



## PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 461  
DEPARTMENT OF HUMAN SERVICES  
SELF-SUFFICIENCY PROGRAMS

FILING CAPTION: Revising rules for self-sufficiency programs

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CONTACT: Meorah Solar  
541-684-2475  
meorah.a.solar@state.or.us

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

Filed By:  
Meorah Solar  
Rules Coordinator

#### RULES:

461-135-0210, 461-145-0380, 461-145-0410, 461-155-0035, 461-155-0150, 461-155-0180, 461-155-0320, 461-165-0160, 461-165-0180, 461-195-0551

REPEAL: 461-135-0210

NOTICE FILED DATE: 04/16/2019

RULE SUMMARY: OAR 461-135-0210 about TANF Cooperation Incentive Payments is being repealed. This payment has not been in place since 2010 and this change updates the rules, consistent with what is supported by Integrated Eligibility.

CHANGES TO RULE:

#### ~~461-135-0210~~

##### ~~TANF Cooperation Incentive Payment~~

~~(1) Except as provided in section (3) of this rule, a TANF client or caretaker relative (see OAR 461-001-0000) of a TANF client who volunteers to comply, and continues to comply, with a case plan in the JOBS program (see OAR 461-001-0025) may volunteer to receive an incentive payment. The incentive payment is made to clients in the JOBS program to motivate and recognize their progress toward employment and self-sufficiency. The incentive payment, in the amount authorized by OAR 461-155-0035, is added to the client's cash grant if the client meets the requirements of this rule and volunteers to receive the payment.¶¶~~

~~(2) A TANF client or caretaker relative of a TANF client may not receive the incentive payment if the client's grant is reduced because of an intentional program violation (see OAR 461-195-0611), a failure to comply with a requirement of the Child Support program (see OAR 461-120-0340), or a failure to comply with any other requirement of the TANF program.¶¶~~

~~(3) All Cooperation Incentive payments end on September 30, 2010. Beginning October 1, 2010, no client in the TANF program will receive a Cooperation Incentive Payment.~~

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

~~Statutes/Other Implemented: ORS 409.050, 411.060, 411.070, 412.006, 412.049~~

AMEND: 461-145-0380

NOTICE FILED DATE: 04/16/2019

RULE SUMMARY: OAR 461-145-0380 about the effect of pension and retirement plans on eligibility for Department programs is being amended to disregard as a resource money held in specific pension or retirement accounts in the TANF program. This amendment implements HB 4079 (2018).

CHANGES TO RULE:

461-145-0380

Pension and Retirement Plans ¶¶

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

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

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

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

(A) Traditional Defined-Benefit Plan.¶¶

(B) Cash Balance Plan.¶¶

(C) Employee Stock Ownership Plan.¶¶

(D) Keogh Plan.¶¶

(E) Money Purchase Pension Plan.¶¶

(F) Profit-Sharing Plan.¶¶

(G) Simple 401(k).¶¶

(H) 401(k).¶¶

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

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

(A) Individual Retirement Annuity.¶¶

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

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

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

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

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

(G) Roth IRA.¶¶

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

(A) 457(b) Plan.¶¶

(B) 501(c)(18) Plan.¶¶

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

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

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

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

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

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

(c) In the OSIP, OSIPM, and QMB-DW programs, if the equity value (see OAR 461-001-0000) of the pension or

retirement plan is counted as a resource under section (4) of this rule, any payments received are considered the conversion of a resource and are not counted as income.¶¶

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

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

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

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

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

(B) The equity value of all pension and retirement plans not covered by paragraph (A) of this subsection that allows an individual to withdraw funds, minus any penalty for withdrawal, is counted as a resource.¶¶

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

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

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

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

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

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 412.007

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 412.007

RULE SUMMARY: OAR 461-145-0410 about the effect of program benefits on eligibility is being amended to remove outdated references to incentive payments. These incentive payments have not been in place since 2010 and this change updates the rules, consistent with what is supported by Integrated Eligibility.

CHANGES TO RULE:

461-145-0410

Program Benefits ¶¶

(1) EA payments are treated as follows:¶¶

(a) In the ERDC and SNAP programs, a payment made directly to the client is counted as unearned income. Dual payee and provider-direct payments are excluded.¶¶

(b) In all programs except the ERDC and SNAP programs, these payments are excluded.¶¶

(2) Employment Payments (see OAR 461-001-0025 and 461-135-1270) are treated as follows:¶¶

(a) In the REF, REFM, SNAP, and TANF programs, these payments are counted as unearned income in the month received.¶¶

(b) In all programs not covered in subsection (a) of this section, these payments are excluded.¶¶

(3) Payments from ERDC and TANF child care are excluded unless the client is the provider.¶¶

(4) Payments from the MAGI medical (including MAGI-CHIP), OSIPM, QMB, and REFM programs are excluded.¶¶

(5) Payments from JPI (see OAR 461-135-1260) are issued as a food benefit and are excluded.¶¶

(6) SNAP payments are treated as follows:¶¶

(a) The value of an SNAP benefit is excluded in all programs except the EA program. In the EA program, the value is counted as a resource when determining the emergency food needs of the filing group (see OAR 461-110-0310 and 461-110-0370).¶¶

(b) OFFSET service payments are excluded.¶¶

(7) Benefits from the GA, OSIP (except OSIP-IC), Post-TANF, REF, SFPSS, TANF, and tribal-TANF programs are treated as follows:¶¶

(a) In the EA program, these payments are counted as unearned income, except that these payments are excluded for a benefit group (see OAR 461-110-0750) whose emergent need is the result of domestic violence (see OAR 461-001-0000).¶¶

(b) In the ERDC program:¶¶

(A) Post-TANF payments are excluded.¶¶

(B) All other payments are counted as unearned income.¶¶

(c) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, these payments are excluded.¶¶

(d) In the SNAP program:¶¶

(A) These payments are treated as unearned income.¶¶

(B) An amount received as a late processing payment is treated as lump-sum income (see OAR 461-001-0000 and 461-140-0120).¶¶

(C) Payments made to correct an underpayment are treated as lump-sum income.¶¶

(D) Ongoing special needs payments for laundry allowances, special diet or meal allowance, restaurant meals, accommodation allowances, and telephone allowances are treated as unearned income. All other special needs payments are excluded as reimbursements.¶¶

(e) In all programs except the EA, ERDC, QMB-BAS, QMB-SMB, QMB-SMF, and SNAP programs:¶¶

(A) These payments are excluded in the month received, and any portion remaining following the month of receipt is counted as a resource.¶¶

(B) Payments made to correct an underpayment are excluded.¶¶

(f) In all programs:¶¶

(A) JOBS, REF, and TANF JOBS Plus support service payments are excluded.¶

(B) For the treatment of JOBS Plus income, see OAR 461-145-0130.¶

~~(C) REF and TANF client incentive payments are treated as follows:¶~~

~~(i) Except in the TANF program, the cooperation incentive payment (see OAR 461-135-0210) is counted as unearned income.¶~~

~~(ii) Progress and outcome incentive payments other than in-kind payments are counted as lump-sum income (see OAR 461-140-0120). All other incentives are excluded.¶~~

(8) Payments from OSIP-IC are treated as follows:¶

(a) In the SNAP program, these payments are counted as unearned income and assets held in a contingency fund (see OAR 411-030-0020) are counted as a resource.¶

(b) In all other programs, these payments and funds held in a contingency fund are excluded.¶

(9) Pre-TANF program payments are treated as follows:¶

(a) In the SNAP program, a payment for basic living expenses, made directly to the client, is counted as unearned income. All other payments are excluded.¶

(b) In all programs except the SNAP program, these payments are excluded.¶

(10) TA-DVS payments are excluded for all programs.

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

Statutes/Other Implemented: ~~ORS 329A.500~~, 409.010, 411.083, 411.404, 411.700, 411.816, 412.014, ORS 329A.500, 412.049, 7 CFR 273.9

REPEAL: 461-155-0035

NOTICE FILED DATE: 04/16/2019

RULE SUMMARY: OAR 461-155-0035 about the Cooperation Incentive Payment Standard in the TANF program is being repealed. This payment has not been in place since 2010 and this change updates the rules, consistent with what is supported by Integrated Eligibility.

CHANGES TO RULE:

~~461-155-0035~~

~~Cooperation Incentive Payment Standard; TANF-~~

~~(1) The cooperation incentive is a monthly payment added to the TANF cash grant. OAR 461-135-0210 explains who is eligible for this incentive payment.~~

~~(2) Except as provided in section (4) of this rule, when there is an adult in the need group (see OAR 461-110-0630), the incentive payment is based on the number of people in the need group as follows:~~

~~(a) One person - \$26~~

~~(b) Two people - \$32~~

~~(c) Three people - \$43~~

~~(d) Four people - \$52~~

~~(e) Five people - \$52~~

~~(f) Six people - \$75~~

~~(g) Seven people - \$75~~

~~(h) Eight or more people - \$109~~

~~(3) Except as provided in section (4) of this rule, when there is no adult in the need group, the incentive is calculated as follows:~~

~~(a) The payment authorized by section (1) of this rule is determined based on the number of people in the household group (see OAR 461-110-0210) rather than in the need group. For instance, if there are three people in the household group, the amount used for this calculation is \$43.~~

~~(b) The figure obtained in subsection (a) of this section is divided by the number of people in the household group, and the result is rounded to the next lower whole number.~~

~~(c) The figure obtained in subsection (b) of this section is multiplied by the number of people in the need group. The result is the incentive payment.~~

~~(4) All cooperation incentive payments end on September 30, 2010. Beginning October 1, 2010, no client in the TANF program will receive a cooperation incentive payment.~~

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

~~Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 412.006, 412.049~~

RULE SUMMARY: OAR 461-155-0150 about child care eligibility standards, payment rates, and copayments is being 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 permit 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 absentabsent 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) In the ERDC program, child care providers eligible for the licensed rate may receive payment from the Department 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. Fees related to penalties, fines, charges exceeding approved ERDC hours or rates (see section (4) of this rule), or advance payment for cost of care are not eligible for payment.¶
- (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 hours per calendar month or \$500 for each qualifying child in alternative hour care at least 40 hours per calendar 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.

## 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 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) In the ERDC program, child care providers eligible for the licensed rate may receive payment from the Department 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. Fees related to penalties, fines, charges exceeding approved ERDC hours or rates (see section (4) of this rule), or advance payment for cost of care are not eligible for payment.
- (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 hours per calendar month or \$500 for each *qualifying child* in *alternative hour care* at least 40 hours per calendar 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

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: 461-155-0180

NOTICE FILED DATE: 04/16/2019

RULE SUMMARY: OAR 461-155-0180 is being amended to make permanent temporary rule changes effective March 1, 2019 that updated federal poverty guidelines and state median income levels. The standards being changed affect benefit decisions in self-sufficiency programs.

CHANGES TO RULE:

461-155-0180

Income Standards; Not OSIP, OSIPM, QMB ¶¶

(1) A Department program may cite this rule if the program uses a monthly income standard based on the federal poverty level or state median income. The standards in this rule are effective as of ~~October~~ March 1, 2018, except as provided otherwise. ¶¶

(2) A monthly income standard set at 100 percent of the 2018 federal poverty level is set at the following amounts: [see attached table] ¶¶

(3) A monthly income standard set at 130 percent of the 2018 federal poverty level is set at the following amounts: [see attached table] ¶¶

(4) ~~Effective March 1, 2018, a~~ A monthly income standard set at 185 percent of the ~~2018~~ federal poverty level is set at the following amounts: [see attached table] ¶¶

(5) A monthly income standard set at 200 percent of the 2018 federal poverty level is set at the following amounts: [see attached table] ¶¶

(6) A monthly income standard set at 250 percent of the 2018 federal poverty level is set at the following amounts: [see attached table] ¶¶

(7) A monthly income standard set at 350 percent of the ~~2016~~ federal poverty level is set at the following amounts: [see attached table] ¶¶

(8) A monthly income standard set at 85 percent of the ~~2018~~ state median income is set at the following amounts: [see attached table]

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

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

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



- (1) A Department program may cite this rule if the program uses a monthly income standard based on the federal poverty level or state median income. The standards in this rule are effective as of March 1, 2019, except as provided otherwise.
- (2) A monthly income standard set at 100 percent of the 2018 federal poverty level is set at the following amounts:

Size of Group	Standard
1	\$ 1,012
2	1,372
3	1,732
4	2,092
5	2,452
6	2,812
7	3,172
8	3,532
9	3,892
10	4,356
+1	+360

- (3) A monthly income standard set at 130 percent of the 2018 federal poverty level is set at the following amounts:

Size of Group	Standard
1	\$1,316
2	1,784
3	2,252
4	2,720
5	3,188
6	3,656
7	4,124
8	4,592
9	5,060
10	5,528
+1	468

- (4) A monthly income standard set at 185 percent of the 2019 federal poverty level is set at the following amounts:

Size of Group	Standard
1	\$1,926
2	2,607

3	3,288
4	3,970
5	4,651
6	5,333
7	6,014
8	6,695
9	7,377
10	8,058
+1	+681

- (5) A monthly income standard set at 200 percent of the 2018 federal poverty level is set at the following amounts:

Size of Group	Standard
1	\$2,024
2	2,744
3	3,464
4	4,184
5	4,904
6	5,624
7	6,502
8	7,064
+1	+720

- (6) A monthly income standard set at 250 percent of the 2018 federal poverty level is set at the following amounts:

Size of Group	Standard
1	\$2,530
2	3,430
3	4,330
4	5,230
5	6,130
6	7,030
7	7,930
8	8,830

- (7) A monthly income standard set at 350 percent of the 2018 federal poverty level is set at the following amounts:

Size of Group	Standard
1	\$3,465
2	4,673
3	5,880
4	7,088

5	8,295
6	9,503
7	10,713
8	11,927
9	13,140
10	14,353
+1	1,214

- (8) A monthly income standard set at 85 percent of the 2019 state median income is set at the following amounts:

Size of Group	Standard
2	\$3,924
3	4,847
4	5,770
5	6,693
6	7,616
7	7,525
8	7,692

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.816, 412.014, 412.049

Stats. Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.816, 412.014, 412.049

AMEND: 461-155-0320

NOTICE FILED DATE: 04/16/2019

RULE SUMMARY: OAR 461-155-0320 about payment standards in the SFPSS program is being amended to revise the payment tables to calculate the amount of aid the Department may recoup based on the SFPSS Interim Assistance Agreement. This rule is also being amended to set out who is considered an adult under this rule. These amendments do not change the amount of aid to the SFPSS client or family, and make the rule compatible with the upcoming Integrated Eligibility system.

CHANGES TO RULE:

461-155-0320

Payment Standard; SFPSS ¶¶

In the SFPSS program the following payment standards apply:¶¶

(1) When one adult (see section (5) of this rule) in the filing group (see OAR 461-110-0330) is applying for SSI: [~~Table not included. See ED. NOTE. see attached table~~]¶¶

(2) When there are two individuals in the filing group who are either a parent (see OAR 461-001-0000) or a caretaker relative (see OAR 461-001-0000), and one of them is an adult and applying for SSI: [~~see attached table~~]¶¶

(~~23~~) When two adults (see section (5) of this rule) in the filing group are applying for SSI: [~~Table not included. See ED. NOTE. see attached table~~]¶¶

(~~34~~) The standard for eleven individuals or more in the need group (see OAR 461-110-0530) is the sum of the Adults Amount for ten individuals in the need group, plus the Family Payment for ten \$110 for each additional individuals in the need group, plus \$110 for each. (The additional individual in the need group.¶¶  
[~~ED. NOTE: Tables referenced are available from adult portion in sections (1), (2), and (3) would be \$110.~~]¶¶

(5) For purposes of this rule, "adult" means an individual who is age 18 years or older, and either agency.] parent or caretaker relative.

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

Statutes/Other Implemented: ORS 409.050, 411.060, 411.070, 412.006, 412.014, 412.049

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

In the SFPSS program the following payment standards apply:

- (1) When one *adult* (see section (5) of this rule) in the *filing group* (see OAR 461-110-0330) is applying for SSI:

Individuals in Need Group	Adult Payment	Total Payment Standard
1	\$125	\$ 339
2	125	432
3	125	506
4	125	621
5	125	721
6	125	833
7	122	923
8	113	1,030
9	112	1,093
10	112	1,204

- (2) When there are two individuals in the *filing group* who are either a *parent* (see OAR 461-001-0000) or a *caretaker relative* (see OAR 461-001-0000), and one of them is an *adult* and applying for SSI:

Individuals in Need Group	Adult Amount	Total Payment Standard
2	\$93	\$432
3	74	506
4	115	621
5	100	721
6	112	833
7	90	923
8	107	1,030
9	63	1,093
10	111	1,204

- (3) When two adults (see section (5) of this rule) in the *filing group* are applying for SSI:

Individuals in Need Group	Adults Amount per Adult	Standard
2	\$93	\$ 432
3	74	506
4	115	621

5	100	721
6	112	833
7	90	923
8	107	1,030
9	63	1,093
10	111	1,204

- (4) The standard for eleven individuals or more in the *need group* (see OAR 461-110-0530) is the sum of the Adults Amount for ten individuals in the *need group*, plus \$110 for each additional individual in the *need group*. (The additional *adult* portion in sections (1), (2), and (3) would be \$110.)
- (5) For purposes of this rule, “adult” means an individual who is age 18 years or older, and either a *parent* or *caretaker relative*.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.014, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.006, 412.014, 412.049

AMEND: 461-165-0160

REPEAL: Temporary 461-165-0160 from SSP 11-2019

NOTICE FILED DATE: 04/16/2019

RULE SUMMARY: OAR 461-165-0160 about direct provider payments is being amended to make permanent temporary rule amendments effective April 1, 2019 that 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

AMEND: 461-165-0180

NOTICE FILED DATE: 04/16/2019

RULE SUMMARY: OAR 461-165-0180 about the eligibility of child care providers is being amended to make permanent temporary rule changes (retroactive to September 30, 2018) that required child care providers who are exempt from licensing by the Office of Child Care and who are not related to children in care to test for lead in all water faucets or fixtures used for drinking, cooking, preparing infant formula or preparing food. This amendment protects children receiving Department-subsidized child care from lead exposure.

CHANGES TO RULE:

461-165-0180

Eligibility of Child Care Providers ¶¶

(1) The Department must approve a child care provider to receive payment for child care if information available to the Department provides no basis for denying eligibility unless the Department determines, following a final fitness determination (see OAR 125-007-0260 and 407-007-0320) or Child Protective Service (CPS) records checks, that the provider or other subject individual (see OAR 125-007-0210 and 407-007-0210(8)(a)(J)) is not eligible for payment.¶¶

(2) The Department may approve a child care provider who is legally exempt (see section (12) of this rule) as a child care provider for a child (see OAR 461-001-0000) in their household, despite the criminal or CPS history of another member of this household, if all of the following requirements are met:¶¶

(a) There is no criminal history consisting of a disqualifying crime listed in 45 CFR 98.43(c).¶¶

(b) The household member with the criminal or CPS history is a parent (see OAR 461-001-0000) or caretaker relative (see OAR 461-001-0000) of the child needing child care.¶¶

(c) The child care is needed for the household member with the criminal or CPS history to participate in the JOBS program, or the education or employment covered by the ERDC program.¶¶

(d) The approval for Department payments only applies for the child of the household member, or a child for whom the household member is a caretaker relative.¶¶

(3) Ineligibility for payment may result from any of the following:¶¶

(a) A finding of "denied".¶¶

(A) A provider may be "denied" under OAR 461-165-0410 and 461-165-0420. If, after conducting a weighing test as described in OAR 407-007-0300, the Department finds substantial risk to the health or safety of a child in the care of the provider, the provider must be "denied" and is ineligible for payment.¶¶

(B) A provider who has been "denied" has the right to a hearing under OAR 407-007-0335.¶¶

(b) A finding of "failed".¶¶

(A) A provider may be "failed" if the Department determines, based on a specific eligibility requirement and evidence, that a provider does not meet an eligibility requirement of this rule not covered in paragraph (c)(A) of this section.¶¶

(B) While the provider is in "failed" status:¶¶

(i) The Department does not pay any other child care provider for child care at the "failed" provider's site.¶¶

(ii) The Department does not pay a child care provider at another site if the "failed" provider is involved in the child care operation unless the Department determines that the reasons the provider is in "failed" status are not relevant to the new site.¶¶

(C) A provider with a status of "failed" may reapply at any time by providing the required documents and information to the Department for review.¶¶

(c) A finding of "suspended".¶¶

(A) A provider may be "suspended" if the Department determines and provides notice that the provider does not meet an eligibility requirement in the following subsections and paragraphs of section (8) of this rule: (b), (d), (e), (h), (i), (j), (k), (L), (o)(H), (o)(I), (o)(L), (t), or in section (11) of this rule. A provider who has been "suspended" may



challenge this status by requesting a contested case hearing subject to the requirements and limitations of OAR 461-025.

(B) While the provider is in "suspended" status:

(i) The provider is ineligible for payment for at least six months.

(ii) The Department does not pay any other child care provider for child care at the "suspended" provider's site.

(iii) The Department does not pay a child care provider at another site if the "suspended" provider is involved in the child care operation unless the Department determines that the reasons the provider is in "suspended" status are not relevant to the new site.

(C) A provider with a status of "suspended" may be eligible for payments after the six month ineligibility period ends when the provider has been approved following reapplication, including providing the required documents and information to the Department for review.

(d) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.

(4) The provider must submit a completed Child Care Provider Listing Form (DHS 7494) to the Department within 30 calendar days from the date the Department issues the listing form to the client. The provider and each individual identified under section (4) of this rule must complete and sign the authorization for a records check through the Criminal History (CH) record system maintained by the Oregon State Police (OSP), Federal Bureau of Investigation (FBI), and the Child Protective Service (CPS) record system maintained by the Department and, if necessary, an authorization to release information and fingerprint cards. The provider, each individual described in section (5) of this rule, and each subject individual described in OAR 125-007-0210 and 407-007-0210(8)(a)(J) must fully disclose all requested information as part of the records check.

(5) This rule also establishes additional requirements for the following individuals:

(a) The site director of an exempt child care facility and each individual in the facility who may have unsupervised access to a child in care.

(b) The child care provider and each individual the provider uses to supervise a child in his or her absence.

(c) In the case of a provider who provides care for a child in the provider's home--

(A) Each individual 16 years of age or older who lives in the provider's home; and

(B) Each individual who visits the home of the provider during the hours care is provided and may have unsupervised access to a child in care.

(6) To receive payment or authorization for payment, the provider must comply with at least one of the following subsections:

(a) If the provider is not legally exempt:

(A) Be currently certified or registered with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250 and be in compliance with the applicable rules;

(B) Complete the Department's background check process;

(C) Complete the Department's listing process; and

(D) Be approved by the Department.

(b) If the provider is legally exempt and a legally exempt relative (see section (12) of this rule):

(A) Complete the Department's background check process;

(B) Complete the Department's listing process; and

(C) Be approved by the Department.

(c) If the provider is legally exempt and not a legally exempt relative for all children in care:

(A) Meet all OCC Regulated Subsidy Provider requirements under OAR 414-180-0005 through 414-180-0100;

(B) Submit to and pass a site visit at the location where care will be provided;

(C) Complete the Department's background check process;

(D) Complete the Department's listing process; and

(E) Be approved by the Department.

(d) In the case of a tribally licensed child care facility:

(A) Must receive annual health and safety inspections from the Indian Health Services;

- (B) Each individual who may have unsupervised access to a child in care must be enrolled in the Early Learning Division Office of Child Care Central Background Registry or approved by the Department of Human Services Background Check Unit;¶
- (C) Complete the Department's listing process; and¶
- (D) Be approved by the Department.¶
- (7) Each individual described in section (5) of this rule must:¶
  - (a) Allow the Department to conduct a national criminal history records check through the Oregon State Police and the Federal Bureau of Investigation as specified in OAR 407-007-0250.¶
  - (b) Provide, in a manner specified by the Department, information required to conduct CH, FBI, OSP, and CPS records checks and determine whether the provider meets health and safety requirements.¶
  - (c) Have a history of behavior that indicates no substantial risk to the health or safety of a child in the care of the provider.¶
- (8) Each provider must:¶
  - (a) Obtain written approval from their certifier or certifier's supervisor if the provider is also certified as a foster parent.¶
  - (b) Be 18 years of age or older and in such physical and mental health as will not affect adversely the ability to meet the needs of safety, health, and well-being of a child in care; and¶
    - (A) Have competence, sound judgment and self-control when working with children;¶
    - (B) Be mentally, physically and emotionally capable of performing duties related to child care.¶
  - (c) Not be in the same ERDC or TANF filing group (see OAR 461-110-0330 and 461-110-0350) as the child cared for; the parent (see OAR 461-001-0000) of a child in the filing group; or a sibling living in the home of the child.¶
  - (d) Allow the Department to visit or inspect the site of care while child care is provided.¶
  - (e) Keep daily attendance records showing the arrival and departure times for each child in care.¶
    - (A) Times must be recorded as the child care children arrive and depart.¶
    - (B) Written attendance and billing records for each child receiving child care benefits from the Department must be retained for a minimum of 12 months and provided to the Department upon request.¶
  - (f) Be the individual or facility listed as providing the child care. The provider may only use someone else to supervise a child on a temporary basis if the person was included on the most current listing form and the provider notifies the Department's Direct Pay Unit.¶
  - (g) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.¶
  - (h) Report to the Department's Direct Pay Unit within five days of occurrence:¶
    - (A) Any arrest, indictment, or conviction of any subject individual or individual described in section (5) of this rule.¶
    - (B) Any involvement of any subject individual or individual described in section (5) of this rule with CPS or any other agencies providing child or adult protective services.¶
    - (C) Any change to the provider's name or address including any location where care is provided.¶
    - (D) The addition of any subject individual or individual described in section (5) of this rule.¶
    - (E) Any reason the provider no longer meets the requirements under this rule.¶
  - (i) Report suspected child abuse of any child in his or her care to CPS or a law enforcement agency.¶
  - (j) Supervise each child in care at all times. This includes being within sight or sound of all children; being aware of what each child is doing; being near enough to children to respond when needed; and being physically present when kindergarten-age or younger children are playing outside, unless the play area is fully fenced and hazard free.¶
  - (k) Prevent any individual who behaves in a manner that may harm children from having access to a child in the care of the provider. This includes anyone under the influence (see section (12) of this rule).¶
  - (L) Allow the custodial parent of a child in his or her care to have immediate access to the child at all times.¶
  - (m) Inform a parent of the need to obtain immunizations for a child and have a completed, up-to-date Oregon shot

record called the "Certification of Immunization Status" (CIS) form, or a non-medical or medical Exemption form, on file for each child in care.¶

(n) Take reasonable steps to protect a child in his or her care from the spread of infectious diseases.¶

(o) Ensure that the home or facility where care is provided meets all of the following standards:¶

(A) Each floor level used by a child has two usable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a usable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency.¶

(B) The home or facility has water that is safe for drinking and preparing food. ~~Additionally, a legally exempt provider must meet the lead testing requirements in OAR 414-180-0015(5)-(13) and OAR 414-180-0045(1)(see section (15) of this rule):~~¶

(C) The home or facility has a working smoke detector on each floor level and in any area where a child naps.¶

(D) Each fireplace, space heater, electrical outlet, wood stove, stairway, pool, pond, and any other hazard has a barrier to protect a child. Any gate or barrier may not pose a risk or hazard to any child in care.¶

(E) Any firearm, ammunition, and other items that may be dangerous to children, including but not limited to alcohol, inhalants, tobacco and e-cigarette products, matches and lighters, any legally prescribed or over-the-counter medicine, cleaning supplies, paint, plastic bags, and poisonous and toxic materials are kept in a secure place out of a child's reach.¶

(F) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard-free condition.¶

(G) The home or facility has a telephone in operating condition.¶

(H) No one may smoke or carry any lighted smoking instrument, including e-cigarettes or vaporizers, in the home or facility or within ten feet of any entrance, exit, window that opens, or any ventilation intake that serves an enclosed area, during child care operational hours or anytime child care children are present. No one may use smokeless tobacco in the home or facility during child care operational hours or anytime child care children are present. No one may smoke or carry any lighted smoking instrument, including e-cigarettes and vaporizers, or use smokeless tobacco in motor vehicles while child care children are passengers.¶

(I) No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) on the premises (see section (12) of this rule) during child care operational hours or anytime child care children are present. No one under the influence of alcohol, controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) may be on the premises during child care operational hours or anytime child care children are present. No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) in motor vehicles while child care children are passengers.¶

(J) Is not a half-way house, hotel, motel, shelter, or other temporary housing such as a tent, trailer, or motor home. The restriction in this paragraph does not apply to licensed (registered or certified) care approved in a hotel, motel, or shelter.¶

(K) Is not a structure -¶

(i) Designed to be transportable; and¶

(ii) Not attached to the ground, another structure, or to any utilities system on the same premises.¶

(L) Controlled substances (except lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana, marijuana edibles, and other products containing marijuana), marijuana plants, derivatives, and associated paraphernalia may not be on the premises during child care operational hours or anytime child care children are present.¶

(p) Complete and submit a new listing form every two years, or sooner at the request of the Department, so that the Department may review the provider's eligibility.¶

(q) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.¶

(r) Comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, and

crib standards under 16 CFR 1219 and 1220.¶

(s) Place infants to sleep on their backs.¶

(t) Not hold a medical marijuana card; or distribute, grow, or use marijuana (including medical marijuana) or any controlled substance (except lawfully prescribed and over-the-counter medications).¶

(u) Develop and communicate expulsion and suspension policies to parents and caretakers.¶

(v) Provide care at a location within the state of Oregon.¶

(9) Legally exempt providers must complete the "Introduction to Child Care Health and Safety" two-hour, web-based training prior to Department approval.¶

(10) Legally exempt providers must complete an orientation provided by the Department or a Child Care Resource and Referral agency within 90 days of being approved by the Department if the provider begins providing child care services after June 30, 2010, or resumes providing child care services, after a break of more than one year that began after June 30, 2010.¶

(11) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be under the influence.¶

(12) For purposes of these rules:¶

(a) "Premises" means the home or facility structure and grounds, including indoors and outdoors and space not directly used for child care.¶

(b) "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.¶

(c) "Legally exempt" means the child care provider is exempt from licensing with the OCC because the provider is not subject to the licensing requirements under OAR 414-205-0000 to 414-205-0170, OAR 414-350-000 to 414-350-0405, and OAR 414-300-0000 to 414-300-0415.¶

(d) "Legally exempt relative" means a legally exempt provider who is a relative to all children in care including a great-grandparent, grandparent, aunt, uncle, or sibling not living in the home of any child in care.¶

(13) Legally exempt providers that are not a legally exempt relative to all children in care must meet all of the requirements in this section before approval by the Department, unless otherwise noted:¶

(a) Have an up-to-date, in-person infant and child CPR and first aid certification or have a currently valid waiver of this requirement from the Child Care Resource and Referral program.¶

(b) Complete the Recognizing and Reporting Child Abuse and Neglect (RRCAN) web-based or classroom training.¶

(c) Complete six hours of ongoing education in each two-year listing period as provided in this subsection. All trainings must be accepted by the Oregon Center for Career Development (OCCD) and be part of the OCCD's 10 Core Knowledge Categories recognized by Oregon Registry Online to count toward the six hours.¶

(A) Two of the six hours must fall under the "Human Growth and Development" category; and¶

(B) Two of the six hours must cover "Understanding & Guiding Behavior".¶

(14) Child care centers or programs that are legally exempt from certification or registration with the OCC, are located in a commercial or institutional facility, and receive payment from the Department on behalf of a family receiving a child care subsidy, may not exceed the following staff to children in care ratios:¶

(a) Six weeks through 23 months of age, the minimum number of staff to children is one to four. The maximum number of children in a group is eight.¶

(b) 24 months through 35 months of age, the minimum number of staff to children is one to five. The maximum number of children in a group is 10.¶

(c) 36 months of age to attending kindergarten, minimum number of staff to children is one to 10. The maximum

number of children in a group is 20.¶

(d) Attending kindergarten and older, the minimum number of staff to children is one to 15. The maximum number of children in a group is 30.¶

(e) In a mixed-age group of children, the number of staff and group size shall be determined by the age of the youngest child in the group.¶

(15) Except as noted otherwise below, the requirements of this section are in effect starting September 30, 2018. As used in this section, "drinking water faucet or fixture" means any plumbing fixture on the premises used to obtain water for drinking, cooking, preparing infant formula or preparing food. This section only applies to a provider who is legally exempt and not a legally exempt relative. This section applies to legally exempt providers approved to receive Department subsidy payments prior to September 30, 2018. This section applies to legally exempt providers who submit a completed Child Care Provider Listing form for Department-approval starting September 30, 2018. This section does not apply to care provided in the child's home when the legally exempt provider lives somewhere else.¶

(a) In locations where care is provided, lead testing is required for each drinking water faucet or fixture.¶

(b) Providers must test each drinking water faucet or fixture at least once every six years from the date of the last test. Providers who have had a drinking water faucets or fixture tested within six years prior to the effective date of this rule will need to submit the results to the Department or the Office of Child Care (OCC), in the Department of Education, Early Learning Division.¶

(c) If a home or facility does not use any of the on-site plumbing fixtures to obtain water for drinking, cooking, preparing infant formula, or preparing food, the provider must:¶

(A) Submit a written statement to the Department or OCC identifying the alternative source of water and confirming that the provider does not use any on-site plumbing fixtures for drinking, cooking, preparing infant formula, or preparing food; and¶

(B) Notify the Department or OCC in writing if the alternative source of water changes.¶

(d) All sample collection and testing must be in accordance with the Environmental Protection Agency (EPA)'s 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018, adopted by this reference.¶

(A) If test results show water from any drinking water faucet or fixture has 15 parts per billion (ppb) or more of lead, the provider must:¶

(i) Prevent access to that drinking water faucet or fixture immediately after receiving the test results; and¶

(ii) Continue to prevent access to that drinking water faucet or fixture until mitigation is completed in accordance with paragraph (B) of this subsection.¶

(B) Following receipt of test results showing that water from any drinking water faucet or fixture has 15 parts per billion (ppb) or more of lead, the provider must comply with all of the following sub-paragraphs:¶

(i) Submit a corrective action plan to the Department or OCC for approval within 60 days of receiving the test results. The corrective action plan must identify an appropriate mitigation strategy in accordance with Module 6 of the EPA's 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018, adopted by this reference.¶

(ii) Implement the mitigation method within 30 days of approval by OCC.¶

(C) A provider who fails to submit a corrective action or a mitigation method is no longer eligible to receive child care subsidy payments.¶

(e) The provider must keep a copy of the most recent test results on-site at all times.¶

(f) Providers must follow the routine practices identified in Module 6 of the EPA's 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018.

Statutory/Other Authority: ORS 181.537, 329A.500, 409.050, 411.060, 411.070

Statutes/Other Implemented: ORS 181.537, 329A.340, 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122

AMEND: 461-195-0551

NOTICE FILED DATE: 04/16/2019

RULE SUMMARY: OAR 461-195-0551 about methods of recovering overpayments is being amended to remove outdated references to TANF cooperation incentives. These incentive payments have not been in place since 2010 and this change updates the rules, consistent with what is supported by Integrated Eligibility.

CHANGES TO RULE:

461-195-0551

### Methods of Recovering Overpayments ¶¶

- (1) In addition to judicial process, the Department may recover an overpayment (see OAR 461-195-0501) through an agreed repayment plan, reduction in benefits, voluntary payment from the client or authorized representative (see OAR 461-115-0090), and offset of the debt.¶¶
- (2) The Department reduces current benefits to collect an overpayment only as follows:¶¶
  - (a) In the GA and OSIP programs, the Department may recover an overpayment by reducing cash benefit payments by the lesser of the following:¶¶
    - (A) The total overpayment amount;¶¶
    - (B) The total benefit amount; or¶¶
    - (C) Ten percent of the client's total benefit requirement at the standard of need.¶¶
  - (b) In the REF, SFPSS, and TANF programs, the Department:¶¶
    - (A) Allows only half of the 50 percent earned income deduction described in OAR 461-160-0160.¶¶
    - (B) Reduces the benefit payment by 10 percent of the total benefit requirement of the benefit group (see OAR 461-110-0750) at the adjusted income payment standard. The reduced benefit payment after such reduction, when combined with all other income may not be less than 90 percent of the benefit group's adjusted income payment standard for a family with no income. ~~In the TANF program, the cooperation incentive (see OAR 461-135-0210) is not included in the calculations prescribed by this paragraph.~~¶¶
    - (c) In the SNAP program, unless the Department and the client agree to a repayment plan and the filing group (see OAR 461-110-0370) meets the terms of the plan, the Department collects an overpayment from a liable member of a filing group participating in the SNAP program by reducing the SNAP program benefit allotment of the benefit group each month as follows:¶¶
      - (A) For an overpayment caused by client error (see OAR 461-195-0501) or administrative error (see OAR 461-195-0501), 10 percent of the group's monthly allotment or \$10 a month, whichever is greater.¶¶
      - (B) For an overpayment caused by an IPV (see OAR 461-195-0601), 20 percent of the group's monthly entitlement or \$20 a month, whichever is greater.¶¶
  - (3) In the child care programs:¶¶
    - (a) The Department may not recover an overpayment through reduction of a client's child care program benefits.¶¶
    - (b) When a child care program provider is liable for a child care overpayment (see OAR 461-195-0501) the Department may recover the child care overpayment by reducing up to 100 percent any future child care payment for which the provider bills the Department.¶¶
  - (4) The Department may recover an overpayment by offset as follows:¶¶
    - (a) Using the collection services provided by the Department of Revenue and any other state or federal agency to collect a liquidated claim established by:¶¶
      - (A) A court judgment.¶¶
      - (B) A confession of judgment.¶¶
      - (C) A document signed or acknowledged by the debtor that acknowledges the debt, such as:¶¶
        - (i) The Department-designated form to acknowledge an IPV.¶¶
        - (ii) A plea bargain agreement.¶¶
        - (iii) Any other document acknowledging the overpayment.¶¶

(D) A written notification of overpayment from the Department to the debtor, advising the debtor of the basis and amount of the overpayment and the right to request a hearing, if the debtor has exhausted his or her rights of administrative appeal.¶¶

(E) A written communication from the debtor acknowledging the debt.¶¶

(b) The amount of any retroactive payment or restoration of lost benefits otherwise payable to the client, when the retroactive payment corrects a prior underpayment of benefits in the program in which the overpayment occurred.¶¶

(c) Through use of a warrant authorized by ORS 411.703. Upon issuance of the warrant, the Department may issue a notice of garnishment in accordance with ORS 18.854.¶¶

(d) In the SNAP program, by offsetting the full amount of the overpayment against restored benefits owed to the benefit group or to another benefit group that a liable member of the overpaid group has joined.¶¶

(5) A confession of judgment is used in the case of a client error (see OAR 461-195-0501) overpayment. The Department may not file a confession of judgment while the client receives public assistance or medical assistance, and may file one only if the client has refused to agree to or has defaulted on a repayment plan.¶¶

(6) The Department may not take collection action against a filing group while a member of the filing group is working under a JOBS Plus agreement.

Statutory/Other Authority: ~~411.660~~, ORS 411.060, ~~411.660~~, 411.816, 412.049

Statutes/Other Implemented: ORS 18.854, 18.900, 411.630, 411.635, 411.660, 411.703, 411.816, 412.049, 416.350