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

**SSP 51-2021**

CHAPTER 461  
DEPARTMENT OF HUMAN SERVICES  
SELF-SUFFICIENCY PROGRAMS

**FILED**  
09/30/2021 4:20 PM  
ARCHIVES DIVISION  
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& LEGISLATIVE COUNSEL

FILING CAPTION: Temporary Rule Changes to Seven Self-Sufficiency Program Rules

EFFECTIVE DATE: 10/01/2021 THROUGH 03/27/2022

AGENCY APPROVED DATE: 09/30/2021

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

OAR 461-135-0220 about REF, REFM, and TANF Programs; COVID-19, needs to be amended to adopt provisions about the approximately \$12.2 million from the ARPA, Pandemic Emergency Assistance that Oregon received. These funds are currently set to be released in November 2021 to all eligible TANF recipients in the month of September 2021. This rule change supports and explains the release of these payments.

OAR 461-135-0520 about Time Limit and Special Requirements for ABAWD; SNAP, needs to be amended to place the Food and Nutrition Service Able-Bodied Adults Without Dependents time limit waiver, which lasts through September 31, 2022, into rule. This amendment keeps Oregon's ABAWD rules current and accurate.

OAR 461-145-0910 about Self-Employment; General; Not OSIP, OSIPM, or QMB, needs to be updated to remove any potential conflicts between this rule and the rule that governs determining countable self-employment income. This amendment makes the rule more accurate.

OAR 461-145-0930 about Self-Employment; Determination of Countable Income, needs to be amended to provide more general guidance for determining countable income for self-employed individuals. It also needs to be amended to align with current ODHS policy and correct an error in rule regarding countable self-employment income in the ERDC program. The amendment corrects the error and makes clear that no costs are allowed when determining countable self-employment income for ERDC program eligibility.

OAR 461-155-0190 about Income and Payment Standards; SNAP and DSNAP, needs to be amended effective October 1, 2021 to align the rules with adjustments set forth by the Food and Nutrition Service. This amendment will keep Oregon in line with federal adjustments.

OAR 461-160-0040 about Dependent Care Costs; Deduction and Coverage, needs to be amended to allow the agency to pay for child care when a child is not attending in-person school and when a parent is working from home and still requires child care. These rule changes align OAR with new agency policy.

OAR 461-160-0300 about Use of Income to Determine Eligibility and Copay Benefits for ERDC, needs to be amended to create a central rule that governs ERDC program eligibility and how copays are determined. It also needs to be amended to adopt the Department's new copay structure. These amendments bring most ODHS rules about ERDC eligibility and copays under one OAR and implement the vastly reduced ERDC copay amounts that begin October 1, 2021.

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JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-135-0220 will result in serious prejudice to the public interest, the Department, and TANF eligible individuals. The Department needs to proceed by temporary rule due to the detrimental impact the COVID-19 pandemic has had on communities, the limited amount of time the agency has to implement rule changes during this time, and the need to issue funds to eligible families in November 2021. The payments will be sent through the ONE system which is currently being updated through the change request process to release payments in November. Delaying this could risk the funds not being released by the federally stated deadline. Additionally, the release of the payments in November of 2021 is intended to assist our most vulnerable families at a time when pandemic unemployment and other payments such as the stimulus payments may no longer be received. Failure to act immediately to align rule with ongoing Department policies and the necessary issuances could create confusion for ODHS staff, the public, and regulatory agencies. These rule amendments create clear guidance and transparency regarding the Pandemic Emergency Assistance payments and make clear which COVID-19 rule provisions are still in place effective October 1, 2021.

The Department finds that failure to act promptly by amending OAR 461-135-0520 will result in serious prejudice to the public interest, the Department, and individuals considered Able-Bodied Adults Without Dependents. Delaying this could risk confusion or certain individuals made subject to time limits on October 1, 2021, in contradiction to the federal ABAWD waiver. Failure to act immediately to align rule with ongoing Department policies and the federal waiver could create confusion for ODHS staff, the public, and regulatory agencies. These rule amendments create clear guidance and transparency regarding SNAP time limits in Oregon.

The Department finds that failure to act promptly by amending OAR 461-145-0910 will result in serious prejudice to the public interest and the Department. Failure to act immediately to eliminate from rule any potential rule conflict with other governing rules could create confusion for ODHS staff, the public, and regulatory agencies. These rule amendments create a referral to the more appropriate rule for the countable self-employment.

The Department finds that failure to act promptly by amending OAR 461-145-0930 will result in serious prejudice to the public interest, the

Department, and individuals who are self-employed and apply for or receive program benefits, especially ERDC. Failure to act immediately to eliminate from rule any incorrect provisions could create confusion for ODHS staff, the public, and regulatory agencies; or ERDC program administrative error overpayments. These rule amendments correct and align the rule with current policy and ONE system programming.

The Department finds that failure to act promptly by amending OAR 461-155-0190 will result in serious prejudice to the public interest, the

Department, and individuals who are approved for DSNAP. The Department needs to proceed by temporary rule because the Department has received updated standards from Food and Nutrition Service for DSNAP that are to become effective October 1, 2021. These rule amendments align the rule with federal DSNAP standards.

The Department finds that failure to act promptly by amending OAR 461-160-0040 will result in serious prejudice to the public interest, the

Department, and ERDC program eligible individuals. Delaying this rule change could risk the incorrect denial of individuals who are eligible for child care coverage under these new circumstances. Failure to act immediately to align rule with Department policy could create confusion for ODHS staff, the public, and regulatory agencies. These rule amendments create clear guidance and transparency.

The Department finds that failure to act promptly by amending OAR 461-160-0300 will result in serious prejudice to the public interest, the

Department, and individuals who receive or apply for ERDC. Delaying this rule change could risk a continued spread of ERDC eligibility provisions over many rules, which creates confusion. It would also delay the October 1, 2021, implementation of a severely reduced ERDC copay structure that will provide ongoing financial relief in comparison to the previous copay structure at a time when the pandemic has financially impacted many Oregonians. Failure to act immediately to align rule with the new Department policy could create confusion for ODHS staff, the public, and regulatory agencies. These rule amendments create clear guidance and transparency.

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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Office of Family Assistance TANF-ACF-PI-2021-02 (The Pandemic Emergency Assistance Fund) available here:  
<https://www.acf.hhs.gov/ofa/policy-guidance/tanf-acf-pi-2021-02>

Oregon Grant Award Letter of April 2021 available from TANF Policy Analyst Team.

Food and Nutrition Service "Supplemental Nutrition Assistance Program (SNAP) – Oregon Request to Waive Able Bodied Adults Without Dependents (ABAWDs) Time Limit – Approval" available from SNAP Policy Analyst Team

USDA Food and Nutrition Service ABAWD Waivers Website, available here:  
<https://www.fns.usda.gov/snap/ABAWD/waivers>

USDA Food and Nutrition Service Disaster Supplemental Nutrition Assistance Program (D-SNAP) Fiscal Year (FY) 2021

Documents available from the ERDC Policy Analyst Team.

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RULES:

461-135-0220, 461-135-0520, 461-145-0910, 461-145-0930, 461-155-0190, 461-160-0040, 461-160-0300

AMEND: 461-135-0220

RULE SUMMARY: OAR 461-135-0220 is being amended by temporary filing to end all existing REF, REFM, and TANF program rule amendments related to the COVID-19 pandemic on September 30, 2021, except for the amendment to the resource limit. It is also being changed to add provisions about how ODHS will distribute and handle the American Rescue Plan Act of 2021, Pandemic Emergency Assistance funds for certain TANF benefit groups.

CHANGES TO RULE:

461-135-0220

REF, REFM, and TANF Programs; COVID-19

The provisions in this rule apply to the REF, REFM, and TANF programs.¶

~~(1) Notwithstanding OAR 461-115-0040(2), the "filing date" may be established telephonically by the Department making record of:¶~~

~~(a) The name of the applicant, and their authorized representative (see OAR 461-115-0090) if one exists,¶~~

~~(b) The applicant's address,¶~~

~~(c) The applicant's request for REF, REFM, or TANF benefits,¶~~

~~(d) The applicant stating their full name as their signature, and¶~~

~~(e) The date the above occur.¶~~

~~(2) Any individual may apply for REF, REFM, or TANF benefits using the Department approved "telephonic application" (see section (3) of this rule) and "narrated telephonic signature" (see section (4) of this rule) processes. An individual submitting a telephonic application must submit the application with a narrated telephonic signature.¶~~

~~(3) A telephonic application is accepted if the following requirements are met: ¶~~

~~(a) All questions on the application are answered.¶~~

~~(b) All information necessary to determine eligibility (see OAR 461-001-0000) and benefit amount is provided for each individual in the filing group (see OAR 461-110-0310). ¶~~

~~(c) The applicant or their authorized representative provides a narrated telephonic signature as defined in this rule. ¶~~

~~(4) A narrated telephonic signature is accepted for an application for REF, REFM, or TANF benefits if the following requirements are met:¶~~

~~(a) The "Your Rights and Responsibilities" form is reviewed and sent to the mailing address of the applicant.¶~~

~~(b) The following sections at the end of the application form are reviewed and sent to the mailing address of the applicant:¶~~

~~(A) "Information about cash benefits,"¶~~

~~(B) "Information about TANF program penalties,"¶~~

~~(C) "Information about all programs," and¶~~

~~(D) "Information about your rights and responsibilities." ¶~~

~~(e) The "Cooperating with Child Support Enforcement" form, is reviewed, including the good cause for non-~~

cooperation with Child Support section, and sent to the mailing address of the applicant.¶

(d) The "Your Rights and Responsibilities While in JOBS, JOBS Plus, and Refugee Employment Services" form is sent to the mailing address of the applicant.¶

(e) The applicant or their authorized representative affirms that they:¶

(A) Have heard and understand their rights and responsibilities; ¶

(B) Agree to their rights and responsibilities; ¶

(C) Have given true, correct, and complete information to the Department; and ¶

(D) States their full name as their signature.¶

(f) The Department makes record of the narrated telephonic signature.¶

(5) The Department determines eligibility at least once every six months when telephonic application and narrated telephonic signature are used.¶

(6) The Department amends the resource limit for the REF, REFM, and TANF programs (see OAR 461-160-0015(6) and (8)), as follows:¶

(a) \$2,500 for a need group (see OAR 461-110-0630) with every caretaker relative (see OAR 461-001-0000) serving an intentional program violation (see OAR 461-195-0601). ¶

(b) \$10,000 for new applicants and all other need groups (see OAR 461-110-0630). ¶

(7) In the REF program, notwithstanding the provisions in OAR 461-190-0211(1)(d) and (8), the Department may authorize payments, to be made through partner agencies, for housing, utilities, and other emergency expenses for individuals who are within 60 months of being granted an eligible noncitizen status as defined in OAR 461-120-0125(5). Eligibility for payments are subject to the following requirements:¶

(a) Individuals are not eligible for payments if they:¶

(A) Are currently enrolled in the Matching Grant program.¶

(B) Have received any other subsidized payment for the same expense for the same month.¶

(b) The income of the financial American Rescue Plan Act of 2021, Pandemic Emergency Assistance funds allotted to the Department shall be distributed in a one-time payment to TANF benefit groups (see OAR 461-110-07530) must have been negatively affected by COVID-19 as follows:¶

(c) The gross income of the financial group shall not exceed 250 percent of the federal poverty level as listed OAR 461-155-0180. ¶

(d) The resource limit of the financial group must meet section (6) of this rule. payment shall be issued in the same method as the TANF benefit.¶

(e) The sum of all assistance payments under this section must not exceed \$2500 per filing group (see OAR 461-110-0430).¶

(f) Payments shall be made through partner agencies designated by the Department and are subject to availability of funding.¶

(8) The following provisions apply to individuals issued an immigration status listed under OAR 461-120-0125(5) between April 1, 2019 and May 31, 2020:¶

(a) The eight-month program eligibility limit stated in payment is limited to groups eligible for TANF for the month of September 2021 whose eligibility (OAR 461-135-0090(4), OAR 461-135-0930(3) and (6), and OAR 461-195-0621(4)(c) is extended to January 31, 2021, provided:¶

(A) All other financial and non-financial eligibility requirements for REF are met, and 001-0000) was determined and authorized by November 1, 2021.¶

(B) The income or employability of the financial group was negatively affected by COVID-19.¶

(b) A filing group that establishes a filing date (see OAR 461-115-0040) between December 1, 2020 and December 31, 2020, shall receive REF benefits for the mpayment amount is determined based on ths of October and November 2020 if:¶

(A) All financial and non-financial eligibility requirements for REF are met for the months of October and November 2020,¶

(B) The filing group did not already receive REF benefits for October and November 2020, and¶

(C) The filing group was not in a Matching Grant Program during the moe available funds and the total number of

eligible benefit groups.

~~(d) Payments of October and November 2020.~~

~~(c) REF benefits shall be categorized as client error are not subject to overpayment (see OAR 461-195-0501) for any month in which both REF benefits and unemployment compensation benefits (see OAR 461-145-0550) were and shall not be included in any overpayment calculation.~~

~~(e) All funds shall be issued. A in Noverpayment created under this provision will be handled in accordance with OAR 461-195-0301 to OAR 461-195-0350 mber 2021, on a date determined by the Department, with no remaining funds available.~~

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.083, 412.006, 412.049, 412.064

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.081, 411.083, 411.087, 412.006, 412.049, 412.064, 45 CFR 206.10, 45 CFR 400.155, 45 CFR 261.11, 45 CFR 260.31

AMEND: 461-135-0520

RULE SUMMARY: OAR 461-135-0520 is being amended to place into rule that through September 30, 2022, all counties in Oregon shall apply a waiver related to SNAP time-limit work requirements. This change will allow individuals, who meet the definition of Able-bodied adult without dependents (ABAWD) and otherwise qualify for SNAP, to receive their food benefits without the possibility of accruing countable months.

CHANGES TO RULE:

461-135-0520

Time Limit and Special Requirements for ABAWD; SNAP ¶¶

This rule establishes the time limit and special requirements for receipt of SNAP benefits for certain adults.¶¶

(1) Unless the context indicates otherwise, the following definitions apply to rules in OAR chapter 461:¶¶

(a) "Able-bodied adult without dependents (ABAWD)" means an individual 18 years of age or over, but under the age of 50, without dependents. For the purpose of this definition, "without dependents" means there is no child (see OAR 461-001-0000) under the age of 18 years in the filing group (see OAR 461-110-0310 and 461-110-0370).¶¶

(b) "SNAP time-limit areas" means areas of Oregon in which the limitation on eligibility (see OAR 461-001-0000) for SNAP benefits for ABAWD in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)) applies. There are no "SNAP time-limit areas" in Oregon during October 1, 2020 to September 30, 2021.¶¶

(c) "SNAP time-limit exempt areas" means areas of Oregon in which the limitation on eligibility for SNAP benefits contained in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)) does not apply per a waiver approved by the United States Department of Agriculture. "Exempt areas" are all counties in Oregon during October 1, 2020 to September 30, 2021.¶¶

(2) Except as provided otherwise in this rule, an ABAWD who resides in one of the SNAP time-limit areas (see section (1) of this rule) is ineligible to receive food benefits as a member of any household after the individual received food benefits for three countable months (see section (3) of this rule) during January 1, 2019 to December 31, 2021.¶¶

(3) "Countable months" means months within the 36-month period of January 1, 2019 to December 31, 2021 in which an individual as a member of any household receives SNAP benefits in Oregon or in any other state, unless at least one of the following applies:¶¶

(a) Benefits were prorated for the month.¶¶

(b) The individual was exempt from the SNAP time limit for any part of the month for any of the following reasons:¶¶

(A) The individual resided for any part of the month in one of the SNAP time-limit exempt areas (see section (1) of this rule).¶¶

(B) The individual was pregnant.¶¶

(C) A child under the age of 18 years joined the filing group.¶¶

(D) The individual met the criteria under OAR 461-130-0310(3)(a) or (b).¶¶

(c) The individual participated in one or more of the activities in paragraphs (A) to (D) of this subsection for 20 hours per week averaged over the month. For purposes of this rule, 20 hours per week averaged monthly means 80 hours per month. (Activities may be combined in one month to meet the 20 hours per week averaged monthly requirement.)¶¶

(A) Work for pay, in exchange for goods or services, or unpaid work as a volunteer.¶¶

(i) Work in exchange for goods and services includes bartering and in-kind work.¶¶

(ii) Unpaid or voluntary work hours must be verified by the employer.¶¶

(iii) For self-employed individuals, countable income after deducting the costs of producing income (as described in OAR 461-145-0930(5)) must average at least the federal minimum wage times 20 hours per week.¶¶

(B) Participate in a program under the Workforce Investment Act of 1998, Pub. L. No. 105-220, 112 Stat. 936 (1998).¶¶

(C) Participate in a program under section 236 of the Trade Act of 1974, Pub. L. 93-618, 88 Stat. 2023, (1975) (19 U.S.C. 2296).¶

(D) Comply with the employment and training requirements described in OAR 461-001-0020, 461-130-0305, and 461-130-0315. Work search activities must be combined with other work-related activities to equal 20 hours per week and may not exceed 9 hours per week.¶

(d) The individual complied with the Workfare requirements in OAR 461-190-0500.¶

(4) An ABAWD must submit evidence to the Department within 90 days following the month they received the countable month to show they were exempt or met the 80 hour activity requirement.¶

(5) An ABAWD who is ineligible under section (2) of this rule but otherwise eligible may regain eligibility if the requirements of subsections (a) or (b) of this section are met. ¶

(a) The individual becomes exempt under subsection (3)(b) of this rule. Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual is exempt and is otherwise eligible. If not eligible on the filing date (see OAR 461-115-0040), eligibility begins the date all other eligibility requirements are met.¶

(b) The individual, during a consecutive 30-day period during which the individual is not receiving SNAP benefits, meets the requirements of subsection (3)(c) or (3)(d) of this rule.¶

(A) Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual meets the requirements of subsection (3)(c) or (3)(d) of this rule and is otherwise eligible. If not eligible on the filing date, eligibility begins the date all other eligibility requirements are met.¶

(B) There is no limit to how many times an individual may regain eligibility under this subsection during January 1, 2019 to December 31, 2021. ¶

(c) See OAR 461-180-0010 to add an individual to an open SNAP case after the individual has regained eligibility under this section.¶

(6) An individual who regains eligibility under section (5) of this rule and later fails to comply with the participation requirements of subsection (3)(c) or (3)(d) of this rule may receive a second set of food benefits for three consecutive countable months. The countable months are determined as follows:¶

(a) If the individual stopped participation in a work program, countable months start when the Department notifies the individual they are no longer meeting the work requirement.¶

(b) If the individual stopped participation in a work program, countable months start when the individual notifies the Department they are no longer meeting the work requirement.¶

(c) If a change occurred which results in an individual becoming subject to the time limit in section (2) of this rule and the change was required to be reported under rules in OAR chapter 461, division 170, the countable months start when the change occurred.¶

(d) If a change occurred which results in an individual becoming subject to the time limit and the change was not required to be reported under rules in OAR chapter 461, division 170, countable months start when the Department notifies the individual they must meet the work requirement.¶

(e) An individual may only receive benefits without meeting the requirements of subsection (3)(c) or (3)(d) of this rule for no more than a total of six countable months during January 1, 2019 to December 31, 2021. ¶

(7) This space is reserved for the use of discretionary exemptions, granted by the Food and Nutrition Service, for ABAWDs residing in certain SNAP time-limit areas who are at risk of having their benefits closed or reduced. Beginning April 1, 2020 to September 30, 2024~~2~~, the Department is not granting discretionary exemptions.¶

(8) An ABAWD involved in the activities specified in subsection (3)(c) or (3)(d) of this rule or an activity listed in the individual's case plan (see OAR 461-001-0020) is eligible for support service payments necessary for transportation and other costs related to completing the activity as allowed by OAR 461-190-0360.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.121, 411.816  
 Statutes/Other Implemented: 7 USC 2015, 7 USC 2029, 7 CFR 273.7, 7 CFR 273.24, ORS 409.010, 409.050, 411.060, 411.070, 411.121, 411.816, 411.825, 411.837



AMEND: 461-145-0910

RULE SUMMARY: OAR 461-145-0910 is being amended to replace information about how countable self-employment income is determined with a reference to the rule that explains the determination in detail.

CHANGES TO RULE:

461-145-0910

Self-Employment; General; Not OSIP, OSIPM, or QMB ¶

(1) Self-employment income is income resulting from an individual's business, trade, or profession, rather than from a salary or wage paid by an employer. An individual is considered self-employed if the individual meets the criteria in sections (2) or (3) of this rule. Except as noted in section (3) of this rule when an individual has established a corporation, determine if the individual is self-employed according to section (2) of this rule. If the individual has more than one self-employment business, trade, or profession, the income from each is determined separately.¶

(2) Except as provided in OAR 461-145-0250(1), an individual is self-employed for the purposes of this division of rules if the individual meets the requirements of one or more of (a), (b), or (c):¶

(a) Files taxes as self-employed for their business on their personal taxes.¶

(b) Is considered an independent contractor by the business.¶

(c) Meets all the following criteria:¶

(A) Is not required by the business to complete an IRS W-4 form;¶

(B) Is not required to pay federal income tax or FICA payments from their paycheck(s);¶

(C) Liability or worker's compensation insurance for the individual is not paid by the business;¶

(D) Meets at least one of the following:¶

(i) Creates or provides the products or services they sell, or¶

(ii) Sets the price for the products or services they sell;¶

(E) Is responsible for the business expense and losses; and¶

(F) Receives profits from the business.¶

(3) Notwithstanding section (2) of this rule:¶

(a) Homecare Workers (see OAR 411-031-0020) paid by the Department are not self-employed.¶

(b) Child care providers (see OAR 461-165-0180) paid by the Department, adult foster home providers (see OAR 411-050-0602) paid by the Department, realty agents, and individuals who sell plasma, redeem beverage containers, pick mushrooms for sale, or engage in similar enterprises are considered to be self-employed.¶

(4) In the ERDC, REF, SNAP, and TANF programs, self-employment income is counted prospectively to determine eligibility (see OAR 461-001-0000) as follows:¶

(a) Self-employment income is annualized when it is:¶

(A) Received during less than a 12-month period but is intended as a full year's income.¶

(B) From a business that has operated for a full year and the previous year is representative of what the income and costs will be during the budget month.¶

(b) Except in the ERDC program, self-employment income is treated as anticipated income when a financial group (see OAR 461-110-0530) begins self-employment and is unable to determine what the income and costs will be during the budget month.¶

(5) In the REFM program:¶

(a) Self-employment income is counted only if received in the month of application.¶

(b) If self-employment income counted in the month of application puts the applicant over the income limits for REFM, the income is calculated according to section (4) of this rule.¶

(6) When determining the amount of countable (see OAR 461-001-0000) self-employment income, ~~use gross receipts and sales, including mileage reimbursements, before costs~~ the Department follows OAR 461-145-0930.

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

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

AMEND: 461-145-0930

RULE SUMMARY: OAR 461-145-0930 is being amended to align the rule with current Department policy and to distinguish for the ERDC program how self-employment countable income is determined, which does not allow deductions, from how self-employment income is calculated for determining ERDC copay and hours, which does allow deductions. It is also being amended to make the general Department provisions regarding self-employment countable income clearer.

CHANGES TO RULE:

461-145-0930

Self-Employment; Determination of Countable Income ¶

This rule explains how different programs exclude and deduct costs from self-employment gross sales and receipts to determine countable (OAR 461-001-0000) income from self-employment.¶

(1) The Department initially determines gross self-employment income, totaling gross sales and receipts, including mileage reimbursements, minus any returns and allowances (before excluding or deducting any costs).¶

~~(2) In the ERDC program, if an individual claims an excludable are costs permitted under OAR 461-145-0920, at least 50 percent of gross self-employment income is excluded. The maximum exclusion is the total excludable cost under OAR 461-145-0920~~ the Department allows deductions from the gross self-employment income in accordance with this rule to determine countable (OAR 461-001-0000) income from self-employment.¶

~~(2) In the ERDC program, no costs are deducted.~~¶

(3) In the OSIP, OSIPM, and QMB programs, all costs permitted under OAR 461-145-0920 are excluded.¶

(4) In the REF, REFM, and TANF programs, no costs are subtracted (excluded).¶

(5) In the SNAP program, if there are any costs permitted under OAR 461-145-0920, there is a deduction of 50 percent of gross self-employment income.¶

(6) In the DSNAP program, the Department allows all actual costs permitted under OAR 461-145-0920.

Statutory/Other Authority: ORS 414.685, ORS 414.826, ORS 329A.500, 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.049, 413.085

Statutes/Other Implemented: ORS 414.826, 7 CFR 280.1, ORS 329A.500, 409.010, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.009, 412.049

AMEND: 461-155-0190

RULE SUMMARY: OAR 461-155-0190 is being amended through a temporary filing effective October 1, 2021, to align the full-month Disaster SNAP (DSNAP) Payment Standard with adjustments set forth by the Food and Nutrition Service.

CHANGES TO RULE:

461-155-0190

Income and Payment Standards; SNAP and DSNAP ¶

(1) The monthly SNAP Countable Income Limit is set at 130 percent of the federal poverty level under OAR 461-155-0180 for the number of individuals in the need group (see OAR 461-110-0630). The monthly SNAP Adjusted Income Limit is set at 100 percent of the federal poverty level under OAR 461-155-0180 for the number of individuals in the need group.¶

(2) The SNAP Payment Standard (Thrifty Food Plan) is:¶

No. in Benefit Group.....Monthly Amount ¶

1.....	\$ 23450¶
2.....	43059¶
3.....	61658¶
4.....	782835¶
5.....	9292¶
6.....	1,14490¶
7.....	1,232316¶
8.....	1,408504¶
+1.....	+ 17688¶

(3) The full-month Disaster SNAP (DSNAP) Payment Standard is: ¶

No. in Benefit Group.....Monthly Amount ¶

1.....	\$ 2504¶
2.....	374459¶
3.....	535658¶
4.....	680835¶
5.....	807992¶
6.....	9691,190¶
7.....	1,071316¶
8.....	1,22504¶
+1.....	+ 15388¶

(4) The DSNAP Gross Income Limit is set under OAR 461-155-0180 for the number of individuals in the household (see OAR 461-135-0491) group.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.816

Statutes/Other Implemented: ORS 411.070, 411.816, 411.825, 411.837, ORS 409.010, 409.050, 411.060, 7 CFR 273.1, 7 CFR 273.10, 7 CFR 280.1, H.R. 133

AMEND: 461-160-0040

RULE SUMMARY: OAR 461-160-0040 is being amended to remove the word "client," to expand child care coverage to school hours for children participating in distance learning rather than in-person schooling, and to expand child care coverage when caretakers are working from home when the nature of the work does not allow the caretaker to provide the care without affecting their work.

CHANGES TO RULE:

461-160-0040

Dependent Care Costs; Deduction and Coverage ¶¶

(1) In the SNAP program, dependent care is deductible (see OAR 461-160-0430) when all of the following are true:¶¶

(a) The dependent is a member of the filing group (see OAR 461-110-0310) and is in the care, control, and custody of an individual in the group.¶¶

(b) The dependent care provider:¶¶

(A) Is not in the filing group; and¶¶

(B) Is not the parent (see OAR 461-001-0000) of the dependent.¶¶

(c) The dependent care is necessary because the ~~client~~caretaker is working, commuting, on a meal break, in training, participating in pre-employment education, or participating in an OFSET case plan (see OAR 461-001-0020).¶¶

(2) In the SNAP program, dependent care costs that are deductible under section (1) of this rule include:¶¶

(a) The costs of care provided by an individual care provider or care facility,¶¶

(b) Transportation costs to and from the individual care provider or care facility, and¶¶

(c) Activity or other fees associated with the care provided to the dependent that are necessary for the dependent to participate in the care; with the exception of fees related to penalties, fines, or advance payment for cost of care.¶¶

(3) In the ERDC and TANF programs, the cost of dependent child care may be paid for by the Department (is covered) only if dependent child care is necessary for the working ~~client~~caretaker to perform the ~~client~~caretaker's job duties, except in the ERDC program the cost of dependent care is allowed for approved educational hours, for ~~clients~~caretakers participating in the Occupational Training and Child Care program, and for child care authorized under section (5) of this rule.¶¶

(a) For a ~~client~~caretaker working under a JOBS Plus agreement, child care is covered during the time the ~~client~~aretaker is engaged in work or in job search if the employer pays the ~~client~~aretaker during that time.¶¶

(b) Child care is covered for ~~clients~~aretakers participating in the Occupational Training and Child Care program who have applied for the program and actively engaged in training as outlined in the Occupational Training and Child Care program.¶¶

(4) In the ERDC, JOBS, and TANF programs, the cost of dependent child care is not covered by the Department when free care is available, such as during school hours for school-age children, unless a child is not attending in-person schooling and is instead participating in distance learning.¶¶

(5) Child care is not covered in the ERDC and TANF programs if the nature of the work of the caretaker (see OAR 461-001-0000) does not make it necessary for a person other than the caretaker to provide the care. Child care is not covered during a period of time when ~~the caretaker~~—¶¶

~~(a) Works at home and t--~~¶¶

(a) The nature of the work allows the caretaker to provide the care without significantly affecting the work;¶¶

(b) PThe caretaker provides child care in a residence; or¶¶

(c) WThe caretaker works for a provider of child care in a residence, unless the provider is a certified family child care home under OAR 414-350-0000 to 414-350-0400.¶¶

(6) In the ERDC program the cost of dependent child care may continue to be paid for by the Department (is covered) during the certification period (see OAR 461-001-0000) with no change to the authorized child care hours subject to the following provisions:¶¶

- (a) When a reduction in work hours occurs the copay may be adjusted.¶
- (b) When a job loss occurs:¶
  - (A) When a caretaker has a permanent job loss from all employment the copay is waived for up to three months for a work search period, starting the month after the job loss occurred.¶
  - (B) The waiver ends at the end of the three month period if the caretaker becomes employed.¶
  - (C) The three month work search period does not apply when:¶
    - (i) The adult was discharged or fired without good cause (see OAR 461-135-0070(2)) for misconduct, felony, or theft. "Misconduct" means willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee, including an act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest.¶
    - (ii) The adult voluntarily quit in anticipation of discharge or without good cause.¶
  - (c) For medical leave:¶
    - (A) When a caretaker is on medical leave the reason for the leave must be verified including diagnosis and prognosis under OAR 461-125-0830. Maternity leave may be authorized for three months (12 weeks) without medical documentation.¶
    - (B) For a decrease or increase in income during or at the end of medical leave see OAR 461-180-0005 and OAR 461-180-0030.¶
    - (C) Medical leave and maternity leave can be extended when new verification is received prior to the end of the month noted on the original documentation. Medical leave cannot extend beyond the certification period.¶
  - (d) For military transition:¶
    - (A) When a caretaker who is a discharged U.S. military member returns from active duty in a military war zone, the copay is waived for up to six months starting the month after the military member returns home.¶
    - (B) The copay waiver ends at the end of the six month period if the caretaker becomes employed. The copay waiver ends before the end of the six month period if the caretaker returns to active duty.¶
- (e) Under this section child care may be used for work, work search, approved educational hours, military transition activities, or other activities to maintain a part-time or full-time slot at a child care facility.¶
- (f) If the client/caretaker stops participating in the Occupational Training and Child Care program:¶
  - (A) The client/caretaker's copay is waived for up to three months while the client/caretaker is in the process of reengaging into the program.¶
  - (B) The waiver ends when the client/caretaker reengages into the Occupational Training and Child Care program.¶
  - (C) If the client/caretaker does not reengage within three months, the ERDC certification ends at the end of the three months if the client/caretaker does not reengage in the Occupational Training and Child Care program.¶
- (7) In the JOBS program, the cost of child care may be covered while the care is necessary to enable the client/caretaker to participate in a case plan (see OAR 461-190-0211).¶
- (8) In the ERDC, JOBS, JOBS Plus, and TANF programs, the cost of dependent child care may be paid for (is covered) by the Department, only if all the following are true:¶
  - (a) The dependent child (see OAR 461-001-0000):¶
    - (A) In the ERDC program, is a member of the benefit group (see OAR 461-110-0750) and is in the care, control, and custody of an individual in the group.¶
    - (B) In the JOBS, JOBS Plus, and TANF programs, lives with the filing group.¶
  - (b) The provider of child care is not in the filing group.¶
  - (c) The provider of child care is not the parent of a child in the filing group.¶
- (9) Coverage of the cost of dependent care is subject to the requirements in OAR chapter 461, including OAR 461-120-0510(3), 461-135-0400, 461-155-0150, 461-160-0193, 461-165-0180, and 461-190-0211.  
 Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.700, 411.816, 412.049  
 Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.700, 411.816, 412.049

AMEND: 461-160-0300

RULE SUMMARY: OAR 461-160-0300 is being amended to move existing rule provisions regarding ERDC financial eligibility, allowable child care cost, and copay calculation into this rule and to clarify when allowable costs from self-employment are taken into account for the ERDC program. It also returns the ERDC eligibility standard to the pre-COVID federal poverty levels for initial certification and recertification. Lastly, it is being amended to adopt the agency's new copay calculation rules which set a new monthly ERDC copay structure, beginning October 1, 2021.

CHANGES TO RULE:

461-160-0300

Use of Income to Determine Eligibility and Copay Benefits for ERDC ¶

The Department determines financial eligibility (see OAR 461-001-0000) for ERDC and the copay benefit level as follows:¶

~~(1) The monthly gross income of t~~ERDC financial eligibility.¶

~~(a) The financial group (see OAR 461-110-0530) is determined in accordance with OAR 461-150-0060.¶~~

~~(2) The monthly gross income at initial certification and recertification is compared to the ERDC eligibility standards in OAR 461-155-0150(5). If monthly income equals or exceeds the~~ may not exceed the resource limit in OAR 461-160-0015.¶

~~(b) The monthly countable (see OAR 461-001-0000 and 461-145-0930) gross income of the financial group is determined in accordance with OAR 461-150-0060. If monthly countable income equals or exceeds the eligibility standards, the need group (see OAR 461-110-0630) is ineligible for ERDC.¶~~

~~(A) At initial certification, the ERDC eligibility standard is met for a need group of eight or less if monthly countable income for the need group is less than 185 percent of the federal poverty level (FPL), as described in OAR 461-155-0180. The eligibility standard for a need group of eight applies to any need group larger than eight.¶~~

~~(B) During the certification period (see OAR 461-001-0000) and at recertification the ERDC eligibility standards, the need group is ineligible for ERDC. If monthly income does not exceed the eligibility standard, the client's eligibility is determined under section (3) of this rule.¶~~

~~(3) For a client found eligible under section (2) of this rule, is met for a need group of eight or less if monthly countable income for the need group during the 12 month period is less than 250 percent FPL or 85 percent state median income (SMI), whichever is higher, as described in OAR 461-155-0180. The eligibility standard for a need group of eight applies to any need group larger than eight.¶~~

~~(c) The copay calculated under section (3) of this rule is compared to the allowable child care cost under section (2) of this rule. If the copay is equal to or greater than the allowable child care cost and, the client's copay are determined as follows: is not eligible for ERDC.¶~~

~~(2) Allowable Child Care Cost. For an individual found eligible under section (1) of this rule, the allowable child care cost is set under this section.¶~~

~~(a) The child care costs for which the client has been billed are compared to the amount provided in the appropriate child care chart in OAR 461-155-0150. The allowable child care cost is the lesser of the two amounts.¶~~

~~(b) The need group's copay is determined in accordance with OAR 461-155-0150~~ section (3) of this rule.¶

~~(4c) The copay is subtracted from the allowable child care cost, and the remainder is the payment the Department makes to the provider. If the copay is equal to or greater than the allowable child care cost, the client is not eligible for ERDC. If the copay is less than the allowable child care cost, the client meets the income requirement for ERDC ¶~~

~~(3) Copay Calculation.¶~~

~~(a) A need group with a certification period that began in March 2020 through September 2021 shall have a monthly copay of \$0 for the entirety of the certification period. The copay calculation for February 2020 and earlier is found in previous versions of OAR 461-155-0150.¶~~

(b) When determining the copay, upon the applicant's request, the Department may exclude at least 50 percent of gross self-employment income when a need group has countable self-employment income and permitted costs (see OAR 461-145-0910 and 461-145-0920). The maximum exclusion is the total of all actual costs permitted under OAR 461-145-0920.

(c) The monthly copay shall be as follows, using the countable income, or countable self-employment income minus permitted costs:

Need group size of 2

Income&&&&&&&&&&&&..Monthly Copay

\$0 - \$1452.99 &&&&&&&&&...\$0

\$1453 - \$2178.99 &&&&&&&&&.\$5

\$2179 - \$2904.99 &&&&&&&&&.\$10

\$2905 - \$3267.99 &&&&&&&&&.\$40

\$3268 - \$4292.99 &&&&&&&&&.\$100

¶

Need group size of 3

Income&&&&&&&&&&&&..Monthly Copay

\$0 - \$1830.99 &&&&&&&&&...\$0

\$1831 - 2745.99 &&&&&&&&&.\$5

\$2746 - \$3203.99 &&&&&&&&&.\$10

\$3204 - \$3660.99 &&&&&&&&&.\$15

\$3661 - \$4118.99 &&&&&&&&&.\$50

\$4119 - \$5302.99 &&&&&&&&&.\$110

¶

Need group size of 4

Income&&&&&&&&&&&&..Monthly Copay

\$0 - \$2209.99 &&&&&&&&&.....\$0

\$2210 - \$3313.99&&&&&&&&&.\$5

\$3314 - \$3865.99&&&&&&&&&.\$10

\$3866 - \$4417.99&&&&&&&&&.\$20

\$4418 - \$4969.99&&&&&&&&&.\$60

\$4970 - \$6312.99&&&&&&&&&.\$120

¶

Need group size of 5

Income&&&&&&&&&&&&..Monthly Copay

\$0 - \$2587.99&&&&&&&&&...\$0

\$2588 - \$3881.99&&&&&&&&&.\$5

\$3882 - \$4527.99&&&&&&&&&.\$10

\$4528 - \$5174.99&&&&&&&&&.\$25

\$5175 - \$5821.99&&&&&&&&&.\$70

\$5822 - \$7322.99&&&&&&&&&.\$130

¶

Need group size of 6

Income&&&&&&&&&&&&..Monthly Copay

\$0 - \$2965.99&&&&&&&&&...\$0

\$2966 - \$4448.99&&&&&&&&&.\$5

\$4449 - \$5189.99&&&&&&&&&.\$10

\$5190 - \$5930.99&&&&&&&&&.\$25

\$5931 - \$6671.99&&&&&&&&&.\$70

\$6672 - \$8332.99&&&&&&&&&.\$130



¶

Need group size of 7¶

Income&&&&&&&&&&..Monthly Copay¶

\$0 - \$3344.99&&&&&&&&&...\$0¶

\$3345 - \$5015.99&&&&&&&&&.\$5¶

\$5016 - \$5851.99&&&&&&&&&.\$10¶

\$5852 - \$6687.99&&&&&&&&&.\$25¶

\$6688 - \$7523.99&&&&&&&&&.\$70¶

\$7524 - \$8521.99&&&&&&&&&.\$130¶

¶

Need group size of 8 or more¶

Income&&&&&&&&&&..Monthly Copay¶

\$0 - \$3722.99&&&&&&&&&...\$0¶

\$3723 - \$5583.99&&&&&&&&&.\$5¶

\$5584 - \$6514.99&&&&&&&&&.\$10¶

\$6515 - \$7443.99&&&&&&&&&.\$25¶

\$7444 - \$8375.99&&&&&&&&&.\$70¶

\$8376 - \$9304.99&&&&&&&&&.....\$130¶

(d) Notwithstanding the provisions of this rule section, the ERDC copay may be reduced or temporarily waived as follows:¶

(A) Reduced to \$0 for no more than three months after closure of TANF benefits when:¶

(i) The closure is because an individual in the need group had earned income that led to the TANF closure;¶

(ii) An ERDC date of request (see OAR 461-115-0030) is established within 90 days of closure; and¶

(iii) The individual is eligible for ERDC at initial certification.¶

(B) As allowed under OARs 461-160-0040 and 461-135-0405.

Statutory/Other Authority: ORS 411.060

Statutes/Other Implemented: ORS 409.610, 411.060, 411.122