

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

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

03/22/2022 12:03 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Proposing Changes to Rules about Assets, Special Diet, Reporting Changes, and SNAP Categorical Eligibility

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/25/2022 11:55 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 04/25/2022

TIME: 11:00 AM - 12:30 PM

OFFICER: Meorah Solar

ADDRESS: Virtual Hearing - No Physical Location

Phone 1-971-277-2343, code 400 350 299#

Ask Hearings Officer for MS Teams link

No Physical Location, OR 0

SPECIAL INSTRUCTIONS:

Everyone has a right to know about and use Oregon Department of Human Services (ODHS) programs and services. ODHS provides free help. Some examples of the free help ODHS can provide are: sign language and spoken language interpreters, written materials in other languages, braille, large print, audio and other formats. If you need help or have questions, please contact Meorah Solar at (503) 602-7545, 711 TTY, or meorah.a.solar@dhsosha.state.or.us at least 48 hours before the meeting.

NEED FOR THE RULE(S)

OAR 461-135-0505 about Categorical Eligibility for SNAP needs to be amended to put into permanent rule the federal poverty level limit increase from 185 percent to 200 percent for SNAP benefits. It also needs to be amended to align categorical eligibility rule language with federal and ONE system categorical eligibility language.

OAR 461-145-0330 about Loans and Interest on Loans, OAR 461-145-0490 about Social Security Benefits (SSB), and OAR 461-145-0510 about Supplemental Security Income (SSI) need to be amended to match the treatment of loans, SSB, and SSI in rule with how the ONE system treats loans, SSB, and SSI. The rule changes are in a temporary state and are made permanent by this filing.

OAR 461-155-0670 about Special Need; Special Diet Allowance needs to be changed to align the rule with current policy that has been in place for many years and other Chapter 461 rules. In the REF, REFM, SFPSS, and TANF programs, individuals receiving SSI are not JOBS eligible and are therefore not eligible for the support payments listed in this rule. The rule changes are in a temporary state and are made permanent by this filing.

OAR 461-170-0011 about Changes That Must Be Reported needs to be changed to restore the ERDC program reporting requirements and align the rule's SNAP unearned and earned income and lottery and gambling winnings reporting requirements with Federal cost of living adjustments that were made effective October 1, 2021. The rule changes are in a temporary state and are made permanent by this filing.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

OAR 461-135-0505 -

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

OARs 461-145-0330, OAR 461-145-0490, OAR 461-145-0510, 461-155-0670 - No documents relied upon.

OAR 461-170-0011 -

Supplemental Nutrition Assistance Program (SNAP) Fiscal Year (FY) 2022 Maximum Allotments and Deductions, available here: <https://fns-prod.azureedge.net/sites/default/files/media/file/FY22-Maximum-Allotments-Deductions.pdf>

USDA Memo August 9, 2021, "SNAP – Fiscal Year 2022 Cost-of-Living Adjustments Without Maximum Allotments," available here: <https://fns-prod.azureedge.net/sites/default/files/resource-files/COLA%20Memo%20FY2022%20Without%20Maximum%20Allotments.pdf>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The agency does not expect a racial equity impact from adopting changes to OAR 461-135-0505. However, this expectation is mainly based on a lack of race-based data available regarding individuals who were denied SNAP benefits with an income at or above 185 percent of the federal poverty level, but under 200 percent.

The agency does not expect a racial equity impact from adopting changes to OARs 461-145-0330, 461-145-0490, or 461-145-0510, however, the agency has no race-based data regarding how eligibility was impacted specifically due to the treatment of loans, SSB, or SSI that are now being changed.

The agency does not expect a racial equity impact from adopting changes to OAR 461-155-0670.

The agency does not expect a racial equity impact from adopting changes to OAR 461-170-0011 as the agency has no way to obtain race-based data of who may receive income or resources that will no longer need to be reported based on increasing the reporting limits.

FISCAL AND ECONOMIC IMPACT:

The Department estimates that amending OAR 461-135-0505 will have a positive impact for families or individuals whose income is at the 185 percent federal poverty level, but lower than the new 200 percent federal poverty level. As ODHS does not know how many applicants will seek SNAP with countable income under 200 percent but at/over 185 percent, the agency is unable to provide a collective dollar amount. However, a group of one or two persons whose income is between the 185 and 200 percent levels may expect to have a positive fiscal impact of around \$20 per month

if newly eligible for SNAP. Additionally, from an analysis done in 2019, it is estimated that approximately an additional 17,000 families will be potentially eligible to receive SNAP benefits as a result of this rule change. The Department estimates no fiscal impact on the Department, the public, other state agencies, local government, and business, including small business. There is no cost of compliance for small businesses. No small businesses are subject to this rule.

The Department estimates that amending OAR 461-145-0330 may have a fiscal impact on the Department, and those eligible or applying for benefits. As the Department is unable to know who will have a loan that would have previously been countable, the amount of those possible loans, or whether the different treatment would have impacted benefit eligibility; ODHS is unable to provide a specific amount for how much, if any actual impact this rule change will have. The Department estimates no fiscal impact to the public, other state agencies, local government, and business, including small business. There is no cost of compliance for small businesses. No small businesses are subject to this rule.

The Department estimates that amending OAR 461-145-0490 will have no impact on the Department, those eligible or applying for benefits or services, the public, other state agencies, local government, and business, including small business. There is no cost of compliance for small businesses. No small businesses are subject to this rule.

The Department estimates that amending OAR 461-145-0510 will have no impact on the Department, those eligible or applying for benefits or services, the public, other state agencies, local government, and business, including small business. There is no cost of compliance for small businesses. No small businesses are subject to this rule.

The Department estimates that amending OAR 461-155-0670 will have no impact on the Department, those eligible or applying for benefits or services, the public, other state agencies, local government, and business, including small business. There is no cost of compliance for small businesses. No small businesses are subject to this rule.

The Department estimates that amending OAR 461-170-0011 will have a positive fiscal impact on those eligible or applying for benefits or services whose resources exceeded the old limit, but are under the new limit; as well as those whose change of income exceeds the old reporting limit, but is under the new reporting limit. As there is no data on these topics, no specific amount can be estimated. The Department estimates no impact on the Department, the public, other state agencies, local government, and business, including small business. There is no cost of compliance for small businesses. No small businesses are subject to this rule.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

See Fiscal and Economic Impact

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the development of these rules but are invited to provide input during the public comment period.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

461-135-0505, 461-145-0330, 461-145-0490, 461-145-0510, 461-155-0670, 461-170-0011

AMEND: 461-135-0505

RULE SUMMARY: OAR 461-135-0505 is being changed to, in permanent rule, further restructure categorical eligibility provisions by adding categories of original Categorical Eligibility, Expanded Categorical Eligibility, and Broad Based Categorical Eligibility. It is also being changed to 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:¶~~

~~(Bj) 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¶~~

~~(Cij) 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¶~~

~~(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.¶~~

(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

AMEND: 461-145-0330

RULE SUMMARY: OAR 461-145-0330 is being changed to, in permanent rule, allow payments to be treated as a loan when a loan agreement is made orally for all programs, not just SNAP and APD Medical Programs. The rule currently only allows this when a loan agreement is written.

CHANGES TO RULE:

461-145-0330

Loans and Interest on Loans ¶¶

(1) This rule covers proceeds of loans, loan repayments, and interest earned by a lender. If the proceeds of a loan are used to purchase an asset, the asset is evaluated under the other rules in this division of rules.¶¶

(2) For purposes of this rule:¶¶

(a) In the OSIP, OSIPM, and QMB programs:¶¶

(A) "Bona fide loan agreement" means an agreement that:¶¶

(i) Is enforceable under state law;¶¶

(ii) Is in effect at the time the cash proceeds are provided to the borrower; and¶¶

(iii) Includes an obligation to repay and a feasible repayment plan.¶¶

(B) "Negotiable loan agreement" means a loan agreement in which the instrument ownership and the whole amount of money expressed on its face can be transferred from one person to another (i.e., sold) at prevailing market rates.¶¶

(b) In all programs:¶¶

(A) "Reverse-annuity mortgage" means a contract with a financial institution (see OAR 461-001-0000) under which the financial institution provides payments against the equity in the home that must be repaid when the homeowner dies, sells the home, or moves.¶¶

(B) The proceeds of a home equity loan or reverse-annuity mortgage (see paragraph (A) of this subsection) are considered loans.¶¶

(3) ~~For payments~~In all programs, in order to treat payments as a loan that a member of the financial group (see OAR 461-110-0530) receives as a borrower ~~to be treated as a loan:~~¶¶

~~(a) In the OSIP, OSIPM, QMB, and SNAP programs, there must be an oral or written loan agreement, and this agreement must state when repayment of the loan is due to the lender.¶¶~~

~~(b) In programs other than the OSIP, OSIPM, QMB, and SNAP programs, there must be a written loan agreement, and this agreement must be signed by the borrower and lender, dated before the borrower receives the proceeds of the loan, and, there must be an oral or written loan agreement. This agreement must state when repayment of the loan is due to the lender.¶¶~~

(4) Payments for a purported loan that do not meet the requirements of section (3) of this rule are counted as unearned income.¶¶

(5) When a member of a financial group receives cash proceeds as a borrower from a loan that meets the requirements of section (3) of this rule:¶¶

(a) In all programs, educational loans are treated according to OAR 461-145-0150.¶¶

(b) In the ERDC, REF, REFM, SNAP, and TANF programs, the loan is excluded. If retained after the month of receipt, the loan proceeds are treated in accordance with OAR 461-140-0070.¶¶

(c) In the OSIP, OSIPM, and QMB-DW programs:¶¶

(A) If the loan is a bona fide loan agreement (see paragraph (2)(a)(A) of this rule), the money provided by the lender is not income but is counted as the borrower's resource if retained in the month following the month of receipt (notwithstanding OAR 461-140-0070).¶¶

(B) If the loan is not a bona fide loan agreement, the money provided by the lender is counted as income in the month received and is counted as a resource if retained in the month following the month it was received.¶¶

(d) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:¶¶

(A) If the loan is a bona fide loan agreement, the money provided by the lender is not considered income.¶¶

(B) If the loan is not a bona fide loan agreement, the money provided by the lender is counted as income in the month received.¶¶

(C) All money provided by the lender is excluded as a resource.¶¶

(6) In the OSIPM (except OSIPM-EPD) program, if an individual or a spouse (see OAR 461-001-0000) of an individual uses funds to purchase a mortgage or to purchase or lend money for a promissory note or loan:¶¶

(a) In a transaction occurring on or after July 1, 2006:¶¶

(A) The balance of the payments owing to the individual or spouse of the individual is a transfer of assets for less than fair market value (see OAR 461-001-0000), unless all of the following requirements are met:¶¶

- (i) The total value of the transaction is being repaid to the individual or spouse of the individual within three months of the life expectancy per the actuarial life expectancy of that individual as established by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration. If the loan, promissory note, or mortgage are jointly owned by the individual and their spouse, the requirements of this section are met if the transaction is repaid according to the life expectancy of either the individual or their spouse.¶
- (ii) Payments are made in equal amounts over the term of the transaction without any deferrals or balloon payments.¶
- (iii) The contract is not cancelled upon the death of the individual receiving the payments under this transaction.¶
- (iv) No one other than the estate of the lender is designated as remainder beneficiary. ¶
- (B) If any of the requirements in paragraph (a)(A) of this section are not met, payments against the principal and interest are treated as unearned income. The outstanding principal balance of the loan is excluded as a resource.¶
- (b) In a transaction occurring before July 1, 2006, or for a transaction occurring on or after July 1, 2006, that meets all of the requirements of subsection (a) of this section, the loan is treated as follows:¶
 - (A) Interest income is treated as unearned income.¶
 - (B) If the loan is both a negotiable loan agreement (see paragraph (2)(a)(B) of this rule) and a bona fide loan agreement, the loan is counted as a resource valued at the outstanding principal balance. Payments against the principal are excluded as income.¶
 - (C) If the loan does not qualify under paragraph (B) of this subsection, payments against the principal are counted as unearned income. The outstanding principal balance of the loan is excluded as a resource.¶
- (7) In the OSIP, OSIPM, and QMB-DW programs, if an individual uses funds to purchase a mortgage or to purchase or lend money for a promissory note or loan:¶
 - (a) Interest income is treated as unearned income.¶
 - (b) If the loan is both a negotiable loan agreement and a bona fide loan agreement, the loan is counted as a resource of the lender valued at the outstanding principal balance. Payments against the principal are excluded as income.¶
 - (c) If the loan does not qualify under subsection (b) of this section, the balance of the loan is excluded as a resource. The payments against the principal are counted as income to the lender.¶
- (8) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, if an individual uses funds to purchase a mortgage or to purchase or lend money for a promissory note or loan:¶
 - (a) Interest income is counted as unearned income.¶
 - (b) Payments against the principal of all loans are excluded as income.¶
- (9) In all programs other than the OSIP, OSIPM, and QMB programs:¶
 - (a) The interest payment is counted as unearned income.¶
 - (b) The payment of principal is excluded.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

AMEND: 461-145-0490

RULE SUMMARY: OAR 461-145-0490 is being changed to, in permanent rule, exclude the representative payee fee in the ERDC, REF, REFM, TA-DVS, and TANF programs for individuals who the Social Security Administration has determined must have a representative payee for Social Security Benefits except for Supplemental Security Income and death benefits.

CHANGES TO RULE:

461-145-0490

Social Security Benefits ¶¶

Except for Supplemental Security Income (SSI) (see OAR 461-145-0510) and death benefits remaining after burial costs (see OAR 461-145-0500), Social Security benefits are treated as follows:¶¶

(1) Monthly payments are counted as unearned income.¶¶

(2) Except as provided in sections (3) and (4) of this rule, all payments other than monthly payments are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).¶¶

(3) In the ~~SNAP~~ERDC, REF, REFM, SNAP, TA-DVS, and TANF programs, the representative payee fee paid by an individual who is required by the Social Security Administration to receive payments through a representative payee is excluded. The amount of the exclusion is limited to the amount authorized by the Social Security Administration.¶¶

(4) In the OSIP, OSIPM, and all QMB programs:¶¶

(a) For the purposes of this section, a payment is retroactive if it is issued in any month after the calendar month for which it is intended.¶¶

(b) Retroactive payments are counted as unearned income in the month of receipt except as provided in subsection (c) of this section.¶¶

(c) When retroactive payments are made through the representative payee of an individual who is required to have a representative payee because of a drug addiction or alcoholism use disorder, the retroactive payments may be required to be made in installments. If the payments are made in installments, the total of the benefits to be paid in installments is considered unearned income in the month in which the first installment is made.¶¶

(d) Except in the QMB-BAS, QMB-SMB, and QMB-SMF programs, any remaining amount from a retroactive payment after the month of receipt is excluded as a resource for nine calendar months following the month in which the payment is received. After the nine-month period, any remaining amount is a countable (see OAR 461-001-0000) resource.

Statutory/Other Authority: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, ORS 329A.500

Statutes/Other Implemented: ORS 409.010, 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839, ORS 329A.500

AMEND: 461-145-0510

RULE SUMMARY: OAR 461-145-0510 is being changed to, in permanent rule, exclude the representative payee fee in the REF, REFM, TA-DVS, and TANF programs for individuals who the Social Security Administration has determined must have a representative payee for Supplemental Security Income benefits.

CHANGES TO RULE:

461-145-0510

Supplemental Security Income (SSI) ¶

(1) In the ERDC and SNAP, REF, REFM, SNAP, TA-DVS, and TANF programs, if an individual is required by law to receive an Supplemental Security Income (SSI) benefit through a representative payee, the representative's fee is excluded.¶

(2) In the ERDC program:¶

(a) A monthly SSI payment is counted as unearned income.¶

(b) Lump-sum SSI payments are counted according to OAR 461-140-0120.¶

(3) In the OSIP, OSIPM, and QMB-DW programs:¶

(a) A retroactive SSI payment is excluded as a resource for nine months after the month of receipt. After the nine-month period, any remaining amount is a countable (see OAR 461-001-0000) resource. For the purposes of this section, a payment is retroactive if it is issued in any month after the calendar month for which it is intended.¶

(b) All SSI payments received by members of the financial group (see OAR 461-110-0530) are counted as unearned income in the month received.¶

(4) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all SSI payments received by members of the financial group are counted as unearned income in the month received.¶

(5) In the REF, REFM, and TANF programs:¶

(a) SSI monthly and lump-sum payments are excluded if the recipient will be removed from the financial group (see OAR 461-110-0530) the month following receipt of the payment.¶

(b) An SSI lump-sum payment is excluded in the month received and the next month.¶

(6) In the SNAP program:¶

(a) A monthly SSI payment is counted as unearned income.¶

(b) A lump-sum SSI payment is excluded.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685, 414.839

AMEND: 461-155-0670

RULE SUMMARY: OAR 461-155-0670 is being changed to, in permanent rule, remove the REF, REFM, SFPSS and TANF programs from the rule as those programs no longer support the special diet allowance and have not for many years.

CHANGES TO RULE:

461-155-0670

Special Need; Special Diet Allowance ¶¶

(1) In the OSIPM, ~~REF, REFM, SFPSS, and TANF~~ programs, a ~~client~~ individual receiving any of the following is ineligible for a special diet allowance:¶¶

- (a) Room and board.¶¶
- (b) Residential care facility services or assisted living facility services.¶¶
- (c) Nursing facility services.¶¶
- (d) Adult foster care services.¶¶
- (e) An allowance for restaurant meals.¶¶
- (f) A commercial food preparation diet.¶¶

(2) An ~~REF, REFM, SFPSS, or TANF client~~ individual in the OSIPM program, a ~~client~~ receiving Supplemental Security Income (SSI), having an adjusted income less than the OSIPM program income standard under OAR 461-155-0250, or receiving in-home services under OAR 411-030 ~~---~~ is eligible for a special diet allowance if all of the following requirements are met:¶¶

(a) The Department must receive verification, as documented by a Department-approved medical authority (see OAR 461-125-0830), of the following: ¶¶

- (A) That the individual must adhere to a special diet.¶¶
- (B) The individual's specific nutritional need (such as low carbohydrates, high protein); and¶¶
- (C) That the individual would be in an imminent life-threatening situation without the special diet.¶¶

(b) A licensed dietitian must provide written documentation of the following, and a copy must be provided to the Department:¶¶

- (A) The individual's current diet items being replaced or removed, if any;¶¶
- (B) The special diet items being added, relating to the individual's specific nutritional need described in paragraph (a)(B) of this section; and¶¶
- (C) The recommended quantity of each special diet item.¶¶

(c) The individual requesting a special diet allowance must provide to the Department:¶¶

- (A) Verification of the monthly cost for any current diet item being replaced or removed: and¶¶
- (B) The monthly cost of any special diet item being added.¶¶

(3) The amount of a special diet allowance is calculated as follows:¶¶

(a) The special diet allowance is the monthly cost of the special diet items, less the monthly cost of the current diet items being replaced or removed. If no items are being replaced or removed, the allowance is the actual monthly cost of the special diet items.¶¶

(b) In the OSIPM program, a monthly amount over \$300.00 must be authorized by the APD Medicaid Eligibility Unit.¶¶

(4) Local management staff must approve or deny any request for a special diet allowance provided under subsection (3)(a) of this rule.¶¶

(5) Each special diet allowance must be reviewed and reauthorized annually.¶¶

(6) Special diet items must be purchased at the lowest cost available for that item.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 412.014, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 411.060, 411.070, 411.404, 411.706, 412.014, 412.049, 413.085, 414.685

AMEND: 461-170-0011

RULE SUMMARY: OAR 461-170-0011 is being changed to, in permanent rule, update an income limit reference for the ERDC program, increase the SNAP CRS earned and unearned income reporting limits to \$125, and to correct the SNAP lottery and gambling winnings reporting limit.

CHANGES TO RULE:

461-170-0011

Changes That Must Be Reported ¶

- (1) A change in employment status is considered to occur as follows:¶
 - (a) For a new job, the change occurs the first day of the new job.¶
 - (b) For a job separation, the change occurs on the last day of employment.¶
- (2) A change in source of income is considered to occur as follows:¶
 - (a) For earned income, the change occurs upon the receipt by the individual of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.¶
 - (b) For unearned income, the change occurs the day the individual receives the new or changed payment.¶
- (3) An individual must report, orally or in writing, the following changes:¶
 - (a) In the ERDC program, an individual must report the following changes within 10 days of occurrence:¶
 - (A) A change in child care provider.¶
 - (B) A change in employment status.¶
 - (C) A change in mailing address or residence.¶
 - (D) A change in membership of the filing group (see OAR 461-110-0350).¶
 - (E) A member of the filing group is discharged from the U.S. military and returning from active duty in a military war zone.¶
 - (F) A change in income above the ~~ERDC income limit~~ 250 percent FPL or 85 percent state median income (SMI), whichever is higher, as defined in OAR 461-155-0150(5)(b)80, that is expected to continue.¶
 - (b) In the SNAP program:¶
 - (A) An ABAWD residing in one of the SNAP time limit areas (see OAR 461-135-0520), who is working, paid or unpaid, and assigned to CRS, SRS, or TBA must report a change in work hours when work hours fall below 20 hours per week. This change must be reported within 10 days of occurrence.¶
 - (B) An individual assigned to CRS must report any of the following changes within 10 days of occurrence:¶
 - (i) ~~A~~ Retroactively effective October 1, 2021, a change in earned income of more than \$10025.¶
 - (ii) ~~A~~ Retroactively effective October 1, 2021, a change in unearned income of more than \$1250.¶
 - (iii) A change in source of income.¶
 - (iv) A change in membership of the filing group (see OAR 461-110-0370) and any resulting change in income.¶
 - (v) A change in residence and the shelter costs in the new residence.¶
 - (vi) A change in the legal obligation to pay child support.¶
 - (vii) When the sum of cash on hand, stocks, bond, and money in a bank or savings institution account reaches or exceeds program resource limits.¶
 - (viii) Acquisition or change in ownership of a non-excluded vehicle.¶
 - (C) An individual assigned to SRS must report by the tenth day of the month following the month of occurrence when:¶
 - (i) The monthly income of the filing group exceeds the SNAP countable (see OAR 461-001-0000) income limit.¶
 - (ii) A member of the financial group (see OAR 461-110-0530) has lottery or gambling winnings equal to or in excess of ~~\$3,500~~ the amount listed as the resource limit in OAR 461-160-0015(7)(a).¶
 - (D) An individual assigned to TBA is not required to report any changes except for the requirement set out in paragraph (3)(b)(A).¶
 - (c) For Employment Payments (see OAR 461-135-1270) and JPI (see OAR 461-135-1260), an individual must follow the same reporting requirements as a SNAP client assigned to CRS, SRS, or TBA reporting systems (see OAR 461-170-0010).¶
 - (d) In the GA, OSIP, OSIPM, and QMB programs, an individual must report all changes that may affect eligibility (see OAR 461-001-0000) or benefit level within 10 days of occurrence, including any of the following changes:¶
 - (A) A change in employment status.¶
 - (B) A change in health care coverage.¶
 - (C) A change in membership of the household group (see OAR 461-110-0210).¶
 - (D) A change in marital status.¶
 - (E) A change in residence.¶

- (F) A change in resources.¶
- (G) A change in source or amount of income.¶
- (H) Except for the QMB programs, out-of-pocket medical expenses.¶
- (I) For inmates a resident of a public institution (see OAR 461-135-0950) whose medical benefits have been suspended (see under OAR 461-135-0950), a change in incarceration status.¶
- (e) In the REF, SFPSS, and TANF programs, an individual assigned to CRS must report any of the following changes within 10 days of occurrence:¶
 - (A) Acquisition or change in ownership of a non-excluded vehicle.¶
 - (B) A change in earned income more than \$100.¶
 - (C) Employment separation.¶
 - (D) A change in membership of the household group.¶
 - (E) A change in marital status or other changes in membership of the filing group.¶
 - (F) A change in mailing address or residence.¶
 - (G) A change in pregnancy status of any member of the filing group.¶
 - (H) A change in source of income.¶
 - (I) A change in unearned income more than \$50.¶
 - (J) A change in who pays the shelter costs if the costs will be paid by a non-custodial parent.¶
 - (K) Sale or receipt of a resource that causes total resources to exceed program resource limits.¶
- (f) In the REFM program, an individual must report the following changes within 10 days of occurrence:¶
 - (A) A change in membership of the household group.¶
 - (B) A change in residence.¶
 - (C) A change in pregnancy status of any member of the filing group.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.081, 411.404, 411.704, 411.706, 411.816, 411.825, 411.837, 412.014, 412.049, 413.085, 414.685, 414.826