

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

<u>Department of Human Services - Children, Adults and Families</u>	<u>461</u>	
Agency and Division	Administrative Rules Chapter Number	
<u>Annette Tesch</u>	<u>Human Services Building, 500 Summer St. NE - E48, Salem, OR 97301-1066</u>	<u>(503) 945-6067</u>
Rules Coordinator	Address	Telephone

RULE CAPTION

Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

<u>February 22, 2010</u>	<u>10:00a.m.</u>	<u>Rm 255, 500 Summer St. NE, Salem, OR</u>	<u>Annette Tesch</u>
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request

RULEMAKING ACTION

ADOPT: 461-135-0498, 461-145-0184
AMEND: 461-001-0015, 461-105-0006, 461-115-0230, 461-115-0430, 461-115-0651, 461-115-0690, 461-135-0570, 461-135-0575, 461-135-0730, 461-135-0832, 461-135-0835, 461-135-1195, 461-145-0022, 461-145-0130, 461-145-0150, 461-145-0320, 461-145-0550, 461-150-0060, 461-150-0090, 461-155-0700, 461-165-0100, 461-165-0200, 461-165-0210, 461-170-0010, 461-170-0011, 461-170-0100, 461-170-0101, 461-170-0120, 461-175-0220, 461-175-0270, 461-175-0300, 461-180-0050, 461-180-0097, 461-193-0000, 461-193-0042
REPEAL: 461-165-0150

ORS 409.050, 410.070, 411.060, 411.070, 411.598, 411.700, 411.806 to 411.845, 412.006, 412,009, 412.014, 412.049, 414.033, 414.042, 414.065, 2009 Or. Laws ch. 595, 849
Stat. Auth.

The Social Security Act (42 USC 602(a) 1396a, 1396d, 1396p); Section 4114 of the Food, Conservation and Energy Act of 2008 (122 Stat. 923); Worker, Homeownership, and Business Assistance Act of 2009 (Pub. Law 111-92); 45 CFR Part 400; 42 CFR 430.10; 42 CFR 433.36; 42 CFR 435.601; Oregon State Plan Under Title XIX of the Social Security Act Section 1917; SNAP-10-6/OR waiver approval dated November 4, 2009 available from: The Department of Human Services, Supplemental Nutrition Assistance Program, 500 Summer Street NE, Salem, Oregon 97301; Oregon Health Plan 2 Demonstration Project No. 21-W-00013/ and 11-W-00161/10
Other Authority

ORS 93.268, 113.085, 115.125, 409.050, 410.070, 411.060, 411.070, 411.105, 411.111, 411.598, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.694, 411.700, 411.708, 411.795, 411.806 to 411.845, 411.825, 412.006, 412.009, 412.014, 412.049, 412.084, 414.033, 414.042, 414.065, 414.105, 416.310, 416.340, 2009 Or. Laws ch. 595, 849
Stats. Implemented

RULE SUMMARY

OAR 461-001-0015 about the definitions used in the Supplemental Nutrition Assistance Program (SNAP) administrative rules is being amended to include definitions for employee, employer, externship, graduate assistantship, graduate fellowship, and internship.

OAR 461-105-0006 about the Department's business continuity provisions in the event of an emergency event or a work stoppage; OAR 461-115-0430 about how the Department determines when it will periodically redetermine a client's eligibility for benefits in all programs except the Emergency Assistance (EA), Employment Related Day Care (ERDC), Extended Medical Assistance (EXT), Oregon Health Plan (OHP), Refugee Assistance (REF), Refugee Assistance Medical (REFM), Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Domestic Violence Survivors (TA-DVS) programs; OAR 461-115-0651 about when the Department requires verification of a client's SNAP program application information and how long the client has to reply; OAR 461-150-0060 about how and when the Department determines to use prospective or retrospective eligibility and budgeting (the process of calculating the benefit level) in the ERDC, Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), REF, REFM, SNAP, and Temporary Assistance for Needy Families (TANF) programs; OAR 461-165-0100 about the date benefits are issued in all of the Department's programs except the EA and SNAP programs; OAR 461-170-0011 about the changes in circumstances a client in the Department's programs must report and when the client must report them; OAR 461-170-0100 about which filing groups are subject to the Monthly Reporting System (MRS) requirements; OAR 461-170-0101 about which ERDC and SNAP program clients may participate in the Simplified Reporting System (SRS); OAR 461-170-0120 about when the Department closes a client's benefits due to not receiving or receiving an incomplete Monthly Change Report; OAR 461-175-0220 about the type of notice the Department sends a client in situations involving a client's disqualification from program eligibility; OAR 461-175-0270 about the type of notice the Department sends to a client assigned to the MRS, SRS, or Transitional Benefit Alternative (TBA) reporting systems when the client's benefits or eligibility for one of the Department programs changes; and OAR 461-180-0050 about how the Department determines the effective date for suspending or closing benefits or Job Opportunity and Basic Skills (JOBS) support service payments are being amended and OAR 461-165-0150 about the timely issuance of benefits for TANF program clients assigned to the MRS is being repealed to eliminate references to the Monthly Reporting System (MRS) for the Breast and Cervical Cancer Medical (BCCM), Citizen/Alien-Waived Emergent Medical (CAWEM), Continuous Eligibility for OHP-CHP pregnant women (CEC), Continuous Eligibility for Medicaid (CEM), Extended Medical Assistance (EXT), MAA, MAF, Medical Coverage for Children in Substitute or Adoptive Care (SAC), OHP, REFM, SNAP, and TANF programs as clients will no longer be assigned to the MRS for these programs effective April 1, 2010.

OAR 461-115-0230 about when and how the Department conducts interviews of program clients as part of the eligibility determination process is being amended to state when in the Supplemental Nutrition Assistance Program (SNAP) the interview may be waived, the interview may be postponed for certain households meeting expedited services criteria, the hardship criteria for use of a telephone interview rather than a face-to-face interview, and when the Department must inform an applicant he or she has missed the first scheduled interview appointment.

OAR 461-115-0690 about the time limits for an applicant to verify information after being determined eligible for expedited services in the Supplemental Nutrition Assistance Program (SNAP) is being amended to state when the verification may be postponed and that notice of the closing of or changes in SNAP program expedited services benefits due to postponed verification is provided in accordance with OAR 461-175-0300.

OAR 461-135-0498 is being adopted to state the specific activation of, eligibility for, and issuance of benefits requirements for the Pandemic-related Supplemental Nutrition Assistance Program (PSNAP). This rule is part of the implementation the PSNAP program to ensure children certified eligible to receive free and reduced price school lunches receive nutritional assistance during pandemic-related school closures.

OAR 461-135-0570 about how the Department determines if a student is eligible or ineligible for Supplemental Nutrition Assistance Program (SNAP) benefits is being amended to state that the definition of employee in OAR 461-001-0015 also applies to this rule. This rule also is being amended to state that a student participating in a state or federally funded work study program must be assigned to and perform work in a work study

position in his or her school's current academic term to be eligible for SNAP program benefits. This rule also is being amended to state that work in an externship, graduate assistantship, graduate fellowship, or internship and work for which the student receives in-kind payments rather than wages does not qualify to meet the 20 hours per week working student criteria for SNAP program eligibility.

OAR 461-135-0575 about the specific eligibility requirements for Supplemental Nutrition Assistance Program (SNAP) expedited services is being amended to clarify when a SNAP program applicant is screened for and receives expedited services. This rule also is being amended to state cross-references to rules about eligibility process interviews, application processing timeframes, and verification requirements for SNAP program expedited services.

OAR 461-135-0730 about the specific eligibility requirements for the Department's Qualified Medicare Beneficiaries (QMB) programs is being amended to state that to be eligible for the Qualified Medicare Beneficiaries - Qualified Individuals (QMB-SMF) program a client must be receiving Medicare Part A hospital insurance, including clients who must pay a monthly premium to receive the Medicare coverage.

OAR 461-135-0832 about the definitions used in the Department's Estate Administration rules is being amended to restate the definition of an "estate" when the Department is seeking reimbursement of public assistance payments made to a recipient on or after July 18, 1995 and the recipient died on or after October 1, 2008.

OAR 461-135-0835 about the limitations on claims the Department may make against the estate of a prior recipient of public assistance is being amended to state that in the Breast and Cervical Cancer Medical (BCCM), General Assistance (GA), General Assistance Medical (GAM), Oregon Health Plan (OHP), Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), and Qualified Medicare Beneficiaries (QMB) programs the Department may file a claim against the estate of a recipient's spouse when the recipient's spouse dies before the recipient.

OAR 461-135-1195 about the specific requirements to be eligible for the State Family Pre-SSI/SSDI (SFPSS) program is being amended to state that a client is required to sign an interim assistance agreement allowing the Department to collect the amount of any interim SFPSS program benefits a client received once the client receives an initial Supplemental Security Income payment. This rule also is being amended to make permanent the temporary rule changes effective November 16, 2009.

OAR 461-145-0022 about how the Department treats annuities in the Oregon Supplemental Income Program Medical (OSIPM) program is being amended to revise and ease the requirements for an annuity to be considered actuarially sound.

OAR 461-145-0130 about how the Department treats a client's earned income when making eligibility and benefit determinations is being amended in response to a recent change in federal guidelines to exclude the earned income of temporary census workers from consideration when the Department determines eligibility and benefit level for a client in the Supplemental Nutrition Assistance Program (SNAP). This rule also is being amended to make permanent the temporary rule changes effective January 1, 2010.

OAR 461-145-0150 about the treatment of educational income is being amended to state the Department's policy for the treatment of educational income from an externship, graduate assistantship, graduate fellowship, and internship.

OAR 461-145-0184 is being adopted to state how the Department treats payments received by a veteran or the spouse of a veteran who served in the military of the Government of the Commonwealth of the Philippines during World War II and made under the Filipino Veterans Equity Compensation Fund authorized by the American Recovery and Reinvestment Act of 2009.

OAR 461-145-0320 about how the Department treats the value of life and burial insurance policies when determining a client's eligibility (the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits) and benefit level is being amended to state that benefits paid on a life insurance policy are counted as unearned income in the month paid and as a resource in following months whether the payment resulted from the death of the insured individual or the insured individual received accelerated payments before death. This rule also is being amended to state that a deduction of \$1,500 from a life insurance payment for the cost of the deceased individual's last illness and burial is allowed only when the payment resulted from the insured individual's death.

OAR 461-145-0550 about how the Department treats unemployment compensation benefits when determining a client's income is being amended -- in response to recent federal legislation, the Worker, Home Ownership, and Business Assistance Act of 2009 (Pub. Law 111-92) -- to state that the \$25 supplemental payment authorized by the American Recovery and Reinvestment Act of 2009 is excluded from income when determining eligibility for all of the Department's programs. This amendment makes permanent the temporary rule changes effective November 24, 2009.

OAR 461-150-0090 about how the Department treats contract and self-employment income for clients in all programs, except the Oregon Health Plan (OHP) and Refugee Assistance Medical (REFM) programs, who are assigned to prospective budgeting is being amended to state how the Department determines countable income when current contract income is not representative of future income. This rule also is being amended to state that in the Employment Related Day Care (ERDC), Food Stamp (FS), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Refugee Assistance (REF), and Temporary Assistance for Needy Families (TANF) programs non-self employment income received during a less than 12-month period but intended as a full year's income is annualized. These rule amendments also make permanent the temporary rule changes effective December 1, 2009.

OAR 461-155-0700 about special needs payments for personal incidentals and room and board allowances to Oregon Supplemental Income Program - Medical (OSIPM) program clients in community-based care facilities is being amended to state when the payment is made and how the Department calculates the amount of the special needs payment for a legally married couple when one spouse is institutionalized and the other is a community spouse (not in a medical institution or nursing facility) and the client does not have sufficient income to divert to the community spouse. This rule also is being amended to remove a reference to the Oregon Supplemental Income Program (OSIP) as regular payments under the OSIP program were discontinued effective January 1, 2010 in response to HB 3065 (2009 Or. Laws ch. 849).

OAR 461-165-0200 about when and how the Department supplements or restores benefits for a client is being amended in response to federal legislation (Section 4114 of the Food, Conservation and Energy Act of 2008 (122 Stat. 923)) to remove language entitling a Supplemental Nutrition Assistance Program (SNAP) client to restoration of lost benefits when the benefits were deposited in an electronic benefit transfer (EBT) account and subsequently returned because the benefits expired.

OAR 461-165-0210 about how the Department calculates the amount of benefits to be restored or supplemented is being amended in response to federal legislation (Section 4114 of the Food, Conservation and Energy Act of 2008 (122 Stat. 923)) to remove language describing how the Department calculates the amount Supplemental Nutrition Assistance Program (SNAP) benefits being restored when the benefits were deposited in an electronic benefit transfer (EBT) account and subsequently returned because the benefits expired.

OAR 461-170-0010 about a Department client's responsibility to report a change in circumstances to the Department is being amended to indicate that a change is considered reported when reported by a client, authorized representative, or ineligible student in the household.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

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

Department of Human Services - Children, Adults and Families

OAR Chapter 461

Agency and Division

Administrative Rules Chapter Number

Rule Caption: Changing OARs affecting public assistance, medical assistance or Supplemental Nutrition Assistance Program clients

In the Matter of: Adopting, Amending, and Repealing OARs

Statutory Authority: ORS 409.050, 410.070, 411.060, 411.070, 411.598, 411.700, 411.806 to 411.845, 412.006, 412.009, 412.014, 412.049, 414.033, 414.042, 414.065, 2009 Or. Laws ch. 595, 849

Other Authority: The Social Security Act (42 USC 602(a) 1396a, 1396d, 1396p); Section 4114 of the Food, Conservation and Energy Act of 2008 (122 Stat. 923); Worker, Homeownership, and Business Assistance Act of 2009 (Pub. Law 111-92); 45 CFR Part 400; 42 CFR 430.10; 42 CFR 433.36; 42 CFR 435.601; Oregon State Plan Under Title XIX of the Social Security Act Section 1917; SNAP-10-6/OR waiver approval dated November 4, 2009 available from: The Department of Human Services, Supplemental Nutrition Assistance Program, 500 Summer Street NE E48, Salem, Oregon 97301; Oregon Health Plan 2 Demonstration Project No. 21-W-00013/ and 11-W-00161/10

Statutes Implemented: ORS 93.268, 113.085, 115.125, 409.050, 410.070, 411.060, 411.070, 411.105, 411.111, 411.598, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.694, 411.700, 411.708, 411.795, 411.806 to 411.845, 411.825, 412.006, 412.009, 412.014, 412.049, 412.084, 414.033, 414.042, 414.065, 414.105, 416.310, 416.340, 2009 Or. Laws ch. 595, 849

Need for the Rule(s):

OAR 461-001-0015 needs to be amended to include definitions, used in the Supplemental Nutrition Assistance Program (SNAP) administrative rules, for the terms employee, employer, externship, graduate assistantship, graduate fellowship and internship. The rule had not included definitions for these terms potentially leading to confusion about what the term meant when used in the SNAP program administrative rules and to incorrect eligibility and benefit level determinations and added expense for client-requested contested case hearings. The amended rule includes definitions for the listed terms, providing clarity in determining SNAP program eligibility and benefit levels and reducing confusing and expenses for client requested contested case hearings.

OAR 461-105-0006, 461-115-0430, 461-115-0651, 461-150-0060, 461-165-0100, 461-170-0011, 461-170-0100, 461-170-0101, 461-170-0120, 461-175-0220, 461-175-0270, and 461-180-0050 need to be amended and OAR 461-165-0150 needs to be repealed to eliminate references to the Monthly Reporting System (MRS) for the Breast and Cervical Cancer Medical (BCCM), Citizen/Alien-Waived Emergent Medical (CAWEM), Continuous Eligibility for OHP-CHP pregnant women (CEC), Continuous Eligibility for Medicaid (CEM), Extended Medical Assistance (EXT), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Medical Coverage for Children in Substitute or Adoptive Care (SAC), Oregon Health Plan (OHP), Refugee Assistance Medical (REFM), Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families (TANF) programs. These rules had

contained references to how the MRS applied to and operated in the listed programs, but MRS is being eliminated for the listed programs effective April 1, 2010 to simplify reporting requirements for clients and Department staff responding to those reporting requirements, and to improve program eligibility and benefit level determination accuracy. The MRS contributed to Department staff work loads and was prone to inaccuracy, potentially leading to incorrect eligibility determinations and client requested contested case hearings. Effective April 1, 2010 clients in the listed programs who had been assigned to the MRS will be assigned to one of the Department's other less cumbersome and less frequent reporting systems. The amended rules and repealed rule more clearly state how the Department assigns clients to reporting systems, eliminate references to the Monthly Reporting System (MRS) for the BCCM, CAWEM, CEC, CEM, EXT, MAA, MAF, OHP, REFM, SAC, SNAP, and TANF programs, reducing the reporting requirements for clients and Department staff workload in response to the monthly reported information, potentially reducing the number of incorrect eligibility determinations and likely reducing the number of client-requested contested case hearings.

OAR 461-115-0230 needs to be amended to state when in the Supplemental Nutrition Assistance Program (SNAP) eligibility determination process an interview may be waived, an interview may be postponed for certain households meeting expedited services criteria, the hardship criteria for use of a telephone interview rather than a face-to-face interview, and when the Department must inform an applicant he or she has missed the first scheduled interview appointment. The rule had not included any of the listed interview waiver or postponement criteria potentially causing otherwise eligible clients to be denied SNAP program benefits due to not completing the interview requirements in the required timeframe under less flexible interview requirements. The amended rule allows for more flexibility in completing the required interviews during the SNAP program eligibility determination process.

OAR 461-115-0690 needs to be amended to state when the time limits for an applicant to verify information after being determined eligible for expedited services may be postponed and that notice of the closing of or changes in Supplemental Nutrition Assistance Program (SNAP) expedited services benefits due to postponed verification is provided in accordance with OAR 461-175-0300. The rule had not stated the circumstances under which verification could be postponed for a filing group that applied using the web-based online application process and met the expedited services criteria for SNAP benefits as it is a new process being implemented by the Department. The amended rule states the criteria which must be met allow postponed verification of application information for clients using the online application process.

OAR 461-135-0498 needs to be adopted to state the specific activation of, eligibility for, and issuance of benefits requirements for the Pandemic-related Supplemental Nutrition Assistance Program (PSNAP). This rule implements the PSNAP program to help ensure children certified eligible to receive free and reduced price school lunches receive nutritional assistance during pandemic-related school closures. Activation of the PSNAP program occurs when a school or school district notifies the Department of a school closure for a minimum of five consecutive school days due to a pandemic-related illness and the school identifies each child participating in the free or reduced price school lunch program. Eligibility requirements for the PSNAP program include the school or school district providing a data tape to the Department containing the name of the parent (head of the household), address of the household, and the name and date of birth for each child participating in the free or reduced price school lunch program. PSNAP program benefits are given to all eligible households for the expected five consecutive days of school closure with the allotment amount equal to the value of the school lunch multiplied by the number of lunches that will be missed; given to a household for a second week when the school

is closed for six or more consecutive school days; issued via an Electronic Benefits Transfer (EBT) account and restricted to the purchase of food only; and issued to an eligible household within ten business days from the day the Department receives notice of the school closure and the school tape and no later than 45 days following the first day of the school closure. No rule had stated the specific eligibility requirements rules for the PSNAP program as it is a new program effective April 1, 2010.

OAR 461-135-0570 needs to be amended to state that the definition of employee in OAR 461-001-0015 also applies to this rule. The rule had not included a definition for employee, potentially leading to confusion about what the term meant when used in the SNAP program administrative rules and to incorrect eligibility and benefit level determinations and the expense of client requested contested case hearings. The amended rule includes a cross-reference to the definition of the term employee, providing clarity in determining SNAP program eligibility and benefit levels and reducing the likelihood of client requested contested case hearings. This rule also needs to be amended to state that a student participating in a state or federally funded work study program must be assigned to a work study position in his or her school's current academic term to be eligible for Supplemental Nutrition Assistance Program (SNAP) benefits. The rule had stated a student needed to expect to work in a work study position, potentially allowing some student to never engage in the process for being assigned a work study job and still collect SNAP benefits. The amended rule requires the student to be assigned to and perform work in a work study position in the current school term to be eligible for SNAP benefits. This rule also needs to be amended to state that work in an externship, graduate assistantship, graduate fellowship, or internship, as each term is defined in OAR 461-001-0015, and work for which the student receives in-kind payments rather than wages does not qualify to meet the 20 hours per week working student criteria for SNAP program eligibility. The rule had not excluded these types of work from meeting the student work requirement for SNAP program eligibility, resulting in some otherwise ineligible students potentially being determined eligible for SNAP program benefits. The amended rule correctly excludes the listed types of work from qualifying the student to meet the 20 hours per week working student criteria for SNAP program eligibility.

OAR 461-135-0575 about the specific eligibility requirements for Supplemental Nutrition Assistance Program (SNAP) expedited services needs to be amended to clarify when a SNAP program applicant is screened for and receives expedited services. This rule also needs to be amended to state cross-references to rules about eligibility process interviews, application processing timeframes, and verification requirements for SNAP program expedited services. The rule had not referenced the rules where more information on these items could be found, potentially causing confusion when making eligibility determinations.

OAR 461-135-0730 needs to be amended to comply with federal statutes (Sections 1902(a)(10)(E)(iv) and 1905(p)(1) of the Social Security Act (42 USC 1396a and 1396d)) to state that to be eligible for the Qualified Medicare Beneficiaries - Qualified Individuals (QMB-SMF) program a client must be receiving Medicare Part A hospital insurance, including a client who must pay a monthly premium to receive the Medicare coverage. The rule had not stated this eligibility requirement for clients in the QMB-SMF program, conflicting with the Department's policy, practice, and training of staff and potentially leading to incorrect eligibility determinations and additional contested case hearings expense. The amended rule complies with federal law and states the specific eligibility requirements for a client in the QMB-SMF program, reducing the number of potentially incorrect eligibility determinations and likely reducing the expense of client-requested contested case hearings.

OAR 461-135-0832 needs to be amended to restate the definition of an estate when the Department is collecting on a payment of public assistance payments made to a recipient on or after July 18, 1995 and the recipient died on or after October 1, 2008. The rule had stated the Department had a claim against the assets of the recipient's surviving spouse, precluding the Department from making a claim against the estate of a recipient's spouse when the recipient's spouse dies before the recipient, reducing the Department's collections. The amended rule uses the term recipient's spouse, allowing the Department to make a claim against the assets of both the recipient's spouse and the estate of the recipient's spouse when the Department is collecting on public assistance payments made to a recipient on or after July 18, 1995 and the recipient died on or after October 1, 2008, increasing the Department's collections.

OAR 461-135-0835 needs to be amended to state that in the Breast and Cervical Cancer Medical (BCCM), General Assistance (GA), General Assistance Medical (GAM), Oregon Health Plan (OHP), Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), and Qualified Medicare Beneficiaries (QMB) programs the Department may file a claim to collect on a payment of program benefits against the estate of a recipient's spouse when the recipient's spouse dies before the recipient. The rule had used the terms surviving spouse and pre-deceased spouse making it unclear if the rule was referring to the recipient or the recipient's spouse and precluding the Department from making claims against the estate of a recipient's spouse when the recipient's spouse dies before the recipient, reducing the Department's collections. The amended rule uses the more clear term recipient's spouse allowing the Department to make a claim against the assets of both the recipient's spouse and the estate of the recipient's spouse when the Department is collecting on public assistance payments made to a recipient.

OAR 461-135-1195 needs to be amended to require a client receiving State Family Pre-SSI/SSDI (SFPSS) program benefits to sign an interim assistance agreement allowing the Department to collect the amount of any interim SFPSS program benefits a client received once the client receives an initial Supplemental Security Income payment. The rule had not required a SFPSS program client to sign an interim assistance agreement to be eligible for SFPSS program benefits, limiting Department collections used to offset SFPSS program costs; however, a recent change in the federal funding accounting and newly applicable Maintenance of Effort (MOE) requirements allow the Department to require interim assistance agreements. The amended rule states the requirement for an SFPSS program client to sign an interim assistance agreement to comply with the requirements of the SFPSS program's funding method. The amended rule also makes permanent the temporary changes adopted effective November 16, 2009.

OAR 461-145-0022 needs to be amended to revise and ease the requirements for an annuity to be considered actuarially sound for an Oregon Supplemental Income Program Medical (OSIPM) program client. The rule had stated that to be actuarially sound an annuity needed a payout period within three months of the annuitant's actuarial life expectancy, however few annuities with three month payout periods are available for clients to purchase making fewer available annuities actuarially sound under this rule, resulting in any unsound annuities purchased being included as a resource for clients during OSIPM program eligibility determinations potentially resulting in these clients being found ineligible for OSIPM program benefits. The amended rule allows annuities having a payout period within 12 months of the annuitant's actuarial life expectancy to be considered as sound annuities, excluding them from being included as a resource for clients during OSIPM program eligibility determinations.

OAR 461-145-0130 needs to be amended in response to a recent change in federal guidelines (Food and Nutrition Service SNAP-10-6/OR waiver) to exclude the earned income of temporary census workers from consideration when the Department determines eligibility and benefit level for a client in the Supplemental Nutrition Assistance Program (SNAP). The intent of the federal guidelines is to encourage more SNAP program recipients and potential recipients to apply for work as temporary census workers. The rule had required the Department to include the earned income of temporary census workers when determining SNAP program eligibility and benefit level, making fewer clients eligible for benefits or eligible for a lower benefit level. The amended rule excludes temporary census worker income from earned income, making more clients eligible for SNAP program benefits or eligible for a greater benefit level, furthering the intent of the federal guidelines to encourage SNAP recipients to aid in the national census of 2010. This rule also needs to be amended to make permanent the temporary rule changes effective January 1, 2010.

OAR 461-145-0150 needs to be amended to state the Department's policy for the treatment of educational income from an externship, graduate assistantship, graduate fellowship, or internship. The rule had not addressed these specific types of educational income potentially leading to confusion about how to treat these types of educational income and to incorrect eligibility and benefit level determinations and the expense of client requested contested case hearings. The amended rule states how to treat educational income from an externship, graduate assistantship, graduate fellowship, or internship, providing clarity in determining SNAP program eligibility and benefit levels and reducing expense of client requested contested case hearings.

OAR 461-145-0184 needs to be adopted to state payments received by a veteran or the spouse of a veteran who served in the military of the Government of the Commonwealth of the Philippines during World War II and made under the Filipino Veterans Equity Compensation Fund authorized by the American Recovery and Reinvestment Act of 2009 are excluded from income. No Department rule had addressed these payments and would lead to them being improperly included as countable income for all programs, causing some clients to be over income limits, losing eligibility or receiving a lesser benefit amount in some programs. The adopted rule allows for accurate treatment of these payments, as excluded from income for all programs, when making eligibility decisions and puts the Department into compliance with federal law.

OAR 461-145-0320 needs to be amended to state benefits paid on a life insurance policy are counted as unearned income in the month paid and as a resource in the following months when determining a client's eligibility (the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits) and benefit level whether the payment resulted from the death of the insured individual or the insured individual received accelerated payments before death. The rule had stated that all life insurance proceeds were counted as unearned income potentially causing the Department to make incorrect eligibility and benefit level determinations and leading to client requested contested case hearings. The amended rule more clearly states how the Department treats life insurance benefits, reducing the number of incorrect eligibility determinations and likely reducing the number of client requested contested case hearings. This rule also needs to be amended to state that a deduction of \$1500 from a life insurance payment for the cost of the deceased individual's last illness and burial is allowed only when the payment resulted from the insured individual's death. The rule had allowed the deduction even when the payment had not resulted from the individual's death potentially causing the Department to make incorrect eligibility and benefit level determinations and leading to client requested contested case hearings. The amended rule states that the deduction is allowed only when the life insurance benefits were paid due to the individual's

death, reducing the number of incorrect eligibility determinations and likely reducing the number of client requested contested case hearings.

OAR 461-145-0550 needs to be amended in response to recent federal legislation -- the Worker, Home Ownership, and Business Assistance Act of 2009 (Pub. Law 111-92) -- to state that the \$25 supplemental payment authorized by the American Recovery and Reinvestment Act of 2009 is excluded from income when determining eligibility and benefit levels for all of the Department's programs. The rule had required that this payment be counted as income in the Department's Employment Related Day Care (ERDC) program and the Supplemental Nutrition Assistance Program (SNAP), putting the Department out of compliance with the recent federal legislation and making fewer clients eligible for or reducing the benefit amounts of some clients in the ERDC and SNAP programs. The amended rule brings the rule into compliance with the recent federal legislation and makes permanent a temporary rule change adopted November 24, 2009.

OAR 461-150-0090 needs to be amended to state how the Department determines countable income when current contract income is not representative of future income. The rule had stated that the Department used anticipated income and costs to determine countable income when past income was not representative of future income or substantial changes were expected in the next year's income, potentially resulting in incorrect budgeting (the process of calculating a client's benefit level) determinations and increased expense in client requested contested case hearings or Department overpayment recovery efforts. The amended rule states how the Department determines countable income when future income is likely to vary from current contract income, reducing the potential for budgeting errors, client requested contested case hearings, and Department overpayment recovery efforts. This rule also needs to be amended to state more clearly that in the Employment Related Day Care (ERDC), Food Stamp (FS), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Refugee Assistance (REF), and Temporary Assistance for Needy Families (TANF) programs a client's non-self employment income received during a less than 12-month period but intended as a full year's income is annualized. The rule had not stated how to treat this income received during less than a 12 month period but intended as a full year's income, only addressing income received on an hourly or piecework basis, potentially resulting in incorrect budgeting and increased expense for client requested contested case hearings or Department overpayment recovery efforts. The amended rule more clearly states how the Department treats non-self employment income received during a less than 12-month period but intended as a full year's income, reducing the potential for budgeting errors, client requested contested case hearings, and Department overpayment recovery efforts. These rule amendments also make permanent the temporary rule changes filed effective December 1, 2009.

OAR 461-155-0700 needs to be amended to state when special needs payments for personal incidentals and room and board allowances to clients in community-based care facilities in the Oregon Supplemental Income Program - Medical (OSIPM) are made and how the Department calculates the amount of the payment for a legally married couple when the client is institutionalized and the client's spouse is a community spouse (not in a medical institution or nursing facility) and the client does not have sufficient income to divert to the community spouse. The rule had not stated clearly that in the case of a married couple the payment was authorized only when the community spouse requested or chose a nursing facility placement because the community spouse needed the increased diversion amount to meet his or her monthly expenses, potentially making it unclear that the payments are appropriate only to prevent the community spouse's placement in a nursing facility. The amended rule more clearly

states that these special needs payments are allowed only to prevent the community spouse's placement in a nursing facility. The rule also had stated that the payment was the lesser of the OSIPM program adjusted income standard or the difference between the calculated community spouse allowance and the amount of income that the client had available to divert to the community spouse, potentially resulting in a greater amount being paid when the client is placed in a community based care facility rather than in a nursing facility. The amended rule correctly states how the Department determines the amount of the special needs payment, making the amount the same regardless of whether the client is placed in a community-based care facility or a nursing facility. This rule also is being amended to remove references to the Oregon Supplemental Income Program (OSIP) as regular payments under OSIP program were discontinued effective January 1, 2010 in response to HB 3065 (2009 Or. Laws ch. 849). The amended rule removes the reference to the OSIP program.

OAR 461-165-0200 needs to be amended in response to federal legislation (Section 4114 of the Food, Conservation and Energy Act of 2008 (122 Stat. 923)) to remove language requiring a Supplemental Nutrition Assistance Program (SNAP) client to request restoration of lost benefits within 12 months of receiving the benefits when the benefits were deposited in an electronic benefit transfer (EBT) account and subsequently returned because the benefits expired after three months. The rule had required the client to request the restoration of SNAP program benefits in such a situation, however the recent federal legislation directs that SNAP program benefits remain available for 12 months and then are lost because they expire after 12 months and may not be restored. The amended rule complies with the federal legislation and removes the language requiring the client request restoration of SNAP program benefits lost because they expired after three months to be able to access them in months four through twelve.

OAR 461-165-0210 needs to be amended in response to federal legislation (Section 4114 of the Food, Conservation and Energy Act of 2008 (122 Stat. 923)) to remove language describing how the Department calculates the amount Supplemental Nutrition Assistance Program (SNAP) benefits being restored when the benefits were deposited in an electronic benefit transfer (EBT) account and subsequently returned because the benefits expired after three months. The rule had stated how the Department calculated the amount of SNAP program benefits restored in such a situation, however recent federal legislations directs that SNAP program benefits may remain available to the client for 12 months rather than expiring after three months, making the calculation language unnecessary. The amended rule in compliance with the recent federal legislation removes the language regarding how the Department calculated the amount of SNAP program benefits restored when lost due to expiration after three months.

OAR 461-170-0010 needs to be amended to indicate that a change is considered reported when reported by a client, authorized representative, or ineligible student in the household. The rule had not stated clearly that these individuals were responsible for reporting such changes, potentially resulting in erroneous eligibility and benefit determinations and the Department incurring unnecessary administrative expenses related to the overpayment of benefits. The amended rule states more clearly who may report changes, reducing the likelihood of erroneous eligibility and benefit determinations and the Department incurring unnecessary administrative expenses related to the overpayment of benefits.

OAR 461-175-0300 needs to be amended to revise the situations in which no additional decision notice may be sent as well as the situations in which a decision notice may be sent but not a timely decision notice. The amended rule clarifies when an no additional notice is required and when a basic decision notice may be used.

OAR 461-180-0097 needs to be amended to state the effective date that an Oregon Health Plan - Adults (OHP-OPU) program client is required to start paying a premium is the first of the month following the month the Department makes an eligibility determination. The rule had stated that an OHP-OPU program client was responsible for a premium payment as of the date the client became eligible for OHP-OPU program benefits, however some eligibility decisions are retroactive resulting in some clients owing premiums for multiple months during which the clients did not know they were eligible to access medical benefits. In addition, the retroactive billing potentially resulted in confusion for some clients increasing interactions with and administrative costs for the Premium Billing Office and the Department. The amended rule states a client is not responsible for an OHP-OPU program premium until the first of the month following the month in which the eligibility determination is made, likely reducing billing confusion for clients and reducing administrative costs for the Premium Billing Office and the Department.

OAR 461-193-0000 needs to be amended to remove language referencing an internal contractor complaint handling procedure for clients in the New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP) programs. The rule had stated that clients had the right to request a staffing meeting within five days of receiving a decision notice (a written notice of a decision by the Department regarding an individual's eligibility for benefits in a program), however this staffing process was redundant with and superseded by a client's right under the chapter 461 division 025 rules to request a contested case hearing upon receiving a decision notice. The amended rule removes the language about a client's right to request a staffing.

OAR 461-193-0042 needs to be amended to correct a rule reference and replace an outdated term concerning resolution of client disagreements over provisions of their required employment plans in the New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP) programs. The rule had referenced a rule that has been repealed and replaced with another rule and had utilized a term, complaint, that is outdated. The amended rule references the correct rule and utilizes the current Department term, re-engagement.

Documents Relied Upon (and where they are available): "Waiving the interview for certain households" and "Postponing the interview for certain households meeting expedited service criteria" federal waivers. Copies of the waivers are located at: The Department of Human Services, Children, Adults and Families, Supplemental Nutrition Assistance Program, 500 Summer Street NE E48, Salem, OR 97301. The State Medicaid Manual Chapter 3, Section 3810; available at:

<http://www.cms.hhs.gov/Manuals/PBM/itemdetail.asp?filterType=none&filterByDID=-99&sortByDID=1&sortOrder=ascending&itemID=CMS021927>. Electronic mail from US Department of Health and Human Services - Region X to Xochitl Esparza on October 27, 2009, available from the Department of Human Services, Children, Adults, and Families, State Family Pre-SSI/SSDI (SFPSS) Program, 500 Summer Street NE E48, Salem, Oregon 97301. Food and Nutrition Service, Administrative Notice 09-57 dated September 29, 2009 available from the Department of Human Services, Children, Adults, and Families, Supplemental Nutrition Assistance Program, 500 Summer Street NE E48, Salem, Oregon 97301. Social Security Administration (SSA) Program Operations Policy System (POMS) SI 01130.300.

Fiscal and Economic Impact, including Statement of Cost of Compliance:

The Department estimates that amending OAR 461-001-0015 likely will have no fiscal impact on clients, some benefit to the Department, and no fiscal impact on other state agencies, the public, providers, local government, and business, including small business. The changes in this rule clarify terms used in the Supplemental Nutrition Assistance Program (SNAP) administrative rules reducing the likelihood of incorrect eligibility and benefit level determinations and the potential expense of client requested contested case hearings. To the extent the rule clarifications improve the accuracy of eligibility and benefit determinations the changes will benefit the Department by reducing the expense for client requested contested case hearings and may benefit or negatively impact clients, but the Department is unable to estimate the magnitude of this benefit or negative impact because the relevant information is not tracked centrally. Any increase or decrease in the amount of benefits paid to SNAP program clients will not impact the Department fiscally as SNAP program benefits are entirely funded with federal funds. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-105-0006, 461-115-0430, 461-115-0651, 461-150-0060, 461-165-0100, 461-170-0011, 461-170-0100, 461-170-0101, 461-170-0120, 461-175-0220, 461-175-0270, and 461-180-0050, and repealing OAR 461-165-0150 will benefit clients formerly assigned to the Monthly Reporting System (MRS) and county-operated AAAs (Area Agencies on Aging), have a positive fiscal impact on the Department, and no fiscal impact on other clients, other state agencies, the public, providers, other units of local government, and business, including small business. Currently approximately 595 cases or less than one percent of the Department client caseload is assigned to the MRS. Under the changed rules most of the clients formerly assigned to the MRS will be assigned to the Simplified Reporting System (SRS) that requires less burdensome and less frequent reporting by clients. County-operated AAAs will benefit because less time will be spent acting on changes reported on monthly report forms. The Department will be impacted positively because less staff time will be required to respond to and act upon the information reported monthly, and the rule changes will likely reduce the number of incorrect eligibility determinations and the number of client requested contested case hearings. The exact magnitude of these benefits to clients, the county-operated AAAs, and the Department cannot be estimated as the requisite information is not centrally tracked. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-115-0230 will have a positive fiscal impact on Supplemental Nutrition Assistance Program (SNAP) clients and a fiscal cost to the Department. The changes to this rule allow for more flexibility for clients in completing the interview required during the SNAP program eligibility determination process, reducing the likelihood that a client will be determined ineligible for not completing the interview. The exact magnitude of the additional SNAP program benefits paid to clients cannot be estimated as the number of clients who will now complete the interview process and be found eligible is not known. There is no cost to the Department for additional SNAP program benefits clients may receive as these benefits are funded entirely with federal dollars. The exact magnitude of the requirement to inform clients by mail of missed interviews cannot be estimated because the relevant information is not tracked centrally; however, the expense to the Department for informing the client by mail of a missed interview is \$0.49 in postage, 50 percent of which is paid by the Department and 50 percent by federal funds. The Department estimates there will be no fiscal impact on other clients, the public, other state agencies, local government, or business, including small business. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-115-0690 will have a positive fiscal impact on certain Supplemental Nutrition Assistance Program (SNAP) clients and no fiscal impact on the Department. The Department is conducting a pilot project for a web-based online application in the SNAP program and it is sometimes difficult to contact the online applicant for the required eligibility interview within the required SNAP program expedited service seven-day time frame, potentially causing otherwise eligible clients to be found ineligible. The rule changes allow the seven-day time limit to be postponed, likely resulting in more applicants being found eligible for SNAP benefits. There is no cost to the Department for additional SNAP program benefits clients may receive as these benefits are funded entirely with federal dollars. The Department estimates there will be no fiscal impact on other clients, the public, other state agencies, local government, or business, including small business. There is no cost of compliance for small business.

The Department estimates that adopting OAR 461-135-0498 will have a positive fiscal impact on some clients and no fiscal impact on other clients, the Department, other state agencies, the public, providers, local government, and business, including small business. Without this rule adoption implementing the Pandemic-related Supplemental Nutrition Assistance Program (PSNAP), children certified eligible to receive free and reduced price school lunches may not receive nutritional assistance during pandemic-related school closures. While the exact magnitude of these increased benefits to children cannot be estimated because it is not known how many schools might close due to pandemic-related illnesses, the weekly value of the PSNAP program benefits to each child would be equal to the value of the school lunch multiplied by the number of lunches that will be missed due to the school closure. Any increase in the amount of benefits paid to PSNAP program clients will not impact the Department fiscally as PSNAP program benefits are entirely funded with federal funds. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-135-0570 likely will have no fiscal impact on clients, some benefit to the Department, and no fiscal impact on other state agencies, the public, providers, local government, and business, including small business. The changes in this rule clarify when a student is and is not eligible for Supplemental Nutrition Assistance Program (SNAP) benefits, reducing the likelihood of incorrect eligibility and benefit level determinations and the potential expense of client requested contested case hearings. To the extent the rule clarifications improve the accuracy of eligibility and benefit determinations the changes will benefit the Department by reducing the expense for client requested contested case hearings and may benefit or negatively impact clients, but the Department is unable to estimate the magnitude of this benefit or negative impact because the relevant information is not tracked centrally. Any increase or decrease in the amount of benefits paid to SNAP program clients will not impact the Department fiscally as SNAP program benefits are entirely funded with federal funds. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-135-0575 will no fiscal impact on clients, the public, the Department, other state agencies, local government, and business, including small business. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-135-0730 will have a positive fiscal impact on the Department. The amended rule states all the specific eligibility requirements for the Qualified Medicare Beneficiaries - Qualified Individuals (QMB-SMF) program, reducing the likelihood of incorrect eligibility determinations and the potential expense of client requested contested case hearings. The Department estimates that there will be no fiscal impact on clients,

the public, providers, other state agencies, local government, and business, including small business. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-135-0832 and 461-135-0835 will have a negative fiscal impact on the estates of spouses of benefit recipients and a positive fiscal impact on the Department. The estates of the spouses of some clients who received public assistance payments on or after July 18, 1995 and the client died on or after October 1, 2008 will be subject to collection claims from the Department, reducing the amount of the estate distributed to the heirs and devisees of such estates. The exact magnitude of the reduction to each of these estates cannot be estimated as the information is not centrally tracked, however the Department estimates its aggregate collections against such estates will increase by approximately \$600,000 per year. The Department estimates there will be no fiscal impact on other clients, the public, other state agencies, local government, or business, including other small business. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-135-1195 will have a positive fiscal impact on the Department. A recent change in federal funding accounting methods and newly applicable Maintenance of Effort (MOE) requirements allows the Department to count the SFPSS program grants as MOE (making more federal money available) and to require interim assistance agreements from SFPSS program clients (allowing Department collections from clients' SSA benefit awards, the collections are used to offset SFPSS program costs). The amended rule allows the Department to comply with the federal requirements, require interim assistance agreements of SFPSS program clients, and remain eligible for federal funding for the SFPSS program. The exact magnitude of the benefit to the Department cannot be estimated as it is unknown how many SFPSS program clients ultimately will be awarded SSA benefits. There is no fiscal impact on clients, other state agencies, local government, the public, and business, including small business. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-145-0022 will have a positive impact on some clients and financial services businesses, some of which may be small business, and a negative fiscal impact on the Department. Oregon Supplemental Income Program Medical (OSIPM) program clients will now be able to purchase actuarially sound annuities with twelve-month payout periods and not have those annuities count as resources in OSIPM program eligibility determinations. Financial services businesses, including small businesses, which sell annuities with twelve-month payout periods may see increased sales of these products. The Department potentially will be providing benefits to additional OSIPM program clients who had purchased annuities with twelve-month payout periods that previously were counted as a resource making some clients ineligible for OSIPM program benefits. The exact magnitude of the impacts on OSIPM program clients, business, and the Department cannot be estimated as the relevant information is not centrally tracked and it is unknown how many OSIPM program clients decided not to purchase annuities written with payout periods within three months of the actuarial life expectancy because the annuity would be considered a client resource under this rule. The Department estimates there will be no fiscal impact on other clients, the public, other state agencies, local government, and other business, including other small business. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-145-0130 will result in a positive fiscal impact for clients. The amended rule allows Supplemental Nutrition Assistance Program (SNAP) clients who gain employment as temporary 2010 census workers to have income from this work excluded from their countable income. Some clients in the SNAP program who would otherwise

be ineligible for or receive a lower level of SNAP program benefits will be eligible for or receive a greater amount of SNAP program benefits. The Department cannot estimate the number of SNAP program clients who will benefit or the exact magnitude of the benefit to these clients as it is unknown how many actual and potential SNAP program clients will gain employment as temporary census workers. There will be no fiscal impact on the Department from the increase in SNAP program benefits because these benefits are 100-percent funded with federal money. The Department estimates there will be no fiscal impact on other clients, the public, other state agencies, local government, or business, including other small business. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-145-0150 likely will have no fiscal impact on clients and some benefit to the Department, and no fiscal impact on other state agencies, the public, providers, local government, and business, including small business. The changes in this rule clarify how the Department treats educational income from an externship, graduate assistantship, graduate fellowship, or internship, reducing the likelihood of incorrect eligibility and benefit level determinations and the potential expense of client requested contested case hearings. To the extent the rule clarifications improve the accuracy of eligibility and benefit determinations the changes will benefit the Department by reducing the expense for client requested contested case hearings and may benefit or negatively impact clients, but the Department is unable to estimate the magnitude of this benefit or negative impact because the relevant information is not tracked centrally. Any increase or decrease in the amount of benefits paid to SNAP program clients will not impact the Department fiscally as SNAP program benefits are entirely funded with federal funds. There is no cost of compliance for small business.

The Department estimates that adopting OAR 461-145-0184 will have a positive fiscal impact on some clients and no fiscal impact on other clients, the Department, other state agencies, the public, providers, local government, and business, including small business. The Department cannot estimate how many clients will retain eligibility or benefit level due to having the Filipino Veterans Equity Compensation Fund payments excluded from income as the relevant information is not centrally tracked. Any increase amount of benefits paid to these clients will not impact the Department fiscally as program benefits are entirely funded with federal funds. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-145-0320 will have a negative fiscal impact on some clients and a positive fiscal impact on the Department. The amended rule allows a deduction for burial expenses only when a payment from a life insurance policy was due to the individual's death, preventing clients receiving accelerated life insurance benefit payments from taking the deduction, increasing these clients' countable income and making them eligible for a lower level of or ineligible for benefits. The Department cannot estimate the magnitude of this impact on clients as the relevant information is not centrally tracked. The amended rule also more clearly states how the Department treats life insurance benefits when making eligibility (the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits) and benefit level determinations, reducing the likelihood of incorrect eligibility and benefit level determinations and the potential expense of client requested contested case hearings. The Department estimates that there will be no fiscal impact on other clients, the public, providers, other state agencies, local government, and business, including small business. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-145-0550 will have a no fiscal impact on the Department, clients, other state agencies, local government, the public, and business, including

small business because this rule implements federal law that would apply anyway. The exclusion in this rule will benefit Department clients in the Employment Related Day Care (ERDC) program and the Supplemental Nutrition Assistance Program (SNAP) and have a negative fiscal impact on the Department. The level of client benefit will vary from client to client in the ERDC and SNAP programs, ranging from no impact to some clients to making clients eligible for programs for which they client would otherwise be ineligible, however there will be no fiscal impact to the Department from any increase in SNAP program client benefits because these benefits are 100 percent funded with federal money. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-150-0090 will have a fiscal impact on some clients and the Department. The changes in this rule reduce the likelihood of incorrect budgeting determinations for clients with contract income in all of the Department's programs except the Oregon Health Plan (OHP) and Refugee Assistance Medical (REFM) programs, reducing the potential expense of client requested contested case hearings and Department overpayment recovery efforts. The rule changes may benefit or negatively impact clients, but the Department is unable to estimate the magnitude of this benefit or negative impact because the relevant information is not tracked centrally. To the extent the rule clarifications improve the accuracy of budgeting determinations the changes will benefit the Department by reducing the expense for client requested contested case hearings and overpayment recovery efforts. The Department estimates there will be no fiscal impact on other clients, the public, other state agencies, local government, and business, including small business. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-155-0700 will have a negative fiscal impact on certain clients of the Oregon Supplemental Income Program-Medical (OSIPM) program and a positive fiscal impact on the Department. Some clients in the OSIPM program who are part of a legally married couple wherein one spouse is in a community-based care facility and the other spouse is a community spouse (not in a medical institution or nursing facility) may see their special needs payments for personal incidentals and room and board allowances decrease by up to \$30 per month. The exact magnitude of the reduction to these clients cannot be estimated as the relevant information on the number of OSIPM program clients situated as described is not tracked centrally, however it will only impact clients who are in community-based care facilities, have a monthly income of \$675.70 or less, and are currently receiving this special need payment. Businesses, including small businesses, that are community-based care facilities serving clients who become eligible for the OSIPM program special needs payments for personal incidentals and room and board allowances should not see any change in revenue as the monies are used to pay for room and board in the facility and these clients will have the same amount of money available for these costs and only the amount for the spousal diversion will decrease. The Department will be impacted positively as expenditures decrease under the new lower payment amounts. The Department estimates there will be no fiscal impact on other clients, the public, other state agencies, local government, and other business, including other small business. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-165-0200 will benefit Supplemental Nutrition Assistance Program (SNAP) clients who do not use their benefits within three months because these benefits will no longer need to be restored to the clients' accounts to be available to the client for nine additional months. The Department is unable to estimate the extent of this benefit to the SNAP program clients because the Department does not keep records of the number of households affected or the amount of benefits lost in these situations and cannot

anticipate the amount that clients will no longer need to request to be restored. There is no fiscal impact on the Department because SNAP program benefits are fully paid by federal funds. There is no fiscal impact on other clients, local government, and business, including small business. There is no cost of compliance for small business.

The Department finds that amending OAR 461-165-0210 will have no fiscal impact on clients, the Department, local government, or business, including small business. This rule change removes language stating how the Department calculated the amount of Supplemental Nutrition Assistance Program (SNAP) benefits to be restored for clients who allow their benefits to expire after three months and these benefits will now remain available to clients for 12 months and client will no longer need to request that the benefits be restored to their accounts. There is no fiscal impact on the Department because SNAP program benefits are fully paid by federal funds. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-170-0010 will have a negative fiscal impact on clients and child care providers, some of whom are small businesses, incurring an overpayment with the Department and positive fiscal impact on the Department. By clarifying that a change in circumstances only is considered reported to the Department when reported by a client, authorized representative, or ineligible student it is likely fewer clients and child care providers will benefit from erroneous eligibility and benefit determinations and the Department will avoid incurring unnecessary administrative expenses related to the overpayment of benefits. The exact magnitude of the negative impact for these clients and providers and benefit to the Department cannot be estimated as the relevant information on the number of each type of erroneous eligibility and benefit determination is not tracked centrally. The Department estimates there will be no fiscal impact on other clients, the public, other state agencies, local government, or other business, including other small business. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-175-0300 will have a benefit to clients and a positive fiscal impact on the Department. The rule changes clarify when the Department may send an additional basic decision notice and is not required to send any additional decision notice to clients having their benefits closed, changed, or reduced when the Department previously has sent the client notice that their benefits would last only for a specific period of time. The Department will experience a positive fiscal impact by avoiding expenditures for the mailing of additional notices. The exact magnitude of the savings from not sending additional notices cannot be estimated because the relevant information is not tracked centrally; however, the expense to the Department for mailing the notice is \$0.49 in postage, 50 percent of which is paid by the Department and 50 percent by federal funds in the SNAP program and 100 percent of which is paid by the Department for all other programs. The Department estimates there will be no fiscal impact on clients, the public, other state agencies, local government, or businesses, including small businesses. There is no cost of compliance for small businesses.

The Department estimates that amending OAR 461-180-0097 will have a positive impact on some clients, a negative impact on some clients, a negative impact on a specific small business, and a negative impact on the Department. Oregon Health Plan - Adults (OHP-OPU) program clients who are found retroactively eligible for OHP-OPU program benefits will not have to start making premium payments until the first of the month following the month the Department makes the eligibility determination. The Department estimates that a monthly average of 660 OHP-OPU program clients will not be billed for an average of \$10.15 in retroactive monthly premiums, or \$6700 in total per month. The Department estimates that somewhat fewer OHP-

OPI program clients who are determined to have reduced premiums at recertification will be negatively impacted since their premiums will be reduced the month following the month the eligibility determination is made rather than retroactively. The Department is unable to estimate the exact magnitude of the impact on these recertification clients as it is unknown how many clients will be determined to have reduced OHP-OPI program premiums at recertification. The OHP Premium Billing Office (OPBO) is a small business contracted by the Department of Human Services Division of Medical Assistance Programs (DMAP) to collect OHP program premiums and is paid based on the number of billing statements sent. The OPBO will see a reduction in its monthly payment of approximately \$2,000 due to reduced billings. The OHP-OPI program premiums provide revenue to the DMAP and DMAP will lose approximately \$6,700 a month in revenue, however an average of \$2,860 of these premiums are adjusted off of clients' bills, making the monthly DMAP revenue loss due to this rule change approximately \$3,840. The Department estimates there will be no fiscal impact on other clients, the public, other state agencies, local government, or other business, including other small business. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-193-0000 will have no fiscal impact on clients, the public, providers, the Department, other state agencies, local government, or business, including small business. These rule changes bring the rule into alignment with the Department's policies and practices and should not result in any additional fiscal impact. To the extent that New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP) program clients request contested case hearings there will be no additional cost to the Department as these clients already have the right to request hearings. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-193-0042 will have no fiscal impact on clients, the public, providers, the Department, other state agencies, local government, and business, including small business. These rule changes reflect current Department terminology and correct a cross-reference to another rule and should not result in any additional fiscal impact. There is no cost of compliance for small business.

How were small businesses involved in the development of this rule? Small businesses were not involved in the early development of these rules but will be included in the public review and comment period. Some small businesses were represented at the SPD Rules Advisory Committee (RAC) meetings.

Administrative Rule Advisory Committee consulted?:

The Department consulted the CAF OSSP Rules Advisory Committee for OAR 461-001-0015, 461-105-0006, 461-115-0230, 461-115-0430, 461-115-0651, 461-115-0690, 461-135-0498, 461-135-0570, 461-135-0575, 461-135-1195, 461-145-0130, 461-145-0150, 461-145-0184, 461-145-0550, 461-150-0060, 461-150-0090, 461-165-0100, 461-165-0150, 461-165-0200, 461-165-0210, 461-170-0010, 461-170-0011, 461-170-0100, 461-170-0101, 461-170-0120, 461-175-0220, 461-175-0270, 461-175-0300, 461-180-0050, 461-180-0097.

The Department consulted a SPD Rules Advisory Committee for OAR 461-135-0832, 461-135-0835, 461-145-0022, 461-145-0320, 461-155-0700.

The Department did not consult a rules advisory committee for the following rules:
461-135-0730 - SMB and SMF used to be together and spelled out a client had to have Part A of Medicare to get the program. During a past edit, SMF inadvertently left that off.
461-193-0000- It is just clean-up of an incorrect reference and out-dated language.
461-193-0043 - This change's concept was discussed at a previous RAC meeting but this rule was inadvertently not included in the subsequent Notice of Proposed Rulemaking so is being included in this filing.

Signature

Robert Trachtenberg

Printed Name

01/15/10

Date

461-001-0015
Definitions; SNAP

The following definitions apply to the rules of the SNAP program in Chapter 461:

- (1) A *disabled* individual or an individual with a *disability* means an individual who meets any of the following requirements:
 - (a) Receives SSI benefits under title XVI of the Social Security Act.
 - (b) Receives blindness or disability benefits under titles I, II, X, XIV, or XVI of the Social Security Act.
 - (c) Receives OSIP or other state or federal supplement under section 1616(a) of the Social Security Act based on disability or blindness criteria under title XVI of the Social Security Act.
 - (d) Receives state general assistance benefits based upon disability or blindness criteria under title XVI of the Social Security Act.
 - (e) Receives interim assistance pending receipt of SSI or receives disability-related medical assistance under title XIX of the Social Security Act.
 - (f) Receives a state or federally administered supplemental benefit under section 212(a) of Public Law 93-66.
 - (g) Receives an annuity payment under Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible for Medicare by the Railroad Retirement Board.
 - (h) Receives an annuity payment under Section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and meets the disability criteria used under title XVI of the Social Security Act.
 - (i) Receives VA benefits for non-service or service-connected disability rated or paid as total under title 38 of the United States Code.
 - (j) Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act.
 - (k) Has a disability considered permanent under 221(i) of the Social Security Act section and is the surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service connected death under title 38 of the United States Code.

- (l) Is a veteran or surviving spouse of a veteran considered by the VA to be in need of Aid and Attendance benefits or permanently housebound under title 38 of the United States Code.
 - (m) Is a surviving child of a veteran and considered permanently incapable of self-support under title 38 of the United States Code.
- (2) *Elderly* means an individual 60 years of age or older.
- (3) ***Employee* means an individual who works for another in return for financial or other compensation such as rent, but does not include an independent contractor.**
- (4) ***Employer* means a person that employs one or more individuals for wages, salary, or other compensation such as rent.**
- (5) ***Externship* means a required period of supervised practice completed off campus or away from an individual's school of higher education (see OAR 461-135-0570) in order to complete the requirements for the individual's degree.**
- (6) ***Graduate assistantship* means an appointment as a graduate student *employee* offering a financial payment to the graduate student for part-time work in teaching, administration, or research while the graduate student completes the academic requirements for an advanced degree at a school of higher education (see OAR 461-135-0570). A *graduate assistantship* includes such positions as graduate assistant, graduate research assistant, graduate teaching assistant, and graduate teaching associate.**
- (7) ***Graduate fellowship* means a school of higher education (see OAR 461-135-0570) awarded program, targeted to a specific student group or field of study, that may be awarded based on academic need, academic record, or merit.**
- (8) *Group living* means a public or private nonprofit residential setting that serves no more than 16 residents and is certified by State of Oregon under regulations issued under section 1616(e) of the Social Security Act (42 U.S.C. 1382e(e)). To be eligible for SNAP benefits, a resident of such a *group living* arrangement must be blind or have a *disability*.
- (49) An individual is *homeless* if the individual does not have a fixed or regular nighttime residence or has a primary residence that is one of the following:
- (a) A supervised shelter that provides temporary accommodations.
 - (b) A halfway house or residence for individuals who may become institutionalized.
 - (c) A temporary accommodation in another individual's or family's residence for 90 days or less.

- (d) A place not designed to be or ordinarily used as a place for individuals to sleep, such as a hallway, bus station, or similar place.
- (10) *Internship* means an official or formal program through a school of higher education (see OAR 461-135-0570) to provide practical experience for an individual beginning an occupation or profession.**
- ~~(511)~~ A *migrant farmworker* is an individual who regularly travels away from their permanent residence overnight, usually with a group of laborers, to seek employment in an agriculturally related activity. If any member of a SNAP household fits the definition of migrant farmworker at any time during the redetermination period, the household is budgeted according to the policy on migrant farmworkers.
- ~~(612)~~ A *primary person* means:
 - (a) An adult in the *filing group* (see OAR 461-110-0370) who is designated by the group to serve as the primary person. Where there is no adult, the group can designate another responsible person in the *filing group*.
 - (b) Once the primary person has been designated, the filing group cannot choose a different individual to be the primary person during the same certification period (see OAR 461-001-0000) or during an OFSET or job quit disqualification period, unless there is a change in the composition of the *household group* (see OAR 461-110-0210).
- ~~(713)~~ *Seasonal farmworkers* are individuals employed in agricultural employment of a seasonal or temporary nature. If any member of a SNAP household fits the definition of seasonal farmworker at any time during the redetermination period, the household is budgeted according to policy on seasonal farmworkers. Seasonal farmworkers are not required to be absent overnight from their permanent residence when:
 - (a) Employed on a farm or ranch performing field work related to planting, cultivation, or harvesting operations; or
 - (b) Employed in a canning, packing, ginning, seed conditioning, or related research or processing operation, and transported to or from the place of employment by means of a day-haul operation.

Stat. Auth.: ORS **411.060**, 411.816

Stats. Implemented: ORS **411.060, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.816, 411.825, 412.049**

461-105-0006

Business Continuity Provisions

- (1) The use of this rule by any CAF *branch office* (see OAR 461-001-0000) requires the approval for that site by --
 - (a) The Deputy Assistant Director for CAF Field Services or the designee of this official; and
 - (b) The Administrator of the Office of Self Sufficiency Programs or the designee of this official.
- (2) The Department will only approve the use of this rule after considering the feasibility of avoiding the use of the rule by moving enough employees who are able to perform the needed tasks to the sites that have too few employees.
- (3) For purposes of this rule:
 - (a) "Business continuity disruption" refers to an emergency event or a work stoppage that causes the absence of most of the employees in at least one *branch office* for an expected time period of sufficient duration that compliance with applicable administrative rules in Chapter 461 is not feasible. A "business continuity disruption" continues until a sufficient number of employees return to work to permit compliance at the *branch office* with the administrative rules in Chapter 461.
 - (b) "Emergent need".
 - (A) In the ERDC program, the term "emergent need" refers to an individual who requires child care in order to work and who will lose this child care unless the application is processed promptly.
 - (B) In the SNAP program, the term "emergent need" refers to an individual who qualifies for expedited services under OAR 461-135-0575.
 - (C) In the medical assistance programs:
 - (i) The term "emergent need" refers to an individual reporting either of the following:
 - (I) A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention or medication may reasonably be expected to result in placing the health of the patient in serious jeopardy, serious impairment to bodily

functions, or serious dysfunction of any bodily organ or part.

- (II) A need for prompt processing of an application to secure provider services for mental health, substance abuse, or long-term care.
 - (ii) An individual does not need to document the "emergent need".
- (D) In the REF and TANF programs, the term "emergent need" refers to a household that meets the requirements of one of the following subparagraphs:
 - (i) Countable income less than \$150 a month, and liquid resources that do not exceed \$100.
 - (ii) Gross income and resources that combined are less than the total of the household's monthly rent or mortgage, plus its utilities.
 - (iii) Liquid resources (see subsection (c) of this section) that do not exceed \$100 as well as being a destitute household of migrant and seasonal farmworkers (see OAR 461-001-0015) with little or no income at the time of application.
- (E) In the TA-DVS program, the term "emergent need" refers to an individual with an immediate safety need.
- (c) "Liquid resources" refers to cash on hand, a checking or savings account, a savings certificate, and a lump sum payment.
- (4) During a *business continuity disruption*, a *branch office* issues DSNAP benefits as provided in OAR 461-135-0491 to 461-135-0497 if the *branch office* is in a location authorized by the Food and Nutrition Service (FNS) during a disaster benefit period. This rule does not otherwise apply to the DSNAP program.
- (5) Notwithstanding any other administrative rule in Chapter 461, during a *business continuity disruption* under the authorization required in section (1) of this rule, a CAF *branch office* may use any or all of the following special provisions:
 - (a) Application process.
 - (A) Individuals qualifying as *emergent need*.
 - (i) In the ERDC, medical assistance, REF, and TANF programs, acceptance or processing by the Department of applications may be limited to individuals in *emergent need*.

- (ii) In the SNAP program, processing of applications for new clients may be limited to individuals in *emergent need*.
 - (iii) In the TA-DVS program, waive the requirement to jointly staff an application for TA-DVS benefits under OAR 461-135-1230(3).
- (B) Application process for individuals without an *emergent need*.
- (i) In the ERDC, REF, and TANF programs, each *branch office* using this provision may document a request for benefits by maintaining a dated list of the names of these new clients as well as social security numbers (if available). The Department will use these lists to establish the date of request for those clients who request assistance during the *business continuity disruption* and complete the application within 30 days after the conclusion of the *business continuity disruption* or by the deadline that applies under another program rule, whichever occurs later.
 - (ii) In the SNAP program, for a new client, each *branch office* using this provision may document a filing date by maintaining a file of completed filing pages (DHS 415Y or DHS 539F). The Department will schedule and conduct interviews with each client after the conclusion of the *business continuity disruption*.
 - (iii) In the medical assistance programs, each *branch office* should establish a date of request using OAR 461-115-0030.
 - (iv) In the TA-DVS program, the Department may document a request for benefits by maintaining a dated list of the names of the applicants as well as social security numbers (if available). The Department will use this list to establish a date of request for those clients who request assistance during the *business continuity disruption*. The Department will schedule and conduct interviews with each client within two business days after the conclusion of the *business continuity disruption* or when an immediate safety need arises, whichever occurs sooner.
- (b) Benefit levels. In the ERDC, REF, SFPSS, and TANF programs:
- (A) Except as provided for REF in OAR 461-135-0900(4), a client, including a client in the ~~monthly reporting system (MRS)~~ or in the Simplified Reporting System (SRS), may continue to receive benefits at the level in effect the day before the special provisions of this rule applied to the *branch office*.

- (B) In the ERDC, SFPSS, and TANF programs, the Department may authorize a *branch office* to automatically extend certification periods for the duration of the *business continuity disruption*.
 - (C) Payments for *support services* (see OAR 461-001-0025) listed in a *case plan* (see OAR 461-001-0025) may continue at the level in effect the day before the special provisions of this rule applied to the *branch office*. The Department approves or denies any new request for a *support services* payment on a case by case basis.
 - (D) In the REF and TANF programs, for an *emergent need* household, the Department may issue a temporary benefit in the following amounts:
 - (i) \$200 for a single individual.
 - (ii) \$100 for each additional individual to a maximum payment of \$900.
 - (E) In the TA-DVS program, payments will be made to address immediate safety needs.
- (c) Processing changes for current recipients. Except in the SNAP program, a *branch office* may suspend the processing of changes during the *business continuity disruption*.
 - (d) Redetermination of benefits issued in accordance with this rule; payments for supplemental benefits and establishment of overpayments. For each client who receives a benefit under the provisions of this rule, after the *business continuity disruption* ends:
 - (A) The Department will determine the correct benefit amount and either provide a supplemental payment or assess an overpayment as appropriate.
 - (B) In the SNAP program, the Department will make the determination about supplemental payments under paragraph (A) of this subsection within 10 days of the end of the *business continuity disruption*.
 - (e) In the SNAP program, in addition to the other processes described in this rule, the policies under this subsection may be implemented upon authorization by the Food and Nutrition Service (FNS). The Department notifies each affected *branch office* of the authorization and its effective dates prior to implementation.
 - (A) For a telephone request for a SNAP program application, the *filing date* (see OAR 461-115-0040) is the same as the *date of request* (see OAR 461-115-0030).

- (B) A SNAP program applicant may receive a telephone interview without a Department determination that a *branch office* visit is a hardship to the applicant.
 - (C) An applicant requesting a SNAP program application via the telephone, meeting the expedited service criteria under OAR 461-115-0690, and whom the *branch office* must be able to identify may be interviewed and may provide an oral signature via the telephone after affirming all of the provided information is true and correct.
 - (i) If eligible for SNAP program benefits, the applicant is certified until the last day of the following month.
 - (ii) The applicant must sign and return a completed SNAP program application along with any requested verifications to the local *branch office* within 30 days.
 - (D) SNAP program benefits may be maintained at the current level and extended for two additional months when the Department receives FNS approval within any month described in the following situations:
 - (i) The last month of a *certification period* (see OAR 461-001-0000).
 - (ii) The month an Interim Change Report is due.
 - (iii) The month a Transitional Benefit Alternative period ends.
 - (iv) The month a Monthly Change Report is due.
 - (E) A client must report changes described in OAR 461-170-0011 by the last day of the month following the month in which the change occurred.
- (6) Notwithstanding any other administrative rule in Chapter 461, during a *business continuity disruption* with the approval of the Manager of Field Services for the Seniors and People with Disabilities Division (SPD) or the designee of this official:
- (a) A *branch office* may limit acceptance or processing of applications for long-term services to individuals in *emergent need* who do not yet have a placement or are at risk of losing their current one.
 - (b) An SPD or AAA office may apply any exception in this rule for SNAP and Medicaid programs to the extent authorized.

Stat. Auth: ORS 411.060, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.816, 412.014, 412.049, 414.042

Interviews

- (1) In all programs except **the BCCM, MAA, MAF, OHP and SAC programs**, the Department ~~will schedule~~ **schedules** interviews with the client or authorized representative as necessary in the process of determining the client's eligibility and for other reasons related to the programs. Home visits are used for interviews only when the visit is scheduled in advance with the household.
- (2) In the SNAP program, all clients are interviewed face-to-face prior to initial certification and at least once each 12 months.
 - (a) **When a hardship situation is identified, a telephone interview may be conducted in place of the face-to-face interview. Hardship conditions include: illness, transportation difficulties, care of a household member, residency in a rural area, prolonged severe weather, work or training hours. An in-office interview must be granted at the applicant's request.** Other interviews may be conducted by phone.
 - (b) **No interview is required at recertification for households meeting either of the following criteria:**
 - (A) **All adult members are elderly or meet the SNAP program definition of an individual with a *disability* (see OAR 461-001-0015), and there is no earned income; or**
 - (B) **Each member of the SNAP program *filing group* (see OAR 461-110-0370) is receiving TANF or SFPSS program cash benefits.**
 - (c) **When a household meets the expedited services criteria, an interview may be postponed in accordance with OAR 461-115-0690.**
 - (d) Interviews must be scheduled so the household has at least ten days to provide needed verification before the deadline provided in OAR 461-115-0210.
 - (e) **When an applicant misses his or her first scheduled interview appointment, the Department must inform the applicant by regular mail of the missed interview.**
 - (f) An applicant who fails to attend a scheduled interview and who fails to contact the Department not later than 30 days following the date the application was filed is ineligible for benefits.
- (3) A required face-to-face interview may be conducted by telephone or home visit if an authorized representative cannot be appointed and participating in a face-to-face interview ~~would be~~ **is** a hardship for the household.

461-115-0430

Periodic Redeterminations; Not EA, ERDC, EXT, OHP, REF, REFM, SNAP, or TA-DVS

The Department periodically redetermines the eligibility of clients for benefits and assigns a *redetermination date* by which the next determination is required. The Department selects the *redetermination date* based on the client's circumstances and according to the following requirements:

- (1) In the BCCM, GA, and GAM programs, the Department determines eligibility each 12 months.
- (2) In the MAA, MAF, and SAC programs, the Department redetermines eligibility at least once every 12 months.
- (3) In the OSIP and OSIPM programs, the Department determines eligibility each 12 months for clients who are not eligible for SSI. No redetermination is required for clients who are eligible for SSI.
- (4) In the QMB program, the Department determines eligibility each 12 months for clients who are not eligible for SSI. For QMB recipients who are also eligible for MAA, MAF or OSIPM, a redetermination for QMB is completed with the redetermination of the other program.
- (5) In the SFPSS program, the Department redetermines eligibility at least once every 12 months. The Department redetermines program eligibility by redetermining eligibility for the TANF program.
- (6) In the TANF program, the Department redetermines eligibility according to the following schedule:
 - (a) For ~~clients~~ **a client** ~~not in the monthly reporting system (MRS) and not participating in the JOBS program~~ -- at least once every six months.
 - (b) For ~~clients in the MRS~~ or **a client** participating in the JOBS program -- at least once every 12 months.

Stat. Auth.: ORS 411.060, 411.070, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 412.049, 414.042

461-115-0651

Required Verification and When to Verify; SNAP

- (1) The Department must give households at least 10 days to provide required verification.
- (2) All of the following information must be verified when a client initially applies for SNAP benefits:
 - (a) The identity of the applicant and any authorized representative or alternate payee.
 - (b) Alien status.
 - (c) Social Security Number (SSN) or application for an SSN.
 - (d) Countable income.
 - (e) Medical expenses, if they are used as a deduction.
 - (f) An order to pay child support and the amount actually paid.
 - (g) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.
- (3) All of the following information must be verified when a client reapplies for SNAP benefits:
 - (a) Countable income.
 - (b) Previously unreported medical expenses, and recurring medical expenses which have changed by more than \$25.
 - (c) Any changes in the legal obligation to pay child support, the obligated amount, and the amount the client is paying for children that live in a different household group.
 - (d) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.
- (4) For cases using the Change Reporting System (CRS) ~~and the Monthly Reporting System (MRS)~~, **each of** the following changes reported during the certification period must be verified:
 - (a) ~~For CRS,~~ **A** change in source of income, or the amount of stable income has changed by more than \$50.
 - (b) ~~For CRS,~~ **The** amount of variable income from any source.

- (c) Changes in reported medical expenses by more than \$25, and previously unreported medical expenses.
 - (d) Any changes in the legal obligation to pay child support, the obligated amount, and the amount the client is paying for children that live in a different household group.
 - (e) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.
- (5) For cases using the Simplified Reporting System (SRS), each of the following changes reported during the certification period must be verified in accordance with OAR 461-170-0103:
- (a) Alien status and SSN or application for an SSN when a new member joins the benefit group.
 - (b) Countable income.
 - (c) Medical expenses, if used as a deduction.
 - (d) An order to pay child support and the amount actually paid, if used as a deduction.
- (6) A claimed expense or cost may be used to determine the SNAP benefit only when the client provides the required or requested verification.
- (7) In addition to the verification required by sections (2) to (5) of this rule, the income for a client must be verified:
- ~~(a) — Each month for a client in MRS.~~
 - ~~(b) — Every every~~ **every** six months for SRS cases certified for twelve months, except those in which every **adult** member of the filing group is elderly or an individual with a *disability* (see OAR 461-001-0015) and has no earned income (NED).

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

461-115-0690

Verification For SNAP Expedited ~~Service Services~~; Time Limits

This rule establishes verification requirements for expedited ~~service services~~ in the SNAP program.

- (1) ~~Applicants for~~ **An applicant meeting the SNAP program expedited services criteria under OAR 461-135-0575 and determined eligible for SNAP benefits** must provide verification of ~~their~~ **his or her** identity either through a collateral contact or documentary evidence **before benefits may be issued**. Benefits ~~will~~ **may** not be delayed solely because other eligibility factors are not verified. **A client must provide the postponed verification within the timeframes established in section (3) of this rule.**
- (2) ~~Filing groups that were~~ **A filing group (see OAR 461-110-0370)** receiving SNAP benefits in another state during the same month they apply for expedited ~~service services~~ in Oregon must verify that they will not use SNAP benefits from both the other state and Oregon in the same month. They can provide the verification by signing a statement attesting to the following:
 - (a) They did not receive SNAP benefits from the other state for the month in which they are applying for SNAP benefits in Oregon; and
 - (b) If they receive SNAP benefits from the other state for a month in which they receive SNAP benefits in Oregon, they will do the following:
 - (A) They will not use the other state's benefits; and
 - (B) They will report receipt of the other state's benefits and will turn them in to the Department within five days of receipt. Failure to do this will constitute an intentional program violation.
- (3) ~~The client's failure to provide verification of eligibility factors other than identity does not affect eligibility for expedited services if obtaining verification would cause the Department to delay issuing benefits beyond the seventh day following application.~~
- (4) ~~—~~ A household that does not provide all necessary **postponed** verification becomes ineligible as follows:
 - (a) A household applying on or before the 15th of the month becomes ineligible the last day of the month of application.
 - (b) A household applying after the 15th of the month becomes ineligible the last day of the month following the month of application.
- (4) **The interview, along with other verification requirements, may be postponed when a filing group meeting the expedited services criteria applies for SNAP benefits using**

the web-based online application process. The interview may be postponed only when the *filing group* meets all of the following criteria:

- (a) The group applied using the web-based application.**
 - (b) The group meets the expedited services criteria.**
 - (c) The applicant's identity is verified.**
 - (d) The applicant did not receive SNAP benefits in the current or previous calendar month.**
 - (e) The applicant cannot be contacted for a telephone interview because –**
 - (A) No telephone number was provided; or**
 - (B) The applicant was not available when the local office attempted to contact the applicant for an interview.**
 - (f) The applicant must complete the interview and provide any pending verification information within the timeframes established in section (3) of this rule. When the interview or pending verification information is not provided within the required timeframe, the SNAP program certification ends with no additional notice in accordance with OAR 461-175-0300.**
- (5) Notice for when SNAP benefits under expedited services close or change due to postponed verification is provided in accordance with OAR 461-175-0300.**

Stat. Auth: ORS 411.816

Stats. Implemented: 411.816

461-135-0498

Pandemic-related Supplemental Nutrition Assistance Program; PSNAP

THIS IS A NEW RULE

- (1) The purpose of this rule is to set forth the policies for determining the activation of, eligibility for, and issuance of benefits under the Pandemic-related Supplemental Nutrition Assistance Program (PSNAP) for children certified eligible to receive free and reduced price school lunch benefits during a pandemic-related school closure. This program may be activated and benefits issued for the period October 1, 2009 through September 30, 2010.
- (2) The PSNAP program is activated when:
 - (a) The school or school district notifies the Department of a school closure lasting a minimum of five consecutive school days due to pandemic-related illness; and
 - (b) The school identifies each child participating in the free or reduced price school lunch program.
- (3) When the PSNAP program has been activated, only households on a data tape meeting the following requirements may qualify for PSNAP program benefits. The school or school district provides a data tape containing the following items to the Department:
 - (a) The name of the parent (head of the household);
 - (b) The address of the household; and
 - (c) The name and date of birth for each child participating in the free or reduced price school lunch program.
- (4) The Department matches the school data with the existing SNAP program files to identify which children are in households already participating in the SNAP or TANF programs. The Department deems these households to have EBT cards and does not send new EBT cards to them
- (5) The Department issues a new EBT card to any household not currently participating in a Department program via an EBT card.
- (6) PSNAP program benefits are given to all eligible households for the expected five consecutive days of school closure.
 - (a) The allotment amount is equal to the value of the school lunch multiplied by the number of lunches that will be missed. The value of the school lunch must be equal to the federal reimbursement rate for the lunch at the free rate.

- (b) A household may qualify for a second week of benefits when the school is closed for six or more consecutive school days.
- (7) PSNAP program benefits are issued via an EBT account and restricted to the purchase of food only.
- (8) PSNAP program benefits are issued to an eligible household within ten business days from the day the Department receives notice of the school closure and the school tape. The benefits are issued no later than 45 days following the first day of the school closure.
- (9) A household certified to receive PSNAP program benefits receives a written *decision notice* (see OAR 461-001-0000) which includes the reason for the PSNAP program benefits, the amount of the benefits, how the benefits may be used, and contested case hearing rights.

Stat. Auth: ORS 411.806 - 411.845

Stats. Implemented: ORS 411.806 - 411.845

461-135-0570

Eligible and Ineligible Students; SNAP

In the SNAP program

- (1) For the purposes of this rule **and OAR 461-001-0015**, higher education includes the following:
 - (a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL and high school equivalency programs at those institutions are not considered higher education.
 - (b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered higher education.
- (2) ~~A person~~ **An individual** 18 years of age or older, but under the age of 50 years, who is enrolled at least half time in higher education is ineligible to receive SNAP **program** benefits, unless one of the following is true:
 - (a) The student is--
 - (A) A paid ~~employee~~ **employee** (see **OAR 461-001-0015**) working an average of 20 hours or more per week **except as excluded by section (5) of this rule**; or
 - (B) Self-employed for a minimum of 20 hours per week and receives weekly earnings at least equal to the federal minimum wage multiplied by 20 hours.
 - (b) The student is participating in a state or federally funded work-study program ~~and expects to actually,~~ **is assigned to a work study position, and will** perform work in a work-study job in the current term or semester. The period of eligibility for a student eligible because of this sub-section:
 - (A) Begins with the month in which school begins or with the month that work study is approved, whichever is later.
 - (B) Continues for the duration of the term or semester, unless the student refuses a work-study job.
 - (C) Continues through breaks of less than a month. For breaks of a month or longer, eligibility continues only if the student performs work in a work-study job during the break.

- (c) The student is responsible for the care of a child in the ~~filing group~~ **filing group** (see **OAR 461-110-0370**), and the child is--
 - (A) Under six years of age; or
 - (B) Six years of age or older, but under the age of 12 years, and adequate child care is not available to enable the student to both attend class and meet the employment requirements of sub-section (a) of this section or the work-study requirements of sub-section (b) of this section.
 - (d) The student is enrolled full time in higher education and is a single parent (meaning there is only one parent in the filing group) or a single adult who has parental control, with the responsibility of caring for a child under 12 years of age.
 - (e) The student is in a TANF ~~benefit group~~ **benefit group** (see **OAR 461-110-0750**).
 - (f) The student is physically or mentally unfit for employment.
 - (g) The student is in job training classes under the Workforce Investment Act of 1998 (Pub. L. 105-220).
 - (h) The student is in a program serving displaced workers under Section 236 of the Trade Act of 1974, 19 U.S.C. 2296.
 - (i) The student is enrolled as a result of participation in the higher education component of the JOBS program.
 - (j) The student is enrolled as a result of employer-sponsored on-the-job training.
- (3) A student's enrollment status continues during school vacation and breaks. A student's enrollment status ends when the student graduates, drops out (as verified by ~~their~~ **the student** disenrolling), is suspended or expelled, or does not intend to register for the next school term (excluding summer term).
- (4) A student residing in a dormitory or other living situation with meal plans is ineligible for SNAP **program** benefits.
- (5) **The following situations do not earn the student hours toward the 20 hours per week requirement in section (2) of this rule:**
- (a) **Income that is considered educational income under OAR 461-145-0150, including income from work in the following:**
 - (A) **An *externship* (see OAR 461-001-0015);**

- (B) *A graduate assistantship* (see OAR 461-001-0015);
- (C) *A graduate fellowship* (see OAR 461-001-0015); or
- (D) *An internship* (see OAR 461-001-0015).

(b) **Receiving in-kind payments in lieu of actual wages.**

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816, **411.825**

In the SNAP program:

- (1) ~~Unless~~ **An applicant is screened for expedited services except when a filing group** ~~filing group~~ (see **OAR 461-110-0370**) applies for SNAP benefits before the end of ~~their~~ **its** current certification, ~~the filing group is eligible for~~. **If a filing group meets the expedited services criteria and the Department determines the filing group is eligible for SNAP benefits, the filing group qualifies to receive benefits within seven days following the filing date.**
- (2) **The filing group meets expedited services criteria** ~~in the SNAP program~~ if the ~~filing group~~ **filing group**:
 - (a) Has countable income less than \$150 a month and *liquid resources* that do not exceed \$100;
 - (b) Has gross income and *liquid resources* that total less than the total monthly rent, or mortgage, and utilities of the household; or
 - (c) Is a "destitute household" as described in 7 CFR 273.10(e)(3) (covering migrant and seasonal farmworker households) and has *liquid resources* that do not exceed \$100.
 - (d) For purposes of this rule on expedited ~~service~~ **services** only, a *liquid resource* includes cash on hand, a checking or savings account, a savings certificate, and a lump sum payment.
- (23) There is no limit to the number of times a ~~benefit group~~ **benefit group** (see **OAR 461-110-0750**) may receive expedited services. However, all eligibility factors from the last expedited issuance must be verified or the benefit group must have been certified under normal processing standards since the last expedited certification before the client is eligible to receive expedited ~~service~~ **services** again.
- (4) **An eligibility process interview for an expedited services client is conducted in accordance with OAR 461-115-0690.**
- (5) **The application processing timeframe for an expedited services client is determined under OAR 461-115-0210.**
- (6) **Application information for an expedited services client is verified as required under OAR 461-115-0690.**

461-135-0730

Specific Requirements; QMB, SMB, SMF

- (1) The following requirements apply to QMB-BAS:
 - (a) To qualify for QMB-BAS, an individual must be receiving Medicare hospital insurance under Part A. This includes an individual who must pay a monthly premium to receive coverage.
 - (b) A client who qualifies for QMB-BAS is not eligible to receive the full range of the Department's medical services. QMB-BAS benefits are limited to payments toward Medicare cost-sharing expenses. These expenses are---
 - (A) Medicare Part A and Part B premiums; and
 - (B) Medicare Part A and Part B deductibles and coinsurance up to the Department's fee schedule.
- (2) The following requirements apply to QMB-DW:
 - (a) To qualify for the QMB-DW program, an individual must be eligible for Part A of Medicare as a qualified worker with a disability under Section 1818A of the Social Security Act (42 USC 1395i-2a). This is an individual under age 65 who has lost eligibility for Social Security disability benefits because the individual has become substantially gainfully employed, but can continue to receive Part A of Medicare by paying a premium.
 - (b) A QMB-DW client is eligible only for payment of premiums for Part A of Medicare. If the client is eligible for any other medical assistance program the client is not eligible for QMB-DW.
- (3) The following requirements apply to QMB-SMB:
 - (a) To qualify for QMB-SMB, an individual must be receiving Medicare hospital insurance under Part A. This includes an individual who must pay a monthly premium to receive coverage.
 - (b) A client who qualifies for QMB-SMB is not eligible to receive the full range of the Department's medical services. QMB-SMB benefits are limited to payment of Medicare Part B premiums.
- (4) The following requirements apply to QMB-SMF:
 - (a) **To qualify for QMB-SMF, an individual must be receiving Medicare hospital insurance under Part A. This includes an individual who must pay a monthly premium to receive coverage.**

- (b) A client who is institutionalized (residing in a nursing facility, an intermediate care facility for the mentally retarded (ICF/MR), or a hospital) is not eligible for QMB-SMF.
- (bc) A client who qualifies for QMB-SMF is not eligible to receive the full range of the Department's medical services. QMB-SMF benefits are limited to payment for Medicare Part B premiums.
- (ed) The QMB-SMF program is subject to an enrollment cap based on the federal allocation. If the enrollment in this program exceeds the federal allocation, the program may be closed.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

461-135-0832

Estate Administration; Definitions

Effective July 18, 1995, for purposes of these rules (OAR 461-135-0832 to 461-135-0847) and ORS 93.268, 411.694, 411.708, 411.795, 414.105, 416.310, and 416.340, the terms listed below have the meanings ascribed to them herein; provided, however, as used in these rules, any term has the same meaning as when used in a comparable context in the laws of the United States in effect on June 1, 1996, relating to the recovery of medical assistance paid by a state pursuant to 42 USC 1396 et. seq. relating to Grants to States for Medical Assistance Programs, unless a different meaning is clearly required or the term is specifically defined herein. The Department applies the definitions and procedures set forth in these rules to recoveries and claims made pursuant to ORS 411.708, 411.795, 414.105, 416.310, and 416.340.

- (1) "Assets" means all income and resources of an individual, including any income or resources that an individual is entitled to at the time of death, including any income or resources to which the individual is entitled, but does not receive, because of action: by the individual; the individual's spouse; by a person, including a court or administrative body with legal authority to act in place of or on behalf of the individual; or by any person, including any court or administrative body, acting at the direction or upon the request of the individual.
- (2) "Assign" means a *person* who acquires an interest in *real or personal property* or an *asset* pursuant to a written or oral assignment of such *real or personal property* or *asset* from a *person* with the legal right to assign it.
- (3) "Blind child" means the deceased recipient's natural or adopted son or daughter, of any age, who, within two years after the Department initially asserts its claim, substantiates blindness throughout the time the Department seeks to enforce its claim by presenting evidence of:
 - (a) Vision of 20/200 or less in the better eye with a corrective lens; or
 - (b) A limitation in vision field to an angle of 20 degrees or less; or
 - (c) Meeting any other SSI criteria for blindness.
- (4) "Bona fide purchaser for value" means any *person* who provides consideration, including money or property, to a seller or transferor of *real property* or *personal property* equal to the fair market value of the *real or personal property* sold or transferred.
- (5) "Child under age 21" means the deceased recipient's natural or adopted son or daughter who is under 21 years of age throughout the time the Department seeks to enforce its claim.
- (6) "Consideration furnished test" means the method by which the ownership of *real or personal property* is traced to its economic origin. The fractional share of the property

considered owned by a co-owner shall be that fractional share to have originally belonged to or to be attributable to the monetary consideration furnished by the co-owner. The fractional share is based on the proportion the original ownership share or monetary consideration bore to the acquisition cost and, if applicable, capital additions for the property. The fractional share is not based on the dollar amount of contribution compared to the current market value of the property. For example, if one co-owner contributed \$2,500 and the other \$7,500 to the purchase price of a \$10,000 property in 1960; in 1995, the property is appraised at \$50,000. The co-owner who contributed \$2,500 is considered to own 25% of the property in 1995.

- (7) "Convincing evidence" includes, but is not limited to:
 - (a) Recorded documents of title.
 - (b) Unrecorded documents of title executed contemporaneously with the transaction or transfer at issue.
 - (c) Tax statements or returns.
 - (d) Records of banking, financial or other similar institutions.
 - (e) Written receipts, bills of sale or other writings or documents executed contemporaneously with the transaction or transfer at issue.
 - (f) Such other reliable, probative evidence, including oral, of a similar nature and authenticity that accurately reflects the true facts of the transaction or transfer at issue.
- (8) "Date of request" means the date an individual or someone authorized on behalf of the individual contacts the Department or uses another appropriate method to request benefits (see OAR 461-115-0150). The request may be oral or in writing. It starts the application process.
- (9) "Disabled child" means the deceased recipient's natural or adopted son or daughter of any age, who meets SSI disability criteria throughout the time the Department seeks to enforce its claim, and who presents evidence to the Department substantiating the disability within two years after the Department initially asserts its claim.
- (10) "Estate" means:
 - (a) With respect to the collection of payments made for public assistance provided prior to July 18, 1995, or for exclusively state funded public assistance, all *real property, personal property*, or other *assets* included within a recipient's estate, or the estate of the recipient's spouse, as such estate is defined by applicable state probate law.

(b) With respect to the collection of payments made for public assistance provided on or after July 18, 1995:

(A) For recipients who die prior to October 1, 2008, all *real property, personal property*, or other *assets*, wherever located, in which a recipient had any *legal title* or ownership or beneficial interest at the *time of death*, including *real property, personal property*, or other *assets* conveyed by the recipient to, subsequently acquired by, or traceable to, a *person*, including the recipient's surviving spouse and any successor-in-interest to the recipient's surviving spouse, through:

- (i) Tenancy by the entirety;
- (ii) *Joint tenancy*;
- (iii) *Tenancy in common*;
- (iv) Not as tenants in common, but with the right of *survivorship*;
- (v) *Life estate*;
- (vi) *Living trust*;
- (vii) Annuity purchased on or after April 1, 2001; or
- (viii) Other similar arrangement.

(B) For recipients who die on or after October 1, 2008, all *real property, personal property*, or other *assets*, wherever located, in which a recipient had any *legal title* or ownership or beneficial interest at the *time of death* of the recipient, including *real property, personal property*, or other *assets* conveyed by the recipient to, subsequently acquired by, or traceable to, a *person*, including the recipient's ~~surviving~~ spouse and any successor-in-interest to the recipient's ~~surviving~~ spouse, through:

- (i) Tenancy by the entirety;
- (ii) *Joint tenancy*;
- (iii) *Tenancy in common*;
- (iv) Not as tenants in common, but with the right of *survivorship*;
- (v) *Life estate*;
- (vi) *Living trust*;

- (vii) Annuity purchased on or after April 1, 2001; or
 - (viii) Other similar arrangement, such as an interspousal transfer of assets, including one facilitated by a court order, which occurred no earlier than 60 months prior to the first *date of request* established from the recipient's and the recipient's spouse's applications, or at any time thereafter, whether approved, withdrawn, or denied, for the public assistance programs referenced in OAR 461-135-0835(2).
- (11) "Heir" means any individual, including the surviving spouse, who is entitled under *intestate succession* to the *real property, personal property*, and *assets* of a decedent who died wholly or partially *intestate*.
 - (12) "Interest" means any form of legal, beneficial, equitable or ownership interest.
 - (13) "Interspousal transfer" means any transfer, or chain of transfers, that effectively transfers title or control of an asset, or an interest in an asset, from one spouse to another, including: direct transfers between spouses, transfers from one or both spouses to a trust, and transfers from one trust to another trust.
 - (14) "Intestate" means one who dies without leaving a valid will, or the circumstance of dying without leaving a valid will, effectively disposing of all of a decedent's estate.
 - (15) "Intestate succession" means succession to *real property, personal property* or *assets* of a decedent who dies *intestate* or partially *intestate*.
 - (16) "Joint tenancy" means ownership of property held under circumstances that entitle one or more owners to the whole of the property on the death of the other owner(s), including, but not limited to, joint tenants with right of survivorship and tenants by the entirety.
 - (17) "Legal title" means legal ownership by a *person*.
 - (18) "Life estate" means an *interest in real or personal property* that terminates upon the death of a measuring life.
 - (19) "Living trust" means a revocable or irrevocable inter vivos trust funded with assets to which the recipient is legally entitled.
 - (20) "Medical institution" means a facility that provides care and services equivalent to those received in a nursing facility. Medical Institution does not apply to in-home waived services, adult foster home (AFH) care, residential care facility (RCF) services, or assisted living facility (ALF) care.

- (21) "Ownership documents" mean any applicable documents, certificates or written evidence of title or ownership such as, but not limited to, recorded deeds, stock certificates, certificates of title, bills of sale or other similar documents evidencing ownership or *legal title* held by a *person*.
- (22) "Permanently institutionalized" means an individual, regardless of age, who, at the time of his or her death, had resided in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, for 180 days or more.
- (23) "Person" means any individual, corporation, association, firm, partnership, trust, estate or other form of entity.
- (24) "Personal property" means all tangible and intangible personal property wherever located, including, but not limited to, chattels and movables, boats, vehicles, furniture, personal effects, livestock, tools, farming implements, cash, currency, negotiable papers, securities, contracts, and contract rights.
- (25) "Real property" means all land wherever situated, including improvements and fixtures thereon, and every estate, interest, and right, whether legal or equitable, therein including, but not limited to, fee simple, terms for years, life estates, leasehold interests, condominiums or time share properties. Real property includes property conveyed by the individual to, subsequently acquired by, or traceable to, a person, including the individual's surviving spouse and any successor-in-interest to the individual's surviving spouse, if the real property may be included in the individual's, or the individual's surviving spouse's, estate, as defined in this rule.
- (26) "Recipient of property" means:
- (a) Any *survivor, heir, assign, devisee* under a will, beneficiary of a trust, transferee or other *person* to whom *real property, personal property* or other *assets* pass upon the death of the decedent either by law, *intestate succession*, contract, will, trust instrument or otherwise; and
 - (b) Any subsequent transferee of such *real property, personal property, or asset*, or proceeds from the sale thereof, through any form of conveyance, that is not a *bona fide purchaser for value*.
- (27) "Survivor" means any *person* who, as a co-tenant, is automatically entitled to an expanded share of *real or personal property* upon the death of a fellow co-tenant.
- (28) "Survivorship" means an interest in *real or personal property* that expires upon the death of an individual whereby the interest of the individual's co-owners automatically expands to the same extent without necessity for any act of transfer or distribution.

- (29) "Tenancy in common" means ownership of *real or personal property* by an individual together with one or more other *persons* which ownership *interest* shall not pass by *survivorship* upon the death of the individual.
- (30) "Time of death" means the instant of death, the time and date of which shall be established in the place of the decedent's residence; in no case shall *time of death* be construed to mean a time after which an *interest in real or personal property* or other *assets* may:
- (a) Pass by *survivorship* or other operation of law due to the death of the decedent; or
 - (b) Terminate by reason of the decedent's death.
- (31) "Value" means the fair market value. Fair market value is the price at which *real or personal property* would change hands between a willing buyer and a willing seller. In the event the *real or personal property* was not reported to the Department by the deceased Medicaid recipient, the *value* would be established based on its fair market value at the time of discovery.

Stat. Auth: ORS 410.070, 411.060, ~~411.795, 414.105~~

Stats. Implemented: ORS 93.268, **410.070, 411.060**, 411.694, 411.708, 411.795, 414.105, 416.310, 416.340

461-135-0835

Limits on Estate Claims

- (1) In the BCCM, GA, GAM, OHP, OSIP, OSIPM, and QMB programs:
 - (a) The Department has a priority claim against the property or any interest therein belonging to the estate of any deceased person as provided in ORS Chapters 411 and 414. The Estate Administration Unit of the Department (EAU) is authorized to present and file such claim against the estate. It will be treated as a preferred claim and filed in a like manner as the claims of other creditors.
 - (b) In determining the extent of the estate resources subject to the Department's claim, except as provided in subsection (c) of this section, the Department must disregard resources in an amount equal to the value of resources excluded in the most recent eligibility determination under OAR 461-160-0855, based on payments received under a *qualified partnership policy* (see OAR 461-001-0000). The disregard of resources specific to the estate recovery claim applies to Medicaid benefits received after the effective date of the Medicaid eligibility determination in which a *qualified partnership policy* was considered and approved. The amount of any Medicaid assistance incurred in a prior Medicaid eligibility period where *qualified partnership policy* benefits were not considered would not be subject to the estate resource disregard.
 - (c) There is no disregard of resources under subsection (b) of this section if the client, or the spouse of the client, at any time transferred the value of the *qualified partnership policy* excluded resource amount to another individual for less than fair market value prior to the death of the client or the client's surviving spouse, or exhausted the disregarded resource amount by purchasing things of value to the client or the client's surviving spouse while either was living.
 - (d) For a recipient who died prior to October 1, 2008:
 - (A) If there is a surviving spouse, the Department has a claim against the estate of the surviving spouse for public assistance paid to the surviving spouse.
 - (B) In addition, the Department has a claim against the estate of the surviving spouse for public assistance paid to the pre-deceased spouse, but only to the extent that the surviving spouse received property or other assets from the pre-deceased spouse through any of the following:
 - (i) Probate.
 - (ii) Operation of law.

- (C) If estate recovery is deferred until the surviving spouse dies, the fair market value of the property subject to the Department's claim is determined based on the current *value* (see OAR 461-135-0832) of the property in the surviving spouse's estate.
 - (D) However, neither claim is enforceable until after the death of the surviving spouse (if any) and only when there is no surviving *child under age 21* (see OAR 461-135-0832), no surviving *blind child* (see OAR 461-135-0832) of any age, and no surviving *disabled child* (see OAR 461-135-0832) of any age.
- (e) For a recipient who died on or after October 1, 2008:
- (A) If there is a surviving spouse, the Department has a claim against the estate of the surviving spouse for public assistance paid to the surviving spouse.
 - (B) In addition, the Department has a claim against the estate of the ~~surviving~~ **recipient's** spouse for public assistance paid to the ~~pre-deceased~~ **recipient's** spouse, but only to the extent that the ~~surviving~~ **recipient's** spouse received property or other assets from the ~~pre-deceased spouse~~ **recipient** through any of the following:
 - (i) Probate.
 - (ii) Operation of law.
 - (iii) An interspousal transfer, including one facilitated by a court order, which occurs:
 - (I) Before, on, or after October 1, 2008; and
 - (II) No earlier than 60 months prior to the first *date of request* (see OAR 461-135-0832) established from the ~~pre-deceased spouse's~~ **applications of the recipient** and the ~~surviving spouse's applications~~ **recipient's spouse**, or at any time thereafter, whether approved, withdrawn, or denied, for the public assistance programs referenced in section (2) of this rule.
 - (C) If estate recovery is deferred until the ~~surviving~~ **recipient's** spouse dies, the fair market value of the property subject to the Department's claim is determined based on the current *value* of the property in the ~~surviving spouse's estate~~ **of the recipient's spouse**.

(D) However, neither claim is enforceable until after the death of the ~~surviving~~ **recipient's** spouse (if any) and only when there is no surviving *child under age 21*, no surviving *blind child* of any age, and no surviving *disabled child* of any age.

(2) The amount of the claim is as follows:

- (a) Any payments made at any age under the General Assistance provisions of ORS Chapter 411, categorized as GA, are recoverable from the estate of any deceased recipient or the estate of the recipient's spouse. In the GA and GAM programs, the amount of the claim will not exceed the total amount of cash and medical benefits paid. The claim will include benefits provided under the Home and Community-Based Care Waiver program. This applies to all General Assistance programs, even those that are no longer active.
- (b) In the BCCM, OSIP-AD, OSIP-OAA, OSIPM-AD, OSIPM-OAA, and QMB programs, the amount of the claim includes all GA category benefits paid at any age and all Title XIX benefits provided after the recipient reached age 55, except any QMB program payment. If the recipient was *permanently institutionalized* (see OAR 461-135-0832), the claim includes the total amount of all GA category benefits and Title XIX benefits paid at any age. This applies to all Old Age Assistance and Aid to the Disabled recipients, including those served by Home and Community-Based Care Waiver programs. It also includes recipients covered by programs that are no longer active.
- (c) In the OHP, OSIP-AB, and OSIPM-AB programs, the claim includes the total amount of GA category benefits paid at any age and all Title XIX benefits provided after the recipient reached age 55. If the recipient was *permanently institutionalized*, the claim includes the total amount of GA category and Title XIX benefits paid at any age. The claim ~~shall include~~ **includes** benefits provided under the Home and Community-Based Care Waiver program.
- (d) In the OSIP, OSIPM-AB, OSIPM-AD, and OSIPM-OAA programs, the amount of the claim also includes the total amount of GA category and Title XIX benefits provided to recipients who were age 55 to 64 on the date the GA category and Title XIX benefits were provided if the benefits were provided after July 18, 1995. GA category and Title XIX benefits will be considered to have been provided to a recipient on the day of provision of medical services for which medical assistance payments are made.

(3) The priority for payment of claims against the estate will be as established under ORS 115.125.

(4) EAU may nominate a personal representative for an estate if the Department has a claim and it appears that no person with a higher preference, as established in ORS 113.085, is willing to be the representative.

(5) Property disposal will be in accordance with OAR 461-135-0838.

Stat. Auth.: ORS 410.070, 411.060, **2009 Or. Laws ch. 595**

Stats. Implemented: ORS 113.085, 115.525, **410.070, 411.060**, 411.708, 411.795, 416.310, 2009

Or. Laws ch. ~~529~~ **595**

461-135-1195

Specific Requirements; SFPSS Eligibility

In the SFPSS program:

- (1) To be eligible, a client must meet the following requirements:
 - (a) Be an adult;
 - (b) Meet all TANF program eligibility requirements (except as provided otherwise in this rule);
 - (c) Be receiving TANF benefits;
 - (d) Have an impairment that meets the requirements in OAR 461-125-0260; ~~and~~
 - (e) File an application for Supplemental Security Income (SSI) disability benefits under the Social Security Act.; **and**
 - (f) **Sign an Interim Assistance Authorization authorizing the Department to recover interim SFPSS program benefits paid to the client (or paid to providers on the client's behalf) from the initial SSI payment or the initial payment after the decision on SSI eligibility. The following provisions are considered part of the Interim Assistance Authorization:**
 - (A) **Interim SFPSS program benefits include only those SFPSS program cash benefits paid to the adult, who is applying for SSI, during the period of time that the SSI benefit covers.**
 - (B) **For any month in which SSI is prorated, the Department may recover only a prorated amount of the interim SFPSS program cash benefit.**
 - (C) **If the Department does not stop delivery of an SFPSS program benefit issued after the SSI payment is made, the SFPSS program payment is included in the interim assistance reimbursement to the Department.**
- (2) Counting earned and unearned income.
 - (a) The TANF standards in OAR 461-155-0030 are used to determine eligibility for the SFPSS program.
 - (b) The SFPSS payment standard (see OAR 461-155-0320) is used to determine the benefit amount for the SFPSS program.
- (3) When the only adult in the *filing group* (see OAR 461-110-0330) is applying for SSI, and the child or all children in the *filing group* are receiving an SSI grant, the family does not

receive an SFPSS grant. The family remains on TANF (if eligible) and receives a TANF grant.

- (4) A client whose impairment no longer meets the criteria in OAR 461-125-0260 is ineligible for SFPSS benefits.
- (5) An SFPSS client found by the Social Security Administration (SSA) not to meet disability criteria may continue receiving SFPSS benefits until all SSA administrative appeals are exhausted.
- (6) Once a client is approved for SFPSS, the client is no longer subject to OAR 461-120-0340. The client remains exempt from OAR 461-120-0340 as long as the client is eligible for and receiving SFPSS.

Stat. Auth.: ORS 411.060, 411.070, ~~411.816~~, 412.006, 412.009, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, ~~411.816~~, 412.006, 412.009, 412.014, 412.049, 412.084

461-145-0022
Annuities; OSIPM

In the OSIPM program:

- (1) For the purposes of this rule:
 - (a) "Actuarially sound" means a *commercial annuity* which pays principal and interest out in equal monthly installments over the actuarial life expectancy of the annuitant. For purposes of this definition, the actuarial life expectancy is established by the Periodic Life Table of the Office of the Chief Actuary of the Social Security Administration, and, for transactions (including the purchase of an annuity) occurring on or after July 1, 2008, the payout period must be within ~~three~~ **12** months of the actuarial life expectancy.
 - (b) For a client, an annuity does not include benefits that are set up and accrued in a regularly funded retirement account while an individual is working, whether maintained in the original account or used to purchase an annuity, if the Internal Revenue Service recognizes the account as dedicated to retirement or pension purposes. (The treatment of pension and retirement plans is covered in OAR 461-145-0380.)
 - (c) The definition of "child" in OAR 461-001-0000 does not apply.
 - (d) "Child" means a biological or adoptive child who is:
 - (A) Under age 21; or
 - (B) Any age and meets the Social Security Administration criteria for blindness or disability.
 - (e) "Commercial annuity" means a contract or agreement (not related to employment) by which an individual receives annuitized payments on an investment for a lifetime or specified number of years.
- (2) An annuity that does not make regular payments for a lifetime or specified number of years is a resource.
- (3) When a client applies for medical benefits, both initially and at periodic redetermination (see OAR 461-115-0050 and 461-115-0430), the client must report any annuity owned by the client or a spouse of the client.
- (4) By signing the application for assistance, a client and the spouse of a client agree that the Department, by virtue of providing medical assistance, becomes a remainder beneficiary as described in sections (8) and (10) of this rule, under any *commercial annuity*

purchased on or after February 8, 2006, unless the annuity is included in the community spouse's resource allowance under OAR 461-160-0580(2)(c).

- (5) If the Department is notified about a *commercial annuity*, the Department will notify the issuer of the annuity about the right of the Department as a preferred remainder beneficiary, as described in sections (8) and (10) of this rule, in the amount of medical assistance provided to the client.
- (6) If a client or a spouse of a client purchases or transfers a commercial annuity prior to January 1, 2006, the following applies:
 - (a) If the client is in a *nonstandard living arrangement* (see OAR 461-001-0000), the transaction may be subject to the rules on asset transfers at OAR 461-140-0210 and following. For an annuity that is not disqualifying or the disqualification period has already been served, the annuity payments are counted as unearned income to the payee.
 - (b) If the client is in a *standard living arrangement*, the annuity payments are counted as unearned income to the payee.
- (7) Sections 8 and 9 of this rule apply to a *commercial annuity* if--
 - (a) The client is in a *nonstandard living arrangement*, and the client or the spouse of the client purchases an annuity from January 1, 2006 through June 30, 2006; or
 - (b) The client is in a *standard living arrangement* (see OAR 461-001-0000), and the client or the spouse of a client purchase an annuity on or after January 1, 2006.
- (8) A *commercial annuity* covered by section (7) of this rule is counted as a resource unless the annuity is excluded by meeting the following requirements:
 - (a) If an unmarried client is an annuitant, the annuity must meet the requirements of subsection (8)(c) of this rule, and the annuity must specify that upon the death of the client, the first remainder beneficiary is either of the following:
 - (A) The Department, for all funds remaining in the annuity up to the amount of medical benefits provided on behalf of the client.
 - (B) The child of the client, if the Department is the next remainder beneficiary (after this child), up to the amount of medical benefits provided on behalf of the client, in the event that the child does not survive the client.
 - (b) If a spouse of a client is the annuitant, the annuity must meet the requirements of subsection (8)(c) of this rule, and the annuity must specify that, upon the death of the spouse of the client, the first remainder beneficiaries are either of the following:

- (A) The client, in the event that the client survives the spouse; and the Department, in the event that the client does not survive the spouse, for all funds remaining in the annuity up to the amount of medical benefits provided on behalf of the client.
 - (B) A child of the spouse; and the client in the event that this child does not survive the spouse.
- (c) An annuity covered by section (7) of this rule may not be excluded unless the annuity meets all of the following requirements:
- (A) The annuity is irrevocable.
 - (B) The annuity must be *actuarially sound*.
 - (C) The annuity is issued by a business that is licensed and approved to issue a *commercial annuity* by the state in which the annuity is purchased.
- (9) If an annuity is excluded as a resource under section (8) of this rule, the annuity payments are counted as unearned income to the payee. If an annuity is a countable resource under section (8) of this rule, the cash value is equal to the amount of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular monthly payments already received, minus early withdrawals, and minus any surrender fees.
- (10) This section lists the requirements for a *commercial annuity* purchased by the client or the spouse of the client on or after July 1, 2006, when a client is in a *nonstandard living arrangement*, and the annuity names the client or the community spouse as the annuitant. Annuities that meet all of the requirements of this section are counted as unearned income to the payee. The treatment of annuities that do not meet all requirements of this section is covered in sections (11) and (12) of this rule.
- (a) The annuity must comply with one of the following paragraphs:
- (A) The first remainder beneficiary is the spouse of the client, and in the event that the spouse transfers any of the remainder of the annuity for less than *fair market value* (see OAR 461-001-0000), the Department is the second remainder beneficiary for up to the total amount of medical benefits paid on behalf of the client.
 - (B) The first remainder beneficiary is the annuitant's child, and in the event that the child or a representative on behalf of the child transfers any of the remainder of the annuity for less than *fair market value*, the Department is the second remainder beneficiary for up to the total amount of medical benefits paid on behalf of the client.

- (C) The first remainder beneficiary is the Department for up to the total amount of medical benefits paid on behalf of the client.
 - (b) The annuity must be irrevocable and nonassignable.
 - (c) The annuity must be *actuarially sound*.
 - (d) The annuity is issued by a business that is licensed and approved to issue a *commercial annuity* by the state in which the annuity is purchased.
- (11) If the client is the annuitant and a *commercial annuity* does not meet all of the requirements of section (10) of this rule, or the spouse of the client is the annuitant and a *commercial annuity* does not meet the requirements of subsection (10)(a) of this rule, there is a disqualifying transfer of assets under OAR 461-140-0210 and following. See OAR 461-140-0296(6) and (7) for calculation of the disqualification period.
- (12) Regardless of whether a *commercial annuity* is a disqualifying transfer of assets, if the annuity does not meet all of the requirements of section (10) of this rule, the annuity is counted as a resource with cash value equal to the amount of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular monthly payments already received, minus early withdrawals, and minus any surrender fees.

Stat. Auth.: ORS 411.060, **411.070, 411.700, 414.042**

Stats. Implemented: ORS 411.060, **411.070, 411.700, 414.042**

461-145-0130

Earned Income; Treatment

- (1) Earned income (see OAR 461-145-0120) is countable in determining eligibility for programs, subject to sections (2) to (9) of this rule.
- (2) JOBS Plus income is earned income and is treated as follows:
 - (a) In the SNAP program:
 - (A) JOBS Plus income earned by a TANF-PLS client:
 - (i) Is counted in determining initial SNAP program eligibility.
 - (ii) Is excluded in determining ongoing eligibility.
 - (B) JOBS Plus wages received after the client's last month of work under a TANF-PLS JOBS Plus agreement are counted.
 - (b) In the TANF program:
 - (A) JOBS Plus income earned by an NCP-PLS client is counted in determining initial TANF eligibility.
 - (B) When determining the need for a TANF supplement for a TANF-PLS client, the income is treated as follows:
 - (i) It is excluded in determining the countable income limit and in calculating the benefit equivalency standards.
 - (ii) It is counted in calculating the wage supplement.
 - (C) JOBS Plus wages received after the client's last month of work under a JOBS Plus agreement are counted.
 - (c) In all programs other than the SNAP and TANF programs, TANF-PLS income is counted.
 - (d) In all programs other than the TANF program, NCP-PLS income is counted as earned income.
 - (e) In all programs, client wages received under the Oregon Employment Department UI JOBS Plus or the Tribal TANF JOBS programs are counted as earned income.
- (3) Welfare-to-Work work experience income is treated as follows:

- (a) In the EXT, MAA, MAF, REF, REFM, and TANF programs, the income is earned income, and the first \$260 is excluded each month.
- (b) In the OHP and SNAP programs, the income is earned income.
- (4) In the ERDC and OHP programs, earned income of a child is excluded.
- (5) In the EXT, MAA, MAF, REF, REFM, SAC, and TANF programs:
 - (a) Earned income of the following children is excluded:
 - (A) Dependent children under the age of 19 years, and minor parents under the age of 18 years, who are full-time students in grade 12 or below (or the equivalent level of vocational training, in GED courses), or in home schooling approved by the local school district.
 - (B) Dependent children under the age of 18 years who are attending school part-time (as defined by the institution) and are not employed full-time.
 - (C) Dependent children too young to be in school.
 - (b) Income remaining after the month of receipt is a resource.
 - (c) In-kind earned income is excluded (see OAR 461 145-0280 and 461-145-0470).
- (6) In the SNAP program:
 - (a) If a *cafeteria plan* (see OAR 461-001-0000) benefit that the employee cannot elect to receive as a cash payment is designated and used to pay for child care, medical care, or health insurance, the benefit is excluded unless it is reimbursed by the Department or allowed as an earned income deduction.
 - (b) The following types of income are excluded:
 - (A) The earned income of an individual under the age of 18 years who is under the parental control of another member of the household and is:
 - (i) Attending elementary or high school;
 - (ii) Attending GED classes recognized by the local school district;
 - (iii) Completing home-school elementary or high school classes recognized by the local school district; or
 - (iv) Too young to attend elementary school.

- (B) In-kind earned income, except as provided in section (7) of this rule.
 - (C) Deductions from base pay for future educational costs under Pub. L. No. 99-576, 100 Stat. 3248 (1986), for clients on active military duty.
 - (D) Income remaining after the month of receipt is a resource.
- (7) In the OHP and SNAP programs, earned in-kind income (see OAR 461-145-0280) is excluded unless it is an expenditure by a business entity that benefits a *principal* (see OAR 461-145-0088).
- (8) In all programs except the EXT ~~and SNAP programs~~ **program**, and for an OSIPM client in *nonstandard living arrangement* (see OAR 461-001-0000), the income of a temporary employee of the U.S. Census Bureau employed to assist in taking the census is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 412.014, 412.049, 414.042

461-145-0150
Educational Income

- (1) Educational income is income designated specifically for educational expenses. To be considered educational income, the income must be received by one of the following:
 - (a) A student at a recognized institution of post-secondary education. Post-secondary education is education offered primarily to individuals 18 years of age or older. Admission may --- but does not necessarily --- require a high school diploma or equivalent.
 - (b) A student at a school for individuals with disabilities.
 - (c) A student in a vocational education program.
 - (d) A student in a program that provides for completion of requirements for a secondary school diploma or the equivalent.
- (2) To determine the amount of educational income to exclude, education expenses listed in the financial aid award letter are used unless one of the following is true:
 - (a) The student provides verification of amounts different from those listed in the award letter, in which case the verified amounts from the student are used.
 - (b) The student receives child care benefits --- ERDC or other child care subsidies. The amount the student actually pays for child care (including the ERDC copay) is excluded as educational income instead of the amount shown in the award letter.
 - (c) The student states that actual transportation costs exceed the amount allowed for the expense in the award letter. In that situation, the number of miles to and from school is multiplied by \$0.20. The product or the amount from the award letter, whichever is greater, is excluded.
- (3) The following items are excluded:
 - (a) Educational income authorized by the Carl D. Perkins Vocational and Applied Technology Education Act or Title IV of the Higher Education Act or made available by the Bureau of Indian Affairs (BIA).
 - (b) All income from educational loans.
- (4) Except as provided in section (5) of this rule, the cost of the following items from remaining educational funds (including non-Title IV work study, *externship* (see OAR 461-001-0015), *graduate assistantship* (see OAR 461-001-0015), *graduate fellowship* (see OAR 461-001-0015) wages, and *internship* (see OAR 461-001-0015)) is excluded:

- (a) Tuition, mandatory fees, books and supplies, transportation, required rental or purchase of equipment or materials charged to students enrolled in a specific curriculum, other miscellaneous personal expenses (except room and board), and loan originator fees and insurance premiums required to obtain an educational loan.
 - (b) In all programs except ERDC --- dependent care.
- (5) For a participant in the Parents as Scholars (PAS) component of the JOBS program who has been approved for PAS pursuant to OAR 461-190-0199, all remaining educational funds, including those funds intended for room and board, are excluded.
- (6) In all programs covered by chapter 461 of the Oregon Administrative Rules, after allowing exclusions, the remaining income is treated as follows:
- (a) Income received through work study (including work study provided through a VA program or other educational program), fellowships and teaching-assistant positions not excluded by section (3) or (4) of this rule is earned income.
 - (b) Educational income not covered by subsection (a) of this section is treated as follows:
 - (A) In all programs except OHP, educational income is prorated over the period it is intended to cover. If the client has already received the income, the prorated amount is counted monthly beginning with the first month of the period. If the client has not received the income at the time the determination is made, the prorated income is counted starting in the month the client expects to receive it.
 - (B) In the OHP program, educational income is counted in the month received.

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, **411.620, 411.630, 411.635, 411.640, 411.660, 411.690,** 411.816, **411.825**, 412.014, 412.049, 414.042

461-145-0184

Filipino Veterans Equity Compensation Fund

THIS IS A NEW RULE

The Department excludes from income a payment received by a veteran or the spouse of a veteran who served in the military of the Government of the Commonwealth of the Philippines during World War II and made under the Filipino Veterans Equity Compensation Fund authorized by the American Recovery and Reinvestment Act of 2009.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

461-145-0320
Life Insurance

- (1) Benefits paid on a life insurance policy are counted as unearned income **in the month received and a resource if retained into the following month.** ~~A~~ **The Department counts benefits as paid when the insured individual dies or when the insured individual is eligible for and receives accelerated payments before death, such as when the insured individual has a terminal illness. When the payment is a lump sum due to the death of the insured individual** a deduction is allowed, not to exceed \$1,500, for the cost of the deceased ~~person's~~ **individual's** last illness and burial if these costs were not otherwise insured.
- (2) Burial insurance that has cash surrender value is treated in the same manner that this rule treats life insurance.
- (3) The value of a life insurance policy is treated as follows:
 - (a) All term insurance that has no cash surrender value is excluded.
 - (b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, the cash surrender value of the life insurance policy is excluded.
 - (c) For grandfathered OSIP and OSIPM clients (see OAR 461-125-0330(2), 461-125-0370(1)(b), and 461-135-0771), the total exclusion available for life insurance and burial arrangements is limited as provided in OAR 461-145-0040(2)(b).
 - (d) In the GA, GAM, OSIP, OSIPM, and QMB programs:
 - (A) Except as provided in subsection (c) of this section, the total cash surrender value of life insurance policies owned by the client or the client's spouse is excluded if the *total face value* of all policies for the insured individual is less than or equal to \$1,500. If the *total face value* of all policies for the insured individual is more than \$1,500, the entire cash surrender value is counted as a resource to the owner of the policy. The *total face value* does not include dividend additions that increase the death benefit and cash surrender value.
 - (B) The cash surrender value of a policy acquired through a ~~viatical settlement~~ **viatical settlement** is excluded. A ~~viatical settlement~~ **viatical settlement** allows a third party to acquire the life insurance policy from a terminally ill ~~person~~ **individual** at an agreed upon percentage of the life insurance policy face value.

Stat. Auth.: ORS 411.060, 411.816, ~~418.100~~ **412.049**

Stats. Implemented: ORS 411.060, 411.816, **412.049**, 414.042, ~~418.100~~

461-145-0550

Unemployment Compensation Benefits

In all programs covered by Chapter 461 of the Oregon Administrative Rules, unemployment compensation benefits are treated as follows:

- (1) Retroactive payments are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).
- (2) Disaster Unemployment Assistance is treated as provided in OAR 461-145-0100.
- (3) ~~In all programs except the ERDC and SNAP programs, the~~ **The** \$25 supplemental payment authorized by the American Recovery and Reinvestment Act of 2009 is excluded from *countable* (see OAR 461-001-0000) income.
- (4) All payments not covered under sections (1) to (3) of this rule are counted as unearned income.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 412.014, 412.049, 414.042

461-150-0060

Prospective or Retrospective Eligibility and Budgeting; ERDC, MAA, MAF, REF, REFM, SNAP, TANF

In the ERDC, MAA, MAF, REF, REFM, SNAP, and TANF programs, the Department determines how and when to use prospective or retrospective *eligibility* (see OAR 461-001-0000) and *budgeting* (see OAR 461-001-0000) as follows:

- (1) For the *initial month* (see OAR 461-001-0000):
 - (a) In the ERDC program, income is budgeted so the anticipated amount is the same for each month, including the *initial month*.
 - (b) ~~In the SNAP program, a case in the first month of its *certification period* (see OAR 461-001-0000) that was in MRS the prior month and will continue to be in MRS, the Department uses *eligibility* and *budgeting* as described in section (3) of this rule.~~
 - ~~(c)~~ **(e)** For an SNAP program case in CRS and in the MAA, MAF, REF, and TANF programs, **case, or a SNAP case in CRS, use** actual income is used in the *initial month*. Actual income is the income already received in the *initial month* plus all the income that reasonably may be expected to be received within the *initial month*.
 - ~~(d)~~ **(e)** For an SNAP program case in SRS, actual income is used in the *initial month* if that income is not reflective of ongoing monthly income due to a new or terminated source or a significant change in ongoing income. All other income is processed under section (3) of this rule.
 - ~~(e)~~ **(ed)** In the REFM program:
 - (A) When a client has moved to Oregon from the client's original resettlement state, see OAR 461-135-0010.
 - (B) For a client not assumed eligible under paragraph (A) of this subsection and OAR 461-135-0010, the Department uses only the *initial month* for *eligibility* and *budgeting*.
 - ~~(f)~~ **(fe)** The Department uses prospective *eligibility* and *budgeting* under OAR 461-150-0020 for cases not covered under subsections (a) to (e) of this section, including for a client who leaves a filing group because of *domestic violence* (see OAR 461-001-0000) and enters a *domestic violence shelter* (see OAR 461-001-0000) or *safe home* (see OAR 461-001-0000).
 - ~~(g)~~ **(gf)** No supplement is issued based on incorrectly anticipated information.

- (2) Income is budgeted so that the anticipated amount is the same for each month. The type of income is determined and calculated as follows:
- (a) Income that must be annualized is calculated under OAR 461-150-0090 to arrive at a monthly figure.
 - (b) Educational income (see OAR 461-145-0150) is assigned to the months it is intended to cover, regardless of when it is received. The income is prorated over these months.
 - (c) Ongoing *stable income* (see OAR 461-001-0000) is anticipated under OAR 461-150-0070.
 - (d) Ongoing *variable income* (see OAR 461-001-0000) is anticipated under OAR 461-150-0080.
 - (e) *Periodic income* (see OAR 461-001-0000) is anticipated under OAR 461-140-0100 and 461-140-0110.
 - (f) *Lump-sum income* (see OAR 461-001-0000) is anticipated under OAR 461-140-0100, 461-140-0200, and 461-140-0123.
 - (g) In the ERDC program, for temporary income and other situations when the child care need will last two consecutive months or less, the income is anticipated to be received in the months of child care need and calculated under OAR 461-150-0080.
- (3) For an *ongoing month* (see OAR 461-001-0000):
- (a) For a *benefit group* (see OAR 461-110-0750) ~~not in MRS~~, the Department uses prospective *eligibility* and *budgeting*. The type of income is determined and calculated under section (2) of this rule.
 - (b) ~~For a *benefit group* in MRS, the Department uses retrospective *eligibility* and *budgeting* under OAR 461-150-0030 until there is a break in benefits of one or more calendar months. The Department continues to use retrospective *budgeting* even if there is a break of one calendar month and:~~
 - (A) ~~A case is suspended for one month because of periodic extra income or some other change that is not expected to continue into the following month; or~~
 - (B) ~~A case is suspended for one month for not filing a monthly report and the *benefit group* files a monthly report for the suspend month before the end of the following month. The Department treats a report received after the following month as a new application and uses prospective *budgeting*.~~

- (e) — If the *budgeting* method changes from prospective to retrospective, the Department treats income from a terminated source that was counted prospectively as follows:
 - (A) If the actual amount received was less than or equal to the anticipated amount, the income is excluded.
 - (B) If the actual amount received was greater than the anticipated amount, the Department counts the difference between actual and anticipated amounts.
- (4) When an individual is added to an ongoing filing and *benefit group*, ~~eligibility is determined as follows:~~
 - (a) — ~~If the individual is joining a *benefit group* in MRS, retrospective budgeting is used for the *benefit group*, including the income of the new individual.~~
 - (b) — For any other *benefit group*, prospective budgeting is used **to determine eligibility.**
- (5) In the ERDC and SNAP programs, income reported on the Interim Change Report form under OAR 461-170-0011 and 461-170-0102 is used to determine *eligibility* and benefit level. Income for the fifth month of the SNAP program *certification period* (see OAR 461-001-0000) is used to determine the income for the seventh and following months in the *certification period* if the client anticipates it will remain the same throughout the period. If the client anticipates the income will change, the client and the Department jointly estimate the income for the remaining months of the *certification period*. For a client who had self-employment income annualized, no change is made unless there is a substantial change in the revenue of the business.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.049, 414.042

461-150-0090

Prospective Budgeting: Annualizing **and Prorating** Contracted or Self-employment Income

In all programs except the OHP and REFM programs:

- (1) Income from self-employment, including contract income while self-employed, is ~~annualized~~ **treated** in accordance with OAR 461-145-0910 unless the income meets the provisions of section (42) of this rule.
- (2) **If past contract income is not representative of future income or when a substantial increase or decrease is expected in *countable* (see OAR 461-001-0000) self-employment income (see OAR 461-145-0910) in the next year, costs as allowed under OAR 461-145-0930 and anticipated income are used to determine the *countable* income.**
- (3) In the ERDC, ~~FS~~, MAA, MAF, REF, **SNAP**, and TANF programs, contract income **that does not meeting meet** the criteria of self-employment income (see OAR 461-145-0910) is treated as follows:
 - (a) ~~The income is annualized under section (3) of this rule if it is~~ **Income** received during a less than a 12-month period but is intended as a full year's income; ~~except that income derived from a contract and received on an hourly or piecework basis is not annualized.~~
 - (b) ~~If~~ **Income** received ~~monthly over the term of the contract period or on an hourly or piecework basis, the income or~~ **monthly over the term of the contract period is not annualized.** It is treated as *stable income* (see OAR 461-001-0000) under OAR 461-150-0070 or *variable income* (see OAR 461-001-0000) under OAR 461-150-0080.
- (34) Contract income that is not the annual income of the *financial group* (~~see OAR 461-110-0530~~) and not paid on an hourly or piecework basis is prorated over the period the income is intended to cover.
- (4) ~~If past income is not representative of future income, or when a substantial increase or decrease is expected in next year's countable self-employment income, income is not annualized. In this case, anticipated income and costs are used to determine the countable income.~~

Stat. Auth.: ORS 411.060, 411.816, **412.014, 412.049, 414.042**

Stats. Implemented: ORS 411.060, 411.816, **412.014, 412.049, 414.042**

461-155-0700

Special Need; Personal Incidentals and Room and Board Allowances; ~~OSIP~~; OSIPM

In the ~~OSIP and OSIPM programs~~ **program**:

- (1) In the following circumstances, personal incidentals and room and board allowances may be paid for a ~~client~~ **an individual** to reside in a *community based care facility* (see OAR 461-155-0630) to avoid placement in a nursing facility or leave a nursing facility or an acute care hospital, when an individual **meets the requirements of one of the following subsections**:
 - (a) Is determined to be eligible based on a disability determination made by the Department (see OAR 461-125-0370).
 - (A) To receive this payment, a ~~client~~ **the individual** must pursue SSI by making application with the Social Security Administration (SSA) and appealing denials until SSA makes a final administrative decision. If SSI is denied at the final SSA administrative level, the ~~client~~ **individual** is no longer eligible for this payment.
 - (B) The payment is the difference between the ~~countable~~ **countable** (see OAR **461-001-0000**) income of the ~~client~~ **individual** and the OSIPM **program** adjusted income standard (see OAR 461-155-0250).
 - (b) Is leaving a nursing facility and limited to a maximum SSI payment of \$30 or to a maximum Veterans benefit payment of \$90. The payment is the difference between the ~~countable~~ **countable** income of the ~~client~~ **individual** and the OSIPM **program** adjusted income standard (see OAR 461-155-0250).
 - (c) Is a ~~qualified non-citizen~~ **qualified non-citizen** under OAR 461-120-0125 who is not eligible for SSI due to not meeting the requirements to become a naturalized citizen within the SSI time limit.
 - (A) The individual must pursue naturalization.
 - (B) The payment is the difference between the ~~countable~~ **countable** income of the ~~client~~ **individual** and the OSIPM adjusted income standard (see OAR 461-155-0250).
 - (d) Does not have sufficient income to ~~cover the needs of~~ **divert to** the ~~community spouse income allowance of the individual as outlined in OAR 461-160-0620(3)(d). The allowance is the lesser of the following:~~ **community spouse** (see OAR **461-001-0030**) **due to the difference between the personal needs allowance related to a nursing facility placement and the personal needs allowance and room and board related to a community based care facility placement. The allowance is issued only when the individual or community**

spouse requests or chooses a nursing facility placement rather than a *community based care facility* placement because the *community spouse* needs the resulting higher diversion amount to meet his or her monthly expenses.

(A) ~~The OSIPM adjusted income standard (see OAR 461-155-0250); or~~ **For all individuals, the allowance is the difference between the amount of the individual's income that would be available to divert to the *community spouse* under a nursing facility placement and the amount of the individual's income available under the *community based care facility* placement, using the liability calculation as outlined in OAR 461-160-0620.**

(B) ~~The difference between the calculated community spouse allowance (see OAR 461-160-0620(3)(d)) and the amount of income that the client has available to divert to the community spouse.~~ **For an individual whose income is less than the adjusted OSIPM program standard, the allowance is the amount calculated under paragraph (A) of this subsection plus the difference between the OSIPM program adjusted income standard and the individual's *countable* income.**

(2) The payment amount is prorated in the first month for ~~a client~~ **an individual** who moves to a *community based care facility* on any day other than the first day of the month.

Stat. Auth.: ORS 411.060, 411.070, **2009 Or. Laws ch. 849**

Stats. Implemented: ORS 411.060, 411.070, **2009 Or. Laws ch. 849**

461-165-0100

Issuance Date of Benefit

- (1) For all programs except EA and SNAP:
 - (a) An authorized cash payment check is dated on the first day of the payment period or as soon as practicable thereafter.
 - (b) Checks and medical cards are mailed so they can be delivered to the client on the first day of each month except in the following cases:
 - (A) Initial month benefits for cases that are new, reopened, or restored.
 - (B) Cases in the monthly reporting system.
 - (C) Cases with no special needs or service coding; these cases receive the \$1.70 OSIP payment in advance for the benefit period, from the date of eligibility to the end of the calendar year.
 - (D) If the first day of the month falls on Sunday or a holiday, the check is mailed in time for the client to receive it on Saturday or the mail day preceding the holiday.
 - (E) Checks redirected to the branch office may be released during the last workday preceding a weekend or holiday.
 - (c) Benefits issued by EBT will be available on the first day of each month, except for the following:
 - (A) Initial month benefits for cases that are new, reopened, or restored.
 - (B) Cases in the monthly reporting system.
 - (C) Benefits held by the branch office.
- (2) EA clients must receive their checks, either direct or vendor, in time to meet their emergent needs.
- (3) SNAP benefits are available as follows:
 - (a) SNAP benefits issued by EBT are available in the EBT account on the day of the month corresponding to the last digit of the client's case number except for the following:
 - (A) The benefits for the initial month of eligibility for a new or re-opened case.

- (B) ~~The benefits for a case in the monthly reporting system.~~
 - ~~(C)~~—The benefits for the seventh month of the certification period for a case in the semi-annual reporting system.
- (b) SNAP benefits issued through the SNAP cash-out are available as follows:
- (A) Benefits accessed through an EBT account are available on the first day of the month.
 - (B) Checks are mailed on the first day of the month.
 - (C) Direct-deposit funds are available on the third working day of the month.
- (4) For SNAP changes that could not be made in time to adjust the monthly allotment, a supplement is issued within 10 days of the date the change was reported.
- (5) For OSIPM, a medical ID card is mailed on the first of each month to clients receiving Title XIX waived services who contribute to their services by paying their excess income into a maintenance trust and agency account. The client's medical card is not held until the payment is received. If payment is not received before the end of the payment month, consider QMB for the following month.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

461-165-0150

Timely Issuance of TANF Benefits for Clients in MRS

THIS RULE IS REPEALED

~~In the TANF program, if a client is in the monthly reporting system, the Department makes benefits available within ten days after receiving a complete monthly change report. For the purpose of carrying out the requirements of ORS 411.975, a monthly change report is considered received no earlier than the first day of the payment month.~~

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.975

461-165-0200

Restoring Benefits

- (1) A client is entitled to a supplemental payment of benefits for the current month or restoration of benefits lost in a previous month if the client received a lower benefit than he or she was entitled to for the reasons given in this rule. A client may receive a restoration of lost benefits even if no longer eligible.
- (2) A client may receive a supplemental payment if there was a change in the client's circumstances that would cause an increase in benefits, if the report of change was made before the first day of the payment month but too late for the Department to adjust the next payment.
- (3) A client may receive a supplemental or restorative benefit if the Department caused an administrative underpayment. An administrative underpayment includes, but is not limited to, an underpayment caused by the following:
 - (a) Failure to take action on information reported to the Department.
 - (b) Use of an incorrect effective date.
 - (c) Denial, closure or reduction of benefits in error and a failure to send the client a required notice of proposed action.
 - (d) Making a calculation error.
- (4) A client is entitled to a restoration of lost benefits if:
 - (a) The restoration results from a final order in a contested case.
 - (b) The Department withheld too much of the client's grant in the collection of an overpayment.
 - (c) The restoration results from a court order.
 - (d) ~~SNAP program benefits deposited in an EBT account were returned because the benefits aged off.~~
 - (e) —After receiving proper notification, the Department failed to cancel the EBT card of an individual leaving a SNAP program household and that individual continues to access the household's SNAP program benefits in subsequent months.
- (5) Restored benefits are added to the benefits of a currently eligible client. In the SNAP program, the Department will honor a reasonable request by a client to restore benefits in monthly installments.

(6) A client who moves from Oregon remains eligible for a restoration of benefits.

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.816, 412.014, 412.049, 414.042

461-165-0210

Calculating Restored and Supplemental Benefits

- (1) Supplemental and restorative benefits are calculated and paid as follows:
 - (a) The effective date of the lost benefits is determined.
 - (b) The benefit group is not eligible for restored benefits in any month that eligibility for the benefits cannot be established. The benefit group has an opportunity to prove eligibility for any months in question.
 - (c) The correct benefits for the months in question are calculated.
 - (d) The amount the benefit group actually received is subtracted from the amount they should have received.
 - (e) ~~The restoration amount for EBT aged-off FS benefits is the full amount of inaccessible benefits, if the request for restoration is made within nine months of the date the benefits were aged-off.~~
 - (f) — The amount of restored benefits is offset against overdue or suspended overpayments.
 - (gf) The group with the largest number of people who were in the benefit group at the time the loss occurred is entitled to the restorative payment. If the location of that group is unknown, the benefit is paid to the benefit group containing the primary person at the time the loss occurred.
- (2) When, after receiving proper notification, the Department failed to cancel the EBT card of an individual leaving a SNAP program household and that individual continues to access the household's SNAP program benefits in subsequent months, the amount of SNAP program benefits to be restored is the amount used by the former household member.

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.816, 412.014, 412.049, 414.042

461-170-0010

Reporting Changes - Overview

A client is required to report a change in circumstances in accordance with the reporting system in which the client participates, OAR 461-170-0011, and --

- (1) For each program in which a client participates, the Department determines the appropriate reporting system. The Department's reporting systems are Change Reporting System (CRS), Monthly Reporting System (MRS), Simplified Reporting System (SRS), and Transitional Benefit Alternative (TBA). In addition to any required report form, when a client is required by this division of rules to report a change in circumstances, the report may be made by telephone, office visit, report form, or other written notice. The report must be made as follows:
 - (a) A client using CRS must report a change according to OAR 461-170-0011.
 - (b) A client using MRS must report a change in income on the Monthly Change Report form designated by the Department. A Report form is processed according to OAR 461-170-0100, 461-170-0110, and 461-170-0120. Any other changes must be reported according to OAR 461-170-0011.
 - (c) A client using SRS must report a change according to OAR 461-170-0011 and 461-170-0102. An Interim Change Report form is processed according to OAR 461-170-0011 and 461-170-0101 to 461-170-0104.
 - (d) A client using TBA is not required to report any change.
- (2) A change is considered reported effective the date a **client, authorized representative, or ineligible student reports the information to a branch office** (see OAR 461-001-0000) ~~receives the information.~~
- (3) A change reported **by a client, authorized representative, or ineligible student** for one program is considered reported for all programs in which ~~the~~ **that** client participates.

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.816, **412.014**, 412.049, 414.042

461-170-0011

Changes That Must be Reported

- (1) A change in employment status is considered to occur as follows:
 - (a) For a new job, the change occurs the first day of the new job.
 - (b) For a job separation, the change occurs on the last day of employment.
- (2) A change in source of income is considered to occur as follows:
 - (a) For earned income, the change occurs upon the receipt by the client of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.
 - (b) For unearned income, the change occurs the day the client receives the new or changed payment.
- (3) A client must report the following changes. The report may be made orally or in writing.
 - (a) In the BCCM program, a client must report either of the following changes within 10 days of occurrence.
 - (A) A change in health care coverage.
 - (B) A change in residence.
 - (b) In the ERDC program:
 - (A) A client not participating in SRS in the SNAP program must report the following changes within 10 days of occurrence.
 - (i) A change in child care provider.
 - (ii) A change in employment status.
 - (iii) A change in mailing address or residence.
 - (iv) A change in membership of the *filing group* (see OAR 461-110-0350).
 - (v) A change in source of income expected to continue.
 - (B) A client participating in SRS in the SNAP program must report the following changes by the tenth day of the month following the month of occurrence.

- (i) A change in child care provider.
 - (ii) ~~A change in mailing address.~~
 - ~~(iii)~~—Loss of employment.
 - ~~(iviii)~~ Monthly income exceeding the SNAP countable income limit.
 - ~~(viiiv)~~ A *parent* (see OAR 461-001-0000) of a child or unborn or the spouse of the caretaker moves into the residence.
- (C) The ERDC case may continue to follow the reporting requirements in paragraph (3)(b)(B) of this rule without a companion SNAP case in SRS when:
 - (i) The ERDC case was certified in the fifth or sixth month of the SNAP *certification period* (see OAR 461-001-0000); and
 - (ii) The SNAP companion case automatically closes because the Interim Change Report (see OAR 461-170-0010) was not received.
- (c) In the EXT program, a client must report any of the following changes within 10 days of occurrence.
 - (A) A change in health care coverage.
 - (B) A change in name.
 - (C) A change in pregnancy status of any member of the *filing group* (see OAR 461-110-0330).
 - (D) A change in residence.
 - (E) A member in *filing group* is no longer a *dependent child* (see OAR 461-001-0000).
- (d) In the SNAP program:
 - (A) A client assigned to CRS must report any of the following changes within 10 days of occurrence.
 - (i) A change in earned income of more than \$100.
 - (ii) A change in unearned income of more than \$50.
 - (iii) A change in source of income.

- (iv) A change in membership of the *filing group* (see OAR 461-110-0370) and any resulting change in income.
 - (v) A change in residence and the shelter costs in the new residence.
 - (vi) A change in the legal obligation to pay child support.
 - (vii) When the sum of cash on hand, stocks, bond, and money in a bank or savings institution account reaches or exceeds program resource limits.
 - (viii) Acquisition or change in ownership of a non-excluded vehicle.
- (B) ~~A client assigned to MRS must report any of the following changes within 10 days of occurrence, except for changes in income which must be reported in accordance with the rules related to MRS (OAR 461-170-0010, 461-170-0100, 461-170-0110).~~
- ~~(i) A change in membership of the *filing group* (see OAR 461-110-0370) and any resulting change in income.~~
 - ~~(ii) A change in residence and the shelter costs in the new residence.~~
 - ~~(iii) A change in the legal obligation to pay child support.~~
 - ~~(iv) Sale or receipt of a resource that causes total resources to exceed program resource limits.~~
 - ~~(v) Acquisition or change in ownership of a non-excluded vehicle.~~
- ~~(C) A client assigned to SRS must report any of the following changes **monthly income exceeding the SNAP countable income limit** by the tenth day of the month following the month of occurrence.~~
- ~~(i) Monthly income exceeding the countable income limit in the SNAP program.~~
 - ~~(ii) A change in mailing address.~~
- ~~(D) A client assigned to TBA is not required to report any changes.~~
- (e) In the GA, GAM, OSIP, OSIPM, and QMB programs, a client must report all changes that may affect eligibility within 10 days of occurrence, including any of the following changes. A client assigned to MRS also must report changes in

income in accordance with the rules related to MRS (see OAR 461-170-0010, 461-170-0100, 461-170-0110).

- (A) A change in employment status.
 - (B) A change in health care coverage.
 - (C) A change in membership of the *household group* (see OAR 461-110-0210).
 - (D) A change in marital status.
 - (E) A change in residence.
 - (F) A change in resources.
 - (G) A change in source or amount of income.
- (f) In the MAA, MAF, REF, SAC, SFPSS, and TANF programs, clients assigned to CRS must report any of the following changes within 10 days of occurrence.
- (A) Acquisition or change in ownership of a non-excluded vehicle.
 - (B) A change in earned income more than \$100.
 - (C) A change in employment status.
 - (D) A change in membership of the *household group* (see OAR 461-110-0210).
 - (E) A change in mailing address or residence.
 - (F) A change in pregnancy status of any member of the filing group.
 - (G) A change in source of income.
 - (H) A change in unearned income more than \$50.
 - (I) A change in who pays the shelter costs if the costs will be paid by a non-custodial *parent*.
 - (J) Sale or receipt of a resource that causes total resources to exceed program resource limits.
- (g) ~~In the MAA, REF, SFPSS, and TANF programs, a client assigned to MRS must report any of the following changes within 10 days of occurrence, except for~~

~~changes in income, which must be reported in accordance with the rules related to MRS (see OAR 461-170-0010, 461-170-0100, 461-170-0110).~~

~~(A) Acquisition or change in ownership of non-excluded vehicles.~~

~~(B) A change in membership of the *household group* (see OAR 461-110-0210).~~

~~(C) A change in mailing address or residence.~~

~~(D) A change in pregnancy status of any member of the *filing group*.~~

~~(E) A change in who pays the shelter costs if the costs will be paid by a non-custodial *parent*.~~

~~(F) Sale or receipt of a resource that causes total resources to exceed program resource limits.~~

~~(h) In the OHP program, a client must report any of the following changes within 10 days of occurrence.~~

~~(A) A change in availability of employer-sponsored health insurance.~~

~~(B) A change in health care coverage.~~

~~(C) A change in mailing address or residence.~~

~~(D) A change in name.~~

~~(E) A change in pregnancy status of any member of the *filing group* (see OAR 461-110-0400).~~

~~(ih) In the REFM program, clients must report the following changes within 10 days of occurrence.~~

~~(A) A change in membership of the *household group* (see OAR 461-110-0210).~~

~~(B) A change in residence.~~

Stat. Auth.: ORS 411.060, 411.816, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.105, 411.816, 412.014, 412.049, 414.042

461-170-0100

Monthly Reporting System (MRS)

- (1) A filing group is not subject to the requirements of the monthly reporting system (MRS) unless it is required to participate by section (2), ~~(3)~~, or ~~(4)~~ of this rule.
- (2) ~~In the SNAP program, the filing group can only participate in the MRS if a member is in the MRS for another program, unless the filing group is specifically excluded by section (5) of this rule.~~
- ~~(3)~~—In the GA, GAM, OSIP, OSIPM, and QMB programs, a filing group not specifically excluded by section (53) of this rule must participate in the MRS if it has varying earned or unearned income that cannot be averaged, converted, or annualized.
- ~~(4)~~—In the MAA, REF, and TANF programs, unless it is specifically excluded by section (5) of this rule, a filing group must participate in the MRS if the filing group:
 - ~~(a)~~—Is in the MRS for another program; or
 - ~~(b)~~—Has countable earned or unearned income that is not the same every month and cannot be anticipated, averaged, converted, or annualized.
- (53) The following filing groups are excluded from participating in the MRS:
 - (a) A filing group in the EA, ERDC, EXT, REFM, SAC, ~~or SNAP~~, TA-DVS, or TANF programs.
 - (b) A SNAP filing group for which any of the following are true:
 - ~~(A)~~—At least one member is a migrant or seasonal farm worker.
 - ~~(B)~~—The members are homeless.
 - ~~(C)~~—Each adult member is *elderly* (see OAR 461-001-0000) or has a *disability* (see OAR 461-001-0000), and no *financial group* (see OAR 461-110-0530) member has earned income.
 - ~~(D)~~—At least one member is receiving ERDC.
 - ~~(E)~~—The group resides on an Indian Reservation.
 - ~~(c)~~—A SNAP or TANF filing group that includes a member working under a JOBS Plus agreement.
 - ~~(d)~~—In the GA, GAM, OSIP, OSIPM, and QMB programs, a filing group receiving or deemed to be receiving SSI.

~~(e) An MAF filing group for its MAF benefits. The group may be in the MRS for other program benefits the group receives.~~

(fc) An OHP filing group for its OHP benefits. The group may be in the MRS for other program benefits the group receives.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

461-170-0101

Simplified Reporting System (SRS); ERDC, SNAP

In the ERDC and SNAP programs:

- (1) OAR 461-170-0101 to 461-170-0104 establish and explain the Simplified Reporting System (SRS).
- (2) A client certified to receive SNAP program benefits for less than six months may not participate in SRS.
- ~~(3) A filing group (see OAR 461-110-0370) may not participate in SRS and is removed from SRS if the group includes an individual in the Monthly Reporting System (MRS) for another program.~~

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

461-170-0120

Monthly Change Report Incomplete or Not Received

If a Department branch office serving a program covered by this ~~division~~ **chapter** of rules does not receive a completed Monthly Change Report by the last day of the payment month, the following actions are taken:

- (1) ~~In all programs except the SNAP program, the case is closed effective the end of the budget month (see OAR 461-001-0000).~~
- (2) ~~In the SNAP program, benefits are suspended for the payment month (see OAR 461-001-0000), and:~~
 - (a) ~~If no Monthly Change Report form is received for the month of suspension, the case is closed effective the end of the month of the suspension.~~
 - (b) ~~If a completed Monthly Change Report form is received for the month of suspension, it is used to determine eligibility and benefit level for the month following the month of suspension.~~

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

461-175-0220

Notice Situation; Disqualification

- (1) If a *benefit group* (see OAR 461-110-0750) or individual is disqualified for a SNAP voluntary job quit or for failure to apply for or provide an SSN, pursue assets, cooperate in the JOBS, JOBS Plus, or OFSET program, or assist the state's efforts to collect support, the Department sends the following type of notice:
 - (a) If benefits are reduced or closed because of the disqualification:
 - (A) A *continuing benefit decision notice* (see OAR 461-001-0000) is used when changes are reported on the ~~Monthly Change Report or Interim Change Report forms~~ **form**.
 - (B) A *timely continuing benefit decision notice* (see OAR 461-001-0000) is used when changes are not reported on the ~~Monthly Change Report or Interim Change Report forms~~ **form**.
 - (b) If benefits are opened without the disqualified individual in the *benefit group* or if the entire *benefit group* is denied assistance, a *basic decision notice* (see OAR 461-001-0000) is used.
- (2) For a JOBS, JOBS Plus, or OFSET disqualification, and for an SNAP voluntary job quit by an individual receiving SNAP benefits, the notice includes the following information:
 - (a) The client action that resulted in disqualification.
 - (b) The length of the minimum disqualification period.
 - (c) The reduced benefit amount.
 - (d) How the client may end the disqualification after the minimum period.
- (3) For a voluntary job quit by an individual applying for SNAP benefits, the notice includes the following information:
 - (a) The action that resulted in the disqualification; and
 - (b) The length of the disqualification period.
- (4) For an IPV disqualification:
 - (a) A *basic decision notice* is required if an individual in the *benefit group* is disqualified for an IPV as the result of a court order or a final order from an administrative hearing.

- (b) A *continuing benefit decision* is required if a person in the *benefit group* is disqualified for an IPV based on a signed waiver.
- (5) For a disqualification due to being a fleeing felon or in violation of parole, probation, or post-prison supervision (under OAR 461-135-0560):
 - (a) A *basic decision notice* is required if benefits are opened without the disqualified individual in the *benefit group* or if the entire filing group is denied benefits.
 - (b) A *timely continuing benefit decision notice* is required if an individual in the *benefit group* is disqualified.
- (6) The notice situation for a disqualification due to a transfer of assets is covered in OAR 461-175-0310.

Stat. Auth.: 411.060, 411.816, 412.049

Stats. Implemented: 411.060, 411.816, 412.049

461-175-0270

Notice Situation; MRS, SRS, or TBA

- (1) When a *benefit group* (see OAR 461-110-0750) is entered into the MRS (see OAR 461-170-0100), the Department sends a *basic decision notice* (see OAR 461-001-0000) for the GA, GAM, OSIP, OSIPM, and QMB programs ~~and a *continuing benefit decision notice* (see OAR 461-001-0000) for all other programs.~~
- (2) When the Department takes action on information reported on the Monthly Change Report or Interim Change Report form, the Department sends a *continuing benefit decision notice* for clients in the ERDC, MAA, MAF, OSIP, OSIPM, QMB, REF, REFM, SNAP, and TANF programs. The notice includes the amount of income used to determine the benefits or ineligibility.
- (3) For all changes not reported on the Monthly Change Report or Interim Change Report form, which result in a closure or reduction in benefits, the Department sends a *timely continuing benefit decision notice*.
- (4) ~~For a *benefit group* in the MRS, when ending TANF benefits because of information acquired through the information match with the Child Support program, the Department sends a *continuing benefit decision notice*.~~
- (5) —When the Department changes the reporting system from one reporting system to another reporting system, the Department provides a *continuing benefit decision notice* if the change occurs at a time other than at the start of a *certification period* (see OAR 461-001-0000).

Stat. Auth.: ORS 411.060, 411.816, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.111, 411.816, 412.049, 414.042

461-175-0300

Notice Situation; Prior Notice

- (1) **When medical benefits will end or be reduced at the termination of a pregnancy, or when benefits in any Department program except a medical program and the SNAP program will end or be reduced after a specific period of time, the Department may issue a *decision notice* (see OAR 461-001-0000) informing the *benefit group* (see OAR 461-110-0750) of the date or event (such as the end of pregnancy) that will end or reduce benefits, and no further *decision notice* is required.**
- (2) ~~A basic decision notice is used~~ **In all programs except the medical programs and the SNAP program, if the *benefit group* *benefit group* was informed in writing, when their the benefits began that they the *benefit group* would receive benefits only for a specific period of time, a *basic decision notice* (see OAR 461-001-0000) may be used to--**
 - (a) **Deny an application to start or continue benefits after the completion of a *certification period* (see OAR 461-001-0000) or to approve benefits at a level lower than the prior *certification period*.**
 - (b) **Indicate that benefits have been ended or reduced when no timely application is submitted.**
- (23) ~~A basic decision notice~~ ***basic decision notice* is used when a special need allowance granted for a specific period of time is removed at the end of the specified period and the *benefit group* *benefit group* was informed of this in writing when the allowance began. A ~~timely continuing benefit decision notice~~ ***timely continuing benefit decision notice* (see OAR 461-001-0000) is required if stopping the special need allowance results in benefit closure.****
- (3) ~~In the EA program, no decision notice is used if the client received a decision notice at the time of application stating that the emergency assistance was authorized for only a 30-day period.~~
- (4) ~~In the ADC-PLS JOBS Plus program, a basic decision notice~~ ***basic decision notice* is used if--**
 - (a) An employer submits a wage reimbursement billing and the Department calculates a supplement (~~see see~~ OAR 461-190-0416 about supplements);
 - (b) The ~~benefit group~~ ***benefit group* received a ~~timely continuing benefit decision notice~~ *timely continuing benefit decision notice* that the method of payment would be changed from cash to employer-paid wages; and**
 - (c) The notice specified the period of time that benefits would be diverted.
- (5) ~~In the SNAP program, no decision notice:~~

- (a) **A *basic decision notice* is used if the *benefit group* was informed in writing, when their benefits began, that they would receive benefits only for a specific period of time.**
- (b) **No *decision notice* is required if the client is provided ~~written notification~~ a *decision notice* at the time of application or redetermination that--**
 - (a) **(A) The ~~benefit group's~~ allotment of the *benefit group* would vary from month to month and listed the anticipated changes;**
 - (b) **(B) In the case the client applied at the same time for both cash assistance and SNAP benefits, the SNAP benefits would be reduced or closed upon approval of the cash assistance; or**
 - (c) **(C) In the case of a ~~benefit group that has applied for expedited benefits,~~ receipt of benefits beyond the month of application depends on the client providing required verification (*see* OAR 461-115-0690). In such cases, the Department may act on the verified information without further notice. ***benefit group* receiving benefits under expedited services with postponed verification:**
 - (i) **The expedited services benefits would close if the Department did not receive the postponed verification within the timeframe established under OAR 461-115-0690.**
 - (ii) **The expedited services benefits may be adjusted beyond the timeframe established under OAR 461-115-0690 based on the verified information provided to the Department without further notice.****

Stat. Auth.: ORS 411.060, 411.816, **412.014, 412.049, 414.042**

Stats. Implemented: ORS 411.060, 411.816, **412.014, 412.049, 414.042**

461-180-0050

Effective Dates; Suspending or Closing Benefits and JOBS Support Service Payments

This rule explains the effective date for closing or suspending benefits for the entire benefit group and the effective date for ending JOBS support service payments. The effective date is determined as follows:

- (1) When prospective eligibility is used, the effective date for closing or suspending benefits is:
 - ~~(a) For all cash and medical benefits for benefit groups in the MRS, the last day of the budget month.~~
 - ~~(b) For cash and medical benefits for benefit groups not in MRS and for SNAP, the last day of the month in which the notice period ends.~~
- (2) When retrospective eligibility or budgeting is used, the effective date for closing or suspending benefits is the last day of the budget month.
- (3) When prospective budgeting is used, the effective date for closing or suspending benefits is the last day of the month in which the notice period ends.
- (4) When an absent parent enters an ongoing TANF household, or another change occurs that ends eligibility based on the incapacity or unemployment of a parent, the effective date for closing benefits is the last day of the month in which the 30-day period described in OAR 461-125-0255 ends.
- (5) For a pregnant female receiving benefits of the EXT, MAA, MAF, OSIPM, or SAC program, the effective date for closing benefits is no earlier than the last day of the calendar month in which the 60th day after the last day of pregnancy falls, except at the client's request.
- (6) In the OHP program, the effective date for closing benefits is--
 - (a) The last day of the month in which the benefit group becomes ineligible;
 - (b) The date the program ends; or
 - (c) For cases not covered by subsection (a) or (b) of this section, the last day of the certification period.
- (7) The effective date for ending support service payments authorized under OAR 461-190-0211 is the earlier of the following:
 - (a) The date the related JOBS activity is scheduled to end.

(b) The date the client no longer meets the requirements of OAR 461-190-0211.

Stat. Auth.: ORS 409.050, 411.060

Stats. Implemented: ORS 411.060

461-180-0097

Effective Dates; OHP Premium

- (1) Clients in the OHP-OPU program are required to pay a premium if not exempted by OAR 461-135-1120. ~~The premium for the first month is prorated based on the effective date for starting medical benefits.~~
- (2) ~~If a person becomes a non-exempt OHP-OPU client during a month in which the person was receiving medical assistance from a program other than OHP-OPU, the~~ **The** effective date for starting the premium is the first of the next month.
- (3) The effective date for ending the OHP premium is the first of the month in which the client becomes--
 - (a) Exempt from paying a premium; or
 - (b) Eligible under another medical assistance program.

Stat. Auth.: ORS **409.050**, 411.060, **411.598**, **414.033**, **414.065**

Stats. Implemented: ORS **409.050**, 411.060, **411.598**, **414.033**, **414.065**

461-193-0000

Client Rights; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

In the New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP) programs, a client has, in addition to the rights under OAR 461-105-0010, the rights described in this rule. The project worker must explain these rights to the client both orally and in writing. A client has the right to --

- (1) Information about services administered under the program.
- (2) Receive a decision on eligibility promptly and no later than the tenth calendar day from the intake date.
- (3) Refuse social services unless the service is court ordered or related to an employment plan under OAR 461-193-0042.
- ~~(4) Request a staffing under OAR 461-193-0920 within five working days of the date of a *decision notice* (see OAR 461-001-0000) informing a participant that benefits or services are denied, reduced, or ended.~~

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

461-193-0042

Refugee Project Employment Requirements and Employment Plan; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

In the RCSP program:

- (1) Except for a client meeting OAR 461-193-0240, each adult client must participate in the NAES program.
- (2) Each NAES program client is required to have an employment plan and must be actively engaged in NAES program employment activities as specified in the individual's employment plan.
- (3) The job developer and client develop an individualized employment plan agreed to by the client and the job developer.
 - (a) The job developer uses proven methods for encouraging the full engagement of the client and the development of the employment plan. These proven methods include, but are not limited to, strength-based case management and motivational interviewing.
 - (b) The employment plan may be modified whenever circumstances change.
- (4) The employment plan --
 - (a) Is individualized and developed with the client and in cooperation with appropriate partner agencies or other professionals.
 - (b) Identifies client goals and activities to help the client meet those goals.
 - (A) Activities promote both family stability and financial independence.
 - (B) Activities help reduce or eliminate barriers to self-sufficiency, employment, job retention, wage enhancement, and full participation in the NAES program.
 - (C) For a client with a *disability* (see OAR 461-001-0000), the goal of the employment plan is to promote greater independence. The employment plan may include physical and mental health treatment.
 - (D) The employment plan includes agreed upon support services needed to enable the client to successfully complete the plan.
 - (E) The employment plan includes identified accommodations or modifications necessary for the client to successfully complete the employment plan.

- (F) Activities are based on information obtained in screenings and evaluations, and are intended to build on client strengths.
- (c) A client must inform the job developer of any circumstance that may require a change to the provisions of the employment plan.
- (d) A client who disagrees with any provision of an employment plan may seek resolution of the disagreement through the ~~complaint~~ **re-engagement** process (see OAR 461-193-~~0121~~ **0960**).
- (5) The employment plan is complete and binding when the client is informed of its contents, it is signed by the job developer and client, and the client has been offered a copy of the plan.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060