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CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

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RULES:

461-101-0010, 461-110-0530, 461-120-0125, 461-135-0880, 461-135-0950, 461-160-0620

AMEND: 461-101-0010

NOTICE FILED DATE: 04/30/2021

RULE SUMMARY: OAR 461-101-0010 about Program Acronyms and Overview is being amended to provide a more broad overview about Able-Bodied Adults Without Dependents, to remove the TANF-PLS acronym as it is not used, to correct the expansion of the QMB-SMB acronym, and update grammar.

CHANGES TO RULE:

461-101-0010

Program Acronyms and Overview ¶¶

- (1) Acronyms are frequently used when referring to a program. There is an acronym for each umbrella program and acronyms for each subprogram.¶¶
- (2) When no program acronym appears in a rule in chapter 461 of these rules, the rule with no program acronym applies to all programs listed in this rule. If a rule does not apply to all programs, the rule uses program acronyms to identify the programs to which the rule applies.¶¶
- (3) Wherever an umbrella acronym appears, that means the rule covers all the subprograms under that code.¶¶
- (4) ABAWD; Able-Bodied Adults Without Dependents. ~~Participants ages at least 18 but not yet 50, with no child under 18 in their filing group~~ The ABAWD employment program is one of the SNAP employment and training programs. Individuals who are identified as ABAWD are subject to the SNAP time limits (see OAR 461-110-037 35-0520).¶¶
- (5) CAWEM; Citizen/Alien-Waived Emergent Medical. Medicaid coverage of emergent medical needs for individuals who are not eligible for other medical programs solely because they do not meet citizenship or noncitizen status requirements.¶¶
- (6) DSNAP; Disaster Supplemental Nutrition Assistance Program. Following a presidential declaration of a major disaster in Oregon, DSNAP provides emergency DSNAP program benefits to victims. OAR 461-135-0491 to 461-

135-0497 cover DSNAP eligibility and benefits.¶¶

(7) EA; Emergency Assistance. Emergency cash to families without the resources to meet emergent needs.¶¶

(8) ERDC or ERDC-BAS; Employment Related Day Care-Basic. Helps low-income working families pay the cost of child care.¶¶

(9) GA; General Assistance. Cash assistance to certain low-income individuals with disabilities.¶¶

(10) HSP; Housing Stabilization Program. A program that helps low-income families obtain stable housing. The program is operated through the Housing and Community Services Department through community-based, service-provider agencies. The Department's rules for the program (OAR 461-135-1305 to 461-135-1335) were repealed July 1, 2001.¶¶

(11) JOBS; Job Opportunity and Basic Skills. An employment program for TANF participants. JOBS helps these individuals attain self-sufficiency through training and employment. The program is part of Welfare Reform.¶¶

(12) JOBS Plus. JOBS Plus is a component of the JOBS Program; ~~TANF-PLS is the acronym used for individuals in the JOBS Plus component.~~ Except as provided under OAR 461-190-0416, JOBS Plus provides subsidized jobs, rather than SNAP or TANF benefits, for individuals receiving TANF and determined JOBS eligible. Eligibility for the JOBS Plus component is determined by the Department. ¶¶

(13) JPI; Job Participation Incentive. An additional \$10 food benefit to help increase the ability of parents with children, who meet federal TANF participation rate, to meet the nutritional needs of their families.¶¶

(14) LIS; Low-Income Subsidy. The Low-Income Subsidy program is a federal assistance program for Medicare recipients who are eligible for extra help meeting their Medicare Part D prescription drug costs.¶¶

(15) OFSET. The Oregon Food Stamp Employment Transition Program, which helped ~~used~~ SNAP program benefit recipients find employment. This program ~~was~~ mandatory for some SNAP program benefit recipients.¶¶

(16) OSIP; Oregon Supplemental Income Program. Cash supplements and special need payments to individuals who are blind, have a disability, or are 65 years of age or older. When used alone, OSIP refers to all OSIP programs. The following acronyms are used for OSIP subprograms:¶¶

(a) OSIP-AB; Oregon Supplemental Income Program - Aid to the Blind.¶¶

(b) OSIP-AD; Oregon Supplemental Income Program - Aid to the Disabled.¶¶

(c) OSIP-EPD; Oregon Supplemental Income Program - Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.¶¶

(d) OSIP-OAA; Oregon Supplemental Income Program - Old Age Assistance.¶¶

(17) OSIPM; Oregon Supplemental Income Program Medical. Medical coverage for individuals who are elderly or who have a disability. When used alone, OSIPM refers to all OSIP-related medical programs. The following codes are used for OSIPM subprograms:¶¶

(a) OSIPM-AB; Oregon Supplemental Income Program Medical - Aid to the Blind.¶¶

(b) OSIPM-AD; Oregon Supplemental Income Program Medical - Aid to the Disabled.¶¶

(c) OSIPM-EPD; Oregon Supplemental Income Program Medical - Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.¶¶

(d) OSIPM-OAA; Oregon Supplemental Income Program Medical - Old Age Assistance.¶¶

(e) OSIPM-ICP; Oregon Supplemental Income Program Medical - Independent Choices Program.¶¶

(18) The Post-TANF program provided a monthly transitional payment to employed individuals who were no longer eligible for the Pre-TANF or TANF programs due to earnings, and met the other eligibility requirements.¶¶

(19) The Pre-TANF program is an up-front assessment and resource-search program for TANF applicant families. The intent of the program is to assess the individual's employment potential; determine any barriers to employment or family stability; develop an individualized case plan that promotes family stability and financial independence; help individuals find employment or other alternatives; and provide basic living expenses immediately to families in need.¶¶

(20) QMB; Qualified Medicare Beneficiaries. Programs providing payment of Medicare premiums and one program also providing additional medical coverage for Medicare recipients. Each of these programs also is

considered to be a Medicare Savings Program (MSP). When used alone in a rule, QMB refers to all MSP. The following codes are used for QMB subprograms:¶¶

(a) QMB-BAS; Qualified Medicare Beneficiaries - Basic. The basic QMB program.¶¶

(b) QMB-DW; Qualified Medicare Beneficiaries - Disabled Worker. Payment of the Medicare Part A premium for individuals under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed.¶¶

(c) QMB-SMB; Qualified Medicare Beneficiaries - Specified Limited Low-Income Medicare Beneficiary. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMB.¶¶

(d) QMB-SMF; Qualified Medicare Beneficiaries - Qualified Individuals. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMF. This program has a 100-percent federal match, but also has an allocation that, if reached, results in the closure of the program.¶¶

(21) REF; Refugee Assistance. Cash assistance to low-income refugee singles or married couples, without children, who are not eligible for the TANF program.¶¶

(22) REFM; Refugee Assistance Medical. Medical coverage for low-income refugees who are not eligible for Medicaid.¶¶

(23) REP; Refugee Employment Program. Any self-sufficiency service, employment service, or case plan that is available to or developed for individuals in the REF program.¶¶

(24) The Repatriate Program helps Americans resettle in the United States if they have left a foreign land because of an emergency situation.¶¶

(25) SFDNP; Senior Farm Direct Nutrition Program. Food vouchers for low-income seniors. Funded by a grant from the United States Department of Agriculture.¶¶

(26) SFPSS; State Family Pre-SSI/SSDI Program. A voluntary program providing cash assistance and case management services to families when at least one TANF eligible adult in the household has an impairment (see OAR 461-125-0260) and is or will be applying for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).¶¶

(27) SNAP; Supplemental Nutrition Assistance Program. Helps low-income households maintain proper nutrition by giving them the means to purchase food. SNAP used to be known as FS or Food Stamps; any reference to SNAP also includes FS and Food Stamps.¶¶

(28) STEP; SNAP Training and Employment Program. A training and employment program for certain SNAP participants.¶¶

(29) TA-DVS; Temporary Assistance for Domestic Violence Survivors. Assistance for families where there is a current or future risk of further domestic violence.¶¶

(30) TANF; Temporary Assistance for Needy Families. Cash assistance for families when children in those families are deprived of parental support because of continued absence, death, incapacity, or unemployment.

Statutory/Other Authority: ORS 414.025, 414.826, ORS 413.085, 414.685, ORS 329A.500, 409.050, 411.060, 411.404, 411.706, 411.816, 412.014, 412.049

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 414.839

RULE SUMMARY: OAR 461-110-0530 about financial group is being amended to add a section clarifying that married individuals not in the same household group as their spouse who may otherwise be eligible for OSIPM under standard living arrangement rules (i.e. not subject to the 300% SSI income standard) are still subject to the community spouse resource allowance provisions if applying for Long Term Care services.

CHANGES TO RULE:

461-110-0530

Financial Group ¶¶

(1) Except as provided in section (4) of this rule, the "financial group" consists of the filing group (see OAR 461-110-0310) members whose income and resources the Department considers in determining eligibility (see OAR 461-001-0000) and benefits.¶¶

(2) In the ERDC, OSIPM-EPD, QMB, and SNAP programs, the "financial group" consists of each individual in the filing group.¶¶

(3) In the REF and REFM programs, the "financial group" consists of each individual in the filing group, except an individual who is eligible for and receives an SSI cash payment.¶¶

(4) In the OSIPM (except OSIPM-EPD) program:¶¶

(a) For the purposes of this section of this rule, "ineligible" means an individual not eligible to receive either SSI or TANF program benefits.¶¶

(b) When an individual lives in a standard living arrangement (see OAR 461-001-0000):¶¶

(A) Except as provided in paragraph (B) of this subsection, each member of the filing group is in the "financial group".¶¶

(B) When an individual is married, not assumed eligible (see OAR 461-135-0010) for OSIPM, and the individual's spouse (see OAR 461-001-0000) is considered "ineligible" (see subsection (a) of this section):¶¶

(i) If the individual's adjusted income (see OAR 461-001-0000) using the deductions allowed under OAR 461-160-0550(4), or after being evaluated under certain protected groups (see OAR 461-135-0771 to OAR 461-135-0830), is greater than the OSIPM program adjusted income standard for a need group of one under OAR 461-155-0250, the individual is in his or her own "financial group" and not eligible for OSIPM.¶¶

(ii) When there are children in the home, if the ineligible spouse's remaining countable (see OAR 461-001-0000) income after allocation (see OAR 461-160-0551) to each ineligible child is equal to or less than the difference between the couple and the individual SSI standards: the spouse is not included in the "financial group" when determining income eligibility; however, the spouse is included in the "financial group" when determining resource eligibility.¶¶

(iii) When there are no children in the home, if the ineligible spouse's countable income is less than the difference between the couple and the individual SSI standards: the spouse is not included in the "financial group" when determining income eligibility; however, the spouse is included in the "financial group" when determining resource eligibility.¶¶

(c) When an individual or is being evaluated under OAR 461-135-0745 or OAR 461-135-0750, the "financial group" consists only of the individual applying for benefits, except that the community spouse (see OAR 461-001-0030) is included in the "financial group" to determine initial eligibility as follows:¶¶

(A) At initial eligibility, the resources of the community spouse are considered and the provisions of OAR 461-160-0580 apply.¶¶

(B) The income of the community spouse is not considered in determining initial eligibility, and the community spouse is not included in any other eligibility group.¶¶

(d) When an individual is in a nonstandard living arrangement (see OAR 461-001-0000), the individual is not evaluated under either OAR 461-135-0745 or OAR 461-135-0750, and the community spouse is not in the

household group; the community spouse is included in the "financial group" to determine initial eligibility as follows:¶¶

(A) At initial eligibility, the resources of the community spouse are considered and the provisions of OAR 461-160-0580 apply.¶¶

(B) The income of the community spouse is not considered in determining initial eligibility, and the community spouse is not included in any other eligibility group.¶¶

(5) In the TANF program, the "financial group" consists of each individual in the filing group except the following:¶¶

(a) A caretaker relative, other than a parent, who chooses not to be included in the need group and has income less than the non-needy countable income limit standard (see OAR 461-155-0030) for the filing group of the caretaker relative.¶¶

(b) The spouse of a caretaker relative, when the caretaker relative meets the requirements under subsection (a) of this section.¶¶

(c) A dependent child of a caretaker relative when the caretaker relative meets the requirements under subsection (a) of this section.¶¶

(d) An individual who is eligible for and receives an SSI cash payment.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 412.064, 412.124, 413.085, 414.685, 414.712

Statutes/Other Implemented: 414.826, 414.839, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 412.064, 412.124, 414.712, ORS 409.010, 411.060

AMEND: 461-120-0125

REPEAL: Temporary 461-120-0125 from SSP 25-2021

NOTICE FILED DATE: 04/30/2021

RULE SUMMARY: OAR 461-120-0125 about "alien" status is being amended to permanently adopt the temporary rule changes that designate citizens of Compact of Free Association States (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) as qualified non-citizens for the OSIPM and QMB programs and include them in the category of individuals who meet the non-citizen requirements for Medicaid. This amendment is retroactively effective December 28, 2020. It is also being amended to update language to be more person-centered, to restructure the rule provisions, and to add language to make the rule more clear. The terms "alien," "American Indian," and "Indian tribe" are terms the Department has identified as potentially insensitive and outdated. ODHS will work with the communities to which these terms refer to receive guidance regarding terms that are more respectful.

CHANGES TO RULE:

461-120-0125

"Alien" Status Requirements ¶

An individual who must meet "alien" status requirements under OAR 461-120-0110, must meet the "alien" status requirements of the program for which they are applying. The requirements are listed in sections (2) through (6) of this rule.¶

(1) For purposes of this chapter of rules,¶

(a) In all programs, an individual is a "qualified non-citizen" if the individual is any of the following:¶

(aA) A non-citizen individual who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq). This includes:¶

(AB) An Iraqi or Afghan alien individual granted special immigrant visa status (SIV) under section 101(a)(27) of the INA. These individuals are lawfully admitted for permanent residence under the INA.¶

(BC) An individual who is an "Amerasian" who is granted immigration status under section 584(a) of Public Law 100-202; the Foreign Operations, Export Financing, and Related Program Appropriations Act of 1988.¶

(b) A refugee; as amended by Public Law 100-461. These individuals are lawfully admitted for permanent residence under the INA.¶

(D) An individual who is admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157).¶

(eE) A non-citizen individual who is granted asylum under section 208 of the INA (8 U.S.C. 1158).¶

(d) A non-citizenF) An individual who is a "Cuban or Haitian entrant" (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).¶

(G) An individual who is a "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).¶

(H) An individual who is a family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).¶

(I) An individual whose deportation is being withheld under section 243(h) of the INA (8 U.S.C. 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 U.S.C. 1231(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).¶

(eJ) A non-citizen individual who is paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) for a period of at least one year.¶

(fK) A non-citizen individual who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) as in effect prior to April 1, 1980.¶

(gL) A non-citizen who is a "Cuban and Haitian entrant" (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).¶

~~(h) An individual who is a battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c), as determined by the U.S. Citizenship and Immigration Services (USCIS).¶~~

~~(ib) A non-citizen who in the OSIPM and QMB programs, is a "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).¶~~

~~(j) A non-citizen who is a family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112) addition to subsection (a) of this section, an individual is a "qualified non-citizen" if the individual is from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau who lawfully reside in the United States in accordance with the Compacts of Free Association. The provisions in this subsection are retroactively effective December 28, 2020.¶~~

(2) In all programs except the REF and REFM programs, an individual meets the "alien" status requirements if the individual is one of the following:¶

(a) An individual who is an "American Indian" born in Canada to whom the provisions of section 289 of the INA (8 U.S.C. 1359) apply.¶

(b) A member of an "Indian tribe," as defined in section 4(e) of the Indian Self-Determination and Education Act (25 U.S.C. 450b(e)).¶

(c) A qualified non-citizen (see section (1) of this rule) who is any of the following:¶

(A) A veteran of the United States Armed Forces who was honorably discharged for reasons other than "alien" status and who fulfilled the minimum active-duty service requirements described in 38 U.S.C. 5303A(d).¶

(B) A member of the United States Armed Forces on active duty (other than active duty for training).¶

(C) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in paragraphs (A) or (B) of this subsection.¶

(3) In the ERDC, TA-DVS, and TANF programs, an individual meets the "alien" status requirements if the individual is one of the following:¶

(a) An individual who is a qualified non-citizen (see subsection (1)(a) of this rule).¶

(b) An individual who is a non-US citizen who is currently a victim of domestic violence or who is at risk of becoming a victim of domestic violence.¶

(4) In the OSIPM and QMB programs an individual meets the "alien" status requirements if:¶

~~(a) The individual is a non-citizen who entered the United States or was given qualified non-citizen status on or after August 22, 1996 and has been in the U.S. for five years beginning on the date the non-citizen received his or her qualified non-citizen status; or¶~~

~~(b) The individual meets the requirements of one of the following subsections: meets any of the following:¶~~

~~(a) The individual has been granted a USCIS status listed under paragraphs (1)(a)(B) through (1)(a)(I) or paragraph (1)(b) of this rule.¶~~

~~(b) Effective October 1, 2009, the individual is a qualified non-citizen and is under 19 years of age.¶~~

~~(Ac) AnThe individual granted any of the following alien statuses:¶~~

~~(i) Refugee – under section 207 of the INA.¶~~

~~(ii) Asylum – under section 208 of the INA.¶~~

~~(iii) Deportation being withheld under section 243(h) of the INA.¶~~

~~(iv) Cubans and Haitians who are either public interest or humanitarian parolees.¶~~

~~(v) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.¶~~

~~(vi) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).¶~~

~~(vii) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).¶~~

~~(viii) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.¶~~

~~(B) Effective October 1, 2009, an individual is a qualified non-citizen and is under 19 years of age.¶~~

~~(C) Was a qualified non-citizen before August 22, 1996 was a qualified non-citizen before August 22, 1996.¶~~

(d) The individual has been granted a USCIS status listed under paragraphs (1)(a)(A), and (1)(a)(J) through (1)(a)(L) and meets one of the following:¶

(A) Physically entered the United States or was granted the USCIS status on or after August 22, 1996; and has been in the U.S. for five years beginning on the date the USCIS status was granted.¶

(B) Physically entered the United States before August 22, 1996; and was continuously present in the United States between August 22, 1996, and the date ~~qualified non-citizen~~the USCIS status was ~~obtained~~granted. An individual is not continuously present in the United States if the individual is absent from the United States for more than 30 consecutive days or a total of more than 90 days between August 22, 1996 and the date ~~qualified non-citizen~~the USCIS status was ~~obtained~~granted.¶

(E) ~~†The individual is under the age of 19 and is one of the following:~~¶

(i) ~~A citizen of a Compact of Free Association State (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) who has been admitted to the U.S. as a non-immigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the U.S.~~¶

(ii) ~~A~~ An individual described in 8 CFR section 103.12(a)(4) who belongs to one of the following classes of ~~a~~non-US citizens permitted to remain in the United States because the Attorney General has decided for humanitarian or other public policy reasons not to initiate deportation or exclusion proceedings or enforce departure:¶

(i) ~~An alien individual~~ An individual currently in temporary resident status pursuant to section 210 or 245A of the INA (8 USC 1160 and 1255a);¶

(ii) ~~An alien individual~~ An individual currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 USC 1229b);¶

(iii) ~~An individual who is a "Cuban- or Haitian entrants," as defined in section 202(b) Pub. L. 99-603 (8 USC 1255a), as amended;~~¶

(iv) ~~Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649 (8 USC 1255a), as amended;~~¶

(v) ~~An alien individual~~ An individual currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;¶

(vi) ~~An alien individual~~ An individual currently in deferred action status pursuant to Department of Homeland Security Operating Instruction OI 242.1(a)(22); or¶

(vii) ~~An alien individual~~ An individual who is the spouse or child of a United States citizen whose visa petition has been approved and who has a pending application for adjustment of status.¶

(B) ~~An individual in non-immigrant classifications under the INA who is permitted to remain in the U.S. for an indefinite period, including those individuals as specified in section 101(a)(15) of the INA (8 USC 1101).~~¶

(f) In the OSIPM program, is receiving SSI benefits.¶

(g) In the QMB program, is receiving SSI and Medicare Part A benefits.¶

(H) Meets the alien status requirements in section (2) or (5) of this rule.¶

(5) In the REF and REFM programs, an individual meets the "alien" status requirements if the individual is admitted lawfully under any of the following provisions of law:¶

(a) ~~An~~ The individual admitted as a refugee under section 207 of the INA (8 USC 1157).¶

(b) ~~An individual granted asylum under section 208 of the INA (8 USC 1158).~~¶

(c) ~~Cuban and Haitian entrants, in accordance with requirements in 45 CFR part 401. has been granted a USCIS status listed under paragraphs (1)(a)(B) through (1)(a)(H), or~~¶

(d) ~~An~~ The individual has been paroled as a refugee or asylee under section 212(d)(5) of the Immigration and Nationality Act (INA) (8 USC 1182(d)(5)).¶

(e) ~~An Amerasian from Vietnam who is admitted to the U.S. as an immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Pub. L. No. 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100-461 as amended)).~~¶

(f) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.¶

~~(g) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).~~¶

~~(h) Iraqi and Afghan aliens granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act.~~¶

~~(6) In the SNAP program, an individual meets the alien status requirement if the individual meets the requirements of one or more of the following subsections:~~In the SNAP program.¶

~~(a) An individual meets the "alien" status requirements if the individual:~~¶

~~(A) Has been granted a USCIS status listed under paragraphs (1)(a)(B) through (1)(a)(I) of this rule.~~¶

~~(aB) An individual granted any of the following alien statuses:~~¶

~~(A) Refugee – under section 207 of the INA.~~¶

~~(B) Asylum – under section 208 of the INA.~~¶

~~(C) Deportation being withheld under section 243(h) of the INA.~~¶

~~(D) Cubans and Haitians who are either public interest or humanitarian parolees~~Has been granted a qualified non-citizen USCIS status and is under age 18.¶

~~(EC) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.~~¶

~~(F) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).~~¶

~~(G) A family member of a victim of a severe form of trafficking in persons who hold~~Has been granted a qualified non-citizen USCIS status and has a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112)bility (see OAR 461-001-0015).¶

~~(HD) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.~~¶

~~(b) A qualified non-citizen under 18 years of age.~~¶

~~(c) A non-citizen who has been residing in the United States for at least five years while a qualified non-citizen.~~¶

~~(d) A non-citizen who~~Was born on or before August 22, 1931, and on August 22, 1996, was lawfully residing in the United States and who w.¶

~~(E) Was a member of a Hmong or Highland Laotian~~Tribe at the time that theTribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in 38 U.S.C. 101), and is a non-US citizen who is lawfully residing in the United States.¶

~~(eF) The~~s a spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in subsectionparagraph (dE) of this subsection.¶

~~(fb) A qualified non-citizen who has a disability, as defined in OAR 461-001-0015.~~¶

~~(g) A client who is lawfully admitted to~~n individual meets the "alien" status requirements when the individual has been granted a USCIS status listed under paragraph (1)(a)(A) or paragraphs (1)(a)(J) through (1)(a)(L) of this rule, and has completed one of the following:¶

~~(A) The individual has been residing in the United States for permanent residence under the INA and at least five years while a qualified non-citizen.~~¶

~~(B) The individual has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, or can be credited with such qualifying quarters as provided under 8 U.S.C. 1645, meets the alien status requirements for the SNAP program, subject to the following provisions:~~¶

~~(Ai) No quarter beginning after December 31, 1996, is a qualifying quarter if the client received any federal, means-tested benefit during the quarter. Federal means-tested benefits include SNAP, TANF, and Medicaid (except emergency medical).~~¶

~~(Bii) For the purpose of determining the number of qualifying quarters of coverage, a client is credited with all of the quarters of coverage worked by a parent of the client while the client was under the age of 18 and all of the qualifying quarters worked by a spouse of the client during their marriage, during the time the client remains married to such spouse or such spouse is deceased.~~¶

~~(Ciii) A lawful permanent resident who would meet the "alien" status requirements, except for a determination by~~

the Social Security Administration (SSA) that the individual has fewer than 40 quarters of coverage, may be provisionally certified for SNAP program benefits while SSA investigates the number of quarters creditable to the client. A client provisionally certified under this section who is found by SSA, in its final administrative decision after investigation, not to have 40 qualifying quarters is not eligible for SNAP program benefits received while provisionally certified. The provisional certification is effective according to the rule on effective dates for opening benefits, OAR 461-180-0080. The provisional certification cannot run more than six months from the date of original determination by SSA that the client does not have sufficient quarters.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.231, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826, H.R. 133, 116th Cong. (2019-2020)

AMEND: 461-135-0880

REPEAL: Temporary 461-135-0880 from SSP 28-2021

NOTICE FILED DATE: 04/30/2021

RULE SUMMARY: OAR 461-135-0880 about OSIPM and QMB Programs; COVID-19 is being amended to permanently remove the following actions from the list of prohibited adverse actions during the COVID-19 emergency period - client liability increases; Employed Persons with Disabilities (EPD) participant fee increases; closure of medical benefits opened in error due to agency error; when a court determines the individual made a false or misleading statement, or misrepresented, concealed, or withheld a fact for the purpose of establishing or maintaining eligibility; and reductions to or closure of special needs payments. It is also being amended to remove the provision allowing electronic signature on all forms related to OSIPM and QMB program eligibility.

CHANGES TO RULE:

461-135-0880

OSIPM and QMB Programs; COVID-19

The provisions in this rule apply to the OSIPM and QMB programs. ¶

(1) The Department amends the following rules or rule sections regarding the OSIPM and QMB programs. ¶

(a) OAR 461-115-0700, ¶

(b) OAR 461-180-003075-0704, ¶

(c) OAR 461-180-0040(4) and (5), 30, and ¶

(d) OAR 461-180-0120(1), (2), and (3)(b). ¶

(2) Notwithstanding OAR 461-180-0030, ~~OAR 461-180-0040(4) and (5), and~~ OAR 461-180-0120(1), (2), and (3)(b), the Department shall suspend the effective date for all actions that reduce or close OSIPM or QMB program benefits, except for: ¶

(a) Program closures when an individual: ¶

(A) Passes away, ¶

(B) Is confirmed to have moved out of state, ¶

(C) Requests a voluntary closure, ¶

(D) In the QMB programs, is no longer eligible for Medicare, ¶

(E) Is approved for a one-time cash payment, such as a special needs payment for home repairs, ~~or~~ ¶

(F) Is no longer eligible for an ongoing special needs payment, ~~except when ineligibility is due to a change in service setting.~~ ¶

(G) Is approved for benefits due to an administrative error (see OAR 461-195-0501), or ¶

~~(b) H) Benefit reduction When a court determines when an individual requests a voluntary reduction.~~ ¶

~~(c) Increases to client liability when restoring previous liability after a one-time medical deduction.~~ ¶

~~(3) The Department shall accept "electronic signature" on all forms for the OSIPM and QMB programs. F made a false or misleading statement, or misrepresented, concealed, or withheld a fact for the purposes of this rule, electronic signature is defined as:~~ ¶

~~(a) A written signature submitted digitally via email, or fax establishing or maintaining eligibility.~~ ¶

(b) Benefit reductions when an individual ¶

~~(b) A signature submitted through a Department electronic application system~~ Requests a voluntary reduction. ¶

~~(c) B) A signature submitted telephonically. For telephonic signatures:~~ ¶

~~(A) The Department will make an ef~~ Is no longer eligible for to authenticate the identity of the individual providing the telephonic signature, ¶

~~(B) The individual shall be made aware of the rights and responsibilities listed in the form,~~ ¶

~~(C) The individual shall be made aware that the statement of their full name is being accepted as their signature, he same level or amount of a special needs payment.~~ ¶

(c) Increases to client liability when restoring previous liability. ¶

~~(Dd) The Department shall send a copy of the telephonically signed document to the individual, and ¶~~

~~(E) The Department shall make record of the telephonic signature.¶~~

~~(4) Benefit suspension when an individual becomes a resident of a correctional facility under OAR 461-135-0950.¶~~

~~(3) Notwithstanding OAR 461-115-0700, the Department will accept self-attestation (see OAR 461-115-0700(2)(b)) to verify all eligibility criteria, except US citizenship, US national, and non-US citizen status.¶~~

~~(4) Notwithstanding OAR 461-115-0704(10), if the Department cannot promptly verify US citizenship, US national, or qualified non-US citizen status; the Department extends the reasonable opportunity period to 180 days from the date the notice is received.¶~~

(5) The provisions of this rule shall end on the last day of the month in which the public health emergency declaration 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 409.050, ORS 411.060, 411.070, 411.083, 412.006, ORS 84.001 to 84.061, 412.009, 412.024, 412.049, 412.064, 412.089

Statutes/Other Implemented: ORS 411.060, 411.070, 411.083, 412.006, ORS 84.001 to 84.061, 412.009, 412.024, 412.049, 412.064, 412.089, 409.010, 411.081, 411.087, 45 CFR 206.10, 45 CFR 263.2, 45 CFR 400.155, Pub. L. 116-127, 42 CFR 435.907, 42 CFR 435.914, 42 CFR 433.400

NOTICE FILED DATE: 04/30/2021

RULE SUMMARY: OAR 461-135-0950 about eligibility for residents of public institutions and state hospitals is being amended to change the length of time GA recipients who become incarcerated can continue to receive housing assistance benefits from two calendar months following the month of incarceration to one calendar month. It is also being amended to change language to more respectful, inclusive, and person-centered terms by removing gendered words and verbiage such as "inmate," "prisoner," and "offender."

CHANGES TO RULE:

461-135-0950

Eligibility for ~~Inmates and~~ Residents of Public Institutions ¶

(1) This rule sets out additional restrictions on the eligibility of ~~inmates and residents of state hospital~~ public institutions for programs covered by Chapter 461 of the Oregon Administrative Rules.¶

(2) Definition of an ~~"inmate"~~.¶

~~(a) An inmate is a resident of a public institution".¶~~

(a) An individual living in a public institution (see section (3) of this rule) who is:¶

(A) Confined involuntarily in a local, state or federal prison, jail, detention facility, or other penal facility, including an individual being held involuntarily in a detention center awaiting trial or an individual serving a sentence for a criminal offense;¶

(B) Residing involuntarily in a facility under a contract between the facility and a public institution where, under the terms of the contract, the facility is a public institution;¶

(C) Residing involuntarily in a facility that is under governmental control;¶

(D) Receiving care as an outpatient while residing involuntarily in a public institution; or¶

(E) In the OSIPM and QMB programs, released from the public institution during a temporary period of hospitalization in a medical institution outside of the correctional facility.¶

(b) An individual is not considered an ~~inmate~~ resident of a public institution when:¶

(A) The individual is released on parole, probation, or post-prison supervision;¶

(B) The individual is on home- or work-release, unless the individual is required to report to a public institution for an overnight stay;¶

(C) The individual is voluntarily residing in a supervised community residential facility and all of the following are true:¶

(i) Residents are not precluded from working outside the facility in employment available to individuals who are not under justice system supervision;¶

(ii) Residents can use community resources such as libraries, grocery stores, recreation and education at will, notwithstanding any house rules such as a requirement to sign in and out, curfews, or hours during which the residence is closed or locked; and¶

(iii) Residents can seek health care treatment in the broader community to the same or similar extent as other Medicaid enrollees in the state.¶

(D) The individual is staying voluntarily in a detention center, jail, or county penal facility after their case has been adjudicated and while other living arrangements are being made for the individual; or¶

(E) The individual is in a public institution pending other arrangements as defined in 42 CFR 435.1010.¶

(3) A "public institution" is any of the following:¶

(a) A "state hospital" (see ORS 162.135).¶

(b) A local correctional facility (see ORS 169.005): a jail or prison for the reception and confinement of ~~prisoner~~ individuals that is provided, maintained and operated by a county or city and holds individuals for more than 36 hours.¶

(c) A Department of Corrections institution (see ORS 421.005): a facility used for the incarceration of individuals

sentenced to the custody of the Department of Corrections, including a satellite, camp, or branch of a facility.¶

(d) A youth correction facility (see ORS 162.135):¶

(A) A facility used for the confinement of ~~youth offenders and other~~ individuals placed in the legal or physical custody of the youth authority, including a secure regional youth facility, a regional accountability camp, a residential academy and satellite, and camps and branches of those facilities; or¶

(B) A facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of ~~children, wards, youth, or youth offender~~ individuals pursuant to a judicial commitment or order.¶

(4) Definition of serious mental illness. An individual has a serious mental illness if the individual has been diagnosed by a psychiatrist, a licensed clinical psychologist or a certified non-medical examiner as having dementia, schizophrenia, bipolar disorder, major depression or other affective disorder or psychotic mental disorder other than a substance abuse disorder and other than a disorder that is caused primarily by substance abuse.¶

(5) An individual who resides in a state hospital (see subsection (3)(a) of this rule), meets the definition of having a serious mental illness (see section (4) of this rule), and applies for medical assistance between 90 and 120 days prior to the expected date of the person's release from the state hospital may be found eligible for medical assistance. If the individual is determined to be eligible, the effective date of the individual's medical assistance is the date the individual is released from the institution.¶

(6) In the OSIPM and QMB programs, except as provided for in section (7) of this rule, an individual who is at least 21 years of age and less than 65 years of age who becomes a resident of a state hospital has medical benefits suspended. When an individual with suspended medical benefits is no longer a resident of the state hospital, or when the individual is admitted to a medical institution outside of the state hospital for a period of hospitalization, medical benefits are reinstated effective the first day the individual is no longer a resident, if the individual continues to meet eligibility for the medical program.¶

(7) An individual residing in a state hospital may be eligible for OSIPM and QMB program benefits if the individual meets the requirements of one of the following subsections:¶

(a) The individual is 65 years of age or older.¶

(b) The individual receives a Certificate of Need for Services from the State-authorized agency, and meets one of the following:¶

(A) The individual is under 21 years of age.¶

(B) The individual is 21 years of age, received a Certificate of Need for Services from the State-authorized agency, and received those services immediately before reaching age 21. Except as provided for in subsection (a) of this section, eligibility ends at age 22.¶

(8) For all programs covered under chapter 461 of the Oregon Administrative Rules:¶

(a) Except as provided otherwise in this rule, ~~an inmate~~ resident of a public institution (see section (2) of this rule) ~~of a public institution~~ is not eligible for benefits.¶

(b) ~~Except as provided otherwise in this rule, if a pregnant woman individual receiving medical assistance through the OSIPM program becomes an inmate resident of a public institution, their medical benefits are suspended. When the Department is informed the woman individual is no longer an inmate resident of a public institution, their medical benefits are reinstated - effective on the first day s~~ the isy are no longer an inmate resident of a public institution - if s ~~the isy are~~ still in their protected period of eligibility under OAR 461-135-0010.¶

(c) If an individual receiving medical assistance through the OSIPM or QMB programs becomes ~~an inmate of a correctional facility~~ resident of a public institution at a correctional facility (see subsections (3)(b) through (3)(d) of this rule), medical benefits are suspended during the incarceration period.¶

(d) In the OSIPM and QMB programs, when the Department is notified that an individual with suspended benefits has been released or has been admitted to a hospital outside of the public institution for a period of hospitalization, medical benefits are reinstated effective the first day the ~~client~~ individual is no longer an ~~inmate~~ resident of a public institution if both of the following are true:¶

(A) The ~~client~~ individual continues to meet eligibility for the medical program; and¶

(B) The notification takes place within ten calendar days of the release, or the notification takes place more than

ten calendar days from the release date and there is good cause for the late reporting.¶

(9) In the GA and SNAP programs, in addition to the other provisions of this rule, ~~an inmate~~ resident of a public institution released from a public institution on home arrest and required to wear an electronic device to monitor their activity, is ineligible for benefits if the correctional agency provides room and board to the individual.¶

(10) In the GA program, when an individual becomes ~~an inmate~~ resident of a public institution:

(a) ~~Benefit~~ Housing assistance payments may continue for ~~the two~~ one calendar months following the month ~~the Department is notified of the incarceration, if of incarceration if the following are true:~~¶

(A) The Department can determine that the individual will be released before the end of the second-calendar month and the following the month of incarceration, and¶

(B) The individual's housing arrangement is still available.¶

(b) If the individual will be released after the end of the ~~second~~ calendar month following the month of ~~notific~~ incarceration, or if the release date is not known, ~~benefit~~ housing assistance payments will be closed effective the end of the notice period (see OAR 461-175-0050) for a timely continuing benefit decision notice (see OAR 461-001-0000).

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685, 412.014

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.447, 411.816, 412.014, 412.049, 414.426, 42 CFR 435.1009

RULE SUMMARY: OAR 461-160-0620 about income deductions and client liability for long-term care services and waived services is being amended to update the minimum community spouse income allowance (Minimum Monthly Maintenance Needs Allowance or MMMNA) and the community spouse monthly housing allowance which are published by the federal government each year. This amendment keeps Oregon in line with current federal standards for Department Medicaid programs and changes to the MMMNA and community spouse monthly housing allowance under the Spousal Impoverishment laws.

CHANGES TO RULE:

461-160-0620

Income Deductions and Client Liability; Long-Term Care Services or Home and Community-Based Care; OSIPM ¶

In the OSIPM program:¶

(1) Deductions from income are made for an individual residing in or entering a long-term care facility or receiving home and community-based care (see OAR 461-001-0030) as explained in subsections (3)(a) to (3)(h) of this rule.¶

(2) Except as provided otherwise in OAR 461-160-0610, the liability of the individual is determined according to subsection (3)(i) of this rule.¶

(3) Deductions are made in the following order:¶

(a) One standard earned income deduction of \$65 is made from the earned income in the OSIPM program.¶

(b) The deductions under the plan for self-support as allowed by OAR 461-145-0405.¶

(c) One of the following need standards:¶

(A) A \$64.94 personal needs allowance for an individual receiving long-term care services.¶

(B) A \$90 personal needs allowance for an individual receiving long-term care services who is eligible for VA benefits based on unreimbursed medical expenses. The \$90 allowance is allowed only when the VA benefit has been reduced to \$90.¶

(C) For an individual who receives home and community-based care:¶

(i) Except as provided in subparagraph (ii) of this paragraph, the OSIPM maintenance standard.¶

(ii) For an individual who receives in-home services, the OSIPM maintenance standard plus \$500.¶

(d) A community spouse (see OAR 461-001-0030) monthly income allowance is deducted from the income of the institutionalized spouse (see OAR 461-001-0030) to the extent that the income is made available to or for the benefit of the community spouse, using the following calculation.¶

(A) Step 1 - Determine the maintenance needs allowance. ~~\$2,155.07~~77.50 is added to the amount over ~~\$646.50~~53.25 that is needed to pay monthly shelter expenses for the principal residence of the couple. This sum or \$3,259.50, whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the SNAP program (see OAR 461-160-0420). If an all-inclusive rate covers items that are not allowable shelter expenses, including meals or housekeeping in an assisted living facility, or the rate includes utilities, to the extent they can be distinguished, these items must be deducted from the all-inclusive rate to determine allowable shelter expenses.¶

(B) Step 2 - Compare maintenance needs allowance with community spouse's countable income. The countable (see OAR 461-001-0000) income of the community spouse is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.¶

(C) Step 3 - If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.¶

(e) A dependent income allowance as follows:¶

(A) For a case with a community spouse, a deduction is permitted only if the monthly income of the eligible

dependent is below ~~\$2,155.077.50~~. To determine the income allowance of each eligible dependent:¶

(i) The monthly income of the eligible dependent is deducted from ~~\$2,155.077.50~~.¶

(ii) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the income allowance of the eligible dependent.¶

(B) For a case with no community spouse:¶

(i) The allowance is the TANF adjusted income standard (see OAR 461-155-0030) for the individual and eligible dependents.¶

(ii) The TANF standard is not reduced by the income of the dependent.¶

(f) Costs for maintaining a home if the individual meets the criteria in OAR 461-160-0630.¶

(g) Medical deductions allowed by OAR 461-160-0030 and 461-160-0055 are made for costs not covered under the state plan.¶

(h) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income (see OAR 461-001-0000).¶

(i) The individual's liability is determined as follows:¶

(A) For an individual receiving home and community-based care (except an individual identified in OAR 461-160-0610(4)), the liability is the actual cost of the home and community-based care or the adjusted income of the individual, whichever is less. This amount must be paid to the Department or the home and community-based care facility each month as a condition of being eligible for home and community-based care. In OSIPM-ICP, the liability is subtracted from the gross monthly benefit.¶

(B) For an individual who resides in a nursing facility, the liability is the actual cost of services or the adjusted income of the individual, whichever is less. This amount must be paid to the facility each month as a condition of being eligible for nursing facility services.

Statutory/Other Authority: ORS 409.050, 413.085, 411.060, 411.070, 411.404, 414.065, 414.685, 411.706

Statutes/Other Implemented: ORS 409.010, 413.085, 411.060, 411.070, 411.404, 414.065, 414.685, 42 USC 1396r-5, 411.706, 42 CFR 435.725 - 435.735