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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 19-2019

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending SNAP rules for students of higher education

EFFECTIVE DATE: 07/30/2019 THROUGH 09/30/2019

AGENCY APPROVED DATE: 07/30/2019

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NEED FOR THE RULE(S):

OAR 461-135-0570 about eligible and ineligible students in the SNAP program needs to be amended to ease certain SNAP eligibility requirements. This amendment expands SNAP eligibility to students enrolled in an employment and training program or course of study that would lead to employment in a non-post-baccalaureate program that is designed to be completed in no more than four years, consistent with federal regulations. It also needs to be amended to ease student eligibility for students with a meal plan that provides 50 percent or less of their weekly meals and to clarify SNAP eligibility requirements for students approved for federal or state work study.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-135-0570 will result in serious prejudice to the public interest, the Department, and clients in the SNAP program. This amendment is needed immediately to ease SNAP benefit restrictions for certain Oregon residents who are students and subject to the amendments.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None

AMEND: 461-135-0570

RULE SUMMARY: OAR 461-135-0570 about eligible and ineligible students in the SNAP program is being amended to ease some of the SNAP restrictions that apply to higher education students attending half-time to full-time in certain four-year non-post-baccalaureate programs. It is also being amended to remove SNAP restrictions for higher education students with a meal plan that provides 50 percent or less of their weekly meals and to clarify eligibility requirements for students approved for federal or state work study. These amendments will ease eligibility for students of higher education enrolled in an employment and training program or course of study that would lead to employment, for students with certain meal plans, and for students in a work study program; consistent with federal regulations.

CHANGES TO RULE:

~~Effective July 1, 2019, in the SNAP program:¶¶~~

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

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

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

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

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

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

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

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

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

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

~~(b) The student of higher education is awarded participating in a state or federally funded work-study and has been assigned to a program during the regular school year. To qualify under this subsection:¶¶~~

~~(A) The student of higher education must be approved for state or federally funded work-study position, and will at the time of application for SNAP.¶¶~~

~~(B) The work study must be approved for the school performance.¶¶~~

~~(C) The student of higher education must anticipate working in a work-study job during the current term or semester school term.¶¶~~

~~(D) The period of eligibility for a student eligible because of under this subsection:¶¶~~

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

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

~~(C) until the end of the month in which the school term ends, or it becomes known that the student of higher education has refused an assignment.¶¶~~

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

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

(A) Under six years of age; or¶¶

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

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

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

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

- (g) The student of higher education is in job training classes under the Workforce Investment ~~and~~ Innovation & Opportunity Act of 1998 ~~2014~~ (Pub. L. 105-220) ~~13-128~~. ¶
- (h) The student of higher education is enrolled as a result of participation in the higher education component of the JOBS program. ¶
- (i) The student of higher education is enrolled as a result of employer-sponsored on-the-job training. ¶
- (j) The student of higher education is enrolled in an employment and training program; or course of study that would lead to employment, ~~in compliance with the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Perkins IV).~~ ¶
- ~~(k) The student of higher education is enrolled in employment and training program that has a component for higher education. This employment and training program may be a SNAP Employment and training program or a program identified in subsections (g), (h), (i), or (m) of this section. For purpose, To qualify under this subsection, the employment and training program or courses of this rule, the employment and training program study: ¶~~
- ~~(A) Needs to have placed the individual in the higher education program or accepted the placement when it is a self-initiated placement in higher education. ¶~~
- ~~(B) Must not be a post-baccalaureate program. ¶~~
- ~~(C) Must be designed to be completed in not more than four years at an institution of higher education. ¶~~
- (k) The student of higher education is receiving Unemployment Compensation (UC). ¶
- ~~(m)~~ The student of higher education is participating in at least one of the following Employment Department training programs: ¶
- (A) The Trade Readjustment Allowance (TRA) program serving displaced workers under the Trade Act. ¶
- (B) The Training Unemployment Insurance (TUI) program. ¶
- (C) The Self-Employment Assistance (SEA) program. ¶
- (D) The Apprenticeship Program (APT). ¶
- (4) An individual's status as a student of higher education continues during school vacation and breaks. An individual's status as a student of higher education ends when the student of higher education does any of the following: ¶
- (a) Graduates. ¶
- (b) Drops out. ¶
- (c) Withdraws from the individual's classes. ¶
- (d) Reduces credit hours to less than half time. ¶
- (e) Is suspended or expelled. ¶
- (f) Does not intend to register for the next school term (excluding summer term). ¶
- (5) A student of higher education residing in a dormitory or other living situation with a meal plan that provides more than 50 percent of the student's meals is ineligible for SNAP program benefits. ¶
- (6) The following situations do not earn the student of higher education hours toward the 20 hours per week requirement in section (3) of this rule: ¶
- (a) Income that is considered educational income under OAR 461-145-0150, including income from work in the following: ¶
- (A) An externship (see OAR 461-001-0015); ¶
- (B) A graduate assistantship (see OAR 461-001-0015); ¶
- (C) A graduate fellowship (see OAR 461-001-0015); or ¶
- (D) An internship (see OAR 461-001-0015). ¶
- (b) Receiving in-kind payments in lieu of actual wages.
- Statutory/Other Authority: ORS 409.050, 411.816
- Statutes/Other Implemented: ORS 409.010, 411.816, 411.825, 7 USC 2015, 7 CFR 273.5