



## PERMANENT ADMINISTRATIVE ORDER

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### SSP 29-2020

CHAPTER 461  
DEPARTMENT OF HUMAN SERVICES  
SELF-SUFFICIENCY PROGRAMS

FILING CAPTION: Making permanent a child care rule regarding provisions in the event of a pandemic

EFFECTIVE DATE: 09/01/2020

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ADOPT: 461-135-0440

REPEAL: Temporary 461-135-0440 from SSP 20-2020

NOTICE FILED DATE: 06/30/2020

RULE SUMMARY: OAR 461-135-0440 about Child Care Benefit Eligibility and Payment; COVID-19, is a recently adopted temporary rule that is being made permanent in order to allow special provisions regarding child care eligibility, benefits, and payments, 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:

#### 461-135-0440

#### 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 461-160-0040(4);

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

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

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

(f) OAR 461-155-0150(3), (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) 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) The monthly copay is \$0 beginning the month of March 2020, for the entirety of the certification period (see OAR 461-001-0000), for cases whose certification period begins on or before October 31, 2020.

(5) The Department shall pay for:

(a) 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.

(b) 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.

(c) Days a school-age child is attending child care and participating in distance learning due to concerns, school closures, or medical reasons related to COVID-19.

(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) 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. Online infant and child CPR trainings approved through the Oregon Registry will be accepted by the Department until July 31, 2021.

(10) Providers who are not legally exempt are not eligible to receive payment from the Department if:

(a) Their application or approval to operate Emergency Child Care was denied, suspended, or revoked by the Office of Child Care (OCC); or

(b) They voluntarily surrendered their Emergency Child Care approval while under investigation by the OCC or at any time after OCC gave them notice of any administrative proceeding.

(11) Unless indicated otherwise in this rule, the provisions in this rule end on 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: 131.715, 329a.500, ORS 84.001 to 84.061, ORS 411.060, 411.070, 412.006, 412.049, 409.050

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