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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 41-2021

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED
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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Making Small Corrections and Clarifications to a Recent Temporary Rule Amendment

EFFECTIVE DATE: 07/12/2021 THROUGH 12/31/2021

AGENCY APPROVED DATE: 07/12/2021

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NEED FOR THE RULE(S):

OAR 461-145-0210 about Gifts and Winnings, needs to be changed to remove confusion regarding how to treat winnings if they are paid in a frequency other than monthly, periodically, or in a single payment.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-145-0210 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 rule aligns with and supports 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 change, effective July 1, 2021, more accurate.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

No documents relied upon.

AMEND: 461-145-0210

SUSPEND: Temporary 461-145-0210 from SSP 35-2021

RULE SUMMARY: OAR 461-145-0210 is being amended so that rule supports winnings to be treated based on the frequency the payments are received.

CHANGES TO RULE:

461-145-0210
Gifts and Winnings ¶

(1) For the purposes of this rule:¶

(a) "Gifts" are items given to or received by an individual on or for a special occasion, such as a holiday, birthday,

graduation, or wedding. "Gifts" are not given or received on a regular basis.¶

(b) "Winnings" are prizes given to an individual in a contest, game of chance, or similar event. "Winnings" in the form of money may be distributed in different payment frequencies, such as monthly, periodically (such as month quarterly), or in a lump-sum single payment.¶

~~(2) In the ERDCall programs, gifts (see section (1) of this rule) and winning gambling losses are not subtracted from gambling winnings (see section (1) of this rule) in determining the individual's countable (see OAR 461-001-0000) income.~~¶

~~(3) In the ERDC program, gifts (see section (1) of this rule) and winnings are excluded.~~¶

~~(34) In all programs except the ERDCthe OSIP, OSIPM, and QMB program and, except as provided otherwise in sections (4) and (57) of this rule:~~¶

~~(a) In-kind gifts and winnings are treated according to the rule applicable to the specific type of asset. In the OSIP, OSIPM, and QMB programs, except for, if an individual is offered a choice between an in-kind item and cash, the cash amount is considered unearned income, even if the individual chooses the in-kind item and regardless of the value, if any, of the in-kind item.~~¶

~~(b) GThe value of gifts and winnings in the form of money or credit card company gift cards are treated as periodic or lump-sum cash are treated in accordance with the rule applicable to the payment frequency: stable income under OAR 461-150-0070, variable income under OAR 461-150-0080, periodic income (see under OAR 461-140-0110 and 461-140-0120). In the OSIP, OSIPM, and QMB programs, gambling losses are not subtracted from gambling winnings in determining the individual's countable (see OAR 461-001-0000) income.~~¶

~~(c) In all programs except the OSIP, OSIPM, and QMB programs, e, or lump-sum income under OAR 461-140-0120.~~¶

~~(c) The value of a gift card or certificate is considered income in the month it is received if the gift card or certificate can be used to purchase food or shelter or can be resold. There is a rebuttable presumption that the gift card can be resold.~~¶

~~(d) Monetary gifts given for educational purposes are treated in accordance with OAR 461-145-0145.~~¶

~~(5) In the SNAP program, except as provided otherwise in section (7) of this rule.~~¶

~~(a) A filing group immediately loses SNAP benefit eligibility due to lottery or gambling winnings when provisions of section (1) of OAR 461-140-0262 are met.~~¶

~~(b) In-kind gifts and winnings are treated according to the rule applicable to the specific type of asset.~~¶

~~(c) Gifts and winnings, except cash prizes from lottery or gambling subject to section (1) of OAR 461-140-0262, in the form of money or credit card company gift cards are treated in accordance with the rule applicable to the payment frequency: stable income under OAR 461-150-0070, variable income under OAR 461-150-0080, periodic income under OAR 461-140-0110, or lump-sum income under OAR 461-140-0120.~~¶

~~(d) Establishment-specific gift cards are excluded as ine frome and not considered a resource assets (see OAR 461-001-0000).~~¶

~~(d6) In the OSIP, OSIPM, and QMB programs, the value of a gift card or certificate is considered income in the month it is received in all programs except the ERDC, OSIP, OSIPM, QMB, and SNAP programs and except as provided otherwise in section (7) of this rule.~~¶

~~(a) In-kind gifts and winnings are received if the gift card or certificate can be used to purchase food or shelter or can be resold. There i treated according to the rule applicable to the specific type of asset.~~¶

~~(b) Gifts and winnings in the form of money or credit card company gift cards a-rebuttable presumption that the gift card can be resold.~~¶

~~(4) For employment-related items, see OAR 461-145-0130.~~¶

~~(5) In the OSIP, OSIPM, and QMB programs, monetary gifts given for educational purposes treated in accordance with the rule applicable to the payment frequency: stable income under OAR 461-150-0070, variable income under OAR 461-150-0080, periodic income under OAR 461-140-0110, or lump-sum income under OAR 461-140-0120.~~¶

~~(c) Establishment-specific gift cards are excluded as income and not considered a re-tsource.~~¶

~~(7) For employment-related in accordance with gifts or winnings, see OAR 461-145-014530.~~

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.700, 411.706, 411.816, 412.014, 412.049