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TEMPORARY ADMINISTRATIVE ORDER INCLUDING STATEMENT OF NEED & JUSTIFICATION

CWP 6-2021

CHAPTER 413
DEPARTMENT OF HUMAN SERVICES
CHILD WELFARE PROGRAMS

FILED

01/28/2021 11:26 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending the Current Temporary Rule Regarding Child Welfare's Covid-19 Emergency Rule

EFFECTIVE DATE: 01/28/2021 THROUGH 04/03/2021

AGENCY APPROVED DATE: 01/28/2021

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NEED FOR THE RULE(S):

This temporary rule is necessary to respond to emergency circumstances, including the current emergency declared due to the coronavirus (COVID 19) pandemic.

JUSTIFICATION OF TEMPORARY FILING:

On March 8, 2020, Governor Kate Brown declared an emergency under ORS 401.165 et seq. due to the coronavirus (COVID-19). On March 11, 2020, the World Health Organization announced that COVID-19 is a global pandemic. On March 13, 2020, the President of the United States declared the COVID-19 outbreak a national emergency. On March 16, 2020, the Department of Human Services imposed protective measures to restrict visitors to long-term care facilities and other residential facilities. The Oregon Health Authority adopted similar measures at the Oregon State Hospital and other behavioral health settings, and limited admissions to the Oregon State Hospital. On March 23, 2020, Governor Brown issued executive order 20-12 ordering Oregonians to stay home, closed certain businesses, required social distancing measures, and imposed special requirements for outdoor areas and licensed childcare facilities.

The Department finds that COVID-19 may cause respiratory disease leading to serious illness or death. COVID-19 spreads person-to-person through coughing, sneezing, close personal contact, including touching a surface with the virus on it and then touching your mouth, nose, or eyes. State and local public health officials advised that the virus is circulating in the community and expected the number of cases to increase. The United States Centers for Disease Control and Prevention (CDC) reported that COVID-19 is most contagious when the individual is most symptomatic, but may also spread before symptoms appear. CDC recommends measures to limit spread of the disease in the community, including limitations on events and gatherings.

The Department finds that in addition to Covid-19, recently there have been other emergency circumstances caused by wildfires, which have also necessitated exceptions to the current rules in order to safely continue services.

The Department finds that while it is imperative that the Department continues to ensure the well-being of children in care, that imperative must be balanced against the health of caseworkers, children in care, and all of the people with whom they come into contact. The Child Welfare Director needs to have the ability to authorize exceptions to the rules as reasonably necessary to safely continue providing services to the public. These exceptions need to extend the length of an emergency or disaster. The Department finds that failure to act promptly by adopting a rule to allow such exceptions to be authorized will result in serious prejudice to the public interest and children served by the Department. The Department needs to proceed by filing a temporary rule because the public and children will immediately benefit from the amendment.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

N/A

ADOPT: 413-005-0050

SUSPEND: Temporary 413-005-0050 from CWP 143-2020

RULE SUMMARY: 413-005-0050 sets forth the Child Welfare COVID-19 and Emergency Response and is being amended to clarify the intent of the rule which will allow for contact via videoconference or telephone during the emergency.

CHANGES TO RULE:

413-005-0050

Child Welfare COVID-19 and Emergency Response

(1) The Department amends the following administrative rules with this definition: When authorized by the Child Welfare Director, the definition of "face-to-face" may include an interaction between individuals completed via videoconference or telephone.¶

(a) OAR 413-040-0000 (23).¶

(b) OAR 413-080-0050 (8), and¶

(c) OAR 413-070-0000 (29).¶

(2) The Department amends OARs 413-200-0260 and 413-030-0000 by adopting the following definitions:¶

(a) "Face-to-face" means an in-person interaction between individuals. When authorized by the Child Welfare Director, the definition of "face-to-face" may include an interaction between individuals completed via videoconference or telephone.¶

(b) "Home visit" means a face-to-face contact at an individual's residence.¶

(3) The provisions in this rule end on the last day of the month in which the Governor of Oregon ends the COVID-19 state of emergency period initiated by Executive Order 20-03.

Statutory/Other Authority: ORS 409.050, ORS 418.005

Statutes/Other Implemented: ORS 409.050, ORS 418.005