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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 23-2020

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

07/21/2020 6:21 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Temporarily amending an SSP rule regarding TANF and Department of Child Support Cooperation

EFFECTIVE DATE: 07/21/2020 THROUGH 01/16/2021

AGENCY APPROVED DATE: 07/21/2020

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NEED FOR THE RULE(S):

OAR 461-120-0340 about the requirement to cooperate with the Division of Child Support for individuals applying or receiving TANF needs to be amended to bring the rule into alignment with Federal Centers for Medicare and Medicaid Services' (CMS) requirements for the Integrated Eligibility (IE)/ONE system. CMS will not allow the Oregon Health Authority to use the IE/ONE system if detailed questions about absent parents are asked as part of the application process. The amendments to this rule remove the cooperation requirement for TANF applicants and require that TANF applicants state only that they agree to cooperate with Division of Child Support.

JUSTIFICATION OF TEMPORARY FILING:

This change needs to be made immediately because CMS will not allow the Oregon Health Authority to use the IE/ONE system if detailed questions about absent parents are asked as part of the eligibility process. Not making this change jeopardizes significant state and federal funds that have been utilized to pay for the development of the IE/ONE system.

Failure to make these changes immediately would unduly burden both Oregonians and the state. If these changes are not made immediately, CMS would not allow the release of the IE/ONE system and implementation activities could not include Medical or TANF programs. Oregonians would not benefit from a streamlined, integrated application system, which includes an online portal through which they may apply for or renew benefits—a necessity given current public health concerns.

To support the continued use of the IE/ONE system by the Medical programs, the TANF child support referral process is being modified to comply with CMS requirements. This rule change is needed to support the modifications.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

This rule change was prepared using federal policy clarification received from CMS. This policy clarification is stored by the Oregon Health Authority Health Systems Division medical policy team.

AMEND: 461-120-0340

RULE SUMMARY: OAR 461-120-0340 about the requirement to cooperate with child support for individuals applying or receiving TANF is being amended to change, for TANF applicants, the requirement to cooperate with child support to a requirement to agree to cooperate with the Division of Child Support. It is also being amended to update some language to more current and accurate terminology.

CHANGES TO RULE:

461-120-0340

Client caretaker relative Required To Help ~~Department~~ Division of Child Support Obtain Support From Noncustodial Parent; TANF ¶

~~†~~Retroactively effective July 6, 2020, in the TANF program:¶

(1) To be eligible for program benefits, except as permitted in section (23) of this rule, a:¶

(a) A caretaker relative (see OAR 461-001-0000) must in a filing group (see OAR 461-110-0330) not currently receiving TANF must agree to cooperate with the Division of Child Support (DCS).¶

(b) A caretaker relative in a filing group receiving TANF must cooperate with DCS.¶

(2) For the purposes of this rule, "cooperate with DCS" means make a good faith effort (see section (34) of this rule) to help the Department DCS.¶

(a) Establish paternity of each needy child (see OAR 461-001-0000); and¶

(b) Locate and obtain support payments from the noncustodial parent of each needy child.¶

~~(23)~~ A caretaker relative is excused from the requirements of section (1) of this rule:¶

(a) For good cause under OAR 461-120-0350;¶

(b) If the caretaker relative is a participant in the JOBS Plus, Post-TANF, or SFPSS programs or is receiving Employment Payments (see OAR 461-001-0025) under OAR 461-135-1270; or¶

(c) If the filing group (see OAR 461-110-0310 and 461-110-0330) is a two-parent family.¶

~~(34)~~ A good faith effort includes taking such actions as:¶

(a) Supplying "sufficient information" for ~~the Division of Child Support (DCS)~~ to proceed with appropriate actions to establish paternity of a dependent child (see OAR 461-001-0000), to locate noncustodial parents, or to establish a support order with respect to ~~the any child in the benefit group (see OAR 461-110-0750)~~. "Sufficient information" includes, but is not limited to, the time and place of each child's conception (if paternity is not established) and the following information, if known to the caretaker relative, regarding any noncustodial parent of a needy child:¶

(A) Full legal name and nicknames.¶

(B) Social Security Number.¶

(C) Current or last known address.¶

(D) Current or last known employer, including name and address.¶

(E) If a student, current or last known school.¶

(F) Criminal record, including where and when incarcerated.¶

(G) Date of birth, or age.¶

(H) Race.¶

(I) Any known group or organizational affiliations.¶

(J) Names and addresses of close friends or relatives.¶

(K) Any other information the Department or DCS requests to help locate or identify an absent parent (see OAR 461-001-0000) of any children in the benefit group (see OAR 461-110-0750).¶

(b) Supplying documentation or an explanation of the client caretaker relative's efforts to obtain information

requested by ~~the Department or DCS~~ (if unable to provide ~~any necessary~~sufficient information listed in under subsection (a) of this section).¶¶

(c) Keeping appointments with ~~the Department and DCS~~ related to establishing paternity.¶¶

(d) Returning telephone calls and responding to correspondence when requested to do so by ~~the Department or DCS~~DCS.¶¶

(5) If an individual is part of a filing group not currently receiving TANF has not been excused under section (3) of this rule and does not agree to cooperate with DCS under section (1) of this rule, the filing group is ineligible until the individual agrees to cooperate.¶¶

(46) If a ~~client~~ individual who is part of a filing group receiving TANF benefits has not been excused under section (23) of this rule has the opportunity to make a good faith effort to help ~~the Department~~DCS establish paternity of a needy child or locate or obtain support payments from the noncustodial parent of a needy child (and is unable to show ~~the or she has~~have good cause under OAR 461-120-0350), the Department applies penalties for a failure to comply with requirements of section (1) of this rule in the following manner until the ~~client~~individual meets the requirements of this rule:¶¶

(a) For a benefit group not currently receiving TANF, if the failure to comply occurs while an application for TANF is pending the filing group is ineligible.¶¶

(b) For a benefit group receiving TANF benefits, if a failure to comply occurs, the net monthly TANF benefit, after reductions for the ~~client~~individual's failure to comply with requirements of the JOBS program are made, is reduced by:¶¶

(A) 25 percent for the first month following the month in which failure to comply is determined.¶¶

(B) 50 percent for the second month following the month in which failure to comply is determined.¶¶

(C) 75 percent for the third month following the month in which failure to comply is determined.¶¶

(D) 100 percent (total ineligibility for the benefit group) for the fourth and subsequent months following the month in which failure to comply is determined.¶¶

(e) Once a penalized ~~client~~individual complies with the requirements and benefits are no longer reduced under this rule, a subsequent penalty is imposed without regard to any prior penalty.¶¶

(d) If the TANF payment is affected by the penalty imposed under this rule, eligibility (see OAR 461-001-0000) for and the level of SNAP benefits are determined as if the ~~client~~individual were receiving cash benefits without reduction due to the penalty.¶¶

(57) The penalty provided by this rule ends when the ~~client~~aretaker relative meets the requirements of section (1) of this rule.

Statutory/Other Authority: ORS 411.060, 411.070, 412.024, 412.049

Statutes/Other Implemented: ORS 411.060, 411.070, 412.024, 412.049