Department for every *child* or *young adult* with health insurance coverage.
- (4) Except when a *child* or *young adult* is determined eligible for Child Welfare *Title XIX Medicaid* under OAR 413-100-0435, coverage ends the day the *child* or *young adult* leaves state *custody*, or enrolls into *OCCS Medical*.
- (5) *General Assistance* coverage will be provided when a *child* or *young adult* in *substitute care* does not meet the eligibility requirements for Child Welfare *Title XIX Medicaid* coverage. Eligibility redeterminations for a *child* or *young adult* receiving *General Assistance* must be completed every 12 months.
- (6) Redetermination of the eligibility of each *child* or *young adult* for Child Welfare *Title XIX Medicaid* must be reviewed every 12 months.
- (7) Retroactive Title XIX Medicaid or General Assistance eligibility.
  - (a) A *child* or *young adult* receiving medical assistance through *General Assistance* rather than through Child Welfare *Title XIX Medicaid* due solely to the lack of a Social Security number (SSN) is eligible for Child Welfare *Title XIX Medicaid* retroactive to the date of placement once the Department receives verification of an application for an SSN from the Social Security Administration.
  - (b) A *child* or *young adult* in *substitute care* may be enrolled into *Title XIX Medicaid* or *General Assistance* retroactively to the date of initial placement, if not done on date of placement.
  - (c) A *child* or *young adult* who has been found to have dual prime numbers in the Medicaid Management Information System (MMIS) may receive retroactive coverage to the earliest date of coverage for either prime number.

- (8) Corrections to the record of the *child* or *young adult* in the Department's electronic information system may be made when it has been determined that the *child* or *young adult* was incorrectly shown as Child Welfare *Title XIX Medicaid* eligible for prior months.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

#### **413-100-0432**

### **Payments for Services Provided in Emergency Situations When a Child or Young Adult is Not Enrolled in Title XIX Medicaid**

*(Adopted 06/12/14)*

Payment may be made for emergency medical services only for a *child* or *young adult* in the Department's care or *custody*. The payment is made from the local office's "Other Medical" budget.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

#### **413-100-0435**

### **Title XIX Medicaid Eligibility for a Child or Young Adult Receiving Adoption Assistance or Guardianship Assistance**

*(Amended ~~06/12/14~~ 12/21/15)*

- (1) The Child Welfare Post Adoption Program will determine and maintain Child Welfare *Title XIX Medicaid* eligibility for the following children and young adults:
- (a) A *child* or *young adult* who has exited Department *custody* as the result of a finalized adoption, and the *child* or *young adult* is the subject of an effective *adoption assistance agreement* administered by the Department. Prior to the adoption finalization the *child* or *young adult* receives medical coverage as described in OAR 413-100-0430.
  - (b) A *child* or *young adult* who is determined eligible for *guardianship assistance* and is the subject of an effective *guardianship assistance agreement* administered by the Department.
  - (c) A *child* or *young adult* who is the subject of an adoption that does not require the Department's consent and is the subject of an effective *adoption assistance agreement* administered by the Department.
- (2) Before a *child* or *young adult* described in section (1) of this rule may receive a medical card providing Child Welfare *Title XIX Medicaid* services, the Child Welfare Post

Adoption Program must determine the eligibility of the *child* or *young adult* for Child Welfare *Title XIX Medicaid*.

- (3) The requirements listed in OAR 413-100-0430(3) also apply to children and young adults described in section (1) of this rule.
- (4) A *child* or *young adult* described in section (1) of this rule who is the subject of a *guardianship assistance agreement* where *Title IV-E* funded payments are being made to the guardian is eligible for Child Welfare *Title XIX Medicaid*.
- (5) A *child* or *young adult* described in section (1) of this rule who is the subject of an *adoption assistance agreement* where the pre-adoptive parent or adoptive parent is eligible to receive a *Title IV-E* funded payment is eligible for Child Welfare *Title XIX Medicaid*.
- (6) A *child* or *young adult* described in section (1) of this rule who is the subject of an *adoption assistance agreement* or *guardianship assistance agreement*, where the *child* or *young adult* was eligible for Child Welfare *Title XIX Medicaid* while in *substitute care* but ineligible for *Title IV-E foster care*, will be determined eligible and provided Child Welfare *Title XIX Medicaid*.
- (7) A *child* or *young adult* described in section (1) of this rule determined ineligible to receive Child Welfare *Title XIX Medicaid* will be provided *General Assistance* medical when:
  - (a) The *child* or *young adult* resides in Oregon; or
  - (b) The *child* or *young adult* resides outside of Oregon but in the United States or a territory or possession thereof and is not able to receive medical assistance through the state of residence.
- (8) Annual redeterminations are not required for children and young adults under a finalized *adoption assistance agreement* or *guardianship assistance agreement*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## **413-100-0445**

### **Youth in Detention**

(Amended 06/12/14)

- (1) Except as provided in section (2) of this rule, an individual held in a county or state juvenile detention facility is ineligible for Child Welfare *Title XIX Medicaid* or *General Assistance* medical coverage.

- (2) An individual held in a county or state juvenile detention facility may be eligible for new or continuation of *Child Welfare Title XIX Medicaid* or *General Assistance* medical coverage under the following situations:
  - (a) If the *child* or *young adult* is in detention and going back to *substitute care*.
  - (b) When the *child* or *young adult* is in Child Welfare care or *custody* and will be in a detention facility temporarily.
- (3) Child Welfare *Title XIX Medicaid* or *General Assistance* medical coverage will be closed after *adjudication* when the *child* or *young adult* is placed in the care and *custody* of the Oregon Youth Authority.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

### **413-100-0451**

#### **Interstate Compact for the Placement of Children (ICPC) and Interstate Compact on Adoption and Medical Assistance (ICAMA)**

*(Adopted 06/12/14)*

- (1) The *Children's Medical Unit* will determine and maintain *Title XIX Medicaid* eligibility for a *child* or *young adult* placed in Oregon from another state pursuant to an approved ICPC request or eligible for medical assistance in Oregon under ICAMA.
- (2) A *child* or *young adult* placed in Oregon pursuant to an approved ICPC request is eligible for medical assistance in Oregon when at least one of the following criteria are met:
  - (a) The *child* or *young adult* is placed in *substitute care* in Oregon;
  - (b) The *child* or *young adult* is placed in a psychiatric or behavioral residential treatment facility in Oregon and intends to remain in Oregon permanently; or
  - (c) The *child* or *young adult* is placed in a psychiatric or behavioral residential treatment facility in Oregon and has been determined *Title IV-E* eligible.
- (3) A *child* or *young adult* is eligible for medical assistance in Oregon under ICAMA when the *child* or *young adult* is the subject of an effective *adoption assistance agreement* or *guardianship assistance agreement* administered by an agency other than the Department and meets one of the following criteria:
  - (a) The agreement is *Title IV-E* funded and the *child* or *young adult* is residing in Oregon;

- (b) The agreement is *Title IV-E* funded and the *child* or *young adult* is placed in a psychiatric or behavioral residential treatment facility or living in a residential or boarding school in Oregon; or
- (c) The agreement is non-*Title IV-E* funded and the parent or legal guardian of the *child* or *young adult* is residing in Oregon.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

### **413-100-0455**

#### **Out-of-State Placements**

(Amended 06/12/14)

- (1) The Consolidated Omnibus Budget Reconciliation Act of 1985 (*COBRA*) provides for Child Welfare *Title XIX Medicaid* coverage in the state of residence for a *child* or *young adult* receiving *Title IV-E* foster care payments.
- (2) A *child* or *young adult* who is *Title IV-E* eligible in Oregon and placed in *substitute care* in another state is eligible for *Title XIX Medicaid* in the state of residence.
- (3) A non-*Title IV-E child* or *young adult* in DHS care or *custody* and placed in another state must contact the Child Welfare *Title XIX Medicaid* agency in that state for a *Title XIX Medicaid* determination. If that state determines the *child* or *young adult* is not eligible for *Title XIX Medicaid*, the *child* or *young adult* may be eligible for Oregon's Child Welfare *Title XIX Medicaid* or *General Assistance* medical if the *child* or *young adult* meets the eligibility requirements. (See OAR 413-100-0430)

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

### **413-100-0457**

#### **Former Foster Care Youth Medical Program**

(Amended 06/12/14)

#### THIS RULE IS REPEALED

- ~~(1) This rule applies to all individuals considered for enrollment in the *Former Foster Care Youth Medical Program* on or after January 1, 2014.~~
- ~~(2) Individuals may not be eligible for the *Former Foster Care Youth Medical Program* with an effective date prior to January 1, 2014.~~
- ~~(3) There is no income test for the *Former Foster Care Youth Medical Program*.~~

~~(4) An individual is eligible for the Former Foster Care Youth Medical Program if the individual meets the requirements of all of the following subsections:~~

- ~~(a) Is an adult at least age 18 and under age 26.~~
- ~~(b) Was in foster care under the responsibility of the Department or tribe, and enrolled in Child Welfare Title XIX Medicaid upon attaining:
  - ~~(A) Age 18, or~~
  - ~~(B) If over 18, the age at which Oregon Medicaid or Oregon tribal foster care assistance ended under Title IV E.~~~~
- ~~(c) Is not receiving Supplemental Security Income (SSI).~~
- ~~(d) Is not receiving adoption assistance or foster care maintenance payments.~~

Stat. Auth.: ORS 409.050, 411.404, 418.005

Stats. Implemented: ORS 409.010, 411.404, 418.005

## **413-100-0460**

### **Citizenship and Alienage**

*(Amended 06/12/14)*

- (1) To be eligible for medical assistance under Child Welfare *Title XIX Medicaid*, the *child* or *young adult* must meet the requirements of one of the following subsections:
  - (a) Be a United States citizen.
  - (b) Be a qualified non-citizen under section (2) of this rule who meets the alien status requirements in section (3) of this rule.
  - (c) Be a citizen of Puerto Rico, Guam, the Virgin Islands or Saipan, Tinian, Rota or Pagan of the Northern Mariana Islands.
  - (d) Be a national from American Samoa or Swains Islands.
- (2) An individual is a qualified non-citizen if the individual is any of the following:
  - (a) A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 USC 1101 et seq.).
  - (b) A refugee who is admitted to the United States as a refugee under section 207 of the INA (8 USC 1157).

- (c) A non-citizen who is granted asylum under section 208 of the INA (8 USC 1158).
  - (d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 USC 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 USC 1231(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).
  - (e) A non-citizen who is paroled into the United States under section 212(d)(5) of the INA (8 USC 1182(d)(5)) for a period of at least one year.
  - (f) A non-citizen who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 USC 1153(a)(7)) as in effect prior to April 1, 1980.
  - (g) A non-citizen who is a "Cuban and Haitian entrant" (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).
  - (h) An Afghan or Iraqi alien granted Special Immigration Status (SIV) under section 101(a)(27) of the INA.
  - (i) A battered spouse or dependent *child* who meets the requirements of 8 USC 1641(C) and is in the United States on a conditional resident status, as determined by the U.S. Citizenship and Immigration Services.
- (3) A qualified non-citizen meets the alien status requirements if the individual satisfies one of the following requirements:
- (a) The individual is under 19 years of age.
  - (b) The individual was a qualified non-citizen before August 22, 1996.
  - (c) The individual physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date qualified non-citizen status was obtained. An individual is not continuously present in the United States if the individual is absent from the United States for more than 30 consecutive days or a total of more than 90 days between August 22, 1996 and the date qualified non-citizen status was obtained.
  - (d) The individual has been granted any of the following alien statuses:
    - (A) Refugee under section 207 of the INA.
    - (B) Asylum under section 208 of the INA.
    - (C) Deportation being withheld under section 243(h) of the INA.

- (D) Cubans and Haitians who are either public interest or humanitarian parolees.
  - (E) Immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.
  - (F) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 USC 7101 to 7112).
  - (G) A family member of a “victim of a severe form of trafficking in persons” who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 USC 7101 to 7112).
  - (H) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.
- (e) The individual is an American Indian born in Canada to whom the provisions of section 289 of the INA (8 USC 1359) apply.
  - (f) The individual is a member of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Act (25 USC 450(e)).
  - (g) The individual is a veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 USC 5303A(d).
  - (h) The individual is a member of the United States Armed Forces on active duty (other than active duty for training).
  - (i) The individual is a spouse or a dependent child of an individual described in subsections (g) or (h) of this section.
- (4) A non-citizen meets the alien status requirements if the individual is under the age of 19 and is one of the following:
- (a) A citizen of a Compact of Free Association State (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) who has been admitted to the U.S. as a non-immigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the U.S.
  - (b) An individual described in 8 CFR section 103.12(a)(4) who belongs to one of the following classes of aliens permitted to remain in the United States because the U.S. Attorney General has decided for humanitarian or other public policy reasons not to initiate deportation or exclusion proceedings or enforce departure:

- (A) An alien currently in temporary resident status pursuant to section 210 or 245A of the INA (8 USC 1160 and 1255a).
  - (B) An alien currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 USC 1229b).
  - (C) A Cuban-Haitian entrant, as defined in section 202(b) Pub. L. 99-603 (8 USC 1255a), as amended.
  - (D) A Family Unity beneficiary pursuant to section 301 of Pub. L. 101-649 (8 USC 1255a), as amended.
  - (E) An alien currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President of the United States;
  - (F) An alien currently in deferred action status pursuant to U.S. Department of Homeland Security Operating Instruction OI 242.1(a)(22).
  - (G) An alien who is the spouse or child of a United States citizen whose visa petition has been approved and who has a pending application for adjustment of status.
- (c) An individual in non-immigrant classification under the INA who is permitted to remain in the United States for an indefinite period, including individuals as specified in section 101(a)(15) of the INA (8 USC 1101).
- (5) In order for the Department to authorize benefits, there must be proof that a *child* or *young adult* is a United States citizen or is in the country legally. Birth certificates, citizenship papers, alien registration cards, permanent visas, and Cuban and Refugee registration cards may be used as proof.
  - (6) An individual granted status under the Deferred Action for Childhood Arrivals (DACA) program is not eligible for medical assistance under Child Welfare Title XIX Medicaid unless the individual qualifies for an immigration status that provides medical eligibility under this rule apart from the individual's DACA status.
  - (7) A non-citizen whose immigration status cannot be verified at intake, but who declares a non-citizen status that in the absence of any contradictory evidence would qualify the non-citizen for full benefits, may be provided full benefits pending verification. There are no overpayments should the approved applicant's status, upon verification, prove to be at the Citizen Alien Waived Emergent Medical (CAWEM) level only.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## **413-100-0530**

### **Compliance**

*(Amended 06/12/14)*

- (1) The Department is responsible for compliance with the requirements of the Office of Management and Budget, OMB Circular A-133, available at:  
[http://www.whitehouse.gov/omb/circulars/a133\\_compliance\\_supplement\\_2011](http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2011).
- (2) All cases to be reviewed by state auditors, including internal audits, or federal auditors are requested through the Department's Federal Compliance Unit. All case material (eligibility and service records) are made available for review upon request. The cases are randomly selected and must meet the criteria specific to the requirements of state and federal auditors.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005