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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 38-2020

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

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& LEGISLATIVE COUNSEL

FILING CAPTION: Temporarily Amending Two Rules about DSNAP

EFFECTIVE DATE: 10/16/2020 THROUGH 04/13/2021

AGENCY APPROVED DATE: 10/16/2020

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NEED FOR THE RULE(S):

OAR 461-135-0493 about Eligibility and Benefit Amount for DSNAP, needs to be revised to add non-financial eligibility requirements which were omitted when these rules were originally written. The missing requirements are connected to receipt of other program benefits funded by UDSA. If an individual receives these benefits and also receives DSNAP, they will have received duplicated benefits and receive over issuances. It also needs to be changed to clarify the full month means 30 days and not a calendar month.

OAR 461-135-0494 about DSNAP Treatment of Households Already Certified and Receiving SNAP Benefits, needs to be revised to clarify one subsection about mass supplementation of benefits. It also needs to be changed to clarify that for this Oregon Wildfire, SNAP households, who have already received the COVID emergency assistance in September and maximum SNAP, may not qualify for a second emergency allotment under DSNAP unless there were other household members who did not qualify for SNAP.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OARs 461-135-0493 and 461-135-0494 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 necessity to ensure proper implementation of the DSNAP Program. Failure to act immediately would delay Oregon operating the DSNAP Program in 8 counties, areas hit hardest by the Oregon Wildfires in September 2020. This rule amendment will allow qualifying Oregonians, approximately 1/3 to 1/2 of the residents in these areas, access benefits. If these revisions are not made, these households may receive more SNAP than entitled and be asked to repay the excess benefits.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Communications between Food and Nutrition Service (FNS) and the Oregon SNAP Program are available from SNAP Policy.

FNS Disaster Assistance, Oregon Disaster Nutrition Assistance, located here:
<https://www.fns.usda.gov/disaster/oregon-disaster-nutrition-assistance>

Oregon Disaster State Plan is available from SNAP Policy.

RULES:

461-135-0493, 461-135-0494

AMEND: 461-135-0493

RULE SUMMARY: OAR 461-135-0493 about Eligibility and Benefit Amount for DSNAP, is being revised to add missing non-financial eligibility requirements. The requirements are connected to receipt of other program benefits funded by USDA. It also needs to be changed to clarify the full month means 30 days and not a calendar month. These amendments will make the rule more accurate.

CHANGES TO RULE:

461-135-0493

Eligibility and Benefit Amount for DSNAP ¶¶

(1) Notwithstanding sections (2)(a) and (3)(b), the Department suspends the following:¶¶

(a) The requirement in section (2) that the representative of the household must be present at the disaster certification site to be certified for DSNAP assistance.¶¶

(b) The restriction in section (3) that expenses charged to a credit card are not an allowable expense if the credit card bill is paid after the disaster benefit period. ¶¶

(2) To be eligible for emergency SNAP assistance during a disaster, a household (see OAR 461-135-0491) must meet all the following criteria:¶¶

(a) At the time the disaster struck, the household must have resided or a member of the household must have worked within the geographical area authorized by Food and Nutrition Services (FNS) for disaster procedures. The household may be certified for emergency SNAP assistance, even if at the time of application it is occupying temporary accommodations outside the disaster area. However, the representative of the household must be present at the disaster certification site to be certified for DSNAP assistance.¶¶

(b) The household must purchase food during the disaster period authorized by FNS. A household residing in a temporary shelter but not expected to remain in the shelter for the entire benefit period is eligible for DSNAP program benefits.¶¶

(c) The household may not receive a food box under the Disaster Food Distribution Program authorized under TEFAP during the DSNAP application period.¶¶

(d) The household may not receive benefits under Food Distribution Program on Indian Reservations (FDPIR) during the DSNAP benefit period authorized by FNS.¶¶

(e) The household must have experienced at least one of the following adverse effects due to the disaster:¶¶

(A) Loss or inaccessibility of income involving a reduction or termination of income or a significant delay in receipt of income. This effect could occur if the disaster has caused a place of employment to close or reduce its work days, if pay checks or other payments are lost or destroyed, or if there is a significant delay in the issuance of pay checks or other payments. This effect could also occur if the work location is inaccessible due to the disaster.¶¶

(B) Inaccessibility of liquid resources. The household is unable to reach its cash resources and is not expected to be able to access its liquid resources for most of the disaster benefit period authorized by FNS. This inaccessibility may occur because the financial institutions where the household has its resources are closed due to the disaster.

and there is no access to ATMs or on-line banking.¶

(C) Loss of food that is not eligible for a SNAP benefit replacement.¶

(D) ~~Real property damage. Damage to or destruction of the home or self-employment business of the household~~
Disaster-related expenses were paid under subsection (3)(b) of this rule.¶

(23) To be eligible for emergency SNAP assistance during a disaster, the take-home pay of the household for the disaster benefits period authorized by FNS, plus its cash resources (cash on hand and accessible funds in checking and savings accounts), less disaster-related expenses, must be less than or equal to the DSNAP income standard (see OAR 461-155-0180) for the size of the household and the length of the disaster benefit period (see sections (34) and (45) of this rule).¶

(a) For DSNAP, take-home pay includes all of the following to the extent accessible during the benefit period:¶

(A) The wages a household actually receives after taxes and other payroll withholdings are taken out.¶

(B) The assistance payment or other unearned income a household received.¶

(C) Self-employment income earned after taxes for personal income and social security as well as actual costs of producing the self-employment income are subtracted. Allowable costs of producing the self-employment income are described in OAR 461-145-0920, ~~461-145-0930~~, and 461-145-09310.¶

(b) For DSNAP, disaster-related expenses include expenses the household has paid or is expected to pay for one of the following expenses during the disaster benefit period authorized by FNS if full reimbursement is not expected during this disaster benefit period. If the household has received or reasonably anticipates receiving a reimbursement for part or all of the expense during the disaster benefit period, only the net expense to the household is deductible. An expense charged to a credit card is not an allowable expense if the credit card bill is paid after the disaster benefit period. No expenses are considered other than the following:¶

(A) Expenses to repair damages to the home or other property of the household essential to the employment or self-employment of a household member;¶

(B) Expenses for temporary shelter during evacuation or if the home of the household is not livable or if the household cannot reach its home;¶

(C) Expenses related to protecting property from disaster damage, including payment for the packing and storage of the items;¶

(D) Expenses to clean up the home or business following the disaster;¶

(E) Expenses related to replacing necessary personal and household items, such as clothing, appliances, tools, and educational materials;¶

(F) Medical expenses for disaster-related injury to a person who was a household member at the time of the disaster (including funeral and burial expenses in the event of death);¶

(G) Expenses to repair a vehicle damaged in the disaster;¶

(H) Pet boarding fees when a pet must be placed in boarding due to a disaster; and¶

(I) Dependent care expenses incurred during the disaster.¶

~~(3J)~~ Replacing fuel damaged or destroyed by the disaster (including a wood supply used for heat).¶

~~(4)~~ If the disaster benefit period is ~~one month~~ 30 consecutive days:¶

(a) For a household not already receiving SNAP benefits:¶

(A) Income over ~~that full month~~ the 30-day period and all accessible resources are counted;¶

(B) Disaster-related expenses (described in subsection (23)(b) of this rule) paid, or expected to be paid during ~~that full month~~ the 30-day period, are deducted; ¶

(C) The income limit is the DSNAP income standard (see OAR 461-155-0180); and¶

(D) The benefit amount is equal to the full month DSNAP payment standard monthly amount (see OAR 461-155-0190).¶

(b) For a filing group (see OAR 461-110-0370) already receiving SNAP benefits, see OAR 461-135-0494.¶

~~(45)~~ If the disaster benefit period is for one-half month:¶

(a) For a household not already receiving SNAP benefits:¶

(A) Income over the half-month period and all accessible resources are counted;¶

(B) Disaster-related expenses (described in subsection (23)(b) of this rule) paid, or expected to be paid during this

period, are deducted;¶¶

(C) The income limit is one-half of the DSNAP income standard (see OAR 461-155-0180); and¶¶

(D) The benefit amount is equal to one-half of the full month DSNAP payment standard monthly amount (see OAR 461-155-0190).¶¶

(b) For a filing group already receiving SNAP benefits, see OAR 461-135-0494.¶¶

~~(56)~~ The full amount of accessible cash resources must be counted, regardless of the length of the disaster benefit period.¶¶

~~(67)~~ No DSNAP program benefits are authorized after the expiration of the period for which the Department is authorized by FNS to process and approve applications for this emergency SNAP assistance.¶¶

~~(78)~~ A household determined eligible must receive benefits no later than three days after the date of application. If the third day falls on a weekend or holiday, benefits must be issued on either:¶¶

(a) The second day; or¶¶

(b) The first day if the second day is also a weekend or holiday.

Statutory/Other Authority: ORS 409.050, 411.816

Statutes/Other Implemented: ORS 409.010, 411.816, 7 CFR 280.1

AMEND: 461-135-0494

RULE SUMMARY: OAR 461-135-0494 about DSNAP Treatment of Households Already Certified and Receiving SNAP Benefits, is being amended to clarify about mass supplementation provisions. It is also being amended to make clear eligibility for those who have already received the COVID SNAP emergency assistance in September and maximum SNAP.

CHANGES TO RULE:

461-135-0494

DSNAP Treatment of Households Already Certified and Receiving SNAP Benefits ¶

(1) Supplemental emergency SNAP assistance from the DSNAP program may be issued to an eligible filing group (see OAR 461-110-0370) certified for SNAP benefits prior to the disaster.¶

(a) The DSNAP benefits are calculated using the maximum disaster benefits for the household (see OAR 461-135-0491) minus the regular SNAP allotment ~~of~~ and the emergency supplement (see OAR-135-0660) of the benefit group (see OAR 461-110-0750) for the benefit period.¶

~~(b) A benefit group currently receiving SNAP benefits may receive a supplement by submitting an affidavit attesting to their disaster losses or by applying for DSNAP according to OAR 461-135-0492.¶~~

~~(b)~~ The Department may issue sMass Supplementation, without requests, to a benefit group currently receiving SNAP in all or a portion of the disaster area if it is determined the area meets the federal criteria for Mass Supplementation and is approved by the Food and Nutrition Service of the United States Department of Agriculture (USDA).¶

~~(d)~~ Neither an application nor an interview is required for a benefit group currently receiving SNAP to receive sMass Supplementation emergency SNAP assistance from the DSNAP program. ¶

(2) Replacement of the value of food purchased with SNAP lost in the disaster may be issued to an eligible filing group certified for SNAP benefits prior to the disaster under OAR 461-165-0230.¶

(a) A SNAP replacement for the value of food lost in a disaster is not a DSNAP benefit.¶

(b) The value of lost food replaced with a SNAP benefit replacement is not considered a loss of food under OAR 461-135-0493.

Statutory/Other Authority: ORS 409.050, 411.816

Statutes/Other Implemented: ORS 409.010, 411.816, 7 CFR 280.1