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**PERMANENT ADMINISTRATIVE RULES**

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July 1, 2016 by the

Department of Human Services, Office of Self-Sufficiency Programs

461

Agency and Division

Chapter Number

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**Rule Caption:**        *Establishing the general assistance project as required by HB 4042 (2016)*

**AMEND:**        461-001-0000, 461-101-0010, 461-110-0630, 461-110-0750, 461-115-0030, 461-115-0050, 461-115-0071, 461-115-0430, 461-115-0700, 461-120-0030, 461-120-0125, 461-120-0210, 461-120-0315, 461-120-0345, 461-120-0350, 461-120-0510, 461-125-0810, 461-135-0560, 461-135-0700, 461-135-0701, 461-135-0708, 461-135-0950, 461-135-0990, 461-140-0010, 461-140-0040, 461-140-0120, 461-140-0210, 461-140-0242, 461-140-0250, 461-140-0296, 461-140-0300, 461-145-0005, 461-145-0040, 461-145-0050, 461-145-0110, 461-145-0220, 461-145-0230, 461-145-0240, 461-145-0250, 461-145-0259, 461-145-0260, 461-145-0320, 461-145-0330, 461-145-0340, 461-145-0360, 461-145-0365, 461-145-0370, 461-145-0410, 461-145-0420, 461-145-0455, 461-145-0460, 461-145-0470, 461-145-0510, 461-145-0540, 461-145-0600, 461-145-0910, 461-145-0920, 461-145-0930, 461-150-0050, 461-155-0010, 461-155-0020, 461-155-0210, 461-155-0360, 461-155-0580, 461-155-0600, 461-155-0610, 461-155-0620, 461-155-0640, 461-155-0670, 461-160-0010, 461-160-0015, 461-160-0055, 461-160-0060, 461-160-0500, 461-160-0620, 461-165-0030, 461-165-0050, 461-165-0120, 461-170-0011, 461-175-0210, 461-175-0240, 461-175-0310, 461-180-0010, 461-180-0065, 461-180-0070, 461-180-0090, 461-195-0521, 461-195-0541

**REPEAL:**        461-001-0000(T), 461-101-0010(T), 461-110-0390, 461-110-0630(T), 461-110-0750(T), 461-115-0030(T), 461-115-0050(T), 461-115-0071(T), 461-115-0430(T), 461-115-0700(T), 461-120-0030(T), 461-120-0125(T), 461-120-0210(T), 461-120-0315(T), 461-120-0345(T), 461-120-0350(T), 461-120-0510(T), 461-125-0510, 461-125-0810(T), 461-135-0560(T), 461-135-0700(T), 461-135-0701(T), 461-135-0705, 461-135-0708(T), 461-135-0950(T), 461-135-0990(T), 461-140-0010(T), 461-140-0040(T), 461-140-0120(T), 461-140-0210(T), 461-140-0242(T), 461-140-0250(T), 461-140-0296(T), 461-140-0300(T), 461-145-0005(T), 461-145-0040(T), 461-145-0050(T), 461-145-0110(T), 461-145-0220(T), 461-145-0230(T), 461-145-0240(T), 461-145-0250(T), 461-145-0259(T), 461-145-0260(T), 461-145-0320(T), 461-145-0330(T), 461-145-0340(T), 461-145-0360(T), 461-145-0365(T), 461-145-0370(T), 461-145-0410(T), 461-145-0420(T), 461-145-0455(T), 461-145-0460(T), 461-145-0470(T), 461-145-0510(T), 461-145-0540(T), 461-145-0600(T), 461-145-0910(T), 461-145-0920(T), 461-145-0930(T), 461-150-0050(T), 461-155-0010(T), 461-155-0020(T), 461-155-0210(T), 461-155-0360(T), 461-155-0580(T), 461-155-0600(T), 461-155-0610(T), 461-155-0620(T),

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461-195-0541(T)

ORS 409.050, 411.060, 411.070

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**Stat. Auth.**

None.

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**Other Auth.**

ORS 409.050, 411.060, 411.070, Or Laws 2016, ch 93

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**Stats. Implemented**

## **Rule Summary**

The Department of Human Services is reestablishing the GA (General Assistance) program to comply with HB 4042 (2016). The program provides cash assistance to individuals who have a disability, are experiencing homelessness, and meet other eligibility requirements in OAR 461-135-0700. Rules throughout OAR chapter 461 are also being amended to remove all references to the GAM (General Assistance - Medical) program and remove references to GA when applicable. This makes permanent temporary rules adopted on July 1, 2016.

In addition, non-substantive edits were made to these rules to: ensure consistent terminology throughout self-sufficiency program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

## Definitions for Chapter 461

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:

- (1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDS), or any other agency formerly part of the Department of Human Services means the Department of Human Services (DHS), except --
  - (a) The rule in which reference occurs only regulates programs covered by OAR chapter 461.
  - (b) OCCS medical program eligibility rules are in OAR chapter 410, division 200.
- (2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of *domestic violence* (see section (254) of this rule), sexual assault, or stalking.
- (3) "Adjusted income" means the amount determined by subtracting income deductions from *countable* (see section (18) of this rule) income (see OAR 461-140-0010). Specific rules on the deductions are in OAR chapter 461, division 160.
- (4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. "Adoption assistance" may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.
- (5) "Assets" mean income and resources.
- (6) "Basic decision notice" means a *decision notice* (see section (240) of this rule) mailed no later than the date of action given in the notice.
- (7) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.
- (8) "Budgeting" means the process of calculating the benefit level.
- (9) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine *eligibility* (see section (287) of this rule) and benefit level for the *payment month* (see section (50) of this rule).

- (10) "Cafeteria plan" means a written benefit plan offered by an employer in which:
- (a) All participants are employees; and
  - (b) Participants may choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Service does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:
    - (A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);
    - (B) Group term life insurance plans (up to \$50,000);
    - (C) Dependent care assistance plans; and
    - (D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).
- (11) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a *microenterprise* (see section (43) of this rule), either directly or indirectly. A "capital asset" generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.
- (12) "Caretaker" means an individual who is responsible for the care, control, and supervision of a *child* (see section (15) of this rule). The status of "caretaker" ends once the individual no longer exercises care, control, and supervision of the *child* for 30 days.
- (13) "Caretaker relative" means a *caretaker* (see section 12 of this rule) who meets the requirements of one of the following subsections:
- (a) Is one of the following relatives of the *dependent child* (see section (232) of this rule):
    - (A) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.
    - (B) Stepfather, stepmother, stepbrother, and stepsister.
    - (C) An individual who legally adopts the *child* and any individual related to the individual adopting the *child*, either naturally or through adoption.
  - (b) Is or was a *spouse* (see section (632) of this rule) of an individual listed in subsection (a) of this section.

- (c) Met the definition of "caretaker relative" under subsection (a) or (b) of this section before the *child* was adopted (notwithstanding the subsequent adoption of the *child*).
- (14) "Certification period" means the period for which an individual is certified eligible for a program.
- (15) "Child" includes natural, step, and adoptive children. The term "child" does not include an unborn.
  - (a) In the ERDC program, a "child" need not have a biological or legal relationship to the *caretaker* but must be in the care and custody of the *caretaker*, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:
    - (A) Under the age of 18; or
    - (B) Under the age of 19 and in secondary school or vocational training at least half time.
  - (b) In the GA, ~~GAM~~, and OSIP programs, a "child" is an individual under the age of 18.
  - (c) In the OSIPM and QMB programs, "child" means an unmarried individual living with a *parent* (see section (49) of this rule) who is:
    - (A) Under the age of 18; or
    - (B) Under the age of 22 and attending full-time secondary, postsecondary or vocational-technical training designed to prepare the individual for employment.
  - (d) In the REF and REFM programs, a "child" is:
    - (A) An individual under the age of 18; or
    - (B) An individual who is 18 years of age and attending secondary school full-time or pursuing a GED full-time.
- (16) "Community based care" is any of the following:
  - (a) Adult foster care - Room and board and 24 hour care and services for the elderly or for people with disabilities 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.
  - (b) Assisted living facility - A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

- (c) In-home Services - Individuals living in their home receiving services determined necessary by the Department.
  - (d) Residential care facility - A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.
  - (e) Specialized living facility - Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition, or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.
  - (f) Independent choices - In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).
- (17) "Continuing benefit decision notice" means a *decision notice* that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.
- (18) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine *eligibility*.
- ~~(19) "Cover Oregon" means Oregon Health Insurance Exchange Corporation.~~
- ~~(20)~~ (19) "Custodial parents" mean parents who have physical custody of a *child*. "Custodial parents" may be receiving benefits as dependent children or as caretaker relatives for their own children.
- ~~(21)~~ (20) "Decision notice" means a written notice of a decision by the Department regarding an individual's *eligibility* for benefits in a program.
- ~~(22)~~ (21) "Department" means the Department of Human Services (DHS).
- ~~(23)~~ (22) "Dependent child" in the TANF program means the following:
- (a) An individual who is not a *caretaker relative* (see section (13) of this rule) of a *child* in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or
  - (b) A *minor parent* (see section (44) of this rule) whose parents have chosen to apply for benefits for the *minor parent*. This does not apply to a *minor parent* who is married and living with his or her *spouse*.
- ~~(24)~~ (23) "Disability" means:

- (a) In the SNAP program, see OAR 461-001-0015.
- (b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining *eligibility*:
  - (A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or
  - (B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

(254) "Domestic violence" means the occurrence of one or more of the acts described in subsections (a) to (d) of this section between family members, intimate partners, or household members:

- (a) Attempting to cause or intentionally, knowingly, or recklessly causing physical injury or emotional, mental, or verbal abuse.
- (b) Intentionally, knowingly, or recklessly placing another in fear of imminent serious physical injury.
- (c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.
- (d) Using coercive or controlling behavior.
- (e) As used in this section, "family members" and "household members" mean any of the following:
  - (A) *Spouse*;
  - (B) *Former spouse*;
  - (C) Individuals related by blood, *marriage* (see section (432) of this rule), or adoption;
  - (D) Individuals who are cohabitating or have cohabited with each other;
  - (E) Individuals who have been involved in a sexually intimate or dating relationship; or
  - (F) Unmarried parents of a *child*.

- (265) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to victims of *domestic violence*. If the facility serves other people, a portion must be used solely for victims of *domestic violence*.
- (276) "Electronic application" is an application electronically signed and submitted through the Internet.
- (287) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.
- (298) "Equity value" means *fair market value* (see section (3029) of this rule) minus encumbrances.
- (3029) "Fair market value" means the amount an item is worth on the open market.
- (340) "Family stability" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.
- (321) "Family stability activity" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by an individual, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain *family stability* (see section (340) of this rule).
- (332) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.
- (343) "Homeless" in the ERDC program means lacking a fixed regular and adequate nighttime residence and includes living in an emergency shelter, shared housing with others due to loss of housing or economic hardship, staying in motels, cars, parks, public places, tents, trailers, or other similar settings.
- (354) "Income-producing property" means:
- (a) In all programs except OSIP, OSIPM, and QMB, real or personal property that generates income for the *financial group* (see OAR 461-110-0530). Examples of "income-producing property" are:
    - (A) Livestock, poultry, and other animals.
    - (B) Farmland, rental homes (including a room or other space in the home or on the property of a member of the *financial group*), vacation homes, and condominiums.



- (b) In the OSIP, OSIPM, and QMB programs, "income-producing property" means any real or personal property not used in self-employment (see OAR 461-145-0600 and 461-145-0915) that produces income for the *financial group*. "Income-producing property" includes:
  - (A) Livestock, poultry, or other animals that produce marketable products sold by the *financial group*.
  - (B) Farmland not excluded under OAR 461-145-0220 that is farmed or rented out by the *financial group*.
  - (C) Real property other than the home (including vacation homes and condominiums), that is rented out.
- (c) In the OSIP, OSIPM, and QMB programs, "income-producing property" does not include:
  - (A) Rooms or other space for rent in the home (see OAR 461-145-0220).
  - (B) Livestock, poultry, or other animals kept for resale (see OAR 461-145-0010).

(365) "Initial month" of *eligibility* means any of the following:

- (a) In all programs, the first month a *benefit group* (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.
- (b) In all programs except the SNAP program, the first month a *benefit group* is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.
- (c) In the SNAP program:
  - (A) The first month for which the *benefit group* is certified following any period during which they were not certified to participate, except for *migrant* and *seasonal farm workers* (see OAR 461-001-0015).
  - (B) For *migrant* and *seasonal farmworkers*, the first month for which the *benefit group* is certified following any period of one month or more during which they were not certified to participate.
- (d) For a new applicant to the ~~GA, GAM,~~ OSIP, or OSIPM program applying for care in a *nonstandard living arrangement* (see section (45) of this rule), for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in

which the individual would have been eligible had it not been for the disqualifying transfer of *assets* (see section (5) of this rule).

(e) For a current recipient of the ~~GA, GAM, OSIP~~, or OSIPM program receiving or applying for care in a *nonstandard living arrangement*, for the purpose of calculating the correct divisor in OAR 461-140-0296, the later of the following:

(A) The month the disqualifying transfer occurred.

(B) The month of application for *long-term care* (see section (40) of this rule) services if the individual would have been eligible had it not been for the disqualifying transfer of *assets*.

(376) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

(387) "Legally married" means a *marriage* uniting two individuals according to --

(a) The statutes of the state where the *marriage* occurred;

(b) Except in the SNAP program, the common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the two individuals previously resided while meeting the requirements for legal or cultural marriage in that country.

(398) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a "life estate" enables the owner of the "life estate" to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A "life estate" is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of the individual's life, certain rights to that property. In addition, a "life estate" is established when a member of the *financial group* purchases a "life estate" interest in the home of another individual.

(4039) "Lodger" means a member of the *household group* (see OAR 461-110-0210) who---

(a) Is not a member of the *filing group* (see OAR 461-110-0310); and

(b) Pays the *filing group*:

(A) In all programs except the ~~GA, GAM, OSIP~~, OSIPM, and QMB programs, for room and board.

(B) In the ~~GA, GAM, OSIP~~, OSIPM, and QMB programs, for room with or without board.

- (410) "Long-term care" means the system through which the Department provides a broad range of social and health services to eligible adults who are aged, blind, or have disabilities for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).
- (421) "Lump-sum income" means income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. "Lump-sum income" includes:
- (a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.
  - (b) Income from inheritance, gifts, winnings, and personal injury claims.
- (432) "Marriage" means the union of two individuals who are *legally married* (see section (37) of this rule).
- (443) "Microenterprise" means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than \$35,000.
- (454) "Minor parent" in the ERDC and TANF programs means a *parent* under the age of 18.
- (465) "Nonstandard living arrangement" is defined as follows:
- (a) In the GA, ~~GAM~~, OSIP, OSIPM, and QMB programs, an individual is considered to be in a "nonstandard living arrangement" when the individual is applying for or receiving services in any of the following locations:
    - (A) A nursing facility in which the individual receives *long-term care* services paid with Medicaid funding, except this subsection does not apply to a Medicare client in a skilled-stay nursing facility.
    - (B) An intermediate care facility for the mentally retarded (ICF/MR).
    - (C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.
    - (D) A *community based care* (see section (16) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a "nonstandard living arrangement".
  - (b) In all programs except GA, ~~GAM~~, OSIP, OSIPM, and QMB, "nonstandard living arrangement" means each of the following locations:
    - (A) Foster care.
    - (B) Residential Care facility.

- (C) Drug or alcohol residential treatment facility.
- (D) Homeless or domestic violence shelter.
- (E) Lodging house if paying for room and board.
- (F) Correctional facility.
- (G) Medical institution.

(476) "OCCS" is the Office of Client and Community Services, part of the Medical Assistance Programs under the Oregon Health Authority responsible for OCCS medical program *eligibility* policy, community outreach, OCCS Medical Program *eligibility* determinations, and the OHA Customer Service Call Center.

(487) "OCCS Medical Programs" refers to programs for which *eligibility* policy can be found in OAR chapter 410, division 200, and includes CEC, CEM, MAA, MAF, EXT, OHP, Substitute Care, BCCTP, and MAGI Medicaid/CHIP programs, including:

- (a) MAGI Adult;
- (b) MAGI Child;
- (c) MAGI Parent or Other Caretaker Relative;
- (d) MAGI Pregnant Woman; and
- (e) MAGI CHIP.

(498) "Ongoing month" means one of the following:

- (a) For all programs except the SNAP program, any month following the *initial month* (see section (35) of this rule) of *eligibility*, if there is no break in the program benefit of one or more calendar months.
- (b) For the SNAP program, any month in the *certification period* (see section (14) of this rule) following the *initial month* of *eligibility*.

(5049) "Parent" for all programs except JPI (see OAR 461-135-1260) and the SNAP program means the biological mother or father of an unborn child or the biological, step, or adoptive mother or father of a *child*. For JPI and the SNAP program, "parent" means the biological or legal mother or father of an individual.

- (a) If the mother lives with a male and either she or the male claims that he is the father of the *child* or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

- (b) A stepparent relationship exists if:
  - (A) The individual is *legally married* to the child's biological or adoptive parent; and
  - (B) The *marriage* has not been terminated by legal separation, divorce, or death.
- (c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a "parent" if both of the following are true:
  - (A) The *child* lives with the biological parent; and
  - (B) The legal parent has given up care, control, and supervision of the *child*.

(540) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.

(521) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.

(532) "Periodic income" means income received on a regular basis less often than monthly.

(543) "Primary person" for all programs except the SNAP program, means the *filing group* member who is responsible for providing information necessary to determine *eligibility* and calculate benefits. The "primary person" for individual programs is as follows:

(a) ~~For In~~ the TANF program, the *parent* or *caretaker relative*.

(b) ~~For In~~ the ERDC program, the *caretaker*.

(c) ~~For In the~~ SNAP program, see OAR 461-001-0015.

(d) ~~For In~~ the GA, ~~GAM~~, OSIP, OSIPM, QMB, REF, and REFM programs; the client or client's *spouse*.

(554) "Qualified Partnership Policy" means a long-term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:

(a) Issued while the individual was a resident in Oregon on January 1, 2008 or later; or

(b) Issued in another state while the individual was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.

- (565) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as "real property".
- (576) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.
- (587) "Safe homes" mean private homes that provide a few nights lodging to victims of *domestic violence*. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.
- (598) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.
- (6059) "Shelter-in-kind" means an agency or individual outside the *financial group* provides the shelter of the *financial group*, or makes a payment to a third party for some or all of the *shelter costs* (see section (58) of this rule) of the *financial group*. "Shelter-in-kind" does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.
- (610) "Sibling" means the brother or sister of an individual. "Blood-related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the *marriage* of their parents.
- (621) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced *spouse* to a member of the *financial group*.
- (632) "Spouse" means an individual who is *legally married* to another individual.
- (643) "Stable income" means income that is the same amount each time it is received.
- (654) "Standard living arrangement" means a location that does not qualify as a *nonstandard living arrangement*.
- (665) "Teen parent" means, for TANF and JOBS, a *parent* under the age of 20 who has not completed a high school diploma or GED.
- (676) "Timely continuing benefit decision notice" means a *decision notice* that informs the individual of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.
- (687) "Trust funds" mean money, securities, or similar property held by an individual or institution for the benefit of another individual.

| (698) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

| (7069) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 411.837, 412.001, 412.006, 412.014, 412.049, 413.085, 414.685

## Program Acronyms and Overview

- (1) Acronyms are frequently used when referring to a program. There is an acronym for each umbrella program and acronyms for each subprogram.
- (2) When no program acronym appears in a rule in chapter 461 of these rules, the rule with no program acronym applies to all programs listed in this rule. If a rule does not apply to all programs, the rule uses program acronyms to identify the programs to which the rule applies.
- (3) Wherever an umbrella acronym appears, that means the rule covers all the subprograms under that code.
- (4) CAWEM; Citizen/Alien-Waived Emergent Medical. Medicaid coverage of emergent medical needs for individuals who are not eligible for other medical programs solely because they do not meet citizenship and alien status requirements.
- (5) DSNAP; Disaster Supplemental Nutrition Assistance Program. Following a presidential declaration of a major disaster in Oregon, DSNAP provides emergency DSNAP program benefits to victims. OAR 461-135-0491 to 461-135-0497 cover DSNAP eligibility and benefits.
- (6) EA; Emergency Assistance. Emergency cash to families without the resources to meet emergent needs.
- (7) ERDC or ERDC-BAS; Employment Related Day Care-Basic. Helps low-income working families pay the cost of child care.
- (8) GA; General Assistance. Cash assistance to certain low-income individuals with disabilities ~~who do not have dependent children.~~
- ~~(9) — GAM; General Assistance Medical. Medical assistance to individuals who are eligible for the GA program but have not been found eligible for OSIPM benefits.~~
- ~~(910)~~ HSP; Housing Stabilization Program. A program that helps low-income families obtain stable housing. The program is operated through the Housing and Community Services Department through community-based, service-provider agencies. The Department's rules for the program (OAR 461-135-1305 to 461-135-1335) were repealed July 1, 2001.
- ~~(101)~~ JOBS; Job Opportunity and Basic Skills. An employment program for TANF clients. JOBS helps these clients attain self-sufficiency through training and employment. The program is part of Welfare Reform.
- ~~(112)~~ JOBS Plus. Provides subsidized jobs rather than SNAP or TANF benefits. For TANF clients, JOBS Plus is a component of the JOBS Program; for SNAP clients and



noncustodial parents of children receiving TANF, it is a separate employment program. Eligibility for TANF clients, SNAP clients, and noncustodial parents of children receiving TANF is determined by the Department. Eligibility for UI recipients is determined by the Oregon State Employment Department. When used alone, JOBS Plus includes only clients whose JOBS Plus program participation is through the Department of Human Services. JOBS Plus administered through the Oregon State Employment Department is known in chapter 461 of the Oregon Administrative Rules as Oregon Employment Department UI JOBS Plus. The following acronyms are used for specific categories:

- (a) TANF-PLS; Clients eligible for JOBS Plus based on TANF.
- (b) SNAP-PLS; Clients eligible for JOBS Plus based on SNAP.
- (c) NCP-PLS; Noncustodial parents of children receiving TANF.

| (123) JPI; Job Participation Incentive. An additional \$10 food benefit to help increase the ability of parents with children, who meet federal TANF participation rate, to meet the nutritional needs of their families.

| (134) LIS; Low-Income Subsidy. The Low-Income Subsidy program is a federal assistance program for Medicare clients who are eligible for extra help meeting their Medicare Part D prescription drug costs.

| (145) OFSET. The Oregon Food Stamp Employment Transition Program, which helps SNAP program benefit recipients find employment. This program is mandatory for some SNAP program benefit recipients.

| (156) OSIP; Oregon Supplemental Income Program. Cash supplements and special need payments to individuals who are blind, disabled, or 65 years of age or older. When used alone, OSIP refers to all OSIP programs. The following acronyms are used for OSIP subprograms:

- (a) OSIP-AB; Oregon Supplemental Income Program - Aid to the Blind.
- (b) OSIP-AD; Oregon Supplemental Income Program - Aid to the Disabled.
- (c) OSIP-EPD; Oregon Supplemental Income Program - Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.
- (d) OSIP-OAA; Oregon Supplemental Income Program - Old Age Assistance.

- (167) OSIPM; Oregon Supplemental Income Program Medical. Medical coverage for elderly and disabled individuals. When used alone, OSIPM refers to all OSIP-related medical programs. The following codes are used for OSIPM subprograms:
- (a) OSIPM-AB; Oregon Supplemental Income Program Medical - Aid to the Blind.
  - (b) OSIPM-AD; Oregon Supplemental Income Program Medical - Aid to the Disabled.
  - (c) OSIPM-EPD; Oregon Supplemental Income Program Medical - Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.
  - (d) OSIPM-OAA; Oregon Supplemental Income Program Medical - Old Age Assistance.
  - (e) OSIPM-IC; Oregon Supplemental Income Program Medical - Independent Choices
- (178) The Post-TANF program provides a monthly transitional payment to employed clients who are no longer eligible for the Pre-TANF or TANF programs due to earnings, and meet the other eligibility requirements.
- (189) The Pre-TANF program is an up-front assessment and resource-search program for TANF applicant families. The intent of the program is to assess the individual's employment potential; determine any barriers to employment or family stability; develop an individualized case plan that promotes family stability and financial independence; help individuals find employment or other alternatives; and provide basic living expenses immediately to families in need.
- (1920) QMB; Qualified Medicare Beneficiaries. Programs providing payment of Medicare premiums and one program also providing additional medical coverage for Medicare recipients. Each of these programs also is considered to be a Medicare Savings Program (MSP). When used alone in a rule, QMB refers to all MSP. The following codes are used for QMB subprograms:
- (a) QMB-BAS; Qualified Medicare Beneficiaries - Basic. The basic QMB program.
  - (b) QMB-DW; Qualified Medicare Beneficiaries - Disabled Worker. Payment of the Medicare Part A premium for individuals under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed.

- (c) QMB-SMB; Qualified Medicare Beneficiaries - Specified Limited Medicare Beneficiary. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMB.
- (d) QMB-SMF; Qualified Medicare Beneficiaries - Qualified Individuals. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMF. This program has a 100-percent federal match, but also has an allocation that, if reached, results in the closure of the program.

- (~~201~~) REF; Refugee Assistance. Cash assistance to low-income refugee singles or married couples without children.
- (~~212~~) REFM; Refugee Assistance Medical. Medical coverage for low-income refugees.
- (~~223~~) The Repatriate Program helps Americans resettle in the United States if they have left a foreign land because of an emergency situation.
- (~~234~~) SFDNP; Senior Farm Direct Nutrition Program. Food vouchers for low-income seniors. Funded by a grant from the United States Department of Agriculture.
- (~~245~~) SFPSS; State Family Pre-SSI/SSDI Program. A voluntary program providing cash assistance and case management services to families when at least one TANF eligible adult in the household has an impairment (see OAR 461-125-0260) and is or will be applying for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).
- (~~256~~) SNAP; Supplemental Nutrition Assistance Program. Helps low-income households maintain proper nutrition by giving them the means to purchase food. SNAP used to be known as FS or Food Stamps; any reference to SNAP also includes FS and Food Stamps.
- (~~267~~) TA-DVS; Temporary Assistance for Domestic Violence Survivors. Addresses the needs of individuals threatened by domestic violence.
- (~~278~~) TANF; Temporary Assistance for Needy Families. Cash assistance for families when children in those families are deprived of parental support because of continued absence, death, incapacity, or unemployment.

Stat. Auth.: ORS 411.060, 411.404, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826  
Stats. Implemented: ORS 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 414.839

461-110-0390  
Filing Group; GA, GAM

~~Eff. 4-1-11~~

Eff. 9-1-16

THIS RULE IS REPEALED

~~In the GA and GAM programs, the filing group consists of the applicant and the applicant's spouse (see OAR 461-001-0000).~~

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

- (1) The "need group" consists of the individuals whose basic and special needs are used in determining *eligibility* (see OAR 461-001-0000) and benefit level.
- (2) In the EA, REF, and REFM programs, the need group consists of the members of the *financial group* (see OAR 461-110-0530) who meet all nonfinancial *eligibility* requirements, except that members disqualified for an *intentional program violation* (see OAR 461-195-0601) are not in the need group.
- (3) In the ERDC, OSIPM-EPD, and QMB programs, the need group consists of each member of the *financial group*.
- ~~(4) In the GA and GAM programs, the need group consists of each member of the *financial group* except that the following individuals may not be in the need group:
  - ~~(a) A fleeing felon under OAR 461-135-0560.~~
  - ~~(b) An individual in violation of a condition of state or federal parole, probation, or post-prison supervision under OAR 461-135-0560.~~
  - ~~(c) An individual not complying with social security number requirements under OAR 461-120-0210.~~~~
- (45) In the OSIPM (except OSIPM-EPD) program:
  - (a) If a *child* (see OAR 461-001-0000) is applying, the need group consists of the *child*.
  - (b) In all other situations, the need group consists of each member of the *financial group*.
- (56) In the Pre-TANF and TANF programs, the need group consists of all the members of the *financial group* except:
  - (a) A *parent* (see OAR 461-001-0000) who is in foster care and for whom foster care payments are being made.
  - (b) An unborn child.
- (67) In the SNAP program, the need group consists of the members of the *financial group* who meet all nonfinancial *eligibility* requirements, except the following individuals are not in the need group:
  - (a) A member disqualified for an *intentional program violation*.
  - (b) A fleeing felon under OAR 461-135-0560.

- (c) An individual violating a condition of state or federal parole, probation, or post-prison supervision under OAR 461-135-0560.
- (d) An individual who becomes ineligible due to the time limit in OAR 461-135-0520.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 414.839

- (1) A "benefit group" consists of the individuals who receive benefits.
- (2) Except as provided in sections (4) and (5) of this rule, for an individual not assumed eligible for medical programs (see OAR 461-135-0010), the benefit group consists of each individual from the *need group* (see OAR 461-110-0630) requesting benefits who meets all financial and nonfinancial *eligibility* (see OAR 461-001-0000) requirements.
- (3) For an individual assumed eligible for medical programs (see OAR 461-135-0010), the benefit group consists of the individuals who are in the benefit group of the program used to assume *eligibility*.
- ~~(4) In the GA and GAM programs, the following individuals are not in the benefit group:
  - ~~(a) An individual receiving or deemed to be receiving SSI or SSDI benefits.~~
  - ~~(b) An individual who meets the non-disability eligibility requirements under Title II of the Social Security Act.~~~~
- (45) In the TANF program, the following individuals are not in the benefit group:
  - (a) An individual who may not be in the benefit group because of a disqualification penalty (see OAR 461-130-0330 and 461-135-0085).
  - (b) An individual disqualified for an *intentional program violation* (see OAR 461-195-0601).
  - (c) An individual who may not be in the benefit group because the individual has reached the time limit in OAR 461-135-0071 and does not meet any of the extension criteria in OAR 461-135-0073 or exemption criteria in OAR 461-135-0075.
  - (d) A fleeing felon (see OAR 461-135-0560).
  - (e) An individual violating a condition of state or federal parole, probation, or post-prison supervision (see OAR 461-135-0560).
  - (f) An individual who does not meet the citizenship and alien status requirements in OAR 461-120-0110 and 461-120-0125.
  - (g) An individual who chooses not to receive benefits.

- (1) For all programs covered by OAR chapter 461, an individual or someone authorized to act on behalf of an individual must contact the Department or use another appropriate method to request benefits (see OAR 461-115-0150). The request may be oral or in writing. The request starts the application process.
- (2) The "date of request" is one of the following:
  - (a) In the EA, ERDC, GA, OSIP, REF, and TANF programs and for support service payments in the JOBS program authorized by OAR 461-190-0211, the "date of request" is the day the request for benefits is received by the Department.
  - (b) In the SNAP program, this section does not apply. See OAR 461-115-0040.
  - (c) In the ~~GAM~~, OSIPM, QMB, and REFM programs, for a new applicant, the "date of request" is determined as follows:
    - (A) The day the request for medical benefits is received by a Department representative, except as described in paragraph (B) of this subsection.
    - (B) If the request for medical benefits is received by a Department representative no later than the next business day after medical services are received, the "date of request" is the day these medical services were received.
  - (d) In the OSIPM, QMB, and REFM programs, for a current recipient, the "date of request" is one of the following:
    - (A) The date the individual reports a change requiring a redetermination of *eligibility* (see OAR 461-001-0000).
    - (B) The date the Department initiates a review.
    - (C) The date the individual establishes a "date of request" by contacting the Department orally or in writing or by submitting an application.
  - (e) In the SFPSS program:
    - (A) Except as provided in paragraph (B) of this subsection, the "date of request" is the day the individual signs the Interim Assistance Agreement.
    - (B) The "date of request" for support service payments is the day the request for benefits is received by the Department.



Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.041, 414.685, 414.826, 414.839

When ~~A~~n Application Must Be Filed

- (1) An individual must file an application, or may amend a completed application, as a prerequisite to receiving benefits as follows:

(a) An individual may apply for the GA program by completing an application for the OSIPM program.

~~(b)~~ (a) An individual may apply for the TA-DVS program as provided in OAR 461-135-1220.

~~(c)~~ (b) In all programs except the TA-DVS program:

(A) Except as provided otherwise in this rule, to apply for program benefits, an individual must submit a complete application on a form approved by the Department.

(B) An application is complete if all of the following requirements are met:

(i) All information necessary to determine *eligibility* (see OAR 461-001-0000) and benefit amount is provided on the application for each individual in the *filing group* (see OAR 461-110-0310).

(ii) The applicant, even if homeless, provides a valid mailing address.

(iii) The application is signed by the individual, the *authorized representative* (see OAR 461-115-0090 and 461-115-0140) of the individual, or another individual applying for benefits on behalf of the individual, and received by the Department.

(I) An individual required but unable to sign the application may sign with a mark, witnessed by another individual.

(II) An individual submitting an *electronic application* (see OAR 461-001-0000) must submit the application with an electronic signature.

- (2) A new application is not required in the following situations:

(a) In the GA program, when an individual is receiving OSIPM on the date of request (see OAR 461-115-0030) for GA.

~~(b)~~ (a) In the SNAP program, when a single application can be used both to determine an individual is ineligible in the month of application and to determine the individual is eligible the next month. This may be done when--

- (A) Anticipated changes make the *filing group* (see OAR 461-110-0370) eligible the second month; or
  - (B) The *filing group* provides verification between 30 and 60 days following the *filing date* (see OAR 461-115-0040), under OAR 461-180-0080.
- (~~cb~~) In all programs except the SNAP program, when a single application can be used both to determine an individual is ineligible on the *date of request* (see OAR 461-115-0030) and to determine the individual is eligible when anticipated changes make the *filing group* eligible within 45 days from the *date of request*.
  - (~~de~~) When the case is closed and reopened during the same calendar month.
  - (~~ed~~) When benefits were suspended for one month because of the level of income, and the case is reopened the month following the month of suspension.
  - (~~fe~~) When reinstating medical benefits for a pregnant woman covered by OAR 461-135-0950, notwithstanding subsection (g) of this section.
  - (~~gf~~) In the ERDC program, when a case closed during the *certification period* (see OAR 461-001-0000) and the individual reports a change in circumstances prior to the end of the month following the closure and the reported change will make the individual eligible.
  - (~~hg~~) In the ~~GAM~~, OSIPM, and QMB programs, when the medical benefits of an individual are suspended because the individual lives in a *public institution* (see OAR 461-135-0950), if the inmate is released within 12 months of admission and the inmate provides notification to the Department within 10 days of the release.
- (3) When an individual establishes a new *date of request* prior to the end of the month following the month of case closure, unless the Department determines a new application is required, a new application is not required in the following situations:
    - (a) In the OSIPM program, when the individual's case closed due to failure to make a liability payment required under OAR 461-160-0610.
    - (b) In the OSIPM-EPD program, when the individual's case closed due to failure to make a participant fee payment required under OAR 461-160-0800.
  - (4) A new application is required to add a newborn *child* (see OAR 461-001-0000) to a *benefit group* (see OAR 461-110-0750) according to the following requirements:
    - (a) In the ERDC and SNAP programs, an application is not required to add the *child* to the *benefit group*.

- (b) In the ~~GAM~~, OSIPM, QMB, and REFM programs, an additional application is not required to add an assumed eligible newborn (see OAR 461-135-0010) to a *benefit group* currently receiving Department medical program benefits.
- (c) In the TANF program:
  - (A) A new application is not required if the *child* is listed on the application as "unborn" and there is sufficient information about the *child* to establish its *eligibility*.
  - (B) A new application is required if the *child* is not included on the application as "unborn."
- (d) In all programs other than ERDC, ~~GAM~~, QMB, REF, REFM, SNAP, and TANF, an application is required.
- (5) A new application is required to add an individual, other than a newborn *child*, to a *benefit group* according to the following requirements:
  - (a) In the ERDC and SNAP programs, a new application is not required.
  - (b) In the REF, REFM, and TANF programs, an individual may be added by amending a current application if the information is sufficient to determine *eligibility*; otherwise a new application is required.
  - (c) In all programs other than the ERDC, REF, REFM, SNAP, and TANF programs, a new application is required.
- (6) An individual whose TANF grant is closing may request ERDC orally or in writing.
- (7) Except for an applicant for the OSIPM, QMB, or SNAP program, an individual may change between programs administered by the Department using the current application if the following conditions are met:
  - (a) The individual makes an oral or written request for the change.
  - (b) The Department has sufficient evidence to determine *eligibility* and benefit level for the new program without a new application.
  - (c) The program change can be effected while the individual is eligible for the first program.
- (8) In the OSIP, OSIPM, and QMB programs, a new application is not required to redetermine *eligibility* if the following conditions are met:
  - (a) The individual is currently receiving benefits from one of these programs.

- (b) The Department has sufficient evidence to redetermine *eligibility* for the same program or determine *eligibility* for the new program without a new application or by amending the current application.

Stat. Auth: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.025, 414.685

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 413.085, 414.025, 414.041, 414.231, 414.685, 414.839

## Who Must Sign the Application and Complete the Application Process

- (1) In the ERDC and TANF programs, the following individuals must sign the application and complete the application process:
  - (a) In the ERDC program, a *caretaker* (see OAR 461-001-0000).
  - (b) In the TANF program, at least one *caretaker relative* (see OAR 461-001-0000).
- (2) In the EA program:
  - (a) A *caretaker relative* must sign the application and complete the application process for a *child* (see OAR 461-001-0000). If the *child* is not living with a *caretaker relative*, another adult may act on behalf of the *child*.
  - (b) If the *caretaker relative* lives with a *spouse* (see OAR 461-001-0000), both must sign the application.
  - (c) A dependent *child* 18 years of age who applies must sign the application and complete the application process.
- (3) In the GA, ~~GAM~~, OSIPM, and QMB programs, at least one adult individual 18 years of age or older requesting assistance must complete the application process and sign the application, if able. If ~~there is no adult who~~ such individual is able to sign the application and complete the application process, this may be done by the *authorized representative* (see OAR 461-115-0090). If the applicant dies prior to the determination of eligibility for OSIPM, the application may be processed if the Department receives the required verification.
- (4) In the REF and REFM programs, at least one *adult* (see OAR 461-110-0430) member of the *filing group* (see OAR 461-110-0430) must sign the application.
- (5) In the SNAP program, the *primary person* (see OAR 461-001-0015), the *spouse* of the *primary person*, or another *adult* (see OAR 461-001-0015) member of the *filing group* (see OAR 461-110-0370) must sign the application and complete the application process.
- (6) An individual required to sign the application but unable to sign may sign with a mark, witnessed by an employee of the:
  - (a) *Branch office* (see OAR 461-001-0000); or
  - (b) *Public institution* (see OAR 461-135-0950), when the individual applying is an *inmate* (see OAR 461-135-0950) and is applying for benefits under the OSIPM program.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.087, 411.400, 411.404, 411.816, 412.049

## Periodic Redeterminations; Not EA, ERDC, SNAP, or TA-DVS

The Department periodically redetermines the *eligibility* (see OAR 461-001-0000) of clients for benefits and assigns a redetermination date by which the next determination is required. The Department selects the redetermination date based on the client's circumstances and according to the following requirements:

- (1) In the GA ~~and GAM~~ programs, the Department redetermines *eligibility* each-at least once every 12 months.
- (2) In the OSIP and OSIPM programs, the Department determines *eligibility* each 12 months for clients who are not eligible for SSI. No redetermination is required for clients who are eligible for SSI.
- (3) In the QMB program, the Department determines *eligibility* each 12 months for clients who are not eligible for SSI. For QMB recipients who are also eligible for OSIPM, a redetermination for QMB is completed with the redetermination of OSIPM.
- (4) The REF and REFM programs are time limited programs; therefore, no periodic redeterminations are made.
- (5) In the SFPSS program, the Department redetermines *eligibility* at least once every 12 months. The Department redetermines program *eligibility* by redetermining *eligibility* for the TANF program.
- (6) In the TANF program, benefits will end the last day of the *certification period* (see OAR 461-001-0000). The Department redetermines *eligibility* according to the following schedule:
  - (a) At least once every six months for each of the following:
    - (A) Clients not participating in an *activity* (see OAR 461-001-0025) of an open *case plan* (see OAR 461-001-0025).
    - (B) Clients who are currently serving a JOBS disqualification.
  - (b) At least once every 12 months for all other clients.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839

461-115-0700

~~Eff. 1-1-16~~

Eff. 9-1-16

Required Verification; GA, ~~GAM~~, OSIP, OSIPM, and QMB

In the GA, ~~GAM~~, OSIP, OSIPM, and QMB programs:

- (1) Except as provided in section (2) of this rule, all *eligibility* (see OAR 461-001-0000) factors must be verified at initial application, when there is a change to any factor, and whenever *eligibility* for benefits becomes questionable.
- (2) In the ~~GA, GAM~~, OSIP, OSIPM, and QMB-DW programs, if the total reported value of gross "liquid resources" of the *financial group* (see OAR 461-110-0530) is less than \$400, verification of the value of "liquid resources" is only required if questionable. For the purposes of this rule, "liquid resources" include cash as well as other resources that can be converted to cash within 20 business days, except that the cash surrender value of a life insurance policy is not considered a liquid resource.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685, 414.839



## State of Residence for an Individual in a Medical Facility

In the ~~GAM~~, OSIPM, QMB, and REFM programs, the residency of an individual living in a state or private medical facility such as a hospital, mental hospital, nursing home, or convalescent center is determined as follows:

- (1) An individual 21 years of age or older who is capable of indicating intent to reside is considered to be --
  - (a) A resident of the state where the individual is living with the intention to remain permanently or for an indefinite period, except when subsection (b) of this section indicates otherwise.
  - (b) When a state agency of another state places the individual (other than a child funded under Title IV-E), the individual is considered to be a resident of the state that makes the placement.
- (2) An individual 21 years of age or older who became incapable of indicating intent to reside after attaining 21 years of age is considered to be a resident of the state where the facility is located unless the individual was placed in the facility by a state agency of another state. When a state agency of another state places an individual, the individual is considered to be a resident of the state that makes the placement.
- (3) For an individual less than 21 years of age who is incapable of forming an intent to reside, or an individual of any age who became incapable of forming that intent before attaining 21 years of age (see OAR 461-120-0050), the state of residence is one of the following:
  - (a) The state of residence of the individual's parent or legal guardian at the time of application.
  - (b) The state of residence of the party who applies for benefits on the individual's behalf if there is no living parent or the location of the parent is unknown, and there is no legal guardian.
  - (c) Oregon, if the individual has been receiving medical assistance in Oregon continuously since November 1, 1981, or is from a state with which Oregon has an interstate agreement that waives the residency requirement.
  - (d) When a state agency of another state places the individual, the individual is considered to be a resident of the state that makes the placement.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

- (1) For purposes of this chapter of rules, an individual is a "qualified non-citizen" if the individual is any of the following:
  - (a) A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq.*).
  - (b) A refugee who is admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157).
  - (c) A non-citizen who is granted asylum under section 208 of the INA (8 U.S.C. 1158).
  - (d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 U.S.C. 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 U.S.C. 1231(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).
  - (e) A non-citizen who is paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) for a period of at least one year.
  - (f) A non-citizen who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) as in effect prior to April 1, 1980.
  - (g) A non-citizen who is a "Cuban and Haitian entrant" (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).
  - (h) A battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c), as determined by the U.S. Citizenship and Immigration Services.
  - (i) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).
  - (j) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).
- (2) In all programs except the REF and REFM programs, an individual meets the alien status requirements if the individual is one of the following:
  - (a) An American Indian born in Canada to whom the provisions of section 289 of the INA (8 U.S.C. 1359) apply.

- (b) A member of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Act (25 U.S.C. 450b(e)).
- (3) In the ERDC, TA-DVS, and TANF programs, an individual meets the alien status requirements if the individual is one of the following:
- (a) An individual who is a *qualified non-citizen* (see section (1) of this rule).
  - (b) A non-citizen who is currently a victim of domestic violence or who is at risk of becoming a victim of domestic violence.
  - (c) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.
- (4) In the OSIPM and QMB programs an individual meets the alien status requirement if:
- (a) The individual is a non-citizen who entered the United States or was given *qualified non-citizen* status on or after August 22, 1996 and has been in the U.S. for five years beginning on the date the non-citizen received his or her *qualified non-citizen* status; or
  - (b) The individual meets the requirements of one of the following subsections:
    - (A) An individual granted any of the following alien statuses--
      - (i) Refugee--under section 207 of the INA.
      - (ii) Asylum--under section 208 of the INA.
      - (iii) Deportation being withheld under section 243(h) of the INA.
      - (iv) Cubans and Haitians who are either public interest or humanitarian parolees.
      - (v) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.
      - (vi) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).
      - (vii) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).

- (viii) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.
- (B) Effective October 1, 2009, an individual is a qualified non-citizen and is under 19 years of age.
- (C) Was a *qualified non-citizen* before August 22, 1996.
- (D) Physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date *qualified non-citizen* status was obtained. An individual is not continuously present in the United States if the individual is absent from the United States for more than 30 consecutive days or a total of more than 90 days between August 22, 1996 and the date *qualified non-citizen* status was obtained.
- (E) Is under the age of 19 and is one of the following:
  - (i) A citizen of a Compact of Free Association State (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) who has been admitted to the U.S. as a non-immigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the U.S.
  - (ii) An individual described in 8 CFR section 103.12(a)(4) who belongs to one of the following classes of aliens permitted to remain in the United States because the Attorney General has decided for humanitarian or other public policy reasons not to initiate deportation or exclusion proceedings or enforce departure:
    - (I) An alien currently in temporary resident status pursuant to section 210 or 245A of the INA (8 USC 1160 and 1255a);
    - (II) An alien currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 USC 1229b);
    - (III) Cuban-Haitian entrants, as defined in section 202(b) Pub. L. 99-603 (8 USC 1255a), as amended;
    - (IV) Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649 (8 USC 1255a), as amended;
    - (V) An alien currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;

- (VI) An alien currently in deferred action status pursuant to Department of Homeland Security Operating Instruction OI 242.1(a)(22); or
  - (VII) An alien who is the spouse or child of a United States citizen whose visa petition has been approved and who has a pending application for adjustment of status.
- (iii) An individual in non-immigrant classifications under the INA who is permitted to remain in the U.S. for an indefinite period, including those individuals as specified in section 101(a)(15) of the INA (8 USC 1101).
- (F) In the OSIPM program, is receiving SSI benefits.
- (G) In the QMB program, is receiving SSI and Medicare Part A benefits.
- (H) Meets the alien status requirements in section (2) or (65) of this rule.

~~(5) In the GA and GAM programs, an individual meets the alien status requirement if the individual is one of the following:~~

~~(a) An individual who is blind or has a disability was lawfully residing in the United States on August 22, 1996, and is now a *qualified non-citizen*.~~

~~(b) An individual granted one of the following statuses, but only for seven years following the date the status is granted:~~

~~(A) Refugee under section 207 of the INA.~~

~~(B) Asylum under section 208 of the INA.~~

~~(C) Deportation being withheld under section 243(h) of the INA.~~

~~(D) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.~~

~~(E) Cubans and Haitians who are either public interest or humanitarian parolees.~~

~~(F) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).~~

~~(G) — A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).~~

~~(e) — An individual who meets one of the alien status requirements in section (2) or (6) of this rule.~~

~~(d) — An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.~~

(56) In all programs except the ERDC, REF, REFM, and TANF programs, a *qualified non-citizen* meets the alien status requirement if the individual is:

- (a) A veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 U.S.C. 5303A(d).
- (b) A member of the United States Armed Forces on active duty (other than active duty for training).
- (c) The spouse or a dependent child of an individual described in subsection (a) or (b) of this section.
- (d) In the SNAP program, a qualified non-citizen who meets the requirement in section (408) of this rule.

(67) In the REF and REFM programs, an individual meets the alien status requirements if the individual is admitted lawfully under any of the following provisions of law:

- (a) An individual admitted as a refugee under section 207 of the INA (8 USC 1157).
- (b) An individual granted asylum under section 208 of the INA (8 USC 1158).
- (c) Cuban and Haitian entrants, in accordance with requirements in 45 CFR part 401.
- (d) An individual paroled as a refugee or asylee under section 212(d)(5) of the Immigration and Nationality Act (INA) (8 USC 1182(d)(5)). For purposes of this section, "Lautenberg" parolees, humanitarian interest parolees, and other public interest parolees do not qualify.
- (e) An Amerasian from Vietnam who is admitted to the U.S. as an immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Pub. L. No. 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100-461 as amended)).

- (f) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.
- (g) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).
- (h) Iraqi and Afghan aliens granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act.

(78) In the SNAP program, an individual meets the alien status requirement if the individual meets the requirements of one or more of the following subsections:

- (a) An individual granted any of the following alien statuses--
  - (A) Refugee--under section 207 of the INA.
  - (B) Asylum--under section 208 of the INA.
  - (C) Deportation being withheld under section 243(h) of the INA.
  - (D) Cubans and Haitians who are either public interest or humanitarian parolees.
  - (E) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.
  - (F) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).
  - (G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).
  - (H) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.
- (b) A *qualified non-citizen* under 18 years of age.
- (c) A non-citizen who has been residing in the United States for at least five years while a *qualified non-citizen*.

- (d) A non-citizen who is lawfully residing in the United States and who was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in 38 U.S.C. 101).
- (e) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in subsection (d) of this section.
- (f) A *qualified non-citizen* who has a *disability*, as defined in OAR 461-001-0015.

(89) A client who is lawfully admitted to the United States for permanent residence under the INA and has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, or can be credited with such qualifying quarters as provided under 8 U.S.C. 1645, meets the alien status requirements for the SNAP program, subject to the following provisions:

- (a) No quarter beginning after December 31, 1996, is a qualifying quarter if the client received any federal, means-tested benefit during the quarter. Federal means-tested benefits include SNAP, TANF, and Medicaid (except emergency medical).
- (b) For the purpose of determining the number of qualifying quarters of coverage, a client is credited with all of the quarters of coverage worked by a parent of the client while the client was under the age of 18 and all of the qualifying quarters worked by a spouse of the client during their marriage, during the time the client remains married to such spouse or such spouse is deceased.
- (c) A lawful permanent resident who would meet the alien status requirement, except for a determination by the Social Security Administration (SSA) that the individual has fewer than 40 quarters of coverage, may be provisionally certified for SNAP program benefits while SSA investigates the number of quarters creditable to the client. A client provisionally certified under this section who is found by SSA, in its final administrative decision after investigation, not to have 40 qualifying quarters is not eligible for SNAP program benefits received while provisionally certified. The provisional certification is effective according to the rule on effective dates for opening benefits, OAR 461-180-0080. The provisional certification cannot run more than six months from the date of original determination by SSA that the client does not have sufficient quarters.

Stat. Auth.: ORS 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.231  
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826



## Requirement to Provide Social Security Number (SSN)

- (1) In the CAWEM, ERDC, REF, and REFM programs, a member of a *need group* (see OAR 461-110-0630) or a *benefit group* (see OAR 461-110-0750) is not required to provide or apply for a social security number (SSN). In these programs, the Department may request that a member of the filing group (see OAR 461-110-0310) or *need group* provide an SSN on a voluntary basis.
- (2) In the EA and TA-DVS programs, an individual must provide his or her SSN if the individual can.
- (3) Except as provided in section (56) of this rule, in the OSIPM and QMB programs:
  - (a) An individual is not required to apply for or provide an SSN --
    - (A) If the individual does not have an SSN; and
    - (B) May only be issued an SSN for a valid non-work reason in accordance with 20 CFR 422.104.
  - (b) When subsection (a) does not apply, to be included in the *benefit group*, an individual must:
    - (A) Provide a valid SSN for the individual; or
    - (B) Apply for a number if the individual does not have a valid one and provide the SSN when it is received.
- (4) Except as provided in sections (6) to (8) of this rule, in the SNAP program, to be included in the *need group*, an individual (other than an unborn) must:
  - (a) Provide a valid SSN for the individual; or
  - (b) Apply for a number if the individual does not have one and provide the SSN when it is received.
- (5) In the TANF program, to be included in the *benefit group*, an individual must:
  - (a) Provide a valid SSN for the individual; or
  - (b) Provide verification of application for a SSN if the individual does not have one and provide the SSN within six months of the individual's initial TANF approval or by the end of the *certification period* (see OAR 461-001-0000), whichever is sooner.

- (6) In the ~~GA, GAM,~~ OSIPM, QMB, and SNAP programs, an individual is not required to apply for or provide an SSN if the individual is ---
- (a) A member of a religious sect or division of a religious sect that has continuously existed since December 31, 1950; and
  - (b) Adheres to its tenets or teachings that prohibit applying for or using an SSN.
- (7) The requirement to apply for or provide the SSN is delayed as follows:
- (a) In the SNAP program:
    - (A) An applicant eligible for expedited services may receive his or her first full month's allotment without meeting the SSN requirement but must meet the requirement before receiving a second full month's allotment.
    - (B) Before applying for or providing an SSN, a newborn may be included in a *benefit group* (see OAR 461-110-0750) for six months following the date the child is born or until the group's next recertification, whichever is later.
  - (b) In the TANF program, a child born in an Oregon hospital may be added to the *benefit group* for six months following the child's date of birth or until the next redetermination of *eligibility* (see OAR 461-001-0000) of the filing group (see OAR 461-110-0310 and 461-110-0330), whichever is sooner.
- (8) In the SNAP program:
- (a) An individual who refuses or fails without good cause to provide or apply for an SSN when required by this rule is ineligible to participate. This period of ineligibility continues until the individual provides the SSN to the Department.
  - (b) An individual may participate in SNAP for one month in addition to the month of application, if the individual can show good cause why the application for an SSN has not been completed. To continue to participate, the individual must continue to show good cause each month until the application for an SSN is complete with Social Security Administration.
  - (c) An individual meets the good cause requirement in subsections (a) and (b) of this section if the individual provides evidence or collateral information that the individual applied for or made every effort to supply the Social Security Administration with the necessary information to complete the application process. Delays due to illness not associated with a *disability* (see OAR 461-001-0015), lack of transportation, or temporary absence do not qualify as good cause under this rule.

- (9) This rule authorizes or requires the collection of an SSN for each of the following purposes.
- (a) The determination of *eligibility* for benefits. The SSN is used to verify income and other assets, and match with other state and federal records such as the Internal Revenue Service (IRS), Medicaid, child support, Social Security benefits, and unemployment benefits.
  - (b) The preparation of aggregate information and reports requested by funding sources for the program providing benefits.
  - (c) The operation of the program applied for or providing benefits.
  - (d) Conducting quality assessment and improvement activities.
  - (e) Verifying the correct amount of payments, recovering overpaid benefits, and identifying any individual receiving benefits in more than one household.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.087, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.826, 414.839

In the ~~GAM~~, OSIPM, QMB, and REFM programs:

- (1) By signing the application for assistance, a client agrees to turn over the rights of each member of the *benefit group* (see OAR 461-110-0750) to reimbursement for medical care costs to the Department.
  - (a) If a client or the client's *authorized representative* (see OAR 461-115-0090) refuses to assign the rights to reimbursement for medical care costs to the Department, the filing group is ineligible until the client complies with this requirement. This includes a client eligible for *long term care* (see OAR 461-001-0000) insurance payments who fails to comply as described in subsection (b) of this section.
  - (b) When a client has *long term care* insurance, the client complies with the requirements of this rule by reducing the Department's share of the *long term care* service costs by taking the following actions for the entire period of time that the client is eligible for Department-covered *long term care* services:
    - (A) For a client in a nursing facility:
      - (i) Submitting the necessary paperwork to receive the *long term care* insurance payments and designating the *long term care* facility as the payee for the *long term care* insurance benefits; or
      - (ii) When the insurance company will not pay the *long term care* insurance benefits directly to the *long term care* facility, submitting the necessary paperwork to receive insurance payments and then promptly turning over the *long term care* insurance payments to the *long term care* facility upon receipt.
    - (B) For a client in *community based care* (see OAR 461-001-0000):
      - (i) Submitting the necessary paperwork to receive the *long term care* insurance payments and designating the Department as the payee for the *long term care* insurance benefits; or
      - (ii) When the insurance company will not pay the *long term care* insurance benefits directly to the Department, submitting the necessary paperwork to receive the insurance payments and then promptly turning over the *long term care* insurance payments to the Department upon receipt.

- (2) The Department may refuse to pay medical expenses for anyone in the *benefit group* when another party or resource should pay first.
- (3) The amount the Department may collect in reimbursement is limited to the amount of medical services paid by the Department on the client's behalf.
- (4) The Department establishes an overpayment if it is discovered after-the-fact that during any period of time a client or another individual submitting a *long term care* insurance claim on the client's behalf received a *long term care* insurance payment that was not turned over to the *long term care* facility or Department as required by subsection (1)(b) of this rule.

Stat. Auth.: ORS 411.060, 411.404, 411.706, 414.231

Stats. Implemented: ORS 411.060, 411.404, 411.706, 414.231

461-120-0345

~~Eff. 1-1-14~~

Eff. 9-1-16

Clients Required to Obtain Health Care Coverage and Cash Medical Support; ~~GAM~~, OSIPM

This rule explains the obligation of clients to obtain health care coverage and cash medical support for members of the *benefit group* (see OAR 461-110-0750) in the ~~GAM and~~ OSIPM programs.

- (1) Unless excused from the requirements of this section for *good cause* defined in OAR 461-120-0350, each adult client must assist the Department and the Division of Child Support of the Department of Justice in establishing paternity for each of his or her children and obtaining an order directing the non-custodial *parent* (see OAR 461-001-0000) of a *child* (see OAR 461-001-0000) in the *benefit group* to provide:
  - (a) Cash medical support for that *child*; and
  - (b) Health care coverage for that *child*.
- (2) Each adult client must make a good faith effort to obtain available coverage under Medicare.
- (3) To be eligible for the ~~GAM and~~ OSIPM programs, once informed of the requirement, an individual who is able to must apply for, accept, and maintain cost-effective, employer-sponsored health insurance (see OAR 461-155-0360). In the ~~GAM and~~ OSIPM programs, the client is not required to incur a cost for the health insurance.
- (4) An individual who fails to meet an applicable requirement in sections (1), (2), or (3) of this rule is removed from the *need group* (see OAR 461-110-0630).
- (5) In the case of an individual failing to meet the requirements of section (1) of this rule, the Department applies the penalty after providing the client with notice and opportunity to show the provisions of OAR 461-120-0350 apply.
- (6) The penalty provided by this rule ends when the client meets the requirements of this rule.

Stat. Auth: ORS 411.060, 411.070, 411.404, 412.024, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 412.001, 412.024, 412.049, 414.025

461-120-0350

~~Eff. 1-1-14~~

Eff. 9-1-16

Clients Excused for Good Cause from Compliance with Requirements to Pursue Child Support, Health Care Coverage, and Medical Support

- (1) A client is excused from the requirements of OAR 461-120-0340(1) and 461-120-0345(1)(a) if:
  - (a) The client's compliance would result in emotional or physical harm to the *dependent child* (see OAR 461-001-0000) or to the *caretaker relative* (see OAR 461-001-0000). The statement of the *caretaker relative* alone is prima facie evidence that harm would result;
  - (b) The child was conceived as a result of incest or rape and efforts to obtain support would be detrimental to the *dependent child*. The statement of the *caretaker relative* alone is prima facie evidence on the issues of conception and detrimental effect to the *dependent child*;
  - (c) Legal proceedings are pending for adoption of the needy child; or
  - (d) The parent is being helped by a public or licensed private social agency to resolve the issue of whether to release the child for adoption.
- (2) In the ~~GAM and~~ REF M programs, a pregnant client is excused from the requirements of OAR 461-120-0345.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

## Age Requirements for Clients to Receive Benefits

- (1) If the year of an individual's birth is known but the month is unknown, the month of birth is presumed to be July. If the date of birth is unknown, the date of birth is presumed to be the first of the month.
- (2) To be eligible for the TANF program:
  - (a) A *dependent child* (see OAR 461-001-0000) must be--
    - (A) Under 18 years of age; or
    - (B) Under 19 years of age and *regularly attending school* (see subsection (c) of this section) full time, as determined by the school.
  - (b) A *caretaker relative* (see OAR 461-001-0000) may be any age.
  - (c) "Regularly attending school" means enrolled in and attending any of the following:
    - (A) A school in grade 12 or below, including home schooling approved by the local school district.
    - (B) GED classes in lieu of high school.
    - (C) A course of vocational or technical training, including Job Corps, in lieu of high school.
    - (D) The Oregon School for the Deaf.
  - (d) The student's full-time status is defined by the school.
  - (e) Regular attendance continues when a student misses school because of an illness, family emergency, or vacation, as long as the student intends to return to school. Students are considered to be in attendance for the full month in which they complete or discontinue school or training.
- (3) To be eligible for payment of child care costs for the ERDC or TANF program, a *child* must be--
  - (a) Under 12 years of age for the ERDC program or under 13 years of age for the TANF program; or



- (b) Under 18 years of age and--
  - (A) Physically or mentally incapable of selfcare;
  - (B) Under court supervision;
  - (C) Receiving foster care;
  - (D) Eligible for the special need rate for child care in OAR 461-155-0150; or
  - (E) Subject to circumstances that significantly compromise the child's safety or the caretaker's ability to work or participate in an assigned activity if child care is not available.
- (4) To be eligible for the OSIP-AB, OSIPM-AB, QMB-BAS, QMB-SMB, REFM, or SNAP programs, a client may be any age.
- ~~(5) To be eligible for the GA and GAM programs, a client must be--~~
  - ~~(a) Eighteen years of age or older and less than 65 years of age; or~~
  - ~~(b) Sixty five years of age or older and must be a non citizen who meets the requirements of OAR 461 120 0125.~~
- (56) To be eligible for the OSIP-AD (except OSIP-EPD), OSIPM-AD (except OSIPM-EPD), and QMB-DW programs, a client must be under 65 years of age.
- (67) To be eligible for the OSIP-EPD and OSIPM-EPD programs, the client must be 18 years of age or older or be legally emancipated.
- (78) To be eligible for the OSIP-OAA or OSIPM-OAA programs, a client must be 65 years of age or older.
- (89) To be eligible for the REF program, a client must be:
  - (a) 18 years of age or older;
  - (b) A legally emancipated minor; or
  - (c) Part of a TANF filing group (see OAR 461-110-0310) that is ineligible for the TANF program.

THIS RULE IS REPEALED

~~(1) — To be eligible for GA and GAM, an individual must meet one of the following criteria:~~

~~(a) — Have a physical or mental impairment that meets or equals the listing of impairments found in 20 CFR 404, Subpart P, Appendix 1, in effect November 1, 2003, and can be expected to—~~

~~(A) — Last for a continuous period of not less than 12 months from the date of request; or~~

~~(B) — Result in death within 12 months from the date of request.~~

~~(b) — Be 55 years of age or older and meet the following requirements:~~

~~(A) — Have a severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will—~~

~~(i) — Prevent the individual from returning to any past relevant work for a period of not less than 12 months from the date of request; or~~

~~(ii) — Result in death within 12 months from the date of request.~~

~~(B) — Be limited to sedentary residual functioning capacity as defined in 20 CFR 404, subpart P, appendix 2, in effect November 1, 2003.~~

~~(c) — Be 55 years of age or older and have all of the following:~~

~~(A) — A severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will—~~

~~(i) — Last for a period of not less than 12 months from the date of request; or~~

~~(ii) — Result in death within 12 months from the date of request.~~

~~(B) — Less than a 12th grade education, as evidenced by the lack of a high school diploma or GED.~~

~~(C) — A history of no past relevant work as defined in section (2) of this rule in the last 15 years.~~

- ~~(d) — Be age 50 or older but not yet age 55 and—~~
  - ~~(A) — Have a severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will—~~
    - ~~(i) — Last for a period of not less than 12 months from the date of request; or~~
    - ~~(ii) — Result in death within 12 months from the date of request.~~
  - ~~(B) — Be illiterate or unable to communicate in English.~~
  - ~~(C) — Be limited to light residual functioning capacity as defined in 20 CFR 404, subpart P, appendix 2, in effect November 1, 2003.~~
  - ~~(D) — Have a past relevant work history of "unskilled" or "none."~~
- ~~(e) — Be age 50 or older but not yet age 55 and—~~
  - ~~(A) — Have a severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will—~~
    - ~~(i) — Last for a period of not less than 12 months from the date of request; or~~
    - ~~(ii) — Result in death within 12 months from the date of request.~~
  - ~~(B) — Have less than a High School education.~~
  - ~~(C) — Be limited to sedentary residual functioning capacity as defined in 20 CFR 404, subpart P, appendix 2, in effect November 1, 2003.~~
  - ~~(D) — Have a past relevant work history of "unskilled" or "none."~~
- ~~(f) — Be age 45 or older but not yet age 50 and—~~
  - ~~(A) — Have a severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will—~~
    - ~~(i) — Last for a period of not less than 12 months from the date of request; or~~
    - ~~(ii) — Result in death within 12 months from the date of request.~~
  - ~~(B) — Be illiterate or unable to communicate in English.~~

~~(C) — Be limited to sedentary residual functioning capacity as defined in 20 CFR 404, subpart P, appendix 2, in effect November 1, 2003.~~

~~(D) — Have a past relevant work history of unskilled or none.~~

~~(2) — As used in this rule:~~

~~(a) — "Basic work activity" means any kind of work activity that averages at least eight hours a day for which income is received, regardless of the adequacy to meet the client's needs. Work performed against medical advice or at an activity center or sheltered workshop is not basic work activity.~~

~~(b) — "Equaling" means the medical findings are at least equal in severity and duration to the listed findings. If the client's impairment is not listed, the Department considers the listed impairment most like the client's impairment to decide whether the client's impairment is medically equal to the listed impairment. If the client has more than one impairment, and none of them meets or equals a listed impairment, the Department reviews the symptoms, signs, and laboratory findings about the client's impairments to determine whether the combination of those impairments is medically equal to a listed impairment.~~

~~(c) — "Light work" means work that requires lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds and requires occasional stooping. It also requires standing or walking for a total of approximately six hours of an eight-hour workday.~~

~~(d) — "Past relevant work" means work that the individual has performed in the last 15 years and that constitutes *substantial gainful activity* as defined in 20 CFR 404.1574 and 404.1575, in effect November 1, 2003. Also, the past relevant work must have lasted long enough for the individual to learn the techniques, acquire the necessary information, and develop the facilities needed for average performance of the job situation.~~

~~(e) — "Sedentary work" means work that requires lifting no more than 10 pounds at a time and occasionally lifting or carrying articles such as docket files, ledgers, and small tools. Although sitting is involved, a certain amount of walking and standing is often necessary in carrying out job duties. Periods of walking and standing should total no more than two hours of an eight-hour workday and sitting should total approximately six hours of an eight-hour workday. Most unskilled sedentary jobs require good use of the hands and fingers for repetitive hand-finger actions.~~

~~(f) — "Severe mental impairment" means a mental impairment that significantly limits the individual's ability to do basic work activity.~~

~~(g) "Severe physical impairment" means a physical impairment that significantly limits the individual's physical ability to do basic work activity.~~

~~(h) "Unskilled work" is work that requires little or no judgment to do simple duties that can be learned on the job within 30 days.~~

~~(3) An applicant is not eligible for GA or GAM if drug addiction or alcoholism is material to his or her disability.~~

~~(4) If the client is unable to do so, the Department will obtain medical evidence that documents a claim of physical or mental impairment.~~

Stat. Auth.: ORS 411.060, 411.070, 411.710, 411.404

Stats. Implemented: ORS 411.060, 411.070, 411.710, 411.404

461-125-0810

~~Tech. Eff 1-27-11~~

Eff. 9-1-16

Using Administrative Medical Examinations

- (1) When the Department is responsible for making a decision of ~~GA or~~ SFPSS disability determination, OSIP or OSIPM disability or OSIP or OSIPM blindness, or TANF incapacity, the client may select a qualified medical provider to complete the medical evaluation described in OAR 461-125-0830.
- (2) A decision to deny or end benefits must be reconsidered when additional medical documentation relevant to the decision is received by the Department within 30 days of the original effective date of denial or termination.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.710, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.710, 412.014, 412.049

461-135-0560

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

Eff. 9-1-16

Fleeing Felon and Violators of Parole, Probation, and Post-Prison Supervision; ~~GA, GAM, SNAP,~~ and TANF

- (1) A person is ineligible for the ~~GA, GAM, SNAP,~~ and TANF programs if he or she is a fleeing felon or in violation of parole, probation, or post-prison supervision.
- (2) A fleeing felon is a person who knowingly flees to avoid either of the following:
  - (a) Prosecution or custody for a crime or attempt to commit a crime that is classified as a felony.
  - (b) Confinement following conviction of a felony.
- (3) For purposes of this rule, the crime must be considered a felony under the laws of the place from which the person is fleeing or, in the case of New Jersey, a high misdemeanor under the law of New Jersey.
- (4) A person is in violation of parole, probation, or post-prison supervision if the Department receives a report of this violation from a local, state, or federal corrections agency or court responsible for supervision of the person. The violation continues until the Department receives a report from the corrections agency or court that the person is no longer in violation.
- (5) If there is a pending arrest warrant for a person for a felony, a high misdemeanor under the law of New Jersey, or a violation of parole, probation, or post-prison supervision, the person is ineligible under this rule if the person is aware of the arrest warrant and has not provided the Department with evidence on request that the person made a substantial effort within his or her ability to resolve the warrant.
- (6) A person is no longer considered a fleeing felon if the arrest warrant is no longer pending or the person provides the Department with evidence that the person made a substantial effort within his or her ability to resolve the warrant.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

THIS RULE IS AMENDED IN ITS ENTIRETY

~~To be eligible for GA or GAM, a client must meet the following requirements:~~

~~(1) The client must be:~~

~~(a) An individual, childless or not living with his or her child, who is unmarried or married and not living with his or her spouse; or~~

~~(b) Married, living with his or her spouse, and childless or not living with his or her child, if:~~

~~(A) Both meet the GA impairment criteria found in OAR 461-125-0510;~~

~~(B) One meets the impairment criteria of the GA program and the spouse is receiving disability benefits provided for under title II or title XVI of the Social Security Act;~~

~~(C) One meets the impairment criteria of the GA program and the spouse is deemed to be receiving disability benefits provided for under title II or title XVI of the Social Security Act; or~~

~~(D) One meets the impairment criteria for the GA program, the spouse is awaiting a disability determination under title II of the Social Security Act, and the Department has determined the spouse meets the disability criteria of the Social Security Administration.~~

~~(2) The client must not be eligible for OSIP, OSIPM, except for clients found eligible under OAR 461-125-0370(1)(c), REF, or TANF.~~

~~(3) Requirements regarding eligibility for disability benefits under Title II of the Social Security Act:~~

~~(a) A client described in section (1)(a) of this rule must have filed an application for disability benefits under the Social Security Act and must not meet the non-disability eligibility requirements under Title II of the Social Security Act.~~

~~(b) In the case of a couple described in section (1)(b) of this rule, the person or persons required by section (1)(b) to meet the GA impairment criteria must meet the requirements of subsection (a) of this section.~~

~~(c) The client must present evidence of having made the application for disability benefits under the Social Security Act required by this section.~~



~~(d) The "VERSA" screen maintained by the Department, or a printed copy of the screen, is *prima facie* evidence of the information provided on the screen.~~

~~(4) The client must:~~

~~(a) Complete the application process for Supplemental Security Income (SSI); cooperate with the Department in applying to the Social Security Administration for SSI; appeal all denials of SSI made below the Administrative Law Judge level; and attend all appointments designated by the Department relating to obtaining SSI.~~

~~(b) Sign an interim assistance agreement authorizing the Department to recover interim GA benefits paid to the client (or paid to providers on the client's behalf) from the initial SSI payment or initial post-eligibility payment. The following provisions are considered part of the interim assistance agreement:~~

~~(A) Interim GA benefits include only those GA cash benefits paid during the period of time that the SSI benefit covers.~~

~~(B) For any month in which SSI is prorated, the Department can recover only a prorated amount of the interim GA cash benefit.~~

~~(C) If the Department cannot stop delivery of a GA benefit issued after the SSI payment is made, the GA payment will be included in the interim assistance to be reimbursed to the Department.~~

~~(1) For purposes of this rule, "homeless" means any of the following:~~

~~(a) The individual does not have a fixed or regular nighttime residence;~~

~~(b) The individual will lose his or her own residence within 90 days due to eviction or the inability to pay rent or mortgage; or~~

~~(c) The individual's primary residence is one of the following:~~

~~(A) A supervised shelter that provides temporary accommodations.~~

~~(B) A halfway house or residence for individuals who may become institutionalized.~~

~~(C) A temporary accommodation in another individual's or family's residence for 90 days or less.~~

~~(D) A place not designed to be or ordinarily used as a place for individuals to sleep, such as a hallway, bus station, or similar place.~~

- (2) To be eligible for GA, an individual must meet all of the following requirements:
- (a) The individual must be 18 years of age or older.
  - (b) The individual must be *homeless* (see section (1) of this rule).
  - (c) The individual may not be living with his or her *child* (see OAR 461-001-0000).
  - (d) The individual may not be receiving TANF benefits.
  - (e) The individual must be eligible for and receiving OSIPM with a basis of need established under OAR 461-125-0370(1)(c).
  - (f) The individual may not be in a *nonstandard living arrangement* (see OAR 461-001-0000) other than at home receiving *in-home services* (see OAR 411-030-0020).
  - (g) The individual must complete the application process for Supplemental Security Income (SSI); cooperate with the Department in applying to the Social Security Administration for SSI; appeal all denials of SSI made below the Appeal's Council level; and attend all appointments designated by the Department relating to obtaining SSI.
  - (h) The individual must meet the non-financial, non-disability requirements for SSI.
  - (i) The individual must sign an interim assistance agreement authorizing the Department to recover interim GA benefits paid to the client (or paid to providers on the client's behalf) from the initial SSI payment or initial post-eligibility payment. The following provisions are considered part of the interim assistance agreement:
    - (A) Interim GA benefits include only those GA cash benefits paid during the period of time that the SSI benefit covers.
    - (B) For any month in which SSI is prorated, the Department may recover only a prorated amount of the interim GA cash benefit.
    - (C) If the Department is unable to stop delivery of a GA benefit issued after the SSI payment is made, the GA payment will be included in the interim assistance to be reimbursed to the Department.

(3) Financial Eligibility.

(a) The OSIPM income and resource methodology are used to determine financial eligibility for the GA program.

(b) The GA benefit amount is determined according to OAR 461-155-0210 and 461-160-0500.

(4) If the Department determines that the individual no longer has an impairment that meets the criteria in OAR 461-125-0370, the individual is ineligible for GA.

(5) An individual found by the Social Security Administration (SSA) not to meet disability criteria at the initial, reconsideration, or hearing level may continue receiving GA benefits until all SSA administrative appeals are exhausted.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.710, Or Laws 2016, ch 93

Terminate GA and GAM Programs October 1, 2005; Reinstate GA July 1, 2016

- (1) Effective October 1, 2005, funding for the General Assistance (GA) and General Assistance Medical (GAM) programs ~~are not funded~~was discontinued. ~~Notwithstanding any other rule of the Department, t~~These programs are closed, effective October 1, 2005.
- (2) Effective September 30, 2005, all persons eligible for or receiving benefits of the GA or GAM programs ~~become~~became ineligible for these programs. Except as provided in sections (4) and (5) of this rule, the Department ~~will~~did not authorize or provide any benefit under the GA or GAM programs after September 30, 2005.
- (3) Effective October 1, 2005, all GA recipients who received d medical assistance through the OSIPM program ~~will~~continued to receive OHP Plus benefits through the OSIPM program until they became otherwise ineligible.
- (4) Effective October 1, 2005, all recipients of medical assistance through the GAM program who became ineligible for GAM on September 30, 2005 because of the closure of the GAM program ~~may receive~~received OHP benefits as follows:
  - (a) Clients who ~~have had~~ been determined to meet the *eligibility* (see OAR 461-001-0000) requirements of the OSIPM program (see OAR 461-125-0370 and the OSIPM *eligibility* requirements in OAR 461 Division 135) ~~will~~ received the OHP Plus benefits package (see OAR 410-120-1210(2)(a)).
  - (b) Clients may have also received the OHP Plus benefits package for the period that -
    - (A) The Department ~~has had~~ not previously made a determination about whether the client ~~meets~~met the disability requirements for OSIPM under OAR 461-125-0370 and the OSIPM eligibility requirements in OAR 461 Division 135; and
    - (B) A determination ~~is~~was still pending about whether the client ~~meets~~met the disability requirements for OSIPM under OAR 461-125-0370 and the OSIPM *eligibility* requirements in OAR 461 Division 135.
  - (c) Clients who ~~did~~ not qualify for the OHP Plus benefits may have been eligible for the OHP-OPU program under the *eligibility* requirements set out in OAR 461 Division 135, and if eligible, ~~will~~ received the OHP Standard benefits package (see OAR 410-120-1210(2)(b)).
- (5) Effective July 1, 2016, the GA program was restarted as provided in Oregon Laws 2016, chapter 93 and current *eligibility* rules.
- (6) The GA program reinstated on July 1, 2016 is limited to 200 individuals per month.

- (a) When the GA program reaches the limit of 200 individuals per month receiving benefits, the Department will place any individual referred for GA on a reservation list.
  
- (b) When a slot becomes available, the Department will determine *eligibility* for the individual with the earliest *date of request* (see OAR 461-115-0030) and, if eligible, that individual will begin receiving benefits. When more than one individual has the same *date of request*, the Department will select from those individuals based on the time the referral was received by the Collaborative Disability Determination Unit (CDDU).

Stat. Auth.: ORS 409.050, 411.060

Stats. Implemented: ORS 411.010, 411.060, 411.710, 411.730, 411.740, Or Laws 2016, ch 93

## Specific Requirements; GA, GAM Ineligible

THIS RULE IS REPEALED

~~(1) — The following are ineligible for GA and GAM:~~

~~(a) — A resident of a public institution or private psychiatric hospital.~~

~~(b) — A person held for a proceeding in connection with his or her commitment to a public institution or private psychiatric hospital.~~

~~(2) — A GA client found by the Social Security Administration (SSA) not to meet SSI disability criteria may continue receiving GA while appealing the SSA finding until a decision is rendered by an Administrative Law Judge (ALJ) for the Social Security Administration's Office of Hearings and Appeals. A client who unsuccessfully appeals to the ALJ is no longer eligible for GA.~~

~~(3) — A client whose impairment no longer meets the criteria in OAR 461-125-0510 is ineligible for benefits.~~

~~(4) — The decision by the ALJ is binding on the Department unless the client has a new or significantly worsened impairment.~~

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.710

Criteria for Developing a Plan for Self-support; ~~GA, GAM, OSIP~~, OSIPM, and QMB

- (1) A client and the Department may develop a plan for self-support in the ~~GA, GAM, OSIP~~, OSIPM, and QMB programs for a client who:
  - (a) Meets the applicable disability or impairment criteria; and
  - (b) Is not eligible for SSI.
- (2) A plan for self-support allows a client to retain a portion of his or her nonexcluded assets for a specific period of time to meet a specific occupational goal. The plan may provide for specialized or advanced education or training for clients with a severe disability.
- (3) To be approved, a plan for self-support must meet all of the following criteria:
  - (a) The plan must be in writing and approved by the Department.
  - (b) The plan must identify a realistic occupational goal, considering the client's physical limitations and capabilities.
  - (c) The goal of the plan must be to provide the client with income necessary to meet his or her needs, not just for improving potential earning capability or increasing self-sufficiency within the home.
  - (d) Resources designated to support the plan must be kept in a separate bank account with a specific savings or planned disbursement goal for using the resources. Previously commingled funds must be put in a separate bank account in order for them to be considered designated for the plan.
  - (e) The duration of the plan must be limited to the time necessary to complete the plan but cannot exceed thirty-six months plus an additional 12 months if necessary for completion of education or training.
- (4) A client must do all of the following to comply with a plan for self-support:
  - (a) Report any changes in circumstances that require a change to the current plan.
  - (b) Follow through with the plan without any break in excess of the longer of ---
    - (A) Normal vacations from school or training.
    - (B) Three months, unless the reasons are beyond his or her control.

- (5) If a client fails to comply with the requirements of section (4) of this rule, program eligibility is redetermined without the resource exclusions allowed by OAR 461-145-0405.
- (6) The client and the Department may revise a plan for self-support or may agree to a new plan. To be new, the plan must not have any relationship to the old plan. When a plan is revised or a new plan established:
  - (a) Resources designated to support the old plan may become a part of the revised or new plan.
  - (b) If changes are made in the amount of resources to support the plan, eligibility and the payment amount for program benefits are redetermined.
  - (c) If the duration of the revised plan in addition to the months the old plan was in effect exceeds the time limits in subsection (3)(e) of this rule, approval is limited to the remainder of the maximum period only.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060



## Eligibility for Inmates and Residents of State Hospitals

- (1) This rule sets out additional restrictions on the eligibility of inmates and residents of state hospitals for programs covered by Chapter 461 of the Oregon Administrative Rules.
- (2) Definition of an "inmate".
  - (a) An inmate is an individual living in a *public institution* who is:
    - (A) Confined involuntarily in a local, state or federal prison, jail, detention facility, or other penal facility, including an individual being held involuntarily in a detention center awaiting trial or an individual serving a sentence for a criminal offense;
    - (B) Residing involuntarily in a facility under a contract between the facility and a *public institution* where, under the terms of the contract, the facility is a *public institution*;
    - (C) Residing involuntarily in a facility that is under governmental control; or
    - (D) Receiving care as an outpatient while residing involuntarily in a *public institution*.
  - (b) An individual is not considered an inmate when:
    - (A) The individual is released on parole, probation, or post-prison supervision;
    - (B) The individual is on home- or work-release, unless the individual is required to report to a *public institution* for an overnight stay;
    - (C) The individual is staying voluntarily in a detention center, jail, or county penal facility after his or her case has been adjudicated and while other living arrangements are being made for the individual; or
    - (D) The individual is in a *public institution* pending other arrangements as defined in 42 CFR 435.1010.
- (3) A "public institution" is any of the following:
  - (a) A state hospital (see ORS 162.135).
  - (b) A local correctional facility (see ORS 169.005): a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds individuals for more than 36 hours.

- (c) A Department of Corrections institution (see ORS 421.005): a facility used for the incarceration of individuals sentenced to the custody of the Department of Corrections, including a satellite, camp, or branch of a facility.
- (d) A youth correction facility (see ORS 162.135):
  - (A) A facility used for the confinement of youth offenders and other individuals placed in the legal or physical custody of the youth authority, including a secure regional youth facility, a regional accountability camp, a residential academy and satellite, and camps and branches of those facilities; or
  - (B) A facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youth, or youth offenders pursuant to a judicial commitment or order.
- (4) Definition of serious mental illness. An individual has a serious mental illness if the individual has been diagnosed by a psychiatrist, a licensed clinical psychologist or a certified non-medical examiner as having dementia, schizophrenia, bipolar disorder, major depression or other affective disorder or psychotic mental disorder other than a substance abuse disorder and other than a disorder that is both--
  - (a) Caused primarily by substance abuse; and
  - (b) Likely to no longer meet the applicable diagnosis if the substance abuse discontinues or declines.
- (5) An individual who resides in a *public institution*, meets the definition of a serious mental illness (see section (4) of this rule), and applies for medical assistance between 90 and 120 days prior to the expected date of the person's release from the *public institution* may be found eligible for medical assistance. If the individual is determined to be eligible, the effective date of the individual's medical assistance is the date the individual is released from the institution.
- (6) A client who becomes a resident of a state hospital has medical benefits suspended for up to twelve full calendar months if the client is at least 21 years of age and under 65 years of age. When a client with suspended medical benefits is no longer a resident of the state hospital, medical benefits are reinstated effective the first day the client is no longer a resident, if the client continues to meet eligibility for the medical program.
- (7) An individual residing in a state psychiatric institution may be eligible for OSIPM benefits if the individual:
  - (a) Receives services on a certified ward;
  - (b) Meets level of care as certified by Acumentra; and

- (c) Meets one of the following:
  - (A) Is 65 years of age or older;
  - (B) Is under 21 years of age; or
  - (C) Is 21 years of age or older, if the basis of need is disability or blindness; eligibility was determined before the individual reached 21 years of age; and the individual entered the state hospital before reaching 21 years of age.
  
- (8) For all programs covered under chapter 461 of the Oregon Administrative Rules:
  - (a) If a pregnant woman receiving medical assistance through the ~~GAM~~ or OSIPM program becomes an *inmate* of a *public institution*, her medical benefits are *suspended*. When the Department is informed the woman is no longer an *inmate*, her medical benefits are reinstated--effective on the first day she is no longer an *inmate*--if she is still in her protected period of eligibility under OAR 461-135-0010.
  
  - (b) If an individual receiving medical assistance through the ~~GAM~~, OSIPM, or QMB program becomes an *inmate* of a correctional facility with an expected stay of no more than 12 months, medical benefits are suspended for up to 12 full calendar months during the incarceration period.~~(A) In the GAM program, when the Department is notified by a client with suspended benefits that the client has been released from incarceration, and the notification takes place within 10 days of the release or there is good cause for the late reporting, medical benefits are reinstated effective the first day the client is no longer an inmate.(B) In the OSIPM or QMB program, w~~When the Department is notified that an individual with suspended benefits has been released, and the notification takes place within 10 days of the release, medical benefits are reinstated effective the first day the client is no longer an *inmate* if the client continues to meet eligibility for the medical program.
  
- (9) In the GA and SNAP programs, in addition to the other provisions of this rule, an *inmate* released from a *public institution* on home arrest, and required to wear an electronic device to monitor his or her activity, is ineligible for benefits if the correctional agency provides room and board to the individual.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.439, 411.443, 411.445, 411.816, 412.014, 412.049, 414.426, 2011 Or. Laws 207

461-135-0990

~~Eff. 7-1-14~~

Eff. 9-1-16

Specific Requirements; Reimbursement of Cost-Effective, Private or Employer-Sponsored Health Insurance Premiums

- (1) Clients or an *eligible applicant* (see section (2) of this rule) for a client in the ~~CEM, EXT, GAM, MAA, MAF, OHP (except OHP-CHP and OHP-OPU), and~~ OSIPM programs may be reimbursed for their share of the premiums for private or employer-sponsored group health insurance if--
  - (a) The insurance covers a member of the *benefit group* (see OAR 461-110-0750);
  - (b) The insurance coverage is a comprehensive major medical plan that includes inpatient and outpatient hospital, physician, lab, x-ray and full prescription coverage; and
  - (c) The premium is cost-effective (see OAR 461-155-0360 and OAR 410-120-1960).
- (2) An "eligible applicant" may be a non-Medicaid individual living in or outside of the household. The Department may pay a portion of or the entire premium if payment of the premium for the non-Medicaid individual is necessary in order to enroll the Department client in the group health plan (see OAR 410-120-1960).

Stat. Auth.: ORS 411.060, 411.070, 411.404, 414.115

Stats. Implemented: ORS 411.060, 411.070, 411.404, 414.115

461-140-0010

~~Eff. 7-1-08~~

Eff. 9-1-16

Assets; Income and Resources

- (1) An available asset, either income or a resource, is categorized as either excluded or *countable* (defined in OAR 461-001-0000).
- (2) The availability of resources is covered in OAR 461-140-0020.
- (3) The availability of income is covered in OAR 461-140-0040.
- (4) Excluded assets are identified in the rules in this chapter (see divisions 140 and 145 in particular) and are not considered when a client's eligibility and benefit level are determined.
- (5) In the ~~GA, GAM,~~ OSIP, OSIPM, and QMB programs, an asset excluded pursuant to a rule in OAR Chapter 461 remains excluded as long as the asset is used in a manner consistent with the rule that provided the exclusion.
- (6) An available asset not specifically excluded is countable, and its value is used in determining the eligibility and benefit level of a client.
- (7) An asset may not be counted as a resource and as income in the same month.

Stat. Auth: ORS 411.060, 411.070, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.049

## Determining Availability of Income

- (1) This rule describes the date income is considered available, what amount of income is considered available, and situations in which income is considered unavailable.
- (2) Income is considered available the date it is received or the date a member of the *financial group* (see OAR 461-110-0530) has a legal right to the payment and the legal ability to make it available, whichever is earlier, except as follows:
  - (a) Income usually paid monthly or on some other regular payment schedule is considered available on the regular payment date if the date of payment is changed because of a holiday or weekend.
  - (b) Income withheld or diverted at the request of an individual is considered available on the date the income would have been paid without the withholding or diversion.
  - (c) An advance or draw of earned income is considered available on the date it is received.
  - (d) Income that is averaged, annualized, converted, or prorated is considered available throughout the period for which the calculation applies.
  - (e) A payment due to a member of the *financial group*, but paid to a third party for a household expense, is considered available when the third party receives the payment.
  - (f) In prospective budgeting, income is considered available in the month the income is expected to be received (see OAR 461-150-0020).
  - (g) In the OSIP, OSIPM, and QMB programs, except for self-employment (see OAR 461-145-0915), wages that are earned in one period of time but paid in another are considered available when they are received, such as a teacher who works for nine months but is paid over twelve.
- (3) The following income is considered available even if not received:
  - (a) Deemed income.
  - (b) In the ERDC, REF, REFM, and TANF programs, the portion of a payment from an assistance program, such as public assistance, unemployment compensation, or Social Security, withheld to repay an overpayment.
  - (c) In the ~~GA, GAM, OSIPM,~~ and QMB programs, the portion of a payment from an assistance program (such as public assistance, unemployment compensation, or Social Security) withheld to repay an overpayment of the same source:

- (A) If withheld prior to July 1, 2014.
- (B) If withheld on or after July 1, 2014 and:
  - (i) No member of the *financial group* was receiving ~~GA, GAM,~~ OSIP, OSIPM, or QMB during the period the benefit was overpaid; or
  - (ii) The withheld amount is not excluded under paragraph (5)(e)(A) of this rule.
- (d) In the SNAP program, the portion of a payment from the TANF program counted as disqualifying income under OAR 461-145-0105.
- (4) The amount of income considered available is the gross before deductions, such as garnishments, taxes, or other payroll deductions including flexible spending accounts.
- (5) The following income is not considered available:
  - (a) Wages withheld by an employer in violation of the law.
  - (b) Income received by another individual who does not pay the client his or her share.
  - (c) Income received by a member of the *financial group* after the individual has left the household.
  - (d) Moneys withheld from or returned to the source of the income to repay an overpayment from that source unless the repayment is *countable* (see OAR 461-001-0000)--
    - (A) In the SNAP program, under OAR 461-145-0105.
    - (B) In the ERDC, REF, REFM, and TANF programs, under subsection (3)(b) of this rule.
  - (e) In the ~~GA, GAM,~~ OSIP, OSIPM, and QMB programs:
    - (A) The portion of a payment from an assistance program, such as public assistance, unemployment compensation, or Social Security withheld on or after July 1, 2014 to repay an overpayment from the same source if at least one member of the *financial group* was receiving ~~GA, GAM,~~ OSIP, OSIPM, or QMB during the period the benefit was overpaid. The amount considered unavailable cannot exceed the amount of the overpaid benefit previously counted in determining *eligibility* (see OAR 461-001-0000) for ~~GA, GAM,~~ OSIP, OSIPM, or QMB.

- (B) Monies withheld from or returned to a source of income, when the source is not an assistance program, to repay an overpayment of the same source.
- (f) For an individual who is not self-employed, income required to be expended on an ongoing, monthly basis on an expense necessary to produce the income, such as supplies or rental of work space.
- (g) Income received by the *financial group* but intended and used for the care of an individual not in the *financial group* as follows:
  - (A) If the income is intended both for an individual in the *financial group* and an individual not in the *financial group*, the portion of the income intended for the care of the individual not in the *financial group* is considered unavailable.
  - (B) If the portion intended for the care of the individual not in the *financial group* cannot readily be identified, the income is prorated evenly among the individuals for whom the income is intended. The prorated share intended for the care of the individual not in the *financial group* is then considered unavailable.
- (h) In the ERDC, REF, REFM, SNAP, and TANF programs, income controlled by the client's abuser if the client is a victim of *domestic violence* (see OAR 461-001-0000), the client's abuser controls the income and will not make the money available to the *filing group* (see OAR 461-110-0310), and the abuser is not in the client's *filing group*.
- (i) In the OSIP, OSIPM, and QMB programs, unearned income not received because a payment was reduced to cover expenses incurred by a member of the *financial group* to secure the payment. For example, if a retroactive check is received from a benefit program other than SSI, legal fees connected with the claim are subtracted. Or, if payment is received for damages received as a result of an accident the amount of legal, medical, or other expenses incurred by a member of the *financial group* to secure the payment are subtracted.
- (j) In the REFM program, any income used for medical or medical-related purposes.
- (6) The availability of *lump-sum income* (see OAR 461-001-0000) is covered in OAR 461-140-0120.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685  
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.404, 411.706,  
411.816, 412.049, 413.085, 414.685, 414.839



## Availability and Treatment of Lump-Sum Income

- (1) *Lump-sum income* (see OAR 461-001-0000) is treated as follows if it is received by a member of a *financial group* (see OAR 461-110-0530).
- (2) In the EA, REF, REFM, SNAP, and TANF programs:
  - (a) *Lump-sum income* is a resource.
  - (b) In the EA, REF, REFM, and TANF programs:
    - (A) *Lump-sum income* is considered available to the *financial group* when a member of the group receives the income and until the income becomes unavailable for a reason beyond the group's control.
    - (B) *Lump-sum income* is considered unavailable for a reason beyond the group's control if the member who received the *lump-sum income*:
      - (i) Leaves the *financial group* before spending any of the *lump-sum income*; or
      - (ii) Spends the *lump-sum income* on an immediate basic need or emergency.
- (3) In the ERDC program, *lump-sum income* is excluded.
- (4) In the ~~GA, GAM,~~ OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD), and QMB-DW programs, *lump-sum income* is treated as follows:
  - (a) *Lump-sum income* not excluded is unearned income in the month of receipt, and any amount remaining in future months is a resource, except that in the OSIP and OSIPM programs retroactive SSB and SSI payments are treated in accordance with OAR 461-145-0490 and 461-145-0510.
  - (b) The following *lump-sum income* is excluded:
    - (A) The first \$20 received in a month;
    - (B) The income the client turns over to the Department as reimbursement for previous assistance; and
    - (C) The income the client uses to pay for special need items approved by the Department. Special needs are explained in OAR 461-155-0500 and following.

- (5) In the OSIP-EPD and OSIPM-EPD programs, *lump-sum income* is counted as a resource.
- (6) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:
  - (a) *Lump-sum income* not excluded is unearned income in the month of receipt, except that retroactive SSB and SSI payments are treated in accordance with OAR 461-145-0490 and 461-145-0510.
  - (b) The following *lump-sum income* is excluded:
    - (A) The first \$20 received in a month;
    - (B) The income the client turns over to the Department as reimbursement for previous assistance; and
    - (C) The income the client uses to pay for special need items approved by the Department. Special needs are explained in OAR 461-155-0500 and following.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.020, 410.070, 410.080, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

## Asset Transfer; General Information and Timelines

- (1) OAR 461-140-0210 to 461-140-0300 regulate the effect of a transfer of an asset on a client.
- (2) If an asset is transferred during the periods of time listed in section (4) or (5) of this rule and if the transfer is made in whole or in part for the purpose of establishing or maintaining eligibility for benefits:
  - (a) In the REFM program, the filing group is disqualified if ---
    - (A) A member of the *financial group* (see OAR 461-110-0530) transferred the asset; and
    - (B) The client is an inpatient in a nursing facility, or is an inpatient in a medical institution in which payment for the client is based on a level of care provided in a nursing facility.
  - (b) In the REF, SNAP, and TANF programs, the filing group is disqualified if ---
    - (A) The asset was a resource; and
    - (B) A member of the *financial group* transferred the resource.
  - (c) In the ~~GA, GAM, OSIP,~~ and OSIPM programs, a client in a *nonstandard living arrangement* (see OAR 461-001-0000) is disqualified if the client or the spouse of the client transferred the asset.
- (3) In all programs except the ERDC program, clients in financial groups whose members transfer an asset covered under section (2) of this rule within the time periods listed in section (4) or (5) of this rule must report the transfer as soon as practicable and must provide information requested by the Department concerning the transfer.
- (4) In the REF, REFM, SNAP, and TANF programs, a transfer of an asset may be disqualifying if the transfer occurs:
  - (a) In the REFM program, during the three years preceding the *date of request* (see OAR 461-115-0030).
  - (b) In the SNAP program, during the three months preceding the filing date or during a *certification period* (see OAR 461-001-0000) if the asset was a resource.
  - (c) In the REF and TANF programs, during the three years preceding the *date of request* (see OAR 461-115-0030) if the asset was a resource.

- (5) In the ~~GA, GAM, OSIP~~, and OSIPM programs, for a client in a *nonstandard living arrangement*, a transfer of an asset may be disqualifying if the transfer occurs:
- (a) On or before June 30, 2006 and as described in one of the following paragraphs:
    - (A) On or after the date that is 60 months prior to the *date of request* -- for assets that are transferred without compensation equal to or greater than fair market value from a revocable trust (see OAR 461-145-0540(8)(c)).
    - (B) On or after the date that is 60 months prior to the *date of request* -- for assets that are transferred without compensation equal to or greater than fair market value to an irrevocable trust (see OAR 461-145-0540(9)(a)).
    - (C) On or after the date that is 60 months prior to the *date of request* -- when there is a change in circumstances that makes assets in an irrevocable trust unavailable to the client (see OAR 461-145-0540(9)(d)).
    - (D) On or after the date that is 36 months prior to the *date of request* -- for assets transferred without compensation equal to or greater than fair market value from an irrevocable trust (see OAR 461-145-0540(9)(b) and (c)).
    - (E) On or after the date that is 36 months prior to the *date of request* -- for other asset transfers made without compensation equal to or greater than fair market value.
  - (b) On or after---
    - (A) July 1, 2006; and
    - (B) The date that is 60 months prior to the *date of request*.
- (6) The duration of the period of disqualification or ineligibility is set out in OAR 461-140-0260 to 461-140-0300.

Stat. Auth.: ORS 411.060, 411.404, 411.710, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.710, 411.816, 412.049

Disqualifying Transfer of Assets Including Home; ~~GA, GAM, OSIP, and~~ OSIPM

For a client in a *nonstandard living arrangement* (see OAR 461-001-0000) in the ~~GA, GAM, OSIP,~~ and OSIPM programs:

- (1) For the purposes of this rule:
  - (a) The definition of "child" in OAR 461-001-0000 does not apply.
  - (b) "Child" means a natural or adoptive son or daughter who is:
    - (A) Under age 21; or
    - (B) Any age and has been determined to meet the blindness criteria of OAR 461-125-0330 or the disability criteria of OAR 461-125-0370.
- (2) A transfer of an asset (including a home) by a client or the spouse of the client is a disqualifying transfer unless the requirements of at least one of the following subsections are met:
  - (a) The transfer was made exclusively for purposes other than establishing eligibility or maintaining benefits.
  - (b) The title to the asset was transferred to the person's spouse, the person's child who is blind or has a disability under the criteria of the Social Security Administration, or another for the sole benefit of the spouse or a child who is blind or has a disability under the criteria of the Social Security Administration, provided that the transfer is arranged in such a way that no individual or entity except this spouse or child can benefit from the asset transferred in any way, whether at the time of transfer or any time in the future. A direct transfer, transfer instrument, or trust that provides for funds or property to pass to a beneficiary who is not the spouse or child who is blind or has a disability under the criteria of the Social Security Administration is not considered to be established for the benefit of one of those individuals. In order for a transfer or a trust to be considered for the sole benefit of one of these individuals, the instrument or document must provide for the spending of the funds involved for the benefit of the individual based on the life expectancy of the individual.
  - (c) The transfer was made to a trust described in OAR 461-145-0540(10), except that a transfer to a trust under OAR 461-145-0540(10)(a) is disqualifying if the client is age 65 or older.
  - (d) The transfer was made to a trust described in OAR 461-145-0540(11) established solely for the benefit of an individual under 65 years of age who has a disability

that meets the criteria of the Social Security Administration. This subsection applies to all transfers made on or after July 1, 2006.

- (e) The transfer is a transfer described in OAR 461-160-0580(2).
  - (f) The resource is transferred by the community spouse after the Department has determined the community spouse's resource allowance in accordance with OAR 461-160-0580 and the resource has not been attributed to the institutionalized spouse. Notwithstanding this subsection, a transfer of a resource by a community spouse who is receiving or applying for benefits remains subject to all rules regarding the transfer of an asset by a client.
- (3) A transfer of a home by a client or the spouse of the client is a disqualifying transfer unless the title was transferred to the client's ---
- (a) Child;
  - (b) Sibling who has equity interest in the home and was residing in the home for at least one year immediately before the client's admission to *long-term care* (see OAR 461-001-0000); or
  - (c) Natural or adoptive son or daughter who meets the requirements of each of the following paragraphs:
    - (A) The son or daughter resided with the client in the client's home continuously for at least two years immediately prior to the client's admission to *long-term care* other than an absence from the home that is not intended to, and does not, exceed 30 days.
    - (B) The son or daughter provides convincing evidence that he or she provided services that permitted the client to reside at home for at least two years rather than in an institution or *long-term care* facility.
    - (C) Without receiving payment from the Department, the son or daughter must have directly provided the services required by paragraph (B) of this subsection as described in both of the following subparagraphs for a total of at least 20 hours per week.
      - (i) On a daily basis, one or a combination of any of the following activities of daily living, as each sub-subparagraph is further defined at OAR 411-015-0006:
        - (I) Eating.
        - (II) Dressing/Grooming.

- (III) Bathing/Personal Hygiene.
  - (IV) Mobility.
  - (V) Elimination.
  - (VI) Cognition/Behavior.
- (ii) One or a combination of any of the following instrumental activities of daily living, as each sub-subparagraph is further defined at OAR 411-015-0007:
- (I) Housekeeping.
  - (II) Laundry.
  - (III) Meal Preparation.
  - (IV) Medication Management.
  - (V) Shopping.
  - (VI) Transportation.
- (4) Except for a transfer permitted under section (3) of this rule, each of the following subsections applies in determining whether an asset is considered transferred for *fair market value*:
- (a) The compensation received for the asset must be in a tangible form with intrinsic value.
  - (b) The Department presumes that services provided for free at the time were intended to be provided without compensation, and that a transfer to an individual for services provided for free in the past is a disqualifying transfer of assets. This presumption is rebuttable with convincing evidence. This evidence must also show that there was an express agreement to provide services for compensation at the time the services were provided.
  - (c) Compensation for services is valued at the average market rate at the time the services were provided, unless the express agreement provides a lower rate.
- (5) If a transfer is made for less than fair market value and is not exempt from disqualification under this rule, there is a rebuttable presumption that the asset was transferred for the purpose of establishing or maintaining eligibility and is not exempt under subsection (2)(a) of this rule.

- (6) To rebut the presumption in section (5) of this rule, the client must present evidence other than his or her own statement and must provide to the Department the information it requests for the purpose of evaluating the purpose of the transfer. To meet the burden, it is sufficient for the client to show one of the following:
- (a) The decision to make the transfer was not within the client's control;
  - (b) At the time of transfer, the client could not reasonably have anticipated applying for medical assistance;
  - (c) Unexpected loss of resources or income occurred between the time of transfer and the application for medical assistance;
  - (d) Because of other, similarly convincing, circumstances, it appears more likely than not that the transfer was not made, in whole or in part, for the purpose of establishing or maintaining eligibility for benefits.
- (7) The fact that a recipient was already eligible for benefits is not sufficient to rebut the presumption in section (5) of this rule because the asset may not always be excluded and if the client had received full compensation for the asset, the compensation received would have been used to determine future eligibility.

Stat. Auth: ORS 411.060, 411.710

Stats. Implemented: ORS 411.060, 411.710, 414.042



461-140-0250

~~Eff. 1-1-16~~

Eff. 9-1-16

Determining the Uncompensated Value of a Transferred Asset

- (1) The uncompensated value of a disqualifying transfer of an asset is used in OAR 461-140-0260 to 461-140-0300 to calculate the ineligibility period of the *financial group* (see OAR 461-110-0530).
- (2) To determine uncompensated value:
  - (a) In the ~~GA, GAM, OSIP,~~ and OSIPM programs:
    - (A) The value of the compensation received for the asset is subtracted from the *fair market value* (see OAR 461-001-0000) of the asset. This result is the uncompensated value, unless the *financial group* had *countable* (see OAR 461-001-0000) resources of less than the resource limit at the time of the first transfer. If the *financial group* had *countable* resources of less than the resource limit at the time of the first transfer, the remainder is then added to other *countable* resources, and the amount by which the sum exceeds the resource limit in OAR 461-160-0015 is the uncompensated value.
    - (B) For an annuity, unless the client verifies a lesser amount, the *fair market value* is equal to the amount of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular monthly payments already received, minus early withdrawals, and minus any surrender fees.
  - (b) In all other programs, the value of the compensation received for the resource is subtracted from the *fair market value* of the resource. The remainder is added to the other *countable* resources at the time of the transfer. The amount by which the sum exceeds the resource limit is the uncompensated value.
  - (c) The compensation received for a transferred asset includes---
    - (A) Encumbrances assumed by the buyer; and
    - (B) Goods or services provided to the client, limited to their true value, if there was a prior agreement to exchange the asset for the goods or services.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.020, 411.060, 411.070, 411.404, 411.632, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839

Length of Disqualification Due to ~~A~~an Asset Transfer; ~~GA, GAM, OSIP,~~ and OSIPM

- (1) This rule applies to clients in the ~~GA, GAM, OSIP,~~ and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000).
- (2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:
  - (a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---\$2,595.
  - (b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---\$3,320.
  - (c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---\$3,750.
  - (d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---\$4,300.
  - (e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---\$4,700.
  - (f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---\$5,360.
  - (g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---\$6,494.
  - (h) If the *initial month* is on or after October 1, 2010---\$7,663.
- (3) For transfers by a client and the spouse of a client that occurred before July 1, 2006:
  - (a) Add together the uncompensated value of all transfers made in one calendar month, and treat this total as one transfer.
  - (b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, there is no disqualification.
  - (c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, each disqualification period is calculated separately.

- (d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.
  - (e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.
  - (f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.
  - (g) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.
- (4) For transfers by a client and the spouse of a client that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule:
- (a) If there are multiple transfers by the client and the spouse of the client, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule.
  - (b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. The remaining decimal or fraction of the quotient is used to calculate an additional partial month disqualification. This remaining decimal or fraction is converted to an additional number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period. If this calculation results in a fraction of a day, the fraction of a day is rounded down.
  - (c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:
    - (A) For a client who transfers an asset while he or she is already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this

rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

- (B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for a client who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for *long-term care or home and community-based care* as long as the applicant or client would otherwise be eligible but for this disqualification period. If the applicant or client is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or client would be otherwise eligible but for the disqualification period.
- (d) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period, the remaining disqualification applicable to both spouses must be served by the remaining spouse.
- (5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the asset.
- (6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.
- (7) If a client or the spouse of a client purchases an annuity on or before December 31, 2005 and the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.
- (8) A single transfer of an asset may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

## Adjustments to the Disqualification for Asset Transfer

- (1) The disqualification imposed under OAR 461-140-0260 is not adjusted once applied in the SNAP program.
- (2) In all other programs, the disqualification ends if the transfer that caused the disqualification is rescinded. The duration of the disqualification is recalculated if the terms of the transfer are modified.
- (3) In the ~~GA, GAM,~~ OSIP, OSIPM, and REFM programs, the Department may waive the disqualification if the disqualification would create an undue hardship on the client. For purposes of this section, the disqualification would create an undue hardship if the requirements of subsections (a) and (b) of this section are met:
  - (a) The client has no other means for meeting his or her needs. The client has the burden of proving that no other means exist by---
    - (A) Exploring and pursuing all reasonable means to recover the assets to the satisfaction of the Department, including legal remedies and consultation with an attorney; and
    - (B) Cooperating with the Department to take action to recover the assets.
  - (b) The disqualification would deprive the client of---
    - (A) Medical care such that the client's health or life would be endangered; or
    - (B) Food, clothing, shelter, or other necessities of life without which the health or life of the client would be endangered.
- (4) As authorized by ORS 411.620, the Department retains the authority to bring a civil suit or action to set aside a transfer of assets for less than fair market value and may seek recovery of all costs associated with such an action.
- (5) Notwithstanding the granting of an undue hardship waiver under section (3) of this rule, the Department is not precluded from recovering public assistance or medical assistance from any assets in which the client held an interest, or in which the client previously held an interest, at the time the undue hardship waiver was granted.

Stat. Auth: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.404, 411.632, 411.816, 412.014, 412.049

461-145-0005

~~Eff. 4-1-07~~

Eff. 9-1-16

Agent Orange Disability Benefits

~~(1)~~ — For all programs ~~except GA and GAM~~:

(1a) Benefits from the Agent Orange Settlement Fund made by Aetna Life and Casualty for settling Agent Orange disability claims are excluded.

(2b) Payments made under the Agent Orange Act of 1991, and issued by the U.S. Treasury through the Department of Veterans' Affairs, are counted as unearned income.

~~(2)~~ — ~~For GA and GAM, all Agent Orange payments are counted as lump-sum income (see OAR 461-140-0120).~~

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.816, ~~412.049418.100~~

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, ~~411.700~~, 411.816, 412.049418.100

## Burial Arrangements and Burial Funds

- (1) The following definitions apply to this rule:
  - (a) "Burial arrangement" means an agreement with an entity --- such as a funeral agreement (which means an arrangement made with a licensed funeral provider), burial insurance, or a burial trust designating a funeral director as the beneficiary --- that makes allowance for burial costs. A "burial arrangement" does not include a burial space, which is covered in OAR 461-145-0050, or a *burial fund* (see subsection (b) of this section).
  - (b) "Burial fund" means an identifiable fund set aside for a client's burial costs. A "burial fund" does not include a burial space, which is covered in OAR 461-145-0050, or a *burial arrangement* (see subsection (a) of this section).
- (2) Except as provided in subsection (e) of this section, a *burial arrangement* is treated as follows:
  - (a) In the ERDC, REF, REFM, SNAP, and TANF programs, the *equity value* (see OAR 461-001-0000) of one prepaid *burial arrangement* for each member of the filing group (see OAR 461-110-0310) is excluded.
  - (b) For grandfathered OSIP and OSIPM clients (see OAR 461-125-0330(2), 461-125-0370(1)(b), and 461-135-0771), up to \$1,000 in combined *equity value* of each *burial arrangement* with a licensed funeral director (plus accrued interest) and life insurance policies are excluded. The amount of combined cash and *equity value* of all life insurance and burial arrangements that is over \$1,000 is counted as a resource.
  - (c) In the ~~GA, GAM,~~ OSIP, OSIPM, and QMB-DW programs, the amount in an irrevocable burial trust or any other irrevocable arrangement to cover burial costs is excluded.
  - (d) In all programs not listed in subsection (a) of this section and for OSIP and OSIPM clients not covered by subsection (b) of this section, a *burial arrangement* is treated in the manner as the program treats a *burial fund* under section (3) of this rule.
  - (e) Burial insurance that has cash surrender value is considered life insurance and is treated in accordance with OAR 461-145-0320 and, as applicable, subsection (b) of this section.
- (3) A *burial fund* is treated as follows:
  - (a) In the ~~GA, GAM,~~ OSIP, OSIPM, and QMB-DW programs:

- (A) A *burial fund* may be established only from financial means such as cash, burial contracts, bank accounts, stocks, bonds, or life insurance policies.
  - (B) A *burial fund* is counted as a resource if it is commingled with assets unrelated to a burial. The amount set aside for burial must be in a separate account to be excluded from resource consideration.
  - (C) A *burial fund* may be established if the *countable* (see OAR 461-001-0000) resources of a client exceed allowable limits. A *burial fund* is excluded from the resource calculation to the extent allowed in paragraph (D) of this subsection.
  - (D) The following calculation determines the exclusion for a *burial fund*:
    - (i) Up to \$1,500 of a *burial fund* may be excluded from resources for each of the following:
      - (I) The client.
      - (II) The client's spouse.
    - (ii) The amount in subparagraph (i) of this paragraph is reduced by the total of the following amounts:
      - (I) The face value of life insurance policies owned by the client that have already been excluded from resources.
      - (II) The amount in an irrevocable burial trust or any other irrevocable arrangement to cover burial costs.
  - (E) All interest earned on an excluded *burial fund* or increases in the value of an excluded *burial arrangement* if left in the fund is excluded from income.
- (b) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, a *burial fund* is excluded as a resource.
  - (c) In all programs not listed in subsections (a) or (b) of this section, a *burial fund* is counted as a resource.
- (4) There is no overpayment for the time period during which the *burial arrangement* or *burial fund* existed if a client ---
- (a) Cancels an excluded *burial arrangement*; or
  - (b) Uses an excluded *burial fund* for any purpose other than burial costs.



- (5) If an asset originally used as a *burial arrangement* or *burial fund* is converted to other uses, the asset is treated under the other applicable rules.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839

## Burial Spaces and Merchandise

- (1) Burial spaces include conventional grave sites, crypts, mausoleums, urns, and other repositories that are traditionally used for the remains of deceased individuals. Burial spaces also include headstones and the opening and closing of the grave.
  - (a) In the ERDC, REF, REFM, SNAP, and TANF programs, the *equity value* (see OAR 461-001-0000) of one burial space is excluded as a resource for each member of the *financial group* (see OAR 461-110-0530).
  - (b) In the ~~GA, GAM,~~ OSIP, OSIPM, and QMB-DW programs, the *equity value* of a burial space is excluded as a resource if owned by the client and designated for the client, the *spouse* (see OAR 461-001-0000) of the client, minor and adult children, siblings, parents, and the *spouse* of any of these individuals.
- (2) Burial merchandise includes, but is not limited to, caskets, liners, burial vaults, markers, and foundations. The *equity value* of burial merchandise is excluded as a resource if owned by the client and designated for ---
  - (a) In the ERDC, REF, REFM, SNAP, and TANF programs, a member of the *financial group*.
  - (b) In the ~~GA, GAM,~~ OSIP, OSIPM, and QMB-DW programs, the client, the *spouse* of the client, minor and adult children, siblings, parents, and the *spouse* of any of these individuals.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.020, 410.070, 410.080, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

## Domestic Volunteer Services Act (VISTA, RSVP, SCORE, ACE)

In all Department programs covered by Chapter 461 of the Oregon Administrative Rules, with respect to federal programs under the Domestic Volunteers Service Act of 1973 (Pub. L. No. 93-113):

- (1) Payments under Title I --- VISTA, University Year of Action, and Urban Crime Prevention --- are treated as follows:
  - (a) In the ERDC, REF, REFM, and TANF programs, these payments are excluded, except that these payments are counted as earned income if the total value of all compensation is equal to or greater than compensation at the state minimum wage.
  - ~~(b) In the GA and GAM programs, payments are counted as unearned income.~~
  - (be) In all programs except the ERDC, ~~GA, GAM,~~ REF, REFM, and TANF programs:
    - (A) The payments are excluded if the client is receiving Department program benefits when they join the Title I program. The exclusion of payments continues until the client has a break in receiving Department benefits of more than one month.
    - (B) The payments are counted as earned income for clients who joined the Title I program before applying for Department program benefits.
- (2) Payments are excluded for programs under Title II (National Older Americans Volunteer Programs), which include:
  - (a) Retired Senior Volunteer Program (RSVP) Title II, Section 201.
  - (b) Foster Grandparent Program Title II, Section 211.
  - (c) Older American Community programs.
  - (d) Senior Companion Program.
- (3) Payments are excluded for programs under Title III (National Volunteer Programs to Assist Small Businesses and Promote Volunteer Service by Persons with Business Experience), which include:
  - (a) Service Corps of Retired Executives (SCORE) Title III, Section 302.
  - (b) Active Corps of Executives (ACE) Title III, Section 302.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, ~~411.700~~, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, ~~411.700~~, 411.816, 412.049

- (1) Home defined: A home is the place where the filing group (see OAR 461-110-0310) lives. A home may be a house, boat, trailer, mobile home, or other habitation. A home also includes the following:
  - (a) Land on which the home is built and contiguous property.
    - (A) In all programs except the ~~GA, GAM,~~ OSIP, OSIPM, QMB, and SNAP programs, property must meet all the following criteria to be considered contiguous property:
      - (i) It must not be separated from the land on which the home is built by land owned by people outside the *financial group* (see OAR 461-110-0530).
      - (ii) It must not be separated by a public right-of-way, such as a road.
      - (iii) It must be property that cannot be sold separately from the home.
    - (B) In the ~~GA, GAM,~~ OSIP, OSIPM, QMB, and SNAP programs, contiguous property is property not separated from the land on which the home is built by land owned by people outside the *financial group*.
  - (b) Other dwellings on the land surrounding the home that cannot be sold separately from the home.
- (2) Exclusion of home and other property:
  - (a) For an individual who has an *initial month* (see OAR 461-001-0000) of long-term care on or after January 1, 2006:
    - (A) For purposes of this subsection, "child" means a biological or adoptive child who is:
      - (i) Under age 21; or
      - (ii) Any age and meets the Social Security Administration criteria for blindness or disability.
    - (B) The *equity value* (see OAR 461-001-0000) of a home is excluded if the requirements of at least one of the following subparagraphs are met:
      - (i) The *child* (see paragraph (A) of this subsection) of the individual occupies the home.

- (ii) The *spouse* (see OAR 461-001-0000) of the individual occupies the home.
    - (iii) The equity in the home is \$552,000 or less, and the requirements of at least one of the following sub-subparagraphs are met:
      - (I) The individual occupies the home.
      - (II) The home equity is excluded under OAR 461-145-0250.
      - (III) The home is listed for sale per OAR 461-145-0420.
    - (iv) Notwithstanding OAR 461-120-0330, the equity in the home is more than \$552,000 and the individual is unable legally to convert the equity value in the home to cash.
  - (b) For all other filing groups, the value of a home is excluded when the home is occupied by any member of the filing group.
  - (c) In the SNAP program, the value of land is excluded while the group is building or planning to build their home on it, except that if the group owns (or is buying) the home they live in and has separate land they intend to build on, only the home in which they live is excluded, and the land they intend to build on is treated as real property in accordance with OAR 461-145-0420.
- (3) Exclusion during temporary absence: If the value of a home is excluded under section (2) of this rule, the value of this home remains excluded in each of the following situations:
- (a) In all programs except the ~~GA, GAM,~~ OSIP, OSIPM, and QMB-DW programs, during the temporary absence of all members of the filing group from the property, if the absence is due to illness or uninhabitability (from casualty or natural disaster), and the filing group intends to return home.
  - (b) In the ~~GA, GAM,~~ OSIP, OSIPM, and QMB-DW programs, when the individual is absent to receive care in a medical institution, if one of the following is true:
    - (A) The absent individual has provided evidence that the individual will return to the home. The evidence must reflect the subjective intent of the individual, regardless of the individual's medical condition. A written statement from a competent individual is sufficient to prove the intent.
    - (B) The home remains occupied by the individual's *spouse*, child, or a relative dependent on the individual for support. The child must be less than 21 years of age or, if over the age of 21, blind or an individual with a disability as defined by SSA criteria.

- (c) In the REF, REFM, and TANF programs, when all members of the filing group are absent because:
  - (A) The members are employed in seasonal employment and intend to return to the home when the employment ends; or
  - (B) The members are searching for employment, and the search requires the members to relocate away from their home. If all members of the filing group are absent for this reason, the home may be excluded for up to six months from the date the last member of the filing group leaves the home to search for employment. After the six months, if a member of the filing group does not return, the home is no longer excluded.
- (d) In the SNAP program, when the *financial group* is absent because of employment or training for future employment.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.020, 410.070, 410.080, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685, 414.839

## Housing and Urban Development

- (1) Payments from HUD made to a third party in behalf of the client are treated as follows:
  - (a) In the REF, REFM, and TANF programs, the payment is used to determine shelter-in-kind income.
  - (b) In the EA, ERDC, ~~GA, GAM,~~ OSIP, OSIPM, QMB, and SNAP programs, the payments are excluded.
- (2) HUD payments made directly to a member of the financial group, except Youthbuild Program payments and Family Investment Centers payments, are treated as follows:
  - (a) In the REF, REFM, and TANF programs, the payment is used to determine shelter-in-kind income. If the payments are made in a lump sum, the lump sum is unearned income.
  - (b) In the EA program, the payment is unearned income.
  - (c) In the ERDC, ~~GA, GAM,~~ OSIP, OSIPM, and QMB programs, the payments are excluded.
  - (d) In the SNAP program, payments for utilities are excluded. Other payments are unearned income.
- (3) Youthbuild Program payments are treated as follows:
  - (a) In the TANF program, if the Youthbuild Program participant is a dependent child in the filing group or a caretaker relative age 19 or younger, the payments are excluded. If the participant is a caretaker relative over age 19, the payments are treated as follows:
    - (A) Incentive payments that are reimbursements for specific expenses not covered by program benefits, for instance transportation and school supplies, are excluded.
    - (B) On-the-job training (OJT) and work experience payments are earned income.
    - (C) The bonus payment (the incentive payment for attendance) is unearned income.
  - (b) In the ERDC program, Youthbuild payments are earned income.

- (c) In the SNAP program, payments to clients under the age of 19 years who are under the control of an adult member of the filing group are excluded. Other Youthbuild payments are earned income.
- (4) Escrow accounts established for families participating in the Family Self-Sufficiency (FSS) program sponsored by HUD are excluded.
- (5) Payments related to family investment centers issued under the Cranston-Gonzalez National Affordable Housing Act, Pub. L. No. 101-625, sec. 515, 104 Stat. 4196 (1990), are treated as follows:
  - (a) Wages are earned income, and stipends are unearned income.
  - (b) Service payments for items such as child care, basic education, literacy, or computer skills training are excluded.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.049



## Income-Producing Sales Contract

- (1) The *equity value* (see OAR 461-001-0000) of an income-producing sales contract is treated as follows:
  - (a) In the ~~GA, GAM, OSIPM,~~ and QMB-DW programs for contracts originating on or after October 1, 2012:
    - (A) Except for a contract resulting from the sale of a home, that is treated in accordance with paragraph (B) of this subsection, it is a *countable* (see OAR 461-001-0000) resource valued at the outstanding principal balance of the contract unless the individual provides convincing evidence of a lower cash value or there is a legal bar to the sale of the contract. If there is a legal bar to the sale of the contract, the *equity value* of the contract is a transfer of assets (OAR 461-140-0210 to 461-140-0300 regulate the effect of a transfer of assets on a client) for less than *fair market value* (see OAR 461-001-0000).
    - (B) The *equity value* of a contract resulting from the sale of a home is excluded if the entire principal portion of the payments received from the contract is used to purchase another home within three calendar months of receipt of the payments. Otherwise the *equity value* is treated in accordance with paragraph (A) of this subsection.
  - (b) Except as provided for in subparagraph (a) of this section, it is excluded.
- (2) In all programs, income received from a sales contract is treated as provided in OAR 461-145-0460.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.070, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

## Income-Producing Property; Not OSIP, OSIPM, or QMB

- (1) Income from *income producing property* (see OAR 461-001-0000) is counted as follows:
  - (a) If a member of the *financial group* (see OAR 461-110-0530) actively manages the property 20 hours or more per week, the income is treated in the same manner as self-employment income (see OAR 461-145-0910, 461-145-0920, and 461-145-0930).
  - (b) If a member of the *financial group* does not actively manage the property 20 hours or more per week, the income is counted as unearned income with exclusions allowed only in accordance with OAR 461-145-0920. In the SNAP program, if the *financial group* owns more than one property, the exclusions for one property may not be used to offset income from a different property.
- (2) The *equity value* (see OAR 461-001-0000) of *income-producing property* is treated as follows:
  - (a) In the EA and ERDC programs, it is excluded.
  - (b) In the SNAP program, it is counted as a resource except to the extent described in each of the following situations:
    - (A) If the property produces an annual *countable* (see OAR 461-001-0000) income similar to other properties in the community with comparable market value, the *equity value* of the property is excluded.
    - (B) The property is excluded under OAR 461-145-0600.
    - (C) The *equity value* of income-producing livestock, poultry, and other animals is excluded.
    - (D) If selling the resource would produce a net gain to the *financial group* of less than \$1,500, the *equity value* is excluded.
  - ~~(e) In the GA and GAM programs, it is counted as a resource, except:~~
    - ~~(A) If the non-business income-producing property (including houses or apartments for rent and land other than the primary residence) produces an annual countable income of at least six percent of its equity value, the value of the property is excluded up to a maximum of \$6,000.~~
    - ~~(B) If the annual countable income drops below six percent of the non-business property's equity value due to circumstances beyond the client's control, the client has up to 24 months from the end of the tax year in~~

~~which the earnings dropped below six percent to meet the six percent requirement.~~

~~(C) The total *equity value* is excluded (regardless of value or rate of return) if either all the requirements of subparagraphs (i), (ii), and (iii) or subparagraph (iv) or subparagraph (v) are met:~~

~~(i) The property is used in the trade or business of a member of the *financial group*, as evidenced by two or more of the following:~~

~~(I) The good faith intention of making a profit.~~

~~(II) Its use is part of a regular occupation for a member of the *financial group*.~~

~~(III) Holding out to others as being engaged in the selling of goods or services.~~

~~(IV) Continuity of operations, repetition of transactions, or regularity of activities.~~

~~(ii) The property is in current use or, if not in use for reasons beyond the control of the *financial group*, there must be a reasonable expectation that the required use will resume.~~

~~(iii) The property is essential to the client's self support.~~

~~(iv) The government has issued a permit to the client to engage in income producing activity on or with the property.~~

~~(v) Personal property is used by an employee for work.~~

(cd) In the REF, REFM, and TANF programs, it is counted as a resource, except that in the TANF program, it is excluded for a self-employed client participating in the *microenterprise* (see OAR 461-001-0025) component of the JOBS program.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.083, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685

Indian (Native American) Benefits; ~~GA, GAM,~~ OSIP, OSIPM, and QMB

~~(1) In the GA and GAM programs, Indian benefits described in section (2) of this rule are counted as *periodic income* (see OAR 461-001-0000 and 461-140-0110) or *lump-sum income* (see OAR 461-001-0000 and 461-140-0120), unless the individual verifies that such benefits are excluded by the public law for state-funded programs.~~

(12) The following Indian (Native American) benefits are excluded from income and resources:

- (a) Indian lands held jointly with the tribe, or land that may not be sold without the approval of the Bureau of Indian Affairs (BIA).
- (b) Payments made under the Indian Judgment Funds Distribution Act (Public Law 93-134).
- (c) Distribution of Indian Judgment Funds (Public Law 97-458).
  - (A) Indian judgment funds include interest and investment income accrued while the funds are held in trust.
  - (B) Initial purchases made with distributed judgment funds are excluded from resources.
- (d) Per capita distributions of all funds held in trust by the Secretary of the Interior to members of an Indian tribe (Public Law 98-64).
- (e) The following items received from a native corporation are excluded under the Alaska Native Claims Settlement Act (ANCSA) (Public Law 100-241):
  - (A) Cash received from a native corporation, including cash dividends on stock received from a native corporation, to the extent it does not exceed \$2,000 per individual per year.
  - (B) Stock, including stock issued or distributed by a native corporation as a dividend or distribution on stock.
  - (C) A partnership interest.
  - (D) Land or an interest in land, including land or an interest in land received from a native corporation as a dividend or distribution on stock.
  - (E) An interest in a settlement trust.

- (f) Up to \$2000 per year received from payments from individual interests in Trust or Restricted Lands (Public Law 103-66).
- (g) Distribution of Per Capita Funds to the Red Lake Band of Chippewa Indians from the proceeds of the sale of timber and lumber on the Red Lake Reservation (Public Law 85-794).
- (h) Distribution of Per Capita Funds by the Blackfeet and Gros Ventre tribal governments to members, which resulted from judgment funds to the tribes (Public Law 92-254).
- (i) Distribution of Claims Settlement Funds to members of the Hopi and Navajo Tribes (Public Laws 93-531 and 96-305).
- (j) Receipts and distributions derived from lands held in trust for Indian tribes are excluded from the following Indian groups (Public Law 94-114):
  - (A) Seminole Indians.
  - (B) Pueblos of Zia and Jimenez.
  - (C) Stockbridge Munsee Indian Community.
  - (D) Burns Indian Colony.
  - (E) Assiniboine and Sioux Tribe.
  - (F) Bad River Band of the Lake Superior Tribe of Chippewa Indians.
  - (G) Blackfeet Tribe of Montana.
  - (H) Cherokee Nation of Oklahoma.
  - (I) Cheyenne River Sioux Tribe.
  - (J) Crow Creek Sioux Tribe.
  - (K) Devil's Lake Sioux Tribe.
  - (L) Fort Belknap Indian Community.
  - (M) Keweenaw Bay Indian Community.
  - (N) Lac Courte Oreilles Band of Lake Superior Chippewa Indians.
  - (O) Lower Brule Sioux Tribe.

- (P) Minnesota Chippewa Tribe.
- (Q) Navajo Tribe.
- (R) Oglala Sioux Tribe.
- (S) Rosebud Sioux Tribe.
- (T) Shoshone-Bannock Tribe.
- (U) Standing Rock Sioux Tribe.
  
- (k) Judgment funds distributed per capita to, or held in trust for, members of the Sac and Fox Indian Nation (Public Law 94-189).
- (l) Judgment funds distributed per capita to, or held in trust for, members of the Grand River Band of Ottawa Indians (Public Law 94-540).
- (m) Judgment funds distributed per capita to members of the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (Public Law 95-433).
- (n) Receipts derived from trust lands awarded to the Pueblo of Santa Ana and distributed to members of that tribe (Public Law 95-498).
- (o) Receipts derived from trust lands awarded to the Pueblo of Zia and distributed to members of that tribe (Public Law 95-499).
- (p) Judgment funds distributed per capita or made available for programs for members of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma (Public Law 96-318).
- (q) Funds and distributions to members of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians under the Maine Indian Claims Settlement Act (Public Law 96-420).
- (r) Distributions of judgment funds to members of the San Carlos Tribe of Arizona (Public Law 97-95).
- (s) Distributions of judgment funds to members of the Wyandot Tribe of Indians of Oklahoma (Public Law 97-371).
- (t) Distributions of judgment funds to members of the Shawnee Tribe of Indians (Absentee Shawnee Tribe of Oklahoma, the Eastern Shawnee Tribe of Oklahoma, and the Cherokee Band of Shawnee descendants) (Public Law 97-372).

- (u) Judgment funds distributed per capita or made available for programs for members of the Miami Tribe of Oklahoma and the Miami Indians of Indiana (Public Law 97-376).
- (v) Distributions of judgment funds to members of the Clallam Tribe of Indians of the State of Washington (Port Gamble Indian Community, Lower Elwha Tribal Community, and the Jamestown Band of Clallam Indians) (Public Law 97-402).
- (w) Judgment funds distributed per capita or made available for programs for members of the Pembina Chippewa Indians (Turtle Mountain Band, Chippewa Cree Tribe, Minnesota Chippewa Tribe, and Little Shell Band of Chippewa Indians of Montana) (Public Law 97-403).
- (x) Per capita distributions of judgment funds to members of the Gros Ventre and Assiniboine Tribes of Fort Belknap Indian Community, and the Papago Tribe of Arizona (Public Law 97-408).
- (y) Up to \$2,000 of per capita distributions of judgment funds to members of the Confederated Tribes of the Warm Springs Reservation (Public Law 97-436).
- (z) Judgment funds distributed to the Red Lake Band of Chippewa Indians (Public Law 98-123).
- (aa) Funds distributed per capita or family interest payments for members of the Assiniboine Tribe of the Fort Belknap Indian Community of Montana and the Assiniboine Tribe of the Fort Peck Indian Reservation of Montana (Public Law 98-124).
- (bb) Judgment funds and income therefrom distributed to members of the Shoalwater Bay Indian Tribe (Public Law 98-432).
- (cc) All distributions to heirs of certain deceased Indians under the Old Age Assistance Claims Settlement Act (Public Law 98-500).
- (dd) Judgment funds distributed per capita or made available for any tribal program, for members of the Wyandotte Tribe of Oklahoma and the Absentee Wyandottes (Public Law 98-602).
- (ee) Per capita and dividend payment distributions of judgment funds to members of the Santee Sioux Tribe of Nebraska, the Flandreau Santee Sioux Tribe, and the Prairie Island Sioux, Lower Sioux, and Shakopee Mdewakanton Sioux Communities of Minnesota (Public Law 99-130).
- (ff) Funds distributed per capita or held in trust for members of the Chippewas of Lake Superior and the Chippewas of the Mississippi (Public Law 99-146).

- (gg) Distributions of claims settlement funds to members of the White Earth Band of Chippewa Indians as allottees, or their heirs (Public Law 99-264).
- (hh) Payments or distributions of judgment funds, and the availability of any amount for such payments or distributions, to members of the Saginaw Chippewa Indian Tribe of Michigan (Public Law 99-346).
- (ii) Judgment funds distributed per capita or held in trust for members of the Chippewas of Lake Superior and the Chippewas of the Mississippi (Public Law 99-377).
- (jj) Judgment funds distributed to members of the Cow Creek Band of Umpqua Tribe of Indians (Public Law 100-139).
- (kk) Per capita restitution payments made to eligible Aleuts who were relocated or interned during World War II (Public Law 100-383).
- (ll) Per capita payments of claims settlement funds to members of the Coushatta Tribe of Louisiana (Public Law 100-411).
- (mm) Funds distributed per capita for members of the Hoopa Valley Indian Tribe and the Yurok Indian Tribe (Public Law 100-580).
- (nn) Judgment funds held in trust by the United States, including interest and investment income accruing on such funds, and judgment funds made available for programs or distributed to members of the Wisconsin Band of Potawatomi (Hannahville Indian Community and Forest County Potawatomi) (Public Law 100-581).
- (oo) All funds, assets, and income from the trust fund transferred to the members of the Puyallup Tribe under the Puyallup Tribe of Indians Settlement Act of 1989 (Public Law 101-41).
- (pp) Judgment funds distributed per capita, or held in trust, or made available for programs, for members of the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and the independent Seminole Indians of Florida, plus any interest and investment income accruing on the funds held in trust (Public Law 101-277).
- (qq) Payments, funds, distributions, or income derived from them under the Seneca Nation Settlement Act of 1990 (Public Law 101-503).
- (rr) Per capita distributions of settlement funds under the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990 (Public Law 101-618).



- (ss) Settlement funds, assets, income, payments or distributions from Trust Funds to members of the Catawba Indian Tribe under the Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993 (Public Law 103-116).
- (tt) Settlement funds held in trust, including interest and investment income accruing on such funds, and payments made to members of the Confederated Tribes of the Colville Reservation under the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103-436).
- (uu) Payments made or benefits granted by the Crow Boundary Settlement Act of 1994 (Public Law 103-444).
- (vv) Per capita distribution judgment funds to members of the Western Shoshone Indians (Public Law 108-270).
- (ww) Payments made or granted to the Aroostook Band of Micmacs under Public Law 102-171.
- (xx) Payments made from the distribution of judgment funds to members of the Confederated Tribes of the Umatilla under Public Law 91-259.
- (yy) Payments from the Tribal Trust Accounting and Management Lawsuits under Public Law 111-291, section 101.

| ~~(23)~~ Bureau of Indian Affairs (BIA) General Assistance payments are federally-funded income based on need and are counted as unearned income, regardless of whether they are paid in cash or in kind. The \$20 per month general income exclusion does not apply to these payments.

| ~~(34)~~ Individual Indian Money (IIM) accounts are treated as follows:

- (a) For an account that requires BIA Authorization for withdrawal (restricted):
  - (A) A deposit required by the BIA is excluded as income and as a resource.
  - (B) A deposit not required by the BIA is counted or excluded as income in accordance with this chapter of rules based on the source of the deposit. The deposit is excluded as a resource.
  - (C) A withdrawal is treated in accordance with this chapter of rules based on the source of the funds withdrawn. When funds in the account include both excluded and non-excluded funds, the Department presumes that the non-excluded funds are withdrawn first.
- (b) For an account that does not require BIA authorization for a withdrawal (unrestricted): Deposits and withdrawals are treated in accordance with this

chapter of rules based on the source of the deposit or withdrawal. When funds in the account include both excluded and non-excluded funds, the Department presumes that the non-excluded funds are withdrawn first.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 413.085, 414.685  
Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.020, 410.070, 411.060, 411.070, 411.083, 411.404, 413.085, 414.685, 414.839

- (1) The following Indian (Native American) benefits are excluded:
  - (a) Indian lands held jointly with the tribe, or land that may not be sold without the approval of the Bureau of Indian Affairs (BIA).
  - (b) Payments to Puyallup Tribe members from the trust funds established under Public Law 101-41.
  - (c) Payments from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103-436).
- (2) Payments from the BIA are treated as follows:
  - (a) In the SNAP program, payments from the General Assistance program are counted as unearned income.
  - (b) In all programs except the SNAP program, payments from the General Assistance program are excluded.
  - (c) The treatment of educational income is covered by OAR 461-145-0150.
- (3) Payments under Public Law 92-203 (Alaska Native Claim Settlement Act) are treated as follows:
  - (a) In the SNAP program, the entire payment is excluded.
  - (b) In all programs except the SNAP program:
    - (A) Only the tax-exempt portion of the payment is excluded.
    - (B) The remainder of the payment is counted as unearned income.
- (4) The following types of distributions provided under Public Law 100-241 (Alaska Native Claim Settlement Act) are excluded:
  - (a) Stock.
  - (b) A partnership interest.
  - (c) Land or interest in land.
  - (d) An interest in a settlement trust.

- (e) The first \$2,000 of each per-capita payment per year for each member of the *financial group* (see OAR 461-110-0530) who receives the payment. The amount over \$2,000 paid to each member of the *financial group* who receives the per-capita payment is counted as *lump-sum income* (see OAR 461-001-0000 and 461-140-0120).
- (5) The Department excludes Indian benefit payments when federal law requires an exclusion. These include payments under each of the following federal laws:
- (a) The Aroostook Band of Micmacs under Public Law 102-171.
  - (b) Blackfeet, Cherokee, Cheyenne, Chippewa, and Sioux tribes under Public Law 94-114, when the payment is from submarginal land held in trust by the United States.
  - (c) Blackfeet Indians under Public Law 92-254.
  - (d) Grand River Ottawa Indians under Public Law 94-540.
  - (e) Hopi or Navajo Indians under Public Law 93-531.
  - (f) Passamaquoddy Tribe and Penobscott Nation, including the Holton Band of Maliseet Indians, under the Indian Claims Settlement Act (Public Law 96-420).
  - (g) Umpqua Tribe Cow Creek Band under Public Law 100-139.
  - (h) Yakima Nation Confederated Tribes and Bands of the Mescalero Reservation Apache Tribe under Public Law 95-433.
- (6) Except in the SNAP program, payments received from trust or restricted lands under Public Law 93-134, Public Law 97-458, and Public Law 103-66 are excluded. In the SNAP program, payments received from trust or restricted lands under 25 USC 1408 (Public Law 93-134, Public Law 97-458, and Public Law 103-66) are treated as follows:
- (a) Excluded as a resource.
  - (b) The first \$2,000 of each per-capita payment per year for each member of the *financial group* who receives the payment is excluded as income.
  - (c) The amount over \$2,000 per year paid to any member of the *financial group* is counted as *periodic income* (see OAR 461-001-0000 and 461-140-0110).
- (7) Payments to Seminole Tribe members under Public Law 101-277 are treated as follows:
- (a) The first \$2,000 of each per-capita payment per year is excluded for each member of the *financial group* who receives the payment.

- (b) The amount over \$2,000 paid to each member of the *financial group* who receives the per-capita payment is counted as *lump-sum income* (see OAR 461-140-0120).
- (8) Payments from the distribution of judgment funds to members of the Confederated Tribes of the Umatilla under Public Law 91-259 are treated as follows:
  - (a) The first \$2,000 of each per-capita payment per year is excluded for each member of the *financial group* who receives the payment.
  - (b) The amount over \$2,000 paid to each member of the *financial group* who receives the per-capita payment is counted as *lump-sum income* (see OAR 461-140-0120).
- (9) Payments for assets held in trust to the Sac and Fox Tribe of Oklahoma and Sac and Fox Tribe of the Mississippi in Iowa by the Indian Claims Commission under Public Law 94-189, Section 6 (The Sac and Fox Indian Claims Agreement) are treated as follows:
  - (a) The first \$2,000 of each per-capita payment per year is excluded for each member of the *financial group* who receives the payment.
  - (b) The amount over \$2,000 paid to each member of the *financial group* who receives the per-capita payment is counted as *lump-sum income* (see OAR 461-140-0120).
- (10) Payments from judgment funds held in trust by the U.S. Secretary of the Interior under Public Law 98-64 are excluded.
- (11) Indian Child Welfare payments under Public Law 95-608 are excluded.
- (12) Tribal payments for child care are treated as follows:
  - (a) Provider-direct payments are counted as the provider's earned income.
  - (b) All client-direct payments are excluded.
- (13) Indian benefit payments distributed by the tribe and not excluded for that program by public law are counted as unearned income.
- (14) Payments in the tribal-TANF program are counted in the same manner as TANF program payments under OAR 461-145-0410.
- (15) Payments from the Tribal Trust Accounting and Management Lawsuits under Public Law 111-291 (section 101) are treated as follows:
  - (a) The payments are excluded as income in the month of receipt.

- (b) The payments are excluded as a resource for the 12 calendar months following the receipt of the payment as long as they are not commingled with other funds.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.083, 411.404, 411.816, 412.014, 412.049

- (1) Benefits paid on a life insurance policy are counted as unearned income in the month received and a resource if retained into the following month. The Department counts benefits as received when the insured individual dies or when the insured individual is eligible for and receives accelerated payments before death, such as when the insured individual has a terminal illness. When the payment is a lump sum due to the death of the insured individual a deduction is allowed, not to exceed \$1,500, for the cost of the deceased individual's last illness and burial if these costs were not otherwise insured.
- (2) Burial insurance that has cash surrender value is treated in the same manner that this rule treats life insurance.
- (3) The value of a life insurance policy is treated as follows:
  - (a) All term insurance that has no cash surrender value is excluded.
  - (b) In all programs except ~~GA, GAM~~, OSIP, OSIPM, and QMB-DW, the cash surrender value of the life insurance policy is excluded.
  - (c) In the ~~GA, GAM~~, OSIP, OSIPM, and QMB-DW programs:
    - (A) For the purposes of this subsection, the following definitions apply:
      - (i) "Cash surrender value" means the equity that the policy acquires over time.
      - (ii) "Dividend" means a payment of surplus company earnings from the insurer.
      - (iii) "Dividend accumulation" means a *dividend* left with the insurer to accumulate interest that may be withdrawn without affecting the policy's *face value* or *cash surrender value*.
      - (iv) "Dividend addition" means the amount of insurance purchased with a *dividend* that increases the policy's death benefit and *cash surrender value*.
      - (v) "Face value" means the amount of the death benefit contracted for at the time the policy was purchased and does not include a *dividend addition* added after purchase of the policy.
      - (vi) "Viatical settlement" means an agreement allowing a third party to acquire a life insurance policy from a terminally ill individual at an agreed-upon percentage of the life insurance policy's *face value*.

- (B) The *cash surrender value* of life insurance policies owned by the *financial group* (see 461-110-0530) is excluded if the total *face value* of all policies for the insured individual is less than or equal to \$1,500. If the total *face value* of all policies for the insured individual is more than \$1,500, the entire *cash surrender value* is counted as a resource to the owner of the policy. The total *face value* does not include any *dividend addition*. A *dividend accumulation* must count as a resource even if the *face value* of the policy that generated the *dividend accumulation* is excluded.
  
- (C) The *cash surrender value* of a policy acquired through a *viatical settlement* is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839



## Loans and Interest on Loans

- (1) This rule covers proceeds of loans, loan repayments, and interest earned by a lender. If the proceeds of a loan are used to purchase an asset, the asset is evaluated under the other rules in this division of rules.
- (2) For purposes of this rule:
  - (a) In the ~~GA, GAM,~~ OSIP, OSIPM, and QMB programs:
    - (A) "Bona fide loan agreement" means an agreement that --
      - (i) Is enforceable under state law;
      - (ii) Is in effect at the time the cash proceeds are provided to the borrower; and
      - (iii) Includes an obligation to repay and a feasible repayment plan.
    - (B) "Negotiable loan agreement" means a loan agreement in which the instrument ownership and the whole amount of money expressed on its face can be transferred from one person to another (i.e., sold) at prevailing market rates.
  - (b) In all programs:
    - (A) "Reverse-annuity mortgage" means a contract with a *financial institution* (see OAR 461-001-0000) under which the *financial institution* provides payments against the equity in the home that must be repaid when the homeowner dies, sells the home, or moves.
    - (B) The proceeds of a home equity loan or *reverse-annuity mortgage* (see paragraph (A) of this subsection) are considered loans.
- (3) For payments that a member of the *financial group* (see OAR 461-110-0530) receives as a borrower to be treated as a loan:
  - (a) In the ~~GA, GAM,~~ OSIP, OSIPM, QMB, and SNAP programs, there must be an oral or written loan agreement, and this agreement must state when repayment of the loan is due to the lender.
  - (b) In programs other than the ~~GA, GAM,~~ OSIP, OSIPM, QMB, and SNAP programs, there must be a written loan agreement, and this agreement must be signed by the borrower and lender, dated before the borrower receives the proceeds of the loan, and state when repayment of the loan is due to the lender.

- (4) Payments for a purported loan that do not meet the requirements of section (3) of this rule are counted as unearned income.
- (5) When a member of a *financial group* receives cash proceeds as a borrower from a loan that meets the requirements of section (3) of this rule:
  - (a) In all programs, educational loans are treated according to OAR 461-145-0150.
  - (b) In the ERDC, REF, REFM, SNAP, and TANF programs, the loan is excluded. If retained after the month of receipt, the loan proceeds are treated in accordance with OAR 461-140-0070.
  - (c) In the ~~GA, GAM,~~ OSIP, OSIPM, and QMB-DW programs:
    - (A) If the loan is a *bona fide loan agreement* (see paragraph (2)(a)(A) of this rule), the money provided by the lender is not income but is counted as the borrower's resource if retained in the month following the month of receipt (notwithstanding OAR 461-140-0070).
    - (B) If the loan is not a *bona fide loan agreement*, the money provided by the lender is counted as income in the month received and is counted as a resource if retained in the month following the month it was received.
  - (d) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:
    - (A) If the loan is a *bona fide loan agreement*, the money provided by the lender is not considered income.
    - (B) If the loan is not a *bona fide loan agreement*, the money provided by the lender is counted as income in the month received.
- (6) In the OSIPM program, if a client or a spouse of a client uses funds to purchase a mortgage or to purchase or lend money for a promissory note or loan:
  - (a) In a transaction occurring on or after July 1, 2006:
    - (A) The balance of the payments owing to the client or spouse of the client is a transfer of assets for less than *fair market value* (see OAR 461-001-0000), unless all of the following requirements are met:
      - (i) The total value of the transaction is being repaid to the client or spouse of the client within three months of the client's life expectancy per that person's actuarial life expectancy as established by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration.

- (ii) Payments are made in equal amounts over the term of the transaction without any deferrals or balloon payments.
      - (iii) The contract is not cancelled upon the death of the individual receiving the payments under this transaction.
    - (B) If the loan results in a disqualification and the disqualification period has been served, payments against the principal and interest are treated as unearned income.
  - (b) In a transaction occurring before July 1, 2006, or for a transaction occurring on or after July 1, 2006, that does not result in a disqualification in subsection (a) of this section, the loan is treated as follows:
    - (A) Interest income is treated as unearned income.
    - (B) The loan is counted as a resource if:
      - (i) The *financial group* includes a client in a *nonstandard living arrangement* (see OAR 461-001-0000) and the client's spouse;
      - (ii) The transaction is on or after the date of the first *continuous period of care* (see OAR 461-001-0030); and
      - (iii) The amount of the loan plus other resources transferred exceeds the largest amount in OAR 461-160-0580(2)(f).
    - (C) For all other loans:
      - (i) If the loan is both a *negotiable loan agreement* (see paragraph (2)(a)(B) of this rule) and a *bona fide loan agreement*, the loan is counted as a resource valued at the outstanding principal balance.
      - (ii) If the loan does not qualify under subparagraph (i) of this paragraph, payments against the principal are counted as unearned income.
- (7) In the ~~GA, GAM, OSIP,~~ and QMB-DW programs:
- (a) Interest income is treated as unearned income.
  - (b) If the loan is both a *negotiable loan agreement* and a *bona fide loan agreement*, the loan is counted as a resource of the lender valued at the outstanding principal balance.
  - (c) If the loan does not qualify under subsection (b) of this section, the payments against the principal are counted as income to the lender.

(8) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:

- (a) Interest income is treated as unearned income.
- (b) Payments against the principal of all loans are excluded as income.

(9) In all programs other than the ~~GA, GAM,~~ OSIP, OSIPM, and QMB programs:

- (a) The interest payment is counted as unearned income.
- (b) The payment of principal is excluded.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

- (1) Lodger income is the amount a *lodger* (see OAR 461-001-0000) pays the filing group for room (rent) and board (meals).
- (2) Lodger income is counted as follows:
  - (a) In the REF, REFM, and TANF programs, lodger income not excluded under OAR 461-155-0350 is treated as self-employment income.
  - (b) In all programs except the ~~GA, GAM,~~ OSIP, OSIPM, QMB, REF, REFM, and TANF programs, lodger income is treated as self-employment income.
  - (c) In the ~~GA, GAM,~~ OSIP, OSIPM, and QMB programs, lodger income is the amount a member of the *household group* (see OAR 461-110-0210) pays for the use of a room (rent) with or without board (meals) and is treated as unearned income:
    - (A) Lodger income may be reduced by the following allowable expenses such as--
      - (i) Interest and escrow portions of a mortgage payment (at the point the payment is made to the mortgage holder);
      - (ii) If the home is rented or leased by the financial group, the monthly rent payment;
      - (iii) Real estate insurance;
      - (iv) Repairs (such as a minor correction to an existing structure);
      - (v) Property taxes (if not included in an escrow portion of the mortgage payment);
      - (vi) Lawn care;
      - (vii) Snow removal;
      - (viii) Advertising for tenants; and
      - (ix) Utilities.
    - (B) Allowable expenses are prorated based on the number of rooms designated for rent compared to the number of rooms in the house (excluding bathrooms). Basements and attics are counted only if they have been converted to living spaces (such as recreation rooms).

- (1) The value of disability-related apparatus, optional equipment, or low mileage is not considered in determining the *fair market value* (see OAR 461-001-0000) of an automobile, truck, or van. The *fair market value* of an automobile, truck, or van is presumed to be the "average trade-in value" established in the National Automobile Dealers Association's (NADA) Used Car Guide, Kelley Blue Book, or similar publication. A client may rebut the presumption with a statement from a car dealer, mechanic, or other reliable source. If the vehicle is not listed in the NADA Used Car Guide, Kelley Blue Book, or a similar publication, the estimate of the value by the client may be accepted unless it appears questionable, in which case additional evidence of the value is required.
- (2) Some programs permit an exclusion for a portion of the *equity value* (see OAR 461-001-0000) for any licensed and unlicensed motor vehicles owned by the *financial group* (see OAR 461-110-0530):
  - (a) In the REF, REFM, SNAP, and TANF programs, this exclusion is up to \$10,000.
  - ~~(b) In the GA and GAM programs, this exclusion is up to \$4,500.~~
  - (~~e~~b) Any remaining equity in that vehicle and the total *equity value* of all other vehicles is counted as a resource.
- (3) In the EA and ERDC programs, all motor vehicles are excluded.
- (4) In the OSIP, OSIPM, and QMB-DW programs:
  - (a) The total value of a vehicle selected by the *financial group* is excluded if it is used for transportation of the client or a member of the client's household.
  - (b) The total *equity value* of any vehicle not excluded under subsection (a) of this section and all other vehicles is counted as a resource.
- (5) In the OSIP-EPD and OSIPM-EPD programs, if a vehicle was purchased as an *employment and independence expense* (see OAR 461-001-0035) or with moneys from an *approved account* (see OAR 461-001-0035), the total value of the vehicle is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049

461-145-0365

~~Eff. 1-1-16~~

Eff. 9-1-16

National and Community Services Trust Act (NCSTA), including AmeriCorps (other than AmeriCorps VISTA)

- (1) The National and Community Service Trust Act (NCSTA) of 1993 (P.L. 103-82) amended the National and Community Service Act (NCSA) of 1990 (P.L. 101-610) that established a Corporation for National and Community Service. The Corporation administers national service programs providing living allowance, educational award, child care, and in-kind benefits.
- (2) NCSTA payments, including AmeriCorps (except AmeriCorps VISTA which is covered in OAR 461-145-0110) are treated as follows:
  - (a) The living allowance (stipend benefits) is excluded.
  - (b) Educational award and in-kind benefits are ~~treated as follows: (A) — In the GA program, these benefits are treated according to the policy for the specific type of asset. (B) — In all programs except GA, these benefits are excluded.~~
  - (c) The child care allowance is treated as follows:
    - (A) For clients in the ERDC and TANF programs who are eligible for direct provider payment of child care, the allowance is counted as unearned income. The allowance is excluded only if the client already pays the provider. The provider may be paid for only the costs not covered by the allowance.
    - (B) For clients in the SNAP program who are receiving a child care deduction, the deduction is allowed only for the costs not covered by the allowance.
    - (C) In all other programs, the allowance is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.049

461-145-0370  
Older Americans Act

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

Eff. 9-1-16

- (1) In all programs except the ~~GA, GAM, and~~ SNAP programs, benefits under Title III of the Older Americans Act of 1965 (Nutrition Program for the Elderly) are excluded. In the ~~GA, GAM, and~~ SNAP programs, these benefits are considered unearned income.
- (2) In all programs except the SNAP program:
  - (a) A wage or salary paid to persons 55 years of age and older under Title V of the Older Americans Act of 1965 (Experience Works, American Association of Retired Persons, National Association for Spanish-Speaking Elderly, National Council on Aging, National Council on Black Aging, National Council of Senior Citizens, National Urban League, U.S. Forest Service) is considered earned income.
  - (b) Payments to an individual 55 years of age and older under Title V of the Older Americans Act of 1965 that are not a wage or salary are excluded.
- (3) In the SNAP program, payments under Title V of the Older Americans Act of 1965 are excluded.

Stat. Auth.: ORS 411.060, 411.083, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.083, 411.404, 411.816, 412.049



- (1) EA and TA-DVS payments are treated as follows:
  - (a) In the ERDC and SNAP programs, a payment made directly to the client is counted as unearned income. Dual payee and provider-direct payments are excluded.
  - (b) In all programs except the ERDC and SNAP programs, these payments are excluded.
- (2) *Employment Payments* (see OAR 461-001-0025 and 461-135-1270) are treated as follows:
  - (a) In the REF, REFM, SNAP, and TANF programs, these payments are counted as unearned income in the month received.
  - (b) In all programs not covered in subsection (a) of this section, these payments are excluded.
- (3) Payments from ERDC and TANF child care are excluded unless the client is the provider.
- (4) Payments from the ~~GAM~~, OCCS medical programs, OSIPM, QMB, and REFM programs are excluded.
- (5) Payments from JPI (see OAR 461-135-1260) are issued as a food benefit and are excluded.
- (6) SNAP payments are treated as follows:
  - (a) The value of an SNAP benefit is excluded in all programs except the EA program. In the EA program, the value is counted as a resource when determining the emergency food needs of the filing group (see OAR 461-110-0310 and 461-110-0370).
  - (b) OFFSET service payments are excluded.
- (7) Benefits from the GA, OSIP (except OSIP-IC), Post-TANF, REF, SFPSS, TANF, and tribal-TANF programs are treated as follows:
  - (a) In the EA program, these payments are counted as unearned income, except that these payments are excluded for a *benefit group* (see OAR 461-110-0750) whose emergent need is the result of *domestic violence* (see OAR 461-001-0000).
  - (b) In the ERDC program:
    - (A) Post-TANF payments are excluded.

- (B) All other payments are counted as unearned income.
- (c) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, these payments are excluded.
- (d) In the SNAP program:
  - (A) These payments are treated as unearned income.
  - (B) An amount received as a late processing payment is treated as *lump-sum income* (see OAR 461-001-0000 and 461-140-0120).
  - (C) Payments made to correct an underpayment are treated as *lump-sum income*.
  - (D) Ongoing special needs payments for laundry allowances, special diet or meal allowance, restaurant meals, accommodation allowances, and telephone allowances are treated as unearned income. All other special needs payments are excluded as reimbursements.
- (e) In all programs except the EA, ERDC, QMB-BAS, QMB-SMB, QMB-SMF, and SNAP programs:
  - (A) These payments are excluded in the month received, and any portion remaining following the month of receipt is counted as a resource.
  - (B) Payments made to correct an underpayment are excluded.
- (f) In all programs:
  - (A) JOBS, REF, and TANF JOBS Plus support service payments are excluded.
  - (B) For the treatment of JOBS Plus income, see OAR 461-145-0130.
  - (C) REF and TANF client incentive payments are treated as follows:
    - (i) Except in the TANF program, the cooperation incentive payment (see OAR 461-135-0210) is counted as unearned income.
    - (ii) Progress and outcome incentive payments other than in-kind payments are counted as *lump-sum income* (see OAR 461-140-0120). All other incentives are excluded.
- (8) Payments from OSIP-IC are treated as follows:

- (a) In the SNAP program, these payments are counted as unearned income and assets held in a *contingency fund* (see OAR 411-030-0020) are counted as a resource.
  - (b) In all other programs, these payments and funds held in a *contingency fund* are excluded.
- (9) Pre-TANF program payments are treated as follows:
- (a) In the SNAP program, a payment for basic living expenses, made directly to the client, is counted as unearned income. All other payments are excluded.
  - (b) In all programs except the SNAP program, these payments are excluded.

Stat. Auth.: ORS 411.060, [411.083](#), 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, [411.083](#), 411.404, 411.700, 411.816, 412.014, 412.049

- (1) For purposes of this rule, manufactured and mobile homes and floating homes and houseboats are treated in the same manner as *real property* (see OAR 461-001-0000).
- (2) The applicant has the burden of proof of establishing the *fair market value* (see OAR 461-001-0000) of *real property*. *Fair market value* may be established by any methodology determined to accurately reflect the *fair market value* of the *real property*, including the provision of an appraisal or comparative market analysis performed by an impartial individual who is certified or licensed in the applicable jurisdiction.
- (3) *Real property* that is not income-producing or the home of the *financial group* (see OAR 461-110-0530) is treated as follows:
  - (a) In the REF, REFM, and TANF programs, the *equity value* (see OAR 461-001-0000) of all *real property* that is not excluded under a TANF Interim Assistance agreement is counted as a resource.
  - (b) In the EA and ERDC programs, *real property* is excluded.
  - (c) In the SNAP program, *real property* is treated as follows:
    - (A) The *equity value* of *real property* is excluded if the *financial group* is making a good-faith effort to sell the *real property* at a fair market price.
    - (B) The *equity value* of the *real property* is counted as a resource if the *financial group* refuses to make a good-faith effort to sell.
    - (C) The resource is excluded if selling the resource would produce a net gain to the *financial group* of less than \$1,500.
  - (d) In the ~~GA, GAM,~~ OSIP, OSIPM, and QMB-DW programs:
    - (A) The *equity value* of *real property* that was the home of the *financial group* is excluded if the *financial group* is making a good-faith effort to sell the *real property* at a reasonable price, unless the *equity value* in the home makes the client ineligible under OAR 461-145-0220(2)(a).
    - (B) The *equity value* of all other *real property* is excluded if the *financial group* is making a good-faith effort to sell the *real property* at a reasonable price. The *equity value* is counted after the *real property* is excluded for nine months unless the failure to sell it is for reasons beyond the reasonable control of the *financial group*.

- (4) The treatment of *real property* that is income producing is covered in OAR 461-145-0250 and 461-145-0252.
- (5) The treatment of the home of the *financial group* is covered in OAR 461-145-0220.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.049

461-145-0455

~~Eff. 1-1-14~~

Eff. 9-1-16

Reception and Placement (R&P) Grants

- (1) A Reception and Placement (R&P) grant is a payment made by the United States Department of State through a national refugee resettlement agency to a local resettlement agency, refugee sponsor, or refugee. An R&P grant is provided to the resettlement agency to help with the costs of initial resettlement of a refugee in the United States. The resettlement agency provides a part of this grant to the refugee, usually in the refugee's first month after arrival, for the refugee's initial resettlement needs and not for ongoing living expenses.
- (2) In the ERDC, REF, REFM, and TANF programs, an R&P grant is excluded from consideration as income or a resource for purposes of determining program eligibility or benefit levels, except as provided in OAR 461-140-0070.
- (3) In the SNAP program, any amount paid directly to a SNAP household from an R&P grant is counted as unearned income. For an in-kind payment made directly to a provider by the resettlement agency, see OAR 461-145-0280.
- (4) In the ~~GA~~, OSIP, OSIPM, and QMB programs, an R&P grant determined to be available to the refugee case is considered unearned income.

Stat. Auth.: ORS 411.060, 411.116, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.116, 411.404, 411.816, 412.006, 412.049

## Sale of a Resource

- (1) In the ERDC program, all proceeds from the sale of a resource are excluded as income and as a resource.
- (2) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:
  - (a) For the sale of a resource (except a home) originating prior to October 12, 2012:
    - (A) All proceeds received on a monthly or other periodic basis are counted as unearned income.
    - (B) All proceeds received on a lump-sum basis are excluded as income.
  - (b) For the sale of a home originating prior to October 1, 2012 all proceeds are excluded as income.
  - (c) For a sale of a resource (including a home) originating on or after October 1, 2012:
    - (A) The interest portion of proceeds is counted as unearned income.
    - (B) The principal portion of proceeds is excluded as income.
- (3) In the REF, REFM, and TANF programs:
  - (a) Proceeds from the sale of an excluded resource to the extent reinvested in another excluded resource are excluded as income and as a resource.
  - (b) All proceeds from the sale of the resource are counted as unearned income, unless excluded in subsection (a) of this section.
- (4) In all programs except the ERDC, QMB-BAS, QMB-SMB, QMB-SMF, REF, REFM, and TANF programs, proceeds from the sale of a resource are treated as follows:
  - (a) Proceeds from the sale of a resource (other than a home) received on a monthly or other periodic basis are counted as unearned income, except that in the OSIPM and QMB-DW programs for a sale originating on or after October 1, 2012 all proceeds that are principal are counted as a resource.
  - (b) Proceeds from the sale of a resource (other than a home) received on a lump-sum basis are treated as follows, except that in the OSIPM and QMB-DW programs for a sale originating on or after October 1, 2012 all proceeds that are interest are treated as unearned income:

- (A) If the proceeds are from the sale of an excluded resource, the amount reinvested in another excluded resource is excluded, and the remainder is counted as a resource.
- (B) The proceeds from all other sales are counted as a resource. If the proceeds put the *benefit group* (see OAR 461-110-0750) over the resource limit, the proceeds are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).
- (c) Proceeds from the sale of the home of the *financial group* (see OAR 461-110-0530) are excluded for three months if the *financial group* intends to use the proceeds (subparagraphs (A)(i) and (A)(ii) of this subsection set out the scope of use of excluded proceeds in the ~~GA, GAM, OSIP~~, and QMB-DW programs) to buy another home, except as follows:
  - (A) In the ~~GA, GAM, OSIPM~~ (except for clients eligible under OAR 461-135-0771), and QMB-DW programs for a home sold on or after October 1, 2012:
    - (i) Principal payments, including lump-sum payments, are excluded for three full calendar months from the date of receipt if the *financial group* intends to use the proceeds to buy another home or for associated costs including:
      - (I) Downpayments;
      - (II) Settlement costs;
      - (III) Loan processing fees and points;
      - (IV) Moving expenses;
      - (V) Necessary repairs to or replacement of the new home's structure or fixtures (including roof, furnace, plumbing, built-in appliances) that are identified and documented prior to occupancy; and
      - (VI) Mortgage payments.
    - (ii) For the purposes of subparagraph (i) of this paragraph, funds that are obligated by contract during these three full calendar months are also excluded.
    - (iii) Interest payments are counted as unearned income.
  - (B) For clients eligible for OSIPM under OAR 461-135-0771, the proceeds from the sale of the financial group's home, if the *financial group* intends to use them to buy another home (subparagraphs (A)(i) and (A)(ii) of this subsection set out the scope of use of excluded proceeds), are treated as follows:



- (i) For a home sold prior to October 1, 2012, the proceeds are excluded for 12 full calendar months.
- (ii) For a home sold on or after October 1, 2012:
  - (I) Principal payments, including lump-sum payments, are excluded for 12 full calendar months from the date of receipt.
  - (II) Interest payments are counted as unearned income.
- (d) The proceeds from the sale of a home that are not reinvested in another home are counted as a resource, except as follows:
  - ~~(A) In the GA and GAM programs, if the proceeds put the benefit group over the resource limit, they are counted as periodic or lump sum income.~~
  - (AB) In the ~~GA, GAM,~~ OSIPM, and QMB-DW programs for a home sold on or after October 1, 2012:
    - (i) Principal is counted as a resource, ~~except that in the GA and GAM programs, if the proceeds put the benefit group over the resource limit, they are counted as periodic or lump sum income.~~
    - (ii) Interest payments are counted as unearned income.
  - (BC) In the SNAP program, the proceeds are treated as *lump-sum income* (see OAR 461-001-0000) under OAR 461-140-0120.
- (e) In the SNAP program:
  - (A) Interest received monthly or on another periodic basis from the sale of a home is counted as unearned income.
  - (B) If a self-employed client sells a work-related asset, including equipment and inventory, the proceeds of the sale are treated as self-employment income (see OAR 461-145-0910).
- (5) Costs of the type excluded under OAR 461-145-0920 are subtracted from proceeds counted as income under this rule.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.070, 410.080, 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

- (1) Except as provided in section (2) of this rule:
  - (a) In the ERDC, ~~GA, and GAM~~ programs, *shelter-in-kind* (see OAR 461-001-0000) payments are excluded, except earned *shelter-in-kind* is not excluded in the ERDC program.
  - (b) In the REF, REFM, and TANF programs, except for child support (see OAR 461-145-0080 and 461-145-0280), *shelter-in-kind* payments are excluded.
  - (c) In the SNAP program, *shelter-in-kind* housing and utility payments are excluded (see OAR 461-145-0130 about exclusion of earned in-kind income), except an expenditure by a business entity for *shelter costs* (see OAR 461-001-0000) of a *principal* (see OAR 461-145-0088) is counted as income.
  - (d) In the OSIP, OSIPM, and QMB programs:
    - (A) Except as provided in paragraph (C) of this subsection, unearned *shelter-in-kind* income is treated as follows:
      - (i) *Shelter-in-kind* payments from HUD are excluded.
      - (ii) If the *shelter-in-kind* includes all housing and utilities, the Shelter-in-Kind Standard for total shelter (see OAR 461-155-0300) is counted as unearned income.
      - (iii) If the *shelter-in-kind* includes all housing (utilities are not included), the Shelter-in-Kind Standard for housing costs (see OAR 461-155-0300) is counted as unearned income.
    - (B) Except as provided in paragraph (C) of this subsection, earned *shelter-in-kind* income is treated as follows:
      - (i) If shelter is provided for services related to the employer's trade or business and acceptance of the shelter is a condition of employment, the *shelter-in-kind* income is treated in accordance with paragraph (A) of this subsection.
      - (ii) Except as provided in subparagraph (i) of this paragraph, the *fair market value* (see OAR 461-001-0000) of the shelter is counted as earned income.

- (C) In the OSIP and OSIPM programs, when a prorated standard is used (see OAR 461-155-0020 and OAR 461-155-0250) *shelter-in-kind* income is excluded.
- (2) A payment for which there is a legal obligation to pay to a member of the *financial group* (see OAR 461-110-0530) that is made to a third party for shelter expenses of a member of the *financial group* is counted as unearned income.

Stat. Auth.: ORS 409.050, 411.060, 411.083, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.083, 411.404, ~~411.700~~, 411.816, 412.014, 412.049,  
414.042

461-145-0510  
SSI

~~Eff. 1-1-16~~

Eff. 9-1-16

- (1) In the ERDC, ~~GA, GAM,~~ and SNAP programs, if an individual is required by law to receive an SSI benefit through a representative payee, the representative's fee is excluded.
- (2) In the ERDC, ~~GA, and GAM~~ programs:
  - (a) A monthly SSI payment is counted as unearned income.
  - (b) Lump-sum SSI payments are counted according to OAR 461-140-0120.
- (3) In the OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD), and QMB-DW programs, a retroactive SSI payment is excluded for nine months after the month of receipt. After the nine-month period, any remaining amount is a *countable* (see OAR 461-001-0000) resource. For the purposes of this section, a payment is retroactive if it is issued in any month after the calendar month for which it is intended.
- (4) In the REF, REFM, and TANF programs:
  - (a) SSI monthly and lump-sum payments are excluded if the recipient will be removed from the *financial group* (see OAR 461-110-0530) the month following receipt of the payment.
  - (b) An SSI lump-sum payment is excluded in the month received and the next month.
- (5) In the SNAP program:
  - (a) A monthly SSI payment is counted as unearned income.
  - (b) A lump-sum SSI payment is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685  
Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085,  
414.685, 414.839

## Trusts

- (1) This section applies to all *trust funds* (see OAR 461-001-0000) in the REF, REFM, SNAP, and TANF programs. It also applies ~~to GA, GAM, in the~~ OSIP, OSIPM, and QMB-DW programs for *trust funds* established before October 1, 1993:
  - (a) *Trust funds* are counted as a resource if the fund is legally available for use by a member of the *financial group* (see OAR 461-110-0530) for items covered by program benefits. In the OSIP, OSIPM, and QMB-DW programs, the amount of the trust that is considered legally available is the maximum amount that could be distributed to the beneficiary under the terms of the trust, regardless of whether the trustee exercises his or her authority to actually make a distribution.
  - (b) *Trust funds* are excluded if the fund is not available for use by a member of the *financial group*. The *financial group* must try to remove legal restrictions on the trust, unless that would cause an expense to the group.
  - (c) The part of the fund available for use for medical expenses covered by the medical program for which the *financial group* is eligible is counted.
- (2) In the ERDC program, all *trust funds* are excluded.
- (3) In the OSIP, OSIPM, and QMB-DW programs, *trust funds* established on or after October 1, 1993, are treated in accordance with sections (5) to (11) of this rule. ~~In the GA and GAM programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (5) to (9) of this rule.~~
- (4) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:
  - (a) All *trust funds* are excluded as a resource.
  - (b) A payment made from the trust to or for the benefit of the client is counted as unearned income.
- (5) A trust is considered established if the *financial group* used their resources to form all or part of the trust and if any of the following established a trust, other than by a will:
  - (a) The client.
  - (b) The client's spouse.
  - (c) Any other person, including a court or administrative body, with legal authority to act in place of or on behalf of the client or the client's spouse.
  - (d) Any other person, including a court or administrative body, acting at the direction or upon the request of the client or the client's spouse.

- (6) If the trust contains resources or income of another person, only the share attributable to the client is considered available.
- (7) Except as provided in section (10) of this rule, the following factors are ignored when determining how to treat a trust:
  - (a) The purpose for which the trust was established.
  - (b) Whether or not the trustees have or exercise any discretion under the trust.
  - (c) Any restrictions on when or if distributions may be made from the trust.
  - (d) Any restrictions on the use of distributions from the trust.
- (8) If the trust is revocable, it is treated as follows:
  - (a) In all programs except the QMB-BAS, QMB-SMB, and QMB-SMF programs:
    - (A) The total value of the trust is considered a resource available to the client.
    - (B) A payment made from the trust to or for the benefit of the client is excluded as income.
  - (b) A payment from the trust other than to or for the benefit of the client is considered a transfer of assets covered by OAR 461-140-0210 and following.
- (9) If the trust is irrevocable, it is treated as follows:
  - (a) If, under any circumstances, the funds transferred into the trust are unavailable to the client and the trustee has no discretion to distribute the funds to or for the benefit of the client, the client is subject to a transfer-of-resources penalty as provided in OAR 461-140-0210 and following.
  - (b) If, under any circumstances, payments could be made to or on behalf of the client, the share of the trust from which the payment could be made is considered a resource. A payment from the trust other than one to or for the benefit of the client is considered a transfer of assets that may be covered by OAR 461-140-0210.
  - (c) If, under any circumstances, income is generated by the trust and could be paid to the client, the income is unearned income. Payments made for any reason other than to or for the benefit of the client are considered a transfer of assets subject to disqualification per OAR 461-140-0210.
  - (d) If any change in circumstance makes assets (income or resources) from the trust unavailable to the client, the change is a disqualifying transfer as of the date of the change.

- (10) Notwithstanding the provisions in sections (1), (3), and (5) to (9) of this rule, the following trusts are not considered in determining *eligibility* (see OAR 461-001-0000) for OSIPM and QMB-DW:
- (a) A trust containing the assets of a client determined to have a disability that meets the SSI criteria that was created before the client reached age 65, if the trust was established by one of the following and the state will receive all funds remaining in the trust upon the death of the client, up to the amount of medical benefits provided on behalf of the client:
    - (A) The client's *parent* (see OAR 461-001-0000).
    - (B) The client's grandparent.
    - (C) The client's legal guardian or conservator.
    - (D) A court.
  - (b) A trust established between October 1, 1993 and March 31, 1995 for the benefit of the client and containing only the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical benefits provided on behalf of the client. The trust is the total income in excess of the income standard for OSIPM. The remaining income not deposited into the trust is available for the following deductions in the order they appear prior to applying the patient liability:
    - (A) Personal-needs allowance.
    - (B) Community spouse monthly maintenance needs allowance.
    - (C) Medicare and other private medical insurance premiums.
    - (D) Other incurred medical.
  - (c) A trust established on or after April 1, 1995 for the benefit of the client whose income is above 300 percent of the full SSI standard and containing the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical assistance provided on behalf of the client. The trust contains all of the client's income. The income deposited into the trust is distributed monthly in the following order with excess amounts treated as income to the individual subject to the rules on transfer of assets in division 140 of this chapter of rules:
    - (A) Personal needs allowance and applicable room and board standard.

- (B) Reasonable administrative costs of the trust, not to exceed a total of \$50 per month, including the following:
    - (i) Trustee fees.
    - (ii) A reserve for administrative fees and costs of the trust, including bank service charges, copy charges, postage, accounting and tax preparation fees, future legal expenses, and income taxes attributable to trust income.
    - (iii) Conservatorship and guardianship fees and costs.
  - (C) Community spouse and family monthly maintenance needs allowance.
  - (D) Medicare and other private medical insurance premiums.
  - (E) Other incurred medical costs as allowed under OAR 461-160-0030 and 461-160-0055.
  - (F) Contributions to reserves or payments for child support, alimony, and income taxes.
  - (G) Monthly contributions to reserves or payments for the purchase of an irrevocable burial plan with a maximum value of \$5,000.
  - (H) Contributions to a reserve or payments for home maintenance if the client meets the criteria of OAR 461-155-0660 or OAR 461-160-0630.
  - (I) Patient liability not to exceed the cost of *home and community-based care* (see OAR 461-001-0030) or nursing facility services.
- (11) This section of the rule applies to a trust signed on or after July 1, 2006.
- (a) Notwithstanding the provisions of sections (1), (3), and (5) to (9) of this rule, a trust that meets the requirements of subsection (b) of this section is not considered in determining *eligibility* for OSIPM and QMB-DW, except that if the client is age 65 or older when the trust is funded or a transfer is made to the trust, the transfer may constitute a disqualifying transfer of assets under OAR 461-140-0210 and following.
  - (b) This section of the rule applies to a trust that meets all of the following conditions:
    - (A) The trust is established and managed by a non-profit association.



- (B) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.
- (C) The trust is established by the client, client's *parent*, grandparent, or legal guardian or a court for clients who have disabilities.
- (D) Upon the death of the beneficiary or termination of the trust, the trust pays to the state an amount equal to the total medical assistance paid on behalf of the beneficiary under the State plan for Medicaid. The amount paid to the state may be reduced by administrative costs directly related to administering the sub-trust account of the beneficiary.
- (E) The trust contains the resources or income of a client who has a disability that meets the SSI criteria.

(12) In the ~~GA, GAM,~~ OSIP, OSIPM, and QMB-DW programs, the provisions of this rule may be waived for an irrevocable trust if the Department determines that denial of benefits would create an undue hardship on the client if, among other things:

- (a) The absence of the services requested may result in a life-threatening situation.
- (b) The client was a victim of fraud or misrepresentation.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685  
Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685, 414.839

## Work-Related Capital Assets, Equipment, and Inventory

- (1) As used in this rule:
  - (a) "Inventory" means goods that are in stock and available for sale to prospective customers.
  - (b) "Work-related equipment" means property essential to the employment or self-employment of a *financial group* (see OAR 461-110-0530) member. Examples are a tradesman's tools, a farmer's machinery, and equipment used to maintain an income-producing vehicle.
- (2) A *capital asset* (see OAR 461-001-0000), other than *work-related equipment* (see section (1) of this rule) and *inventory* (see section (1) of this rule), is treated as follows:
  - (a) In the ERDC ~~and GA~~ programs, the *equity value* (see OAR 461-001-0000) of a *capital asset* is treated according to the rules for the asset.
  - (b) In the SNAP program, a *capital asset* used in a business is excluded as follows:
    - (A) Non-farm assets are excluded as long as the *financial group* is actively engaged in self-employment activities.
    - (B) Farm assets are excluded until one year after the date the individual quit self-employment as a farmer.
  - (c) In the REF, REFM, and TANF programs:
    - (A) For a self-employed client participating in the *microenterprise component* (see OAR 461-190-0197) of the JOBS program, the value of a *capital asset* is excluded.
    - (B) For all other clients, the value of a *capital asset* is counted according to the rules in this division of rules.
  - (d) In the OSIP, OSIPM, and QMB-DW programs, a *capital asset* is excluded.
- (3) *Work-related equipment* is treated as follows:
  - (a) In the EA, ERDC, OSIP, OSIPM, QMB-DW, and SNAP programs, the *equity value* of *work-related equipment* is excluded.
  - ~~(b) In the GA program, the value of equipment needed by an individual who has a disability or is blind to complete a plan for self support (see OAR 461-135-0708)~~

~~is excluded as long as the plan is in effect. For all other equipment, the equity value of the equipment is counted as a resource, except as provided at OAR 461-145-0250.~~

(be) In the REF, REFM, and TANF programs:

- (A) For a self-employed client participating in the *microenterprise component* of the JOBS program, the *equity value* of the equipment is excluded.
- (B) For all other clients, the *equity value* of the equipment is treated as a resource.

(4) *Inventory* is treated as follows:

(a) In the EA, ERDC, OSIP, OSIPM, QMB-DW, and SNAP programs, *inventory* is excluded as long as the client is engaged in self-employment activities.

~~(b) In the GA program, the value of *inventory* needed by an individual who has a disability or is blind to complete a plan for self support is excluded, as long as the plan is in effect. For all other *inventory*, the *equity value* of the *inventory* is counted as a resource.~~

(be) In the REF, REFM, and TANF programs:

- (A) For a self-employed client participating in the *microenterprise component* of the JOBS program, the wholesale value of *inventory* remaining at the end of the semi-annual period covered in each income statement (see OAR 461-190-0197), less encumbrances, is counted as a resource.
- (B) For all other clients, the wholesale value of *inventory* remaining at the end of a month, less encumbrances, is counted as a resource.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

## Self-Employment; General; Not OSIP, OSIPM, or QMB

- (1) Self-employment income is income resulting from an individual's business, trade, or profession, rather than from a salary or wage paid by an employer. An individual is considered self-employed if the individual meets the criteria in sections (2) or (3) of this rule. Except as noted in section (3) of this rule, for all programs except SNAP, when an individual has established a corporation, determine if the individual is self-employed according to section (2) of this rule. If the individual has more than one self-employment business, trade, or profession, the income from each is determined separately.
- (2) Except as provided in OAR 461-145-0250(1), an individual is self-employed for the purposes of this division of rules if the individual:
  - (a) Is considered an independent contractor by the business that employs the individual; or
  - (b) Meets at least four of the following criteria:
    - (A) Is engaged in an enterprise for the purpose of producing income.
    - (B) Is responsible for obtaining or providing a service or product by retaining control over the means and manner of providing the work or services offered.
    - (C) Is principally responsible for the success or failure of the business operation by assuming the necessary business expenses and profit or loss risks connected with the operation of the business, and has the authority to hire and fire employees to perform the labor or services.
    - (D) Is not required to complete an IRS W-4 form for an employer and is not required to have federal income tax or FICA payments withheld from a pay check.
    - (E) Is not covered under an employer's liability or workers' compensation insurance policy.
- (3) Notwithstanding section (2) of this rule:
  - (a) Homecare Workers (see OAR 411-031-0020) paid by the Department are not self-employed.
  - (b) Child care providers (see OAR 461-165-0180) paid by the Department, adult foster home providers (see OAR 411-050-0602) paid by the Department, realty agents, and individuals who sell plasma, redeem beverage containers, pick

mushrooms for sale, or engage in similar enterprises are considered to be self-employed.

- (4) In the ERDC, REF, SNAP, and TANF programs, self-employment income, including income from a *microenterprise* (see OAR 461-001-0000), is counted prospectively to determine *eligibility* (see OAR 461-001-0000) as follows:
- (a) Self-employment income is annualized when it is:
    - (A) Received during less than a 12-month period but is intended as a full year's income.
    - (B) From a business that has operated for a full year and the previous year is representative of what the income and costs will be during the budget month.
  - (b) Except in the ERDC program, self-employment income is treated as anticipated income when a *financial group* (see OAR 461-110-0530) begins self-employment and is unable to determine what the income and costs will be during the budget month.
- ~~(5) In the GA program, self employment income is considered available upon receipt by a member of the *financial group*, except it is prorated over the period of work if the duration of the work exceeds one month.~~
- (~~5~~6) In the REFM program:
- (a) Self-employment income is counted only if received in the month of application.
  - (b) If self-employment income counted in the month of application puts the applicant over the income limits for REFM, the income is calculated according to section (4) of this rule.
- (~~6~~7) When determining the amount of *countable* (see OAR 461-001-0000) self-employment income, use gross receipts and sales, including mileage reimbursements, before costs.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

## Self-Employment; Costs That Are Excluded To Determine Countable Income

- (1) This rule explains how to determine which costs are excluded from gross self-employment income.
- (2) In all programs except the OSIP, OSIPM, and QMB programs, unless prohibited by section (4) of this rule, and subject to the provisions of sections (6) and (7) of this rule and OAR 461-145-0930, the necessary costs of producing self-employment income are excluded from gross sales and receipts including, but not limited to:
  - (a) Labor (wages paid to an employee or work contracted out).
  - (b) Materials used to make a product.
  - (c) In the SNAP program -- principal and interest paid to purchase *income-producing property* (see OAR 461-001-0000), such as real property, equipment, or capital assets. In all other programs, interest paid to purchase *income-producing property*, such as equipment or capital assets.
  - (d) Insurance premiums, taxes, assessments, and utilities paid on *income-producing property*.
  - (e) Service, repair, and rental of business equipment, including motor vehicles, and property that is owned, leased, or rented.
  - (f) Advertisement and business supplies.
  - (g) Licenses, permits, legal, or professional fees.
  - (h) Transportation costs at 20 cents per mile, if the cost is part of the business expense. Commuting expenses to and from the worksite are not part of the business expense.
  - (i) Charges for telephone service that are a necessary cost for self-employment.
  - (j) Meals and snacks provided by family day care providers for children in their care, except the provider's own children. The actual cost of the meals is used if the provider can document the cost. If the provider cannot document the actual cost, the USDA meal reimbursement rates are used.
  - (k) Materials purchased for resale, such as cosmetic products.
  - (L) For newspaper carriers, the cost of newspapers, bags, and rubber bands.

- (3) In the OSIP, OSIPM, and QMB programs, unless prohibited by section (5) of this rule, and subject to the provisions of sections (6) and (7) of this rule and OAR 461-145-0930, the necessary costs of producing self-employment income are excluded from gross sales and receipts including, but not limited to:
- (a) Advertising.
  - (b) Car and truck expenses.
  - (c) Commissions and fees.
  - (d) Contract labor.
  - (e) Depletion.
  - (f) Depreciation.
  - (g) Employee benefit programs.
  - (h) Insurance, other than health.
  - (i) Mortgage interest.
  - (j) Legal and professional services.
  - (k) Office expenses.
  - (L) Pension and profit-sharing plans.
  - (m) Rent or lease of vehicles, machinery, equipment, and other business property.
  - (n) Repairs and maintenance.
  - (o) Supplies.
  - (p) Taxes and licenses.
  - (q) Travel, meals, and entertainment.
  - (r) Utilities.
  - (s) Wages, less employment credits.
  - (t) Meals and snacks provided by family day care providers for children in their care, except the provider's own children. The actual cost of the meals is used if the

provider is able to document the cost. If the provider is unable to document the actual cost, the USDA meal reimbursement rates are used.

- (u) Materials purchased for resale, such as cosmetic products.
  - (v) For newspaper carriers, the cost of newspapers, bags, and rubber bands.
- (4) In all programs except the OSIP, OSIPM, and QMB programs, the following costs are not excluded from gross sales and receipts:
- (a) Business losses from previous months.
  - (b) Except in the SNAP program, payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods.
  - (c) Federal, state, and local income taxes, draws or salaries paid to any financial group member, money set aside for personal retirement, and other work-related personal expenses, such as transportation, personal business, and entertainment expenses.
  - (d) Depreciation. For purposes of this section, "depreciation" means a prorated lessening of value assigned to a *capital asset* (see OAR 461-001-0000) based on its useful life expectancy and initial cost.
  - (e) Costs related to traveling to another area to seek business when there is no reasonable possibility of deriving income from the trip.
  - (f) Interest or fees on personal credit cards.
  - (g) Personal telephone charges.
  - (h) Shelter or utility costs associated with the individual's home, except as authorized by section (6) of this rule.
- (5) In the OSIP, OSIPM, and QMB programs, the following costs are not excluded from gross sales and receipts:
- (a) Federal, state, and local income taxes.
  - (b) Costs related to traveling to another area to seek business when there is no reasonable possibility of deriving income from the trip.
  - (c) Interest or fees on personal credit cards.
  - (d) Personal telephone charges.



- (e) Shelter or utility costs associated with the individual's home, except as authorized by section (6) of this rule.
- (6) The exclusions for items used for both business and personal purposes, such as automobiles and a residence, including utilities, are limited by the following subsections:
  - (a) In the ERDC, ~~GA, GAM~~, OSIP, OSIPM, and QMB programs, the portion of the expense that is for business use only is excluded.
  - (b) In the SNAP program, costs are excluded for a separate office or shop located on the property used as a home, if the costs are billed separately from the residence. Costs for other items used for both business and personal use are excluded.
- (7) If no member of the *financial group* (see OAR 461-110-0530) has been self-employed for a sufficiently long period to ascertain the costs of self-employment, the costs may be estimated.
- (8) For an individual participating in the *microenterprise component* (see OAR 461-190-0197) of the JOBS program, costs are excluded according to this rule and general accounting principles, as applied by a certified public accountant, bookkeeping firm, or other entity approved by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.083, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685, 414.839

461-145-0930

~~Eff. 4-1-15~~

Eff. 9-1-16

Self-Employment; Determination of Countable Income

- (1) The Department initially determines gross sales and receipts minus any returns and allowances (before excluding or deducting any costs). This rule explains how different programs exclude and deduct costs from self-employment gross sales and receipts.
- (2) In the ERDC program, if an individual claims an excludable cost permitted under OAR 461-145-0920, at least 50 percent of gross self-employment income is excluded. The maximum exclusion is the total excludable cost under OAR 461-145-0920.
- (3) In the ~~GA~~, OSIP, OSIPM, QMB, and REFM programs, all costs permitted under OAR 461-145-0920 are excluded.
- (4) In the REF program, no costs are excluded.
- (5) In the SNAP program, if there are any costs permitted under OAR 461-145-0920, there is a deduction of 50 percent of gross self-employment income.
- (6) In the TANF program:
  - (a) For an individual participating in the *microenterprise* (see OAR 461-001-0000) component of the JOBS program, costs are excluded according to OAR 461-145-0920 and general accounting principles, as applied by a certified public accountant, bookkeeping firm, or other entity approved by the Department.
  - (b) For all other individuals, no costs are subtracted (excluded).

Stat. Auth.: ORS 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.009, 412.049, 414.826

Stats. Implemented: ORS 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.009, 412.049, 414.826

461-150-0050

~~Eff. 1-1-16~~

Eff. 9-1-16

Prospective Eligibility and Budgeting; ~~GA, GAM,~~ OSIP, OSIPM, and QMB

In the ~~GA, GAM,~~ OSIP, OSIPM, and all QMB programs, the Department uses prospective *eligibility* (see OAR 461-001-0000) and *budgeting* (see OAR 461-001-0000) as follows:

- (1) In the ~~GA, GAM,~~ OSIP (except OSIP-IC), OSIPM (except OSIPM-IC), and all QMB programs:
  - (a) For the *initial month* (see OAR 461-001-0000), the Department uses prospective *eligibility* and *budgeting*. Money received from a nonrecurring source before the date of application is excluded as income.
  - (b) Except for QMB-BAS, QMB-SMB, and QMB-SMF, if any money remains from a non-recurring source after the date of application, it is counted as a resource.
  - (c) For each *ongoing month* (see OAR 461-001-0000) the Department uses prospective *eligibility* and *budgeting*.
- (2) In the OSIP-IC and OSIPM-IC programs, the *budget month* (see OAR 461-001-0000) is the *initial month* of eligibility.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.070, 410.080, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685, 414.839

461-155-0010

~~Eff. 10-1-07~~

Eff. 9-1-16

Use of Payment Standards to Establish Need

- (1) *Need* is the amount at the Department's payment standards that represents the client's need for items covered by the benefit.
- (2) *Special needs* are costs in addition to standard allowances.
- (3) In the GA ~~and GAM~~ programs, ongoing special needs are used to determine benefit amount as specified in OAR 461-160-0500.
- (4) In the OSIP and OSIPM programs:
  - (a) The special need described in OAR 461-155-0630(2) is used to determine initial and ongoing eligibility.
  - (b) Except for individuals whose eligibility is determined based on the special need described in OAR 461-155-0630(2), *special needs* are used when determining the benefit amount or the client liability.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 418.100

Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 418.100

## Prorated Standards; Adjusted Number in Household

- (1) Prorated standards are used only in the no-adult tables and the non-SSI OSIP and OSIPM table.
- (2) In the OSIP and OSIPM programs:
  - (a) Prorated standards only apply when an individual or a couple receives free food and shelter from others living in the household, and the individual or couple does not have an ownership interest or rental liability in the residence.
  - (b) Prorated standards are not applied to cases in which an individual receives services described in OAR chapter 411, division 015.
  - (c) Shelter-in-kind (see OAR 461-145-0470) may apply when prorated standards are not used.
- (3) In the TANF program, the no-adult tables are used when there are no adults in the TANF *benefit group* (see OAR 461-110-0750).
- (4) In all programs except the TANF program, prorated standards are based on the number of people in the *need group*, compared to the adjusted number in the *household group* (see OAR 461-110-0210). The adjusted number in the household is determined by taking the total number of individuals in the household, minus the following individuals unless they are included in the *need group*:
  - (a) Unborns.
  - (b) Individuals receiving *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030).
  - (c) Foster children.
  - (d) Children receiving adoption assistance.
  - (e) Live-in attendants who live with the filing group (see OAR 461-110-0310) solely to provide necessary medical or housekeeping services and are paid to provide these services.
  - (f) Landlords and tenants. A landlord-tenant relationship exists if one person pays another at *fair market value* (see OAR 461-001-0000) for housing and if--
    - (A) The filing group lives independently from the landlord or tenant;
    - (B) The filing group has and uses sleeping, bathroom, and kitchen facilities that are separate from the landlord or tenant; and

461-155-0210

~~Eff. 1-1-06~~

Eff. 9-1-16

Payment Standards and Methods of Issuance; ~~GA, GAM~~

THIS RULE IS AMENDED IN ITS ENTIRETY

~~The payment standard in the GA and GAM programs is \$0.~~

In the GA program:

(1) The payment standards for one person are as follows:

(a) The Housing Assistance Payment is the lesser of the individual's rent or \$545.

(b) The Utility Allowance is \$90.

(c) The Personal Incidental Fund is \$60.

(2) The payment standards for two people are as follows:

(a) The Housing Assistance Payment is the lesser of the couple's rent or \$818.

(b) The Utility Allowance is \$139.

(c) The Personal Incidental Fund is \$93.

(3) The Housing Assistance Payment is issued directly to the landlord and is contingent upon the receipt of a signed and valid Rental Agreement.

(4) The Utility Allowance is issued directly to the individual.

(5) The Personal Incidental Fund is issued directly to the individual.

Stat. Auth.: ORS 409.050, 411.060

Stats. Implemented: ORS 411.010, 411.060, 411.710, 411.730, 411.740, Or Laws 2016, ch 93

- (C) If bathroom or kitchen facilities are shared, the housing must be a commercial establishment that provides either room, board, or both for *fair market value* compensation.
- (g) In the OSIP and OSIPM programs only:
  - (A) The biological and adoptive children of either *spouse* (see OAR 461-001-0000).
  - (B) Recipients of ~~GA~~, OCCS Medical Programs (see OAR 461-001-0000), OSIP, OSIPM, QMB, or TANF.
- (5) In the TANF program, prorated standards are based on the number of people in the *benefit group* (see OAR 461-110-0750), compared to the adjusted number in the *household group* (see OAR 461-110-0210). The adjusted number in the household is determined by taking the total number of individuals in the household, minus the following individuals unless they are included in the *benefit group*:
  - (a) Unborns.
  - (b) Individuals receiving *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030).
  - (c) Foster children.
  - (d) Children receiving adoption assistance.
  - (e) Live-in attendants who live with the filing group (see OAR 461-110-0310 and 461-110-0330) solely to provide necessary medical or housekeeping services and are paid to provide these services.
  - (f) Landlords and tenants. A landlord-tenant relationship exists if one person pays another at *fair market value* (see OAR 461-001-0000) for housing and if--
    - (A) The filing group lives independently from the landlord or tenant;
    - (B) The filing group has and uses sleeping, bathroom, and kitchen facilities that are separate from the landlord or tenant; and
    - (C) If bathroom or kitchen facilities are shared, the housing must be a commercial establishment that provides either room, board, or both for *fair market value* compensation.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.402, 411.404, 411.706, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.402, 411.404, 411.706, 412.049, 413.085, 414.685

461-155-0360

~~Eff. 7-1-14~~

Eff. 9-1-16

Pursuit of Cost-Effective Employer Sponsored Health Insurance

- (1) This rule applies to the ~~following medical assistance programs: CEM, EXT, GAM, MAA, MAF, OHP (except OHP-CHP and OHP-OPU), and OSIPM program~~ and is for the purpose of applying OAR 461-120-0345.
- (2) The Health Insurance Group (HIG) determines if employer sponsored health insurance meets the criteria as cost effective for the purpose of OAR 410-120-1960.
- (3) If the insurance is determined to be cost effective and the client or eligible applicant pursues the insurance, HIG will authorize reimbursement of the client or eligible applicant's portion of the premium per OAR 410-120-1960.
- (4) If the insurance is determined to be cost effective and the client or eligible applicant fails to pursue cost effective employer sponsored insurance, the Department will apply a penalty per OAR 461-120-0345.

Stat. Auth.: ORS 411.060, 411.404

Stats. Implemented: ORS 411.060, 411.404



461-155-0580

~~Eff. 10-1-13~~

Eff. 9-1-16

Special Need; Laundry Allowances

- (1) OSIP and OSIPM clients who are receiving SSI or *home and community-based care* (see OAR 461-001-0030) or have adjusted income less than the OSIPM program income standard under OAR 461-155-0250, ~~and GA and GAM clients~~, are eligible for a laundry allowance if they have proven, excessive, coin-operated laundry facility costs and do not:
  - (a) Have their own laundry facilities; or
  - (b) Reside in an adult foster care home, assisted living facility, nursing facility, residential care facility, or specialized living facility, unless the specialized living facility is apartment based.
- (2) This allowance may not exceed the amount required to wash and dry the laundry.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.706

In the ~~GA~~, OSIP; and OSIPM programs, the Department will authorize a special need payment for home repairs for homeowners or buyers as a one-time special need within the following limits:

- (1) The repairs must be needed to remove a physical hazard to the health and safety of the client.
- (2) Payment for repairs authorized by this rule---
  - (a) Is limited to the least expensive means possible;
  - (b) Cannot exceed \$1,000 in any 24-month period; and
  - (c) When the home is jointly owned, is limited to a percentage of the cost of the repairs equal to the percentage of client ownership.
- (3) The repairs must cost less than moving to another home.
- (4) Payment is limited to the lowest possible cost that will provide adequate facilities. The client must provide three competitive bids for the repairs, unless there are not three providers of the service in the local area.
- (5) Before approving payment for repairs or new installations, the Department must consider the use value and determine whether it is consistent with the service plan for the client to remain in the house.
- (6) Providers of the repairs or new installations must ensure that the work being completed meets current building codes.
- (7) Repairs or replacements include, but are not limited to:
  - (a) Electrical wiring that does not constitute conversion to electrical space heating but that is needed:
    - (A) To avoid condemnation; or
    - (B) To remove a definite fire or shock hazard as documented by appropriate public officials.
  - (b) Plumbing--but not including the costs of plumbing items with which the house is not already equipped except that a toilet may be paid for when newly required by the creation or extension of a sewer district. Examples of what plumbing-related items may be covered include:

- (A) Toilets and sinks.
  - (B) Cleaning or replacing septic tanks or cesspools.
  - (C) Installing sewer connections from house to street--but not sewer installation--if required by the creation of a new sewer district or the extension of an existing district.
- (c) Repair or replacement of existing electric pumps for wells needed to continue the water supply. This does not include drilling a new well.
  - (d) Heating equipment--repair of heating stoves, furnaces and water heaters and, if repair is not possible, replacement with the least expensive adequate equipment.
  - (e) Repair of roofs.
  - (f) Repair or replacement of steps and repair of floors.
- (8) A client with a life estate is not eligible for this special need allowance. The individual who will benefit from the life estate, following the death of the client, is considered responsible for the home repairs.

Stat. Auth.: ORS 411.060, 411.070  
Stats. Implemented: ORS 411.060, 411.070

For clients who are 18 years of age or older in the ~~GA, OSIP;~~ and OSIPM programs:

- (1) The Department will authorize payment for the cost of moving a client's household effects as a one-time special need if the requirements of at least one of the following subsections are met:
  - (a) Moving is essential to provide nonhazardous housing. "Hazardous" housing means a building so deteriorated and unsafe that it is uninhabitable or subject to condemnation. If no official certification to that effect can be obtained, the condition of the dwelling must have been seen by a Department employee and documented in the case record.
  - (b) The client has been evicted for reasons other than his or her own neglect or failure to make rent or house payments.
  - (c) The move is a result of domestic violence or protective services.
  - (d) For a client in a *nonstandard living arrangement* (see OAR 461-001-0000), the client must move because the level of needed services increases or decreases.
  - (e) The needs of the client would be better met out of state.
- (2) Payment for moving costs authorized by this rule--
  - (a) May be authorized for not more than one move in any 12-month period;
  - (b) Is limited to the least expensive means possible; and
  - (c) Cannot exceed \$500 in any 12-month period.
- (3) Payments necessary for a one-time move may be made over a period not to exceed 30 consecutive days.
- (4) A filing group that has received a payment for moving costs under this rule is not eligible for a moving cost payment again until the first day of the 12th month following the first payment that was made for the most recent month.

Stat. Auth.: ORS 411.060, 411.070, 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.704, 411.706

461-155-0620

~~Tech. Eff. 1-27-11~~

Eff. 9-1-16

Special Need; Property Taxes

- (1) ~~GA, OSIP,~~ and OSIPM clients who are homeowners or buyers are allowed a special need of one year of delinquent real property taxes, penalties and interest, if needed to prevent imminent foreclosure.
- (2) Clients who are eligible for the Oregon Property Tax Deferral Program must opt to defer property taxes. If necessary, the state may provide payment for back property taxes, to bring the tax current, to allow clients to defer their ongoing property taxes.
- (3) Clients who have not chosen to defer their property taxes, and have failed to pay their property taxes, will not receive a property tax special need payment unless the exception is authorized by the Department's Estates Administration Unit. The exception will be based on the value of the property, the potential of foreclosure and the potential of an Estates Administration Unit recovery of such property.
- (4) Imminent foreclosure is indicated by a formal notice of foreclosure.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.710

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.710

461-155-0640

~~Eff. 10-1-13~~

Eff. 9-1-16

Special Need; Restaurant Meals

- (1) To receive the restaurant meals special need payment, OSIP and OSIPM clients who are receiving SSI, *home and community-based care* (see OAR 461-001-0030), or have adjusted income less than the OSIPM program income standard under OAR 461-155-0250—~~and GA and GAM clients~~— must have proven medical and nutritional needs that cannot be met with meals purchased with SNAP program benefits.
- (2) A client living in his or her own home who is unable to prepare his or her own meals, but is eligible for SNAP program benefits, may have his or her meals prepared by attendants that volunteer or are compensated by the Seniors and People with Disabilities Division In-Home Services program. A client also may receive, if eligible, Meals on Wheels services to supplement his or her diet.
- (3) The payment standard for restaurant meals is \$60 per month.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.706

461-155-0670

~~Eff. 1-1-14~~

Eff. 9-1-16

Special Need; Special Diet Allowance

- (1) In the ~~GA, GAM,~~ OSIP, OSIPM, REF, REFM, SFPSS, and TANF programs, a client is not eligible for a special diet allowance if receiving any of the following:
  - (a) Room and board.
  - (b) Residential care facility services or assisted living facility services.
  - (c) Nursing facility services.
  - (d) Adult foster care services.
  - (e) An allowance for restaurant meals.
  - (f) A commercial food preparation diet.
- (2) ~~A GA, GAM, An~~ REF, REFM, SFPSS, or TANF client, or an OSIP or OSIPM client receiving SSI, having an adjusted income less than the OSIPM program income standard under OAR 461-155-0250, or receiving in-home services is eligible for a special diet allowance if the client meets the following requirements:
  - (a) The client would be in an imminent life-threatening situation without the diet, as verified by medical documentation from a Department-approved medical authority (see OAR 461-125-0830); and
  - (b) A nutritionist verifies that the special diet needed exceeds the cost of a regular diet.
- (3) The amount of a special diet allowance is calculated as follows:
  - (a) In the REF, REFM, SFPSS, and TANF programs, the difference between the actual cost of the special diet and a prorated share of the SNAP program benefit for the appropriate number of clients in the *benefit group* (see OAR 461-110-0750).
  - (b) In the ~~GA, GAM,~~ OSIP, and OSIPM programs, the lesser of the following:
    - (A) The difference between the actual cost of the special diet and the amount provided in the basic standard for food (see OAR 461-155-0250).
    - (B) A maximum of \$300 per month, or an exceptional amount, authorized by the SPD Program Assistance Section, which will not exceed the cost of home IV therapy.

- (4) Local management staff must approve the request for a special diet allowance.
- (5) Each special diet allowance must be reviewed at six-month intervals.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 412.014, 412.049



## Use of Resources in Determining Financial Eligibility

*Countable* (see OAR 461-001-0000) resources are used to determine *eligibility* (see OAR 461-001-0000) as follows:

- (1) In the EA program, the *countable* resources of a *financial group* (see OAR 461-110-0530) are used to reduce benefits.
- (2) In the ERDC, ~~GA, GAM,~~ QMB-DW, REF, SNAP, and TANF programs, a *need group* (see OAR 461-110-0630) is not eligible for benefits if the *financial group* has *countable* resources above the resource limit (see OAR 461-160-0015).
- (3) In the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs, a *need group* (see OAR 461-110-0630) is not eligible for benefits if the *financial group* has *countable* resources above the resource limit (see OAR 461-160-0015).
  - (a) When a *child* (see OAR 461-001-0000) is applying, the *parental resources* (see subsection (b) of this section) are deemed available to the *child*. The amount deemed available to the *child* is the amount the *parental resources* exceed the resource limit (see OAR 461-160-0015) of:
    - (A) A one person *need group*, if one *parent* (see OAR 461-001-0000) lives in the child's household; or
    - (B) A two person *need group*, if two parents (or one *parent* and the *spouse* (see OAR 461-001-0000) of that *parent*) live in the child's household.
  - (b) As used in this section, "parental resources" means the *countable* resources of:
    - (A) Each *parent* in the child's *financial group*, and
    - (B) Each *spouse* of a *parent* in the child's *financial group*.
  - (c) If more than one *child* is applying, the value of the deemed resources is divided evenly between the applying children.
  - (d) The *parental resources* are not deemed available to an ineligible *child*.
  - (e) The value of the *parental resources* is subject to deeming whether or not those resources are available to the *child*.
- (4) In the OSIP-EPD and OSIPM-EPD programs:
  - (a) A *need group* is not eligible for benefits if the *financial group* has *countable* resources above the resource limit (see OAR 461-160-0015).

- (b) Any money in an *approved account* (see OAR 461-001-0035) is excluded during the determination of *eligibility*.
  - (c) Assets purchased from moneys in an *approved account* are excluded, provided they meet the requirements of OAR 461-145-0025.
  - (d) Assets purchased as *employment and independence expenses* (see OAR 461-001-0035) are excluded, provided they meet the requirements of OAR 461-145-0025.
- (5) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all resources are excluded and have no effect on *eligibility* (see OAR 461-160-0015).

Stat. Auth.: ORS 411.060, 411.070, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685  
Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.400, 411.404, 411.816, 412.049,  
413.085, 414.685, 414.839

- (1) In the EA program, all *countable* (see OAR 461-001-0000) resources must be used to meet the emergent need.
- (2) In the ERDC program, the limit is \$1,000,000.
- (3) In the REFM program, there is no resource limit.
- (4) In the ~~GA, GAM, OSIP,~~ and OSIPM programs, the resource limit is as follows:
  - (a) \$2,000 for a one-person *need group* (see OAR 461-110-0630) and \$3,000 for a two-person *need group*.
  - (b) \$1,000 for an OSIP *need group* eligible under OAR 461-135-0771. The total cash resources may not exceed \$500 for a one-person *need group* or \$1,000 for a two-person *need group*.
  - (c) \$5,000 for the OSIP-EPD and OSIPM-EPD programs (see OAR 461-001-0035 and 461-145-0025 for funds that may be excluded as approved accounts).
- (5) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all resources are excluded.
- (6) In the QMB-DW program, the resource limit is amended in January of each year based on the low income subsidy for Medicare Part D as published by the Health Resources and Services Administration of the U.S. Department of Health and Human Services. Effective January 1, 2015 the resource limit is \$7,280 for a one-person *need group* and \$10,930 for a *need group* containing two or more individuals.
- (7) In the REF program, the resource limit is:
  - (a) \$2,500 for any of the following:
    - (A) A new REF applicant for benefits.
    - (B) REF *need group* that has at least one *mandatory* (see OAR 461-130-0305) participant in an employment program who is:
      - (i) Receiving REF and not progressing in a required activity of an open case plan; or
      - (ii) Serving a current employment program disqualification (see OAR 461-130-0330).
  - (b) \$10,000 for a *need group* not covered under subsection (a) of this section.

- (8) In the SNAP program, the resource limit is:
- (a) \$3,250 for a *financial group* (see OAR 461-110-0530) with at least one member who is *elderly* (see OAR 461-001-0015) or an individual with a *disability* (see OAR 461-001-0015).
  - (b) \$2,250 for all other financial groups.
- (9) In the TANF program, the resource limit is:
- (a) \$2,500 for any of the following:
    - (A) A new TANF applicant for benefits.
    - (B) TANF *need group* that does not have at least one *caretaker relative* (see OAR 461-001-0000) or *parent* (see OAR 461-001-0000) who is receiving TANF.
    - (C) TANF *need group* that has at least one JOBS participant who is:
      - (i) Receiving TANF and not progressing in an *activity* (see OAR 461-001-0025) of an open JOBS *case plan* (see OAR 461-001-0025);  
or
      - (ii) Serving a current JOBS disqualification (see OAR 461-130-0330).
  - (b) \$10,000 for a *need group* not covered under subsection (a) of this section.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 411.837, 412.049, 413.085, 414.685, 414.839

461-160-0055

~~Eff. 6-30-15~~

Eff. 9-1-16

Medical Costs That Are Deductible; ~~GA, GAM,~~ OSIP, OSIPM, and SNAP

- (1) This rule applies to SNAP *filing group* (see OAR 461-110-0370) members who are *elderly* (see OAR 461-001-0015) or who have a *disability* (see OAR 461-001-0015), and to clients in the ~~GA, GAM,~~ OSIP; and OSIPM programs.
- (2) Medical costs are deductible to the extent a deduction is authorized in OAR 461-160-0415 and 461-160-0430 and in this rule.
- (3) Health and hospitalization insurance premiums and coinsurance are deductible. In the OSIPM and SNAP programs, health insurance premiums paid less frequently than monthly may be prorated over the period covered by the premium.
- (4) In the OSIPM and SNAP programs:
  - (a) Long-term care insurance premiums are deductible if the insurance pays for services while an individual is ---
    - (A) Receiving *home and community-based care* (see OAR 461-001-0030);
    - (B) Receiving nursing facility services; or
    - (C) In an intermediate care facility for the mentally retarded (ICF/MR).
  - (b) A policy that is set up to pay a lump sum, similar to life insurance, is not deductible.
- (5) The cost of a medical service is deductible if it is---
  - (a) Provided by, prescribed by, or used under the direction of a licensed medical practitioner; or
  - (b) Except in the SNAP program, a medical necessity approved by the Department.
- (6) Medical deductions are also allowed for, among other things, the cost of:
  - (a) Medical and dental care, including psychotherapy, rehabilitation services, hospitalization, and outpatient treatment.
  - (b) Prescription drugs and over-the-counter medications prescribed by a licensed practitioner, the annual fee for a drug prescription card, medical supplies and equipment, dentures, hearing aids, prostheses, and prescribed eyeglasses.

- (c) In the SNAP program, such items as the following:
  - (A) Nursing care, nursing home care, and hospitalization, including payments for an individual who was a member of the *filing group* immediately prior to entering a hospital or a nursing home certified by the state. Deduction of these payments is also allowed for an individual who was a member of the *filing group* immediately prior to death if the remaining *filing group* members are legally responsible for payment of the expenses.
  - (B) Services of an attendant, home health aid, housekeeper, or provider of dependent care necessary due to the client's age or illness, including an amount equal to a one-person SNAP *benefit group* (see OAR 461-110-0750) if the client furnishes the majority of an attendant's meals.
  - (C) Prescribed assistance animals (such as a Seeing Eye Dog, Hearing Dog, or Housekeeper Monkey) that have received special training to provide a service to the client. This deduction includes the cost of acquiring these animals, their training, food, and veterinarian bills.
  - (D) Reasonable costs for transportation and lodging needed to obtain medical treatment or services.
  - (E) Installment plan arrangements made before a bill becomes past due. The expense is not deducted if the client defaults and makes a second agreement.
- (7) In the SNAP program, the following costs, even if prescribed by a medical practitioner, are not allowable medical deductions:
  - (a) Costs for and related to medical use of marijuana, including registry identification cards.
  - (b) Costs for items related to special diets which can be purchased with SNAP benefits including, but not limited to, nutritional drinks and organic foods.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 413.085  
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816,  
411.837, 414.685, 414.839

461-160-0060

~~Eff. 1-1-14~~

Eff. 9-1-16

Use of Rounding in Calculating Benefit Amount

- (1) In the REF and TANF programs, a benefit amount not a whole number of dollars is rounded down to the next lower whole dollar.
- (2) In the ERDC program, total countable income is rounded down to the next lower whole dollar. The benefit figures are not rounded.
- (3) In the GA, ~~GAM~~, OSIP, OSIPM, and QMB programs, rounding is not used.
- (4) In the SNAP program:
  - (a) Except as provided in subsection (b) of this section, when income and deductions are calculated, a figure ending with less than 50 cents is rounded to the next lower dollar and a figure ending with 50 cents or more is rounded to the next higher dollar.
  - (b) After multiplying the adjusted income by 30 percent, any amount from 1 to 99 cents is rounded up to the next higher dollar.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: 411.060, 411.404, 411.816, 412.014, 412.049

Use of Income ~~To Determine Eligibility and~~ Benefits; GA, ~~GAM~~

In the GA ~~and GAM~~ programs, the *countable income* (see section (1) of this rule) and *adjusted income* (see ~~OAR 461-001-0000~~ section (3) of this rule) of a *financial group* (see ~~OAR 461-110-0530~~) an individual or couple are used to determine ~~eligibility and~~ benefit amount as follows:

- ~~(1) If the *countable income* of the *financial group* equals or exceeds the payment standard for the *need group* (see OAR 461-110-0630), the *need group* is ineligible for GA and GAM. If the *countable income* is less than the standard, the *need group* meets the income standard for GA and GAM.~~
- ~~(2) The benefit amount is determined by subtracting the *adjusted income* of the *financial group* from the sum of the payment standard for the *need group* and its ongoing special needs.~~
- ~~(3) The benefit cannot exceed the sum of the payment standard for the *benefit group* (see OAR 461-110-0750) plus the ongoing special needs.~~
- (1) For purposes of this rule, "countable income" is calculated using OSIPM countable income methodology except that in-kind and shelter in-kind income is excluded.
- (2) For purposes of this rule, "eligible spouse" means a spouse who is eligible for and receiving OSIPM under OAR 461-125-0370(1)(c).
- (3) To determine "adjusted income", the Department starts with the total *countable income* of the individual or couple (as applicable) and subtracts in the following order:
  - (b) One standard deduction of \$20 from unearned income.
    - (A) This deduction may be taken from earned income if the individual has less than \$20 in unearned income.
    - (B) This deduction does not apply to a benefit based on need that is totally or partially funded by the federal government or by a nongovernmental agency.
  - (c) One standard earned income deduction of:
    - (A) \$65 for an individual who is not blind; or
    - (B) \$85 for an individual who is blind.
  - (d) An income deduction for documented impairment-related work expenses or blind work expenses for an individual under age 65.



- (e) One half of the remaining earned income.
- (f) Deductions under a plan for self-support for an individual less than the age of 65.
- (4) For a single individual, the benefit amount for housing assistance is determined by subtracting the *adjusted income* of the individual from the one-person payment standard (see OAR 461-155-0010).
- (5) For a married individual whose spouse is in the OSIPM *household group* (see OAR 461-110-0210), the amount for housing assistance is determined as follows:
  - (a) If the individual is married to and living with someone not considered an *eligible spouse* (see section (2) of this rule), the *adjusted income* of the couple is subtracted from the one-person standard (see OAR 461-155-0010).
  - (b) If the individual is married to an *eligible spouse*, the *adjusted income* of the couple is subtracted from the two-person payment standard (see OAR 461-155-0010).
- (6) The amounts for the Personal Incidental Fund and Utility assistance are not affected by *adjusted income* and are determined as follows.
  - (a) Single individuals and individuals married to someone not considered an *eligible spouse* receive benefits according to the one-person standard (see OAR 461-155-0010).
  - (b) If the individual is married to an *eligible spouse* who is in the individual's OSIPM *household group*, the couple receives benefits according to the two-person standard (see OAR 461-155-0010).

Stat. Auth.: ORS 411.060, 411.710

Stats. Implemented: ORS 411.060, 411.710

461-160-0620

~~Eff. 7-1-16~~

Eff. 9-1-16

Income Deductions and Client Liability; Long-Term Care Services or Home and Community-Based Care; OSIPM

In the OSIPM program:

- (1) Deductions from income are made for an individual residing in or entering a long-term care facility or receiving *home and community-based care* (see OAR 461-001-0030) as explained in subsections (3)(a) to (3)(h) of this rule.
- (2) Except as provided otherwise in OAR 461-160-0610, the liability of the individual is determined according to subsection (3)(i) of this rule.
- (3) Deductions are made in the following order:
  - (a) One standard earned income deduction of \$65 is made from the earned income in the OSIPM-AD and OSIPM-OAA programs. The deduction is \$85 in the OSIPM-AB program.
  - (b) The deductions under the plan for self-support as allowed by OAR 461-145-0405.
  - (c) One of the following need standards:
    - (A) A \$60 personal needs allowance for an individual receiving long-term care services.
    - (B) A \$90 personal needs allowance for an individual receiving long-term care services who is eligible for VA benefits based on unreimbursed medical expenses. The \$90 allowance is allowed only when the VA benefit has been reduced to \$90.
    - (C) For an individual who receives *home and community-based care*:
      - (i) Except as provided in subparagraph (ii) of this paragraph, the OSIPM maintenance standard.
      - (ii) For an individual who receives in-home services, the OSIPM maintenance standard plus \$500.
  - (d) A *community spouse* (see OAR 461-001-0030) monthly income allowance is deducted from the income of the *institutionalized spouse* (see OAR 461-001-0030) to the extent that the income is made available to or for the benefit of the *community spouse*, using the following calculation.
    - (A) Step 1--Determine the maintenance needs allowance. \$2,003 is added to the amount over \$601 that is needed to pay monthly shelter expenses for

the principal residence of the couple. This sum or \$2,980.50 whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the SNAP program (see OAR 461-160-0420). If an all-inclusive rate covers items that are not allowable shelter expenses, including meals or housekeeping in an assisted living facility, or the rate includes utilities, to the extent they can be distinguished, these items must be deducted from the all-inclusive rate to determine allowable shelter expenses.

- (B) Step 2--Compare maintenance needs allowance with community spouse's countable income. The *countable* (see OAR 461-001-0000) income of the *community spouse* is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.
  - (C) Step 3--If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.
- (e) A dependent income allowance as follows:
- (A) For a case with a *community spouse*, a deduction is permitted only if the monthly income of the eligible dependent is below \$2,003. To determine the income allowance of each eligible dependent:
    - (i) The monthly income of the eligible dependent is deducted from \$2,003.
    - (ii) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the income allowance of the eligible dependent.
  - (B) For a case with no *community spouse*:
    - (i) The allowance is the TANF adjusted income standard for the individual and eligible dependents.
    - (ii) The TANF standard is not reduced by the income of the dependent.
- (f) Costs for maintaining a home if the individual meets the criteria in OAR 461-160-0630.
- (g) Medical deductions allowed by OAR 461-160-0030 and 461-160-0055 are made for costs not covered under the state plan. This includes the public and private

health insurance premiums of the *community spouse* and the individual's dependent.

- (h) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income.
- (i) The individual's liability is determined as follows:
  - (A) For an individual receiving *home and community-based care* (except an individual identified in OAR 461-160-0610(4)), the liability is the actual cost of the *home and community-based care* or the adjusted income of the individual, whichever is less. This amount must be paid to the Department each month as a condition of being eligible for *home and community-based care*. In OSIPM-IC, the liability is subtracted from the gross monthly benefit.
  - (B) For an individual who resides in a nursing facility, a state psychiatric hospital, an Intermediate Care Facility for the Mentally Retarded, or a mental health facility, there is a liability as described at OAR 461-160-0610.

~~(4) — The deduction used to determine adjusted income for a GA and GAM client receiving long term care services or *home and community-based care* is as follows:~~

- ~~(a) — One standard earned income deduction of \$65 is made from the earned income for an individual who is not blind; or~~
- ~~(b) — One standard earned income deduction of \$85 is made from the earned income for an individual who is blind.~~

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.706, 413.085, 414.065, 414.685  
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.706, 413.085, 414.065, 414.685

## Concurrent and Duplicate Program Benefits

- (1) Except as noted in this rule, an individual may not receive benefits from the Department of the same type (that is, cash, medical, or SNAP benefits) for the same period as a member of two or more different benefit groups (see OAR 461-110-0750) or from two or more separate programs. Except as allowed in subsection (g) of this section, this provision includes a prohibition against an individual receiving TANF concurrently with another cash assistance program funded under Title IV-E of the Social Security Act.
  - (a) An individual may receive EA, HSP, and TA-DVS benefits and cash payments from other programs for the same time period.
  - (b) If a GA recipient becomes eligible for the TANF program, the GA recipient may not receive a TANF cash payment for themselves in the month a GA cash payment was received~~benefits are supplemented during the first month of eligibility (see OAR 461-001-0000) for TANF to the TANF payment standards.~~
  - (c) A TANF recipient may receive ERDC for a *child* (see OAR 461-001-0000) in the *household group* (see OAR 461-110-0210), but who may not be included in the TANF filing group (see OAR 461-110-0310 and 461-110-0330).
  - (d) A *child* who is a member of an ERDC *benefit group* may also be a member of one of the following benefit groups:
    - (A) An OSIP-AB *benefit group*.
    - (B) A TANF *benefit group* when living with a nonneedy *caretaker relative* (see OAR 461-001-0000), if the *caretaker relative* is not the *parent* (see OAR 461-001-0000) of the *child*.
    - (C) A TANF *benefit group* when living with a needy *caretaker relative* receiving SSI.
  - (e) An individual in the SNAP program who leaves a filing group (see OAR 461-110-0310 and 461-110-0370) that includes an individual who abused them and enters a *domestic violence shelter* (see OAR 461-001-0000) or *safe home* (see OAR 461-001-0000) for victims of *domestic violence* (see OAR 461-001-0000) may receive SNAP benefits twice during the month the individual enters the *domestic violence shelter* or *safe home*.
  - (f) A QMB recipient may also receive medical benefits from OSIPM, REFM, MAGI Parent or Other Caretaker Relative, or MAGI Pregnant Woman~~an OCCS medical program with the exception of OHP-OPC, OHP-OPU, OHP-OP6, OHP-CHIP, MAGI Adult, and MAGI-CHIP.~~

- (g) An individual may receive Chafee (see OAR 413-030-0400 to 413-030-0455) and TANF benefits during the same time period. As of January 1, 2013, receipt of both Chafee and TANF benefits will not result in an overpayment.
  - (h) An individual receiving *Employment Payments* (see OAR 461-001-0025 and 461-135-1270) who becomes eligible for TANF in the same month may receive both benefits in the same month.
  - (i) An individual receiving JPI (see OAR 461-135-1260) who becomes eligible for Pre-TANF or TANF in the same month may receive both benefits in the same month.
- (2) An individual may not receive benefits of the same type (that is, cash, medical, or SNAP benefits) for the same period from both Oregon and another state or tribal food distribution program, except as follows:
- (a) Medical benefits may be authorized for an eligible individual if the individual's provider refuses to submit a bill to the Medicaid agency of another state and the individual would not otherwise receive medical care.
  - (b) Cash benefits may be authorized for an individual in the Pre-TANF program if benefits from another state will end by the last day of the month in which the individual applied for TANF.
- (3) In the SNAP program, each individual who has been included as a member of the filing group in Oregon or another state is subject to all of the restrictions in section (2) of this rule.
- (4) An REF or TANF filing group may not receive REF or TANF benefits for the same period of time that an individual in the REF or TANF filing group receives assistance from the Office of Refugee Resettlement Matching Grant Program.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 412.124, 414.025, 414.826, 414.839

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 412.124, 414.025, 414.826, 414.839

461-165-0050

~~Tech. Eff. 5-21-10~~

Eff. 9-1-16

Dual Payee; When to Use

- (1) For ~~GA~~, OSIP, REF, and TANF, use a dual-payee check for protective payments if the benefit group has shown they are not able to properly manage benefits meant to meet their needs. Issue the dual-payee check in both the name of the client and the name of the service provider.
- (2) Issue EA checks for shelter, moving costs, property taxes, and home repairs as dual-payee revolving fund checks. The supervisor or branch manager must authorize an exception to this policy in advance.
- (3) To make sure a JOBS or OFFSET payment is used to meet a specific need, the branch office may write a dual-payee revolving fund check in the name of both the client and the vendor.

Stat. Auth.: ORS 411.060, 411.070, 411.706, 411.816, 412.006, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.706, 411.816, 412.006, 412.014, 412.049

461-165-0120

~~Eff. 1-1-14~~

Eff. 9-1-16

Benefits for a Client in an Acute Care Hospital

- (1) In the REF, REFM, and TANF programs, regular monthly benefits continue when a client enters an acute care hospital. The monthly benefits remain unchanged until the client returns home or enters some other living arrangement. An authorized representative designated by the client or the branch may be used if necessary.
- (2) In the ERDC, GA, ~~GAM~~, OSIP, OSIPM, and QMB programs, regular monthly benefits continue if a client will be in the acute care hospital for less than 30 days. If the client will be in the acute care hospital for 30 days or more or until death, the client's needs are determined as if the client were in a nursing facility.
- (3) In the SNAP program, regular monthly benefits continue if the client will be in his or her own home 50 percent of the time or more. If the client will be in an institution for more than 50 percent of a calendar month, the client is not eligible for SNAP benefits.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.049



## Changes That Must Be Reported

- (1) A change in employment status is considered to occur as follows:
  - (a) For a new job, the change occurs the first day of the new job.
  - (b) For a job separation, the change occurs on the last day of employment.
- (2) A change in source of income is considered to occur as follows:
  - (a) For earned income, the change occurs upon the receipt by the individual of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.
  - (b) For unearned income, the change occurs the day the individual receives the new or changed payment.
- (3) An individual must report, orally or in writing, the following changes:
  - (a) In the ERDC program, an individual must report the following changes within 10 days of occurrence:
    - (A) A change in child care provider.
    - (B) A change in employment status.
    - (C) A change in mailing address or residence.
    - (D) A change in membership of the filing group (see OAR 461-110-0350).
    - (E) A member of the filing group is discharged from the U.S. military and returning from active duty in a military war zone.
    - (F) A change in income above the ERDC income limit as defined in OAR 461-155-0150(5)(b) that is expected to continue.
  - (b) In the SNAP program:
    - (A) An ABAWD (see OAR 461-135-0520) assigned to CRS or SRS who resides in Multnomah or Washington County and is employed must report a change in work hours when work hours are below 20 hours per week.
    - (B) An individual assigned to CRS must report any of the following changes within 10 days of occurrence:
      - (i) A change in earned income of more than \$100.

- (ii) A change in unearned income of more than \$50.
  - (iii) A change in source of income.
  - (iv) A change in membership of the filing group (see OAR 461-110-0370) and any resulting change in income.
  - (v) A change in residence and the shelter costs in the new residence.
  - (vi) A change in the legal obligation to pay child support.
  - (vii) When the sum of cash on hand, stocks, bond, and money in a bank or savings institution account reaches or exceeds program resource limits.
  - (viii) Acquisition or change in ownership of a non-excluded vehicle.
- (C) An individual assigned to SRS must report when the monthly income of the filing group exceeds the SNAP *countable* (see OAR 461-001-0000) income limit by the tenth day of the month following the month of occurrence.
- (D) An individual assigned to TBA is not required to report any changes.
- (c) For JPI (see OAR 461-135-1260), an individual must follow the same reporting requirements as a SNAP client assigned to CRS, SRS, or TBA reporting systems (see OAR 461-170-0010).
- (d) In the GA, ~~GAM~~-OSIP, OSIPM, and QMB programs, an individual must report all changes that may affect *eligibility* (see OAR 461-001-0000) within 10 days of occurrence, including any of the following changes:
- (A) A change in employment status.
  - (B) A change in health care coverage.
  - (C) A change in membership of the *household group* (see OAR 461-110-0210).
  - (D) A change in marital status.
  - (E) A change in residence.
  - (F) Except for QMB-BAS, QMB-SMB, and QMB-SMF, a change in resources.
  - (G) A change in source or amount of income.

- (e) In the REF, SFPSS, and TANF programs, an individual assigned to CRS must report any of the following changes within 10 days of occurrence:
  - (A) Acquisition or change in ownership of a non-excluded vehicle.
  - (B) A change in earned income more than \$100.
  - (C) Employment separation.
  - (D) A change in membership of the *household group* (see OAR 461-110-0210).
  - (E) A change in marital status or other changes in membership of the filing group.
  - (F) A change in mailing address or residence.
  - (G) A change in pregnancy status of any member of the filing group.
  - (H) A change in source of income.
  - (I) A change in unearned income more than \$50.
  - (J) A change in who pays the shelter costs if the costs will be paid by a non-custodial *parent*.
  - (K) Sale or receipt of a resource that causes total resources to exceed program resource limits.
  
- (f) In the REFM program, an individual must report the following changes within 10 days of occurrence:
  - (A) A change in membership of the *household group* (see OAR 461-110-0210).
  - (B) A change in residence.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.404, 411.704, 411.706, 411.816, 411.825, 411.837, 412.014, 412.049, 413.085, 414.685, 414.826

## Notice Situation; Client Moved or Whereabouts Unknown

- (1) To end benefits for an individual who has moved out of Oregon, the Department sends the following *decision notice* (see OAR 461-001-0000):
  - (a) In the ERDC, GA, ~~GAM~~, OSIP, OSIPM, QMB, REF, REFM, and TANF programs:
    - (A) The Department sends a *timely continuing benefit decision notice* (see OAR 461-001-0000) to the individual who has moved out of Oregon.
    - (B) The Department sends a *basic decision notice* (see OAR 461-001-0000) if the individual becomes eligible for benefits in another state.
  - (b) For *Employment Payments* (see OAR 461-001-0025 and 461-135-1270), JPI (see OAR 461-135-1260), and the SNAP program, no *decision notice* is required if the Department determines that the *benefit group* (see OAR 461-110-0750) has moved out of Oregon.
- (2) If Department mail or benefits have been returned with no forwarding address, the Department gives the individual the benefits if the individual's whereabouts become known during the period covered by the returned benefits. See OAR 461-165-0130 for when SNAP benefits may be sent out of Oregon. If the individual's whereabouts are unknown, the Department ends benefits by sending the following *decision notice* to their last known address:
  - (a) Except for *Employment Payments*, JPI, and the SNAP program, a *basic decision notice*.
  - (b) For *Employment Payments*, JPI, and the SNAP program, no *decision notice* is required.

Stat. Auth.: ORS 411.060, 411.095, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.095, 411.404, 411.816, 412.049

## Notice Situation; Lump-Sum

~~(1)~~ — If a *financial group* (see OAR 461-110-0530) receives lump-sum income that will make the *financial group* ineligible or cause a reduction in benefits:

~~(1a)~~ The Department will deny benefits to an applicant and send a *basic decision notice* (see OAR 461-001-0000).

~~(2b)~~ If a *benefit group* (see OAR 461-110-0750) is receiving benefits, the Department will stop or reduce them and:

~~(aA)~~ If the action is based on changes reported on the Interim Change Report form, send a *continuing benefit decision notice* (see OAR 461-001-0000).

~~(bB)~~ If the action is not based on changes reported on the Interim Change Report form, send a *timely continuing benefit decision notice* (see OAR 461-001-0000).

~~(2)~~ — ~~In the GA program, the decision notice described in section (1) of this rule includes:~~

~~(a)~~ — ~~The amount of the countable lump-sum income.~~

~~(b)~~ — ~~The calculation of this income on a monthly basis.~~

~~(c)~~ — ~~The length of time that the benefit group is ineligible because of receipt of lump-sum income and the amount that will be included as countable income in the first month of eligibility.~~

Stat. Auth.: ORS 411.060, 411.095, 411.816

Stats. Implemented: ORS 411.060, 411.095, 411.816

## Notice Situation; Asset Transfer Disqualification

- (1) When the Department proposes to disqualify a filing group (see OAR 461-110-0310) because of a disqualifying transfer of assets (see OAR 461-140-0210), the following notice is sent:
  - (a) For new applicants, a *basic decision notice* (see OAR 461-001-0000).
  - (b) For ongoing clients, a timely *continuing benefit decision notice* (see OAR 461-001-0000).
- (2) A notice required by this rule includes the amount of uncompensated value used in the eligibility determination and the period of ineligibility caused by the transfer.
- (3) In the ~~GA, GAM, OSIP~~, and OSIPM programs, the notice must also include:
  - (a) The action that resulted in the disqualification; and
  - (b) Information that the individual, or the facility in which the individual resides (on behalf of the individual), may apply for a waiver of the disqualification on the basis of undue hardship.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.816, 412.049, 413.085, 414.685  
Stats. Implemented: ORS 409.010, 409.050, 410.070, 411.060, 411.070, 411.095, 411.816, 412.049, 413.085, 414.685

## Effective Dates; Adding a New Person to an Open Case

- (1) In the following programs, the effective date for adding an individual (other than an assumed eligible newborn) to the *benefit group* (see OAR 461-110-0750) is one of the following:
  - (a) In the ~~GAM and~~ OSIPM programs, the date benefits are requested for the individual establishes a *date of request* (see OAR 461-115-0030) for the individual. The effective date for the individual is determined in accordance with OAR 461-180-0090.
  - (b) In the REFM program, it is whichever occurs first:
    - (A) The date the individual requests benefits, if the individual was eligible as of that date.
    - (B) The date all eligibility requirements are met.
  - (c) In the SNAP program:
    - (A) If adding the individual increases benefits, it is the first of the month after the filing group (see OAR 461-110-0310 and 461-110-0370) reports the person has joined the *household group* (see OAR 461-110-0210). If verification is requested, the effective date for the change is:
      - (i) The first of the month following the date the change was reported if verification is received by the Department no later than the due date for the verification.
      - (ii) The first of the month following the date the verification is received by the Department if received after the verification due date.
    - (B) If adding the individual reduces benefits, it is the first of the month following the month in which the notice period ends (see OAR 461-175-0050).
  - (d) In the GA, OSIP, REF, SFPSS, and TANF programs, it is the date on which all eligibility requirements are met and verified. If benefits have been issued for the month and adding the new person would reduce benefits, the person is added the first of the month following the month in which the notice period ends (see OAR 461-175-0050).
  - (e) In the QMB-BAS and QMB-DW programs, it is the first of the month after the new individual has been determined to meet all QMB eligibility criteria and the Department receives the required verification.

- (f) In the QMB-SMB program, it is the first of the month in which the new individual has been determined to meet all QMB-SMB eligibility criteria and the Department receives the required verification.
  - (g) In the SFPSS and TANF programs, for adding a *child* (see OAR 461-001-0000) to be covered by a provider-direct child care payment, it is the first of the month in which the *child* is added to the *benefit group*.
- (2) In the following programs, the effective date for adding an assumed eligible newborn to the *benefit group* is one of the following:
- (a) In the ~~GAM~~, OSIPM, and REFM programs, it is the date of birth if all the following paragraphs are true. If any of the following paragraphs is not true, the newborn is added to the *benefit group* in accordance with section (1) of this rule.
    - (A) A request for benefits is made within one year of the birth. For purposes of this paragraph, a telephone call from the attending physician, another licensed practitioner, a hospital, or the family is considered a request for benefits.
    - (B) The newborn has continuously lived with the mother since the date of birth.
    - (C) The mother was receiving ~~GAM~~ or OSIPM on the date of birth, even if she is not currently eligible for benefits.
  - (b) In the SFPSS and TANF programs, it is:
    - (A) The date of birth, if all eligibility requirements are met and verified within 45 days after the birth; or
    - (B) The date all eligibility factors are met and verified, if the verification is completed more than 45 days after the date of birth.
- (3) In the ERDC program, the effective date for adding an individual to the *need group* (see OAR 461-110-0630) or *benefit group* is as follows:
- (a) If adding the individual to the *need group* will decrease the copay, the effective date is the first of the month after the client reports the person has joined the household.
  - (b) If adding the individual to the *need group* increases the copay--for instance, because the individual receives income--the effective date is the first of the month following the end of the decision notice period (see OAR 461-175-0050).



- (c) The effective date for adding a *child* to the *benefit group*--that is, covering the cost of the child's care--is the earliest of the following:
- (A) For newborns, the date of birth, if all eligibility requirements are met and verified within 45 days after the birth.
  - (B) For all other children, the first of the month in which the change is reported, if all eligibility requirements are met and verified within 45 days.
  - (C) For newborns and other children, if eligibility cannot be verified within 45 days, the effective date is the first of the month in which all eligibility factors are met and verified.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.049, 414.042

## Effective Dates; Ending Disqualifications

- (1) The effective date for ending a JOBS disqualification or a disqualification related to diagnosis, counseling, or treatment for substance abuse or mental health is--
  - (a) The date the client meets the requirements for ending the JOBS disqualification (*see* OAR 461-130-0335); or
  - (b) The date the client meets the requirements for ending the disqualification for failure to comply with OAR 461-135-0085(1) (*see* OAR 461-135-0089).
- (2) In the ~~GAM and~~ OSIPM programs, the effective date for ending the disqualification for failing to enroll in cost-effective, employer-sponsored health insurance is the date the client provides verification of enrollment during the open enrollment period.
- (3) In the SNAP program, the effective date for ending an employment program disqualification is the date the client fulfills the requirements to end the disqualification or the first of the month following the minimum disqualification period, whichever occurs later (*see* OAR 461-180-0010 regarding the effective date for adding a person to an open case).
- (4) For an IPV disqualification, the disqualification ends the day after the minimum disqualification period ends, if there is no additional IPV disqualification to be served and all eligibility requirements are met.
- (5) For all other disqualifications in the TANF program, the disqualification ends whenever the client agrees to cooperate.
- (6) For other disqualifications in the SNAP program, the disqualification ends at the end of the disqualification period.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.049

## Effective Dates; Initial Month Benefits

- (1) In the EA program, the effective date for opening the case is the day benefits are issued to the *benefit group* (see OAR 461-110-0750). For a *benefit group* whose only eligible child is an unborn, the effective date cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.
- (2) In the ERDC program, the effective date for starting benefits is one of the following:
  - (a) The first day of the month in which the request for benefits is made if--
    - (A) All *eligibility* (see OAR 461-001-0000) requirements are met in that month; and
    - (B) Verification is provided within the application processing timeframes.
  - (b) If all *eligibility* requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification is provided within the application processing timeframes.
  - (c) For a *benefit group* that received TANF program benefits within the 30 days before applying for ERDC program benefits, the effective date is the first of the month following closure of their TANF program benefits.
- (3) In the GA program, the effective date for the *initial month* (see OAR 461-001-0000) of benefits is the first of the month following the day all eligibility requirements are met and verified~~whichever of the following occurs first:~~
  - ~~(a) The day all *eligibility* requirements are met and verified.~~
  - ~~(b) The 45th day from the date the individual requests benefits, if all *eligibility* requirements were met, but the Department did not receive documentation until after the 45th day.~~
- (4) In the OSIP program, the effective date for the *initial month* of benefits is whichever of the following occurs first:
  - (a) The date an individual requests benefits, if the individual was eligible as of that date.
  - (b) The date all *eligibility* requirements are met.
- (5) In the REF program, when a *filing group* (see OAR 461-110-0430) makes an initial application, the effective date for starting benefits is:

- (a) If all *eligibility* requirements, including an interview, are completed by the 45th day from the *date of request* (see OAR 461-115-0030), the effective date for starting benefits is the *filing date* (see OAR 461-115-0040).
  - (b) If all *eligibility* requirements are not met by the 45th day from the *date of request*, a new *date of request* and *filing date* must be established.
- (6) In the TANF program, when a *filing group* (see OAR 461-110-0330) makes an initial application or applies after the end of the *certification period* (see OAR 461-001-0000), the effective date for starting TANF benefits is one of the following:
- (a) Except as provided in subsections (b) to (d) of this section, if all *eligibility* requirements, including a TANF interview, are completed by the 45th day from the *date of request*, the effective date for starting benefits is the *filing date*. If all *eligibility* requirements are not met by the 45th day from the *date of request*, a new *date of request* and *filing date* must be established.
  - (b) If the only eligible child is an unborn, the effective date may not be earlier than the first day of the calendar month preceding the month in which the due date falls.
  - (c) For an individual in the Pre-TANF program, the effective date for the *initial month* of benefits is the date the Pre-TANF program ends as provided in OAR 461-135-0475.
  - (d) For a JOBS support service payment, the effective date is the date the individual meets all *eligibility* requirements in OAR 461-190-0211.
- (7) In the SFPSS program, when moving a TANF program recipient to SFPSS, the effective date for the *initial month* of SFPSS program benefits is:
- (a) Except as provided in subsection (b) of this section, the first of the month following the day all *eligibility* requirements are met and verified.
  - (b) If the day all *eligibility* requirements are met and verified falls after the "compute deadline," the *initial month* of SFPSS program benefits will be the first of the month following the month after "compute deadline." For purposes of this rule, "compute deadline" means the Department computer system monthly deadline after which changes will not take effect until the month following the first of the next month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 412.064, 413.085, 414.685

## Effective Dates; Initial Month Medical Benefits

The effective date for starting medical benefits for an eligible client is as follows:

- (1) In the ~~GAM~~, OSIPM, and QMB-DW programs:
  - (a) Except as provided for in subsections (b) to (h) of this section:
    - (A) If the client meets all eligibility requirements on the *date of request* (see OAR 461-115-0030), it is the first day of the month that includes the *date of request*. An OSIPM program client who is *assumed eligible* under OAR 461-135-0010(5) meets "all eligibility requirements" for the purposes of this section as follows:
      - (i) Effective the first day of the month of the initial SSI payment if the client is age 21 or older.
      - (ii) Effective the first day of the month prior to the month of the initial SSI payment if the client is under the age of 21.
    - (B) If the client does not meet all eligibility requirements on the *date of request*, but meets all requirements after the *date of request*, within the application processing time frames of OAR 461-115-0190, it is the first day of the month that includes the date that all eligibility requirements are met.
  - (b) If the client does not complete the application within the time period described in OAR 461-115-0190 (including the authorized extension), the determination of an effective date requires a new *date of request*.
  - (c) Except as provided for in subsections (d) and (e) of this section, for a new applicant who is an *inmate* (see OAR 461-135-0950) on any day of the month during the month that the applicant is determined to meet all eligibility requirements, the effective date is determined in accordance with subsections (a) and (b) of this section, except that coverage is not in effect for any day during the month that the applicant is an *inmate* other than the date of incarceration and the date of release.
  - (d) The effective date for an individual residing in a *public institution* (see OAR 461-135-0950) meeting the requirements of OAR 461-135-0950 regarding applications received by individuals with a serious mental illness is determined in accordance with OAR 461-135-0950.
  - (e) The effective date for an individual meeting the eligibility requirements of OAR 461-135-0950 regarding residents of a state psychiatric institution is the date that

all eligibility requirements are met, including other chapter 461 eligibility requirements, if those requirements are met within the application processing time frames of OAR 461-115-0190. Otherwise the requirements of subsection (b) of this section apply.

- (f) The effective date for an *inmate* or a resident of state hospital with suspended benefits that will be reinstated is determined in accordance with OAR 461-135-0950. If benefits will not be reinstated the *inmate* is considered a new applicant and the effective date is determined in accordance with subsection (c) of this section.
  - (g) The effective date for a new applicant who is receiving Medicaid in another state on the *date of request*, but meets the requirements of OAR 461-165-0030 regarding receipt of medical benefits in another state is:
    - (A) The *date of request* if all eligibility requirements are met on the *date of request* or after the *date of request*, but during the month that includes the *date of request*.
    - (B) If all eligibility requirements are not met during the month that includes the *date of request* the effective date is determined in accordance with paragraph (1)(a)(B) and subsection (b) of this section.
  - (h) The effective date for an applicant receiving Medicaid in another state prior to the *date of request*, but during the month that includes the *date of request*, is the day following the day that Medicaid benefits end in the other state if all eligibility requirements are met during the month that includes the *date of request*. If all requirements are not met in the month that includes the *date of request* the effective date is determined in accordance with paragraph (1)(a)(B) and subsection (b) of this section.
- (2) In the QMB-BAS program, it is the first of the month after the *benefit group* (see OAR 461-110-0750) has been determined to meet all QMB-BAS program eligibility criteria and the Department receives the required verification.
  - (3) In the QMB-SMB and QMB-SMF programs, it is --
    - (a) The first of the month in which the *benefit group* meets all program eligibility criteria and the Department receives the required verification; or
    - (b) The first of the month in which the Low Income Subsidy (LIS) information is received by the Social Security Administration (SSA), if the SMB or SMF program application was generated by the electronic transmission of LIS data from the SSA and the *benefit group* meets all program eligibility criteria.
  - (4) In the REFM program:

- (a) Except as provided in subsection (b) of this section:
  - (A) If the individual meets all eligibility requirements on the *date of request* (see OAR 461-115-0030), it is the *date of request*.
  - (B) If the individual does not meet all eligibility requirements on the *date of request*, it is the first day following the *date of request* that all eligibility requirements are met.
- (b) If the individual does not complete the application within the time period described in OAR 461-115-0190 (including the authorized extension), the determination of an effective date requires a new *date of request*.
- (5) Retroactive eligibility is authorized under certain circumstances in some medical programs (see paragraph (1)(a)(A) of this rule, OAR 461-135-0875, and 461-180-0140).

Stat. Auth.: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 413.085, 414.685, 414.839

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 413.085, 414.685, 414.839

## Calculation of Overpayments

This rule specifies how the Department calculates an *overpayment* (see OAR 461-195-0501).

- (1) The Department calculates an *overpayment* by determining the amount the client received or the payment made by the Department on behalf of the client that exceeds the amount for which the client was eligible.
- (2) When a filing group, OCCS Medical programs *household group* (see OAR 410-200-0015), ineligible student, or *authorized representative* (see OAR 461-115-0090 and OAR 410-200-0015) fails to report income, the Department calculates and determines the *overpayment* by assigning unreported income to the applicable budget month without averaging the unreported income, except:
  - (a) A client's earned income reported quarterly from the Employment Department is considered received by the client in equal amounts during the months identified in the report.
  - (b) In the ERDC, MAA, MAF, REF, SNAP, and TANF programs, a client's actual self-employment income is annualized retrospectively to calculate the *overpayment*.
  - (c) In the OCCS Medical programs, if actual income is not available for the months in which an *overpayment* occurred, a client's actual self-employment income (see OAR 410-200-0015) received during the year when an *overpayment* occurred is annualized to calculate an *overpayment*.
- (3) When using prospective budgeting (see OAR division 461-150) and the actual income differs from the amount determined under OAR 461-150-0020(2), there may be a *client error overpayment* (see OAR 461-195-0501) only when the filing group, ineligible student, or *authorized representative* withheld information, failed to report a change, or provided inaccurate information. In such a case, the Department uses the actual income to determine the amount of an *overpayment*.
- (4) When using anticipated income for the OCCS Medical programs and the actual income differs from the amount determined under OAR 410-200-0310, there may be a *client error overpayment* only when the OCCS Medical programs *household group* (see OAR 410-200-0015) or *authorized representative* (see OAR 410-200-0015) withheld information, failed to report a change, or provided inaccurate information. In such a case, the Department uses the actual income to determine the amount of an *overpayment*.
- (5) When a filing group, ineligible student, or *authorized representative* fails to report all earned income within the reporting time frame, the earned income deduction (see OAR 461-160-0160, 461-160-0190, 461-160-0430, 461-160-0550, and 461-160-0552) is applied as follows:



- (a) In the OSIP, OSIPM, QMB, and REFM programs, the Department allows the earned income deduction.
  - (b) In the MAA, MAF, REF, and TANF programs, the Department allows the earned income deduction when *good cause* (see section (6) of this rule) exists.
  - (c) In the SNAP program, no deduction is applied to earned income if the amount or source of income was not timely reported.
- (6) For the purposes of OAR 461-195-0501 to 461-195-0561, "good cause" means circumstances beyond the client's reasonable control that caused the client to be unable to report income timely and accurately.
- (7) When support is retained:
- (a) In the TANF program, the amount of support (other than cash medical support) the Department of Justice retains as a current reimbursement each month is added to other income to determine *eligibility* (see OAR 461-001-0000). When a client is not eligible for TANF program benefits, the *overpayment* is offset by the support the Department of Justice retains as a current reimbursement.
  - (b) In the medical programs, the amount of the cash medical support the Department retains each month is excluded income and not used to determine *eligibility* for medical program benefits. When a client has incurred a medical program *overpayment*, the *overpayment* is offset by the amount of the cash medical support the Department retains during each month of the *overpayment*.
- (8) In the REF and TANF programs, when a client directly receives support used to determine *eligibility* or calculate benefits, the *overpayment* is:
- (a) If still eligible for REF or TANF program benefits, the amount of support the client received directly; or
  - (b) If no longer eligible for REF or TANF program benefits, the amount of program benefits the client received.
- (9) When an *overpayment* occurs due to the failure of an individual to reimburse the Department, when required by law to do so, for benefits or services (including cash medical support) provided for a need for which that individual is compensated by another source, the *overpayment* is limited to the lesser of the following:
- (a) The amount of the payment from the Department;
  - (b) Cash medical support; or

- (c) The amount by which the total of all payments exceeds the amount payable for such a need under the Department's rules.
- (10) Benefits paid during a required *notice period* (see OAR 461-175-0050, OAR 410-200-0120) are included in the calculation of the *overpayment* when:
- (a) The filing group, OCCS Medical programs *household group* (see OAR 410-200-0015), ineligible student, or *authorized representative* (see OAR 461-115-0090 and OAR 410-200-0015) failed to report a change within the reporting time frame under OAR 461-170-0011 or OAR 410-200-0235; and
  - (b) Sufficient time existed for the Department to adjust the benefits to prevent the *overpayment* if the filing group, OCCS Medical program *household group* (see OAR 410-200-0015), ineligible student, or *authorized representative* (see OAR 461-115-0090 and OAR 410-200-0015) had reported the change at any time within the reporting time frame.
- (11) In the SNAP program:
- (a) If the *benefit group* (see OAR 461-110-0750) was categorically eligible, there is no *overpayment* based on resources.
  - (b) For a *filing group* (see OAR 461-110-0370) found eligible for SNAP program benefits under OAR 461-135-0505(1)(a) to (c), and the actual income made the group ineligible for the related program, the group remains categorically eligible for SNAP program benefits as long as the *eligibility* requirement under OAR 461-135-0505(1)(d) is met. A *benefit group* of one or two individuals would be entitled to at least the minimum SNAP program benefit allotment under OAR 461-165-0060.
  - (c) For a *filing group* found eligible for SNAP program benefits only under OAR 461-135-0505(1)(d), and the actual income equals or exceeds 185 percent of the Federal Poverty Level, the *filing group* is no longer categorically eligible. The *overpayment* is the amount of SNAP program benefits incorrectly received.
- (12) In the OSIP and OSIPM programs, when a client does not pay his or her share of the cost of services (see OAR 461-160-0610) or the OSIP-EPD or OSIPM-EPD program *participant fee* (see OAR 461-160-0800) in the month in which it is due, an *overpayment* is calculated as follows:
- (a) All payments made by the Department on behalf of the client during the month in question are totaled, including but not limited to any payment for:
    - (A) Capitation;
    - (B) Long term care services;

- (C) Medical expenses for the month in question;
  - (D) Medicare buy-in (when not concurrently eligible for an MSP);
  - (E) Medicare Part D;
  - (F) Mileage reimbursement;
  - (G) Special needs under OAR 461-155-0500 to 461-155-0710; and
  - (H) *Home and community-based care* (see OAR 461-001-0030), including home delivered meals and non-medical transportation.
- (b) Any partial or late liability payment made by a client receiving *home and community-based care* in-home services or *participant fee* paid by an OSIP-EPD or OSIPM-EPD program client is subtracted from the total calculated under subsection (a) of this section. The remainder, if any, is the amount of the *overpayment*.
- (13) When a client's liability is unreduced pending the outcome of a contested case hearing about that liability the *overpayment* is the difference between the liability amount determined in the final order and the amount, if any, the client has repaid.
- (14) In the OCCS Medical programs, OSIPM, QMB, and REFM programs if the client was not eligible for one program, but during the period in question was eligible for another program:
- (a) With the same benefit level, there is no *overpayment*.
  - (b) With a lesser benefit level, the *overpayment* is the amount of medical program benefit payments made on behalf of the client exceeding the amount for which the client was eligible.
- (15) When an *overpayment* is caused by *administrative error* (see OAR 461-195-0501), any *overpayment* of GA, OSIP, REF, SFPSS, or TANF program benefits is not counted as income when determining *eligibility* for the ~~GAM~~, OCCS Medical programs, OSIPM, and REFM programs.
- (16) Credit against an *overpayment* is allowed as follows:
- (a) In the GA, REF, and TANF programs, a credit is allowed for a client's payment for medical services made during the period covered by the *overpayment*, in an amount not to exceed the Department fee schedule for the service, but credit is not allowed for an elective procedure unless the Department authorized the procedure prior to its completion.

- (b) In the SNAP program, if the *overpayment* was caused by unreported earned income, verified child care costs are allowed as a credit to the extent the costs would have been deductible under OAR 461-160-0040 and 461-160-0430.
  - (c) In the SFPSS and TANF programs, if the *overpayment* is caused by reported earned income, a credit is allowed for the Post-TANF grant if the client meets *eligibility* under OAR 461-135-1250 and the client has received less than 12 months of Post-TANF program benefits.
  - (d) In all programs, for an underpayment of benefits in the program in which the overpayment occurred.
- (17) In the SNAP program, in compliance with the American Recovery and Reinvestment Act of 2009, effective April 1, 2009 through September 30, 2009, the amount between the normal Thrifty Food Plan (TFP) benefit amount under this section and the increased TFP benefit amount under OAR 461-155-0190 is not counted in the *overpayment* amount unless the filing group was ineligible for SNAP program benefits.

Normal TFP for October 1, 2008 - September 30, 2009  
SNAP Payment Standard (TFP)

No. in Need Group	Monthly Amount
1	\$ 176
2	323
3	463
4	588
5	698
6	838
7	926
8	1,058
Each additional individual	132

- (18) In the REF program, when an individual used or accessed cash benefits in violation of OAR 461-165-0010(8)(a), the amount of the *overpayment* is the amount of cash benefits the client used or accessed.
- (19) In the SFPSS and TANF programs, when an individual used or accessed cash benefits in violation of OAR 461-165-0010(9)(a), the amount of the *overpayment* is the amount of cash benefits the client used or accessed.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.660, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231, HB 2089 (2013, Section 10)  
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231, 416.350

## Liability for Overpayments

- (1) In all programs except the OCCS Medical, OSIP, OSIPM, QMB, REFM, and SNAP programs or a child care program, the following persons are liable for repayment of an *overpayment* (see OAR 461-195-0501):
  - (a) Each individual in the filing group or required to be in the filing group and the payee when the *overpayment* was incurred, except an individual who did not reside with and did not know he or she was included in the filing group.
  - (b) A *caretaker relative* (see OAR 461-001-0000) and his or her *spouse* (see OAR 461-001-0000) who were not part of, but resided with, the filing group when the *overpayment* was incurred.
  - (c) A *parent* (see OAR 461-001-0000) or *caretaker relative of a child* (see OAR 461-001-0000) in the *benefit group* (see OAR 461-110-0750) and the *spouse* of the *parent* or *caretaker relative* if the *parent*, *caretaker relative*, or *spouse* was a member of or resided with the filing group when the *overpayment* was incurred.
  - (d) An individual determined liable for an *overpayment* remains liable when the individual becomes a member of a new filing group.
  - (e) An *authorized representative* (see OAR 461-115-0090) when the *authorized representative* gave incorrect or incomplete information or withheld information resulting in the *overpayment*.
- (2) In the OCCS Medical and REFM programs, the following persons are liable for repayment of an *overpayment*:
  - (a) Each individual in the filing group, the OCCS Medical programs *household group* (see OAR 410-200-0015), or required to be in the filing group and the payee when the *overpayment* was incurred, except an individual who ---
    - (A) Was a child or *dependent child* (see OAR 461-001-0000) at the time of the *overpayment*; or
    - (B) Did not reside with and did not know he or she was included in the filing group.
  - (b) A *caretaker relative* and his or her *spouse* who were not part of, but resided with, the filing group or OCCS Medical programs *household group* (see OAR 410-200-0015) when the *overpayment* was incurred.
  - (c) A *parent* or *caretaker relative of a child* in the filing group or OCCS Medical programs *household group* (see OAR 410-200-0015) and the *spouse* of the *parent*

or *caretaker relative* if the *parent, caretaker relative, or spouse* was a member of or resided with the filing group or OCCS Medical programs *household group* when the *overpayment* was incurred.

(d) An *authorized representative* (see OAR 461-001-0000 and OAR 410-200-0015) when the *authorized representative* gave incorrect or incomplete information or withheld information that resulted in the *overpayment*.

(3) In a child care program:

(a) An *overpayment* caused by administrative error is collectible as follows:

(A) The provider is liable for a provider *overpayment* made on behalf of a client eligible for child care payments.

(B) Each adult in the filing group or required to be in the filing group is liable for an *overpayment* if the client was not eligible for the payment.

(b) Each adult in the filing group or required to be in the filing group is liable for a *client overpayment*, and a provider is liable for an *overpayment* caused by the provider. The client and provider are jointly and severally liable for an *overpayment* caused by both. In the case of an alleged provider *overpayment*, a provider's failure to provide contemporaneous records of care provided creates a rebuttable presumption that the care was not provided.

(c) An adult who cosigned an application with a minor provider applicant is liable for an *overpayment* incurred by the minor provider.

(4) In the GA, ~~GAM~~, OSIP, OSIPM, and QMB programs, the following persons are liable for repayment of an overpayment:

(a) Each individual in the filing group or required to be in the filing group and the payee when the *overpayment* was incurred, except an individual who ---

(A) Was a child or *dependent child* at the time of the *overpayment*; or

(B) Did not reside with and did not know he or she was included in the filing group.

(b) A *caretaker relative* and his or her *spouse* who were not part of, but resided with, the filing group when the *overpayment* was incurred.

(c) A *parent* or *caretaker relative* of a child in the filing group and the *spouse* of the *parent* or *caretaker relative* if the *parent, caretaker relative, or spouse* was a member of or resided with the filing group when the *overpayment* was incurred.

- (d) An *authorized representative* when the *authorized representative* knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the *overpayment*.
- (5) In the SNAP program, the following persons are liable for repayment of an *overpayment* or a claim that results from *trafficking* (see OAR 461-195-0601(2)) of SNAP benefits:
  - (a) The *primary person* (see OAR 461-001-0015) of any age, an ineligible student in the household, and all adults (see OAR 461-001-0015) who were members of or required to be in the *filing group* (see OAR 461-110-0370) when excess benefits were issued.
  - (b) A sponsor of a non-citizen household member if the sponsor is at fault, for payments prior to November 21, 2000.
  - (c) A drug or alcohol treatment center or residential care facility that acted as the *authorized representative* of the client.
- (6) Except as provided otherwise in section (7) of this rule, in all programs, both a non-citizen and the sponsor of the non-citizen are liable for an *overpayment* incurred if the *overpayment* results from the failure of the sponsor to provide correct information (see OAR 461-145-0820 to 461-145-0840). If the sponsor had *good cause* (see OAR 461-195-0521(5)) for withholding the information, the sponsor is not liable for the *overpayment*.
- (7) In the SNAP program, the sponsor of a non-citizen is not liable under section (6) of this rule for payments on or after November 21, 2000.
- (8) In the OCCS medical programs, the November 2013 amendments to OAR 461-195-0501, 461-195-0521, 461-195-0541, and 461-195-0561 apply as of October 1, 2013.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049, HB 2089 (2013, Section 10)

Stats. Implemented: ORS 409.010, 411.060, 411.087, 411.404, 411.630, 411.635, 411.640, 411.690, 411.816, 412.014, 412.049, 416.350