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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 5-2018
CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

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FILING CAPTION: Temporary changes to rules for self-sufficiency programs

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NEED FOR THE RULE(S):

OAR 461-115-0150 about offices where clients apply, OAR 461-135-0082 about eligibility for refugees, OAR 461-135-0900 about specific requirements for the Refugee and Refugee Medical programs, and OAR 461-193-0031 about eligibility requirements for the Refugee Case Services Project (RCSP) need to be amended because RCSP will begin the process of ending, starting February 1, 2018. After February 1, any new applications for REF or TANF within the RCSP Project area for newly arrived refugees are submitted through local branch office and follow a process that more closely tracks other programs. These amendments establish February 1 transition dates.

OAR 461-130-0310 about participation classifications and exemptions needs to be amended to adjust the current, unnecessary limit, as a result of a narrow definition of disability, on the exemption for caring for an incapacitated person and on clients receiving disability benefits for a partial disability. This amendment the rule into compliance with federal intent without adding further or unnecessary limits by correcting an incorrect cross reference in the rule and expanding when a SNAP participant may be exempt from time limits and work requirements due to medical reasons.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-115-0150, OAR 461-135-0082, OAR 461-135-0900, and OAR 461-193-0310 will result in serious prejudice to the public interest and the Department because the rules need to reflect changes in refugee services that begin February 1, 2018. After February 1, any new applications for REF or TANF within the Refugee Case Services Project (RCSP) area for newly arrived refugees are submitted through local branch office and follow a process that more closely tracks other programs. These amendments establish February 1 transition dates.

The Department finds that failure to act promptly by amending OAR 461-130-0310 will result in serious prejudice to the public interest, the Department, and some SNAP clients. This amendment the rule into compliance with federal intent without adding further or unnecessary limits by correcting an incorrect cross reference in the rule and expanding

when a SNAP participant may be exempt due to medical reasons. This rule needs to be amended immediately to assure that clients who do not meet the more limited definition of disability are exempted from work and time limit requirements if they are responsible for the care of an incapacitated person or are receiving disability benefits for a partial disability.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None

RULES:

461-115-0150, 461-130-0310, 461-135-0082, 461-135-0900, 461-193-0031

AMEND: 461-115-0150

RULE SUMMARY: OAR 461-115-0150 about offices where clients apply is being amended to limit the types of clients who are required to apply for the Refugee and TANF programs through one of the local contracted refugee resettlement agencies. This amendment is part of a transition to clients applying through Department branch offices.

CHANGES TO RULE:

461-115-0150

Offices Where Clients Apply ¶¶

(1) For all programs, applicants must apply at the branch office (see OAR 461-001-0000) serving the area in which they live or work. Applicants temporarily in another area of the state should apply at the branch office serving that area. Applicants may also apply at other locations for the following programs:¶¶

(a) Homeless clients may apply with a Community Action Agency for the Housing Stabilization program.¶¶

(b) Applicants may apply for health coverage by:¶¶

(A) Calling the OHP Customer Service toll-free number;¶¶

(B) Applying through the OregonHealthCare.gov online portal;¶¶

(C) Contacting a trained community partner who can help an applicant complete an application; or¶¶

(D) Contacting a federally qualified health center, a qualified hospital, a disproportionate-share hospital, or another entity authorized by rule.¶¶

(2) The Department has designated liaison branch offices for some groups of applicants (such as patients in state medical institutions and refugees). Those applicants must apply at the designated liaison branch office.¶¶

(3) REF and TANF applicants who meet the following requirements of OAR 461-135-0082 must apply through one of the local contracted refugee resettlement agencies:¶¶

~~(a) Have been in the US for eight months or less according to OAR 461-135-0900(4);¶¶~~

~~(b) Reside in Multnomah, Washington, or Clackamas County; and¶¶~~

~~(c) Meet the alien status requirements of OAR 461-120-0125(5)(a)-(h).¶¶~~

(4) SNAP applicants may apply at an office of the Social Security Administration if all members of the filing group (see OAR 461-110-0370) are applying for or are receiving SSI, and the filing group has not applied for or received SNAP benefits during the previous 30 days.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 411.116, 411.121

Statutes/Other Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 411.116, 411.121, 45 CFR 400

AMEND: 461-130-0310

RULE SUMMARY: OAR 461-130-0310 about participation classifications and exemptions is being amended to correct an incorrect cross reference in the rule and to expand when a SNAP participant may be exempt due to medical reasons. The SNAP program allows some exemptions from the work programs and from the SNAP time limit. A person may be exempt from the SNAP work requirements and from the SNAP time limit if they have a disability or are responsible for the care of an incapacitated person.

CHANGES TO RULE:

461-130-0310

Participation Classifications: Exempt, Mandatory, and Volunteer ¶¶

(1) In the Post-TANF, Pre-TANF, REF, SNAP, and TANF programs:¶¶

(a) The Department assigns an individual to one or more employment program participation classifications: exempt, mandatory, and volunteer (see OAR 461-130-0305 for definitions of all three terms).¶¶

(b) Notwithstanding OAR 461-130-0503(2)(c), in the Post-TANF program or while receiving Employment Payments (see OAR 461-001-0025) under OAR 461-135-1270, an individual is classified as a volunteer.¶¶

(2) In the Pre-TANF and TANF programs:¶¶

(a) An individual in the need group (see OAR 461-110-0630) is JOBS exempt from employment program participation and disqualification if the individual meets the requirements of at least one of the following paragraphs. The individual is:¶¶

(A) A parent (see OAR 461-001-0000) providing care for a family member who is an individual with a disability (see OAR 461-001-0000) and is in the household group (see OAR 461-110-0210) with the parent. Medical documentation to support the need for the care is required.¶¶

(B) A noncitizen who is not authorized to work in the United States.¶¶

(C) An individual who is eligible for and receives supplemental security income (SSI) from the Social Security Administration.¶¶

(D) A caretaker relative (see OAR 461-001-0000) who is non-needy.¶¶

(b) A caretaker relative of a dependent child or unborn who receives TANF program benefits is JOBS eligible if the caretaker relative is in the same filing group with the dependent child (see OAR 461-001-0000) or unborn (even if the caretaker relative is not in the TANF program benefit group under OAR 461-110-0750), unless the caretaker relative is otherwise JOBS exempt from participation under subsection (a) of this section.¶¶

(c) A JOBS volunteer is an individual who is federally mandatory and eligible to participate in an employment program, but who may not be disqualified as they meet at least one of the following state exemptions:¶¶

(A) Pregnant and the pregnancy has reached the first of the calendar month prior to the month in which the due date falls.¶¶

(B) Pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.¶¶

(C) A parent, who is 20 years old and older, or has a high school diploma or GED and is age 18 or 19, during the first six months after the birth of the parent's dependent child except that the Department may require the parent to participate in parenting classes or a family stability activity (see OAR 461-001-0000). An exemption allowed under this paragraph may apply only to one JOBS Eligible participant in each filing group (see OAR 461-110-0330).¶¶

(D) A parent under age 20 years old without a high school diploma or GED, during the first 16 weeks after the birth of the parent's dependent child except that the Department may require the parent to participate in parenting classes, a family stability activity, or an educational track if the parent has not completed high school, GED, or equivalency program.¶¶

(E) An individual whose participation is likely to cause undue hardship or is contrary to the best interests of the dependent child or needy caretaker relative.¶¶

(F) Pregnant and participating more than 10 hours per week during the first two months of the third trimester.¶¶

(G) A VISTA volunteer.¶

(3) In the SNAP program:¶

(a) An individual is exempt from registration in an employment program and disqualification if the individual meets the requirements of one of the following paragraphs. The individual is:¶

(A) An individual with a physical, mental, or behavioral health condition that prevents performance of any work or the ability to obtain or maintain employment, including but not limited to:¶

(i) Having a disability or receiving disability income.¶

(ii) Pregnant and a medical practitioner has limited their work due to medical complications related to the pregnancy.¶

(iii) Receiving wrap around services or support services focused on physical or mental health.¶

(B) Responsible for the care of a child (see OAR 461-001-0000) in the filing group under 6 years of age.¶

(C) Responsible for the care of an individual with a disability (see OAR 461-001-0015) an incapacity that substantially reduces or eliminates the individual's ability to care for himself or herself, and providing this care prevents the participant from obtaining or maintaining employment.¶

(D) A student enrolled at least half-time, as defined by the school, in any high school or equivalent program recognized by a school district or enrolled at least half-time in any school, training program, or institution of higher education. An individual remains exempt during normal periods of class attendance, vacation, and recess but no longer qualifies for the student exemption when a break in enrollment occurs due to graduation, suspension or expulsion, or when the student drops out of school or does not enroll in classes for the next regular school term (excluding summer term).¶

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

(b) An individual is mandatory for registration in an employment program and the requirements in OAR 461-130-0315 if the individual meets the requirements of one of the following paragraphs. These individuals may be disqualified under OAR 461-130-0330 for failing to meet the requirements in OAR 461-130-0315. The individual is not required to participate in any SNAP employment and training program and is not subject to the SNAP time limit under OAR 461-135-0520. The individual is:¶

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

(B) Engaged in the TANF JOBS program under Title IV-A of the Social Security Act.¶

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

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

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

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

(iv) The Apprenticeship Program (APT).¶

(c) A mandatory client is an individual in the need group (see OAR 461-110-0630); who is 16 or 17 years of age and a primary person (see OAR 461-001-0015), or 18 years of age and older and 59 years of age and younger; and who is not exempt under subsection (a) of this section.¶

(4) In the REF program, an individual in the need group is exempt from the REP participation and disqualification if the individual meets the requirements of at least one of the following subsections. The individual is:¶

(a) 65 years of age or older.¶

(b) An individual providing care for a family member who is in the household group and has a disability. Medical documentation to support the need for the care is required.¶

(c) An individual whose participation is likely to cause undue hardship to that individual.¶

(d) Pregnant and the pregnancy has reached the first of the calendar month prior to the month in which the due

date falls.¶

(e) Pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.¶

(f) Pregnant and participating more than 10 hours per week during the first two months of the third trimester.

Statutory/Other Authority: 412.014, 412.049, ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.009

Statutes/Other Implemented: ORS 409.010, 409.750, 411.060, 411.070, 411.816, 411.837, 412.006, 412.009, 412.014, 412.049, 7 USC 2015(d), 7 CFR 273.7

AMEND: 461-135-0082

RULE SUMMARY: OAR 461-135-0082 about eligibility for refugees is being amended to add the requirement to apply for REF or TANF; remove the requirement to have entered the United States prior to October 1, 1997; add a date limitation of February 1, 2018 on the requirement to apply through local refugee resettlement agencies; clarify the time from which the individual's eight month time limited is calculated; and add the requirement to 64 years of age or less; and remove cross-references. This amendment is part of a transition to clients applying through a process that more closely track the process for other Department clients.

CHANGES TO RULE:

461-135-0082

Eligibility for Refugees ¶

~~A client~~ individual is eligible for the Refugee Case Services Project program (RCSP) if ~~the or she~~ individual meets the requirements of all of the following sections: ¶

(1) Has an eligible immigration status listed in OAR 461-120-0125. ¶

(2) ~~Entered the United States on or after October 1, 1997~~ Has applied for the REF or TANF programs. ¶

(3) Lives in Clackamas, Multnomah, or Washington County. ¶

(4) Has resided in the United States ~~less than~~ for eight months or ~~has been granted asylum within the last eight months. The month in which the refugee was admitted to the United States as a refugee, or~~ less from the time their eligible immigration status was granted; asylum, counts as the first month. The month in which the special immigrant was admitted to the United States as a special immigrant counts as the first month. If a special immigrant was granted special immigrant status after having already entered the United States, then the month that the status was granted counts as the first month. ¶

(5) ~~Meets the eligibility requirements contained in OAR 461-193-0000 to 461-193-1380~~ nd ¶

(a) Their filing date (see OAR 461-115-0040) is prior to February 1, 2018; or ¶

(b) The individual was enrolled in RCSP prior to February 1, 2018 ¶

(5) Be 64 years old or under.

Statutory/Other Authority: ~~ORS 411.060, 411.060, 411.116, 411.121~~

Statutes/Other Implemented: ~~ORS 411.060, ORS 409.010, 411.116, 411.121, 45 CFR 400~~

AMEND: 461-135-0900

RULE SUMMARY: OAR 461-135-0900 about specific requirements for the Refugee and Refugee Medical programs is being amended to clarify the time from which the individual's eight month time limit is calculated, remove cross-references, and add a date limitation of February 1, 2018 for Refugee Case Services Project (RCSP) eligibility. This amendment is part of a transition to clients applying through a process that more closely tracks the process for other Department clients.

CHANGES TO RULE:

461-135-0900

Specific Requirements; REF, REFM ¶¶

- (1) In addition to the eligibility (see OAR 461-001-0000) requirements in other rules in OAR chapter 461, an individual must meet all of the requirements in this rule to be eligible for the REF and REFM programs.¶¶
- (2) An individual must meet the alien status requirements of OAR 461-120-0125, except a child (see OAR 461-001-0000) born in the United States to an individual in the REF or REFM program meets the alien status requirements for the REF and REFM programs as long as each parent (see OAR 461-001-0000) in the household group (see OAR 461-110-0210) meets the alien status requirements of OAR 461-120-0125.¶¶
- (3) An individual is not eligible to receive REF and REFM program benefits if the individual is a full-time student of "higher education", unless such education is part of a cash assistance case plan. Any education or training allowable under an approved case plan must be less than one year in length. For the purposes of this rule, "higher education" means education that meets the requirements of one of the following subsections:¶¶
 - (a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL, and high school equivalency programs at these institutions are not considered "higher education".¶¶
 - (b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered "higher education".¶¶
- (4) Eligibility for REF and REFM program benefits is limited to the first eight months in the United States:¶¶
 - (a) ~~For an individual who meets the alien status requirements of OAR 461-120-0125(5)(a), (c), (d), or (e), the month that the individual enters the U.S. counts as the first month.~~¶¶
 - (b) ~~For an individual who meets the alien status requirements of OAR 461-120-0125(5)(b), (f), or (g), the month that the individual was granted from the dated the individual's status counts as the first month.~~¶¶
 - (c) ~~For an individual who meets the alien status requirements of OAR 461-120-0125(5)(h):~~¶¶
 - (A) ~~If the individual enters the U.S. with the special immigrant status, the month that the individual enters the U.S. counts as the first month.~~¶¶
 - (B) ~~If the individual is granted special immigrant status after the individual has already entered the U.S., then the month in which the special immigrant status was granted counts as the first month.~~¶¶
 - (d) Immigration status was granted. Months in the United States are counted as whole months. There is no prorating of months, except as described in OAR 461-193-0320.¶¶
- (5) For an individual who meets the requirements of section (4) of this rule:¶¶
 - (a) When the individual resides in Clackamas, Multnomah, or Washington County; and:¶¶
 - (A) Establishes a filing date prior to February 1, 2018; or reapplies for benefits and was previously enrolled in RCSP:¶¶
 - (i) The individual is not eligible to receive REF, REP, TANF, or TANF-related employment services through the Department. ¶¶
 - (ii) To receive ~~benefit~~REF, REP, TANF, or TANF-related employment services, the individual is required to participate in the Refugee Case Service Project (RCSP) program. This individual is referred to the individual's local resettlement agency to be enrolled in the RCSP program and receives all other Department services through the individual's local Department office.¶¶

(B) Establishes a filing date on or after February 1, 2018 and was not previously enrolled in RCSP, the individual is not eligible to receive cash, case management, or employment services through the RCSP program. ¶

(b) When the individual resides in a county other than Clackamas, Multnomah, and Washington, the RCSP program is not available. The individual is served at the individual's local Department office. ¶

(6) An individual who no longer meets the requirements of section (4) of this rule is no longer eligible to receive cash or case management services through the RCSP program. If this individual has been in the United States for ~~12~~ more than eight months or and less than 13 months, the individual is referred to the employment program that is available to RCSP participants through the contractor for employment services. ¶

~~(b7) When the individual resides in a county other than Clackamas, Multnomah, and Washington, the RCSP program is not available. The individual is served at the individual's local Department office. ¶~~

(6) For REF and REFM programs, if an individual was originally resettled in Oregon through the federal refugee resettlement process, then the individual must provide the name of the local resettlement agency that resettled them.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 412.049, 414.685, 411.116, 411.121

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.878, 412.049, 414.685, 411.116, 411.121, 45 CFR 400

AMEND: 461-193-0031

RULE SUMMARY: OAR 461-193-0031 about eligibility requirements for the Refugee Case Services Project (RCSP) is being amended to clarify the time from which the individual's eight month time limited is calculated add a date limitation of February 1, 2018, for RCSP eligibility. This amendment is part of a transition to clients applying through a process that more closely track the process for other Department clients.

CHANGES TO RULE:

461-193-0031

Eligibility Requirements; Refugee Case Services Project (RCSP) ¶¶

(1) The Refugee Case Services Project (RCSP) is a contractual partnership between the Department and Refugee Resettlement Agencies to provide management of cash assistance to eligible individuals who reside in Multnomah, Clackamas, or Washington County.¶¶

(2) An individual must participate in the Refugee Case Services Project if the individual meets all of the following:¶¶

(1a) Meets all REF or TANF program eligibility (see OAR 461-001-0000) requirements.¶¶

(2b) Meets the alien status requirements under OAR 461-120-0125(5).¶¶

(3c) Resides in Clackamas, Multnomah, or Washington County.¶¶

(4d) Has resided in the U.S. for eight months or less. The first month is, for an individual meeting the alien status requirements of OAR 461-120-0125:¶¶

(a) Subsections (5)(a), (c), (d), or (e), the month the individual entered the United States.¶¶

(b) Subsections (5)(b), (f), or (g), the month the individual was granted the individual's immigration status.¶¶

(c) Subsection (5)(h): from the time their eligible immigration status was granted (with each month in the U.S. counted as a whole month and no prorating of any month); and¶¶

(A) If the individual entered the U.S. with special immigrant status, the month the individual entered the United States. Their filing date is prior to February 1, 2018; or¶¶

(B) If the individual is granted special immigrant status after entering the U.S., the month in which the special immigrant status was granted.¶¶

(d) Each month in the U.S. is counted as a whole month; there is no prorating of any month. was enrolled in RCSP prior to February 1, 2018¶¶

(5) Be 64 years old or younger.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.116, 412.006, 412.049, 411.121

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.116, 412.006, 412.049, 411.121, 45 CFR 400