

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

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

07/23/2020 2:41 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Making permanent a REF, REFM, & TANF rule regarding provisions in the event of a pandemic

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/18/2020 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Meorah Solar
503-602-7545
meorah.a.solar@dhsosha.state.or.us

500 Summer St NE
Salem, OR 97301

Filed By:
Meorah Solar
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 08/24/2020

TIME: 1:00 PM - 2:30 PM

OFFICER: Meorah Solar

ADDRESS: No Physical Location due to
COVID-19

By phone 1(971) 673-8888, code
46101139#

or 1 (503) 934-1400, code 46101139#
Salem, OR 97301

SPECIAL INSTRUCTIONS:

Everyone has a right to know about
and use DHS programs and services.

DHS provides free help. Some
examples of the free help DHS can
provide are: sign language and spoken
language interpreters, written
materials in other languages, braille,
large print, audio and other formats. If
you need help or have questions,
please contact Meorah Solar at (503)
602-7545, 711 TTY, or
meorah.a.solar@dhsosha.state.or.us at
least 48 hours before the meeting.

NEED FOR THE RULE(S):

OAR 461-135-0220 about REF, REFM, TANF Programs; COVID-19, needs to be adopted permanently to allow the Department to adopt rule provisions regarding REF, REFM, and TANF benefits and eligibility in the event of a pandemic.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Governor Brown's Executive Order 20-12, available here:

https://www.oregon.gov/gov/Documents/executive_orders/eo_20-12.pdf

Covid-19 Extended Assistance for ORR Populations; Policy Letter 20-03, available here:

https://www.acf.hhs.gov/sites/default/files/orr/pl_20_03_rca_rma_extension_covid_19.pdf

CFR 400 Refugee Resettlement Program, Title 45 CFR 400.155 (h) available here:

<https://www.acf.hhs.gov/orr/resource/400-refugee-resettlement-program>

Office of Refugee Resettlement State Letter 16-06 available here: <https://www.acf.hhs.gov/orr/resource/guidance-onrefugee-social-services-funding>

Federal ACF guidance IM-ACF-OA-2020-1 - ACF COVID Flexibilities available here:

https://www.acf.hhs.gov/sites/default/files/ocs/im_acf_oa_2020_01_acf_covid_flexibilities_final_033020.pdf

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 available from the TANF program policy analyst team.

FISCAL AND ECONOMIC IMPACT:

The Department estimates that permanently adopting OAR 461-135-0220 will have a negative fiscal impact on the Department in the amount of \$344,657 monthly. The Department estimates that the rule will have a positive fiscal impact on individuals who are able to qualify for TANF assistance due to more flexible eligibility standards, but is unable to estimate the extent of these impacts because an eligibility comparison regarding who is now qualifying due to the new COVID rule provisions, and their average benefit level, has not occurred. The Department estimates the rule change will positively impact qualifying refugees and the positive impact will be a maximum of \$2,500 per case. The Department estimates a positive financial impact on agencies that would otherwise have been sought out for financial support. The Department estimates a positive financial impact to landlords and utility companies, who will be able to

receive rental payments from tenants who qualify under the REF program provisions. Outside of what is stated in this summary, the Department estimates that there is no fiscal impact on other state agencies, local government, and business, including small business. No small businesses are subject to these rules and there is no cost of compliance for any type of small business.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

See Fiscal and Economic Impact

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the development of these rules but are invited to provide input during the public comment period.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

ADOPT: 461-135-0220

RULE SUMMARY: OAR 461-135-0220 about REF, REFM, and TANF Programs; COVID-19 is a recently adopted temporary rule that the Department intends to make permanent effective September 30, 2020, in order to allow special provisions regarding REF, REFM, and TANF Program rules, benefits, and eligibility; to be adopted during a pandemic. The rule also allows the suspension and modification of other rules in Chapter 461 that conflict with the provisions of this rule or that need to be altered due to a 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.

(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).

(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).

(c) OAR 461-135-0090(4).

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

(e) OAR 461-135-0930(3) and (6).

(f) OAR 461-195-0501, and

(g) OAR 461-195-0621(4)(c).

(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) Notwithstanding the provisions in OAR 461-190-0211(1)(d) and (8), the Department may authorize payments for housing, utilities, and other emergency expenses for individuals who are within 60 months of being granted an eligible status as defined in OAR 461-120-0125(5). Eligibility for payments are subject to the following requirements:¶

(a) Individuals are not eligible for payments if they:¶

(A) Are currently enrolled in the Matching Grant program.¶

(B) Have received any other subsidized payment for the same expense for the same month.¶

(b) The income of the financial group (see OAR 461-110-0530) must have been negatively affected by COVID-19.¶

(c) The gross income of the financial group shall not exceed 250 percent of the federal poverty level as listed OAR 461-155-0180. ¶

(d) The resource limit of the financial group must meet section (11) of this rule. ¶

(e) The sum of all assistance payments under this section must not exceed \$2500 per filing group (see OAR 461-110-0430). ¶

(f) Payments shall be made through partner agencies designated by the Department and are subject to availability of funding.¶

(13) The following provisions apply to individuals issued an immigration status listed under OAR 461-120-0125(5) between April 1, 2019 and January 31, 2020, who are determined eligible for the REF program.¶

(a) The eight-month program eligibility limit stated in OAR 461-135-0090(4), OAR 461-135-0930(3) and (6), and OAR 461-195-0621(4)(c) is extended to September 30, 2020.¶

(b) A filing group (see OAR 461-110-0430) that establishes a filing date (see OAR 461-115-0040) between May 1, 2020 and May 31, 2020, shall receive REF benefits for the month of April 2020 if: ¶

(A) All financial and non-financial eligibility requirements for REF are met for the month of April 2020, and ¶

(B) The filing group did not already receive REF benefits for April 2020.¶

(c) REF benefits shall be categorized as client error overpayment (see OAR 461-195-0501) for any month for which both REF benefits and unemployment compensation benefits (see OAR 461-145-0550) were issued. An overpayment created under this provision will be handled in accordance with OAR 461-195-0301 to OAR 461-195-0350.¶

(14) The provisions in this rule, except sections (12) and (13), 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, 45 CFR 400.155