

OFFICE OF THE SECRETARY OF STATE
BEV CLARNO
SECRETARY OF STATE
JEFF MORGAN
INTERIM 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 16-2020

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED
06/17/2020 9:00 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending a temporary rule regarding ERDC during COVID-19

EFFECTIVE DATE: 06/17/2020 THROUGH 09/11/2020

AGENCY APPROVED DATE: 06/17/2020

CONTACT: Meorah Solar

500 Summer St NE

503-602-7545

Salem, OR 97301

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

Filed By:

Meorah Solar

Rules Coordinator

NEED FOR THE RULE(S):

OAR 461-135-0440 about Child Care Benefit Eligibility and Payment; COVID-19, needs to be amended to put into rule a change to Department policy related to the COVID-19 pandemic.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending 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 due to immediate nature of the pandemic. Failure to act immediately could create confusion for individuals needing to access benefits, partners, child care providers, and other parties that depend on rule clarity and transparency to access and understand Department policy. This rule adoption creates clear guidance regarding the \$0 copay during the COVID-19 pandemic.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

No documents relied upon.

ADOPT: 461-135-0440

SUSPEND: Temporary 461-135-0440 from SSP 9-2020

RULE SUMMARY: OAR 461-135-0440 about Child Care Benefit Eligibility and Payment; COVID-19, is being amended to add a provision that extends the \$0 child care copay until June 30, 2020, or the end of the certification period, whichever is later. This amendment provides clarity and a clear transition for families returning to a standard copay calculation.

CHANGES TO RULE:

461-135-0440

Child Care Benefit Eligibility and Payment; COVID-19

The provisions in this rule apply to child care benefits and requirements for child care providers in the ERDC and TANF programs.

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

(a) OAR 461-155-0150(5), (5)(c), (5)(e) through (5)(h), (12) through (14);

(b) OAR 461-160-0193(2)(c);

(c) OAR 461-160-0300(2), (3)(b);

(d) OAR 461-135-0405(2)(e); and

(e) OAR 461-155-0150(3)(f), (3)(g).

(2) The Department amends the following rule sections regarding the ERDC or TANF programs as provided in this rule:

(a) OAR 461-165-0180(13)(A), and

(b) OAR 461-170-0160(1), (2), (3).

(3) 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.

(4) Retroactively effective March 1, 2020:

(a) The monthly copay is \$0 until June 30, 2020, or the end of the certification period (see OAR 461-001-0000), whichever is later.

(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 care due to a temporary shutdown during the COVID-19 state of emergency period initiated by Executive Order 20-03 of the Governor of Oregon.

(5) Notwithstanding OAR 461-165-0180(13)(a)(A), legally exempt (see OAR 461-165-0180) providers that are not a legally exempt relative (see OAR 461-165-0180) to all children in care must have an up-to-date, infant and child CPR and first aid certification within 90 days of approval by the Department.

(6) In addition to provisions in OAR 461-170-0160, an individual may apply for ERDC benefits using the Department approved "telephonic application" (see section (7) of this rule) and "narrated telephonic signature" (see section (8) of this rule) processes. An individual submitting a telephonic application must submit the application with a narrated telephonic signature.

(7) A telephonic application is accepted when the following requirements are met:

(a) All ERDC program related 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 (see OAR 461-115-0090) provides a narrated telephonic signature as defined in this rule.

(8) A narrated telephonic signature is accepted for an application for ERDC benefits when the Department makes record that 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 all programs," and

(B) "Information about your rights and responsibilities."

(c) 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) State their full name as their signature.¶

(d) The Department makes record of the narrated telephonic signature.¶

(9) Unless indicated otherwise in this rule, or changed by amendment, 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 411.060, 411.070, 412.006, 412.049, 409.050, 131.715, 329a.500, ORS 84.001 to 84.061

Statutes/Other Implemented: ORS 411.060, 411.070, 412.006, 412.049, 409.610, 411.122, 411.141, 418.485, 131.715, 329a.500, ORS 84.001 to 84.061