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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 82-2021

CHAPTER 461

DEPARTMENT OF HUMAN SERVICES

SELF-SUFFICIENCY PROGRAMS

FILED

12/29/2021 9:53 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending One SNAP Program Categorical Eligibility Rule, Increasing its Income Limit to 200% FPL

EFFECTIVE DATE: 01/01/2022 THROUGH 06/25/2022

AGENCY APPROVED DATE: 12/23/2021

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NEED FOR THE RULE(S):

OAR 461-135-0505 about Categorical Eligibility for SNAP needs to be amended to adopt changes which further make accurate categorical eligibility provisions and create the distinction in rule between the three categorical eligibility types. It is also being amended to increase the categorical eligibility federal poverty level from 185% to 200%.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-135-0505 will result in serious prejudice to the public interest, the Department, and those who receive or apply for SNAP. The Department needs to proceed by temporary rule due to the necessity to put the federal poverty level increase into place effective January 1, 2022. Failure to act immediately will delay the OAR from alignment with ODHS decisions, the chosen federal option, and the ONE system programming. This rule amendment will keep the rule accurate and the Department's decisions transparent.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

AMEND: 461-135-0505

SUSPEND: Temporary 461-135-0505 from SSP 80-2021

RULE SUMMARY: OAR 461-135-0505 is being amended to further restructure categorical eligibility provisions by added categories of original Categorical Eligibility, Expanded Categorical Eligibility, and Broad Based Categorical Eligibility. It is also being amended to change the SNAP categorical eligibility federal poverty level limit from 185% to 200%. This brings Oregon into alignment with 19 other states who have also raised their SNAP income limit.

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) Receives or is authorized to receive GA or SSI benefits;

(A) Under original Categorical Eligibility (CE) regulations, when they receive or are authorized to receive:

(i) Temporary Assistance to Needy Families (TANF) cash assistance;

(ii) General Assistance (GA), or

(iii) Supplemental Security Income (SSI).

(B) Under Expanded Categorical Eligibility (ECE) regulations -

(b) Is When 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

(c) Rii) When 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) Employment Related Day Care (ERDC);

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

(D):

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

(ii) TANF-related programs:

(i) Pre-TANF;

(ii) TA-DVS;

(iii) TANF-JOBS Plus;

(iv) Housing Stabilization Program through Housing and Community Services; and

(v) 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:

(A) Under CE when all members of the following circumstances:

(a) The filing group has liquid assets from lottery or gambling winnings equal to or in excess of the resource limit listed in OAR 461-160-0015(7). For the purposes of this rule, liquid assets are assets that are easily accessible and do not need to be sold to access.iling group meet the CE provisions under paragraph (1)(a)(A) of this rule;

(B) Under ECE when one of the following is met:

(i) All members meet the ECE provisions under paragraph (1)(a)(B) of this rule, or

(ii) All members meet either CE or ECE provisions under subsection (1)(a) of this rule with at least one member meeting CE provisions and at least one meeting ECE provisions.

(C) Under Broad Based Categorical Eligible (BBCE) when at least one member meets neither 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 to be categorically eligible for SNAP benefits, it must contain only clients who are categorically eligible. For the purpose of determining who is CE nor ECE provisions, but 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 200 percent of the federal poverty level (see OAR 461-155-0180). If there are filing group members who are ineligible or disqualified for SNAP (see OAR 461-160-0410), to determine 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. Countable income without proration is compared to the 200 percent federal poverty level for the number in the filing group.~~

~~(iii) The filing group has liquid assets from lottery or gambling winnings 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.~~

~~(5b) A filing group that is eligible for transition services will not be categorically eligible for SNAP benefits when a member of the TA-DVS program is considered receiving benefits for the entire period of eligibility even if benefits are not received during each month. Filing group is not categorically eligible.~~

~~(c) A filing group that loses SNAP benefit eligibility (see OAR 461-001-0000) due to lottery or gambling winnings (see OAR 461-140-0262) is not eligible for SNAP benefits, for that period.~~

~~(6) An individual to have SNAP eligibility determined using 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, 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.~~

~~(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.~~

~~(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. 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 found categorically eligible 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