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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 31-2020

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

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09/04/2020 7:27 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Making a temporary amendment to a rule about specific requirements in the TA-DVS program

EFFECTIVE DATE: 09/04/2020 THROUGH 03/02/2021

AGENCY APPROVED DATE: 09/03/2020

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NEED FOR THE RULE(S):

OAR 461-135-1200 about Specific Requirements in the TA-DVS program, needs to be amended to reflect an expansion of acceptable application methods for the TA-DVS program.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-135-1200 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 its commitment to reducing barriers to applying for benefits, whenever possible. Failure to act immediately would delay the implementation of the Department's new ability to accept telephonic methods of applying for TA-DVS benefits during the COVID-19 pandemic.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

No documents relied upon.

AMEND: 461-135-1200

RULE SUMMARY: OAR 461-135-1200 about Specific Requirements; TA-DVS program is being amended to absorb provisions of OAR 461-135-1240 that permit, for the TA-DVS program; telephonic filing date, application completion, and application. It is also being changed to update terminology, correct rule references, and correct grammar.

CHANGES TO RULE:

461-135-1200

Specific Requirements; TA-DVS ¶¶

(1) The TA-DVS program addresses temporary needs of individuals -- ¶¶

(a) Who are currently victims of domestic violence (see OAR 461-001-0000), have been victims of domestic violence, or are at risk of victimization by domestic violence; ¶¶

- (b) Whose safety is at risk because of domestic violence or the current threat of domestic violence; and ¶
- (c) Who meet the financial and non-financial requirements of this rule.¶
- (2) ~~In the TA-DVS program, an individual must complete an application process as defined in~~An individual must complete the application process as defined in OAR 461-115-0020. The Department is to follow the application time frames outlined under OAR 461-115-0190.¶
- (3) An applicant may complete the application process as follows:¶
 - (a) 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. ¶
 - (B) The applicant's address. ¶
 - (C) The applicant's request for TA-DVS benefits.¶
 - (D) The applicant stating their full name as their signature, and ¶
 - (E) The date the above occur. ¶
 - (b) Any individual may apply for TA-DVS benefits using the Department approved "telephonic application" (see section (c) of this rule) and "narrated telephonic signature" (see section (d) of this rule) processes. An individual submitting a telephonic application must submit the application with a narrated telephonic signature.¶
 - (c) A telephonic application is accepted when 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 461-1150-0020. The Department is to follow the application time frames outlined in OAR 461-115-0190:310). ¶
 - (C) The applicant provides a narrated telephonic signature as defined under this rule. ¶
 - (d) A narrated telephonic signature is accepted for an application for TA-DVS benefits when the Department makes record that the following requirements are met: ¶
 - (A) The "Your Rights and Responsibilities" form is reviewed and provided to the applicant.¶
 - (B) The following sections at the end of the application form are reviewed and provided to the applicant: ¶
 - (i) "Information about all programs," and¶
 - (ii) "Information about your rights and responsibilities." ¶
 - (C) The applicant affirms that they: ¶
 - (i) Have heard and understand their rights and responsibilities; ¶
 - (ii) Agree to their rights and responsibilities;¶
 - (iii) Have given true, correct, and complete information to the Department; and¶
 - (iv) States their full name as their signature.¶
 - (D) The Department makes record of the narrated telephonic signature. ¶
 - (34) ~~The Department is authorized by ORS 411.117 to waive or modify requirements of the TANF program that make it more difficult for applicants to escape domestic violence or put them at risk of further or future domestic violence.¶~~
 - (45) ~~The Department waives the TANF requirement in OAR 461-135-0070(1)(ea) for a pregnant woman to have reached late pregnancy if an applicant is at risk of further or future domestic violence.¶~~
 - (56) ~~The filing group requirements in the TA-DVS program are the same as for the TANF program (see OAR 461-110-0330), except the abuser is not considered in the filing group.¶~~
 - (67) ~~The financial eligibility requirements in the TA-DVS program are the same as for the TANF program except that:¶~~
 - (a) ~~A TANF grant does not count as income.¶~~
 - (b) ~~Income received during the budget month is not counted if the ~~the~~ applicant does not have reasonable access to the money or cannot access the money independently of the abuser.¶~~
 - (c) ~~Income received during the budget month is not counted if the ~~the~~ applicant needs the money for expenses made necessary to flee from abuse.¶~~
 - (d) ~~There is no resource limit.¶~~

(e) The income limit is the applicable TANF Countable Income Limit Standard (OAR 461-155-0030), but the TA-DVS program uses net income, minus living deductions on the DHS Form 1542, against the amounts set out under the TANF Countable Income Limit.¶

(f) SSI income is countable (see OAR 461-001-0000), if available in time to meet the emergent need (the immediate safety need) of the applicant.¶

~~(78)~~ The non-financial requirements in the TA-DVS program are the same as for the TANF program except that:¶

(a) Citizenship and ~~a non~~noncitizen status requirements (OAR 461-120-0110) are waived.¶

(b) There are no requirements to assign support rights.¶

(c) There are no requirements to pursue assets (see OAR 461-120-0330).¶

(d) There is no requirement of regular school attendance (OAR 461-120-0510), except that if the only dependent child (see OAR 461-001-0000) is at least the age of 18, the dependent child must meet requirements of OAR 461-120-0510.¶

(e) The recipient is not required to participate in an employment program. ¶

(f) The TANF program requirement for a caretaker relative (see OAR 461-001-0000) in the need group (see OAR 461-110-0630) to not have been separated from their most recent employment (see OAR 461-135-0070) is waived when there is risk of further or future domestic violence.¶

~~(89)~~ Verification in the TA-DVS program is required as in the TANF program. Verification of financial or non-financial eligibility factors is postponed if the delay in finding the applicant eligible would prevent the applicant from meeting an emergent need.¶

~~(910)~~ No verification is required that the ~~the~~applicant is a victim of domestic violence or needs to flee from abuse unless:¶

(a) The individual has been arrested for or convicted of an act of domestic violence in the past and it is uncertain whether the individual is a victim of domestic violence. In this situation, the Department verifies that the individual is not or was not a perpetrator of domestic violence. ¶

(b) It is unclear who the abuser is because multiple individuals list each other as the perpetrator during overlapping applications or eligibility periods.¶

~~(101)~~ Verification as needed in situations described in subsections ~~(910)~~(a) and ~~(910)~~(b) of this rule includes, but is not limited to, a statement from a law enforcement officer, a district attorney, the court, a batterer intervention program, a victim's advocate, a Child Welfare staff person, a mental health provider, a health care or other medical provider, a member of the clergy, or other professional from whom the individual has requested assistance to address the alleged domestic violence indicating that the individual is not a perpetrator of domestic violence or is a self-defending victim. This statement is adequate verification. If no verification is available, the Department's central office TA-DVS Policy Analyst may assist ~~the~~field in determining what other verification is acceptable.¶

~~(112)~~ The following TANF requirements remain in effect as described even if an individual is a victim of domestic violence or at risk of victimization by domestic violence:¶

(a) The TANF requirements in OAR 461-135-0070 to be a dependent child, a caretaker relative, or a parent (see OAR 461-001-0000).¶

(b) The TANF requirement in OAR 461-120-0630 that a dependent child live with a caretaker relative, except the latter requirement may be waived while the caretaker relative escapes from further or future domestic violence if the dependent child is expected to return within the 90-day eligibility period.¶

(c) The TANF requirement of residency (see OAR 461-120-0010) except when an individual does not intend to stay in Oregon if the reason for leaving is due to their current domestic violence situation.¶

(d) Income or resource limits except as specifically provided in OAR 461-140-0020 and OAR 461-140-0040.

Statutory/Other Authority: ORS 409.050, 411.060, 411.117, 412.049

Statutes/Other Implemented: ORS 409.010, 411.060, 411.117, 412.049