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CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

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RULES:

461-135-0492, 461-135-0493, 461-135-0494, 461-135-0560, 461-145-0170, 461-145-0930, 461-160-0400, 461-160-0410, 461-165-0230

AMEND: 461-135-0492

NOTICE FILED DATE: 07/16/2018

RULE SUMMARY: OAR 461-135-0492 about applications, interviews, and verification for the DSNAP program is being amended to revise policy on these topics to align with federal requirements, clarify the rules, and properly state the verification requirement.

CHANGES TO RULE:

461-135-0492

Application, Interviews, and Verification for DSNAP ¶¶

(1) A request to replace food which was purchased with SNAP benefits and lost during a disaster does not require an application for DSNAP to be processed. See OAR 461-165-0230 for the processing of replacement requests.¶¶

(2) To file an application for DFSNAP, a household (see OAR 461-135-0491) must submit a completed application (DHS 349).¶¶

(a) The household must submit this application through the mail or at a certification site in person or through an authorized representative (as described at OAR 461-115-0090 and 461-115-0140).¶¶

(b) The application must be filed before the expiration of the period during which FNS has authorized the Department to process and approve applications for DSNAP.¶¶

(c) The application must be signed by a responsible member of the household or by an authorized representative designated by the household.¶¶

(23) As part of the process for determining eligibility, the household or its authorized representative must be interviewed and must provide limited verification as described in section (34) of this rule.¶¶

(a) The Department must advise the household orally and in writing about the disposition of its application, its rights and responsibilities, when its emergency certification period ends, and about the regular SNAP program.¶¶

(b) The Department must advise the household of the civil and criminal penalties for violations of the Food Stamp Act, and of the fact that the household may be subject to a post-disaster review.¶

(c) The Department must inform each DSNAP-eligible household about the proper use of SNAP benefits.¶

~~(34)~~ As part of the process for determining eligibility, the household or its authorized representative must provide verification for the following:¶

(a) ~~¶~~Verification of the identity of the applicant;¶

(b) ~~The~~Verification of the residence of the applicant in the disaster area;¶

~~(c) The~~that at the time of the disaster, the applicant's residence of the applicant in the disaster area at the time of the disaster; workplace was located in the disaster area; and¶

~~(d)~~ An estimate of total take-home pay, cash resources, and allowable disaster-related expenses. (see OAR 461-135-0493(2));

Statutory/Other Authority: ORS 409.050, 411.816

Statutes/Other Implemented: ORS ~~411.816~~409.010, 411.816, 7 CFR 280.1

RULE SUMMARY: OAR 461-135-0493 about eligibility and the benefit amount in the DSNAP program is being amended to clarify that food lost during a disaster is not considered a disaster loss if the Department issues a SNAP benefit replacement to cover the entire loss. This rule is also being amended to clarify what is considered take-home pay. These changes align with federal requirements.

CHANGES TO RULE:

461-135-0493

Eligibility and Benefit Amount for DSNAP ¶¶

(1) To be eligible for emergency SNAP assistance during a disaster, a household (see OAR 461-135-0491) must meet all the following criteria:¶¶

(a) At the time the disaster struck, the household must have resided or a member of the household must have worked within the geographical area authorized by Food and Nutrition Services (FNS) for disaster procedures. The household may be certified for emergency SNAP assistance even if at the time of application it is occupying temporary accommodations outside the disaster area. However, the representative of the household must be present at the disaster certification site to be certified for DSNAP assistance.¶¶

(b) The household must purchase food during the disaster period authorized by FNS. A household residing in a temporary shelter but not expected to remain in the shelter for the entire benefit period is eligible for DSNAP program benefits.¶¶

(c) The household must have experienced at least one of the following adverse effects due to the disaster:¶¶

(A) Loss or inaccessibility of income involving a reduction or termination of income or a significant delay in receipt of income. This effect could occur if the disaster has caused a place of employment to close or reduce its work days, if pay checks or other payments are lost or destroyed, or if there is a significant delay in the issuance of pay checks or other payments. This effect could also occur if the work location is inaccessible due to the disaster.¶¶

(B) Inaccessibility of liquid resources. The household is unable to reach its cash resources and is not expected to be able to access its liquid resources for most of the disaster benefit period authorized by FNS. This inaccessibility may occur because the financial institutions where the household has its resources are closed due to the disaster.¶¶

(C) Loss of food that is not eligible for a SNAP benefit replacement.¶¶

(D) Real property damage. Damage to or destruction of the home or self-employment business of the household.¶¶

(2) To be eligible for emergency SNAP assistance during a disaster, the take-home pay of the household for the disaster benefits period authorized by FNS, plus its cash resources (cash on hand and accessible funds in checking and savings accounts), less disaster-related expenses, must be less than or equal to the DSNAP income standard for the size of the household.¶¶

(a) For DSNAP, take-home pay includes all of the following to the extent accessible during the benefit period:¶¶

(A) The wages a household actually receives after taxes and other payroll withholdings are taken out.¶¶

(B) The assistance payment or other unearned income a household received.¶¶

(C) Self-employment income earned after taxes for personal income and social security as well as actual costs of producing the self-employment income are subtracted. Allowable costs of producing the self-employment income are described in OAR 461-145-0920, 461-145-0930, and 461-145-0931.¶¶

(b) For DSNAP, disaster-related expenses include expenses the household has paid or is expected to pay for one of the following expenses during the disaster benefit period authorized by FNS if full reimbursement is not expected during this disaster benefit period. If the household has received or reasonably anticipates receiving a reimbursement for part or all of the expense during the disaster benefit period, only the net expense to the

household is deductible. An expense charged to a credit card is not an allowable expense if the credit card bill is paid after the disaster benefit period. No expenses are considered other than the following:¶¶

(A) Expenses to repair damages to the home or other property of the household essential to the employment or self-employment of a household member;¶¶

(B) Expenses for temporary shelter during evacuation or if the home of the household is not livable or if the household cannot reach its home;¶¶

(C) Expenses related to protecting property from disaster damage, including payment for the packing and storage of the items;¶¶

(D) Expenses to clean up the home or business following the disaster;¶¶

(E) Expenses related to replacing necessary personal and household items, such as clothing, appliances, tools, and educational materials;¶¶

(F) Medical expenses for disaster-related injury to a person who was a household member at the time of the disaster (including funeral and burial expenses in the event of death);¶¶

(G) Expenses to repair a vehicle damaged in the disaster;¶¶

(H) Pet boarding fees when a pet must be placed in boarding due to a disaster; and¶¶

(I) Dependent care expenses incurred during the disaster.¶¶

(3) If the disaster benefit period is one month:¶¶

(a) Income over that full month period and all accessible resources are counted;¶¶

(b) Disaster-related expenses (described in subsection (2)(b) of this rule) paid, or expected to be paid over that full month period, are deducted; and¶¶

(c) The maximum income limit is for a one-month period.¶¶

(4) If the disaster benefit period is for one-half month:¶¶

(a) Income over the half-month period and all accessible resources are counted;¶¶

(b) Disaster-related expenses (described in subsection (2)(b) of this rule) paid, or expected to be paid over this period, are deducted; and¶¶

(c) The disaster eligibility limit is one-half of the monthly SNAP maximum limit.¶¶

(5) The full amount of accessible cash resources must be counted, regardless of the length of the disaster benefit period.¶¶

(6) No DSNAP program benefits are authorized after the expiration of the period for which the Department is authorized by FNS to process and approve applications for this emergency SNAP assistance.¶¶

(7) A household determined eligible must receive benefits no later than three days after the date of application. If the third day falls on a weekend or holiday, benefits must be issued on either:¶¶

(a) The second day; or¶¶

(b) The first day if the second day is also a weekend or holiday.

Statutory/Other Authority: ORS 409.050, 411.816

Statutes/Other Implemented: ORS ~~411.816~~409.010, 411.816, 7 CFR 280.1

AMEND: 461-135-0494

NOTICE FILED DATE: 07/16/2018

RULE SUMMARY: OAR 461-135-0494 about the treatment in the DSNAP program of households already certified and receiving SNAP benefits is being amended to clarify that SNAP households may be eligible to receive both a replacement of SNAP benefits to replace lost food and a DSNAP allotment.

CHANGES TO RULE:

461-135-0494

DSNAP Treatment of Households Already Certified and Receiving SNAP Benefits ¶

(1) Households certified for SNAP benefits ~~may also be eligible for emergency food stamp~~ prior to the disaster may be eligible for supplemental emergency SNAP assistance from the DSNAP program according to OAR 461-135-0491 to 461-135-0497.¶

(2) ~~When food purchased with SNAP benefits is damaged by a disaster, the value of the damaged food is replaced using OAR 461-165-0230. The replaced SNAP benefits are not included in the~~ Households certified for SNAP benefits prior to the disaster may also receive a SNAP replacement of the value of food purchased with SNAP lost in the disaster (see OAR 461-165-0230).¶

(a) A SNAP replacement for the value of food lost in a disaster is not a DSNAP benefit.¶

(b) The value of lost food replaced with a SNAP benefit replacement is not considered a loss of food under OAR 461-135-0493.¶

(3) The SNAP disaster benefits are calculated using the maximum disaster benefits for the benefit group (see OAR 461-110-0750) minus the regular ~~food stamp~~ SNAP allotment for the benefit period.

Statutory/Other Authority: ORS 409.050, 411.816

Statutes/Other Implemented: ORS ~~411.816~~ 09.010, 411.816, 7 CFR 280.1

AMEND: 461-135-0560

NOTICE FILED DATE: 07/16/2018

RULE SUMMARY: OAR 461-135-0560 about program ineligibility for fleeing felons and violators of parole, probation, and post-prison supervision is being amended to revise the policy on this topic for the SNAP program, setting out a more detailed protocol consistent with federal guidance.

CHANGES TO RULE:

461-135-0560

Fleeing Felon and Violators of Parole, Probation, and Post-Prison Supervision; REF, REFM, SNAP, and TANF ¶¶

(1) An individual is ineligible for the REF, REFM, SNAP, and TANF programs if the individual is a fleeing felon or in violation of parole, probation, or post-prison supervision.¶¶

(2) A fleeing felon is a ~~person~~ individual who knowingly flees to avoid either of the following:¶¶

(a) Prosecution or custody for a crime or attempt to commit a crime that is classified as a felony.¶¶

(b) Confinement following conviction of a felony.¶¶

(3) For purposes of this rule, the crime must be considered a felony under the laws of the place from which the person is fleeing or, in the case of New Jersey, a high misdemeanor under the law of New Jersey.¶¶

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

(a) An individual is in violation of parole, probation, or post-prison supervision if the Department receives a report of this violation from a local, state, or federal corrections agency or court responsible for supervision of the individual. The violation continues until the Department receives a report from the corrections agency or court that the individual is no longer in violation.¶¶

(5b) If there is a pending arrest warrant for an individual for a felony, a high misdemeanor under the law of New Jersey, or a violation of parole, probation, or post-prison supervision, the individual is ineligible under this rule if the individual is aware of the arrest warrant and has not provided the Department with evidence on request that the individual made a substantial effort within his or her ability to resolve the warrant.¶¶

(5) In the SNAP program:¶¶

(a) An individual is in violation of parole, probation, or post-prison supervision if the Department verifies the violation from a local, state, or federal corrections agency or court responsible for supervision of the individual. The violation continues until the Department receives a report from the corrections agency or court that the individual is no longer in violation.¶¶

(b) If there is a pending arrest warrant for an individual for a felony, a high misdemeanor under the law of New Jersey, or a violation of parole, probation, or post-prison supervision, the individual is ineligible under this rule if a law enforcement officer acting in their official capacity presents a warrant conforming to one of the following National Crime Information Center Uniform Offense Classification (NCIC) Codes and is actively seeking the individual:¶¶

(A) Escape (4901);¶¶

(B) Flight to Avoid (prosecution, confinement, etc.) (4902); or¶¶

(C) Flight-Escape (4999).¶¶

(c) If an individual self discloses an outstanding felony warrant or a violation of parole, probation, or post-prison supervision, the following must be verified with law enforcement issuing the felony warrant:¶¶

(A) There is an outstanding felony warrant for the individual by a federal, state, or local law enforcement agency, and the underlying cause for the warrant is for committing or attempting to commit a crime that is a felony under the law of the place from which the individual is fleeing or a high misdemeanor under the law of New Jersey;¶¶

(B) The individual is aware of, or should reasonably have been able to expect that, the felony warrant has already or would have been issued;¶¶

(C) The individual has taken some action to avoid being arrested or jailed; and¶

(D) The federal, state, or local law enforcement agency is actively seeking the individual.¶

(6) An individual is no longer considered a fleeing felon if the arrest warrant is no longer pending or the individual provides the Department with evidence that the individual made a substantial effort within his or her ability to resolve the warrant.

Statutory/Other Authority: ORS 409.050, 411.060, 411.816, 412.049

Statutes/Other Implemented: ORS 409.010, 411.060, 411.816, 412.049, 7 CFR 272.1, 7 CFR 273.11

AMEND: 461-145-0170

NOTICE FILED DATE: 07/16/2018

RULE SUMMARY: OAR 461-145-0170 about the treatment of energy assistance payments when determining eligibility is being amended to indicate that any energy assistance payment is excluded in the SNAP program, aligning the rule with federal requirements.

CHANGES TO RULE:

461-145-0170

Energy Assistance Payments ¶

~~(1) In the SNAP program, energy assistance payments issued through the TANF program are considered unearned income.¶~~

~~(2) All energy assistance payments or allowances made under any federal, state, or local law not covered under section (1) – including one-time payments for weatherization, emergency repair, or replacement of heating or cooling devices – are excluded~~are excluded as income and as a resource.

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

Statutes/Other Implemented: ~~ORS 411.060, 411.816, 412.049~~ORS 411.060, 411.816, 412.049, 7 CFR 273.9, ORS 329A.500, 409.010, 411.060, 411.404, 411.816

AMEND: 461-145-0930

NOTICE FILED DATE: 07/16/2018

RULE SUMMARY: OAR 461-145-0930 about the determination of countable income from self-employment is being amended to include allowed deductions from self-employment income for DSNAP applicants, aligning the rule with federal requirements.

CHANGES TO RULE:

461-145-0930

Self-Employment; Determination of Countable Income ¶¶

This rule explains how different programs exclude and deduct costs from self-employment gross sales and receipts.¶¶

(1) The Department initially determines gross sales and receipts, including mileage reimbursements, minus any returns and allowances (before excluding or deducting any costs).¶¶

(2) In the ERDC program, if an individual claims an excludable cost permitted under OAR 461-145-0920, at least 50 percent of gross self-employment income is excluded. The maximum exclusion is the total excludable cost under OAR 461-145-0920.¶¶

(3) In the OSIP, OSIPM, and QMB programs, all costs permitted under OAR 461-145-0920 are excluded.¶¶

(4) In the REF and REFM programs, no costs are subtracted (excluded).¶¶

(5) In the SNAP program, if there are any costs permitted under OAR 461-145-0920, there is a deduction of 50 percent of gross self-employment income.¶¶

(6) In the DSNAP program, the Department allows all actual costs permitted under OAR 461-145-0920.¶¶

(7) In the TANF program:¶¶

(a) For an individual participating in the microenterprise (see OAR 461-001-0000) component of the JOBS program, costs are excluded according to OAR 461-145-0920 and general accounting principles, as applied by a certified public accountant, bookkeeping firm, or other entity approved by the Department.¶¶

(b) For all other individuals, no costs are subtracted (excluded).

Statutory/Other Authority: ORS 414.685, ORS 414.826, ORS 329A.500, 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.0049, 4123.049, 414.82685

Statutes/Other Implemented: ORS 409.0514.826, 7 CFR 280.1, ORS 329A.500, 409.010, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.009, 412.049, 414.826

AMEND: 461-160-0400

NOTICE FILED DATE: 07/16/2018

RULE SUMMARY: OAR 461-160-0400 about the use of income to determine eligibility and benefits in the SNAP program is being amended to indicate that the benefit amount is based on the adjusted income and the payment standard of an eligible benefit group (rather than need group). This amendment aligns the rule with current practices.

CHANGES TO RULE:

461-160-0400

Use of Income to Determine Eligibility and Benefits; SNAP ¶¶

In the SNAP program, the countable income (see OAR 461-140-0010) and adjusted income (see OAR 461-001-0000) of the financial group (see OAR 461-110-0530) are used to determine eligibility for SNAP benefits and the benefit level in three steps:¶¶

(1) Step one: The countable income of the financial group is compared to the need group's countable income limit in OAR 461-155-0190. If the income equals or exceeds the limit, the need group (see OAR 461-110-0630) is ineligible for SNAP benefits. A financial group that is categorically eligible (see OAR 461-135-0505) for SNAP benefits or that includes a client who is elderly (see OAR 461-001-0015) or has a disability (see OAR 461-001-0015) need not pass this step.¶¶

(2) Step two: If the need group is not ineligible under step one, the adjusted income of the financial group is compared to the need group's adjusted income limit (see OAR 461-155-0190). If the income equals or exceeds the limit, the filing group -- except one that is categorically eligible for SNAP benefits -- is ineligible for SNAP benefits. If the adjusted income is less than the limit, the need group meets the income standard for the SNAP program.¶¶

(3) Step three: The benefit level for an eligible ~~need group~~ benefit group (see OAR 461-110-0750) is determined as follows -- adjusted income is multiplied by 30 percent, and the product is rounded to the next higher dollar. The result is subtracted from the ~~need~~ benefit group's payment standard (see OAR 461-155-0190). The remainder is the benefit amount.

Statutory/Other Authority: ORS 409.050, 411.816

Statutes/Other Implemented: ORS ~~411.816~~ 409.010, 411.816, 7 CFR 273.1, 7 CFR 273.10

AMEND: 461-160-0410

NOTICE FILED DATE: 07/16/2018

RULE SUMMARY: OAR 461-160-0410 about income and income deductions in the SNAP programs when there are ineligible or disqualified group members is being amended to pro-rate income and deductions for ineligible non-citizens. This change is intended to simplify the eligibility determination process, reducing errors and confusion.

CHANGES TO RULE:

461-160-0410

Use of Income and Income Deductions When There Are Ineligible or Disqualified Group Members; SNAP ¶

When a member of the filing group (see OAR 461-110-0310 and 461-110-0370) is not in the need group (see OAR 461-110-0630), benefits in the SNAP program are calculated as follows:¶

~~(1) If the member is a qualified non-citizen (see OAR 461-120-0125) who~~The process does not meet the alien status requirements, the following procedure is used:¶

~~(a) Benefits are calculated as if the qualified non-citizen is eligible. Benefits are then calculated as if the qualified non-citizen is not a member of the filing group. Any income received by another member of the filing group from the qualified non-citizen is counted as income of the filing group. No expenses paid by the qualified non-citizen are deducted from gross income.¶~~

~~(b) The household's benefits are the lesser of the amounts calculated in subsection (a) of this section.¶~~

~~(2) The process described in sections (3) and (4) of this rule is used if the member is:¶~~

~~(a) A non-citizen but not a qualified non-citizen~~cribed in sections (2) and (3) of this rule is used if the member is any of the following:¶

~~(a) A non-citizen but not a qualified non-citizen (see OAR 461-120-0125);¶~~

~~(b) A qualified non-citizen who does not meet the alien status requirements;¶~~

~~(b) Disqualified for failing to obtain or provide a Social Security Number;¶~~

~~(c) Unwilling to disclose alien status; or¶~~

~~(d) An ABAWD (see OAR 461-135-0520) who is ineligible because of the SNAP time limit in OAR 461-135-0520.¶~~

~~(3) If the member is in a group described in section (2) of this rule:¶~~

~~(a) The member's countable (see OAR 461-001-0000) income is prorated among the members in the filing group.¶~~

~~(b) The pro rata share of each individual not in the benefit group (see OAR 461-110-0750) is excluded.¶~~

~~(c) The rest of the prorated income is countable income for the filing group.¶~~

~~(4) An ineligible or disqualified member covered by section (2) of this rule is entitled to all income deductions for which the member qualifies. When paid by the member, or billed to the member and unpaid, deductions for shelter, child support, medical costs, and dependent care are calculated as follows:¶~~

~~(a) The deductions, except deductions for the utility standard, are prorated among the members of the filing group.¶~~

~~(b) The prorated share of the members of the benefit group is deducted.¶~~

~~(c) The deduction for the utility standard is made in accordance with OAR 461-160-0420.¶~~

~~(5) The countable income of the following financial group (see OAR 461-110-0530) members, subject to allowable deductions, is used to determine benefits:¶~~

~~(a) A client disqualified for failure to comply with the requirements of the OFSET program or because of an intentional program violation.¶~~

~~(b) A client:¶~~

~~(A) Fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the client is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the client is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or¶~~

~~(B) Violating a condition of probation or parole imposed under a federal or state law~~ determined ineligible for SNAP in accordance with OAR 461-135-0560.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.816

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.837, 7 CFR 273.11

AMEND: 461-165-0230

NOTICE FILED DATE: 07/16/2018

RULE SUMMARY: OAR 461-165-0230 about replacing SNAP program benefits and EBT cards is being amended to clarify the process and timelines for issuing a SNAP replacement when food is lost in a household misfortune or disaster. These amendments are intended to follow federal requirements.

CHANGES TO RULE:

461-165-0230

Replacing SNAP Program Benefits and EBT Cards ¶

(1) The Department does not replace SNAP program benefits after they are delivered to the EBT account unless the Department failed to cancel the EBT card of an individual leaving a SNAP program household and that individual continues to access SNAP program benefits in subsequent months. ¶

(2) The Department will replace the value of food purchased with SNAP program benefits if all of the following are true: ¶

(a) The food ~~was~~ destroyed by a verified household misfortune ~~and the benefit group~~ or disaster. ¶

(b) The filing group (see OAR 461-110-0370) reports the loss of food within ten days of occurrence. ¶

(c) The amount of the replacement may not exceed one month's allotment. The Department will replace the loss within ten days after the household provides sufficient verification ~~filing group submits a signed statement or affidavit attesting to the loss within ten days of reporting the loss.~~ ¶

(3) The replacement, based on section (2) of this rule, must meet the following: ¶

(a) The amount may not exceed one month's allotment, unless the issuance includes restored benefits which will be replaced up to the full value of the restored benefits. ¶

(b) The Department will issue a timely replacement of the value of the loss by meeting the later of these two timeframes: ¶

(A) Within ten days after the filing group reported the loss; or ¶

(B) Within two working days of submitting a signed statement or affidavit. ¶

(34) The Department will replace an EBT card reported lost, stolen, or not received only after the current card has been deactivated. An EBT card that is damaged or not functioning properly is replaced only after the card's status is changed to "card damaged" and the card is destroyed.

Statutory/Other Authority: ~~ORS 414.0650, 411.816~~ ORS 409.010, 412.01460, 412.0491.816

Statutes/Other Implemented: ORS 409.010, 411.060, 411.816, 412.014, 412.0497 CFR 280.1