

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

March 1, 2016 by the

Department of Human Services, Office of Self-Sufficiency Programs			461
<b>Agency and Division</b>			<b>Chapter Number</b>
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to become effective March 2, 2016 through August 2, 2016.\*

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

**Rule Caption:** *Amending rule relating to the time limit on SNAP benefits for ABAWD clients*

**AMEND:** 461-135-0520

**SUSPEND:** 461-135-0520(T)

ORS 409.050, 411.060, 411.070, 411.816

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**Stat. Auth.**

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

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**Other Auth.**

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

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**Stats. Implemented**

## Rule Summary

OAR 461-135-0520 about the eligibility requirements for ABAWD (able-bodied adults without dependents) in the SNAP program is being amended to more clearly state the federal law that limits an ABAWD to three "countable months" of SNAP benefits as a member of any household. (Oregon's statewide waiver of the federal time limit expired on December 31, 2015. Effective January 1, 2016, the time limit applies to ABAWD clients who reside in Multnomah or Washington County.)

The rule text showing proposed changes is available at  
[http://www.dhs.state.or.us/policy/selfsufficiency/ar\\_temporary.htm](http://www.dhs.state.or.us/policy/selfsufficiency/ar_temporary.htm).

# 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 461-135-0520 and the suspension of OAR 461-135-0520(T)*

**Rule Caption:** *Amending rule relating to the time limit on SNAP benefits for ABAWD clients*

## Need for the Rules

OAR 461-135-0520 needs to be amended because the current rule could be misread to mean that an ABAWD is only ineligible after receiving benefits *more than* three months. Under this reading, the Department would need to wait 91 days to send a notice of closure of SNAP benefits. This would require the Department to provide benefits beyond what is allowed under federal law. The amendment makes the clarification that ABAWD are limited to three countable months of benefits and further clarifies that the limitation follows an individual ABAWD even when the individual receives benefits as part of a different household.

## Documents Relied Upon

None.

## Justification of Temporary Rules

The Department finds that failure to act promptly by amending OAR 461-135-0520 will result in serious prejudice to the public interest, the Department, and clients subject to the federal time limit on 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 clearly reflect the federal time limit that applies to these clients and allow the Department to properly implement the time limit that took effect January 1, 2016 for ABAWD clients who reside in Multnomah or Washington County.

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 as a member of any household 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.
- | (~~67~~) 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.
- | (~~78~~) 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