Secretary of State

NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Oregon Health Authority, Division of Medical Assistance Programs (Division)	410
Agency and Division	Administrative Rules Chapter Number

Sandy Cafourek	500 Summer St Ne, Salem, OR 97301	503-945-6430
Rules Coordinator	Address	Telephone

RULE CAPTION

Amends Modifications Based on Client Circumstances to Medical Transportation for Recipients of Medical Assistance Programs

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

February 18, 2014	10:30 a.m.	500 Summer St NE, Salem, OR 97301, Room 137B	Sandy Cafourek
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: 410-136-3260

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth. : ORS 413.042

Other Auth.:

Stats. Implemented: ORS 413.042, 414.065

RULE SUMMARY

The temporary rule will align Oregon rules with federal regulations regarding providing non-emergent medical transportation.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

February 20, 2014	by 5:00 p.m.	sandy.c.cafourek@state.or.us

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Judy Mohr Peterson	Judy Mohr Peterson	1/15/2014
Signature	Printed name	Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Health Authority	410
Agency and Division	Administrative Rules Chapter Number

Amends Modifications Based on Client Circumstances to Medical Transportation for Recipients of Medical Assistance Programs

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: The amendment of OAR 410-136-3260

Statutory Authority: ORS 413.042

Other Authority:

Stats. Implemented: ORS 413.042

Need for the Rule(s):
Current rule may be in violation of 42 CFR 431.53 that requires state Medicaid agencies to "ensure necessary transportation for recipients to and from providers." Legislative counsel and the Attorney General's office agree that the new language will align Oregon's rules with the applicable CFR.

Documents Relied Upon, and where they are available: None

Fiscal and Economic Impact:
Amending this rule will have no fiscal impact on the Authority, other state agencies, local government, clients, the public, and businesses, including small businesses. The new language aligns with current practice and fixes a change that was erroneously introduced when earlier rules were re-written.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
None.

2. Cost of compliance effect on small business (ORS 183.336):
a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
None.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
None.

c. Equipment, supplies, labor and increased administration required for compliance:
None.

How were small businesses involved in the development of this rule?
Transportation brokerages currently under contract with the Authority were consulted in the development of this rule.

Administrative Rule Advisory Committee consulted?: Yes.
If not, why?:

Signature	Printed name	Date
Judy Mohr Peterson	JUDY MOHR PETERSON	1/15/2014

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

410-136-3260

Modifications Based on Client Circumstances

(1) Brokerages may impose reasonable modifications on NEMT services when the client:

(a) Is threatening harm to the driver or others in the vehicle;

(b) Has a health condition that creates health or safety concerns to the driver or others in the vehicle;

(c) Has other behaviors or circumstances that place the driver or others in the vehicle at risk of harm;

(d) Frequently does not show up for scheduled rides;

(e) Frequently cancels the ride on the day of the scheduled ride time;

(f) Has behaviors that cause local medical providers or facilities to refuse to provide further services without imposing modifications; or

(g) Has special needs that require special accommodations.

(2) Reasonable modifications include, but are not limited to, requiring the client to:

(a) Use a specific transportation subcontractor;

(b) Travel with an attendant;

(c) Use public transportation where available;

(d) Drive themselves or locate someone to drive them and receive mileage reimbursement; or

(e) Confirm the ride with the brokerage on the day of or the day before the scheduled ride.

(3) Before requiring any modifications, the brokerage shall talk with the client about the reason for imposing a modification, explore modifications that are appropriate to the needs of the client and that address the health and safety concerns of the brokerages. The brokerage or client may include the client's worker, PHP or CCO in the discussion. The client may include other individuals in the discussion.

(4) Brokerages may not make a reasonable modification based on the criteria in section (1)(a)-(g) above that results in a denial of NEMT services to a client and must make all reasonable efforts to offer an appropriate alternative to meet the client's needs under the circumstances.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065