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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**SSP 11-2019**

CHAPTER 461  
DEPARTMENT OF HUMAN SERVICES  
SELF-SUFFICIENCY PROGRAMS

**FILED**  
04/01/2019 1:35 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Changing policies about ABAWDs and about subsidized child care payments

EFFECTIVE DATE: 04/01/2019 THROUGH 09/26/2019

AGENCY APPROVED DATE: 03/21/2019

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**NEED FOR THE RULE(S):**

OAR 461-135-0520 about time limits and special requirements in the SNAP program for able-bodied adults without dependents (ABAWD), which was amended April 1, 2019 by permanent rule change needs to be further amended to allow the Department to make an additional attempt to engage the participant with the Oregon Employment Department for employment services and training by establishing for April through September 2019 a discretionary exemption from time limits that allows an ABAWD to continue to receive SNAP for one or more additional months without having to meet work requirements.

OAR 461-155-0150 about child care eligibility standards, payment rates, and copayments and OAR 461-165-0160 about direct provider payments need to be amended to eliminate barriers for families to access Certified Centers while using the ERDC subsidy. OAR 461-155-0150 is amended to increase the number of absent days a child care centers certified by the Office of Child Care bill in a month along with related requirements. This rule is also being amended to registration and related fees for licensed providers, and to add incentive payments for providers doing alternative hour care from January 1, 2019 through September 30, 2019. OAR 461-160-0160 is amended to allow child care centers certified by the Office of Child Care to bill DHS for ERDC subsidy families in advance for anticipated child care attendance hours.

**JUSTIFICATION OF TEMPORARY FILING:**

The Department finds that failure to act promptly by amending OAR 461-135-0520 will result in serious prejudice to the public interest, the Department, and ABAWD clients in the SNAP program. This amendment is needed immediately to prevent the loss of SNAP benefits starting April 1, 2019 while the Department makes an additional attempt to engage the participant with the Oregon Employment Department for employment services and training.

The Department finds that failure to act promptly by amending OAR 461-155-0150 and OAR 461-165-0160 will result in serious prejudice to the public interest, the Department, and clients eligible for subsidized child care. These rules

need to be amended as of April 1, 2019 to eliminate barriers for families to access Certified Centers while using the ERDC subsidy. The Department must certify to its federal funding source that these families have equal access to all types of child care providers. Without removing these barriers, only about half of the certified child care centers accept the Department subsidy, as occurs currently. This limits the access to child care for low-income working families who qualify for the Department subsidy. Incentive payments for alternative hour care will also increase access to child care for ERDC subsidy families who work non-traditional hours.

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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon State University, College of Public Health and Human Sciences March 2018  
Oregon Child Care Research Partnership. "2018 Oregon Child Care Market Price Study" available at  
<https://www.oregon.gov/DHS/ASSISTANCE/CHILD-CARE/Documents/CCMR%202018%20Report.pdf>

"Oregon CCDF State Plan" available at <https://oregonearlylearning.com/wp-content/uploads/2018/05/CCDF-State-Plan-2018-2021-DRAFT.pdf>

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RULES:

461-135-0520, 461-155-0150, 461-165-0160

AMEND: 461-135-0520

RULE SUMMARY: OAR 461-135-0520 about time limits and special requirements in the SNAP program for able-bodied adults without dependents (ABAWD), which was amended April 1, 2019 by permanent rule change is now being further amended to establish for April through September 2019 a discretionary exemption from time limits that allows an ABAWD to continue to receive SNAP for one or more additional months without having to meet work requirements. This exemption allows the Department to make an additional attempt to engage the participant with the Oregon Employment Department for employment services and training.

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, 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, Columbia, Coos, Crook, Curry, Douglas, Gilliam, Grant, Harney, Hood River, Jefferson, Josephine, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, 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, 2019 to December 31, 2021.¶

(3) "Countable months" means months within the 36-month period of January 1, 2019 to December 31, 2021 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, 2019 to December 31, 2021. ¶

(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, 2019 to December 31, 2021. ¶

(7) ~~This section is a placeholder to establish criteria the Department will use to grant~~An ABAWD who earns a third countable month (see section (3) of this rule) between March 2019 and August 2019 will be eligible to receive a discretionary exemption, granted by the Food and Nutrition Service, each month between April 2019 and September 2019. The Department is authorizing the use of these special exemptions to for ABAWD who are ineligible if the Department receives special exemptions from the Food and Nutrition Services at risk of having their benefits closed or reduced in all areas applying the SNAP time limit. All of the following restrictions apply:¶

(a) An exemption is only valid for one month at a time.¶

(b) An exemption may not be granted for a previous month.¶

(c) The Department will not disqualify an ABAWD from the SNAP program for non-participation when they have been issued a discretionary exemption for the following month.¶

(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: 461-155-0150

RULE SUMMARY: OAR 461-155-0150 about child care eligibility standards, payment rates, and copayments which was amended by permanent rule change effective April 1, 2019 is now being further amended to increase the number of absent days a child care centers certified by the Office of Child Care bill in a month along with related requirements. This rule is also being amended to registration and related fees for licensed providers, and to add incentive payments for providers doing alternative hour care from January 1, 2019 through September 30, 2019. These changes are intended to remove barriers that limit access by subsidy clients to certified centers.

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.~~ absent days each month the child is absent. For all providers receiving payment under the TANF program, absent days are limited to up to five days each month. For all providers receiving payment under the ERDC program except Certified Centers certified by the Office of Child Care, absent days are limited to up to five days each month. For Certified Centers receiving payment under the ERDC program, absent days are limited to up to 30 days each month if the child has attended one day of care in the facility for that month. Absent days can be billed 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) ~~For all providers receiving payment under the TANF program and for all providers except Certified Centers receiving payment under the ERDC program, 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]¶

(i) At their request, child care providers eligible for the licensed rate may be paid for registration and other fees, if they are required by the facility for a child to begin or continue care and the fees are also required of the general public.¶

(j) In the ERDC program, child care providers are eligible to receive an incentive payment for alternative hour care (see subparagraph (B)(i) of this subsection) subject to all of the following provisions:¶

(A) Alternative hour care incentives are limited to care provided between January 1, 2019 and September 30, 2019.¶

(B) For the purposes of this rule, ¶

(i) "Alternative hour care" means child care conducted between the hours of 7:00 P.M. and 6:00 A.M. Monday through Friday or any hours conducted Saturday or Sunday. ¶

(ii) A "qualifying child" is a child in alternative hour care for at least 20 hours per calendar month. ¶

(C) Providers must submit the appropriate request form to the Direct Pay Unit no later than October 15, 2019. ¶

(D) Incentive payments are \$250 for each qualifying child (see subparagraph (B)(ii) of this subsection) in alternative hour care at least 20 per calendar month or \$500 for each qualifying child in alternative hour care at least 40 hours per month. ¶

(E) Incentive payments are subject to limitations of state funding. ¶

(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: ~~409.010~~, 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 absent days each month the child is absent. For all providers receiving payment under the TANF program, absent days are limited to up to five days each month. For all providers receiving payment under the ERDC program except Certified Centers certified by the Office of Child Care, absent days are limited to up to five days each month. For Certified Centers receiving payment under the ERDC program, absent days are limited to up to 30 days each month if the child has attended one day of care in the facility for that month. Absent days can be billed 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) For all providers receiving payment under the TANF program and for all providers except Certified Centers receiving payment under the ERDC program, 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

- (i) At their request, child care providers eligible for the licensed rate may be paid for registration and other fees, if they are required by the facility for a child to begin or continue care and the fees are also required of the general public.
  - (j) In the ERDC program, child care providers are eligible to receive an incentive payment for *alternative hour care* (see subparagraph (B)(i) of this subsection) subject to all of the following provisions:
    - (A) *Alternative hour care* incentives are limited to care provided between January 1, 2019 and September 30, 2019.
    - (B) For the purposes of this rule,
      - (i) “Alternative hour care” means child care conducted between the hours of 7:00 P.M. and 6:00 A.M. Monday through Friday or any hours conducted Saturday or Sunday.
      - (ii) A “qualifying child” is a child in alternative hour care for at least 20 hours per calendar month.
    - (C) Providers must submit the appropriate request form to the Direct Pay Unit no later than October 15, 2019.
    - (D) Incentive payments are \$250 for each *qualifying child* (see subparagraph (B)(ii) of this subsection) in *alternative hour care* at least 20 per calendar month or \$500 for each *qualifying child* in *alternative hour care* at least 40 hours per month.
    - (E) Incentive payments are subject to limitations of state funding.
- (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	97118

97121	97122	97127	97128	97131	97134	97138	97141	97143	97146	97148	97301
97302	97303	97304	97305	97306	97307	97309	97310	97317	97321	97322	97325
97326	97327	97328	97336	97338	97341	97343	97344	97348	97352	97353	97355
97357	97362	97365	97366	97367	97370	97372	97374	97377	97378	97380	97381
97383	97385	97386	97389	97391	97392	97394	97415	97420	97423	97424	97426
97431	97444	97446	97448	97452	97456	97457	97459	97465	97470	97471	97479
97487	97489	97501	97502	97503	97504	97524	97534	97535	97756	97759	97760
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
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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: 461-165-0160

RULE SUMMARY: OAR 461-165-0160 about direct provider payments is being amended to allow child care centers certified by the Office of Child Care to bill DHS for ERDC subsidy families in advance for anticipated child care attendance hours. This amendment eliminates a barrier for families to access Certified Centers while using the ERDC subsidy.

CHANGES TO RULE:

461-165-0160

Direct Provider Payments; General Information ¶¶

(1) The Department makes payments on behalf of eligible clients to the providers they select to care for their children. The payments are made directly to the provider. To be eligible for payment, a provider must:¶¶

- (a) Charge Department clients at a rate no higher than the rate charged other customers;¶¶
- (b) Provide the Department his or her social security number (SSN) or IRS identification number; and¶¶
- (c) Meet the requirements of OAR 461-165-0180.¶¶

(2) Payments to a client's provider are subject to each of the following limitations:¶¶

(a) A payment is made only for child care already provided, ~~with the exception of e in the TANF program for all providers. A payment is made for child care already provided in the ERDC program for all providers except C~~ ertified eCenters designated to participate in the pre-pay center pilot program certified by the Office of Child Care who receive payment in advance for anticipated hours a child is in care for the month.¶¶

(b) Payment is made for the amount charged to the client but may not exceed the rate authorized in OAR 461-155-0150.¶¶

(c) No payment will be authorized unless the client has designated a primary provider.¶¶

(d) No payment will be made for less than one dollar.¶¶

(e) Except as provided otherwise in subsection (f) of this section, a payment is made only for child care provided on or after the date the designated provider has met the requirements to be listed and paid through the Department.¶¶

(f) A designated child care provider who the Department approves to be listed and paid through the Department may receive payment for child care provided prior to obtaining Department approval if the provider met the other Department requirements and was licensed under OAR 414-205-0000 to 414-205-0170, 414-350-0000 to 414-350-0405, or 414-300-0000 to 414-300-0415.¶¶

(3) In the ERDC and TANF programs, the Department may issue a payment to an eligible provider during a month for which child care is being provided to meet an unexpected need of the provider related to the care of a covered child. The payment may be made if, without the payment, continued care by the same provider would be jeopardized and the client could not immediately obtain child care from another provider.

Statutory/Other Authority: ~~ORS 329A.500, 409.050, 411.060, 411.070, 411.122, 412.049, ORS 329A.500~~

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.122, 412.049, 45 CFR 98.45