

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
July 20, 2017 by the

Department of Human Services, Office of Self-Sufficiency Programs	461		
Agency and Division	Chapter Number		
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to become effective August 1, 2017 through January 27, 2018.*

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

Rule Caption: Changing Rules in the SNAP and ERDC programs

In the Matter of: Amending OAR 461-115-0651 and OAR 461-135-0400

AMEND: 461-115-0651, 461-135-0400,

ORS 329A.500, 409.050, 411.060, 411.404, 411.816, 412.014, 412.049

Stat. Auth.

7 USC 2015(o), 7 USC 2029, 7 CFR 273.7, 7 CFR 273.24, 45 CFR 98.41

Other Auth.

ORS 329A.500, 409.010, 411.060, 411.116, 411.121, 411.404, 411.816, 412.014, 412.049

Stats. Implemented

Rule Summary

OAR 461-115-0651 regarding verification requirements in the SNAP program is being amended to correct the ABAWD verification requirements by referring to the new definition of time limit counties that includes Clackamas County at the present time.

OAR 461-135-0400 about requirements for subsidized child care is being amended to require caretakers to show documentation when applying for Employment Related Day Care that the child is on schedule in receiving the necessary immunizations. If documentation is not received or a medical/non-medical exemption form is not received, the caretaker will be denied child care benefits. These changes are required to meet federal regulations.

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

Need for the Rules

OAR 461-115-0651 needs to be amended to correct the ABAWD verification requirements by referring to the new definition of time limit counties that includes Clackamas County at the present time.

OAR 461-135-0400 needs to be amended to comply with federal regulations for child care settings by requiring caretakers to show documentation when applying for Employment Related Day Care that the child is on schedule in receiving the necessary immunizations. If documentation is not received or a medical/non-medical exemption form is not received, the caretaker will be denied child care benefits.

Documents Relied Upon

United States Department of Agriculture, Food and Nutrition Service, ABAWD Time Limit Policy and Program Access, November 19, 2015, available at <http://www.fns.usda.gov/sites/default/files/snap/ABAWD-Time-Limit-Policy-and-Program-Access-Memo-Nov2015.pdf>

Oregon Health Authority, Oregon Immunization Program website available at <http://www.oregon.gov/oha/ph/PreventionWellness/VaccinesImmunization/Pages/Index.aspx>

Oregon Health Authority, OAR 333-050-0040 available at http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_333/333_050.html

Justification of Temporary Rules

The Department finds that failure to act promptly by amending OAR 461-115-0651, will result in serious prejudice to the public interest and the Department. The amendment of OAR 461-115-0651 is needed to properly implement federal requirements that set time limits for SNAP clients in certain Oregon counties, which now include Clackamas County. The Department needs to proceed by temporary rule because the Department is determining eligibility for SNAP clients in Clackamas County on a continuous basis.

The Department finds that failure to act promptly by amending OAR 461-135-0400 will result in serious prejudice to the public interest, children in child care and the Department. The Department needs to proceed by temporary rule to come into compliance with federal regulations and support the health of children in child care, starting August 1, 2017.

Required Verification and When to Verify; SNAP

- (1) The Department must give households at least 10 days to provide required verification.
- (2) All of the following information must be verified when an individual initially applies for SNAP benefits:
 - (a) The identity of the applicant and any authorized representative or alternate payee.
 - (b) Alien status.
 - (c) Social Security Number (SSN) or application for an SSN.
 - (d) Countable income.
 - (e) Medical expenses, if they are used as a deduction.
 - (f) An order to pay child support and the amount actually paid.
 - (g) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact *eligibility* (see OAR 461-001-0000) or the benefit amount.
 - (h) For an ABAWD (OAR 461-135-0520) who resides in ~~Multnomah or Washington County~~ time limit county (see OAR 461-135-0520):
 - (A) Work hours.
 - (B) The number of *countable months* (see OAR 461-135-0520) used in another state if the individual is applying for food benefits after receiving food benefits in another state.
- (3) All of the following information must be verified when an individual reapplies for SNAP benefits:
 - (a) Countable income.
 - (b) Previously unreported medical expenses, and recurring medical expenses which have changed by more than \$25.
 - (c) Any changes in the legal obligation to pay child support, the obligated amount, and the amount the individual is paying for children that live in a different household group.
 - (d) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact *eligibility* or the benefit amount.

- (4) For cases using the Change Reporting System (CRS), each of the following changes reported during the *certification period* (see OAR 461-001-0000) must be verified:
 - (a) A change in source of income, or the amount of stable income has changed by more than \$50.
 - (b) The amount of variable income from any source.
 - (c) Changes in reported medical expenses by more than \$25, and previously unreported medical expenses.
 - (d) Any changes in the legal obligation to pay child support, the obligated amount, and the amount the individual is paying for children that live in a different household group.
 - (e) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact *eligibility* or the benefit amount.
- (5) For cases using the Simplified Reporting System (SRS), each of the following changes reported during the *certification period* must be verified in accordance with OAR 461-170-0103:
 - (a) Alien status and SSN or application for an SSN when a new member joins the *benefit group* (see OAR 461-110-0750).
 - (b) Countable income.
 - (c) Medical expenses, if used as a deduction.
 - (d) An order to pay child support and the amount actually paid, if used as a deduction.
- (6) A claimed expense or cost may be used to determine the SNAP benefit only when the individual provides the required or requested verification.
- (7) In addition to the verification required by sections (2) to (5) of this rule, the income for an individual must be verified every six months for SRS cases certified for twelve months, except those in which every adult member of the filing group (see OAR 461-110-0370) is *elderly* (see OAR 461-001-0015) or an individual with a *disability* (see OAR 461-001-0015) and has no earned income (NED).

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

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.081, 411.087, 411.816, 411.825, 411.837

- (1) The Department makes payments for child care, including care covered by the ERDC program, subject to the provisions of division 165 of this chapter of rules.
- (2) To be eligible for ERDC, a ~~filing group~~ filing group (see OAR 461-110-0310 and 461-110-0350) must meet the requirements of all of the following subsections:
 - (a) Except as provided in subsection (c) of this section, every *caretaker* (see OAR 461-001-0000) in the ~~filing group~~ filing group must receive income from employment. This includes self-employment (see OAR 461-145-0910) and employment through a work study program.
 - (b) The ~~filing group~~ filing group must include a *child* (see OAR 461-001-0000) who needs child care.
 - (c) The ~~filing group~~ filing group must have an allowable child care need as described in OAR 461-160-0040. If there are two adults required to be in the ~~filing group~~ filing group, and one of the adults is unemployed, the unemployed adult is considered available to provide child care, making the ~~filing group~~ filing group ineligible, except in the following situations:
 - (A) The unemployed adult is physically or mentally unable to provide adequate child care. This must be verified (see OAR 461-125-0830).
 - (B) The unemployed adult is unavailable to provide child care while participating in the requirements of a *case plan* (see OAR 461-001-0025) other than requirements associated with post-secondary education.
 - (C) Confirmation is received from the Office of Child Welfare Programs that supervised contact is required between the *child* and an unemployed *parent* (see OAR 461-001-0000) or *spouse* (see OAR 461-001-0000) who is living in the home with the *child*.
 - (d) The ~~filing group~~ filing group must use a child care provider who meets the requirements in OAR 461-165-0160 and 461-165-0180.
 - (e) The *child* needing child care must meet the citizenship or alien status requirements of OAR 461-120-0110.
 - (f) The ~~filing group~~ filing group must certify that they do not exceed the resource limit in OAR 461-160-0015 and must meet the income limits in OAR 461-155-0150.
- (3) A ~~filing group~~ filing group not willing to ~~obtain a Certificate of Immunization Status show verification of immunizations, proof that the immunization series has started, or a copy of the medical or non-medical exemption form~~ for the *child* is not eligible for a child care payment for more than twelve calendar months, or longer if child care continues under OAR 461-160-0040(5).

- (4) The child care must be necessary to enable the *caretaker* to remain employed, including self-employed.
- (5) A ~~filing group~~filing group is not eligible for child care when the *caretaker* or *parent* in the ~~filing group~~filing group receives a grant for child care from the Oregon Student Assistance Commission for any month the grant is intended to cover, regardless of when the grant is received.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122, 411.141, 418.485