

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

February 5, 2016 by the

Department of Human Services, Office of Self-Sufficiency Programs

461

Agency and Division

Chapter Number

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to become effective February 5, 2016 through August 2, 2016.*

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

Rule Caption: *Establishing Workfare requirements for SNAP recipients subject to ABAWD time limit*

ADOPT: 461-190-0500

AMEND: 461-135-0520

ORS 409.050, 411.060, 411.070, 411.816

Stat. Auth.

Food and Nutrition Act of 2008; 7 U.S.C. 2015(o); 7 CFR 273.24; 273.7

Other Auth.

ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

Stats. Implemented

Rule Summary

The Department of Human Services, Office of Self-Sufficiency Programs, is adopting a new rule, OAR 461-190-0500, to establish the requirements for Workfare. Workfare is an employment program open to ABAWD (able-bodied adults without dependents) clients who reside in Multnomah or Washington County. (Oregon's statewide waiver of the federal three-month time limit on SNAP benefits expired on December 31, 2015. Starting January 1, 2016, ABAWD clients in Multnomah and Washington counties who are not otherwise exempt are subject to the time limit unless they meet work participation requirements.) OAR 461-135-0520 which states the requirements for ABAWD clients is also amended to indicate that Workfare is an option open to these clients.

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 adoption of OAR 461-190-0500 and amendment of OAR 461-135-0520*

Need for the Rules

OAR 461-190-0500 needs to be adopted and OAR 461-135-0520 needs to be amended as part of the Department's implementation of a three-month time limit for SNAP benefits for ABAWD clients in Multnomah and Washington counties. ABAWD clients subject to the time limit must meet work requirements to continue to receive SNAP benefits beyond the three-month time limit. The Oregon Food Bank and PCC will be starting a site to serve as an employment option for ABAWD. These temporary rules establish the requirements for Workfare so that it can be used by ABAWD clients to meet the work requirements.

Documents Relied Upon

None.

Justification of Temporary Rules

The Department finds that failure to act promptly by adopting OAR 461-190-0500 and amending OAR 461-135-0520 will result in serious prejudice to the public interest, the Department, and SNAP clients in Multnomah and Washington Counties who are subject to the three-month time limit described in OAR 461-135-0520. The Department needs to proceed by temporary rule because under the temporary amendments, ABAWD clients will be able to use Workfare as an employment option to continue to receive food benefits beyond the three-month time limit.

Eligibility Requirements for ABAWD; SNAP

This rule establishes *eligibility* (see OAR 461-001-0000) requirements for receipt of SNAP benefits for certain adults.

- (1) An able-bodied adult without dependents (ABAWD) means an individual 18 years of age or over, but under the age of 50, without dependents. For the purpose of this definition, "without dependents" means there is no *child* (see OAR 461-001-0000) under the age of 18 years in the filing group (see OAR 461-110-0310 and 461-110-0370).
- (2) Except as provided otherwise in this rule, an ABAWD who resides in Multnomah or Washington County is ineligible to receive food benefits as a member of any household if the individual received food benefits for more than three *countable months* (see section (3) of this rule) during January 1, 2016 to December 31, 2018.
- (3) "Countable months" means months within the 36-month period of January 1, 2016 to December 31, 2018 in which an individual receives SNAP benefits in Oregon or in any other state, unless at least one of the following applies:
 - (a) The individual resided for any part of the month in a county identified in a waiver approved by United States Department of Agriculture on the limitation on *eligibility* for SNAP benefits contained in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)). Under the waiver, the time limit in section (2) of this rule does not apply to residents of the following counties: Baker, Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Malheur, Marion, Marrow, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Wheeler, and Yamhill.
 - (b) Benefits were prorated for the month.
 - (c) The individual was *exempt* (see OAR 461-130-0305) for any part of the month under OAR 461-130-0310(3)(a)(A) to (J).
 - (d) The individual participated in one or more of the activities in paragraphs (A) to (D) of this subsection for 20 hours per week averaged monthly. For purposes of this rule, 20 hours per week averaged monthly means 80 hours per month. (Activities may be combined in one month to meet the 20 hours per week averaged monthly requirement.)
 - (A) Work for pay, in exchange for goods or services, or as a volunteer.
 - (i) Work in exchange for goods and services includes bartering and in-kind work.

- (ii) Voluntary work hours must be verified by the employer.
 - (ii) For self-employed individuals, countable income after deducting the costs of producing income must average at least the federal minimum wage times 20 hours per week.
 - (B) Participate in a program under the Workforce Investment Act of 1998, Pub. L. No. 105-220, 112 Stat. 936 (1998).
 - (C) Participate in a program under section 236 of the Trade Act of 1974, Pub. L. 93-618, 88 Stat. 2023, (1975) (19 U.S.C. 2296).
 - (D) Comply with the employment and training requirements described in OAR 461-001-0020, 461-130-0305, and 461-130-0315. Work search activities must be combined with other work-related activities to equal 20 hours per week and may not exceed 9 hours per week.
- (e) The individual complied with the Workfare requirements in OAR 461-190-0500.
- (4) An ABAWD must submit evidence to the Department on the issue of whether a month is countable within 90 days following the last day of the month in question.
 - (5) An ABAWD who is ineligible under section (2) of this rule but otherwise eligible may regain *eligibility* if the requirements of subsections (a) or (b) of this section are met.
 - (a) The individual becomes *exempt* under OAR 461-130-0310(3)(a)(A) to (I).
 - (b) The individual, during a consecutive 30-day period during which the individual is ineligible, meets the requirements of subsection (3)(d) of this rule.
 - (A) *Eligibility* established under this subsection for an applicant begins on the date the individual files a new application for food benefits and continues as long as the individual meets the requirements of subsection (3)(d) of this rule and is otherwise eligible. If not eligible on the *filing date* (see OAR 461-115-0040), *eligibility* begins the date all other *eligibility* requirements are met.
 - (B) There is no limit to how many times an individual may regain *eligibility* under this subsection during January 1, 2016 to December 31, 2018. However, an individual may only receive benefits without meeting the requirements of subsection (3)(d) of this rule for a total of 6 *countable months* during January 1, 2016 to December 31, 2018.
 - (c) See OAR 461-180-0010 to add an individual to an open SNAP case after the individual has regained *eligibility* under this section.

- (6) An individual who regains *eligibility* under section (5) of this rule and later fails to comply with the participation requirements of subsection (3)(d) of this rule may receive a second set of food benefits for three consecutive *countable months*. The *countable months* are determined as follows:
- (a) If the individual stopped participation in a work program, *countable months* start when the Department notifies the individual he or she is no longer meeting the work requirement.
 - (b) If the individual stopped participation in a work program, *countable months* start when the individual notifies the Department he or she is no longer meeting the work requirement.
 - (c) If a change occurred which results in an individual becoming subject to the time limit in section (2) of this rule and the change was required to be reported under rules in OAR chapter 461, division 170, the *countable months* start when the change occurred.
 - (d) If a change occurred which results in an individual becoming subject to the time limit and the change was not required to be reported under rules in OAR chapter 461, division 170, *countable months* start when the Department notifies the individual he or she must meet the work requirement.
- (6) This section is a placeholder to establish criteria the Department will use to grant exemptions to ABAWD who are ineligible if the Department receives special exemptions from the Food and Nutrition Service.
- (7) An ABAWD involved in the activities specified in subsection (3)(d) or (3)(e) of this rule of this rule or an activity listed in the individual's *case plan* (see OAR 461-001-0020) is eligible for support service payments necessary for transportation or other costs related to completing the activity as allowed by OAR 461-190-0360.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.121, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.121, 411.816, 411.825, 411.837

461-190-0500
Workfare; SNAP

Temp. Eff. 2-5-16 through 8-2-16

THIS IS A NEW RULE

Workfare is a voluntary employment program open to ABAWD (see OAR 461-135-0520) who reside in Multnomah or Washington County to meet the work requirements in OAR 461-135-0520.

- (1) For each individual that the Department determines has a potential for locating unsubsidized employment, Workfare begins with 30 days of intensive job search or job search training. If the Department determines this labor market test is inappropriate, Workfare begins with a job site placement.
- (2) After the first 30 days, individuals who are not participating in an activity listed in OAR 461-135-0520(3)(d) may continue in a Workfare job site placement.
- (3) Individuals in a Workfare job site placement must complete an average of five hours per week (20 hours per month). The individual must meet the monthly requirements in order to comply with the requirements of the Workfare program, unless they have good cause under OAR 461-130-0327.
- (4) Individuals in a Workfare job site placement must provide proof from the employer of Workfare hours worked each month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 411.816

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.116, 411.816