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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 76-2021

CHAPTER 461

DEPARTMENT OF HUMAN SERVICES

SELF-SUFFICIENCY PROGRAMS

FILED

12/20/2021 9:02 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

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

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

AGENCY APPROVED DATE: 12/20/2021

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NEED FOR THE RULE(S):

OAR 461-135-0520 about Time Limit and Special Requirements for ABAWD; SNAP, needs to be changed to update the three year time limit for SNAP recipients who are identified as Able-Bodied Adults Without Dependents to January 1, 2022 through December 31, 2024.

OAR 461-160-0300 about Use of Income to Determine Eligibility and Copay Benefits for ERDC, needs to be amended to keep the rule in alignment with the new federal poverty limit chosen by the Department that begins January 1, 2022.

JUSTIFICATION OF TEMPORARY FILING:

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 who receive or apply for SNAP benefits subject to the 36 month time limit. Delaying this rule change could risk a misalignment with the rule, Department policy, and federal regulations. Failure to act immediately to align rule with the federal requirements could create confusion for those subject to the time limit and the general public. It would also begin an error in Department rule and process. These rule amendments make clear the dates of Oregon's new 36-month time limit and keeps Oregon aligned with federal requirements.

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 apply for ERDC benefits. Delaying this rule change could risk a misalignment with the rule, Department policy, and ONE system programming. Failure to act immediately to align rule with the higher 200% income limit could create confusion for Department staff, community partners, regulation agencies, and the general public. It would also begin an error in Department rule and process. These rule amendments create a timely and coordinated implementation of the increased ERDC income limit.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

RULES:

461-135-0520, 461-160-0300

AMEND: 461-135-0520

SUSPEND: Temporary 461-135-0520 from SSP 51-2021

RULE SUMMARY: OAR 461-135-0520 is being amended to establish the new 36-month period that applies to able-bodied adult without dependents in the SNAP program, which begins January 1, 2022.

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, 2024.¶¶

(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, 2024.¶¶

(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, 2024.¶¶

(3) "Countable months" means months within the 36-month period of January 1, 2019 to December 31, 2024 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~~22~~ to December 31, 2024~~4~~. ¶

(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~~22~~ to December 31, 2024~~4~~. ¶

(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, 2021~~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

\$2179 - \$2904.99 &&&&&&&.\$10¶
\$2905 - \$3267.99 &&&&&&&.\$40¶
\$3268 - \$4292.99 &&&&&&&.\$100¶

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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¶

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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¶

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Need group size of 5¶

Income&&&&&&&&&&..Monthly Copay¶
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\$2588 - \$3881.99&&&&&&&.\$5¶
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\$4528 - \$5174.99&&&&&&&.\$25¶
\$5175 - \$5821.99&&&&&&&.\$70¶
\$5822 - \$7322.99&&&&&&&.\$130¶

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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¶

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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¶

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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