



PERMANENT ADMINISTRATIVE ORDER

SSP 32-2018

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

11/26/2018 3:12 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Changing rules about self-sufficiency programs

EFFECTIVE DATE: 12/01/2018

AGENCY APPROVED DATE: 11/19/2018

CONTACT: Robert Trachtenberg DHS - SSP
503-947-5290 500 Summer Street NE, E-48
robert.trachtenberg@state.or.us Salem, OR 97301

Filed By:
Robert Trachtenberg
Rules Coordinator

RULES:

461-115-0016, 461-135-0570, 461-165-0010, 461-170-0150

AMEND: 461-115-0016

NOTICE FILED DATE: 07/16/2018

RULE SUMMARY: OAR 461-115-0016 about the reservation list in the ERDC program is being amended to limit an exemption to placement on the reservation list by stating that it is the caretaker who must have had a break in child care benefits of less than two months to qualify. This amendment matches the original intent of the exemption.

CHANGES TO RULE:

461-115-0016

Application Process; Reservation List for ERDC ¶¶

Notwithstanding any other rule in OAR chapter 461, in the ERDC program:¶¶

(1) Eligibility (see OAR 461-001-0000) is subject to the availability of funds. The Department may implement a Child Care Reservation List whenever the Department determines that sufficient funding is not available to sustain benefits for all of the applicants requesting assistance.¶¶

(2) Except as provided in section (3) of this rule, the following applicants are subject to placement on the Child Care Reservation List when the Child Care Reservation List is in effect:¶¶

(a) New applicants for ERDC when no member of the ERDC filing group (see OAR 461-110-0310 and 461-110-0350) meets the requirements of one or more of the following paragraphs:¶¶

(A) Received a partial or full month of REF, SFPSS, or TANF program cash benefits from the state of Oregon in at least one of the preceding three months; and no member of the ERDC program filing group may be concurrently receiving TANF program benefits except as allowed under OAR 461-165-0030.¶¶

(B) Is eligible for and being placed in a current opening in a Head Start program contracted slot under OAR 461-135-0405 or an Early Head Start Child Care Partnership contracted slot.¶¶

(C) The caretaker (see OAR 461-001-0000) is currently working with Child Welfare as part of a CPS assessment or open case, an ongoing safety plan is in place, and Child Welfare has determined the use of child care as part of

an ongoing safety plan will:¶

(i) Prevent removal of the child (see OAR 461-001-0000) from their home;¶

(ii) Allow a child to be returned home; or¶

(iii) Allow for placement of the child with a relative or with an adult whom the child or the family of the child has an established relationship.¶

(D) Determined eligible for TA-DVS program benefits (see OAR 461-135-1200) from the state of Oregon in the current month or at least one of the preceding three months.¶

(b) ~~Individual Caretakers~~ who are reapplying for ERDC after a break in ERDC benefits of two consecutive, calendar months or more.¶

(3) Except as allowed under OAR 461-165-0030, no member of an ERDC program filing group may be concurrently receiving TANF program benefits. When concurrent benefits are not allowed, the Department sends a decision notice (see OAR 461-001-0000) of ineligibility for the ERDC program and the filing group is not placed on the Child Care Reservation List.¶

(4) When the Child Care Reservation List is in effect, the Department must place all applicants who are subject to the Child Care Reservation List under section (2) of this rule on the Child Care Reservation List for future selection. The Department sends these applicants a decision notice of ineligibility for the ERDC program.¶

(5) Each month, on the basis of an estimate of available funds, an appropriate number of individuals from the Child Care Reservation List are selected on a first-in and first-out basis and invited to apply for ERDC.¶

(6) After an individual is selected from the Child Care Reservation List, the individual must contact the Department to establish a date of request (see OAR 461-115-0030) no later than 45 days after the date on the selection letter. The individual may request child care benefits from the Department:¶

(a) Without completing a new application, when the previous application is within 45 days of its date of request; or¶

(b) By submitting a new application for child care benefits to the Department.¶

(7) The processing time frame for the ERDC application is the same as that specified in OAR 461-115-0190, except that:¶

(a) An individual who requests benefits after the 45-day deadline to apply (see section (6) of this rule) will be returned to the Child Care Reservation List.¶

(b) If the Department does not receive a request for benefits within the deadline to apply, the individual is dropped from the Child Care Reservation List.

Statutory/Other Authority: 409.050, 411.060, 411.116, ORS 329A.500

Statutes/Other Implemented: 409.010, 409.050, 409.610, 411.060, 411.116, 411.121, 411.122, 411.135, ORS 329A.500

AMEND: 461-135-0570

REPEAL: Temporary 461-135-0570 from SSP 23-2018

NOTICE FILED DATE: 07/16/2018

RULE SUMMARY: OAR 461-135-0570 about eligible and ineligible students in the SNAP program is being amended to make permanent a temporary rule effective July 1, 2018 that expanded the employment and training programs for which a full-time student may be eligible for SNAP benefits. This expansion includes Career and Technical Education programs (CTE) meeting the definition outlined in the Perkins IV. This change expands student eligibility for community college students, consistent with federal regulations.

CHANGES TO RULE:

461-135-0570

Eligible and Ineligible Students; SNAP ¶¶

In the SNAP program:¶¶

(1) For the purposes of this rule and OAR 461-001-0015, "higher education" refers to the following:¶¶

(a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL and high school equivalency programs at those institutions are not considered higher education.¶¶

(b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered higher education.¶¶

(2) Except to the extent provided otherwise in section (4) of this rule, an individual is considered a "student of higher education" if all of the following subsections apply:¶¶

(a) The individual is attending higher education (see section (1) of this rule) at least half time or more as determined by the school.¶¶

(b) The individual is 18 years of age or older, but under 50 years of age.¶¶

(3) To be eligible for SNAP benefits, a student of higher education (see section (2) of this rule) must meet the requirements of one of the following subsections:¶¶

(a) Subject to section (6) of this rule, the student of higher education is:¶¶

(A) A paid employee (see OAR 461-001-0015) working an average of 20 hours or more per week except as excluded by section (6) of this rule; or¶¶

(B) Self-employed for a minimum of 20 hours per week and receives weekly earnings at least equal to the federal minimum wage multiplied by 20 hours.¶¶

(b) The student of higher education is awarded a state or federally funded work-study and has been assigned to a work-study position, and will perform work in a work-study job in the current term or semester. The period of eligibility for a student eligible because of this subsection:¶¶

(A) Begins with the month in which school begins or with the month that work study is approved, whichever is later.¶¶

(B) Continues for the duration of the term or semester, unless the student refuses a work-study job.¶¶

(C) Continues through breaks of less than a month. For breaks of a month or longer, eligibility continues only if the student performs work in a work-study job during the break.¶¶

(c) The student of higher education is responsible for the care of a child in the filing group (see OAR 461-110-0370), and the child is:¶¶

(A) Under six years of age; or¶¶

(B) Six years of age or older, but under the age of 12 years, and adequate child care is not available to enable the student to both attend class and meet the employment requirements of sub-section (a) of this section or the work-

study requirements of sub-section (b) of this section.¶

(d) The student of higher education is enrolled full time in higher education and is a single parent (meaning there is only one parent in the filing group) or a single adult who has parental control, with the responsibility of caring for a child under 12 years of age.¶

(e) The student of higher education is in a TANF benefit group (see OAR 461-110-0750).¶

(f) The student of higher education is physically or mentally unfit for employment.¶

(g) The student of higher education is in job training classes under the Workforce Investment Act of 1998 (Pub. L. 105-220).¶

(h) The student of higher education is enrolled as a result of participation in the higher education component of the JOBS program.¶

(i) The student of higher education is enrolled as a result of employer-sponsored on-the-job training.¶

(j) The student of higher education is enrolled in an employment and training program, or course of study that would lead to employment, in compliance with the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Perkins IV).¶

(k) The student of higher education is enrolled in employment and training program that has a component for higher education. This employment and training program may be a SNAP Employment and training program or a program identified in subsections (g), (h), (i), or (m) of this section. For purposes of this rule, the employment and training program placed the individual in the higher education program or accepted the placement when it is a self-initiated placement in higher education.¶

(k) The student of higher education is receiving Unemployment Compensation (UC).¶

(m) The student of higher education is participating in at least one of the following Employment Department training programs:¶

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

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

(C) The Self-Employment Assistance (SEA) program.¶

(D) The Apprenticeship Program (APT).¶

(4) An individual's status as a student of higher education continues during school vacation and breaks. An individual's status as a student of higher education ends when the student of higher education does any of the following:¶

(a) Graduates.¶

(b) Drops out.¶

(c) Withdraws from the individual's classes.¶

(d) Reduces credit hours to less than half time.¶

(e) Is suspended or expelled.¶

(f) Does not intend to register for the next school term (excluding summer term).¶

(5) A student of higher education residing in a dormitory or other living situation with meal plans is ineligible for SNAP program benefits.¶

(6) The following situations do not earn the student of higher education hours toward the 20 hours per week requirement in section (3) of this rule:¶

(a) Income that is considered educational income under OAR 461-145-0150, including income from work in the following:¶

(A) An externship (see OAR 461-001-0015);¶

(B) A graduate assistantship (see OAR 461-001-0015);¶

(C) A graduate fellowship (see OAR 461-001-0015); or¶

(D) An internship (see OAR 461-001-0015).¶

(b) Receiving in-kind payments in lieu of actual wages.

Statutory/Other Authority: ORS 409.050, 411.816

Statutes/Other Implemented: ORS 409.010, 411.816, 411.825, 7 USC 2015, 7 CFR 273.5

AMEND: 461-165-0010

REPEAL: Temporary 461-165-0010 from SSP 23-2018

NOTICE FILED DATE: 07/16/2018

RULE SUMMARY: OAR 461-165-0010 about the legal status of benefit payments is being amended to make permanent a temporary rule change effective July 1, 2018 indicating that TANF benefits are removed from EBT cards if not used within 12 months, and that neither SNAP nor TANF unused benefits are restored once they age off the EBT cards. These changes follow current practices and clarify the rule.

CHANGES TO RULE:

461-165-0010

Legal Status of Benefit Payments ¶

(1) Under Oregon law, cash benefits are not subject to assignment, transfer, garnishment, levy, or execution, as long as they can be identified as program payments and are separate from other money in the client's possession. ¶

~~(2) A cash payment, once issued to or on behalf of the client, becomes vested in the client. ¶~~

~~(3)~~ Except for electronic benefit transfer (EBT), the Department considers a benefit issued if the check has been handed to the client in the branch office, or mailed to the client. The Department considers a benefit issued, and received by the client, when a direct check deposit is made to the client's bank account. ¶

~~(4)~~ For EBT, the Department considers benefits issued and received when an EBT card and personal identification number (PIN) have been issued in person to the client, or the EBT card and PIN have been received by the client in the mail during conversion, and the benefits have been deposited to the client's EBT account. ¶

~~(5a) SNAP program b~~ Benefits issued by EBT remain available for client access for 12 calendar months from the date of issuance. ¶

~~(b) The EBT system expunges unused benefits after 12 calendar months. These unused benefits are not restored to the client. ¶~~

~~(6)~~ Benefits, once issued, are unrestricted and do not require accountability for individual expenditures or amounts, unless limited elsewhere in rule. ¶

~~(7)~~ In the TA-DVS program, ~~a payment issued on behalf of a client as a vendor or dual payee payment or directly to the client becomes vested in the client when issued. The Department considers the benefit~~ in addition to section (2) of this rule, a payment issued on behalf of a client is considered to be issued if the Department has mailed the payment to the vendor or has hand delivered or mailed a dual payee check to the client or hand delivered the payment. Benefits in the TA-DVS program are restricted to uses outlined in OAR 461-135-1230. ¶

~~(8)~~ In the REF program: ¶

(a) Cash benefits are provided to help meet the basic needs of low-income refugees and may not be used in any electronic benefit transfer transaction (see section (10) of this rule) in:-- ¶

(A) Any liquor store (see section (10) of this rule); ¶

(B) Any casino, gambling casino, or gaming establishment (see section (10) of this rule); ¶

(C) Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; or ¶

(D) Any marijuana dispensary. ¶

(b) The Department will take steps to ensure clients have adequate access to their cash benefits. ¶

~~(9)~~ In the SFPSS and TANF programs: ¶

(a) Cash benefits are provided to help meet the basic needs of low-income families with dependent children (see OAR 461-001-0000) and may not be used in any electronic benefit transfer transaction in:-- ¶

(A) Any liquor store; ¶

(B) Any casino, gambling casino, or gaming establishment; ¶

(C) Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; or ¶

(D) Any marijuana dispensary.¶

(b) The Department will take steps to ensure clients have adequate access to their cash benefits.¶

(108) For purposes of sections (86) and (97) of this rule:¶

(a) "Liquor store" means any retail establishment which sells exclusively or primarily intoxicating liquor. Such term does not include a grocery store which sells both intoxicating liquor and groceries including staple foods (as defined in section 3(r) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(r))). The term "liquor" includes alcoholic beverages broadly, including beer and wine.¶

(b) "Casino, gambling casino, or gaming establishment" means an establishment with a primary purpose of accommodating the wagering of money, and does not include:--¶

(A) A grocery store which sells groceries including such staple foods and which also offers, or is located within the same building or complex as, casino, gambling, or gaming activities; or¶

(B) Any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.¶

(c) "Electronic benefit transfer transaction" means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.¶

(A) "Electronic benefit transfer transaction" includes transactions in Oregon, outside Oregon, and on tribal lands.¶

(B) "Electronic benefit transfer transaction" includes using or accessing cash benefits in a private bank account.

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

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.816, 411.837, 412.006, 412.014, 412.049, 412.151

AMEND: 461-170-0150

NOTICE FILED DATE: 07/16/2018

RULE SUMMARY: OAR 461-170-0150 about the certification period in the ERDC program is being amended to permit the extension of a certification period for additional time for families who are eligible for and placed in a contracted slot with Head Start, Early Head Start or in the Early Head Start Child Care Partnership Program, supporting the use of Head Start by program clients. This rule is also being amended to provide additional time to homeless families and families with foster children to provide verification of immunization records or a copy of the exemption form, aligning the rule with federal requirements.

CHANGES TO RULE:

461-170-0150

Certification Period; ERDC ¶¶

In the ERDC program:¶¶

(1) The length of the certification period (see OAR 461-001-0000) may not be less than 12 months. In the following situations the certification period may be extended beyond the certification end date:¶¶

(a) Caretakers in authorized work search and medical leave are limited to no more than three additional months.¶¶

(b) Caretakers on military transition are limited to no more than six additional months.¶¶

(c) Caretakers who have entered into a contracted slot with Head Start, Early Head Start or the Early Head Start Child Care Partnership program are limited to no more than eleven additional months.¶¶

(2) A filing group (see OAR 461-110-0310 and 461-110-0350) that is determined to be homeless (see OAR 461-001-0000) or requires child care for a current foster child may receive "priority processing." For purposes of this rule, "priority processing" means the benefits may be open for up to three months while pending for verification of income, ~~or~~ work schedule, verification of immunization records, or a copy of the medical or non-medical exemption form (see OAR 461-135-0400) during the application period.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060

Statutes/Other Implemented: ORS 329A.500, 409.010, 409.610, 411.060, 45 CFR 98.41