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CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILING CAPTION: Rule Changes about Self-Sufficiency Program Requirements, Payments, and Standards

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RULES:

461-120-0210, 461-135-0070, 461-135-1270, 461-155-0150, 461-155-0180, 461-160-0300, 461-165-0180

AMEND: 461-120-0210

REPEAL: Temporary 461-120-0210 from SSP 30-2022

NOTICE FILED DATE: 04/28/2022

RULE SUMMARY: OAR 461-120-0210 is being changed to allow TANF program benefits to be received for up to six months without providing or verifying application for an SSN, if doing so would put a survivor of domestic violence at risk.

CHANGES TO RULE:

461-120-0210

Requirement to Provide Social Security Number (SSN) ¶¶

(1) In the ~~CAWEWM~~, ERDC, REF, and REFM programs, a member of a need group (see OAR 461-110-0630) or a benefit group (see OAR 461-110-0750) is not required to provide or apply for a social security number (SSN). In these programs, the Department may request that a member of the filing group (see OAR 461-110-0310) or need group provide an SSN on a voluntary basis.¶¶

(2) In the EA and TA-DVS programs, an individual must provide ~~his or her~~ their SSN if the individual can.¶¶

(3) Except as provided in section (6) of this rule, in the OSIPM and QMB programs:¶¶

(a) An individual is not required to apply for or provide an SSN:¶¶

(A) If the individual does not have an SSN; and¶¶

(B) May only be issued an SSN for a valid non-work reason in accordance with 20 CFR 422.104.¶¶

(b) When subsection (a) does not apply, to be included in the benefit group, an individual must:¶¶

(A) Provide a valid SSN for the individual; or¶¶

(B) Apply for a number if the individual does not have a valid one and provide the SSN when it is received.¶¶

(4) Except as provided in sections (6) to (8) of this rule, in the SNAP program, to be included in the need group, an individual (other than an unborn) must:¶¶

(a) Provide a valid SSN for the individual; or¶¶

(b) Apply for a number if the individual does not have one and provide the SSN when it is received.¶¶

(5) In the TANF program:¶¶

- (a) Except as provided in subsections (b) and (c) of this section, an individual must:¶
- (A) Provide a valid SSN for the individual; or¶
- (B) Provide verification of application for an SSN if the individual does not have one and provide the SSN within six months of the individual's initial TANF approval or by the end of the certification period (see OAR 461-001-0000), whichever is sooner.¶
- (b) A child (see OAR 461-001-0000) born in an Oregon hospital is eligible for TANF benefits for six months following the child's date of birth or until the next redetermination of eligibility (see OAR 461-001-0000) of the filing group (see OAR 461-110-0310 and 461-110-0330), whichever is sooner.¶
- (c) The requirement to provide an SSN, or verification of application for SSN, may be waived or postponed for up to six months for any member of the need group if the requirement would put a survivor of domestic violence (see OAR 461-001-0000) at risk.¶
- (6) In the OSIPM, QMB, and SNAP programs, an individual is not required to apply for or provide an SSN if the individual is:¶
- (a) A member of a religious sect or division of a religious sect that has continuously existed since December 31, 1950; and¶
- (b) Adheres to its tenets or teachings that prohibit applying for or using an SSN.¶
- (7) In the SNAP program, the requirement to apply for or provide the SSN is delayed as follows:¶
- (a) An applicant eligible for expedited services may receive ~~his or her~~ their first full month's allotment without meeting the SSN requirement but must meet the requirement before receiving a second full month's allotment.¶
- (b) Before applying for or providing an SSN, a newborn may be included in a benefit group for six months following the date the child is born or until the next recertification of the benefit group, whichever is later.¶
- (8) In the SNAP program:¶
- (a) An individual who refuses or fails without good cause (see subsection (c) of this section) to provide or apply for an SSN when required by this rule is ineligible to participate. This period of ineligibility continues until the individual provides the SSN to the Department.¶
- (b) An individual may participate in SNAP for one month in addition to the month of application, if the individual can show good cause why the application for an SSN has not been completed. To continue to participate, the individual must continue to show good cause each month until the application for an SSN is complete with the Social Security Administration (SSA).¶
- (c) An individual meets the good cause requirement in subsections (a) and (b) of this section if the individual provides evidence or collateral information that the individual applied for or made every effort to supply the ~~Social Security Administration SA~~ SA with the necessary information to complete the application process. Delays due to illness not associated with a disability (see OAR 461-001-0015), lack of transportation, or temporary absence do not qualify as good cause under this rule.¶
- (9) This rule authorizes or requires the collection of an SSN for each of the following purposes.¶
- (a) The determination of eligibility for benefits. The SSN is used to verify income and other assets, and match with other state and federal records such as the Internal Revenue Service (IRS), Medicaid, child support, Social Security benefits, and unemployment benefits.¶
- (b) The preparation of aggregate information and reports requested by funding sources for the program providing benefits.¶
- (c) The operation of the program applied for or providing benefits.¶
- (d) Conducting quality assessment and improvement activities.¶
- (e) Verifying the correct amount of payments, recovering overpaid benefits, and identifying any individual receiving benefits in more than one household.

Statutory/Other Authority: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049

Statutes/Other Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 414.831, 414.839

AMEND: 461-135-0070

REPEAL: Temporary 461-135-0070 from SSP 30-2022

NOTICE FILED DATE: 04/28/2022

RULE SUMMARY: OAR 461-135-0070 is being changed in permanent rule filing to adopt the March 1, 2022, temporary rule changes that remove language stating families who live in Klamath County and meet certain conditions are ineligible for Oregon Department of Human Services TANF program benefits and must apply for TANF with The Klamath Tribes. It is also being changed to make clear how disqualifications earned through The Klamath Tribes TANF program will be treated when a group applies for ODHS TANF and to remove words with a gender and refer to The Confederated Tribes of Siletz Indians of Oregon by their chosen name. Lastly, it is being updated to make clear a long-time TANF eligibility requirement, that the TANF monthly benefit amount be equal to or greater than \$10 monthly.

CHANGES TO RULE:

461-135-0070

Specific Requirements; TANF ¶

(1) To be eligible for TANF program benefits:¶

(a) An individual must be one of the following:¶

(A) A dependent child (see OAR 461-001-0000). However, a dependent child for whom foster care payments are made is not eligible while the payments are being made for the dependent child.¶

(B) A caretaker relative (see OAR 461-001-0000) of an eligible dependent child when the caretaker relative:¶

(i) Is receiving TANF program benefits for the dependent child, or¶

(ii) Is applying for TANF program benefits for the dependent child.¶

(C) A caretaker relative of a dependent child, when the dependent child is ineligible for TANF program benefits because of one of the following reasons:¶

(i) The child is receiving SSI.¶

(ii) The child is in foster care, but is expected to return home within 30 days.¶

(D) A parent (see OAR 461-001-0000) of an unborn, as follows:¶

(i) For the TANF program, any parent whose only child is an unborn child once the mother's pregnancy has reached the calendar month before the month in which the due date falls.¶

(ii) For the TANF program, the parent of an unborn child, if there is another dependent child in the filing group.¶

(b) Unless the individual is exempt from JOBS participation and JOBS disqualification under OAR 461-130-0310, an individual must demonstrate two-consecutive weeks of cooperation in appropriate activities (see OAR 461-001-0025) if:¶

(A) TANF program benefits had closed within the prior three consecutive calendar months from the filing date (see OAR 461-115-0040) for TANF with an active level 1 through level 4 TANF program disqualification (see OAR 461-130-0330 and 461-135-0085); or¶

(B) The filing date for TANF program benefits is within the prior three consecutive calendar months after the end of a two consecutive month period of TANF ineligibility according to OAR 461-130-0330(5)(e).¶

(c) The TANF program monthly benefit amount determined under OAR 461-160-0100 must be \$10 or greater.¶

(2) As used in this rule:¶

(a) Except as provided otherwise in this section, "good cause" means a reasonable person of normal sensitivity, exercising ordinary common sense under similar circumstances, would have --¶

(A) Quit work, including in anticipation of discharge;¶

(B) Participated in behavior leading to the individual's discharge; or¶

(C) Voluntarily reduced work hours.¶

(b) For an individual with a physical or mental impairment (as defined at 29 CFR 1630.2(h)), except as provided otherwise in subsection (c) of this section, "good cause" for leaving work means that a reasonable person with the characteristics and qualities of such individual under similar circumstances would have --¶

(A) Quit work, including in anticipation of discharge;¶

(B) Participated in behavior leading to the individual's discharge; or¶

(C) Voluntarily reduced work hours.¶

(c) There is no "good cause" if the reason for separation from employment is a labor dispute.¶

(3) Except as provided under section (4) of this rule, a need group (see OAR 461-110-0630) is not eligible for TANF program benefits for 120 days from the date a parent or caretaker relative was separated from or voluntarily reduced work hours at ~~his or her~~ their last employment in which a parent or caretaker relative in the

need group was hired to work 100 or more hours per month or worked or was scheduled to work 100 or more hours in the last full calendar month of employment. This applies at initial certification, recertification, and is a condition of ongoing eligibility (see OAR 461-001-0000).¶

(4) A need group (see OAR 461-110-0630) may not be reduced or denied TANF program benefits based on section (3) of this rule if the parent or caretaker relative is one of the following:¶

(a) A teen parent (see OAR 461-001-0000) returning to high school or equivalent.¶

(b) An individual fleeing from or at risk of domestic violence (see OAR 461-001-0000).¶

(c) An individual who is pregnant and the pregnancy has reached the first of the calendar month prior to the month in which the due date falls.¶

(d) An individual who is pregnant and experiencing medical complications due to the pregnancy that prohibit participation in activities of the program and are documented by a qualified and appropriate professional.¶

(e) An individual unable to work due to a disability or medical condition documented by a qualified and appropriate professional, and which is expected to last for 30 days or more from the filing date for TANF program benefits.¶

(f) An individual who was separated from employment for a reason the Department determines is good cause as defined in section (2) of this rule.¶

(g) An individual who was separated from employment as a result of a layoff.¶

(5) A family is ineligible for TANF program benefit ~~Members of t~~ The family meets the requirements of all of the following subsections:¶

~~(a) The family lives in Klamath County.¶~~

~~(b) The family meets any Klamath Tribes may apply for either The Klamath Tribes TANF program ofr the following conditions:¶~~

~~(A) The family has a single custodial parent who is a member of the Klamath Tribes, or the single custodial parent is not a Klamath Tribes member and at least 50 percent of the dependent children are Klamath Tribes members; ODHS TANF program.¶~~

~~(a) A Level 1 or Level 2 Klamath Tribes TANF program benefit disqualification does not establish an ODHS TANF program disqualification.¶~~

~~(B) The For family has two custodial parents (see OAR 461-001-0000) who are members of the Klamath Tribes, or only one of the two custodial parents is a Klamath Tribes member and at least 50 percent of the dependent children are Klamath Tribes members; or¶~~

~~(C) The family has a caretaker relative who is not the custodial parent and at least 50 percent of the dependent children are Klamath Tribes members.¶~~

~~(c) The family is eligible for the Klamath Tribes TANF program or would be eligible for the Klamath Tribes TANF program if not for the failure of the family to cooperate with program requirements.¶~~

~~(6) Aies whose Klamath Tribes TANF program benefits have been closed due to failure to comply with program requirements:¶~~

~~(A) The Klamath Tribes TANF program shall decide if the family may receive TANF from the ODHS TANF program (if eligible under Chapter 461).¶~~

~~(B) If the Klamath Tribes TANF program decides the family may receive TANF from ODHS, the ODHS TANF benefits shall be initially approved with no ODHS TANF program disqualification.¶~~

~~(6) For the Confederated Tribes of Siletz Indians of Oregon, a family is ineligible for ODHS TANF program benefits if all of the following subsections apply to the family:¶~~

~~(a) A parent, caretaker relative, or child is a member of the Siletz Trib The (Confederated Tribes of Siletz Indians of Oregon) and lives in one of the eleven service area counties: Benton, Clackamas, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, or Yamhill counties.¶~~

~~(b) The family includes members who are living in the same household and at least one of the following paragraphs applies:¶~~

~~(A) A two-parent family with one enrolled Siletz tribal member with a shared dependent.¶~~

~~(B) A single-parent family with one enrolled Siletz tribal member.¶~~

~~(C) A non-needy caretaker relative or essential person with one enrolled Siletz tribal member who is a minor.¶~~

~~(D) A pregnant enrolled Siletz tribal member in their eighth month of pregnancy.¶~~

~~(c) The family is eligible for the Siletz Tribes TANF program or would be eligible for the Siletz Tribes TANF program if not for the failure of the family to cooperate with Siletz TANF program requirements.¶~~

~~(7) If a parent or caretaker relative covered by section (5) or (6) of this rule fails to follow through with a Department referral to t The Klamath Confederated Tribes orf Siletz Tribal Indians of Oregon TANF program, the entire filing group is ineligible for ODHS TANF program benefits.~~

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.400, 411.404, 412.006, 412.016, 412.049, 412.124

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.400, 411.404, 412.006, 412.016, 412.049,

412.064, 412.124

AMEND: 461-135-1270

REPEAL: Temporary 461-135-1270 from SSP 30-2022

NOTICE FILED DATE: 04/28/2022

RULE SUMMARY: OAR 461-135-1270 is being changed to, in permanent rule, expand TANF program closure reasons that qualify a group to receive Employment Payments. Individuals who have been JOBS eligible or JOBS volunteer whose TANF case closed due to their TANF benefit amount being reduced to less than \$10.00 after gaining employment, will now be Employment Payment eligible.

CHANGES TO RULE:

461-135-1270

Specific Requirements; Employment Payments ¶¶

(1) Effective April 1, 2016, a benefit group (see OAR 461-110-0630) that includes an individual who meets the requirements in section (2) of this rule is eligible to receive \$225 in Employment Payments (see OAR 461-001-0025) paid over three months as provided in section (3) of this rule.¶¶

(2) To be eligible for three months of Employment Payments, an individual in the benefit group (see OAR 461-110-0750) or an individual not in the benefit group due to the time limit in OAR 461-135-0071 must meet all of the following requirements:¶¶

(a) Have obtained unsubsidized paid employment and reported it timely.¶¶

(b) Have been a JOBS eligible or JOBS volunteer (see OAR 461-130-0310) individual who closed TANF for one of the following reasons:¶¶

(A) Became ineligible for the Pre-TANF, SFPSS or TANF programs due to income above the applicable income standard in OAR 461-155-0030.¶¶

(B) Became ineligible for the Pre-TANF, SFPSS or TANF programs due to TANF benefit amount being less than \$10.00 in accordance with OAR 461-135-0070.¶¶

(C) Voluntarily closed TANF to avoid accruing time toward the time limit in OAR 461-135-0071.¶¶

(CD) Voluntarily closed TANF to be eligible for TBA (see OAR 461-135-0506).¶¶

(c) Meet the TANF residency requirements in OAR 461-120-0010.¶¶

(d) Remain at or below 350 percent FPL in OAR 461-155-0180.¶¶

(3) Employment Payments begin the month following the month in which Pre-TANF, SFPSS, or TANF benefits close. Payments are limited to one payment per month per benefit group. Payments may not be prorated and are paid in the following amounts and order:¶¶

(a) \$100 the first month after benefits close.¶¶

(b) \$75 the second month after benefits close.¶¶

(c) \$50 the third month after benefits close.¶¶

(4) An individual receiving Employment Payments is not eligible for JOBS Plus or JPI (see OAR 461-135-1260).¶¶

(5) Employment Payments end when an individual:¶¶

(a) Is approved for REF, Pre-TANF, SFPSS, or TANF program benefits;¶¶

(b) Is a member of a filing group (see OAR 461-110-0330) approved for REF, Pre-TANF, SFPSS, or TANF program benefits; or¶¶

(c) Loses unsubsidized paid employment and the loss is verified by the Department.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 412.049, 412.124

Statutes/Other Implemented: ORS 409.050, 411.060, 411.070, 412.049, 412.124

AMEND: 461-155-0150

REPEAL: Temporary 461-155-0150 from SSP 36-2022

NOTICE FILED DATE: 04/28/2022

RULE SUMMARY: OAR 461-155-0150 is being changed to permanently adopt the second child care provider rate increase of 2022. The child care provider rates were increased by temporary rule filing effective January 1, 2022, and the Department increased rates again effective June 1, 2022.

CHANGES TO RULE:

461-155-0150

Child Care Provider Eligibility Standard, Payment Rates, Payment Limits, and Payable Hours ¶¶

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:¶¶

(1) The following definitions apply to the rules governing child care rates:¶¶

(a) Infant: For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 2 years.¶¶

(b) Toddler: For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 2 years to 3 years.¶¶

(c) Preschool: A child aged 3 years to 6 years.¶¶

(d) School: A child aged 6 years or older.¶¶

(e) Special Needs: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for their age due to a physical, behavioral, or mental disability. The disability must be verified by one of the following:¶¶

(A) A physician, nurse practitioner, clinical social worker, or any additional sources in OAR 461-125-0830.¶¶

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.¶¶

(C) Eligibility for SSI.¶¶

(2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:¶¶

(a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.¶¶

(b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.¶¶

(c) The Registered Family Rate applies to child care provided in the provider's own home when the provider meets criteria established by the Office of Child Care.¶¶

(d) The Certified Family Rate applies to child care provided in a residential dwelling that is certified by the Office of Child Care as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.¶¶

(e) The Standard Center Rate applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Office of Child Care Certification rules (see OAR 414-300-0000).¶¶

(f) The Enhanced Center Rate applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:¶¶

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in subsection (b) of this section.¶¶

(B) New staff must meet the Oregon Registry training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.¶¶

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.¶¶

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (b) or (f) of this section.¶¶

(h) The Certified Center Rate applies to child care provided in a center that is certified by the Office of Child Care or participating in the Alternative Pathway program through the Office of Child Care.¶¶

(3) The following provisions apply to child care payments:¶¶

- (a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.¶
- (b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month, unless the provider customarily bills all families at a part-time monthly rate subject to the maximum full-time monthly rate and is designated as the primary provider for the case.¶
- (c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month, customarily bill all families at a part-time monthly rate, and are designated as the primary provider for the case.¶
- (d) Unless required by the circumstances of the caretaker or child, the Department will not pay for care at a part-time monthly or a monthly rate to more than one provider for the same child for the same month.¶
- (e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.¶
- (f) The Department will pay for absent days each month the child is absent. Absent days can be billed if:¶
 - (A) It is the provider's policy to bill all families for absent days; and¶
 - (B) The child was scheduled to be in care, the provider bills for the amount of time the child was scheduled to be in care, and the child has not been absent for a calendar month.¶
- (g) Child care providers are eligible to receive an incentive payment upon achieving and maintaining a three star or higher rating with the Quality Rating Improvement System (QRIS) subject to all of the following provisions.¶
 - (A) The incentive payment is in addition to the Department maximum rate.¶
 - (B) A provider may receive an incentive payment for any ERDC child that the Department paid the provider for full-time care (136 hours or more).¶
 - (C) Providers who are contracted for child care services through the ERDC program are not eligible to receive incentive payments, with the exception of Early Head Start providers.¶
 - (D) Eligibility for the incentive payment is effective the month after the QRIS rating has been achieved.¶
 - (E) The incentive payment amount is based on the provider's star QRIS rating as follows: ¶

Star Rating	Amount
3	\$54
4	\$72
5	\$90
- (h) In the ERDC program, child care providers eligible for the licensed rate may receive payment from the Department for registration and other fees if they are required by the facility for a child to begin or continue care and the fees are also required of the general public. Fees related to penalties, fines, charges exceeding approved ERDC hours or rates (see section (4) of this rule), or advance payment for cost of care are not eligible for payment. ¶
- (4) ¶Effective June 1, 2022, the following are the child care rates based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (hourly or monthly):¶
 - (a) [see attached table]¶
 - (b) [see attached table]¶
 - (c) [see attached table]¶
- (5) OAR 461-160-0300 establishes ERDC financial eligibility, allowable child care cost, and the copay calculation, except for child care under a contract between a Head Start agency and the Department, which is covered under OAR 461-135-0405.¶
- (6) Subject to the provisions in section (9) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:¶
 - (a) The monthly rate provided in section (4) of this rule.¶
 - (b) The product of the hours of care, limited by section (8) of this rule, multiplied by the hourly rate provided in section (4) of this rule.¶
- (7) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:¶
 - (a) The amount billed by the provider or providers.¶
 - (b) The monthly rate established in this rule for 215 hours of care.¶
- (8) The number of payable billed hours of care for a child is limited as follows:¶
 - (a) In the ERDC and TANF programs, the total payable hours of care in a month may not exceed the amounts in paragraphs (A) or (B) of this subsection:¶
 - (A) 125 percent of the number of child care hours authorized:¶
 - (i) Under OAR 461-160-0040(3) and (6); or¶
 - (ii) To participate in activities included in a case plan (see OAR 461-001-0025) including, for caretakers in the JOBS Plus program, the time the caretaker searches for unsubsidized employment and for which the employer

pays the caretaker.¶

(B) The monthly rate established in section (4) of this rule multiplied by a factor of not more than 1.5, determined by dividing the number of hours billed by 215, when the caretaker meets the criteria for extra hours under section (10) of this rule.¶

(b) In the ERDC program, for a caretaker who earns less than the Oregon minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time).¶

(c) In the TANF program, for a caretaker who earns less than the Oregon minimum wage or is self-employed, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the caretaker's employment.¶

(d) In the ERDC program, employed caretakers eligible under OAR 461-135-0400 may have education hours added to the authorized work hours. Education hours may not exceed authorized work hours and combined hours may not exceed 215 hours per month. Education hours are hours required to participate in coursework that leads to a certificate, degree, or job-related knowledge or skills attainment at an institution of higher education approved to receive federal financial aid.¶

(9) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (10) of this rule, is the lesser of one of the following:¶

(a) The amount billed by the provider or providers; or¶

(b) The monthly rate established in section (4) of this rule multiplied by a factor, of not more than 1.5, determined by dividing the number of hours billed by 215.¶

(10) The limit allowed by section (9) of this rule is authorized once the Department has determined the caretaker has special circumstances. For the purposes of this section, a caretaker has special circumstances when it is necessary for the caretaker to obtain child care in excess of 215 hours in a month to perform the requirements of their employment or training required to keep current employment, not including self-employment. This is limited to the following situations:¶

(a) The commute time to and from work exceeds two hours per day.¶

(b) The caretaker works an overnight shift and care is necessary for both work hours and sleep hours.¶

(c) The caretaker works a split shift and it is not feasible to care for the child between shifts.¶

(d) The caretaker consistently works more than 40 hours per week.¶

(11) The payment available for care of a child who meets the special needs criteria described in subsection (e) of section (1) of this rule is increased in accordance with OAR 461-155-0151 if the requirements of both of the following subsections are met:¶

(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age.¶

(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 412.049

Statutes/Other Implemented: ORS 329A.500, 409.010, 409.610, 411.060, 411.070, 411.122, 411.141, 412.006, 412.049, 412.124, 418.485, HB 4005, 2022 Reg. Sess. (Oregon 2022)

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

461-155-0150

(4)

(a)

Group Area A
STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	\$4.48	\$830	\$9.00	\$1,279
Toddler	\$4.43	\$797	\$7.50	\$1,279
Preschool	\$4.43	\$747	\$8.25	\$1,050
School	\$4.43	\$740	\$5.63	\$825
Special Needs	\$4.48	\$830	\$9.00	\$1,279

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$4.82	\$653	\$871	\$10.20	\$1,087	\$1,449
Toddler	\$4.55	\$627	\$835	\$8.50	\$1,087	\$1,449
Preschool	\$4.55	\$593	\$791	\$9.35	\$893	\$1,190
School	\$4.49	\$559	\$746	\$6.38	\$701	\$935
Special Needs	\$4.82	\$653	\$871	\$10.20	\$1,087	\$1,449

LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$6.00	\$814	\$1,085	\$6.50	\$1,238	\$1,650	\$12.00	\$1,279	\$1,705
Toddler	\$5.00	\$720	\$960	\$7.00	\$1,176	\$1,568	\$10.00	\$1,279	\$1,705
Preschool	\$5.50	\$675	\$900	\$6.00	\$956	\$1,275	\$11.00	\$1,050	\$1,400
School	\$5.00	\$563	\$750	\$6.00	\$750	\$1,000	\$7.50	\$825	\$1,100
Special Needs	\$6.00	\$814	\$1,085	\$6.50	\$1,238	\$1,650	\$12.00	\$1,279	\$1,705

Zip Codes for Group Area A:
Portland, Bend, Eugene, Corvallis, Springfield, Monmouth and Ashland areas

97003 97004 97005 97006 97007 97008 97009 97010 97013 97014 97015 97019

97022	97023	97024	97027	97028	97030	97031	97034	97035	97036	97041	97045
97051	97055	97056	97060	97062	97064	97068	97070	97080	97086	97089	97106
97109	97112	97113	97116	97119	97123	97124	97125	97132	97133	97135	97140
97149	97201	97202	97203	97204	97205	97206	97209	97210	97211	97212	97213
97214	97215	97216	97217	97218	97219	97220	97221	97222	97223	97224	97225
97227	97229	97230	97231	97232	97233	97236	97239	97242	97258	97266	97267
97268	97286	97292	97330	97331	97333	97339	97351	97361	97371	97376	97401
97402	97403	97404	97405	97408	97454	97455	97477	97478	97482	97520	97525
97701	97702	97703	97707	97708	97709	97078					

(b)

Group Area B
STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	\$3.88	\$663	\$4.88	\$893
Toddler	\$3.88	\$636	\$4.69	\$812
Preschool	\$3.68	\$630	\$4.31	\$645
School	\$3.68	\$611	\$3.86	\$472
Special Needs	\$3.88	\$663	\$4.88	\$893

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$4.08	\$535	\$714	\$5.53	\$759	\$1,012
Toddler	\$4.08	\$510	\$680	\$5.31	\$690	\$921
Preschool	\$4.08	\$510	\$680	\$4.89	\$548	\$731
School	\$4.08	\$478	\$637	\$4.38	\$401	\$535
Special Needs	\$4.08	\$535	\$714	\$5.53	\$759	\$1,012

LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$4.50	\$563	\$750	\$5.00	\$750	\$1,000	\$6.50	\$893	\$1,190
Toddler	\$4.00	\$525	\$700	\$5.00	\$675	\$900	\$6.25	\$812	\$1,083
Preschool	\$4.00	\$510	\$680	\$5.75	\$638	\$850	\$5.75	\$645	\$860
School	\$4.00	\$488	\$650	\$5.75	\$563	\$750	\$5.15	\$472	\$629
Special Needs	\$4.50	\$563	\$750	\$5.00	\$750	\$1,000	\$6.50	\$893	\$1,190

Zip Codes for Group Area B:

Salem, Medford, Roseburg, Brookings and areas outside the metropolitan areas in Eugene and Portland

97002	97011	97016	97017	97018	97038	97042	97044	97048	97049	97053	
97058	97067	97071	97103	97107	97108	97110	97111	97114	97115	97117	97118
97121	97122	97127	97128	97131	97134	97138	97141	97143	97146	97148	97301
97302	97303	97304	97305	97306	97307	97309	97310	97317	97321	97322	97325
97326	97327	97328	97336	97338	97341	97343	97344	97348	97352	97353	97355
97357	97362	97365	97366	97367	97370	97372	97374	97377	97378	97380	97381
97383	97385	97386	97389	97391	97392	97394	97415	97420	97423	97424	97426
97431	97444	97446	97448	97452	97456	97457	97459	97465	97470	97471	97479
97487	97489	97501	97502	97503	97504	97524	97534	97535	97756	97759	97760
97801	97812	97813									

(c)

Group Area C
STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	\$3.88	\$663	\$4.88	\$893
Toddler	\$3.88	\$636	\$4.69	\$812
Preschool	\$3.68	\$630	\$4.31	\$645
School	\$3.68	\$611	\$3.86	\$472
Special Needs	\$3.88	\$663	\$4.88	\$893

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$4.08	\$535	\$714	\$5.53	\$759	\$1,012
Toddler	\$4.08	\$510	\$680	\$5.31	\$690	\$921
Preschool	\$4.08	\$510	\$680	\$4.89	\$548	\$731
School	\$4.08	\$478	\$637	\$4.38	\$401	\$535
Special Needs	\$4.08	\$535	\$714	\$5.53	\$759	\$1,012

LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month

	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$4.50	\$563	\$750	\$5.00	\$750	\$1,000	\$6.50	\$893	\$1,190
Toddler	\$4.00	\$525	\$700	\$5.00	\$675	\$900	\$6.25	\$812	\$1,083
Preschool	\$4.00	\$510	\$680	\$5.75	\$638	\$850	\$5.75	\$645	\$860
School	\$4.00	\$488	\$650	\$5.75	\$563	\$750	\$5.15	\$472	\$629
Special Needs	\$4.50	\$563	\$750	\$5.00	\$750	\$1,000	\$6.50	\$893	\$1,190

Zip Codes for Group Area C: Balance of State, Other State Zips

97001	97020	97021	97026	97029	97032	97033	97037	97039	97040	97050	97054	97057
97063	97065	97101	97102	97130	97136	97137	97144	97145	97147	97324	97329	97335
97342	97345	97346	97347	97350	97358	97359	97360	97364	97368	97369	97375	97384
97388	97390	97396	97406	97407	97409	97410	97411	97412	97413	97414	97416	97417
97419	97425	97427	97428	97429	97430	97432	97433	97434	97435	97436	97437	97438
97439	97441	97442	97443	97447	97449	97450	97451	97453	97458	97460	97461	97462
97463	97464	97466	97467	97468	97469	97472	97473	97476	97480	97481	97484	97486
97488	97490	97491	97492	97493	97494	97495	97496	97497	97498	97499	97522	97523
97526	97527	97530	97531	97532	97533	97536	97537	97538	97539	97540	97541	97543
97544	97601	97603	97604	97620	97621	97622	97623	97624	97625	97626	97627	97630
97632	97633	97634	97635	97636	97637	97638	97639	97640	97641	97710	97711	97712
97720	97721	97722	97730	97731	97732	97733	97734	97735	97736	97737	97738	97739
97740	97741	97742	97750	97751	97752	97753	97754	97758	97761	97810	97814	97817
97818	97819	97820	97821	97822	97823	97824	97825	97826	97827	97828	97830	97831
97833	97834	97835	97836	97837	97838	97839	97840	97841	97842	97843	97844	97845
97846	97848	97850	97856	97857	97859	97861	97862	97864	97865	97867	97868	97869
97870	97871	97872	97873	97874	97875	97876	97877	97880	97882	97883	97884	97885
97886	97901	97902	97903	97904	97905	97906	97907	97908	97909	97910	97911	97913
97914	97918	97919	97920									

AMEND: 461-155-0180

REPEAL: Temporary 461-155-0180 from SSP 30-2022

NOTICE FILED DATE: 04/28/2022

RULE SUMMARY: OAR 461-155-0180 is being amended to adopt temporary changes made effective March 1, 2022, into permanent rule. Those amendments adjust the 185 percent, 200 percent, and 250 percent income standards to reflect the annual update to the Federal Poverty Level (FPL). They also adjust the 85 percent income standard to reflect the annual update to the state median income and add the month in which each FPL is updated annually. These amendments keep Oregon in line with current federal and state standards for Department Self-Sufficiency Programs.

CHANGES TO RULE:

461-155-0180

Income Standards; Not OSIP, OSIPM, QMB ¶

(1) A Department program may cite this rule if the program uses a monthly income standard based on the federal poverty level or state median income. ~~The standards in this rule are effective as of October 1, 2021, except as provided otherwise.~~¶

(2) A monthly income standard set at 100 percent of the 2021 federal poverty level, and updated every October, is set at the following amounts: ¶

Size of Group&&&&Standard ¶

1&&&&&&&&&\$ 1,074¶

2&&&&&&&&& 1,452¶

3&&&&&&&&& 1,830¶

4&&&&&&&&& 2,209¶

5&&&&&&&&& 2,587¶

6&&&&&&&&& 2,965¶

7&&&&&&&&& 3,344¶

8&&&&&&&&& 3,722¶

9&&&&&&&&& 4,101¶

10&&&&&&&&&.. 4,480¶

+1&&&&&&&&&... +379¶

(3) A monthly income standard set at 130 percent of the 2021 federal poverty level, and updated every October is set at the following amounts:¶

Size of Group&&&&Standard¶

1&&&&&&&&&\$ 1,396¶

2&&&&&&&&& 1,888¶

3&&&&&&&&& 2,379¶

4&&&&&&&&& 2,871¶

5&&&&&&&&& 3,363¶

6&&&&&&&&& 3,855¶

7&&&&&&&&& 4,347¶

8&&&&&&&&& 4,839¶

9&&&&&&&&& 5,331¶

10&&&&&&&&&.. 5,823¶

+1&&&&&&&&&... +492¶

(4) A monthly income standard set at 165 percent of the 2021 federal poverty level, and updated every October, is set at the following amounts: ¶

Size of Group&&&&Standard¶

1&&&&&&&&&\$ 1,771¶

2&&&&&&&&& 2,396¶

3&&&&&&&&& 3,020¶

4&&&&&&&&& 3,644¶

5&&&&&&&&& 4,268¶

6&&&&&&&&& 4,893¶

7&&&&&&&&& 5,517¶

8&&&&&&&&& 6,141¶

+1&&&&&&&&... +625¶

(5) A monthly income standard set at 185 percent of the 2024¹² federal poverty level, and updated every March, is set at the following amounts: ¶

Size of Group&&&&Standard¶

1&&&&&&&&&\$ 1,982,096¶

2&&&&&&&&& 2,686,823¶

3&&&&&&&&& 3,386,551¶

4&&&&&&&&& 4,086,279¶

5&&&&&&&&& 4,785,006¶

6&&&&&&&&& 5,486,734¶

7&&&&&&&&& 6,186,462¶

8&&&&&&&&& 6,886,189¶

9&&&&&&&&& 7,586,917¶

10&&&&&&&&&.. 8,286,645¶

+1&&&&&&&&... +700,28¶

(6) A monthly income standard set at 200 percent of the 2024¹² federal poverty level, and updated every March, is set at the following amounts: ¶

Size of Group&&&&Standard¶

1&&&&&&&&&\$ 2,147,265¶

2&&&&&&&&& 2,904,052¶

3&&&&&&&&& 3,660,839¶

4&&&&&&&&& 4,417,625¶

5&&&&&&&&& 5,174,412¶

6&&&&&&&&& 5,930,199¶

7&&&&&&&&& 6,687,985¶

8&&&&&&&&& 7,444,772¶

+1&&&&&&&&... +758,7¶

(7) A monthly income standard set at 250 percent of the 2024¹² federal poverty level, and updated every March, is set at the following amounts: ¶

Size of Group&&&&Standard¶

1&&&&&&&&&\$ 2,684,832¶

2&&&&&&&&& 3,630,815¶

3&&&&&&&&& 4,575,798¶

4&&&&&&&&& 5,521,782¶

5&&&&&&&&& 6,467,765¶

6&&&&&&&&& 7,413,748¶

7&&&&&&&&& 8,359,732¶

8&&&&&&&&& 9,307,15¶

(8) A monthly income standard set at 350 percent of the 2021 federal poverty level, and updated every October, is set at the following amounts: ¶

Size of Group&&&&Standard ¶

1&&&&&&&&&\$ 3,757¶

2&&&&&&&&& 5,081¶

3&&&&&&&&& 6,405¶

4&&&&&&&&& 7,730¶

5&&&&&&&&& 9,054¶

6&&&&&&&&& 10,378¶

7&&&&&&&&& 11,702¶

8&&&&&&&&& 13,026¶

9&&&&&&&&& 14,351¶

10&&&&&&&&&.. 15,676¶

+1&&&&&&&&... +1,325¶

(9) A monthly income standard set at 85 percent of the 2024¹² state median income, and updated every March, is set at the following amounts: ¶

Size of Group&&&&Standard¶

2&&&&&&&&&\$ 4,293,531¶

3&&&&&&&&& 5,303,596¶

4&&&&&&&&& 6,313,662¶

5&&&&&&&&& 7,323,728¶

6&&&&&&&&&& 8,333.794

7&&&&&&&&&& 8,523.924

8&&&&&&&&&& 8,712.194

(10) A monthly Disaster Supplemental Nutrition Assistance Program (DSNAP) income standard is set at the following amounts for the household (see OAR 461-135-0491):

Size of Group&&&&Standard

1&&&&&&&&&& \$ 1,848

2&&&&&&&&&& 2,226

3&&&&&&&&&& 2,604

4&&&&&&&&&& 2,990

5&&&&&&&&&& 3,399

6&&&&&&&&&& 3,808

7&&&&&&&&&& 4,187

8&&&&&&&&&& 4,565

+1&&&&&&&&&&... +379

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

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.816, 412.014, 412.049, 7 CFR 280.1

AMEND: 461-160-0300

REPEAL: Temporary 461-160-0300 from SSP 32-2022

NOTICE FILED DATE: 04/28/2022

RULE SUMMARY: OAR 461-160-0300 is being changed to adopt in permanent rule the temporary rule changes that adjusted monthly child care copays effective March 1, 2022, for all need group sizes.

CHANGES TO RULE:

461-160-0300

Use of Income to Determine Eligibility and Copay Benefits for ERDC ¶¶

The Department determines financial eligibility (see OAR 461-001-0000) for ERDC and the copay benefit level as follows:¶¶

(1) ERDC financial eligibility.¶¶

(a) The financial group (see OAR 461-110-0530) may not exceed the resource limit in OAR 461-160-0015.¶¶

(b) The monthly countable (see OAR 461-001-0000 and 461-145-0930) gross income of the financial group is determined in accordance with OAR 461-150-0060. If monthly countable income equals or exceeds the eligibility standards, the need group (see OAR 461-110-0630) is ineligible for ERDC.¶¶

(A) At initial certification, the ERDC eligibility standard is met for a need group of eight or less if monthly countable income for the need group is less than 200 percent of the federal poverty level (FPL), as described in OAR 461-155-0180. The eligibility standard for a need group of eight applies to any need group larger than eight.¶¶

(B) During the certification period (see OAR 461-001-0000) and at recertification the ERDC eligibility standard is met for a need group of eight or less if monthly countable income for the need group during the 12 month period is less than 250 percent FPL or 85 percent state median income (SMI), whichever is higher, as described in OAR 461-155-0180. The eligibility standard for a need group of eight applies to any need group larger than eight.¶¶

(c) The copay calculated under section (3) of this rule is compared to the allowable child care cost under section (2) of this rule. If the copay is equal to or greater than the allowable child care cost, the client is not eligible for ERDC.¶¶

(2) Allowable Child Care Cost. For an individual found eligible under section (1) of this rule, the allowable child care cost is set under this section.¶¶

(a) The child care costs for which the client has been billed are compared to the amount provided in the appropriate child care chart in OAR 461-155-0150. The allowable child care cost is the lesser of the two amounts.¶¶

(b) The need group's copay is determined in accordance with section (3) of this rule.¶¶

(c) The copay is subtracted from the allowable child care cost, and the remainder is the payment the Department makes to the provider.¶¶

(3) Copay Calculation.¶¶

(a) A need group with a certification period that began in March 2020 through September 2021 shall have a monthly copay of \$0 for the entirety of the certification period. The copay calculation for February 2020 and earlier is found in previous versions of OAR 461-155-0150.¶¶

(b) When determining the copay, upon the applicant's request, the Department may exclude at least 50 percent of gross self-employment income when a need group has countable self-employment income and permitted costs (see OAR 461-145-0910 and 461-145-0920). The maximum exclusion is the total of all actual costs permitted under OAR 461-145-0920.¶¶

(c) ¶Effective March 1, 2022, the monthly copay shall be as follows, using the countable income, or countable self-employment income minus permitted costs:¶¶

Need group size of 2¶¶

Income&&&&&&&&&&..Monthly Copay¶¶

\$0 - \$14525.99 &&&&&&&&&...\$0¶¶

\$1453526 - \$217288.99 &&&&&&&&&.\$5¶¶

\$217289 - \$29043051.99 &&&&&&&&&.\$10¶¶

\$293052 - \$3267433.99 &&&&&&&&&.\$40¶¶

\$3268434 - \$4292530.99 &&&&&&&&&.\$100¶¶

¶¶

Need group size of 3¶¶

Income&&&&&&&&&&..Monthly Copay¶¶

\$0 - \$1830919.99 &&&&&&&&&...\$0¶
\$1831920 - 2745878.99 &&&&&&&&&...\$5¶
\$2746879 - \$3203358.99 &&&&&&&&&...\$10¶
\$3204359 - \$3660838.99 &&&&&&&&&...\$15¶
\$3661839 - \$41318.99 &&&&&&&&&...\$50¶
\$41319 - \$5302595.99 &&&&&&&&&...\$110¶

¶
Need group size of 4¶
Income&&&&&&&&&&&&..Monthly Copay¶
\$0 - \$2209312.99 &&&&&&&&&.....\$0¶
\$2210313 - \$3313468.99&&&&&&&&&...\$5¶
\$3314469 - \$38654046.99&&&&&&&&&...\$10¶
\$38664047 - \$4417624.99&&&&&&&&&...\$20¶
\$4418625 - \$49695203.99&&&&&&&&&...\$60¶
\$49705204 - \$6312661.99&&&&&&&&&...\$120¶

¶
Need group size of 5¶
Income&&&&&&&&&&&&..Monthly Copay¶
\$0 - \$2587705.99&&&&&&&&&...\$0¶
\$2588706 - \$38814058.99&&&&&&&&&...\$5¶
\$38824059 - \$4527735.99&&&&&&&&&...\$10¶
\$4528736 - \$5174411.99&&&&&&&&&...\$25¶
\$5175412 - \$58216088.99&&&&&&&&&...\$70¶
\$58226089 - \$7322727.99&&&&&&&&&...\$130¶

¶
Need group size of 6¶
Income&&&&&&&&&&&&..Monthly Copay¶
\$0 - \$29653099.99&&&&&&&&&...\$0¶
\$29663100 - \$44648.99&&&&&&&&&...\$5¶
\$44649 - \$5189423.99&&&&&&&&&...\$10¶
\$5190424 - \$59306198.99&&&&&&&&&...\$25¶
\$59316199 - \$6671973.99&&&&&&&&&...\$70¶
\$6672974 - \$8332793.99&&&&&&&&&...\$130¶

¶
Need group size of 7¶
Income&&&&&&&&&&&&..Monthly Copay¶
\$0 - \$3344492.99&&&&&&&&&...\$0¶
\$3345493 - \$5015238.99&&&&&&&&&...\$5¶
\$5016239 - \$5856111.99&&&&&&&&&...\$10¶
\$5856112 - \$6687984.99&&&&&&&&&...\$25¶
\$6688985 - \$7523858.99&&&&&&&&&...\$70¶
\$7524859 - \$8521993.99&&&&&&&&&...\$130¶

¶
Need group size of 8 or more¶
Income&&&&&&&&&&&&..Monthly Copay¶
\$0 - \$3722885.99&&&&&&&&&...\$0¶
\$3723886 - \$5583828.99&&&&&&&&&...\$5¶
\$558429 - \$6514800.99&&&&&&&&&...\$10¶
\$6515801 - \$7443771.99&&&&&&&&&...\$25¶
\$7444772 - \$8375743.99&&&&&&&&&...\$70¶
\$8376744 - \$930714.99&&&&&&&&&.....\$130¶

(d) Notwithstanding the provisions of this rule section, the ERDC copay may be reduced or temporarily waived as follows:¶

- (A) Reduced to \$0 for no more than three months after closure of TANF benefits when:¶
 - (i) The closure is because an individual in the need group had earned income that led to the TANF closure;¶
 - (ii) An ERDC date of request (see OAR 461-115-0030) is established within 90 days of closure; and¶
 - (iii) The individual is eligible for ERDC at initial certification.¶

(B) As allowed under OARs 461-160-0040 and 461-135-0405.
Statutory/Other Authority: ORS 411.060

Statutes/Other Implemented: ORS 409.610, 411.060, 411.122

AMEND: 461-165-0180

NOTICE FILED DATE: 04/28/2022

RULE SUMMARY: OAR 461-165-0180 is being amended to add a new Child Development training requirement for licensed exempt non-relative child care providers. Child care providers approved as an ODHS provider on or after October 1, 2022 must take this new child development training within 90 days of approval. Existing approved child care providers must take this training before December 31, 2022 to remain approved.

CHANGES TO RULE:

461-165-0180

Eligibility of Child Care Providers ¶¶

(1) The Department must approve a child care provider to receive payment for child care if information available to the Department provides no basis for denying eligibility unless the Department determines, following a final fitness determination (see OAR 125-007-0260 and 407-007-0320) or Child Protective Service (CPS) records checks, that the provider or other subject individual (see OAR 125-007-0210 and 407-007-0210(8)(a)(J)) is not eligible for payment.¶¶

(2) The Department may approve a child care provider who is legally exempt (see section (12) of this rule) as a child care provider for a child (see OAR 461-001-0000) in their household, despite the criminal or CPS history of another member of this household, if all of the following requirements are met:¶¶

(a) There is no criminal history consisting of a disqualifying crime listed in 45 CFR 98.43(c).¶¶

(b) The household member with the criminal or CPS history is a parent (see OAR 461-001-0000) or caretaker relative (see OAR 461-001-0000) of the child needing child care.¶¶

(c) The child care is needed for the household member with the criminal or CPS history to participate in the JOBS program, or the education or employment covered by the ERDC program.¶¶

(d) The approval for Department payments only applies for the child of the household member, or a child for whom the household member is a caretaker relative.¶¶

(3) Ineligibility for payment may result from any of the following and begins on the date of occurrence:¶¶

(a) A violation of a requirement under section (8) of this rule.¶¶

(b) A finding of "denied".¶¶

(A) A provider may be "denied" under OAR 461-165-0410 and 461-165-0420. If, after conducting a weighing test as described in OAR 407-007-0300, the Department finds substantial risk to the health or safety of a child in the care of the provider, the provider must be "denied" and is ineligible for payment.¶¶

(B) A provider who has been "denied" has the right to a hearing under OAR 407-007-0335.¶¶

(c) A finding of "failed".¶¶

(A) A provider may be "failed" if the Department determines, based on a specific eligibility requirement and evidence, that a provider does not meet an eligibility requirement of this rule not covered in paragraph (c)(A) of this section.¶¶

(B) While the provider is in "failed" status:¶¶

(i) The Department does not pay any other child care provider for child care at the "failed" provider's site.¶¶

(ii) The Department does not pay a child care provider at another site if the "failed" provider is involved in the child care operation unless the Department determines that the reasons the provider is in "failed" status are not relevant to the new site.¶¶

(C) A provider with a status of "failed" may reapply at any time by providing the required documents and information to the Department for review.¶¶

(d) A finding of "suspended".¶¶

(A) A provider may be "suspended" if the Department determines and provides notice that the provider does not meet an eligibility requirement in the following subsections and paragraphs of section (8) of this rule: (b), (d), (e), (h), (i), (j), (k), (L), (o)(H), (o)(I), (o)(L), (t), or in section (11) of this rule. A provider who has been "suspended" may challenge this status by requesting a contested case hearing subject to the requirements and limitations of OAR 461-025.¶¶

(B) While the provider is in "suspended" status:¶¶

(i) The provider is ineligible for payment for at least six months.¶¶

(ii) The Department does not pay any other child care provider for child care at the "suspended" provider's site.¶¶

(iii) The Department does not pay a child care provider at another site if the "suspended" provider is involved in the child care operation unless the Department determines that the reasons the provider is in "suspended" status are not relevant to the new site.¶¶

- (C) A provider with a status of "suspended" may be eligible for payments after the six month ineligibility period ends when the provider has been approved following reapplication, including providing the required documents and information to the Department for review.¶
- (e) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.¶
- (4) The provider must submit a completed Child Care Provider Listing Form (DHS 7494) to the Department within 30 calendar days from the date the Department issues the listing form to the client. The provider and each individual identified under section (4) of this rule must complete and sign the authorization for a records check through the Criminal History (CH) record system maintained by the Oregon State Police (OSP), Federal Bureau of Investigation (FBI), and the Child Protective Service (CPS) record system maintained by the Department and, if necessary, an authorization to release information and fingerprint cards. The provider, each individual described in section (5) of this rule, and each subject individual described in OAR 125-007-0210 and 407-007-0210(8)(a)(J) must fully disclose all requested information as part of the records check.¶
- (5) This rule also establishes additional requirements for the following individuals:¶
- (a) The site director of an exempt child care facility and each individual in the facility who may have unsupervised access to a child in care.¶
- (b) The child care provider and each individual the provider uses to supervise a child in ~~his or her~~their absence.¶
- (c) In the case of a provider who provides care for a child in the provider's home--¶
- (A) Each individual 16 years of age or older who lives in the provider's home; and¶
- (B) Each individual who visits the home of the provider during the hours care is provided and may have unsupervised access to a child in care.¶
- (6) To receive payment or authorization for payment, the provider must comply with at least one of the following subsections:¶
- (a) If the provider is not legally exempt:¶
- (A) Be currently certified or registered with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250 and be in compliance with the applicable rules;¶
- (B) Complete the Department's background check process;¶
- (C) Complete the Department's listing process; and¶
- (D) Be approved by the Department.¶
- (b) If the provider is legally exempt and a legally exempt relative (see section (12) of this rule):¶
- (A) Complete the Department's background check process;¶
- (B) Complete the Department's listing process; and¶
- (C) Be approved by the Department.¶
- (c) If the provider is legally exempt and not a legally exempt relative for all children in care:¶
- (A) Meet all OCC Regulated Subsidy Provider requirements under OAR 414-180-0005 through 414-180-0100;¶
- (B) Submit to and pass a site visit at the location where care will be provided;¶
- (C) Complete the Department's background check process;¶
- (D) Complete the Department's listing process; and¶
- (E) Be approved by the Department.¶
- (d) In the case of a tribally licensed child care facility:¶
- (A) Must receive annual health and safety inspections from the Indian Health Services;¶
- (B) Each individual who may have unsupervised access to a child in care must be enrolled in the Early Learning Division Office of Child Care Central Background Registry or approved by the Department of Human Services Background Check Unit;¶
- (C) Complete the Department's listing process; and¶
- (D) Be approved by the Department.¶
- (7) Each individual described in section (5) of this rule must:¶
- (a) Allow the Department to conduct a national criminal history records check through the Oregon State Police and the Federal Bureau of Investigation as specified in OAR 407-007-0250.¶
- (b) Provide, in a manner specified by the Department, information required to conduct CH, FBI, OSP, and CPS records checks and determine whether the provider meets health and safety requirements.¶
- (c) Have a history of behavior that indicates no substantial risk to the health or safety of a child in the care of the provider.¶
- (8) Each provider must:¶
- (a) Obtain written approval from their certifier or certifier's supervisor if the provider is also certified as a foster parent.¶
- (b) Be 18 years of age or older and in such physical and mental health as will not affect adversely the ability to meet the needs of safety, health, and well-being of a child in care; and¶
- (A) Have competence, sound judgment and self-control when working with children;¶

- (B) Be mentally, physically and emotionally capable of performing duties related to child care.¶
- (c) Not be in the same ERDC or TANF filing group (see OAR 461-110-0330 and 461-110-0350) as the child cared for; the parent (see OAR 461-001-0000) of a child in the filing group; or a sibling living in the home of the child.¶
- (d) Allow the Department to visit or inspect the site of care while child care is provided.¶
- (e) Keep daily attendance records showing the arrival and departure times for each child in care.¶
- (A) Times must be recorded as the child care children arrive and depart.¶
- (B) Written attendance and billing records for each child receiving child care benefits from the Department must be retained for a minimum of 12 months.¶
- (C) All records of attendance and billing must be provided to the Department upon request.¶
- (f) Be the individual or facility listed as providing the child care. The provider may only use someone else to supervise a child on a temporary basis if the person was included on the most current listing form and the provider notifies the Department's Direct Pay Unit.¶
- (g) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.¶
- (h) Report to the Department's Direct Pay Unit within five days of occurrence:¶
- (A) Any arrest, indictment, or conviction of any subject individual or individual described in section (5) of this rule.¶
- (B) Any involvement of any subject individual or individual described in section (5) of this rule with CPS or any other agencies providing child or adult protective services.¶
- (C) Any change to the provider's name or address including any location where care is provided.¶
- (D) The addition of any subject individual or individual described in section (5) of this rule.¶
- (E) Any reason the provider no longer meets the requirements under this rule.¶
- (i) Report suspected child abuse of any child in ~~his or her~~their care to CPS or a law enforcement agency.¶
- (j) Supervise each child in care at all times. This includes being within sight or sound of all children; being aware of what each child is doing; being near enough to children to respond when needed; and being physically present when kindergarten-age or younger children are playing outside, unless the play area is fully fenced and hazard free.¶
- (k) Prevent any individual who behaves in a manner that may harm children from having access to a child in the care of the provider. This includes anyone under the influence (see section (12) of this rule).¶
- (L) Allow the custodial parent of a child in ~~his or her~~their care to have immediate access to the child at all times.¶
- (m) Inform a parent of the need to obtain immunizations for a child and have a completed, up-to-date Oregon shot record called the "Certification of Immunization Status" (CIS) form, or a non-medical or medical Exemption form, on file for each child in care.¶
- (n) Take reasonable steps to protect a child in ~~his or her~~their care from the spread of infectious diseases.¶
- (o) Ensure that the home or facility where care is provided meets all of the following standards:¶
- (A) Each floor level used by a child has two usable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a usable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency.¶
- (B) The home or facility has water that is safe for drinking and preparing food. (see section (15) of this rule)¶
- (C) The home or facility has a working smoke detector on each floor level and in any area where a child naps.¶
- (D) Each fireplace, space heater, electrical outlet, wood stove, stairway, pool, pond, and any other hazard has a barrier to protect a child. Any gate or barrier may not pose a risk or hazard to any child in care.¶
- (E) Any firearm, ammunition, and other items that may be dangerous to children, including but not limited to alcohol, inhalants, tobacco and e-cigarette products, matches and lighters, any legally prescribed or over-the-counter medicine, cleaning supplies, paint, plastic bags, and poisonous and toxic materials are kept in a secure place out of a child's reach.¶
- (F) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard-free condition.¶
- (G) The home or facility has a telephone in operating condition.¶
- (H) No one may smoke or carry any lighted smoking instrument, including e-cigarettes or vaporizers, in the home or facility or within ten feet of any entrance, exit, window that opens, or any ventilation intake that serves an enclosed area, during child care operational hours or anytime child care children are present. No one may use smokeless tobacco in the home or facility during child care operational hours or anytime child care children are present. No one may smoke or carry any lighted smoking instrument, including e-cigarettes and vaporizers, or use smokeless tobacco in motor vehicles while child care children are passengers.¶
- (I) No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) on the premises (see section (12) of this rule) during child care operational hours or anytime child care children are present. No one under the influence of alcohol,

controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) may be on the premises during child care operational hours or anytime child care children are present. No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) in motor vehicles while child care children are passengers.¶

(J) Is not a half-way house, hotel, motel, shelter, or other temporary housing such as a tent, trailer, or motor home. The restriction in this paragraph does not apply to licensed (registered or certified) care approved in a hotel, motel, or shelter.¶

(K) Is not a structure -¶

(i) Designed to be transportable; and¶

(ii) Not attached to the ground, another structure, or to any utilities system on the same premises.¶

(L) Controlled substances (except lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana, marijuana edibles, and other products containing marijuana), marijuana plants, derivatives, and associated paraphernalia may not be on the premises during child care operational hours or anytime child care children are present.¶

(p) Complete and submit a new listing form every two years, or sooner at the request of the Department, so that the Department may review the provider's eligibility.¶

(q) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.¶

(r) Comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, and crib standards under 16 CFR 1219 and 1220.¶

(s) Place infants to sleep on their backs.¶

(t) Not hold a medical marijuana card; or distribute, grow, or use marijuana (including medical marijuana) or any controlled substance (except lawfully prescribed and over-the-counter medications).¶

(u) Develop and communicate expulsion and suspension policies to parents and caretakers.¶

(v) Provide care at a location within the state of Oregon.¶

(9) Legally exempt providers must complete the "Introduction to Child Care Health and Safety" two-hour, web-based training prior to Department approval.¶

(10) Legally exempt providers must complete an the two-part orientation provided by the Department or a Child Care Resource and Referral agency within 90 days of being approved by the Department if the provider begins providing child care services after June 30, 2010, or resumes providing child care services, after a break of more than one year that began after June 30, 2010.¶

(11) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be under the influence.¶

(12) For purposes of these rules:¶

(a) "Premises" means the home or facility structure and grounds, including indoors and outdoors and space not directly used for child care.¶

(b) "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.¶

(c) "Legally exempt" means the child care provider is exempt from licensing with the OCC because the provider is not subject to the licensing requirements under OAR 414-205-0000 to 414-205-0170, OAR 414-350-000 to 414-350-0405, and OAR 414-300-0000 to 414-300-0415.¶

(d) "Legally exempt relative" means a legally exempt provider who is a relative to all children in care including a great-grandparent, grandparent, aunt, uncle, or sibling not living in the home of any child in care.¶

(13) Legally exempt providers that are not a legally exempt relative to all children in care must meet all of the requirements in this section:¶

(a) Before approval by the Department:¶

(A) Have an up-to-date, in-person infant and child CPR and first aid certification or have a currently valid waiver of this requirement from the Child Care Resource and Referral program.¶

(B) Complete the Recognizing and Reporting Child Abuse and Neglect (RRCAN) web-based or classroom training.¶

(b) After approval by the Department:¶

(A) Complete six hours of ongoing education in each two-year listing period as provided in this subsection. All

trainings must be accepted by the OCCD and be part of the OCCD's 10 Core Knowledge Categories recognized by Oregon Registry Online to count toward the six hours.¶

(i) Two of the six hours must fall under the "Human Growth and Development" category; and¶

(ii) Two of the six hours must cover "Understanding & Guiding Behavior".¶

(B) Providers approved on or after October 1, 2019 must also complete a Health and Safety training offered by the OCCD annually.¶

(C) Providers approved before October 1, 2019 must also complete a Health and Safety training offered by the OCCD by the two-year re-evaluation and annually thereafter.¶

(D) Providers must also complete the Child Development training offered by OCCD, as follows:¶

(i) Providers approved on or after October 1, 2022 must complete the training within 90 days of ODHS approval.¶

(ii) Providers approved before October 1, 2022 must complete the training by December 31, 2022 to remain approved.¶

(14) Child care centers or programs that are legally exempt from certification or registration with the OCC, are located in a commercial or institutional facility, and receive payment from the Department on behalf of a family receiving a child care subsidy, may not exceed the following staff to children in care ratios:¶

(a) Six weeks through 23 months of age, the minimum number of staff to children is one to four. The maximum number of children in a group is eight.¶

(b) 24 months through 35 months of age, the minimum number of staff to children is one to five. The maximum number of children in a group is 10.¶

(c) 36 months of age to attending kindergarten, minimum number of staff to children is one to 10. The maximum number of children in a group is 20.¶

(d) Attending kindergarten and older, the minimum number of staff to children is one to 15. The maximum number of children in a group is 30.¶

(e) In a mixed-age group of children, the number of staff and group size shall be determined by the age of the youngest child in the group.¶

(15) Except as noted otherwise below, the requirements of this section are in effect starting September 30, 2018.

As used in this section, "drinking water faucet or fixture" means any plumbing fixture on the premises used to obtain water for drinking, cooking, preparing infant formula or preparing food. This section only applies to a provider who is legally exempt and not a legally exempt relative. This section applies to legally exempt providers approved to receive Department subsidy payments prior to September 30, 2018. This section applies to legally exempt providers who submit a completed Child Care Provider Listing form for Department-approval starting September 30, 2018. This section does not apply to care provided in the child's home when the legally exempt provider lives somewhere else.¶

(a) In locations where care is provided, lead testing is required for each drinking water faucet or fixture.¶

(b) Providers must test each drinking water faucet or fixture at least once every six years from the date of the last test. Providers who have had a drinking water faucets or fixture tested within six years prior to the effective date of this rule will need to submit the results to the Department or the Office of Child Care (OCC), in the Department of Education, Early Learning Division.¶

(c) If a home or facility does not use any of the on-site plumbing fixtures to obtain water for drinking, cooking, preparing infant formula, or preparing food, the provider must:¶

(A) Submit a written statement to the Department or OCC identifying the alternative source of water and confirming that the provider does not use any on-site plumbing fixtures for drinking, cooking, preparing infant formula, or preparing food; and¶

(B) Notify the Department or OCC in writing if the alternative source of water changes.¶

(d) All sample collection and testing must be in accordance with the Environmental Protection Agency (EPA)'s 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018, adopted by this reference.¶

(A) If test results show water from any drinking water faucet or fixture has 15 parts per billion (ppb) or more of lead, the provider must:¶

(i) Prevent access to that drinking water faucet or fixture immediately after receiving the test results; and¶

(ii) Continue to prevent access to that drinking water faucet or fixture until mitigation is completed in accordance with paragraph (B) of this subsection.¶

(B) Following receipt of test results showing that water from any drinking water faucet or fixture has 15 parts per billion (ppb) or more of lead, the provider must comply with all of the following sub-paragraphs:¶

(i) Submit a corrective action plan to the Department or OCC for approval within 60 days of receiving the test results. The corrective action plan must identify an appropriate mitigation strategy in accordance with Module 6 of the EPA's 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018, adopted by this reference.¶

(ii) Implement the mitigation method within 30 days of approval by OCC.¶

(C) A provider who fails to submit a corrective action or a mitigation method is no longer eligible to receive child care subsidy payments.¶

(e) The provider must keep a copy of the most recent test results on-site at all times.¶

(f) Providers must follow the routine practices identified in Module 6 of the EPA's 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018.¶

(16)¶ A child care provider approved to receive payment may become retroactively ineligible for payment starting on the date the provider violates a requirement under this rule, regardless of the date of the finding.

Statutory/Other Authority: ORS 181.537, 329A.500, 409.050, 411.060, 411.070

Statutes/Other Implemented: ORS 181.537, 329A.340, 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122, 45 CFR 98.44