

OFFICE OF THE SECRETARY OF STATE

SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 3-2022

CHAPTER 461

DEPARTMENT OF HUMAN SERVICES

SELF-SUFFICIENCY PROGRAMS

FILED

01/26/2022 1:31 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Restoring the January 1, 2022 Temporary Changes about Categorical Eligibility for SNAP

EFFECTIVE DATE: 01/26/2022 THROUGH 07/24/2022

AGENCY APPROVED DATE: 12/23/2021

CONTACT: Meorah Solar

503-602-7545

meorah.a.solar@dhsosha.state.or.us

2885 Chad Drive

Eugene, OR 97408

Filed By:

Meorah Solar

Rules Coordinator

NEED FOR THE RULE(S):

OAR 461-135-0505 about Categorical Eligibility for SNAP needs to be amended to readopt changes made effective January 1, 2022, which further make accurate categorical eligibility provisions and create the distinction in rule between the three categorical eligibility types. The January 1, 2022 changes also increased 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 on and after January 1, 2022, without interruption. Failure to act immediately will create a break in the OAR's 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:

FNS Website titled "USDA Food Plans: Cost of Food" available here: <https://www.fns.usda.gov/cnpp/usda-food-plans-cost-food-reports>

Communications between local offices and SNAP Policy available from the SNAP Policy team.

AMEND: 461-135-0505

RULE SUMMARY: OAR 461-135-0505 is being amended by temporary rule to restore January 1, 2022, changes to this rule that were not included in the notice of proposed rulemaking, and therefore not included in the January 26, 2022 permanent rule filing. The changes further restructure categorical eligibility provisions by adding categories of original Categorical Eligibility, Expanded Categorical Eligibility, and Broad Based Categorical Eligibility. They also increase 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 section (c) of this section, an individual is categorically eligible for SNAP benefits:¶

~~(A) When they receive or are authorized to receive GA or SSI benefits; 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:¶~~

~~(Bi) 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¶~~

~~(Cii) When they receive or are authorized to receive cash, in-kind benefits, or services either under Title IV-A of the Social Security Act or by the state as part of the TANF maintenance of effort:¶~~

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

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

~~(iii) or¶~~

~~(I) 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.¶~~

(b) 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.¶

(c) The 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.¶

(B) The 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.¶

(2) Filing group and categorical eligibility.¶

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

~~(A) A:¶~~

~~(A) Under CE when all members of the filing group are categorically eligible 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; or¶~~

~~(B) ¶ 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 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 ~~185~~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 categorical eligibility, countable income without proration is compared to the 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.¶

- (b) A filing group shall not be categorically eligible for SNAP benefits when a member of the 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 461-140-0263) is not eligible for SNAP benefits, or to have SNAP eligibility determined using categorical eligibility, 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.¶
- (3) 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.¶
- (4) Presumed eligibility.¶
- (a) If verified in a public assistance or medical assistance program, an individual found categorically eligible 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 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, and¶
- (C) Adjusted income limit.
- Statutory/Other Authority: ORS 411.816
Statutes/Other Implemented: ORS 411.816, 7 CFR 273.11