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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 4-2020

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

03/16/2020 7:59 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Adopting an ERDC and TANF program child care benefits rule during the COVID-19 pandemic

EFFECTIVE DATE: 03/16/2020 THROUGH 09/11/2020

AGENCY APPROVED DATE: 03/13/2020

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NEED FOR THE RULE(S):

OAR 461-135-0440 about Child Care Benefit Eligibility and Payment during the COVID-19 pandemic needs to be adopted to bring the Department into compliance with the Governor's mandate regarding the COVID-19 pandemic. The adoption allows more families to qualify for child care benefits by increasing the income limit for new ERDC applicants and reduces the copay to \$0 for all individuals eligible for the programs. The adoption also broadens provisions allowing the billing for absent days and shutdowns and extends time frames in which providers have to complete required trainings.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by adopting OAR 461-135-0440 will result in serious prejudice to the public interest, the Department, and clients of its programs. The Department needs to proceed by temporary rule because the Governor has mandated the Department immediately make provisions to raise the eligibility income limit for the ERDC program, to reduce copays, and to expand circumstances for when payment for days of absence and shutdown are allowable. This rule adoption will provide essential supports for eligible families in need of child care as well as qualified providers of child care.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Mandate from Governor Kate Brown available from the ERDC Program Design Manager.

ADOPT: 461-135-0440

RULE SUMMARY: OAR 461-135-0440 about Child Care Benefit Eligibility and Payment during the COVID-19 pandemic is being adopted to allow more families to qualify for child care benefits by increasing the income limit for new ERDC applicants and to reduce the copay to \$0 for all individuals eligible for the programs. The rule is also being adopted to broaden provisions allowing the billing for absent days and shutdowns and extend time frames in which providers have to complete required trainings. The adoption of this rule brings the Department into compliance with the Governor's mandate regarding the COVID-19 pandemic.

CHANGES TO RULE:

461-135-0440

Child Care Benefit Eligibility and Payment; COVID-19

If the following provisions regarding child care benefits in the ERDC and TANF programs conflict with any rule in Chapter 461; including but not limited to OAR 461-155-0150, OAR 461-160-0193, OAR 461-160-0300, OAR 461-165-0160 and OAR 461-165-0180; this rule prevails.

(1) Effective March 16, 2020, the ERDC monthly countable income (see OAR 461-001-0000) standard is the 250 percent FPL or 85 percent state median income (SMI), whichever is higher, described under OAR 461-155-0180.

To be eligible, the countable income of the need group (see OAR 461-110-0630) must be less than:

(a) The standard listed for the number of individuals in the need group for groups of eight or fewer.

(b) The standard listed for eight individuals in the need group for groups of more than eight individuals.

(2) Retroactively effective March 1, 2020:

(a) The monthly copay is \$0.

(b) The Department shall pay for absent days each month the child is absent. For the purposes of this rule, absent days will be paid for up to 31 days each month if:

(A) The child was scheduled to be in care;

(B) The provider bills for the time the child was scheduled to be in care; and

(C) It is the provider's policy to bill all families for absent days.

(c) The Department shall pay for days a child is unable to attend a licensed facility or license-exempt center due to a temporary shutdown during the governor-declared COVID-19 state of emergency period.

(3) Legally exempt (see OAR 461-165-0180) providers must complete the "Introduction to Child Care Health and Safety" two-hour, web-based training within 90 days of Department approval.

(4) Legally exempt providers that are not a legally exempt relative (see OAR 461-165-0180) to all children in care must also meet both requirements in this section within 90 days of approval by the Department:

(a) Have an up-to-date, infant and child CPR and first aid certification.

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

(5) The provisions in this rule end the last day of the month in which the governor ends the COVID-19 state of emergency period.

Statutory/Other Authority: ORS 411.060, 411.070, 412.006, 412.049, 409.050, 131.715, 329a.500

Statutes/Other Implemented: ORS 411.060, 411.070, 412.006, 412.049, 409.610, 411.122, 411.141, 418.485, 131.715, 329a.500