

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
September 15, 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 October 1, 2017 through January 31, 2018.*

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

Rule Caption: Revising rules about self-sufficiency programs

In the Matter of: **Amending 461-110-0370, 461-130-0310, 461-135-0505, 461-135-0520,
461-155-0150, 461-155-0190, 461-160-0015, 461-160-0420, 461-160-
0430, 461-165-0030, and 461-165-0180**

AMEND: 461-110-0370, 461-130-0310, 461-135-0505, 461-135-0520, 461-155-0150, 461-
155-0190, 461-160-0015, 461-160-0420, 461-160-0430, 461-165-0030, 461-165-
0180

ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.006,
412.009, 412.014, 412.049, 413.085, 414.025, 414.685, 414.826, 414.839

Stat. Auth.

7 USC 2015(o), 7 USC 2029, 7 CFR 273.2, 7 CFR 273.7, 7 CFR 273.24

Other Auth.

ORS 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070, 411.081, 411.087, 411.116,
411.117, 411.121, 411.404, 411.704, 411.706, 411.816, 411.122, 411.141, 411.816, 412.006,
412.014, 412.124, 412.049, 412.124, 413.085, 414.025, 414.685, 414.826, 414.839, 418.485

Stats. Implemented

Rule Summary

OAR 461-110-0370 about filing groups in the SNAP program, OAR 461-155-0190 about income and payment standards in the SNAP program, OAR 461-160-0015 about resource limits, OAR 461-160-0420 about shelter costs in the SNAP program, and OAR 461-160-0430 about income deductions in the SNAP program are being amended to comply with changes to federal SNAP standards that will be effective on October 1st, 2017

OAR 461-130-0310 about participation classifications is being amended to align its employment program exemptions for the SNAP program more closely with the federal regulations, including the removal of categorical exemptions for pregnant and chronically homeless individuals as well as broadening the exemption for caring for an individual with a disability.

OAR 461-135-0505 about categorical eligibility for the SNAP program is being amended to narrow the group of individuals who become ineligible for categorical eligibility due to liquid assets, allowing more retirees to qualify.

OAR 461-135-0520 about time limits and special requirements for able-bodied adults without dependents (ABAWD) in the SNAP program is being amended to clarify the rule and align its countable month exemptions more closely with the federal regulations.

OAR 461-155-0150 about the child care eligibility standard, payment rates, and copayments is being amended to remove its requirement for providers to make their own determination about the need for a higher level of care to qualify for a special needs rate for childcare benefits. This rule is also being amended to reflect the negotiated 1.5 percent increase in some of the child care provider rates.

OAR 461-165-0030 about concurrent and duplicate program benefits is being amended to state that a child in the last month of receiving ERDC (Employee Related Daycare) benefits may apply for and receive TANF benefits in the same month, aligning with current practices.

OAR 461-165-0180 is being amended add language that extended the deadline from June 30, 2017 to July 31, 2017 for license-exempt child care providers who were approved for DHS subsidy payments prior to November 1, 2016 to take the required Introduction to Child Care Health and Safety trainings. This rule is also being amended to allow more time for parents who are still using a license-exempt child care provider to find a new provider by allowing these providers until September 30, 2017 to take the required training. These amendments were added by temporary rule on August 8, 2017 and are now re-filed because they were not part of the earlier notice of proposed rulemaking which became permanent on October 1, 2017.

Need for the Rules

OAR 461-110-0370, OAR 461-155-0190, OAR 461-160-0015, OAR 461-160-0420, and OAR 461-160-0430 need to be amended to comply with changes to federal SNAP standards that will

be effective on October 1st, 2017 by updating the standards currently in these rules for the SNAP program.

OAR 461-130-0310 needs to be amended to align its employment program exemptions more closely with the federal regulations for the SNAP program by the removing the categorical exemptions for pregnant and chronically homeless individuals and revising other participation category descriptions based on the terms used in federal regulations.

OAR 461-135-0505 needs to allow more retiree to qualify for SNAP benefits by narrow the group of individuals who become ineligible for categorical eligibility due to liquid assets to those whose liquid assets exceed \$25,000 due to lottery winnings.

OAR 461-135-0520 needs to be amended to clarify the rule and align its countable month exemptions more closely with the federal regulations by including pregnancy, being unfit for work, and broadening the exemption for caring for an individual with a disability.

OAR 461-155-0150 needs to be amended to be consistent with recent collective bargaining agreements by reflect the negotiated 1.5 percent increase in some of the child care provider rates. This rule also need to be amended to remove an unnecessary provider compliance costs by removing its requirement for providers to make their own determination about the need for a higher level of care to qualify for a special needs rate for childcare benefits.

OAR 461-165-0030 needs to be amended to align with current Department practices by stating that a child in the last month of receiving ERDC (Employee Related Daycare) benefits may apply for and receive TANF benefits in the same month, aligning with current practices.

OAR 461-165-0180 needs to be amended to better support parents in finding child care providers that allow the parent to remain employed by extending the deadline from June 30, 2017 to July 31, 2017 for license-exempt providers who were approved for DHS subsidy payments prior to November 01, 2016 to take the required Introduction to Child Care Health and Safety trainings and by providing more time for parents who are still using a license-exempt provider to find a new provider by providing these providers until September 30, 2017 to take the required training.

Documents Relied Upon

FNS ABAWD Time limit Policy and Program Access memo, November 19, 2015, available at <http://www.fns.usda.gov/sites/default/files/snap/ABAWD-Time-Limit-Policy-and-Program-Access-Memo-Nov2015.pdf>

USDA Food and Nutrition Service, “SNAP --Fiscal Year 2018 Cost-of-Living Adjustments”, July 28, 2017 available at https://fns-prod.azureedge.net/sites/default/files/snap/SNAP_Fiscal_Year_2018_Cost_of_Living_Adjustments.pdf

Justification of Temporary Rules

The Department finds that failure to act promptly by amending OAR 461-110-0370, OAR 461-155-0190, OAR 461-160-0015, OAR 461-160-0420, and OAR 461-160-0430 will result in serious prejudice to the public interest, the Department, and some SNAP clients because the Department must comply with the federal standards that take effect starting October 1, 2017 and issues benefits for large numbers of SNAP clients on an ongoing basis.

The Department finds that failure to act promptly by amending OAR 461-130-0310 and 461-135-0520 will result in serious prejudice to the public interest and the Department. The Department needs to proceed by temporary rule because the Department is continually determining SNAP eligibility and need to comply with federal requirements for employment classifications and time limits at this time.

The Department finds that failure to act promptly by amending OAR 461-135-0505 will result in serious prejudice to the public interest, the Department, and some SNAP clients. The Department needs to proceed by temporary rule because the Department is continually determining SNAP eligibility. This rule change will immediately prevent individuals who shift money from retirement accounts to checking or savings accounts from becoming ineligible for food benefits.

The Department finds that failure to act promptly by amending OAR 461-155-0150 will result in serious prejudice to the public interest, the Department, and some childcare providers. The Department needs to proceed by temporary rule because some provider increases from collective bargaining start on October 1, 2017 and because providers will benefit immediately if not required to submit unnecessary forms.

The Department finds that failure to act promptly by amending OAR 461-165-0030 will result in serious prejudice to the public interest, the Department, and some TANF and ERDC clients. The Department needs to proceed by temporary rule to conform its rules to current practices and support families whose employment ends.

The Department finds that failure to act promptly by amending OAR 461-165-0180 will result in serious prejudice to the public interest, the Department, Department clients receiving subsidized child care, and child providers. The Department needs to proceed by temporary rule to provide immediate support to parents in finding child care providers that allow the parent to remain employed by extending the deadline from June 30, 2017 to July 31, 2017 for license-exempt providers who were approved for DHS subsidy payments prior to November 01, 2016 to take the required Introduction to Child Care Health and Safety trainings and by providing more time for parents who are still using a license-exempt provider to find a new provider by providing these providers until September 30, 2017 to take the required training.

In the SNAP program:

- (1) Except as provided in this rule, the filing group (see OAR 461-110-0370) consists of members of a *household group* (see OAR 461-110-0210) who choose to apply together or customarily purchase and prepare meals together.
- (2) Except as provided in sections (3) and (8) of this rule, the following *household group* members must be in the same filing group, even if they do not customarily purchase and prepare meals together:
 - (a) Each *spouse* (see OAR 461-001-0000).
 - (b) A *parent* (see OAR 461-001-0000) and his or her child under age 22 living with the *parent*.
 - (c) A *household group* member and any child under age 18 who lives with and is under "parental control" of that *household group* member. For the purposes of this subsection, "parental control" means the adult is responsible for the care, control, and supervision of the child or the child is financially dependent on the adult.
- (3) In the following specific situations, the Department forms a filing group as indicated:
 - (a) An individual is not included in the filing group if, during the month the group applied for SNAP program benefits, the individual received SSI benefits through the state of California. This exclusion applies only in the month the group applied and, if necessary to meet notice requirements, in the month following the month the group applied.
 - (b) An individual is not included in the filing group if during the month the group applied for SNAP program benefits the individual received SNAP program benefits in another household and was not the head of household in the prior household. This exclusion applies only in the month the group applied and, if necessary to meet notice requirements, in the month following the month the group applied.
 - (c) An *elderly* (see OAR 461-001-0015) individual and his or her *spouse* may be considered a separate filing group from others with whom the *elderly* individual purchases and prepares meals, if:
 - (A) The *elderly* individual is unable to purchase or prepare food because of a permanent and severe disabling condition; and

- (B) The combined income of the other members of the *household group* does not exceed the following limit:

Other Household Members	Monthly Countable Income
1	\$1, 634 <u>659</u>
2	2, 203 <u>233</u>
3	2, 772 <u>808</u>
4	3, 342 <u>383</u>
5	3, 911 <u>958</u>
6	4, 480 <u>532</u>
7	5, 051 <u>107</u>
8	5, 623 <u>682</u>
Each additional person	<u>572575</u>

- (4) A paid live-in attendant may choose not to be in the filing group with the recipient of the services provided, unless required by section (2) of this rule to be in the same filing group.
- (5) An individual in foster care, the individual's *spouse*, and each child under age 22 living with the individual are not eligible to participate in the SNAP program independently of the care or service provider's filing group, but may be included in the provider's filing group if the provider applies for benefits.
- (6) Unless required under section (2) of this rule, the following *household group* members may form a separate filing group from other members of the *household group*:
- (a) A resident of an alcohol or drug treatment and rehabilitation program certified by the Department for which an employee of the facility is the authorized representative (see OAR 461-135-0550). A resident's spouse in the same facility may be in a separate filing group, but a child of a resident must be in the same filing group as the resident.
 - (b) A resident in *group living* (see OAR 461-001-0015).
 - (c) A resident of a public or private non-profit *homeless* or *domestic violence shelter* (see OAR 461-135-0510).
 - (d) An individual who is a resident of federally subsidized housing for the *elderly*, an individual with a disability, or blind recipient of benefits under Title I, II, X, XIV, or XVI of the Social Security Act.
- (7) A member of the *household group* who pays the filing group for room and board (lodger) is treated as follows:

- (a) A lodger may not participate in the SNAP program independently of the *household group*.
- (b) A lodger may participate in the SNAP program with the *household group* when the lodger pays a reasonable amount (see subsection (d) of this section) for room and board.
- (c) A lodger must participate in the SNAP program with the *household group* when the lodger does not pay a reasonable amount for room and board.
- (d) A reasonable amount is:
 - (A) An amount that equals or exceeds the Thrifty Food Plan for the individual and anyone in that individual's filing group (see OAR 461-155-0190(2)), if more than two meals per day are provided; or
 - (B) An amount that equals or exceeds two-thirds of the Thrifty Food Plan for the individual and anyone in the individual's filing group, if two or fewer meals per day are provided.
- (8) A *household group* member is not included in the filing group, if the member is:
 - (a) A resident of a commercial boarding house; or
 - (b) An ineligible student, as defined in OAR 461-135-0570.
- (9) A *household group* member may be included in two filing groups in the same month, if the member:
 - (a) Is a resident of a *domestic violence shelter* (see OAR 461-001-0000) or *safe home* (see OAR 461-001-0000); and
 - (b) Recently left the *household group* containing the member's abuser.

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

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

Participation Classifications: Exempt, Mandatory, and Volunteer

- (1) In the Post-TANF, Pre-TANF, REF, SNAP, and TANF programs:
 - (a) The Department assigns an individual to one or more employment program participation classifications--*exempt*, *mandatory*, and *volunteer* (see OAR 461-130-0305 for definitions of all three terms).
 - (b) Notwithstanding OAR 461-130-0503(2)(c), in the Post-TANF program or while receiving *Employment Payments* (see OAR 461-001-0025) under OAR 461-135-1270, an individual is classified as a *volunteer*.
- (2) In the Pre-TANF, and TANF programs:
 - (a) An individual in the *need group* (see OAR 461-110-0630) is JOBS *exempt* from employment program participation and disqualification if the individual meets the requirements of at least one of the following paragraphs. The individual is --
 - (A) A *parent* (see OAR 461-001-0000) providing care for a family member who is an individual with a *disability* (see OAR 461-001-0000) and is in the *household group* (see OAR 461-110-0210) with the *parent*. Medical documentation to support the need for the care is required.
 - (B) A noncitizen who is not authorized to work in the United States.
 - (C) An individual who is eligible for and receives supplemental security income (SSI) from the Social Security Administration.
 - (D) A *caretaker relative* (see OAR 461-001-0000) who is non-needy.
 - (b) A *caretaker relative* of a *dependent child* or unborn who receives TANF program benefits is JOBS eligible if the *caretaker relative* is in the same filing group with the *dependent child* (see OAR 461-001-0000) or unborn (even if the *caretaker relative* is not in the TANF program *benefit group* under OAR 461-110-0750), unless the *caretaker relative* is otherwise JOBS *exempt* from participation under subsection (a) of this section.
 - (c) A JOBS volunteer is an individual who is federally mandatory and eligible to participate in an employment program, but who may not be disqualified as they meet at least one of the following state exemptions:
 - (A) Pregnant and the pregnancy has reached the first of the calendar month prior to the month in which the due date falls.
 - (B) Pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.

- (C) A *parent*, 20 years old and older, during the first six months after the birth of the parent's *dependent child* except that the Department may require the *parent* to participate in parenting classes or a *family stability activity* (see OAR 461-001-0000). An exemption allowed under this paragraph may apply only to one JOBS Eligible participant in each filing group (see OAR 461-110-0330).
 - (D) A *parent* under age 20 years old, during the first 16 weeks after the birth of the parent's *dependent child* except that the Department may require the *parent* to participate in parenting classes, a *family stability activity*, or an educational track if the *parent* has not completed high school, GED, or equivalency program.
 - (E) An individual whose participation is likely to cause undue hardship or is contrary to the best interests of the *dependent child* or needy *caretaker relative*.
 - (F) Pregnant and participating more than 10 hours per week during the first two months of the third trimester.
 - (G) A VISTA volunteer.
- (3) In the SNAP program:
- (a) An individual is *exempt* from registration in an employment program and disqualification if the individual meets the requirements of one of the following paragraphs. The individual is --
 - (A) An individual with a physical or mental condition that prevents performance of any work.
 - (B) Responsible for the care of a *child* (see OAR 461-001-0000) in the filing group under 6 years of age.
 - (C) Responsible for the care of an individual ~~in the household~~ with a *disability* (see OAR 461-001-0015) that substantially reduces or eliminates the individual's ability to care for himself or herself.
 - (D) ~~Enrolled~~ A student enrolled at least half-time, as defined by the school, in any high school or equivalent program recognized by a school district or enrolled at least half-time in any school, training program, or institution of higher education. An individual remains *exempt* during normal periods of class attendance, vacation, and recess but no longer qualifies for the student exemption when a break in enrollment occurs due to graduation, suspension or expulsion, or when the student drops out of school or does not enroll in classes for the next regular school term (excluding summer term).

(E) Participating ~~A regular participant~~ in a drug addiction or alcoholic treatment and rehabilitation program.

~~(F) Pregnant.~~

~~(G) Chronically homeless. For purposes of this rule, "chronically homeless" means the individual is currently *homeless* (see OAR 461-001-0015), unable to obtain employment due to being *homeless*, and one of the following applies:~~

~~(i) The individual has been *homeless* for more than six months.~~

~~(ii) The individual has been *homeless* more than one time in the last 12 months.~~

~~(iii) The individual states that the individual is unable to meet the basic necessities of everyday life.~~

(b) An individual is *mandatory* for registration in an employment program and the requirements in OAR 461-130-0315 if the individual meets the requirements of one of the following paragraphs. These individuals may be disqualified under OAR 461-130-0330 for failing to meet the requirements in OAR 461-130-0315. The individual is --

(A) Working a minimum of 30 hours a week or earning money equal to at least the federal minimum wage multiplied by 30 hours per week multiplied by 4.3 weeks. An individual who is self-employed with allowable costs must meet the earnings threshold after allowing the 50 percent deduction. This includes *migrant and seasonal farm workers* (see OAR 461-001-0015) who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days.

(B) ~~Receiving REF or TANF program benefits~~ Engaged in the TANF JOBS program under Title IV ~~A~~ of the Social Security Act.

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

(i) The Trade Readjustment Allowance (TRA) program serving displaced workers under the Trade Act.

(ii) The Training Unemployment Insurance (TUI) program.

(iii) The Self-Employment Insurance (SEA) program.

(iv) The Apprenticeship Program (APT).

- (c) A *mandatory* client is an individual in the *need group* (see OAR 461-110-0630); who is 16 or 17 years of age and a *primary person* (see OAR 461-001-0015), or 18 years of age and older and 59 years of age and younger; and who is not *exempt* under subsection (a) of this section.
- (4) In the REF program, an individual in the *need group* is *exempt* from the REF employment program participation and disqualification if the individual meets the requirements of at least one of the following subsections. The individual is –
 - (a) 65 years of age or older.
 - (b) An individual providing care for a family member who is in the *household group* and has a *disability*. Medical documentation to support the need for the care is required.
 - (c) An individual whose participation is likely to cause undue hardship to that individual.
 - (d) Pregnant and the pregnancy has reached the first of the calendar month prior to the month in which the due date falls.
 - (e) Pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.
 - (f) Pregnant and participating more than 10 hours per week during the first two months of the third trimester.

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

Categorical Eligibility for SNAP

- (1) An individual is categorically eligible for SNAP benefits if the individual:
 - (a) Receives or is authorized to receive GA or SSI benefits;
 - (b) Receives or is authorized to receive cash, in-kind benefits, or services funded either under Title IV-A of the Social Security Act or by the state as part of the TANF maintenance of effort;
 - (c) Is deemed to be receiving SSI under Section 1619(a) or 1619(b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)); or
 - (d) Is a member of a *financial group* (see OAR 461-110-0530) with *countable* (see OAR 461-001-0000) income less than 185 percent of the federal poverty level as described in OAR 461-155-0180(4), does not have liquid assets from lottery winnings in excess of \$25,000, and has received a pamphlet about Information and Referral Services. Liquid assets are assets that are easily accessible and do not need to be sold to access their value.
- (2) For an entire filing group to be categorically eligible for SNAP benefits, it must contain only clients who are categorically eligible for SNAP benefits. For the purpose of determining who is categorically eligible for SNAP benefits, in the ERDC and TA-DVS programs all members of the filing group are considered receiving the benefits of the program even if not all members receive the benefit.
- (3) A filing group that is eligible for transition services or the TA-DVS program is considered receiving benefits for the entire period of eligibility even if benefits are not received during each month of that period.
- (4) An individual categorically eligible for the SNAP program is presumed to meet the eligibility requirements for resources and countable and adjusted income limits. The individual is also presumed to meet the requirements for a social security number, sponsored alien information, and residency, if verified in a public assistance or medical assistance program.
- (5) When a filing group contains both members who are categorically eligible for SNAP benefits and those who are not, a resource owned in whole or in part by a categorically eligible member is excluded.
- (6) An individual may not be categorically eligible for SNAP benefits in either of the following circumstances:
 - (a) The individual is disqualified from receiving SNAP benefits because of an intentional program violation.

- (b) The individual is a *primary person* (see OAR 461-001-0015) disqualified from receiving SNAP benefits for failure to comply with an OFSET activity or component contained in an OFSET *case plan* (see OAR 461-001-0020).

Stat. Auth.: ORS 409.050, 411.816

Stats. Implemented: ORS 409.010, 411.816

Time Limit and Special Requirements for ABAWD; SNAP

This rule establishes the time limit and special requirements for receipt of SNAP benefits for certain adults.

- (1) Unless the context indicates otherwise, the following definitions apply to rules in OAR chapter 461:
 - (a) "Able-bodied adult without dependents (ABAWD)" means an individual 18 years of age or over, but under the age of 50, without dependents. For the purpose of this definition, "without dependents" means there is no *child* (see OAR 461-001-0000) under the age of 18 years in the filing group (see OAR 461-110-0310 and 461-110-0370).
 - (b) "~~Time limit~~SNAP time-limit counties" means Oregon counties in which the limitation on *eligibility* (see OAR 461-001-0000) for SNAP benefits for ABAWD in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)) applies. "~~Time~~SNAP time-limit ~~limit~~-counties" are Clackamas, Multnomah, and Washington counties.
 - (c) "~~Time limit~~SNAP time-limit exempt counties" means Oregon counties in which the limitation on *eligibility* for SNAP benefits contained in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)) does not apply per a waiver approved by the United States Department of Agriculture. "Exempt counties" are Baker, Benton, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Malheur, Marion, Marrow, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Wheeler, and Yamhill counties.
- (2) Except as provided otherwise in this rule, an ABAWD who resides in one of the ~~time limit~~SNAP time-limit *counties* (see section (1) of this rule) is ineligible to receive food benefits as a member of any household after the individual received food benefits for three *countable months* (see section (3) of this rule) during January 1, 2016 to December 31, 2018.
- (3) "Countable months" means months within the 36-month period of January 1, 2016 to December 31, 2018 in which an individual as a member of any household receives SNAP benefits in Oregon or in any other state, unless at least one of the following applies:
 - (a) The individual resided for any part of the month in one of the ~~time limit~~SNAP time-limit *exempt counties* (see section (1) of this rule).
 - (b) Benefits were prorated for the month.

- (c) The individual was exempt from the SNAP time limit for any part of the month under OAR 461-130-0310(3)(a) or (b) for any of the following reasons:
- (A) The individual resided in one of the SNAP time-limit exempt counties.
 - (B) The individual was pregnant.
 - (C) A child under the age of 18 years joined the filing group.
 - (D) The individual met the criteria under OAR 461-130-0310(3)(a) or (b).
- (d) The individual participated in one or more of the activities in paragraphs (A) to (D) of this subsection for 20 hours per week averaged over the month. For purposes of this rule, 20 hours per week averaged monthly means 80 hours per month. (Activities may be combined in one month to meet the 20 hours per week averaged monthly requirement.)
- (A) Work for pay, in exchange for goods or services, or unpaid work as a volunteer.
 - (i) Work in exchange for goods and services includes bartering and in-kind work.
 - (ii) Voluntary-Unpaid or voluntary work hours must be verified by the employer.
 - ~~(iii)~~ For self-employed individuals, countable income after deducting the costs of producing income must average at least the federal minimum wage times 20 hours per week.
 - (B) Participate in a program under the Workforce Investment Act of 1998, Pub. L. No. 105-220, 112 Stat. 936 (1998).
 - (C) Participate in a program under section 236 of the Trade Act of 1974, Pub. L. 93-618, 88 Stat. 2023, (1975) (19 U.S.C. 2296).
 - (D) Comply with the employment and training requirements described in OAR 461-001-0020, 461-130-0305, and 461-130-0315. Work search activities must be combined with other work-related activities to equal 20 hours per week and may not exceed 9 hours per week.
- (e) The individual complied with the Workfare requirements in OAR 461-190-0500.
- (4) An ABAWD must submit evidence to the Department on the issue of whether a month is countable within 90 days following the last day of the month in question.

- (5) An ABAWD who is ineligible under section (2) of this rule but otherwise eligible may regain *eligibility* if the requirements of subsections (a) or (b) of this section are met.
- (a) The individual becomes *exempt* under OAR 461-130-0310(3)(a). *Eligibility* regained under this subsection begins on the date the individual files a new application and continues as long as the individual is *exempt* and is otherwise eligible. If not eligible on the *filing date* (see OAR 461-115-0040), *eligibility* begins the date all other *eligibility* requirements are met.
 - (b) The individual, during a consecutive 30-day period during which the individual is ~~ineligible~~not receiving SNAP benefits, meets the requirements of subsection (3)(d) or (3)(e) of this rule.
 - (A) *Eligibility* regained under this subsection begins on the date the individual files a new application and continues as long as the individual meets the requirements of subsection (3)(d) or (3)(e) of this rule and is otherwise eligible. If not eligible on the *filing date*, *eligibility* begins the date all other *eligibility* requirements are met.
 - (B) There is no limit to how many times an individual may regain *eligibility* under this subsection during January 1, 2016 to December 31, 2018.
 - (c) See OAR 461-180-0010 to add an individual to an open SNAP case after the individual has regained *eligibility* under this section.
- (6) An individual who regains *eligibility* under section (5) of this rule and later fails to comply with the participation requirements of subsection (3)(d) or (3)(e) of this rule may receive a second set of food benefits for three consecutive *countable months*. The *countable months* are determined as follows:
- (a) If the individual stopped participation in a work program, *countable months* start when the Department notifies the individual he or she is no longer meeting the work requirement.
 - (b) If the individual stopped participation in a work program, *countable months* start when the individual notifies the Department he or she is no longer meeting the work requirement.
 - (c) If a change occurred which results in an individual becoming subject to the time limit in section (2) of this rule and the change was required to be reported under rules in OAR chapter 461, division 170, the *countable months* start when the change occurred.
 - (d) If a change occurred which results in an individual becoming subject to the time limit and the change was not required to be reported under rules in OAR chapter

461, division 170, *countable months* start when the Department notifies the individual he or she must meet the work requirement.

- (e) An individual may only receive benefits without meeting the requirements of subsection (3)(d) or (3)(e) of this rule for a total of six *countable months* during January 1, 2016 to December 31, 2018.
- (7) This section is a placeholder to establish criteria the Department will use to grant exemptions to ABAWD who are ineligible if the Department receives special exemptions from the Food and Nutrition Service.
- (8) An ABAWD involved in the activities specified in subsection (3)(d) or (3)(e) of this rule or an activity listed in the individual's *case plan* (see OAR 461-001-0020) is eligible for support service payments necessary for transportation or other costs related to completing the activity as allowed by OAR 461-190-0360.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.121, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.121, 411.816, 411.825, 411.837

Child Care Eligibility Standard, Payment Rates, and Copayments

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:

- (1) The following definitions apply to the rules governing child care rates:
 - (a) Infant: For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 2 years.
 - (b) Toddler: For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 2 years to 3 years.
 - (c) Preschool: A child aged 3 years to 6 years.
 - (d) School: A child aged 6 years or older.
 - (e) Special Needs: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral, or mental disability. The ~~need for a higher level of care must be determined by the provider and the~~ disability must be verified by one of the following:
 - (A) A physician, nurse practitioner, clinical social worker, or any additional sources in OAR 461-125-0830.
 - (B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.
 - (C) Eligibility for SSI.
- (2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:
 - (a) The *Standard Family Rate* applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.
 - (b) The *Enhanced Family Rate* applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.

- (c) The *Registered Family Rate* applies to child care provided in the provider's own home when the provider meets criteria established by the Office of Child Care.
 - (d) The *Certified Family Rate* applies to child care provided in a residential dwelling that is certified by the Office of Child Care as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.
 - (e) The *Standard Center Rate* applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Office of Child Care Certification rules (see OAR 414-300-0000).
 - (f) The *Enhanced Center Rate* applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:
 - (A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in subsection (b) of this section.
 - (B) New staff must meet the Oregon Registry training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.
 - (C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.
 - (g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (b) or (f) of this section.
 - (h) The *Certified Center Rate* applies to child care provided in a center that is certified by the Office of Child Care.
- (3) The following provisions apply to child care payments:
- (a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.
 - (b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month, unless the provider customarily

bills all families at a part-time monthly rate subject to the maximum full-time monthly rate and is designated as the primary provider for the case.

- (c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month, customarily bill all families at a part-time monthly rate, and are designated as the primary provider for the case.
- (d) Unless required by the circumstances of the client or child, the Department will not pay for care at a part-time monthly or a monthly rate to more than one provider for the same child for the same month.
- (e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.
- (f) The Department will pay for up to five days each month the child is absent if:
 - (A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care; and
 - (B) It is the provider's policy to bill all families for absent days.
- (g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.
- (h) Child care providers are eligible to receive an incentive payment upon achieving and maintaining a three star or higher rating with the Quality Rating Improvement System (QRIS) subject to all of the following provisions.
 - (A) The incentive payment is in addition to the Department maximum rate.
 - (B) A provider may receive an incentive payment for any ERDC child that the Department paid the provider for full-time care (136 hours or more).
 - (C) Providers who are contracted for child care services through the ERDC program are not eligible to receive incentive payments.
 - (D) Eligibility for the incentive payment is effective the month after the QRIS rating has been achieved.

- (E) The incentive payment amount is based on the provider's star QRIS rating as follows:

Star Rating	Amount
3	\$54
4	\$72
5	\$90

- (4) The following are the child care rates based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (hourly or monthly):

- (a)

Group Area A
STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	\$3. 30 <u>35</u>	\$610 <u>620</u>	\$9.00	\$941
Toddler	\$3. 24 <u>30</u>	\$585 <u>595</u>	\$5.25	\$928
Preschool	\$3. 24 <u>30</u>	\$550 <u>558</u>	\$5.06	\$724
School	\$3. 24 <u>30</u>	\$550 <u>558</u>	\$4.50	\$638
Special Needs	\$3. 30 <u>35</u>	\$610 <u>620</u>	\$9.00	\$941

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$3. 55 <u>60</u>	\$480 <u>488</u>	\$640 <u>650</u>	\$10.20	\$800	\$1,067
Toddler	\$3. 34 <u>40</u>	\$461 <u>469</u>	\$615 <u>625</u>	\$5.95	\$788	\$1,051
Preschool	\$3. 34 <u>40</u>	\$435 <u>443</u>	\$580 <u>590</u>	\$5.74	\$615	\$820
School	\$3. 25 <u>34</u>	\$435 <u>443</u>	\$580 <u>590</u>	\$5.10	\$542	\$723
Special Needs	\$3. 55 <u>60</u>	\$480 <u>487</u>	\$640 <u>650</u>	\$10.20	\$800	\$1,067

LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$3.75	\$503	\$670	\$6.00	\$750	\$1,000	\$12.00	\$941	\$1,255
Toddler	\$3.50	\$484	\$645	\$5.50	\$750	\$1,000	\$7.00	\$928	\$1,237
Preschool	\$3.50	\$458	\$610	\$5.00	\$653	\$870	\$6.75	\$724	\$965
School	\$3.25	\$458	\$610	\$4.50	\$488	\$650	\$6.00	\$638	\$850
Special Needs	\$3.75	\$503	\$670	\$6.00	\$750	\$1,000	\$12.00	\$941	\$1,255

Zip Codes for Group Area A:
Portland, Bend, Eugene, Corvallis, Springfield, Monmouth and Ashland areas

97003	97004	97005	97006	97007	97008	97009	97010	97013	97014	97015	97019
97022	97023	97024	97027	97028	97030	97031	97034	97035	97036	97041	97045
97051	97055	97056	97060	97062	97064	97068	97070	97080	97086	97089	97106
97109	97112	97113	97116	97119	97123	97124	97125	97132	97133	97135	97140
97149	97201	97202	97203	97204	97205	97206	97209	97210	97211	97212	97213
97214	97215	97216	97217	97218	97219	97220	97221	97222	97223	97224	97225
97227	97229	97230	97231	97232	97233	97236	97239	97242	97258	97266	97267
97268	97286	97292	97330	97331	97333	97339	97351	97361	97371	97376	97401
97402	97403	97404	97405	97408	97454	97455	97477	97478	97482	97520	97525
97701	97702	97703	97707	97708	97709						

(b)

Group Area B
STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	\$2. 8390	\$ 485495	\$3.75	\$546
Toddler	\$2. 8390	\$ 465475	\$3.75	\$536
Preschool	\$2. 6975	\$ 461470	\$3.00	\$443
School	\$2. 6975	\$ 450457	\$3.30	\$428
Special Needs	\$2. 8390	\$ 485495	\$3.75	\$546

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$3.0005	\$394400	\$525533	\$4.25	\$464	\$619
Toddler	\$3.0005	\$375381	\$500508	\$4.25	\$456	\$608
Preschool	\$3.0005	\$375381	\$500508	\$3.40	\$377	\$502
School	\$3.0005	\$360365	\$480487	\$3.74	\$364	\$485
Special Needs	\$3.0005	\$394400	\$525533	\$4.25	\$464	\$619

LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$3.05	\$416	\$555	\$3.60	\$469	\$625	\$5.00	\$546	\$728
Toddler	\$3.05	\$398	\$530	\$3.70	\$450	\$600	\$5.00	\$536	\$715
Preschool	\$3.05	\$398	\$530	\$3.70	\$413	\$550	\$4.00	\$443	\$590
School	\$3.05	\$383	\$510	\$3.75	\$413	\$550	\$4.40	\$428	\$570
Special Needs	\$3.05	\$416	\$555	\$3.60	\$469	\$625	\$5.00	\$546	\$728

Zip Codes for Group Area B:

Salem, Medford, Roseburg, Brookings and areas outside the metropolitan areas in Eugene and Portland

97002	97011	97016	97017	97018	97038	97042	97044	97048	97049	97053	
97058	97067	97071	97103	97107	97108	97110	97111	97114	97115	97117	97118
97121	97122	97127	97128	97131	97134	97138	97141	97143	97146	97148	97301
97302	97303	97304	97305	97306	97307	97309	97310	97317	97321	97322	97325
97326	97327	97328	97336	97338	97341	97343	97344	97348	97352	97353	97355
97357	97362	97365	97366	97367	97370	97372	97374	97377	97378	97380	97381
97383	97385	97386	97389	97391	97392	97394	97415	97420	97423	97424	97426
97431	97444	97446	97448	97452	97456	97457	97459	97465	97470	97471	97479
97487	97489	97501	97502	97503	97504	97524	97534	97535	97756	97759	97760
97801	97812	97813									

(c)

Group Area C

STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	\$2.7697	\$450457	\$2.74	\$440

Toddler	\$2.5579	\$429435	\$2.91	\$432
Preschool	\$2.4549	\$416422	\$2.25	\$340
School	\$2.4549	\$416422	\$2.52	\$372
Special Needs	\$2.7697	\$450457	\$2.74	\$440

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$23.9802	\$338343	\$450457	\$3.83	\$398	\$531
Toddler	\$2.8084	\$338343	\$450457	\$3.40	\$383	\$510
Preschool	\$2.5054	\$334339	\$445452	\$2.76	\$290	\$386
School	\$2.5054	\$319323	\$425431	\$2.85	\$316	\$421
Special Needs	\$2.983.02	\$338343	\$450457	\$3.83	\$398	\$531

LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$3.00	\$360	\$480	\$3.50	\$413	\$550	\$4.50	\$469	\$625
Toddler	\$3.00	\$360	\$480	\$3.50	\$428	\$570	\$4.00	\$450	\$600
Preschool	\$2.55	\$356	\$475	\$3.50	\$371	\$495	\$3.25	\$340	\$453
School	\$2.55	\$341	\$455	\$3.50	\$356	\$475	\$3.35	\$372	\$495
Special Needs	\$3.00	\$360	\$480	\$3.50	\$413	\$550	\$4.50	\$469	\$625

Zip Codes for Group Area C: Balance of State, Other State Zips

97001	97020	97021	97026	97029	97032	97033	97037	97039	97040	97050	97054	97057
97063	97065	97101	97102	97130	97136	97137	97144	97145	97147	97324	97329	97335
97342	97345	97346	97347	97350	97358	97359	97360	97364	97368	97369	97375	97384
97388	97390	97396	97406	97407	97409	97410	97411	97412	97413	97414	97416	97417
97419	97425	97427	97428	97429	97430	97432	97433	97434	97435	97436	97437	97438
97439	97441	97442	97443	97447	97449	97450	97451	97453	97458	97460	97461	97462
97463	97464	97466	97467	97468	97469	97472	97473	97476	97480	97481	97484	97486
97488	97490	97491	97492	97493	97494	97495	97496	97497	97498	97499	97522	97523
97526	97527	97530	97531	97532	97533	97536	97537	97538	97539	97540	97541	97543
97544	97601	97603	97604	97620	97621	97622	97623	97624	97625	97626	97627	97630
97632	97633	97634	97635	97636	97637	97638	97639	97640	97641	97710	97711	97712
97720	97721	97722	97730	97731	97732	97733	97734	97735	97736	97737	97738	97739
97740	97741	97742	97750	97751	97752	97753	97754	97758	97761	97810	97814	97817
97818	97819	97820	97821	97822	97823	97824	97825	97826	97827	97828	97830	97831
97833	97834	97835	97836	97837	97838	97839	97840	97841	97842	97843	97844	97845
97846	97848	97850	97856	97857	97859	97861	97862	97864	97865	97867	97868	97869
97870	97871	97872	97873	97874	97875	97876	97877	97880	97882	97883	97884	97885
97886	97901	97902	97903	97904	97905	97906	97907	97908	97909	97910	97911	97913
97914	97918	97919	97920									

- (5) Except to the extent provided otherwise in section (12), (13), or (14) of this rule or for children in contracted child care (see OAR 461-135-0405 and 461-135-0407), this section establishes the ERDC eligibility standard and the client's copayment (copay).
- (a) At initial certification, the ERDC eligibility standard is met for a *need group* (see OAR 461-110-0630) of eight or less if monthly *countable income* (see OAR 461-001-0000) for the *need group* is less than 185 percent of the federal poverty level (FPL), as described in OAR 461-155-0180. The eligibility standard for a *need group* of eight applies to any *need group* larger than eight.
- (b) During the *certification period* (see OAR 461-001-0000) and at recertification the ERDC eligibility standard is met for a *need group* of eight or less if monthly *countable income* for the *need group* during the 12 month period is less than 250 percent FPL or 85 percent state median income (SMI), whichever is higher, as described in OAR 461-155-0180. The eligibility standard for a *need group* of eight applies to any *need group* larger than eight.
- (c) The minimum monthly ERDC copay is \$25.
- (d) The filing group may not exceed the resource limit in OAR 461-160-0015.

- (e) For a filing group (see OAR 461-110-0310) whose *countable income* is at or below 50 percent of the 2007 FPL, the copay is \$25 or 1.5 percent of the filing group's monthly *countable income*, whichever is greater.
- (f) For a filing group whose *countable income* is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:
 - (A) Divide the filing group's *countable income* by the 2007 FPL, drop all digits beyond two decimal points, subtract 0.5, and multiply this difference by 0.12.
 - (B) Add .015 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income used to determine the copay amount. Multiply this sum by the filing group's *countable income* and round to the nearest whole dollar.
- (g) The 2007 federal poverty level used to determine copay amounts under subsections (e) and (f) of this section is set at the following amounts:

Number in Family	Gross Monthly Income	Gross Yearly Income
2	\$1,141	\$13,690
3	1,431	17,170
4	1,721	20,650
5	2,011	24,130
6	2,301	27,610
7	2,591	31,090
8 or more	2,881	34,570

- (6) Subject to the provisions in section (9) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:
 - (a) The monthly rate provided in section (4) of this rule.
 - (b) The product of the hours of care, limited by section (8) of this rule, multiplied by the hourly rate provided in section (4) of this rule.
- (7) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:
 - (a) The amount billed by the provider or providers.

- (b) The monthly rate established in this rule for 215 hours of care.
- (8) The number of payable billed hours of care for a child is limited as follows:
- (a) In the ERDC and TANF programs, the total payable hours of care in a month may not exceed the amounts in paragraphs (A) or (B) of this subsection:
 - (A) 125 percent of the number of child care hours authorized:
 - (i) Under OAR 461-160-0040(2) and (5); or
 - (ii) To participate in activities included in a *case plan* (see OAR 461-001-0025) including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client.
 - (B) The monthly rate established in section (4) of this rule multiplied by a factor of not more than 1.5, determined by dividing the number of hours billed by 215, when the client meets the criteria for extra hours under section (10) of this rule.
 - (b) In the ERDC program, for a client who earns less than the Oregon minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time).
 - (c) In the TANF program, for a client who earns less than the Oregon minimum wage or is self-employed, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.
 - (d) In the ERDC program, employed caretakers eligible under OAR 461-135-0400 may have education hours added to the authorized work hours. Education hours may not exceed authorized work hours and combined hours may not exceed 215 hours per month. Education hours are hours required to participate in coursework that leads to a certificate, degree, or job-related knowledge or skills attainment at an institution of higher education approved to receive federal financial aid.
- (9) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (10) of this rule, is the lesser of one of the following:
- (a) The amount billed by the provider or providers; or
 - (b) The monthly rate established in section (4) of this rule multiplied by a factor, of not more than 1.5, determined by dividing the number of hours billed by 215.

- (10) The limit allowed by section (9) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this section, a client has special circumstances when it is necessary for the client to obtain child care in excess of 215 hours in a month to perform the requirements of his or her employment or training required to keep current employment, not including self-employment. This is limited to the following situations:
- (a) The commute time to and from work exceeds two hours per day.
 - (b) The caretaker works an overnight shift and care is necessary for both work hours and sleep hours.
 - (c) The caretaker works a split shift and it is not feasible to care for the child between shifts.
 - (d) The caretaker consistently works more than 40 hours per week.
- (11) The payment available for care of a child who meets the special needs criteria described in subsection (e) of section (1) of this rule is increased in accordance with OAR 461-155-0151 if the requirements of both of the following subsections are met:
- (a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age.
 - (b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.
- (12) Effective May 1, 2012:
- (a) The minimum monthly ERDC copay is \$27.
 - (b) Except as stated in subsection (a) of this section, the Department adds 10 percent to the monthly client copay amount set under section (5) of this rule by multiplying the copay amount by 1.1 and rounding down to the nearest whole dollar.
- (13) Effective April 1, 2016, the ERDC copay is \$27 for no more than three months after closure of Pre-TANF, SFPSS, or TANF benefits when:
- (a) The closure is because an individual in the *need group* had earned income that led to the TANF closure;

- (b) An ERDC *date of request* (see OAR 461-115-0030) is established within 90 days of closure; and
 - (c) The individual is eligible for ERDC.
- (14) The ERDC copay will be reduced starting the month after the ERDC case has been electronically connected to a Department approved child care provider with a Quality Rating and Improvement System (QRIS) star rating of 3, 4, or 5. The copay will be reduced by the following amounts:
- (a) A copay set at \$27 is waived, unless the copay is \$27 under section (13) of this rule in which case the copay is not waived under this section.
 - (b) Copay amounts of \$28 to \$200 are reduced by \$20.
 - (c) Copay amounts of \$201 or more are reduced by 10 percent rounding to the nearest dollar.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 412.006, 412.049

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122, 411.141, 412.006, 412.049, 412.124, 418.485

(1) The monthly SNAP Countable and Adjusted Income Limits are as follows:

Need Group Size	Countable Income Limit	Adjusted Income Limit
1	\$ <u>1,287,307</u>	\$ <u>990,1005</u>
2	<u>1,736,760</u>	<u>1,335,354</u>
3	<u>2,184,213</u>	<u>1,680,702</u>
4	<u>2,633,665</u>	<u>2,025,050</u>
5	<u>3,081,118</u>	<u>2,370,399</u>
6	<u>3,530,571</u>	<u>2,715,747</u>
7	<u>3,980,024</u>	<u>3,061,095</u>
8	<u>4,430,477</u>	<u>3,408,444</u>
Each additional individual	<u>451,453</u>	<u>347,349</u>

(2) The SNAP Payment Standard (Thrifty Food Plan) is:

SNAP Payment Standard (TFP)	
No. in Need Group	Monthly Amount
1	\$ <u>194,192</u>
2	<u>357,352</u>
3	<u>511,504</u>
4	<u>649,640</u>
5	<u>771,760</u>
6	<u>925,913</u>
7	<u>1,022,009</u>
8	<u>1,169,153</u>
Each additional individual	<u>146,144</u>

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

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

- (1) In the EA program, all *countable* (see OAR 461-001-0000) resources must be used to meet the emergent need.
- (2) In the ERDC program, the limit is \$1,000,000.
- (3) In the OSIP and OSIPM programs, the resource limit is as follows:
 - (a) \$2,000 for a one-person *need group* (see OAR 461-110-0630) and \$3,000 for a two-person *need group*.
 - (b) \$5,000 for the OSIP-EPD and OSIPM-EPD programs (see OAR 461-001-0035 and 461-145-0025 for funds that may be excluded as approved accounts).
- (4) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all resources are excluded.
- (5) In the QMB-DW program, the resource limit is \$4,000 for a one-person *need group* and \$6,000 for a *need group* containing two or more individuals.
- (6) In the REF and REFM programs, the resource limit is:
 - (a) \$2,500 for any of the following:
 - (A) A new REF or REFM applicant for benefits.
 - (B) In the REF program, the *need group* that has at least one *mandatory* (see OAR 461-130-0305) participant in an employment program who is:
 - (i) Receiving REF and not progressing in a required activity of an open case plan; or
 - (ii) Serving a current employment program disqualification (see OAR 461-130-0330).
 - (b) \$10,000 for an REF *need group* not covered under subsection (a) of this section.
- (7) In the SNAP program, the resource limit is:
 - (a) \$3,~~250~~500 for a *financial group* (see OAR 461-110-0530) with at least one member who is *elderly* (see OAR 461-001-0015) or an individual with a *disability* (see OAR 461-001-0015).
 - (b) \$2,250 for all other financial groups.

- (8) In the TANF program, the resource limit is:
- (a) \$2,500 for any of the following:
 - (A) A new TANF applicant for benefits.
 - (B) TANF *need group* that does not have at least one *caretaker relative* (see OAR 461-001-0000) or *parent* (see OAR 461-001-0000) who is receiving TANF.
 - (C) TANF *need group* that has at least one JOBS participant who is:
 - (i) Receiving TANF and not progressing in an *activity* (see OAR 461-001-0025) of an open JOBS *case plan* (see OAR 461-001-0025);
or
 - (ii) Serving a current JOBS disqualification (see OAR 461-130-0330).
 - (b) \$10,000 for a *need group* not covered under subsection (a) of this section.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 411.837, 412.049, 413.085, 414.685, 414.839

- (1) This rule explains how to calculate the shelter cost. The shelter cost is used to determine the shelter deduction (see OAR 461-160-0430). The shelter cost is the sum of the filing group's cost of housing plus an allowance for utilities, if the individual incurs a utility cost. The shelter deduction is based on the shelter cost but is subject to a limitation described in OAR 461-160-0430.
- (2) Cost of housing.
 - (a) The following comprise the cost of housing if they are incurred with respect to the filing group's current residence or the home described in section (5) of this rule:
 - (A) Regular, periodic charges for the shelter of the *filing group* (see OAR 461-110-0370), such as rent, mortgage payments, and condominium or association fees. Late fees charged because a mortgage or rent payment was made late are not deductible.
 - (B) Property taxes, state and local assessments, and property insurance on the structure.
 - (C) Costs for repairing a home substantially damaged or destroyed by a natural disaster (such as a fire or flood), if such costs are not reimbursed.
 - (D) If the *filing group* is homeless and living in a vehicle---vehicle payments and collision and comprehensive insurance premiums for the vehicle.
 - (b) If housing costs are billed on a weekly or biweekly basis, the monthly cost is the weekly cost multiplied by 4.3 or the biweekly cost multiplied by 2.15.
 - (c) The *filing group* has the following choices about housing costs:
 - (A) The group may choose to apply the cost in the month it is billed or becomes due.
 - (B) The group may choose to have periodic costs averaged.
 - (C) For expenses that are billed less often than monthly, the group may choose to have them averaged over the period they are intended to cover.
- (3) Shared housing. If the *filing group* shares housing costs with an individual in the dwelling who is not in the *filing group*, only the housing costs incurred by the *filing group* are included in the calculation. If the portion paid by an individual outside the *filing group* cannot be ascertained, the cost is apportioned among the individuals

contributing to the cost. The pro rata share of those not in the *filing group* is deducted from the total, and the balance is considered a housing cost of the *filing group*.

(4) Cost for utilities.

- (a) A *filing group* has a cost for utilities if it incurs a cost for heating or cooling; cooking fuel; electricity; water and sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; service for a telephone, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes; or initial installation fees charged by a utility provider.
- (b) If the group incurs no cost for utilities in either its current home or in the home described in section (5) of this rule, then the shelter cost is calculated without an allowance for utilities.
- (c) If a homeless *filing group* uses a vehicle for shelter, the cost of fuel for the vehicle is considered a utility cost.
- (d) If a *filing group* incurs a cost for utilities, then the utility allowance is one of the following:
 - (A) Allowance with heating or cooling. A full standard utility allowance of ~~\$449-454~~ per month is used if the *household group* (see OAR 461-110-0210) is billed for heating or cooling costs for its dwelling. Charges for any fuel and for electricity are considered heating costs if they are used for heating. A *filing group* who receives an energy assistance payment for the dwelling provided through the Low-Income Energy Assistance Act of 1981 is eligible for the utility allowance established by this paragraph (A). This energy assistance payment must be greater than \$20 annually.
 - (B) Allowance without heating or cooling.
 - (i) A limited standard utility allowance of ~~\$341-344~~ per month is used if the *filing group* is not billed for heating or cooling costs but is billed for at least two other costs enumerated in subsection (4)(a) of this rule.
 - (ii) An individual standard utility allowance of \$56 per month is used if the *filing group* is not billed for heating or cooling costs but is billed for only one of the costs enumerated in subsection (4)(a) of this rule other than the service cost for a telephone, including the related taxes or fees.
 - (iii) A telephone standard utility allowance of ~~\$62-64~~ per month is used if the *filing group* is billed only for telephone service, such as basic

service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes.

- (5) Housing costs for a home not occupied by the filing group. Housing and utility costs with respect to a home not currently occupied may be considered in calculating the shelter cost if--
- (a) The home is temporarily unoccupied because of employment or training away from home, illness, or abandonment caused by casualty or natural disaster;
 - (b) The *filing group* intends to return to the home;
 - (c) No other, current occupant is claiming a deduction for shelter costs in the SNAP program; and
 - (d) The home is not leased during the household's absence.

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

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

- (1) Deductions from income are subtracted from *countable* (see OAR 461-001-0000) income (see OAR 461-140-0010) in the following order to determine *adjusted income* (see OAR 461-001-0000) for the SNAP program:
 - (a) An earned income deduction of 20 percent of *countable* earned income. The 20 percent deduction is not taken from the wages funded by grant diversions such as Work Supplementation wages.
 - (b) A standard deduction of:
 - (A) ~~\$157-160~~ per month for a *benefit group* (see OAR 461-110-0750) of one, two, or three individuals.
 - (B) ~~\$168-170~~ per month for a *benefit group* of four individuals.
 - (C) ~~\$197-199~~ per month for a *benefit group* of five individuals.
 - (D) ~~\$226-228~~ per month for a *benefit group* of six or more individuals.
 - (c) A dependent care deduction for dependent care costs billed to a member of the *filing group* (see OAR 461-110-0370) and not paid for through any other program of the Department. For the cost to be deductible under this section, the care must be necessary to enable a member of the *filing group* to--
 - (A) Accept or continue employment;
 - (B) Seek employment, including a job search that meets the requirements of a *case plan* (see OAR 461-001-0020); or
 - (C) Attend vocational or educational training. A student receiving educational income is entitled to a deduction only for costs not excluded from educational income by OAR 461-145-0150.
 - (d) The medical deduction for *elderly* (see OAR 461-001-0015) individuals and individuals who have a *disability* (see OAR 461-001-0015) in the *filing group*. The deduction is calculated by determining the total of their deductible medical costs (see OAR 461-160-0415) and subtracting \$35. The Department uses the resulting amount to determine the allowable deduction as follows:
 - (A) For an amount less than \$0, no deduction is allowed.
 - (B) For an amount greater than \$0 but less than \$170.01, a deduction of \$170 is allowed.

- (C) For an amount greater than \$170, a deduction of the amount determined under this subsection is allowed.
- (e) A deduction for child support payments (including cash medical support) a member of the *filing group* makes under a legal obligation to a *child* (see OAR 461-001-0000) not a member of the *filing group*, including payments for the current month and for payments on arrearages. Child support is not deductible if collected by setoff through the Oregon Department of Revenue or by interception of a federal tax refund.
- (f) A shelter deduction, calculated as follows:
 - (A) For SNAP *filing group* members required to pay room and board in a *nonstandard living arrangement* (see OAR 461-001-0000), the shelter deduction is--
 - (i) The cost of room and board, minus the payment standard for the *benefit group*; or
 - (ii) The actual room cost, if the individual can prove that the room cost exceeds the cost described in subparagraph (i) of this paragraph.
 - (B) For all other *filing group* members, the shelter deduction is calculated as follows:
 - (i) The standard deduction and the deductions of earned income, dependent care, court-ordered child support, and medical expenses are subtracted from *countable* income. Fifty percent of the remainder is subtracted from the shelter cost calculated in accordance with OAR 461-160-0420.
 - (ii) The rounded balance is the deduction, except the deduction is limited if the *filing group* has no member who has a *disability* or is *elderly*. The limit is ~~\$517~~535 per month.
- (2) If a *filing group* member cannot verify a medical or court-ordered child-support expense or cannot verify any other expense when asked to do so, the unverified expense is not used to calculate the deduction. If the individual provides verification, the deduction is applied when calculating the next month's benefits. If verification is provided within the period authorized for processing applications (see OAR 461-115-0210), the benefits for the *initial month* (see OAR 461-001-0000) are recalculated using the deduction.

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

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

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) 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.
 - (j) An individual may start TANF benefits in the same and final month that ERDC benefits are being received.
- (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

- (1) The Department must approve a child care provider to receive payment for child care if information available to the Department provides no basis for denying eligibility unless the Department determines, following a final fitness determination (see OAR 125-007-0260 and 407-007-0320) or Child Protective Service (CPS) records checks, that the provider or other *subject individual* (see OAR 125-007-0210 and 407-007-0210(8)(a)(J)) is not eligible for payment.
- (2) Ineligibility for payment may result from any of the following:
 - (a) A finding of "denied".
 - (A) A provider may be "denied" under OAR 461-165-0410 and 461-165-0420. If, after conducting a weighing test as described in OAR 407-007-0300, the Department finds substantial risk to the health or safety of a *child* (see OAR 461-001-0000) in the care of the provider, the provider must be "denied" and is ineligible for payment.
 - (B) A provider who has been "denied" has the right to a hearing under OAR 407-007-0335.
 - (b) A finding of "failed".
 - (A) A provider may be "failed" if the Department determines, based on a specific eligibility requirement and evidence, that a provider does not meet an eligibility requirement of this rule not covered in paragraph (c)(A) of this section.
 - (B) While the provider is in "failed" status:
 - (i) The Department does not pay any other child care provider for child care at the "failed" provider's site.
 - (ii) The Department does not pay a child care provider at another site if the "failed" provider is involved in the child care operation unless the Department determines that the reasons the provider is in "failed" status are not relevant to the new site.
 - (C) A provider with a status of "failed" may reapply at any time by providing the required documents and information to the Department for review.
 - (c) A finding of "suspended".

- (A) A provider may be "suspended" if the Department determines and provides notice that the provider does not meet an eligibility requirement in the following subsections and paragraphs of section (7) of this rule: (d), (e), (h), (i), (j), (k), (L), (o)(H), (o)(I), (o)(L), or (t) or in section (10) of this rule. A provider who has been "suspended" may challenge this status by requesting a contested case hearing subject to the requirements and limitations of OAR 461-025.
- (B) While the provider is in "suspended" status:
 - (i) The provider is ineligible for payment for at least six months.
 - (ii) The Department does not pay any other child care provider for child care at the "suspended" provider's site.
 - (iii) The Department does not pay a child care provider at another site if the "suspended" provider is involved in the child care operation unless the Department determines that the reasons the provider is in "suspended" status are not relevant to the new site.
- (C) A provider with a status of "suspended" may be eligible for payments after the six month ineligibility period ends when the provider has been approved following reapplication, including providing the required documents and information to the Department for review.
- (d) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.
- (3) The provider must submit a completed Child Care Provider Listing Form (DHS 7494) to the Department within 30 calendar days from the date the Department issues the listing form to the client. The provider and each individual identified under section (4) of this rule must complete and sign the authorization for a records check through the Criminal History (CH) record system maintained by the Oregon State Police (OSP), Federal Bureau of Investigation (FBI), and the Child Protective Service (CPS) record system maintained by the Department and, if necessary, an authorization to release information and fingerprint cards. The provider, each individual described in section (4) of this rule, and each *subject individual* described in OAR 125-007-0210 and 407-007-0210(8)(a)(J) must fully disclose all requested information as part of the records check.
- (4) This rule also establishes additional requirements for the following individuals:
 - (a) The site director of an exempt child care facility and each employee of the facility who may have unsupervised access to a *child* in care.
 - (b) The child care provider and each individual the provider uses to supervise a *child* in his or her absence.

- (c) In the case of a provider who provides care for a *child* in the provider's home--
 - (A) Each individual 16 years of age or older who lives in the provider's home; and
 - (B) Each individual who visits the home of the provider during the hours care is provided and may have unsupervised access to a *child* in care.
- (5) To receive payment or authorization for payment, the provider must comply with at least one of the following subsections:
 - (a) If the provider is not *legally exempt* (see section (11) of this rule):
 - (A) Be currently certified or registered with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250 and be in compliance with the applicable rules;
 - (B) Complete the Department's background check process;
 - (C) Complete the Department's listing process; and
 - (D) Be approved by the Department.
 - (b) If the provider is *legally exempt* and a *legally exempt relative* (see section (11) of this rule):
 - (A) Complete the Department's background check process;
 - (B) Complete the Department's listing process; and
 - (C) Be approved by the Department.
 - (c) If the provider is *legally exempt* and not a *legally exempt relative* for all children in care:
 - (A) Meet all OCC Regulated Subsidy Provider requirements under OAR 414-180-0005 through 414-180-0100;
 - (B) Submit to and pass a site visit at the location where care will be provided;
 - (C) Complete the Department's background check process;
 - (D) Complete the Department's listing process; and

- (E) Be approved by the Department.
- (6) Each individual described in section (4) of this rule must:
- (a) Allow the Department to conduct a national criminal history records check through the Oregon State Police and the Federal Bureau of Investigation as specified in OAR 407-007-0250.
 - (b) Provide, in a manner specified by the Department, information required to conduct CH, FBI, OSP, and CPS records checks and determine whether the provider meets health and safety requirements.
 - (c) Have a history of behavior that indicates no substantial risk to the health or safety of a *child* in the care of the provider.
- (7) Each provider must:
- (a) Obtain written approval from their certifier or certifier's supervisor if the provider is also certified as a foster parent.
 - (b) Be 18 years of age or older and in such physical and mental health as will not affect adversely the ability to meet the needs of safety, health, and well-being of a *child* in care.
 - (c) Not be in the same filing group (see OAR 461-110-0310 and 461-110-0350) as the *child* cared for; the *parent* (see OAR 461-001-0000) of a *child* in the *filing group*; or a sibling living in the home of a *child* in the *filing group*.
 - (d) Allow the Department to inspect the site of care while child care is provided.
 - (e) Keep daily attendance records showing the arrival and departure times for each *child* in care and billing records for each *child* receiving child care benefits from the Department. These written records must be retained for a minimum of 12 months and provided to the Department upon request.
 - (f) Be the individual or facility listed as providing the child care. The provider may only use someone else to supervise a *child* on a temporary basis if the person was included on the most current listing form and the provider notifies the Department's Direct Pay Unit.
 - (g) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.
 - (h) Report to the Department's Direct Pay Unit within five days of occurrence:

- (A) Any arrest or conviction of any *subject individual* or individual described in section (4) of this rule.
 - (B) Any involvement of any *subject individual* or individual described in section (4) of this rule with CPS or any other agencies providing child or adult protective services.
 - (C) Any change to the provider's name or address including any location where care is provided.
 - (D) The addition of any *subject individual* or individual described in section (4) of this rule.
 - (E) Any reason the provider no longer meets the requirements under this rule.
- (i) Report suspected child abuse of any *child* in his or her care to CPS or a law enforcement agency.
 - (j) Supervise each *child* in care at all times.
 - (k) Prevent any individual who behaves in a manner that may harm children from having access to a *child* in the care of the provider. This includes anyone *under the influence* (see section (11) of this rule).
 - (L) Allow the custodial parent of a *child* in his or her care to have immediate access to the *child* at all times.
 - (m) Inform a parent of the need to obtain immunizations for a *child* and have a completed, up-to-date Oregon shot record called the "Certification of Immunization Status" (CIS) form on file for each *child* in care.
 - (n) Take reasonable steps to protect a *child* in his or her care from the spread of infectious diseases.
 - (o) Ensure that the home or facility where care is provided meets all of the following standards:
 - (A) Each floor level used by a *child* has two usable exits to the outdoors (a sliding door or window that can be used to evacuate a *child* is considered a usable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency.
 - (B) The home or facility has safe drinking water.
 - (C) The home or facility has a working smoke detector on each floor level and in any area where a *child* naps.

- (D) Each fireplace, space heater, electrical outlet, wood stove, stairway, pool, pond, and any other hazard has a barrier to protect a *child*. Any gate or barrier may not pose a risk or hazard to any *child* in care.
- (E) Any firearm, ammunition, and other items that may be dangerous to children, including but not limited to alcohol, inhalants, tobacco and e-cigarette products, matches and lighters, any legally prescribed or over-the-counter medicine, cleaning supplies, paint, plastic bags, and poisonous and toxic materials are kept in a secure place out of a child's reach.
- (F) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard-free condition.
- (G) The home or facility has a telephone in operating condition.
- (H) No one may smoke or carry any lighted smoking instrument, including e-cigarettes or vaporizers, in the home or facility or within ten feet of any entrance, exit, window that opens, or any ventilation intake that serves an enclosed area, during child care operational hours or anytime child care children are present. No one may use smokeless tobacco in the home or facility during child care operational hours or anytime child care children are present. No one may smoke or carry any lighted smoking instrument, including e-cigarettes and vaporizers, or use smokeless tobacco in motor vehicles while child care children are passengers.
- (I) No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) on the *premises* (see section (11) of this rule) during child care operational hours or anytime child care children are present. No one *under the influence* of alcohol, controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) may be on the *premises* during child care operational hours or anytime child care children are present. No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) in motor vehicles while child care children are passengers.
- (J) Is not a half-way house, hotel, motel, shelter, or other temporary housing such as a tent, trailer, or motor home. The restriction in this paragraph does not apply to licensed (registered or certified) care approved in a hotel, motel, or shelter.
- (K) Is not a structure –
 - (i) Designed to be transportable; and

- (ii) Not attached to the ground, another structure, or to any utilities system on the same *premises*.
 - (L) Controlled substances (except lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana, marijuana edibles, and other products containing marijuana), marijuana plants, derivatives, and associated paraphernalia may not be on the premises during child care operational hours or anytime child care children are present.
 - (p) Complete and submit a new listing form every two years, or sooner at the request of the Department, so that the Department may review the provider's eligibility.
 - (q) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.
 - (r) Comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, and crib standards under 16 CFR 1219 and 1220.
 - (s) Place infants to sleep on their backs.
 - (t) Not hold a medical marijuana card; or distribute, grow, or use marijuana (including medical marijuana) or any controlled substance (except lawfully prescribed and over-the-counter medications).
 - (u) Develop and communicate expulsion and suspension policies to parents and caretakers.
 - (v) Provide care at a location within the state of Oregon.
- (8) *Legally exempt* providers must complete the "Introduction to Child Care Health and Safety" two-hour, web-based training as provided in the following subsections:
- (a) *Legally exempt* providers with a list date prior to November 1, 2016, must complete the "Introduction to Child Care Health and Safety" training by ~~June 30~~July 31, 2017. Providers who have continued to actively provide care and receive payment for Department subsidy families may be granted an extension to September 30, 2017 to complete the training.
 - (b) *Legally exempt* providers with a list date of November 1, 2016 or later must complete the "Introduction to Child Care Health and Safety" prior to Department approval.
- (9) *Legally exempt* providers must complete an orientation provided by the Department or a Child Care Resource and Referral agency within 90 days of being approved by the Department if he or she:

- (a) Receives funds from the Department; and
 - (b) Begins providing child care services after June 30, 2010, or resumes providing child care services, after a break of more than one year that began after June 30, 2010.
- (10) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be *under the influence*.
- (11) For purposes of these rules:
- (a) "Premises" means the home or facility structure and grounds, including indoors and outdoors and space not directly used for child care.
 - (b) "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.
 - (c) "Legally exempt" means the child care provider is exempt from licensing with the OCC because the provider is not subject to the licensing requirements under OAR 414-205-0000 to 414-205-0170, OAR 414-350-000 to 414-350-0405, and OAR 414-300-0000 to 414-300-0415.
 - (d) "Legally exempt relative" means a *legally exempt* provider who is a relative to all children in care including a great-grandparent, grandparent, aunt, uncle, or sibling not living in the home of any *child* in care.
- (12) *Legally exempt* providers that are not a *legally exempt relative* to all children in care must meet all of the requirements in this section before approval by the Department, unless otherwise noted:
- (a) Have an up-to-date, in-person infant and child CPR and first aid certification or have a currently valid waiver of this requirement from the Child Care Resource and Referral program.
 - (b) Complete the Recognizing and Reporting Child Abuse and Neglect (RRCAN) web-based training.

- (c) Complete six hours of ongoing education in each two-year listing period as provided in this subsection. All trainings must be accepted by the Oregon Center for Career Development (OCCD) and be part of the OCCD's 10 Core Knowledge Categories recognized by Oregon Registry Online to count toward the six hours.
 - (A) Two of the six hours must fall under the "Human Growth and Development" category; and
 - (B) Two of the six hours must cover "Understanding & Guiding Behavior".
- (13) Child care centers or programs that are *legally exempt* from certification or registration with the OCC, are located in a commercial or institutional facility, and receive payment from the Department on behalf of a family receiving a child care subsidy, may not exceed the following staff to children in care ratios:
 - (a) Six weeks through 23 months of age, the minimum number of staff to children is one to four. The maximum number of children in a group is eight.
 - (b) 24 months through 35 months of age, the minimum number of staff to children is one to five. The maximum number of children in a group is 10.
 - (c) 36 months of age to attending kindergarten, minimum number of staff to children is one to 10. The maximum number of children in a group is 20.
 - (d) Attending kindergarten and older, the minimum number of staff to children is one to 15. The maximum number of children in a group is 30.
 - (e) In a mixed-age group of children, the number of staff and group size shall be determined by the age of the youngest child in the group.

Stat. Auth.: ORS 181.537, 329A.500, 409.050, 411.060, 411.070

Stats. Implemented: ORS 181.537, 329A.340, 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122