

OFFICE OF THE SECRETARY OF STATE
SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 31-2021

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED
05/14/2021 11:56 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Making a Temporary Amendment to a Rule About SNAP During COVID-19

EFFECTIVE DATE: 05/14/2021 THROUGH 09/28/2021

AGENCY APPROVED DATE: 05/14/2021

CONTACT: Meorah Solar
503-602-7545
meorah.a.solar@dhsosha.state.or.us

2885 Chad Drive
Eugene, OR 97408

Filed By:
Meorah Solar
Rules Coordinator

NEED FOR THE RULE(S):

OAR 461-135-0660 about SNAP; COVID-19, needs to be amended to align with recently released federal changes and clarifications regarding emergency allotments.

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 nature of the pandemic and immediate implementation requirements for Food and Nutrition Service changes. This temporary rule amendment provides additional support to Oregonians in need of SNAP benefits who are receiving less than \$95 in emergency allotment and whose regular monthly SNAP allotment is greater than \$0. Failure to act immediately could create confusion for ODHS staff and the public, delay the implementation of federal guidance, and create administrative error overpayments. This rule amendment creates clear guidance and transparency regarding SNAP program adjustments during the COVID-19 pandemic for staff, applicants, and the general public.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

United States Department of Agriculture (USDA), Food and Nutrition Service (FNS) Month-To Month Contingent Approval to Continue Issuing Supplemental Nutrition Assistance Program (SNAP) Emergency Allotments (EA) Benefits under the Families First Coronavirus Response Act of 2020 for April 2021, available here: <https://fns-prod.azureedge.net/sites/default/files/resource-files/OR-SNAP-COVID-EA-Extension-April-2021-Acknowledged.pdf>

United States Department of Agriculture (USDA), Food and Nutrition Service (FNS) Month-To Month Contingent Approval to Continue Issuing Supplemental Nutrition Assistance Program (SNAP) Emergency Allotments (EA) Benefits under the Families First Coronavirus Response Act of 2020 for May 2021, available here: <https://fns-prod.azureedge.net/sites/default/files/resource-files/OR-SNAP-COVID-EA-Extension-May-2021-Acknowledged.pdf>

Food and Nutrition Service SNAP Emergency Allotments Guidance, available here:

<https://www.fns.usda.gov/snap/emergency-allotments-guidance-040121>

Communications between FNS and the Oregon SNAP Policy Analyst Team available from the Oregon SNAP Policy Analyst Team.

AMEND: 461-135-0660

SUSPEND: Temporary 461-135-0660 from SSP 30-2021

RULE SUMMARY: OAR 461-135-0660 about SNAP; COVID-19, is being amended to align rule with recently released federal requirements regarding SNAP emergency allotments. These changes retroactively increase the minimum emergency allotment for certain benefit groups to \$95 monthly, beginning April 2021. These changes also end emergency allotments to benefit groups whose regular SNAP allotment is \$0 monthly, beginning May 2021.

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),¶

(c) OAR 461-135-0570(3), and¶

(d) 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: ¶

(a) Not to exceed 6 months, when the certification period ends in the months of March, April, May, or June of 2020.¶

(b) When the certification period ends in October or November 2020:¶

(A) The certification period is extended to April 30, 2021, for a filing group with a certification period of 12 or fewer months.¶

(B) The certification period is extended to October 31, 2021, for a filing group with a certification period of 24-months.¶

(c) When the Mid-Certification Review is due in the months of October, November or December 2020, the Department waives the requirement to submit the Review and:¶

(A) The certification period is extended to October 31, 2022 and the Mid-Certification Review is due in October 2021, for a filing group with a Review due in October or November 2020.¶

(B) The certification period is extended to December 31, 2022 and the Mid-Certification Review is due in

December 2021, for a filing group with a Review due in December 2020.¶

(d) When the certification period ends in December 2020:¶

(A) The certification period is extended to June 30, 2021 for a filing group with a certification period of 12 or fewer months.¶

(B) The certification period is extended to December 31, 2021 for a filing group with a certification period of 24-months.¶

(e) When the certification period ends in the months of February or March 2021 and the certification period of the filing group has not been previously extended by the Department:¶

(A) Not to exceed 6 months when the only countable income is TANF program benefits or TANF program benefits and Social Security benefits.¶

(B) Not to exceed 12 months when the only countable income is Social Security benefits.¶

(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: ¶

(a) When the Interim Change Report or Mid-Certification Review is due in the months of March, April, May, or June of 2020.¶

(b) When the Interim Change Report is due in the months of October, November, or December 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 allotment of SNAP benefits for any months approved for an emergency allotment by the Food and Nutrition Service, with the following limitations:¶

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

(c) Beginning April 2020, and except as provided in paragraphs (A) and (B) of this subsection, the amount of the emergency 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 allotment shall be issued. ¶

(A) Beginning April 2021, if the difference calculated equals an amount less than \$95, the amount emergency allotment shall be \$95.¶

(B) Beginning May 2021, if the benefit level calculated under OAR 461-160-of a benefit group is \$0, no emergency 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 ~~February 28~~ June 30, 2021, 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 ~~February 28~~ June 30, 2021, the Department suspends the requirement under OAR 461-115-0230(3)(b) to grant a face-to-face interview at the applicant's request.¶

(c) The provisions in this section are retroactively effective for applications with a filing date of March 23, 2020,

and after.¶

(9) Retroactively effective January 16, 2021: In addition to the provisions under section (3) of OAR 461-135-0570, to be eligible for SNAP benefits, a student of higher education (see OAR 461-135-0570) may also meet the requirements of one of the following subsections:¶

(a) The student of higher education is eligible to participate in state or federally funded work study program during the regular school year.¶

(b) The student of higher education has an Expected Family Contribution (EFC) of \$0 in the current academic year, as determined through the Free Application for Federal Student Aid (FAFSA). ¶

(10) The provisions-- ¶

(a) 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.¶

(b) Listed in section (9) of this rule end 30 days after the day upon 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