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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 42-2021

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

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& LEGISLATIVE COUNSEL

FILING CAPTION: Making Small Corrections and Clarifications to three Recent Temporary Rule Amendments

EFFECTIVE DATE: 07/14/2021 THROUGH 12/27/2021

AGENCY APPROVED DATE: 07/14/2021

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NEED FOR THE RULE(S):

OAR 461-135-0505 about Categorical Eligibility for SNAP and OAR 461-140-0262 about Loss of Eligibility Due to Lottery or Gambling Winnings, SNAP; need to be amended to make it clear to the reader which group does not have to pass the countable income test.

OAR 461-165-0160 about Direct Provider Payments; General Information; needs to be amended to add the new rule provisions from subsection (2)(h) to subsection (2)(a). This amendment brings these sections into alignment with one another and upcoming ODHS policy.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OARs 461-135-0505, 461-140-0262, and 461-165-0160 will result in serious prejudice to the public interest, the Department, and individuals who receive or apply for its programs. The Department needs to proceed by temporary rule so its rules align with and support the other rules in Chapter 461, as well as ODHS policy. Failure to act immediately could create confusion for ODHS staff, the public, and regulating agencies. These rule amendments make the recent temporary rule changes, effective July 1, 2021, more accurate.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

No documents relied upon.

RULES:

461-135-0505, 461-140-0262, 461-165-0160

AMEND: 461-135-0505

SUSPEND: Temporary 461-135-0505 from SSP 36-2021

RULE SUMMARY: OAR 461-135-0505 is being amended to make clear that a financial group that includes an individual who meets the Chapter 461 definition of "elderly" or having a "disability" does not have to pass the countable income limit test.

CHANGES TO RULE:

461-135-0505

Categorical Eligibility for SNAP ¶

(1) Individuals and categorical eligibility.¶

(a) Except as provided under sections (2) and (3c) of this rule section, an individual is categorically eligible for SNAP benefits if the individual has countable income (see OAR 461-140-0010) less than 185 percent of the federal poverty level (see OAR 461-155-0180) and:¶

~~(a) R:~~¶

(A) When they receives or isare authorized to receive GA or SSI benefits;¶

~~(bB) IsWhen~~ deemed to be receiving SSI under Section 1619(a) or 1619(b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)); or¶

~~(cC) RWhen they receives or isare~~ authorized to receive cash, in-kind benefits, or services ~~funded~~ either under Title IV-A of the Social Security Act or by the state as part of the TANF maintenance of effort, ~~which includes:~~¶

~~(A) A pamphlet about Information and Referral Services;~~¶

~~(B):~~¶

(i) Employment Related Day Care (ERDC);¶

(Cii) Temporary Assistance to Needy Families (TANF) cash assistance; and¶

(Diii) TANF-related programs;¶

(i) Pre-TANF;¶

(ii) TA-DVS;¶

~~(iii):~~¶

(III) TANF-JOBS Plus;¶

(ivIV) Housing Stabilization Program through Housing and Community Services; and¶

(vV) Employment Payments.¶

(2b) An individual may not be categorically eligible for SNAP benefits in either of the following circumstances: For the purposes of categorical eligibility, every individual filing group (see OAR 461-110-0370) member:¶

(A) Of ERDC and TA-DVS programs are considered receiving the benefits of the program.¶

(B) Eligible for transition services or the TA-DVS program is considered receiving benefits for the entire period of eligibility even if benefits are not received during each month of that period.¶

(ac) The individual is following individuals shall not be categorically eligible for SNAP benefits:¶

(A) Those disqualified from receiving SNAP benefits because of an established intentional program violation under OAR 461-195-0611.¶

~~(bB) The individual is a~~ primary person (see OAR 461-001-0015) disqualified from receiving SNAP benefits for failure to comply with a SNAP employment and training requirement under OAR 461-130-0315.¶

~~(32) A filing group (see OAR 461-110-0530) may not be and categorical eligibility.~~¶

(a) Except as provided under subsections (b) and (c) of this section, a filing group is categorically eligible for SNAP benefits in either of the following circumstances:¶

~~(a) when:~~¶

(A) All members of the filing group are categorically eligible under section (1) of this rule; or¶

(B) The filing group meets all of the following:¶

(i) Has received, or will receive upon approval, the pamphlet about Information and Referral Services. The receipt of the Information and Referral services pamphlet by one member of the filing group is considered received by the entire group.¶

(ii) The countable income (see OAR 461-140-0010) is less than 185 percent of the federal poverty level (see OAR

461-155-0180).

(iii) The filing group has liquid assets from lottery or gambling winnings equal to or in excess of less than the resource limit listed in OAR 461-160-0015(7)(a). For the purposes of this rule, liquid assets are assets that are easily accessible and do not need to be sold to access their value.

(b) An applicant filing group that lost SNAP eligibility due to receipt of lottery or gambling winnings as described under (3)(a) of this rule.

(4) For an entire filing group not be categorically eligible for SNAP benefits when a member of the filing group to be is not categorically eligible for.

(c) A filing group that loses SNAP benefits, it must contain only clients who are categorically eligible. For the purpose of determining who is eligibility (see OAR 461-001-0000) due to lottery or gambling winnings (see OAR 461-140-0262) is not eligible for SNAP benefits, or to have SNAP eligibility determined using categorically eligible for SNAP benefits, in the ERDC and TA-DVS programs all members of the filing group are considered receiving the benefits of the program even if not all members receive the benefit. The receipt of the Information and Referral services pamphlet by an individual is considered received by the entire filing group until they meet financial eligibility under the following SNAP financial eligibility resource and income requirements (see OAR 461-160-0400):

(A) Resources must be below the resource limit set under OAR 461-160-0015.

(5B) A filing group that is eligible for transition services or the TA-DVS program is considered receiving benefits for the entire period of eligibility. Countable income (see OARs 461-001-0000 and 461-140-0010) must be below the countable income limit set at 130 percent of the federal poverty level even if benefits are not received during each month of that period.

(6) An individual categorically eligible for the SNAP program is presumed to meet the eligibility requirements for resources and countable and adjusted income limits. The individual is also presumed to meet the requirements for a social security number, sponsored alien information, and residency, if verified in a public assistance or medical assistance program under OAR 461-155-0180, except for a financial group (see OAR 461-110-0530) that includes an individual who is elderly (see OAR 461-001-0015) or has a disability (see OAR 461-001-0015), and

(C) Adjusted income (see OAR 461-001-0000) must be below the adjusted income limit set at 100 percent of the federal poverty level under OAR 461-155-0180.

(D) This provision applies to all types of categorical eligibility.

(E) After a filing group regains eligibility for SNAP under this subsection, future eligibility may be determined using categorical eligibility.

(73) When a filing group contains both members who are categorically eligible for SNAP benefits and those who are not, a resource owned in whole or in part by a categorically eligible member is excluded.

(8) A filing group that has lost
(4) Presumed eligibility.

(a) If verified in a public assistance or medical assistance program, an individual found categorically eligible due to lottery or gambling winnings under section (3) of this rule may not have eligibility (see OAR 461-001-0000) determined. The filing group for the SNAP program is presumed to meet the following eligibility requirements, unless questionable:

(A) Social security number.

(B) U.S. Citizenship and Immigration Services sponsorship information, and

(C) Oregon residency.

(b) A filing group founder categorically eligible rules until they meet the following SNAP asset limits:

(a) Resource limit listed under OAR 461-160-0015(7) for the SNAP program is presumed to meet the following financial eligibility resource and income requirements (see OAR 461-160-0400):

(A) Resource limit,

(b) Countable income limit listed under OAR 461-155-0190, and

(c) Adjusted income limit listed under OAR 461-155-0190.

Statutory/Other Authority: ORS 411.816

Statutes/Other Implemented: ORS 411.816, 7 CFR 273.11

ADOPT: 461-140-0262

SUSPEND: Temporary 461-140-0262 from SSP 36-2021

RULE SUMMARY: OAR 461-140-0262 is being changed to make clear that a financial group that includes an individual who meets the Chapter 461 definition of "elderly" or an individual with a "disability" does not have to pass the countable income test for SNAP.

CHANGES TO RULE:

461-140-0262

Loss of Eligibility Due to Lottery or Gambling Winnings, SNAP

In the SNAP Program:¶

(1) A filing group (see OAR 461-110-0370) shall immediately lose SNAP benefit eligibility (see OAR 461-001-0000), and be sent proper decision notice (see OAR 461-001-0000), due to lottery or gambling winnings when an individual in the filing group, through a single lottery or gambling game:¶

(a) Wins a cash prize, and¶

(b) The amount of the winnings, before taxes or other amounts are withheld, is equal to or in excess of the resource limit listed under subsection (7)(a) of OAR 461-160-0015.¶

(2) A filing group that loses SNAP benefit eligibility (see OAR 461-001-0000) under section (1) of this rule is not eligible for SNAP benefits, or to have SNAP eligibility determined using categorical eligibility, until they meet financial eligibility under the following SNAP resource and income requirements (see OAR 461-160-0400): ¶

(a) Resources must be below the resource limit set under OAR 461-160-0015, ¶

(b) Countable income (see OARs 461-001-0000 and 461-140-0010) must be below the countable income limit set at 130 percent of the federal poverty level under OAR 461-155-0180, except for a financial group (see OAR 461-110-0530) that includes an individual who is elderly (see OAR 461-001-0015) or has a disability (see OAR 461-001-0015), and ¶

(c) Adjusted income (see OAR 461-001-0000) must be below the adjusted income limit set at 100 percent of the federal poverty level under OAR 461-155-0180. ¶

(d) This provision applies to all types of categorical eligibility (see OAR 461-135-0505).

Statutory/Other Authority: ORS 411.816

Statutes/Other Implemented: ORS 411.816, 7 CFR 273.11

AMEND: 461-165-0160

SUSPEND: Temporary 461-165-0160 from SSP 36-2021

RULE SUMMARY: OAR 461-165-0160 is being amended to make clear in section (2) of the rule, that the change beginning on August 1, 2021, allowing providers to receive payment in advance for hours the child is scheduled to be in care for the month, applies to both the ERDC and TANF programs.

CHANGES TO RULE:

461-165-0160

Direct Provider Payments; General Information ¶¶

- (1) The Department makes payments on behalf of eligible clients to the providers they select to care for their children. The payments are made directly to the provider. To be eligible for payment, a provider must:¶¶
- (a) Charge Department clients at a rate no higher than the rate charged other customers;¶¶
 - (b) Provide the Department ~~his or her~~ their social security number (SSN) or IRS identification number; and¶¶
 - (c) Meet the requirements of OAR 461-165-0180.¶¶
- (2) Payments to a client's provider are subject to each of the following limitations:¶¶
- (a) ~~A~~Before August 1, 2021, payment is made only for child care already provided in the TANF program for all providers. ~~A~~Before August 1, 2021, payment is made for child care already provided in the ERDC program for all providers except Certified Centers certified by the Office of Child Care who receive payment in advance for anticipated hours a child is in care for the month.¶¶
 - (b) Payment is made for the amount charged to the client but may not exceed the rate authorized in OAR 461-155-0150.¶¶
 - (c) No payment will be authorized unless the client has designated a primary provider.¶¶
 - (d) No payment will be made for less than one dollar.¶¶
 - (e) Except as provided otherwise in subsection (f) of this section, a payment is made only for child care provided on or after the date the designated provider has met the requirements to be listed and paid through the Department.¶¶
 - (f) A designated child care provider who the Department approves to be listed and paid through the Department may receive payment for child care provided prior to obtaining Department approval if the provider met the other Department requirements and was licensed under OAR 414-205-0000 to 414-205-0170, 414-350-0000 to 414-350-0405, or 414-300-0000 to 414-300-0415.¶¶
 - (g) Beginning July 1, 2021, a caretaker (see OAR 461-001-0000) signature is not required on child care billing forms.¶¶
 - (h) Beginning August 1, 2021, a provider caring for an eligible child in the TANF or ERDC programs may receive payment in advance for hours the child is scheduled to be in care for the month.¶¶
- (3) In the ERDC and TANF programs, the Department may issue a payment to an eligible provider during a month for which child care is being provided to meet an unexpected need of the provider related to the care of a covered child. The payment may be made if, without the payment, continued care by the same provider would be jeopardized and the client could not immediately obtain child care from another provider.
- Statutory/Other Authority: 409.050, 411.060, 411.070, 411.122, 412.049, ORS 329A.500
Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.122, 412.049, 45 CFR 98.45