

Secretary of State
**CERTIFICATE AND ORDER FOR FILING TEMPORARY ADMINISTRATIVE RULES
and
STATEMENT OF NEED AND JUSTIFICATION**

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on
March 24, 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 April 1, 2016 through September 27, 2016.*

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

Rule Caption: *Amending rules relating to the time limit for ABAWD clients in the SNAP program*

In the Matter of: *Temporary adoption of OAR 461-180-0135 and the amendment of OAR 461-135-0521 and 461-160-0410*

ADOPT: 461-180-0135

AMEND: 461-135-0521, 461-160-0410

ORS 409.050, 411.060, 411.070, 411.816

Stat. Auth.

Food and Nutrition Act of 2008; 7 USC 2015(d) and (o); 7 CFR 273.7, 273.11, and 273.24

Other Auth.

ORS 409.050, 411.060, 411.070, 411.121, 411.816, 411.837

Stats. Implemented

Rule Summary

OAR 461-135-0521 about job quit for SNAP applicants is being amended to include ABAWD (able-bodied adults without dependents) as clients subject to the rule which states that applicants are not eligible for SNAP benefits if they quit a job or reduced work hours in the 30 days prior to applying for SNAP or at any time while receiving SNAP.

OAR 461-160-0410 about treatment of income when there are ineligible or disqualified group members in the SNAP program is being amended to state that if a member in a group is ineligible because of the ABAWD time limits, the income of the ineligible individual is prorated as described in the rule.

OAR 461-180-0135 about restoring benefits for ABAWD clients is being adopted to allow the Department to restore benefits to ABAWD clients in the month after they reach the time limit without reapplying in certain circumstances.

Need for the Rules

OAR 461-135-0521 needs to be amended because as it is currently written, the job quit prohibition only applies to applicants subject to OFSET requirements. OFSET is no longer offered in districts where the ABAWD time limits apply. Therefore, it unintentionally excluded ABAWD applicants from the job quit provisions, which is inconsistent with federal law. The amendment corrects the rule by clarifying that the rule applies to all clients subject to SNAP employment and training requirements, not just OFSET.

OAR 461-160-0410 needs to be amended because the current rule does not accurately reflect federal regulations which allow the Department to prorate the income and deductions of an ABAWD who is ineligible due to the time limit before applying it to the rest of the household when there are others receiving SNAP benefits. This allows the eligible members of the household to claim less income which benefits the clients and brings the Department in line with federal regulations.

OAR 461-180-0135 needs to be adopted because in some cases, ABAWD clients may lose eligibility for SNAP benefits because they do not understand the new time limit or associated exemptions and work requirements they are subject to. This rule will allow the Department to restore benefits without a new application if the ABAWD shows they were exempt or met the work requirements in one of the months that counted toward reaching the three-month limit on SNAP benefits. This will reduce work for staff and help clients who may not be aware of the new time limit or understand the work requirements and exemptions that make them eligible to continue to receive benefits beyond three months.

Documents Relied Upon

Guide to Serving ABAWDs Subject to Time-limited Participation available at [http://www.fns.usda.gov/sites/default/files/Guide to Serving ABAWDs Subject to Time Limit.pdf](http://www.fns.usda.gov/sites/default/files/Guide%20to%20Serving%20ABAWDs%20Subject%20to%20Time%20Limit.pdf)

Justification of Temporary Rules

The Department finds that failure to act promptly by adopting OAR 461-180-0135 and amending OAR 461-135-0521 and 461-160-0410 will result in serious prejudice to the public interest, the Department, and ABAWD clients residing in Multnomah or Washington County because the rules will be in conflict with Department practice and federal law. Without the changes, clients

may receive inaccurate benefit amounts and the Department may be at risk of federal penalties. The Department needs to proceed by temporary rule because the public, the Department, and ABAWD clients residing in Multnomah or Washington County will immediately benefit when the rules accurately reflect Department practice and federal regulations relating to ABAWD clients.

461-135-0521

~~Tech. Eff. 1-1-10~~

Temp. Eff. 4-1-16 through 9-27-16

Job Quit by Applicants; SNAP

- (1) An applicant who is required to meet the ~~OFFSET~~ SNAP employment and training requirements in OAR ~~461-130-0320~~461-130-0305 and 461-130-0315, who voluntarily and without *good cause* (see OAR 461-130-0327) quits a job or reduces the weekly number of hours of work to below 30, is ineligible for SNAP benefits.
- (2) For purposes of this rule, a person quits a job upon quitting a job of at least 30 hours a week or the equivalent of 30 hours a week multiplied by the federal minimum wage.
- (3) The period of ineligibility is determined as follows. If the filing date falls within the 30-day period following a job quit or work reduction described in sections (1) and (2) of this rule, the person who quit the job or reduced work hours will be ineligible during the month in which the filing date falls and for the appropriate ~~OFFSET~~ disqualification of one, three or six calendar months (see OAR 461-130-0330(4)).

Stat. Auth: ORS 411.816

Stats. Implemented: ORS 411.816

461-160-0410

~~Eff. 10-1-15~~

Temp. Eff. 4-1-16 through 9-27-16

Use of Income and Income Deductions When There Are Ineligible or Disqualified Group Members; SNAP

When a member of the filing group (see OAR 461-110-0310 and 461-110-0370) is not in the *need group* (see OAR 461-110-0630), benefits in the SNAP program are calculated as follows:

- (1) If the member is a *qualified non-citizen* (see OAR 461-120-0125(1)(a)-(g)) who does not meet the alien status requirements, the following procedure is used:
 - (a) Benefits are calculated as if the *qualified non-citizen* is eligible. Benefits are then calculated as if the *qualified non-citizen* is not a member of the filing group. Any income received by another member of the filing group from the *qualified non-citizen* is counted as income of the filing group. No expenses paid by the *qualified non-citizen* are deducted from gross income.
 - (b) The household's benefits are the lesser of the amounts calculated in subsection (a) of this section.
- (2) The process described in sections (3) and (4) of this rule is used if the member is:
 - (a) A non-citizen but not a *qualified non-citizen*;
 - (b) Disqualified for failing to obtain or provide a Social Security Number; ~~or~~
 - (c) Unwilling to disclose alien status; or
 - (d) An ABAWD (see OAR 461-135-0520) who is ineligible because of the time limit in OAR 461-135-0520.
- (3) If the member is in a group described in section (2) of this rule:
 - (a) The member's *countable* (see OAR 461-001-0000) income is prorated among the members in the filing group.
 - (b) The pro rata share of each individual not in the *benefit group* (see OAR 461-110-0750) is excluded.
 - (c) The rest of the prorated income is *countable* income for the filing group.
- (4) An ineligible or disqualified member covered by section (2) of this rule is entitled to all income deductions for which the member qualifies. When paid by the member, or billed to the member and unpaid, deductions for shelter, child support, medical costs, and dependent care are calculated as follows:

- (a) The deductions, except deductions for the utility standard, are prorated among the members of the filing group.
 - (b) The prorated share of the members of the *benefit group* is deducted.
 - (c) The deduction for the utility standard is made in accordance with OAR 461-160-0420.
- (5) The *countable* income of the following *financial group* (see OAR 461-110-0530) members, subject to allowable deductions, is used to determine benefits:
- (a) A client disqualified for failure to comply with the requirements of the OFSET program or because of an intentional program violation.
 - (b) A client:
 - (A) Fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the client is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the client is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or
 - (B) Violating a condition of probation or parole imposed under a federal or state law.

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

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

Effective Dates; Restoring SNAP Benefits for ABAWD Following Counting Month (Not Regaining)

THIS IS A NEW RULE

(1) In the SNAP program, benefits may be restored effective the first of the month when SNAP benefits for an ABAWD (see OAR 461-135-0520) end following the third countable month when all of the following requirements are met:

(a) Benefits ended as of the last calendar day of the prior month or were reduced as of the first day of the current month.

(b) The reason for the closure or reduction was the ABAWD lost *eligibility* (see OAR 461-001-0000) due to the time limit in OAR 461-135-0520.

(c) The client contacted the Department within the first calendar month following the closure or reduction and provided information that the client met one of the following in at least one of the first three *countable months* (see OAR 461-135-0520):

(A) An exemption in OAR 461-130-0310(3)(a)(A) - (J).

(B) The work requirements in OAR 461-135-0520(3)(d) or (e).

(d) There is at least one month remaining in the *certification period* (see OAR 461-001-0000).

(2) This policy does not include regaining *eligibility* (see OAR 461-135-0520(5)) or to the month following closure or reduction following receipt of six *countable months* or any month thereafter.

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

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