

OFFICE OF THE SECRETARY OF STATE
BEV CLARNO
SECRETARY OF STATE

A. RICHARD VIAL
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

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

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 21-2019

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

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09/30/2019 8:05 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending a rule about ABAWD time limits and requirements

EFFECTIVE DATE: 10/01/2019 THROUGH 12/31/2019

AGENCY APPROVED DATE: 09/26/2019

CONTACT: Meorah Solar

DHS - SSP

Filed By:

503-602-7545

500 Summer St NE, E 48

Meorah Solar

meorah.a.solar@dhsosha.state.or.us

Salem, OR 97301

Rules Coordinator

NEED FOR THE RULE(S):

OAR 461-135-0520 about time limits and special requirements in the SNAP program for able-bodied adults without dependents (ABAWD), needs to be amended to allow the Department to authorize the use of discretionary exemptions, granted by the Food and Nutrition Service, for ABAWDs residing in certain areas of Oregon. This will be done by establishing, for October 2019 to December 2019, a discretionary exemption from time limits. This amendment needs to be done to allow the identified ABAWDs who have earned three counting months to continue to receive SNAP for one or more additional months, rather than have their SNAP benefits closed. This rule also needs to be amended to adjust a term and rule references within the rule, in order to make the rule more accurate, understandable, and concise.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-135-0520 will result in serious prejudice to the public interest, the Department, and ABAWD clients in the SNAP program. This amendment is needed immediately to prevent the loss of SNAP benefits for participants residing in certain areas of Oregon starting October 1, 2019 and allow the Department to implement federally granted discretionary exemption months of SNAP benefits.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Available from the SNAP Program.

AMEND: 461-135-0520

RULE SUMMARY: OAR 461-135-0520 about time limits and special requirements in the SNAP program for able-bodied adults without dependents (ABAWD) is being amended by establishing, for October 2019 to December 2019, a discretionary exemption from time limits for certain ABAWDs. This change allows ABAWDs residing in specified areas of Oregon who have earned three counting months to continue to receive SNAP for one or more additional months, rather than have their SNAP benefits closed, without having to meet work requirements. This exemption allows the Department to authorize the use of discretionary exemptions granted by the Food and Nutrition Service. This rule is also being amended to adjust a term and rule references within the rule in order to make the rule more accurate and

concise. These amendments do not continue the amendments temporarily active from 4/1/2019 to 9/26/2019. The changes that became effective temporarily on 4/1/2019 were always intended to only be in effect for a short period and never go permanent.

CHANGES TO RULE:

461-135-0520

Time Limit and Special Requirements for ABAWD; SNAP ¶¶

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

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

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

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

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

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

(2) Except as provided otherwise in this rule, an ABAWD who resides in one of the SNAP time-limit ~~countie~~areas (see section (1) of this rule) is ineligible to receive food benefits as a member of any household after the individual received food benefits for three countable months (see section (3) of this rule) during January 1, 2019 to December 31, 2021.¶¶

(3) "Countable months" means months within the 36-month period of January 1, 2019 to December 31, 2021 in which an individual as a member of any household receives SNAP benefits in Oregon or in any other state, unless at least one of the following applies:¶¶

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

~~(b) Benefits were prorated for the month.¶¶~~

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

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

~~(B) The individual was pregnant.¶¶~~

~~(C) A child under the age of 18 years joined the filing group.¶¶~~

~~(D) The individual met the criteria under OAR 461-130-0310(3)(a) or (b).¶¶~~

~~(e) The individual participated in one or more of the activities in paragraphs (A) to (D) of this subsection for 20 hours per week averaged over the month. For purposes of this rule, 20 hours per week averaged monthly means 80 hours per month. (Activities may be combined in one month to meet the 20 hours per week averaged monthly requirement.)¶¶~~

- (A) Work for pay, in exchange for goods or services, or unpaid work as a volunteer.¶¶
- (i) Work in exchange for goods and services includes bartering and in-kind work.¶¶
- (ii) Unpaid or voluntary work hours must be verified by the employer.¶¶
- (iii) For self-employed individuals, countable income after deducting the costs of producing income (as described in OAR 461-145-0930(5)) must average at least the federal minimum wage times 20 hours per week.¶¶
- (B) Participate in a program under the Workforce Investment Act of 1998, Pub. L. No. 105-220, 112 Stat. 936 (1998).¶¶
- (C) Participate in a program under section 236 of the Trade Act of 1974, Pub. L. 93-618, 88 Stat. 2023, (1975) (19 U.S.C. 2296).¶¶
- (D) Comply with the employment and training requirements described in OAR 461-001-0020, 461-130-0305, and 461-130-0315. Work search activities must be combined with other work-related activities to equal 20 hours per week and may not exceed 9 hours per week.¶¶
- (ed) The individual complied with the Workfare requirements in OAR 461-190-0500.¶¶
- (4) An ABAWD must submit evidence to the Department on the issue of whether a month is countable within 90 days following the last day of the month in question.¶¶
- (5) An ABAWD who is ineligible under section (2) of this rule but otherwise eligible may regain eligibility if the requirements of subsections (a) or (b) of this section are met. ¶¶
- (a) The individual becomes exempt under ~~OAR 461-130-0310(3)(a)~~ subsection (3)(b) of this rule. Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual is exempt and is otherwise eligible. If not eligible on the filing date (see OAR 461-115-0040), eligibility begins the date all other eligibility requirements are met.¶¶
- (b) The individual, during a consecutive 30-day period during which the individual is not receiving SNAP benefits, meets the requirements of subsection (3)(d) or (3)(e) of this rule.¶¶
- (A) Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual meets the requirements of subsection (3)(d) or (3)(e) of this rule and is otherwise eligible. If not eligible on the filing date, eligibility begins the date all other eligibility requirements are met.¶¶
- (B) There is no limit to how many times an individual may regain eligibility under this subsection during January 1, 2019 to December 31, 2021. ¶¶
- (c) See OAR 461-180-0010 to add an individual to an open SNAP case after the individual has regained eligibility under this section.¶¶
- (6) An individual who regains eligibility under section (5) of this rule and later fails to comply with the participation requirements of subsection (3)(d) or (3)(e) of this rule may receive a second set of food benefits for three consecutive countable months. The countable months are determined as follows:¶¶
- (a) If the individual stopped participation in a work program, countable months start when the Department notifies the individual he or she is no longer meeting the work requirement.¶¶
- (b) If the individual stopped participation in a work program, countable months start when the individual notifies the Department he or she is no longer meeting the work requirement.¶¶
- (c) If a change occurred which results in an individual becoming subject to the time limit in section (2) of this rule and the change was required to be reported under rules in OAR chapter 461, division 170, the countable months start when the change occurred.¶¶
- (d) If a change occurred which results in an individual becoming subject to the time limit and the change was not required to be reported under rules in OAR chapter 461, division 170, countable months start when the Department notifies the individual he or she must meet the work requirement.¶¶
- (e) An individual may only receive benefits without meeting the requirements of subsection (3)(d) or (3)(e) of this rule for a total of six countable months during January 1, 2019 to December 31, 2021. ¶¶
- (7) ~~This section is a placeholder to establish criteria the Department will use to grant~~ Department is authorizing the use of discretionary exemptions, granted by the Food and Nutrition Service, for ABAWDs residing in certain SNAP time-limit areas who are at risk of having their benefits closed or reduced. Under these special exemptions to, an ABAWD who are ineligible if the Department receives special exemptions from the Food and Nutrition

Services a third countable month (see section (3) of this rule) between March 2019 and November 2019 will be eligible to receive a discretionary exemption each month between October 2019 and December 2019. All of the following restrictions apply:

(a) Effective September 30, 2019, the use of discretionary exemptions ends for residents of Benton, Clackamas, Marion, Multnomah, and Washington counties.

(b) Effective October 1, 2019, only residents of Clatsop, Deschutes, Jackson, Lane, Linn, Polk, Tillamook, and Yamhill counties will be eligible for discretionary exemptions.

(c) A discretionary exemption is only valid for one month at a time.

(d) A discretionary exemption may not be granted for a previous month.

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

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

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

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