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**PERMANENT ADMINISTRATIVE RULES**

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I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Upon filing, by the  
Department of Human Services, Self-Sufficiency Programs 461  
\_\_\_\_\_  
Agency and Division Administrative Rules Chapter Number  
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To become effective 04/01/2017 Rulemaking Notice was published in the February 2017 Oregon Bulletin.

**RULE CAPTION**

Amending rules relating to public and medical assistance programs

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

**RULEMAKING ACTION**

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**

**AMEND:**

461-120-0330, 461-145-0530

**REPEAL:**

**RENUMBER:**

**AMEND AND RENUMBER:**

**Statutory Authority:**

ORS 409.050, 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 414.231

**Other Authority:**

**Statutes Implemented:**

ORS 409.010, 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 414.231

**RULE SUMMARY**

OAR 461-120-0330 about the requirement to pursue assets is being amended to clarify the manner in which individuals must begin drawing from retirement or pension accounts when eligible to do so. The previous amendment to this rule (adopted on July 1, 2016) was not specific enough and could be interpreted to allow individuals to take \$1.00 per month or quarter payments, for example.

OAR 461-145-0530 about tax refunds is being amended in its entirety to state how tax refunds are treated (as income or a resource) when determining financial eligibility for public and medical assistance programs depending on the type of refund and date of receipt.

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## Requirement to Pursue Assets

- (1) In all programs, except the ERDC and SNAP programs, an individual must make a good faith effort to obtain any asset (other than support and medical coverage, which are covered in OAR 461-120-0340 and 461-120-0345, respectively) to which the individual has a legal right or claim, except as follows:
  - (a) A *parent* (see OAR 461-001-0000) or *caretaker relative* (see OAR 461-001-0000) who is exempt from participation in the JOBS program is not required to apply for unemployment insurance benefits.
  - (b) Except as specified by law, an individual applying for or receiving any program benefits from the Department is not required to apply for other programs it administers or for supplemental security income (SSI).
  - (c) An individual applying for the EA program is required to pursue, obtain, and use an asset only if the asset can be made available in time to meet the emergent need.
  - (d) An individual is not required to borrow money.
  - (e) An individual is not required to make a good faith effort to obtain any asset if the individual can show good cause for not doing so. Good cause means a circumstance beyond the ability of the individual to control.
- (2) In all programs except the ERDC, OSIP, OSIPM, QMB, and SNAP, ~~and medical assistance~~ programs:
  - (a) The effect of failing to comply with this rule is that everyone in the filing group is ineligible. In addition, when a REF, SFPSS, or TANF program payment ends due to the penalty described in this subsection, eligibility for and the level of SNAP benefits are determined as if the individual were receiving benefits without the effects of this rule.
  - (b) The penalty provided by subsection (2)(a) of this rule is effective until all members of the filing group comply with the requirements of section (1) of this rule.
- (3) In the ~~medical assistance~~ OSIP, OSIPM, and QMB programs:
  - (a) The requirement to pursue assets includes individuals in the *benefit group* (see OAR 461-110-0750) applying for monthly or periodic payments from a retirement or pension plan (see OAR 461-145-0380) if the individual is eligible to apply under the terms of the plan.
    - (A) When an individual can choose a lump sum or ~~an annuity as a payment method for the retirement or pension plan~~ monthly or periodic payments, the individual must choose ~~the annuity~~ monthly or periodic payments; and

if the individual can choose between monthly or periodic payments, the individual must choose monthly payments.

(B) The individual must select the option that:

(i) Provides payments commencing on the earliest possible date; and

(ii) Completes payments within the actuarial life expectancy, as published in the Periodic Life Table of the Chief Actuary of the Social Security Administration of the individual.

(BC) Where an application has been made for a lump sum withdrawal of the monies on which a potential annuity is based and the benefit source permits the individual to change the individual's decision and apply for the annuity, the individual must pursue the change to be eligible for medical benefits. If the benefit source does not permit such a change, accept the individual's word that the decision is irreversible, absent evidence to the contrary.

(ED) An individual is not required to file when only a lump sum payment is available.

(b) An individual is ineligible for benefits if the individual fails to comply with the requirements of this rule.

(c) The penalty provided by section (3)(b) of this rule is effective until the individual complies with the requirements of section (1) of this rule and subsection (a) of this section.

Stat. Auth.: ORS 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 414.231

THIS RULE IS AMENDED IN ITS ENTIRETY

~~Income tax refunds and property tax refunds, including Elderly Rental Assistance (ERA), are counted as a resource.~~

~~(1) Federal income tax refunds, including federal Earned Income Tax Credit payments (see OAR 461-145-0140) --~~

~~(a) If received on or after January 1, 2010, are excluded from income and resources in the month of receipt and then for 12 full months starting with the month following the month of receipt of the refund or payment. All funds remaining after the 12-month period are counted as a resource.~~

~~(b) If received before January 1, 2010, are counted as a resource.~~

~~(2) State tax refunds, excluding state Earned Income Tax Credit payments (see OAR 461-145-0140), and property tax refunds, including Elderly Rental Assistance (ERA) --~~

~~(a) In all programs except the OSIP, OSIPM, and QMB programs, are considered lump-sum income (see OAR 461-001-0000) in the month received, and counted as a resource in the month after the month of receipt.~~

~~(b) In the OSIP, OSIPM, and QMB programs, are excluded as income in the month received. All funds remaining after the month of receipt are counted as a resource.~~

~~(3) The treatment of federal and state Earned Income Tax Credit payments is covered by OAR 461-145-0140.~~

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