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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 28-2017
CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

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FILING CAPTION: Changing program rules for refugees

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NEED FOR THE RULE(S):

OAR 461-190-0211 needs to be amended to follow federal requirements (45 CFR 400.154 and 400.155) by limiting support services for clients of the Refugee Employment Program to transportation support.

OAR 461-193-0246 needs to be amended to follow federal requirements (45 CFR 400.154 and 400.155) by removing Refugee program clients from those eligible for employment incentives.

OAR 461-193-01380 needs to be amended to follow federal requirements (45 CFR 400.154 and 400.155) by disallowing certain support services for Refugee program clients who are enrolled in the NAES program.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-190-0211 will result in serious prejudice to the public interest and the Department because the Department needs to limit support services for clients of the Refugee Employment Program to transportation support to be in immediate compliance with federal requirements (45 CFR 400.154 and 400.155) for the Refugee Employment program to preserve its federal funding.

The Department finds that failure to act promptly by amending OAR 461-193-0246 will result in serious prejudice to the public interest and the Department because the Department needs to remove Refugee program clients from those eligible for employment incentives to be in immediate compliance with federal requirements (45 CFR 400.154 and 400.155) for the Refugee program to preserve its federal funding.

The Department finds that failure to act promptly by amending OAR 461-193-1380 will result in serious prejudice to the public interest and the Department because the Department needs to disallow certain support services for Refugee program clients who are enrolled in the NAES program to be in immediate compliance with federal requirements (45 CFR 400.154 and 400.155) for the Refugee program to preserve its federal funding.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

none

RULES:

461-190-0211, 461-193-0246, 461-193-1380

AMEND: 461-190-0211

RULE TITLE: Case Plan Activities and Standards for Support Service Payments; JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, TANF

RULE SUMMARY: OAR 461-190-0211 about case plan activities and standards for support service payments is being amended to limit support services for clients of the Refugee Employment Program to transportation support, consistent with federal requirements (45 CFR 400.154 and 400.155).

RULE TEXT:

In the JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, and TANF programs, notwithstanding any other administrative rule in chapter 461 and subject to the limitations of state funding, the following special provisions apply:

(1) Participation in an activity (see OAR 461-001-0025) is available to the following individuals:

(a) An individual who is an adult parent, needy caretaker relative (see OAR 461-001-0000), or teen parent (see OAR 461-001-0000) receiving TANF who is not otherwise exempt (see OAR 461-130-0305) and in accordance with participation requirements in OAR 461-130-0310.

(b) An individual who is an applicant or recipient in the Pre-TANF, Post-TANF, or SFPSS program.

(c) Subject to local services and budget, an individual who is a JOBS volunteer (see OAR 461-130-0310).

(d) An individual who has gone over-income for the TANF program due to earnings and needs to increase activity hours to meet Post-TANF federally required participation rates (see OAR 461-001-0025).

(e) An individual who has become over-income for the TANF program due to earnings in an on-the-job training (see OAR 461-001-0000) activity is eligible to receive support services (see OAR 461-001-0025) for no more than three months, unless circumstances unique to the situation are identified and warrant the Department to approve a limited number of additional months. Eligibility for support services under this subsection is only permitted while the individual continues to participate in the on-the-job training activity.

(f) An individual who is receiving REF who is not otherwise exempt (see OAR 461-130-0305) and in accordance with participation requirements in OAR 461-130-0310.

(2) For eligible individuals, subject to the requirements and limitations in sections (1), (4), (5), (6), (7), and (8) of this rule, the following activities are available, and include support services payments if needed:

(a) Job search (see OAR 461-001-0025).

(b) JOBS Plus (see OAR 461-001-0025 and OAR 461-101-0010) is limited to six months per individual, unless circumstances unique to the employment situation are identified and warrant the Department to approve a limited number of additional months.

(c) Work experience (see OAR 461-001-0025).

(d) Supported work (see OAR 461-001-0025).

(e) High School or GED Completion Attendance (see OAR 461-001-0025).

(f) Parents as Scholars (see OAR 461-001-0025).

(g) Limited family stability (see OAR 461-001-0000) activity.

- (A) Drug and alcohol services (see OAR 461-001-0025).
 - (B) Mental health services (see OAR 461-001-0025).
 - (C) Attending medical appointments or services.
 - (D) Rehabilitation activities (see OAR 461-001-0025).
 - (E) Crisis Intervention (see OAR 461-001-0025).
 - (F) SSI application process.
 - (G) Domestic violence (see OAR 461-001-0000) intervention.
 - (h) Vocational training (see OAR 461-001-0025).
 - (i) Life skills (see OAR 461-001-0025).
 - (j) On-the-job training.
 - (k) Unsubsidized employment (work).
 - (L) Adult Basic Education (see OAR 461-001-0025).
 - (m) Job skills training (see OAR 461-001-0025).
 - (n) Self-initiated training (see OAR 461-001-0025).
 - (o) Program entry (see OAR 461-001-0025)
- (3) The following activities do not include support services payments:
- (a) Family Support & Connections.
 - (b) Microenterprise (see OAR 461-001-0000).
 - (c) Post-TANF.
- (4) In approving JOBS program support services payments, the Department must consider lower cost alternatives. This rule is not intended to supplant Department funding with other funding that is available in the community. The expectation of the Department is that Department staff and participants work collaboratively to seek resources that are reasonably available to the participant in order to participate in activities.
- (5) Payments for support services are only provided when:
- (a) Necessary to participate in activities in a signed case plan;
 - (b) Authorized in advance; and
 - (c) All other provisions of this rule are met.
- (6) Payments for support services for JOBS participants are subject to the following limitations:
- (a) Child Care. Payments for child care may be authorized, as limited by OAR 461-160-0040, if necessary to enable individuals to participate in an approved JOBS program activity specified in the individual's case plan, including an individual approved by the district to complete a family stability activity. If authorized, payment for child care is:
 - (A) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150.
 - (B) The minimum hours necessary, including meal and commute time, for the individual to participate in an approved JOBS program activity.
 - (b) Transportation. The Department may provide payments for an individual for transportation costs incurred in travel to and from an approved JOBS program activity or an individual approved by the district to complete a family stability activity. Payment is made only for the cost of public transportation, the cost of fuel, or for minimal vehicle repairs. Payments are subject to the following considerations:
 - (A) Payment for public transportation is a priority over payment for a privately owned vehicle.
 - (B) Payment for fuel costs for a privately-owned vehicle is provided if the participant or individual providing the transportation reports having a valid driver's license and vehicle insurance and either of the following is true:
 - (i) No public transportation is available or the participant is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.
 - (ii) Public transportation is available but is more costly than the cost of fuel.
 - (C) Payment for vehicle repairs may be authorized at the discretion of the district if the following are true:

(i) No reasonable public transportation is available; and

(ii) The costs to repair the participant's vehicle is reasonable in relation to the value of the vehicle and the minimum necessary.

(c) Housing and Utilities. Payments for housing and utilities are not allowed.

(d) Other Payments. When the need is identified by the district and no other sources are available, the Department may provide other payments needed --

(A) To look for work.

(B) To accept a job offer.

(C) To attain a high school diploma or GED.

(D) For books and supplies to complete a district-approved vocational training.

(E) Other payments with manager approval that are not otherwise restricted by rule.

(e) None of the following payments are allowed:

(A) Non-essential items.

(B) Television, cable, and Internet.

(C) Fines, reinstatement fees, restitution, legal fees, civil fees, court costs, or other costs associated with a penalty.

(D) Purchase of a car, recreational vehicle, or motor home.

(E) Support services for JOBS Exempt (see OAR 461-130-0310) individuals.

(F) Pet-related costs.

(G) ERDC co-payments.

(7) Payments for support services for REF employment program participants are subject to the following limitations:

(a) Transportation. The Department may provide payments for an individual for transportation costs incurred in travel to and from an approved REP program activity or to complete a family stability activity. Payment is made only for the cost of public transportation, the cost of fuel, or for minimal vehicle repairs. Payments are subject to the following considerations:

(A) Payment for public transportation is a priority over payment for a privately-owned vehicle.

(B) Payment for fuel costs for a privately-owned vehicle is provided if the participant or individual providing the transportation reports having a valid driver's license and vehicle insurance and either of the following is true:

(i) No public transportation is available or the participant is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.

(ii) Public transportation is available but is more costly than the cost of fuel.

(b) All other payments are not allowed.

(8) The Department may require an individual to provide verification of a need for, or costs associated with, support services prior to approval and issuance of payment if verification is reasonably available.

(9) The Department may reduce, close, or deny in whole or in part a request for a support services payment in the following circumstances:

(a) The individual is disqualified for failing to comply with a case plan, unless the payment in question is necessary for the individual to demonstrate cooperation with his or her case plan.

(b) The purpose for the payment is not related to the individual's case plan.

(c) The individual disagrees with a support services payment offered or made by the Department as outlined in the individual's case plan.

(10) In the REF employment program, JOBS Plus and Parents as Scholars are not available.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 411.060, 411.070, 411.121, 412.006, 412.009, 412.014, 412.049, 412.124

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 411.060, 411.070, 411.121, 412.001, 412.006, 412.009, 412.014,

412.049, 412.124

AMEND: 461-193-0246

RULE TITLE: Employment Incentive; New Arrival Employment Services (NAES)

RULE SUMMARY: OAR 461-193-0246 about the employment incentive in the New Arrival Employment Services (NAES) program is being amended to remove Refugee program clients from those eligible for employment incentives, consistent with federal requirements (45 CFR 400.154 and 400.155).

RULE TEXT:

In the NAES program:

- (1) Only a TANF client is eligible for an employment incentive while active in the NAES program.
- (2) To be eligible for an employment incentive, a TANF client must meet the requirements of all of the following subsections:
 - (a) The client must be active in the NAES program.
 - (b) The client must retain full-time employment for 90 days. Eligibility for the incentive starts on the 90th day of employment.
 - (c) The employment must total at least 35 hours per week, either in one full time, or two part-time concurrent jobs. Eligibility for the incentive starts on the 90th day of the job which makes the work week total to 35 hours per week or more.
- (3) A client may receive only one 90-day employment incentive.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 411.060

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 411.060

AMEND: 461-193-1380

RULE TITLE: Standards for NAES Support Service Payments

RULE SUMMARY: OAR 461-193-1380 about support service payments in the New Arrival Employment Services (NAES) program is being amended to disallow certain support services for Refugee program clients who are enrolled in the NAES project, consistent with federal requirements (45 CFR 400.154 and 400.155).

RULE TEXT:

In the NAES program:

- (1) The Department helps an individual comply with the individual's case plan (see OAR 461-001-0025) by providing payments for child care, housing, transportation, and other needs to make participation in required activities (see OAR 461-001-0025) successful. These payments are provided for all NAES-eligible participants for costs directly related to participation in activities; and for TANF-eligible NAES individuals for costs necessary to obtain and retain a job, and to enhance wages and benefits.
 - (a) In approving NAES support service payments, the Department must consider lower-cost alternatives.
 - (b) It is not the intent of the Department or of this rule to use Department funding when other funding is available in the community. It is the Department's expectation that case managers and clients work collaboratively to seek resources that reasonably are available to the client to facilitate participation in required activities.
 - (c) An NAES program client is not eligible to receive any support service payment, except for child care or transportation, during his or her first 30 days in the United States.
- (2) An NAES program support service payment must be authorized in advance and is subject to the limitations of this rule.
 - (3) Subject to the limitations of state funding and this rule, an NAES program support services (see OAR 461-001-0025) payment is made available to an individual if all of the following requirements are met:
 - (a) The individual is an NAES participant.
 - (b) The individual has agreed to participate in a NAES activity or other approved activities as specified in the individual's case plan.
 - (4) Denials and Reductions. The Department may reduce, close, or deny in whole or in part an individual's request for an NAES support service payment in each of the following circumstances:
 - (a) If the individual is disqualified for failing to comply with a case plan, unless the payment in question is necessary for the client to comply with his or her case plan.
 - (b) If the purpose for the payment is not related to the individual's case plan.
 - (c) If the client disagrees with a support service payment offered or made by the Department as outlined in the client's case plan.
- (5) Required Verification.
 - (a) The Department may require the individual to provide verification of a need for the support service prior to approval and issuance of payment if verification is reasonably available.
 - (b) The Department may require the individual to provide verification of costs associated with a support service if verification is reasonably available.
- (6) Child Care. Payments for child care are authorized, as limited by OAR 461-160-0040, if necessary to enable the individual to participate in NAES program activities or other approved activities specified in the individual's case plan. If authorized, payment for child care will be made for:
 - (a) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150, except that the cost of child care may be paid up to the monthly maximum when a child is in care less than 158 hours per month: and
 - (A) Appropriate care is not accessible to the individual at the hourly rate; or
 - (B) The individual is a teen parent using on-site care while attending education activities.
 - (b) The minimum hours necessary, including meal and commute time, for the individual to participate in NAES program

activities, other approved activities, or to obtain and perform employment duties.

(7) Child care payments may be provided when an individual is not participating in NAES program activities or other approved activities if payment is necessary for the client to retain his or her child care provider. Only the minimum amount necessary to maintain the child care slot with the provider may be covered as established in OAR 461-155-0150. Not more than 30 days between scheduled NAES program activities or other approved activities may be covered.

(8) Unless good cause (see OAR 461-130-0327) has been determined, an NAES program client must attend an NAES program child care orientation to receive on-going child care payments.

(9) Housing and Utilities. In addition to a payment for basic living expenses under OAR 461-135-0475, a payment may only be provided to a TANF-eligible NAES program participant to secure or maintain housing and utilities in the following situations:

(a) To prevent an eviction or utility shut-off, secure housing to find or maintain employment, or participate in activities listed in the individual's case plan. Payment is available when all of the following requirements are met:

(A) The individual cannot make a shelter or utility payment due to a lack of assets.

(B) The lack of assets did not result from an NAES program or Child Support disqualification, a reduction due to an IPV recovery, overpayment recovery (other than administrative error), or failure by the individual to pay shelter or utility expenses when funds were reasonably available.

(C) The individual's case plan addresses how subsequent shelter or utility payments are to be made.

(b) The shelter need results from domestic violence (see OAR 461-001-0000) and all of the following requirements are met:

(A) The individual is not eligible for the TA-DVS program.

(B) The individual is able to pay all subsequent shelter costs, either through the individual's own resources or through other resources available in the community.

(C) The individual's case plan addresses how subsequent shelter costs are to be paid.

(c) An NAES program client who receives a cash grant through the RCSP program is expected to meet the housing and utility expenses out of the amount received each month in the cash grant. A NAES program client who receives an RCSP program cash grant may receive a housing and utility support services payment on a case-by-case basis, if the client otherwise meets the support service payment eligibility criteria of this section.

(10) Transportation. The Department provides support services payments for transportation costs incurred in travel to and from NAES program activities or other approved activities. Payment is made only for the cost of public transportation or the cost of vehicle insurance, repairs, and fuel for a personally owned vehicle. The Department may not authorize payment for repair of a vehicle owned by an individual who is not in the filing group (see OAR 461-110-0330). A transportation support service payment is subject to the following considerations:

(a) A payment for public transportation is given priority over a payment for a privately owned vehicle.

(b) A payment for a privately owned vehicle is provided if the client or driver has a valid license and one of the following requirements is met:

(A) No public transportation is available or the client is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available; or

(B) Public transportation is available but is more costly than the cost of car repair or fuel.

(11) Unless good cause has been determined, an NAES program client must attend an NAES program mass transit training to receive on-going transportation payments.

(12) Other Payments. The Department provides support services payments for other items directly related to participation in NAES program activities. A payment under this section may be authorized for:

(a) Reasonable accommodation of a client's disability (see OAR 461-001-0000).

(b) Costs necessary for TANF-eligible NAES clients in obtaining and retaining a job or enhancing wages and benefits, such as:

(A) Clothing and grooming for participation in NAES program activities or job interviews.

(B) Moving expenses necessary to accept employment elsewhere.

(C) Tools, bonding, and licensing required to accept or retain employment.

(c) Tuition for vocational training (see OAR 461-001-0025) through the NAES program only:

(A) After the client has been approved for vocational training;

(B) When no other funding is available;

(C) To the extent that Department funding designated for this purpose is available; and

(D) When the training is necessary for a job leading to a higher wage and high demand occupation, as defined by the Workforce Investment Act (WIA).

STATUTORY/OTHER AUTHORITY: 411.116, 411.135, 412.006, 412.049, 414.025, 411.060, ORS 409.050

STATUTES/OTHER IMPLEMENTED: 411.060, 411.070, 411.116, 411.135, 412.006, 412.049, 414.025, ORS 409.010