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ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

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CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILING CAPTION: Changing self-sufficiency rules

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CONTACT: Robert Trachtenberg
503-947-5290
robert.trachtenberg@state.or.us

DHS - SSP
500 Summer Street NE, E-48
Salem, OR 97301

Filed By:
Robert Trachtenberg
Rules Coordinator

RULES:

461-115-0232, 461-115-0450, 461-130-0327, 461-135-0400, 461-135-0520, 461-145-0260, 461-155-0150, 461-160-0040, 461-170-0102, 461-180-0006, 461-190-0310, 461-190-0360

REPEAL: 461-115-0232

NOTICE FILED DATE: 01/15/2019

RULE SUMMARY: OAR 461-115-0232 about mid-certification reviews in the SNAP program is being repealed and this topic will be covered in OAR 461-170-0102. These changes will make the rules easier to follow.

CHANGES TO RULE:

~~461-115-0232~~

~~SNAP Mid Certification Period Review~~

~~In the SNAP program, a filing group (see OAR 461-110-0370) that is certified for 24 months (see OAR 461-115-0450) must provide the Department with updated information about their income, shelter and utility costs, and medical deductions between the first and 15th day of month 12 of their certification period (see OAR 461-001-0000) in order to continue receiving benefits. The Department follows the process outlined in OAR 461-180-0006 to adjust benefits based on this information.~~

~~Statutory/Other Authority: ORS 411.816~~

~~Statutes/Other Implemented: ORS 411.816, 411.825~~

AMEND: 461-115-0450

NOTICE FILED DATE: 01/15/2019

RULE SUMMARY: OAR 461-115-0450 about periodic redeterminations in the SNAP program is being amended to revise the policy about which households in a 24-month certification period must have their reporting requirements changed from SRS to CRS. These changes are intended to comply with federal regulations in 7 CFR 273 and clarify the rule.

CHANGES TO RULE:

461-115-0450

Periodic Redeterminations; SNAP ¶¶

In the SNAP program, the Department selects the certification period (see OAR 461-001-0000) and the redetermination date based on the client's circumstances and according to the following considerations:¶¶

- (1) The length of the certification period depends on how far in advance the circumstances affecting the group's eligibility can be predicted but may not exceed 12 months except as outlined in sections (2) and (4) of this rule.¶¶
- (2) The certification period may be extended beyond 12 months in each of the following situations:¶¶
 - (a) To the end of the TBA period if the client becomes eligible for transitional benefits (see OAR 461-135-0506). If eligibility for TBA ends early, the certification period is changed to end on the last day of the month.¶¶
 - (b) To include the month after the client finishes working under a TANF JOBS Plus Agreement. If the agreement ends early, the certification period is changed to end on the original recertification date or on the last day of the month following the month in which the JOBS Plus agreement ends, whichever is later.¶¶
- (3) A certification period of less than 12 months may be extended before the certification period ends, not to exceed 12 months, in each of the following situations:¶¶
 - (a) A one- or two-month certification period for expedited services when pending information is received, and eligibility and benefit level is determined based on the new information.¶¶
 - (b) An application or a change report form is received and eligibility is reviewed.¶¶
 - (c) The report system changes from CRS to SRS.¶¶
- (4) A certification period of 24 months may be assigned for households in which all adults a filing group (see OAR 461-110-0370) in which all adult (see OAR 461-001-0015) members are elderly or have a disability (see OAR 461-001-0015). The household must also not include any earned income to qualify under this section if the case is placed in SRS and the filing group does not receive any earned income. Any filing group assigned to a 24-month certification period in SRS which starts receiving earned income is to be converted to CRS.¶¶
- (5) For each benefit group (see OAR 461-110-0750) in which all members are included in a cash or medical program, eligibility for SNAP and the other program benefits is determined at the same time when practicable.¶¶
- (6) A client remains eligible for and continues to receive SNAP benefits on the normal issuance cycle if the application for recertification is filed with the Department and all required verification has been received by the Department:¶¶
 - (a) Not later than the 15th day of the month in which the certification expires; or¶¶
 - (b) In the case of a benefit group whose certification period is shorter than two months, not later than the 15th day after the Department provides notice that the certification period will expire.¶¶
- (7) A client who files an application for recertification is eligible for a SNAP allotment without proration only if the filing date (see OAR 461-115-0040) is before the prior certification period expires and:¶¶
 - (a) The required interview is completed, and the Department receives the required verification, within 30 days after the client files the application for recertification; or¶¶
 - (b) The interview or verification required by this rule would have occurred timely but for a delay caused by the Department.¶¶
- (8) The Department must deny the application for recertification in the event a client files a timely application for recertification but either fails to appear for a scheduled interview or fails to timely submit required verification.¶¶

(9) If the client fails to file an application for recertification during a certification period, SNAP benefits for the first month of the following certification period are prorated in accordance with OAR 461-180-0080.¶

(10) Once assigned, the certification period may not be shortened.

Statutory/Other Authority: ORS 409.050, 411.816

Statutes/Other Implemented: ORS 409.010, 411.816, 411.825

AMEND: 461-130-0327

NOTICE FILED DATE: 01/15/2019

RULE SUMMARY: OAR 461-130-0327 about good cause is being amended to make permanent a temporary rule change effective January 1, 2019 that expanded the reasons that are considered good cause in the SNAP program in the context of work requirements for able-bodied adults without dependents (ABAWD). This amendment is intended to align with federal regulations.

CHANGES TO RULE:

461-130-0327

Good Cause ¶¶

In a Department program administered under OAR 461-130-0305 to OAR 461-130-0335 and OAR 461-135-0085 and OAR 461-135-0089:¶¶

- (1) The Department does not require a participant to provide verification of "good cause" if providing the verification would expose the participant to increased risk of domestic violence (see OAR 461-001-0000).¶¶
- (2) If in making a determination under this rule a participant's physical or mental impairment is in question, the Department may require the participant to provide documentation from a qualified and appropriate medical professional.¶¶
- (3) A participant is granted "good cause" and not held to a penalty for failure to comply with a work program requirement, including an activity in a case plan (both terms defined in OAR 461-001-0025) in the following circumstances:¶¶
 - (a) Participation in a required activity in a case plan would have an adverse effect on or risk to the participant's physical or mental health or would expose the participant to increased risk of domestic violence (see OAR 461-001-0000).¶¶
 - (b) Except in the SNAP program, participation is likely to cause undue hardship for the dependent child (see OAR 461-001-0000) or the participant.¶¶
 - (c) Appropriate child care, or day care for an individual in the household who has a disability (see OAR 461-001-0000 and 461-001-0015 as applicable) that substantially reduces or eliminates the individual's ability to care for himself or herself, cannot be obtained. "Appropriate child care" means that -¶¶
 - (A) Both the provider and the place where care is provided meet health, safety, and provider requirements as required in OAR 461-165-0180;¶¶
 - (B) The care accommodates the parent's work schedule; and¶¶
 - (C) The care meets the specific needs of the dependent child, such as age and special-needs requirements.¶¶
 - (d) Child care, or day care for an individual in the household group (see OAR 461-110-0210) who has a disability (see OAR 461-001-0000) that substantially reduces or eliminates the individual's ability to care for themselves, cannot be obtained within a reasonable distance. "Reasonable distance" means that the parent's total travel time from home to the child care provider and the workplace or JOBS activity will be no more than one hour either way unless a longer commute time is customary in the community.¶¶
 - (e) The only child care, or day care for an individual in the household group who has a disability that substantially reduces or eliminates the individual's ability to care for themselves, that is available to the participant or in the participant's area is considered informal and unsuitable. "Informal and unsuitable" means the Department has not approved a provider as meeting its background check and health and safety standards ("informal"), and the criteria for appropriate child care in subsection (c) of this section are not met ("unsuitable").¶¶
 - (f) Affordable child care arrangements, or day care for an individual in the household group who has a disability that substantially reduces or eliminates the individual's ability to care for themselves, cannot be obtained. "Affordable child care arrangements" means the expense to the parent or parents is less than ten percent of countable (see OAR 461-001-0000) income of the financial group (see OAR 461-110-0530).¶¶
 - (g) The work attachment position or employment offered is vacant due to a strike, lockout, or other labor

dispute.¶¶

(h) The work attachment position or employment requires the participant to join a union, and the participant has religious objections to unions.¶¶

(i) The participant belongs to a union and the employment violates the conditions of the participant's membership in the union.¶¶

(j) The wage for the participant's current or potential job is:¶¶

(A) Less than applicable minimum wage; or¶¶

(B) If minimum wage laws do not apply, the wage (rate for piece work) is less than that normally paid for similar work.¶¶

(k) The participant's prospective employer engages in employment practices that are illegally discriminatory on the basis of age, sex, race, religious or political belief, marital status, disability, sexual orientation, or ethnic origin.¶¶

(l) The participant's engagement in a required activity in a case plan would prevent or interfere with the participant's engagement in an activity of the Grande Ronde Tribe's NEW program.¶¶

(m) The participant's failure to engage is due to a circumstance beyond the participant's reasonable control.¶¶

(n) When the failure to comply is caused by an aspect of the participant's disability, including the Department's failure to provide a reasonable accommodation.¶¶

(o) The participant quits a job to accept another job with a monthly income at least equal to the monthly income of the first job.¶¶

(p) The Department determines there are no appropriate activities or necessary support services (see OAR 461-001-0025) to support an activity (see OAR 461-001-0025) in order for the participant to engage. ¶¶

(q) In the REF program:¶¶

(A) If the participant has no means of transportation and would have to walk an unreasonable distance to engage in their plan. An "unreasonable distance" is a distance that requires a commute of more than two hours each day. ¶¶

(B) If the hours or nature of the job interferes with the participant's religious observances, convictions, or beliefs.¶¶

(C) The service requirement or work site is in violation of applicable federal, state, or local health and safety standards.¶¶

(D) The daily hours of work and the weekly hours of work exceed those customary to the occupation.¶¶

(r) The participant enrolls into a registered pre-apprenticeship program approved by Bureau of Labor and Industries (BOLI).¶¶

(4) In the SNAP program, a participant is excused from not accepting employment or for leaving a job under the following circumstances:¶¶

(a) The hours or nature of the job interferes with the participant's religious observances, convictions, or beliefs.¶¶

(b) The participant accepts employment or enrolls at least half-time in any recognized school, training program, or institution of higher education that requires the participant to quit a job.¶¶

(c) A participant accepts employment or enrolls in school in another county, requiring the benefit group (see OAR 461-110-0750) to move and the participant to quit a job.¶¶

(d) A participant less than 60 years of age resigns, and the employer recognizes the resignation as retirement.¶¶

(e) The participant leaves a job to follow a type of employment that moves from one area to another, such as migrant labor or construction.¶¶

(f) The participant accepts a job that, for reasons beyond the control of the participant, does not materialize or results in fewer work hours or a lower wage than the participant's previous job.¶¶

(g) Work demands or conditions, such as not being paid for work or not being paid on schedule, make employment unreasonable.¶¶

(h) The wage for the participant's current or potential job is less than applicable minimum wage or, if minimum wage laws do not apply, the wage (rate for piece work) is less than that normally paid for similar work.¶¶

(i) The work schedule for the job in question does not conform to hours customary to the occupation or the hours worked each week are more than those customary to the occupation.¶¶

(j) The participant is not obligated to accept a job during the first 30 days of registration for employment if the job is not in the client's field of experience.¶¶

(k) The participant has no means of transportation and would have to walk an unreasonable distance to meet the participation requirement. An "unreasonable distance" is a distance that requires a commute of more than two hours each day. The participant must make a good-faith effort to secure the needed transportation.¶

(l) Lack of adequate child care for a child who is six years of age or older and less than 12 years of age.¶

(5) In the SNAP program, a participant may be excused from not meeting ABAWD work requirements (OAR 461-135-0520). "Good cause" may be granted to remove a countable month if a participant has been cooperating with their case plan (see OAR 461-001-0020), but is unable to complete the requirements due to one or more of the following unexpected circumstances. The circumstance must be beyond the control of the participant and occur during the countable month:¶

(a) Inclement weather.¶

(b) Transportation difficulties.¶

(c) Illness impacting ability to work.¶

(d) Tragic loss.

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

Statutes/Other Implemented: 7 USC 2029, 7 CFR 273.7, 7 CFR 273.24, 45 CFR 261.56, 411.816, ORS 409.010, 411.060, 411.117, 411.816, 412.006, 412.009, 412.049, 45 CFR 261.567 USC 2015

AMEND: 461-135-0400

NOTICE FILED DATE: 01/15/2019

RULE SUMMARY: OAR 461-135-0400 about requirements for the ERDC program is being amended to make permanent a temporary rule stating that participants in the Occupational Training and Child Care program may be eligible for subsidized child care. This amendment supports low-income participants with dependent children to access quality child care while receiving career coaching and occupational training to assist entry into middle income employment.

CHANGES TO RULE:

461-135-0400

Specific Requirements; ERDC ¶¶

- (1) The Department makes payments for child care, including care covered by the ERDC program, subject to the provisions of division 165 of this chapter of rules.¶¶
- (2) To be eligible for ERDC, a filing group (see OAR 461-110-0310 and 461-110-0350) must meet the requirements of all of the following subsections:¶¶
 - (a) Except as provided in subsection (c) of this section, every caretaker (see OAR 461-001-0000) in the filing group must receive income from employment. This includes self-employment (see OAR 461-145-0910), participation in the Occupational Training and Child Care program (see OAR 461-160-0040), and employment through a work study program.¶¶
 - (b) The filing group must include a child (see OAR 461-001-0000) who needs child care.¶¶
 - (c) The filing group must have an allowable child care need as described in OAR 461 160 0040. If there are two adults required to be in the filing group, and one of the adults is unemployed, the unemployed adult is considered available to provide child care, making the filing group ineligible, except in the following situations:¶¶
 - (A) The unemployed adult is physically or mentally unable to provide adequate child care. This must be verified (see OAR 461-125-0830).¶¶
 - (B) The unemployed adult is unavailable to provide child care while participating in the requirements of a case plan (see OAR 461-001-0025) other than requirements associated with post-secondary education.¶¶
 - (C) Confirmation is received from the Office of Child Welfare Programs that supervised contact is required between the child and an unemployed parent (see OAR 461-001-0000) or spouse (see OAR 461-001-0000) who is living in the home with the child.¶¶
 - (d) The filing group must use a child care provider who meets the requirements in OAR 461-165-0160 and 461-165-0180.¶¶
 - (e) The child needing child care must meet the citizenship or alien status requirements of OAR 461-120-0110.¶¶
 - (f) The filing group must certify that they do not exceed the resource limit in OAR 461-160-0015 and must meet the income limits in OAR 461-155-0150.¶¶
- (3) A filing group not willing to show verification of immunizations, proof that the immunization series has started, or a copy of the medical or non-medical exemption form for the child is not eligible for a child care payment.¶¶
- (4) The child care must be necessary to enable the caretaker to remain employed, including self-employed.¶¶
- (5) A filing group is not eligible for child care when the caretaker or parent in the filing group receives a grant for child care from the Oregon Student Assistance Commission for any month the grant is intended to cover, regardless of when the grant is received.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070

Statutes/Other Implemented: ORS 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122, 411.141, 418.485

AMEND: 461-135-0520

NOTICE FILED DATE: 01/15/2019

RULE SUMMARY: OAR 461-135-0520 about time limits and work requirements for able-bodied adults without dependents (ABAWD) in the SNAP program is being amended to make permanent a temporary rule change effective January 1, 2019 that added six new SNAP time-limit (non-waivered) counties; removed these six counties from the time-limit exempt (waivered) category; updated the new 36-month time limit period and countable month dates; clarified how SNAP defines self-employment; and expanded the SNAP time limit exemptions to include the reservation land of the Confederated Tribe of Grand Ronde. These amendments are intended to align with federal regulations about SNAP clients who must meet work requirements to continue to receive SNAP benefits beyond the three-month time limit.

CHANGES TO RULE:

461-135-0520

Time Limit and Special Requirements for ABAWD; SNAP ¶

This rule establishes the time limit and special requirements for receipt of SNAP benefits for certain adults.¶

(1) Unless the context indicates otherwise, the following definitions apply to rules in OAR chapter 461:¶

(a) "Able-bodied adult without dependents (ABAWD)" means an individual 18 years of age or over, but under the age of 50, without dependents. For the purpose of this definition, "without dependents" means there is no child (see OAR 461-001-0000) under the age of 18 years in the filing group (see OAR 461-110-0310 and 461-110-0370).¶

(b) "SNAP time-limit counties" means Oregon counties in which the limitation on eligibility (see OAR 461-001-0000) for SNAP benefits for ABAWD in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)) applies. "SNAP time-limit counties" are Benton, Clackamas, ~~Lane~~Clatsop, Deschutes, Jackson, Lane, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill counties.¶

(c) "SNAP time-limit exempt counties" means Oregon counties in which the limitation on eligibility for SNAP benefits contained in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)) does not apply per a waiver approved by the United States Department of Agriculture. "Exempt counties" are Baker, ~~Clatsop~~, Columbia, Coos, Crook, Curry, ~~Deschutes~~, Douglas, Gilliam, Grant, Harney, Hood River, ~~Jackson~~, Jefferson, Josephine, Klamath, Lake, Lincoln, Linn, Malheur, Marrow, ~~Polk~~, Sherman, ~~Tillamook~~, Umatilla, Union, Wallowa, Wasco, and Wheeler counties.¶

(d) "SNAP time-limit exempt counties" also means reservation lands of the Confederated Tribes of Grand Ronde Indians. The limitation on eligibility for SNAP benefits contained in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)) does not apply per a waiver approved by the United States Department of Agriculture.¶

(2) Except as provided otherwise in this rule, an ABAWD who resides in one of the SNAP time-limit counties (see section (1) of this rule) is ineligible to receive food benefits as a member of any household after the individual received food benefits for three countable months (see section (3) of this rule) during January 1, 2016~~9~~ to December 31, 2021~~8~~.¶

(3) "Countable months" means months within the 36-month period of January 1, 2016~~9~~ to December 31, 2021~~8~~ in which an individual as a member of any household receives SNAP benefits in Oregon or in any other state, unless at least one of the following applies:¶

(a) The individual resided for any part of the month in one of the SNAP time-limit exempt counties (see section (1) of this rule).¶

(b) Benefits were prorated for the month.¶

(c) The individual was exempt from the SNAP time limit for any part of the month under OAR 461-130-0310(3)(a) or (b) for any of the following reasons:¶

(A) The individual resided in one of the SNAP time-limit exempt counties.¶

- (B) The individual was pregnant.¶¶
- (C) A child under the age of 18 years joined the filing group.¶¶
- (D) The individual met the criteria under OAR 461-130-0310(3)(a) or (b).¶¶
- (d) The individual participated in one or more of the activities in paragraphs (A) to (D) of this subsection for 20 hours per week averaged over the month. For purposes of this rule, 20 hours per week averaged monthly means 80 hours per month. (Activities may be combined in one month to meet the 20 hours per week averaged monthly requirement.)¶¶
- (A) Work for pay, in exchange for goods or services, or unpaid work as a volunteer.¶¶
 - (i) Work in exchange for goods and services includes bartering and in-kind work.¶¶
 - (ii) Unpaid or voluntary work hours must be verified by the employer.¶¶
 - (iii) For self-employed individuals, countable income after deducting the costs of producing income (as described in OAR 461-145-0930(5)) must average at least the federal minimum wage times 20 hours per week.¶¶
- (B) Participate in a program under the Workforce Investment Act of 1998, Pub. L. No. 105-220, 112 Stat. 936 (1998).¶¶
- (C) Participate in a program under section 236 of the Trade Act of 1974, Pub. L. 93-618, 88 Stat. 2023, (1975) (19 U.S.C. 2296).¶¶
- (D) Comply with the employment and training requirements described in OAR 461-001-0020, 461-130-0305, and 461-130-0315. Work search activities must be combined with other work-related activities to equal 20 hours per week and may not exceed 9 hours per week.¶¶
- (e) The individual complied with the Workfare requirements in OAR 461-190-0500.¶¶
- (4) An ABAWD must submit evidence to the Department on the issue of whether a month is countable within 90 days following the last day of the month in question.¶¶
- (5) An ABAWD who is ineligible under section (2) of this rule but otherwise eligible may regain eligibility if the requirements of subsections (a) or (b) of this section are met. ¶¶
 - (a) The individual becomes exempt under OAR 461-130-0310(3)(a). Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual is exempt and is otherwise eligible. If not eligible on the filing date (see OAR 461-115-0040), eligibility begins the date all other eligibility requirements are met.¶¶
 - (b) The individual, during a consecutive 30-day period during which the individual is not receiving SNAP benefits, meets the requirements of subsection (3)(d) or (3)(e) of this rule.¶¶
 - (A) Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual meets the requirements of subsection (3)(d) or (3)(e) of this rule and is otherwise eligible. If not eligible on the filing date, eligibility begins the date all other eligibility requirements are met.¶¶
 - (B) There is no limit to how many times an individual may regain eligibility under this subsection during January 1, 2016~~9~~ to December 31, 2021~~8~~. ¶¶
 - (c) See OAR 461-180-0010 to add an individual to an open SNAP case after the individual has regained eligibility under this section.¶¶
 - (6) An individual who regains eligibility under section (5) of this rule and later fails to comply with the participation requirements of subsection (3)(d) or (3)(e) of this rule may receive a second set of food benefits for three consecutive countable months. The countable months are determined as follows:¶¶
 - (a) If the individual stopped participation in a work program, countable months start when the Department notifies the individual he or she is no longer meeting the work requirement.¶¶
 - (b) If the individual stopped participation in a work program, countable months start when the individual notifies the Department he or she is no longer meeting the work requirement.¶¶
 - (c) If a change occurred which results in an individual becoming subject to the time limit in section (2) of this rule and the change was required to be reported under rules in OAR chapter 461, division 170, the countable months start when the change occurred.¶¶
 - (d) If a change occurred which results in an individual becoming subject to the time limit and the change was not required to be reported under rules in OAR chapter 461, division 170, countable months start when the

Department notifies the individual he or she must meet the work requirement.¶¶

(e) An individual may only receive benefits without meeting the requirements of subsection (3)(d) or (3)(e) of this rule for a total of six countable months during January 1, 2016~~9~~ to December 31, 2021~~8~~. ¶¶

(7) This section is a placeholder to establish criteria the Department will use to grant exemptions to ABAWD who are ineligible if the Department receives special exemptions from the Food and Nutrition Service.¶¶

(8) An ABAWD involved in the activities specified in subsection (3)(d) or (3)(e) of this rule or an activity listed in the individual's case plan (see OAR 461-001-0020) is eligible for support service payments necessary for transportation or other costs related to completing the activity as allowed by OAR 461-190-0360.

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

Statutes/Other Implemented: 7 USC 2015, 7 USC 2029, 7 CFR 273.7, 7 CFR 273.24, ORS 409.010, 409.050, 411.060, 411.070, 411.121, 411.816, 411.825, 411.837

AMEND: 461-145-0260

NOTICE FILED DATE: 01/15/2019

RULE SUMMARY: OAR 461-145-0260 about the effect of Indian (Native American) benefits on their eligibility for self-sufficiency programs is being amended to cover benefits provided under public laws that had not been covered in this rule (including some that had only been covered in the Family Services Manual). This amendment in some cases changes how the rule or the Family Services Manual treats these benefits. Some changes clarify or revise if the excluded amount applies to each payment or to the yearly total. Some changes revise how the Department treats the balance left over after excluding a portion. This amendment changes the treatment of some payments from lump sum income to instead treat the balance as periodic income. Some changes revise the exclusion from being the total Indian benefit to a portion, and some revise the exclusion from a portion to the total. These changes are all intended to align this rule with federal law.

CHANGES TO RULE:

461-145-0260

Indian (Native American) Benefits; Not OSIP, OSIPM, and QMB ¶

~~(1) The following Indian (Native American) benefits are excluded:¶~~

~~(a) Indian law rule does not apply to the OSIP, OSIPM, and QMB programs which are treated under OAR 461-145-0259. In this rule, the term "all programs" does not include the OSIP, OSIPM, and QMB programs.¶~~

~~(2) In all programs, the following benefits or payments are excluded as income and resources.¶~~

~~(a) Public Law 84-736: Payments from the distribution of funds held jointly with the tribe, or land that may not be sold without the approval of the Bureau of Indian Affairs (BIA) in trust to the Seminole Indians of Florida.¶~~

~~(b) Public Law 84-926: Payments from the distribution of funds held in trust to the Pueblos of Zia and Jemez tribes of Florida.¶~~

~~(b) Payments to Puyallup Tribe members from the trust funds established under public Law 92-480: Payments from the distribution of funds held in trust to the Stockbridge Munsee Indian Community of Wisconsin.¶~~

~~(d) Public Law 101-41.¶~~

~~(e) 92-488: Payments from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103-436).¶~~

~~(2) Payments from the BIA are treated as follows:¶~~

~~(a) In the SNAP program, payments from the General Assistance program are counted as unearned income distribution of funds held in trust to the Burns Indian Colony in Oregon.¶~~

~~(e) Public Law 93-531: Relocation assistance payments to members of the Navaho or Hopi Tribes.¶~~

~~(f) Public Law 94-114, section 6: Distribution of receipts from lands held in trust by the United States for the following tribes:¶~~

~~(A) Assiniboine and Sioux Tribe of Montana.¶~~

~~(B) Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin.¶~~

~~(C) Blackfeet Tribe of Montana.¶~~

~~(D) Cherokee Nation of Oklahoma.¶~~

~~(E) Cheyenne River Sioux Tribe of South Dakota.¶~~

~~(F) Chippewa Tribe of Minnesota.¶~~

~~(G) Crow Creek Sioux Tribe of South Dakota.¶~~

~~(H) Devil's Lake Sioux Tribe of North Dakota.¶~~

~~(I) Fort Belknap Indian Community of Montana.¶~~

~~(b) In all programs except the SNAP program, payments from the General Assistance program are excluded.¶~~

~~(c) The treatment of educational income is covered by OAR 461-145-0150.¶~~

~~(3) Pkeweenaw Bay Indian Community of Michigan.¶~~

~~(K) Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin.¶~~

- (L) Lower Brule Sioux Tribe of North Dakota.
- (M) Navajo Tribe of New Mexico.
- (N) Oglala Sioux Tribe of South Dakota.
- (O) Rosebud Sioux Tribe of South Dakota.
- (P) Shoshone - Bannock Tribes of Idaho.
- (Q) Standing Rock Sioux Tribe of North Dakota.
- (g) Public Law 94-540: Judgment funds distributed to members of the Grand River Band of Ottawa Indians.
- (h) Public Law 95-433: Judgment funds distributed to members of the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation.
- (i) Public Law 95-498: Receipts derived from trust lands awarded to the Pueblo of Santa Ana and distributed to members of that tribe.
- (j) Public Law 95-499: Receipts derived from trust lands awarded to the Pueblo of Zia and distributed to members of that tribe.
- (k) Public Law 95-608: Indian child welfare payments under.
- (l) Public Law 92-203 (Alaska Native Claim Settlement Act) are treated as follows:
 - (a) In the SNAP program, the entire payment is excluded
 - 6-305: Relocation assistance payments to members of the Navaho or Hopi Tribes.
 - (m) Public Law 96-318: Judgment funds distributed to members of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma.
 - (n) Public Law 96-420: Funds and distributions to members of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians under the Maine Indian Claims Settlement Act.
 - (b) In all programs except the SNAP program:
 - (A) Only the tax-exempt portion of the payment is excluded
 - Public Law 97-372: Distributions of judgment funds to members of the Shawnee Tribe of Indians (Absentee Shawnee Tribe of Oklahoma, the Eastern Shawnee Tribe of Oklahoma, and the Cherokee Band of Shawnee descendants).
 - (p) Public Law 97-376: Judgment funds distributed per capita to members of the Miami Tribe of Oklahoma and the Miami Indians of Indiana.
 - (B) The remainder of the p
 - Public Law 97-403: Payments on judgments funds to the Turtle Mountain Band of Chippewas, Arizona.
 - (r) Public Law 97-408: Payment is counted as unearned income.
 - (4) The following types of distributions provided under Public Law 100-241 (Alaska Native Claim Settlement Act) are excluded:
 - (a) Stocks on judgment funds to the Blackfeet, Gros Ventre, and Assiniboine tribes (Montana) and the Papago (Arizona).
 - (s) Public Law 98-64: Payments from judgment funds held in trust by the US Secretary of the Interior.
 - (t) Public Law 98-123: Judgment funds held in trust and per capita and interest payments disbursed to the Red Lake Band of Chippewa Indians.
 - (b) A partnership interest.
 - (c) Land or interest in land.
 - (d) An interest in a settlement trust.
 - (e) The first \$2,000 of each per capita payment per year for each
 - Public Law 98-124: Judgment funds held in trust and per capita and interest payments made to the members of the Assiniboine Tribe of the Fort Belknap Indian Community (Montana) and the Assiniboine Tribe of the Fort Peck Indian Reservation (Montana).
 - (v) Public Law 98-432: Judgment funds and income distributed to members of the Shoalwater Bay Indian Tribe.
 - (w) Public Law 99-130: Per Capita and dividend payment distributions of judgment funds to members of the financial group (see OAR 461-110-0530) who receives the payment. The amount over \$2,000 paid to each mem
 - Santee Sioux Tribe of Nebraska, Flandreau Santee Sioux Tribe, Prairie Island Sioux, Lower Sioux and Shakopee Mdewakanton Sioux Communities of Minnesota.
 - (x) Public Law 99-146, section 6(b): Funds distributed per capita or held in trust for members of the Chippewas of

Lake Superior. The funds are distributed to the following reservations:¶

(A) Wisconsin: Bad River Band of the Lake Superior Tribes of the financial group who receives the per-capita payment is counted as lump-sum income (see OAR 461-001-0000 and 461-140-0120 Chippewa Indians of the Bad River Reservation, Lac Courte Oreilles Band of Lake Superior Bands of Chippewa Indians of the Lac du Flambeau Reservation, Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, Red Cliff Reservation, St. Croix Chippewa Reservation.¶

(B) Michigan: Keweenaw Bay Indian Community (L'Anse, Lac Vieux Desert and Ontonagon Bands).¶

(5C) The Department excludes Indian benefit payments when federal law requires an exclusion. These include Minnesota: Fond du lac Reservation, Grand Portage Reservation, Bois Fort Reservation (including Nett Lake, Vermillion Lake and Deer Creek), White Earth Reservation.¶

(y) Public Law 99-264: Payments and funds held in trust to the White Earth Band of Chippewa Indians in Minnesota under the White Earth Reservation Land Settlement Act of 1985, Section 16.¶

(z) Public Law 99-346 section 6(b)(2): Per capita payments under each of the following federal laws:¶

(a) The Aroostook Band of Micmacs income from a distribution of funds held in trust to the Saginaw Chippewa Tribe of Michigan.¶

(aa) Public Law 99-377 section 4(b): Per capita payments distributed or held in trust to the Chippewas of Mississippi under Public Law 102-171.¶

(b) Blackfeet, Cherokee, Cheyenne, Chippewa, and Sioux tribes under Public Law 94-114, when the payment is from submarginal land held in trust by the United States.¶

(c) Blackfeet Indians under Public Law 92-254.¶

(d) Grand River Ottawa Indians under Public Law 94-540.¶

(e) Hopi or Navajo 99-377 Section 4(b), to those with affiliation with the Mille Lacs, White Earth and Leech Lake Reservations in Minnesota, and paid by the Indian Claims Commission.¶

(bb) Public Law 100-139: Judgment payments disbursed to the Umpqua Tribe Cow Creek Band.¶

(cc) Public Law 100-383: Per capita restitution payments made to eligible Aleuts who were relocated or interned during World War II.¶

(dd) Public Law 101-41: Funds, assets or income received from the trust fund established and paid to the Puyallup Tribe of the State of Washington under Section 9(b) of the Puyallup Tribe of Indians Settlement Act of 1989.¶

(ee) Public Law 101-503 Section 8(b): Settlement payments, funds distributed or held in trust to members of the Seneca Nation under the Seneca Nation Settlement Act of 1990.¶

(ff) Public Law 102-171: Payments to the Aroostook Band under the Micmac Settlement Act.¶

(gg) Public Law 103-116: Settlement funds, income, payments or distributions from Trust Funds to members of the Catawba Indians Tribe under the Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993.¶

(hh) Public Law 93-531.¶

(f) Passamaquoddy Tribe and Penobscott Nation, including the Holton Band of Maliseet Indians, 103-436: Payments from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act.¶

(ii) Public Law 103-444: Payments made or benefits granted by the Crow Boundary Settlement Act of 1994.¶

(jj) Public Law 105-143: Distributions of judgment funds to the Ottawa and Chippewa Indians of Michigan under the Michigan Indian Land Claims Settlement Act.¶

(kk) (Public Law 96-420).¶

(g) Umpqua Tribe Cow Creek Band under Public Law 100-139.¶

(h) Yakima Nation Confederated Tribes and Bands of the Mescalero Reservation Apache Tribe under Public Law 95-433 108-270: Per capita distribution of judgment funds to members of the Western Shoshone Indians.¶

(ll) Public Law 111-291 section 101: Payments from the Tribal Trust Accounting and Management Lawsuits. If the funds are comingled with other funds, the resource is excluded for only 12 months and counted thereafter.¶

(mm) Tribal Benefits from timber sales or oil reserves from land held in trust by the Secretary of the Interior.¶

(3) Payments from the Bureau of Indian Affairs are treated as follows:¶

(a) In the SNAP program, payments from the General Assistance program are counted as unearned income.¶

- (b) In all programs except the SNAP program, payments from the General Assistance program are excluded.¶
- (c) Educational income treatment is under OAR 461-145-0150.¶
- (64) EIn all programs except in the SNAP program, the following payments are received from trust or restricted lands under Public Law 93-134, Public Law 97-458, and Public Law 103-66 are excluded. In the SNAP program, excluded unearned income. In the SNAP program, the Department excludes the first \$2,000 of each per capita payment per individual in the financial group (see OAR 461-110-0530) and the balance is counted as unearned periodic income.¶
- (a) Public Law 85-794: Distribution of Per Capita Funds to the Red Lake Band of Chippewa Indians from the proceeds of the sale of timber and lumber on the Red Lake Reservation.¶
- (b) Public Law 93-134: Indian Judgement Funds Distribution Act payments received from trust or restricted lands under 25 USC 1408 (Public Law 93-134, Public Law 97-458, and Public Law 103-66) are treated as follows:¶
- (a) Excluded as a resource.¶
- (b) T.¶
- (c) Public Law 97-458: Payments received from trust or restricted lands under 25 USC 1408. ¶
- (5) In all programs except the ERDC and SNAP programs, the following payments are excluded unearned income. In the SNAP and ERDC programs, the Department excludes the first \$2,000 of each per-capita payment per year for each member of individual in the financial group who receives the payment is excluded as and the balance is counted as unearned periodic income. ¶
- (ea) The amount over \$2,000 per year paid to any Public Law 100-411: Per capita payments of claims settlement funds to members of the financial group is counted as periodic income Coushatta Tribe of Louisiana.¶
- (b) Public Law 100-581: Judgment funds distributed to members of the Wisconsin Band of Potawatomej (see OAR 461-001-0000 and 461-140-0110) Hannahville Indian Community and Forest County Potawatomi).¶
- (7c) Payments to Seminole Tribe members under Public Law 101-277 are treated as follows:¶
- (a) Public Law 101-618: Per capita distributions of settlement funds under the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990. ¶
- (6) Public Law 101-277 funds appropriated in satisfaction of judgments awarded to the Seminole Indians and paid by the Indians Claims Commission are excluded unearned income in the SNAP program. In all programs other than the SNAP program, the Department excludes the first \$2,000 of each per-capita payment per year is excluded for each individual in the financial group and counts the balance as unearned periodic income. These payments are allocated to members of the financial group who receives the payment Seminole Nation of Oklahoma, Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida and the independent Seminole Indians of Florida.¶
- (b7) The amount over \$2,000 paid to each member of the financial group who receives the per-capita payment is counted as lump-sum income (see OAR 461-140-0120) In all programs except the ERDC program, the payments in this section are excluded unearned income. In the ERDC program, the Department excludes the first \$2,000 of each capita payment per individual in the financial group and counts the balance as unearned periodic income.¶
- (a) Public Law 94-189: Judgment funds distributed to members of the Sac and Fox Indian Nation.¶
- (8b) Payments from the public Law 98-602: Per Capita distributions of judgment funds to members of the Confederated Tribes of the Umatilla under Public Law 91-259 are treated as follows:¶
- (a) T in Oklahoma and absentee Wyandotte.¶
- (8) In all programs except the SNAP program, the payments in this section are excluded unearned income. In the SNAP program, the Department excludes the first \$2,000 of each year of per-capita payments per year is excluded for each member of the financial group who receives the payment individual in the financial group and count the balance as unearned periodic income.¶
- (ba) The amount over \$2,000 paid to each member of the financial group who receives the per-capita p Public Law 92-254: Distribution of Per Capita Funds by the Blackfeet and Gros Ventre tribal governments to members, which resulted from judgment funds to the tribes.¶
- (b) Public Law 103-66: Payment is counted as lump-sum income (see OAR 461-140-0120)s for land held in trust by the Secretary of the Interior under 25 USC 1408.¶
- (9c) Payments for assets held in trust to the Sac and Fox Tribe of Oklahoma and Sac and Fox Tribe of the

~~Mississippi in Iowa by the Indian Claims Commission under from land designated as Indian trust land and not addressed elsewhere in this rule.~~

~~(9) For the following payments, the Department excludes the first \$2,000 each year of per capita payments per individual in the financial group and counts the balance as unearned periodic income.~~

~~(a) Public Law 92-203, the Alaska Native Claim Settlement Act payments.~~

~~(b) Public Law 100-241, the Alaska Native Claim Settlement Act Amendment of 1987.~~

~~(10) Public Law 94-1898-500, Section 6 (The Sac and Fox Indian (b) (Old Age Assistance Claims Agreement) are treated as follows:~~

~~(a) Settlement Act) payments are excluded in the ERDC program. In all programs other than the ERDC program, the Department excludes the first \$2,000 of each per-capita payment per year is excluded for each member of the financial group who receives the payment individual in the financial group and counts the balance as unearned periodic income.~~

~~(b) The amount over \$2,000 paid to each member of Department excludes the first \$2,000 of each per capita payment per individual in the financial group who receives the per-capita payment is counted as lump-sum income (see OAR 461-140-0120).~~

~~(10) Payments from judgment funds held in trust by the U.S. Secretary of the Interior under Public Law 98-64 are excluded.~~

~~(11) Indian Child Welfare payments under Public Law 95-608 are excluded and counts the balance as unearned periodic income for the following:~~

~~(a) Public Law 100-580: Funds distributed to the Hoopa Valley Tribe and the Yurok Tribe under the Hoopa-Yurok Settlement Act, and paid by the Indian Claims Commission.~~

~~(b) Public Law 97-436: Per capita distributions of judgment funds to members of the Confederated Tribes of the Warm Springs Reservation.~~

~~(12) Tribal payments for child care are treated as follows:~~

~~(a) Provider-direct payments are counted as the provider's earned income.~~

~~(b) All client-direct payments are excluded.~~

~~(13) Indian benefit payments distributed by the tribe and not excluded for that program by public Commercial fishing income under one of the Columbia River Fishing Treaties for Yakima, Warm Springs, Umatilla and Nez Perce tribes is counted as unearned income.~~

~~(14) Payments in the Tribal-TANF program payments are counted in the same manner as TANF program payments under OAR 461-145-0410.~~

~~(15) Payments from the Tribal Trust Accounting and Management Lawsuits under P All other Indian (Native American) benefit payments distributed by the tribe and not excluded by public Law 111-291 (section 101) are treated as are counted as unearned income. This includes the following:~~

~~(a) The payments are excluded as income in the month of receipt.~~

~~(b) The payments are excluded as a resource for the 12 calendar months following the receipt of the payment as long as they are not commingled with other funds Profit share or per capita income from tribal casinos.~~

~~(b) Income derived from land not held in trust by the secretary of the interior such as timber sales or sale of oil reserves.~~

~~(c) Public Law 91-259: Payments from the distribution of judgment funds to members of the Confederated Tribes of the Umatilla Indian Reservation.~~

~~(16) Indian lands held jointly with the tribe, or land that may not be sold without the approval of the Bureau of Indian Affairs (BIA) are excluded resources.~~

Statutory/Other Authority: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049

Statutes/Other Implemented: ORS 411.060, 411.083, 411.404, 411.816, 412.014, 412.049

RULE SUMMARY: OAR 461-155-0150 about child care eligibility standard, payment rates, and copayments is being amended to make permanent temporary rule changes that set out a reduced copay amount for individuals participating in the Occupational Training and Child Care program and that increased rates for child care providers. The co-pay amendment supports low-income participants with dependent children to access quality child care while receiving career coaching and occupational training to assist entry into middle income employment. The provider rate increases implement the decisions made through collective bargaining. This rule is also being amended to allow child care centers run by school districts who are participating in the Alternative Pathway program to continue to be paid at the Department's certified center rate even after The Office of Child Care closes their child care license, allowing them to continue at their current rates.

CHANGES TO RULE:

461-155-0150

Child Care Eligibility Standard, Payment Rates, and Copayments ¶¶

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:¶¶

(1) The following definitions apply to the rules governing child care rates:¶¶

(a) Infant: For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 2 years.¶¶

(b) Toddler: For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 2 years to 3 years.¶¶

(c) Preschool: A child aged 3 years to 6 years.¶¶

(d) School: A child aged 6 years or older.¶¶

(e) Special Needs: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral, or mental disability. The disability must be verified by one of the following:¶¶

(A) A physician, nurse practitioner, clinical social worker, or any additional sources in OAR 461-125-0830.¶¶

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.¶¶

(C) Eligibility for SSI.¶¶

(2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:¶¶

(a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.¶¶

(b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.¶¶

(c) The Registered Family Rate applies to child care provided in the provider's own home when the provider meets criteria established by the Office of Child Care.¶¶

(d) The Certified Family Rate applies to child care provided in a residential dwelling that is certified by the Office of Child Care as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.¶¶

(e) The Standard Center Rate applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Office of Child Care Certification rules (see OAR 414-300-0000).¶¶

(f) The Enhanced Center Rate applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject

to the following requirements:¶¶

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in subsection (b) of this section.¶¶

(B) New staff must meet the Oregon Registry training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.¶¶

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.¶¶

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (b) or (f) of this section.¶¶

(h) The Certified Center Rate applies to child care provided in a center that is certified by the Office of Child Care or participating in the Alternative Pathway program through the Office of Child Care.¶¶

(3) The following provisions apply to child care payments:¶¶

(a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.¶¶

(b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month, unless the provider customarily bills all families at a part-time monthly rate subject to the maximum full-time monthly rate and is designated as the primary provider for the case.¶¶

(c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month, customarily bill all families at a part-time monthly rate, and are designated as the primary provider for the case.¶¶

(d) Unless required by the circumstances of the client or child, the Department will not pay for care at a part-time monthly or a monthly rate to more than one provider for the same child for the same month.¶¶

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.¶¶

(f) The Department will pay for up to five days each month the child is absent if:¶¶

(A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care; and¶¶

(B) It is the provider's policy to bill all families for absent days.¶¶

(g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.¶¶

(h) Child care providers are eligible to receive an incentive payment upon achieving and maintaining a three star or higher rating with the Quality Rating Improvement System (QRIS) subject to all of the following provisions.¶¶

(A) The incentive payment is in addition to the Department maximum rate.¶¶

(B) A provider may receive an incentive payment for any ERDC child that the Department paid the provider for full-time care (136 hours or more).¶¶

(C) Providers who are contracted for child care services through the ERDC program are not eligible to receive incentive payments, with the exception of Early Head Start providers.¶¶

(D) Eligibility for the incentive payment is effective the month after the QRIS rating has been achieved.¶¶

(E) The incentive payment amount is based on the provider's star QRIS rating as follows: [see attached table]¶¶

(4) The following are the child care rates based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (hourly or monthly):¶¶

(a) [see attached table]¶¶

(b) [see attached table]¶¶

(c) [see attached table]¶¶

(5) Except to the extent provided otherwise in section (12), (13), or (14) of this rule or for children in contracted child care (see OAR 461-135-0405 and 461-135-0407), this section establishes the ERDC eligibility standard and the client's copayment (copay).¶¶

(a) At initial certification, the ERDC eligibility standard is met for a need group (see OAR 461-110-0630) of eight

or less if monthly countable income (see OAR 461-001-0000) for the need group is less than 185 percent of the federal poverty level (FPL), as described in OAR 461-155-0180. The eligibility standard for a need group of eight applies to any need group larger than eight.¶

(b) During the certification period (see OAR 461-001-0000) and at recertification the ERDC eligibility standard is met for a need group of eight or less if monthly countable income for the need group during the 12 month period is less than 250 percent FPL or 85 percent state median income (SMI), whichever is higher, as described in OAR 461-155-0180. The eligibility standard for a need group of eight applies to any need group larger than eight.¶

(c) The minimum monthly ERDC copay is \$25.¶

(d) The filing group may not exceed the resource limit in OAR 461-160-0015.¶

(e) For a filing group (see OAR 461-110-0310) whose countable income is at or below 50 percent of the 2007 FPL, the copay is \$25 or 1.5 percent of the filing group's monthly countable income, whichever is greater.¶

(f) For a filing group whose countable income is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:¶

(A) Divide the filing group's countable income by the 2007 FPL, drop all digits beyond two decimal points, subtract 0.5, and multiply this difference by 0.12.¶

(B) Add .015 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income used to determine the copay amount. Multiply this sum by the filing group's countable income and round to the nearest whole dollar.¶

(g) For individuals participating in the Occupational Training and Child Care program and the Launch housing stabilization project, the copay is \$27.00.¶

(h) The 2007 federal poverty level used to determine copay amounts under subsections (e) and (f) of this section is set at the following amounts: [see attached table]¶

(6) Subject to the provisions in section (9) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:¶

(a) The monthly rate provided in section (4) of this rule.¶

(b) The product of the hours of care, limited by section (8) of this rule, multiplied by the hourly rate provided in section (4) of this rule.¶

(7) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:¶

(a) The amount billed by the provider or providers.¶

(b) The monthly rate established in this rule for 215 hours of care.¶

(8) The number of payable billed hours of care for a child is limited as follows:¶

(a) In the ERDC and TANF programs, the total payable hours of care in a month may not exceed the amounts in paragraphs (A) or (B) of this subsection:¶

(A) 125 percent of the number of child care hours authorized:¶

(i) Under OAR 461-160-0040(2) and (5); or¶

(ii) To participate in activities included in a case plan (see OAR 461-001-0025) including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client.¶

(B) The monthly rate established in section (4) of this rule multiplied by a factor of not more than 1.5, determined by dividing the number of hours billed by 215, when the client meets the criteria for extra hours under section (10) of this rule.¶

(b) In the ERDC program, for a client who earns less than the Oregon minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time).¶

(c) In the TANF program, for a client who earns less than the Oregon minimum wage or is self-employed, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's

employment.¶

(d) In the ERDC program, employed caretakers eligible under OAR 461-135-0400 may have education hours added to the authorized work hours. Education hours may not exceed authorized work hours and combined hours may not exceed 215 hours per month. Education hours are hours required to participate in coursework that leads to a certificate, degree, or job-related knowledge or skills attainment at an institution of higher education approved to receive federal financial aid.¶

(9) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (10) of this rule, is the lesser of one of the following:¶

(a) The amount billed by the provider or providers; or¶

(b) The monthly rate established in section (4) of this rule multiplied by a factor, of not more than 1.5, determined by dividing the number of hours billed by 215.¶

(10) The limit allowed by section (9) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this section, a client has special circumstances when it is necessary for the client to obtain child care in excess of 215 hours in a month to perform the requirements of his or her employment or training required to keep current employment, not including self-employment. This is limited to the following situations:¶

(a) The commute time to and from work exceeds two hours per day.¶

(b) The caretaker works an overnight shift and care is necessary for both work hours and sleep hours.¶

(c) The caretaker works a split shift and it is not feasible to care for the child between shifts.¶

(d) The caretaker consistently works more than 40 hours per week.¶

(11) The payment available for care of a child who meets the special needs criteria described in subsection (e) of section (1) of this rule is increased in accordance with OAR 461-155-0151 if the requirements of both of the following subsections are met:¶

(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age.¶

(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.¶

(12) Effective May 1, 2012:¶

(a) The minimum monthly ERDC copay is \$27.¶

(b) Except as stated in subsection (a) of this section, the Department adds 10 percent to the monthly client copay amount set under section (5) of this rule by multiplying the copay amount by 1.1 and rounding down to the nearest whole dollar.¶

(13) Effective April 1, 2016, the ERDC copay is \$27 for no more than three months after closure of Pre-TANF, SFPSS, or TANF benefits when:¶

(a) The closure is because an individual in the need group had earned income that led to the TANF closure;¶

(b) An ERDC date of request (see OAR 461-115-0030) is established within 90 days of closure; and¶

(c) The individual is eligible for ERDC at initial certification.¶

(14) The ERDC copay will be reduced starting the month after the ERDC case has been electronically connected to a Department approved child care provider with a Quality Rating and Improvement System (QRIS) star rating of 3, 4, or 5. The copay will be reduced by the following amounts:¶

(a) A copay set at \$27 is waived, unless the copay is \$27 under section (13) of this rule in which case the copay is not waived under this section.¶

(b) Copay amounts of \$28 to \$200 are reduced by \$20.¶

(c) Copay amounts of \$201 or more are reduced by 10 percent rounding to the nearest dollar.¶

[see attached table]

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 412.049

Statutes/Other Implemented: ORS 329A.500, 409.010, 409.610, 411.060, 411.070, 411.122, 411.141, 412.006,

412.049, 412.124, 418.485

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

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:

- (1) The following definitions apply to the rules governing child care rates:
 - (a) Infant: For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 2 years.
 - (b) Toddler: For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 2 years to 3 years.
 - (c) Preschool: A child aged 3 years to 6 years.
 - (d) School: A child aged 6 years or older.
 - (e) Special Needs: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral, or mental disability. The disability must be verified by one of the following:
 - (A) A physician, nurse practitioner, clinical social worker, or any additional sources in OAR 461-125-0830.
 - (B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.
 - (C) Eligibility for SSI.
- (2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:
 - (a) The *Standard Family Rate* applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.
 - (b) The *Enhanced Family Rate* applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.

- (c) The *Registered Family Rate* applies to child care provided in the provider's own home when the provider meets criteria established by the Office of Child Care.
 - (d) The *Certified Family Rate* applies to child care provided in a residential dwelling that is certified by the Office of Child Care as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.
 - (e) The *Standard Center Rate* applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Office of Child Care Certification rules (see OAR 414-300-0000).
 - (f) The *Enhanced Center Rate* applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:
 - (A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in subsection (b) of this section.
 - (B) New staff must meet the Oregon Registry training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.
 - (C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.
 - (g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (b) or (f) of this section.
 - (h) The *Certified Center Rate* applies to child care provided in a center that is certified by the Office of Child Care or participating in the Alternative Pathway program through the Office of Child Care.
- (3) The following provisions apply to child care payments:
- (a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.
 - (b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month, unless the provider customarily

bills all families at a part-time monthly rate subject to the maximum full-time monthly rate and is designated as the primary provider for the case.

- (c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month, customarily bill all families at a part-time monthly rate, and are designated as the primary provider for the case.
- (d) Unless required by the circumstances of the client or child, the Department will not pay for care at a part-time monthly or a monthly rate to more than one provider for the same child for the same month.
- (e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.
- (f) The Department will pay for up to five days each month the child is absent if:
 - (A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care; and
 - (B) It is the provider's policy to bill all families for absent days.
- (g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.
- (h) Child care providers are eligible to receive an incentive payment upon achieving and maintaining a three star or higher rating with the Quality Rating Improvement System (QRIS) subject to all of the following provisions.
 - (A) The incentive payment is in addition to the Department maximum rate.
 - (B) A provider may receive an incentive payment for any ERDC child that the Department paid the provider for full-time care (136 hours or more).
 - (C) Providers who are contracted for child care services through the ERDC program are not eligible to receive incentive payments, with the exception of Early Head Start providers.
 - (D) Eligibility for the incentive payment is effective the month after the QRIS rating has been achieved.

- (E) The incentive payment amount is based on the provider's star QRIS rating as follows:

Star Rating	Amount
3	\$54
4	\$72
5	\$90

- (4) The following are the child care rates based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (hourly or monthly):

- (a)

Group Area A
STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	\$3.52	\$651	\$9.00	\$1,061
Toddler	\$3.47	\$625	\$5.25	\$1,053
Preschool	\$3.47	\$586	\$5.06	\$795
School	\$3.47	\$586	\$4.50	\$641
Special Needs	\$3.52	\$651	\$9.00	\$1,061

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$3.78	\$512	\$683	\$10.20	\$902	\$1,203
Toddler	\$3.57	\$492	\$656	\$5.95	\$895	\$1,193
Preschool	\$3.57	\$465	\$620	\$5.74	\$676	\$901
School	\$3.51	\$450	\$600	\$5.10	\$545	\$727
Special Needs	\$3.78	\$512	\$683	\$10.20	\$902	\$1,203

LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$4.00	\$600	\$800	\$6.00	\$941	\$1,254	\$12.00	\$1,061	\$1,415
Toddler	\$4.00	\$563	\$750	\$6.00	\$855	\$1,140	\$7.00	\$1,053	\$1,404
Preschool	\$3.67	\$548	\$730	\$5.05	\$750	\$1,000	\$6.75	\$795	\$1,060
School	\$3.70	\$458	\$610	\$4.70	\$563	\$750	\$6.00	\$641	\$855
Special Needs	\$4.00	\$600	\$800	\$6.00	\$941	\$1,254	\$12.00	\$1,061	\$1,415

Zip Codes for Group Area A:
Portland, Bend, Eugene, Corvallis, Springfield, Monmouth and Ashland areas

97003	97004	97005	97006	97007	97008	97009	97010	97013	97014	97015	97019
97022	97023	97024	97027	97028	97030	97031	97034	97035	97036	97041	97045
97051	97055	97056	97060	97062	97064	97068	97070	97080	97086	97089	97106
97109	97112	97113	97116	97119	97123	97124	97125	97132	97133	97135	97140
97149	97201	97202	97203	97204	97205	97206	97209	97210	97211	97212	97213
97214	97215	97216	97217	97218	97219	97220	97221	97222	97223	97224	97225
97227	97229	97230	97231	97232	97233	97236	97239	97242	97258	97266	97267
97268	97286	97292	97330	97331	97333	97339	97351	97361	97371	97376	97401
97402	97403	97404	97405	97408	97454	97455	97477	97478	97482	97520	97525
97701	97702	97703	97707	97708	97709	97078					

(b)

Group Area B
STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	\$3.05	\$520	\$3.75	\$641
Toddler	\$3.05	\$499	\$3.75	\$589
Preschool	\$2.89	\$494	\$3.00	\$510
School	\$2.89	\$480	\$3.30	\$431
Special Needs	\$3.05	\$520	\$3.75	\$641

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$3.20	\$420	\$560	\$4.25	\$545	\$727
Toddler	\$3.20	\$400	\$533	\$4.25	\$500	\$667
Preschool	\$3.20	\$400	\$533	\$3.40	\$434	\$578
School	\$3.20	\$375	\$500	\$3.74	\$367	\$489
Special Needs	\$3.20	\$420	\$560	\$4.25	\$545	\$727

LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$3.50	\$450	\$600	\$4.00	\$563	\$750	\$5.00	\$641	\$855
Toddler	\$3.50	\$416	\$555	\$4.00	\$525	\$700	\$5.00	\$589	\$785
Preschool	\$3.30	\$413	\$550	\$3.75	\$488	\$650	\$4.00	\$510	\$680
School	\$3.30	\$383	\$510	\$3.80	\$450	\$600	\$4.40	\$431	\$575
Special Needs	\$3.50	\$450	\$600	\$4.00	\$563	\$750	\$5.00	\$641	\$855

Zip Codes for Group Area B:

Salem, Medford, Roseburg, Brookings and areas outside the metropolitan areas in Eugene and Portland

97002	97011	97016	97017	97018	97038	97042	97044	97048	97049	97053
97058	97067	97071	97103	97107	97108	97110	97111	97114	97115	97117
97121	97122	97127	97128	97131	97134	97138	97141	97143	97146	97148
97302	97303	97304	97305	97306	97307	97309	97310	97317	97321	97322
97326	97327	97328	97336	97338	97341	97343	97344	97348	97352	97353
97357	97362	97365	97366	97367	97370	97372	97374	97377	97378	97380
97383	97385	97386	97389	97391	97392	97394	97415	97420	97423	97424
97431	97444	97446	97448	97452	97456	97457	97459	97465	97470	97471
97487	97489	97501	97502	97503	97504	97524	97534	97535	97756	97759
97801	97812	97813								

(c)

Group Area C

STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	\$3.05	\$520	\$3.75	\$641

Toddler	\$3.05	\$499	\$3.75	\$589
Preschool	\$2.89	\$494	\$3.00	\$510
School	\$2.89	\$480	\$3.30	\$431
Special Needs	\$3.05	\$520	\$3.75	\$641

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$3.20	\$420	\$560	\$4.25	\$545	\$727
Toddler	\$3.20	\$400	\$533	\$4.25	\$500	\$667
Preschool	\$3.20	\$400	\$533	\$3.40	\$434	\$578
School	\$3.20	\$375	\$500	\$3.74	\$367	\$489
Special Needs	\$3.20	\$420	\$560	\$4.25	\$545	\$727

LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$3.50	\$450	\$600	\$4.00	\$563	\$750	\$5.00	\$641	\$855
Toddler	\$3.50	\$416	\$555	\$4.00	\$525	\$700	\$5.00	\$589	\$785
Preschool	\$3.30	\$413	\$550	\$3.75	\$488	\$650	\$4.00	\$510	\$680
School	\$3.30	\$383	\$510	\$3.80	\$450	\$600	\$4.40	\$431	\$575
Special Needs	\$3.50	\$450	\$600	\$4.00	\$563	\$750	\$5.00	\$641	\$855

Zip Codes for Group Area C: Balance of State, Other State Zips

97001	97020	97021	97026	97029	97032	97033	97037	97039	97040	97050	97054	97057
97063	97065	97101	97102	97130	97136	97137	97144	97145	97147	97324	97329	97335
97342	97345	97346	97347	97350	97358	97359	97360	97364	97368	97369	97375	97384
97388	97390	97396	97406	97407	97409	97410	97411	97412	97413	97414	97416	97417
97419	97425	97427	97428	97429	97430	97432	97433	97434	97435	97436	97437	97438
97439	97441	97442	97443	97447	97449	97450	97451	97453	97458	97460	97461	97462
97463	97464	97466	97467	97468	97469	97472	97473	97476	97480	97481	97484	97486
97488	97490	97491	97492	97493	97494	97495	97496	97497	97498	97499	97522	97523
97526	97527	97530	97531	97532	97533	97536	97537	97538	97539	97540	97541	97543
97544	97601	97603	97604	97620	97621	97622	97623	97624	97625	97626	97627	97630
97632	97633	97634	97635	97636	97637	97638	97639	97640	97641	97710	97711	97712
97720	97721	97722	97730	97731	97732	97733	97734	97735	97736	97737	97738	97739
97740	97741	97742	97750	97751	97752	97753	97754	97758	97761	97810	97814	97817
97818	97819	97820	97821	97822	97823	97824	97825	97826	97827	97828	97830	97831
97833	97834	97835	97836	97837	97838	97839	97840	97841	97842	97843	97844	97845
97846	97848	97850	97856	97857	97859	97861	97862	97864	97865	97867	97868	97869
97870	97871	97872	97873	97874	97875	97876	97877	97880	97882	97883	97884	97885
97886	97901	97902	97903	97904	97905	97906	97907	97908	97909	97910	97911	97913
97914	97918	97919	97920									

- (5) Except to the extent provided otherwise in section (12), (13), or (14) of this rule or for children in contracted child care (see OAR 461-135-0405 and 461-135-0407), this section establishes the ERDC eligibility standard and the client's copayment (copay).
- (a) At initial certification, the ERDC eligibility standard is met for a *need group* (see OAR 461-110-0630) of eight or less if monthly *countable income* (see OAR 461-001-0000) for the *need group* is less than 185 percent of the federal poverty level (FPL), as described in OAR 461-155-0180. The eligibility standard for a *need group* of eight applies to any *need group* larger than eight.
- (b) During the *certification period* (see OAR 461-001-0000) and at recertification the ERDC eligibility standard is met for a *need group* of eight or less if monthly *countable income* for the *need group* during the 12 month period is less than 250 percent FPL or 85 percent state median income (SMI), whichever is higher, as described in OAR 461-155-0180. The eligibility standard for a *need group* of eight applies to any *need group* larger than eight.
- (c) The minimum monthly ERDC copay is \$25.
- (d) The filing group may not exceed the resource limit in OAR 461-160-0015.

- (e) For a filing group (see OAR 461-110-0310) whose *countable income* is at or below 50 percent of the 2007 FPL, the copay is \$25 or 1.5 percent of the filing group's monthly *countable income*, whichever is greater.
- (f) For a filing group whose *countable income* is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:
 - (A) Divide the filing group's *countable income* by the 2007 FPL, drop all digits beyond two decimal points, subtract 0.5, and multiply this difference by 0.12.
 - (B) Add .015 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income used to determine the copay amount. Multiply this sum by the filing group's *countable income* and round to the nearest whole dollar.
- (g) For individuals participating in the Occupational Training and Child Care program, the copay is \$27.00.
- (h) The 2007 federal poverty level used to determine copay amounts under subsections (e) and (f) of this section is set at the following amounts:

Number in Family	Gross Monthly Income	Gross Yearly Income
2	\$1,141	\$13,690
3	1,431	17,170
4	1,721	20,650
5	2,011	24,130
6	2,301	27,610
7	2,591	31,090
8 or more	2,881	34,570

- (6) Subject to the provisions in section (9) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:
 - (a) The monthly rate provided in section (4) of this rule.
 - (b) The product of the hours of care, limited by section (8) of this rule, multiplied by the hourly rate provided in section (4) of this rule.
- (7) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a

reserve or National Guard unit that is called up for active duty is the lesser of the following:

- (a) The amount billed by the provider or providers.
 - (b) The monthly rate established in this rule for 215 hours of care.
- (8) The number of payable billed hours of care for a child is limited as follows:
- (a) In the ERDC and TANF programs, the total payable hours of care in a month may not exceed the amounts in paragraphs (A) or (B) of this subsection:
 - (A) 125 percent of the number of child care hours authorized:
 - (i) Under OAR 461-160-0040(2) and (5); or
 - (ii) To participate in activities included in a *case plan* (see OAR 461-001-0025) including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client.
 - (B) The monthly rate established in section (4) of this rule multiplied by a factor of not more than 1.5, determined by dividing the number of hours billed by 215, when the client meets the criteria for extra hours under section (10) of this rule.
 - (b) In the ERDC program, for a client who earns less than the Oregon minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time).
 - (c) In the TANF program, for a client who earns less than the Oregon minimum wage or is self-employed, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.
 - (d) In the ERDC program, employed caretakers eligible under OAR 461-135-0400 may have education hours added to the authorized work hours. Education hours may not exceed authorized work hours and combined hours may not exceed 215 hours per month. Education hours are hours required to participate in coursework that leads to a certificate, degree, or job-related knowledge or skills attainment at an institution of higher education approved to receive federal financial aid.
- (9) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (10) of this rule, is the lesser of one of the following:

- (a) The amount billed by the provider or providers; or
 - (b) The monthly rate established in section (4) of this rule multiplied by a factor, of not more than 1.5, determined by dividing the number of hours billed by 215.
- (10) The limit allowed by section (9) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this section, a client has special circumstances when it is necessary for the client to obtain child care in excess of 215 hours in a month to perform the requirements of his or her employment or training required to keep current employment, not including self-employment. This is limited to the following situations:
- (a) The commute time to and from work exceeds two hours per day.
 - (b) The caretaker works an overnight shift and care is necessary for both work hours and sleep hours.
 - (c) The caretaker works a split shift and it is not feasible to care for the child between shifts.
 - (d) The caretaker consistently works more than 40 hours per week.
- (11) The payment available for care of a child who meets the special needs criteria described in subsection (e) of section (1) of this rule is increased in accordance with OAR 461-155-0151 if the requirements of both of the following subsections are met:
- (a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age.
 - (b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.
- (12) Effective May 1, 2012:
- (a) The minimum monthly ERDC copay is \$27.
 - (b) Except as stated in subsection (a) of this section, the Department adds 10 percent to the monthly client copay amount set under section (5) of this rule by multiplying the copay amount by 1.1 and rounding down to the nearest whole dollar.

- (13) Effective April 1, 2016, the ERDC copay is \$27 for no more than three months after closure of Pre-TANF, SFPSS, or TANF benefits when:
- (a) The closure is because an individual in the *need group* had earned income that led to the TANF closure;
 - (b) An ERDC *date of request* (see OAR 461-115-0030) is established within 90 days of closure; and
 - (c) The individual is eligible for ERDC at initial certification.
- (14) The ERDC copay will be reduced starting the month after the ERDC case has been electronically connected to a Department approved child care provider with a Quality Rating and Improvement System (QRIS) star rating of 3, 4, or 5. The copay will be reduced by the following amounts:
- (a) A copay set at \$27 is waived, unless the copay is \$27 under section (13) of this rule in which case the copay is not waived under this section.
 - (b) Copay amounts of \$28 to \$200 are reduced by \$20.
 - (c) Copay amounts of \$201 or more are reduced by 10 percent rounding to the nearest dollar.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 412.006, 412.049

Stats. Implemented: ORS 329A.500, 409.010, 409.610, 411.060, 411.070, 411.122, 411.141, 412.006, 412.049, 412.124, 418.485

AMEND: 461-160-0040

NOTICE FILED DATE: 01/15/2019

RULE SUMMARY: OAR 461-160-0040 about coverage and deduction of dependent care costs is being amended to make permanent a temporary rule that set out when participants in the Occupational Training and Child Care program may be eligible for subsidized child care and what happens when they stop participating. This amendment supports low-income participants with dependent children to access quality child care while receiving career coaching and occupational training to assist entry into middle income employment.

CHANGES TO RULE:

461-160-0040

Dependent Care Costs; Deduction and Coverage ¶¶

(1) In the SNAP program, dependent care is deductible (see OAR 461-160-0430) when all of the following are true:¶¶

(a) The dependent is a member of the filing group (see OAR 461-110-0310) and is in the care, control, and custody of an individual in the group.¶¶

(b) The dependent care provider:¶¶

(A) Is not in the filing group; and¶¶

(B) Is not the parent (see OAR 461-001-0000) of the dependent.¶¶

(c) The dependent care is necessary because the client is working, commuting, on a meal break, in training, participating in pre-employment education, or participating in an OFSET case plan (see OAR 461-001-0020).¶¶

(2) In the ERDC and TANF programs, the cost of dependent child care may be paid for by the Department (is covered) only if dependent child care is necessary for the working client to perform ~~his or her~~ the client's job duties, except in the ERDC program the cost of dependent care is allowed for approved educational hours ~~and, for clients participating in the Occupational Training and Child Care program, and for child care authorized under section (5) of this rule.~~¶¶

(a) For a client working under a JOBS Plus agreement, child care is covered during the time the client is engaged in work or in job search if the employer pays the client during that time.¶¶

(b) Child care is covered for clients participating in the Occupational Training and Child Care program who have applied for the program and actively engaged in training as outlined in the Occupational Training and Child Care program.¶¶

(3) In the ERDC, JOBS, and TANF programs, the cost of dependent child care is not covered by the Department when free care is available, such as during school hours for school-age children.¶¶

(4) Child care is not covered in the ERDC and TANF programs if the nature of the work of the caretaker (see OAR 461-001-0000) does not make it necessary for a person other than the caretaker to provide the care. Child care is not covered during a period of time when the caretaker: ~~--~~¶¶

(a) Works at home and the nature of the work allows the caretaker to provide the care without significantly affecting the work;¶¶

(b) Provides child care in a residence; or¶¶

(c) Works for a provider of child care in a residence, unless the provider is a certified family child care home under OAR 414-350-0000 to 414-350-0400.¶¶

(5) In the ERDC program the cost of dependent child care may continue to be paid for by the Department (is covered) during the certification period (see OAR 461-001-0000) with no change to the authorized child care hours subject to the following provisions:¶¶

(a) When a reduction in work hours occurs the copay may be adjusted.¶¶

(b) When a job loss occurs:¶¶

(A) When a caretaker has a permanent job loss from all employment the copay is waived for up to three months for a work search period, starting the month after the job loss occurred.¶¶

- (B) The waiver ends at the end of the three month period if the caretaker becomes employed.¶
 - (C) The three month work search period does not apply when:¶
 - (i) The adult was discharged or fired without good cause (see OAR 461-135-0070(2)) for misconduct, felony, or theft. "Misconduct" means willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee, including an act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest.¶
 - (ii) The adult voluntarily quit in anticipation of discharge or without good cause.¶
 - (c) For medical leave:¶
 - (A) When a caretaker is on medical leave the reason for the leave must be verified including diagnosis and prognosis under OAR 461-125-0830. Maternity leave may be authorized for three months (12 weeks) without medical documentation.¶
 - (B) For a decrease or increase in income during or at the end of medical leave see OAR 461-180-0005 and OAR 461-180-0030.¶
 - (C) Medical leave and maternity leave can be extended when new verification is received prior to the end of the month noted on the original documentation. Medical leave cannot extend beyond the certification period.¶
 - (d) For military transition:¶
 - (A) When a caretaker who is a discharged U.S. military member returns from active duty in a military war zone, the copay is waived for up to six months starting the month after the military member returns home.¶
 - (B) The copay waiver ends at the end of the six month period if the caretaker becomes employed. The copay waiver ends before the end of the six month period if the caretaker returns to active duty.¶
 - (e) Under this section child care may be used for work, work search, approved educational hours, military transition activities, or other activities to maintain a part-time or full-time slot at a child care facility.¶
 - (f) If the client stops participating in the Occupational Training and Child Care program:¶
 - (A) The client's copay is waived for up to three months while the client is in the process of reengaging into the program.¶
 - (B) The waiver ends when the client reengages into the Occupational Training and Child Care program¶
 - (C) If the client does not reengage within three months, the ERDC certification ends at the end of the three months if the client does not reengage in the Occupational Training and Child Care program.¶
 - (6) In the JOBS program, the cost of child care may be covered while the care is necessary to enable the client to participate in a case plan (see OAR 461-190-0211).¶
 - (7) In the ERDC, JOBS, JOBS Plus, and TANF programs, the cost of dependent child care may be paid for (is covered) by the Department, only if all the following are true:¶
 - (a) The dependent child (see OAR 461-001-0000):¶
 - (A) In the ERDC program, is a member of the benefit group (see OAR 461-110-0750) and is in the care, control, and custody of an individual in the group.¶
 - (B) In the JOBS, JOBS Plus, and TANF programs, lives with the filing group.¶
 - (b) The provider of child care is not in the filing group.¶
 - (c) The provider of child care is not the parent of a child in the filing group.¶
 - (8) Coverage of the cost of dependent care is subject to the requirements in OAR chapter 461, including OAR 461-120-0510(3), 461-135-0400, 461-155-0150, 461-160-0193, 461-165-0180, and 461-190-0211.
- Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.700, 411.816, 412.049
 Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.700, 411.816, 412.049

AMEND: 461-170-0102

NOTICE FILED DATE: 01/15/2019

RULE SUMMARY: OAR 461-170-0102 about required reports for the simplified reporting system in the SNAP program is being amended to combine the interim change report policy and mid-certification review policy (previously in OAR 461-115-0232) into one rule. The mid-certification review section is expanded to incorporate the processes already in practice but not in rule. These changes are intended to comply with federal regulations in 7 CFR 273 and clarify the rules.

CHANGES TO RULE:

461-170-0102

Required Reports for the Simplified Reporting System (SRS) ~~– Interim Change Report; SNAP~~ ¶

In the SNAP program:¶

~~(4), the following two reports are required of some filing groups while in SRS:¶~~

~~(1) Interim Change Report. During the sixth month of a certification period (see OAR 461-001-0000), an individual filing group (see OAR 461-110-0370) participating in SRS and certified for benefits for longer than six months but no more than 12 months must submit to the Department, on a form designated by the Department, an Interim Change Report of household circumstances, unless the household has no earned income and each adult member is elderly (see OAR 461-001-0015) or an individual with a disability (see OAR 461-001-0015).¶~~

~~(2) The required Interim Change Report form is considered complete when it is received by the Department by the last day of the sixth month of the certification period and:¶~~

~~(a) The individual completely and accurately answers all questions necessary to determine eligibility (see OAR 461-001-0000) and benefit amounts;¶~~

~~(b) The individual provides all required verification; and¶~~

~~(c) The form contains the signature of the primary person (see OAR 461-001-0015) or the authorized representative (see OAR 461-001-0000 and OAR 461-115-0090).¶~~

~~(2) Mid-Certification Review. During the 12th month of a certification period, a filing group participating in SRS and certified for benefits for longer than 12 months must complete a Mid-Certification Review in a method approved by the Department. The required Mid-Certification Review must occur during month 12 of their certification period in order to continue receiving benefits, if eligible.¶~~

~~(a) The Mid-Certification Review has been completed when the filing group has provided the Department with updated information about their income, shelter and utility costs, and medical expenses.¶~~

~~(b) Contact between the filing group and the Department occurring after the 15th of the 12th month can result in a delay in receiving the full month allotment for the 13th month. ¶~~

~~(c) The Department follows the process outlined in OAR 461-180-0006 to meet verification requirements and adjust benefits based on this information.~~

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

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.816

AMEND: 461-180-0006

NOTICE FILED DATE: 01/15/2019

RULE SUMMARY: OAR 461-180-0006 about the effective dates in the SNAP program for changes in the Simplified Reporting System is being amended to set out policy for changes based on Mid-Certification Reviews. These changes are intended to align the rule with federal regulations in 7 CFR 273 as well as with current practice and procedures.

CHANGES TO RULE:

461-180-0006

Effective Dates; Changes in the Simplified Reporting System (SRS); SNAP ¶¶

In the SNAP program:¶¶

(1) The effective date of a change based on an Interim Change Report is:¶¶

(a) The first day of the seventh month of the certification period (see OAR 461-001-0000); or¶¶

(b) If the change causes benefits to close, the last day of the sixth month of the certification period.¶¶

(2) The effective date of a change ~~not based on an Interim Change Report~~based on a Mid-Certification Review is:¶¶

(a) For a change resulting in an increase in benefits, the first of the 13th month.¶¶

(b) For a change resulting in a decrease in benefits, the first of the month following the month in which the notice period (see OAR 461-175-0050) ends.¶¶

(c) For a change resulting in a closure of benefits, the last day of the month in which the notice period ends.¶¶

(3) The effective date of a change not based on either an Interim Change Report or a Mid-Certification Review is as follows:¶¶

(a) For a change resulting in an increase in benefits, the effective date is determined in accordance with OAR 461-180-0010 and 461-180-0020.¶¶

(b) For a change resulting in a decrease in benefits, the effective date for reducing benefits is the first of the month following the month in which the decision notice period ends.¶¶

(c) For a change resulting in a closure of benefits, the effective date is the last day of the month in which the notice period ends.

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, 411.825, 411.837

AMEND: 461-190-0310

NOTICE FILED DATE: 01/15/2019

RULE SUMMARY: OAR 461-190-0310 about limits to SNAP Employment and Training components and activities is being amended to make permanent a temporary rule changed that terminated OFSET retroactive to September 30, 2018 in the areas representing the new time limit counties: Clatsop, Columbia, Crook, Deschutes, Jackson, Jefferson, Josephine, and Tillamook counties. This amendment supports the Department's implementation of federal time-limits in these counties, and the Department's contracts for these counties will focus on services for ABAWDs.

CHANGES TO RULE:

461-190-0310

Limits to SNAP Employment and Training Components and Activities ¶¶

(1) The SNAP Employment and Training Program for all clients except mandatory ABAWD living in SNAP time limit counties (see OAR 461-135-0520):¶¶

(a) In Multnomah and Washington Counties ends effective November 30, 2015.¶¶

(b) In Clackamas County ends effective September 30, 2016.¶¶

(c) In Benton, Lane, Lincoln, Linn, Marion, Polk and Yamhill Counties ends effective September 30, 2017.¶¶

(d) In Clatsop, Columbia, Crook, Deschutes, Jackson, Jefferson, Josephine, and Tillamook Counties ends effective September 30, 2018.¶¶

(e) Is not offered to clients served by APD or AAA offices.¶¶

(ef) Is voluntary for all other clients effective September 30, 2016.¶¶

(2) For an ABAWD (see OAR 461-135-0520) residing in one of the SNAP time limit counties:¶¶

(a) The case plan may not require more than 20 hours of activities per week.¶¶

(b) Except for Workforce Innovation and Opportunity Act (WIOA) (see OAR 461-001-0020) and Workfare (see OAR 461-190-0500), a client may not be required to participate in job search activities more than nine hours per week. The balance of the 20 hours per week must be in work-related or training (not job search) activities.¶¶

(c) The client may participate in a Workfare program under OAR 461-190-0500.

Statutory/Other Authority: ORS 411.816, ORS 409.050

Statutes/Other Implemented: ORS 411.816, 7 USC 2015, 7 USC 2029, 7 CFR 273.7, 7 CFR 273.24, ORS 409.010

AMEND: 461-190-0360

NOTICE FILED DATE: 01/15/2019

RULE SUMMARY: OAR 461-190-0360 about special payments in the SNAP Employment and Training Programs is being amended to make permanent a temporary rule change effective January 1, 2019 that and removed OFSET special payments from the rule and allowed Employment and Training contractors to authorize special payments. These changes support the contracts that focus on services for ABAWDs.

CHANGES TO RULE:

461-190-0360

Special Payments; SNAP Employment and Training Programs ¶¶

In the SNAP program:¶¶

(1) ~~The Department~~For purposes of this rule, a "contractor" means any third-party entity that holds a contract with the Department to provide Employment and Training (E&T) services.¶¶

(2) ~~The Department or contractor (see section (1) of this rule)~~ may authorize special payments to ~~elie~~participants participating in one of the three SNAP Employment and Training programs described in OAR 461-001-0020 for transportation and other costs identified in the ~~elie~~participant's case plan (see OAR 461-001-0020) subject to the provisions of this rule.¶¶

(a) Costs must be directly related to an approved component in the case plan and be reasonable and necessary.¶¶

(b) ~~The Department or contractor~~ must consider lower cost alternatives.¶¶

(c) ~~The Department or contractor~~ may deny, reduce, or close special payments when costs exceed the local district's ~~or contractor's~~ budget for employment and training.¶¶

(d) Special payments are not intended to replace other funding available in the community. ~~The Department or the Employment and Training contractor and the elie~~participant must seek resources reasonably available to the ~~elie~~ participant in order to comply with the requirements in the case plan.¶¶

(e) ~~When this rule authorizes a special payment for transportation, and public transportation is available, the Department may issue bus passes or tickets to the client sufficient to enable the client to participate in the program activities identified in the case plan.~~¶¶

(2) ~~In the 50 percent (50/50) reimbursement program:~~¶¶

(a) Funds may be used to pay for tuition and mandatory school fees charged to the general public. Funds may not be used to pay for state or local education entitlements.¶¶

(b) Special payments for job retention (see OAR 461-001-0020) is only available if the individual was participating in a component other than job retention prior to securing employment.¶¶

(3) ~~In the OFSET program, the Department may authorize payment of not more than \$80 over an eight week participation period for transportation and other costs identified in the client's case plan. If necessary, the case plan is adjusted to ensure that OFSET program participation requirements may be fulfilled at no cost to the client.~~¶¶

(4) ~~In one of the time limit counties (see OAR 461-135-0520), the Department may authorize payment of not more than \$100 a month to reimburse an ABAWD for transportation and other costs identified in the client's case plan. If necessary, the case plan is adjusted to ensure the ABAWD work requirements may be fulfilled at no cost to the client.~~

Statutory/Other Authority: ORS 409.050, ORS 411.121, ORS 411.816

Statutes/Other Implemented: 411.837, 7 USC 2015, 7 USC 2029, 7 CFR 273.7, 7 CFR 273.24, ORS 409.010, ORS 411.121, ORS 411.816, 411.825, 411.837