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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 39-2020

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

10/22/2020 4:29 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Temporarily changing a rule about SNAP benefits during COVID-19

EFFECTIVE DATE: 10/22/2020 THROUGH 04/19/2021

AGENCY APPROVED DATE: 10/22/2020

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NEED FOR THE RULE(S):

OAR 461-135-0660 needs to be amended to make clear emergency allotment (supplement) rule provisions.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-135-0660 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 handling of matters related to emergency allotments of SNAP benefits. Failure to act immediately would delay Oregon operating matters regarding emergency allotments appropriately. This rule amendment will ensure emergency allotments are handled as intended by USDA FNS. If these revisions are not made, the Department would be at risk of implementing emergency allotments in a way not intended by USDA FNS.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Communications between Food and Nutrition Service and SNAP analysts, including waivers, available from the SNAP Policy Team.

SNAP COVID-19 Emergency Allotments Guidance, located here: <https://www.fns.usda.gov/snap/covid-19-emergency-allotments-guidance>

Oregon: COVID-19 Waivers & Flexibilities, located here: <https://www.fns.usda.gov/disaster/pandemic/covid-19/oregon#snap>

AMEND: 461-135-0660

RULE SUMMARY: OAR 461-135-0660 about SNAP; COVID-19, is being amended to make clear how the emergency allotment (supplement) of SNAP is different than the Supplemental Nutrition Assistance Program, including foundation

of law, notice requirements, and hearing rights.

CHANGES TO RULE:

461-135-0660

SNAP; COVID-19

The provisions in this rule apply to the SNAP program.¶

(1) The Department suspends the following rule sections regarding the SNAP program as provided in this rule:¶

(a) OAR 461-115-0230(3), and¶

(b) OAR 461-135-0520(2) and (6).¶

(2) The Department amends the following rules and rule sections regarding the SNAP program as provided in this rule:¶

(a) OAR 461-115-0020(2),¶

(b) OAR 461-115-0450(1) and (2), and¶

(c) OAR 461-170-0102.¶

(3) Per the Families First Coronavirus Act, Title 3, Section 2301:¶

(a) SNAP time limit work requirements for ABAWDs (see OAR 461-135-0520) are temporarily waived.¶

(b) ABAWDs will not be subject to earning countable months (see OAR 461-135-0520). ¶

(4) An individual who the Department has determined is mandatory (see OAR 461-130-0305) will be granted "good cause" (see OAR 461-130-0327) if the reason for not accepting employment or for leaving a job was due to the individual's concerns regarding their health due to the COVID-19 pandemic. ¶

(5) Notwithstanding OAR 461-115-0450, the Department may extend a certification period (see OAR 461-001-0000) before the certification period ends, not to exceed 6 months, when the certification period ends in the months of March, April, May, or June of 2020.¶

(6) Notwithstanding OAR 461-170-0102, the Department waives the requirement to submit an "Interim Change Report" or a "Mid-Certification Review" in order to continue receiving benefits when the Interim Change Report or Mid-Certification Review is due in the months of March, April, May, or June of 2020.¶

(7) Emergency allotments (supplements) are permitted through USDA waiver under Families First coronavirus Response Act of 2020. The Department may issue an emergency ~~supplement~~allotment of SNAP benefits for any months approved for an emergency ~~supplement~~allotment by the Food and Nutrition Service, with the following limitations:¶

(a) The emergency ~~supplement~~allotment does not change the benefit level, calculated under OAR 461-160-0400, for the benefit group (see OAR 461-110-0750).¶

(b) The emergency ~~supplement~~allotment shall be issued on a date determined by the Department, not subject to OAR 461-165-0100.¶

(c) The amount of the emergency ~~supplement~~allotment shall be the difference between the benefit level calculated under OAR 461-160-0400 and the maximum Payment Standard for the number of individuals in the benefit group. If there is no difference, no emergency ~~supplement~~allotment shall be issued. ~~allotment shall be issued.~~ ¶

(d) When the Food and Nutrition Service makes a change that ends, reduces, or suspends the emergency allotment:¶

(A) No decision notice (see OAR 461-001-0000) is required. The Department is not required to mail a notice of intended action.¶

(B) The Department shall publicize the change using one or more of the following methods: ¶

(i) Informing the public through the news media. ¶

(ii) Placing posters in the offices that serve affected individuals, in the locations where SNAP is issued, and at other sites frequented by individuals receiving SNAP. ¶

(iii) Mailing a general notice to the households of affected recipients.¶

(e) Excepting an overpayment (see OAR 461-195-0501), there is no right to hearing to dispute emergency allotment and no right to continuing benefits.¶

(8) For applications with a filing date (see OAR 461-115-0040): ¶

(a) Established from March 23, 2020 to August 31, 2020, the Department waives the requirement under OAR 461-115-0020 section (1) to meet the interview requirements in order to complete the application process, and¶¶
(b) Established from March 23, 2020 to August 31, 2020, the Department suspends the requirement under OAR 461-115-0230(3)(b) to grant a face-to-face interview at the applicant's request.¶¶

(9) The provisions listed in sections (3) and (4) of this rule end on the last day of the month in which the public health emergency declaration made by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) is lifted.

Statutory/Other Authority: ORS 411.060, 411.070, 411.121, 411.816, ORS 409.050

Statutes/Other Implemented: ORS 409.010, ORS 411.060, 411.070, 411.121, 411.816, 411.825, 411.837, 7 USC 2015, 7 USC 2029, 7 CFR 273.7, 7 CFR 273.24, Pub. L. 116-127, ORS 409.050, 7 CFR 273.10, 7 CFR 273.14