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Department of Human Services, Self-Sufficiency Programs 461

Agency and Division

Administrative Rules Chapter Number

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To become effective 10/01/2015 through 03/28/2016.

RULE CAPTION

Amending rules relating to the Employment Related Day Care Program

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

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:

461-001-0000, 461-125-0830, 461-135-0405, 461-135-0407, 461-145-0910, 461-160-0040, 461-160-0300, 461-170-0150, 461-170-0160, 461-175-0222, 461-175-0300

SUSPEND:

Statutory Authority:

ORS 409.050, 411.060, 411.070

Other Authority:

45 CFR 98, Child Care Development Block Grant Act of 2014

Statutes Implemented:

409.010, 409.050, 409.610, 411.060, 411.070; Or Laws 2015, ch 698

RULE SUMMARY

The Department of Human Services, Office of Self-Sufficiency Programs, is amending rules governing the Employment Related Day Care (ERDC) program. The amendments implement the requirements of the Federal Reauthorization Act of 2014 to the Child Care Development Block Grant and HB 2015 (Oregon Laws 2015, ch 698). Specifically:

- OAR 461-001-0000 about definitions is being amended to include a definition of "homeless" in the ERDC program;
- OAR 461-125-0830 about acceptable documentation is being amended to include confirmation by Child Welfare that supervised contact is required between the child and a parent or spouse living in the child's home;
- OAR 461-135-0405 about children in Head Start is amended to remove the statement "other than self-employment" and to remove the subsection about caretakers who have enrolled in school;
- OAR 461-135-0407 about children in Oregon Program of Quality (OPQ) contracted child care is amended to add reference for a caretaker who is no longer employed and in school full-time; remove language about not eligible due to self-employment; and set the copayment for contracted child care;
- OAR 461-145-0910 about self-employment is being amended to include an exception in the ERDC program when anticipating income for a new self-employment business;
- OAR 461-160-0040 about dependent care costs deductions and coverage is being amended to list circumstances during which child care payments can continue, including during a job loss, medical leave, or military transition, and establish when a copay can be waived;
- OAR 461-160-0300 about use of income to determine eligibility and benefits for ERDC is being amended to state the eligibility

income standards at initial and recertification;

- OAR 461-170-0150 about the certification period in the ERDC program is being amended to increase the ERDC certification period to not less than 12 months; allow "priority processing" for homeless families and families who have a current child care need for a foster child; and define "priority processing" as opening benefits for up to three months pending verification of income and other eligibility requirements;
- OAR 461-170-0160 about when a reapplication form is considered complete or not received in the ERDC program is being amended to include and make allowance for the reapplication to be turned in later than the 12 month certification date when authorized work search, medical leave, and military transition end dates are later than the 12 month end of certification period date and effective close date at reapplication when the case is coded with authorized work search, medical leave or military transition;
- OAR 461-175-0222 about notice situations and the expiration of certification period in the ERDC, SNAP, and TANF programs is being amended to include an exception for ERDC when households are certified for one or two months; and
- OAR 461-175-0300 about notice situations and prior notice is being amended to include when an ERDC case in "priority processing" can be closed without further notice.

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Secretary of State
STATEMENT OF NEED AND JUSTIFICATION
A Certificate and Order for Filing Temporary Administrative Rules
accompanies this form

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Department of Human Services, Self-Sufficiency Programs
Agency and Division

461
Administrative Rules Chapter Number

Amending rules relating to the Employment Related Day Care Program

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

In the Matter of:

The temporary amendment of OAR 461-001-0000, 461-125-0830, 461-135-0405, 461-135-0407, 461-145-0910, 461-160-0040, 461-160-0300, 461-170-0150, 461-170-0160, 461-175-0222, and 461-175-0300

Statutory Authority:

ORS 409.050, 411.060, 411.070

Other Authority:

45 CFR 98, Child Care Development Block Grant Act of 2014

Statutes Implemented:

409.010, 409.050, 409.610, 411.060, 411.070; Or Laws 2015, ch 698

Need for the Temporary Rule(s):

These rules need to be amended because the current rules are not in compliance with state and federal laws which will be in effective on October 1, 2015. These amendments align all ERDC program policies with the new state and federal requirements and ensure the Department is in compliance with state and federal law.

Documents Relied Upon, and where they are available:

CCDBG Act of 2014 <http://www.acf.hhs.gov/programs/occ/resource/ccdbg-of-2014-plain-language-summary-of-statutory-changes>
HB 2015 <https://olis.leg.state.or.us/liz/2015R1/Measures/Overview/HB2015>

Justification of Temporary Rule(s):

The Department finds that failure to act promptly by amending OAR 461-001-0000, 461-125-0830, 461-135-0405, 461-135-0407, 461-145-0910, 461-160-0040, 461-160-0300, 461-170-0150, 461-170-0160, 461-175-0222, and 461-175-0300 will result in serious prejudice to the public interest, the Department, and to families in the ERDC program. The Department needs to proceed by temporary rule because implementing the state and federal mandates that go into effect on October 1, 2015, will immediately benefit families in the ERDC program and ensure the Department is in compliance with state and federal law.

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Definitions for Chapter 461

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:

- (1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDS), or any other agency formerly part of the Department of Human Services means the Department of Human Services (DHS), except --
 - (a) The rule in which reference occurs only regulates programs covered by OAR chapter 461.
 - (b) OCCS medical program eligibility rules are in OAR chapter 410, division 200.
- (2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of *domestic violence* (see section (25) of this rule), sexual assault, or stalking.
- (3) "Adjusted income" means the amount determined by subtracting income deductions from *countable* (see section (18) of this rule) income (see OAR 461-140-0010). Specific rules on the deductions are in OAR chapter 461, division 160.
- (4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. "Adoption assistance" may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.
- (5) "Assets" mean income and resources.
- (6) "Basic decision notice" means a *decision notice* (see section (21) of this rule) mailed no later than the date of action given in the notice.
- (7) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.
- (8) "Budgeting" means the process of calculating the benefit level.
- (9) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine *eligibility* (see section (28) of this rule) and benefit level for the *payment month* (see section (50) of this rule).

- (10) "Cafeteria plan" means a written benefit plan offered by an employer in which:
- (a) All participants are employees; and
 - (b) Participants may choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Service does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:
 - (A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);
 - (B) Group term life insurance plans (up to \$50,000);
 - (C) Dependent care assistance plans; and
 - (D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).
- (11) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a *microenterprise* (see section (43) of this rule), either directly or indirectly. A "capital asset" generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.
- (12) "Caretaker" means an individual who is responsible for the care, control, and supervision of a *child* (see section (15) of this rule). The status of "caretaker" ends once the individual no longer exercises care, control, and supervision of the *child* for 30 days.
- (13) "Caretaker relative" means:
- (a) In the Pre-TANF, SFPSS, and TANF programs, a dependent child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece who lives in a residence maintained by one or more of the relatives as the child's or the relative's own home.
 - (b) In all programs not covered under subsection (a) of this section, a *caretaker* (see section (12) of this rule) who meets the requirements of one of the following paragraphs:
 - (A) Is one of the following relatives of the *dependent child* (see section (23) of this rule):
 - (i) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.

- (ii) Stepfather, stepmother, stepbrother, and stepsister.
 - (iii) An individual who legally adopts the *child* and any individual related to the individual adopting the *child*, either naturally or through adoption.
 - (B) Is or was a *spouse* (see section (62) of this rule) of an individual listed in paragraph (A) of this subsection.
 - (C) Met the definition of "caretaker relative" under paragraph (A) or (B) of this subsection before the *child* was adopted (notwithstanding the subsequent adoption of the *child*).
- (14) "Certification period" means the period for which an individual is certified eligible for a program.
- (15) "Child" includes natural, step, and adoptive children. The term "child" does not include an unborn.
 - (a) In the ERDC program, a "child" need not have a biological or legal relationship to the *caretaker* but must be in the care and custody of the *caretaker*, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:
 - (A) Under the age of 18; or
 - (B) Under the age of 19 and in secondary school or vocational training at least half time.
 - (b) In the GA, GAM, and OSIP programs, a "child" is an individual under the age of 18.
 - (c) In the OSIPM and QMB programs, "child" means an unmarried individual living with a *parent* (see section (49) of this rule) who is:
 - (A) Under the age of 18; or
 - (B) Under the age of 22 and attending full-time secondary, postsecondary or vocational-technical training designed to prepare the individual for employment.
 - (d) In the REF and REFM programs, a "child" is:
 - (A) An individual under the age of 18; or
 - (B) An individual who is 18 years of age and attending secondary school full-time or pursuing a GED full-time.

- (16) "Community based care" is any of the following:
- (a) Adult foster care - Room and board and 24 hour care and services for the elderly or for people with disabilities 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.
 - (b) Assisted living facility - A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.
 - (c) In-home Services - Individuals living in their home receiving services determined necessary by the Department.
 - (d) Residential care facility - A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.
 - (e) Specialized living facility - Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition, or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.
 - (f) Independent choices - In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).
- (17) "Continuing benefit decision notice" means a *decision notice* that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.
- (18) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine *eligibility*.
- (19) "Cover Oregon" means Oregon Health Insurance Exchange Corporation.
- (20) "Custodial parents" mean parents who have physical custody of a *child*. "Custodial parents" may be receiving benefits as dependent children or as caretaker relatives for their own children.
- (21) "Decision notice" means a written notice of a decision by the Department regarding an individual's *eligibility* for benefits in a program.
- (22) "Department" means the Department of Human Services (DHS).
- (23) "Dependent child" in the TANF program means the following:

- (a) An individual who is not a *caretaker relative* (see section (13) of this rule) of a *child* in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or
 - (b) A *minor parent* (see section (44) of this rule) whose parents have chosen to apply for benefits for the *minor parent*. This does not apply to a *minor parent* who is married and living with his or her *spouse*.
- (24) "Disability" means:
- (a) In the SNAP program, see OAR 461-001-0015.
 - (b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining *eligibility*:
 - (A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or
 - (B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).
- (25) "Domestic violence" means the occurrence of one or more of the acts described in subsections (a) to (d) of this section between family members, intimate partners, or household members:
- (a) Attempting to cause or intentionally, knowingly, or recklessly causing physical injury or emotional, mental, or verbal abuse.
 - (b) Intentionally, knowingly, or recklessly placing another in fear of imminent serious physical injury.
 - (c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.
 - (d) Using coercive or controlling behavior.
 - (e) As used in this section, "family members" and "household members" mean any of the following:
 - (A) *Spouse*;
 - (B) *Former spouse*;

- (C) Individuals related by blood, *marriage* (see section (42) of this rule), or adoption;
 - (D) Individuals who are cohabitating or have cohabited with each other;
 - (E) Individuals who have been involved in a sexually intimate or dating relationship; or
 - (F) Unmarried parents of a *child*.
- (26) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to victims of *domestic violence*. If the facility serves other people, a portion must be used solely for victims of *domestic violence*.
- (27) "Electronic application" is an application electronically signed and submitted through the Internet.
- (28) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.
- (29) "Equity value" means *fair market value* (see section (30) of this rule) minus encumbrances.
- (30) "Fair market value" means the amount an item is worth on the open market.
- (31) "Family stability" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.
- (32) "Family stability activity" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by an individual, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain *family stability* (see section (31) of this rule).
- (33) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.
- (34) "Homeless" in the ERDC program means lacking a fixed regular and adequate nighttime residence and includes living in an emergency shelter, shared housing with others due to loss of housing or economic hardship, staying in motels, cars, parks, public places, tents, trailers, or other similar settings.
- (345) "Income-producing property" means:

- (a) In all programs except OSIP, OSIPM, and QMB, real or personal property that generates income for the *financial group* (see OAR 461-110-0530). Examples of "income-producing property" are:
 - (A) Livestock, poultry, and other animals.
 - (B) Farmland, rental homes (including a room or other space in the home or on the property of a member of the *financial group*), vacation homes, and condominiums.
- (b) In the OSIP, OSIPM, and QMB programs, "income-producing property" means any real or personal property not used in self-employment (see OAR 461-145-0600 and 461-145-0915) that produces income for the *financial group*. "Income-producing property" includes:
 - (A) Livestock, poultry, or other animals that produce marketable products sold by the *financial group*.
 - (B) Farmland not excluded under OAR 461-145-0220 that is farmed or rented out by the *financial group*.
 - (C) Real property other than the home (including vacation homes and condominiums), that is rented out.
- (c) In the OSIP, OSIPM, and QMB programs, "income-producing property" does not include:
 - (A) Rooms or other space for rent in the home (see OAR 461-145-0220).
 - (B) Livestock, poultry, or other animals kept for resale (see OAR 461-145-0010).

(356) "Initial month" of *eligibility* means any of the following:

- (a) In all programs, the first month a *benefit group* (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.
- (b) In all programs except the SNAP program, the first month a *benefit group* is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.
- (c) In the SNAP program:

- (A) The first month for which the *benefit group* is certified following any period during which they were not certified to participate, except for *migrant and seasonal farm workers* (see OAR 461-001-0015).
- (B) For *migrant and seasonal farmworkers*, the first month for which the *benefit group* is certified following any period of one month or more during which they were not certified to participate.
- (d) For a new applicant to the GA, GAM, OSIP, or OSIPM program applying for care in a *nonstandard living arrangement* (see section (45) of this rule), for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the individual would have been eligible had it not been for the disqualifying transfer of *assets* (see section (5) of this rule).
- (e) For a current recipient of the GA, GAM, OSIP, or OSIPM program receiving or applying for care in a *nonstandard living arrangement*, for the purpose of calculating the correct divisor in OAR 461-140-0296, the later of the following:
 - (A) The month the disqualifying transfer occurred.
 - (B) The month of application for *long-term care* (see section (40) of this rule) services if the individual would have been eligible had it not been for the disqualifying transfer of *assets*.

| (367) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

| (378) "Legally married" means a *marriage* uniting two individuals according to --

- (a) The statutes of the state where the *marriage* occurred;
- (b) Except in the SNAP program, the common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or
- (c) The laws of a country in which the two individuals previously resided while meeting the requirements for legal or cultural marriage in that country.

| (389) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a "life estate" enables the owner of the "life estate" to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A "life estate" is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of the individual's life, certain rights to that property. In addition, a "life estate" is established when a member of the *financial group* purchases a "life estate" interest in the home of another individual.

(~~39~~40) "Lodger" means a member of the *household group* (see OAR 461-110-0210) who---

- (a) Is not a member of the *filing group* (see OAR 461-110-0310); and
- (b) Pays the *filing group*:
 - (A) In all programs except the GA, GAM, OSIP, OSIPM, and QMB programs, for room and board.
 - (B) In the GA, GAM, OSIP, OSIPM, and QMB programs, for room with or without board.

(401) "Long-term care" means the system through which the Department provides a broad range of social and health services to eligible adults who are aged, blind, or have disabilities for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(~~41~~2) "Lump-sum income" means income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. "Lump-sum income" includes:

- (a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.
- (b) Income from inheritance, gifts, winnings, and personal injury claims.

(~~42~~3) "Marriage" means the union of two individuals who are *legally married* (see section (37) of this rule).

(~~43~~4) "Microenterprise" means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than \$35,000.

(~~44~~5) "Minor parent" in the ERDC and TANF programs means a *parent* under the age of 18.

(~~45~~6) "Nonstandard living arrangement" is defined as follows:

- (a) In the GA, GAM, OSIP, OSIPM, and QMB programs, an individual is considered to be in a "nonstandard living arrangement" when the individual is applying for or receiving services in any of the following locations:
 - (A) A nursing facility in which the individual receives *long-term care* services paid with Medicaid funding, except this subsection does not apply to a Medicare client in a skilled-stay nursing facility.
 - (B) An intermediate care facility for the mentally retarded (ICF/MR).
 - (C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.

- (D) A *community based care* (see section (16) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a "nonstandard living arrangement".
- (b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, "nonstandard living arrangement" means each of the following locations:
 - (A) Foster care.
 - (B) Residential Care facility.
 - (C) Drug or alcohol residential treatment facility.
 - (D) Homeless or domestic violence shelter.
 - (E) Lodging house if paying for room and board.
 - (F) Correctional facility.
 - (G) Medical institution.

(467) "OCCS" is the Office of Client and Community Services, part of the Medical Assistance Programs under the Oregon Health Authority responsible for OCCS medical program *eligibility* policy, community outreach, OCCS Medical Program *eligibility* determinations, and the OHA Customer Service Call Center.

(478) "OCCS Medical Programs" refers to programs for which *eligibility* policy can be found in OAR chapter 410, division 200, and includes CEC, CEM, MAA, MAF, EXT, OHP, Substitute Care, BCCTP, and MAGI Medicaid/CHIP programs, including:

- (a) MAGI Adult;
- (b) MAGI Child;
- (c) MAGI Parent or Other Caretaker Relative;
- (d) MAGI Pregnant Woman; and
- (e) MAGI CHIP.

(489) "Ongoing month" means one of the following:

- (a) For all programs except the SNAP program, any month following the *initial month* (see section (35) of this rule) of *eligibility*, if there is no break in the program benefit of one or more calendar months.

- (b) For the SNAP program, any month in the *certification period* (see section (14) of this rule) following the *initial month of eligibility*.

(4950) "Parent" for all programs except the JPI and SNAP programs, means the biological or legal mother or father of an individual or unborn child. For the SNAP program, a "parent" means the biological or legal mother or father of an individual. For the JPI program, a "parent" means the biological or legal mother or father of a *child* under the age of 18.

- (a) If the mother lives with a male and either she or the male claims that he is the father of the *child* or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

- (b) A stepparent relationship exists if:

- (A) The individual is *legally married* to the child's biological or adoptive parent; and
- (B) The *marriage* has not been terminated by legal separation, divorce, or death.

- (c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a "parent" if both of the following are true:

- (A) The *child* lives with the biological parent; and
- (B) The legal parent has given up care, control, and supervision of the *child*.

(501) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.

(512) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.

(523) "Periodic income" means income received on a regular basis less often than monthly.

(534) "Primary person" for all programs except the SNAP program, means the *filing group* member who is responsible for providing information necessary to determine *eligibility* and calculate benefits. The "primary person" for individual programs is as follows:

- (a) For the TANF program, the *parent* or *caretaker relative*.
- (b) For the ERDC program, the *caretaker*.
- (c) For SNAP, see OAR 461-001-0015.

(d) For the GA, GAM, OSIP, OSIPM, QMB, REF, and REFM programs: the client or client's *spouse*.

(545) "Qualified Partnership Policy" means a long-term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:

(a) Issued while the individual was a resident in Oregon on January 1, 2008 or later;
or

(b) Issued in another state while the individual was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.

(556) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as "real property".

(567) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(578) "Safe homes" mean private homes that provide a few nights lodging to victims of *domestic violence*. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(589) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.

(5960) "Shelter-in-kind" means an agency or individual outside the *financial group* provides the shelter of the *financial group*, or makes a payment to a third party for some or all of the *shelter costs* (see section (58) of this rule) of the *financial group*. "Shelter-in-kind" does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.

(601) "Sibling" means the brother or sister of an individual. "Blood-related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the *marriage* of their parents.

(612) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced *spouse* to a member of the *financial group*.

(623) "Spouse" means an individual who is *legally married* to another individual.

(634) "Stable income" means income that is the same amount each time it is received.

(645) "Standard living arrangement" means a location that does not qualify as a *nonstandard living arrangement*.

(656) "Teen parent" means, for TANF and JOBS, a *parent* under the age of 20 who has not completed a high school diploma or GED.

(667) "Timely continuing benefit decision notice" means a *decision notice* that informs the individual of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.

(678) "Trust funds" mean money, securities, or similar property held by an individual or institution for the benefit of another individual.

(689) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

(6970) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 411.837, 412.001, 412.006, 412.014, 412.049, 413.085, 414.685

~~Medical~~ Documentation; Medical, Disability, and Other Determinations

- (1) Medical documentation must be written and must contain all the following:
 - (a) A diagnosis in medical terminology, including an explanation of whether the impairment limits the individual's ability to perform normal functions and, if so, how.
 - (b) A prognosis, including an expected recovery time frame.
 - (c) Clinical findings from physical examination, psychiatric evaluation, X-rays, or a laboratory procedure, including specific data supporting diagnosis of a condition that causes disability, either on a medical or psychiatric basis.
- (2) Except as provided otherwise in section (3) of this rule:
 - (a) To determine eligibility, the Department will accept evaluations from the following medical sources: medical evaluations only from licensed physicians, including psychiatrists, osteopaths, and ophthalmologists; mental evaluations only from psychiatrists and licensed or certified psychologists; and measurement of visual acuity and visual fields only from ophthalmologists and licensed optometrists.
 - (b) The Department will accept supplemental medical and vocational information to augment evaluations from acceptable medical sources, from a licensed social worker, licensed physical or occupational therapist, or licensed nurse practitioner.
- (3) Except for eligibility determinations in the OSIP, OSIPM, QMB, and SFPSS programs, the Department will also accept medical evaluations from licensed nurse practitioners and physician assistants; and mental evaluations from psychiatric mental health nurse practitioners.
- (4) The client must provide or cooperate in obtaining sufficient medical documentation for the Department to determine eligibility.
- (5) In the ERDC program, in addition to the documentation outlined in this rule, the program will accept confirmation from the Office of Child Welfare Programs that supervised contact is required between the *child* (see OAR 461-001-0000) and a *parent* (see OAR 461-001-0000) or *spouse* (see OAR 461-001-0000) who is living in the home with the *child*.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.710, 412.006, 412.009, 412.014, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.710, 412.006, 412.009, 412.014, 412.049

Children in the Head Start Program; ERDC and TANF

- (1) Initial *eligibility* (see OAR 461-001-0000) for the ERDC program (see OAR 461-135-0400) or the TANF program (see OAR 461-135-0070) must be met prior to receiving child care under a contract between a Head Start agency and the Department.
- (2) The following subsections apply when a *child* (see OAR 461-001-0000) in the ERDC or TANF programs receives child care under a contract between a Head Start agency and the Department.
 - (a) The Head Start agency is considered the provider of child care.
 - (b) If the Head Start agency uses another provider for the child care, that provider must meet the requirements in OAR 461-165-0160 and following.
 - (c) The payment made by the Department on behalf of the *child* is made only to the Head Start agency. The *child* is ineligible for child care payments for care not provided under the contract between the Head Start agency and the Department.
 - (d) Once the Department makes a child care payment for the *child* under the contract, the *child* may not lose child care benefits until the next August 31, unless any of the following paragraphs apply:
 - (A) The *child's caretaker* (see OAR 461-001-0000) has been found ineligible for ERDC program benefits under OAR 461-135-0415 for failure to make a copayment.
 - (B) The *caretaker* was found ineligible because of inaccurate information provided to the Department or because information was withheld from the Department when *eligibility* was determined.
 - (C) The *caretaker* fails to meet the requirements of the locally-prepared agreement among the client and the Head Start program.
 - ~~(D) In the ERDC program, the *caretaker* is found ineligible for ERDC program benefits under OAR 461-160-0040(5) unless the *caretaker* is—~~
 - ~~(i) Continuing to actively seek employment (other than self employment) during the hours the contracted Head Start program is operating; and~~
 - ~~(ii) Available to work (other than self employment) during the operating hours of the contracted Head Start program.~~
 - (DE) The *child* is no longer attending a Head Start contracted program.

(~~EF~~) The *caretaker* of the *child* voluntarily quits their job or causes their own dismissal and does not meet the "good cause" criteria set out in OAR 461-135-0070(2).

(~~FG~~) The *caretaker* of the *child* is no longer employed and enrolls in school, unless the *caretaker* is --

- (i) Continuing to actively seek employment during the hours the contracted Head Start program is operating; and
- (ii) Available to work during the operating hours of the contracted Head Start program.

(~~GH~~) In the TANF program:

- (i) The case closes due to disqualification (see OAR 461-130-0330); or
- (ii) The *caretaker* is not actively participating in an open *case plan* (see OAR 461-001-0025).

(~~HI~~) The *filing group* (see OAR 461-110-0350) no longer meets Oregon residency requirements under OAR 461-120-0010.

(e) For any month in which the *child* is eligible to be served under a contract covered by this rule is receiving ERDC, and the client complies with a plan developed jointly by the client, the Head Start agency, and the Department (plan), the Department waives the client's copayment for the child, in whole or in part, if the waiver is provided for in the contract's §27.

(f) For any month in which a child in a contract covered by this rule is eligible for and receiving TANF, the copayment is zero~~the client's child is eligible to be served under a contract and the client complies with a plan, the Department waives the copayment with respect to the child's siblings, in whole or in part, if the waiver is provided for in the contract.~~

(3) The Department will not make a child care payment for a *child* in a Head Start program if the child's *caretaker* has been found ineligible for ERDC program under OAR 461-135-0415 for failure to make a copayment.

Stat. Auth: ORS 409.050, 411.060, 411.116, 412.049

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.116, 411.122, 412.049

Children in Oregon Program of Quality Contracted Child Care; ERDC and TANF

- (1) Initial *eligibility* (see OAR 461-001-0000) for the ERDC program (see OAR 461-135-0400) or the TANF program (see OAR 461-135-0070) must be met prior to receiving child care under a contract between an Oregon Program of Quality (OPQ) provider and the Department.
- (2) The following subsections apply when a *child* (see OAR 461-001-0000) in the ERDC or TANF programs receives child care under a contract between an OPQ provider and the Department.
 - (a) The payment made by the Department on behalf of the *child* is made only to the OPQ provider. The *child* is ineligible for child care payments for care not provided under the contract between the OPQ provider and the Department.
 - (b) Once the Department makes a child care payment for the *child* under the contract, the *child* may not lose child care benefits until the next August 31, unless any of the following paragraphs apply:
 - (A) The *child* is no longer attending an OPQ contracted provider.
 - (B) The *filing group* (see OAR 461-110-0350) was found ineligible because of inaccurate information provided to the Department or because information was withheld from the Department when *eligibility* was determined.
 - (C) The *filing group* fails to meet the requirements of the agreement between the client and the OPQ provider.
 - (D) The *caretaker* (see OAR 461-001-0000) of the *child* voluntarily quits their job or causes their own dismissal, and does not meet the "good cause" criteria set out in OAR 461-135-0070(2).
 - (E) The *caretaker* of the *child* is no longer employed and enrolls in school full time, unless the *caretaker* is --
 - (i) Continuing to actively seek employment during the hours the OPQ contracted child care program is operating; and
 - (ii) Available to work during the operating hours of the OPQ provider.
 - (F) In the ERDC program:
 - ~~(i)~~ The the *caretaker* of the *child* has been found ineligible under OAR 461-135-0415 for failure to make a copayment.

~~(ii) The caretaker of the child is found ineligible due to self-employment (see OAR 461-160-0040(5)), unless during the operating hours of the OPQ contracted provider, the caretaker is—~~

~~(I) Continuing to actively seek employment (other than self-employment); and~~

~~(II) Available to work (other than self-employment).~~

(G) In the TANF program:

(i) The case closes due to disqualification (see OAR 461-130-0330);
or

(ii) The caretaker is not actively participating in an open case plan (see OAR 461-001-0025).

(H) The filing group (see OAR 461-110-0350) no longer meets Oregon residency requirements under OAR 461-120-0010.

(3) ~~Except as provided in section (4) of this rule, f~~For any month in which a child is eligible to be served under a contract covered by this rule is receiving ERDC, the ~~client's~~ copayment is \$27~~established under OAR 461-155-0150(12)(a)~~.

(4) For any month in which a child is eligible to be served under in an OPQ contracted slot contract covered by this rule is eligible for and receiving TANF, the copayment is zero.

Stat. Auth.: ORS 409.050, 411.060, 411.116, 412.049

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.116, 411.121, 411.122, 411.135, 412.049

Self-Employment; General; Not OSIP, OSIPM, or QMB

- (1) Self-employment income is income resulting from an individual's business, trade, or profession, rather than from a salary or wage paid by an employer. An individual is considered self-employed if the individual meets the criteria in sections (2) or (3) of this rule. Except as noted in section (3) of this rule, for all programs except SNAP, when an individual has established a corporation, determine if the individual is self-employed according to section (2) of this rule. If the individual has more than one self-employment business, trade, or profession, the income from each is determined separately.
- (2) Except as provided in OAR 461-145-0250(1), an individual is self-employed for the purposes of this division of rules if the individual:
 - (a) Is considered an independent contractor by the business that employs the individual; or
 - (b) Meets at least four of the following criteria:
 - (A) Is engaged in an enterprise for the purpose of producing income.
 - (B) Is responsible for obtaining or providing a service or product by retaining control over the means and manner of providing the work or services offered.
 - (C) Is principally responsible for the success or failure of the business operation by assuming the necessary business expenses and profit or loss risks connected with the operation of the business, and has the authority to hire and fire employees to perform the labor or services.
 - (D) Is not required to complete an IRS W-4 form for an employer and is not required to have federal income tax or FICA payments withheld from a pay check.
 - (E) Is not covered under an employer's liability or workers' compensation insurance policy.
- (3) Notwithstanding section (2) of this rule:
 - (a) Homecare Workers (see OAR 411-031-0020) paid by the Department are not self-employed.
 - (b) Child care providers (see OAR 461-165-0180) paid by the Department, adult foster home providers (see OAR 411-050-0602) paid by the Department, realty agents, and individuals who sell plasma, redeem beverage containers, pick

mushrooms for sale, or engage in similar enterprises are considered to be self-employed.

- (4) In the ERDC, REF, SNAP, and TANF programs, self-employment income, including income from a *microenterprise* (see OAR 461-001-0000), is counted prospectively to determine *eligibility* (see OAR 461-001-0000) as follows:
 - (a) Self-employment income is annualized when it is:
 - (A) Received during less than a 12-month period but is intended as a full year's income.
 - (B) From a business that has operated for a full year and the previous year is representative of what the income and costs will be during the budget month.
 - (b) Except in the ERDC program, self-employment income is treated as anticipated income when a *financial group* (see OAR 461-110-0530) begins self-employment and is unable to determine what the income and costs will be during the budget month.
- (5) In the GA program, self-employment income is considered available upon receipt by a member of the *financial group*, except it is prorated over the period of work if the duration of the work exceeds one month.
- (6) In the REFM program:
 - (a) Self-employment income is counted only if received in the month of application.
 - (b) If self-employment income counted in the month of application puts the applicant over the income limits for REFM, the income is calculated according to section (4) of this rule.
- (7) When determining the amount of *countable* (see OAR 461-001-0000) self-employment income, use gross receipts and sales, including mileage reimbursements, before costs.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Dependent Care Costs; Deduction and Coverage

- (1) In the SNAP program, dependent care is deductible (see OAR 461-160-0430) when all of the following are true:
 - (a) The dependent is a member of the filing group and is in the care, control, and custody of an individual in the group.
 - (b) The dependent care provider--
 - (A) Is not in the filing group; and
 - (B) Is not the *parent* (see OAR 461-001-0000) of the dependent.
 - (c) The dependent care is necessary because the client is working, commuting, on a meal break, in training, participating in pre-employment education, or participating in an OFSET *case plan* (see OAR 461-001-0020).
- (2) In the ERDC, REF, and TANF programs, the cost of dependent child care may be paid for by the Department (is covered) only if dependent child care is necessary for the working client to perform his or her job duties, except in the ERDC program the cost of dependent care is allowed for approved educational hours and child care authorized under section (5) of this rule. For a client working under a JOBS Plus agreement, child care is covered during the time the client is engaged in work or in job search if the employer pays the client during that time.
- (3) In the ERDC, JOBS, REF, and TANF programs, the cost of dependent child care is not covered by the Department when free care is available, such as during school hours for school-age children.
- (4) Child care is not covered in the ERDC, REF, and TANF programs if the nature of the work of the *caretaker* (see OAR 461-001-0000) does not make it necessary for a person other than the *caretaker* (~~see OAR 461-001-0000~~) to provide the care. Child care is not covered during a period of time when the *caretaker* --
 - (a) Works at home and the nature of the work allows the *caretaker* to provide the care without significantly affecting the work;
 - (b) Provides child care in a residence; or
 - (c) Works for a provider of child care in a residence ~~that is not certified~~, unless the provider is a certified family child care home under OAR 414-350-0000 to 414-350-0400.
- (5) In the ERDC program the cost of dependent child care may continue to be paid for by the Department (is covered) during the certification period (see OAR 461-001-0000) with no change to the authorized child care hours subject to the following provisions:

- ~~(a) — Child care is not covered during a period of time when the *caretaker* is self-employed (see OAR 461-145-0910).~~
- ~~(b) — The cost of dependent child care may continue to be paid for, at the same benefit level, by the Department (is covered) for job search, through the end of the month following the month in which a loss of all employment for an adult in the filing group occurred if both of the following paragraphs apply.~~
 - ~~(A) — The loss of employment is reported in a timely manner.~~
 - ~~(B) — None of the following sub-paragraphs apply:
 - ~~(i) — The loss of employment included self-employment.~~~~
- (a) — When a reduction in work hours occurs the copay may be adjusted.
- (b) — When a job loss occurs:
 - (A) — When a *caretaker* has a permanent job loss from all employment the copay is waived for up to three months for a work search period, starting the month after the job loss occurred.
 - (B) — The waiver ends at the end of the three month period if the *caretaker* becomes employed.
 - (C) — The three month work search period does not apply when:
 - (iii) — The adult was discharged or fired without *good cause* (see OAR 461-135-0070(3~~2~~)) for misconduct, felony, or theft. "Misconduct" means willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee, including an act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest.
 - (iii) — The adult voluntarily quit in anticipation of discharge or without *good cause* (see OAR 461-135-0070(3)).
- (c) — For medical leave:
 - (A) — When a *caretaker* is on medical leave the reason for the leave must be verified including diagnosis and prognosis under OAR 461-125-0830. Maternity leave may be authorized for three months (12 weeks) without medical documentation.
 - (B) — For a decrease or increase in income during or at the end of medical leave see OAR 461-180-0005 and OAR 461-180-0030.

- (C) Medical leave and maternity leave can be extended when new verification is received prior to the end of the month noted on the original documentation. Medical leave cannot extend beyond the *certification period*.
 - (d) For military transition:
 - (A) When a *caretaker* who is a discharged U.S. military member returns from active duty in a military war zone, the copay is waived for up to six months starting the month after the military member returns home.
 - (B) The copay waiver ends at the end of the six month period if the *caretaker* becomes employed. The copay waiver ends before the end of the six month period if the *caretaker* returns to active duty.
 - (e) Under this section child care may be used for work, work search, approved educational hours, military transition activities, or other activities to maintain a part-time or full-time slot at a child care facility.
- (6) In the JOBS and REF programs, the cost of child care may be covered while the care is necessary to enable the client to participate in a *case plan* (see OAR 461-190-0211).
- (7) In the ERDC, JOBS, JOBS Plus, REF, and TANF programs, the cost of dependent child care may be paid for (is covered) by the Department, only if all the following are true:
- (a) The dependent child:
 - (A) In the ERDC program, is a member of the *benefit group* (see OAR 461-110-0750) and is in the care, control, and custody of an individual in the group.
 - (B) In the JOBS, JOBS Plus, REF, and TANF programs, lives with the filing group.
 - (b) The provider of child care is not in the filing group.
 - (c) The provider of child care is not the *parent of the dependent a child in the filing group*.
- (8) Coverage of the cost of dependent care is subject to the requirements in OAR Chapter 461 of the Oregon Administrative Rules, including OAR 461-120-0510(3), 461-135-0400, 461-155-0150, 461-160-0193, 461-165-0180, and 461-190-0211.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049

Use of Income to Determine Eligibility and Benefits for ERDC

The Department determines financial eligibility for ERDC and the benefit level as follows:

- (1) The monthly income of the *financial group* (see OAR 461-110-0530) is determined in accordance with OAR 461-150-0060.
- (2) The monthly income [at initial certification and recertification](#) is compared to the ERDC eligibility standards in OAR 461-155-0150(5). If monthly income equals or exceeds the eligibility standards, the need group is ineligible for ERDC. If monthly income does not exceed the eligibility standard, the client's eligibility is determined under section (3) of this rule.
- (3) For a client found eligible under section (2) of this rule, the allowable child care cost and the client's copay are determined as follows:
 - (a) The child care costs for which the client has been billed are compared to the amount provided in the appropriate child care chart in OAR 461-155-0150. The allowable child care cost is the lesser of the two amounts.
 - (b) The need group's copay is determined in accordance with OAR 461-155-0150.
- (4) The copay is subtracted from the allowable child care cost, and the remainder is the payment the Department makes to the provider. If the copay is equal to or greater than the allowable child care cost, the client is not eligible for ERDC. If the copay is less than the allowable child care cost, the client meets the income requirement for ERDC.

Stat. Authority: ORS 411.060

Stats. Implemented: ORS 411.060, 411.122

THIS RULE IS REVISED IN ITS ENTIRETY

In the ERDC program:

- (1) ~~The length of the *certification period* (see OAR 461-001-0000) is as follows:~~
- ~~(a) If the child care need occurs within one calendar month, the *certification period* consists of that month only.~~
 - ~~(b) If the child care need occurs within two consecutive calendar months, the *certification period* consists of those two months only.~~
 - ~~(c) When income can be reasonably anticipated for three months or more, the *certification period* may be up to six months.~~
 - ~~(d) A case with companion SNAP program benefits and participating in SRS may have a *certification period* of up to 12 months.~~
- (2) ~~The Department recalculates the anticipated income over the remaining months when a client reports income changes during eligibility periods that, under OAR 461-150-0060, would cause a substantial change in the copayment.~~
- (1) The length of the *certification period* (see OAR 461-001-0000) may not be less than 12 months. In the following situations the certification period may be extended beyond the certification end date:
- (a) Caretakers in authorized work search and medical leave are limited to no more than three months.
 - (b) Caretakers on military transition are limited to no more than six months.
- (2) A filing group (see OAR 461-110-0310 and 461-110-0350) that is determined to be *homeless* (see OAR 461-001-0000) or requires child care for a current foster child may receive "priority processing." For purposes of this rule, "priority processing" means the benefits may be open for up to three months while pending for verification of income or work schedule during the application period.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 409.610, 411.060

When a Reapplication Form is Considered Complete or Not Received; ERDC

In the ERDC program:

- (1) At the end of the certification ~~period~~ (see OAR 461-001-0000), authorized work search, medical leave, or military transition period (see OAR 461-160-0040(5)), whichever is later, a client must complete and return to a Department *branch office* (see OAR 461-001-0000) a reapplication form before a new *certification period* may be established under OAR 461-170-0150.
- (2) A reapplication form is considered complete when it is received by a Department *branch office* by the 10th day of the last month of the certification ~~period~~, authorized work search, medical leave, or military transition period, whichever is later, and:
 - (a) The client answers, completely and accurately, all questions necessary to determine a copay amount for the following *certification period*;
 - (b) The client provides all required verification; and
 - (c) The form contains the signature of the *primary person* (see OAR 461-001-0000) or the *authorized representative* (see OAR 461-115-0090).
- (3) When a Department *branch office* receives a completed reapplication form by the deadline in section (2) of this rule, the form is used to:
 - (a) Determine *eligibility* for ERDC benefits;
 - (b) Establish the ERDC benefit copay~~ment~~ amount for the next *certification period*; and
 - (c) Establish the next *certification period* as beginning on the first day of the month following the last month of the previous certification, ~~period~~, authorized work search, medical leave, or military transition period, whichever is later.
- (4) When a Department *branch office* does not receive a completed reapplication form on or before the deadline in section (2) of this rule, the case is closed effective the last day of the last month of the certification, ~~period~~, authorized work search, medical leave, or military transition period, whichever is later.
- (5) If the reapplication form is received after the deadline in section (2) of this rule, it is treated as a new application in accordance with OAR 461-115-0050.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 409.610, 411.060, 411.105, 411.111

Notice Situations - Expiration of Certification Period; ERDC, SNAP, TANF

In the ERDC, SNAP, and TANF programs:

- (1) ~~Except in the ERDC program,~~ The Department must provide a household certified for one month or certified in the second month of a two-month *certification period* (see OAR 461-001-0000) a notice of expiration at the time of certification.
- (2) In the ERDC program, each household ~~not covered under section (1) of this rule~~ must receive a notice of expiration prior to the last month of the *certification period*.
- (3) In the ERDC program, the notice of expiration must contain:
 - (a) The date the *certification period* expires.
 - (b) A statement that to receive benefits, the client must reapply and be found eligible for a new benefit amount.
 - (c) The household's right to request a contested case hearing if the reapplication is denied or if the household objects to the benefit amount.
- (4) In the SNAP program, each household other than those covered under section (1) of this rule must receive a notice of expiration before the first day of the last month of the *certification period* (established per OAR 461-115-0450), but not before the first day of the next-to-the-last month.
- (5) In the SNAP program, notice of expiration under this rule is provided to the *filing group* (see OAR 461-110-0370) and must contain all of the following:
 - (a) The date the *certification period* expires.
 - (b) The date by which a household must submit an application for recertification to receive uninterrupted benefits.
 - (c) The consequences of failure to apply for recertification in a timely manner.
 - (d) The right to receive an application form upon request and to have it accepted as long as it contains a signature and a legible name and address.
 - (e) Information on alternative submission methods available to households that are not able to come into the certification office or do not have an authorized representative and how to exercise these options.
 - (f) The address of the office where the application must be filed.

- (g) The household's right to request a contested case hearing if the recertification is denied or if the household objects to the benefit amount.
 - (h) A statement that any household consisting only of Supplemental Security Income (SSI) applicants or recipients is entitled to apply for SNAP program benefits recertification at an office of the Social Security Administration.
 - (i) A statement that failure to attend an interview may result in delay or denial of benefits.
 - (j) A statement that the household is responsible for rescheduling a missed interview and for providing required verification information.
 - (k) A statement that the client has no rights to continuation of benefits after the SNAP program *certification period* expires; and that to receive benefits, the client must reapply and be found eligible for a new benefit amount after the end of the *certification period*, including a client who is receiving continuation of benefits when his or her SNAP program *certification period* ends.
- (6) In the TANF program, each household other than those covered under section (1) of this rule must be sent --
- (a) Before the first day of the last month of the *certification period* (see OAR 461-001-0000 and 461-115-0430), but not before the first day of the next-to-the-last month, a recertification packet that contains application forms, deadlines, and information about the consequences of not reapplying on time; and
 - (b) A *basic decision notice* (see OAR 461-001-0000) about the expiration of the *certification period* (see OAR 461-001-0000 and 461-115-0430).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.816, 412.049

Notice Situation; Prior Notice

- (1) Except as provided in section (5) of this rule, 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 benefits will end or be reduced, and no further *decision notice* is required.
- (2) Except as provided in section (5) of this rule, in any Department program except a medical program and the SNAP program, if the *benefit group* was informed in writing when the benefits began that 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.
- (3) A *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* was informed of this in writing when the allowance began. A *timely continuing benefit decision notice* (see OAR 461-001-0000) is required if stopping the special need allowance results in benefit closure.
- (4) In the JOBS Plus program, a *basic decision notice* is used if--
 - (a) An employer submits a wage reimbursement billing and the Department calculates a supplement (see OAR 461-190-0416 about supplements);
 - (b) The *benefit group* received a *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) No additional *decision notice* is required when:
 - (a) Notwithstanding OAR 461-115-0010(6), when a *benefit group* submits an application for a program from which they currently are receiving benefits.
 - (b) In the ERDC program when a filing group (see OAR 461-110-0350) is receiving priority processing (see OAR 461-170-0150(2)) but does not return postponed verification to the Department by the last day of the month in which the application period ends (see OAR 461-115-0190).
 - ~~(b)~~ In the OSIPM program--

- (A) A client's liability returns to the previous higher level after the Department sent the client a *continuing benefit decision notice* for a decrease in the client liability due to an allowable deduction and that notice also specified when the deduction no longer would apply causing the client liability to return to the previous higher level; or
 - (B) A client's benefits are being closed or reduced and the Department sent the client a *basic decision notice* of eligibility and a simultaneous *continuing benefit decision notice* because the client's circumstances changed between the date of the client's application and the date of the Department's eligibility decision and the change caused the client's benefits to be reduced or closed.
- (6) In the SNAP program:
- (a) A *basic decision notice* is used to close benefits 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 a *decision notice* at the time of application or redetermination that--
 - (A) The allotment of the *benefit group* would vary from month to month and listed the anticipated changes;
 - (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) In the case of a *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 183.417, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 414.231, 414.826

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