

Secretary of State  
Certificate and Order for Filing  
**TEMPORARY ADMINISTRATIVE RULES**

A Statement of Need and Justification must accompany this form.

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on

December 31, 2015 by the

Department of Human Services, Office of Self-Sufficiency Programs

461

**Agency and Division**

**Chapter Number**

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to become effective January 1, 2016 through June 28, 2016.\*

*\*Temporary rules are effective for a maximum of 180 days including the effective date.*

**Rule Caption:** *Amending rules relating to time limits for some SNAP clients*

**AMEND:**

ORS 411.060, 411.070, 411.121, 411.816

**Stat. Auth.**

Food and Nutrition Act of 2008 – 7 USC 2015(o), 7 USC 2020(s)(5), 7 CFR 273.7, 7 CFR 273.12, 7 CFR 273.24, 7 CFR 273.26

**Other Auth.**

ORS 411.060, 411.070, 411.121, 411.816, 411.825, 411.837

**Stats. Implemented**

## Rule Summary

Effective January 1, 2016, the Department is implementing a three-month limit on SNAP benefits for ABAWD (able-bodied adults without dependents) clients residing in Multnomah and Washington counties who are not otherwise exempt. (Oregon's statewide waiver of this federal requirement expires December 31, 2015. The new waiver excludes all reservations and counties in Oregon, except Multnomah and Washington.) The Department is adopting the temporary amendments below as part of the implementation of the time limit.

OAR 461-130-0310 about participation classifications is being amended to exempt chronically homeless individuals from employment program participation in the SNAP program. An individual is considered chronically homeless if an individual is currently homeless and one of the following applies:

- The individual has been homeless for more than six months.
- The individual has been homeless more than one time in the last year.

- The individual states that the individual is unable to meet the basic necessities of everyday life.

OAR 413-135-0506 about Transitional Benefit Alternative (TBA) is being amended to state that a household may not participate in TBA if a member of the financial group is subject to a penalty in the SNAP program because the individual becomes ineligible for or disqualified from participation in the SNAP program because of the time limit for ABAWD clients living in Multnomah and Washington counties.

# STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules must accompany this form.

Department of Human Service, Office of Self-Sufficiency Programs

461

**Agency and Division**

**Chapter Number**

**In the Matter of:** *Temporary amendment of OAR 461-130-0310 and 461-135-0506*

**Rule Caption:** *Amending rules relating to time limits for some SNAP clients*

## Need for the Rules

OAR 461-130-0310 needs to be amended because individuals who are chronically homeless may have difficulty meeting the work requirements to continue to receive food benefits and the Food and Nutrition Service (FNS) has clarified that states may define "chronically homeless" and exempt these individuals from the ABAWD time limits. (See [correspondence](#) dated November 19, 2015.) Therefore, the Department worked with hunger advocates and the Oregon Law Center to develop these temporary amendments that define chronically homeless and clarify that these individuals are exempt from employment program participation and disqualification consistent with federal guidance.

OAR 461-135-0506 needs to be amended because it does not address the situation in which an individual receiving transitional benefits (TBA) becomes an ABAWD. The amendment clarifies that ABAWD clients must meet work requirements to receive transitional benefits.

## Documents Relied Upon

Food and Nutrition Service correspondence dated November 19, 2015, regarding ABAWD Time Limit Policy and Program Access available at <http://www.fns.usda.gov/sites/default/files/snap/ABAWD-Time-Limit-Policy-and-Program-Access-Memo-Nov2015.pdf>.

## Justification of Temporary Rules

The Department finds that failure to act promptly by amending OAR 461-130-0310 will result in serious prejudice to the public interest, the Department, and SNAP clients in Multnomah and Washington counties who are subject to the time limit and who are chronically homeless. These clients may have difficulty meeting the work requirements and therefore lose food benefits which may be their only way to access food. The Department worked on these amendments with hunger advocates and the Oregon Law Center and in line with FNS guidance. The Department needs to proceed by temporary rule because the public, the Department, and clients who are chronically homeless will immediately benefit because they will be eligible to be exempt from the time limit.

The Department finds that failure to act promptly by amending OAR 461-135-0506 will result in serious prejudice to the public interest, the Department, and SNAP clients in Multnomah and Washington counties who are subject to the time limit. If these clients are receiving transitional benefits and do not meet the federal work requirements, they will have an overissuance of SNAP benefits. The Department needs to proceed by temporary rule because the public, the Department, and these clients will immediately benefit because the rule will accurately reflect eligibility for transitional benefits consistent with federal law.

## Participation Classifications: Exempt, Mandatory, and Volunteer

- (1) In the Post-TANF, Pre-TANF, REF, SNAP, and TANF programs:
  - (a) The Department assigns an individual to one or more employment program participation classifications--*exempt*, *mandatory*, and *volunteer* (see OAR 461-130-0305 for definitions of all three terms).
  - (b) In the Post-TANF program, an individual is classified as a *volunteer*.
- (2) In the Pre-TANF, REF, and TANF programs:
  - (a) An individual is *exempt* from employment program participation and disqualification if the individual meets the requirements of at least one of the following paragraphs. The individual is --
    - (A) Pregnant and in the month before the month in which the due date of the pregnancy falls.
    - (B) A *parent* (see OAR 461-001-0000) during the first six months after the birth of the parent's *dependent child* (see OAR 461-001-0000) except that the Department may require the *parent* to participate in parenting classes or a *family stability activity* (see OAR 461-001-0000). An exemption allowed under this paragraph may apply only to one *mandatory* participant in each filing group (see OAR 461-110-0310, 461-110-0330, and 461-110-0430).
    - (C) Under 20 years of age during the first 16 weeks after giving birth except that the individual may be required to participate in suitable activities with a preference for educational activities, parenting classes, and *family stability activity*.
    - (D) A *parent* providing care for a family member who is an individual with a *disability* (see OAR 461-001-0000) and is in the *household group* (see OAR 461-110-0210) with the *parent*. Medical documentation to support the need for the care is required.
    - (E) An REF client 65 years of age or older.
    - (F) A TANF client 60 years of age or older.
    - (G) A noncitizen who is not authorized to work in the United States.
    - (H) An individual who is eligible for and receives supplemental security income (SSI) from the Social Security Administration.

- (I) A *caretaker relative* (see OAR 461-001-0000) who is non-needy.
  - (J) An individual whose participation is likely to cause undue hardship or is contrary to the best interests of the *dependent child* or *needy caretaker relative*.
  - (K) A pregnant individual who participates more than 10 hours per week during the two months before the month in which the pregnancy due date falls.
  - (L) A VISTA volunteer.
- (b) A *caretaker relative* of a *dependent child* or unborn who receives TANF program benefits is *mandatory* if the *caretaker relative* is in the same filing group with the *dependent child* or unborn (even if the *caretaker relative* is not in the TANF program *benefit group* under OAR 461-110-0750), unless the *caretaker relative* is otherwise *exempt* from participation under subsection (a) of this section.
- (3) In the SNAP program:
- (a) An individual is *exempt* from employment program participation and disqualification if the individual meets the requirements of one of the following paragraphs. The individual is --
    - (A) Working a minimum of 30 hours a week or earning money equal to at least the federal minimum wage multiplied by 30 hours per week multiplied by 4.3 weeks. An individual who is self-employed with allowable costs must meet the earnings threshold after allowing the 50 percent deduction. This includes *migrant and seasonal farm workers* (see OAR 461-001-0015) who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days.
    - (B) An individual with a physical or mental condition that prevents performance of any work.
    - (C) Responsible for the care of a *child* (see OAR 461-001-0000) in the household under 6 years of age or an individual in the household with a *disability* (see OAR 461-001-0015) that substantially reduces or eliminates the individual's ability to care for himself or herself.
    - (D) Providing care for at least 30 hours a week for an individual in another household with a *disability* that substantially reduces or eliminates the individual's ability to care for himself or herself.

- (E) Enrolled at least half-time, as defined by the school, in any high school or equivalent program recognized by a school district or enrolled at least half-time in any school, training program, or institution of higher education. An individual remains *exempt* during normal periods of class attendance, vacation, and recess but no longer qualifies for the student exemption when a break in enrollment occurs due to graduation, suspension or expulsion, or when the student drops out of school or does not enroll in classes for the next regular school term (excluding summer term).
- (F) Receiving program benefits under Title IV of the Social Security Act.
- (G) In receipt of unemployment insurance benefits, has completed an application for unemployment insurance benefits and is waiting for an initial decision on the claim, or is participating in at least one of the following Employment Department training programs:
  - (i) The Trade Readjustment Allowance (TRA) program serving displaced workers under the Trade Act.
  - (ii) The Training Unemployment Insurance (TUI) program.
  - (iii) The Self-Employment Insurance (SEA) program.
  - (iv) The Apprenticeship Program (APT).
- (H) Participating in a drug or alcohol treatment and rehabilitation program.
- (I) Pregnant.
- (J) Considered chronically homeless. For purposes of this rule, an individual is considered chronically homeless if the individual is currently *homeless* (see OAR 461-001-0015) and one of the following applies:
  - (i) The individual has been homeless for more than six months.
  - (ii) The individual has been homeless more than one time in the last year.
  - (iii) The individual states that the individual is unable to meet the basic necessities of everyday life.
- (JK) Lacking adequate dependent care.
- (KL) Without adequate transportation available.

(~~L~~M) Experiencing a barrier to employment, such as being homeless or having a short-term physical or mental limitation or a serious family problem.

- (b) A *mandatory client* is an individual in the *need group* (see OAR 461-110-0630); who is 16 or 17 years of age and a *primary person* (see OAR 461-001-0015), or 18 years of age and older and 59 years of age and younger; and who is not *exempt* under subsection (a) of this section.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.009, 412.014, 412.049  
Stats. Implemented: ORS 409.010, 409.750, 411.060, 411.070, 411.816, 411.837, 412.006, 412.009, 412.014, 412.049

## Transitional Benefit Alternative (TBA) in the SNAP Program

- (1) This rule establishes the transitional benefit alternative (TBA). A client participating in TBA continues to receive SNAP benefits without reduction during the transition period. The transition period is five months. If the *filing group* (see OAR 461-110-0370) separates into two groups during the TBA period, only the group containing the head of household continues in the TBA.
- (2) In the SNAP program, a client who receives a cash grant from the Department in the SFPSS or TANF programs may participate in TBA when the benefits are stopped, except as provided in section (4) of this rule.
- (3) The benefit level for the transition period is based on countable income for SNAP during the last month before TBA begins, but the Title IV-A grant is not counted as income. Once it is established, the TBA benefit level is changed only when--
  - (a) The *filing group* submits a new application in the SNAP program and will receive more SNAP benefits if they are not using the TBA reporting system;
  - (b) A member of the *filing group* leaves and applies for SNAP benefits as a member of another household; or
  - (c) The Department initiates a change identified in OAR 461-170-0200.
- (4) A household may not participate in TBA in each of the following situations:
  - (a) A member of the *filing group* is receiving benefits of the TANF program.
  - (b) The TANF benefits are stopped because the household does not reside in Oregon.
  - (c) The TANF benefits are stopped because of a change that results in ineligibility for TANF and the household failed to complete a timely report or to complete a required action on time.
  - (d) As of the date the TANF case closed, an individual in the household was serving a penalty imposed in the TANF program.
  - (e) The TANF benefits are stopped at the request of the household after the household is informed of an impending disqualification in the TANF program.
  - (f) The head of household becomes ineligible for the SNAP program because he or she lives in an institution or in a facility that provides at least 50 percent of the meals.

- (g) A member of the *financial group* (see OAR 461-110-0530) is subject to a penalty in the SNAP program because of the individual's conduct, for instance, because the individual--
- (A) Was excluded from the *need group* under OAR 461-110-0630(5);
  - (B) Was penalized for failure to meet a requirement of an employment program;
  - (C) Was ineligible for SNAP benefits under OAR 461-105-0410; or
  - (D) Was ineligible for or disqualified from participation in the SNAP program because of a failure to comply with a requirement of the program to provide complete and accurate information to the Department.
  - (E) Becomes ineligible for or disqualified from participation in the SNAP program because of the time limit imposed under OAR 461-135-0520.
- (5) Once the TBA benefits have ended, a client's eligibility for the SNAP program is determined on the basis of a new application.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816