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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**SSP 24-2021**

CHAPTER 461  
DEPARTMENT OF HUMAN SERVICES  
SELF-SUFFICIENCY PROGRAMS

**FILED**

02/26/2021 2:10 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending SNAP Benefit Replacement Rule Language to Align with Policy

EFFECTIVE DATE: 02/26/2021 THROUGH 08/24/2021

AGENCY APPROVED DATE: 02/26/2021

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**NEED FOR THE RULE(S):**

OAR 461-165-0230 needs to be amended to align the rule language with the Department's policy, as well as to make clear in rule that the 10 day deadline can be extended when permitted by FNS.

**JUSTIFICATION OF TEMPORARY FILING:**

The Department finds that failure to act promptly by amending this rule 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 the immediate nature of the need of individuals impacted by the storm and power outages, in order to put into rule a waiver received from Food and Nutrition Service. Failure to act immediately will delay the OAR from coming into compliance with the the waiver. Failure to act immediately could also create conflict between agency OAR and agency action and guidance, creating confusion for staff and the public. This rule amendment enacts and makes clear critical and time-sensitive changes.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:**

FNS Disaster Assistance, Incident: Severe Winter Storm and Power Outages, available here:  
<https://www.fns.usda.gov/disaster/oregon-disaster-nutrition-assistance>

AMEND: 461-165-0230

RULE SUMMARY: OAR 461-165-0230 about Replacing SNAP Program Benefits and EBT Cards, is being amended to add the Department's ability to extend the 10 day deadline for SNAP participants requesting a replacement of SNAP benefits, when an extension of this deadline is approved by the Food and Nutrition Service. It is also being amended to allow SNAP participants to verbally attest to the loss.

**CHANGES TO RULE:**

461-165-0230

## Replacing SNAP Program Benefits and EBT Cards ¶

- (1) The Department does not replace SNAP program benefits after they are delivered to the EBT account unless the Department failed to cancel the EBT card of an individual leaving a SNAP program household and that individual continues to access SNAP program benefits in subsequent months.¶
- (2) The Department will replace the value of food purchased with SNAP program benefits if all of the following are true:¶
- (a) The food was destroyed by a verified household misfortune or disaster.¶
  - (b) The filing group (see OAR 461-110-0370) reports the loss of food within:¶
    - (A) Within ten days of occurrence, or¶
    - (B) By the deadline permitted through Food and Nutrition Service waiver.¶
  - (c) The filing group submits a signed statement or affidavit, or a verbal attestation, attesting to the loss within ten days of reporting the loss.¶
- (3) The replacement, based on section (2) of this rule, must meet the following:¶
- (a) The amount may not exceed one month's allotment, unless the issuance includes restored benefits which will be replaced up to the full value of the restored benefits.¶
  - (b) The Department will issue a timely replacement of the value of the loss by meeting the later of these two timeframes:¶
    - (A) Within ten days after the filing group reported the loss; or¶
    - (B) Within two working days of submitting a signed statement or affidavit.¶
- (4) The Department will replace an EBT card reported lost, stolen, or not received only after the current card has been deactivated. An EBT card that is damaged or not functioning properly is replaced only after the card's status is changed to "card damaged" and the card is destroyed.

Statutory/Other Authority: ORS 409.050, ORS 409.010, 411.060, 411.816

Statutes/Other Implemented: ORS 409.010, 411.060, 411.816, 7 CFR 280.1