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PERMANENT ADMINISTRATIVE RULES

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June 5, 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 July 1, 2017.

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

Rule Caption: *Amending rules relating to APD medical program eligibility*

ADOPT: 461-145-0285, 461-145-0348

AMEND: 461-120-0010, 461-120-0345, 461-120-0350, 461-135-0832, 461-135-0835, 461-145-0040, 461-145-0050, 461-145-0108, 461-145-0110, 461-145-0145, 461-145-0150, 461-145-0210, 461-145-0240, 461-145-0320, 461-145-0435, 461-145-0440, 461-145-0460, 461-145-0510, 461-145-0520, 461-155-0580, 461-155-0600, 461-155-0620, 461-155-0630, 461-155-0670, 461-155-0688, 461-160-0551, 461-160-0590, 461-160-0620, 461-160-0780, 461-165-0030

REPEAL: 461-155-0551, 461-155-0640, 461-170-0120, 461-135-0832(T), 461-135-0835(T), 461-155-0670(T)

ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Stat. Auth.

42 USC 408, 654, 1386k, 1396p, 1396r; P.L. 100-383; 20 CFR 416.1231, 42 CFR 433.36, 433.135, 433.145, 433.147, 433.148, 42 CFR 435.403, 435.406, 435.407, 435.725 – 435.735, 435.940 – 435.960

Other Auth.

ORS 409.010, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented

Rule Summary

OAR 461-120-0010 about residency requirements is being amended to state that an individual is considered a resident in the OSIPM and QMB programs if the individual entered Oregon with a job commitment or looking for work, and is not receiving benefits from another state.

OAR 461-120-0345 about pursuit of healthcare and cash medical support and OAR 461-120-0350 about good cause for not complying with requirements to pursue child support, health care coverage, and medical support

are being amended to clarify that the requirement to actually assign the rights and pursue healthcare/cash medical support applies only to the individuals who can legally assign right of themselves or others, not the person whose rights that individual can legally assign who cannot legally assign his or her own rights (such as a child, for example). These amendments also clarify that those whose rights must be assigned do not have to be in the OSIPM or QMB filing group, rather, rights must be assigned for anyone receiving any type of Medicaid under the state plan. These amendments distinguish between who actually has to assign to stay eligible for OSIPM and QMB, and whose rights that person must assign. The responsibility to pursue health insurance and cash medical support is based on who is legally able to assign rights for whom. OAR 461-120-0345 is also being amended to support current practices by adding the QMB programs. These amendments align the Department with federal policy and prepare the Department for the implementation of Integrated Eligibility.

OAR 461-135-0832 and OAR 461-135-0835 about limits on estate claims and definitions used in estate administration rules are being amended to make permanent temporary rule changes effective February 13, 2017 and implement an adverse Oregon Supreme Court decision by amending the definition of "estate" with respect to the collection of payments for assistance provided and limit when the Department collects against the spouse of a recipient. OAR 461-135-0835 about limits on estate claims is also being amended to remove the word "probate" from the definition of "probate estate" to bring the rule in line with ORS 416.350 which directs recovery against the "estate" of a spouse of the Medicaid recipient under certain circumstances.

OAR 461-145-0040 about burial arrangements and burial funds is being amended to clarify the rule and make it consistent with federal manual sections on the topic.

OAR 461-145-0050 about burial spaces and merchandise is being amended to revise when the cost of these items provides an exclusion from client assets considered in determining eligibility. These changes clarify the rule and make the policy consistent with federal law and manuals on the topic.

OAR 461-145-0108 about dividends, interest and royalties is being amended to add for the OSIP, OSIPM and QMB programs how dividends and interest income is treated. This amendment also establishes and clarifies how royalty income is treated in the OSIP, OSIPM, and QMB programs, and clarifies that royalties include compensation paid to the owner for the use of property, usually copyrighted material or natural resources, such as coal, oil, or natural gas. These amendments bring the Department into compliance with federal manuals on this topic.

OAR 461-145-0110 about the effect on eligibility of payments under the Domestic Volunteer Services Act (VISTA, RSVP, SCORE, ACE) is being amended to clarify when payments under Title I of the Domestic Volunteer Services Act of 1973 are excluded for the OSIP, OSIPM, and QMB programs, bring the rule into compliance with federal guidance in the SSA POMS at SI 00830.610.

OAR 461-145-0145 about educational accounts is being amended to add APD medical programs and their treatment of this asset type to the rule.

OAR 461-145-0150 about educational income is being amended to state an exclusion for certain VA educational benefits and clarify how other types of education income are treated, aligning APD medical programs with current federal policy.

OAR 461-145-0210 about the effects of gifts and winnings on eligibility is being amended to change how these items are treated. Under these amendments, the value of a gift card or certificate is income in the month it is received if the gift card or certificate can be used to purchase food or shelter or can be resold (with a rebuttable presumption that the gift card or certificate can be resold). In the OSIP, OSIPM, and QMB programs, if an individual is offered a choice between an in-kind item and cash, the cash amount is considered unearned income regardless of how the individual chooses to take the item; and gambling losses are not subtracted from gambling

winnings in determining the individual's countable income. These changes are intended to comply with federal guidance on these topics.

OAR 461-145-0240 about income-producing sales contracts and OAR 461-145-0460 about sale of a resource are being amended to remove the provisions that apply to treatment of these assets that originate prior to October 12, 2012. These changes are intended to streamline eligibility processes.

OAR 461-145-0285 about Japanese-American restitution payments is being adopted to establish for the OSIP, OSIPM and QMB programs that Japanese-American restitution payments are excluded from income and resources. This rule also establishes how income is treated for payments to a survivor, that restitution payments from the Canadian Government are excluded income, and that interest earned on unspent Japanese-American and Japanese-Canadian restitution payments is excluded from income and resources. This rule is being adopted to follow federal law.

OAR 461-145-0320 about life insurance is being amended to state that burial insurance that generates a cash surrender value is treated in the same manner that this rule treats life insurance. This rule is also being amended to state that when the ownership or beneficiary of a life insurance policy has been irrevocably assigned and designated for burial, it is treated in accordance with OAR 461-145-0040 and not counted towards the \$1500 life insurance limit. This amendment also states when the face value of term life insurance policies are not counted in determining if the life insurance exclusion limit is exceeded.

OAR 461-145-0348 about mineral rights is being adopted to define this term and explain how the Department treats mineral rights property and income generated from mineral rights when determining eligibility. This rule aligns the Department with federal guidance.

OAR 461-145-0435 about the effect of refunds on eligibility decisions is being amended to cover the treatment of rebates and fill in gaps that currently exist in treatment of different types of refunds and rebates for APD programs, based on federal policy.

OAR 461-145-0440 about the effect of reimbursements on eligibility decisions is being amended to indicate that a reimbursement for an item already covered by benefits is counted as unearned income. This clarifies the rule and complies with federal law.

OAR 461-145-0510 about the effect of SSI benefits in the determination of eligibility is being amended to set out the policy of the Department about how to treat SSI when the SSI recipient is in the financial group of an individual not assumed eligible. This amendment aligns with federal policy, prepares the Department for the implementation of Integrated Eligibility, and supports current practices.

OAR 461-145-0520 about stocks, bonds, and other securities is being amended to state that in the OSIPM and QMB-DW programs, the value of a savings bond issued by the United States Department of the Treasury is excluded during the minimum retention period. This amendment also clarifies for all other programs, the value of a savings bond issued by the United States Department of the Treasury is excluded during the minimum retention period if the owner has received a denial of a request for a hardship waiver based on financial need. These amendments align the Department with federal policy.

OAR 461-155-0551 about special needs payments for home adaptations to accommodate a client's physical condition is being repealed to prevent duplication of rules.

OAR 461-155-0580 about special need allowances for laundry, OAR 461-155-0600 about special need payments for home repairs, OAR 461-155-0620 about property taxes, OAR 461-155-0630 about community based care, OAR 461-155-0670 about special diet allowances, OAR 461-155-0688 about drug co-pay coverage, and OAR 461-160-0551 about income deductions are being amended to use terms more consistently with other

rules, making them easier to follow. OAR 461-155-0600 is also being amended to state that the home adaptations covered must be performed by a licensed and bonded contractor. OAR 461-155-0670 is also being amended to indicate that the rule does not apply to the OSIP program, that special diet allowances must be reauthorized on an annual basis (instead of reviewed at 6-month intervals), and clarify statements about the amount of the special diet allowance adopted by temporary rule effective April 1, 2017.

OAR 461-155-0640 about restaurant meals is being repealed because the rule is not needed.

OAR 461-160-0590 about assessment of resources and the community spouse provision for the OSIP and OSIPM programs is being amended to state that either the community spouse or the institutional spouse has a right to an administrative hearing, clarify which issues surrounding the resource assessment process are hearable, and clarify the requirements that apply to properly submit such hearing requests.

OAR 461-160-0620 about income deductions and client liability for long-term care services and waived services is being amended to update the minimum community spouse income allowance (Minimum Monthly Maintenance Needs Allowance or MMMNA) and the community spouse monthly housing allowance which are published by the federal government each year. This amendment keeps Oregon in line with current federal standards for Department Medicaid programs and changes to the MMMNA and community spouse monthly housing allowance under the Spousal Impoverishment laws.

OAR 461-160-0780 about determining adjusted income for the OSIP-EPD and OSIPM-EPD programs is being amended to indicate that countable earned income (not gross earned income) is used in the process of reaching adjusted income. This change aligns the rule with current practices.

OAR 461-165-0030 about concurrent and duplicate benefits is being amended to correct an inadvertent omission of MAGI Child to the programs that may coexist with Medicare Savings Programs. This rule is also being amended to state that the QMB-DW and QMB-SMF programs may not coexist with other Medicaid programs, aligning this rule with OAR 461-135-0730.

OAR 461-170-0120 about monthly change reports is being repealed because this rule is no longer needed.

Residency Requirements

- (1) To be eligible for benefits, an individual must be a resident of Oregon.
- (2) Except as provided otherwise in OAR 461-120-0030 and this rule, an individual is a resident of Oregon if the individual lives in Oregon.
- (3) There is no minimum amount of time an individual must live in Oregon to be a resident. However, the individual must intend to remain in Oregon except in the following situations:
 - (a) EA may be issued to help an individual return to a former state of residence.
 - (b) In the OSIPM, QMB, and REFM programs, when an individual is presumed incapable of forming an intent to reside under OAR 461-120-0050.
 - (c) In the OSIPM, QMB, REF, and TANF programs, an individual is considered a resident if the individual entered Oregon with a job commitment or looking for work, and is not receiving benefits from another state.
 - (d) The SNAP program does not require intent to remain to establish residency.
 - (e) In the TA-DVS program, to the extent permitted under OAR 461-135-1200.
- (4) An individual is not a resident if the individual is in Oregon solely for a vacation.
- (5) An individual continues to be a resident of Oregon during a temporary period of absence if the individual intends to return when the purpose of the absence is completed; and, in the TANF program, the individual remains in the household group under OAR 461-110-0210.

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

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.025, 414.033, 414.685, 414.826, 414.839

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

This rule explains the obligation of ~~clients to obtain health care coverage and cash medical support for members in the OSIPM program.~~ individuals applying for or receiving benefits under the OSIPM or QMB programs to obtain health care coverage and cash medical support for any individual receiving Medicaid under the state plan for which the individual can legally assign rights (see OAR 461-120-0310).

- (1) Unless excused from the requirements of subsection (d) of this section or for *good cause* defined in OAR 461-120-0350,;

~~(a) each adult client~~ Individuals must ~~assist~~ cooperate with the Department and the Division of Child Support of the Department of Justice in establishing ~~paternity for each of his or her children and obtaining an order directing the non-custodial parent (see OAR 461-001-0000) of a child (see OAR 461-001-0000) receiving Medicaid through OHA or DHS to provide;~~ the identity of the parents (see OAR 461-001-0000) of any child (see OAR 461-001-0000) receiving Medicaid under the state plan for which the individual can legally assign rights.

~~(a) —~~ Cash medical support for that *child*; and

~~(b) —~~ Health care coverage for that *child*.

(b) Individuals must cooperate with obtaining cash medical support.

(c) _____

- ~~(2)~~ Each ~~adult client~~ individual must make a good faith effort to obtain available coverage under Medicare. In the OSIPM program, the applicant is not required to enroll in Medicare Part A coverage if all of the following are true:

~~(a)~~ (A) The applicant will incur a cost for the coverage.

~~(b)~~ (B) The applicant is otherwise ineligible for QMB-BAS.

~~(c)~~ (C) The applicant does not have a service liability in excess of the Part A premium.

(d) The Department may not refer a case for medical support enforcement when the referral is based solely on health care services provided through an Indian Health Program to a child who is eligible for health care services from the Indian Health Service.

- (32) Each ~~adult client~~individual must make a good faith effort to obtain available coverage under Tri-Care.
- (43) To be eligible for the OSIPM and QMB-BAS programs, once informed of the requirement, an individual who is able to must apply for, accept, and maintain cost-effective, employer-sponsored health insurance (see OAR 461-155-0360). In the OSIPM and QMB-BAS programs, the ~~client~~individual is not required to incur a cost for the health insurance.
- (54) An individual who fails to meet an applicable requirement in sections (1), (2), or (3), ~~or~~ (4) of this rule is ineligible.
- (65) In the case of an individual failing to meet the requirements of section (1) of this rule, the Department applies the penalty after providing the client with notice and opportunity to show the provisions of OAR 461-120-0350 apply.
- (76) The penalty provided by this rule ends when the ~~client~~individual meets the requirements of this rule.
- (7) The penalty does not apply to individuals who are not legally able to assign rights on behalf of themselves.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, ~~412.024, 412.049~~413.085, 414.685
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, ~~412.001, 412.024,~~
~~412.049, 413.085,~~ -414.025, 414.685

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

- (1) ~~A-In all programs except the OSIPM and QMB programs, a~~ client is excused from the requirements of OAR 461-120-0340(1) and 461-120-0345(1)(a) if:
 - (a) The client's compliance would result in emotional or physical harm to the *dependent child* (see OAR 461-001-0000) or to the *caretaker relative* (see OAR 461-001-0000). The statement of the *caretaker relative* alone is prima facie evidence that harm would result;
 - (b) The child was conceived as a result of incest or rape and efforts to obtain support would be detrimental to the *dependent child*. The statement of the *caretaker relative* alone is prima facie evidence on the issues of conception and detrimental effect to the *dependent child*;
 - (c) Legal proceedings are pending for adoption of the needy child; or
 - (d) The parent is being helped by a public or licensed private social agency to resolve the issue of whether to release the child for adoption.
- (2). In the OSIPM and QMB programs, an individual is excused from the requirements of OAR 461-120-0315 and 461-120-0345 if any of the following subsections are applicable:
 - (a) The individual's compliance would result in emotional or physical harm to the individual, the spouse, or any child on whose behalf cooperation is required. The statement of the individual or spouse serves as prima facie evidence that harm would result.
 - (b) The child was conceived as a result of incest or rape and efforts to cooperate would be detrimental to the child, the individual, or the spouse. The statement of the individual serves as prima facie evidence on the issues of conception and the detrimental effects on the child, individual, or spouse.
 - (c) Legal proceedings are pending for adoption of the child.
 - (d) The parent is being helped by a public or licensed private social agency to resolve the issue of whether to release the child for adoption.
 - (e) The individual is pregnant.
- (23) In the REFM program, a pregnant client is excused from the requirements of OAR 461-120-0345.

Stat. Auth.: ORS [409.050](#), 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, [413.085](#), 414.231, [414.685](#)

Stats. Implemented: ORS [409.010](#), 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, [413.085](#), 414.231, [414.685](#)

Estate Administration; Definitions

Effective July 18, 1995, for purposes of these rules (OAR 461-135-0832 to 461-135-0847) and ORS 93.268, 410.075, 411.620, 411.630, 411.694, 411.708, 411.795, 416.310, 416.340, and 416.350 the terms listed below have the meanings ascribed to them herein; provided, however, as used in these rules, any term has the same meaning as when used in a comparable context in the laws of the United States in effect on June 1, 1996, relating to the recovery of medical assistance paid by a state pursuant to 42 USC 1396 et. seq. relating to Grants to States for Medical Assistance Programs, unless a different meaning is clearly required or the term is specifically defined herein. The Department applies the definitions and procedures set forth in these rules to recoveries and claims made pursuant to ORS 411.708, 411.795, 416.310, 416.340, and 416.350.

- (1) "Assets" means all income and resources of an individual, including any income or resources that an individual is entitled to at the time of death, including any income or resources to which the individual is entitled, but does not receive, because of action: by the individual; the individual's *spouse* (see OAR 461-001-0000); by a person, including a court or administrative body with legal authority to act in place of or on behalf of the individual; or by any person, including any court or administrative body, acting at the direction or upon the request of the individual.
- (2) "Assign" means a *person* who acquires an interest in *real* or *personal property* or an *asset* pursuant to a written or oral assignment of such *real* or *personal property* or *asset* from a *person* with the legal right to assign it.
- (3) "Assistance" means general assistance and public assistance as defined in ORS 411.010 and medical assistance as defined in ORS 414.025.
- (4) "Bona fide purchaser for value" means any *person* who provides consideration, including money or property, to a seller or transferor of *real property* or *personal property* equal to the fair market value of the *real* or *personal property* sold or transferred.
- (5) "Child under age 21" means the deceased recipient's natural or adopted son or daughter who is under 21 years of age throughout the time the Department seeks to enforce its claim.
- (6) "Child with a disability" means the deceased recipient's natural or adopted son or daughter of any age, who meets SSI disability criteria throughout the time the Department seeks to enforce its claim, and who presents evidence to the Department substantiating the disability within two years after the Department initially asserts its claim.
- (7) "Child with a visual impairment" means the deceased recipient's natural or adopted son or daughter, of any age, who, within two years after the Department initially asserts its

claim, substantiates blindness throughout the time the Department seeks to enforce its claim by presenting evidence of:

- (a) Vision of 20/200 or less in the better eye with a corrective lens;
 - (b) A limitation in vision field to an angle of 20 degrees or less; or
 - (c) Meeting any other SSI criteria for blindness.
- (8) "Consideration furnished test" means the method by which the ownership of *real* or *personal property* is traced to its economic origin. The fractional share of the property considered owned by a co-owner shall be that fractional share to have originally belonged to or to be attributable to the monetary consideration furnished by the co-owner. The fractional share is based on the proportion the original ownership share or monetary consideration bore to the acquisition cost and, if applicable, capital additions for the property. The fractional share is not based on the dollar amount of contribution compared to the current market value of the property. For example, if one co-owner contributed \$2,500 and the other \$7,500 to the purchase price of a \$10,000 property in 1960; in 1995, the property is appraised at \$50,000. The co-owner who contributed \$2,500 is considered to own 25% of the property in 1995.
- (9) "Convincing evidence" includes, but is not limited to:
- (a) Recorded documents of title.
 - (b) Unrecorded documents of title executed contemporaneously with the transaction or transfer at issue.
 - (c) Tax statements or returns.
 - (d) Records of banking, financial or other similar institutions.
 - (e) Written receipts, bills of sale or other writings or documents executed contemporaneously with the transaction or transfer at issue.
 - (f) Such other reliable, probative evidence, including oral, of a similar nature and authenticity that accurately reflects the true facts of the transaction or transfer at issue.
- (10) "Date of request" means the date an individual or someone authorized on behalf of the individual contacts the Department or uses another appropriate method to request benefits (see OAR 461-115-0150). The request may be oral or in writing. It starts the application process.
- (11) "Department" means the Department of Human Services, the Oregon Health Authority, or both.

(12) "Domestic partner" means an individual joined in a domestic partnership as defined in ORS 106.310.

(13) "Estate" means with respect to the collection of payments made for *medical assistance* provided ~~prior to~~ on or after July 18, 1995:

~~(a) — For recipients who die prior to October 1, 2008,~~ all *real property, personal property, or other assets*, wherever located, in which a recipient had any *legal title* or ownership or beneficial interest at the *time of death*, including *real property, personal property, or other assets* conveyed by the recipient to, subsequently acquired by, or traceable to, a *person*, including the recipient's *spouse* and any successor-in-interest to the recipient's *spouse*, through:

~~(Aa)~~ Tenancy by the entirety;

~~(Bb)~~ *Joint tenancy*;

~~(Cc)~~ *Tenancy in common*;

~~(Dd)~~ Not as tenants in common, but with the right of *survivorship*;

~~(Ee)~~ *Life estate*;

~~(Ff)~~ *Transfer on death deed*;

~~(Gg)~~ *Living trust*;

~~(Hh)~~ Annuity purchased on or after April 1, 2001; or

~~(Ii)~~ Other similar arrangement.

~~(b) — For recipients who die on or after October 1, 2008,~~ all *real property, personal property, or other assets*, wherever located, in which a recipient had any *legal title* or ownership or beneficial interest at the *time of death* of the recipient, including *real property, personal property, or other assets* conveyed by the recipient to, subsequently acquired by, or traceable to, a *person*, including the recipient's *spouse* and any successor-in-interest to the recipient's *spouse*, through:

~~(A) — Tenancy by the entirety;~~

~~(B) — *Joint tenancy*;~~

~~(C) — *Tenancy in common*;~~

~~(D) — Not as tenants in common, but with the right of *survivorship*;~~

~~(E) — Life estate;~~

~~(F) — Transfer on death deed;~~

~~(G) — Living trust;~~

~~(H) — Annuity purchased on or after April 1, 2001; or~~

~~(I) — Other similar arrangement, includes, but is not limited to, an interspousal transfer of assets, including one facilitated by a court order, which occurred no earlier than 60 months prior to the first date of request established from the recipient's and the recipient's spouse's applications, or at any time thereafter, whether approved, withdrawn, or denied, for the medical assistance program.~~

- (14) "General Assistance" means "general assistance" as defined in ORS 411.010.
- (15) "Heir" means any individual, including the surviving *spouse*, who is entitled under *intestate succession* to the *real property, personal property, and assets* of a decedent who died wholly or partially *intestate*.
- (16) "Interest" means any form of legal, beneficial, equitable or ownership interest.
- (17) "Interspousal transfer" means any transfer, or chain of transfers, that effectively transfers title or control of an asset, or an interest in an asset, from one *spouse* to another, including: direct transfers between spouses, transfers from one or both spouses to a trust, and transfers from one trust to another trust.
- (18) "Intestate" means one who dies without leaving a valid will, or the circumstance of dying without leaving a valid will, effectively disposing of all of a decedent's estate.
- (19) "Intestate succession" means succession to *real property, personal property or assets* of a decedent who dies *intestate* or partially *intestate*.
- (20) "Joint tenancy" means ownership of property held under circumstances that entitle one or more owners to the whole of the property on the death of the other owner(s), including, but not limited to, joint tenants with right of survivorship and tenants by the entirety.
- (21) "Legal title" means legal ownership by a *person*.
- (22) "Life estate" means an *interest in real or personal property* that terminates upon the death of a measuring life.
- (23) "Living trust" means a revocable or irrevocable inter vivos trust funded with assets to which the recipient is legally entitled.

- (24) "Medical Assistance" (MA) is defined in ORS 414.025 and incorporated by this reference.
- (25) "Medical institution" means a facility that provides care and services equivalent to those received in a nursing facility. "Medical institution" does not apply to *home and community-based care* (see OAR 461-001-0030), in-home services, adult foster home (AFH) care, residential care facility (RCF) services, or assisted living facility (ALF) care.
- (26) "Medicare cost sharing" means *medical assistance* funds used to pay Medicare premiums, coinsurance, copayments and deductibles.
- (27) "Ownership documents" mean any applicable documents, certificates or written evidence of title or ownership such as, but not limited to, recorded deeds, stock certificates, certificates of title, bills of sale, or other similar documents evidencing ownership or *legal title* held by a *person*.
- (28) "Permanently institutionalized" means an individual, regardless of age, who, at the time of his or her death, had resided in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, for 180 days or more.
- (29) "Person" means any individual, corporation, association, firm, partnership, trust, estate or other form of entity.
- (30) "Personal property" means all tangible and intangible personal property wherever located, including, but not limited to, chattels and movables, boats, vehicles, furniture, personal effects, livestock, tools, farming implements, cash, currency, negotiable papers, securities, contracts, and contract rights.
- (31) "Probate estate" means all *real property, personal property*, or other *assets* included in a decedent's estate as it is defined by applicable state probate law.
- (32) "Real property" means all land wherever situated, including improvements and fixtures thereon, and every estate, interest, and right, whether legal or equitable, therein including, but not limited to, fee simple, terms for years, life estates, leasehold interests, condominiums or time share properties. "Real property" includes property conveyed by the individual to, subsequently acquired by, or traceable to, a person, including the individual's surviving *spouse* and any successor-in-interest to the individual's surviving *spouse*, if the "real property" may be included in the individual's, or the individual's surviving spouse's, estate, as defined in this rule.
- (33) "Recipient of property" means:
- (a) Any *survivor, heir, assign, devisee* under a will, beneficiary of a trust, transferee or other *person* to whom *real property, personal property* or other *assets* pass

upon the death of the decedent either by law, *intestate succession*, contract, will, trust instrument or otherwise; and

- (b) Any subsequent transferee of such *real property, personal property, or asset*, or proceeds from the sale thereof, through any form of conveyance, that is not a *bona fide purchaser for value*.
- (34) "Survivor" means any *person* who, as a co-tenant, is automatically entitled to an expanded share of *real or personal property* upon the death of a fellow co-tenant.
 - (35) "Survivorship" means an interest in *real or personal property* that expires upon the death of an individual whereby the Interest of the individual's co-owners automatically expands to the same extent without necessity for any act of transfer or distribution.
 - (36) "Tenancy in common" means ownership of *real or personal property* by an individual together with one or more other persons which ownership *interest* shall not pass by *survivorship* upon the death of the individual.
 - (37) "Time of death" means the instant of death, the time and date of which shall be established in the place of the decedent's residence; in no case shall *time of death* be construed to mean a time after which an *interest in real or personal property* or other *assets* may:
 - (a) Pass by *survivorship* or other operation of law due to the death of the decedent; or
 - (b) Terminate by reason of the decedent's death.
 - (38) "Transfer on death deed" has the meaning set out in ORS 93.949.
 - (39) "Value" means the fair market value. Fair market value is the price at which *real or personal property* would change hands between a willing buyer and a willing seller. In the event the *real or personal property* was not reported to the Department by the deceased Medicaid recipient, the "value" would be established based on its fair market value at the time of discovery.

Stat. Auth.: ORS 410.075, 411.060, 411.070, 413.042, 416.340, 416.350, 2013 Or Laws 14 Section 10

Stats. Implemented: ORS 93.969, 410.070, 410.075, 411.010, 411.060, 411.708, 411.795, 416.310, 416.340, 416.350, 2013 Or Laws 14 Section 10

461-135-0835

Eff. 10-1-16

Eff. 7-1-17

Limits on Estate Claims

- (1) The Estate Administration Unit is designated and authorized to administer the estate recovery program for the Oregon Health Authority and the Department of Human Services, and to present and file claims for payment. The Manager and Assistant Manager of the Estate Administration Unit, Estate Administrators, Assistant Estate Administrators, and Accounts Receivable Specialist are authorized to present, file, and resolve claims for the Estate Administration Unit. The Manager or Assistant Manager may designate other individuals to present, file, or resolve claims. This rule sets out some of these claims.
- (2) For the OSIP program (see OAR 461-101-0010):
 - (a) The amount of any payments or benefits, including an *overpayment* (see OAR 461-195-0501), are a claim against the *probate estate* (see OAR 461-135-0832) of any deceased recipient.
 - (b) The claim for correctly paid payments or benefits under OSIP are deferred until the death of the *spouse* (see OAR 461-001-0000) or *domestic partner* (see OAR 461-135-0832), if any, of the deceased recipient.
 - (c) If the deceased recipient has no *probate estate*, the enforcement of the claim has been deferred, or there are insufficient resources in the *probate estate* to pay the claim in full, the *probate estate* of the *spouse* or *domestic partner* of the deceased recipient, if any, is charged for any payments or benefits paid under OSIP to the deceased recipient, the *spouse*, or *domestic partner*.
 - (d) The claim for correctly paid payments or benefits under OSIP may not be enforced if the deceased recipient is survived by a *child under age 21* (see OAR 461-135-0832), a *child with a disability* (see OAR 461-135-0832), or a *child with a visual impairment* (see OAR 461-135-0832); and the child survives to the closing of the *probate estate*.
 - (e) Transfers of real or personal property without adequate consideration, by recipients of payments or benefits under OSIP, are voidable and may be set aside under ORS 411.620.
 - (f) Except when there is a surviving *spouse* or *domestic partner*, or a surviving *child under age 21*, a *child with a disability*, or a *child with a visual impairment*, the amount of any payments or benefits provided is a claim against the *estate* (see OAR 461-135-0832) in any conservatorship proceedings and may be paid pursuant to ORS 125.495.
- (3) For *General Assistance* (see OAR 461-135-0832):

- (a) The amounts of any payments or benefits, including overpayments, are a claim against the *probate estate* of any deceased recipient. The amount includes the state's monthly contribution, paid prior to January 1, 2014, to the federal government for the recipient's Medicare Part D prescription drug coverage. Effective July 1, 2016, any correctly paid benefits under Oregon Laws 2016, chapter 93, section 1 are excluded, except than an *overpayment* of benefits under Oregon Laws 2016, chapter 93, section 1 is included in a claim against the *probate estate*.
 - (b) The claim for correctly paid payments or benefits under the *General Assistance* program is deferred until the death of the *spouse* or *domestic partner*, if any, of the deceased recipient.
 - (c) If the deceased recipient has no *probate estate*, the enforcement of the claim has been deferred, or there are insufficient resources in the *probate estate* to pay the claim in full, then the *probate estate* of the *spouse* or *domestic partner* of the deceased recipient, if any, is charged for any payments or benefits to the deceased recipient, the *spouse*, or *domestic partner*.
 - (d) The claim for correctly paid payments or benefits under the *General Assistance* program may not be enforced if the deceased recipient is survived by a *child under age 21*, a *child with a disability*, or a *child with a visual impairment*; and the child survives to the closing of the *probate estate*.
 - (e) Except when there is a surviving *spouse* or *domestic partner*, or a surviving *child under age 21*, a *child with a disability*, or *child with a visual impairment*, the amount of any assistance paid is a claim against the *estate* in any conservatorship proceedings and may be paid pursuant to ORS 125.495.
- (4) For *Medical Assistance* (MA, as defined in OAR 461-135-0832):
- (a) In determining the extent of the *estate* resources subject to the claim of the Department for correctly paid benefits, except as provided in subsection (b) of this section, the Department must disregard resources in an amount equal to the *value* (see OAR 461-135-0832) of resources excluded in the most recent eligibility determination under OAR 461-160-0855, based on payments received under a *qualified partnership policy* (see OAR 461-001-0000). The disregard of resources specific to the estate recovery claim applies to MA benefits received after the effective date of the MA eligibility determination in which a *qualified partnership policy* was considered and approved. The amount of any MA incurred in a prior MA eligibility period where *qualified partnership policy* benefits were not considered is not subject to the estate resource disregard.
 - (b) There is no disregard of resources under subsection (a) of this section if the recipient, or the *spouse* of the recipient, at any time transferred the *value* of the

qualified partnership policy excluded resource amount to another individual for less than fair market value prior to the death of the recipient or the recipient's *spouse*, or exhausted the disregarded resource amount by purchasing things of *value* to the recipient or the recipient's *spouse* while either was living.

- (c) The amount of any incorrectly paid payments or benefits, excluding an administrative error *overpayment*, are a claim, against the *probate estate* of any deceased recipient.
- (d) The claim for correctly paid payments or benefits under MA is deferred until the death of the surviving *spouse*, if any, of the deceased recipient. After the death of a surviving *spouse*, the deferred claim of the deceased recipient is a claim against the following *assets* (see OAR 461-135-0832) or their proceeds in the *probate estate* of the *spouse*.

~~(A) For a recipient who died prior to October 1, 2008, the~~ The Department has a claim against the *probate-estate* of the *spouse* for *medical assistance* (see OAR 461-135-0832) paid to the recipient, but only to the extent that the *spouse* received property or other *assets* from the recipient through any of the following:

- ~~(i)~~ Probate.
- ~~(ii)~~ Operation of law.

~~(B) For a recipient who dies on or after October 1, 2008, the Department has a claim against the *probate-estate* of the recipient's *spouse* for *medical assistance* paid to the recipient, but only to the extent that the recipient's *spouse* received property or other *assets* from the recipient through any of the following:~~

- ~~(i) Probate.~~
- ~~(ii) Operation of law.~~
- ~~(iii) An *interspousal transfer* (see OAR 461-135-0832), including one facilitated by a court order, which occurs:
 - ~~(I) Before, on, or after October 1, 2008; and~~
 - ~~(II) No earlier than 60 months prior to the first *date of request* (see OAR 461-135-0832) established from the applications for MA of the recipient and the recipient's *spouse*, or at any time thereafter, whether approved, withdrawn, or denied.~~~~

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- (e) The claim for correctly paid payments or benefits under MA may not be enforced if the deceased recipient is survived by a *child under age 21*, a *child with a disability*, or a *child with a visual impairment*.
- (f) For recipients who are not *permanently institutionalized* (see OAR 461-135-0832):
 - (A) The amount of any payments or benefits paid prior to October 1, 1993 to or on behalf of a recipient 65 years of age or older are a claim against the *probate estate* of any deceased recipient.
 - (B) The amount of any payments or benefits, paid on or after October 1, 1993 and prior to July 18, 1995, to or on behalf of a recipient 55 years of age or older are a claim against the *probate estate* of any deceased recipient.
 - (C) The amount of any payments or benefits, paid on or after July 18, 1995 and prior to October 1, 2013, to or on behalf of a recipient 55 years of age or older are a claim against the *estate* of any deceased recipient. All correctly made payments on or after January 1, 2010 for *Medicare cost sharing* (see OAR 461-135-0832) are excluded from a claim.
 - (D) The amount of any payments or benefits, paid October 1, 2013 or later, to or on behalf of a recipient 55 years of age or older, during the time the Department was paying any of the cost of care of the individual in a nursing facility, *home and community based care* (see OAR 461-001-0030), or in home services through the *State Plan Personal Care Services* (see OAR 411-034-0010), are a claim against the *estate* of any deceased recipient. All correctly made payments on or after January 1, 2010 for *Medicare cost sharing* are excluded from a claim.
- (g) For *permanently institutionalized* individuals, a claim includes amounts calculated according to subsection (f) of this section and the following:
 - (A) The amount of any payments or benefits before July 18, 1995 to or on behalf of a recipient who was *permanently institutionalized* is a claim against the *probate estate* of the deceased recipient.
 - (B) The amount of any payments or benefits paid between July 19, 1995 through September 30, 2013 to or on behalf of a recipient who was *permanently institutionalized* is a claim against the *estate* of the deceased recipient.
 - (C) The amount of any payment for services provided in a nursing facility, an intermediate care facility for an individual with intellectual or developmental disabilities, a psychiatric institution, or other *medical institution* (see OAR 461-135-0832) paid after September 30, 2013 to or

on behalf of a recipient who was *permanently institutionalized* is a claim against the *estate* of the deceased recipient.

- (5) The amount paid, for a recipient age 55 or older, after December 31, 2013, to the federal government for the recipient's Medicare Part D prescription drug coverage is a claim against the *estate* of the deceased recipient.
- (6) For trusts that comply with OAR 461-145-0540(10) and (11), the maximum distribution to the Department is the total of all MA payments or benefits paid to or on behalf of the deceased recipient. Subsections (4)(d) and (4)(e) of this rule do not apply to this section.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 413.042, 413.085, 416.340, 416.350
Stats. Implemented: ORS 93.969, 125.495, 411.404, 411.620, 411.630, 411.708, 411.795,
413.085, 416.310, 416.350, Or Laws 2016, ch 93

Burial Arrangements and Burial Funds

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

(3) A *burial fund* is treated as follows:

(a) In the OSIP, OSIPM, and QMB-DW programs:

(A) A *burial fund* may be established only from financial means such as cash, burial contracts, bank accounts, stocks, bonds, or life insurance policies.

(B) A *burial fund* is counted as a resource if it is commingled with assets unrelated to a burial. The amount set aside for burial must be in a separate account to be excluded from resource consideration.

(C) A *burial fund* may be established if the *countable* (see OAR 461-001-0000) resources of a client exceed allowable limits. A *burial fund* is excluded from the resource calculation to the extent allowed in paragraph (D) of this subsection.

(D) The following calculation determines the exclusion for a *burial fund*:

(i) Up to \$1,500 of a *burial fund* may be excluded from resources for each of the following:

(I) The client.

(II) The client's spouse.

(ii) The amount in subparagraph (i) of this paragraph is reduced by the total of the following amounts:

(I) The face value of life insurance policies owned by the client that have already been excluded from resources. This does not include term life insurance policies that do not generate a cash surrender value.

(II) The amount in an irrevocable burial trust or any other irrevocable arrangement designated to cover burial costs, including the face value of burial insurance considered an irrevocable arrangement (see subsection (2)(f) of this rule). Burial costs do not include burial spaces or merchandise (see OAR 461-145-0050).

(E) All interest earned on an excluded *burial fund* or increases in the value of an excluded *burial arrangement* if left in the fund is excluded from income.

(b) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, a *burial fund* is excluded as a resource.

- (c) In all programs not listed in subsections (a) or (b) of this section, a *burial fund* is counted as a resource.
- (4) There is no overpayment for the time period during which the *burial arrangement* or *burial fund* existed if a client ---
 - (a) Cancels an excluded *burial arrangement*; or
 - (b) Uses an excluded *burial fund* for any purpose other than burial costs.
- (5) If an asset originally used as a *burial arrangement* or *burial fund* is converted to other uses, the asset is treated under the other applicable rules.

| Stat. Auth.: ORS [329A.500](#), 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

| Stats. Implemented: ORS [329A.500](#), [409.010](#), 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839

Burial Spaces and Merchandise

- ~~(1) Burial spaces include conventional grave sites, crypts, mausoleums, urns, and other repositories that are traditionally used for the remains of deceased individuals. Burial spaces also include headstones and the opening and closing of the grave.~~
- ~~(a) In the ERDC, REF, REFM, SNAP, and TANF programs, the *equity value* (see OAR 461-001-0000) of one burial space is excluded as a resource for each member of the *financial group* (see OAR 461-110-0530).~~
- ~~(b) In the OSIP, OSIPM, and QMB-DW programs, the *equity value* of a burial space is excluded as a resource if owned by the client and designated for the client, the *spouse* (see OAR 461-001-0000) of the client, minor and adult children, siblings, parents, and the *spouse* of any of these individuals.~~
- ~~(2) Burial merchandise includes, but is not limited to, caskets, liners, burial vaults, markers, and foundations. The *equity value* of burial merchandise is excluded as a resource if owned by the client and designated for—~~
- ~~(a) In the ERDC, REF, REFM, SNAP, and TANF programs, a member of the *financial group*.~~
- ~~(b) In the OSIP, OSIPM, and QMB-DW programs, the client, the *spouse* of the client, minor and adult children, siblings, parents, and the *spouse* of any of these individuals.~~
- (1) For the purpose of this rule, burial spaces include conventional gravesites, crypts, mausoleums, urns, niches, burial vaults, and other repositories that are traditionally used for the remains of deceased individuals. Burial spaces also include headstones and the opening and closing of the gravesite, and the reasonable and necessary improvements or additions to such spaces. Burial merchandise includes, but is not limited to, urns, caskets, liners, headstones, markers, plaques and foundations.
- (2) In the ERDC, REF, REFM, SNAP, and TANF programs, the Department excludes as a resource the *equity value* (see OAR 461-001-0000) of all burial space or merchandise for each member of the *financial group* (see OAR 461-110-0530), except that for burial space and merchandise that serves the same purpose, only one item per individual is excluded.
- (3) In the OSIP, OSIPM, and QMB-DW programs, the Department excludes as a resource the *equity value* (see OAR 461-001-0000) of a burial space and merchandise if owned by the client and designated for the client, the *spouse* (see OAR 461-001-0000) of the client, minor and adult children, siblings, parents, and the *spouse* of any of these individuals –

except that for burial space and merchandise that serves the same purpose, only one item per individual is excluded.

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

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

Dividends, Interest and Royalties

- (1) In the OSIP, OSIPM, and QMB programs:
- (a) Unless otherwise stated in chapter 461 of the Oregon Administrative Rules, dividends and interest income is treated as unearned income except as follows: dividends and interest earned on mutual funds and securities, including stocks, bonds, educational savings bonds, and certificates of deposit (CDs), are excluded as income. Interest earned on other assets is treated according to the rule for that asset.
 - ~~(a) Interest income and dividends earned on funds in a bank account are excluded as income (see OAR 461-145-0030).~~
 - ~~(b) Interest income and dividends from a trust described in OAR 461-145-0540(10) are excluded.~~
 - (b) Royalties include compensation paid to the owner for the use of property, usually copyrighted material or natural resources, such as coal, oil, or natural gas, which normally are extracted from the ground. Except as provided in paragraphs (A) and (B) of this subsection, royalties are treated as unearned income.
 - (A) Royalties received as part of a business or trade are treated in accordance with OAR 461-145-0915;
 - (B) Royalties received by an individual in connection with any publication of the individual's work are treated as earned income (see OAR 461-145-0130).
- (2) In all programs except the OSIP, OSIPM, and QMB programs:
- (a) Dividends are counted as unearned income.
 - (b) Interest income is counted as unearned income.
- ~~(3)~~
- (c) Royalties are counted as unearned income, except that royalties are counted as earned income if the client is actively engaged in the activity from which the royalties are accrued.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 413.085, 414.025, 414.685~~414.042, 418.100~~

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.706, 411.816, 413.085, 414.025, 414.685~~414.042, 418.100~~

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

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

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

Stat. Auth.: ORS [329A.500](#), [409.050](#), 411.060, 411.070, 411.083, 411.404, [411.706](#), 411.816,
412.049, [413.085](#), [414.685](#)
Stats. Implemented: ORS [329A.500](#), [409.010](#), 411.060, 411.070, 411.083, 411.404, [411.706](#),
411.816, 412.049, [413.085](#), [414.685](#)

Educational Account

(1) The Individual Education Account (IEA) is an asset accrued by JOBS Plus participants. The IEA is excluded while it accumulates, while it is saved, and when it is withdrawn for educational purposes.

(2) In the OSIP and OSIPM programs:

(a) Funds in a Qualified Tuition Programs under Section 529 of the Internal Revenue Code are treated as follows:

(A) They are a *countable* (see OAR 461-001-0000) resource to the individual who owns the account.

(B) They are excluded as a resource for the beneficiary, unless the beneficiary is also the owner.

(b) Funds in a Coverdell Education Savings Accounts are treated as follows:

(A) They are excluded as a resource to the designated beneficiary.

(B) If the contributor is not a designated beneficiary, funds deposited into the account are no longer the resource of the contributor beginning with the month after the month the cash is transferred. The transfer may be considered a *disqualifying transfer of resources by the contributor under OAR 461-140-0210 and 461-140-0220.*

(c) Distributions from a Coverdell Education Savings Account to a designated beneficiary are treated as follows:

(A) They are excluded as income in the month of receipt.

(B) If the excluded distribution is retained into the month following the month of receipt, it is excluded as a resource for nine months beginning with the month after the month of receipt.

(C) If the beneficiary spends any portion of a distribution for a purpose other than the educational expenses of the beneficiary, or no longer intends to use the funds for the educational expenses of the beneficiary, the non-education portion of the funds is *countable* as unearned income at the earlier of the following:

(i) The month the funds are spent.

(ii) The month the beneficiary no longer intends to use the funds for educational expenses.

(D) If a *countable* distribution is retained into the month following the month of receipt, it is a *countable* resource of the designated beneficiary.

(d) Other funds or gifts set aside to pay educational expenses are treated in accordance with subsection (c) of this section, except that the exclusion does not apply to any portion set aside or actually used for food or shelter. See OAR 461-145-0150 for information on other types of educational income.

(23) In the SNAP program, the value of funds in a qualified tuition program under section 529 of the Internal Revenue Code or in a Coverdell education savings account is excluded.

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

Stats. Implemented: ORS 411.060, 411.816, ~~412.049~~ 413.085, 414.025, 414.685

Educational Income

- (1) Educational income is income designated specifically for educational expenses. To be considered educational income, the income must be received by one of the following:
 - (a) A student at a recognized institution of post-secondary education. Post-secondary education is education offered primarily to individuals 18 years of age or older. Admission may --- but does not necessarily --- require a high school diploma or equivalent.
 - (b) A student at a school for individuals with disabilities.
 - (c) A student in a vocational education program.
 - (d) A student in a program that provides for completion of requirements for a secondary school diploma or the equivalent.
- (2) To determine the amount of educational income to exclude, education expenses listed in the financial aid award letter are used unless one of the following is true:
 - (a) The student provides verification of amounts different from those listed in the award letter, in which case the verified amounts from the student are used.
 - (b) The student receives child care benefits --- ERDC or other child care subsidies. The amount the student actually pays for child care (including the ERDC copay) is excluded as educational income instead of the amount shown in the award letter.
 - (c) The student states that actual transportation costs exceed the amount allowed for the expense in the award letter. In that situation, the number of miles to and from school is multiplied by \$0.20. The product or the amount from the award letter, whichever is greater, is excluded.
- (3) The following items are excluded:
 - (a) Educational income authorized by the Carl D. Perkins Vocational and Applied Technology Education Act or Title IV of the Higher Education Act or made available by the Bureau of Indian Affairs (BIA).
 - (b) All income from educational loans.
 - (c) In the OSIP, OSIPM, and QMB programs, the augmented portion of a shelter stipend from the Department of Veterans Affairs designated for the individual's dependent.

- (4) Except as provided in section (5) of this rule, the cost of the following items from remaining educational funds (including non-Title IV work study, *externship* (see OAR 461-001-0015), *graduate assistantship* (see OAR 461-001-0015), *graduate fellowship* (see OAR 461-001-0015) wages, and *internship* (see OAR 461-001-0015)) is excluded:
 - (a) Tuition, mandatory fees, books and supplies, transportation, required rental or purchase of equipment or materials charged to students enrolled in a specific curriculum, other miscellaneous personal expenses (except room and board), and loan originator fees and insurance premiums required to obtain an educational loan.
 - (b) In all programs except ERDC --- dependent care.
- (5) For a participant in the Parents as Scholars (PAS) component of the JOBS program who has been approved for PAS pursuant to OAR 461-190-0199, all remaining educational funds, including those funds intended for room and board, are excluded.
- (6) In all programs covered by chapter 461 of the Oregon Administrative Rules, after allowing exclusions, the remaining income is treated as follows:
 - (a) Income received through work study (including work study provided through a VA program or other educational program), fellowships and teaching-assistant positions not excluded by section (3) or (4) of this rule is earned income.
 - (b) Educational income not covered by subsection (a) of this section is prorated over the period it is intended to cover. If the client has already received the income, the prorated amount is counted monthly beginning with the first month of the period. If the client has not received the income at the time the determination is made, the prorated income is counted starting in the month the client expects to receive it.

(7) Educational awards paid under the National and Community Service Trust Act of 1993 (including AmeriCorps) are treated in accordance with OAR 461-145-0365.

(8) In the OSIP, OSIPM, and QMB programs, distributions from a Coverdell Education Savings account are treated in accordance with OAR 461-145-0145.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 329A.500, 409.050, 411.060, 411.083, 411.404, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.706, 411.816, 411.825, 412.014, 412.049, 413.085, 414.685

Gifts and Winnings

- (1) For the purposes of this rule:
 - (a) *Gifts* are items given to or received by an individual on or for a special occasion, such as a holiday, birthday, graduation, or wedding. Gifts are not given or received on a regular basis.
 - (b) *Winnings* are prizes given to an individual in a contest, game of chance, or similar event. *Winnings* in the form of money may be distributed periodically (e.g., monthly) or in a lump-sum.
- (2) In the ERDC program, *gifts* and *winnings* are excluded.
- (3) In all programs except the ERDC program:
 - (a) In-kind *gifts* and *winnings* are treated according to the rule applicable to the specific type of asset. In the OSIP, OSIPM, and QMB programs, if an individual is offered a choice between an in-kind item and cash, the cash amount is considered unearned income, even if the individual chooses the in-kind item and regardless of the value, if any, of the in-kind item.
 - (b) *Gifts* and *winnings* in the form of money are treated as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120). In the OSIP, OSIPM, and QMB programs, gambling losses are not subtracted from gambling winnings in determining the individual's countable (see OAR 461-001-0000) income.
 - (c) ~~*Gifts and winnings in the form of*~~ The value of a gift card or certificate is considered income in the month it is received if the gift card or certificate can be used to purchase food or shelter or can be resold. There is a rebuttable presumption that the gift card or certificate can be resold. ~~are excluded.~~
- (4) For employment-related items, see OAR 461-145-0130.

Stat. Auth.: ORS ~~329A.500, 409.050,~~ 411.060, 411.070, 411.404, 411.706, 411.816, ~~414.042, 418.100412.014, 412.049, 413.085, 414.685~~

Stats. Implemented: ORS ~~329A.500, 409.010,~~ 411.060, 411.070, 411.404, 411.700, 411.706, 411.816, ~~414.042, 418.100412.014, 412.049, 413.085, 414.685~~

Income-Producing Sales Contract

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

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

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

Japanese-American Restitution Payments; OSIP, OSIPM, QMB

THIS IS A NEW RULE

In the OSIP, OSIPM, and QMB programs:

- (1) The following restitution payments are excluded from income and resources:
 - (a) Restitution payments made by the U.S. Government to individual Japanese-Americans, or the spouse or parent of an individual of Japanese ancestry.
 - (b) Payments to a survivor of a deceased recipient under subsection (a) of this section.
 - (c) Restitution payments from the Canadian Government to individual Japanese-Canadians who were interned or relocated during World War II.
- (2) Interest earned on payments covered by section (1) of this rule is excluded from income and resources.

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

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

Life Insurance

- (1) Benefits paid on a life insurance policy are counted as unearned income in the month received and a resource if retained into the following month.
 - (a) The Department counts benefits as received when the insured individual dies or when the insured individual is eligible for and receives accelerated payments before death, such as when the insured individual has a terminal illness.
 - (b) When the payment is a lump sum due to the death of the insured individual a deduction is allowed, not to exceed \$1,500, for the cost of the deceased individual's last illness and burial if these costs were not otherwise insured.
- (2) Burial insurance that ~~has~~ generates a cash surrender value is treated in the same manner that this rule treats life insurance.
- (3) When the ownership or beneficiary of a life insurance policy has been irrevocably assigned and designated for burial, it is treated in accordance with OAR 461-145-0040 and is not counted towards the \$1500 life insurance limit.
- (34) The value of a life insurance policy is treated as follows:
 - (a) All term insurance that has no cash surrender value is excluded.
 - (b) In all programs except OSIP, OSIPM, and QMB-DW, the cash surrender value of the life insurance policy is excluded.
 - (c) In the OSIP, OSIPM, and QMB-DW programs:
 - (A) For the purposes of this subsection, the following definitions apply:
 - (i) "Cash surrender value" means the equity that the policy acquires over time.
 - (ii) "Dividend" means a payment of surplus company earnings from the insurer.
 - (iii) "Dividend accumulation" means a *dividend* left with the insurer to accumulate interest that may be withdrawn without affecting the policy's *face value* or *cash surrender value*.
 - (iv) "Dividend addition" means the amount of insurance purchased with a *dividend* that increases the policy's death benefit and *cash surrender value*.

- (v) "Face value" means the amount of the death benefit contracted for at the time the policy was purchased and does not include a *dividend addition* added after purchase of the policy.
- (vi) "Viatical settlement" means an agreement allowing a third party to acquire a life insurance policy from a terminally ill individual at an agreed-upon percentage of the life insurance policy's *face value*.

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

(C) The face value of term life insurance policies excluded under subsection (a) of this section are not counted in determining if the \$1,500.00 life insurance exclusion limit is exceeded.

~~(D)~~ The *cash surrender value* of a policy acquired through a *viatical settlement* is excluded.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.704, 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, 412.049, 413.085, 414.685, 414.839

THIS IS A NEW RULE

In the OSIP, OSIPM, and QMB programs:

- (1) Mineral rights represent ownership interest in natural resources such as coal, oil, or natural gas, which normally are extracted from the ground.
- (2) Mineral rights are treated as follows:
 - (a) If the individual owns the property to which the mineral rights pertain, the current market value of the property is assumed to include the value of the mineral rights and is treated in accordance with OAR 461-145-0420.
 - (b) If the individual does not own the land to which the mineral rights pertain, the current market value of the mineral rights is counted as a resource.
 - (c) Income received from mineral rights, including compensation paid to the owner for the use or lease of property or natural resources, is considered royalty income and treated in accordance with OAR 461-145-0108.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 410.020, 410.070, 410.080, 411.060, 411.070,
411.404, 411.706, 413.085, 414.685, 414.839

- (1) In the OSIP, OSIPM, and QMB programs:
- (a) Rebates, refunds, and other returns of money an individual did not already pay are counted as unearned income in the month received.
 - (b) Rebates, refunds, and other returns of money an individual already paid are excluded as income.
 - (c) Rebates that constitute a return on an individual's investment are treated in accordance with OAR 461-145-0108.
 - (d) Income and property tax refunds are treated in accordance with OAR 461-145-0530.
- (~~1~~2) ~~Exclude~~ In all programs except the OSIP, OSIPM, and QMB programs, the Department excludes the following refunds in the month they are received:
- (a) Refunds on merchandise that was purchased or received as a gift.
 - (b) Refunds of utility and rental deposits.
- (2) ~~Count~~ In all programs except the QMB program, the Department counts any refund amount remaining after the month of receipt as a resource.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685
Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Reimbursement

- (1) For the treatment of USDA meal reimbursements, see OAR 461-145-0570.
- (2) The *reimbursement* (see OAR 461-001-0000) of a business expense for an individual who is self-employed is treated as self-employment income (see OAR 461-145-0910, 461-145-0915, and 461-145-0920).
- (3) Except as provided in sections (1) and (2) of this rule, a *reimbursement* is treated as follows:
 - (a) In the ERDC program, a *reimbursement* is excluded, except that a *reimbursement* for child care from a source outside of the Department is counted as unearned income.
 - (b) In the SNAP program:
 - (A) A *reimbursement* in the form of money for a normal household living expense, such as rent or payment on a home loan, personal clothing, or food eaten at home, is unearned income.
 - (B) Any other *reimbursement* is treated as follows:
 - (i) An in-kind *reimbursement* is excluded.
 - (ii) A *reimbursement* in the form of money is excluded if used for the identified expense, unless the expense is covered by program benefits.
 - (iii) A *reimbursement* is counted as *periodic income* (see OAR 461-001-0000 and 461-140-0110) or *lump-sum income* (see OAR 461-001-0000 and 461-140-0120) if not used for the identified expense.
 - (iv) A *reimbursement* for an item already covered by the benefits of the *benefit group* (see OAR 461-110-0750) is counted as *periodic income* or *lump-sum income*.
 - (c) In the SNAP program, an expenditure by a business entity that benefits a *principal* (see OAR 461-145-0088) is counted as earned income (see OAR 461-145-0130).
 - (d) In all programs except the ERDC and SNAP programs, a *reimbursement* is treated as follows:

- (A) An in-kind *reimbursement* is excluded.
- (B) A *reimbursement* in the form of money is excluded if used for the identified expense, unless the expense is covered by program benefits.
- (C) A *reimbursement* is counted as *periodic income* or *lump-sum income* if not used for the identified expense.
- (D) A *reimbursement* for an item already covered by the benefits of the *benefit group* is counted as ~~*periodic income or lump-sum income*~~ unearned income.

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, 411.404, 411.816, 412.049, 413.085, 414.685

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Sale of a Resource

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

- (d) Proceeds from the sale of a home of the *financial group* (see OAR 461-110-0530) are treated as follows:
 - (A) Principal payments, including lump-sum payments, are excluded for three full calendar months from the date of receipt if the *financial group* intends to use the proceeds to buy another home or for associated costs including:
 - (i) Down payments.
 - (ii) Settlement costs.
 - iii. Loan processing fees and points.
 - iv. Moving expenses.
 - v. Necessary repairs to or replacement of the new home's structure or fixtures (including roof, furnace, plumbing, built-in appliances) that are identified and documented prior to occupancy.
 - vi. Mortgage payments.
 - (B) For the purposes of paragraph (A) of this subsection, funds obligated by contract during these three full calendar months are also excluded.
 - (C) Interest payments are counted as unearned income.
- (e) For individuals eligible for OSIPM under OAR 461-135-0771, the proceeds from the sale of the home of the *financial group*, if the *financial group* intends to use them to buy another home (paragraphs (d)(A) and (d)(B) of this section set out the scope of use of excluded proceeds), are treated as follows:
 - (A) Principal payments, including lump-sum payments, are excluded for 12 full calendar months from the date of receipt.
 - (B) Interest payments are counted as unearned income.
- (f) Proceeds from the sale of a home that are not reinvested in another home are treated as follows:
 - (A) Principal payments are counted as a resource.
 - (B) Interest payments are treated as unearned income.

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

- (a) Proceeds from the sale of an excluded resource to the extent reinvested in another excluded resource are excluded as income and as a resource.
- (b) All proceeds from the sale of the resource are counted as unearned income, unless excluded in subsection (a) of this section.

(45) In ~~all programs except the ERDC, QMB-BAS, QMB-SMB, QMB-SMF, REF, REFM, and TANF programs~~ SNAP program, proceeds from the sale of a resource are treated as follows:

- ~~(a)~~ (a) — Proceeds from the sale of a resource (other than a home): received
 - ~~(A)~~ (A) Received on a monthly or other periodic basis are counted as unearned income; ~~except that in the OSIPM and QMB-DW programs for a sale originating on or after October 1, 2012 all proceeds that are principal are counted as a resource.~~
 - ~~(b)~~ (B) ~~Proceeds from the sale of a resource (other than a home) received~~ Received on a lump-sum basis: ~~are treated as follows, except that in the OSIPM and QMB-DW programs for a sale originating on or after October 1, 2012 all proceeds that are interest are treated as unearned income:~~
 - ~~(A)~~ (i) ~~If the proceeds are from~~ From the sale of an excluded resource, the amount reinvested in another excluded resource is excluded, and the remainder is counted as a resource.
 - ~~(B)~~ (ii) ~~The proceeds from~~ From all other sales are counted as a resource.
 - (iii) ~~If~~ If the proceeds put the *benefit group* (see OAR 461-110-0750) over the resource limit, the proceeds are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).
- ~~(e)~~ (e) Proceeds from the sale of the home of the *financial group* (see OAR 461-110-0530): ~~are excluded for three months if~~
 - ~~(A)~~ (A) If the financial group intends to use the proceeds (subparagraphs (A)(i) and (A)(ii) of this subsection set out the scope of use of excluded proceeds in the OSIP and QMB-DW programs) to buy another home, except as follows: are excluded for three months and counted as a resource thereafter.
 - ~~(B)~~ (B) If not reinvested in another home, are treated as a resource.
 - ~~(C)~~ (C) Interest received monthly or on another periodic basis from the sale of a home is counted as unearned income.

~~(A) — In the OSIPM (except for clients eligible under OAR 461-135-0771) and QMB-DW programs for a home sold on or after October 1, 2012:~~

~~(i) — Principal payments, including lump-sum payments, are excluded for three full calendar months from the date of receipt if the *financial group* intends to use the proceeds to buy another home or for associated costs including:~~

~~(I) — Downpayments;~~

~~(II) — Settlement costs;~~

~~(III) — Loan processing fees and points;~~

~~(IV) — Moving expenses;~~

~~(V) — Necessary repairs to or replacement of the new home's structure or fixtures (including roof, furnace, plumbing, built-in appliances) that are identified and documented prior to occupancy; and~~

~~(VI) — Mortgage payments.~~

~~(ii) — For the purposes of subparagraph (i) of this paragraph, funds that are obligated by contract during these three full calendar months are also excluded.~~

~~(iii) — Interest payments are counted as unearned income.~~

~~(B) — For clients eligible for OSIPM under OAR 461-135-0771, the proceeds from the sale of the financial group's home, if the *financial group* intends to use them to buy another home (subparagraphs (A)(i) and (A)(ii) of this subsection set out the scope of use of excluded proceeds), are treated as follows:~~

~~(i) — For a home sold prior to October 1, 2012, the proceeds are excluded for 12 full calendar months.~~

~~(ii) — For a home sold on or after October 1, 2012:~~

~~(I) — Principal payments, including lump-sum payments, are excluded for 12 full calendar months from the date of receipt.~~

~~(II) — Interest payments are counted as unearned income.~~

~~(d) — The proceeds from the sale of a home that are not reinvested in another home are counted as a resource, except as follows:~~

~~(A) — In the OSIPM and QMB-DW programs for a home sold on or after October 1, 2012:~~

~~(i) — Principal is counted as a resource.~~

~~(ii) — Interest payments are counted as unearned income.~~

~~(B) — In the SNAP program, the proceeds are treated as *lump-sum income* (see OAR 461-001-0000) under OAR 461-140-0120.~~

~~(c) — In the SNAP program:~~

~~(A) — Interest received monthly or on another periodic basis from the sale of a home is counted as unearned income.~~

~~(B) — If a self-employed client sells a work-related asset, including equipment and inventory, the proceeds of the sale are treated as self-employment income (see OAR 461-145-0910).~~

(c) Proceeds from the sale of a work-related asset including equipment and inventory, if the client is self-employed, the proceeds of the sale are treated as self-employment income (see OAR 461-145-0910).

(56) Costs of the type excluded under OAR 461-145-0920 are subtracted from proceeds counted as income under this rule.

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

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

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SSI

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

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

Stocks, Bonds, and Other Securities

- (1) Except as provided in sections (2) and (3) of this rule, the *equity value* (see OAR 461-001-0000) of mutual funds, and securities, including stocks, bonds, educational savings bonds, and certificates of deposit (CDs), is counted as a resource.
- (2) In the OSIPM and QMB-DW programs, the value of a savings bond issued by the United States Department of the Treasury is excluded during the minimum retention period.
- (23) The~~In all programs except the OSIPM and QMB-DW programs, the~~ value of a savings bond issued by the United States Department of the Treasury is excluded during the minimum retention period if the owner has received a denial of a request for a hardship waiver based on financial need.
- (34) Interest and dividends on items covered by section (1) of this rule are treated as provided in OAR 461-145-0108.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685~~414.042, 418.100~~

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685~~414.042, 418.100~~

Special Need; Home Adaptations to Accommodate a Client's Physical Condition

THIS RULE IS REPEALED

- (1) In the OSIP and OSIPM programs, the Department will authorize consistent with the restrictions in this rule a one-time special needs payment for a home adaptation required by the client's care plan, if the adaptation is needed to accommodate the client's physical condition and prevent the client's placement in a nursing facility.
- (2) For a home adaptation:
 - (a) The client must be the owner or buyer of the house.
 - (b) The adaptation must cost less than moving to another home.
 - (c) Payment is limited to the lowest possible cost that will provide adequate facilities. The client must provide three competitive bids for the repairs, unless there are not three providers of the service in the local area.
 - (d) Providers of the adaptations must ensure that the work being completed meets current building codes.
 - (e) Adaptations authorized by this rule include only changes to the structure of the building, such as installation of ramps, grab-bars, and railings; widening of doorways; modification of bathroom facilities; and installation of electric and plumbing systems necessary to accommodate the client's medical equipment or supplies.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

461-155-0580

Eff. ~~9-1-167-~~

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Special Need; Laundry Allowances

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

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

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

Special Need; Home Repairs; OSIP and OSIPM

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

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

- (b) Plumbing--but not including the costs of plumbing items with which the house is not already equipped except that a toilet may be paid for when newly required by the creation or extension of a sewer district. Examples of what plumbing-related items may be covered include:
 - (A) Toilets and sinks.
 - (B) Cleaning or replacing septic tanks or cesspools.
 - (C) Installing sewer connections from house to street--but not sewer installation--if required by the creation of a new sewer district or the extension of an existing district.
- (c) Repair or replacement of existing electric pumps for wells needed to continue the water supply. This does not include drilling a new well.
- (d) Heating equipment--repair of heating stoves, furnaces and water heaters and, if repair is not possible, replacement with the least expensive adequate equipment.
- (e) Repair of roofs.
- (f) Repair or replacement of steps and repair of floors.

(89) A client with a life estate is not eligible for this special need allowance. The individual who will benefit from the life estate, following the death of the client, is considered responsible for the home repairs.

Stat. Auth.: ORS [409.050](#), 411.060, 411.070, [411.404](#), [411.706](#), [413.085](#), [414.685](#)

Stats. Implemented: ORS [409.010](#), 411.060, 411.070, [411.404](#), [411.706](#), [413.085](#), [414.685](#)

Special Need; Property Taxes

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.710, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.706, 411.710, 413.085, 414.685

Special Need; Community Based Care; OSIPM

In the OSIPM program:

- (1) A client is considered living in a *community based care* facility (see OAR 461-001-0000) if the client resides at one of the following care settings licensed by the Department:
 - (a) Adult Foster ~~Care~~Home.
 - (b) Residential Care Facility.
 - (c) Assisted Living Facility.
 - (d) Specialized Living Facility.
 - (e) Group Care Home.
- (2) In determining eligibility for OSIPM for an individual receiving care in a 24-hour mental health residential care setting, such as an adult foster home, residential treatment home, residential treatment facility, or a secure treatment facility, the special need (see OAR 461-155-0010) is the amount of the service payment authorized by the Department and is added to the OSIP maintenance standard.
- (3) If a client who meets the applicable income requirements begins living in a *community based care* facility:
 - (a) Payment for room and board may be authorized during the month of admission at the initial placement, limited to the approved rate.
 - (b) Room and board payments may be paid to the *community based care* facility during the temporary absence of a client if all of the following criteria are met:
 - (A) The absence occurs because the client is admitted to a hospital or nursing home.
 - (B) The Department determines the intent of the client to return to the *community based care* facility.
 - (C) The *community based care* facility is willing to accept the room and board payment.
 - (D) The client returns ~~one~~within the calendar-month following the month in which the absence began.

- (4) Spouses who each receive SSI and receive services in a *community based care* facility, are eligible for a payment in the amount that equals the difference between the OSIPM standard for a one-person need group and the individual's total countable income. If one spouse has income above the OSIPM standard, the excess income is applied to the other spouse's countable income.

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

Stats. Implemented: ORS 409.010, 411.060, 411.404, 413.085, 414.685

461-155-0640

Eff. ~~9-1-167-~~

1-17

Special Need; Restaurant Meals

THIS RULE IS REPEALED

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.706

Special Need; Special Diet Allowance

- (1) In the ~~OSIP~~, OSIPM, REF, REFM, SFPSS, and TANF programs, a client receiving any of the following is ~~not eligible~~ineligible for a special diet allowance ~~if receiving any of the following~~:
 - (a) Room and board.
 - (b) Residential care facility services or assisted living facility services.
 - (c) Nursing facility services.
 - (d) Adult foster care services.
 - (e) An allowance for restaurant meals.
 - (f) A commercial food preparation diet.

- (2) An REF, REFM, SFPSS, or TANF client, or an ~~OSIP or~~ OSIPM client receiving SSI, having an adjusted income less than the OSIPM program income standard under OAR 461-155-0250, or receiving in-home services under OAR 411-030 is eligible for a special diet allowance if the ~~client meets the~~ following requirements are met:
 - ~~(a) — The client would be in an imminent life-threatening situation without the diet, as verified by medical documentation from a Department-approved medical authority (see OAR 461-125-0830); and~~
 - ~~(b) — A nutritionist verifies that the special diet needed exceeds the cost of a regular diet.~~
 - (a) Any special diet to which the client must adhere must be clearly described in writing by a Department-approved medical authority (see OAR 461-125-0830), and the written description must be provided to the Department;
 - (b) The Department must receive verification that the client would be in an imminent life-threatening situation without the special diet, as documented by a Department-approved medical authority; and
 - (c) A licensed dietitian must describe in writing which particular food items required by the special diet are likely to exceed the cost of similar food items included in a regular diet and such a written description must be provided to the Department

- (3) The amount of a special diet allowance is calculated as follows:

(a) ~~In the REF, REFM, SFPSS, and TANF programs, the difference between the actual cost of the special diet and a prorated share of the SNAP program benefit for the appropriate number of clients in the *benefit group* (see OAR 461-110-0750).~~

~~(b) In the OSIP and OSIPM programs, the lesser of the following:~~

~~(A) The difference between the actual cost of the special diet and the amount provided in the basic standard for food (see OAR 461-155-0250).~~

~~(B) A maximum of \$300 per month, or an exceptional amount, authorized by the SPD Program Assistance Section, which will not exceed the cost of home IV therapy.~~

Except as provided for in subsection (b) of this section, the special diet allowance is the amount by which the client's food costs, including the special diet, exceed the one-person SNAP Payment Standard (Thrifty Food Plan).

(b) In the OSIPM program, an exceptional amount must be authorized by the APD Financial Eligibility and Waiver Unit.

(4) Local management staff must approve or deny any ~~the~~ request for a special diet allowance provided under subsection (3)(a) of this rule.

(5) Each special diet allowance must be reviewed ~~at six-month intervals~~ and reauthorized annually.

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

461-155-0688

Eff. ~~1-1-17~~

1-17

Prescription Drug Co-pay Coverage

In the OSIPM program for a client who is receiving SSI:

- (1) The Department will provide a payment for all Medicare Part D or Veteran's Administration Health Care prescription co-pays if a client's co-pays exceed \$10 per month.
- (2) Payment for Medicare Part D co-pays is limited to the current Low-Income Subsidy (LIS) program amounts for a fully dual eligible individual under 100 percent of the Federal Poverty Limit.
- (3) If the payment exceeds \$30 per month, it must be approved by Seniors Aging and People with Disabilities ~~Division~~ central office staff.

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

Stats. Implemented: ORS 409.010, 411.060, 411.083, 411.404, 411.704, 411.706, 413.085, 414.685

Income Deductions; Non-SSI OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) in the Community When There Are Children in the Household Group

- (1) For purposes of this rule:
 - (a) "Child" means an unmarried individual, living with a natural or adoptive parent, and is:
 - (A) Under the age of 18; or
 - (B) Under the age of 22 and temporarily absent from the household while attending full-time secondary, postsecondary, or vocational-technical training designed to prepare the individual for employment.
 - (b) "Ineligible" means an individual who is not eligible to receive either SSI or TANF benefits.
- (2) This rule is used to determine *adjusted income* (see OAR 461-001-0000) for individuals in the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs who:
 - (a) Live in the community;
 - (b) Are not assumed eligible (see OAR 461-135-0010);
 - (c) Do not receive *home and community-based care* (see OAR 461-001-0030); and
 - (d) Have at least one *child* (see subsection (1)(a) of this rule) in the *household group* (see OAR 461-110-0210).
- (3) For an individual described in section (2) of this rule who is married to a *spouse* (see OAR 461-001-0000) who is *ineligible* (see subsection (1)(b) of this rule), the Department calculates the *adjusted income* of the individual under sections (4)(b) through (f) of this rule first. If the individual's *adjusted income* is greater than the OSIPM program *adjusted income* standard for a *need group* of one under OAR 461-155-0250, the individual is not eligible for OSIPM.
- (4) To determine *adjusted income* for individuals described in section (2) of this rule, deductions from the *countable* (see OAR 461-001-0000) income of the *financial group* (see OAR 461-110-0530) are made in the following order:
 - (a) An allocation as described below:
 - (A) When an adult is applying, income is allocated (see paragraph (C) of this subsection) from an *ineligible* spouse included in the *financial group* to each *ineligible child* of the couple.

- (B) When a *child* is applying:
- (i) Income from *ineligible* parents is first allocated to each *ineligible child* in the household.
 - (ii) Second, the remaining income from subparagraph (i) of this paragraph is reduced as provided in subsections (b) through (f) of this section.
 - (iii) Third, the remaining income is reduced by the non-SSI OSIP and OSIPM adjusted income standard of the --
 - (I) Couple if both parents live with the *child*; or
 - (II) Individual if only one *ineligible* parent lives with the *child*.
 - (iv) Fourth, the remainder is deemed equally to each *child* applicant in the *household*.
 - (v) The income deemed to the *child* is added to the other income of the *child* and deductions are taken as described in subsections (b) through (f) of this section to calculate the child's *adjusted income*.
- (C) The maximum amount of each allocation under paragraphs (A) and (B) of this subsection is the difference between the couple and the individual SSI Standard. The allocation for paragraphs (A) and (B) of this subsection is reduced by the other *countable* income of each *ineligible child*. An allocation is taken from unearned income first, and any remaining allocation is then taken from earned income.
- (b) One standard deduction of \$20 from unearned income.
- (A) This deduction may be taken from earned income if the individual has less than \$20 in unearned income.
 - (B) This deduction does not apply to a benefit based on need that is totally or partially funded by the federal government or by a nongovernmental agency.
- (c) One standard earned income deduction of:
- (A) \$65 for individuals in the OSIP-AD, OSIP-OAA, OSIPM-AD, and OSIPM-OAA programs; or
 - (B) \$85 for individuals in the OSIP-AB and OSIPM-AB programs.

- (d) An income deduction for documented impairment-related work expenses or blind work expenses.
- (e) One half of the remaining earned income.
- (f) Deductions under a plan for self-support for individuals in the OSIP-AB, OSIP-AD, OSIPM-AB, and OSIPM-AD programs.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685

Stats. Implemented: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685

Assessment of Resources; Community Spouse Provision

~~For~~ In the OSIP and OSIPM programs, this rule applies to an institutionalized spouse who began a continuous period of care on or after October 1, 1989.

- (1) The Department Assess-assesses a couple's combined ~~countable~~-countable (see OAR 461-001-0000) resources at the beginning of each continuous period of care when requested by either spouse or by a representative acting on behalf of either ~~spouse~~ spouse (see OAR 461-001-0000).
- (2) The Department advises ~~Advise~~-requesting parties of the verification needed to make the assessment. Verification of ownership interest and current value of resources must be provided. When verification is not provided within specified time frames, the Department advises ~~advise~~-requesting parties that an assessment ~~cannot~~-may not be completed.
- ~~(3) Requesting parties have a right to appeal the determination of countable resources at the time of the assessment.~~
- ~~(4) If either spouse disagrees with the amount or the method of computation of the community spouse's allowances, they are entitled to a hearing within 30 days of the date of the request for the hearing.~~
- (3) Either spouse has a right to a contested case hearing:
 - (a) To contest the Department's determination of the couple's countable resources at the time of resource assessment.
 - (b) To contest the Department's method of computing the community spouse's resource allowance.
 - (c) To contest the Department's determination of the amount of the community spouse's resource allowance.
- (4) In order to be timely, a hearing request completed about issues under section (3) of this rule must meet the requirements of OAR 461-025-0310.

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

Stats. Implemented: ORS 183.415, 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 413.085, 414.685

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

In the OSIPM program:

- (1) Deductions from income are made for an individual residing in or entering a long-term care facility or receiving *home and community-based care* (see OAR 461-001-0030) as explained in subsections (3)(a) to (3)(h) of this rule.
- (2) Except as provided otherwise in OAR 461-160-0610, the liability of the individual is determined according to subsection (3)(i) of this rule.
- (3) Deductions are made in the following order:
 - (a) One standard earned income deduction of \$65 is made from the earned income in the OSIPM-AD and OSIPM-OAA programs. The deduction is \$85 in the OSIPM-AB program.
 - (b) The deductions under the plan for self-support as allowed by OAR 461-145-0405.
 - (c) One of the following need standards:
 - (A) A \$60.18 personal needs allowance for an individual receiving long-term care services.
 - (B) A \$90 personal needs allowance for an individual receiving long-term care services who is eligible for VA benefits based on unreimbursed medical expenses. The \$90 allowance is allowed only when the VA benefit has been reduced to \$90.
 - (C) For an individual who receives *home and community-based care*:
 - (i) Except as provided in subparagraph (ii) of this paragraph, the OSIPM maintenance standard.
 - (ii) For an individual who receives in-home services, the OSIPM maintenance standard plus \$500.
 - (d) A *community spouse* (see OAR 461-001-0030) monthly income allowance is deducted from the income of the *institutionalized spouse* (see OAR 461-001-0030) to the extent that the income is made available to or for the benefit of the *community spouse*, using the following calculation.
 - (A) Step 1--Determine the maintenance needs allowance. ~~\$2,003~~2,030 is added to the amount over ~~\$604~~609 that is needed to pay monthly shelter

expenses for the principal residence of the couple. This sum or \$3,022.50 whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the SNAP program (see OAR 461-160-0420). If an all-inclusive rate covers items that are not allowable shelter expenses, including meals or housekeeping in an assisted living facility, or the rate includes utilities, to the extent they can be distinguished, these items must be deducted from the all-inclusive rate to determine allowable shelter expenses.

- (B) Step 2--Compare maintenance needs allowance with community spouse's countable income. The *countable* (see OAR 461-001-0000) income of the *community spouse* is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.
- (C) Step 3--If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.

(e) A dependent income allowance as follows:

(A) For a case with a *community spouse*, a deduction is permitted only if the monthly income of the eligible dependent is below ~~\$2,003~~2,030. To determine the income allowance of each eligible dependent:

- (i) The monthly income of the eligible dependent is deducted from ~~\$2,003~~2,030.
- (ii) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the income allowance of the eligible dependent.

(B) For a case with no *community spouse*:

- (i) The allowance is the TANF adjusted income standard for the individual and eligible dependents.
- (ii) The TANF standard is not reduced by the income of the dependent.

(f) Costs for maintaining a home if the individual meets the criteria in OAR 461-160-0630.

(g) Medical deductions allowed by OAR 461-160-0030 and 461-160-0055 are made for costs not covered under the state plan. This includes the public and private

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

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

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

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

Determining Adjusted Income; OSIP-EPD and OSIPM-EPD

Adjusted income for OSIP-EPD and OSIPM-EPD is determined as follows:

- (1) All unearned income is excluded.
- (2) From ~~gross-countable~~ (see OAR 461-001-0000) earned income, one standard income deduction of \$20 is deducted.
- (3) One standard earned income deduction of \$65, or \$85 for individuals whose disability is based on blindness, is deducted.
- (4) The remainder is divided by two.
- (5) Any costs allowed as *employment and independence expenses*, *Impairment Related Work Expenses*, or *Blind Work Expenses* as defined in OAR 461-001-0035 are deducted.
- (6) The remainder is adjusted income.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.706, 413.085, 414.687

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

Concurrent and Duplicate Program Benefits

- (1) Except as noted in this rule, an individual may not receive benefits from the Department of the same type (that is, cash, medical, or SNAP benefits) for the same period as a member of two or more different benefit groups (see OAR 461-110-0750) or from two or more separate programs. Except as allowed in subsection (g) of this section, this provision includes a prohibition against an individual receiving TANF concurrently with another cash assistance program funded under Title IV-E of the Social Security Act.
 - (a) An individual may receive EA, HSP, and TA-DVS benefits and cash payments from other programs for the same time period.
 - (b) If a GA recipient becomes eligible for the TANF program, the GA recipient may not receive a TANF cash payment for themselves in the month a GA cash payment was received.
 - (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~~ Except in the QMB-DW and QMB-SMF programs, a QMB recipient may also receive medical benefits from OSIPM, REFM, MAGI Child, MAGI Parent or Other Caretaker Relative, or MAGI Pregnant Woman. QMB-DW and QMB-SMF recipients may not receive any other medical assistance program offered under the state plan (see OAR 461-135-0730).

- (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 during the same month that an individual in that group was enrolled in or received assistance from the Office of Refugee Resettlement Matching Grant Program.

Stat. Auth.: ORS [329A.500](#), [409.050](#), 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, [412.014](#), 412.049, 412.124, [413.085](#), 414.025, [414.685](#), 414.826, 414.839
Stats. Implemented: ORS [329A.500](#), [409.050](#), 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, [412.014](#), 412.049, 412.124, [413.085](#), 414.025, [414.685](#), 414.826, 414.839

461-170-0120

Eff. ~~4-1-107-~~

1-17

Monthly Change Report Incomplete or Not Received

THIS RULE IS REPEALED

If a Department branch office serving a program covered by this chapter of rules does not receive a completed Monthly Change Report by the last day of the payment month, the case is closed effective the end of the *budget month* (see OAR 461-001-0000).

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

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