

OFFICE OF THE SECRETARY OF STATE  
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ARCHIVES DIVISION  
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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 461  
DEPARTMENT OF HUMAN SERVICES  
SELF-SUFFICIENCY PROGRAMS

**FILED**  
07/30/2019 7:27 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Changing self-sufficiency rules

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/23/2019 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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

Filed By:  
Meorah Solar  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 08/22/2019

TIME: 8:00 AM - 9:30 AM

OFFICER: Meorah A Solar

ADDRESS: Human Services Building

500 Summer St NE

Room 166

Salem, OR 97301

SPECIAL INSTRUCTIONS:

The hearing will adjourn at 8:20 a.m. if  
no one is present or remains to testify.

NEED FOR THE RULE(S):

OAR 461-110-0370 about filing groups in the SNAP program needs to be amended to align SNAP filing group rules with recent legislative changes to SSI SNAP program benefits in California, to remove gender specific text from the rule, and to end the need to update the rule when the federal poverty level is changed, which usually occurs annually. The amendment will allow inclusion of individuals receiving SSI from California in the SNAP filing group. The amendment refers to a rule listing federal poverty levels rather than listing the levels.

OAR 461-135-0492 about applications, interviews, and verification for the Disaster SNAP program needs to be amended to support mass implementation of Disaster SNAP, which is possible through the Integrated Eligibility system. The changes clarify when an application is needed for Disaster SNAP, when verification may be requested by the Department, and how income is treated when eligibility is determined.

OAR 461-135-0493 about eligibility and benefit amount in the Disaster SNAP (DSNAP) program needs to be amended to support mass implementation of Disaster SNAP, which is possible through the Integrated Eligibility system. The changes add clarity to the rule regarding the income limit and benefit amount for the DSNAP program for individuals not already receiving SNAP benefits after a presidentially declared "Major Disaster" by inserting defined terms and references to income limit rules.

OAR 461-135-0494 about the treatment in the DSNAP program of households already certified and receiving SNAP benefits needs to be amended to support mass implementation of Disaster SNAP, which is possible through the Integrated Eligibility system. It also needs to be amended to clarify eligibility for supplementation of benefits and replacement of the value of food already purchased with SNAP after a presidentially declared "Major Disaster." The amendments add specific details regarding how DSNAP supplements, eligibility, and benefits are determined.

OAR 461-135-0505 about categorical eligibility for the SNAP program needs to be amended to lower the existing cap for SNAP recipients with lottery winnings and create a cap for SNAP recipients with gambling winnings. These changes align with a federal regulation change in SNAP eligibility for participants who have lottery or gambling winnings.

OAR 461-135-0570 about eligible and ineligible students in the SNAP program needs to be amended to improve access to SNAP benefits for low-income students and align with recent federal regulation clarifications. The rule needs to be amended to remove ineligibility for SNAP when a student of higher education residing in a dormitory or other living situation has a meal plan that provides 50 percent or less of the student's meals. It is also needs to be amended to clarify eligibility for students with state or federally funded work study and to expand 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.

OAR 461-145-0830 about deeming the assets of a sponsor of a noncitizen needs to be amended to bring the rule into closer alignment with federal regulations. The amendments clarify the steps and add calculations describing how income of a sponsor is deemed to a sponsored noncitizen SNAP applicant.

OAR 461-155-0180 about income standards affecting self-sufficiency programs, OAR 461-155-0190 about income and payment standards in the SNAP program, OAR 461-160-0420 about the shelter cost in the SNAP program, OAR 461-160-0430 about income deductions in the SNAP program, and OAR 461-165-0060 about minimum benefit amounts, need to be amended to maintain support of low-income individuals and families at current levels and stay current with federal policy by making annual cost-of-living and other adjustments to the income standards, income limits, payment standards, shelter costs, income deductions, and minimum benefits. OAR 461-155-0190 and OAR 461-165-0060 also need to be updated to replace a federal poverty level chart with a reference to the rule to end the need to update the chart when the federal poverty level is changed, which usually occurs annually, and to insert a reference to a federal poverty level rule.

OAR 461-160-0040 about eligible dependent care cost deductions and coverage needs to be changed to define and expand the types of allowable dependent care costs in the SNAP program.

OAR 461-165-0180 about the eligibility of child care providers needs to be amended to allow the Department to begin ineligibility for payment based on when requirements were no longer being met and to require providers to remain current on safety trainings. The amendments clarify the date a child care provider may become ineligible for payment from the Department. The amendments also make clear and list training requirements of certain legally exempt providers.

OAR 461-190-0310 about the SNAP Training and Employment Program (STEP) components and activities needs to be amended to reflect the ending of the Oregon Food Stamp Employment Transition (OFSET) program and to clarify to whom the STEP program is available.

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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

"SSI/SSP Recipients Will Be Eligible for CalFresh in Summer 2019" at <https://wclp.org/wp-content/uploads/2018/10/SSI-SSP-Recipients-Will-be-Eligible-for-CalFresh-in-Summer-2019.pdf>

"Expanding CalFresh to Older Adults & People with Disabilities Receiving SSI" at <http://www.cdss.ca.gov/Portals/9/CalFresh%20SSI%20Cash-Out/June%202019%20CF%20Expansion%20SSI%20Implementation%20Update-Final.pdf?ver=2019-07-08-153812-243> by California Department of Social Services

PUC data about rates for phones, gas, and electricity available at <http://www.puc.state.or.us/Pages/Index.aspx>

EIA data about heating oil, gas, and electricity rates available at <http://www.eia.doe.gov>

USHHS ASPE, "Poverty Guidelines" available at <https://aspe.hhs.gov/poverty-guidelines>

USDA Food and Nutrition Service, "Cost of Living Adjustment (COLA) Information" available at <https://www.fns.usda.gov/snap/cost-living-adjustment-cola-information>

USDA Food and Nutrition Service, "Disaster SNAP Guidance" (July 2014) available at [https://fns-prod.azureedge.net/sites/default/files/D-SNAP\\_handbook\\_0.pdf](https://fns-prod.azureedge.net/sites/default/files/D-SNAP_handbook_0.pdf)

Federal Register Vol. 84, No. 72: <https://www.govinfo.gov/content/pkg/FR-2019-04-15/pdf/2019-07194.pdf>

Section 4007 of the 2014 Farm Bill (Public Law 113-79).

Federal Register Vol. 81. No 231: <https://www.govinfo.gov/content/pkg/FR-2016-12-01/pdf/2016-28886.pdf>

Commonwealth of Massachusetts Field Operations Memo 2010-28 dated June 2010 and as defined in their rules 106 CMR 362.400 and 106 CMR 362.410.

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#### FISCAL AND ECONOMIC IMPACT:

The Department estimates that amending OAR 461-110-0370 will positively impact SNAP participants who receive SSI from California. The Department estimates the average SNAP household receives \$208 per month in SNAP benefits, which would be the upper limit of the average positive fiscal impact per month for those individuals. The Department estimates there will be no fiscal impact on the public, the Department, other state agencies, local government, and business, including small business; other than what has been stated here. No small businesses are subject to this rule. There is no cost of compliance for small business.

The Department estimates that amending OARs 461-135-0492, 461-135-0493, and 461-135-0494 will positively impact Oregonians in need of SNAP after a presidentially declared "Major Disaster." The Department estimates the average SNAP household receives \$208 per month in SNAP benefits, which would be the upper limit of the average positive fiscal impact per month. The Department estimates there will be no fiscal impact on the public, the Department, other state agencies, local government, and business, including small business; other than what has been stated here. No small businesses are subject to this rule. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-135-0505 will negatively impact SNAP participants who have lottery or gambling winnings in excess of the limit. The Department estimates the average SNAP household receives \$208 per month in SNAP benefits, which would be the upper limit of the average negative fiscal impact per month for those individuals. The Department estimates there will be no fiscal impact on the public, the Department, other state agencies, local government, and business, including small business; other than what has been stated here. No small businesses are subject to this rule. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-135-0570 will positively impact higher education student SNAP applicants who have a meal plan providing 50 percent or less of the applicant's meals. The maximum SNAP benefits for one person is \$192 per month, which would be the upper limit of the average positive fiscal impact per month for those individuals. The Department estimates there will be no fiscal impact on the public, the Department, other state agencies, local government, and business, including small business; other than what has been stated here. No small businesses are subject to this rule. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-145-0830 will have a positive fiscal impact on clients who are sponsored noncitizens in certain situations as a portion of their sponsor's income will no longer be deemed. The Department estimates the average SNAP household receives \$208 per month in SNAP benefits, which would be the

upper limit of the average positive fiscal impact per month. The Department estimates there will be no fiscal impact on the public, the Department, other state agencies, local government, and business, including small business. No small businesses are subject to this rule. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-155-0180, OAR 461-155-0190, OAR 461-160-0420, OAR 461-160-0430, and OAR 461-165-0060 will have a positive fiscal impact on clients in the ERDC, REFM, SNAP, and TANF programs. The Department is unable to estimate the fiscal impact on clients of the adjustments in OAR 461-155-0180, OAR 461-155-0190, OAR 461-160-0420, OAR 461-160-0430, and OAR 461-165-0060 or the corresponding positive fiscal impacts on the Department (other than SNAP benefits which are fully federally funded) because the new standards are not yet published. The Department estimates that these amendments will have no fiscal impact on other state agencies, local government, and businesses. There is no cost of compliance for small businesses. No small businesses are subject to these rules.

The Department estimates that amending OARs 461-160-0040, and 461-190-0310 will have no fiscal impact on clients, the public, the Department, other state agencies, local government, and business, including small business. No small businesses are subject to this rule. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-165-0180 will have no fiscal impact on child care providers, clients, the public, the Department, other state agencies, local government, and business, including small business. Small businesses are subject to this rule if they are ERDC child care providers. There is no cost of compliance for small businesses, which includes just under 4,000 DHS listed home-based and center-based child care providers.

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**COST OF COMPLIANCE:**

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

see above under Fiscal and Economic Impact

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**DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):**

Small businesses were not involved in the development of these rules but are invited to provide input during the public comment period.

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**WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES**

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**RULES PROPOSED:**

461-110-0370, 461-135-0492, 461-135-0493, 461-135-0494, 461-135-0505, 461-135-0570, 461-145-0830, 461-155-0180, 461-155-0190, 461-160-0040, 461-160-0420, 461-160-0430, 461-165-0060, 461-165-0180, 461-190-0310

AMEND: 461-110-0370

**RULE SUMMARY:** OAR 461-110-0370 about filing groups in the SNAP program is being amended to make permanent temporary changes to the rule that allow inclusion of individuals receiving SSI from California in the SNAP filing group. The rule is also being amended to refer to a rule listing federal poverty levels rather than listing the levels. These

amendments align SNAP filing group rules with recent legislative changes to SSI SNAP program benefits in California, remove gender specific text from the rule, and end the need to update the rule when the federal poverty level is changed, which usually occurs annually.

CHANGES TO RULE:

461-110-0370

Filing Group; SNAP ¶

In the SNAP program:¶

(1) Except as provided in this rule, the filing group (see OAR 461-110-0370) consists of members of a household group (see OAR 461-110-0210) who choose to apply together or customarily purchase and prepare meals together.¶

(2) Except as provided in sections (3) and (8) of this rule, the following household group members must be in the same filing group, even if they do not customarily purchase and prepare meals together:¶

(a) Each spouse (see OAR 461-001-0000).¶

(b) A parent (see OAR 461-001-0000) and ~~his or her~~their child under age 22 living with the parent.¶

(c) A household group member and any child under age 18 who lives with and is under "parental control" of that household group member. For the purposes of this subsection, "parental control" means the adult is responsible for the care, control, and supervision of the child or the child is financially dependent on the adult.¶

(3) In the following specific situations, the Department forms a filing group as indicated:¶

~~(a) An individual is not included in the filing group if, during the month the group applied for SNAP program benefits, the individual received SSI benefits through the state of California. This exclusion applies only in the month the group applied and, if necessary to meet notice requirements, in the month following the month the group applied.¶~~

~~(b) An individual is not included in the filing group if during the month the group applied for SNAP program benefits the individual received SNAP program benefits in another household and was not the head of household in the prior household. This exclusion applies only in the month the group applied and, if necessary to meet notice requirements, in the month following the month the group applied.¶~~

~~(c) An elderly (see OAR 461-001-0015) individual and ~~his or her~~their spouse may be considered a separate filing group from others with whom the elderly individual purchases and prepares meals, if:¶~~

~~(A) The elderly individual is unable to purchase or prepare food because of a permanent and severe disabling condition; and¶~~

~~(B) The combined income of the other members of the household group does not exceed the following limit: [see attached table] monthly income standard set at 165 percent of the federal poverty level under OAR 461-155-0180 for the number of other members in the household.¶~~

(4) A paid live-in attendant may choose not to be in the filing group with the recipient of the services provided, unless required by section (2) of this rule to be in the same filing group.¶

(5) An individual in foster care, the individual's spouse, and each child under age 22 living with the individual are not eligible to participate in the SNAP program independently of the care or service provider's filing group, but may be included in the provider's filing group if the provider applies for benefits.¶

(6) Unless required under section (2) of this rule, the following household group members may form a separate filing group from other members of the household group:¶

(a) A resident of an alcohol or drug treatment and rehabilitation program certified by the Department for which an employee of the facility is the authorized representative (see OAR 461-135-0550). A resident's spouse in the same facility may be in a separate filing group, but a child of a resident must be in the same filing group as the resident.¶

(b) A resident in group living (see OAR 461-001-0015).¶

(c) A resident of a public or private non-profit homeless or domestic violence shelter (see OAR 461-135-0510).¶

(d) An individual who is a resident of federally subsidized housing for the elderly, an individual with a disability, or

blind recipient of benefits under Title I, II, X, XIV, or XVI of the Social Security Act.¶¶

(7) A member of the household group who pays the filing group for room and board (lodger) is treated as follows:¶¶

(a) A lodger may not participate in the SNAP program independently of the household group.¶¶

(b) A lodger may participate in the SNAP program with the household group when the lodger pays a reasonable amount (see subsection (d) of this section) for room and board.¶¶

(c) A lodger must participate in the SNAP program with the household group when the lodger does not pay a reasonable amount for room and board.¶¶

(d) A reasonable amount is:¶¶

(A) An amount that equals or exceeds the Thrifty Food Plan for the individual and anyone in that individual's filing group (see OAR 461-155-0190(2)), if more than two meals per day are provided; or¶¶

(B) An amount that equals or exceeds two-thirds of the Thrifty Food Plan for the individual and anyone in the individual's filing group, if two or fewer meals per day are provided.¶¶

(8) A household group member is not included in the filing group, if the member is:¶¶

(a) A resident of a commercial boarding house; or¶¶

(b) An ineligible student, as defined in OAR 461-135-0570.¶¶

(9) A household group member may be included in two filing groups in the same month, if the member:¶¶

(a) Is a resident of a domestic violence shelter (see OAR 461-001-0000) or safe home (see OAR 461-001-0000); and¶¶

(b) Recently left the household group containing the member's abuser.¶¶

[see attached table]

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

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

AMEND: 461-135-0492

RULE SUMMARY: OAR 461-135-0492 about applications, interviews, and verification for the Disaster SNAP (DSNAP) program is being amended to clarify when an application is needed for Disaster SNAP, when verification may be requested by the Department, and how income is treated when eligibility is determined. These changes support mass implementation of DSNAP, which is possible through the Integrated Eligibility system.

CHANGES TO RULE:

461-135-0492

Application, Interviews, and Verification for DSNAP ¶¶

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

(2) The Department may be approved by the Food and Nutrition Services of the United States Department of Agriculture (USDA) to issue mass supplements to current SNAP households (as described at OAR 461-135-0494). All others must complete the application process to receive DSNAP benefits. ¶¶

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

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

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

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

(~~34~~) As part of the process for determining eligibility, the household or its authorized representative must be interviewed and must provide information and limited verification as described in section (45) of this rule.¶¶

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

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

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

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

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

(b) Verification that at the time of the disaster, the applicant's residence or workplace was located in the disaster area; and¶¶

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

(d) Verification of any questionable information when requested by the Department.

Statutory/Other Authority: ORS 409.050, 411.816

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



AMEND: 461-135-0493

RULE SUMMARY: OAR 461-135-0493 about eligibility and the benefit amount in the Disaster SNAP (DSNAP) program is being amended to add references to defined terms and income limit rules. These amendments clarify income limits and benefit amounts for the DSNAP program for individuals not already receiving SNAP benefits. These changes also support mass implementation of Disaster SNAP, which is possible through the Integrated Eligibility system

CHANGES TO RULE:

461-135-0493

#### Eligibility and Benefit Amount for DSNAP ¶¶

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) For DSNAP, disaster-related expenses include expenses the household has paid or is expected to pay for one of the following expenses during the disaster benefit period authorized by FNS if full reimbursement is not expected during this disaster benefit period. If the household has received or reasonably anticipates receiving a reimbursement for part or all of the expense during the disaster benefit period, only the net expense to the household is deductible. An expense charged to a credit card is not an allowable expense if the credit card bill is paid after the disaster benefit period. No expenses are considered other than the following:¶¶

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

- (B) Expenses for temporary shelter during evacuation or if the home of the household is not livable or if the household cannot reach its home;¶¶
  - (C) Expenses related to protecting property from disaster damage, including payment for the packing and storage of the items;¶¶
  - (D) Expenses to clean up the home or business following the disaster;¶¶
  - (E) Expenses related to replacing necessary personal and household items, such as clothing, appliances, tools, and educational materials;¶¶
  - (F) Medical expenses for disaster-related injury to a person who was a household member at the time of the disaster (including funeral and burial expenses in the event of death);¶¶
  - (G) Expenses to repair a vehicle damaged in the disaster;¶¶
  - (H) Pet boarding fees when a pet must be placed in boarding due to a disaster; and¶¶
  - (I) Dependent care expenses incurred during the disaster.¶¶
- (3) If the disaster benefit period is one month:¶¶
- (a) For a household not already receiving SNAP benefits:¶¶
    - (A) Income over that full month period and all accessible resources are counted;¶¶
    - (~~b~~B) Disaster-related expenses (described in subsection (2)(b) of this rule) paid, or expected to be paid over that full month period, are deducted; and¶¶
    - (~~c~~C) ~~The maximum income limit is for a one-month period~~ income limit is the full month DSNAP income limit; and¶¶
    - (D) The benefit amount is equal to the SNAP Payment Standard (Thrifty Food Plan) monthly amount (see OAR 461-155-0190) for the benefit group.¶¶
  - (b) For a household already receiving SNAP benefits, see OAR 461-135-0494.¶¶
- (4) If the disaster benefit period is for one-half month:¶¶
- (a) For a household not already receiving SNAP benefits:¶¶
    - (A) Income over the half-month period and all accessible resources are counted;¶¶
    - (~~b~~B) Disaster-related expenses (described in subsection (2)(b) of this rule) paid, or expected to be paid over this period, are deducted; and¶¶
    - (~~c~~C) ~~The disaster eligibility~~ income limit is one-half of the monthly SNAP maximum limit; and¶¶
    - (D) The benefit amount is equal to the SNAP Payment Standard (Thrifty Food Plan) monthly amount (see OAR 461-155-0190) for the benefit group.¶¶
  - (b) For a household already receiving SNAP benefits, see OAR 461-135-0494.¶¶
- (5) The full amount of accessible cash resources must be counted, regardless of the length of the disaster benefit period.¶¶
- (6) No DSNAP program benefits are authorized after the expiration of the period for which the Department is authorized by FNS to process and approve applications for this emergency SNAP assistance.¶¶
- (7) A household determined eligible must receive benefits no later than three days after the date of application. If the third day falls on a weekend or holiday, benefits must be issued on either:¶¶
- (a) The second day; or¶¶
  - (b) The first day if the second day is also a weekend or holiday.
- Statutory/Other Authority: ORS 409.050, 411.816  
 Statutes/Other Implemented: ORS 409.010, 411.816, 7 CFR 280.1

AMEND: 461-135-0494

RULE SUMMARY: OAR 461-135-0494 about the treatment in the DSNAP program of households already certified and receiving SNAP benefits is being amended to add eligibility requirements for DSNAP supplements, DSNAP benefit determination, and replacement of the value of food already purchased with SNAP after a presidentially declared "Major Disaster." These changes support mass implementation of Disaster SNAP, which is possible through the Integrated Eligibility system.

CHANGES TO RULE:

461-135-0494

DSNAP Treatment of Households Already Certified and Receiving SNAP Benefits ¶¶

~~(1) Households certified for SNAP benefits prior to the disaster may be eligible for supplemental emergency SNAP assistance from the DSNAP program.~~ Supplemental emergency SNAP assistance from the DSNAP program may be issued to an eligible household (see OAR 461-135-0491) certified for SNAP benefits prior to the disaster.¶¶

~~(a) The DSNAP benefits are calculated using the maximum disaster benefits for the benefit group (see OAR 461-110-0750) minus the regular SNAP allotment of the household for the benefit period.¶¶~~

~~(b) A household currently receiving SNAP benefits may receive a supplement by submitting an affidavit attesting to their disaster losses or by applying for DSNAP according to OAR 461-135-0491 to 461-135-04972.¶¶~~

~~(2c) H~~ The Department may issue supplements, without requests, to a households certified for SNAP benefits prior to the disaster may also receive a SNAP replacement of the value of food purchased with SNAP lost in the disaster (see currently receiving SNAP in all or a portion of the disaster area if it is determined the area meets the federal criteria for mass supplements and is approved by the Food and Nutrition Services of the United States Department of Agriculture (USDA).¶¶

~~(d) Neither an application nor an interview is required for a household currently receiving SNAP to receive supplemental emergency SNAP assistance from the DSNAP program. ¶¶~~

~~(2) Replacement of the value of food purchased with SNAP lost in the disaster may be issued to an eligible household certified for SNAP benefits prior to the disaster under OAR 461-165-0230).¶¶~~

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

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

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

Statutory/Other Authority: ORS 409.050, 411.816

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

AMEND: 461-135-0505

RULE SUMMARY: OAR 461-135-0505 about categorical eligibility for the SNAP program is being amended to align with a federal regulation change in SNAP eligibility for participants who have lottery or gambling winnings. The amendment will lower the existing cap for SNAP recipients with lottery winnings and create a cap for SNAP recipients with gambling winnings.

CHANGES TO RULE:

461-135-0505

#### Categorical Eligibility for SNAP ¶¶

(1) An individual is categorically eligible for SNAP benefits if the individual:¶¶

(a) Receives or is authorized to receive GA or SSI benefits;¶¶

(b) Receives or is authorized to receive cash, in-kind benefits, or services funded either under Title IV-A of the Social Security Act or by the state as part of the TANF maintenance of effort;¶¶

(c) Is deemed to be receiving SSI under Section 1619(a) or 1619(b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)); or¶¶

(d) Is a member of a financial group (see OAR 461-110-0530) with countable (see OAR 461-001-0000) income less than 185 percent of the federal poverty level as described in OAR 461-155-0180(4), does not have liquid assets from lottery ~~winnings in excess of \$25,000~~ or gambling winnings of \$3,500 or more, and has received a pamphlet about Information and Referral Services. Liquid assets are assets that are easily accessible and do not need to be sold to access their value.¶¶

(2) For an entire filing group to be categorically eligible for SNAP benefits, it must contain only clients who are categorically eligible for SNAP benefits. For the purpose of determining who is categorically eligible for SNAP benefits, in the ERDC and TA-DVS programs all members of the filing group are considered receiving the benefits of the program even if not all members receive the benefit.¶¶

(3) A filing group that is eligible for transition services or the TA-DVS program is considered receiving benefits for the entire period of eligibility even if benefits are not received during each month of that period.¶¶

(4) An individual categorically eligible for the SNAP program is presumed to meet the eligibility requirements for resources and countable and adjusted income limits. The individual is also presumed to meet the requirements for a social security number, sponsored alien information, and residency, if verified in a public assistance or medical assistance program.¶¶

(5) When a filing group contains both members who are categorically eligible for SNAP benefits and those who are not, a resource owned in whole or in part by a categorically eligible member is excluded.¶¶

(6) An individual may not be categorically eligible for SNAP benefits in either of the following circumstances:¶¶

(a) The individual is disqualified from receiving SNAP benefits because of an intentional program violation.¶¶

(b) The individual is a primary person (see OAR 461-001-0015) disqualified from receiving SNAP benefits for failure to comply with a SNAP employment and training requirement under OAR 461-130-0315. .

Statutory/Other Authority: ORS 411.816

Statutes/Other Implemented: ORS 411.816

AMEND: 461-135-0570

RULE SUMMARY: OAR 461-135-0570 about eligible and ineligible students in the SNAP program is being amended to remove ineligibility for SNAP when a student of higher education residing in a dormitory or other living situation has a meal plan that provides 50 percent or less of the student's meals. It is also being amended to clarify eligibility for students with state or federally funded work study and to expand 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. The amendments make permanent a temporary rule change effective July 30, 2019, will improve access to SNAP benefits for low-income students, and are in line with recent federal regulation clarifications.

CHANGES TO RULE:

461-135-0570

Eligible and Ineligible Students; SNAP ¶

~~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 & 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

AMEND: 461-145-0830

RULE SUMMARY: OAR 461-145-0830 about deeming the assets of a sponsor of a noncitizen is being amended to clarify the steps and add calculations describing how income of a sponsor is deemed to a sponsored noncitizen SNAP applicant, bringing the rule into closer alignment with federal regulations.

CHANGES TO RULE:

461-145-0830

When to Deem the Assets of a Sponsor of a Noncitizen and How Income is Deemed ¶¶

(1) In the ERDC, OSIP, OSIPM, QMB, REF, and REFM programs, the assets (see OAR 461-001-0000) of a sponsor and ~~of a sponsor's spouse~~ the spouse (see OAR 461-001-0000) of the sponsor are not deemed to the sponsored noncitizen.¶¶

(2) In all programs except the ERDC, OSIP, OSIPM, QMB, REF, and REFM programs, the assets of a sponsor and the spouse of the sponsor are considered the assets of the sponsored noncitizen, and are subject to deeming (see sections (3) and (4) of this rule), unless at least one of the following subsections applies:¶¶

(a) The sponsor has not signed a legally binding affidavit of support, for instance USCIS Form I-864 or I-864A.¶¶

(b) The sponsor receives SNAP, SSI, or TANF benefits.¶¶

(c) The sponsor is deceased. The estate of a deceased sponsor is not responsible for the noncitizen.¶¶

(d) The sponsored noncitizen establishes indigence. A sponsored noncitizen establishes indigence if the total income of the household including in-kind income plus any cash, food, housing, or other assistance provided by other individuals including the sponsor is:¶¶

(A) In the TANF program, under the countable (see OAR 461-001-0000) income standard.¶¶

(B) In the SNAP program, under ~~130 percent of the federal poverty level.~~¶¶

~~(C) In all programs except the SNAP and TANF programs, not enough for the noncitizen to obtain food and shelter without program benefits.~~¶¶

~~(i) If the noncitizen is living with the sponsor, the indigence exception may not apply and deeming does apply.~~¶¶

~~(ii) If the noncitizen is living apart from the sponsor, the indigence exception applies if the noncitizen meets all of the following requirements:~~¶¶

~~(I) The total income (of all kinds and from all sources, even excluded income) the noncitizen receives is less than the OSIPM standard for a one-person need group;~~¶¶

~~(II) The noncitizen does not receive free room and board; and~~¶¶

~~(III) The resources (even excluded resources) available to the noncitizen are under the applicable resource limit the countable income limit, set at 130 percent of the federal poverty level (see OAR 461-155-0180).~~¶¶

~~(D) Each indigence determination under this subsection is effective for 12 months and may be renewed for additional 12-month periods.~~¶¶

(e) The sponsored noncitizen is a battered immigrant spouse, battered immigrant child, immigrant parent of a battered child or an immigrant child of a battered parent, as long as the battered noncitizen does not live in the same household as the person responsible for the battery.¶¶

(f) The sponsored noncitizen does not meet the alien status requirement for the program for which he or she applies.¶¶

(g) The sponsored noncitizen becomes a naturalized citizen.¶¶

(h) The sponsored noncitizen can be credited with 40 qualifying quarters of work.¶¶

(i) The sponsored noncitizen is under 18 years of age.¶¶

(3) In all programs except the ERDC, OSIP, OSIPM, QMB, REF, ~~and REFM, and SNAP~~ programs, the following process is used to determine the amount of income considered available to the noncitizen from the noncitizen's sponsor and the spouse of the sponsor. The unearned income of the sponsor and the sponsor's spouse is added to their countable earned income (see OAR 461-140-0010) minus earned income deductions.¶¶

(4) In the SNAP program, ~~each sponsored noncitizen is considered to have the income calculated accord~~ when section (2) of this rule does not apply, the income of the sponsor and the spouse of the sponsor is deemed to the



sponsored noncitizen and included in the gross countable income of the noncitizen. The income of the sponsor and the spouse of the sponsor goes through the following steps to determine the amount of income to deem. ¶

(a) Step One: The gross countable unearned income of the sponsor and the spouse of the sponsor are included in the subtotal. ¶

(b) Step Two: The gross countable earned income of the sponsor and the spouse of the sponsor receive a 20 percent earned income deduction and the result is included in section (4) of this rule divided by the number of the sponsor's: ¶

(a) Current sponsored noncitizens; ¶

(b) Household members who receive support from the sponsor; and the subtotal. If the earned income of the sponsor or the spouse of the sponsor is from self-employment, the gross income is allowed deductions under OAR 461-145-0920 and OAR 161-145-0930 to determine the countable earned income amount. ¶

(c) Step Three: The subtotal receives a deduction equal to the countable income limit under OAR 461-155-0190, which is set at 130 percent of the federal poverty level, for the need group (see OAR 461-110-0630) size of the sponsor. The need group size of the sponsor is determined by including the sponsor, the spouse of the sponsor, and any dependents that are claimed on federal taxes by the sponsor. The sponsored noncitizen and the members of the sponsored noncitizen's filing group (see OAR 461-110-0310 and OAR 461-110-0370) are not included when determining the need group size of the sponsor. ¶

(d) Step Four: The remaining amount is divided evenly between all noncitizens sponsored by the sponsor or the spouse of the sponsor and any citizen child (see OAR 461-001-0000) or sponsored noncitizen child in the filing group of the sponsored noncitizen. The result is the income portion for each individual. ¶

(e) Dependents Step Five: The income portion of each adult (OAR 461-001-0015) sponsored noncitizen in the filing group is deemed to the sponsored noncitizen and included in their countable income.

Statutory/Other Authority: 411.060, 411.070, 411.083, 411.404, 411.704, 411.816, 413.085, 414.025, 414.685, ORS 329A.500, 409.050

Statutes/Other Implemented: 411.060, 411.070, 411.083, 409.010, 411.404, 411.704, 411.816, 412.049, 414.025, 8 USC 1183a, ORS 329A.500, 409.010, 7 CFR 273.9

AMEND: 461-155-0180

RULE SUMMARY: OAR 461-155-0180 about income standards affecting self-sufficiency programs is being amended to make annual cost-of-living adjustments to the income standards, allowing these programs to maintain support of low-income individuals and families at current levels.

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 ~~March~~October 1, 2019, except as provided otherwise.¶

(2) A monthly income standard set at 100 percent of the 201~~8~~9 federal poverty level is set at the following amounts: [see attached table]¶

(3) A monthly income standard set at 130 percent of the 201~~8~~9 federal poverty level is set at the following amounts: [see attached table]¶

(4) A monthly income standard set at 1~~8~~65 percent of the 2019 federal poverty level is set at the following amounts: [see attached table]¶

(5) A monthly income standard set at 185 percent of the 2019 federal poverty level is set at the following amounts: [see attached table]¶

(6) A monthly income standard set at 200 percent of the 201~~8~~9 federal poverty level is set at the following amounts: [see attached table]¶

(~~6~~7) A monthly income standard set at 250 percent of the 201~~8~~9 federal poverty level is set at the following amounts: [see attached table]¶

(~~7~~8) A monthly income standard set at 350 percent of the 201~~8~~9 federal poverty level is set at the following amounts: [see attached table]¶

(~~8~~9) A monthly income standard set at 85 percent of the 2019 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.

(2)

Size of Group	Standard
1	\$ 1,041
2	1,410
3	1,778
4	2,146
5	2,515
6	2,883
7	3,251
8	3,620
9	3,989
10	4,358
+1	+369

(3)

Size of Group	Standard
1	\$1,354
2	1,832
3	2,311
4	2,790
5	3,269
6	3,748
7	4,227
8	4,705
9	5,184
10	5,663
+1	+479

(4)

Size of Group	Standard
1	\$1,718
2	2,326
3	2,933
4	3,541
5	4,149
6	4,757
7	5,364
8	5,972
+1	+608

(5)

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

(6)

Size of Group	Standard
1	\$2,082
2	2,819
3	3,555
4	4,292
5	5,029
6	5,765
7	6,502
8	7,239
+1	+737

(7)

Size of Group	Standard
1	\$2,603
2	3,523
3	4,444
4	5,365
5	6,286
6	7,207
7	8,128
8	9,048

(8)

Size of Group	Standard
1	\$3,643
2	4,933
3	6,222

4	7,511
5	8,800
6	10,089
7	11,378
8	12,668
9	13,958
10	15,248
+1	+1290

(9)

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

AMEND: 461-155-0190

RULE SUMMARY: OAR 461-155-0190 about income and payment standards in the SNAP program is being amended to make annual cost-of-living adjustments to the income limits and payment standards, staying current with federal policy.

CHANGES TO RULE:

461-155-0190

Income and Payment Standards; SNAP ¶¶

(1) ~~The monthly SNAP Countable and Adjusted Income Limits are as follows: [see attached table]~~Income Limit is set at 130 percent of the federal poverty level under OAR 461-155-0180 for the number of individuals in the need group. The monthly SNAP Adjusted Income Limit is set at 100 percent of the federal poverty level under OAR 461-155-0180 for the number of individuals in the need group.¶¶

(2) The SNAP Payment Standard (Thrifty Food Plan) is: [see attached table]

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

Statutes/Other Implemented: ORS 411.070, 411.816, 411.825, 411.837, ORS 409.010, 409.050, 411.060, 7 CFR 273.1, 7 CFR 273.10

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

SNAP Payment Standard (TFP)	
No. in Benefit Group	Monthly Amount
1	\$ 194
2	355
3	509
4	646
5	768
6	921
7	1,018
8	1,164
Each additional individual	+146

AMEND: 461-160-0040

RULE SUMMARY: OAR 461-160-0040 about eligible dependent care cost deductions and coverage is being changed to define and expand the types of allowable dependent care costs in the SNAP program.

CHANGES TO RULE:

461-160-0040

Dependent Care Costs; Deduction and Coverage ¶¶

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

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

(b) The dependent care provider:¶¶

(A) Is not in the filing group; and¶¶

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

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

(2) In the SNAP program, dependent care costs that are deductible under section (1) of this rule include:¶¶

(a) The costs of care provided by an individual care provider or care facility.¶¶

(b) Transportation costs to and from the individual care provider or care facility, and¶¶

(c) Activity or other fees associated with the care provided to the dependent that are necessary for the dependent to participate in the care; with the exception of fees related to penalties, fines, or advance payment for cost of care.¶¶

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

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

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

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

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

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

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

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

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

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

(b) When a job loss occurs:¶¶

(A) When a caretaker has a permanent job loss from all employment the copay is waived for up to three months for



a work search period, starting the month after the job loss occurred.¶

(B) The waiver ends at the end of the three month period if the caretaker becomes employed.¶

(C) The three month work search period does not apply when:¶

(i) The adult was discharged or fired without good cause (see OAR 461-135-0070(2)) for misconduct, felony, or theft. "Misconduct" means willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee, including an act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest.¶

(ii) The adult voluntarily quit in anticipation of discharge or without good cause.¶

(c) For medical leave:¶

(A) When a caretaker is on medical leave the reason for the leave must be verified including diagnosis and prognosis under OAR 461-125-0830. Maternity leave may be authorized for three months (12 weeks) without medical documentation.¶

(B) For a decrease or increase in income during or at the end of medical leave see OAR 461-180-0005 and OAR 461-180-0030.¶

(C) Medical leave and maternity leave can be extended when new verification is received prior to the end of the month noted on the original documentation. Medical leave cannot extend beyond the certification period.¶

(d) For military transition:¶

(A) When a caretaker who is a discharged U.S. military member returns from active duty in a military war zone, the copay is waived for up to six months starting the month after the military member returns home.¶

(B) The copay waiver ends at the end of the six month period if the caretaker becomes employed. The copay waiver ends before the end of the six month period if the caretaker returns to active duty.¶

(e) Under this section child care may be used for work, work search, approved educational hours, military transition activities, or other activities to maintain a part-time or full-time slot at a child care facility.¶

(f) If the client stops participating in the Occupational Training and Child Care program:¶

(A) The client's copay is waived for up to three months while the client is in the process of reengaging into the program.¶

(B) The waiver ends when the client reengages into the Occupational Training and Child Care program.¶

(C) If the client does not reengage within three months, the ERDC certification ends at the end of the three months if the client does not reengage in the Occupational Training and Child Care program.¶

(67) In the JOBS program, the cost of child care may be covered while the care is necessary to enable the client to participate in a case plan (see OAR 461-190-0211).¶

(78) In the ERDC, JOBS, JOBS Plus, and TANF programs, the cost of dependent child care may be paid for (is covered) by the Department, only if all the following are true:¶

(a) The dependent child (see OAR 461-001-0000):¶

(A) In the ERDC program, is a member of the benefit group (see OAR 461-110-0750) and is in the care, control, and custody of an individual in the group.¶

(B) In the JOBS, JOBS Plus, and TANF programs, lives with the filing group.¶

(b) The provider of child care is not in the filing group.¶

(c) The provider of child care is not the parent of a child in the filing group.¶

(89) Coverage of the cost of dependent care is subject to the requirements in OAR chapter 461, including OAR 461-120-0510(3), 461-135-0400, 461-155-0150, 461-160-0193, 461-165-0180, and 461-190-0211.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.700, 411.816, 412.049

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.700, 411.816, 412.049

AMEND: 461-160-0420

RULE SUMMARY: OAR 461-160-0420 about the shelter cost in the SNAP program used to set the shelter deduction from income is being amended to make annual adjustments, keeping benefits in line with client need.

CHANGES TO RULE:

461-160-0420

Shelter Cost; SNAP ¶

(1) This rule explains how to calculate the shelter cost. The shelter cost is used to determine the shelter deduction (see OAR 461-160-0430). The shelter cost is the sum of the filing group's cost of housing plus an allowance for utilities, if the individual incurs a utility cost. The shelter deduction is based on the shelter cost but is subject to a limitation described in OAR 461-160-0430.¶

(2) Cost of housing.¶

(a) The following comprise the cost of housing if they are incurred with respect to the filing group's current residence or the home described in section (5) of this rule:¶

(A) Regular, periodic charges for the shelter of the filing group (see OAR 461-110-0370), such as rent, mortgage payments, and condominium or association fees. Late fees charged because a mortgage or rent payment was made late are not deductible.¶

(B) Property taxes, state and local assessments, and property insurance on the structure.¶

(C) Costs for repairing a home substantially damaged or destroyed by a natural disaster (such as a fire or flood), if such costs are not reimbursed.¶

(D) If the filing group is homeless and living in a vehicle---vehicle payments and collision and comprehensive insurance premiums for the vehicle.¶

(b) If housing costs are billed on a weekly or biweekly basis, the monthly cost is the weekly cost multiplied by 4.3 or the biweekly cost multiplied by 2.15.¶

(c) The filing group has the following choices about housing costs:¶

(A) The group may choose to apply the cost in the month it is billed or becomes due.¶

(B) The group may choose to have periodic costs averaged.¶

(C) For expenses that are billed less often than monthly, the group may choose to have them averaged over the period they are intended to cover.¶

(3) Shared housing. If the filing group shares housing costs with an individual in the dwelling who is not in the filing group, only the housing costs incurred by the filing group are included in the calculation. If the portion paid by an individual outside the filing group cannot be ascertained, the cost is apportioned among the individuals contributing to the cost. The pro rata share of those not in the filing group is deducted from the total, and the balance is considered a housing cost of the filing group.¶

(4) Cost for utilities.¶

(a) A filing group has a cost for utilities if it incurs a cost for heating or cooling; cooking fuel; electricity; water and sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; service for a telephone, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes; or initial installation fees charged by a utility provider.¶

(b) If the group incurs no cost for utilities in either its current home or in the home described in section (5) of this rule, then the shelter cost is calculated without an allowance for utilities.¶

(c) If a homeless filing group uses a vehicle for shelter, the cost of fuel for the vehicle is considered a utility cost.¶

(d) If a filing group incurs a cost for utilities, then the utility allowance is one of the following:¶

(A) Allowance with heating or cooling. A full standard utility allowance of ~~\$436~~\$41 per month is used if the household group (see OAR 461-110-0210) is billed for heating or cooling costs for its dwelling. Charges for any fuel and for electricity are considered heating costs if they are used for heating. A filing group who receives an energy assistance payment for the dwelling provided through the Low Income Energy Assistance Act of 1981 is eligible for the utility allowance established by this paragraph (A). This energy assistance payment must be greater

than \$20 annually.¶¶

(B) Allowance without heating or cooling.¶¶

(i) A limited standard utility allowance of ~~\$328~~37 per month is used if the filing group is not billed for heating or cooling costs but is billed for at least two other costs enumerated in subsection (4)(a) of this rule.¶¶

(ii) An individual standard utility allowance of ~~\$53~~4 per month is used if the filing group is not billed for heating or cooling costs but is billed for only one of the costs enumerated in subsection (4)(a) of this rule other than the service cost for a telephone, including the related taxes or fees.¶¶

(iii) A telephone standard utility allowance of ~~\$65~~8 per month is used if the filing group is billed only for telephone service, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes.¶¶

(5) Housing costs for a home not occupied by the filing group. Housing and utility costs with respect to a home not currently occupied may be considered in calculating the shelter cost if--¶¶

(a) The home is temporarily unoccupied because of employment or training away from home, illness, or abandonment caused by casualty or natural disaster;¶¶

(b) The filing group intends to return to the home;¶¶

(c) No other, current occupant is claiming a deduction for shelter costs in the SNAP program; and¶¶

(d) The home is not leased during the household's absence.

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

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

AMEND: 461-160-0430

RULE SUMMARY: OAR 461-160-0430 about income deductions in the SNAP program is being amended to make annual adjustments to the income deductions, keeping benefits in line with client need.

CHANGES TO RULE:

461-160-0430

Income Deductions; SNAP ¶¶

In the SNAP program:¶¶

(1) Deductions from income are subtracted from countable (see OAR 461-001-0000) income (see OAR 461-140-0010) in the following order to determine adjusted income (see OAR 461-001-0000) for the SNAP program:¶¶

(a) An earned income deduction of 20 percent of countable earned income. The 20 percent deduction is not taken from the wages funded by grant diversions such as Work Supplementation wages.¶¶

(b) A standard deduction of:¶¶

(A) \$1647 per month for a benefit group (see OAR 461-110-0750) of one, two, or three individuals.¶¶

(B) \$1748 per month for a benefit group of four individuals.¶¶

(C) \$2049 per month for a benefit group of five individuals.¶¶

(D) \$2340 per month for a benefit group of six or more individuals.¶¶

(c) A dependent care deduction for dependent care costs billed to a member of the filing group (see OAR 461-110-0370) and not paid for through any other program of the Department. For the cost to be deductible under this section, the care must be necessary to enable a member of the filing group to--¶¶

(A) Accept or continue employment;¶¶

(B) Seek employment, including a job search that meets the requirements of a case plan (see OAR 461-001-0020); or¶¶

(C) Attend vocational or educational training. A student receiving educational income is entitled to a deduction only for costs not excluded from educational income by OAR 461-145-0150.¶¶

(d) The medical deduction for elderly (see OAR 461-001-0015) individuals and individuals who have a disability (see OAR 461-001-0015) in the filing group. The deduction is calculated by determining the total of their deductible medical costs (see OAR 461-160-0415) and subtracting \$35. The Department uses the resulting amount to determine the allowable deduction as follows:¶¶

(A) For an amount less than \$0, no deduction is allowed.¶¶

(B) For an amount greater than \$0 but less than \$170.01, a deduction of \$170 is allowed.¶¶

(C) For an amount greater than \$170, a deduction of the amount determined under this subsection is allowed.¶¶

(e) A deduction for child support payments (including cash medical support) a member of the filing group makes under a legal obligation to a child (see OAR 461-001-0000) not a member of the filing group, including payments for the current month and for payments on arrearages. Child support is not deductible if collected by setoff through the Oregon Department of Revenue or by interception of a federal tax refund.¶¶

(f) A shelter deduction, calculated as follows:¶¶

(A) For SNAP filing group members required to pay room and board in a nonstandard living arrangement (see OAR 461-001-0000), the shelter deduction is:¶¶

(i) The cost of room and board, minus the payment standard for the benefit group; or¶¶

(ii) The actual room cost, if the individual can prove that the room cost exceeds the cost described in subparagraph (i) of this paragraph.¶¶

(B) For all other filing group members, the shelter deduction is calculated as follows:¶¶

(i) The standard deduction and the deductions of earned income, dependent care, court-ordered child support, and medical expenses are subtracted from countable income. Fifty percent of the remainder is subtracted from the shelter cost calculated in accordance with OAR 461-160-0420.¶¶

(ii) The rounded balance is the deduction, except the deduction is limited if the filing group has no member who has a disability or is elderly. The limit is \$55269 per month.¶¶

(2) If a ~~filing group member~~ individual cannot verify a medical or court-ordered child-support expense or cannot verify any other expense when asked to do so, the unverified expense is not used to calculate the deduction. If the individual provides verification, the deduction is applied when calculating the next month's benefits. If verification is provided within the period authorized for processing applications (see OAR 461-115-0210), the benefits for the initial month (see OAR 461-001-0000) are recalculated using the deduction.

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

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

AMEND: 461-165-0060

RULE SUMMARY: OAR 461-165-0060 about the minimum benefit amount in the Refugee, SNAP, and TANF programs will be amended to insert the rule reference for the minimum benefit amount in the SNAP program if the Food and Nutrition Service announces a change in this amount.

CHANGES TO RULE:

461-165-0060

Minimum Benefit Amount; REF, SNAP, TANF ¶

(1) In the SNAP program:¶

(a) A benefit group (see OAR 461-110-0750) is not eligible for benefits in the initial month (see OAR 461-001-0000) if the allotment is less than \$10.¶

(b) Except as provided otherwise in section (1) of this rule and in OAR 461-160-0070, minimum benefits are determined as follows:¶

(A) An eligible benefit group of one or two persons receives the monthly calculated benefit with a minimum monthly allotment of eight percent of the Thrifty Food Plan (TFP) (see OAR 461-155-0190) for one person as determined annually by FNS.¶

(B) An eligible benefit group of three or more persons receives the monthly calculated benefit, except that a group whose calculated benefit is \$1, \$3, or \$5 receives instead an allotment of \$2, \$4, or \$6 respectively. A benefit group in a categorically eligible filing group may be eligible for zero benefits (\$0) for the certification period (see OAR 461-001-0000).¶

(2) In the REF and TANF programs, except as provided in section (3) of this rule, benefits are not issued if the monthly benefit is less than \$10. Individuals who do not receive a cash payment because the monthly benefit is less than \$10 may be eligible for medical benefits.¶

(3) The \$10 requirement in section (2) of this rule does not apply to any of the following:¶

(a) Special payments, such as one-time special needs, emergency assistance, supplements, or a benefit reduced from \$10 or more to under \$10 due to the recovery of an overpayment.¶

(b) Dual payee payments made in money management cases if the monthly benefit amount is \$10 or more.¶

(c) Wage supplements issued to JOBS Plus participants.

Statutory/Other Authority: ORS 411.060, 411.816, 412.049

Statutes/Other Implemented: ORS 411.060, 411.816, 412.049

AMEND: 461-165-0180

RULE SUMMARY: OAR 461-165-0180 about the eligibility of child care providers is being amended to clarify the date a child care provider may become ineligible for payment from the Department. The rule is also being changed to clarify and list training requirements of certain legally exempt providers. These amendments allow the Department to begin ineligibility for payment based on when requirements were no longer being met and requires providers to remain current on safety trainings.

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) and begins on the date of occurrence:¶¶~~

(a) A violation of a requirement under section (8) of this rule.¶¶

(b) 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~~.¶
    - (C) Contemporaneous records of attendance and billing must be 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. (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:¶

~~(a)~~ 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)~~ After approval by the Department:¶

(A) Complete a Health and Safety training offered by the Oregon center for Career Development (OCCD) within 90 days of approval by the Department and annually thereafter.¶

(B) For providers approved before October 1, 2019, complete a Health and Safety training offered by the OCCD by the two year re-evaluation and annually thereafter.¶

(C) For all providers, 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.¶

(16) A child care provider approved to receive payment may become retroactively ineligible for payment starting on the date the provider violates a requirement under this rule, regardless of the date of the finding

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: 461-190-0310

RULE SUMMARY: OAR 461-190-0310 about the SNAP Training and Employment Program (STEP) components and activities is being amended to reflect the ending of the Oregon Food Stamp Employment Transition (OFSET) program and to clarify to whom the STEP program is available.

CHANGES TO RULE:

461-190-0310

Limits to ~~the SNAP Employment and Training Components and Activities~~ and Employment Program ¶¶

- (1) ~~The SNAP Employment and Training OFSET Program ends for all clients except mandatory ABAWD living in SNAP time limit counties (see OAR 461-135-0520): effective September 30, 2019.¶¶~~  
(a2) ~~In Multnomah and Washington Counties ends effective November 30, 2015.¶¶~~  
(b) ~~In Clackamas County ends effective September 30, 2016.¶¶~~  
(c) ~~In Benton, Lane, Lincoln, Linn, Marion, Polk and Yamhill Counties ends effective September 30, 2017.¶¶~~  
(d) ~~In Clatsop, Columbia, Crook, Deschutes, Jackson, Jefferson, Josephine, and Tillamook Counties ends effective September 30, 2018.~~ The SNAP Training and Employment Program (STEP) is available to individuals in the SNAP need group (see OAR 461-110-0630) who are:¶¶  
(a) ~~16 or 17 years of age and the primary person (see OAR 461-001-0015) or 18 years of age and older, and¶¶~~  
(b) ~~Is not offered to clients served by APD or AAA offices.¶¶~~  
(f) ~~Is voluntary for all other clients effective September 30, 2016~~ Not Jobs Opportunity and Basic Skills (JOBS) program eligible.¶¶  
(23) For an ABAWD (see OAR 461-135-0520) residing in one of the SNAP time limit counties:¶¶  
(a) ~~The case plan areas (see OAR 461-135-0520), the STEP components and activities must meet the following requirements:¶¶~~  
(a) ~~The case plan (see OAR 461-001-0020) may not require more than 20 hours of activities per week.¶¶~~  
(b) Except for Workforce Innovation and Opportunity Act (WIOA) (see OAR 461-001-0020) and Workfare (see OAR 461-190-0500), a client may not be required to participate in job search (see OAR 461-001-0020) activities more than nine hours per week. The balance of the 20 hours per week must be in work-related or training (not job search) activities.¶¶  
(c) The client may participate in a Workfare program under OAR 461-190-0500.  
Statutory/Other Authority: ORS 411.816, ORS 409.050  
Statutes/Other Implemented: ORS 411.816, 7 USC 2015, 7 USC 2029, 7 CFR 273.7, 7 CFR 273.24, ORS 409.010