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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 15-2018

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

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ARCHIVES DIVISION
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& LEGISLATIVE COUNSEL

FILING CAPTION: Changing rules about APD medical programs

EFFECTIVE DATE: 04/01/2018 THROUGH 09/20/2018

AGENCY APPROVED DATE: 03/28/2018

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NEED FOR THE RULE(S):

OAR 461-140-0110 about the treatment of periodic income, OAR 461-140-0120 about the availability and treatment of lump-sum income, and OAR 461-180-0020 about the effective dates for changes in income or income deductions that cause increases need to be amended to avoid training staff to implement changes that will not endure. The Department had filed permanent rule changes on March 9, 2018 that were to take effect on April 1, 2018 and then learned that the changes to these rules would not be part of the Integrated Eligibility system. These amendments restore the rules so the April 1 permanent changes are not in place.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-140-0110, OAR 461-140-0120, and OAR 461-180-0020 will result in serious prejudice to the public interest and the Department because training and eligibility staff would have spent time learning and implementing changes that would not endure past the start of the Integrated Eligibility system. The Department had filed permanent rule changes to these rules on March 9, 2018 that were to take effect on April 1, 2018 and then learned that the changes would not be part of the Integrated Eligibility system. These amendments restore the rules so the April 1 permanent changes are not in place.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None.

RULES:

461-140-0110, 461-140-0120, 461-180-0020

AMEND: 461-140-0110

RULE SUMMARY: OAR 461-140-0110 about the treatment of periodic income is being amended to restore the rule as it existed prior permanent rule changes filed on March 9, 2018 that were to take effect on April 1, 2018. The cancelled changes had established that for the OSIPM and QMB programs periodic income would be averaged for both determining eligibility and calculating client liability, would have incorporated a monthly \$10 earned and \$20 unearned

exclusion of combined periodic and lump-sum income, and would have provided clearer direction on prospective budgeting. The intended changes are not going to be part of the Integrated Eligibility system so this amendment avoids training staff in changes that will not endure.

CHANGES TO RULE:

461-140-0110

Treatment of Periodic Income ¶¶

(1) In the SNAP and TANF programs, for a filing group (see OAR 461-110-0330 and 461-110-0370) that includes at least one member who is working under a TANF JOBS Plus agreement, periodic income (see OAR 461-001-0000) is excluded.¶

(2) In the REF, SNAP, and TANF programs, for filing groups not covered under section (1) of this rule, periodic income is averaged over the applicable period.¶

(3) In the ERDC program, periodic income is averaged over the applicable period.¶

(4) In the OSIP-EPD and OSIPM-EPD programs, all periodic income received ~~during a certification period (see OAR 461-001-0000)~~ in the 12 months following initial approval or the most recent redetermination is averaged ~~among~~ over the months in the certification period remaining prior to the next redetermination.¶

(5) In the REFM program, periodic income is averaged over the applicable period if received in the month of application.¶

(6) In all programs not covered under sections (1) to (4) of this rule, periodic income is counted in the month received.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

AMEND: 461-140-0120

RULE SUMMARY: OAR 461-140-0120 about the availability and treatment of lump-sum income is being amended to restore the rule as it existed prior permanent rule changes filed on March 9, 2018 that were to take effect on April 1, 2018. The cancelled changes had incorporated a \$10 earned and \$20 unearned monthly exclusion of combined periodic and lump-sum income for QMB programs and all OSIPM programs, including EPD, and acknowledged that not all lump-sum income is unearned. The cancelled changes are not going to be part of the Integrated Eligibility system so this amendment avoids training staff in changes that will not endure.

CHANGES TO RULE:

461-140-0120

Availability and Treatment of Lump-Sum Income ¶¶

(1) Lump-sum income (see OAR 461-001-0000) is treated as follows if it is received by a member of a financial group (see OAR 461-110-0530).¶¶

(2) In the EA, REF, REFM, SNAP, and TANF programs:¶¶

(a) Lump-sum income is a resource.¶¶

(b) In the EA, REF, REFM, and TANF programs:¶¶

(A) Lump-sum income is considered available to the financial group when a member of the group receives the income and until the income becomes unavailable for a reason beyond the group's control.¶¶

(B) Lump-sum income is considered unavailable for a reason beyond the group's control if the member who received the lump-sum income:¶¶

(i) Leaves the financial group before spending any of the lump-sum income; or¶¶

(ii) Spends the lump-sum income on an immediate basic need or emergency.¶¶

(3) In the ERDC program, lump-sum income is excluded.¶¶

(4) In the OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD), and QMB-DW programs, lump-sum income is treated as follows:¶¶

(a) Lump-sum income not excluded is unearned income in the month of receipt, and any amount remaining in future months is a resource, except that in the OSIP and OSIPM programs retroactive SSB and SSI payments are treated in accordance with OAR 461-145-0490 and 461-145-0510.¶¶

(b) The following lump-sum income is excluded:¶¶

(A) The first \$20 received in a month;¶¶

(B) The income the client turns over to the Department as reimbursement for previous assistance; and¶¶

(C) The income the client uses to pay for special need items approved by the Department. Special needs are explained in OAR 461-155-0500 and following.¶¶

(5) In the OSIP-EPD and OSIPM-EPD programs, lump-sum income is counted as a resource.¶¶

(6) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:¶¶

(a) Lump-sum income not excluded is unearned income in the month of receipt, except that retroactive SSB and SSI payments are treated in accordance with OAR 461-145-0490 and 461-145-0510.¶¶

(b) The following lump-sum income is excluded:¶¶

(A) The first \$20 received in a month;¶¶

(B) The income the client turns over to the Department as reimbursement for previous assistance; and¶¶

(C) The income the client uses to pay for special need items approved by the Department. Special needs are explained in OAR 461-155-0500 and following.

Statutory/Other Authority: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 411.816, 412.014, 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, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

AMEND: 461-180-0020

RULE SUMMARY: OAR 461-180-0020 about the effective dates for changes in income or income deductions that cause increases is being amended to restore the rule as it existed prior permanent rule changes filed on March 9, 2018 that were to take effect on April 1, 2018. The cancelled changes had added APD medical programs, established that changes in eligibility would be effective the month the change is reported (unless the change will occur in the future) and for liability, the change would be effective the first month the change occurred, if reported timely. The cancelled changes are not going to be part of the Integrated Eligibility system so this amendment avoids training staff in changes that will not endure.

CHANGES TO RULE:

461-180-0020

Effective Dates; Changes in Income or Income Deductions That Cause Increases ¶¶

For all programs in Chapter 461, except the ERDC program, this rule is used to determine the effective date when a change in income or income deductions causes an increase in benefits. For all changes, the effective date is one of the following:¶¶

(1) In the GA, SFPSS, and TANF programs, the effective date for an anticipated change reported before the payment month is the first of the payment month in which it will occur. If the change is not reported until the month it occurs or later, the effective date is the first of the month following the month in which the change was reported.¶¶

(2) In the SNAP program:¶¶

(a) The effective date when verification is not requested is the first of the month following the date the change was reported.¶¶

(b) The effective date if verification is requested is:¶¶

(A) The first of the month following the date the change was reported if verification is received no later than the due date for the verification.¶¶

(B) The first of the month following the date the verification is received by the Department, if received after the verification due date.¶¶

(3) In the OSIP program, the effective date for an anticipated change is:¶¶

(a) The first of the month in which the change occurs if the change is reported by the 10th day of the month following the month the change occurred; or¶¶

(b) 10 days before the change is reported, if it is reported after the 10th day of the month following the month the change occurred.

Statutory/Other Authority:~~ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, ORS 409.050, 413.085, 414.685~~

Statutes/Other Implemented:~~ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, ORS 409.010~~