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PERMANENT ADMINISTRATIVE ORDER

SSP 33-2017
CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

12/08/2017 2:35 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Changing rules about APD medical programs

EFFECTIVE DATE: 01/01/2018

AGENCY APPROVED DATE: 12/08/2017

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RULES:

461-001-0000, 461-110-0530, 461-115-0230, 461-115-0700, 461-115-0704, 461-135-0010, 461-135-0780, 461-135-0950, 461-140-0220, 461-145-0220, 461-145-0470, 461-145-0580, 461-155-0250, 461-155-0270, 461-155-0660, 461-160-0500, 461-160-0580, 461-160-0620, 461-160-0855, 461-165-0120, 461-175-0210, 461-175-0224, 461-180-0070, 461-195-0305

AMEND: 461-001-0000

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-001-0000 is being amended to expand the definition of a "lodger" to potentially include anyone living with a client, not just a member of household group, promoting the correct classification of lodger income. This rule is also being amended to change the definition of a "child" in the REF and REFM programs allow for an 18 year old to attend secondary school or GED full-time and still be eligible for REF or REFM. This rule is also being amended to correct cross-references.

CHANGES TO RULE:

461-001-0000

Definitions for Chapter 461 ¶¶

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:¶¶

(1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDSD), or any other agency formerly part of the Department of Human Services means the Department of Human Services (DHS), except:¶¶

(a) The rule in which reference occurs only regulates programs covered by OAR chapter 461.¶¶

(b) OCCS medical program eligibility rules are in OAR chapter 410, division 200.¶¶

(2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which

provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence (see section (245) of this rule), sexual assault, or stalking.¶

(3) "Adjusted income" means the amount determined by subtracting income deductions from countable (see section (189) of this rule) income (see OAR 461-140-0010). Specific rules on the deductions are in OAR chapter 461, division 160.¶

(4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. "Adoption assistance" may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.¶

(5) "Assets" mean income and resources.¶

(6) "Basic decision notice" means a decision notice (see section (201) of this rule) mailed no later than the date of action given in the notice.¶

(7) "Blind Work Expenses" has the meaning given in OAR 461-001-0035.¶

(8) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.¶

(9) "Budgeting" means the process of calculating the benefit level.¶

(10) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine eligibility (see section (278) of this rule) and benefit level for the payment month (see section (502) of this rule).¶

(11) "Cafeteria plan" means a written benefit plan offered by an employer in which:¶

(a) All participants are employees; and¶

(b) Participants may choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Service does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:¶

(A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);¶

(B) Group term life insurance plans (up to \$50,000);¶

(C) Dependent care assistance plans; and¶

(D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).¶

(12) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a microenterprise (see section (435) of this rule), either directly or indirectly. A "capital asset" generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.¶

(13) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child (see section (156) of this rule). The status of "caretaker" ends once the individual no longer exercises care, control, and supervision of the child for 30 days.¶

(14) "Caretaker relative" means a caretaker (see section 123 of this rule) who meets the requirements of one of the following subsections:¶

(a) Is one of the following relatives of the dependent child (see section (223) of this rule):¶

(A) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.¶

(B) Stepfather, stepmother, stepbrother, and stepsister.¶

(C) An individual who legally adopts the child and any individual related to the individual adopting the child, either naturally or through adoption.¶

(b) Is or was a spouse (see section (624) of this rule) of an individual listed in subsection (a) of this section.¶

(c) Met the definition of "caretaker relative" under subsection (a) or (b) of this section before the child was adopted (notwithstanding the subsequent adoption of the child).¶

(15) "Certification period" means the period for which an individual is certified eligible for a program.¶

(16) "Child" includes natural, step, and adoptive children. The term "child" does not include an unborn.¶

(a) In the ERDC program, a "child" need not have a biological or legal relationship to the caretaker but must be in

the care and custody of the caretaker, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:¶

(A) Under the age of 18; or¶

(B) Under the age of 19 and in secondary school or vocational training at least half time.¶

(b) In the GA and OSIP programs, a "child" is an individual under the age of 18.¶

(c) In the OSIPM and QMB programs, "child" means an unmarried individual who:¶

(A) Is not considered a decision-maker in the household;¶

(B) Is under the age of 18; and¶

(C) Has at least one natural or adoptive parent in the same household.¶

(d) In the REF and REFM programs, a "child" is an individual who is not an emancipated minor and is:¶

~~(A) Under the age of 18; or¶~~

~~(B) 18 years of age and attending secondary school full-time or pursuing a GED full-time.¶~~

(17) "Community based care" is any of the following:¶

(a) Adult foster care - Room and board and 24 hour care and services for the elderly or for people with disabilities 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.¶

(b) Assisted living facility - A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.¶

(c) In-home Services - Individuals living in their home receiving services determined necessary by the Department.¶

(d) Residential care facility - A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.¶

(e) Specialized living facility - Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition, or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.¶

(f) Independent choices - In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).¶

(18) "Continuing benefit decision notice" means a decision notice that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.¶

(19) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.¶

(20) "Custodial parents" mean parents who have physical custody of a child. "Custodial parents" may be receiving benefits as dependent children or as caretaker relatives for their own children.¶

(21) "Decision notice" means a written notice of a decision by the Department regarding an individual's eligibility for benefits in a program.¶

(22) "Department" means the Department of Human Services (DHS).¶

(23) "Dependent child" in the TANF program means an individual who has not been legally emancipated and who is one of the following:¶

(a) An individual who is not a caretaker relative (see section (134) of this rule) of a child in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or¶

(b) A minor parent (see section (446) of this rule) whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.¶

(24) "Disability" means:¶

(a) In the SNAP program, see OAR 461-001-0015.¶

(b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining eligibility:¶

(A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or¶

(B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a

record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).¶

(25) "Domestic violence" means the occurrence of one or more of the acts described in subsections (a) to (d) of this section between family members, intimate partners, or household members:¶

(a) Attempting to cause or intentionally, knowingly, or recklessly causing physical injury or emotional, mental, or verbal abuse.¶

(b) Intentionally, knowingly, or recklessly placing another in fear of imminent serious physical injury.¶

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.¶

(d) Using coercive or controlling behavior.¶

(e) As used in this section, "family members" and "household members" mean any of the following:¶

(A) Spouse;¶

(B) Former spouse;¶

(C) Individuals related by blood, marriage (see section (424) of this rule), or adoption;¶

(D) Individuals who are cohabitating or have cohabited with each other;¶

(E) Individuals who have been involved in a sexually intimate or dating relationship; or¶

(F) Unmarried parents of a child.¶

(26) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to victims of domestic violence. If the facility serves other people, a portion must be used solely for victims of domestic violence.¶

(27) "Electronic application" is an application electronically signed and submitted through the Internet.¶

(28) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.¶

(29) "Equity value" means fair market value (see section (2930) of this rule) minus encumbrances.¶

(30) "Fair market value" means the amount an item is worth on the open market.¶

(31) "Family stability" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.¶

(32) "Family stability activity" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by an individual, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain family stability (see section (301) of this rule).¶

(33) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.¶

(34) "Homeless" in the ERDC program means lacking a fixed regular and adequate nighttime residence and includes living in an emergency shelter, shared housing with others due to loss of housing or economic hardship, staying in motels, cars, parks, public places, tents, trailers, or other similar settings.¶

(35) "Impairment-Related Work Expenses" have the meaning found in OAR 461-001-0035.¶

(36) "Income producing property" means:¶

(a) In all programs except OSIP, OSIPM, and QMB, real or personal property that generates income for the financial group (see OAR 461-110-0530). Examples of "income producing property" are:¶

(A) Livestock, poultry, and other animals.¶

(B) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, and condominiums.¶

(b) In the OSIP, OSIPM, and QMB programs, "income-producing property" means any real or personal property not used in self-employment (see OAR 461-145-0600 and 461-145-0915) that produces income for the financial group. "Income-producing property" includes:¶

(A) Livestock, poultry, or other animals that produce marketable products sold by the financial group.¶

(B) Farmland not excluded under OAR 461-145-0220 that is farmed or rented out by the financial group.¶

(C) Real property other than the home (including vacation homes and condominiums), that is rented out.¶

(c) In the OSIP, OSIPM, and QMB programs, "income-producing property" does not include:¶

- (A) Rooms or other space for rent in the home (see OAR 461-145-0220).¶
- (B) Livestock, poultry, or other animals kept for resale (see OAR 461-145-0010).¶
- (37) "Initial month" of eligibility means any of the following:¶
 - (a) In all programs, the first month a benefit group (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.¶
 - (b) In all programs except the SNAP program, the first month a benefit group is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.¶
 - (c) In the SNAP program:¶
 - (A) The first month for which the benefit group is certified following any period during which they were not certified to participate, except for migrant and seasonal farm workers (see OAR 461-001-0015).¶
 - (B) For migrant and seasonal farmworkers, the first month for which the benefit group is certified following any period of one month or more during which they were not certified to participate.¶
 - (d) For a new applicant to the OSIP or OSIPM program applying for care in a nonstandard living arrangement (see section (45Z) of this rule), for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the individual would have been eligible had it not been for the disqualifying transfer of assets (see section (5) of this rule).¶
 - (e) For a current recipient of the OSIP or OSIPM program receiving or applying for care in a nonstandard living arrangement, for the purpose of calculating the correct divisor in OAR 461-140-0296, the later of the following:¶
 - (A) The month the disqualifying transfer occurred.¶
 - (B) The month of application for long-term care (see section (40) of this rule) services if the individual would have been eligible had it not been for the disqualifying transfer of assets.¶
- (38) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).¶
- (39) "Legally married" means a marriage uniting two individuals according to:¶
 - (a) The statutes of the state where the marriage occurred;¶
 - (b) Except in the SNAP program, the common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or¶
 - (c) The laws of a country in which the two individuals previously resided while meeting the requirements for legal or cultural marriage in that country.¶
- (40) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a "life estate" enables the owner of the "life estate" to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A "life estate" is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of the individual's life, certain rights to that property. In addition, a "life estate" is established when a member of the financial group purchases a "life estate" interest in the home of another individual.¶
- (41) "Lodger" means ~~a member of the household group (see OAR 461-110-0210)~~ an individual, living with a Department client, who: --¶
 - (a) Is not a member of the filing group (see OAR 461-110-0310) of the Department client; and¶
 - (b) Pays the filing group:¶
 - (A) In all programs except the OSIP, OSIPM, and QMB programs, for room and board.¶
 - (B) In the OSIP, OSIPM, and QMB programs, for room with or without board.¶
- (42) "Long term care" means the system through which the Department provides a broad range of social and health services for extended periods of time to eligible adults who are aged, blind, or have disabilities. This includes nursing facilities and the Oregon State Hospital.¶
- (43) "Lump-sum income" means income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. "Lump-sum income" includes:¶
 - (a) Retroactive benefits covering more than one month, whether received in a single payment or several

payments.¶¶

(b) Income from inheritance, gifts, winnings, and personal injury claims.¶¶

(44) "Marriage" means the union of two individuals who are legally married (see section (379) of this rule).¶¶

(45) "Microenterprise" means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than \$35,000.¶¶

(46) "Minor parent" in the ERDC and TANF programs means a parent under the age of 18.¶¶

(47) "Nonstandard living arrangement" is defined as follows:¶¶

(a) In the GA, OSIP, OSIPM, and QMB programs, an individual is considered to be in a "nonstandard living arrangement" when the individual is applying for or receiving services in any of the following locations:¶¶

(A) A nursing facility in which the individual receives long-term care services paid with Medicaid funding, except this subsection does not apply to a Medicare client in a skilled-stay nursing facility.¶¶

(B) An intermediate care facility for individuals with intellectual disabilities (ICF/ID).¶¶

(C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.¶¶

(D) A community based care (see section (167) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a "nonstandard living arrangement".¶¶

(b) In all programs except GA, OSIP, OSIPM, and QMB, "nonstandard living arrangement" means each of the following locations:¶¶

(A) Foster care.¶¶

(B) Residential Care facility.¶¶

(C) Drug or alcohol residential treatment facility.¶¶

(D) Homeless or domestic violence shelter.¶¶

(E) Lodging house if paying for room and board.¶¶

(F) Correctional facility.¶¶

(G) Medical institution.¶¶

(48) "OCCS" is the Office of Client and Community Services, part of the Medical Assistance Programs under the Oregon Health Authority responsible for OCCS medical program eligibility policy, community outreach, OCCS Medical Program eligibility determinations, and the OHA Customer Service Call Center.¶¶

(49) "OCCS Medical Programs" refers to programs for which eligibility policy can be found in OAR chapter 410, division 200, and includes CEC, CEM, MAA, MAF, EXT, OHP, Substitute Care, BCCTP, and MAGI Medicaid/CHIP programs, including:¶¶

(a) MAGI Adult;¶¶

(b) MAGI Child;¶¶

(c) MAGI Parent or Other Caretaker Relative;¶¶

(d) MAGI Pregnant Woman; and¶¶

(e) MAGI CHIP.¶¶

(50) "Ongoing month" means one of the following:¶¶

(a) For all programs except the SNAP program, any month following the initial month (see section (357) of this rule) of eligibility, if there is no break in the program benefit of one or more calendar months.¶¶

(b) For the SNAP program, any month in the certification period (see section (145) of this rule) following the initial month of eligibility.¶¶

(51) "Parent" for all programs except JPI (see OAR 461-135-1260) and the SNAP program means the biological or legal mother or father of an individual or unborn. For JPI and the SNAP program, "parent" means the biological or legal mother or father of an individual.¶¶

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.¶¶

(b) A stepparent relationship exists if:¶¶

(A) The individual is legally married to the child's biological or adoptive parent; and¶¶

(B) The marriage has not been terminated by legal separation, divorce, or death.¶¶

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal

parent. However, the biological parent is also considered a "parent" if both of the following are true:¶¶

(A) The child lives with the biological parent; and¶¶

(B) The legal parent has given up care, control, and supervision of the child.¶¶

(52) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.¶¶

(53) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.¶¶

(54) "Periodic income" means income received on a regular basis less often than monthly.¶¶

(55) "Primary person" for all programs except the SNAP program, means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The "primary person" for individual programs is as follows:¶¶

(a) In the TANF program, the parent or caretaker relative.¶¶

(b) In the ERDC program, the caretaker.¶¶

(c) In the SNAP program, see OAR 461-001-0015.¶¶

(d) In the GA, OSIP, OSIPM, QMB, REF, and REFM programs, the client or client's spouse.¶¶

(56) "Qualified Partnership Policy" means a long-term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:¶¶

(a) Issued while the individual was a resident in Oregon on January 1, 2008 or later; or¶¶

(b) Issued in another state while the individual was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.¶¶

(57) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as "real property".¶¶

(58) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.¶¶

(59) "Safe homes" mean private homes that provide a few nights lodging to victims of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.¶¶

(60) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.¶¶

(61) "Shelter in kind" means an agency or individual outside the financial group provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs (see section (5860) of this rule) of the financial group. "Shelter-in-kind" does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.¶¶

(62) "Sibling" means the brother or sister of an individual. "Blood related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the marriage of their parents.¶¶

(63) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the financial group.¶¶

(64) "Spouse" means an individual who is legally married to another individual.¶¶

(65) "Stable income" means income that is the same amount each time it is received.¶¶

(66) "Standard living arrangement" means a location that does not qualify as a nonstandard living arrangement.¶¶

(67) "Teen parent" means, in the JOBS, REF, REFM, and TANF programs, a parent who is the age of 18 or 19.¶¶

(68) "Timely continuing benefit decision notice" means a decision notice that informs the individual of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.¶¶

(69) "Trust funds" mean money, securities, or similar property held by an individual or institution for the benefit of another individual.¶¶

(70) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.¶¶

(71) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006,

412.014, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 411.837,
412.001, 412.006, 412.014, 412.049, 413.085, 414.685

AMEND: 461-110-0530

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-110-0530 about the financial group is being amended to specify that adjusted income in the OSIPM program for individuals who have potential protected status is evaluated under those specific rules first before determining if the individual is income eligible, clarifying the rules.

CHANGES TO RULE:

461-110-0530

Financial Group ¶¶

(1) Except as provided in section (4) of this rule, the "financial group" consists of the filing group (see OAR 461-110-0310) members whose income and resources the Department considers in determining eligibility (see OAR 461-001-0000) and benefits.¶¶

(2) In the ERDC, OSIPM-EPD, QMB, and SNAP programs, the "financial group" consists of each individual in the filing group.¶¶

(3) In the REF and REFM programs, the "financial group" consists of each individual in the filing group, except an individual who is eligible for and receives an SSI cash payment.¶¶

(4) In the OSIPM (except OSIPM-EPD) program:¶¶

(a) For the purposes of this section of this rule, "ineligible" means an individual not eligible to receive either SSI or TANF program benefits.¶¶

(b) When an individual lives in a standard living arrangement (see OAR 461-001-0000):¶¶

(A) Except as provided in paragraph (B) of this subsection, each member of the filing group is in the "financial group".¶¶

(B) When an individual, ~~whose eligibility is not determined under certain protected groups (see OAR 461-135-0771 to OAR 461-135-0830)~~, is married, not assumed eligible (see OAR 461-135-0010) for OSIPM, and the individual's spouse (see OAR 461-001-0000) is considered "ineligible" (see subsection (a) of this section):¶¶

(i) If the individual's adjusted income (see OAR 461-001-0000) using the deductions allowed under OAR 461-160-0550(4), or after being evaluated under certain protected groups (see OAR 461-135-0771 to OAR 461-135-0830), is greater than the OSIPM program adjusted income standard for a need group of one under OAR 461-155-0250, the individual is in his or her own "financial group" and not eligible for OSIPM.¶¶

(ii) When there are children in the home, if the ineligible spouse's remaining countable (see OAR 461-001-0000) income after allocation (see OAR 461-160-0551) to each ineligible child is equal to or less than the difference between the couple and the individual SSI standards: the spouse is not included in the "financial group" when determining income eligibility; however, the spouse is included in the "financial group" when determining resource eligibility.¶¶

(iii) When there are no children in the home, if the ineligible spouse's countable income is less than the difference between the couple and the individual SSI standards: the spouse is not included in the "financial group" when determining income eligibility; however, the spouse is included in the "financial group" when determining resource eligibility.¶¶

(c) When an individual or is being evaluated under OAR 461-135-0745 or OAR 461-135-0750, the "financial group" consists only of the individual applying for benefits, except that the community spouse (see OAR 461-001-0030) is included in the "financial group" to determine initial eligibility as follows:¶¶

(A) At initial eligibility, the resources of the community spouse are considered and the provisions of OAR 461-160-0580 apply.¶¶

(B) The income of the community spouse is not considered in determining initial eligibility, and the community spouse is not included in any other eligibility group.¶¶

(5) In the TANF program, the "financial group" consists of each individual in the filing group except the following:¶¶

(a) A caretaker relative, other than a parent, who chooses not to be included in the need group and has income less

than the non-needy countable income limit standard (see OAR 461-155-0030) for the filing group of the caretaker relative.¶

(b) The spouse of a caretaker relative, when the caretaker relative meets the requirements under subsection (a) of this section.¶

(c) A dependent child of a caretaker relative when the caretaker relative meets the requirements under subsection (a) of this section.¶

(d) An individual who is eligible for and receives an SSI cash payment.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 412.064, 412.124, 413.085, 414.685, 414.712

Statutes/Other Implemented: 414.826, 414.839, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 412.064, 412.124, 414.712, ORS 409.010, 411.060

AMEND: 461-115-0230

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-115-0230 about interviews is being amended to state that for OSIPM, recipients of SSI or those in 1619(b) status, and QMB program clients whose eligibility can be determined by electronic means, are not required to complete a face-to-face interview in the branch office, by telephone, or during a home visit, aligning with federal requirements. This rule is also being amended to require an interview for applicants for the Refugee Medical (REFM) program as well as to state that an interview is also needed for the Refugee (REF) program, correcting the REF rule and aligning the REFM policy with self-sufficiency programs. This rule being further amended to state the policy for TA-DVS program interviews, accommodating client safety issues.

CHANGES TO RULE:

461-115-0230

Interviews ¶¶

(1) In the REF, REFM, and TANF programs, the Department may conduct a required face-to-face interview by telephone or home visit if an authorized representative (see OAR 461-001-0000 and 461-115-0090) has not been appointed, and participating in a face-to-face interview is a hardship (see section (2) of this rule) for the household.¶¶

(2) For the purposes of this rule, "hardship" includes, but is not limited to:¶¶

(a) Care of a household member;¶¶

(b) An individual's age, disability (see OAR 461-001-0000), or illness;¶¶

(c) A commute of more than two hours from the individual's residence to the nearest branch office (see OAR 461-001-0000);¶¶

(d) A conflict between the individual's work or training schedule and the business hours of the branch office; and¶¶

(e) Transportation difficulties due to prolonged severe weather or financial hardship.¶¶

(3) In the SNAP program:¶¶

(a) An interview must be scheduled so that the filing group (see OAR 461-110-0370) has at least ten days to provide any needed verification before the deadline under OAR 461-115-0210.¶¶

(b) A face-to-face interview must be granted at the applicant's request.¶¶

(c) When an applicant misses the first scheduled interview appointment, the Department must inform the applicant by regular mail of the missed interview.¶¶

(d) An applicant who fails to attend a scheduled interview must contact the Department no later than 30 days following the filing date (OAR 461-115-0040) to be eligible for benefits.¶¶

(e) An adult (see OAR 461-001-0015) in the filing group or the authorized representative of the filing group is interviewed once every 12 months.¶¶

(4) In the ERDC program:¶¶

(a) Except as provided otherwise in subsection (c) of this section, an interview with an adult in the filing group (see OAR 461-110-0350) or the authorized representative of the filing group is required to process an initial application and a renewal of benefits.¶¶

(b) A phone interview is preferred; however, a face-to-face interview must be granted at the applicant's request.¶¶

(c) An interview is not required when the Department has implemented the Child Care Reservation List and it is determined that a decision notice of ineligibility will be sent under OAR 461-115-0016.¶¶

(5) In the OSIPM and QMB programs, the Department must complete an interview face-to-face in the branch office, by telephone, or during a home visit with at least one applicant who is 18 years of age or older or an applicant's authorized representative:¶¶

(a) At initial application.¶¶

(b) ~~A~~In the OSIPM program, at redetermination except individuals who are assumed eligible (see OAR 461-135-0010)receiving SSI or in 1619(b) status.¶¶

(c) In the QMB program, no interview is required at redetermination if eligibility may be determined by use of electronic information.¶

(6) In the REF and REFМ programs, an face-to-face interview is ~~not~~ required.¶

(7) In the TA-DVS program, the Department will conduct a required face-to-face interview with the victim, unless there is a safety concern related to the domestic violence (see OAR 461-001-0000) situation or there is a hardship. An interview due to safety concern or hardship may be completed via phone, home visit, or offsite appointment.

Statutory/Other Authority: ORS 409.050, 411.060, 411.404, 411.706, 411.816, 412.049, 414.826, 414.839

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.839, 411.117

AMEND: 461-115-0700

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-115-0700 about required verification for the GA, OSIP, OSIPM, and QMB programs is being amended to specify verification methods and sources, shifting the burden of verification primarily on the Department and the use of electronic sources, consistent with federal policy.

CHANGES TO RULE:

461-115-0700

Required Verification; GA, OSIP, OSIPM, and QMB ¶¶

In the GA, OSIP, OSIPM, and QMB programs:¶¶

~~(1) Except as provided in section (2) of this rule, all eligibility (see OAR 461-001-0000) factors, including identity, must be verified at initial application, when there is a change to any factor, and whenever eligibility for benefits becomes questionable. See OAR 461-001-0000) factors must be verified at initial application, when there is a change to any factor, and whenever eligibility for benefits becomes questionable~~115-0704 for the requirements to provide verification of citizenship and immigration status.¶¶

~~(2) Methods of verifying information include the following:¶¶~~

~~(a) Electronic. Information available and provided to the Department from an electronic source, including but not limited to:¶¶~~

~~(A) State Wage Information Collection Agency.¶¶~~

~~(B) Internal Revenue Service.¶¶~~

~~(C) Social Security Administration.¶¶~~

~~(D) State Unemployment Compensation Agency.¶¶~~

~~(E) State agencies administering programs under Title 1, 10, 14, or 16 of the Social Security Act.¶¶~~

~~(F) SNAP agencies.¶¶~~

~~(G) Other insurance affordability programs.¶¶~~

~~(H) The Department of Treasury.¶¶~~

~~(I) The Department of Homeland Security.¶¶~~

~~(b) Self-attestation. Information provided orally or in writing by or on behalf of an individual.¶¶~~

~~(c) Documentation. Documentary evidence provided by or on behalf of an individual, or obtained by the Department from a third party.¶¶~~

~~(3) If necessary, information needed to determine eligibility must be provided by or on behalf of the individual requesting benefits.¶¶~~

~~(4) The Department must allow a reasonable amount of time to provide additional information, if necessary.¶¶~~

~~(5) Financial eligibility.¶¶~~

~~(2a) In the OSIP, OSIPM, and QMB-DW programs, if the total ~~rep~~self-attested value of gross "liquid resources" of the financial group (see OAR 461-110-0530) is less than \$400, further verification of the value of "liquid resources" is only required if questionable. For the purposes of this rule, "liquid resources" include cash as well as other resources that can be converted to cash within 20 business days, except that the cash surrender value of a life insurance policy is not considered a liquid resource.¶¶~~

~~(b) The Department must request and use information relevant to verifying eligibility from available electronic sources.¶¶~~

~~(c) Except as provided for in subsection (e) of this section, the Department must use the information it receives from an electronic source to verify eligibility without requiring additional documentation.¶¶~~

~~(d) The Department may request additional documentation from the individual if:¶¶~~

~~(A) The information is not available to the Department electronically.¶¶~~

~~(B) The information provided by self-attestation differs from the information received electronically and the individual or person acting on the individual's behalf could not provide a statement which reasonably explains the~~

discrepancy.

(e) For individuals receiving or applying for long-term-care (see OAR 461-001-0000) and subject to the provisions of OAR 461-160-0610, the Department may request additional documentation from the individual if the information provided by self-attestation differs from the information the Department receives from an electronic source.

(6) Identity.

(a) Except as provided for in subsections (c) and (d) of this section, individuals must provide documentation to verify identity.

(b) The Department must accept the following as proof of identity, provided such document has a photograph or other identifying information sufficient to establish identity, such as name, age, race, height, weight, eye color, or address:

(A) Driver's license issued by a state or territory.

(B) School identification card.

(C) U.S. military card or draft record.

(D) Identification card issued by the federal, state, or local government.

(E) Military dependent identification card.

(F) U.S. Coast Guard Merchant Mariner card.

(G) For children under the age 19, a clinic, doctor, hospital, or school record, including preschool or day care records.

(H) Two other documents containing consistent information that corroborates an applicant's identity. Such documents can include employer identification cards; high school, high school equivalency, and college diplomas; marriage certificates; divorce decrees; and property deeds or titles.

(c) The Department may accept the finding of identity from a federal or another state agency for the purposes of public assistance, law enforcement, internal revenue or tax bureau, or corrections, if the agency has verified and certified the identity of the individual.

(d) If the individual does not have any document specified in subsection (b) of this section, and identity cannot be verified under subsection (c) of this section, the Department must accept an affidavit signed, under penalty of perjury, by an individual other than the applicant who can reasonably attest to the applicant's identity. Such affidavit must contain the individual's name and other identifying information described in subsection (b) of this section.

(7) Social Security numbers. The Department must verify that the SSN furnished by an individual was issued to that individual. Acceptable sources of verification must show a correct Social Security number, including but not limited to:

(a) Social Security Card.

(b) Social Security award letters or other correspondence or forms bearing the individual's SSN.

(c) Medicare card, if the individual is receiving Medicare off his or her own record.

(d) Information provided electronically to the Department from the Social Security Administration.

(e) Wage stubs or unemployment records.

(f) IRS forms or letters.

(8) Pregnancy. The Department must accept self-attestation of pregnancy unless the state has Department has information that is not reasonably compatible with such attestation.

(9) Residency, age, date of birth, household size. The Department may accept self-attestation as verification of residency, age, date of birth, and household size, unless the statement differs from information available to the Department electronically or otherwise, in which case the Department may require the individual to provide documentation.

(10) If the Department is unable to verify information electronically or from a third party, the Department will accept, on a case-by-case basis, self-attestation to verify all eligibility criteria, except citizenship and immigration status, under the following circumstances:

(a) Documentation does not exist at initial application or redetermination; or

(b) Documentation is not reasonably available at initial application or redetermination, such as in the case of homelessness, domestic violence, or natural disaster.

(11) The Department may not deny, close, or reduce benefits if verification available to the Department is incompatible or absent, and the Department did not request additional information from the individual.

Statutory/Other Authority: 411.070, 411.404, 411.706, 413.085, 414.685, ORS 409.050, 411.060, 411.402

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685, 414.839, 411.402

ADOPT: 461-115-0704

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-115-0704 about verification of the citizenship and alien status in the OSIP, OSIPM, and QMB programs is being adopted to align Department rules with federal policy surrounding verification methods for these non-financial eligibility requirements, including the reasonable opportunity period.

CHANGES TO RULE:

461-115-0704

Required Verification of Citizenship and Alien Status; OSIP, OSIPM, and QMB

In the OSIP, OSIPM, and QMB programs:

(1) The Department must verify an individual's declaration of citizenship or qualified alien status (see OAR 461-120-0130).

(2) The Department must verify citizenship through one of the following:

(a) A U.S. passport, including a U.S. Passport Card issued by the Department of State, without regard to any expiration date as long as such passport or card was issued without limitation.

(b) A Certificate of Naturalization.

(c) A Certificate of U.S. Citizenship.

(d) A valid state-issued driver's license if the state issuing the license requires proof of U.S. citizenship, or obtains and verifies a Social Security Number from the applicant who is a citizen before issuing such license.

(e) Documentary evidence issued by a federally-recognized Indian tribe identified in the Federal Register by the Bureau of Indian Affairs within the U.S. Department of the Interior, and including tribes located in a state that has an international border, which:

(A) Identifies the federally recognized Indian tribe that issued the document;

(B) Identifies the individual by name; and

(C) Confirms the individual's membership, enrollment, or affiliation with the tribe.

(f) Documents described in subsection (e) of this section include, but are not limited to:

(A) A tribal enrollment card.

(B) A Certificate of Degree of Indian Blood.

(C) A tribal census document.

(D) Documents on tribal letterhead, issued under the signature of the appropriate tribal official, that meet the requirements of subsection (e) of this section.

(g) A data match with the Social Security Administration.

(3) If an individual does not provide documentary evidence from the list in section (2) of this rule, the following must be accepted as satisfactory evidence to establish citizenship if also accompanied by an identity document listed OAR 461-115-0700(6):

(a) A U.S. public birth certificate showing birth in one of the 50 states, the District of Columbia, Guam, American Samoa, Swain's Island, Puerto Rico (if born on or after January 13, 1941), the Virgin Islands of the U.S. or the CNMI (if born after November 4, 1986 (CNMI local time)). The birth record document may be issued by a state, commonwealth, territory, or local jurisdiction. If the document shows the individual was born in Puerto Rico or the Northern Mariana Islands before the applicable date referenced in this paragraph, the individual may be a collectively naturalized citizen. The following will establish U.S. citizenship for collectively naturalized individuals:

(A) Puerto Rico: Evidence of birth in Puerto Rico and the applicant's statement that the applicant was residing in the U.S., a U.S. possession, or Puerto Rico on January 13, 1941.

(B) Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI)):

(i) Evidence of birth in the NMI, TTPI citizenship and residence in the NMI, the U.S., or a U.S. territory or possession on November 3, 1986 (NMI local time) and the applicant's statement that the applicant did not owe allegiance to a foreign State on November 4, 1986 (NMI local time).

- (ii) Evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981 (NMI local time), voter registration before January 1, 1975, and the applicant's statement that the applicant did not owe allegiance to a foreign State on November 4, 1986 (NMI local time).¶
- (iii) Evidence of continuous domicile in the NMI since before January 1, 1974, and the applicant's statement that the applicant did not owe allegiance to a foreign State on November 4, 1986 (NMI local time). Note: If an individual entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.¶
- (b) At state option, a cross match with a state vital statistics agency documenting a record of birth.¶
- (c) A Certification of Report of Birth, issued to U.S. citizens who were born outside the U.S.¶
- (d) A Report of Birth Abroad of a U.S. Citizen.¶
- (e) A Certification of Birth in the United States.¶
- (f) A U.S. Citizen I.D. card.¶
- (g) A Northern Marianas Identification Card issued by the U.S. Department of Homeland Security (or predecessor agency).¶
- (h) A final adoption decree showing the child's name and U.S. place of birth, or if an adoption is not final, a statement from a state-approved adoption agency that shows the child's name and U.S. place of birth.¶
- (i) Evidence of U.S. Civil Service employment before June 1, 1976.¶
- (j) U.S. Military Record showing a U.S. place of birth.¶
- (k) A data match with the SAVE Program or any other process established by the Department of Homeland Security to verify that an individual is a citizen.¶
- (l) Documentation that a child meets the requirements of section 101 of the Child Citizenship Act of 2000 as amended (8 U.S.C. 1431).¶
- (m) Medical records, including, but not limited to, hospital, clinic, or doctor records or admission papers from a nursing facility, skilled care facility, or other institution that indicate a U.S. place of birth.¶
- (n) Life, health, or other insurance record that indicates a U.S. place of birth.¶
- (o) Official religious record recorded in the U.S. showing that the birth occurred in the U.S.¶
- (p) School records, including pre-school, Head Start and daycare, showing the child's name and U.S. place of birth.¶
- (q) Federal or state census record showing U.S. citizenship or a U.S. place of birth.¶
- (r) If the applicant does not have one of the documents listed in section (2) of this rule subsections (a) through (q) of this section, the applicant may submit an affidavit signed by another individual under penalty of perjury who can reasonably attest to the applicant's citizenship, and that contains the applicant's name, date of birth, and place of U.S. birth. The affidavit does not have to be notarized.¶
- (4) The following individuals who make a declaration of citizenship are exempt from the requirement to provide documentary evidence of citizenship:¶
 - (a) Individuals receiving SSI.¶
 - (b) Individuals entitled to or enrolled in any part of Medicare.¶
 - (c) Individuals receiving SSDI.¶
 - (d) Individuals who are in foster care and who are assisted under Title IV-B of the Act, and individuals who are beneficiaries of foster care maintenance or adoption assistance payments under Title IV-E of the Act.¶
 - (e) Newborns of an assumed eligible individual (see OAR 461-135-0010)¶
- (2) The Department must attempt to verify a declaration by or on behalf of an individual of qualified alien status using an electronic service.¶
 - (a) Individuals who make a declaration of qualified alien status are exempt from the requirement to provide documentary evidence if they are receiving SSI.¶
 - (b) The Department must promptly resolve all discrepancies between the electronic information and information provided by the or on behalf of the individual and resubmit corrected information through the electronic service.¶
 - (c) For purposes of verifying the veteran and active duty exemption from the five-year waiting period (see OAR 461-120-0125), the Department must verify that:¶
 - (A) The individual is an honorably discharged veteran.¶

(B) The individual is in active military duty status.¶

(C) The individual is a spouse (see OAR 461-001-0000), unmarried dependent child, or an un-remarried surviving spouse of an individual qualifying for this waiting period exemption.¶

(D) If the Department is unable to verify such status, the Department may accept self-attestation (see OAR 461-115-0700).¶

(6) Individuals who declare non-qualified or undocumented alien status and who meet the criteria of OAR 461-135-1070 are not required to present a Social Security Number or verify alien status.¶

(7) The Department must retain a record of having verified citizenship or alien status according to the applicable retention period.¶

(8) Unless a change in citizenship has been reported, the Department may not re-verify or require the individual to re-verify at redetermination or upon a subsequent application following a break in coverage.¶

(9) If the Department cannot promptly verify citizenship or qualified alien status:¶

(a) The Department must provide a reasonable opportunity period (see section (10) of this rule); and may not delay, deny, reduce, or terminate benefits for an individual who is otherwise eligible during the reasonable opportunity period.¶

(b) If a reasonable opportunity period is provided and the individual is otherwise eligible, the Department may approve benefits effective the month of in which the date of request falls.¶

(10) Reasonable opportunity period.¶

(a) The Department must provide a reasonable opportunity period to individuals who declare citizenship or qualified alien status which the Department cannot independently verify.¶

(b) During this period, the Department must continue efforts to verify the individual's citizenship or qualified alien status.¶

(c) Notice of the reasonable opportunity period must be sent that is accessible to those with limited English proficiency and individuals with disabilities.¶

(d) The Department must assist individuals declaring citizenship who do not have an SSN with obtaining an SSN and attempt to verify citizenship once it is obtained.¶

(e) The Department must provide the individual with information about how to contact the electronic data source so that the individual can try to resolve inconsistencies that prevented electronic verification and then pursue electronic verification once the individual reports the inconsistencies have been resolved.¶

(f) The reasonable opportunity period begins on the date the reasonable opportunity period notice is received by the individual, which is considered to be five days after the date of the notice, unless the individual can show that the individual did not receive the notice within the five-day period.¶

(g) The reasonable opportunity period ends either when the Department verifies citizenship or qualified alien status, or 90 days from the date the notice is received, whichever is earlier (and may be extended if individual is making a good faith effort or the Department needs more time).¶

(h) If the reasonable opportunity period ends and the verification has not been received, the Department must take action within 30 days to terminate eligibility.

Statutory/Other Authority: 413.085, 414.685, ORS 409.050, 411.060, 411.402, 411.404, 411.706

Statutes/Other Implemented: 413.085, 414.685, 409.010, 414.839, 411.060, 411.404, 411.706

AMEND: 461-135-0010

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-135-0010 about assumed eligibility for medical programs is being amended to specify that the provisions limiting the loss of eligibility during pregnancy apply to OSIPM and OCCS Medical Programs and specify that SSI recipients and individuals in 1619 (a) or (b) status automatically meet the citizenship and non-citizen requirements for OSIPM, following federal policy.

CHANGES TO RULE:

461-135-0010

Assumed Eligibility for Medical Programs ¶

(1) This rule sets out when a client is assumed eligible for certain medical programs because the client receives or is deemed to receive benefits of another program.¶

(2) A pregnant woman who is eligible for and receiving benefits the day the pregnancy ends is assumed eligible for the OSIPM program until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.¶

(3) A pregnant woman who was eligible for and receiving medical assistance under ~~any~~the OSIPM program or OCCS Medicaid or Programs (see OAR 461-001-0000) and becomes ineligible while pregnant is assumed eligible for Medicaid and can continue to receive OSIPM or OCCS Medical Programs benefits until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.¶

(4) A child (see OAR 461-001-0000) born to a mother eligible for and receiving OSIPM benefits is assumed eligible for medical benefits under this section until the end of the month the child turns one year of age.¶

(5) The individuals described in subsection (a) and (b) of this section are assumed eligible for OSIPM (except OSIPM-EPD) unless subsection (c), (d), or (e) of this section applies:¶

(a) A recipient of SSI benefits who meets all non-financial requirements for the OSIPM program except citizen and non-citizen status. SSI recipients are presumed to meet all citizen and non-citizen status requirements for the OSIP program.¶

(b) An individual deemed eligible for SSI under Sections 1619(a) or (b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)), which cover individuals with disabilities whose impairments have not changed but who have become gainfully employed and have continuing need for OSIPM. Individuals deemed eligible for SSI under Sections 1619(a) or (b) of the Social Security Act are assumed to meet all citizen and non-citizen status requirements for the OSIPM program.¶

(c) An individual described in subsection (a) or (b) of this section who is in a nonstandard living arrangement (see OAR 461-001-0000) is not eligible for long-term care (see OAR 461-001-0000) services if the individual would otherwise be ineligible for OSIPM due to a disqualifying transfer of assets (OAR 461-140-0210 to 461-140-0300 regulate the effect of a transfer of assets on a client).¶

(d) An individual described in subsection (a) or (b) of the section who is in a nonstandard living arrangement is not assumed eligible for long-term care services if countable (see OAR 461-001-0000) resources exceed the limit after performing the calculation under OAR 461-160-0580.¶

(e) An individual described in subsection (a) or (b) of the section who does not meet the pursuit of assets requirements (see OAR 461-120-0330), the health care coverage requirements (see OAR 461-120-0345), or the residency requirements (see OAR 461-120-0010) is not assumed eligible for OSIPM.¶

(6) For the purposes of this section the definition of a "child" means an unmarried individual under age 19 and includes natural, step, and adoptive children. A child found eligible for OSIPM is assumed eligible until the end of the twelfth month following the determination of the child's OSIPM eligibility or redetermination of eligibility unless the child:¶

(a) No longer meets the definition of a child given in this section;¶

(b) Moves out of state;¶

(c) Voluntarily ends benefits; or¶¶

(d) Is eligible for any other Medicaid program that provides OHP Plus benefits.¶¶

(7) A client who receives both benefits under Part A of Medicare and SSI benefits is assumed eligible for the QMB-BAS program unless the individual does not meet the pursuit of assets requirements (see OAR 461-120-0330), the health care coverage requirements (see OAR 461-120-0345), or the residency requirements (see OAR 461-120-0010).

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 412.049

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.404, 412.049, 414.025

AMEND: 461-135-0780

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-135-0780 about eligibility for Pickle Amendment clients in the OSIPM program is being amended to adjust these standards to reflect the annual federal cost of living adjustments. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living.

CHANGES TO RULE:

461-135-0780

Pickle Amendment Clients; OSIPM ¶¶

In the OSIPM program:¶¶

(1) The countable (see OAR 461-001-0000) SSB income of an individual is determined according to sections (2) to (4) of this rule if the individual meets all of the following requirements:¶¶

(a) Is receiving Social Security Benefits (SSB);¶¶

(b) Was eligible for and receiving SSI or state supplements but became ineligible for those payments after April 1977; and¶¶

(c) Would be eligible for SSI or state supplement if the SSB COLA increases paid under section 215(i) of the Social Security Act, after the last month the individual was both eligible for and received SSI or a supplement and was entitled to SSB, were deducted from current SSB.¶¶

(2) The SSB amount received by the individual when the individual became ineligible for SSI or OSIP is used as the individual's countable SSB income, for the purposes of the Pickle Amendment. If the spouse (see OAR 461-001-0000) of the individual also had Social Security benefits at the time the individual lost SSI benefits, SSB amount at that time of the spouse is considered the countable income of the spouse. If the amount cannot be determined using the information provided by the SSA, it is calculated in accordance with section (3) of this rule.¶¶

(3) The Department determines the month in which the individual was entitled to SSB and received SSI in the same month. The Department uses the table in section (4) of this rule to find the percentage that applies to that month. The Department multiplies the present amount of the SSB of the individual by the applicable percentage. If the spouse of the individual also had SSB at the time the individual lost SSI benefits, the Department adjusts the SSB of the spouse using the same multiplier that was used for the individual's calculation under this section. This amount, rounded down to the next lower whole dollar, is the individual's countable SSB income.¶¶

(4) The following guide contains the calculations used to determine the SSB for prior years (the Department uses this table only if the prior year's amount using information provided by SSA): [Table not included. See ED. NOTE.]¶¶
[ED. NOTE: Tables referenced are available from the agency. see attached table]

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 413.085, 414.685

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.704, 413.085, 414.685

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.:

In the OSIPM program:

- (1) The *countable* (see OAR 461-001-0000) SSB income of an individual is determined according to sections (2) to (4) of this rule if the individual meets all of the following requirements:
 - (a) Is receiving Social Security Benefits (SSB);
 - (b) Was eligible for and receiving SSI or state supplements but became ineligible for those payments after April 1977; and
 - (c) Would be eligible for SSI or state supplement if the SSB COLA increases paid under section 215(i) of the Social Security Act, after the last month the individual was both eligible for and received SSI or a supplement and was entitled to SSB, were deducted from current SSB.
- (2) The SSB amount received by the individual when the individual became ineligible for SSI or OSIP is used as the individual's *countable* SSB income, for the purposes of the Pickle Amendment. If the *spouse* (see OAR 461-001-0000) of the individual also had Social Security benefits at the time the individual lost SSI benefits, SSB amount at that time of the *spouse* is considered the *countable* income of the *spouse*. If the amount cannot be determined using the information provided by the SSA, it is calculated in accordance with section (3) of this rule.
- (3) The Department determines the month in which the individual was entitled to SSB and received SSI in the same month. The Department uses the table in section (4) of this rule to find the percentage that applies to that month. The Department multiplies the present amount of the SSB of the individual by the applicable percentage. If the *spouse* of the individual also had SSB at the time the individual lost SSI benefits, the Department adjusts the SSB of the *spouse* using the same multiplier that was used for the individual's calculation under this section. This amount, rounded down to the next lower whole dollar, is the individual's *countable* SSB income.
- (4) The following guide contains the calculations used to determine the SSB for prior years (the Department uses this table only if the prior year's amount using information provided by SSA):

If SSI was Last Received During	Multiply Current SSB by
January 2016 – December 2017.....	.983
January 2015 - December 2016.....	.980
January 2014 - December 2014.....	.964
January 2013 - December 2013.....	.950
January 2012 - December 2012.....	.934
January 2009 - December 2011.....	.901

January 2008 - December 2008.....	.852
January 2007 - December 2007.....	.833
January 2006 - December 2006.....	.806
January 2005 - December 2005.....	.775
January 2004 - December 2004.....	.754
January 2003 - December 2003.....	.739
January 2002 - December 2002.....	.728
January 2001 - December 2001.....	.710
January 2000 - December 2000.....	.686
January 1999 - December 1999.....	.670
January 1998 - December 1998.....	.661
January 1997 - December 1997.....	.648
January 1996 - December 1996.....	.629
January 1995 - December 1995.....	.613
January 1994 - December 1994.....	.597
January 1993 - December 1993.....	.582
January 1992 - December 1992.....	.565
January 1991 - December 1991.....	.544
January 1990 - December 1990.....	.517
January 1989 - December 1989.....	.493
January 1988 - December 1988.....	.474
January 1987 - December 1987.....	.455
January 1986 - December 1986.....	.449
January 1985 - December 1985.....	.436
January 1984 - December 1984.....	.421
July 1982 - December 1983.....	.407
July 1981 - June 1982.....	.379
July 1980 - June 1981.....	.341
July 1979 - June 1980.....	.298
July 1978 - June 1979.....	.271
July 1977 - June 1978.....	.255
May or June 1977.....	.241

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 413.085, 414.685
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.704, 413.085,
414.685

AMEND: 461-135-0950

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-135-0950 about eligibility for inmates and residents of public institutions is being amended to indicate that GA benefits may continue for up to two months when an individual is incarcerated if the individual will be released by the end of the second calendar month, housing is still available, and the release date is known. This rule is also being amended to change the title to match the coverage of the text, clarifying the rule.

CHANGES TO RULE:

461-135-0950

Eligibility for Inmates and Residents of ~~State Hospital~~Public Institutions ¶¶

(1) This rule sets out additional restrictions on the eligibility of inmates and residents of state hospitals for programs covered by Chapter 461 of the Oregon Administrative Rules. ¶¶

(2) Definition of an "inmate". ¶¶

(a) An inmate is an individual living in a public institution (see section (3) of this rule) who is: ¶¶

(A) Confined involuntarily in a local, state or federal prison, jail, detention facility, or other penal facility, including an individual being held involuntarily in a detention center awaiting trial or an individual serving a sentence for a criminal offense; ¶¶

(B) Residing involuntarily in a facility under a contract between the facility and a public institution where, under the terms of the contract, the facility is a public institution; ¶¶

(C) Residing involuntarily in a facility that is under governmental control; ¶¶

(D) Receiving care as an outpatient while residing involuntarily in a public institution; or ¶¶

(E) In the OSIPM and QMB programs, released from the public institution during a temporary period of hospitalization in a medical institution outside of the correctional facility. ¶¶

(b) An individual is not considered an inmate when: ¶¶

(A) The individual is released on parole, probation, or post-prison supervision; ¶¶

(B) The individual is on home- or work-release, unless the individual is required to report to a public institution for an overnight stay; ¶¶

(C) The individual is staying voluntarily in a detention center, jail, or county penal facility after his or her case has been adjudicated and while other living arrangements are being made for the individual; or ¶¶

(D) The individual is in a public institution pending other arrangements as defined in 42 CFR 435.1010. ¶¶

(3) A "public institution" is any of the following: ¶¶

(a) A state hospital (see ORS 162.135). ¶¶

(b) A local correctional facility (see ORS 169.005): a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds individuals for more than 36 hours. ¶¶

(c) A Department of Corrections institution (see ORS 421.005): a facility used for the incarceration of individuals sentenced to the custody of the Department of Corrections, including a satellite, camp, or branch of a facility. ¶¶

(d) A youth correction facility (see ORS 162.135): ¶¶

(A) A facility used for the confinement of youth offenders and other individuals placed in the legal or physical custody of the youth authority, including a secure regional youth facility, a regional accountability camp, a residential academy and satellite, and camps and branches of those facilities; or ¶¶

(B) A facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youth, or youth offenders pursuant to a judicial commitment or order. ¶¶

(4) Definition of serious mental illness. An individual has a serious mental illness if the individual has been diagnosed by a psychiatrist, a licensed clinical psychologist or a certified non-medical examiner as having dementia, schizophrenia, bipolar disorder, major depression or other affective disorder or psychotic mental disorder other than a substance abuse disorder and other than a disorder that is caused primarily by substance abuse. ¶¶

(5) An individual who resides in a state hospital (see subsection (3)(a) of this rule), meets the definition of a serious mental illness (see section (4) of this rule), and applies for medical assistance between 90 and 120 days prior to the expected date of the person's release from the state hospital may be found eligible for medical assistance. If the individual is determined to be eligible, the effective date of the individual's medical assistance is the date the individual is released from the institution.¶

(6) In the OSIPM and QMB programs, a client who becomes a resident of a state hospital has medical benefits suspended if the client is at least 21 years of age and under 65 years of age. When a client with suspended medical benefits is no longer a resident of the state hospital, or when the individual is admitted to a medical institution outside of the state hospital for a period of hospitalization, medical benefits are reinstated effective the first day the client is no longer a resident, if the client continues to meet eligibility for the medical program.¶

(7) An individual residing in a state hospital may be eligible for OSIPM benefits if the individual:¶

(a) Receives services on a certified ward;¶

(b) Receives a Certificate of Need for Services from the State-authorized agency; and¶

(c) Meets one of the following:¶

(A) Is 65 years of age or older;¶

(B) Is under 21 years of age; or¶

(C) Is 21 years of age or older, if the basis of need is disability or blindness; eligibility was determined before the individual reached 21 years of age; and the individual entered the state hospital before reaching 22 years of age.¶

(8) For all programs covered under chapter 461 of the Oregon Administrative Rules:¶

(a) Except as provided otherwise in this rule, an inmate (see section (2) of this rule) of a public institution is not eligible for benefits.¶

(b) If a pregnant woman receiving medical assistance through the OSIPM program becomes an inmate of a public institution, her medical benefits are suspended. When the Department is informed the woman is no longer an inmate, her medical benefits are reinstated, effective on the first day she is no longer an inmate, if she is still in her protected period of eligibility under OAR 461-135-0010.¶

(c) If an individual receiving medical assistance through the OSIPM or QMB program becomes an inmate of a correctional facility, medical benefits are suspended during the incarceration period. In the OSIPM or QMB program, when the Department is notified that an individual with suspended benefits has been released or has been admitted to a hospital outside of the public institution for a period of hospitalization, medical benefits are reinstated effective the first day the client is no longer an inmate if the client continues to meet eligibility for the medical program.¶

(9) In the GA and SNAP programs, in addition to the other provisions of this rule, an inmate released from a public institution on home arrest, and required to wear an electronic device to monitor his or her activity, is ineligible for benefits if the correctional agency provides room and board to the individual.¶

(10) In the GA program, when an individual becomes an inmate of a public institution:¶

(a) Benefits may continue for the two calendar months following the month the Department is notified of the incarceration, if the individual will be released before the end of the second calendar month and the housing arrangement is still available.¶

(b) If the individual will be released after the end of the second calendar month following the month of notification, or if the release date is not known, benefits will be closed effective the end of the notice period (see OAR 461-175-0050) for a timely continuing benefit decision notice (see OAR 461-001-0000).

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.816, ~~412.014~~, 412.049, 413.085, 414.685, ~~412.014~~

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.447, 411.816, 412.014, 412.049, 414.426

AMEND: 461-140-0220

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-140-0220 about determining if a transfer of an asset is disqualifying is being amended to allow ongoing service clients to transfer assets in the amount of the current exclusion allowed under the amended OAR 461-160-0855 rather than the original qualified partnership policy amount that was excluded at the initial month of eligibility (if they are different), setting a more appropriate exclusion in subsequent months.

CHANGES TO RULE:

461-140-0220

Determining if a Transfer of an Asset is Disqualifying ¶¶

A transfer of an asset is not disqualifying if the requirements of OAR 461-140-0242 or one of the following sections are met:¶¶

- (1) The asset was personal belongings as described in OAR 461-145-0390.¶¶
- (2) The asset was sold or traded for compensation equal to or greater than fair market value.¶¶
- (3) The asset was transferred between members of the same financial group, including members who are ineligible aliens or disqualified people.¶¶
- (4) The transfer settled a legally enforceable claim against the asset or client.¶¶
- (5) The amount of the resource was equal to or less than the ~~amount that was~~following amounts excluded under OAR 461-160-0855 due to payments received under a qualified partnership policy (see OAR 461-001-0000):¶¶
 - (a) For new applicants, the amount that the Department determines can be excluded at the initial month (see OAR 461-001-0000) of eligibility ~~under (see OAR 461-160-0855 due to payments received under a qualified partnership policy (see OAR 461-001-0000001-0000)).¶¶~~
 - (b) For ongoing recipients, the amount of the current exclusion allowed under OAR 461-160-0855(2).¶¶
- (6) In all programs except the OSIP and OSIPM programs, a court ordered the transfer.¶¶
- (7) In the OSIP and OSIPM programs, a court ordered the transfer and:¶¶
 - (a) The transfer occurs more than 36 months or 60 months before the date of request (see OAR 461-115-0030), whichever is applicable under OAR 461-140-0210(5); or¶¶
 - (b) There is an institutionalized spouse, and, after performing the calculations required in OAR 461-160-0580(2), the amount of resources allocated to a community spouse does not exceed the largest of the four amounts set forth in OAR 461-160-0580(2)(f).¶¶
- (8) The client was a victim of fraud, misrepresentation, or coercion, and legal steps have been taken to recover the asset.¶¶
- (9) In the OSIP and OSIPM programs, for a client in a nonstandard living arrangement (see OAR 461-001-0000), the asset is an annuity purchased on or before December 31, 2005, the client or the spouse of the client is the annuitant, and the entire amount of principal and earned interest is paid in equal installments during the actuarial life expectancy of the annuitant. For purposes of this section, the actuarial life expectancy is established by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration.¶¶
- (10) In the OSIP and OSIPM programs, the client is in a standard living arrangement (see OAR 461-001-0000).¶¶
- (11) In the OSIP and OSIPM programs, for a client in a nonstandard living arrangement (see OAR 461-001-0000):¶¶
 - (a) The asset is an annuity purchased from January 1, 2006 through June 30, 2006, and the client or the spouse of the client is the annuitant.¶¶
 - (b) The asset is an annuity purchased on or after July 1, 2006, and the annuity meets the requirements of OAR 461-145-0022(10).

Statutory/Other Authority: 411.070, 411.404, 411.816, 412.049, 413.085, 414.042, 414.685, ORS 409.050, 410.070, 411.060

Statutes/Other Implemented: ORS 409.010, 410.070, 411.060, 411.070, 411.404, 411.708, 411.816, 412.049,

414.02

AMEND: 461-145-0220

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-145-0220 about treatment of home value for determining eligibility is being amended to adjust these standards to reflect the annual federal cost of living adjustments. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living.

CHANGES TO RULE:

461-145-0220

Home ¶¶

(1) Home defined: A home is the place where the filing group (see OAR 461-110-0310) lives. A home may be a house, boat, trailer, mobile home, or other habitation. A home also includes the following:¶¶

(a) Land on which the home is built and contiguous property.¶¶

(A) In all programs except the OSIP, OSIPM, QMB, and SNAP programs, property must meet all the following criteria to be considered contiguous property:¶¶

(i) It must not be separated from the land on which the home is built by land owned by people outside the financial group (see OAR 461-110-0530).¶¶

(ii) It must not be separated by a public right-of-way, such as a road.¶¶

(iii) It must be property that cannot be sold separately from the home.¶¶

(B) In the OSIP, OSIPM, QMB, and SNAP programs, contiguous property is property not separated from the land on which the home is built by land owned by people outside the financial group.¶¶

(b) Other dwellings on the land surrounding the home that cannot be sold separately from the home.¶¶

(2) Exclusion of home and other property:¶¶

(a) For an individual who has an initial month (see OAR 461-001-0000) of long-term care on or after January 1, 2006:¶¶

(A) For purposes of this subsection, "child" means a biological or adoptive child who is:¶¶

(i) Under age 21; or¶¶

(ii) Any age and meets the Social Security Administration criteria for blindness or disability.¶¶

(B) The equity value (see OAR 461-001-0000) of a home is excluded if the requirements of at least one of the following subparagraphs are met:¶¶

(i) The child (see paragraph (A) of this subsection) of the individual occupies the home.¶¶

(ii) The spouse (see OAR 461-001-0000) of the individual occupies the home.¶¶

(iii) The equity in the home is ~~\$560~~72,000 or less, and the requirements of at least one of the following subparagraphs are met:¶¶

(I) The individual occupies the home.¶¶

(II) The home equity is excluded under OAR 461-145-0250.¶¶

(III) The home is listed for sale per OAR 461-145-0420.¶¶

(iv) Notwithstanding OAR 461-120-0330, the equity in the home is more than ~~\$560~~72,000 and the individual is unable legally to convert the equity value in the home to cash.¶¶

(b) For all other filing groups, the value of a home is excluded when the home is occupied by any member of the filing group.¶¶

(c) In the SNAP program, the value of land is excluded while the group is building or planning to build their home on it, except that if the group owns (or is buying) the home they live in and has separate land they intend to build on, only the home in which they live is excluded, and the land they intend to build on is treated as real property in accordance with OAR 461-~~145-~~0420.¶¶

(3) Exclusion during temporary absence: If the value of a home is excluded under section (2) of this rule, the value of this home remains excluded in each of the following situations:¶¶

(a) In all programs except the OSIP, OSIPM, and QMB-DW programs, during the temporary absence of all

members of the filing group from the property, if the absence is due to illness or uninhabitability (from casualty or natural disaster), and the filing group intends to return home.¶¶

(b) In the OSIP, OSIPM, and QMB-DW programs, when the individual is absent to receive care in a medical institution, if one of the following is true:¶¶

(A) The absent individual has provided evidence that the individual will return to the home. The evidence must reflect the subjective intent of the individual, regardless of the individual's medical condition. A written statement from a competent individual is sufficient to prove the intent.¶¶

(B) The home remains occupied by the individual's spouse, child, or a relative dependent on the individual for support. The child must be less than 21 years of age or, if over the age of 21, blind or an individual with a disability as defined by SSA criteria.¶¶

(c) In the REF, REFM, and TANF programs, when all members of the filing group are absent because:¶¶

(A) The members are employed in seasonal employment and intend to return to the home when the employment ends; or¶¶

(B) The members are searching for employment, and the search requires the members to relocate away from their home. If all members of the filing group are absent for this reason, the home may be excluded for up to six months from the date the last member of the filing group leaves the home to search for employment. After the six months, if a member of the filing group does not return, the home is no longer excluded.¶¶

(d) In the SNAP program, when the financial group is absent because of employment or training for future employment.

Statutory/Other Authority: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 409.010, 409.050, 410.010, 410.020, 410.070, 410.080, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685, 414.839

AMEND: 461-145-0470

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-145-0470 about the treatment of shelter-in-kind income to determine program eligibility is being amended to establish that shelter-in-kind income is countable in the General Assistance (GA) program when determining the housing assistance payment amount, making the Department the payer of last resort.

CHANGES TO RULE:

461-145-0470

Shelter-in-Kind Income ¶

(1) Except as provided in section (2) of this rule:¶

(a) In the ERDC program, shelter-in-kind (see OAR 461-001-0000) payments are excluded, except earned shelter-in-kind is not excluded in the ERDC program.¶

(b) In the GA program, for the purposes of determining the housing assistance payment (see OAR 461-160-0500), shelter-in-kind in the form of rent or other housing costs paid by a third party is counted as income.¶

(c) In the REF, REFM, and TANF programs, except for child support (see OAR 461-145-0080 and 461-145-0280), shelter-in-kind payments are excluded.¶

(ed) In the SNAP program, shelter-in-kind housing and utility payments are excluded (see OAR 461-145-0130 about exclusion of earned in-kind income), except an expenditure by a business entity for shelter costs (see OAR 461-001-0000) of a principal (see OAR 461-145-0088) is counted as income.¶

(de) In the OSIP, OSIPM, and QMB programs:¶

(A) Unearned shelter-in-kind is excluded.¶

(B) Earned shelter-in-kind income is treated as follows:¶

(i) If shelter is provided for services related to the employer's trade or business and acceptance of the shelter is a condition of employment, the shelter-in-kind income is treated in accordance with paragraph (A) of this subsection.¶

(ii) Except as provided in subparagraph (i) of this paragraph, the fair market value (see OAR 461-001-0000) of the shelter is counted as earned income.¶

(2) A payment for which there is a legal obligation to pay to a member of the financial group (see OAR 461-110-0530) that is made to a third party for shelter expenses of a member of the financial group is counted as unearned income.

Statutory/Other Authority: ORS ~~414.685~~, 329A.500, 409.050, 411.060, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.042, 414.685

AMEND: 461-145-0580

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-145-0580 about the treatment of veterans benefits in determining program eligibility is being amended to indicate when the benefits mentioned are aid-and-attendance and housebound payments, clarify that remaining benefits are considered unearned income when not excluded, and establish that for the OSIPM and QMB programs, Veterans Administration vocational rehabilitation payments and Medal of Honor payments are excluded income. These changes follow federal guidance in SSA POMS at SI 00830.302 and SSA POMS at SI 00830.306.

CHANGES TO RULE:

461-145-0580

Veterans' Benefits ¶¶

(1) Veterans' benefits, other than the educational and training and rehabilitation program benefits, are treated as follows:¶¶

(a) Except as specified in sections (2), (5), and (56) of this rule, monthly payments are counted as unearned income.¶¶

(b) Other payments are counted as periodic or lump sum income (see OAR 461-140-0110 and 461-140-0120).¶¶

(2) Veterans' benefits that include aid-and-attendance and housebound payments are treated as follows:¶¶

(a) For OSIP and OSIPM clients receiving long-term care or home and community-based care (see OAR 461-001-0030):¶¶

(A) When determining eligibility, the entire veterans' aid-and-attendance and housebound benefit payment is excluded.¶¶

(B) When calculating monthly service benefits or patient liability, the entire veterans' aid-and-attendance and housebound benefit payment is counted as unearned income.¶¶

(C) Payments for services not covered by the Department's programs are excluded.¶¶

(D) If the client receives a payment covering a previous period of eligibility, the client is required to turn over to the Department the full amount of the payment up to the cost of institutional and home and community-based care provided to the client during the months covered by the payment. A client's failure to reimburse the Department in this instance constitutes an overpayment of public assistance in accordance with OAR 461-195-0501 and 461-195-0521 and ORS 411.640 and 411.690. Any excess veterans' benefit payment made to the client is counted as lump sum or periodic income.¶¶

(b) For all other clients not covered under subsection (a) of this section:¶¶

(A) In the SNAP program, aid-and-attendance payments used to pay for an attendant are treated as a reimbursement and excluded (see OAR 461-145-0440). The remaining benefits, if any, are counted as unearned income.¶¶

(B) In the OSIPM and QMB programs, the aid-and-attendance and housebound payments are excluded. ~~The~~Any remaining veterans' benefits are counted as unearned income unless excluded under another rule or another section of this rule.¶¶

(C) Reimbursements paid to the client for costs and services already paid for by the Department are third-party resources and may be recovered from the client as an overpayment of public assistance pursuant to OAR 461-195-0501, 461-195-0521, and 461-195-0551. Any unrecovered third-party resource or payment above the actual cost is counted as lump-sum or periodic income (see OAR 461-140-0110 and 461-140-0120).¶¶

(3) Educational benefits from the United States Veterans Administration are treated in accordance with OAR 461-145-0150.¶¶

(4) A subsistence allowance from a training and rehabilitation program of the United States Veterans Administration is treated:¶¶

(a) In the SNAP program, as earned income (see OAR 461-145-0130).¶¶

(b) In all other programs, as unearned income.¶¶

(5) The following payments are excluded:¶

(a) Payments under 38 USC 1805 to biological children of Vietnam veterans who are born with spina bifida.¶

(b) Payments under 38 USC 1815 to children with birth defects born to female Vietnam veterans.¶

(6) In the OSIPM and QMB programs:¶

(a) Payments made as part of a Veterans Administration vocational rehabilitation are excluded.¶

(b) Medal of Honor pension payments are excluded.

Statutory/Other Authority: 414.685, ORS 411.060, 411.404, 411.816, 412.014, 412.049, 329A.500, 413.085

Statutes/Other Implemented: ORS 411.060, 411.404, 411.620, 411.640, 411.690, 411.700, 411.816, 412.014, 412.049, 329A.500

AMEND: 461-155-0250

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-155-0250 about income and payment standard for the OSIPM program is being amended to adjust these standards to reflect the annual federal cost of living adjustments. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living.

CHANGES TO RULE:

461-155-0250

Income and Payment Standard; OSIPM ¶

- (1) An individual who is assumed eligible per OAR 461-135-0010 is presumed to meet the income limits for the OSIPM program.¶
- (2) An individual meeting the requirements of OAR 461-135-0745 or OAR 461-135-0750, who is not assumed eligible and does not meet the income standards set out in sections (3) or (5) of this rule, must have countable (see OAR 461-001-0000) income that is equal to or less than 300 percent of the full SSI standard for a single individual or have established a qualifying trust as specified in OAR 461-145-0540(10)(c).¶
- (3) An individual, other than one identified in section (1), (2), or (5) of this rule, must have adjusted income below the standard in this section. ~~The Department determines the adjusted number in the household under OAR 461-155-0020. [Table not included. See ED. NOTE. [see attached table]]~~¶
- (4) In the OSIPM (except OSIPM-EPD) program, an individual in a nursing facility or an ICF-MR is allowed the following amounts for clothing and personal incidentals:¶
 - (a) For an individual who receives a VA pension based on unreimbursed medical expenses (UME), \$90 is allowed.¶
 - (b) For all other individuals, ~~\$60.41.38~~ is allowed.¶
 - (c) For an individual identified in subsection (b) of this section with countable income (including any SSI) that is less than ~~\$60.41.38~~, the payment standard is equal to the difference between the individual's countable income (including any SSI) and ~~\$60.41.38~~. For the purposes of this subsection, countable income includes income that would otherwise be countable for an individual who is assumed eligible under OAR 461-135-0010.¶
- (5) In the OSIPM-EPD program, the adjusted earned income limit is 250 percent of the federal poverty level for a family of one.¶

[ED. NOTE: Tables referenced are available from the agency.]

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 413.085, 414.685

Statutes/Other Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.:

Income and Payment Standard; OSIPM

- (1) An individual who is assumed eligible per OAR 461-135-0010 is presumed to meet the income limits for the OSIPM program.
- (2) An individual meeting the requirements of OAR 461-135-0745 or OAR 461-135-0750, who is not assumed eligible and does not meet the income standards set out in sections (3) or (5) of this rule, must have *countable* (see OAR 461-001-0000) income that is equal to or less than 300 percent of the full SSI standard for a single individual or have established a qualifying trust as specified in OAR 461-145-0540(10)(c).
- (3) An individual, other than one identified in section (1), (2), or (5) of this rule, must have adjusted income below the standard in this section.

OSIPM Adjusted Income Standards		
Number in Need Group	One	Two
AB/AD/OAA	750.00	1,125.00

- (4) In the OSIPM (except OSIPM-EPD) program, an individual in a nursing facility or an ICF-MR is allowed the following amounts for clothing and personal incidentals:
 - (a) For an individual who receives a VA pension based on unreimbursed medical expenses (UME), \$90 is allowed.
 - (b) For all other individuals, \$61.38 is allowed.
 - (c) For an individual identified in subsection (b) of this section with *countable* income (including any SSI) that is less than \$61.38, the payment standard is equal to the difference between the individual's *countable* income (including any SSI) and \$61.38. For the purposes of this subsection, *countable* income includes income that would otherwise be *countable* for an individual who is assumed eligible under OAR 461-135-0010.
- (5) In the OSIPM-EPD program, the adjusted earned income limit is 250 percent of the federal poverty level for a family of one.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 413.085, 414.685
 Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706

AMEND: 461-155-0270

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-155-0270 about room and board standards for the OSIPM program is being amended to adjust these standards to reflect the annual federal cost of living adjustments, keeping Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living.

CHANGES TO RULE:

461-155-0270

Room and Board Standard; OSIPM ¶

For an OSIPM program client in a community based care (see OAR 461-001-0000) facility, the room and board standard is ~~\$571~~183.00. A client residing in a community based care facility must pay room and board.

Statutory/Other Authority: ~~ORS 411.060, 411.070, 411.704, 411.706,~~ ORS 409.050, 411.404, 413.085, 414.685

Statutes/Other Implemented: ~~ORS 411.060, 411.070, 411.704, 411.706,~~ ORS 409.010, 411.404

AMEND: 461-155-0660

REPEAL: Temporary 461-155-0660 from SSP 24-2017(TEMP)

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-155-0660 about accommodation allowances is being amended to make permanent a temporary rule change effective October 1, 2017 removing references to live-in services, and clarifying the methodology the Department uses in calculating an accommodation allowance.

CHANGES TO RULE:

461-155-0660

Special Need; Accommodation Allowance ¶

~~(1) An OSIP or OSIPM program client living in a nursing facility is not eligible for an accommodation allowance. An OSIP or OSIPM program client living in a nonstandard living arrangement (see OAR 461-001-0000) is not eligible for an accommodation allowance unless he or she is receiving, or is eligible to receive after a temporary absence, home.~~ An OSIPM recipient may receive an accommodation allowance as follows: ¶

~~(1) Temporary absence of individual from home. ¶~~

~~(a) A temporary accommodation allowance may be authorized if an individual meets all the following requirements: ¶~~

~~(A) The individual owns, rents or leases a primary residence. ¶~~

~~(B) The individual receives in-home services (see OAR 461-001-0030) in-home services. An OSIP or OSIPM program client receiving SSI or having an adjusted income less than the OSIPM program income standard (except a client in a nursing facility) or eligible to receive or receiving home and community-based care in individual leaves his or her home or rental property and temporarily receives services in a hospital, nursing facility, residential care facility, assisted living facility, adult foster home, services is allowed an accommodation allowance if the client is 18 years of age or older and meets the criteria specialized living facility or state psychiatric institution in section (2) or (3) of this rule. ¶~~

~~(2) Institution. ¶~~

~~(C) Except for a temporary absence of client from home. ¶~~

~~(a) A temporary accommodation allowance may be authorized from the primary residence, when permitted under section (1) of this rule, if a client meets the following criteria: ¶~~

~~(A) The client leaves his or her home or rental property and enters an adult foster care facility, assisted living facility, group care home, hospital, nursing facility, residential care facility, specialized living facility, or state psychiatric institution; individual must be eligible to receive in-home services under OAR chapter 411 division 030. ¶~~

~~(B) The client individual cannot afford to keep the home or rental property without the allowance; ¶~~

~~(C) The client individual will be able to return home or rental property within six months of leaving, according to a written statement from a primary practitioner, RN, or PAS (pre-admission screening) RN; and ¶~~

~~(D) The home or rental property will accommodate the service plan of the client when the client individual when the individual returns. ¶~~

~~(b) The allowance may be authorized for six months. If, after six months, the client individual continues to meet the criteria in subsection (a) of this section, an extension may be approved in writing by a supervisor. ¶~~

~~(c) The accommodation allowance equals the total of the client individual's housing cost, including taxes and insurance, plus the limited standard utility allowance for the SNAP program provided in OAR 461-160-0420. ¶~~

~~(3) Disability-associated accommodation allowance. ¶~~

~~(a) In order to be eligible for an accommodation allowance under this section, an individual must meet the requirements of each of the following paragraphs: ¶~~

~~(A) The individual must meet the requirements of at least one of the following section (1) of this rule may paragraphs: ¶~~

~~(i) Receive SSI. ¶~~

(ii) Have adjusted income less than the OSIPM program income standard.¶

(iii) Be receiving or be eligible to receive home and accommodation allowance if the client ~~unit~~-based care in-home services under OAR chapter 411 division 030 and be 18 years of age or older.¶

(B) The individual's shelter costs exceeds \$451 for a one-person need group (see OAR 461-110-0630) or \$559 for a two-person need group; and the requirements of one of the following subsections are met.¶

(aC) The ~~client~~ individual has a documented increase in rent associated with access by an individual with a disability; or.¶

(b) The ~~client~~ individual has been assessed to need a live-in provider, has accepted the services of a live-in provider, and requires amount of the accommodation allowance is limited to the amount of the increase in housing cost associated with the individual's access needs.¶

(3) Accommodation allowance based on increased costs associated with an individual's need for a home with an additional bedroom for the ~~live-in~~ in a service provider.¶

(4a) The accommodation allowance is determined as follow. In order to be eligible for an accommodation allowance under this section, an individual must meet the requirements of all of the following paragraphs.¶

(aA) For a client who receives an accommodation allowance based on increased costs associated with access by an individual wiReceive in-home services under OAR Chapter 411 Division 030.¶

(B) Require full assistance in at least four of the six activities of daily living as determined by the a disability, only the additional increase in cost for the accommodation is allowed.¶

(b) For a client who receives an accommodation allowance based on the need for an additional bedroom for a live-in provider, tssessment described in OAR Chapter 411 Division 015.¶

(C) Receive services from one or more homecare workers who routinely sleep at the individual's home as part of the individual's service plan.¶

(b) The amount of the accommodation allowance is the limited standard utility allowance for the SNAP program under OAR 461-160-0420 plus:¶

(A) One-third of the monthly rental cost; or¶

(B) One-third of the monthly payment on the property agreement (including mortgage, trust deed, or land sale contract). The property agreement is the agreement existing at the time the ~~client~~ individual is approved for the accommodation allowance. The accommodation allowance for the housing portion ends if the debt is refinanced, unless the refinancing was done only to reduce the original property agreement's interest rate or total monthly payment amount and the owner realized no direct or indirect payment of the home's equity value is from the refinancing.¶

(i) If the refinancing requirement is met under this paragraph ~~is met~~, the amount of the accommodation allowance is one-third of the refinanced property agreement amount plus the limited standard utility allowance under OAR 461-160-0420.¶

(ii) If the refinancing requirement under this paragraph is not met and the housing portion of the accommodation allowance ends, the ~~client~~ individual remains eligible only for the limited standard utility allowance portion under OAR 461-160-0420.¶

(54) Special requirements.¶

(a) A ~~client~~ n individual who rents and qualifies for an allowance under section (2) or (3) of this rule must take the steps necessary to obtain subsidized housing under any federal or state housing program. A ~~client~~ n individual who fails, at any time, to take the steps necessary to obtain ~~subsidized housing~~ reasonably available subsidized housing is ineligible for the allowance. A ~~client~~ n individual who has been denied or revoked from participation in any rent subsidy program based on the ~~client~~ individual's own actions is ineligible for benefits under this rule.¶

(b) A ~~client~~ n individual who rents housing and refuses subsidized housing will no longer be eligible for an accommodation allowance, except that if the housing that is offered is not suitable, related to accommodations, and the ~~client~~ individual continues to have increased costs related to accommodations in the ~~client~~ individual's current living situation, the accommodation allowance may continue until such time as appropriate subsidized housing is found.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 413.085, 414.685

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.704, 411.706

AMEND: 461-160-0500

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-160-0500 about the use of income to determine benefits in the General Assistance (GA) program is being amended to establish that shelter-in-kind income is countable in the General Assistance (GA) program when determining the housing assistance payment amount, making the Department the payer of last resort. This rule is also being amended to provide that the two-person payment standard always applies when a GA recipient is married and lives with their spouse, rather using the two-person standard only if the spouse is also eligible for GA, making the rule more equitable, as eligibility for OSIPM should not be a determining factor of whether or not a homeless couple is living in poverty.

CHANGES TO RULE:

461-160-0500

Use of Income to Determine Benefits; GA ¶

In the GA program, the countable income (see section (1) of this rule) and adjusted income (see section (3) of this rule) of an individual or couple are used to determine benefit amount as follows:¶

(1) For purposes of this rule, "countable income" is calculated using OSIPM countable income methodology except that ~~in-kind and shelter-in-kind income~~¶

(a) ~~In-kind income (see OAR 461-001-0000) is excluded.~~¶

(2b) ~~For purposes of this rule, "eligible spouse" means a spouse who is eligible for and receiving OSIPM under OAR 461-125-0370(1)(c).~~¶

(3) ~~Shelter-in-kind (see OAR 461-001-0000) in the form of housing or utility assistance provided by community partners or other nongovernmental agencies is countable (see OAR 461-001-0000) in the amount paid to the individual or to a third party for shelter expenses.~~¶

(2) To determine "adjusted income", the Department starts with the total countable income of the individual or couple (as applicable) and subtracts in the following order: ¶

(a) One standard deduction of \$20 from unearned income.¶

(A) This deduction may be taken from earned income if the individual has less than \$20 in unearned income.¶

(B) This deduction does not apply to a benefit based on need that is totally or partially funded by the federal government or by a nongovernmental agency.¶

(b) One standard earned income deduction of: ¶

(A) \$65 for an individual who is not blind; or ¶

(B) \$85 for an individual who is blind.¶

(c) An income deduction for documented impairment-related work expenses or blind work expenses for an individual under age 65. ¶

(d) One half of the remaining earned income. ¶

(e) Deductions under a plan for self-support for an individual less than the age of 65. ¶

(4) ~~For a single individual~~ (3) Housing assistance payments are determined as follows: ¶

(a) For a single individual, or for a married individual whose spouse (see OAR 461-001-0000) is not in the OSIPM household group (see OAR 461-110-0210), the benefit amount for housing assistance is determined by subtracting the adjusted income of the individual from the one-person payment standard (see OAR 461-155-0210). ¶

(5b) For a married individual whose spouse is in the OSIPM household group (see OAR 461-110-0210), the amount for housing assistance is determined as follows: ¶

(a) ~~If the individual is married to and living with someone not considered an eligible spouse (see section (2) of this rule), by subtracting the adjusted income of the couple is subtracted from the one-person standard (see OAR 461-155-0210).~~ ¶

(b) ~~If the individual is married to an eligible spouse, the adjusted income of the couple is subtracted~~ For purposes of

~~this rule, for individuals receiving or applying for home and community-based care (see OAR 461-001-0030) in-home services, the spouse is considered in the household from the two-person payment standard (see OAR 461-155-0210) up if the couple resides together with or without the benefit of a dwelling.~~¶

(64) The amounts for the Personal Incidental Fund and Utility assistance are not affected by adjusted income and are determined as follows.¶

(a) Single individuals and individuals married to someone not ~~considered an eligible spouse~~ in the OSIPM household group receive benefits according to the one-person standard (see OAR 461-155-0210).¶

(b) ~~If the individual is married to an eligible spouse who is someone~~ in the individual's OSIPM household group, ~~the couple~~ receives benefits according to the two-person standard (see OAR 461-155-0210).

Statutory/Other Authority: ~~ORS 411.060, 411.710, ORS 409.050~~

Statutes/Other Implemented: ~~ORS 411.060, 411.710, ORS 409.010~~

AMEND: 461-160-0580

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-160-0580 about excluded resources (community spouse provision) in the OSIPM program is amended to adjust its standards to reflect the annual federal cost of living adjustments. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living.

CHANGES TO RULE:

461-160-0580

Excluded Resource; Community Spouse Provision (OSIPM except OSIPM-EPD) ¶¶

In the OSIPM (except OSIPM-EPD) program:¶¶

(1) This rule applies to an institutionalized spouse (see OAR 461-001-0030) who has applied for benefits because the individual is in or will be in a continuous period of care (see OAR 461-001-0030).¶¶

(2) Whether a legally married (see OAR 461-001-0000) couple lives together or not, the determination of whether the value of the couple's resources exceeds the eligibility limit for the institutionalized spouse for the OSIPM program is made as follows:¶¶

(a) The first step is the determination of what the couple's combined countable (see OAR 461-001-0000) resources were at the beginning of the most recent continuous period of care. (The beginning of the continuous period of care is the first month of that continuous period.)¶¶

(A) Division 461-140 and 461-145 rules applicable to OSIPM describe which of the couple's resources are countable resources, and are applicable to determine whether a community spouse's resources are countable, even if the rule only applies to OSIPM clients.¶¶

(B) The countable resources of both spouses are combined.¶¶

(C) At this point in the computation, the couple's combined countable resources are considered available equally to both spouses.¶¶

(b) The second step is the calculation of one half of what the couple's combined countable resources were at the beginning of the continuous period of care. The community spouse's half of the couple's combined resources is treated as a constant amount when determining eligibility.¶¶

(c) The third step is the determination of the community spouse's resource allowance. The community spouse's resource allowance is the largest of the four following amounts:¶¶

(A) The community spouse's half of what the couple's combined countable resources were at the beginning of the continuous period of care, but not more than \$120,93,600.¶¶

(B) \$24,18720 (the state community-spouse resource allowance).¶¶

(C) A court-ordered community spouse resource allowance. In this paragraph and paragraph (2)(f)(C) of this rule, the term "court-ordered community spouse resource allowance" means a "court-ordered community spouse resource allowance" that, in relation to the income generated, would raise the community spouse's income to a court-approved monthly maintenance needs allowance. In cases where the client became an institutionalized spouse on or after February 8, 2006, this resource allowance must use all of the client's available income and the community spouse's income to meet the community spouse's monthly maintenance needs allowance before any resources are used to generate interest income to meet the allowance.¶¶

(D) After considering the income of the community spouse (see OAR 461-001-0030) and the income available from the institutionalized spouse, an amount which, if invested, would raise the community spouse's income to the monthly maintenance needs allowance. The amount described in this paragraph is the amount required to purchase a single premium immediate annuity to make up the shortfall; and the amount described in this paragraph is considered only if the amount described in subparagraph (i) of this paragraph is larger than the amount described in subparagraph (ii); it is the difference between the following:¶¶

(i) The monthly income allowance computed in accordance with OAR 461-160-0620.¶¶

(ii) The difference between:¶¶

- (I) The sum of gross countable income of the community spouse and the institutionalized spouse; and¶
- (II) The applicable need standard under OAR 461-160-0620(3)(c).¶
- (d) The fourth step is the determination of what the couple's current combined countable resources are when a resource assessment is requested or the institutionalized spouse applies for OSIPM. The procedure in subsection (2)(a) (first step) of this rule is used.¶
- (e) The fifth step is the subtraction of the community spouse's resource allowance from the couple's current combined countable resources. The resources remaining are considered available to the institutionalized spouse.¶
- (f) The sixth step is a comparison of the value of the remaining resources to the OSIPM resource standard for one person (under OAR 461-160-0015). If the value of the remaining resources is at or below the standard, the institutionalized spouse meets this eligibility requirement. If the value of the remaining resources is above the standard, the institutionalized spouse cannot be eligible until the value of the couple's combined countable resources is reduced to the largest of the four following amounts:¶
- (A) The community spouse's half of what the couple's combined countable resources were at the beginning of the continuous period of care (but not more than \$120,93,600) plus the OSIPM resource standard for one person.¶
- (B) \$24,187,20 (the state community-spouse resource allowance), plus the OSIPM resource standard for one person.¶
- (C) A "court-ordered community spouse resource allowance" plus the OSIPM resource standard for one person. (See paragraph (2)(c)(C) of this rule for a description of the "court-ordered community spouse resource allowance".)¶
- (D) The OSIPM resource standard for one person plus the amount described in the remainder of this paragraph. After considering the income of the community spouse and the income available from the institutionalized spouse, add an amount which, if invested, would raise the community spouse's income to the monthly maintenance needs allowance. This amount is the amount required to purchase a single premium immediate annuity to make up the shortfall. Add this amount only if the amount described in subparagraph (i) of this paragraph is larger than the amount described in subparagraph (ii); it is the difference between the following:¶
- (i) The monthly income allowance computed in accordance with OAR 461-160-0620.¶
- (ii) The difference between:¶
- (I) The sum of gross countable income of the community spouse and the institutionalized spouse; and¶
- (II) The applicable need standard under OAR 461-160-0620(3)(c).¶
- (3) Once eligibility has been established, resources equal to the community spouse's resource allowance (under subsection (2)(c) of this rule) must be transferred to the community spouse if those resources are not already in that spouse's name. The institutionalized spouse must indicate his or her intent to transfer the resources and must complete the transfer to the community spouse within 90 days. This period may be extended for good cause. These resources are excluded during this period. After this period, resources owned by the institutionalized spouse but not transferred out of that spouse's name will be countable and used to determine ongoing eligibility.¶
- (4) The provisions of paragraph (2)(c)(C) of this rule requiring income to be considered first may be waived if the Department determines that the resulting community resource allowance would create an undue hardship on the spouse (see OAR 461-001-0000) of the client.

Statutory/Other Authority: ~~ORS~~ 411.060, 411.070, 411.083, 411.404, 411.706, ORS 409.050, 413.085, 414.685

Statutes/Other Implemented: ~~ORS~~ 411.060, 411.070, 411.083, 411.404, 411.706, ORS 409.010

AMEND: 461-160-0620

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-160-0620 about income deductions and client liability for Long Term Care Services and Waivered Services is being amended to adjust its standards to reflect the annual federal cost of living adjustments. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living.

CHANGES TO RULE:

461-160-0620

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

In the OSIPM program:¶

(1) Deductions from income are made for an individual residing in or entering a long-term care facility or receiving home and community-based care (see OAR 461-001-0030) as explained in subsections (3)(a) to (3)(h) of this rule.¶

(2) Except as provided otherwise in OAR 461-160-0610, the liability of the individual is determined according to subsection (3)(i) of this rule.¶

(3) Deductions are made in the following order:¶

(a) One standard earned income deduction of \$65 is made from the earned income in the OSIPM program.¶

(b) The deductions under the plan for self-support as allowed by OAR 461-145-0405.¶

(c) One of the following need standards:¶

(A) A ~~\$60-11,38~~ personal needs allowance for an individual receiving long-term care services.¶

(B) A \$90 personal needs allowance for an individual receiving long-term care services who is eligible for VA benefits based on unreimbursed medical expenses. The \$90 allowance is allowed only when the VA benefit has been reduced to \$90.¶

(C) For an individual who receives home and community-based care:¶

(i) Except as provided in subparagraph (ii) of this paragraph, the OSIPM maintenance standard.¶

(ii) For an individual who receives in-home services, the OSIPM maintenance standard plus \$500.¶

(d) A community spouse (see OAR 461-001-0030) monthly income allowance is deducted from the income of the institutionalized spouse (see OAR 461-001-0030) to the extent that the income is made available to or for the benefit of the community spouse, using the following calculation.¶

(A) Step 1 - Determine the maintenance needs allowance. \$2,030 is added to the amount over \$609 that is needed to pay monthly shelter expenses for the principal residence of the couple. This sum or \$3,022.520, whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the SNAP program (see OAR 461-160-0420). If an all-inclusive rate covers items that are not allowable shelter expenses, including meals or housekeeping in an assisted living facility, or the rate includes utilities, to the extent they can be distinguished, these items must be deducted from the all-inclusive rate to determine allowable shelter expenses.¶

(B) Step 2 - Compare maintenance needs allowance with community spouse's countable income. The countable (see OAR 461-001-0000) income of the community spouse is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.¶

(C) Step 3 - If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.¶

(e) A dependent income allowance as follows:¶

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

(i) The monthly income of the eligible dependent is deducted from \$2,030.¶

(ii) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the income allowance of the eligible dependent.¶¶

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

(i) The allowance is the TANF adjusted income standard for the individual and eligible dependents.¶¶

(ii) The TANF standard is not reduced by the income of the dependent.¶¶

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

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

(h) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income.¶¶

(i) The individual's liability is determined as follows:¶¶

(A) For an individual receiving home and community-based care (except an individual identified in OAR 461-160-0610(4)), the liability is the actual cost of the home and community-based care or the adjusted income of the individual, whichever is less. This amount must be paid to the Department each month as a condition of being eligible for home and community-based care. In OSIPM-IC, the liability is subtracted from the gross monthly benefit.¶¶

(B) For an individual who resides in a nursing facility, a state psychiatric hospital, an Intermediate Care Facility for People with Intellectual Disabilities, or a mental health facility, there is a liability as described at OAR 461-160-0610.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.065, 414.685

Statutes/Other Implemented: 414.065, 414.685, ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 413.085

AMEND: 461-160-0855

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-160-0855 about excluded resources for payments received under a qualified partnership policy in the OSIPM program is being amended to provide that the amount excluded under these qualified partnership policies (QPP) is reduced by the amount an individual spends or gifts after the initial month of eligibility, and that the amount is not reduced when the value of excluded resources decreases due to no action of the individual's part. In the latter situation, additional assets can be excluded up to the entire QPP amount. This amendment addresses the concern that the amount excluded under QPPs was not intended to be constant as client funds decreased and the unfairness that would arise if any decrease in value is due to circumstances beyond the client's control, such as economic factors.

CHANGES TO RULE:

461-160-0855

Excluded Resources for Payments Received Under a Qualified Partnership Policy; OSIPM ¶

In the OSIPM program:¶

(1) When a client in a non-standard living arrangement (see OAR 461-001-0000) applies for medical benefits, the Department excludes as a resource an amount equal to the insurance payments received under a Qualified Partnership Policy (see OAR 461-001-0000) as of the initial month (see OAR 461-001-0000) of eligibility, unless the Qualified Partnership Policy was purchased in a state that has elected not to participate in reciprocity.¶

(2) The exclusion in section (1) of this rule:¶

(a) Does not apply when home equity exceeds the limit in OAR 461-145-0220(2)(a); and¶

(b) Applies to all other resources (not covered by subsection (a) of this section), notwithstanding other rules in this chapter of rules that designate the resources as countable (see OAR 461-001-0000); and¶

(c) Is not reduced when the value of excluded resources has decreased due to no action on the individual's part, such as a loss of value due to economic factors. In this circumstance, additional assets may be excluded up to the entire Qualified Partnership Policy amount.¶

(3) For the amount of resources excluded under this rule, the Department will not establish a claim against the deceased person's estate in accordance with OAR 461-135-0835.

Statutory/Other Authority: ~~ORS~~ 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.708, 414.025, ORS 409.050, 413.085, 414.685

Statutes/Other Implemented: ~~ORS~~ 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.708, 414.025, ORS 409.010

AMEND: 461-165-0120

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-165-0120 about benefits for a client in an acute care hospital is being amended to indicate that APD medical benefits should continue without interruption when an individual enters an acute care hospital as long as they meet program requirements, clarifying the rule.

CHANGES TO RULE:

461-165-0120

Benefits for a Client in an Acute Care Hospital ¶

(1) In the REF, REFM, and TANF programs, regular monthly benefits continue when a client enters an acute care hospital. The monthly benefits remain unchanged until the client returns home or enters some other living arrangement. An authorized representative designated by the client or the branch may be used if necessary.¶

(2) In the ERDC, ~~GA, OSIP, OSIPM, and QMB~~ programs, regular monthly benefits continue if a client will be in the acute care hospital for less than 30 days. If the client will be in the acute care hospital for 30 days or more or until death, the client's needs are determined as if the client were in a nursing facility.¶

(3) In the GA, OSIP, OSIPM, and QMB programs, an individual may receive benefits in an acute care hospital as long as they meet program eligibility requirements.¶

(4) In the SNAP program, regular monthly benefits continue if the client will be in his or her own home 50 percent of the time or more. If the client will be in an institution for more than 50 percent of a calendar month, the client is not eligible for SNAP benefits.

Statutory/Other Authority: ~~ORS 411.060, 411.404, 411.816, 412.049, ORS 329A.500, 409.050, 413.085, 414.685~~

Statutes/Other Implemented: ~~ORS 411.060, 411.404, 411.816, 412.049, ORS 329A.500, 409.010~~

AMEND: 461-175-0210

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-175-0210 about notice situations when a client moves or whereabouts are unknown is being amended to establish that no notice is required to end housing assistance payments when an individual has moved out of Oregon, but that a timely notice must be sent to end the personal incidental fund and utility assistance payments. This amendment avoids paying general fund dollars for housing in a month in which it is not actually being provided.

CHANGES TO RULE:

461-175-0210

Notice Situation; Client Moved or Whereabouts Unknown ¶

(1) To end benefits for an individual who has moved out of Oregon, the Department sends the following decision notice (see OAR 461-001-0000):¶

(a) In the ERDC, ~~GA~~, OSIP, OSIPM, QMB, REF, REFM, and TANF programs:¶

(A) The Department sends a timely continuing benefit decision notice (see OAR 461-001-0000) to the individual who has moved out of Oregon.¶

(B) The Department sends a basic decision notice (see OAR 461-001-0000) if the individual becomes eligible for benefits in another state.¶

(b) In the GA program:¶

(A) No decision notice is required to end housing assistance payments.¶

(B) The Department sends a timely continuing benefit decision notice to end Personal Incidental Fund and utility assistance payments.¶

(c) For Employment Payments (see OAR 461-001-0025 and 461-135-1270), JPI (see OAR 461-135-1260), and the SNAP program, no decision notice is required if the Department determines that the benefit group (see OAR 461-110-0750) has moved out of Oregon.¶

(2) If Department mail or benefits have been returned with no forwarding address, the Department gives the individual the benefits if the individual's whereabouts become known during the period covered by the returned benefits. See OAR 461-165-0130 for when SNAP benefits may be sent out of Oregon. If the individual's whereabouts are unknown, the Department ends benefits by sending the following decision notice to their last known address:¶

(a) Except for Employment Payments, JPI, and the SNAP program, a basic decision notice.¶

(b) For Employment Payments, JPI, and the SNAP program, no decision notice is required.

Statutory/Other Authority: ~~ORS~~ 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, ORS 329A.500, 409.050, 413.085, 414.685

Statutes/Other Implemented: ~~ORS~~ 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, ORS 329A.500, 409.010

ADOPT: 461-175-0224

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-175-0224 about notice situations when there are changes to housing arrangements that cause decreases in the GA program is being adopted to establish that no decision notice is required when a decrease or termination of housing assistance payments result when there is a decrease to rent or the individual loses housing altogether. This amendment avoids paying general fund dollars for housing when the payments are not needed.

CHANGES TO RULE:

461-175-0224

Notice Situation; Changes in Housing Arrangements that Cause Decreases; GA

In the GA program, no decision notice (see OAR 461-001-0000) is required under the following circumstances:¶

(1) The Department reduces housing assistance payments because a change in housing arrangements results in decreased rent.¶

(2) The Department ends housing assistance payments due to a loss of housing.

Statutory/Other Authority: ORS 409.050, 411.095, 411.040

Statutes/Other Implemented: ORS 409.010, 411.095, 411.040

AMEND: 461-180-0070

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-180-0070 about initial month benefits is being amended to clarify in the General Assistance (GA) program that the effective date for an individual who applied for SSI benefits in a month prior to the month of application is the date of request (if otherwise eligible), rather than the month after application, allowing benefits to start earlier.

CHANGES TO RULE:

461-180-0070

Effective Dates; Initial Month Benefits ¶

(1) In the EA program, the effective date for opening the case is the day benefits are issued to the benefit group (see OAR 461-110-0750). For a benefit group whose only eligible child is an unborn, the effective date cannot be earlier than the first day of the calendar month preceding the month in which the due date falls. ¶

(2) In the ERDC program, the effective date for starting benefits is one of the following: ¶

(a) The first day of the month in which the request for benefits is made if: - ¶

(A) All eligibility (see OAR 461-001-0000) requirements are met in that month; and ¶

(B) Verification is provided within the application processing timeframes. ¶

(b) If all eligibility requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification is provided within the application processing timeframes. ¶

(c) For a benefit group that received TANF program benefits within the 30 days before applying for ERDC program benefits, the effective date is the first of the month following closure of their TANF program benefits. ¶

(3) In the GA program, the effective date for the initial month (see OAR 461-001-0000) of benefits is ~~the first of the month following the day all eligibility requirements are met and verified.~~ ¶

(a) The date the individual requests benefits, if the individual filed an application for SSI benefits in any calendar month prior to the month in which the individual requested benefits and the individual meets all other eligibility requirements on that date. If the individual is not otherwise eligible on the date of request, the effective date is the date the individual meets all eligibility requirements. ¶

(b) The first of the month following the day all eligibility requirements are met and verified, if the individual did not file an application for SSI benefits in a calendar month prior to the month in which the individual requests benefits. ¶

(4) In the OSIP program, the effective date for the initial month of benefits is whichever of the following occurs first: ¶

(a) The date an individual requests benefits, if the individual was eligible as of that date. ¶

(b) The date all eligibility requirements are met. ¶

(5) In the REF program, when a filing group (see OAR 461-110-0430) makes an initial application, the effective date for starting benefits is: ¶

(a) If all eligibility requirements, including an interview, are completed by the 30th day from the filing date (see OAR 461-115-0040), the effective date for starting benefits is the filing date. ¶

(b) If all eligibility requirements are not met by the 30th day from the filing date, a new filing date must be established. ¶

(6) In the TANF program, when a filing group (see OAR 461-110-0330) makes an initial application or applies after the end of the certification period (see OAR 461-001-0000), the effective date for starting TANF benefits is one of the following: ¶

(a) Except as provided in subsections (b) to (d) of this section, if all eligibility requirements, including a TANF interview, are completed by the 30th day from the filing date, the effective date for starting benefits is the filing date. If all eligibility requirements are not met by the 30th day from the filing date, a new filing date must be established. ¶

- (b) If the only eligible child is an unborn, the effective date may not be earlier than the first day of the calendar month prior to the month in which the due date falls.¶¶
- (c) For an individual in the Pre-TANF program, the effective date for the initial month of benefits is the date the Pre-TANF program ends as provided in OAR 461-135-0475.¶¶
- (d) For a JOBS support service payment, the effective date is the date the individual meets all eligibility requirements in OAR 461-190-0211.¶¶
- (7) In the SFPSS program, when moving a TANF program recipient to SFPSS, the effective date for the initial month of SFPSS program benefits is:¶¶
- (a) Except as provided in subsection (b) of this section, the first of the month following the day all eligibility requirements are met and verified.¶¶
- (b) If the day all eligibility requirements are met and verified falls after the "compute deadline," the initial month of SFPSS program benefits will be the first of the month following the month after "compute deadline." For purposes of this rule, "compute deadline" means the Department computer system monthly deadline after which changes will not take effect until the month following the first of the next month.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 412.064, 413.085, 414.685

AMEND: 461-195-0305

REPEAL: Temporary 461-195-0305 from SSP 27-2017

NOTICE FILED DATE: 10/19/2017

RULE SUMMARY: OAR 461-195-0305 about liens of the Department, the Oregon Health Authority, coordinated care organization, or prepaid managed care health services organization is being amended make permanent temporary rule changes effective October 4, 2017 that removed its postponement of the start of the 180-day time period to foreclose a lien; clarified the meaning of the word "incurred" when referring to incurred medical, surgical and hospital expenses; removed the rebuttable presumption that all settlement, compromise or judgment proceeds are allocated to medical expenses; clarified that foreclosure may be commenced when funds are disbursed to an agent of the recipient; indicated that this rule also applies to any coordinated care organization or prepaid managed care health service organization that received an assignment of a lien, and identified other rules that define terms used in this rule. These changes align the rule with the legal authority of the Department and the Oregon Health Authority, and some are needed to comply with federal law (Public Law 114-10, Section 220).

CHANGES TO RULE:

461-195-0305

Lien of the Department, Coordinated Care Organization, or Prepaid Managed Care Health Services Organization

¶

(1) Whenever a recipient ~~has a claim for damages for a personal injury, the Department~~(see OAR 461-195-0301) ~~has a claim~~ (see OAR 461-195-0301) ~~for damages for a personal injury~~ (see OAR 461-195-0301), the Department (see OAR 461-195-0301) shall have a lien upon the amount of any judgment (see OAR 461-195-0301) in favor of a recipient or amount payable to the recipient under a settlement ~~or compromise~~(see OAR 461-195-0301) ~~or compromise~~ (see OAR 461-195-0301) as a result of that claim for all assistance (see OAR 461-195-0301) received from the date of the injury to: ~~_-~~ ¶

(a) The date of satisfaction of the judgment favorable to the recipient; or ¶

(b) The date of the payment under the settlement or compromise. ¶

(2) The person or public body, agency or commission bound by the judgment, settlement, or compromise shall be responsible for immediately informing the ~~Department's Personal Injury Liens Unit~~ (see OAR 461-195-0310 for address) when a judgment has been issued or a settlement or compromise has been reached so that the exact amount of the ~~lien of the Department's lien~~ may be determined. For the purposes of this rule, immediately means within ten calendar days. ~~If the Department is not timely notified, the 180-day limitation in ORS 416.580(1) does not begin to run until the Department's Personal Injury Liens Unit has actual notice of a settlement, compromise, or judgment.~~ ¶

(3) The lien ~~will~~ does not attach to the amount of any judgment, settlement, or compromise to the extent of the attorney fees, costs and expenses which the ~~R~~recipient incurred in order to obtain that judgment, settlement, or compromise. ¶

(4) The lien ~~will~~ does not attach to the amount of any judgment, settlement, or compromise to the extent of medical, surgical and hospital expenses ~~personally~~ incurred by ~~such~~ the recipient on account of the personal injury giving rise to the claim, ~~for which assistance was not provided or paid. For purposes of OAR 461-195-0301 to 461-195-0350, personally incurred expenses are limited to those expenses not covered by the Department, anies for which the recipient had a claim or action~~ (see OAR 461-195-0301). "Incurred" refers only to those medical, surgical and hospital expenses the recipient has paid for ~~which the client is person is legally liable~~ obligated to pay at the time of the judgment, settlement, or compromise. ¶

~~(5) T, excluding any expenses that a third party will reimburse the recipient.~~ ¶

(5) The lien of the Department's lien must be satisfied or specific approval must be given by the Department's staff of the Personal Injury Liens Unit's staff before any portion of the claim judgment, settlement, or compromise is released to the recipient. ~~There is a rebuttable presumption that the entire proceeds from any judgment,~~

~~settlement, or compromise, are, unless otherwise identified, in payment for medical services.~~ The Department shall have a cause of action against any person, public body, agency, or commission bound by the judgment, settlement, or compromise who releases any portion of the claim judgment, settlement, or compromise to the recipient or the agent of the recipient before meeting this obligation.¶

(6) This rule applies to any lien assigned by the Department under OAR 461-195-0321.

Statutory/Other Authority: ORS 409.050, 411.060, 416.510 - 416.610, ~~413.085, 414.685~~

Statutes/Other Implemented: ~~ORS 25411.0260, 25.080, 409.02416.510 - 416.610, 4143.06085, 416.510-416.64.685, ORS 409.010~~