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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 39-2022

CHAPTER 461

DEPARTMENT OF HUMAN SERVICES

SELF-SUFFICIENCY PROGRAMS

FILED

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending a Rule about Refugee Program Eligibility and Department Actions when Whereabouts Become Unknown

EFFECTIVE DATE: 06/27/2022 THROUGH 12/11/2022

AGENCY APPROVED DATE: 06/27/2022

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NEED FOR THE RULE(S):

OAR 461-135-0900 about Specific Requirements; REF, REFM, needs to be amended to add clarity about which individuals are eligible for the twelve month REF expansion. This rule change will help reduce or eliminate confusion.

OAR 461-175-0210 needs to be changed to implement new policy decisions for the ERDC, REF, and TANF programs regarding what actions the Department shall take when an individual's mail is returned without a forwarding address, or when their whereabouts become unknown through a different information source. These policy changes will reduce the amount of case closures in these programs based on an individual's whereabouts becoming unknown.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-135-0900 will result in serious prejudice to the public interest, community partners and lawyers working to support refugee communities, the Department, and individuals eligible for an extension to their Refugee program benefits. The Department needs to proceed by temporary filing so its rule regarding the extension of the REF program to twelve months is very clear about who is eligible and clearly aligns with the changes announced by the Office of Refugee Resettlement (ORR). Failure to amend these rules immediately could create confusion for ODHS staff, partner agencies, the public, individuals who were eligible for the Refugee program on or after October 1, 2021, and those helping them to understand and navigate the ODHS Refugee program. These amendments create clear and accurate guidance in rule and keep rule aligned with law.

The Department finds that failure to act promptly by amending OAR 461-175-0210 will result in serious prejudice to the public interest, the Department, individuals in the ERDC, REF, and TANF programs. The Department needs to proceed by temporary filing so its rules align with recent program decisions that restrict when ODHS can close the case of the individuals in the programs listed, based on their whereabouts becoming unknown. Failure to amend these rules immediately could create confusion for ODHS staff, partner agencies, the public, and individuals who have read recently published communications about these policy changes. It would also delay the implementation of the policy changes, which would result in continued interruption of program benefits in circumstances in which ODHS has chosen to

continue benefits. These amendments create clear and accurate guidance in rule, keep rule aligned with ODHS decision, and reduce benefit closures.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

* Dear Colleague Letter 22-12 from Office of Refugee Resettlement dated March 28, 2022, available here:
<https://www.acf.hhs.gov/sites/default/files/documents/orr/ORR-DCL-22-12-Expansion-of-RCA-and-RMA-Eligibility-Period.pdf>

RULES:

461-135-0900, 461-175-0210

AMEND: 461-135-0900

SUSPEND: Temporary 461-135-0900 from SSP 38-2022

RULE SUMMARY: OAR 461-135-0900 is being changed to make clear that the extended twelve-month eligibility for the Refugee program is only allowed for individuals whose date of program eligibility is on or after October 1, 2021.

CHANGES TO RULE:

461-135-0900

Specific Requirements; REF, REFM ¶

- (1) In addition to the eligibility (see OAR 461-001-0000) requirements in other rules in OAR chapter 461, an individual must meet all of the requirements in this rule to be eligible for the REF and REFM programs.¶
- (2) An individual must meet the noncitizen status requirements of OAR 461-120-0125, except a child (see OAR 461-001-0000) born in the United States to an individual in the REF or REFM program meets the noncitizen status requirements for the REF and REFM programs as long as each parent (see OAR 461-001-0000) in the household group (see OAR 461-110-0210) meets the noncitizen status requirements of OAR 461-120-0125.¶
- (3) An individual is not eligible to receive REF and REFM program benefits if the individual is a full-time student of "higher education", unless such education is part of a cash assistance case plan. Any education or training allowable under an approved case plan must be less than one year in length. For the purposes of this rule, "higher education" means education that meets the requirements of one of the following subsections:¶
- (a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL, and high school equivalency programs at these institutions are not considered "higher education".¶
- (b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered "higher education".¶
- (4) Eligibility for REF and REFM program benefits -¶
- (a) For individuals whose date of eligibility is before October 1, 2021, is limited to the first eight months from the date the immigration status was granted. Months in the United States are counted as whole months. There is no prorating of months.¶
- (b) For individuals whose date of eligibility is on or after October 1, 2021, is limited to the first twelve months from the date the immigration status was granted, except for individuals that meet the criteria of paragraph (B) of this subsection.¶
- (A) Months in the United States are counted as whole months. There is no prorating of months.¶
- (B) The twelve-month period begins May 21, 2022, for an individual who is a citizen or national of Ukraine, or an individual who last habitually resided in Ukraine, who was paroled into the United States between February 24, 2022, and May 21, 2022.¶
- (5) In the REF and REFM programs, if an individual was originally resettled in Oregon through the federal refugee resettlement process, then the individual must provide the name of the local resettlement agency that resettled them.
- Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.116, 411.121, 411.404, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.121, 411.404, 411.878, 412.049, 414.685, 45 CFR 400, H.R. 7691, 117th Cong. (2021-2022)

AMEND: 461-175-0210

RULE SUMMARY: OAR 461-175-0210 is being amended to add ERDC, TANF, and REF to the list of programs that will not end program benefits when mail or benefits are returned. It is also being changed to better group the provisions for programs who will continue to take some kind of closure action when mail or benefits are returned. Lastly, it is being changed for the TANF and REF programs to restrict the Department to act only on non-mail information that indicates the whereabouts of an individual is unknown to when the source is "another governmental agency; private, non-profit agency; or first-hand knowledge of an ODHS staff member learned from the course of business," and to set in place a process that gives individuals 10 days to provide their whereabouts.

CHANGES TO RULE:

461-175-0210

Notice Situation; Individual Moved or Whereabouts Unknown ¶¶

(1) In all programs except the SNAP program, to end benefits for an individual who has moved out of Oregon and no longer meets residency requirements under OAR 461-120-0010, the Department sends the following decision notice (see OAR 461-001-0000):¶¶

(a) In the ERDC, OSIP, OSIPM, QMB, REF, REFM, and TANF programs:¶¶

(A) The Department sends a timely continuing benefit decision notice (see OAR 461-001-0000) to the individual who has moved out of Oregon.¶¶

(B) The Department sends a basic decision notice (see OAR 461-001-0000) if the individual becomes eligible for benefits in another state.¶¶

(b) In the GA program:¶¶

(A) No decision notice is required to end housing assistance payments.¶¶

(B) The Department sends a timely continuing benefit decision notice to end Personal Incidental Fund and utility assistance payments.¶¶

(c) For Employment Payments (see OAR 461-001-0025 and 461-135-1270) and JPI (see OAR 461-135-1260), no decision notice is required if the Department determines that the benefit group (see OAR 461-110-0750) has moved out of Oregon.¶¶

~~(2) In all programs except the SNAP and TA-DVS programs, in the GA, OSIP, OSIPM, and QMB programs --¶¶~~

~~(a) If Department mail or benefits have been returned with no forwarding address, the Department gives the individual the benefits if the individual's whereabouts become known during the period covered by the returned benefits.¶¶~~

~~(3b) In all programs except the SNAP and TA-DVS programs, if Department mail or benefits have been returned with no forwarding address, and the individual's whereabouts remain unknown, the Department ends benefits by sending the following a basic decision notice to their last known address:¶¶~~

~~(a) Except for Employment Payments and JPI, a basic decision notice.¶¶~~

~~(b) For Employment Payments and JPI, no decision notice is required.¶¶~~

~~(4.¶¶~~

~~(3) In the SNAP program, and for JPI --¶¶~~

~~(a) When the filing group is participating in the Change Report System (CRS) and: ¶¶~~

~~(A) Department mail or benefits have been returned with no forwarding address, or with an Oregon address not yet reported to ODHS, the Department shall allow the filing group 10 days to meet residence and shelter cost reporting requirements under OAR 461-170-0011. If the information is not provided, the Department sends a timely continuing benefit decision notice.¶¶~~

~~(B) Department mail or benefits have been returned with an address outside of Oregon, no decision notice is required to end benefits.¶¶~~

~~(b) When the filing group is participating in the Simplified Reporting System (SRS) or Transitional Benefit Alternative (TBA), ¶¶~~

~~(A) The Department shall not end SNAP program benefits when Department mail or benefits have been returned.¶¶~~

~~(B) The Department shall end benefits when the head of household (see OAR 461-001-0015) reports they moved out of Oregon and no longer meet residency requirements under OAR 461-120-0010, or when they are applying for benefits in another state. No decision notice is required.¶¶~~

~~(5c) In the TA-DVS For JPI, notwithstanding any provision in this section and regardless of reporting system, no decision notice is required.¶¶~~

~~(4) In the ERDC, REF, TA-DVS, and TANF programs, and effective June 15, 2022 --¶¶~~

~~(a) The Department shall not end program benefits when due to return of Department mail or benefits have been returned with no forwarding address and the individual's whereabouts remain unknown.¶~~

~~(6. This includes when there is no forwarding address and the individual's whereabouts remain unknown.¶~~

~~(b) In the REF and TANF programs, the Department shall give an individual the benefits that were returned if their whereabouts become known within 12 calendar months after issuance.¶~~

~~(c) In the REF and TANF Programs, when an individual's whereabouts become unknown based on information other than return mail and the source of the information is another governmental agency; a private, non-profit agency; or first-hand knowledge of an ODHS staff member learned from the course of business, the Department shall allow the filing group 10 days to make their whereabouts known. If the information is not provided, the Department shall end benefits by sending the following decision notice to their last known address:¶~~

~~(A) Except for Employment Payments, a timely continuing benefit decision notice.¶~~

~~(B) For Employment Payments, no decision notice is required.¶~~

~~(5) See OAR 461-165-0130 for when benefits may be sent out of Oregon.~~

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

~~Statutes/Other Implemented: 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, ORS 329A.500, 409.010~~