

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 May 1, 2016 by the

Department of Human Services, Office of Self-Sufficiency Programs			461
Agency and Division			Chapter Number
Kris Skaro	Human Services Building 500 Summer St NE, E-48 Salem, OR 97301	503-945-6067	<u>kris.a.skaro@state.or.us</u>
Rules Coordinator	Address	Telephone	Email

to become effective May 1, 2016 through June 30, 2016.*

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

Rule Caption: *Amending rule relating to exemptions to the ABAWD time limit*

In the Matter of: *Amending OAR 461-135-0520*

AMEND: 461-135-0520

ORS 409.050, 411.060, 411.070, 411.121, 411.816

Stat. Auth.

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

Other Auth.

ORS 409.010, 409.050, 411.060, 411.070, 411.121, 411.816, 411.825, 411.837

Stats. Implemented

Rule Summary

OAR 461-135-0520 about the time limit and special requirements for ABAWD (able-bodied adults without dependents) clients is being amended to allow the Department to grant discretionary exemptions to the federal three-month time limit on SNAP benefits to an ABAWD client in the month of May 2016 or June 2016 if the ABAWD did not receive timely notice that their benefits were ending due to the time limit. Additionally the Department will grant discretionary exemptions for both May 2016 and June 2016 to an ABAWD who did not receive at least three months' notification about the SNAP time limit and related requirements in their preferred language. Oregon's statewide waiver of the federal time limit expired on December 31, 2015. ABAWD clients who reside in Multnomah or Washington County who do not meet work

requirements or who are not otherwise exempt may become ineligible for SNAP benefits as of April 1, 2016.

Need for the Rules

OAR 461-135-0520 needs to be amended because about 200 ABAWD clients did not receive notice of the SNAP time limits or their ineligibility for benefits in their preferred language. In addition, another approximately 200 SNAP households containing an ABAWD are in simplified reporting and they did not receive timely notice of ineligibility due to the SNAP time limit because their Interim Change Report was late. Continuing to receive benefits beyond the three months, however, could result in an overpayment for clients. Therefore, the Department needs to adopt these temporary changes to allow the Department to grant Food and Nutrition Service (FNS) discretionary exemptions to the time limit to these clients.

Documents Relied Upon

Guide to Serving ABAWD Subject to Time-limited Participation

[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 amending OAR 461-135-0520 will result in serious prejudice to the public interest, the Department, and ABAWD clients who did not receive adequate notice regarding the loss of their SNAP eligibility. The Department needs to proceed by temporary rule because the public, the Department, and impacted clients will immediately benefit when the Department is able to grant discretionary exemptions approved by the Food and Nutrition Service under this rule to ABAWD clients who did not receive adequate notice. This will allow those clients to continue to receive benefits without incurring an overpayment.

Time Limit and Special Requirements for ABAWD; SNAP

This rule establishes the time limit and special 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 after the individual received food benefits for 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 (J). *Eligibility* regained under this subsection begins on the date the individual files a new application and continues as long as the individual is *exempt* 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) The individual, during a consecutive 30-day period during which the individual is ineligible, meets the requirements of subsection (3)(d) or (3)(e) of this rule.
 - (A) *Eligibility* regained under this subsection begins on the date the individual files a new application and continues as long as the individual meets the requirements of subsection (3)(d) or (3)(e) of this rule and is otherwise eligible. If not eligible on the *filing date*, *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.
 - (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) or (3)(e) 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.
 - (e) An individual may only receive benefits without meeting the requirements of subsection (3)(d) or (3)(e) of this rule for a total of six *countable months* during January 1, 2016 to December 31, 2018.
- (7) ~~This section is a placeholder to establish criteria the~~ The Department will use to grant may issue discretionary exemptions to ABAWD clients who are otherwise ineligible if the Department receives special exemptions from the Food and Nutrition Service under this rule in the following circumstances:-
- (a) An ABAWD who did not receive timely notice of benefits closure due to the time limit may receive an exemption for May 2016 or June 2016.
 - (b) An ABAWD who did not receive at least three months' notice about the ABAWD participation requirements in the client's preferred language may receive exemptions for May 2016 and June 2016.
- (8) An ABAWD involved in the activities specified in subsection (3)(d) or (3)(e) 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