

Secretary of State
**CERTIFICATE AND ORDER FOR FILING TEMPORARY ADMINISTRATIVE RULES
and
STATEMENT OF NEED AND JUSTIFICATION**

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on
June 28, 2017 by the

Department of Human Services, Office of Self-Sufficiency Programs	461
Agency and Division	Chapter Number

Robert Trachtenberg	HSB	503-947-5290	robert.trachtenberg@state.or.us
	500 Summer St NE, E-48		
	Salem, OR 97301		

Rules Coordinator	Address	Telephone	Email
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to become effective July 1, 2017 through September 30, 2017.*

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

Rule Caption: Amending Rule about TANF Time Limits

In the Matter of: Amending OAR 461-135-0075

AMEND: 461-135-0075

SUSPEND: 461-135-0075(T)

ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.079

Stat. Auth.

18 U.S.C. 1151, 45 CFR 264.1

Other Auth.

ORS 409.010, 409.050, 411.060, 411.070, 411.117, 412.049, 412.079

Stats. Implemented

Rule Summary

OAR 461-135-0075 about exemptions to the 60-month limit on TANF benefits is being amended to provide specific direction about when the Indian Country exemption applies to improve the accuracy of benefit decisions and clarity for clients, consistent with federal guidance. This

amendment corrects and replaces the temporary rule filed on June 19, 2017 so the nine federally-recognized tribes in Oregon are listed correctly.

The rule text showing changes is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_temporary.htm.

Need for the Rules

OAR 461-135-0075 needs to be amended to improve the accuracy of benefit decisions and improve clarity for clients, consistent with federal guidance, by providing specific direction about when the Indian Country exemption applies. This amendment provides specific direction by using “parent or needy caretaker relative” instead of family and setting out in detail where the Indian Country exemption applies. To determine the counties listed, the Department uses labor participation data from the Oregon Employment Department which is adjusted to cover the relevant age ranges. This amendment is also needed to correct and replace the temporary rule file June 19, 2017 so the nine federally-recognized tribes in Oregon are listed correctly.

Documents Relied Upon

Adults Not Employed by County 2015 data spreadsheet (using Oregon Employment Department data) available from Self-Sufficiency Rules Coordinator, 500 Summer Street NE, E-48, Salem, Oregon 97301

Justification of Temporary Rules

The Department finds that failure to act promptly by amending OAR 461-135-0075 will result in serious prejudice to the public interest, the Department, and TANF clients living in Indian Country. This amendment improves the accuracy of benefit decisions and improve clarity for clients, consistent with federal guidance, by providing specific direction about when the Indian Country exemption applies. The Department needs to proceed by temporary rule because it needs to track TANF time limits accurately each month for a large number of clients.

TANF Time Limit; Exemptions

- (1) The following months do not count toward the accrual of the time limit in OAR 461-135-0071:
 - (a) Months prior to July 1, 2003 in which a *minor parent* (see OAR 461-001-0000) head of household or an adult received a TANF grant in Oregon or another state.
 - (b) Months between July 1, 2003 and September 30, 2007 in which a *minor parent* head of household or adult received TANF in Oregon; and
 - (A) Participated in required JOBS activities or other education, employment, or job training program including *teen parent* (see OAR 461-001-0000) programs; or
 - (B) Was not required to participate in JOBS activities or other education, employment, or job training program including *teen parent* programs.
 - (c) Months between October 1, 2007 and June 30, 2009 and months between October 1, 2011 and April 30, 2012 in which the filing group (see OAR 461-110-0330) is a two-parent family receiving cash assistance in Oregon for which deprivation is based on unemployment or underemployment.
 - (d) Months beginning October 1, 2007 in which a *minor parent* head of household or adult received aid in Oregon and is a participant in the *Degree Completion Initiative (DCI) activity* (see OAR 461-001-0025) enrolled in an educational institution.
 - (e) Months beginning October 1, 2008 in which a *minor parent* head of household or adult received aid in Oregon and is a participant in the *Parents as Scholars (PAS) activity* (see OAR 461-001-0025) enrolled in an *educational institution* consistent with OAR 461-190-0199.
 - (f) Months between October 1, 2007 and March 31, 2016 in which the individual is unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the *federally required participation rates* (see OAR 461-001-0025) because the individual:
 - (A) Was a victim of *domestic violence* (see OAR 461-001-0000);
 - (B) Had a certified learning disability;
 - (C) Had a verified alcohol and drug or mental health condition;

- (D) Had a *child* (see OAR 461-001-0000) with a *disability* (see OAR 461-001-0000), which prevented the *parent* (see OAR 461-001-0000) from obtaining or keeping employment;
- (E) Was an individual with a *disability*;
- (F) Was providing care for a family member who lived in the home and was an individual with a *disability*;
- (G) Was deprived of needed medical care; or
- (H) Was subjected to battery or extreme cruelty. For purposes of this rule, an individual was subjected to battery or extreme cruelty if the individual was subjected to one or more of the following:
 - (i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.
 - (ii) Sexual abuse.
 - (iii) Sexual activity involving a *dependent child*.
 - (iv) Being forced as the ~~caretaker relative~~ *caretaker relative* (see OAR 461-001-0000) of a ~~dependent child~~ *dependent child* (see OAR 461-001-0000) to engage in nonconsensual sexual acts or activities.
 - (v) Threats of, or attempts at, physical or sexual abuse.
 - (vi) Mental abuse.
 - (vii) Neglect or deprivation of medical care.
- (g) Months beginning July 1, 2003 in which the ~~family-parent or needy caretaker relative~~ *relative* resided in Indian Country (as defined in 18 U.S.C. 1151) and 50 percent or more of the adult residents of that area were unemployed. The Department considers an individual to meet the requirements of this subsection if –
 - (A) The individual resides on an Indian reservation, tribal allotment, or Dependent Indian Community as defined by the Bureau of Indian Affairs; or
 - (B) The individual is a member of one of the nine federally-recognized tribes in Oregon and resides in a county listed in subparagraph (ii) of this paragraph.

(i) The nine federally-recognized tribes in Oregon are Burns Paiute Tribe; Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Siletz Indians; Confederated Tribes of the Umatilla Reservation; Confederated Tribes of Warm Springs; Coquille Indian Tribe; Cow Creek Band of the Umpqua Tribe of Indians; and Klamath Tribes.

(ii) The following Oregon counties are covered under paragraph (B) of this subsection for October 1, 2016 to September 30, 2017: Baker, Coos, Crook, Curry, Douglas, Gilliam, Grant, Josephine, Klamath, Lake, Lincoln, and Malheur.

- (h) Months beginning October 1, 2007 in which the *minor parent* head of household or adult is a participant in the JOBS Plus, Pre-TANF, Post-TANF, or SFPSS program.
- (i) Months beginning October 1, 2007 in which the individual who is now a *parent* or pregnant was in that month a minor child and neither the head of a household nor married to the head of a household.
- (j) Months beginning October 1, 2011 in which the *minor parent* head of household or adult is a participant in the JPI program.
- (k) Months in which the *minor parent* head of household or adult is a recipient of *Employment Payments* (see OAR 461-001-0025 and 461-135-1270) unless a TANF payment was issued in the same month.
- (l) Months between July 1, 2008 and April 30, 2012 in which the individual did not qualify for any other TANF time-limit exemption under this rule, and was unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the *federally required participation rates* (see OAR 461-001-0025) when Oregon's statewide average unemployment rate as published by the Oregon Employment Department was equal to or greater than seven percent. For purposes of this rule, this determination --
 - (A) Through December 31, 2011 is calculated based on a six-month period as follows:
 - (i) The time period during July 1, 2008 through June 30, 2009 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period July 1, 2008 through December 31, 2008.
 - (ii) In each six-month period, starting July 1, 2009 and ending December 31, 2011:

- (I) The time period during January 1 through June 30 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period April 1 through September 30 of the preceding year.
 - (II) The time period during July 1 through December 31 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period October 1 through December 31 of the preceding year and January 1 through March 31 of the current year.
- (B) From January 1, 2012 through April 30, 2012 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period April 1 through September 30, 2011.
- (2) Months that did not count toward the time limit based on a condition described in paragraphs (1)(f)(B) to (1)(f)(F) of this rule require documentation from a licensed or certified professional qualified to make such a determination.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.079

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 412.049, 412.079