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March 24, 2017 by the

Department of Human Services, Office of Self-Sufficiency Programs
Agency and Division

461

Chapter Number

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to become effective April 1, 2017.

Rulemaking Notice was published in the March 1, 2017 Oregon Bulletin.

Rule Caption: *Amending rules relating to programs for refugees*

ADOPT: 461-135-0915

AMEND: 461-101-0010; 461-110-0210; 461-110-0630; 461-110-0750; 461-115-0190; 461-115-0230; 461-115-0610; 461-120-0125; 461-120-0510; 461-130-0310; 461-130-0327; 461-135-0085; 461-135-0560; 461-135-0900; 461-135-0930; 461-140-0040; 461-140-0210; 461-145-0005; 461-145-0035; 461-145-0088; 461-145-0300; 461-145-0365; 461-145-0430; 461-145-0505; 461-145-0930; 461-155-0225; 461-160-0015; 461-160-0100; 461-160-0160; 461-165-0030; 461-175-0220; 461-190-0231; 461-193-0031; 461-195-0601

ORS 409.050, 411.060, 411.404, 411.706, 411.816, 412.014, 412.049

Stat. Auth.

None.

Other Auth.

ORS 409.010, 411.060, 411.404, 411.706, 411.816, 412.014, 412.049

Stats. Implemented

Rule Summary

OAR 461-101-0010 is being amended to add the Refugee (REF) Employment Program to the list of programs that are described and to which OAR 461 rules apply when no program acronym appears in a rule.

OAR 461-110-0210 is being amended to add A&D treatment and DV shelter as a reasons for absence from the household group for the Refugee (REF) and Refugee Medical (REFM) programs. This rule is also being amended to indicate that in these programs the initial absence due to emergent needs is limited to 30 days, and to change the reasonably anticipated to return extension from 90 to 30 days.

OAR 461-110-0630 is being amended to broaden the need group description in the REF and REFM programs. The need group consists of the individuals whose basic and special needs are used to determine eligibility.

OAR 461-110-0750 is being amended to specify the benefit group membership for the REF and REFM programs, which will generally align with the TANF program.

OAR 461-115-0190 is being amended to reduce the time that DHS has to provide an eligibility decision for the REF and REFM programs.

OAR 461-115-0230 is being amended to remove the interview requirement for the REFM program, aligning with other medical programs.

OAR 461-115-0610 is being amended to add a requirement for the REF and REFM programs that an individual's immigration status must be verified so that federal law is being followed.

OAR 461-120-0125 is being amended to move Iraqi and Afghan SIV holders back into qualified noncitizen status, remove references to Lautenberg parolees, and reorganize the rule. These changes align with federal law and make the rule easier to follow.

OAR 461-120-0510 is being amended to eliminate the ineligible TANF filing group's potential eligibility for the REF and REFM programs.

OAR 461-130-0310 is being amended to add an exemption from an employment program for REF individuals who are taking care of household members who have disabilities. This rule is also being amended to describe who is mandatory to participate in an employment program for REF.

OAR 461-130-0327 is being amended to add health and safety violations and customary work hours as good cause for failure to comply with program requirements in the REF program. These changes follow federal requirements

OAR 461-135-0085 is about assessment and treatment requirements is being amended to so the rule no longer applies in the REF program, consistent with the limited benefit period.

OAR 461-135-0560 is being amended to require that REF and REFM individuals are not fleeing felons, aligning these programs with the TANF program.

OAR 461-135-0900 is being amended to add a new requirement for the REF and REFM programs individuals must provide the name of the resettlement program that resettled them if they were resettled in Oregon, consistent with federal law. This rule is also being amended as part of reorganizing which rules set out REF only and REFM only requirements

OAR 461-135-0915 is being adopted to add job quit requirements for the REF program as well as REF only requirements previously in OAR 461-135-0900.

OAR 461-135-0930 is being amended to include requirements about the REFM program previously in OAR 461-135-0900. The amended rule will indicate that an individual is not required to apply or receive REF in order to receive REFM, and that an individual who is receiving REF and loses Medicaid eligibility is not required to meet the financial requirements of REFM, aligning with federal policy.

OAR 461-140-0040 is being amended to remove the reference to medical expenses as a reason income is not available in the REFM program because this is addressed in other rules.

OAR 461-140-0210 is being amended to limit the look back time for an asset transfer in the REF program and limiting the assets to those in the U.S only. This rule is also being amended to align REFM with TANF, and remove the disqualification for REFM if the individual was an inpatient at a nursing facility or medical institution.

OAR 461-145-0005 is being amended to correct the name of the federal legislation.

OAR 461-145-0035 is being amended to indicate that public assistance programs count Black Lung Benefits as unearned income.

OAR 461-145-0088 is being amended to remove its requirement to treat certain expenditures as available income in the REF and REFM programs, aligning these programs with the TANF program.

OAR 461-145-0300 is being amended to add an income exclusion in the REF and REFM programs for some needs-based payments, aligning these programs with the TANF program.

OAR 461-145-0365 is being amended to add the REF and REFM programs to the child care allowance for NCSTA and AmeriCorps, aligning with the TANF program.

OAR 461-145-0430 is being amended to add REF and REFM on how the equity value of real property is treated to determine eligibility, aligning with the TANF program requirements.

OAR 461-145-0505 is being amended to treat spousal support for determining eligibility in the REFM program similarly to the TANF program.

OAR 461-145-0930 is being amended to change how self-employment costs are treated for REFM program, aligning this program with the REF and TANF programs.

OAR 461-155-0225 is being amended to change the income standard to the adjusted income standard for the REFM program, aligning this program more closely with the REF and TANF programs.

OAR 461-160-0015 is being amended to provide a new resource limit for the REFM program, aligning this program more closely with the REF and TANF programs.

OAR 461-160-0100 is being amended to provide a definition of adjusted income that is specific to the REFM program and change which income is compared to the income standard, aligning this program more closely with the REF and TANF programs.

OAR 461-160-0160 is being amended to allow an earned income deduction in the REFM program, aligning this program more closely with the REF and TANF programs.

OAR 461-165-0030 is being amended to clarify the time frame that an individual is considered to have received benefits in the Matching Grant program to ensure that an individual is not able to potentially receive benefits in the Matching Grant Program and another DHS cash assistance program during the same month.

OAR 461-175-0220 is being amended to add the REF Employment Program to the notice requirements for disqualification, aligning this program with the JOBS program.

OAR 461-190-0231 is being amended to add the REF Employment Program to the re-engagement process, aligning this program with the JOBS program.

OAR 461-193-0031 is being amended to clarify that an individual must participate in the Refugee Case Services Project under the stated conditions to strengthen the requirement to participate in the Refugee Case Services Project. This rule is also being amended to remove newborn verification requirements.

OAR 461-195-0601 is being amended to include REF and REFM as programs that have the potential for an Intentional Program Violation, aligning these programs with the TANF program.

In addition, non-substantive edits were made 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.

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.
- (9) 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.
- (10) 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.
- (11) 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.
- (12) 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.
- (13) 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.
- (14) 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.
- (15) 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.
- (16) 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
- (17) 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.
- (18) 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.
- (19) 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.

- (20) REF; Refugee Assistance. Cash assistance to low-income refugee singles or married couples without children.
- (21) REF Employment Program; Any self-sufficiency service, employment service, or case plan that is available to or developed for individuals in the REF program.
- ~~(2122)~~ REFM; Refugee Assistance Medical. Medical coverage for low-income refugees.
- ~~(2223)~~ The Repatriate Program helps Americans resettle in the United States if they have left a foreign land because of an emergency situation.
- ~~(2324)~~ SFDNP; Senior Farm Direct Nutrition Program. Food vouchers for low-income seniors. Funded by a grant from the United States Department of Agriculture.
- ~~(2425)~~ 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).
- ~~(2526)~~ 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.
- ~~(2627)~~ TA-DVS; Temporary Assistance for Domestic Violence Survivors. Addresses the needs of individuals threatened by domestic violence.
- ~~(2728)~~ 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 ~~329A.500, 409.050~~, 411.060, 411.404, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826

Stats. Implemented: ORS ~~329A.500, 409.010~~, 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 414.839

- (1) This rule describes who is included in the household group. The household group generally consists of the individuals who live together with or without the benefit of a dwelling. For homeless individuals, the household group consists of the individuals who consider themselves living together.
- (2) A separate dwelling is not recognized for the purpose of determining the members of a household group unless the living space has, separate from any other dwelling, an access to the outside that does not pass through another dwelling, a functional sleeping area, bathroom, and kitchen facility.
- (3) Each individual in the household group who applies for benefits is an applicant. The household group and applicants form the basis for determining who is in the remaining eligibility groups.
- (4) For all programs except the SNAP program, a separate household group is established for individuals who live in the same dwelling as another household group, if all the following subsections are true:
 - (a) There is a landlord-tenant relationship between the two household groups in which the tenant is billed by the landlord at *fair market value* (see OAR 461-001-0000) for housing.
 - (b) The tenant lives independently from the landlord.
 - (c) The tenant:
 - (A) Has and uses sleeping, bathroom, and kitchen facilities separate from the landlord; or
 - (B) Shares bathroom or kitchen facilities with the landlord, but the facilities are in a commercial establishment that provides room or board or both for compensation at *fair market value*.
- (5) Individuals who live with more than one household group during a calendar month are members of the household group in which they spend more than half of their time, except as follows:
 - (a) In the ERDC program, if a *child* (see OAR 461-001-0000) lives with different caretakers during the month, the *child* is considered a member of both household groups.
 - (b) In the TANF program:
 - (A) If a *parent* (see OAR 461-001-0000) sleeps at least 30 percent of the time during the calendar month in the home of the *dependent child* (see OAR

461-001-0000), the *parent* is in the same household group as the *dependent child*.

(B) A *dependent child* is included in the household group with the *caretaker relative* (see OAR 461-001-0000), who usually has the major responsibility for care and control of the *dependent child*, if the *dependent child* lives with two household groups in the same calendar month for at least one of the following reasons:

(i) Education.

(ii) The usual *caretaker relative* is gone from the household for part of the month because of illness.

(iii) A family emergency.

(c) In the SNAP program:

(A) The individual is a member of the household group that provides the individual more than half of his or her 21 weekly meals. If the individual is a *child*, the *child* is a member of the household group credited with providing the *child* more than half of his or her 21 weekly meals. A household group is credited with providing breakfast and lunch for each day the *child* departs that group's home for school, even if the *child* eats no breakfast or lunch at that home.

(B) During the month in which a resident of a *domestic violence shelter* (see OAR 461-001-0000) enters the *domestic violence shelter*, the resident may be included both in the household group he or she left and in a household group in the *domestic violence shelter*.

(6) In the OSIPM program, individuals receiving or applying for *home and community-based care* (see OAR 461-001-0030) or nursing facility care are each an individual household group regardless of others living in the individual's dwelling or facility.

(7) Individuals absent from the household for 30 days or more are no longer part of the household group, except for the following:

(a) In all programs except the SNAP program, an individual in an acute care medical facility remains in the household group unless the individual enters *long-term care* (see OAR 461-001-0000).

(b) In the ERDC and TANF programs:

(A) A *caretaker relative* who is absent for up to 90 days while in a residential alcohol or drug treatment facility is in the household group.

- (B) A *child* who is absent for 30 days or more is in the household group if the *child* is:
 - (i) Absent for illness (unless the *child* is in a long-term care Title XIX facility), social service, or educational reasons;
 - (ii) In foster care, but expected to return to the household within the next 30 days.
- (c) In the ERDC, ~~REF, and REFM~~ programs, an individual in the household group who is--
 - (A) Absent because of education, training, or employment, including long-haul truck driving, fishing, or active duty in the U.S. armed forces;
 - (B) Absent to care for an emergent need of an individual related to illness, injury, or death; or
 - (C) Absent but reasonably anticipated to return within 90 days.
- (d) In the TANF program, when a filing group (see OAR 461-110-0310 and 461-110-0330) includes more than one *caretaker relative*, a *caretaker relative* in the household group who is absent:
 - (A) Because of education, training, or employment -- including absence while working or looking for work outside the area of his or her residence, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces; or
 - (B) For up to 60 days solely due to the regulations of a homeless or *domestic violence shelter* or other circumstances beyond the individual's control but who would otherwise be included in the household group.
- (e) In the REF and REFM programs, an individual in the household group who was absent:
 - (A) For up to 90 days while in a residential alcohol or drug treatment facility;
 - (B) For up to 30 days to care for an emergent need of an individual related to illness, injury, or death;
 - (C) Because of education, training, or employment -- including absence while working or looking for work outside the area of his or her residence, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces; or

(D) For up to 60 days solely due to the regulations of a homeless or *domestic violence shelter* or other circumstances beyond the individual's control but who would otherwise be included in the household group.

(ef) In the REF, REFM, and TANF programs, the Department may approve one or more 30-day extensions of this time period if the Department receives sufficient information to assure the Department that the absent individual will return within the extension period.

(8) In the OSIP-EPD and OSIPM-EPD programs, the household group consists only of the individual applying for or receiving benefits.

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

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.001, 412.006, 412.049, 413.085, 414.685, 414.839

Need Group

- (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 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*.
- (5) 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.
- (6) 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.
- (7) In the REF and REM programs, the need group consists of all the members of the *financial group* except an unborn child.

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 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.
- (5) In the REF and REFM programs, 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) A fleeing felon (see OAR 461-135-0560).

- (d) An individual violating a condition of state or federal parole, probation, or post-prison supervision (see OAR 461-135-0560).
- (e) An individual who chooses not to receive benefits.
- (f) ~~Anyone~~An individual who does not meet the alien status requirements of OAR 461-120-0125(5), with the exception of a newborn child, so long as all parents who are in the filing group meet the alien status requirements of OAR 461-120-0125(5).

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

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

Application Processing Time Frames; Not Pre-TANF or SNAP

- (1) In all programs except the EA, Pre-TANF, REF, SNAP, and TA-DVS programs, the Department determines eligibility and sends a *decision notice* (see OAR 461-001-0000) not later than the 45th day after the *date of request* (see OAR 461-115-0030). The Department may extend the period if one or more of the following subsections applies:
 - (a) Information needed to determine eligibility is expected to be received after the 45-day deadline, and the client has no control over the information.
 - (b) Other circumstances beyond the control of the client prevent the Department from making the decision within the 45-day period.
 - (c) In the OSIPM program, the applicant has met all eligibility requirements except the Department must determine whether the applicant is blind or has a disability. In this case, the Department determines eligibility and sends a *decision notice* not later than the 90th day after the *date of request*. The Department may extend this period for any of the following reasons:
 - (A) The Department cannot reach a decision because the client or an examining physician or psychologist has not taken an action necessary for the decision to be made.
 - (B) There is an administrative or other emergency beyond the Department's control that impairs its ability to make the decision.
- (2) In the EA program, the Department determines eligibility within one working day of the date of application or as soon thereafter as verification of emergent need is completed. Verification of all other factors may be waived if it would delay the client's receipt of assistance.
- (3) For support service payments in the JOBS program (authorized by OAR 461-190-0211) and in the SFPSS program, the Department determines eligibility as follows:
 - (a) If the client is receiving an SFPSS or TANF grant--in time to meet the need for which the request is made and not later than the 30th day after the *date of request*.
 - (b) If the client is not covered by subsection (a) of this section--in time to meet the need for which the request is made.
- (4) In REF program, the Department determines eligibility and sends a *decision notice* (see OAR 461-001-0000) not later than the 30th day after the *date of request* (see OAR 461-115-0030). The Department may extend the period if one or more of the following subsections applies:
 - (a) Information needed to determine eligibility is expected to be received after the 30-day deadline, and the client has no control over the information.
 - (b) Other circumstances beyond the control of the client prevent the Department from making the decision within the 30-day period.

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| (45) In the TA-DVS program, OAR 461-135-1220 covers the following time requirements:

- (a) Assessing the client's safety concerns and offering options to the client for addressing immediate safety needs.
- (b) Determining eligibility after the application is complete, whether or not the client has signed the application.

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

Stats. Implemented: ORS 411.060, 411.070, 411.117, 412.049, 414.042

Interviews

- (1) In the REF, ~~REFM~~, and TANF programs, the Department may conduct a required face-to-face interview by telephone or home visit if an *authorized representative* (see OAR 461-001-0000 and 461-115-0090) has not been appointed, and participating in a face-to-face interview is a *hardship* (see section (2) of this rule) for the household.
- (2) For the purposes of this rule, "hardship" includes, but is not limited to:
 - (a) Care of a household member;
 - (b) An individual's age, *disability* (see OAR 461-001-0000), or illness;
 - (c) A commute of more than two hours from the individual's residence to the nearest *branch office* (see OAR 461-001-0000);
 - (d) A conflict between the individual's work or training schedule and the business hours of the *branch office*; and
 - (e) Transportation difficulties due to prolonged severe weather or financial hardship.
- (3) In the SNAP program:
 - (a) An interview must be scheduled so that the filing group (see OAR 461-110-0370) has at least ten days to provide any needed verification before the deadline under OAR 461-115-0210.
 - (b) A face-to-face interview must be granted at the applicant's request.
 - (c) When an applicant misses the first scheduled interview appointment, the Department must inform the applicant by regular mail of the missed interview.
 - (d) An applicant who fails to attend a scheduled interview must contact the Department no later than 30 days following the *filing date* (OAR 461-115-0040) to be eligible for benefits.
 - (e) An *adult* (see OAR 461-001-0015) in the filing group or the *authorized representative* of the filing group is interviewed once every 12 months.
- (4) In the ERDC program:
 - (a) Except as provided otherwise in subsection (c) of this section, an interview with an adult in the filing group (see OAR 461-110-0350) or the *authorized*

representative of the filing group is required to process an initial application and a renewal of benefits.

- (b) A phone interview is preferred; however, a face-to-face interview must be granted at the applicant's request.
 - (c) An interview is not required when the Department has implemented the Child Care Reservation List and it is determined that a *decision notice* of ineligibility will be sent under OAR 461-115-0016.
- (5) In the OSIPM and QMB programs, the Department must complete an interview face-to-face in the *branch office*, by telephone, or during a home visit with at least one applicant who is 18 years of age or older or an applicant's *authorized representative*:
- (a) At initial application.
 - (b) At redetermination except individuals who are *assumed eligible* (see OAR 461-135-0010).
- (6) In the REFM program, an interview is not required.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.706, 411.816, 412.049, 414.826, 414.839
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.839

- (1) To be eligible for benefits, clients must provide verification when the Department requests verification. Verification provided for one program is used for all programs in which the client participates. The three categories of information used in the verification process are:
 - (a) Documentary evidence, which is the primary source of verification for all eligibility factors except residency and household composition.
 - (b) Collateral contact, which is an oral or documentary confirmation of an eligibility factor by a person outside of the filing group.
 - (c) Observations made during a home visit by a Department representative.
- (2) The Department will notify a client when verification of any factor affecting eligibility or benefit level is required.
- (3) Verification of the occurrence of an act of *domestic violence* (see OAR 461-001-0000) is not required for any program.
- (4) In the REF and REFM programs, ~~an individual's~~the immigration status of an individual must be verified using documentary evidence from a federal agency that holds authority to grant legal immigration status.

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

Stats. Implemented: ORS 411.060, 411.117, 411.650, 411.816, 414.042, 418.100

- (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.*). **This includes an Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.**
 - (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 non-citizen who is a** ~~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 non-citizen who is a** ~~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)).
 - (c) A qualified non-citizen who is any of the following:
 - (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).
 - (A)(C) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in ~~subsection~~ paragraphs (A) or (B) of this subsection.
- (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.~~ An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.
- (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 (5) of this rule.

~~(5) 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 (8) of this rule.~~

(5)

~~(65)~~ 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.

(766) 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.
- (g) ~~A *qualified non-citizen* who meets the requirement in section (7) of this rule.~~

- (87) 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:
- (aA) 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).
 - (bB) 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.
 - (eC) 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

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 OSIP-AD (except OSIP-EPD), OSIPM-AD (except OSIPM-EPD), and QMB-DW programs, a client must be under 65 years of age.
- (6) 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.
- (7) To be eligible for the OSIP-OAA or OSIPM-OAA programs, a client must be 65 years of age or older.
- (8) To be eligible for the REF or REFM programs, a client must be:
 - (a) 18 years of age or older; or
 - (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.~~

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

Participation Classifications: Exempt, Mandatory, and Volunteer

- (1) In the Post-TANF, Pre-TANF, REF, SNAP, and TANF programs:
 - (a) The Department assigns an individual to one or more employment program participation classifications--*exempt*, *mandatory*, and *volunteer* (see OAR 461-130-0305 for definitions of all three terms).
 - (b) In the Post-TANF program or while receiving *Employment Payments* (see OAR 461-001-0025) under OAR 461-135-1270, an individual is classified as a *volunteer*.
- (2) In the Pre-TANF, REF, and TANF programs:
 - (a) An individual is *exempt* from employment program participation and disqualification if the individual meets the requirements of at least one of the following paragraphs. The individual is --
 - (A) Pregnant and in the last month of the pregnancy.
 - (B) Pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.
 - (C) A *parent* (see OAR 461-001-0000) during the first six months after the birth of the parent's *dependent child* (see OAR 461-001-0000) except that the Department may require the *parent* to participate in parenting classes or a *family stability activity* (see OAR 461-001-0000). An exemption allowed under this paragraph may apply only to one *mandatory* participant in each filing group (see OAR 461-110-0310, 461-110-0330, and 461-110-0430).
 - (D) Under 20 years of age during the first 16 weeks after giving birth except that the individual may be required to participate in suitable activities with a preference for educational activities, parenting classes, and *family stability activity*.
 - (E) A *parent* providing care for a family member who is an individual with a *disability* (see OAR 461-001-0000) and is in the *household group* (see OAR 461-110-0210) with the *parent*. Medical documentation to support the need for the care is required.
 - (F) ~~An~~ In the REF program, any of the following:
 - (i) ~~client~~ 65 years of age or older.

- (ii) An individual providing care for a family member who is in the *household group* (see OAR 461-110-0210) and has a *disability* (see OAR 461-001-0000). Medical documentation to support the need for the care is required.
 - (iii) An individual whose participation is likely to cause undue hardship to that individual.

- (G) A TANF client 60 years of age or older.
- (H) A noncitizen who is not authorized to work in the United States.
- (I) An individual who is eligible for and receives supplemental security income (SSI) from the Social Security Administration.
- (J) A *caretaker relative* (see OAR 461-001-0000) who is non-needy.
- (K) An individual whose participation is likely to cause undue hardship or is contrary to the best interests of the *dependent child* or *needy caretaker relative*.
- (L) Pregnant and participating more than 10 hours per week during the first two months of the third trimester.
- (M) A VISTA volunteer.

- (b) A *caretaker relative* of a *dependent child* or unborn who receives TANF program benefits is *mandatory* if the *caretaker relative* is in the same filing group with the *dependent child* or unborn (even if the *caretaker relative* is not in the TANF program *benefit group* under OAR 461-110-0750), unless the *caretaker relative* is otherwise *exempt* from participation under subsection (a) of this section.

- (3) In the SNAP program:
 - (a) An individual is *exempt* from registration in an employment program and disqualification if the individual meets the requirements of one of the following paragraphs. The individual is --
 - (A) An individual with a physical or mental condition that prevents performance of any work.
 - (B) Responsible for the care of a *child* (see OAR 461-001-0000) in the filing group under 6 years of age.

- (C) Responsible for the care of an individual in the household with a *disability* (see OAR 461-001-0015) that substantially reduces or eliminates the individual's ability to care for himself or herself.
 - (D) Enrolled at least half-time, as defined by the school, in any high school or equivalent program recognized by a school district or enrolled at least half-time in any school, training program, or institution of higher education. An individual remains *exempt* during normal periods of class attendance, vacation, and recess but no longer qualifies for the student exemption when a break in enrollment occurs due to graduation, suspension or expulsion, or when the student drops out of school or does not enroll in classes for the next regular school term (excluding summer term).
 - (E) Participating in a drug or alcohol treatment and rehabilitation program.
 - (F) Pregnant.
 - (G) Chronically homeless. For purposes of this rule, "chronically homeless" means the individual is currently *homeless* (see OAR 461-001-0015), unable to obtain employment due to being *homeless*, and one of the following applies:
 - (i) The individual has been *homeless* for more than six months.
 - (ii) The individual has been *homeless* more than one time in the last 12 months.
 - (iii) The individual states that the individual is unable to meet the basic necessities of everyday life.
- (b) An individual is *mandatory* for registration in an employment program and the requirements in OAR 461-130-0315 if the individual meets the requirements of one of the following paragraphs. These individuals may be disqualified under OAR 461-130-0330 for failing to meet the requirements in OAR 461-130-0315. The individual is --
- (A) Working a minimum of 30 hours a week or earning money equal to at least the federal minimum wage multiplied by 30 hours per week multiplied by 4.3 weeks. An individual who is self-employed with allowable costs must meet the earnings threshold after allowing the 50 percent deduction. This includes *migrant and seasonal farm workers* (see OAR 461-001-0015) who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days.
 - (B) Receiving REF or TANF program benefits under Title IV of the Social Security Act.

(C) In receipt of unemployment insurance benefits, has completed an application for unemployment insurance benefits and is waiting for an initial decision on the claim, or is participating in at least one of the following Employment Department training programs:

- (i) The Trade Readjustment Allowance (TRA) program serving displaced workers under the Trade Act.
- (ii) The Training Unemployment Insurance (TUI) program.
- (iii) The Self-Employment Insurance (SEA) program.
- (iv) The Apprenticeship Program (APT).

(c) A *mandatory* client is an individual in the *need group* (see OAR 461-110-0630); who is 16 or 17 years of age and a *primary person* (see OAR 461-001-0015), or 18 years of age and older and 59 years of age and younger; and who is not *exempt* under subsection (a) of this section.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.009, 412.014, 412.049
Stats. Implemented: ORS 409.010, 409.750, 411.060, 411.070, 411.816, 411.837, 412.006, 412.009, 412.014, 412.049

In a Department program administered under OAR 461-130-0305 to 461-130-0335 and OAR 461-135-0085 and 461-135-0089:

- (1) The Department does not require a client to provide verification of good cause if providing the verification would expose the client to increased risk of *domestic violence* (see OAR 461-001-0000).
- (2) If in making a determination under this rule a client's physical or mental impairment is in question, the Department may require the client to provide documentation from a qualified and appropriate medical professional.
- (3) A client is excused for good cause from a failure to comply with a program requirement, including an *activity* in a *case plan* (both terms defined in OAR 461-001-0025) in the following circumstances:
 - (a) Participation in a required *activity* in a *case plan* would have an adverse effect on or risk to the client's physical or mental health or would expose the client to increased risk of *domestic violence* (see OAR 461-001-0000).
 - (b) Except in the SNAP program, participation is likely to cause undue hardship for the *dependent child* (see OAR 461-001-0000) or the client.
 - (c) Appropriate child care, or day care for an individual in the household who has a *disability* (see OAR 461-001-0000 and 461-001-0015 as applicable) that substantially reduces or eliminates the individual's ability to care for himself or herself, cannot be obtained. "Appropriate child care" means that—
 - (A) Both the provider and the place where care is provided meet health, safety, and provider requirements as required in OAR 461-165-0180;
 - (B) The care accommodates the parent's work schedule; and
 - (C) The care meets the specific needs of the *dependent child*, such as age and special-needs requirements.
 - (d) The work attachment position or employment offered is vacant due to a strike, lockout, or other labor dispute.
 - (e) The work attachment position or employment requires the client to join a union, and the client has religious objections to unions.
 - (f) The client belongs to a union and the employment violates the conditions of the client's membership in the union.

- (g) The wage for the client's current or potential job is:
 - (A) Less than applicable minimum wage; or
 - (B) If minimum wage laws do not apply, the wage (rate for piece work) is less than that normally paid for similar work.
- (h) The client's prospective employer engages in employment practices that are illegally discriminatory on the basis of age, sex, race, religious or political belief, marital status, disability, sexual orientation, or ethnic origin.
- (i) The client's participation in a required *activity* in a *case plan* would prevent or interfere with the client's participation in an activity of the Grande Ronde Tribe's NEW program.
- (j) The client's failure to participate is due to a circumstance beyond his or her reasonable control.
- (k) When the failure to comply is caused by an aspect of the client's *disability*, including the Department's failure to provide a reasonable accommodation.
- (l) The client quits a job to accept another job with a monthly income at least equal to the monthly income of the first job.
- (m) The Department determines there are no appropriate activities or necessary *support services* (see OAR 461-001-0025) to support an *activity* (see OAR 461-001-0025) in order for the client to participate.
- (n) In the REF program:
 - (A) If the client has no means of transportation and would have to walk an unreasonable distance to meet the participation requirement. An "unreasonable distance" is a distance that requires a commute of more than two hours each day; or
 - (B) If the hours or nature of the job interferes with the client's religious observances, convictions, or beliefs.
 - (C) The service requirement or work site is in violation of applicable Federal, State, or local health and safety standards.
 - (D) The daily hours of work and the weekly hours of work exceed those customary to the occupation.

- (4) In the SNAP program, a client is excused from not accepting employment or for leaving a job under the following circumstances:
- (a) The hours or nature of the job interferes with the client's religious observances, convictions, or beliefs.
 - (b) The client accepts employment or enrolls at least half-time in any recognized school, training program, or institution of higher education that requires the client to quit a job.
 - (c) A client accepts employment or enrolls in school in another county, requiring the *benefit group* (see OAR 461-110-0750) to move and the client to quit a job.
 - (d) A client less than 60 years of age resigns, and the employer recognizes the resignation as retirement.
 - (e) The client leaves a job to follow a type of employment that moves from one area to another, such as migrant labor or construction.
 - (f) The client accepts a job that, for reasons beyond the control of the client, does not materialize or results in fewer work hours or a lower wage than the client's previous job.
 - (g) Work demands or conditions, such as not being paid for work or not being paid on schedule, make employment unreasonable.
 - (h) The wage for the client's current or potential job is less than applicable minimum wage or, if minimum wage laws do not apply, the wage (rate for piece work) is less than that normally paid for similar work.
 - (i) The work schedule for the job in question does not conform to hours customary to the occupation or the hours worked each week are more than those customary to the occupation.
 - (j) The client is not obligated to accept a job during the first 30 days of registration for employment if the job is not in the client's field of experience.
 - (k) The client has no means of transportation and would have to walk an unreasonable distance to meet the participation requirement. An "unreasonable distance" is a distance that requires a commute of more than two hours each day. The client must make a good-faith effort to secure the needed transportation.
 - (l) Lack of adequate child care for a child who is six years of age or older and less than 12 years of age.

Stats. Implemented: ORS 409.010, 411.060, 411.117, 411.816, 412.006, 412.009, 412.049

Requirement to Attend an Assessment or Evaluation, or Seek Medically Appropriate Treatment for Substance Abuse and Mental Health; Disqualification and Penalties; Pre-TANF, ~~REF~~, TANF

In the Pre-TANF, ~~REF~~, and TANF programs:

- (1) For the purposes of this rule:
 - (a) "Assessment for substance abuse" means an assessment performed by an appropriate licensed professional with the purpose of discovering the presence of substance abuse.
 - (b) "Controlled substance" means a drug or its immediate precursor classified in Schedules I through V under the Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of the term "precursor" in this subsection does not control and is not controlled by the use of the term "precursor" in ORS 475.840 to 475.980. Alcohol is not a controlled substance.
 - (c) "Self-identified illegal use" means an individual states he or she illegally used a *controlled substance* within the previous 30 days. Illegal use does not include the use of a *controlled substance* pursuant to a valid prescription, or other use authorized by the Uniform Controlled Substances Act, ORS 475.005 to 475.285 and 475.840 to 475.980, the federal Controlled Substances Act, or other Federal law.
- (2) When directed by the Department, an adult member or parenting teen in the *need group* (see OAR 461-110-0630), regardless of participation classification (see OAR 461-130-0310), must participate in:
 - (a) An *assessment for substance abuse* if:
 - (A) The individual has *self-identified illegal use* of a *controlled substance*; and
 - (B) The assessment is available and at no cost to the individual.
 - (b) Medically appropriate treatment for substance abuse if it is available and at no cost to the individual when:
 - (A) The individual reports a qualified and appropriate professional has diagnosed the individual with a substance abuse disorder within the previous twelve months; or
 - (B) An assessment resulted in a diagnosis requiring medically appropriate treatment for the individual to be successful in the workplace.

- (3) When directed by the Department, an adult member or parenting teen in the *need group* (see OAR 461-110-0630), regardless of participation classification (see OAR 461-130-0310), must participate in medically appropriate treatment for mental health if it is available and at no cost to the individual when:
 - (a) The individual reports a qualified and appropriate professional has diagnosed the individual with a mental health disorder within the previous twelve months; or
 - (b) An evaluation resulted in a mental health diagnosis requiring medically appropriate treatment for the individual to be successful in the workplace.
- (4) An individual is responsible for providing information needed by the Department to determine whether the individual had *good cause* (see OAR 461-130-0327) for failing to meet the requirements of this rule. If a medical condition must be evaluated in regard to the requirements of this rule, the Department will assist the client in obtaining a medical opinion from an appropriate medical professional.
- (5) An individual who refuses to participate in a required assessment, evaluation, or the medically appropriate treatment required by this rule is subject to disqualification in accordance with this section and OAR 461-130-0330 only after the individual has had an opportunity to participate in the re-engagement process (see OAR 461-190-0231) including a determination by the Department of whether the individual had *good cause* for non-participation. The penalties are progressive and, once imposed, continue as long as the individual refuses to participate. If there is a change in the participation classification (see OAR 461-130-0310) of the individual the penalty ends and the individual must have an opportunity to participate in the re-engagement process under OAR 461-190-0231 before applying a disqualification.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.006, 412.009, 412.049, 412.089

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.006, 412.009, 412.049, 412.089

Fleeing Felon and Violators of Parole, Probation, and Post-Prison Supervision; REF, REFM, SNAP, and TANF

- (1) ~~A person~~An individual is ineligible for the REF, REFM, SNAP, and TANF programs if ~~he or she~~the individual 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~~An individual 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~~individual. The violation continues until the Department receives a report from the corrections agency or court that the ~~person~~individual is no longer in violation.
- (5) If there is a pending arrest warrant for ~~a person~~an individual for a felony, a high misdemeanor under the law of New Jersey, or a violation of parole, probation, or post-prison supervision, the ~~person~~individual is ineligible under this rule if the ~~person~~individual is aware of the arrest warrant and has not provided the Department with evidence on request that the ~~person~~individual made a substantial effort within his or her ability to resolve the warrant.
- (6) ~~A person~~An individual is no longer considered a fleeing felon if the arrest warrant is no longer pending or the ~~person~~individual provides the Department with evidence that the ~~person~~individual made a substantial effort within his or her ability to resolve the warrant.

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

Stats. Implemented: ORS 409.010, 411.060, 411.816, 412.049

Specific Requirements; REF, REFM

- (1) In addition to the *eligibility* (see OAR 461-001-0000) requirements in other rules in OAR chapter 461, an individual must meet all of the requirements in this rule to be eligible for the REF and REFM programs.
- (2) An individual must meet the alien status requirements of OAR 461-120-0125, except a *child* (see OAR 461-001-0000) born in the United States to an individual in the REF or REFM program meets the alien status requirements for the REF and REFM programs as long as each *parent* (see OAR 461-001-0000) in the *household group* (see OAR 461-110-0210) meets the alien status requirements of OAR 461-120-0125.
- (3) An individual is not eligible to receive REF and REFM program benefits if the individual is a full-time student of "higher education", unless such education is part of a cash assistance case plan. Any education or training allowable under an approved case plan must be less than one year in length. For the purposes of this rule, "higher education" means education that meets the requirements of one of the following subsections:
 - (a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL, and high school equivalency programs at these institutions are not considered "higher education".
 - (b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered "higher education".
- (4) *Eligibility* for REF and REFM program benefits is limited to the first eight months in the United States:
 - (a) For an individual who meets the alien status requirements of OAR 461-120-0125(~~556~~)(a), (c), (d), or (e), the month that the individual enters the U.S. counts as the first month.
 - (b) For an individual who meets the alien status requirements of OAR 461-120-0125(~~556~~)(b), (f), or (g), the month that the individual was granted the individual's status counts as the first month.
 - (c) For an individual who meets the alien status requirements of OAR 461-120-0125(~~556~~)(h):
 - (A) If the individual enters the U.S. with the special immigrant status, the month that the individual enters the U.S. counts as the first month.

- (B) If the individual is granted special immigrant status after the individual has already entered the U.S., then the month in which the special immigrant status was granted counts as the first month.
- (d) Months in the United States are counted as whole months. There is no prorating of months, except as described in OAR 461-193-0320.
- (5) For an individual who meets the requirements of section (4) of this rule:
 - (a) When the individual resides in Clackamas, Multnomah, or Washington County:
 - (A) The individual is not eligible to receive REF, TANF, or TANF-related employment services through the Department. To receive benefits, the individual is required to participate in the Refugee Case Service Project (RCSP) program. This individual is referred to the individual's local resettlement agency to be enrolled in the RCSP program and receives all other Department services through the individual's local Department office.
 - (B) An individual who no longer meets the requirements of section (4) of this rule is no longer eligible to receive cash or case management services through the RCSP program. If this individual has been in the United States for 12 months or less, the individual is referred to the **employment program that is available to RCSP participants through the [New Arrival Employment Services \(NAES\) program](#)** contractor for employment services.
 - (b) When the individual resides in a county other than Clackamas, Multnomah, and Washington, the RCSP program is not available. The individual is served at the individual's local Department office.
- ~~(6) — Except for QMB, eligibility for all Medicaid and CHIP programs must be determined prior to determining eligibility for the REFM program.~~
- ~~(7) — Eligibility for the TANF program must be determined prior to the REF program.~~
- ~~(8) — An individual in the REF program may not participate in the Pre-TANF program.~~
- ~~(9) — An REFM benefit group (see OAR 461-110-0750) may continue to receive REFM for the remainder of the eight months, as stated in (4) of this rule, if:
 - ~~(a) — A newborn is born to a benefit group member while the benefit group member was receiving REFM; and~~
 - ~~(b) — The benefit group applied for OCCS Medical and was denied.~~~~
- (6) For REF and REFM, if an individual was originally resettled in Oregon through the federal refugee resettlement process, then the individual must provide the name of the local resettlement agency that resettled them.

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

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.878, 412.049, 414.685

THIS IS A NEW RULE

In the REF program:

- (1) To be eligible, an individual must be determined ineligible for TANF.
- (2) As used in this rule:
 - (a) Except as provided otherwise in this section, "good cause" means a reasonable person of normal sensitivity, exercising ordinary common sense under similar circumstances, would have --
 - (A) Quit work, including in anticipation of discharge;
 - (B) Participated in behavior leading to the individual's discharge; or
 - (C) Voluntarily reduced work hours.
 - (b) For an individual with a physical or mental impairment (as defined at 29 CFR 1630.2(h)), except as provided otherwise in subsection (c) of this section, "good cause" for leaving work means that a reasonable person with the characteristics and qualities of such individual under similar circumstances would have --
 - (A) Quit work, including in anticipation of discharge;
 - (B) Participated in behavior leading to the individual's discharge; or
 - (C) Voluntarily reduced work hours.
 - (c) There is no "good cause" if the reason for separation from employment is a labor dispute.
- (3) Except as provided otherwise under section (5) of this rule, a member of the *need group* (see OAR 461-110-0630) has a "violation" if that individual voluntarily quit employment or refused to accept an offer of employment in which that member was hired to work 100 or more hours per month or worked or was scheduled to work 100 or more hours:
 - (a) Within 30 days prior of the date of request for REF benefits; or
 - (b) While receiving REF program benefits.
- (4) A member of the *need group* is not eligible for REF program benefits:
 - (a) For the first *violation* (see section (3) of this rule), three payments months from the date that member of the *need group* was separated from their employment, voluntarily quit their employment, or refused to accept an offer of employment.

- (b) For the second *violation*, six payments months from the date that member of the *need group* was separated from their employment, voluntarily quit their employment, or refused to accept an offer of employment.
- (5) A *need group* does not have a violation based on section (3) of this rule if at least one of the following subsections applies:
- (a) The member was unable to work due to a disability or medical condition documented by a qualified and appropriate professional, and which is expected to last for 30 days or more from the *date of request* for REF program benefits.
 - (b) The member was separated from employment for a reason the Department determines is *good cause* as defined in section (2) of this rule.
 - (c) The member was separated from employment as a result of a layoff.
 - (d) The member was pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.
 - (e) The member was fleeing from or at risk of *domestic violence* (see OAR 461-001-0000).

Stat. Auth.: ORS 409.050, 411.060, 411.404

Stats. Implemented: ORS 409.010, 411.060, 411.404

Medical Coverage for Refugees; REFM

- (1) ~~Benefits in the REFM benefits program~~ are the same medical coverage as any Medicaid or CHIP program, except the QMB and CAWEM programs.
- (2) An ~~individual client~~ is not required to meet the financial eligibility criteria for ~~the REFM program~~ if the ~~individual client~~ meets all the non-financial eligibility criteria for ~~the REFM program~~ ~~and the requirements of at least one of the following subsections:~~
 - (a) ~~(a) —~~ The ~~individual client~~ loses eligibility for any Medicaid or CHIP program, except the QMB and CAWEM programs, ~~due to income from employment; or.~~
 - (b) The individual loses eligibility for any Medicaid or CHIP program, except the QMB and CAWEM programs, and is currently receiving benefits in the REF program; ~~or.~~
 - (bc) The ~~individual client~~ had ~~refugee-related~~ medical assistance established in another state based on refugee status granted by the United States Citizenship and Immigration Services, and:
 - (A) ~~m~~Moved to Oregon ~~and are~~ still within the ~~client's individual's~~ first eight months in the United States; ~~and~~
 - (B) ~~Were~~ found not eligible for any Medicaid or CHIP program. ~~.~~
- (3) An ~~individual client~~ who is determined eligible for ~~the REFM program~~ will maintain eligibility for ~~the REFM program~~ for the remainder of their first eight months in the United States even if the ~~individual client~~ loses eligibility for ~~the REF program~~ due to having income equal to or over the ~~REF~~ countable (see OAR 461-001-0000) income and *adjusted income* (see OAR 461-001-0000) limits (see OAR 461-155-0030).
- (4) An individual applying for the REFM program is not required to apply for or receive ~~REF~~ benefits in the REF program.
- (5) Except for the QMB program, *eligibility* for all Medicaid and CHIP programs must be determined prior to determining *eligibility* for the REFM program.
- (6) An REFM program *benefit group* (see OAR 461-110-0750) may continue to receive REFM program benefits for the remainder of the eight months, as stated in OAR 461-135-0900(4) of this rule, if:
 - (a) A newborn is born to a *benefit group* member while the *benefit group* member was receiving REFM program benefits; and

(b) The *benefit group* applied for Medicaid eligibility under MAGI rules (OAR 410-200) ~~OCCS Medical~~ and was denied.

Stat. Auth.: ORS 409.050, 411.060, 411.404

Stats. Implemented: ORS 409.010, 411.060, 411.404

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 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 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 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 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 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

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 REF and REFM programs, the filing group is disqualified if —
 - (A) ~~A~~ a member of the *financial group* (see OAR 461-110-0530) transferred the asset **while that member was in the U.S. and the asset was located in the U.S.;** ~~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, REFM, 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 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 REF and REFM programs, during the three years preceding the *date of request* (see OAR 461-115-0030), **if that the member of the *financial group* was residing in the U.S.**
 - (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 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

461-145-0005

Eff. ~~14~~-1-17

Agent Orange Disability Benefits

- (1) For all programs except OSIP, OSIPM, and QMB:
 - (a) Benefits from the Agent Orange Settlement Fund made by Aetna Life and Casualty for settling Agent Orange disability claims are excluded.
 - (b) 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 OSIP, OSIPM, and QMB, all payments made under the Agent ~~Oregon-Orange~~ Act of 1991 or from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation are excluded.

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

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

461-145-0035

Eff. ~~14~~-1-17

Black Lung Benefits; ~~OSIP, OSIPM, and QMB~~

~~In all programs,~~ Black Lung Benefits paid to miners or their survivors under the provisions of the Federal Mine Safety and Health Act are counted as unearned income.

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

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

Corporations and Business Entities; Income and Resources; Not OSIP, OSIPM, or QMB

- (1) The value of stocks or other ownership interest in a corporation is a resource.
- (2) Assets of the corporation essential to the employment of an individual are excluded. For instance, if the corporation owns equipment used by the individual to produce income for the corporation, the equipment is an excluded resource. If an individual must own stock in the corporation as a condition of working for the corporation, the stock is an excluded resource.
- (3) Except as provided in OAR 461-140-0040(2) ~~and section (4) of this rule~~, income of a corporation is not income of an individual with an ownership interest in the corporation until the income is distributed to the individual.

~~(4) In the REF, REFM, and SNAP programs:~~

- ~~(a) An expenditure by a business entity or corporation that benefits a *principal* (see subsection (b) of this section) such as a car or housing payment is considered available when the expenditure is made.~~
- ~~(b) For purposes of this rule, a "principal" means an individual with significant authority in a business entity or corporation, including a sole proprietor, a self-employed person (see OAR 461-145-0910), a partner in a partnership, a member or manager of a limited liability company, and an officer or principal stockholder of a closely held corporation.~~
- ~~(c) See OAR 461-145-0130, 461-145-0280, and 461-145-0470 for the treatment of earned in kind income.~~

~~(54) In the SNAP program:~~

- (a) Income from business entities and corporations is treated as follows:
 - (A) If an individual is actively working in a corporation, the income is treated as earned income.
 - (B) If an individual is actively working in an unincorporated business entity, refer to OAR 461-145-0910 to determine if the income is treated as earned or as self-employment.
 - (C) If an individual is no longer actively working to produce the income, the income is treated as unearned.
- (b) Income from a limited liability company is treated as follows:

- (A) If an individual is a member or a manager member, the income is treated as self-employment income.
- (B) If an individual is a manager but not a member, the income is treated as earned income.
- (c) For an expenditure by a business entity or corporation that benefits a *principal* such as a car or housing payment:
 - (A) The payment is considered available when the expenditure is made.
 - (B) ——For purposes of this rule, a "principal" means an individual with significant authority in a business entity or corporation, including a sole proprietor, a self-employed person (see OAR 461-145-0910), a partner in a partnership, a member or manager of a limited liability company, and an officer or principal stockholder of a closely held corporation.
 - (C) ——See OAR 461-145-0130, 461-145-0280, and 461-145-0470 for the treatment of earned in-kind income.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 412.049

Payments to clients made under Title I-B of the Workforce Investment Act (see OAR 589-020-0210) are treated as provided in this rule.

- (1) Need-based (stipend) payments are treated as unearned income except as follows:
 - (a) In the SNAP program, these payments are excluded.
 - (b) The payments are excluded ~~for~~ in the REF, REFM, and TANF programs for clients under the age of 19 years, or under the age of 20 years if the client is a *caretaker relative* (see OAR 461-001-0000).
- (2) OJT (On-the-Job Training) and work experience payments are counted as earned income, except as follows:
 - (a) The payments are excluded in the REF, REFM, and TANF programs for ~~TANF~~ clients under the age of 18 years, or under the age of 20 years if the client is a *caretaker relative* (see OAR 461-001-0000);
 - (b) The payments are excluded for an SNAP client who is:
 - (A) Under the age of 19 years and under the control of an adult member of the *fling group* (see OAR 461-110-0370); or
 - (B) Receiving OJT payments under the Summer Youth Employment and Training Program.
- (3) A support service payment for an item already covered by the benefits of the *benefit group* (see OAR 461-110-0750) is treated as unearned income. All other support service payments (including lunch payments and clothing allowances) are excluded.
- (4) A *reimbursement* (see OAR 461-001-0000) is treated as provided in OAR 461-145-0440.

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

461-145-0365

Eff. ~~94-1-1617~~

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 excluded.
 - (c) The child care allowance is treated as follows:
 - (A) For clients in the ERDC, REF, REFM, 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

Real Property Excluded under an Interim Assistance Agreement; REF, REFM, and TANF

- (1) This rule applies in the REF, REFM, and TANF programs when the *equity value* (see OAR 461-001-0000) of *real property* (see OAR 461-001-0000) puts the *financial group* (see OAR 461-110-0530) over the resource limit.
- (2) When section (1) of this rule applies:
 - (a) The *equity value* of *real property* is excluded for a maximum of nine months if the *financial group* signs and complies with the terms of the program's Interim Assistance Agreement.
 - (b) After the ninth month, the *equity value* of the property is counted as a resource.
- (3) To comply with the terms of the program's Interim Assistance Agreement, the *financial group* must agree to do all the following:
 - (a) Make a good-faith effort to sell the property; and
 - (b) Use the proceeds from the sale of the property to reimburse the Department for all benefits paid under the terms of the program's Interim Assistance Agreement. The reimbursement will not exceed the net proceeds of the sale of the property.
- (4) The amount of benefits paid while the *financial group* has excess *real property* is an overpayment if the *financial group* fails to notify the Department that the group has the property.
- (5) The amount of the benefits paid while the *financial group* has excess *real property* is an overpayment up to the net proceeds of the sale of the property if the property sells and the *financial group* does not repay the Department under the terms of the program's Interim Assistance Agreement.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.083, 412.049

- (1) In the ERDC, OSIP, OSIPM, and QMB, ~~and REFM~~ programs, *spousal support* (see OAR 461-001-0000) is counted as unearned income.
- (2) In the SNAP program:
 - (a) Payments made by the separated or divorced spouse to a third party for the benefit of the *financial group* are excluded, except that a payment for which there is a legal obligation to pay to a member of the *financial group* that is made to a third party for shelter expenses of a member of the *financial group* is counted as unearned income.
 - (b) *Spousal support* is counted as unearned income.
- (3) In the REF, ~~REFM~~, and TANF programs:
 - (a) For clients not working under a TANF JOBS Plus agreement, if the spousal support is received by the Department or Department of Justice and if continued receipt of the *spousal support* is reasonably anticipated, the spousal support is --
 - (A) Counted as unearned income when determining eligibility; and
 - (B) Excluded when determining the REF and TANF benefit amount.
 - (b) For clients working under a TANF JOBS Plus agreement:
 - (A) *Spousal support* is excluded in determining countable income.
 - (B) *Spousal support* is excluded when calculating the TANF portion of the benefit equivalency standards.
 - (C) *Spousal support* received by the client is counted as unearned income when calculating the wage supplement.
 - (c) Other *spousal support* payments (not covered under subsections (a) or (b) of this section) are counted as unearned income.

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

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

This rule explains how different programs exclude and deduct costs from self-employment gross sales and receipts.

- (1) The Department initially determines gross sales and receipts, including mileage reimbursements, minus any returns and allowances (before excluding or deducting any costs).
- (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 OSIP, OSIPM, and QMB, ~~and REF~~ programs, all costs permitted under OAR 461-145-0920 are excluded.
- (4) In the REF and REF~~M~~ programs, no costs are ~~subtracted~~ (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

461-155-0225
Income Standard; REFM

Tech. Eff. 4-1-~~16~~17

In the REFM program, the **adjusted** income standard is 200 percent of the federal poverty level, as listed in OAR 461-155-0180(5), based on the size of the *need group* (see OAR 461-110-0630).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 414.231

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 414.231

(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.~~

(43) In the 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) \$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).

(54) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all resources are excluded.

(65) In the QMB-DW program, the resource limit is \$4,000 for a one-person *need group* and \$6,000 for a *need group* containing two or more individuals.

(76) In the REF **and REFM** programs, the resource limit is:

(a) \$2,500 for any of the following:

(A) A new REF **or REFM** applicant for benefits.

(B) ~~For~~**In the REF program, the** *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 an **REF** *need group* not covered under subsection (a) of this section.

(87) 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.

(98) 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

How Income Affects Eligibility and Benefits; REF, ~~REFM~~, and TANF

- (1) In the REF and TANF programs, *countable* (see OAR 461-001-0000) income and *adjusted income* (see OAR 461-001-0000) are compared to the standards in OAR 461-155-0030 to determine *eligibility* (see OAR 461-001-0000) and benefit amount .
- (2) This section applies to filing groups that do not include an ineligible noncitizen with income. For filing groups that include an ineligible noncitizen with income, see section (3) of this rule.
 - (a) For individuals not eligible for the Exit Limit Increase (ELI) Standards in OAR 461-155-0030(3), compare the *countable* income of the *financial group* (see OAR 461-110-0530) to the applicable Countable Income Limit Standard for the *need group* (see OAR 461-110-0630) in OAR 461-155-0030(2).
 - (A) If *countable* income equals or exceeds the applicable standard, the *need group* is not eligible.
 - (B) If *countable* income is less than the applicable standard, compare the *adjusted income* of the *financial group* to the Adjusted Income Limit Standard for the *need group* in OAR 461-155-0030(4):
 - (i) If the *adjusted income* equals or exceeds the applicable standard, the filing group is not eligible.
 - (ii) If the *adjusted income* is less than the applicable standard, determine the benefit amount as provided in subsection (c) of this section.
 - (b) For individuals eligible for the ELI in OAR 461-155-0030(3), compare the *countable* income of the *financial group* to the ELI for the *need group* in OAR 461-155-0030(3).
 - (A) If *countable* income equals or exceeds the applicable ELI standard, the *need group* is not eligible.
 - (B) If *countable* income is less than the applicable ELI standard, determine the benefit amount as provided in subsection (c) of this section.
 - (c) Subtract *adjusted income* from the applicable Payment Standard for the *benefit group* (see OAR 461-110-0750) in OAR 461-155-0030(5). The remainder is the benefit amount except as provided in OAR 461-165-0060.
- (3) Income of an ineligible noncitizen in a *financial group* is prorated as provided in subsection (d) of this section. Income received by all other members of the *financial*

group who meet the citizenship requirements in OAR 461-120-0110 is not prorated. The combined *countable* income is treated as provided in this section:

- (a) For individuals not eligible for the ELI in OAR 461-155-0030(3), compare the *countable* income of the *financial group* to the applicable Countable Income Limit Standard for the *need group* in OAR 461-155-0030(2).
 - (A) If *countable income* equals or exceeds the applicable standard, the filing group is not eligible.
 - (B) If *countable* income is less than the applicable standard, compare the *adjusted income* of the *financial group* to the applicable Adjusted Income Limit Standard for the *need group* in OAR 461-155-0030(4):
 - (i) If *adjusted income* equals or exceeds the applicable standard, the filing group is not eligible.
 - (ii) If *adjusted income* is less than the applicable standard, determine the benefit amount as provided in subsection (c) of this section.
- (b) For individuals eligible for the ELI in OAR 461-155-0030(3), compare the *countable* income of the *financial group* to the ELI for the *need group* in OAR 461-155-0030(3).
 - (A) If *countable* income equals or exceeds the ELI, the *need group* is not eligible.
 - (B) If *countable* income is less than the ELI, determine the benefit amount as provided in subsection (c) of this section.
- (c) Subtract the total of the prorated income (see subsection (d) of this section) of all ineligible noncitizens and *adjusted income* of all other members of the filing group from the applicable Payment Standard in OAR 461-155-0030(5) for the *benefit group*. The remainder is the benefit amount except as provided in OAR 461-165-0060.
- (d) Prorate *adjusted income* used in subsection (c) of this section that belongs to an ineligible noncitizen by dividing it by the number in the *need group* and multiplying it by the number in the *benefit group*.

(4) In the REFM program:

- (a) ~~The adjusted~~ "Adjusted income" is defined as all *countable* income minus the earned income deduction and all medical-related expenses incurred during the month of application.

(b) Only the *adjusted* (see OAR 461-001-0000) income”adjusted income” in subsection (a) of this section is compared to the standards in OAR 461-155-0225 to determine *eligibility* (see OAR 461-001-0000).

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.009, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.009, 412.014, 412.049

461-160-0160

Eff. ~~14-1-1417~~

Earned Income Deduction; REF, **REFM**, and TANF

- (1) In the REF **and REFM** programs, the earned income deduction authorized in this division of rules is allowed for each person in the financial group who has earned income. The earned income deduction is 50 percent of the client's gross earned income including self-employment income.
- (2) In the TANF program:
 - (a) For a self-employed client participating in the microenterprise component of the JOBS program, the earned income deduction for income *earned in the microenterprise* is 50 percent of the client's countable income calculated pursuant to OAR 461-145-0920 and 461-145-0930.
 - (b) For all other *income*, the earned income deduction is 50 percent of the client's gross earned income, including self-employment income.

Stat. Auth.: ORS **409.050**, 411.060, 412.049

Stats. Implemented: ORS **409.010**, 411.060, 412.049

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.
 - (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.
 - (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~~ ~~during the~~ same ~~period of time~~ ~~month~~ that an individual ~~in the REF or TANF filing group in that~~ ~~group was enrolled in or~~ 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

Notice Situation; Disqualification

- (1) If a *benefit group* (see OAR 461-110-0750) or individual is disqualified for a SNAP voluntary job quit or for failure to apply for or provide an SSN, pursue assets, cooperate in the JOBS, JOBS Plus, **REF Employment Program**, or a SNAP Employment and Training program, or assist the state's efforts to collect support, the Department sends the following type of notice:
 - (a) If benefits are reduced or closed because of the disqualification:
 - (A) A *continuing benefit decision notice* (see OAR 461-001-0000) is used when changes are reported on the Interim Change Report form.
 - (B) A *timely continuing benefit decision notice* (see OAR 461-001-0000) is used when changes are not reported on the Interim Change Report form.
 - (b) If benefits are opened without the disqualified individual in the *benefit group* or if the entire *benefit group* is denied assistance, a *basic decision notice* (see OAR 461-001-0000) is used.
- (2) For a JOBS, JOBS Plus, **REF Employment Program**, or a SNAP Employment and Training disqualification, and for a SNAP voluntary job quit by an individual receiving SNAP benefits, the notice includes the following information:
 - (a) The client action that resulted in disqualification.
 - (b) The length of the minimum disqualification period.
 - (c) The reduced benefit amount.
 - (d) How the client may end the disqualification after the minimum period.
- (3) For an ABAWD disqualified due to the SNAP time limit in OAR 461-135-0520, the notice includes the following information:
 - (a) The action that resulted in the disqualification.
 - (b) The reduced amount when there are other eligible persons in the filing group.
 - (c) How the individual may regain eligibility for SNAP benefits.
- (4) For a voluntary job quit by an individual applying for SNAP benefits, the notice includes the following information:
 - (a) The action that resulted in the disqualification; and

- (b) The length of the disqualification period.
- (5) For an IPV disqualification:
- (a) In all programs except the SNAP program, the Department does not send a notice of termination to an individual disqualified for an IPV after a court order, a final order from an administrative hearing, or a signed waiver (see OAR 461-175-0200(9)(c)(C) and OAR 461-195-0621(2)) that imposes the disqualification.
 - (b) In the SNAP program:
 - (A) After an individual signs an IPV waiver, the Department sends a *basic decision notice* to terminate benefits. If the Department receives a timely request for a hearing, the contested case hearing addresses the issues set out in OAR 461-195-0611(3).
 - (B) The Department does not send a notice of termination to an individual disqualified for an IPV after a court order or a final order from an administrative hearing.
 - (c) In all programs, the Department sends a *continuing benefit decision notice* when benefits for other individuals in the *benefit group* are closed or reduced because an individual in the *benefit group* is disqualified for an IPV.
- (6) For a disqualification due to being a fleeing felon or in violation of parole, probation, or post-prison supervision (under OAR 461-135-0560):
- (a) A *basic decision notice* is required if benefits are opened without the disqualified individual in the *benefit group* or if the entire filing group is denied benefits.
 - (b) A *timely continuing benefit decision notice* is required if an individual in the *benefit group* is disqualified.
- (7) The notice situation for a disqualification due to a transfer of assets is covered in OAR 461-175-0310.

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

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049

Re-engagement; JOBS, Pre-TANF, REF, SFPSS, TA-DVS

In the JOBS, Pre-TANF, REF, SFPSS, and TA-DVS programs:

- (1) When aspects of the *case plan* have not been met or are in dispute, the re-engagement process provides an opportunity for the client and the Department to --
 - (a) Review and re-evaluate the *case plan* and other information gathered related to the client's strengths and barriers;
 - (b) Identify participation expectations, concerns related to participation, and completion of *activities* in the *case plan*;
 - (c) Consider whether the *case plan* is still appropriate;
 - (d) Develop options that support full participation; and
 - (e) Revise the *case plan* if appropriate.
- (2) The re-engagement process is intended to assist the Department in identifying whether the client is unable to fully participate or whether the client is or has been willfully non-complaint.
 - (a) In the JOBS, Pre-TANF, REF, and SFPSS programs, if:
 - (A) A screening for physical or mental health needs, substance abuse, *domestic violence* (see OAR 461-001-0000), or learning needs has not been completed, the re-engagement process requires an additional opportunity to initiate those screenings for potential barriers to participation not previously identified.
 - (B) A screening described in paragraph (A) of this subsection indicates follow-up is needed. The re-engagement process requires an opportunity to initiate the follow-up for potential barriers to participation not previously identified.
 - (b) Circumstances that require a determination of whether *good cause* (see OAR 461-130-0327) exists include disagreements about the *case plan*, irregular attendance at *activities*, missed appointments, failure to participate in a *component* of the *case plan*, and (in the JOBS program) refusal to accept or maintain employment.
 - (c) In the TA-DVS program, there are no participation requirements. The re-engagement process is intended to provide an opportunity to address problems with the case plan (see OAR 461-135-1230) and an opportunity to modify the case plan.
- (3) In the JOBS and REF programs, the re-engagement process must include:

- (a) Assessing the risk of harm posed to the children in the filing group by the reduction in aid payments and taking steps to ameliorate the risk.
 - (b) An attempted home visit.
- (4) The client, the Department, or the Department's contractor may initiate the re-engagement process. The re-engagement process is not a required *activity*. The Department may not disqualify clients based on their failure to participate in the re-engagement process.
- (5) The client or Department may invite partner agencies, Department contractors, persons currently working with the client, or other individuals who have information relevant to the re-engagement process to any appointments or meetings scheduled as part of the process.
- (6) The re-engagement process ends when any of the following subsections applies:
- (a) The Department and the client agree to a modified *case plan*.
 - (b) Efforts to re-engage are unsuccessful.
 - (c) In the JOBS, Pre-TANF, and REF programs:
 - (A) Except in the REF program, the Department has determined the client has met *federally required participation rates* (see OAR 461-001-0025);
 - (B) The Department has determined the client is *exempt* from JOBS and REF ~~e~~Employment ~~p~~Program participation and disqualification under OAR 461-130-0310(2)(a).
 - (C) The client clearly indicates an intent not to participate in the re-engagement process;
 - (D) The client is willfully non-compliant and has the ability to be fully engaged;
 - (E) The client has no barriers or refuses to take appropriate steps to address identified barriers to participation in the program; or
 - (F) A decision is made by the Department that a client did not have *good cause* for not complying with a requirement of the JOBS or REF ~~e~~employment programs, and the client is able but unwilling to address the issue through *activities* that address barriers or through *case plan* modifications.
 - (d) In the SFPSS program, after a review team consisting of SFPSS program staff including the case manager, disability analyst, and appropriate medical professional determine the client does not have good cause for non-cooperation

and no accommodations or modifications can be made to support the client being re-engaged.

- (7) The re-engagement process must end unsuccessfully before the Department begins the process of disqualifying a client for a failure to comply with a requirement of the JOBS or REF employment programs.
- (8) In the SFPSS program, when the re-engagement process ends unsuccessfully, a client removed from the program is returned to the TANF program.
- (9) For a participant in the Parents as Scholars (PAS) component of the JOBS program, when re-engagement ends unsuccessfully, PAS is ended pursuant to OAR 461-190-0199.

Stat. Auth.: ORS 411.060, 412.009, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.117, 412.009, 412.014, 412.049

Eligibility Requirements; Refugee Case Services Project (RCSP)

An individual must participate in the Refugee Case Services Project if the individual meets all of the following: ~~In the RCSP program, to be eligible an applicant must meet the requirements of sections (1) to (6) of this rule, and section (7) if section (7) applies:~~

- (1) Meet all REF or TANF program *eligibility* (see OAR 461-001-0000) requirements.
- (2) Meet the alien status requirements under OAR 461-120-0125~~(55)~~.
- (3) Reside in Clackamas, Multnomah, or Washington County.
- (4) Have resided in the U.S. for eight months or less. The first month is, for an individual meeting the alien status requirements of OAR 461-120-0125 --
 - (a) Subsections ~~(556)~~(a), (c), (d), or (e), the month the individual entered the United States.
 - (b) Subsections ~~(556)~~(b), (f), or (g), the month the individual was granted the individual's immigration status.
 - (c) Subsection ~~(556)~~(h) --
 - (A) If the individual entered the U.S. with special immigrant status, the month the individual entered the United States.
 - (B) If the individual is granted special immigrant status after entering the U.S., the month in which the special immigrant status was granted.
 - (d) Each month in the U.S. is counted as a whole month; there is no prorating of any month.
- (5) Be 64 years old or younger.
- ~~(6) For a newborn, a parent (see OAR 461-001-0000) must provide verification of the child's birth, including the date of birth. The newborn child's U.S. arrival date and eligibility period are the same as those for the child's mother.~~

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 412.006, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.116, 412.006, 412.049

Intentional Program Violations; Defined

- (1) In the child care programs, a provider commits an *intentional program violation* (IPV) by intentionally making a false or misleading statement or misrepresenting, concealing, or withholding information related to his or her request to be eligible for a child care payment under OAR 461-165-0180 or a claim for a child care payment.
- (2) In the SNAP program:
 - (a) An individual commits an *intentional program violation* by --
 - (A) Making a false or misleading statement or misrepresenting, concealing or withholding a fact relating to the use, presentation, transfer, acquisition, receipt, possession, or *trafficking* (see OAR 461-195-0601(2)(b)) of SNAP benefits; or
 - (B) Committing any act that constitutes a violation of the Food Stamp Act, the SNAP program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, possession, or *trafficking* of SNAP benefits.
 - (b) "Trafficking" means any of the following:
 - (A) The buying, selling, stealing, or other exchange of SNAP benefits for cash or consideration other than eligible food, either directly or indirectly, in complicity or collusion with others or acting alone.
 - (B) The exchange of firearms, ammunition, explosives, or controlled substances (as defined in section 802 of title 21, United States Code), for SNAP benefits.
 - (C) Purchasing a product with SNAP benefits that has a container return deposit with the intent of obtaining cash by intentionally discarding the product and returning the container for the deposit amount.
 - (D) Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by intentionally reselling the product purchased with SNAP benefits.
 - (E) Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food.
- (3) In the SFPSS program, an individual commits an intentional program violation by intentionally --
 - (a) Making a false or misleading statement or misrepresenting, concealing, or withholding a fact for the purpose of establishing or maintaining *eligibility* (see

OAR 461-001-0000) for SFPSS or increasing, or preventing a reduction in, the amount of the SFPSS grant; or

- (b) Committing any act intended to mislead or to conceal or withhold information for the purpose of establishing or maintaining *eligibility* for SFPSS or increasing, or preventing a reduction in, the amount of the SFPSS grant.

(4) In the REF, REFM, and TANF programs, an individual commits an *intentional program violation* by intentionally---

- (a) Making a false or misleading statement or misrepresenting, concealing, or withholding a fact for the purpose of establishing or maintaining *eligibility* for the REF, REFM, ~~and~~ TANF programs, or increasing, or preventing a reduction in, the amount of the REF or TANF grant; or
- (b) Committing any act intended to mislead or to conceal or withhold information for the purpose of establishing or maintaining *eligibility* for the REF, REFM, ~~and~~ TANF programs, or increasing, or preventing a reduction in, the amount of the REF or TANF grant.

Stat. Auth.: ORS 411.060, 411.660, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.630, 411.635, 411.660, 411.816, 412.014, 412.049