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DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

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RULES:

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AMEND: 461-110-0210

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-110-0210 about the household group is being amended to add individuals residing in a 24-hour mental health residential care setting to the category of individuals considered in their own household group. This amendment is part of a larger group of rule changes to align Department policy for these individuals with federal requirements.

CHANGES TO RULE:

461-110-0210

Household Group ¶¶

- (1) This rule describes who is included in the household group. The household group generally consists of the individuals who live together with or without the benefit of a dwelling. For homeless individuals, the household group consists of the individuals who consider themselves living together.¶¶
- (2) A separate dwelling is not recognized for the purpose of determining the members of a household group unless the living space has, separate from any other dwelling, an access to the outside that does not pass through another dwelling, a functional sleeping area, bathroom, and kitchen facility.¶¶
- (3) Each individual in the household group who applies for benefits is an applicant. The household group and applicants form the basis for determining who is in the remaining eligibility groups.¶¶
- (4) For all programs except the SNAP program, a separate household group is established for individuals who live

in the same dwelling as another household group, if all the following subsections are true:¶

(a) There is a landlord-tenant relationship between the two household groups in which the tenant is billed by the landlord at fair market value (see OAR 461-001-0000) for housing.¶

(b) The tenant lives independently from the landlord.¶

(c) The tenant:¶

(A) Has and uses sleeping, bathroom, and kitchen facilities separate from the landlord; or¶

(B) Shares bathroom or kitchen facilities with the landlord, but the facilities are in a commercial establishment that provides room or board or both for compensation at fair market value.¶

(5) Individuals who live with more than one household group during a calendar month are members of the household group in which they spend more than half of their time, except as follows:¶

(a) In the ERDC program, if a child (see OAR 461-001-0000) lives with different caretakers during the month, the child is considered a member of both household groups.¶

(b) In the TANF program:¶

(A) If a parent (see OAR 461-001-0000) sleeps at least 30 percent of the time during the calendar month in the home of the dependent child (see OAR 461-001-0000), the parent is in the same household group as the dependent child.¶

(B) A dependent child is included in the household group with the caretaker relative (see OAR 461-001-0000), who usually has the major responsibility for care and control of the dependent child, if the dependent child lives with two household groups in the same calendar month for at least one of the following reasons:¶

(i) Education.¶

(ii) The usual caretaker relative is gone from the household for part of the month because of illness.¶

(iii) A family emergency.¶

(c) In the SNAP program:¶

(A) The individual is a member of the household group that provides the individual more than half of ~~his or her~~the individual's 21 weekly meals. If the individual is a child, the child is a member of the household group credited with providing the child more than half of ~~his or her~~the individual's 21 weekly meals. A household group is credited with providing breakfast and lunch for each day the child departs that group's home for school, even if the child eats no breakfast or lunch at that home.¶

(B) During the month in which a resident of a domestic violence shelter (see OAR 461-001-0000) enters the domestic violence shelter, the resident may be included both in the household group he or she left and in a household group in the domestic violence shelter.¶

(6) In the OSIPM program, individuals who are being evaluated under OAR 461-135-0745-~~or~~, OAR 461-135-0750, or OAR 461-135-07505 are a household group of one regardless of others living in the individual's dwelling or facility.¶

(7) Individuals absent from the household for 30 days or more are no longer part of the household group, except for the following:¶

(a) In all programs except the OSIPM and SNAP programs, an individual in an acute care medical facility remains in the household group unless the individual enters long-term care (see OAR 461-001-0000).¶

(b) In the ERDC and TANF programs:¶

(A) A caretaker relative who is absent for up to 90 days while in a residential alcohol or drug treatment facility is in the household group.¶

(B) A child who is absent for 30 days or more is in the household group if the child is:¶

(i) Absent for illness (unless the child is in a long-term care Title XIX facility), social service, or educational reasons;¶

(ii) In foster care, but expected to return to the household within the next 30 days.¶

(c) In the ERDC program, an individual in the household group who is:¶

(A) Absent because of education, training, or employment, including long-haul truck driving, fishing, or active duty in the U.S. armed forces;¶

(B) Absent to care for an emergent need of an individual related to illness, injury, or death; or¶

(C) Absent but reasonably anticipated to return within 90 days.¶¶

(d) In the TANF program, when a filing group (see OAR 461-110-0310 and 461-110-0330) includes more than one caretaker relative, a caretaker relative in the household group who is absent:¶¶

(A) Because of education, training, or employment - including absence while working or looking for work outside the area of ~~his or her residence~~ the residence of the caretaker relative, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces; or¶¶

(B) For up to 60 days solely due to the regulations of a homeless or domestic violence shelter or other circumstances beyond the individual's control but who would otherwise be included in the household group.¶¶

(e) In the REF and REFM programs, an individual in the household group who was absent:¶¶

(A) For up to 90 days while in a residential alcohol or drug treatment facility;¶¶

(B) To care for an emergent need of an individual related to illness, injury, or death;¶¶

(C) Because of education, training, or employment - including absence while working or looking for work outside the area of ~~his or her~~ the individual's residence, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces; or¶¶

(D) For up to 60 days solely due to the regulations of a homeless or domestic violence shelter or other circumstances beyond the individual's control but who would otherwise be included in the household group.¶¶

(f) In the REF, REFM, and TANF programs, the Department may approve one or more 30-day extensions of this time period if the Department receives sufficient information to assure the Department that the absent individual will return within the extension period.¶¶

(8) In the OSIP-EPD and OSIPM-EPD programs, the household group consists only of the individual applying for or receiving benefits.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.001, 412.006, 412.049, 413.085, 414.685, 414.839

AMEND: 461-115-0050

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-115-0050 about when an application must be filed is being amended to align its policy about when new applications are not required with other rules that apply the filing date instead of the date of request. This rule is also being amended as to the OSIPM and QMB programs to remove the 12-month deadline for waiving applications for inmates released from incarceration whose APD medical benefits were suspended and to clarify that the reporting period is 10 calendar days, complying with statutory requirements.

CHANGES TO RULE:

461-115-0050

When an Application Must Be Filed ¶¶

- (1) An individual must file an application, or may amend a completed application, as a prerequisite to receiving benefits as follows:¶¶
- (a) An individual may apply for the GA program by completing an application for the OSIPM program.¶¶
 - (b) An individual may apply for the TA-DVS program as provided in OAR 461-135-12200.¶¶
 - (c) In all programs except the TA-DVS program:¶¶
 - (A) Except as provided otherwise in this rule, to apply for program benefits, an individual must submit a complete application on a form approved by the Department.¶¶
 - (B) An application is complete if all of the following requirements are met:¶¶
 - (i) All information necessary to determine eligibility (see OAR 461-001-0000) and benefit amount is provided on the application for each individual in the filing group (see OAR 461-110-0310).¶¶
 - (ii) The applicant, even if homeless, provides a valid mailing address.¶¶
 - (iii) The application is signed by the individual, the authorized representative (see OAR 461-115-0090 and 461-115-0140) of the individual, or another individual applying for benefits on behalf of the individual, and received by the Department.¶¶
 - (I) An individual required but unable to sign the application may sign with a mark, witnessed by another individual.¶¶
 - (II) An individual submitting an electronic application (see OAR 461-001-0000) must submit the application with an electronic signature.¶¶
- (2) A new application is not required in the following situations:¶¶
- (a) In the GA program, when an individual is receiving OSIPM on the date of request (see OAR 461-115-0030) for GA.¶¶
 - (b) In the SNAP program, when a single application can be used both to determine an individual is ineligible in the month of application and to determine the individual is eligible the next month. This may be done when:--¶¶
 - (A) Anticipated changes make the filing group (see OAR 461-110-0370) eligible the second month; or¶¶
 - (B) The filing group provides verification between 30 and 60 days following the filing date (see OAR 461-115-0040), under OAR 461-180-0080.¶¶
 - (c) In all programs except the SNAP program, when a single application can be used both to determine an individual is ineligible on the ~~date of request (see OAR 461-115-0030) and to determine the individual is eligible when anticipated changes make the filing group eligible within 45 days from the date of request~~ filing date (see OAR 461-115-0040) or the date of request (see OAR 461-115-0030) as applicable to the term used by the program, and to determine the individual is eligible when anticipated changes make the filing group eligible within 30 days from the filing date or 45 days from the date of request (as applicable to the term used by the program).¶¶
 - (d) When the case is closed and reopened during the same calendar month.¶¶
 - (e) When benefits were suspended for one month because of the level of income, and the case is reopened the month following the month of suspension.¶¶
 - (f) When reinstating medical benefits for a pregnant woman covered by OAR 461-135-0950, notwithstanding

subsection (g) of this section.¶

(g) In the ERDC program, when a case closed during the certification period (see OAR 461-001-0000) and the individual reports a change in circumstances prior to the end of the month following the closure and the reported change will make the individual eligible.¶

(h) In the OSIPM and QMB programs, when the medical benefits of an individual are suspended because the individual lives in a public institution (see OAR 461-135-0950), if the ~~inmate is released within 12 months of admission and the inmate provides notification to the Department~~ Department is notified within 10 calendar days of the release.¶

(i) In the REF, TA-DVS, and TANF programs, when a single application can be used both to determine an individual is ineligible in the month of application and to determine the individual is eligible the next month. This may be done when -¶

(A) Anticipated changes make the filing group (see OAR 461-110-0330 and OAR 461-110-0430) eligible in the following month; or ¶

(B) Amending a current application if the information is sufficient to determine eligibility; otherwise a new application is required.¶

(3) When an individual establishes a new date of request prior to the end of the month following the month of case closure, unless the Department determines a new application is required, a new application is not required in the following situations:¶

(a) In the OSIPM program, when the individual's case closed due to failure to make a liability payment required under OAR 461-160-0610.¶

(b) In the OSIPM-EPD program, when the individual's case closed due to failure to make a participant fee payment required under OAR 461-160-0800.¶

(4) A new application is required to add a newborn child (see OAR 461-001-0000) to a benefit group (see OAR 461-110-0750) according to the following requirements:¶

(a) In the ERDC and SNAP programs, an application is not required to add the child to the benefit group.¶

(b) In the OSIPM, QMB, and REFM programs, an additional application is not required to add an assumed eligible newborn (see OAR 461-135-0010) to a benefit group currently receiving Department medical program benefits.¶

(c) In the TANF program:¶

(A) A new application is not required if the child is listed on the application as "unborn" and there is sufficient information about the child to establish its eligibility.¶

(B) A new application is required if the child is not included on the application as "unborn."¶

(d) In all programs other than ERDC, QMB, REF, REFM, SNAP, and TANF, an application is required.¶

(5) A new application is required to add an individual, other than a newborn child, to a benefit group according to the following requirements:¶

(a) In the ERDC and SNAP programs, a new application is not required.¶

(b) In the REF, REFM, and TANF programs, an individual may be added by amending a current application if the information is sufficient to determine eligibility; otherwise a new application is required.¶

(c) In all programs other than the ERDC, REF, REFM, SNAP, and TANF programs, a new application is required.¶

(6) An individual whose TANF grant is closing may request ERDC orally or in writing.¶

(7) Except for an applicant for the OSIPM, QMB, or SNAP program, an individual may change between programs administered by the Department using the current application if the following conditions are met:¶

(a) The individual makes an oral or written request for the change.¶

(b) The Department has sufficient evidence to determine eligibility and benefit level for the new program without a new application.¶

(c) The program change can be effected while the individual is eligible for the first program.¶

(8) In the OSIP, OSIPM, and QMB programs, a new application is not required to redetermine eligibility if the following conditions are met:¶

(a) The individual is currently receiving benefits from one of these programs.¶

(b) The Department has sufficient evidence to redetermine eligibility for the same program or determine eligibility

for the new program without a new application or by amending the current application.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.025, 414.685

Statutes/Other Implemented: ORS ~~409.013~~329A.500, 409.0510, 411.060, 411.070, 411.117, 411.404, 411.447, 411.704, 411.706, 411.816, 412.0149, ~~413.085~~49, 414.025, 414.041, 414.231, 414.685, 414.839

AMEND: 461-115-0704

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-115-0704 about required verification of citizenship and alien status in the OSIP, OSIPM, and QMB programs is being amended to state that citizenship or qualified alien status must be verified at initial application, when changes are reported, and when the Department has received reliable information indicating a potential change. This clarifies when verification is required at redetermination, consistent with federal policy.

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):¶

(a) At initial application: ¶

(b) When a change is reported; and ¶

(c) When the Department has received reliable information indicating a potential change in the individual's citizenship or qualified alien status. ¶

(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).¶

(25) 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, 413.085, 414.685

Statutes/Other Implemented: ~~413.085, 414.685, 409.010, 414.839~~ ORS 409.010, 411.060, 411.402, 411.404, 411.706, 411.404, 411.70, 413.085, 414.685, 414.839, 42 CFR 435.956

AMEND: 461-120-0330

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-120-0330 about the requirement to pursue assets is being amended to remove the requirement to convert pension and retirement plans to income to meet eligibility requirements in the OSIP, OSIPM, and QMB programs. This change relieves the burden on individuals with very small retirement accounts and fits with the capabilities of the Integrated Eligibility system.

CHANGES TO RULE:

461-120-0330

Requirement to Pursue Assets ¶¶

(1) In all programs except the ERDC and SNAP programs, an individual must make a good faith effort to obtain any asset (other than support and medical coverage, which are covered in OAR 461-120-0340 and 461-120-0345, respectively) to which the individual has a legal right or claim, except as follows:¶¶

(a) A parent (see OAR 461-001-0000) or caretaker relative (see OAR 461-001-0000) who is exempt from participation in the JOBS program is not required to apply for unemployment insurance benefits.¶¶

(b) Except as specified by law, an individual applying for or receiving any program benefits from the Department is not required to apply for other programs it administers or for supplemental security income (SSI).¶¶

(c) An individual applying for the EA program is required to pursue, obtain, and use an asset only if the asset can be made available in time to meet the emergent need.¶¶

(d) An individual is not required to borrow money.¶¶

(e) An individual is not required to make a good faith effort to obtain any asset if the individual can show good cause for not doing so. Good cause means a circumstance beyond the ability of the individual to control.¶¶

(f) In the REF and REFM programs, an individual is not required to pursue assets that remain in their country of origin.¶¶

(g) An individual is not required to make a good faith effort to obtain an asset if it will put the individual at further risk of current or future domestic violence (see OAR 461-001-0000).¶¶

(2) In all programs except the ERDC, OSIP, OSIPM, QMB, and SNAP programs:¶¶

(a) The effect of failing to comply with this rule is that everyone in the filing group is ineligible. In addition, when a REF, SFPSS, or TANF program payment ends due to the penalty described in this subsection, eligibility for and the level of SNAP benefits are determined as if the individual were receiving benefits without the effects of this rule.¶¶

(b) The penalty provided by subsection (2)(a) of this rule is effective until all members of the filing group comply with the requirements of section (1) of this rule.¶¶

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

~~(a) If an individual is eligible for monthly or periodic payments from a retirement or pension plan (see OAR 461-145-0380), the individual must apply for those benefits to be eligible for OSIP, OSIPM, and QMB program benefits. This requirement does not apply to a non-applying spouse (see OAR 461-001-0000).¶¶~~

~~(A) When an individual can choose a lump sum or monthly or periodic payments, the individual must choose monthly or periodic payments; and if the individual can choose between monthly or periodic payments, the individual must choose monthly payments.¶¶~~

~~(B) The individual must select the option that:¶¶~~

~~(i) Provides payments commencing on the earliest possible date; and¶¶~~

~~(ii) Completes payments ineligible for benefits if the individual fails to comply within the actuarial life expectancy, as published in the Periodic Life Table of the Chief Actuary of the Social Security Administration of the individual requirements of this rule.¶¶~~

~~(C) Where an application has been made for a lump sum withdrawal of the monies on which a potential annuitization is based and the benefit source permits the individual to change the individual's decision and apply for the annuitization, the individual must pursue the change to be eligible for medical benefits. If the benefit~~

source does not permit such a change, accept the individual's word that the decision is irreversible, absent evidence to the contrary.¶

(D) An individual is not required to file when only a lump sum payment is available. See OAR 461-145-0380 for information on the treatment of such plans.¶

(b) An individual is ineligible for benefits until one of the following occurs, whichever is earlier:¶

(A) The individual complies with the requirements of section (1) of this rule and subsection (a) of this section.¶

(B) The individual cashes out or closes the retirement or pension plan. The proceeds would then be evaluated as a resource under the applicable rule for the specific asset penalty provided by subsection (a) of this section is effective until the individual complies with the requirements of section (1) of this rule.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 414.231, 414.231, 414.685

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 414.231

AMEND: 461-135-0010

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-135-0010 about assumed eligibility for medical programs is being amended to remove the requirement to pursue assets from assumed eligibility requirements for the QMB-BAS program and to indicate that all of the requirements set forth in OAR 461-120-0345 apply to the assumed eligibility requirements for the QMB-BAS program, not just the requirement to pursue medical insurance. These changes make the rule consistent with the assumed eligibility requirements for the OSIPM program and the only assumed-eligible individuals for QMB are SSI recipients, who are also assumed eligible for OSIPM.

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 the OSIPM program or OCCS Medical 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 requirements of 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 requirements of 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, ~~414.685~~, 414.685

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

ADOPT: 461-135-0755

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-135-0755 about individuals residing in a 24-hour mental health residential care setting is being adopted to set out specific requirements for these individuals, including the income standard that applies to their eligibility. This amendment is part of a larger group of rule changes to align Department policy for these individuals with federal requirements.

CHANGES TO RULE:

461-135-0755

Individuals Residing in a 24-Hour Mental Health Residential Care Setting; OSIPM

In the OSIPM program, an individual who meets both of the requirements below is subject to the OSIPM income limit specified in OAR 461-155-0250(6):¶

(1) The individual resides in a 24-hour mental health residential care setting, such as an adult foster home, residential treatment home, residential treatment facility, or a secure treatment facility.¶

(2) The individual does not meet the income requirements for OSIPM under sections (3) or (5) of OAR 461-155-0250.

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

Statutes/Other Implemented: ORS 409.010, 411.060, 411.404, 42 CFR 435.219, 42 CFR 435.726

AMEND: 461-135-0835

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-135-0835 about limits on estate claims is being amended to use defined terms consistently, clarifying the rule. This rule is also being amended to limit when claims include benefits provided while an individual was under 55 years of age, consistent with limits on the Department's authority. This rule is being further amended to revise what happens with respect to first party special needs trust with a payback provision that must reimburse any state when the trust is terminated early or the original beneficiary dies. Only certain administrative wrapping up costs are paid before any state that provided medical assistance to the original beneficiary. Conservator or trustee fees for the month of death and prior month are considered administrative wrapping up costs. Trustee fees after the month of death must be reasonable and approved by the Department. Conservator fees after the date of death must be approved by the court after the Department has had notice and an opportunity to object. The amendment also includes examples of certain expenses that are expressly prohibited before the any state is reimbursed. These changes for trusts are consistent with SSA guidance.

CHANGES TO RULE:

461-135-0835

Limits on Estate Claims ¶¶

(1) The Estate Administration Unit is designated and authorized to administer the estate recovery program for the Oregon Health Authority and the Department of Human Services, and to present and file claims for payment. The Manager and Assistant Manager of the Estate Administration Unit, Estate Administrators, Assistant Estate Administrators, and Accounts Receivable Specialist are authorized to present, file, and resolve claims for the Estate Administration Unit. The Manager or Assistant Manager may designate other individuals to present, file, or resolve claims. This rule sets out some of these claims.¶¶

(2) For the OSIP program (see OAR 461-101-0010):¶¶

(a) The amount of any payments or benefits, including an overpayment (see OAR 461-195-0501), are a claim against the probate estate (see OAR 461-135-0832) of any deceased recipient.¶¶

(b) The claim for correctly paid payments or benefits under OSIP are deferred until the death of the spouse (see OAR 461-001-0000) or domestic partner (see OAR 461-135-0832), if any, of the deceased recipient.¶¶

(c) If the deceased recipient has no probate estate, the enforcement of the claim has been deferred, or there are insufficient resources in the probate estate to pay the claim in full, the probate estate of the spouse or domestic partner of the deceased recipient, if any, is charged for any payments or benefits paid under OSIP to the deceased recipient, the spouse, or domestic partner.¶¶

(d) The claim for correctly paid payments or benefits under OSIP may not be enforced if the deceased recipient is survived by a child under age 21 (see OAR 461-135-0832), a child with a disability (see OAR 461-135-0832), or a child with a visual impairment (see OAR 461-135-0832); and the child survives to the closing of the probate estate.¶¶

(e) Transfers of real or personal property without adequate consideration, by recipients of payments or benefits under OSIP, are voidable and may be set aside under ORS 411.620.¶¶

(f) Except when there is a surviving spouse or domestic partner, or a surviving child under age 21, a child with a disability, or a child with a visual impairment, the amount of any payments or benefits provided is a claim against the estate (see OAR 461-135-0832) in any conservatorship proceedings and may be paid pursuant to ORS 125.495.¶¶

(3) For General Assistance (see OAR 461-135-0832):¶¶

(a) The amounts of any payments or benefits, including overpayments, are a claim against the probate estate of any deceased recipient. The amount includes the state's monthly contribution, paid prior to January 1, 2014, to the federal government for the recipient's Medicare Part D prescription drug coverage. Effective July 1, 2016, any correctly paid benefits under Oregon Laws 2016, chapter 93, section 1 are excluded, except than an overpayment

of benefits under Oregon Laws 2016, chapter 93, section 1 is included in a claim against the probate estate.¶

(b) The claim for correctly paid payments or benefits under the General Assistance program is deferred until the death of the spouse or domestic partner, if any, of the deceased recipient.¶

(c) If the deceased recipient has no probate estate, the enforcement of the claim has been deferred, or there are insufficient resources in the probate estate to pay the claim in full, then the probate estate of the spouse or domestic partner of the deceased recipient, if any, is charged for any payments or benefits to the deceased recipient, the spouse, or domestic partner.¶

(d) The claim for correctly paid payments or benefits under the General Assistance program may not be enforced if the deceased recipient is survived by a child under age 21, a child with a disability, or a child with a visual impairment; and the child survives to the closing of the probate estate.¶

(e) Except when there is a surviving spouse or domestic partner, or a surviving child under age 21, a child with a disability, or child with a visual impairment, the amount of any assistance paid is a claim against the estate in any conservatorship proceedings and may be paid pursuant to ORS 125.495.¶

(4) For Medical Assistance (MA, as defined in OAR 461-135-0832):¶

(a) In determining the extent of the estate resources subject to the claim of the Department for correctly paid benefits, except as provided in subsection (b) of this section, the Department must disregard resources in an amount equal to the value (see OAR 461-135-0832) of resources excluded in the most recent eligibility determination under OAR 461-160-0855, based on payments received under a qualified partnership policy (see OAR 461-001-0000). The disregard of resources specific to the estate recovery claim applies to MA benefits received after the effective date of the MA eligibility determination in which a qualified partnership policy was considered and approved. The amount of any MA incurred in a prior MA eligibility period where qualified partnership policy benefits were not considered is not subject to the estate resource disregard.¶

(b) There is no disregard of resources under subsection (a) of this section if the recipient, or the spouse of the recipient, at any time transferred the value of the qualified partnership policy excluded resource amount to another individual for less than fair market value prior to the death of the recipient or the recipient's spouse, or exhausted the disregarded resource amount by purchasing things of value to the recipient or the recipient's spouse while either was living.¶

(c) The amount of any incorrectly paid payments or benefits, excluding an administrative error overpayment, are a claim, against the probate estate of any deceased recipient.¶

(d) The claim for correctly paid payments or benefits under MA is deferred until the death of the surviving spouse, if any, of the deceased recipient. After the death of a surviving spouse, the deferred claim of the deceased recipient is a claim against the following assets (see OAR 461-135-0832) or their proceeds in the estate of the spouse. The Department has a claim against the estate of the spouse for medical assistance (see OAR 461-135-0832) paid to the recipient, but only to the extent that the spouse received property or other assets from the recipient through any of the following:¶

(A) Probate.¶

(B) Operation of law.¶

(e) The claim for correctly paid payments or benefits under MA may not be enforced if the deceased recipient is survived by a child under age 21, a child with a disability, or a child with a visual impairment.¶

(f) ~~For recipients who are not permanently institutionalized (see OAR 461-135-0832)~~An MA claim in an estate includes:¶

(A) The amount of any payments or benefits paid prior to October 1, 1993 to or on behalf of a recipient 65 years of age or older are a claim against the probate estate of any deceased recipient.¶

(B) The amount of any payments or benefits, paid on or after October 1, 1993 and prior to July 18, 1995, to or on behalf of a recipient 55 years of age or older are a claim against the probate estate of any deceased recipient.¶

(C) The amount of any payments or benefits, paid on or after July 18, 1995 and prior to October 1, 2013, to or on behalf of a recipient 55 years of age or older are a claim against the estate of any deceased recipient. All correctly made payments on or after January 1, 2010 for Medicare cost sharing (see OAR 461-135-0832) are excluded from a claim.¶

(D) The amount of any payments or benefits, paid October 1, 2013 or later, to or on behalf of a recipient 55 years of age or older, during the time the Department was paying any of the cost of care of the individual in a nursing facility, home and community based care (see OAR 461-001-0030), or in home services through the State Plan Personal Care Services (see OAR 411-034-0010), are a claim against the estate of any deceased recipient. All correctly made payments on or after January 1, 2010 for Medicare cost sharing are excluded from a claim.¶

~~(g5) For permanently institutionalized individuals, a claim includes amounts calculated according to subsection (f) of this section.~~
The amount paid, for a recipient age 55 or older, after December 31, 2013, to the federal government for the recipient's Medicare Part D prescription drug coverage is a claim against the estate of the deceased recipient.¶

(6) For trusts under OAR 461-145-0540(10), upon termination and of the following:¶

(A) The amount of any payments or benefits before July 18, 1995 to or on behalf of a recipient who was permanently institutionalized is a claim against the probate estate of the deceased recipient.¶

(B) The amount of any payments or benefits paid between July 19, 1995 through September 30, 2013 to or on behalf of a recipient who was permanently institutionalized is a claim against the estate of the deceased recipient trust or upon the death of the original beneficiary the trust pays to the State or States from such remaining amounts in the trust an amount equal to the total amount of medical assistance paid on behalf of the original beneficiary. The State or States must be listed as the first payee or payees and first remainder beneficiary or beneficiaries, and have priority over payment of other debts and administrative expenses, and other beneficiaries, except as allowed in subsection (a) of this section. Subsections (4)(d) and (4)(e) of this rule do not apply to this section.¶

(Ca) The amount of any payment for services provided in a nursing facility, an intermediate care facility for an individual with intellectual or developmental disabilities, a psychiatric institution, or other medical institution (see OAR 461-135-0832) paid after September 30, 2013 to or on behalf of a recipient who was permanently institutionalized is a claim against the estate of the deceased recipient.¶
Allowable administrative expenses payable before any State include:¶

(A) Taxes due from the trust, excluding taxes due from the beneficiary, to the State or States or federal government because of the death of the beneficiary; and¶

(B) Reasonable fees for administration of the trust estate such as an accounting of the trust to a court, completion and filing of documents, or other required actions associated with termination and wrapping up of the trust. Trustee fees or conservator fees, not both, are limited to the month of the original beneficiary's death and the prior month.¶

(i) For a person that is a trustee, but not a conservator, trustee fees after the month of death, if claimed, must be paid from the estate of the deceased recipient.¶

(5) The amount paid, for a recipient age 55 or older, after December 31, 2013, to the federal government for the recipient's Medicare Part D prescription drug coverage is a claim against the estate of the deceased recipient.¶

(6) For trusts that comply with OAR 461-145-0540(10) and (11), the maximum distribution to the Department is the total of all MA pbe reasonable and approved by the by the Department prior to payment.¶

(ii) For a person that is a conservator and trustee, conservator fees after the month of death, if claimed, must be approved by the court, after the Department is given notice and opportunity to object.¶

(b) Upon the death of the original beneficiary, the following expenses and payments are examples of some of the types not permitted prior to reimbursement of the State or States for medical assistance:¶

(A) Taxes due from the estate of the beneficiary other than those arising from inclusion of the trust in the estate:¶

(B) Payments or benefits paid to debts owed to third parties:¶

(C) Trustee or conservator fees, except as allowed by subsections (4)(d) and (4)(e) of this rule do not apply to this section) of this section:¶

(D) Funeral expenses; and¶

(E) Payments to residual beneficiaries.

Statutory/Other Authority: ~~ORS 409.050, 411.060, 411.070, 411.404, 413.042, 413.085, 416.340, 416.350~~ ORS 409.050, 416.350, 414.685

Statutes/Other Implemented: ORS 93.969, 125.495, 411.404, 411.620, 411.630, 411.708, 411.795, 413.085,

AMEND: 461-140-0110

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-140-0110 about the treatment of periodic income is being amended to make permanent a temporary rule change (effective April 1, 2018) restoring 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 OSIPM-EPD and QMBOSIPM-EPD programs, periodic income is averaged over the applicable period, except as follows:¶

(a) A new source of periodic income received or expected to be received in any all periodic income received in the 12 months following the month containing the date of request (see OAR 461-115-0030) is not averaged and counted until the first month it is received.¶

(b) When determining countable (see OAR 461-001-0000) income for the purposes of eligibility, the following exclusions apply to the total amount of combined periodic income and lump-sum income (see OAR 461-001-0000) received by an individual each month, including non-applying spouses and children:¶

(A) A \$10 monthly exclusion from earned income.¶

(B) A \$20 monthly exclusion from unearned income.¶

(c) For purposes of calculating client liability under OAR 461-160-0620:¶

(A) Any periodic income received in a month prior to initial approval or the most recent redetermination is averaged over the month ~~containing~~ remaining the date of request is excluded.¶

(B) Any periodic income received or expected to be received in any month following the month containing the date of request is not averaged and counted until the month it is received 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 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, ~~412.049~~, 413.085, 414.685

Statutes/Other Implemented: ORS ~~409.01~~329A.500, 409.0510, 409.610, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

RULE SUMMARY: OAR 461-140-0120 about the availability and treatment of lump-sum income is being amended to make permanent a temporary rule change (effective April 1, 2018) restoring 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 ~~when calculating countable (see OAR 461-001-0000) income for the purposes of determining eligibility and calculating client liability under OAR 461-160-0620:~~¶

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

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

~~(BC)~~ 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.¶

~~(c5) When calculating countable income for the purposes of eligibility, the following exclusions apply to the total amount of combined lump-sum income and periodic income (see OAR 461-001-0000) received by an individual each month, including non-applying spouses and children:~~¶

~~(A) The first \$10 of earned income received in a month.~~¶

~~(B) The first \$20 of unearned income received in a month.~~ In the OSIP-EPD and OSIPM-EPD programs, lump-sum income is counted as a resource.¶

~~(56)~~ 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~~

~~(BC) 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.~~

~~(c) The following exclusions apply to combined lump sum income and periodic income received by an individual, including non-applying spouses and children:~~

~~(A) The first \$10 of earned income received in a month.~~

~~(B) The first \$20 of unearned income received in a month.~~

Statutory/Other Authority: ORS ~~409.05~~ 329A.500, ~~4109.0750~~, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS ~~409.01~~ 329A.500, ~~409.0510~~, 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: 461-145-0000

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-145-0000 about the Achieving a Better Life Experience (ABLE) Act is being amended to exclude distributions from ABLE Act accounts as income in the OSIP, OSIPM, and QMB programs, consistent with federal policy.

CHANGES TO RULE:

461-145-0000

Achieving a Better Life Experience (ABLE) Act ¶

(1) ~~For~~In all programs, funds held in ABLE Act accounts are excluded as resources.¶

(2) ~~For all~~In all programs except the OSIP, OSIPM, and QMB programs, monies withdrawn from ABLE Act accounts are excluded as income if they are used for Qualified Disability Expenses. For purposes of this rule, "Qualified Disability Expenses" include, but are not limited to, the following:¶

(a) Education;¶

(b) Housing;¶

(c) Transportation;¶

(d) Employment training and support;¶

(e) Assistive technology and personal support services;¶

(f) Health;¶

(g) Prevention and wellness;¶

(h) Financial management and administrative services;¶

(i) Legal fees;¶

(j) Expenses for oversight and monitoring; and¶

(k) Funeral and burial expenses.¶

(3) ~~For~~In all programs except the OSIP, OSIPM, and QMB programs, funds withdrawn from ABLE Act accounts for purposes other than Qualified Disability Expenses (see section (2) of this rule) are counted as unearned income.¶

(4) In the OSIP, OSIPM, and QMB programs, funds withdrawn from ABLE Act accounts for any purpose are excluded as income.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.083, 411.404, 411.816, ~~412.049~~14, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 178.375, 178.380, 329A.500, 409.0510, 411.060, 411.070, 411.083, 411.404, 411.816, ~~412.049~~14, 412.049, 414.685, Section 103 of Public Law 113-295

AMEND: 461-145-0010

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-145-0010 about animals is being amended to set out Department policy about how to treat proceeds of the sale of animals that are a source of income and food for the QMB-BAS, QMB-SMB, and QMB-SMF programs.

CHANGES TO RULE:

461-145-0010

Animals ¶

- (1) Animals that are kept as pets or raised as food for the filing group (see OAR 461-110-0310) are excluded.¶
- (2) The treatment of an animal considered income-producing property (see OAR 461-001-0000) is covered by the income-producing property rules (see OAR 461-145-0250 and 461-145-0252).¶
- (3) In the OSIP, OSIPM, and QMB-DW programs:¶
 - (a) The fair market value (see OAR 461-001-0000) of animals that are kept or retained for sale or resale is a countable (see OAR 461-001-0000) resource.¶
 - (b) If an animal is a source of both food and income for the filing group (see OAR 461-110-0410):¶
 - (A) The fair market value of the animal remains excluded.¶
 - (B) The proceeds of any sales of the animal or its products are counted as unearned income.¶
 - (c) Animals that are used, kept, or raised for the purpose of self-employment (see OAR 461-145-0600 and OAR 461-145-0915) are excluded.¶
- (4) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, a:¶
 - (a) All animals are excluded as a resource.¶
 - (b) If an animal is a source of both food and income for the filing group (see OAR 461-110-0410), the proceeds of any sale of the animal or its products are counted as unearned income.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.0450, 409.0510, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.0149, 4132.085, 414.68549, 414.839

AMEND: 461-145-0120

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-145-0120 about the definition of earned income is being amended to add a reference to the corporation and other business entities rule, which contains an exception to counting dividends and profits as earned income, clarifying the Department rules.

CHANGES TO RULE:

461-145-0120

Earned Income; Defined ¶¶

Earned income is income received in exchange for an individual's physical or mental labor. Earned income includes all of the following:¶¶

- (1) Compensation for services performed, including wages, salaries, commissions, tips, sick leave, vacation pay, draws, or the sale of blood or plasma.¶¶
- (2) Income from on-the-job-training, paid job experience, JOBS Plus work experience, or Welfare-to-Work work experience.¶¶
- (3) In-kind income, when an individual is an employee of the person providing the in-kind income and the income is in exchange for work performed by the individual, or when received as compensation from self-employment.¶¶
- (4) For self-employment, gross receipts and sales, including mileage reimbursements, before costs.¶¶
- (5) In:¶¶
 - (a) The SNAP program, cafeteria plan (see OAR 461-001-0000) benefits, and funds placed in a flexible spending account.¶¶
 - (b) All programs except the SNAP program, cafeteria plan benefits that an employee takes as cash, and funds placed in a flexible spending account.¶¶
- (6) Income from work-study.¶¶
- (7) Income from profit sharing that the individual receives monthly or periodically, except as provided in OAR 461-145-0089 in the OSIP, OSIPM, and QMB programs.¶¶
- (8) The fee for acting as an individual's representative payee, when that individual is not included in the filing group (see OAR 461-110-0310).¶¶
- (9) In the SNAP program, expenditure by a business entity that substantially benefits a principal (see OAR 461-145-0088).¶¶
- (10) In the OSIP, OSIPM, and QMB programs:¶¶
 - (a) A non-business expenditure - including, but not limited to, a personal car or housing payment - paid by an individual's corporation or business entity (see OAR 461-145-0089) that benefits the individual.¶¶
 - (b) The income a principal (see OAR 461-145-0089) earns working for a corporation.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, ~~ORS 409.050~~, 413.085, 414.685

Statutes/Other Implemented: ~~ORS 409.01~~ ORS 329A.500, 409.051, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839

RULE SUMMARY: OAR 461-145-0130 about the treatment of earned income in determining eligibility is being amended to state when credit cards and gift cards are considered earned income in the SNAP program, consistent with federal guidance. This rule is also being amended to add a reference to the corporation and other business entities rule, which contains an exception to counting dividends and profits as earned income, clarifying the Department rules.

CHANGES TO RULE:

461-145-0130

Earned Income; Treatment ¶¶

(1) Earned income (see OAR 461-145-0120) is countable (see OAR 461-001-0000) in determining eligibility (see OAR 461-001-0000) for programs, subject to the provisions in sections (2) to (10) of this rule.¶¶

(2) JOBS Plus income is earned income and is treated as follows:¶¶

(a) In the SNAP program:¶¶

(A) JOBS Plus income earned by a TANF-PLS (see OAR 461-101-0010) client:¶¶

(i) Is counted in determining initial SNAP program eligibility.¶¶

(ii) Is excluded in determining ongoing eligibility.¶¶

(B) JOBS Plus wages received after the individual's last month of work under a TANF-PLS JOBS Plus agreement are counted.¶¶

(b) In the TANF program:¶¶

(A) JOBS Plus income earned by an NCP-PLS (see OAR 461-101-0010) client is counted in determining initial TANF eligibility.¶¶

(B) When determining the need for a TANF supplement for a TANF-PLS client, the income is treated as follows:¶¶

(i) It is excluded in determining the countable income limit and in calculating the benefit equivalency standards.¶¶

(ii) It is counted in calculating the wage supplement.¶¶

(C) JOBS Plus wages received after the individual's last month of work under a JOBS Plus agreement are counted.¶¶

(c) In the OSIPM and QMB programs, JOBS Plus wages received after the individual's last month of work under a TANF-PLS JOBS Plus agreement are counted.¶¶

(d) In all programs not covered under subsections (a) to (c) of this section, TANF-PLS income is counted as earned income.¶¶

(e) In all programs other than the TANF program, NCP-PLS income is counted as earned income.¶¶

(f) In all programs, wages received under the Tribal TANF JOBS programs are counted as earned income.¶¶

(3) Welfare-to-Work work experience income is treated as follows:¶¶

(a) In the REF, REFM, and TANF programs, the income is earned income, and the first \$260 is excluded each month.¶¶

(b) In the SNAP program, the income is earned income.¶¶

(4) In the ERDC program, earned income of a child (see OAR 461-001-0000) is excluded.¶¶

(5) In the OSIP, OSIPM, and QMB programs, documented net losses from a self-employment business (see OAR 461-150-0095) are excluded from any other source of earned income of the financial group (see OAR 461-110-0530). This does not include dividends or profits (see OAR 461-145-0089).¶¶

(6) In the REF and REFM programs:¶¶

(a) Income remaining after the month of receipt is a resource.¶¶

(b) Earned in-kind income is excluded (see OAR 461-145-0280 and 461-145-0470).¶¶

(7) In the TANF program:¶¶

(a) Earned income of the following children is excluded:¶¶

(A) Dependent children under the age of 19 years, and minor parents under the age of 18 years, who are full-time

students in grade 12 or below (or the equivalent level of vocational training, in GED courses), or in home schooling approved by the local school district.¶

(B) Dependent children under the age of 18 years who are attending school part-time (as defined by the institution) and are not employed full-time.¶

(C) Dependent children too young to be in school.¶

(b) Income remaining after the month of receipt is a resource.¶

(c) Earned in-kind income is excluded (see OAR 461-145-0280 and 461-145-0470).¶

(8) In the SNAP program:¶

(a) If a cafeteria plan (see OAR 461-001-0000) benefit that the employee may not elect to receive as a cash payment is designated and used to pay for child care, medical care, or health insurance, the benefit is excluded unless it is reimbursed by the Department. If reimbursed, the Department counts it as earned income.¶

(b) The following types of income are excluded:¶

(A) The earned income of an individual under the age of 18 years who is under the parental control of another member of the household and is:¶

(i) Attending elementary or high school;¶

(ii) Attending GED classes recognized by the local school district;¶

(iii) Completing home-school elementary or high school classes recognized by the local school district; or¶

(iv) Too young to attend elementary school.¶

(B) Earned in-kind income, except as provided in section (9) of this rule.¶

(C) Deductions from base pay for future educational costs under Pub. L. No. 99-576, 100 Stat. 3248 (1986), for an individual on active military duty.¶

(D) Income remaining after the month of receipt is a resource.¶

(9) In the SNAP program, earned in-kind income (see OAR 461-145-0280) is excluded unless it is one of the following:¶

(a) An expenditure by a business entity that benefits a principal (see OAR 461-145-0088).¶

(b) A credit card company gift card, such as Mastercard or Visa, which is received regularly and can be reasonably anticipated. This does not include specific gift cards, such as those from a retailer or restaurant.¶

(10) In all programs except in the OSIPM program, for an individual in a nonstandard living arrangement (see OAR 461-001-0000), the income of a temporary employee of the U.S. Census Bureau employed to assist in taking the census is excluded.

Statutory/Other Authority: ORS ~~329A.500~~, 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, ~~413.085~~, 414.685

Statutes/Other Implemented: ORS ~~409.01~~ ~~329A.500~~, 409.05~~10~~, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 413.085, 414.685, 414.839

AMEND: 461-145-0145

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-145-0145 about educational accounts is being amended to define educational expenses, clarifying how the rule applies to APD medical programs. This rule is also being amended to set out Department policy for QMB programs as to distributions of Coverdell Accounts, and to narrow the Coverdell exclusion in the OSIP, OSIPM, and QMB-DW programs, making the rule internally consistent.

CHANGES TO RULE:

461-145-0145

Educational Account ¶¶

(1) The Individual Education Account (IEA) is an asset accrued by JOBS Plus participants. The IEA is excluded while it accumulates, while it is saved, and when it is withdrawn for educational purposes.¶¶

(2) For purposes of this rule, "educational expenses" are tuition, fees, and other necessary expenses for education at any educational institution. Examples of other necessary expenses for education include books, laboratory fees, student activity fees, transportation, stationary supplies, technology fees, and impairment-related expenses necessary to attend school or perform schoolwork (such as special prosthetic devices necessary to operate school machines or equipment). "Educational expenses" do not include the cost of shelter.¶¶

(3) In the OSIP and OSIPM, and QMB-DW programs:¶¶

(a) Funds in a Qualified Tuition Programs under Section 529 of the Internal Revenue Code are treated as follows:¶¶

(A) They are a countable (see OAR 461-001-0000) resource to the individual who owns the account.¶¶

(B) They are excluded as a resource for the beneficiary, unless the beneficiary is also the owner.¶¶

(b) Funds in a Coverdell Education Savings Accounts are treated as follows:¶¶

(A) They are excluded as a resource to the designated beneficiary.¶¶

(B) If the contributor is not a designated beneficiary, funds deposited into the account are no longer the resource of the contributor beginning with the month after the month the cash is transferred. The transfer may be considered a disqualifying transfer of resources by the contributor under OAR 461-140-0210 and 461-140-0220.¶¶

(c) Distributions from a Coverdell Education Savings Account to a designated beneficiary are treated as follows:¶¶

(A) ~~They~~ Educational expenses (see section (2) of this rule) are excluded as income in the month of receipt.¶¶

(B) If the excluded distribution is retained into the month following the month of receipt, it is excluded as a resource for nine months beginning with the month after the month of receipt.¶¶

(C) If the beneficiary spends any portion of a distribution for a purpose other than the educational expenses of the beneficiary, or no longer intends to use the funds for the educational expenses of the beneficiary, the non-education portion of the funds is countable as unearned income at the earlier of the following:¶¶

(i) The month the funds are spent.¶¶

(ii) The month the beneficiary no longer intends to use the funds for educational expenses.¶¶

(D) If a countable distribution is retained into the month following the month of receipt, it is a countable resource of the designated beneficiary.¶¶

~~(d) Other funds or gifts See OAR 461-145-0150 for information on other types of educational income.~~¶¶

(d) Gifts that are set aside to pay educational expenses are treated in accordance with subsection (c) of this section, except that the exclusion does not apply to any portion set aside or actually used for food or shelter. See OAR 461-145-0150 for information on other types of educational income.¶¶

(34) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, distributions from a Coverdell Education Savings Account to a designated beneficiary are treated as follows:¶¶

(a) If the beneficiary spends any portion of a distribution for a purpose other than the educational expenses of the beneficiary, or no longer intends to use the funds for the educational expenses of the beneficiary, the non-education portion of the distribution is countable as unearned income at the earlier of the following:¶¶

(A) The month the funds are spent.¶

(B) The month the beneficiary no longer intends to use the funds for educational expenses.¶

(b) All other distributions are excluded as income.¶

(5) In the SNAP program, the value of funds in a qualified tuition program under section 529 of the Internal Revenue Code or in a Coverdell education savings account is excluded.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.404, ~~411.706~~, 411.816, 413.085, 414.025, 414.685

Statutes/Other Implemented: ORS ~~411.060~~ 329A.500, 409.010, 411.060, 411.404, 411.816, 413.085, 414.025, 414.685

AMEND: 461-145-0150

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-145-0150 about educational income is being amended to add a cross-reference to the educational accounts rule with respect to gifts used for educational purposes, clarifying the rules.

CHANGES TO RULE:

461-145-0150

Educational Income ¶

(1) Educational income is income designated specifically for educational expenses. To be considered educational income, the income must be received by one of the following:¶

(a) A student at a recognized institution of post-secondary education. Post-secondary education is education offered primarily to individuals 18 years of age or older. Admission may - but does not necessarily - require a high school diploma or equivalent.¶

(b) A student at a school for individuals with disabilities.¶

(c) A student in a vocational education program.¶

(d) A student in a program that provides for completion of requirements for a secondary school diploma or the equivalent.¶

(2) To determine the amount of educational income to exclude, education expenses listed in the financial aid award letter are used unless one of the following is true:¶

(a) The student provides verification of amounts different from those listed in the award letter, in which case the verified amounts from the student are used.¶

(b) The student receives child care benefits - ERDC or other child care subsidies. The amount the student actually pays for child care (including the ERDC copay) is excluded as educational income instead of the amount shown in the award letter.¶

(c) The student states that actual transportation costs exceed the amount allowed for the expense in the award letter. In that situation, the number of miles to and from school is multiplied by \$0.20. The product or the amount from the award letter, whichever is greater, is excluded.¶

(3) The following items are excluded:¶

(a) Educational income authorized by the Carl D. Perkins Vocational and Applied Technology Education Act or Title IV of the Higher Education Act or made available by the Bureau of Indian Affairs (BIA).¶

(b) All income from educational loans.¶

(c) In the OSIP, OSIPM, and QMB programs, the augmented portion of a shelter stipend from the Department of Veterans Affairs designated for the individual's dependent.¶

(4) Except as provided in section (5) of this rule, the cost of the following items from remaining educational funds (including non Title IV work study, externship (see OAR 461-001-0015), graduate assistantship (see OAR 461-001-0015), graduate fellowship (see OAR 461-001-0015) wages, and internship (see OAR 461-001-0015)) is excluded:¶

(a) Tuition, mandatory fees, books and supplies, transportation, required rental or purchase of equipment or materials charged to students enrolled in a specific curriculum, other miscellaneous personal expenses (except room and board), and loan originator fees and insurance premiums required to obtain an educational loan.¶

(b) In all programs except ERDC - dependent care.¶

(5) For a participant in the Parents as Scholars (PAS) component of the JOBS program who has been approved for PAS pursuant to OAR 461-190-0199, all remaining educational funds, including those funds intended for room and board, are excluded.¶

(6) In all programs covered by chapter 461 of the Oregon Administrative Rules, after allowing exclusions, the remaining income is treated as follows:¶

(a) Income received through work study (including work study provided through a VA program or other

educational program), fellowships and teaching-assistant positions not excluded by section (3) or (4) of this rule is earned income.¶¶

(b) Educational income not covered by subsection (a) of this section is prorated over the period it is intended to cover. If the client has already received the income, the prorated amount is counted monthly beginning with the first month of the period. If the client has not received the income at the time the determination is made, the prorated income is counted starting in the month the client expects to receive it.¶¶

(7) Educational awards paid under the National and Community Service Trust Act of 1993 (including AmeriCorps) are treated in accordance with OAR 461-145-0365.¶¶

(8) In the OSIP, OSIPM, and QMB programs, distributions from a Coverdell Education Savings account and gifts used for education purposes are treated in accordance with OAR 461-145-0145.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.0510, 411.060, 411.083, 411.404, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.706, 411.816, 411.825, 412.014, 412.049, 413.085, 414.685

AMEND: 461-145-0210

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-145-0210 about the treatment of gifts and winning for determining eligibility is being amended to state when credit cards and gift cards are considered income and resources, aligning all programs with federal guidance for the SNAP program. This rule is also being amended to state that gifts intended for educational purposes are covered by the educational accounts, clarifying the rules.

CHANGES TO RULE:

461-145-0210

Gifts and Winnings ¶¶

(1) For the purposes of this rule:¶¶

(a) "Gifts" are items given to or received by an individual on or for a special occasion, such as a holiday, birthday, graduation, or wedding. "Gifts" are not given or received on a regular basis.¶¶

(b) "Winnings" are prizes given to an individual in a contest, game of chance, or similar event. "Winnings" in the form of money may be distributed periodically (e.g., such as monthly) or in a lump-sum.¶¶

(2) In the ERDC program, gifts and winnings are excluded.¶¶

~~(3) In all programs except the ERDC program (see section (1) of this rule) and winnings (see section (1) of this rule) are excluded.¶¶~~

(3) In all programs except the ERDC program and except as provided otherwise in sections (4) and (5) of this rule:¶¶

(a) In-kind gifts and winnings are treated according to the rule applicable to the specific type of asset. In the OSIP, OSIPM, and QMB programs, if an individual is offered a choice between an in-kind item and cash, the cash amount is considered unearned income, even if the individual chooses the in-kind item and regardless of the value, if any, of the in-kind item.¶¶

(b) Gifts and winnings in the form of money or credit card company gift cards are treated as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120). In the OSIP, OSIPM, and QMB programs, gambling losses are not subtracted from gambling winnings in determining the individual's countable (see OAR 461-001-0000) income.¶¶

~~(c) The value of a gift card or certificate is considered income in the month it is received if the gift card or certificate can be used to purchase food or shelter or can be resold. There is a rebuttable presumption that the gift card or certificate can be resold.¶¶~~

~~(4) For employment- Establishment-specific gift cards are excluded as income and not considered a resource.¶¶~~

(4) For employment-related items, see OAR 461-145-0130.¶¶

(5) In the OSIP, OSIPM, and QMB programs, monetary gifts given for educational purposes are related items, see n accordance with OAR 461-145-013045.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Statutes/Other Implemented: ~~411.700, 411.706~~ ORS 329A.500, 409.010, 411.816~~060~~, 412~~1.014~~70, 412~~.1.404~~9, 413.085, 414.685, ORS 329A.500, 409.010~~1.700~~, 411.706, 411.060~~816~~, 411~~2.070~~14, 411~~.42~~049

AMEND: 461-145-0280

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-145-0280 about the treatment of in-kind income in determining eligibility is being amended to state when in-kind income in the form of gift cards is counted and excluded in the SNAP program, consistent with federal guidance. This rule is also being amended to exclude in-kind income for purposes of calculating the housing assistance payment in the GA program, making this rule consistent with other rules.

CHANGES TO RULE:

461-145-0280

In-Kind Income ¶¶

(1) This rule does not apply to shelter-in-kind (see OAR 461-001-0000) income, ~~(see OAR 461-145-0470).~~¶¶
~~(2) for how shelter-in-kind income is treated.~~¶¶

(2) In the GA program, for the purposes of determining the housing assistance payment (see OAR 461-160-0500), in-kind income (see OAR 461-001-0000) is excluded.¶¶

(3) In all programs except the REF, REFM, and TANF programs, in-kind income (see OAR 461-001-0000) that is earned is treated according to the administrative rules on earned income (such as OAR 461-145-0130).¶¶

~~(34)~~ In all programs except the REF, REFM, and TANF programs, in-kind income that is unearned (except third-party payments) is treated as follows:¶¶

(a) Income from court-ordered community service work or bartering is excluded. Bartering is the exchange of goods of equal value.¶¶

(b) Items such as cars and furniture are treated according to the administrative rule for the specific type of asset.¶¶

(45) In the REF, REFM, and TANF programs, in-kind income (except unearned third-party payments) is excluded.¶¶

(56) In the SNAP program, except for in-kind income is excluded unless it is one of the following:¶¶

(a) Child support payments (see OAR 461-145-0080) and a.¶¶

(b) An expenditure by a business entity that benefits a principal (see OAR 461-145-0088), in-kind income is excluded.¶¶

(c) A credit card company gift card, such as Mastercard or Visa, which is received regularly and can be reasonably anticipated. This does not include establishment-specific gift cards, such as those from a restaurant or retailer.¶¶

~~(67)~~ Unearned third-party payments are treated as follows:¶¶

(a) Payments made to a third party that should legally be paid directly to a member of the financial group (see OAR 461-110-0530) are counted as unearned income.¶¶

(b) Payments made to a third party that the payee is not legally obligated to pay directly to a member of the financial group and that the financial group does not have the option of taking as cash, and payments made by the noncustodial parent to a third party that are court-ordered are treated as follows:¶¶

(A) In the SNAP program, these third-party payments are excluded unless they are transitional housing payments for the homeless.¶¶

(B) In the REF, REFM, and TANF programs, except for payments designated as child support (see OAR 461-145-0080), these third-party payments are excluded.¶¶

(C) In all programs except the REF, REFM, SNAP, and TANF programs, these third-party payments are excluded.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, ~~ORS 329A.50014, 412.049,~~ 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.816, 412.049, ~~ORS 329A.50014, 412.049~~

AMEND: 461-145-0380

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-145-0380 about pension and retirement plans is being amended to remove references to the pursuit of assets rule because the references no longer apply with the amendment of the pursuit of assets rule.

CHANGES TO RULE:

461-145-0380

Pension and Retirement Plans ¶¶

(1) Pension and retirement plans include the following:¶¶

(a) Benefits employees receive only when they retire. These benefits can be disbursed in lump-sum or monthly payments.¶¶

(b) Benefits that employees are allowed to withdraw when they leave a job before retirement.¶¶

(c) The following retirement plans authorized by section 401 of the Internal Revenue Code of 1986:¶¶

(A) Traditional Defined-Benefit Plan.¶¶

(B) Cash Balance Plan.¶¶

(C) Employee Stock Ownership Plan.¶¶

(D) Keogh Plan.¶¶

(E) Money Purchase Pension Plan.¶¶

(F) Profit-Sharing Plan.¶¶

(G) Simple 401(k).¶¶

(H) 401(k).¶¶

(d) Retirement plans authorized by section 403 of the Internal Revenue Code of 1986 at subsections (a) or (b).¶¶

(e) The following retirement plans and annuities authorized by section 408 of the Internal Revenue Code of 1986 at subsections (a), (b), (c), (k), (p), or (q), or at section 408A:¶¶

(A) Individual Retirement Annuity.¶¶

(B) Individual Retirement Account (IRA).¶¶

(C) Deemed Individual Retirement Account or Annuity under a qualified employer plan.¶¶

(D) Accounts established by employers and certain associations of employees.¶¶

(E) Simplified Employee Pension (SEP).¶¶

(F) Simple Individual Retirement Account (Simple-IRA).¶¶

(G) Roth IRA.¶¶

(f) The following retirement plans offered by governments, nonprofit organizations, or unions:¶¶

(A) 457(b) Plan.¶¶

(B) 501(c)(18) Plan.¶¶

(C) Federal Thrift Savings Plan under 5 USC 8439.¶¶

(g) In all programs except the OSIP, OSIPM, and QMB programs, an annuity purchased by an individual with funds from a plan authorized under subsection (c), (d), or (f) of this section.¶¶

(2) An annuitized retirement plan described in subsection (1)(e) of this rule, purchased by the spouse (see OAR 461-001-0000), is not considered a retirement plan and is treated in accordance with OAR 461-145-0020 and OAR 461-145-0022.¶¶

(3) Except as provided in subsection (c) of this section, benefits an individual receives from pension and retirement plans are treated as follows:¶¶

(a) Monthly payments are counted as unearned income.¶¶

(b) All payments not covered by subsection (a) of this section are counted as periodic income (see OAR 461-001-0000 and 461-140-0110) or lump-sum income (see OAR 461-001-0000 and 461-140-0120).¶¶

(c) In the OSIP, OSIPM, and QMB-DW programs, if the equity value (see OAR 461-001-0000) of the pension or retirement plan is counted as a resource under section (4) of this rule, any payments received are considered the

conversion of a resource and are not counted as income.¶

(4) In the OSIP, OSIPM, and QMB-DW programs:¶

(a) Except for an annuity purchased with funds from a retirement plan described in subsection (1)(e) of this rule:¶

(A) The equity value of a pension or retirement plan is excluded as a resource if the individual is eligible for monthly or periodic payments under the terms of the plan and has applied for those payments ~~in accordance with OAR 461-120-0330~~. When an individual is permitted to choose or change a payment option, the individual must select the option that:¶

(i) Provides payments commencing on the earliest possible date; and¶

(ii) Completes payments ~~within~~ over the actuarial life expectancy, as published in the Periodic Life Table of the Office of the Chief Actuary of the Social Security Administration, of the individual.¶

(B) ~~Except when OAR 461-120-0330 has resulted in ineligibility, t~~The equity value of all pension and retirement plans not covered by paragraph (A) of this subsection that allows an individual to withdraw funds, minus any penalty for withdrawal, is counted as a resource.¶

(b) The equity value of an annuitized retirement plan described in subsection (1)(e) of this rule is excluded as a resource if it meets the payout requirements of OAR 461-145-0022(10)(c). Otherwise, the equity value is counted as a resource.¶

(c) For an individual in a standard living arrangement (see OAR 461-001-0000), the equity value of pension and retirement plans owned by a non-applying spouse or parent (see OAR 461-001-0000) is excluded as a resource. Dividends and interest earned on pension funds owned by a non-applying spouse or parent are excluded as income.¶

(5) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, dividends and interest earned on pension funds owned by a non-applying spouse are excluded as income.¶

(6) In the SNAP program, the value of retirement accounts identified in sections 401(a), 401(k), 403(a), 403(b), 408, 408(k), 408(p), 408A, 457(b), 501(c)(18), or 529A of the Internal Revenue Code are excluded as resources. The value of retirement accounts designated as a Federal Thrift Savings Plan account, IRA, myRA, Roth IRA, SEP, Simple IRA, and any other retirement plan designated as tax-exempt under a successor or similar provision of the Internal Revenue Code of 1986 are excluded resources.¶

(7) In all programs except the OSIP, OSIPM, QMB, and SNAP programs, the equity value of a pension and retirement plan that allows an individual to withdraw funds before retirement, minus any penalty for early withdrawal, is counted as a resource.

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

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

AMEND: 461-145-0470

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-145-0470 about shelter in-kind income is being amended to clarify third-party payments that are unearned are excluded in the OSIP, OSIPM, and QMB programs. This rule is also being amended to add the condition to the exclusion of certain earned shelter-in-kind income that living on the employer's premises be a reasonable expectation of the job, and clarify that earned third party payments made for shelter expenses are also counted as earned income. These changes support the Integrated Eligibility system and more completely set out Department policy on third-party payments.

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.¶

(d) 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.¶

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

(A) Unearned shelter-in-kind, including payments made to a third party for shelter expenses of the financial group (see OAR 461-110-0530), 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 businon the employer's business premises, living at that location is a reasonable expectation of the job duties, 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 excluded.¶

(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 or the amount of any payment made to a third party for shelter expenses of the financial group is counted as earned income.~~¶

(2) In all programs except the OSIP, OSIPM, and QMB programs, 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 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

ADOPT: 461-145-0583

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-145-0583 is being adopted to set out Department policy on how virtual currency or cryptocurrency will be treated for purposes of determining eligibility in APD medical and self-sufficiency programs, including the definitions for key terms. This rule will improve consistency in the treatment of virtual currency or cryptocurrency.

CHANGES TO RULE:

461-145-0583

Virtual Currency or Cryptocurrency

(1) As used in this rule:

(a) "Cryptocurrency" is a type of currency available in virtual or digital form that functions as a medium of exchange with no central banking or regulating authority.

(b) "Day trading" is the buying and selling of cryptocurrency within the virtual market. The cryptocurrency market continuously runs because it is a worldwide market.

(c) "Mining" is a way to receive cryptocurrency (see subsection (a) of this section) through solving a series of mathematical problems. "Mining" requires a computer, an external hardware setup, and a special computer software program. To receive cryptocurrency through "mining", multiple people worldwide are attempting to solve a series of complicated mathematical problems via the "mining" software, and each receipt of cryptocurrency could require millions or billions of guesses at mathematical problems. The person to solve the final mathematical problem is the one to receive the cryptocurrency.

(d) "Wallet" is a way to store records of cryptocurrency transactions. Each cryptocurrency is assigned a public address, and when stored in a "wallet" the cryptocurrency is assigned a private key for protection. The cryptocurrency public address and private key are stored on a computer, mobile device, internal or external computer hardware, or a piece of paper and protected by private keys.

(2) In all programs, cryptocurrency is treated as follows:

(a) Cryptocurrency received as a payment from an employer is considered earned income (see OAR 461-145-0130).

(b) Cryptocurrency received in exchange for services or products provided may be either considered income from self-employment if the individual meets the self-employed criteria in OAR 461-145-0910(2) or OAR 461-145-0915, or considered earned income.

(c) Cryptocurrency received as a gift is treated in the same manner as a gift in the form of money (see OAR 461-145-0210).

(d) Cryptocurrency received through mining (see section (1) of this rule) is considered unearned income.

(e) Cryptocurrency received through an online casino is considered winnings (see OAR 461-145-0210).

(f) In all programs except the QMB-BAS, QMB-SMB, and QMB-SMF programs, the day trading (see section (1) of this rule) value of cryptocurrency is counted as a resource.

(A) After the month of receipt, cryptocurrency stored in a wallet (see section (1) of this rule) is counted as a resource.

(B) Cryptocurrency stored in a wallet can be converted to liquid assets and follows the availability of resources rule (see OAR 461-140-0020).

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

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

AMEND: 461-145-0820

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-145-0820 about deemed assets from the sponsor of a noncitizen is being amended to remove the deeming requirement for sponsored noncitizens for the OSIP, OSIPM, and QMB programs, clarifying the rules applicable to these programs.

CHANGES TO RULE:

461-145-0820

Deemed Assets; Noncitizens Sponsor ¶¶

(1) An individual or organization may sponsor the admission of a noncitizen under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154).¶¶

(2) An affidavit of support (USCIS Form I-864) is the agreement between the sponsor and the United States Citizenship and Immigration Services in which the sponsor agrees to provide financial support for the noncitizen so that the noncitizen will not become a public charge.¶¶

(3) In all programs except the ERDC, OSIP, OSIPM, QMB, REF, and REFM programs, the countable assets of an individual sponsor and the spouse of the sponsor are considered countable assets of the noncitizen as provided in this section and OAR 461-145-0810 to 461-145-0860. The sponsor's assets are considered available to the noncitizen whether or not the sponsor lives in the same household as the noncitizen. The assets of the sponsor's spouse are considered available only when the spouse lives in the sponsor's household.¶¶

(4) OAR 461-145-0830 sets out situations in which the assets of the sponsor and the spouse of the sponsor are not counted, as well as how the income deemed available to the noncitizen is calculated.¶¶

(5) The value of the resources deemed available to each noncitizen is determined as follows:¶¶

(a) In all programs except the ~~OSIPM~~ and SNAP programs, the total value of the countable resources is deemed to each sponsored noncitizen according to the rules of the program for which the noncitizen applies.¶¶

~~(b) In the OSIPM program, an amount equal to the OSIPM (not OSIPM-EPD) program resource standard is deducted from the total amount of resources deemed to the noncitizen (see OAR 461-160-0015). If the sponsor lives with a spouse, the two-person standard is deducted.¶¶~~

~~(c) In the SNAP program only, \$1,500 is deducted from the value. The remaining value is divided by the number of noncitizens sponsored by the individual or couple. The result is the value of the resources deemed available to the noncitizen.~~

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.083, 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.083, 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 8 USC 1183a

AMEND: 461-145-0830

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-145-0830 about how and when to deem assets from the sponsor of a noncitizen is being amended to remove the deeming requirement for sponsored noncitizens for the OSIP, OSIPM, and QMB programs, clarifying the rules applicable to these programs.

CHANGES TO RULE:

461-145-0830

When to Deem the Assets of a Sponsor of a Noncitizen and How Income is Deemed

(1) In the ERDC, OSIP, OSIPM, QMB, REF, and REFM programs, the assets of a sponsor and of a sponsor's spouse are not deemed to the sponsored noncitizen.

(2) In all programs except the ERDC, OSIP, OSIPM, QMB, REF, and REFM programs, the assets of a sponsor and the spouse of the sponsor are considered the assets of the sponsored noncitizen unless at least one of the following subsections applies:

(a) The sponsor has not signed a legally binding affidavit of support, for instance USCIS Form I-864 or I-864A;

(b) The sponsor receives SNAP, SSI, or TANF benefits;

(c) The sponsor is deceased. The estate of a deceased sponsor is not responsible for the noncitizen;

(d) The sponsored noncitizen establishes indigence. A sponsored noncitizen establishes indigence if the total income of the household including in-kind income plus any cash, food, housing, or other assistance provided by other individuals including the sponsor is:

(A) In the TANF program, under the countable (see OAR 461-001-0000) income standard;

(B) In the SNAP program, under 130 percent of the federal poverty level;

(C) In all programs except the SNAP and TANF programs, not enough for the noncitizen to obtain food and shelter without program benefits;

(i) If the noncitizen is living with the sponsor, the indigence exception may not apply and deeming does apply;

(ii) If the noncitizen is living apart from the sponsor, the indigence exception applies if the noncitizen meets all of the following requirements:

(I) The total income (of all kinds and from all sources, even excluded income) the noncitizen receives is less than the OSIPM standard for a one-person need group;

(II) The noncitizen does not receive free room and board; and

(III) The resources (even excluded resources) available to the noncitizen are under the applicable resource limit;

(D) Each indigence determination under this subsection is effective for 12 months and may be renewed for additional 12-month periods;

(e) The sponsored noncitizen is a battered immigrant spouse, battered immigrant child, immigrant parent of a battered child or an immigrant child of a battered parent, as long as the battered noncitizen does not live in the same household as the person responsible for the battery;

(f) The sponsored noncitizen does not meet the alien status requirement for the program for which he or she applies;

(g) The sponsored noncitizen becomes a naturalized citizen;

(h) The sponsored noncitizen can be credited with 40 qualifying quarters of work; or

(i) The sponsored noncitizen is under 18 years of age.

~~(3) In the OSIPM program, the deeming period is three years after the date of admission, which is the date the U.S. Bureau of Citizenship and Immigration Services establishes as the date the noncitizen was admitted for permanent residence. Deeming ends on the last day of the month that is three years after the date of admission.~~

(4) In all programs except the ERDC, OSIPM, OSIPM, QMB, REF, REFM, and SNAP programs, the following process is used to determine the amount of income considered available to the noncitizen from the noncitizen's sponsor and the spouse of the sponsor. The unearned income of the sponsor and the sponsor's spouse is added to

their countable earned income (see OAR 461-140-0010) minus earned income deductions.¶

~~(5) In the OSIPM program:¶~~

~~(a) The income of the sponsor or the sponsor's spouse is not counted if any one of the following provisions applies:¶~~

~~(A) The individual is a refugee admitted to the United States under section 207 of the Immigration and Nationality Act (INA) (8 USC 1157);¶~~

~~(B) The individual has been granted asylum under section 208 of the INA (8 USC 1158); or¶~~

~~(C) The individual has become blind or disabled after admission to the United States.¶~~

~~(b) An amount equal to the OSIPM (not OSIPM-EPD) program income standard is deducted from the total amount of income deemed to the noncitizen (see OAR 461-160-0015). If the sponsor lives with a spouse, the two-person standard is deducted.¶~~

~~(64) In the SNAP program, each sponsored noncitizen is considered to have the income calculated according to section (4) of this rule divided by the number of the sponsor's:¶~~

~~(a) Current sponsored noncitizens;¶~~

~~(b) Household members who receive support from the sponsor; and¶~~

~~(c) Dependents.~~

Statutory/Other Authority: ~~ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.816, 4123.04985, 414.025, 414.685, ORS 329A.500, 409.050~~

Statutes/Other Implemented: ~~ORS 411.060, 411.070, 411.083, 409.010, 411.404, 411.704, 411.816, 412.049, 414.025, 8 USC 1183a, ORS 329A.500, 409.010~~

AMEND: 461-155-0010

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-155-0010 about use of payment standards to establish need is being amended to revise its treatment of the GA program and of residing in a 24-hour mental health residential care setting. This amendment is part of a larger group of rule changes to align Department policy for these individuals with federal requirements.

CHANGES TO RULE:

461-155-0010

Use of Payment Standards to Establish Need ¶¶

(1) "Need" is the amount at the Department's payment standards that represents the client's need for items covered by the benefit.¶¶

(2) "Special needs" are costs in addition to standard allowances.¶¶

(3) ~~In the GA program, ongoing special needs are used to determine benefit amount as specified in OAR 461-160-0500.¶¶~~

(4) In the OSIP and OSIPM programs:¶¶

(a) ~~The, special need described in OAR 461-155-0630(2) is used to determine initial and ongoing eligibility.¶¶~~

(b) ~~Except for individuals whose eligibility is determined based on the special need described in OAR 461-155-0630(2), special needs~~ (see section (2) of this rule) are used when determining the benefit amount or the client liability.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 4142.0142, ~~418.1002.049~~, 413.085, 414.685

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.816, 4142.0142, ~~418.1002.049~~

AMEND: 461-155-0250

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-155-0250 about the income and payment standard in the OSIPM program is being amended to set out the adjusted income standard for individuals residing in a 24-hour mental health residential care setting. This amendment is part of a larger group of rule changes to align Department policy for these individuals with federal requirements.

CHANGES TO RULE:

461-155-0250

Income and Payment Standard; OSIPM ¶

In the OSIPM program:¶

- (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 (see OAR 461-001-0000) below the standard in this section. [see attached table]¶
- (4) In the OSIPM (except OSIPM-EPD) program, an individual in a nursing facility or an ICF-~~MRID~~ 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.¶
- (6) For an individual who meets the requirements of OAR 461-135-0755, who is not assumed eligible, and does not meet the income standards set out in sections (3) or (5) or this rule, the adjusted income limit is 150 percent of the federal poverty level for a family of one.

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

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

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

In the OSIPM program:

- (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* (see OAR 461-001-0000) 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.
- (6) For an individual who meets the requirements of OAR 461-135-0755, who is not assumed eligible, and does not meet the income standards set out in sections (3) or (5) of this rule, the *adjusted income* limit is 150 percent of the federal poverty level for a family of one.

461-155-0250

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

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.704, 411.706

AMEND: 461-155-0500

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-155-0500 about special needs is being amended to remove its references to obsolete payments (home adaptations and restaurant meals) and refer to other payments correctly (supplemental communication allowance instead of telephone allowance). These amendments make this rule consistent with other rules.

CHANGES TO RULE:

461-155-0500

Special Needs; Overview ¶

(1) Ongoing special needs are needs that last several months at a consistent cost. Examples are special diets and accommodation allowances. OAR 461-155-0010 is used to determine how special needs are considered for each program.¶

(2) To be eligible for a special need item, a client may not have any other available resources in the community or natural support system to meet the need, excluding resources used in determining eligibility.¶

(3) To be eligible for a special need item, a client may not be eligible for the item through Medicare, Medicaid, or any other medical coverage.¶

(4) A client may be eligible for an ongoing special need item if providing the ongoing special need item is authorized in lieu of additional provider service hours pursuant to OAR 411-030-0002 to 411-030-0090 and is more cost-effective.¶

(5) The Department may authorize payment for one-time and ongoing special needs for the following, in accordance with OAR 461-155-0510 to 461-155-0710:¶

(a) One-time needs for the following:¶

(A) Community based facility room and board (see OAR 461-155-0630).¶

(B) Community transition services (see OAR 461-155-0526).¶

(C) Diversion and transition services (see OAR 461-155-0710).¶

~~(D) Home adaptations to accommodate a client's physical condition (see OAR 461-155-0551).¶~~

~~(E) Home repairs (see OAR 461-155-0600).¶~~

~~(FE) Moving costs (see OAR 461-155-0610).¶~~

~~(GE) Property taxes (see OAR 461-155-0620).¶~~

(b) Ongoing needs for the following:¶

(A) Accommodation allowances (see OAR 461-155-0660).¶

(B) Food for guide dogs and special assistance animals (see OAR 461-155-0530).¶

(C) In-home supplement (see OAR 461-155-0575).¶

(D) Laundry allowances (see OAR 461-155-0580).¶

(E) Personal incidentals and room and board allowance (see OAR 461-155-0700).¶

~~(F) Restaurant meals (see OAR 461-155-0640).¶~~

~~(G) Special diet allowances (see OAR 461-155-0670).¶~~

~~(HG) Telephone a~~Supplemental Communication Allowances (see OAR 461-155-0680).¶

~~(H) Prescription drug co-pay coverage (see OAR 461-155-0688).~~

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

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

AMEND: 461-155-0630

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-155-0630 about community-based care as a special need in the OSIPM program is being amended to remove its separate coverage of individuals residing in a 24-hour mental health residential care setting. This amendment is part of a larger group of rule changes to align Department policy for these individuals with federal requirements.

CHANGES TO RULE:

461-155-0630

Special Need; Community Based Care; OSIPM ¶

In the OSIPM program:¶

(1) A client is considered living in a community based care facility (see OAR 461-001-0000) if the client resides at one of the following care settings licensed by the Department:¶

(a) Adult Foster Home.¶

(b) Residential Care Facility.¶

(c) Assisted Living Facility.¶

(d) Specialized Living Facility.¶

(e) Group Care Home.¶

~~(2) In determining eligibility for OSIPM for an individual receiving care in a 24-hour mental health residential care setting, such as an adult foster home, residential treatment home, residential treatment facility, or a secure treatment facility, the special need (see OAR 461-155-0010) is the amount of the service payment authorized by the Department and is added to the OSIP maintenance standard.¶~~

~~(3) If a client who meets the applicable income requirements begins living in a community based care facility:¶~~

~~(a) Payment for room and board may be authorized during the month of admission at the initial placement, limited to the approved rate.¶~~

~~(b) Room and board payments may be paid to the community based care facility during the temporary absence of a client if all of the following criteria are met:¶~~

~~(A) The absence occurs because the client is admitted to a hospital or nursing home.¶~~

~~(B) The Department determines the intent of the client to return to the community based care facility.¶~~

~~(C) The community based care facility is willing to accept the room and board payment.¶~~

~~(D) The client returns within the calendar month following the month in which the absence began.¶~~

~~(4) Spouses who each receive SSI and receive services in a community based care facility are eligible for a payment in the amount that equals the difference between the OSIPM standard for a one-person need group (see OAR 461-110-0630) and the individual's total countable income. If one spouse (see OAR 461-001-0000) income. If one spouse (see OAR 461-001-0000) has income above the OSIPM standard, the excess income is applied to the other spouse's countable income of the other spouse.~~

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

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

AMEND: 461-160-0010

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-160-0010 about use of resources in determining financial eligibility is being amended to state that there is no deeming to ineligible children in the OSIP and OSIPM programs, correcting an error in the April 1, 2018 amendment to this rule.

CHANGES TO RULE:

461-160-0010

Use of Resources in Determining Financial Eligibility ¶

Countable (see OAR 461-001-0000) resources are used to determine eligibility (see OAR 461-001-0000) as follows:¶

- (1) In the EA program, the countable resources of a financial group (see OAR 461-110-0530) are used to reduce benefits.¶
- (2) In the ERDC, QMB-DW, REF, REFM, SNAP, and TANF programs, a need group (see OAR 461-110-0630) is not eligible for benefits if the financial group has countable resources above the resource limit (see OAR 461-160-0015).¶
- (3) In the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs:¶
 - (a) An individual is not eligible for benefits if the financial group has countable resources above the resource limit (see OAR 461-160-0015).¶
 - (b) The following provisions apply when a child (see OAR 461-001-0000) who is not assumed eligible (see OAR 461-135-0010) is applying:¶
 - (A) As used in the subsection, "ineligible parent" means a parent (see OAR 461-001-0000) who is not receiving SSI or TANF.¶
 - (B) As used in this section, "parental resources" means the countable resources of:¶
 - (i) Each ineligible parent (see paragraph (A) of this subsection) in the financial group of the child; and¶
 - (ii) Each spouse (see OAR 461-001-0000) of an ineligible parent in the financial group of the child.¶
 - (C) The parental resources (see paragraph (B) of this subsection) are deemed available to the child. The amount deemed available to the child is the amount the parental resources exceed the resource limit (see OAR 461-160-0015) of:¶
 - (i) A one-person need group, if one parent (see OAR 461-001-0000) lives in the household of the child; or¶
 - (ii) A two-person need group, if two parents (or one parent and the spouse (see OAR 461-001-0000) of that parent) live in the household of the child.¶
 - (D) If more than one child is applying, the value of the deemed resources is divided evenly between the applying children. If an applying child is determined to be ineligible for OSIPM for any reason including excess resources resulting from deeming, no resources are deemed to that child. Any resources deemed to an applying child determined to be ineligible for OSIPM are deemed equally to other applying children. ¶
 - (E) The parental resources are not deemed available to a non-applying child.¶
 - (F) The value of the parental resources is subject to deeming whether or not those resources are available to the child.¶
 - (4) In the OSIP-EPD and OSIPM-EPD programs:¶
 - (a) A need group is not eligible for benefits if the financial group has countable resources above the resource limit (see OAR 461-160-0015).¶
 - (b) Any money in an approved account (see OAR 461-001-0035) is excluded during the determination of eligibility.¶
 - (c) Assets purchased from moneys in an approved account are excluded, provided they meet the requirements of OAR 461-145-0025.¶
 - (d) Assets purchased as employment and independence expenses (see OAR 461-001-0035) are excluded,

provided they meet the requirements of OAR 461-145-0025.¶

(5) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all resources are excluded and have no effect on eligibility (see OAR 461-160-0015).

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.117, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685, 414.839

AMEND: 461-160-0500

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-160-0500 about use of income to determine benefits in the GA program is being amended to remove the \$85 earned income deduction when calculating adjusted income used to determine housing assistance payments, making this rule consistent with other rules.

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 ¶¶

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

(b) 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~~ \$65. ¶¶

(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. ¶¶

(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).¶¶

(b) For a married individual whose spouse is in the OSIPM household group, the amount for housing assistance is determined by subtracting the adjusted income of the couple from the two-person standard (see OAR 461-155-0210).¶¶

(c) 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 group if the couple resides together with or without the benefit of a dwelling.¶¶

(4) 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 in the OSIPM household group receive benefits according to the one-person standard (see OAR 461-155-0210).¶¶

(b) Individuals married to someone in the individual's OSIPM household group receive benefits according to the two-person standard (see OAR 461-155-0210).

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

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

AMEND: 461-160-0540

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-160-0540 about determining financial eligibility and benefits in the QMB and OSIPM programs for individuals living in the community is being amended to revise the policy for individuals residing in a 24-hour mental health residential care setting. This amendment is part of a larger group of rule changes to align Department policy for these individuals with federal requirements.

CHANGES TO RULE:

461-160-0540

Determining Income Eligibility; QMB and OSIPM (except OSIPM-EPD) Living in the Community or Residing in a 24-Hour Mental Health Residential Care Setting ¶

(1) This rule is used to determine income eligibility for the OSIPM (except OSIPM-EPD) and QMB programs for individuals who---¶

(a) Live in the community or a 24-hour mental health residential care setting;¶

(b) Do not receive SSI; and¶

(c) Do not receive home and community-based care (see OAR 461-001-0030).¶

(2) In the OSIPM program, to determine eligibility for i:¶

(a) Individuals residing in a 24-hour mental health residential care setting, such as an adult foster home, residential treatment home, residential treatment facility, or a secure treatment facility, the amount of the service payment is added to - meet the income requirements if their adjusted income standard defined in 461-155-0250. The sum of the service payment and the OSIPM program adjusted income standard must be greater than the individual's adjusted income. If the sum of the service payment and the OSIPM program standard is less than the adjusted income, the individual is not eligible (see OAR 461-001-0000) is equal to or less than the income standard specified in OAR 461-155-0250(6).¶

(3b) For all OSIPM program individuals who are covered under section (1) but not Except as provided in sub section (2a) of this rule, an section, individuals meets the income requirements if their adjusted income is less than the OSIPM program standard.¶

(43) In the QMB-BAS and QMB-DW programs, an individual meets the income requirements if their adjusted income is equal to or less than the QMB program adjusted income standard.¶

(54) In the QMB-SMB and QMB-SMF programs, an individual meets the income requirements if their adjusted income is less than the adjusted income standard.

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

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.706, ~~ORS 409.010~~ 42 CFR 435.219, 42 CFR 435.726

AMEND: 461-160-0610

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-160-0610 about client liability in the OSIPM program is being amended to align its policy for mental health residential treatment facilities with the policy for acute care settings. This amendment is part of a larger group of rule changes to align Department policy for these individuals with federal requirements.

CHANGES TO RULE:

461-160-0610

Client Liability; OSIPM (except OSIPM-EPD) ¶

(1) A client in the OSIPM (except OSIPM-EPD) program who receives long-term care (see OAR 461-001-0000) services must, in order to remain eligible, make the payment required by this rule, except as provided in sections (2) to (6) of this rule. The client must apply his or her adjusted income to the cost of the care or service. This amount is the client liability. If the client's adjusted income exceeds the cost of care or service, the client must pay the full cost of care but has no additional liability.¶

(2) A client who receives SSI, or is deemed to receive SSI under section 1619(b) of the Social Security Act (42 U.S.C. § 1382h(b)), is eligible for OSIPM program benefits without having to make a payment.¶

(3) The IC service payment of a client in the OSIPM-IC program is reduced by the amount of his or her liability.¶

(4) The following clients, if they receive the services described in section (5) of this rule, are exempt from payments required by this rule:¶

(a) A disabled adult child under OAR 461-135-0830.¶

(b) A widow or widower under OAR 461-135-0820.¶

(c) A Pickle amendment client under OAR 461-135-0780.¶

(5) A client identified in section (4) of this rule is exempt from payments required by this rule if the client receives ¶

~~(a) Home and community-based care (see OAR 461-001-0030); or~~¶

~~(b) Mental health services and lives in a mental health residential treatment facility. For purposes of this rule, only the following types of treatment centers qualify as a mental health residential treatment facility:~~¶

~~(A) A mental health adult foster home.~~¶

~~(B) A mental health residential treatment home.~~¶

~~(C) A mental health residential treatment facility.~~¶

~~(D) A mental health secure residential treatment facility.~~¶

(6) In the initial month of placement, a client may be exempt from payments required under this rule if the Department determines that the client's income has been exhausted prior to placement. If any income remains, the client must contribute to the cost of care or service.¶

(7) A client residing in an acute care hospital or mental health residential treatment facility is exempt from payments required by this rule while residing in the acute care hospital or mental health residential treatment facility. If a service benefit was received prior to admission to the acute care hospital, payment must be made for that service. For purposes of this rule, only the following types of treatment centers qualify as a mental health residential treatment facility:¶

(a) A mental health adult foster home.¶

(b) A mental health residential treatment home.¶

(c) A mental health residential treatment facility.¶

(d) A mental health secure residential treatment facility.

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

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

AMEND: 461-160-0620

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-160-0620 about income deductions and client liability for long-term care services and waived services is being amended to so its requirements about client liability no longer apply to individuals residing in state psychiatric hospitals, intermediate care facilities for intellectual disabilities, and mental health facilities. This amendment is part of a larger group of rule changes to align Department policy for these individuals with federal requirements. This rule is also being amended to update the minimum community spouse income allowance (Minimum Monthly Maintenance Needs Allowance or MMMNA) and the community spouse monthly housing allowance, which are published by the federal government each year. This amendment keeps the Department in line with current federal standards for Medicaid programs and changes to the MMMNA and community spouse monthly housing allowance under the Spousal Impoverishment laws.

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 \$61.38 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. ~~\$2,035~~57.50 is added to the amount over ~~\$609~~17.25 that is needed to pay monthly shelter expenses for the principal residence of the couple. This sum or \$3,090, 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 \$2,0357.50. To determine the income allowance of each eligible dependent:¶¶

(i) The monthly income of the eligible dependent is deducted from \$2,0357.50.¶¶

(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 (see OAR 461-155-0030) 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 (see OAR 461-001-0000).¶¶

(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 or the home and community-based care facility 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~~ the liability is the actual cost of services or the adjusted income of the individual, whichever is less. This amount must be paid to the facility, there is a liability as described at OAR 461-160-0610 each month as a condition of being eligible for nursing facility services.

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, 414.065, 414.685, 42 USC 1396r-5, 42 CFR 435.725 - 435.735

AMEND: 461-180-0020

NOTICE FILED DATE: 04/13/2018

RULE SUMMARY: OAR 461-180-0020 about the effective dates for changes in income or income deductions that cause increases is being amended to make permanent a temporary rule change (effective April 1, 2018) restoring 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. This rule is also being amended to set out the policy on this topic for the Refugee (REF) program, aligning this program with the TANF program.

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, REF, 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 OSIPM and QMB programs, the effective date for a change that is reported in an anticipated change is:¶¶

(a) The first of the month in which the change is reported, unless occurs if the change is anticipated, in which case it will be effective reported by the 10th day of the month the first of following the month the change occurs.¶¶

(b) For changes that affect liability:¶¶

(A) If reported, or:¶¶

(b) 10 days before the change was reported timely, the change is effective the month the change occurred.¶¶

(B) One-time expenses that are not reported timely will not be used.¶¶

(C) For ongoing expenses that are not reported timely, the change is effective the month it is reported, if it is reported after the 10th day of the month following the month the change occurred.

Statutory/Other Authority: ORS 409.050, 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 409.010, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049; ~~ORS 409.010~~