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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 6-2020

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

04/03/2020 11:06 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Adopting a REF, REFM, and TANF program rule during the COVID-19 pandemic

EFFECTIVE DATE: 04/03/2020 THROUGH 09/29/2020

AGENCY APPROVED DATE: 04/02/2020

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NEED FOR THE RULE(S):

OAR 461-135-0220 about REF, REFM, and TANF program eligibility and requirements during the COVID pandemic needs to be adopted to remove barriers and ease certain eligibility requirements for Oregonians in need of assistance from the REF, REFM, and TANF programs during the COVID-19 pandemic. The temporary rule adoption needs to occur to suspend OAR 461-120-0340(4) and (5), OAR 461-130-0330(2) through (5), OAR 461-135-0070(1)(b) and (3), OAR 461-135-0085(3) through (5), OAR 461-135-0915(3) through (5), and OAR 461-160-0015(6) and (8). It also needs to be put in place to relax limitations in current rule, including OAR 461-115-0040(2), OAR 461-120-0210(5), and OAR 461-135-0485(2) and (3). The adoption creates the ability, in the REF, REFM, and TANF programs, to establish a filing date, apply for benefits, as well as sign the application; by telephone. The rule adoption also needs to happen to allow REF, REFM, and TANF eligibility to be determined, for those applying telephonically, before the employability screening and JOBS overview occur. The rule suspends certain penalties and disqualifications, creates waivers for those that do not know their SSN or do not have an SSN, and creates a higher resource limit for certain groups.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by adopting OAR 461-135-0220 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 COVID-19 pandemic has created an emergent need to immediately implement methods of applying for REF, REFM, and TANF benefits that allow applicants to remain at home. The Department also needs to proceed by temporary rule to immediately relax certain eligibility requirements of these programs during a time of unprecedented changes in access to employment and income. Failure to act immediately could delay or prevent Oregon's families in need from being able to swiftly apply for cash assistance during the current state of emergency. This rule adoption will provide essential supports and enhance the ability for individuals in need of REF, REFM, and TANF benefits to "Stay at Home, Stay Healthy."

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Governor Kate Brown Executive Order 20-12 available here: https://www.oregon.gov/gov/admin/Pages/eo_20-

American Public Human Services Association "Policy Levers for State Human Service Agencies in Response to COVID-19" available here: <https://files.constantcontact.com/391325ca001/30dcf11b-ea37-405b-9edd-2382a7185de8.pdf>

Office of Family Assistance: TANF-ACF-PI-2020-01 (Questions and answers about TANF and the Coronavirus Disease 2019 (COVID-19) pandemic) available here: <https://www.acf.hhs.gov/ofa/resource/tanf-acf-pi-2020-01>

Communications between the TANF program and the Administration for Children & Families Region X TANF Program Policy are available from the TANF program policy analyst team.

ADOPT: 461-135-0220

RULE SUMMARY: OAR 461-135-0220 about REF, REFM, and TANF program eligibility and requirements during the COVID pandemic is being temporarily adopted to suspend OAR 461-120-0340(4) and (5), OAR 461-130-0330(2) through (5), OAR 461-135-0070(1)(b) and (3), OAR 461-135-0085(3) through (5), OAR 461-135-0915(3) through (5), and OAR 461-160-0015(6) and (8). It is also being amended to relax limitations in current rule, including OAR 461-115-0040(2), OAR 461-120-0210(5), and OAR 461-135-0485(2) and (3). The rule adoption creates the ability, in the REF, REFM, and TANF programs, to establish a filing date, apply for benefits, as well as sign the application; by telephone. The rule allows REF, REFM, and TANF eligibility to be determined, for those applying telephonically, before the employability screening and JOBS overview occur. The rule suspends certain penalties and disqualifications, creates waivers for those that do not know their SSN or do not have an SSN, and creates a higher resource limit for certain groups. The creation of this rule removes barriers and eases certain eligibility requirements for Oregonians in need of assistance from the REF, REFM, and TANF programs during the COVID-19 pandemic.

CHANGES TO RULE:

461-135-0220

REF, REFM, and TANF Programs; COVID-19

The provisions in this rule apply to the REF, REFM, and TANF programs and are retroactively effective as of April 1, 2020, except as provided otherwise.

(1) The Department suspends the following rules or rule sections regarding the REF, REFM, or TANF programs:

(a) OAR 461-120-0340(4) and (5).

(b) OAR 461-130-0330(2) through (5).

(c) OAR 461-135-0070(1)(b) and (3).

(d) OAR 461-135-0085(3) through (5).

(e) OAR 461-135-0915(3) through (5), and

(f) OAR 461-160-0015(6) and (8).

(2) The Department amends the following rule sections regarding the REF, REFM, and TANF programs as provided in this rule:

(a) OAR 461-115-0040(2).

(b) OAR 461-120-0210(5), and

(c) OAR 461-135-0485(2) and (3).

(3) In addition to the methods listed under OAR 461-115-0040, the "filing date" may be established telephonically by the Department making record of:

(a) The name of the applicant, and their authorized representative (see OAR 461-115-0090) if one exists.

- (b) The applicant's address.
- (c) The applicant's request for REF, REFM, or TANF benefits.
- (d) The applicant stating their full name as their signature, and
- (e) The date the above occur.
- (4) Any individual may apply for REF, REFM, or TANF benefits using the Department approved "telephonic application" (see section (5) of this rule) and "narrated telephonic signature" (see section (6) of this rule) processes. An individual submitting a telephonic application must submit the application with a narrated telephonic signature.
- (5) A telephonic application is accepted if the following requirements are met:
 - (a) All questions on the application are answered.
 - (b) All information necessary to determine eligibility (see OAR 461-001-0000) and benefit amount is provided for each individual in the filing group (see OAR 461-110-0310).
 - (c) The applicant or their authorized representative provides a narrated telephonic signature as defined in this rule.
 - (6) A narrated telephonic signature is accepted for an application for REF, REFM, or TANF benefits if the following requirements are met:
 - (a) The "Your Rights and Responsibilities" form is reviewed and sent to the mailing address of the applicant.
 - (b) The following sections at the end of the application form are reviewed and sent to the mailing address of the applicant:
 - (A) "Information about cash benefits,"
 - (B) "Information about TANF program penalties,"
 - (C) "Information about all programs," and
 - (D) "Information about your rights and responsibilities."
 - (c) The "Cooperating with Child Support Enforcement" form, is reviewed, including the good cause for non-cooperation with Child Support section, and sent to the mailing address of the applicant.
 - (d) The "Your Rights and Responsibilities While in JOBS, JOBS Plus, and Refugee Employment Services" form is sent to the mailing address of the applicant.
 - (e) The applicant or their authorized representative affirms that they:
 - (A) Have heard and understand their rights and responsibilities;
 - (B) Agree to their rights and responsibilities;
 - (C) Have given true, correct, and complete information to the Department; and
 - (D) States their full name as their signature.
 - (f) The Department makes record of the narrated telephonic signature.
- (7) The Department determines eligibility (OAR 461-001-0000) at least once every six months when:
 - (a) Telephonic application and narrated telephonic signature are used, or
 - (b) The requirement to provide or apply for an SSN is temporarily waived under section (10) of this rule.
- (8) The Department waives the following for individuals that apply for benefits using a telephonic application and narrated telephonic signature:
 - (a) The requirement to complete the "employability screening" (see OAR 461-135-0485) before eligibility can be determined, and
 - (b) The requirement to offer the "employability screening" and "overview of the JOBS program" (see OAR 461-135-0485) before eligibility can be determined.
- (9) Effective March 8, 2020, the Department suspends the following penalties and disqualifications:
 - (a) JOBS disqualification (see OAR 461-130-0330);
 - (b) Child Support penalty (see OAR 461-120-0340); and
 - (c) Assessment, evaluation, and treatment disqualification (see OAR 461-135-0085).
- (10) Notwithstanding the provisions listed under OAR 461-120-0210(5), the Department shall waive the requirement to:
 - (a) Provide an SSN if an applicant states they do not know it.

(b) Apply for an SSN if an applicant states they do not have one.¶

(11) In the REF, REFM, and TANF programs, the resource limit is:¶

(a) \$2,500 for a need group (see OAR 461-110-0630) with every caretaker relative (see OAR 461-001-0000) serving an intentional program violation (see OAR 461-195-0601). ¶

(b) \$10,000 for new applicants and all other need groups (see OAR 461-110-0630).¶

(12) The provisions in this rule end the last day of the month in which the Governor of Oregon ends the COVID-19 state of emergency period initiated by Executive Order 20-03.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.083, 412.006, 412.009, 412.024, 412.049, 412.064, 412.089

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.081, 411.083, 411.087, 412.006, 412.009, 412.024, 412.049, 412.064, 412.089, 45 CFR 206.10, 45 CFR 263.2