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CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILING CAPTION: Permanent Changes to 10 Rules Governing Aging & People with Disabilities Programs

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RULES:
461-115-0050, 461-115-0230, 461-115-0430, 461-135-0755, 461-135-0780, 461-145-0220, 461-155-0250, 461-155-0270, 461-160-0580, 461-160-0620

AMEND: 461-115-0050

REPEAL: Temporary 461-115-0050 from SSP 1-2022

NOTICE FILED DATE: 12/08/2021

RULE SUMMARY: OAR 461-115-0050 about When an Application Must Be Filed, is being amended to de-gender and person-center language; as well as to align the rule provisions regarding when an application must be filed for OSIP, OSIPM, and QMB programs with the ONE system.

CHANGES TO RULE:

461-115-0050
When an Application Must Be Filed ¶

~~Retroactively effective July 6, 2020:¶~~
(1) An individual must file an application, or may amend a completed application, as a prerequisite to receiving benefits as follows:¶
(a) An individual may apply for the GA program by completing an application for the OSIPM program.¶
(b) An individual may apply for the TA-DVS program as provided in OAR 461-135-1200.¶
(c) In all programs except the TA-DVS program:¶
(A) Except as provided otherwise in this rule, to apply for program benefits, an individual must submit a complete application on a form approved by the Department.¶
(B) An application is complete if all of the following requirements are met:¶
(i) All information necessary to determine eligibility (see OAR 461-001-0000) and benefit amount is provided on the application for each individual in the filing group (see OAR 461-110-0310).¶
(ii) The applicant, even if an individual who is homeless, provides a valid mailing address.¶
(iii) The application is signed by the individual, the authorized representative (see OAR 461-115-0090) of the individual, or another individual applying for benefits on behalf of the individual, and received by the Department.¶
(I) An individual required but unable to sign the application may sign with a mark, witnessed by another

individual.¶
(II) An individual submitting an electronic application (see OAR 461-001-0000) must submit the application with an electronic signature.¶
(2) A new application is not required in the following situations:¶
(a) In the GA program, when an individual is receiving OSIPM on the date of request (see OAR 461-115-0030) for GA.¶
(b) In the SNAP program, when a single application can be used both to determine an individual is ineligible in the month of application and to determine the individual is eligible the next month. This may be done when--¶
(A) Anticipated changes make the filing group (see OAR 461-110-0370) eligible the second month; or¶
(B) The filing group provides verification between 30 and 60 days following the filing date (see OAR 461-115-0040), under OAR 461-180-0080.¶
(c) In all programs except the SNAP program, when a single application can be used both to determine an individual is ineligible on the filing date (see OAR 461-115-0040) or the date of request (see OAR 461-115-0030) as applicable to the term used by the program, and to determine the individual is eligible when anticipated changes make the filing group eligible within 30 days from the filing date or 45 days from the date of request (as applicable to the term used by the program).¶
(d) When the case is closed and reopened during the same calendar month.¶
(e) When benefits were suspended for one month because of the level of income, and the case is reopened the month following the month of suspension.¶
(f) When reinstating medical benefits for a pregnant ~~woman~~individual covered by OAR 461-135-0950, notwithstanding subsection (g) of this section.¶
(g) In the ERDC program, when a case closed during the certification period (see OAR 461-001-0000) and the individual reports a change in circumstances prior to the end of the month following the closure and the reported change will make the individual eligible.¶
(h) In the OSIP, OSIPM and QMB programs,~~ w~~¶
(A) When a new application is not required under section (2) or (4) of OAR 410-200-0110, except subsection (4)(b), including provisions that specify they are for "HSD Medical" programs.¶
(B) When the medical benefits of an individual are suspended because the individual lives in a public institution (see OAR 461-135-0950), if the Department is notified within 10 calendar days of the release.¶
(i) In the REF, TA-DVS, and TANF programs, when a single application can be used both to determine an individual is ineligible in the month of application and to determine the individual is eligible the next month. This may be done when -¶
(A) Anticipated changes make the filing group (see OAR 461-110-0330 and OAR 461-110-0430) eligible in the following month; or ¶
(B) Amending a current application if the information is sufficient to determine eligibility; otherwise a new application is required.¶
(3) When an individual establishes a new date of request prior to the end of the month following the month of case closure, unless the Department determines a new application is required, a new application is not required in the following situations:¶
(a) In the OSIPM program, when the individual's case closed due to failure to make a liability payment required under OAR 461-160-0610.¶
(b) In the OSIPM-EPD program, when the individual's case closed due to failure to make a participant fee payment required under OAR 461-160-0800.¶
(4) A new application is required to add a newborn child (see OAR 461-001-0000) to a benefit group (see OAR 461-110-0750) according to the following requirements:¶
(a) In the ERDC and SNAP programs, an application is not required to add the child to the benefit group.¶
(b) In the OSIPM, QMB, and REFM programs, an additional application is not required to add an assumed eligible newborn (see OAR 461-135-0010) to a benefit group currently receiving Department medical program benefits.¶
(c) In the TANF program:¶
(A) A new application is not required if the child is listed on the application as "unborn" and there is sufficient information about the child to establish its eligibility.¶
(B) A new application is required if the child is not included on the application as "unborn."¶
(d) In all programs other than ERDC, QMB, REF, REFM, SNAP, and TANF, an application is required.¶
(5) A new application is required to add an individual, other than a newborn child, to a benefit group according to the following requirements:¶
(a) In the ERDC, QMB, OSIP, OSIPM, and SNAP programs, a new application is not required.¶
(b) In the REF, REFM, and TANF programs, an individual may be added by amending a current application if the information is sufficient to determine eligibility; otherwise a new application is required.¶
(6) An individual whose TANF grant is closing may request ERDC orally or in writing.¶

(7) Except for an applicant for the OSIPM, QMB, or SNAP program, an individual may change between programs administered by the Department using the current application if the following conditions are met:¶
(a) The individual makes an oral or written request for the change.¶
(b) The Department has sufficient evidence to determine eligibility and benefit level for the new program without a new application.¶
(c) The program change can be effected while the individual is eligible for the first program.~~¶~~
~~(8) In the OSIP, OSIPM, and QMB programs, a new application is not required to redetermine eligibility if one of the following conditions are met:¶~~
~~(a) The individual is currently receiving benefits from one of these programs and the Department has sufficient evidence to redetermine eligibility for the same program or determine eligibility for the new program without a new application or by amending the current application.¶~~
~~(b) The individual was receiving benefits from one of these programs but was terminated for failure to provide requested information during a periodic redetermination (see OAR 461-115-0430), if the requested information is received within 90 days of termination.~~
Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.025, 414.685
Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.117, 411.404, 411.447, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.041, 414.231, 414.685, 414.839, CFR 435.916

AMEND: 461-115-0230

REPEAL: Temporary 461-115-0230 from SSP 77-2021

NOTICE FILED DATE: 12/08/2021

RULE SUMMARY: OAR 461-115-0230 is being changed to specify that the interview requirement for non-MAGI Medicaid recipients can be waived at annual renewal if the individual in unable to complete it due to incapacity and does not have an authorized representative designated to act on their behalf.

CHANGES TO RULE:

461-115-0230
Interviews ¶

(1) In the REF, REFM, and TANF programs, the Department may conduct a required face-to-face interview by telephone or home visit if an authorized representative (see OAR 461-001-0000 and 461-115-0090) has not been appointed, and participating in a face-to-face interview is a hardship (see section (2) of this rule) for the household.¶
(2) For the purposes of this rule, "hardship" includes, but is not limited to:¶
(a) Care of a household member;¶
(b) An individual's age, disability (see OAR 461-001-0000), or illness;¶
(c) A commute of more than two hours from the individual's residence to the nearest branch office (see OAR 461-001-0000);¶
(d) A conflict between the individual's work or training schedule and the business hours of the branch office; and¶
(e) Transportation difficulties due to prolonged severe weather or financial hardship.¶
(3) In the SNAP program:¶
(a) An interview must be scheduled so that the filing group (see OAR 461-110-0370) has at least ten days to provide any needed verification before the deadline under OAR 461-115-0210.¶
(b) A face-to-face interview must be granted at the applicant's request.¶
(c) When an applicant misses the first scheduled interview appointment, the Department must inform the applicant by notice of the missed interview.¶
(d) An applicant who fails to attend a scheduled interview must contact the Department no later than 30 days following the filing date (OAR 461-115-0040) to be eligible for benefits.¶
(e) An adult (see OAR 461-001-0015) or primary person (see OAR 461-001-0015) in the filing group, an adult or primary person excluded from the filing group under OAR 461-110-0370(8)(b), or the authorized representative (see OAR 461-001-0000, 461-115-0090, and 461-135-0510) of the filing group is interviewed once every 12 months.¶
(4) In the ERDC program:¶
(a) Except as provided otherwise in subsection (c) of this section, an interview with an adult in the filing group (see OAR 461-110-0350) or the authorized representative of the filing group is required to process an initial application and a renewal of benefits.¶
(b) A phone interview is preferred; however, a face-to-face interview must be granted at the applicant's request.¶
(c) An interview is not required when the Department has implemented the Child Care Reservation List and it is determined that a decision notice (see OAR 461-001-0000) of ineligibility will be sent under OAR 461-115-0016.¶
(5) In the OSIPM program, the Department must complete an interview with at least one individual authorized to sign the application under OAR 461-115-0071(3), except as follows:¶
(a) Individuals in a standard living arrangement (see OAR 461-001-0000) who are receiving SSI or are in 1619(b) status are not required to complete an interview at initial application.¶
(b) Individuals who are receiving SSI or are in 1619(b) status are not required to complete an interview at annual redetermination.¶
(c) The interview requirement shall be waived at annual redetermination if the individual is unable to complete the interview due to incapacity and an authorized representative has not been designated.¶
(6) In the QMB programs:¶
(a) The Department must complete an interview with at least one individual authorized to sign the application under OAR 461-115-0071(3) at initial application.¶
(b) An interview is not required at redetermination except in the QMB-DW program. ¶
(7) In the REF and REFM programs, a face-to-face interview is required.¶
(8) In the TA-DVS program, the Department will conduct a required face-to-face interview with the survivor,

unless there is a safety concern related to the domestic violence (see OAR 461-001-0000) situation or there is a hardship. An interview due to safety concern or hardship may be completed via phone, home visit, or offsite appointment.
Statutory/Other Authority: ORS 411.060, 411.404, 411.706, 411.816, 412.049, 414.826, 414.839, ORS 409.050
Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.839, 411.117

AMEND: 461-115-0430

REPEAL: Temporary 461-115-0430 from SSP 1-2022

NOTICE FILED DATE: 12/08/2021

RULE SUMMARY: OAR 461-115-0430 about Periodic Redeterminations; Not EA, ERDC, SNAP, or TA-DVS, is being amended to make the rule title more inclusive of language used for medical programs, to shift language towards being person-centered, and to update and align provisions regarding OSIP, OSIPM, and QMB medical program periodic redetermination or renewal with many other medical programs and the ONE system.

CHANGES TO RULE:

461-115-0430
Periodic Redeterminations or Renewal; Not EA, ERDC, SNAP, or TA-DVS ¶

The Department periodically re~~determines the~~views eligibility (see OAR 461-001-0000) of ~~clients for~~individuals receiving benefits and assigns a redetermination or renewal date by which the next ~~determination~~review of eligibility is required. The Department selects the redetermination or renewal date based on the ~~client~~individual's circumstances and according to the following requirements:¶
(1) In the GA program, the Department redetermines eligibility at least once every 12 months.¶
(2) In the OSIP~~ and~~, OSIPM, and QMB programs, the Department ~~determine~~reviews eligibility at least once every 12 months ~~for clients who are not eligible for SSI. No redetermination is required for clients who are eligible for SSI.¶~~
~~(3) In the QMB program, the Department determines eligibility at least once every 12 months for clients who are not eligible for SSI. For QMB recipients who are also eligible for OSIPM, a redetermination for QMB is completed with the redetermination of OSIPM~~and in accordance with OAR 410-200-0110. The redetermination or renewal provisions for "HSD Medical" programs in OAR 410-200-0110 are also the provisions for OSIP, OSIPM, and QMB programs.¶
(4~~~~3) The REF and REFM programs are time limited programs; therefore, no periodic redeterminations are made.¶
(~~5~~4) In the SFPSS program, the Department redetermines eligibility at least once every 12 months. The Department redetermines program eligibility by redetermining eligibility for the TANF program.¶
(~~6~~5) In the TANF program, benefits will end the last day of the certification period (see OAR 461-001-0000). The Department redetermines eligibility according to the following schedule:¶
(a) At least once every six months for each of the following:¶
(A) ~~Client~~Individuals not participating in an activity (see OAR 461-001-0025) of an open case plan (see OAR 461-001-0025).¶
(B) ~~Client~~Individuals who are currently serving a JOBS disqualification.¶
(b) At least once every 12 months for all other ~~client~~individuals.
Statutory/Other Authority: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839, 409.050
Statutes/Other Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839, 409.010, 42 CFR 435.916

AMEND: 461-135-0755

REPEAL: Temporary 461-135-0755 from SSP 77-2021

NOTICE FILED DATE: 12/08/2021

RULE SUMMARY: OAR 461-135-0755 is being renamed to "Individuals Eligible for 1915(i) State Plan Home and Community-Based Services; OSIPM" and being amended to replace "mental health 24-hour residential care setting" language with "1915(i) Home and Community-Based Services (HCBS)", the term "mental health" with "behavioral health", incorporate in-home 1915(i) services into the rule, and correct the eligible age from 18 to 21.

CHANGES TO RULE:

461-135-0755
Individual Residing in a 24-Hour Mental Health Residential Care Settings Eligible for 1915(i) State Plan Home and Community-Based Services; OSIPM
In the OSIPM program, an individual who meets all of the requirements below is subject to the OSIPM income limit specified in OAR 461-155-0250(6):¶
(1) The individual rhas been assessed by an Independent and Qualified Agent (IQA) and determined eligible to receive 1915(i) Home and Community-Based Services (HCBS) as specified in OAR 410-173-0010.¶
(2) The individual meets one of the following:¶
(a) Resides or will reside in a 24-hour mentbehavioral health residential care setting. For purposes of this rule, only the following types of treatment centers qualify as a 24-hour mentbehavioral health residential care setting:¶
(aA) A mentbehavioral health adult foster home.¶
(bB) A mentbehavioral health residential treatment home.¶
(cC) A mentbehavioral health residential treatment facility.¶
(db) A mental health secure treatment facilityThe individual will receive 1915(i) HCBS services in their own home.¶
(23) The individual is not assumed eligible for OSIPM under OAR 461-135-0010, and does not meet the income requirements for OSIPM for those in a standard living arrangement (see OAR 461-001-0000) under section (3) of OAR 461-155-0250.¶
(34) The individual is age 218 or older.
Statutory/Other Authority: ORS 409.050, 411.060, 411.404, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.404, 42 CFR 435.219, 42 CFR 435.726

AMEND: 461-135-0780

REPEAL: Temporary 461-135-0780 from SSP 77-2021

NOTICE FILED DATE: 12/08/2021

RULE SUMMARY: OAR 461-135-0780 is being amended to reflect the annual federal cost of living adjustments that happen every January. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living.

CHANGES TO RULE:

461-135-0780
Pickle Amendment Clients; OSIPM ¶

In the OSIPM program:¶
(1) The countable (see OAR 461-001-0000) SSB income of an individual is determined according to sections (2) to (4) of this rule if the individual meets all of the following requirements:¶
(a) Is receiving Social Security Benefits (SSB);¶
(b) Was eligible for and receiving SSI or state supplements but became ineligible for those payments after April 1977; and¶
(c) Would be eligible for SSI or state supplement if the SSB COLA increases paid under section 215(i) of the Social Security Act, after the last month the individual was both eligible for and received SSI or a supplement and was entitled to SSB, were deducted from current SSB.¶
(2) The SSB amount received by the individual when the individual became ineligible for SSI or OSIP is used as the individual's countable SSB income, for the purposes of the Pickle Amendment. If the spouse (see OAR 461-001-0000) of the individual also had Social Security benefits at the time the individual lost SSI benefits, SSB amount at that time of the spouse is considered the countable income of the spouse. If the amount cannot be determined using the information provided by the SSA, it is calculated in accordance with section (3) of this rule.¶
(3) The Department determines the month in which the individual was entitled to SSB and received SSI in the same month. The Department uses the table in section (4) of this rule to find the percentage that applies to that month. The Department multiplies the present amount of the SSB of the individual by the applicable percentage. If the spouse of the individual also had SSB at the time the individual lost SSI benefits, the Department adjusts the SSB of the spouse using the same multiplier that was used for the individual's calculation under this section. This amount, rounded down to the next lower whole dollar, is the individual's countable SSB income.¶
(4) The following guide contains the calculations used to determine the SSB for prior years (the Department uses this table only if the prior year's amount using information provided by SSA):¶
If SSI was Last Received During .... Multiply Current SSB by¶
¶
January 202~~0~~1 - December 202~~0~~1.. .9~~87~~44¶
January 2020 - December 2020.. .932¶
January 2019 - December 2019..~~-~~ .91 7~~2~~¶
January 2018 - December 2018..~~-~~.~~945~~893¶
January 2017 - December 2017..~~-~~.~~927~~875¶
January 2015 - December 2016.. ~~.924~~ .872¶
January 2014 - December 2014.. .~~90~~858¶
January 2013 - December 2013.. .8~~9~~45¶
January 2012 - December 2012.. .8~~80~~31¶
January 2009 - December 2011.. .8~~49~~02¶
January 2008 - December 2008.. .~~803~~758¶
January 2007 - December 2007.. .7~~85~~41¶
January 2006 - December 2006.. .7~~60~~17¶
January 2005 - December 2005.. .~~730~~689¶
January 2004 - December 2004.. .67~~1~~1¶
January 2003 - December 2003.. .6~~96~~57¶
January 2002 - December 2002.. .648~~6~~¶
January 2001 - December 2001... .6~~69~~32¶
January 2000 - December 2000..~~-~~ .6~~46~~10¶
January 1999 - December 1999.. .~~631~~596¶
January 1998 - December 1998.. .~~623~~588¶

January 1997 - December 1997.. .~~610~~576¶
January 1996 - December 1996.. .5~~93~~60¶
January 1995 - December 1995.. .5~~78~~46¶
January 1994 - December 1994.. .5~~62~~31¶
January 1993 - December 1993.. .5~~48~~17¶
January 1992 - December 1992.. .5~~3~~02¶
January 1991 - December 1991.. .~~513~~484¶
January 1990 - December 1990.. .4~~87~~60¶
January 1989 - December 1989.. .4~~65~~39¶
January 1988 - December 1988.. .4~~47~~22¶
January 1987 - December 1987.. .4~~29~~05¶
January 1986 - December 1986.. .4~~24~~00¶
January 1985 - December 1985.. .~~411~~388¶
January 1984 - December 1984.. .3~~9~~75¶
July 1982 - December 1983... .3~~83~~62¶
July 1981 - June 1982.. .3~~5~~37¶
July 1980 - June 1981.. .3~~21~~03¶
July 1979 - June 1980.. .2~~81~~65¶
July 1978 - June 1979.. .2~~56~~41¶
July 1977 - June 1978.. .2~~40~~27¶
May or June 1977.. .2~~27~~14
Statutory/Other Authority: 411.060, 411.070, 411.083, 411.404, ORS 409.050, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.704, 413.085, 414.685, 42 CFR 435.135, P.L. 92-336

AMEND: 461-145-0220

REPEAL: Temporary 461-145-0220 from SSP 77-2021

NOTICE FILED DATE: 12/08/2021

RULE SUMMARY: OAR 461-145-0220 is being amended to include an exclusion of the home during a temporary absence when an individual applies during the absence. The current rule language requires an individual to have applied and be eligible prior to the absence in order to exclude the home. Existing operational practice allows an exclusion of the home when applying during the temporary absence. This amendment will bring the rule in line with current operational practice. It is also being changed to reflect the annual federal cost of living adjustments that happen every January. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living.

CHANGES TO RULE:

461-145-0220
Home ¶

(1) Home defined: A home is the place where the filing group (see OAR 461-110-0310) lives. A home may be a house, boat, trailer, mobile home, or other habitation. A home also includes the following:¶
(a) Land on which the home is built and contiguous property.¶
(A) In all programs except the OSIP, OSIPM, QMB, and SNAP programs, property must meet all the following criteria to be considered contiguous property:¶
(i) It must not be separated from the land on which the home is built by land owned by people outside the financial group (see OAR 461-110-0530).¶
(ii) It must not be separated by a public right-of-way, such as a road.¶
(iii) It must be property that cannot be sold separately from the home.¶
(B) In the OSIP, OSIPM, QMB, and SNAP programs, contiguous property is property not separated from the land on which the home is built by land owned by people outside the financial group.¶
(b) Other dwellings on the land surrounding the home that cannot be sold separately from the home.¶
(2) Exclusion of home and other property:¶
(a) For an individual who has an initial month (see OAR 461-001-0000) of long-term care (see OAR 461-001-0000) or home and community-based care (see OAR 461-001-0030) on or after January 1, 2006:¶
(A) For purposes of this subsection, "child" means a biological or adoptive child who is:¶
(i) Under age 21; or¶
(ii) Any age and meets the Social Security Administration criteria for blindness or disability.¶
(B) The equity value (see OAR 461-001-0000) of a home is excluded if the requirements of at least one of the following subparagraphs are met:¶
(i) The child (see paragraph (A) of this subsection) of the individual or relative dependent on the individual for support occupies the home.¶
(ii) The spouse (see OAR 461-001-0000) of the individual occupies the home.¶
(iii) The equity in the home is $6~~0~~36,000 or less, and the requirements of at least one of the following sub-subparagraphs are met:¶
(I) The individual occupies the home.¶
(II) The home equity is excluded under OAR 461-145-0252.¶
(III) The home is listed for sale per OAR 461-145-0420.¶
(iv) Notwithstanding OAR 461-120-0330, the equity in the home is more than $6~~0~~36,000 and the individual is unable legally to convert the equity value in the home to cash.¶
(b) For all other filing groups, the value of a home is excluded when the home is occupied by any member of the filing group.¶
(c) In the SNAP program, the value of land is excluded while the group is building or planning to build their home on it, except that if the group owns (or is buying) the home they live in and has separate land they intend to build on, only the home in which they live is excluded, and the land they intend to build on is treated as real property in accordance with OAR 461-145-0420.¶
(3) Exclusion during temporary absence: ~~If t~~The value of a home is excluded ~~under section (2) of this rule, the value of this home remains excluded~~ in each of the following situations:¶
(a) For the purposes of this section, "evidence" includes a written statement from a competent individual.¶
(b) In all programs except the OSIP, OSIPM, and QMB-DW programs, during the temporary absence of all

members of the filing group from the property, if the absence is due to illness or uninhabitability (from casualty or natural disaster), and the filing group intends to return home.¶
(c) In the OSIP, OSIPM, and QMB-DW programs, when the individual is ~~absent to receive long-term care or home and community-based care,~~temporarily absent¶
(A) To receive assistance with activities of daily living (see OAR 411-015-9995) under one of the following conditions:¶
(~~A~~i) The absent individual has provided evidence that the individual will return to the home. The evidence must reflect the subjective intent of the individual, regardless of the individual's medical condition.¶
(~~B~~ii) The home remains occupied by the individual's spouse, child, or a relative dependent on the individual for support. The child must be less than 21 years of age or, if over the age of 21, blind or an individual with a disability as defined by SSA criteria.¶
(~~d~~B) ~~In the OSIP, OSIPM, and QMB-DW programs, when the individual is absent d~~Due to illness, employment or training for future employment, seasonal employment, or uninhabitability; and both of the following conditions are met:¶
(~~A~~i) The absent individual has provided evidence that the absent individual will return home, and¶
(~~B~~ii) The evidence reflects the subjective intent of the individual, regardless of the individual's medical condition.¶
(~~e~~d) In the REF, REFM, and TANF programs, when all members of the filing group are absent because:¶
(A) The members are employed in seasonal employment and intend to return to the home when the employment ends; or¶
(B) The members are searching for employment, and the search requires the members to relocate away from their home. If all members of the filing group are absent for this reason, the home may be excluded for up to six months from the date the last member of the filing group leaves the home to search for employment. After the six months, if a member of the filing group does not return, the home is no longer excluded.¶
(~~f~~e) In the SNAP program, when the financial group is absent because of employment or training for future employment.
Statutory/Other Authority: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 409.050, 410.010, 410.020, 410.070, 410.080, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685, 414.839

AMEND: 461-155-0250

REPEAL: Temporary 461-155-0250 from SSP 77-2021

NOTICE FILED DATE: 12/08/2021

RULE SUMMARY: OAR 461-155-0250 is being amended to adjust the standards to reflect the annual federal cost of living adjustments that happen every January. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living.

CHANGES TO RULE:

461-155-0250
Income and Payment Standard; OSIPM ¶

In the OSIPM program:¶
(1) An individual who is assumed eligible per OAR 461-135-0010 is presumed to meet the income limits for the OSIPM program.¶
(2) An individual meeting the requirements of OAR 461-135-0745 or OAR 461-135-0750, who is not assumed eligible and does not meet the income standards set out in sections (3) or (5) of this rule, must have countable (see OAR 461-001-0000) income that is equal to or less than 300 percent of the full SSI standard for a single individual or have established a qualifying trust as specified in OAR 461-145-0540(10)(c).¶
(3) An individual, other than one identified in sections (1), (2), (5), or (6) of this rule, must have adjusted income (see OAR 461-001-0000) below the standard in this section.~~ [see attached table]~~¶
OSIPM Adjusted Income Standards¶
Number in Need Group &&&........ One &&&................ Two¶
AB/AD/OAA &&&&&&&&........ 841.00&&&........... 1,261.00¶
(4) In the OSIPM (except OSIPM-EPD) program, an individual receiving Medicaid services in a nursing facility or an ICF-ID is allowed the following amounts for clothing and personal incidentals:¶
(a) For an individual who receives a VA pension based on unreimbursed medical expenses (UME), $90 is allowed.¶
(b) For all other individuals, $6~~4.94~~8.77 is allowed.¶
(c) For an individual identified in subsection (b) of this section with countable income (including any SSI) that is less than $6~~4.94~~8.77, the payment standard is equal to the difference between the individual's countable income (including any SSI) and $6~~4.94~~8.77. For the purposes of this subsection, countable income includes income that would otherwise be countable for an individual who is assumed eligible under OAR 461-135-0010.¶
(5) In the OSIPM-EPD program, an individual must have adjusted earned income equal to or below 250 percent of the federal poverty level for a family of one.¶
(6) An individual who meets the requirements of OAR 461-135-0755, is not assumed eligible, and does not meet the income standard set out in section (3) of this rule, must have adjusted income equal to or below 150 percent of the federal poverty level for a family of one.
Statutory/Other Authority: ORS 411.060, ORS 409.050, 411.070, 411.404, 411.704, 411.706, 413.085, 414.685
Statutes/Other Implemented: ORS 411.060, ORS 409.010, 411.070, 411.404, 411.704, 411.706, P.L. 92-336

AMEND: 461-155-0270

REPEAL: Temporary 461-155-0270 from SSP 77-2021

NOTICE FILED DATE: 12/08/2021

RULE SUMMARY: OAR 461-155-0270 is being amended to adjust the standard to reflect the annual federal cost of living adjustments that happen every January. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living.

CHANGES TO RULE:

461-155-0270
Room and Board Standard; OSIPM ¶

For an OSIPM program client in a community based care (see OAR 461-001-0000) facility, the room and board standard is $6~~17~~54.00. A client residing in a community based care facility must pay room and board.
Statutory/Other Authority: ORS 411.060, 411.070, 411.704, 411.706, ORS 409.050, 411.404, 413.085, 414.685
Statutes/Other Implemented: ORS 411.060, 411.070, 411.704, 411.706, ORS 409.010, 411.404, P.L. 92-336

AMEND: 461-160-0580

REPEAL: Temporary 461-160-0580 from SSP 77-2021

NOTICE FILED DATE: 12/08/2021

RULE SUMMARY: OAR 461-160-0580 is being amended to adjust the standards to reflect the annual federal cost of living adjustments that happen every January. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living.

CHANGES TO RULE:

461-160-0580
Excluded Resource; Community Spouse Provision (OSIPM except OSIPM-EPD) ¶

In the OSIPM (except OSIPM-EPD) program:¶
(1) This rule applies to an institutionalized spouse (see OAR 461-001-0030) who has applied for benefits because the individual is in or will be in a continuous period of care (see OAR 461-001-0030).¶
(2) Whether a legally married (see OAR 461-001-0000) couple lives together or not, the determination of whether the value of the couple's resources exceeds the eligibility limit for the institutionalized spouse for the OSIPM program is made as follows:¶
(a) The first step is the determination of what the couple's combined countable (see OAR 461-001-0000) resources were at the beginning of the most recent continuous period of care. (The beginning of the continuous period of care is the first month of that continuous period.)¶
(A) Division 461-140 and 461-145 rules applicable to OSIPM describe which of the couple's resources are countable resources, and are applicable to determine whether a community spouse's resources are countable, even if the rule only applies to OSIPM individuals.¶
(B) The countable resources of both spouses are combined.¶
(C) At this point in the computation, the couple's combined countable resources are considered available equally to both spouses.¶
(b) The second step is the calculation of one half of what the couple's combined countable resources were at the beginning of the continuous period of care. The community spouse's half of the couple's combined resources is treated as a constant amount when determining eligibility.¶
(c) The third step is the determination of the community spouse's resource allowance. The community spouse's resource allowance is the largest of the four following amounts:¶
(A) The community spouse's half of what the couple's combined countable resources were at the beginning of the continuous period of care, but not more than $13~~0,38~~7,400.¶
(B) $2~~6,076~~ 7,480 (the state community-spouse resource allowance).¶
(C) A court-ordered community spouse resource allowance. In this paragraph and paragraph (2)(f)(C) of this rule, the term "court-ordered community spouse resource allowance" means a "court-ordered community spouse resource allowance" that, in relation to the income generated, would raise the community spouse's income to a court-approved monthly maintenance needs allowance. In cases where the individual became an institutionalized spouse on or after February 8, 2006, this resource allowance must use all of the individual's available income and the community spouse's income to meet the community spouse's monthly maintenance needs allowance before any resources are used to generate interest income to meet the allowance.¶
(D) After considering the income of the community spouse (see OAR 461-001-0030) and the income available from the institutionalized spouse, an amount which, if invested, would raise the community spouse's income to the monthly maintenance needs allowance. The amount described in this paragraph is the amount required to purchase a single premium immediate annuity to make up the shortfall; and the amount described in this paragraph is considered only if the amount described in subparagraph (i) of this paragraph is larger than the amount described in subparagraph (ii); it is the difference between the following:¶
(i) The maintenance needs allowance computed in accordance with OAR 461-160-0620.¶
(ii) The difference between:¶
(I) The sum of gross countable income of the community spouse and the institutionalized spouse; and¶
(II) The applicable need standard under OAR 461-160-0620(3)(c).¶
(d) The fourth step is the determination of what the couple's current combined countable resources are when a resource assessment is requested or the institutionalized spouse applies for OSIPM. The procedure in subsection (2)(a) (first step) of this rule is used.¶
(e) The fifth step is the subtraction of the community spouse's resource allowance from the couple's current combined countable resources. The resources remaining are considered available to the institutionalized spouse.¶

(f) The sixth step is a comparison of the value of the remaining resources to the OSIPM resource standard for one person (under OAR 461-160-0015). If the value of the remaining resources is at or below the standard, the institutionalized spouse meets this eligibility requirement. If the value of the remaining resources is above the standard, the institutionalized spouse cannot be eligible until the value of the couple's combined countable resources is reduced to the largest of the four following amounts:¶
(A) The community spouse's half of what the couple's combined countable resources were at the beginning of the continuous period of care (but not more than $13~~0,38~~7,400) plus the OSIPM resource standard for one person.¶
(B) $2~~6,076~~ 7,480 (the state community-spouse resource allowance), plus the OSIPM resource standard for one person.¶
(C) A "court-ordered community spouse resource allowance" plus the OSIPM resource standard for one person. (See paragraph (2)(c)(C) of this rule for a description of the "court-ordered community spouse resource allowance".)¶
(D) The OSIPM resource standard for one person plus the amount described in the remainder of this paragraph. After considering the income of the community spouse and the income available from the institutionalized spouse, add an amount which, if invested, would raise the community spouse's income to the monthly maintenance needs allowance. This amount is the amount required to purchase a single premium immediate annuity to make up the shortfall. Add this amount only if the amount described in subparagraph (i) of this paragraph is larger than the amount described in subparagraph (ii); it is the difference between the following:¶
(i) The monthly income allowance computed in accordance with OAR 461-160-0620.¶
(ii) The difference between:¶
(I) The sum of gross countable income of the community spouse and the institutionalized spouse; and¶
(II) The applicable need standard under OAR 461-160-0620(3)(c).¶
(3) Once eligibility has been established, resources equal to the community spouse's resource allowance (under subsection (2)(c) of this rule) must be transferred to the community spouse if those resources are not already in that spouse's name. The institutionalized spouse must indicate ~~his or he~~their intent to transfer the resources and must complete the transfer to the community spouse within 90 days. This period may be extended for good cause. These resources are excluded during this period. After this period, resources owned by the institutionalized spouse but not transferred out of that spouse's name will be countable and used to determine ongoing eligibility.¶
(4) The provisions of paragraph (2)(c)(C) of this rule requiring income to be considered first may be waived if the Department determines that the resulting community resource allowance would create an undue hardship on the spouse (see OAR 461-001-0000) of the individual.
Statutory/Other Authority: ORS 411.070, 411.083, 411.404, 411.706, ORS 411.060, ORS 409.050, 413.085, 414.685
Statutes/Other Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.706, ORS 409.010

AMEND: 461-160-0620

REPEAL: Temporary 461-160-0620 from SSP 77-2021

NOTICE FILED DATE: 12/08/2021

RULE SUMMARY: OAR 461-160-0620 is being amended to adjust the standards to reflect the annual federal cost of living adjustments that happen every January. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living. It is also being amended to update the title.

CHANGES TO RULE:

461-160-0620
Income Deductions and ~~Cl~~Patient Liability; Long-Term Care Services or Home and Community-Based Care; OSIPM ¶

In the OSIPM program:¶
(1) Deductions from income are made for an individual residing in or entering a long-term care facility or receiving home and community-based care (see OAR 461-001-0030) as explained in subsections (3)(a) to (3)(h) of this rule.¶
(2) Except as provided otherwise in OAR 461-160-0610, the liability of the individual is determined according to subsection (3)(i) of this rule.¶
(3) Deductions are made in the following order:¶
(a) One standard earned income deduction of $65 is made from the earned income in the OSIPM program.¶
(b) The deductions under the plan for self-support as allowed by OAR 461-145-0405.¶
(c) One of the following need standards:¶
(A) A $6~~4.94~~8.77 personal needs allowance for an individual receiving long-term care services.¶
(B) A $90 personal needs allowance for an individual receiving long-term care services who is eligible for VA benefits based on unreimbursed medical expenses. The $90 allowance is allowed only when the VA benefit has been reduced to $90.¶
(C) For an individual who receives home and community-based care:¶
(i) Except as provided in subparagraph (ii) of this paragraph, the OSIPM maintenance standard.¶
(ii) For an individual who receives in-home services, the OSIPM maintenance standard plus $500.¶
(d) A community spouse (see OAR 461-001-0030) monthly income allowance is deducted from the income of the institutionalized spouse (see OAR 461-001-0030) to the extent that the income is made available to or for the benefit of the community spouse, using the following calculation.¶
(A) Step 1 - Determine the maintenance needs allowance. $2,177.50 is added to the amount over $653.25 that is needed to pay monthly shelter expenses for the principal residence of the couple. This sum or $3,~~259.50~~435, whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the SNAP program (see OAR 461-160-0420). If an all-inclusive rate covers items that are not allowable shelter expenses, including meals or housekeeping in an assisted living facility, or the rate includes utilities, to the extent they can be distinguished, these items must be deducted from the all-inclusive rate to determine allowable shelter expenses.¶
(B) Step 2 - Compare maintenance needs allowance with community spouse's countable income. The countable (see OAR 461-001-0000) income of the community spouse is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.¶
(C) Step 3 - If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.¶
(e) A dependent income allowance as follows:¶
(A) For a case with a community spouse, a deduction is permitted only if the monthly income of the eligible dependent is below $2,177.50. To determine the income allowance of each eligible dependent:¶
(i) The monthly income of the eligible dependent is deducted from $2,177.50.¶
(ii) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the income allowance of the eligible dependent.¶
(B) For a case with no community spouse:¶
(i) The allowance is the TANF adjusted income standard (see OAR 461-155-0030) for the individual and eligible dependents.¶
(ii) The TANF standard is not reduced by the income of the dependent.¶
(f) Costs for maintaining a home if the individual meets the criteria in OAR 461-160-0630.¶

(g) Medical deductions allowed by OAR 461-160-0030 and 461-160-0055 are made for costs not covered under the state plan.¶
(h) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income (see OAR 461-001-0000).¶
(i) The individual's liability is determined as follows:¶
(A) For an individual receiving home and community-based care (except an individual identified in OAR 461-160-0610(4)), the liability is the actual cost of the home and community-based care or the adjusted income of the individual, whichever is less. This amount must be paid to the Department or the home and community-based care facility each month as a condition of being eligible for home and community-based care. In OSIPM-ICP, the liability is subtracted from the gross monthly benefit.¶
(B) For an individual who resides in a nursing facility, the liability is the actual cost of services or the adjusted income of the individual, whichever is less. This amount must be paid to the facility each month as a condition of being eligible for nursing facility services.
Statutory/Other Authority: ORS 409.050, 413.085, 411.060, 411.070, 411.404, 414.065, 414.685, 411.706
Statutes/Other Implemented: ORS 409.010, 413.085, 411.060, 411.070, 411.404, 414.065, 414.685, 42 USC 1396r-5, 411.706, 42 CFR 435.725 - 435.735