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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

10/31/2022 10:38 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Proposing Changes about SSP and P-EBT Program Recipient and Provider Eligibility and Benefits

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/20/2022 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.

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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: 11/30/2022

TIME: 10:00 AM - 12:00 PM

OFFICER: Meorah Solar

ADDRESS: Virtual Hearing - No Physical Location

Phone: 971-277-2343, Code: 848 355 138

Ask Hearings Officer for MS Teams link

None, OR 0

SPECIAL INSTRUCTIONS:

Everyone has a right to know about and use Oregon Department of Human Services (ODHS) programs and services. DHS 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.

DATE: 11/30/2022

TIME: 6:00 PM - 8:00 PM

OFFICER: Meorah Solar

ADDRESS: Virtual Hearing - No Physical Location

Phone: 971-277-2343, Code: 545 131 965

Ask Hearings Officer for MS Teams link

None, OR 0

SPECIAL INSTRUCTIONS:

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hours before the meeting.

NEED FOR THE RULE(S)

OAR 461-115-0230 about Interviews, needs to be amended to align the rule with new Department policy. Current rule limits access and choice when an individual applies for cash benefits. The changes remove the need for the applicant to provide a hardship to be granted an interview method of their choosing.

OAR 461-120-0210 about Requirement to Provide Social Security Number (SSN), needs to be amended to align the rule with a recent TANF policy decision that, for the sake of equity, all groups who have a child in Oregon while on TANF benefits, shall receive TANF for that child for six months without having to provide the SSN, regardless of their certification period. (Excluding when a TANF case closes and a group chooses not to renew or is no longer eligible.) The current rule is inequitable to TANF families as the number of months a family would receive TANF for their newborn child before providing an SSN depended on when their certification happened to end.

OAR 461-135-0220 about REF, REFM, and TANF Programs; Pandemic, needs to be amended as all provisions in this rule for COVID-19 have ended, or been absorbed into ongoing rule. Turning this rule into a place holder will reduce the change of rule conflict and allow for a standing rule number in case of a future pandemic.

OAR 461-135-0400 about Specific Requirements; ERDC, OAR 461-155-0150 about Child Care Provider Eligibility Standard, Payment Rates, Payment Limits, and Payable Hours, and OAR 461-160-0040 about Dependent Care Costs; Deduction and Coverage, need to be amended to align the rule provisions with changes to ERDC program eligibility required by House Bill 3073. These rule changes will bring ODHS into compliance with the required legislated program updates.

OAR 461-135-0440 about Child Care Benefit Eligibility and Payment; COVID-19 needs to be amended by permanent rule filing to remove COVID-19 provisions that the Department has ended and to add a new one-time payment for providers to be issued in mid-August. ODHS has an Interagency Agreement with the Department of Education asking ODHS to issue the payment. This rule change allows ODHS to fulfill the requirement of the Interagency Agreement and brings rule into alignment with Department actions.

OAR 461-135-0520 about Time Limit and Special Requirements for ABAWD; SNAP needs to be amended to keep the rule aligned with Oregon ABAWD timelines and provisions, SNAP time-limit areas, and SNAP time-limit exempt areas, set forth by the Federal Government.

OAR 461-135-0660 about SNAP; COVID-19, needs to be amended to better group the COVID-19 rule provisions, to keep us in line with provisions that have been ended or no longer waived by the Federal government, and to make clear how the Food and Nutrition Service wants student eligibility COVID-19 waivers to be phased out.

OAR 461-135-1270 about Specific Requirements; Employment Payments, needs to be changed to remove ambiguity between Department policy and process and Department rule. The requirement made clear in rule through this change has been the Department's intention, as well as how the Department's eligibility system (ONE) is programmed, and updating the rule removes any appearance of a loop hole or doubt as to the Department's intentions and requirements.

OAR 461-135-1511 about Pandemic Electronic Benefits Transfer (P-EBT), OAR 461-135-1512 about Application and Eligibility; P-EBT, OAR 461-135-1513 about Benefit Amount and Issuance of Benefit; P-EBT, OAR 461-135-1514 about Benefit Access and Use; P-EBT, need to be changed to implement the 2021/22 School Year Oregon P-EBT program. It

may also need to be changed to implement the Summer 2022 Oregon P-EBT program if approved by the Food and Nutrition Service.

OAR 461-145-0260 about Native American, American Indian, and Alaska Native Benefits; Not OSIP, OSIPM, and QMB, needs to be changed to honor and acknowledge the names of Sovereign Tribal Nations, remove harmful language, and to implement a recent decision of the TANF policy analyst team - to stop counting certain tribal benefit payments against TANF eligibility and the TANF grant amount. ODHS was approached by The Confederated Tribes of Grande Ronde asking why it is that their per capita payments are counted against the TANF grant. They indicated this is inequitable due to the already low benefit amount that TANF provides. Counting this payment against the grant only lowers the benefit amount, which is meant to provide for a family's basic needs. Per capita payments are not guaranteed and the Department decided that counting this income prospectively could cause families further undue financial hardship. Amending the rule fixes that concern for those receiving or applying for ERDC, TA-DVS, or TANF.

OAR 461-155-0040 about Nonrecurrent Short-Term Payment; TANF, needs to be adopted in permanent rule as the Department is implementing the payments and needs rule in place to govern and explain the payments. Adopting the rule will explain the purpose of the payments and the Federal Regulations upon which they are based, placing into rule the provisions to allow and support funds that will assist families receiving TANF to purchase weather appropriate clothing for the different seasons of the year. These three different nonrecurrent lump-sum payments for three different episodes of seasonal clothing needs will support families in using their TANF grant to help meet the basic needs of the family, towards their goal of self-sufficiency, independent of the TANF program.

OAR 461-160-0015 about Resource Limits, needs to be changed to align the rule with the passage of House Bill 5202, which approved the resource limit increase.

OAR 461-165-0010 about Legal Status of Benefit Payments and OAR 461-175-0350 about Notice Situation; EBT Benefit Expungement, need to be amended to keep Oregon in alignment with SNAP benefit expungement requirements from the Food and Nutrition Service, specifically changes initiated under the Food, Conservation and Energy Act of 2008, PL 110-234 (2008 Farm Bill); signed into law under the Agriculture Improvement Act of 2018 (2018 Farm Bill), PL 115-334; with final changes codified under federal regulations, 7 CFR part 274. They also need to be amended to make the expungement process, terms, and requirements clear.

OAR 461-165-0180 about Eligibility of Child Care Providers needs to be amended to align ODHS rule with House Bill 3073 (Oregon 2021 legislative session) which transfers all child care provider background checks to the Office of Child Care Central Background Registry. Under current permanent rule, there are two entities, ODHS and OCC, conducting background checks. The rule also needs to be amended to make clear how not keeping required attendance and absence records can impact eligibility for payment, including losing eligibility for payment retroactively. Amending the rule aligns with the recent House Bill, creates greater consistency in the background check process and procedures, lessens discrepancies, and makes Department policy, interpretation, and procedure regarding record keeping more.

OAR 461-165-0230 about Replacing REF, SNAP, and TANF Program Benefits and EBT Cards, needs to be changed because over the course of the last two years, the Department has received feedback of the need to be able to replace TANF and Refugee benefits when lost due to circumstances beyond the control of those receiving benefits. There is an immense negative impact on families when the Department is not able to make such replacements after administrative error or fraud results in a loss of benefits. Amending the rule allows the Department to replace TANF and Refugee benefits after these situations occur.

OAR 461-180-0125 about Effective Dates; Reopen After Returned Mail; ERDC, needs to be repealed to align with the

June 15th, 2022, amendments to OAR 461-175-0210.

OAR 461-190-0211 about Case Plan Activities and Standards for Support Service Payments; JOBS, Pre-TANF, REF, REP, SFPSS, TANF, needs to be changed to bring rule and the ONE system in alignment and allow staff to issue support services using proper activity codes in a case plan. This decision was made after TANF policy received feedback from service delivery staff that it would be beneficial to utilize the Stabilized Living activity to issue support service payments such as, rental application fees, transportation, and housing deposits for families. Currently Stabilized Living does not allow for support services due to a coding issue within ONE. ONE is being updated to allow support service payments for the Stabilized Living activity.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

No documents relied upon for changes to:

OAR 461-115-0230, 461-120-0210, 461-135-0220, 461-135-0400, 461-135-1270, 461-145-0260*, 461-155-0150, 461-160-0015, 461-160-0040, 461-165-0230, 461-180-0125, 461-190-0211

*For the addresses of websites from which the names of Sovereign Tribal Nations were gathered, please contact the Chapter 461 Rules Coordinator.

OAR 461-135-0440:

Interagency Agreement 14327-A2 (DOE's contract number)/172199-2 (ODHS's contract number), available from the ODHS ERDC Policy Analyst team.

OAR 461-135-0520:

See SNAP Policy Analyst team for documents relied upon, including Food and Nutrition Service waiver.

Food and Nutrition Service "ABAWD Waivers" website, available here:

<https://www.fns.usda.gov/snap/ABAWD/waivers>

OAR 461-135-0660:

Emails between Food and Nutrition Service and Oregon's SNAP program are available upon request from SNAP policy.

For all COVID-19 waivers for Oregon, see the "Oregon: COVID-19 Waivers & Flexibilities" website, available here:

<https://www.fns.usda.gov/disaster/pandemic/covid-19/oregon#snap>

October 12, 2022, Food and Nutrition Service Memorandum with subject "Supplemental Nutrition Assistance Program (SNAP) – End of Temporary Student Exemptions in the Consolidated Appropriations Act, 202", available here:

<https://fns-prod.azureedge.us/sites/default/files/resource-files/end-of-temporary-student-exemptions.pdf>

OAR 461-135-1511, 461-135-1512, 461-135-1513, 461-135-1514:

P-EBT FNS Guidance – SY 2021-2022 (08/26/2021), available here: <https://www.fns.usda.gov/snap/pebt-state-plans-2021-2022>

P-EBT FNS Q&A – SY 2021-2022 (08/26/2021), available here: [https://fns-](https://fns-prod.azureedge.us/sites/default/files/resource-files/Attachment-1-PEBT-QA-School-Year-2021-2022.pdf)

[prod.azureedge.us/sites/default/files/resource-files/Attachment-1-PEBT-QA-School-Year-2021-2022.pdf](https://fns-prod.azureedge.us/sites/default/files/resource-files/Attachment-1-PEBT-QA-School-Year-2021-2022.pdf)

Oregon P-EBT State Plan for SY 2021-2022 (08/04/2022), available here: [https://fns-](https://fns-prod.azureedge.us/sites/default/files/resource-files/PEBT_Oregon_Childcare_ODHS_Updates_7-26.pdf)

[prod.azureedge.us/sites/default/files/resource-files/PEBT_Oregon_Childcare_ODHS_Updates_7-26.pdf](https://fns-prod.azureedge.us/sites/default/files/resource-files/PEBT_Oregon_Childcare_ODHS_Updates_7-26.pdf)

Oregon P-EBT State Plan for SY 2021-2022 Approval by FNS (08/04/2022), available here: [https://fns-](https://fns-prod.azureedge.us/sites/default/files/resource-files/Oregon_P-EBT_Approval_Letter_SY_21-22_child_care_only_08-04-22.pdf)

[prod.azureedge.us/sites/default/files/resource-files/Oregon_P-EBT_Approval_Letter_SY_21-22_child_care_only_08-04-22.pdf](https://fns-prod.azureedge.us/sites/default/files/resource-files/Oregon_P-EBT_Approval_Letter_SY_21-22_child_care_only_08-04-22.pdf)

OAR 461-155-0040:

Letter from ODHS Chief Financial Officer to Senate Co-Chair Elizabeth Steiner Hayward and Representative Co-Chair

Dan Rayfield, available from Rule Coordinator Meorah Solar or TANF Policy Analyst Team.

"TANF-ACF-PI-2008-05 (Diversion Programs)", available at <https://www.acf.hhs.gov/ofa/policy-guidance/tanf-acf-pi-2008-05-diversion-programs-amended>

OAR 461-165-0010, 461-175-0350:

85 FR 52025 - Supplemental Nutrition Assistance Program: 2008 Farm Bill Provisions on Clarification of Split Issuance; Accrual

of Benefits and Definition Changes, available here: <https://www.govinfo.gov/content/pkg/FR-2020-08-24/pdf/2020-16403.pdf>

Supplemental Nutrition Assistance Program (SNAP): 2008 Farm Bill Provisions on Clarification of Split Issuance; Accrual of Benefits and Definition Changes: Delay of Implementation Date for Certain Provisions, available here: <https://public-inspection.federalregister.gov/2021-16123.pdf>

Federal Register- Supplemental Nutrition Assistance Program: 2008 Farm Bill Provisions on Clarification of Split Issuance; Accrual of Benefits and Definition Changes, available here: <https://www.federalregister.gov/documents/2020/08/24/2020-16403/supplemental-nutrition-assistance-program-2008-farm-bill-provisions-on-clarification-of-split>

Federal Register- Supplemental Nutrition Assistance Program (SNAP): 2008 Farm Bill Provisions on Clarification of Split Issuance; Accrual of Benefits and Definition Changes: Delay of Implementation Date for Certain Provisions, available here: <https://www.federalregister.gov/documents/2021/07/29/2021-16123/supplemental-nutrition-assistance-program-snap-2008-farm-bill-provisions-on-clarification-of-split>

OAR 461-165-0180:

Secretary of State Oregon Audits Division's "Oregon Department of Education, Oregon Department of Human Services, and Oregon State Police Oregon Should Improve Child Safety by Strengthening Child Care Background Checks and the State's Sex Offender Registry", available here:

<http://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/7359565>

Non-privileged emails between ERDC Policy Analyst Team and coordinating agencies available from the ERDC Policy Team upon request.

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

OAR 461-115-0230, 461-120-0210, 461-135-0520, 461-135-0660, 461-135-1270, 461-165-0010, 461-165-0230, 461-175-0350, 461-180-0125, 461-190-0211:

The Department estimates no racial equity impact.

461-135-0220:

The Department is unable to estimate if the raising the resource limit for all TANF applicants and recipients will have a racial equity impact in Oregon as there is no racial data regarding how many individuals from Communities of Color serving an IPV have applied for TANF and been denied for being over the \$2,500 resource limit. If there was racial data and it reflected a disproportionate number of individuals from Communities of Color were serving an IPV, the change would positively impact those communities as the \$2,500 resource limit is being increased to \$10,000. Prior to the rule change going into effect, details of this change as well as how the change effects individuals who have or had a TANF IPV will be shared with the TANF Redesign group as well as at the SSP Partners meetings. These conversations will happen in open forums and attendees are able to ask questions and provide feedback during the meeting as well as after the fact via emailing the point of contact. The Department will work with partners to provide them with assistance needed to inform the communities they work with of this change.

OAR 461-135-0400, 461-155-0150, and 461-160-0040:

The Department does not anticipate a racial equity impact from this rule change, especially as there is not data showing the intersection of race and caretakers who would be newly eligible for ERDC or for increased hours, or the race of the child care provider caretakers with newly increased eligibility or hours will use or currently use.

For the changes to OAR 461-135-0440:

According to available race-based data for providers*, many child care providers are women from Communities of Color, with a significantly higher representation of the "Hispanic" ethnicity than the Oregon census data. This rule will have a positive racial equity impact as it benefits the Black or African American and "Hispanic" provider communities at a disproportionate rate. To communicate the change, letters were mailed directly to the providers who received the payments.

*It is important to note that approximately 20.5% of the impacted provider base have declined to provide their race or ethnicity as of June 2022.

OAR 461-135-1511, 461-135-1512, 461-135-1513, 461-135-1514:

As the Department does not have race-based data regarding the children who will receive P-EBT, it is not able to make a racial equity impact statement.

OAR 461-145-0260:

The Confederated Tribes of Grande Ronde led the Department in coming to a realization that Tribal members receiving per capita payments were having benefits affected and reduced, creating an inequitable approach to services and programs. This rule change will positively impact any Native American/American Indian/Alaska Native Tribal Members who receive or apply for the impacted programs and receive income that is soon to be excluded. The Department estimates this will reduce harm to their wellbeing and financial circumstances.

Tribal Members are being affected negatively in the current rule, and this rule change will work to further racial and ethnic equity to Tribal Members and Communities. Language and names are important. The Department hopes that by restoring names to sovereign Tribal Nations, it will reduce any microaggression or harm that is inflicted by misnaming communities.

Policy has been in communication with Tribal leaders from The Confederated Tribes of Grande Ronde, The Confederated Tribes of Siletz, and The Klamath Tribes while considering and creating this rule change. Additionally, ODHS Tribal Affairs has been consulted.

OAR 461-155-0040:

The Department estimates no racial equity impact. TANF Redesign group was made aware of these changes. This group consist of TANF advocates and community members. Additionally, TANF listening sessions with various communities across the state in March made mention of this newly authorized payment.

OAR 461-160-0015:

The Department is unable to estimate if the changes will have a racial equity impact in Oregon as there is no racial data regarding how many individuals from Communities of Color serving an IPV have applied for TANF and been denied for being over the \$2,500 resource limit. If there was racial data and it reflected a disproportionate number of individuals from Communities of Color were serving an IPV, the change would positively impact those communities as the \$2,500 resource limit is being increased to \$10,000.

Prior to the rule change going into effect, details of this change as well as how the change affects individuals who are serving a TANF IPV will be shared with the TANF Redesign group as well as at the SSP Partners meetings. These conversations will happen in open forums and attendees are able to ask questions and provide feedback during the meeting as well as after the fact via emailing the point of contact. The Department will work with our partners to provide them with assistance needed to inform the communities they work with of this change.

OAR 461-165-0180:

There are limitations to the race-based data ODHS has for their child care providers. Currently, the race-based data collected from providers on the ODHS Provider listing form is voluntary.

From the data that is available, there is a higher percentage of Black or African American license exempt non-relative providers than the percentage of Black or African American individuals living in the state of Oregon. Adding a new application process for background checks requirement could be harmful to this group of providers for a few reasons.

- Historically, adding new requirements has caused some providers to not complete the listing process.
- Adding a different background check application requirement to an existing provider population could mean losing providers who do not complete the CBR enrollment requirement by the deadline. This would negatively impact the ability to receive CCDF child care funding.
- According to data cited by the Oregon Criminal Justice Commission, there is a disparity in the number of probation and local control intakes and prison intakes suffered by members of Oregon's Black, Latino, and Native American populations. Disparate and biased law enforcement practices or outcomes may lead to disparate background check results, which may result in disparate child care provider denials. To note: The background check is not a new requirement, but a different agency will be conducting the background check. The list of disqualifying crimes is identical across both background check processes, however the weigh testing processes do vary between agencies as noted in the 2020 SOS audit of the background check processes.

In order to communicate these changes,

- ELD/OCC has presented rule changes at their Early Learning Council, which were approved. ODHS, OCC, BCU, and SEIU have participated in meetings related to the upcoming background check changes for license exempt child care providers.
- A CBR FAQ document has been drafted by joint collaboration with OCC, the child care provider guide has been updated with the new CBR requirement, and the child care listing form was updated with the new CBR requirement information and directions.

FISCAL AND ECONOMIC IMPACT:

OAR 461-115-0230:

The Department estimates a positive fiscal impact to those applying for benefits as the change may remove a previous barrier to or cost of accessing benefits (for example, gas or bus fare). The Department estimates no fiscal impact to 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.

OAR 461-120-0210:

The Department was unable to locate data that would help in accurately predicting the negative fiscal impact to the Department. Any negative fiscal impact will be in direct proportion to the number of newborns who would have become ineligible for TANF previous to the six months for failure to provide an SSN at redetermination. Any positive fiscal impact to families who continue to receive TANF for the newborn through the sixth month will be in the same, but reverse amount as the negative fiscal impact to the Department. 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.

OAR 461-135-0220:

The Department does not estimate a current fiscal impact to those applying for or receiving TANF benefits, except for those whose group includes an individual serving an intentional program violation, as the Department adopted the higher \$10,000 resource limit due to the COVID-19 pandemic. As the Department is not returning to the lower resource limits, however, it does anticipate a positive fiscal impact to those who would have been denied under the

previous rule. The exact positive fiscal impact is unknown as the TANF grant amount for each group varies based on size and specific income, and each group receives TANF for different lengths of time, based on what they choose is best for them and their continued eligibility status. The Department estimates no fiscal impact to 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.

OAR 461-135-0400, 461-155-0150, and 461-160-0040:

The Department estimates the following negative fiscal impacts to the Department:

To expand eligibility to students, a negative fiscal impact for program costs of \$111,789,600 to \$147,576,000 per biennium and a negative fiscal impact for ONE system information technology costs of \$204,692. To expand child care hours eligibility to a half time/part time model, a negative fiscal impact for program costs of \$8,808,751 per biennium and a negative fiscal impact for ONE system information technology costs of \$230,547. To expand for parent availability, a negative fiscal impact for program costs of \$3,231,358 per biennium (ONE system IT costs are already included above).

The Department estimates the following fiscal impacts to families eligible for ERDC:

Families currently receiving ERDC and subject to this rule change will experience a positive fiscal impact as the changes proposed are likely to increase the number of subsidized child care hours. Families not currently receiving ERDC that include caretakers who are non-working students or on medical leave may newly qualify for ERDC under the proposed changes, which will allow them to access subsidized child care hours and lower their out of pocket child care cost.

The Department estimates the following fiscal impacts to providers (which may include small businesses):

Child care providers could experience a positive fiscal impact. Currently there are about 3,832 approved ODHS child care providers. These providers receive on average about \$1,300 in subsidy funds per month. The Department is unable to predict the exact fiscal impact to providers but by increasing the number of families eligible for ERDC and expanding the number of hours families qualify for, child care providers could see an increase in income.

The Department estimates no fiscal impact to other state agencies, local government, and business, including small business (except for providers who consider themselves a small business). There is no cost of compliance for small businesses. No small businesses are subject to this rule.

OAR 461-135-0440:

The Department estimates a negative fiscal impact to the Department in the amount of \$20 to \$200. The majority of the cost of the payments were covered by the CARES Act funds that were transferred to ODHS, but rounding the payments up required ODHS to use state General Fund. Licensed exempt family providers eligible for the payment will be positively impacted by receiving a one-time payment of \$1508. The Department estimates no fiscal impact to those applying for or receiving benefits, the public, other state agencies, local government, and business, including small business (except for providers eligible for the payment who consider themselves a small business). There is no cost of compliance for small businesses. Except as already stated, no small businesses are subject to this rule.

OAR 461-135-0520:

The Department estimates a maximum negative monthly fiscal impact of \$281 for individuals who meet the criteria of ABAWD, live in a county that becomes a SNAP time-limit area cases subject to the time limit, and earns three counting months without becoming exempt, receiving a discretionary exemption, regaining eligibility, or meeting good cause. The Department estimates no fiscal impact on the Department, other state agencies, the public, local government, and business, including small business. There is no cost of compliance for small businesses. No small businesses are subject to this rule.

OAR 461-135-0660:

The Department estimates no fiscal impact to the Department, those applying for or receiving benefits, 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.

OAR 461-135-1270, 461-180-0125:

As the change places current policy into OAR for clarity, the Department estimates no fiscal impact to the Department, those applying for or receiving benefits, 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.

OAR 461-135-1511, 461-135-1512, 461-135-1513, 461-135-1514:

The Department estimates a positive fiscal impact to groups who include a P-EBT eligible child, of \$63 monthly for a maximum of nine months. A maximum positive fiscal impact of \$567 per eligible child, and a collective total estimated fiscal impact of \$49 million. The Department estimates no fiscal impact to the Department (as P-EBT is fully federally funded), those not eligible for P-EBT benefits, 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.

OAR 461-145-0260:

ODHS estimates a negative fiscal impact. The complete impact is difficult to determine as complete data is not readily available. However, the Department has been able to determine how many cases have this income counted against them, that will exclude this income as a result of the rule change.

Based on data from June 2021-July 2022 programs had the below number of cases with a total amount of income coded.

ERDC: 63 cases - \$45,633

TA-DVS: 26 cases – \$6,821.44

TANF: 238 cases – \$154,611.73

For ERDC: Due to the lack of data, the Department cannot accurately determine a fiscal impact. This is because data does not show other income that may be on the 63 ERDC cases above. Calculating for the greatest potential negative fiscal impact, the Department assumed all 63 cases are for a need group size of three and their combined monthly income is \$4,319 with a monthly copay of \$110 and each case had \$724.33 per year ($\$45,633/63$) resulting in monthly income of \$60.36 ($\$724.33/12 = \60.36) of the proposed disregarded income would result in the family being eligible for the monthly copay of \$50 ($\$4,319 - 60.36 = \$4,258.64$). Using these criteria, the fiscal impact to the Department would be \$71,820 per year ($\$60 \times 63 \times 12 = \$45,360$).

For TA-DVS: Due to program eligibility rules, the Department is unable to accurately determine a fiscal impact. This is because any payments issued for TA-DVS survivors must first look at available income and resources the survivor has available to contribute. This is to say, if a survivor received this income in the month of the requested payment, however, at the time of request it was not available due to being utilized for other needs, TA-DVS payments would still be made.

For TANF: Due to being unable to determine the benefit amount for the impacted cases means we are unable to accurately determine what the impact to the Department would be. Calculating for the greatest potential negative fiscal impact, the Department assumed all 238 TANF cases were for a benefit size of three (most common group size) and received the minimum benefit amount of \$10 for 12 months, and the exclusion of this income would otherwise make them eligible for a full TANF grant of \$506. Using these criteria, the fiscal impact to the Department would be \$1,416,576 per year ($\$496 \times 238 \times 12$).

Individuals who receive ERDC, TA-DVS, or TANF benefits and one of the types of Native American/American Indian/Alaska Native benefit payments that will soon be excluded will experience a positive fiscal impact. These individuals will no longer have their benefits reduced due to receiving income from a Tribe for which they are a member. This will provide a positive impact as they will be able to access additional program benefits to provide additional financial stability.

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.

OAR 461-155-0040:

The Department estimates a positive fiscal impact to those receiving TANF and eligible for the payments in the amount of \$270 per payment and a maximum of \$810 in a year. The Department estimates no fiscal impact to the Department as HB5202 allows the Department to utilize Federal TANF carry over funds (savings) to fund these payments. This was forecasted to be \$15,300,000 per year. 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.

OAR 461-160-0015:

As the higher resource limit is currently in place under a COVID-19 rule, the Department estimates no fiscal impact to those receiving or applying for TANF, 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.

OAR 461-165-0010, 461-175-0350:

The Department estimates a fiscal impact to those who receive benefits and lose any due to expungement. As there is no way to know who will leave benefits unused for 9 calendar months, or the amount that will be left unused, an exact fiscal cannot be provided. The Department estimates no fiscal impact to 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.

OAR 461-165-0180:

The Department estimates the following fiscal impact to ODHS and the Office of Child Care (OCC):

- The ODHS Background Check Unit estimates they spend approximately \$17,000 monthly to cover Oregon State Police and Federal Bureau of Investigation processing fees. The transfer of responsibility for background checks to OCC will be a positive fiscal impact to ODHS of about \$17,000 monthly, and a correspondingly negative fiscal impact to OCC. The Department estimates the following fiscal impact to child care providers (which may include small businesses if they consider themselves a small business):

- The Department does not estimate a negative fiscal impact to license-exempt child care providers in regards to the actual process of being fingerprinted and undergoing a background check and eligibility determination. If a subject individual does not use or have access to a contracted fingerprint company (Fieldprint) the estimated cost to complete fingerprinting varies between \$5-\$100 depending on service used. This is the same fingerprinting costs the provider would have incurred under the previous background check process with BCU.

- In the past, adding new requirements has caused some providers to not complete the listing process, therefore, the Department estimates an average \$1634.39 monthly negative fiscal impact to currently approved child care providers who do not follow the new process and lose the ability to receive child care funding from a state agency.

- Potential positive fiscal impacts are the ability to gain employment in child care centers or become licensed providers (due to CBR enrollment), which could result in additional income, and that providers will no longer have to resubmit for eligibility every two years, minimizing administrative burdens (CBR enrollment is valid for five years).

The Department estimates no fiscal impact to the public, other state agencies except as stated above, local government, and business, including small business except as stated here: Effect on Small Businesses, separated by the number and type of small businesses subject to the rule(s):

- Recorded Preschool Programs: 396 programs*

- Subsidized Care Facilities (Regulated Subsidy Providers, Except Providers receiving Child Care Subsidies): 1,650 providers* (includes in-home providers as well as licensed exempt child care centers)

*Programs may be operated by small businesses, individuals, school districts, other governmental organizations such as local Parks & Recreation Departments that may not be considered small businesses.

OAR 461-165-0230:

Based on data from ORRAI from June 2021-June of 2022 there were approximately 428 cases (combination of TANF and Refugee) that received replacement benefits due to agency error. The total dollar amount for these replacements was \$119,481. It could be reasonably expected that ongoing, the fiscal impact would increase due to the change in rule, however, there is no way to predict what the total impact would be as its unknown how many individuals will be victims of fraud, skimming, or Department error, and meet the reporting and affidavit requirements for replacement. The Department estimates a positive fiscal impact on recipients of both TANF and Refugee benefits should they find themselves in a need for replacement benefits. The estimated negative fiscal impact to the Department and positive fiscal impact to clients eligible for replacement will be an equal amount. 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.

OAR 461-190-0211:

As Department practice currently allows payment to help stabilize living, just under a different activity code, the Department estimates no fiscal impact to the Department, those applying for or receiving benefits, 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 (except for child care providers who consider themselves a small business and their union representatives who were invited to the Rule Advisory Committee) but are invited to provide input during the public comment period.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

An Administrative Rule Advisory Committee (RAC) was consulted for all rule changes except changes to OAR 461-135-0220, 461-135-0520, 461-135-0660, 461-135-1511, 461-135-1512, 461-135-1513, 461-135-1514, 461-175-0350, 461-180-0125, for the following reasons:

OAR 461-135-0220 removed all COVID-19 provisions and turned the rule into a placeholder in case of a future pandemic. As the amendments to the one remaining COVID-19 provision are included in this filing under OAR 461-160-0015, the placeholder rule did not also need to be reviewed by the RAC.

OAR 461-135-0520, 461-135-0660, 461-135-1511, 461-135-1512, 461-135-1513, 461-135-1514, and 461-175-0350 are rule changes based on federal SNAP ABAWD program waivers and time limit areas, newly required federal SNAP regulations about expungement notices, COVID-19 SNAP regulation changes, and federal agreements and requirements for the P-EBT program. As the Department is bound to implement these waivers, contracts, and new regulations as written, a Rule Advisory Committee was not consulted. However, the Department communicated these changes extensively at a variety of community partner meetings and through a number of different public

communication methods.

461-180-0125 is a rule that governs actions the Department takes after an ERDC case is closed for returned mail. As the Department changed rule earlier this year and does not close an ERDC case when mail is returned, this rule is moot. Repeal of a moot rule did not merit RAC consultation.

RULES PROPOSED:

461-115-0230, 461-120-0210, 461-135-0220, 461-135-0400, 461-135-0440, 461-135-0520, 461-135-0660, 461-135-1270, 461-135-1511, 461-135-1512, 461-135-1513, 461-135-1514, 461-145-0260, 461-155-0040, 461-155-0150, 461-160-0015, 461-160-0040, 461-165-0010, 461-165-0180, 461-165-0230, 461-175-0350, 461-180-0125, 461-190-0211

AMEND: 461-115-0230

RULE SUMMARY: OAR 461-115-0230 is being changed to allow applicants of REF, REFM, and TANF programs to choose a phone interview when a hardship does not exist. Applicants will be allowed to choose to complete an interview by phone, in-person, or an offsite appointment, based on their personal need or preference.

CHANGES TO RULE:

461-115-0230

Interviews ¶¶

- (1) In the REF, REFM, and TANF programs, ~~the Department may con~~¶¶
(a) An interview with an adult a required face-to-face interview by telephone or home visit if an in the filing group (see OAR 461-110-0350) or the authorized representative (see OAR 461-001-0000 and 461-115-0090) has not been appointed, and participating in a face-to-face interview is a hardship (see section (2) of this rule) for the household 115-0090) of the filing group is required at initial application and renewal of benefits.¶¶
(b) An interview may be conducted via phone, office visit or offsite location.¶¶
(c) A face-to-face interview must be granted at the applicant's request.¶¶
(2) For the purposes of this rule, "hardship" includes, but is not limited to:¶¶
(a) Care of a household member;¶¶
(b) An individual's age, disability (see OAR 461-001-0000), or illness;¶¶
(c) A commute of more than two hours from the individual's residence to the nearest branch office (see OAR 461-001-0000);¶¶
(d) A conflict between the individual's work or training schedule and the business hours of the branch office; and¶¶
(e) Transportation difficulties due to prolonged severe weather or financial hardship.¶¶
(3) In the SNAP program:¶¶
(a) An interview must be scheduled so that the filing group (see OAR 461-110-0370) has at least ten days to provide any needed verification before the deadline under OAR 461-115-0210.¶¶
(b) A face-to-face interview must be granted at the applicant's request.¶¶
(c) When an applicant misses the first scheduled interview appointment, the Department must inform the applicant by notice of the missed interview.¶¶
(d) An applicant who fails to attend a scheduled interview must contact the Department no later than 30 days following the filing date (OAR 461-115-0040) to be eligible for benefits.¶¶
(e) An adult (see OAR 461-001-0015) or primary person (see OAR 461-001-0015)-in the filing group, an adult or primary person excluded from the filing group under OAR 461-110-0370(8)(b),-or the authorized representative (see OAR 461-001-0000, 461-115-0090, and 461-135-0510)-of the filing group is interviewed once every 12 months.¶¶
(4) In the ERDC program:¶¶
(a) Except as provided otherwise in subsection (c) of this section, an interview with an adult in the filing group (see OAR 461-110-0350) or the authorized representative of the filing group is required to process an initial application and a renewal of benefits.¶¶
(b) A phone interview is preferred; however, a face-to-face interview must be granted at the applicant's request.¶¶
(c) An interview is not required when either of the following occur:¶¶
(A) The Department has implemented the Child Care Reservation List and it is determined that a decision notice (see OAR 461-001-0000) of ineligibility will be sent under OAR 461-115-0016.¶¶
(B) Retroactively effective July 1, 2022, the Department determines that the filing group may receive "priority

processing" in accordance with OAR 461-170-0150(2).¶

(5) In the OSIPM program, the Department must complete an interview with at least one individual authorized to sign the application under OAR 461-115-0071(3), except as follows:¶

(a) Individuals in a standard living arrangement (see OAR 461-001-0000) who are receiving SSI or are in 1619(b) status are not required to complete an interview at initial application.¶

(b) Individuals who are receiving SSI or are in 1619(b) status are not required to complete an interview at annual redetermination.¶

(c) The interview requirement shall be waived at annual redetermination if the individual is unable to complete the interview due to incapacity and an authorized representative has not been designated.¶

(6) In the QMB programs:¶

(a) The Department must complete an interview with at least one individual authorized to sign the application under OAR 461-115-0071(3) at initial application.¶

(b) An interview is not required at redetermination except in the QMB-DW program. ¶

(7) In the REF and REFM programs, a face-to-face interview is required.¶

(8) In the TA-DVS program, the Department will conduct a required face-to-face interview with the survivor, unless there is a safety concern related to the domestic violence (see OAR 461-001-0000) situation or there is a hardship. An interview due to safety concern or hardship may be completed via phone, home visit, or offsite appointment.

Statutory/Other Authority: ORS 411.060, 411.404, 411.706, 411.816, 412.049, 414.826, 414.839, ORS 409.050

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.839, 411.117

AMEND: 461-120-0210

RULE SUMMARY: OAR 461-120-0210 is being amended to make all children born in an Oregon hospital, to a family receiving TANF benefits, eligible for TANF benefits for six months after their date of birth. This change removes the requirement to provide an SSN at TANF benefit recertification if the renewal occurs before the sixth month.

CHANGES TO RULE:

461-120-0210

Requirement to Provide Social Security Number (SSN) ¶¶

(1) In the CWM, 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 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 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 SSA

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: 461-135-0220

RULE SUMMARY: OAR 461-135-0220 is being changed to remove remaining provisions specific to the COVID-19 pandemic and reserve the rule for adopting provisions in the case of a future pandemic.

CHANGES TO RULE:

461-135-0220

REF, REFM, and TANF Programs; ~~COVID-19~~Pandemic

The provisions in this rule apply to the REF, REFM, and TANF programs.¶

~~(1) The Department amends the resource limit for the REF, REFM, and TANF programs (see OAR 461-160-0015(6) and (8)), as follows:¶~~

~~(a) \$2,500 for a need group (see OAR 461-110-0630) with every caretaker relative (see OAR 461-001-0000) serving an intentional program violation (see OAR 461-195-0601).¶~~

~~(b) \$10,000 for new applicants and all other need groups.¶~~

~~(2) American Rescue Plan Act of 2021, Pandemic Emergency Assistance funds allotted to the Department shall be distributed in a one-time payment to TANF benefit groups (see OAR 461-110-0750) as follows:¶~~

~~(a) The payment shall be issued in the same method as the TANF benefit.¶~~

~~(b) The payment is limited to groups eligible for TANF for the month of September 2021 whose eligibility (OAR 461-001-0000) was determined and authorized by November 1, 2021.¶~~

~~(c) The payment amount is determined based on the available funds and the total number of eligible benefit groups.¶~~

~~(d) Payments are not subject to overpayment (see OAR 461-195-0501) and shall not be included in any overpayment calculation.¶~~

~~(e) All funds shall be issued in November 2021, on a date determined by the Department, with no remaining funds available and is reserved for use in case of a pandemic.~~

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, ~~411.083~~, 412.006, 412.049, 412.064

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, ~~411.081, 411.083, 411.087~~, 412.006, 412.049, 412.064, 45 CFR 206.10, 45 CFR 400.155, ~~45 CFR 261.11~~, 45 CFR 260.31

AMEND: 461-135-0400

RULE SUMMARY: OAR 461-135-0400 is being amended to expand ERDC eligibility to non-working students and caretakers who are on medical leave and update the Oregon Student Assistance Commission to its current name of Office of Student Access and Completion. The rule is being amended to align with House Bill 3073 from the Oregon 2021 regular session.

CHANGES TO RULE:

461-135-0400

Specific Requirements; ERDC ¶¶

(1) The Department makes payments for child care, including care covered by the ERDC program, subject to the provisions of division 165 of this chapter of rules.¶¶

(2) To be eligible for ERDC, a filing group (see OAR 461-110-0310 and 461-110-0350) must meet the requirements of all of the following subsections:¶¶

(a) Except as provided in subsection (c) of this section, every caretaker (see OAR 461-001-0000) in the filing group must ~~meet one of the following:~~¶¶

(A) Receive income from employment. This includes self-employment (see OAR 461-145-0910), participation in the Occupational Training and Child Care program (see OAR 461-160-0040), and employment through a work study program.¶¶

(B) Participate in education hours, either through:¶¶

(i) 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; or¶¶

(ii) Participation in a high school education or general equivalency diploma (GED) program. To be eligible under this subparagraph the caretaker must be twenty (20) years of age or younger.¶¶

(C) Be on medical leave.¶¶

(b) The filing group must include a child (see OAR 461-001-0000) who needs child care.¶¶

(c) The filing group must have an allowable child care need as described in OAR 461-160-0040. If there are two adults required to be in the filing group, and one of the adults ~~is unemployed, the unemployed does not meet any criteria in subsection (a) of this section, that adult is considered available to provide child care, making the filing group ineligible, except in the following situations:~~¶¶

(A) The unemployed adult is physically or mentally unable to provide adequate child care. This must be verified (see OAR 461-125-0830).¶¶

(B) The unemployed adult is unavailable to provide child care while participating in the requirements of a case plan (see OAR 461-001-0025) other than requirements associated with post-secondary education.¶¶

(C) Confirmation is received from the Office of Child Welfare Programs that supervised contact is required between the child and an unemployed parent (see OAR 461-001-0000) or spouse (see OAR 461-001-0000) who is living in the home with the child the adult.¶¶

(d) The filing group must use a child care provider who meets the requirements in OAR 461-165-0160 and 461-165-0180.¶¶

(e) The child needing child care must meet the citizenship or ~~a~~ noncitizen status requirements of OAR 461-120-0110.¶¶

(f) The filing group must certify that they do not exceed the resource limit in OAR 461-160-0015 and must meet the income limits in ~~OAR 461-155-01560-0300.~~¶¶

(3) A filing group not willing to show verification of immunizations, proof that the immunization series has started, or a copy of the medical or non-medical exemption form for the child is not eligible for ~~a child care payment.~~¶¶

~~(4) The child care must be necessary to enable the caretaker to remain employed, including self-employed the ERDC program.~~¶¶

~~(54) A filing group is not eligible for child care when the caretaker or parent in the filing group receives a grant for child care from the Oregon office of Student Assistance Commission and Completion for any month the grant is intended to cover, regardless of when the grant is received.~~

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

Statutes/Other Implemented: ORS 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122, 411.141, 418.485, HB 3073 Oregon 2021 Reg. Sess.

RULE SUMMARY: OAR 461-135-0440 is being amended to remove COVID-related provisions that have been adopted into ongoing rule or have ended. The rule is also being amended to add Department authority to issue a one-time payment to license-exempt family child care providers who did not receive one of their stabilization grants. The Department of Education, Early Learning Division transferred \$1,740,000 in CARES Act funding to ODHHS for issuance to license exempt family providers due to the low saturation rates of the stabilization grants to these specific provider types. A list of eligible providers was pulled on August 1, 2022, any providers who received the stabilization grant were removed from the list, and the \$1.74M in funds was equally distributed to all remaining providers. The amount was rounded up to the nearest dollar using state General Fund allocated to the Employment Related Day Care program (an estimated cost of no more than \$2000).

CHANGES TO RULE:

461-135-0440

Child Care Benefit Eligibility and Payment; COVID-19

(1) The provisions in this rule apply to child care benefits and requirements for child care providers in the ERDC and TANF programs.¶

(12) The Department suspends the following rules or rule sections regarding the ERDC or TANF programs:¶

(a) OAR 461-155-0150(5), (5)(c), (5)(e) through (5)(h), (12) through (14);¶

(b) OAR 461-160-0040(4);¶

(c) OAR 461-160-0193(2);¶

(d) OAR 461-160-0300(2), (3)(b);¶

(e) OAR 461-135-0405(2); and¶

(f) OAR 461-155-0150(3), (3)(g).¶

(2) The Department amends the following rule sections regarding the ERDC or TANF programs as provided in this rule:¶

(a) OAR 461-165-0160(2)(f);¶

(b) OAR 461-165-0180(13)(a)(A), and¶

(c) OAR 461-170-0160(1), (2), (3).¶

(3) The ERDC monthly countable income (see OAR 461-001-0000) standard is the 250 percent FPL or 85 percent state median income (SMI), whichever is higher, described under OAR 461-155-0180. To be eligible, the countable income of the need group (see OAR 461-110-0630) must be less than:¶

(a) The standard listed for the number of individuals in the need group for groups of eight or fewer.¶

(b) The standard listed for eight individuals in the need group for groups of more than eight individuals.¶

(4) Beginning the month of March 2020, the monthly copay is \$0 for the entirety of the certification period (see OAR 461-001-0000).¶

(5) The Department shall pay for:¶

(a) Absent days each month the child is absent. For the purposes of this rule, absent days will be paid for up to 31 days each month if:¶

(A) The child was scheduled to be in care;¶

(B) The provider bills for the time the child was scheduled to be in care, and¶

(C) It is the provider's policy to bill all families for absent days.¶

(b) Days a child is unable to attend care due to a temporary shutdown related to COVID-19 during the COVID-19 state of emergency period initiated by Executive Order 20-03 of the Governor of Oregon.¶

(c) Days a school-age child is attending child care and participating in distance learning due to concerns, school closures, or medical reasons related to COVID-19.¶

(d) For the months of September, October, and November of 2020; days a child is unable to attend care due to a temporary shutdown related to Oregon wildfires during the COVID-19 state of emergency period initiated by Executive Order 20-03 of the Governor of Oregon; if the location at which care is provided was in an:¶

(A) Evacuation Level 1, 2, or 3 area; or¶

(B) Area with an Air Quality Index of 101 or higher.¶

(e) A one-time supplemental payment of one of the following: hall pay for one-time supplemental payments as follows:¶

(a) A provider may only receive one of the payments listed in this subsection.¶

(A) In the amount of \$2,312.00 to child care providers who, at the time the Department completed the data pull on November 13, 2020, met the following criteria:¶

(i) Eligible for payment under OAR 461-165-0180,¶

(ii) Designation of a license-exempt standard family or enhanced family provider as identified by a Standard Family Rate provider type (see OAR 461-155-0150) or an Enhanced Family Rate provider type (see OAR 461-155-0150), and¶

(iii) Received a payment from the Department for child care provided during April, May, June, July, August, September, October, or November 2020.¶

(B) In the amount of \$2,842.00 to child care providers who, at the time the Department completed the data pull on November 13, 2020, met the following criteria:¶

(i) Met all criteria in subparagraph (5)(e)(A)(i) through (iii) of this rulesubsection, and¶

(ii) Have not received an Emergency Child Care grant from the Oregon Department of Education, Early Learning Division for either phase one or phase two.¶

(C) In the amount of \$735.00 to child care providers who, at the time the Department completed the data pull on June 30, 2021, met the following criteria:¶

(A) Eligible for payment under OAR 461-165-0180,¶

(B) Designation of a license-exempt standard family or enhanced family provider as identified by a Standard Family Rate provider type (see OAR 461-155-0150) or an Enhanced Family Rate provider type (see OAR 461-155-0150), and¶

(C) Received a payment from the Department on or after November 13th, 2020, for child care provided during any month from April 2020 through June 2021.¶

(6c) In addition to provisions in OAR 461-170-0160, an individual may apply for ERDC benefits using the Department approved "telephonic application" (see section (7) of this rule) and "narrated telephonic signature" (see section (8) of this rule) processes. An individual submitting a telephonic application must submit the application with a narrated telephonic signature.¶

(7) A telephonic application is accepted when the following requirements are met: ¶

(a) All ERDC program related questions on the application are answered.¶

(b) All information necessary to determine eligibility (see OAR 461-001-0000) and benefit amount is provided for each individual in the filing group (see OAR 461-110-0310). ¶

(c) The applicant or their authorized representative (see OAR 461-115-0090)the amount of \$1508; funded by Coronavirus Aid, Relief, and Economic Security Act (2020) funds allotted to the Department in the amount of \$1,740,000; to providers a narrated telephonic signature as defined in this rule. ¶

(8) A narrated telephonic signature is accepted for an application for ERDC benefits when the Department makes record that the following requirements are met:¶

(a) The "Your Rights and Responsibilities" form is reviewed and sent to the mailing address of the applicant.¶

(b) The following sections at the end of the application form are reviewed and sent to the mailing address of the applicant:¶

(A) "Information about all programs," and¶

(B) "Information about your rights and responsibilities." ¶

(c) The applicant or their authorized representative affirms that they:¶

(A) Have heard and understand their rights and responsibilities; ¶

(B) Agree to their rights and responsibilities;¶

(C) Have given true, correct, and complete information to the Department; and¶

(D) State their full name as their signature.¶

(d) The Department makes record of the narrated telephonic signature.¶

(9) Notwithstanding OAR 461-165-0180(13)(a)(A), legally exempt (see OAR 461-165-0180) providers that are not a legally exempt relative (see OAR 461-165-0180) to all children in care must have an up-to-date infant and child CPR and first aid certification, within 90 days of approval by the Department. Online infant and child CPR trainings approved through the Oregon Registry will be accepted by the Department until June 30, 2022.¶

(a) Providers and their staff are not subject to the infant and child CPR and first aid certification renewal provisions if the training is not available in their preferred language.¶

(b) Individuals to whom subsection (9)(a) applies must complete the infant and child CPR and first aid certification within 60 days of the day the Governor of Oregon ends the COVID-19 state of emergency period initiated by Executive Order 20-03.¶

(10) Providers who are approved by the Department on or before August 31, 2021, may receive retroactive payment prior to the Department approval date and beginning the date the following were met:¶

(a) The provider was approved through the Office of Child Care (OCC) as an Emergency Child Care provider due to the COVID-19 state of emergencywho, at the time the Department completed the data pull on August 1, 2022, met the following criteria:¶

(A) Eligible for payment under OAR 461-165-0180,¶

(B) Designation of a license-exempt standard family or enhanced family provider as identified by a Standard Family Rate provider type (see OAR 461-155-0150) or an Enhanced Family Rate provider types (see OAR 461-

155-0150), and¶

(bC) The provider met all other Department provider requirements.¶

(11) Providers who are not legally exempt are not eligible to receive payment from the Department if:¶

(a) Their application or approval to operate Emergency Child Care was denied, suspended, or revoked by OCC;
or¶

(b) They voluntarily surrendered their Emergency Child Care approval while under investigation by the OCC or at any time after OCC gave them notice of any administrative proceeding.¶

(12) Unless indicated otherwise in this rule, the provisions in this rule end on September 30, 2021. Did not receive a stabilization grant payment from the Department of Education, Early Learning Division.

Statutory/Other Authority: ORS 131.715, 329a.500, ORS 84.001, ORS 411.060, 411.070, 412.006, 412.049, 409.050, 84.061, 84.004, 84.007, 84.010, 84.013, 84.014, 84.016, 84.019, 84.022, 84.025, 84.028, 84.031, 84.034, 84.037, 84.040, 84.043, 84.046, 84.049, 84.052, 84.055, 84.058

Statutes/Other Implemented: ORS 411.122, 411.141, 418.485, ORS 131.715, 329a.500, ORS 84.001, ORS 411.060, 411.070, 412.006, 412.049, 409.610, 84.061, 84.004, 84.007, 84.010, 84.013, 84.014, 84.016, 84.019, 84.022, 84.025, 84.028, 84.031, 84.034, 84.037, 84.040, 84.043, 84.046, 84.049, 84.052, 84.055, 84.058, 329a.260

AMEND: 461-135-0520

RULE SUMMARY: OAR 461-135-0520 is being changed to make updates to one of the SNAP Employment and Training (SNAP E&T) programs: Able-bodied adult without dependents (ABAWD), including updating the list of counties in Oregon that will be "SNAP time-limit areas" and "SNAP time-limit exempt areas" effective January 1, 2023.

CHANGES TO RULE:

461-135-0520

Time Limit and Special Requirements for ABAWD; SNAP ¶¶

This rule establishes the time limit and special requirements for receipt of SNAP benefits for certain adults.¶¶

(1) Unless the context indicates otherwise, the following definitions apply to rules in OAR chapter 461:¶¶

(a) "Able-bodied adult without dependents (ABAWD)" means an individual 18 years of age or over, but under the age of 50, without dependents. For the purpose of this definition, "without dependents" means there is no child (see OAR 461-001-0000) under the age of 18 years in the filing group (see OAR 461-110-0310 and 461-110-0370).¶¶

(b) "SNAP time-limit areas" means areas of Oregon in which the limitation on eligibility (see OAR 461-001-0000) for SNAP benefits for ABAWD in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)) applies. ~~There are no "SNAP time-limit areas" in Oregon during October 1, 2020 to September 30, 2022~~ will be listed here when approved by Food and Nutrition Service.¶¶

(c) "SNAP time-limit exempt areas" means areas of Oregon in which the limitation on eligibility for SNAP benefits contained in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)) does not apply per a waiver approved by the United States Department of Agriculture. "Exempt areas" ~~are all counties in Oregon during October 1, 2020 to September 30, 2022~~ will be listed here when approved by Food and Nutrition Service.¶¶

(2) Except as provided otherwise in this rule, an ABAWD who resides in one of the SNAP time-limit areas (see section (1) of this rule) is ineligible to receive food benefits as a member of any household after the individual received food benefits for three countable months (see section (3) of this rule) during January 1, 2022 to December 31, 2024.¶¶

(3) "Countable months" means months within the 36-month period of January 1, 2022 to December 31, 2024 in which an individual as a member of any household receives SNAP benefits in Oregon or in any other state, unless at least one of the following applies:¶¶

(a) Benefits were prorated for the month.¶¶

(b) The individual was exempt from the SNAP time limit for any part of the month for any of the following reasons:¶¶

(A) The individual resided for any part of the month in one of the SNAP time-limit exempt areas (see section (1) of this rule).¶¶

(B) The individual was pregnant.¶¶

(C) A child under the age of 18 years joined the filing group.¶¶

(D) The individual met the criteria under OAR 461-130-0310(3)(a) or (b).¶¶

(c) The individual participated in one or more of the activities in paragraphs (A) to (D) of this subsection for 20 hours per week averaged over the month. For purposes of this rule, 20 hours per week averaged monthly means 80 hours per month. (Activities may be combined in one month to meet the 20 hours per week averaged monthly requirement.)¶¶

(A) Work for pay, in exchange for goods or services, or unpaid work as a volunteer.¶¶

(i) Work in exchange for goods and services includes bartering and in-kind work.¶¶

(ii) Unpaid or voluntary work hours must be verified by the employer.¶¶

(iii) For self-employed individuals, countable income after deducting the costs of producing income (as described in OAR 461-145-0930(5)) must average at least the federal minimum wage times 20 hours per week.¶¶

(B) Participate in a program under the Workforce Investment Act of 1998, Pub. L. No. 105-220, 112 Stat. 936 (1998).¶¶

(C) Participate in a program under section 236 of the Trade Act of 1974, Pub. L. 93-618, 88 Stat. 2023, (1975) (19 U.S.C. 2296).¶¶

(D) Comply with the SNAP Employment and Training program requirements described in OAR 461-001-0020, 461-130-0305, and 461-130-0315. Work search activities must be combined with other work-related activities to equal 20 hours per week and may not exceed 9 hours per week.¶¶

(d) The individual complied with the Workfare requirements in OAR 461-190-0500.¶¶

(4) An ABAWD must submit evidence to the Department within 90 days following the month they received the countable month to show they were exempt or met the 80 hour activity requirement.¶¶

- (5) An ABAWD who is ineligible under section (2) of this rule but otherwise eligible may regain eligibility if the requirements of subsections (a) or (b) of this section are met. ¶
- (a) The individual becomes exempt under subsection (3)(b) of this rule. Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual is exempt and is otherwise eligible. If not eligible on the filing date (see OAR 461-115-0040), eligibility begins the date all other eligibility requirements are met. ¶
- (b) The individual, during a consecutive 30-day period during which the individual is not receiving SNAP benefits, meets the requirements of subsection (3)(c) or (3)(d) of this rule. ¶
- (A) Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual meets the requirements of subsection (3)(c) or (3)(d) of this rule and is otherwise eligible. If not eligible on the filing date, eligibility begins the date all other eligibility requirements are met. ¶
- (B) There is no limit to how many times an individual may regain eligibility under this subsection during January 1, 2022 to December 31, 2024. ¶
- (c) See OAR 461-180-0010 to add an individual to an open SNAP case after the individual has regained eligibility under this section. ¶
- (6) An individual who regains eligibility under section (5) of this rule and later fails to comply with the participation requirements of subsection (3)(c) or (3)(d) of this rule may receive a second set of food benefits for three consecutive countable months. The countable months are determined as follows: ¶
- (a) If the individual stopped participation in a work program, countable months start when the Department notifies the individual they are no longer meeting the work requirement. ¶
- (b) If the individual stopped participation in a work program, countable months start when the individual notifies the Department they are no longer meeting the work requirement. ¶
- (c) If a change occurred which results in an individual becoming subject to the time limit in section (2) of this rule and the change was required to be reported under rules in OAR chapter 461, division 170, the countable months start when the change occurred. ¶
- (d) If a change occurred which results in an individual becoming subject to the time limit and the change was not required to be reported under rules in OAR chapter 461, division 170, countable months start when the Department notifies the individual they must meet the work requirement. ¶
- (e) An individual may only receive benefits without meeting the requirements of subsection (3)(c) or (3)(d) of this rule for no more than a total of six countable months during January 1, 2022 to December 31, 2024. ¶
- (7) This space is reserved for the use of discretionary exemptions, granted by the Food and Nutrition Service, for ABAWDs residing in certain SNAP time-limit areas who are at risk of having their benefits closed or reduced. ~~Beginning April 1, 2020 to September 30, 2022, the Department is not granting discretionary exemptions. ¶~~
- (8) An ABAWD involved in the activities specified in subsection (3)(c) or (3)(d) of this rule or an activity listed in the individual's case plan (see OAR 461-001-0020) is eligible for support service payments necessary for transportation and other costs related to completing the activity as allowed by OAR 461-190-0360.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.121, 411.816

Statutes/Other Implemented: 7 USC 2015, 7 USC 2029, 7 CFR 273.7, 7 CFR 273.24, ORS 409.010, 409.050, 411.060, 411.070, 411.121, 411.816, 411.825, 411.837

AMEND: 461-135-0660

RULE SUMMARY: OAR 461-135-0660 is being amended to permanently adopt temporary rule changes which reflect ending of SNAP COVID-19-related waivers no longer being used by Oregon, as follows:

- * The Department shall grant a face to face interview when requested by the applicant.
- * An individual applying for SNAP must meet complete an interview once every 12 months.
- * Certification periods shall no longer be extended at the Department's discretion, but must meet pre-pandemic certification period rules.
- * Individuals must complete a Periodic Report Form to continue receiving SNAP uninterrupted after its due date.

The following SNAP COVID-19 related changes shall remain in place until changed in rule:

- * SNAP time limit work requirements for ABAWDs remain waived and ABAWDs are still not subject to earning countable months.
- * Temporary exemptions for students of higher education continue.
- * Emergency allotments are shall still be issued when approved by the Food and Nutrition Service.

The rule is also being amended to adopt provisions from Food and Nutrition Service about how to return student SNAP eligibility from the COVID-19 provisions back to standard student eligibility.

CHANGES TO RULE:

461-135-0660

SNAP; COVID-19

The provisions in this rule apply to the SNAP program.¶

(1) The Department suspends the following rule sections regarding the SNAP program as provided in this rule:¶

(a) OAR 461-115-0230(3), and¶

(b) OAR 461-135-0520(2) and (6).¶

(2) The Department amends the following rules and rule sections regarding the SNAP program as provided in this rule:¶

(a) OAR 461-115-0020(2),¶

(b) sections (2) and (6) of OAR 461-1135-0450(1) and (2),¶

(c) OAR 461-135-0570(3), and¶

(d) OAR 461-170-0102.¶

(3) 520. Per the Families First Coronavirus Act, Title 3, Section 2301:¶

(a) SNAP time limit work requirements for ABAWDs (see OAR 461-135-0520) are temporarily waived.¶

(b) ABAWDs will not be subject to earning countable months (see OAR 461-135-0520). ¶

(4) An individual who the Department has determined is mandatory (see The Department amends OAR 461-1305-0305) will be granted "good cause" (see OAR 461-130-0327) if the reason for not accepting employment or for leav570 (3) as provided. Retroactively effective January 16, 2021, ing a job was due to the individual's concerns regarding their health due to the COVID-19 pandemic.¶

(5) Notwithstanding addition to the provisions under section (3) of OAR 461-1135-04570, and beginning March 2020, the Department may extend a certification period (see OAR 461-001-0000) before the certification period ends.¶

(a) The Departto be eligible for SNAP benefits, a student of higher education (see OAR 461-135-0570) may also meet the requirement's Central Office shall determine the length of one of the following subsections:¶

(a) The student of the certification period extension, criteria for selection, and select the cases whose certification period are extended.¶

(b) Selection for certification period extension is not a hearable issue.¶

(6) Notwithstanding OAR 461-170-0102, and beginning March 2020, the Department may waive the requirement to submit an Interim Change Report or a Mid-Certification Review; and beginning April 2022, the Department may waive the requirement to submit a Periodic Report, in order to continue receiving benefits:¶

(a) The Department's Central Office shall determine the criteria for selection and select the cases whose Interim Change Report, Mid-Certification Review, or Periodic Report are waived.¶

(b) Selection for waiver is not a hearable issue. higher education is eligible to participate in state or federally funded work study program during the regular school year.¶

(b) The student of higher education has an Expected Family Contribution (EFC) of \$0 in the current academic year, as determined through the Free Application for Federal Student Aid (FAFSA). ¶

(3) An individual who the Department has determined is mandatory (see OAR 461-130-0305) will be granted

"good cause" (see OAR 461-130-0327) if the reason for not accepting employment or for leaving a job was due to the individual's concerns regarding their health due to the COVID-19 pandemic. ¶

(74) Emergency allotments (supplements) are permitted through USDA waiver under Families First eCoronavirus Response Act of 2020. The Department may issue an emergency allotment of SNAP benefits for any months approved for an emergency allotment by the Food and Nutrition Service, with the following limitations:¶

(a) The emergency allotment does not change the benefit level, calculated under OAR 461-160-0400, for the benefit group (see OAR 461-110-0750).¶

(b) The emergency allotment shall be issued on a date determined by the Department, not subject to OAR 461-165-0100.¶

(c) Beginning April 2020, and except as provided in paragraphs (A) and (B) of this subsection, the amount of the emergency allotment shall be the difference between the benefit level calculated under OAR 461-160-0400 and the maximum Payment Standard for the number of individuals in the benefit group. If there is no difference, no emergency allotment shall be issued. ¶

(A) Beginning April 2021, if the difference calculated equals an amount less than \$95, the amount emergency allotment shall be \$95.¶

(B) Beginning May 2021, if the benefit level calculated under OAR 461-160-0400 of a benefit group is \$0, no emergency allotment shall be issued.¶

(d) When the Food and Nutrition Service makes a change that ends, reduces, or suspends the emergency allotment:¶

(A) No decision notice (see OAR 461-001-0000) is required. The Department is not required to mail a notice of intended action.¶

(B) The Department shall publicize the change using one or more of the following methods: ¶

(i) Informing the public through the news media. ¶

(ii) Placing posters in the offices that serve affected individuals, in the locations where SNAP is issued, and at other sites frequented by individuals receiving SNAP. ¶

(iii) Mailing a general notice to the households of affected recipients.¶

(e) Excepting an overpayment (see OAR 461-195-0501), there is no right to hearing to dispute emergency allotment and no right to continuing benefits.¶

~~(85) For applications with a filing date (see OAR 461-115-0040) established on or after March 23, 2020, the Department--~~¶

~~(a) May waive the requirement under OAR 461-115-0020 section (1) to meet the interview requirements in order to complete the application process.~~¶

~~(b) May suspend the requirement under OAR 461-115-0230(3)(b) to grant a face-to-face interview at the applicant's request.~~¶

~~(9) Retroactively effective January 16, 2021: In addition to the provisions under section (3) of OAR 461-135-0570, to be eligible for SNAP benefits, a student of higher education~~The provisions-- ¶

(a) Listed in sections (1) and (3) of this rule end on the last day of the month in which the public health emergency declaration made by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) is lifted.¶

(b) Listed in section (2) of this rule shall be in effect for initial month (see OAR 461-001-0000) SNAP applications until 30 days after the COVID-19 Federal public health emergency is lifted. The provisions in this rule end and the Department shall return to determining student eligibility under OAR 461-135-0570 for all SNAP applications submitted with a filing date (see OAR 461-1315-057040) may also meet the requirements of one of the following subsections:¶

(a) The studon and after the 30th day following the entd of higher education is eligible to participate in state or federally funded work study program during the regular school year.¶

(b) The student of higher education ha the Federal PHE. (For example, if the Federal PHE ends on January 11, 2023, the Department will continue to apply the student eligibility provisions a in Expected Family Contribution (EFC) of \$0 in the current academic year, as determined through the Free A this rule to initial applications filed on or before February 10, 2023. The Department will process initial applications for Federal Student Aid (FAFSA).¶
(10) The provisions-- filed on or after February 11, 2023 under OAR 461-135-0570.)¶

(ac) Listed in sections (3) and (42) of this rule end on the last day of the month in which the public health emergency declaration made by the Secretary of Health and Human Services ushall be in effect for SNAP recertification applications until the end of the first full calendear section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) is lifted.¶

(b) Listed in section (9) of this rule end 30 days after the day upon which the public health emergency declaration made by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) is lifted month that begins at least 30 days after the COVID-19 Federal PHE is lifted. The provisions in this rule end and the Department shall return to determining student

eligibility under OAR 461-135-0570 for all SNAP applications submitted with a filing date after the last day of that month. (For example, if the Federal PHE ends on January 11, 2023, the Department will continue to apply the student eligibility provisions in this rule to recertification applications filed on or before February 28, 2023. The Department will process recertification applications filed on or after March 1, 2023 under OAR 461-135-0570.

Statutory/Other Authority: ORS 411.060, 411.070, 411.121, 411.816, ORS 409.050

Statutes/Other Implemented: ORS 409.010, ORS 411.060, 411.070, 411.121, 411.816, 411.825, 411.837, 7 USC 2015, 7 USC 2029, 7 CFR 273.7, 7 CFR 273.24, Pub. L. 116-127, ORS 409.050, 7 CFR 273.10, 7 CFR 273.14

AMEND: 461-135-1270

RULE SUMMARY: OAR 461-135-1270 is being amended to make current policy clear; that all changes must be reported timely for a group receiving TANF benefits to be eligible for the TANF transitional benefit. The OAR is also being changed to make clear current policy about reasons Employment Payments would end early, including when there is no dependent child remaining in the household.

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) in accordance with OAR 461-170-0011.¶¶~~

(b) Have reported all changes timely in accordance with OAR 461-170-0011.¶¶

(c) 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.¶¶

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

~~(e)~~ 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 a:¶¶

(a) An individual:¶¶

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

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

(c) There is not a dependent child (see OAR 461-001-0000) remaining in the household; or¶¶

~~(e)~~ An individual 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: 461-135-1511

RULE SUMMARY: OAR 461-135-1511 is being changed to update rule provisions to support the P-EBT program period September 2021 through May 2022. It may also be changed to add rule provisions to support the Summer 2022 P-EBT program, if approved by Food and Nutrition Service.

CHANGES TO RULE:

461-135-1511

Pandemic Electronic Benefits Transfer (P-EBT) ¶¶

(1) OARs 461-135-1511 through 461-135-1515 apply to Pandemic Electronic Benefits Transfer (P-EBT). Except as provided for in OARs 461-135-1511 through 461-135-1515, P-EBT is not subject to Chapter 461 rules.¶¶

(2) P-EBT is a food benefit intended to reimburse eligible individuals for the value of the free or reduced-priced meals and snacks usually provided at ~~school or~~ child care centers. Any person using an Electronic Benefits Transfer (EBT) card issued on behalf of a P-EBT eligible individual shall spend the P-EBT benefits to provide meals and snacks to the P-EBT eligible individual.¶¶

(3) Although P-EBT benefits are issued to an EBT account linked to an EBT card, P-EBT is separate and apart from the SNAP program.¶¶

(4) P-EBT is administered in partnership between ODHS and the Oregon Department of Education Child Nutrition Program.¶¶

(5) The following definitions apply to OAR 461-135-1511 to 461-135-1515:¶¶

(a) "FNS" refers to the Food and Nutrition Service, United States Department of Agriculture.¶¶

~~(b) "NSLP" refers to the National School Lunch Program.¶¶~~

~~(c) "NSLP school" refers to an Oregon public school, nonprofit private school, or residential child care institution that is a sponsor of the National School Lunch Program (NSLP).¶¶~~

~~(d) "NSLP students" refers to individuals enrolled in Oregon public schools, nonprofit private schools, or residential child care institutions that provide meal service as a sponsored National School Lunch Program (NSLP) school.¶¶~~

~~(e) "ODE" refers to the Oregon Department of Education.¶¶~~

~~(f) "P-EBT" refers to Pandemic Electronic Benefits Transfer.¶¶~~

~~(g) "SNAP participants" refers to individuals who are a member of a SNAP ~~benefit~~ filing group (see OAR 461-110-03750) that received more than \$0 in SNAP benefits.~~

Statutory/Other Authority: ORS 411.806 - 411.845

Statutes/Other Implemented: ORS 411.806 - 411.845

AMEND: 461-135-1512

RULE SUMMARY: OAR 461-135-1512 is being amended to adopt provisions about application and eligibility for the P-EBT program that support P-EBT program period September 2021 through May 2022. It may also be changed to add rule provisions to support the Summer 2022 P-EBT program, if approved by Food and Nutrition Service.

CHANGES TO RULE:

461-135-1512

Application and Eligibility; P-EBT

~~(1) Apart from applying for free or reduced meals through ODE or an NSLP school, there is no application for P-EBT program period October 2020 through May 2021.~~ ¶

~~(2) P-EBT eligibility is based upon and evaluated under two separate criteria, NSLP students and SNAP participants.~~ ¶

~~(a) Individuals who were homeschooled or enrolled in a school that does not participate in the NSLP are not eligible for P-EBT.~~ ¶

~~(b) NSLP students who were determined eligible for free or reduced meals under Oregon's Extended Income Limits, and were not SNAP participants, are not eligible for P-EBT.~~ ¶

~~(c) NSLP student-based P-EBT: P-EBT eligibility for NSLP students is determined by the NSLP school and is based on the individual meeting one of the following criteria, or receiving services from one of the following programs, for any months beginning October 2020 through the 2020-21 school year:~~ ¶

~~(A) Determined income eligible based on NSLP eligibility criteria as determined by ODE, the local education agency, or a state agency that ODE has designated to determine student eligibility for P-EBT;~~ ¶

~~(B) SNAP participant or a member of a TANF program benefit group (see OAR 461-110-0750);~~ ¶

~~(C) Placement in foster care;~~ ¶

~~(D) Food Distribution Program on "Indian" Reservations (FDPIR);~~ ¶

~~(E) Migrant Education Program (MEP); or~~ ¶

~~(F) McKinney-Vento Act's Education of Homeless Children and Youth Program.~~ ¶

~~(d) SNAP Participant-based P-EBT: P-EBT eligibility for children ages six years old and younger is determined by ODHHS and evaluated in two separate age groups, children ages five and younger and children age six years old. P-EBT eligibility begins the month the child became a SNAP participant.~~ ¶

~~(A) Children ages five years and younger are eligible for P-EBT if they were a SNAP participant for at least one month between October 2020 and May 2021.~~ ¶

~~(B) Children age six years old are eligible for P-EBT by meeting the following for at least one month between October 2020 and May 2021:~~ ¶

~~(i) SNAP participant;~~ ¶

~~(ii) Not enrolled in school (except for an NSLP school, and in such case, eligibility is determined under subsection (c) of this rule), and~~ ¶

~~(iii) Enrolled in a child care center that reduced hours or attendance due to a designated public health emergency. A caretaker of the child shall provide verification of the enrollment and child care center's reduced hours or attendance. A verbal statement is acceptable verification.~~ ¶

~~(b) Under six years of age.~~

Statutory/Other Authority: ORS 411.816

Statutes/Other Implemented: ORS 411.816, PL 116-127, PL 116-159, PL 116-260, PL 117-2

AMEND: 461-135-1513

RULE SUMMARY: OAR 461-135-1513 is being amended to adopt P-EBT benefit amount and issuance provisions to support the program period September 2021 through May 2022. It may also be changed to add rule provisions to support the Summer 2022 P-EBT program, if approved by Food and Nutrition Service.

CHANGES TO RULE:

461-135-1513

Benefit Amount and Issuance of Benefit; P-EBT

~~(1) P-EBT Benefit Standard and Determination~~

~~(a) The full monthly P-EBT benefit standard is \$136 monthly.~~

~~(b) The partial P-EBT benefit standard is \$75 monthly.~~

~~(c) The P-EBT benefit amount is evaluated on a month-by-month basis and may vary from month to month. The September 2020 P-EBT benefit amount is evaluated under subsection (2)(d) of this rule is \$63 for each month a child is eligible within the program period September 2021 through May 2022.~~

~~(db) NSLP students – Each NSLP school determines a P-EBT benefit amount for each month. This amount applies to all NSLP students of the school who are P-EBT eligible (see OAR 461-135-1512) during that month.~~

~~(e) SNAP participants – Children ages six and younger shall receive, for each month they are P-EBT eligible (see OAR 461-135-1512), the greater of the P-EBT benefit amount determined by any NSLP school in the county in which the child:~~

~~(A) Resided, or~~

~~(B) Attended child care, unless a statewide order is present which closed or reduced attendance statewide at child care centers.~~

~~(2) P-EBT Benefit Amount; Program Period October 2020 through May 2021 and September 2020 Supplement – P-EBT benefits will be issued to the SNAP case of which the child was a household member.~~

~~(ac) Full P-EBT benefit of \$136 – An NSLP school shall determine a full P-EBT benefit amount for a month in which the majority of NSLP students attended comprehensive distance learning, or breakfast and lunch meal service was not provided on-site will be issued through a batch issuance.~~

~~(b2) Partial P-EBT benefit of \$75 – An NSLP school shall determine a partial P-EBT benefit amount for a month in which 75 percent or greater of NSLP students attended both onsite and virtual through a hybrid learning model and breakfast and lunch meal service was provided on-site. s will be issued according to the following schedule:~~

~~(ca) No P-EBT benefit – An NSLP school shall determine a zero P-EBT benefit amount when NSLP students attended school on-site and breakfast and lunch meal service was provided.~~

~~(d) The P-EBT benefit supplement for September 2020 is evaluated by subtracting the P-EBT benefit amount issued during September 2020 from \$136. The difference is the supplement. If the difference is zero or less than zero, no P-EBT benefit supplement is issued. Initial issuance no later than October 31, 2022.~~

~~(b) A resolution issuance, for children who did not receive is zero, or less than zero, no P-EBT benefit supplement is issued.~~

~~(3) P-EBT benefits for program period October 2020 through May 2021, and the September 2020 supplement, shall be issued as follows on a date determined by ODHS:~~

~~(a) P-EBT benefits for the months of October, November, and December 2020 shall be issued in July 2021.~~

~~(b) P-EBT benefits for the months of January, February, and March 2021 shall be issued in August 2021.~~

~~(c) P-EBT for the months of April and May 2021, and the supplement for September 2020, shall be issued in September 2021. give the initial issuance, no later than December 31, 2022.~~

~~(c) There will be no additional reconciliation or issuance of benefits for children who were not issued P-EBT during the dates in subsections (a) or (b) of this section.~~

~~(d) P-EBT benefits, once issued, shall not be transferred to another EBT account.~~

Statutory/Other Authority: ORS 411.816

Statutes/Other Implemented: ORS 411.816, PL 116-127, PL 116-159, PL116-260, PL 117-2

RULE SUMMARY: OAR 461-135-1514 is being amended to adopt P-EBT benefit access and use provisions to support the P-EBT program period September 2021 to May 2022. It may also be changed to add rule provisions to support the Summer 2022 P-EBT program, if approved by Food and Nutrition Service.

CHANGES TO RULE:

461-135-1514

Benefit Access and Use; P-EBT

(1) P-EBT benefit eligibility is based solely on the individual circumstances of the ~~student or child~~, therefore, P-EBT benefits issued to an EBT account are to be used to provide meals and snacks for the P-EBT eligible individual, except for: ~~---~~

(a) When the P-EBT eligible individual has passed away, or

(b) When the P-EBT eligible individual is a SNAP participant at the time of P-EBT issuance, but not residing with the ~~benefit filing~~ group (see OAR 461-110-03750).

(2) P-EBT benefits, once issued, shall not be transferred to a new EBT account.

(3) ~~P-EBT benefit EBT accounts that are not also the EBT account of a SNAP case, shall have only one active EBT card at a time. When a new EBT card is issued, the previous EBT card shall be cancelled.~~

(4) ~~When an individual age six and younger is found eligible for "SNAP participant-based P-EBT" under subsection (2)(d) of OAR 461-135-1512, EBT accounts and EBT cards are handled as follows:~~

(a) ~~When a child is found eligible for P-EBT, P-EBT benefits are issued to the existing EBT account of the SNAP benefit group, and~~

(b) ~~No additional EBT card is issued, unless~~

(c) ~~A primary person (see OAR 461-001-0015) in the SNAP benefit group requests filing group of the child.~~

(4) ~~For P-EBT benefits be issued separately. When this occurs:~~

(A) ~~An EBT account is established in the name of the P-EBT eligible child, and by EBT;~~

(B) ~~An EBT card linked to the EBT account is sent to the address of the primary person.~~

(5) ~~When an individual is found eligible for "NSLP student-based P-EBT" under subsection (2)(c) of OAR 461-135-1512, EBT accounts and EBT cards are handled as follows:~~

(a) ~~NSLP students who are also SNAP participants~~

(A) ~~P-EBT~~The Department considers benefits are issued to the existing EBT account of the SNAP benefit group, and

(B) ~~No additional EBT card is issued, unless~~

(i) ~~The Department determines an EBT card shall be issued to a different caretaker of the NSLP student under section (6) of this rule, or~~

(ii) ~~A primary person (see OAR 461-001-0015) in the SNAP benefit group requests P-EBT benefits be issued separately.~~

(C) ~~When paragraph (B) of this subsection occurs,~~

(i) ~~An EBT account is established in the name~~ceived when an EBT card and personal identification number (PIN) have been issued in person to the client, of the P-EBT eligible child, and

(ii) ~~An EBT card linked to the EBT account is sent to the caretaker or primary person, as determined appropriate by ODHS.~~

(b) ~~All other NSLP students~~

(A) ~~An EBT account is established in the name of the NSLP student,~~

(B) ~~An EBT card linked to the EBT account is sent to the address (reported to ODHS by ODE) of the NSLP student,~~

(C) ~~Caretakers of the NSLP student will ensure the EBT card follows the P-EBT eligible individual, and~~

(D) ~~No additional EBT card is issued, unless the Department determines an EBT card shall be issued to a different caretaker of the NSLP student under section (6) of this rule~~EBT card has been received and a PIN selected, and the benefits have been made available to the client in their EBT account.

(6b) ~~The Department may issue a new EBT card when a caretaker reports to ODHS they are the primary caretaker and meal provider of an NSLP student and requests access to the individual's P-EBT benefits, as follows:~~

(a) ~~The Department shall only make Unused benefits remain available for client access for 9 calendar month~~this evaluation and new EBT card issuance for individuals with NSLP student-based P-EBT (see OAR 461-135-1512(2)(c)).

(b) ~~NSLP students whose P-EBT (274 days) from the date the benefits a~~were issued to the EBT account of a SNAP benefit group;

(Ac) ~~Access to remaining P-EBT benefits issued to the EBT account of a SNAP benefit group is not permitted.~~

~~(B) Access to future P-EBT benefit issuances shall begin when the Department establishes an EBT account in the name of the NSLP student, issues a new EBT card to the primary caretaker, and completes all required changes in the system.¶¶~~

~~(C) A request for P-EBT benefit access made by the 10th of a month may result in access to the P-EBT benefits issued in the following month.¶¶~~

~~(c) NSLP students whose P-EBT benefits are issued to an EBT account in the student's name:¶¶~~

~~(A) Access to remaining P-EBT benefits begins on the date the Department issues the new EBT card. When a new EBT card is issued to a caretaker under this section, the previous EBT card is cancelled and access to any remaining P-EBT benefits through the cancelled card ends immediately. Unused benefits are expunged by the oldest benefit allotment after 9 calendar months (274 days) if none of the benefits have been used during 9 calendar months (274 days). "Used" includes a purchase or withdrawal of any amount.¶¶~~

~~(Bd) Access to future P-EBT benefit issuances shall begin on the date the Department issues the new EBT card.¶¶~~

~~(d) Evaluating a caretaker request for access to NSLP student-based P-EBT.¶¶~~

~~(A) There is a rebuttable presumption if benefit expungement is delayed past the required 9 calendar months that the below individuals are the primary caretaker and meal provider:¶¶~~

~~(i) A caretaker granted sole legal custody,¶¶~~

~~(ii) An individual who has adopted the child,¶¶~~

~~(iii) The parent or guardian of a student temporarily away at school (e.g. attending boarding school) or a child attending but not residing at a Residential Child Care Institution, or¶¶~~

~~(iv) An emancipated child or a child independently responsible for their basic needs.¶¶~~

~~(B) When a request to access P-EBT comes from parents granted joint custody or an individual not listed in subsection (c) of this section, the Department shall request reasonable verification to assist in determining who is the primary caretaker and meal provider of the NSLP student. This may include, but is not limited to, parenting time schedules, statement from a healthcare or other professional, or a written affidavit from the caretaker.¶¶~~

~~(e) No notice is sent when access to the P-EBT benefits of an NSLP student is changed. (274 days) for any reason, all unused benefits that have reached or exceeded the 9 calendar months (274 days) shall be expunged at the earliest date possible.¶¶~~

~~(e) Expunged benefits shall not be restored to the client.~~

Statutory/Other Authority: ORS 411.816

Statutes/Other Implemented: ORS 411.816, PL 116-127, PL 116-159, PL116-260, PL 117-2

AMEND: 461-145-0260

RULE SUMMARY: OAR 461-145-0260 is being amended to allow the ERDC, TA-DVS, and TANF programs to exclude any American Indian, Native American, or Alaska Native benefit from countable income if public law does not require the benefit to be counted. It is also being amended to update the names of Sovereign Tribal Nations to their true, current, or chosen name; including their name in the language of their Nation.

CHANGES TO RULE:

461-145-0260

~~Indian (Native American), American Indian, and Alaska Native~~ Benefits; Not OSIP, OSIPM, and QMB ¶¶

~~(1) This rule does not apply to the OSIP, OSIPM, and QMB programs which are treated under OAR 461-145-0259. In this rule, the term "all programs" does not include the OSIP, OSIPM, and QMB programs.~~ THE SELF-SUFFICIENCY RULES COORDINATOR AND POLICY ANALYSTS ARE WORKING WITH TRIBAL AFFAIRS AND TRIBAL COUNCIL TO RECEIVE GUIDANCE REGARDING PROPOSED LANGUAGE IN THIS RULE. AS THESE REVIEWS HAVE NOT YET BEEN COMPLETED, AND U.S. FEDERAL AND STATE GOVERNMENT HAVE MADE MANY ERRORS AND CHOICES RESULTING IN MISNAMING SOVEREIGN TRIBAL NATIONS, THIS RULE MAY CONTAIN HARMFUL OR MISNAMING LANGUAGE. THE RULES COORDINATOR WELCOMES ANY FEEDBACK REGARDING THE PROPOSED CHANGES TO THIS RULE AND APOLOGIZES FOR ANY HARMFUL OR MISNAMING LANGUAGE. ¶¶

~~(1) This rule does not apply to the OSIP, OSIPM, and QMB programs which are treated under OAR 461-145-0259. In this rule, the term "all programs" does not include the OSIP, OSIPM, and QMB programs. In this rule, the names of sovereign tribal nations are often listed as shown in the public law. The Department has also attempted (in parenthesis) to include the names of sovereign tribal nations as they call themselves, if different than the name in the public law. When there is a conflict, the rule provision applies to the Tribe subject to the public law.~~ ¶¶

(2) In all programs, the following benefits or payments are excluded as income and resources. ¶¶

(a) Public Law 84-736: Payments from the distribution of funds held in trust to the Seminole Indians of Florida ~~(The Seminole Tribe of Florida).~~ ¶¶

(b) Public Law 84-926: Payments from the distribution of funds held in trust to the Pueblos of Zia and Jemez ~~€ Tribes of Florida.~~ ¶¶

(c) Public Law 92-480: Payments from the distribution of funds held in trust to the Stockbridge Munsee Indian Community ~~(Stockbridge Munsee Community)~~ of Wisconsin. ¶¶

(d) Public Law 92-488: Payments from the distribution of funds held in trust to the Burns Indian Colony ~~(Burns Paiute Tribe)~~ in Oregon. ¶¶

(e) Public Law 93-531: Relocation assistance payments to members of the Navaho ~~(Navajo Nation or Dine')~~ or Hopi Tribes. ¶¶

(f) Public Law 94-114, section 6: Distribution of receipts from lands held in trust by the United States for the following tribes: ¶¶

(A) Assiniboine and Sioux Tribes of Montana. ¶¶

(B) Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin. ¶¶

(C) Blackfeet Tribe of Montana. ¶¶

(D) Cherokee Nation of Oklahoma. ¶¶

(E) Cheyenne River Sioux Tribe of South Dakota. ¶¶

(F) Chippewa Tribe of Minnesota ~~(Minnesota Chippewa Tribe).~~ ¶¶

(G) Crow Creek Sioux Tribe of South Dakota. ¶¶

(H) Devil's Lake Sioux Tribe of North Dakota. ¶¶

(I) Fort Belknap Indian Community of Montana. ¶¶

(J) Keweenaw Bay Indian Community of Michigan. ¶¶

(K) Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin. ¶¶

(L) Lower Brule Sioux Tribe of North Dakota. ¶¶

(M) Navajo Tribe ~~(Navajo Nation or Dine')~~ of New Mexico. ¶¶

(N) Oglala Sioux Tribe of South Dakota. ¶¶

(O) Rosebud Sioux Tribe ~~(Sicangu Lakota Oyate, or Burnt Thigh Nation comprised of the Ogalala, Sicangu or Brule, Hunkpapa, Miniconjou, Sicasapa or Blackfoot, Itazipacola, and Oohenupa)~~ of South Dakota. ¶¶

(P) Shoshone - Bannock Tribes of Idaho. ¶¶

(Q) Standing Rock Sioux Tribe of North Dakota. ¶¶

(g) Public Law 94-540: Judgment funds distributed to members of the Grand River Bands of Ottawa Indians. ¶¶

(h) Public Law 95-433: Judgment funds distributed to members of the Confederated Tribes and Bands of the

Yakama (formerly Yakima) Indian Nation (comprised of the Yakama Palouis, Pisuouse, Wenatchahpam, Klikatat, Klingquit, Kow-was-say-ee, Li-was, Skin-pha, Wish-ham, Shyiks, Ocehchotes, Ka-milt-pha, and Se-ap-Cat), or the Apache Tribe of the Mescalero Reservation (Mescalero Apache Tribe).¶

(i) Public Law 95-498: Receipts derived from trust lands awarded to the Pueblo of Santa Ana and distributed to members of that ~~€~~Tribe.¶

(j) Public Law 95-499: Receipts derived from trust lands awarded to the Pueblo of Zia and distributed to members of that ~~€~~Tribe.¶

(k) Public Law 95-608: Indian child welfare payments.¶

(l) Public Law 96-305: Relocation assistance payments to members of the Navahojo (Navajo Nation or Dine') or Hopi Tribes.¶

(m) Public Law 96-318: Judgment funds distributed to members of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma (Delaware Tribe of Western Oklahoma).¶

(n) Public Law 96-420: Funds and distributions to members of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians under the Maine Indian Claims Settlement Act.¶

(o) Public Law 97-372: Distributions of judgment funds to members of the Shawnee Tribe of Indians (Absentee Shawnee Tribe of Oklahoma (Absentee Shawnee Tribe of Indians of Oklahoma), the Eastern Shawnee Tribe of Oklahoma, and the Cherokee Band of Shawnee descendants).¶

(p) Public Law 97-376: Judgment funds distributed per capita to members of the Miami Tribe of Oklahoma and the Miami Indians of Indiana (Miami Nation of Indians of Indiana).¶

(q) Public Law 97-403: Payments on judgments funds to the Turtle Mountain Band of Chippewas, Arizona.¶

(r) Public Law 97-408: Payments on judgment funds to the Blackfeet Tribe, Gros Ventre (Aaniih) Tribe, and Assiniboine ~~€~~(Nakoda) Tribes (Montana) and the Papago (Tohono O'odham Nation) (Arizona).¶

(s) Public Law 98-64: Payments from judgment funds held in trust by the US Secretary of the Interior.¶

(t) Public Law 98-123: Judgment funds held in trust and per capita and interest payments disbursed to the Red Lake Band of Chippewa Indians (Red Lake Nation or Miskwaagamiwi-Zaagaiganing).¶

(u) Public Law 98-124: Judgment funds held in trust and per capita and interest payments made to the members of the Assiniboine (Nakoda) Tribe of the Fort Belknap Indian Community (Montana) and the Assiniboine Tribe of the Fort Peck ~~Indian~~ Reservation (Montana).¶

(v) Public Law 98-432: Judgment funds and income distributed to members of the Shoalwater Bay Indian Tribe.¶

(w) Public Law 99-130: Per Capita and dividend payment distributions of judgment funds to members of Santee Sioux Tribe (Santee Sioux Nation) of Nebraska, Flandreau Santee Sioux Tribe, Prairie Island Sioux, ~~Lower Sioux~~ (Prairie Island Indian Community or Tinta Wita), ~~Lower Sioux~~ (Lower Sioux Indian Community or Cansa'yapi) and Shakopee Mdewakanton Sioux Communities (Mdewakanton) of Minnesota.¶

(x) Public Law 99-146, section 6(b): Funds distributed per capita or held in trust for members of the Chippewas of Lake Superior (Lake Superior Chippewa Indians). The funds are distributed to the following reservations:¶

(A) Wisconsin: Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Lac Courte Oreilles Band of Lake Superior Bands of Chippewa Indians (Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin) of the Lac du Flambeau Reservation, Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, Red Cliff Reservation, ~~St. Croix Chippewa Reservation~~ (Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin), St. Croix Chippewa Reservation (St. Croix Chippewa Indians of Wisconsin).¶

(B) Michigan: Keweenaw Bay Indian Community (L'Anse, Lac Vieux Desert and Ontonagon Bands).¶

(C) Minnesota: Fond du lac ~~Reservation, Grand Portage Reservation, Bois Fort~~ (Fond du Lac Band of Lake Superior Chippewa or Nah-gah-chi-wa-nong) Reservation, Grand Portage (Grand Portage Band of Lake Superior Chippewa, Grand Portage Anishinaabe, or Gichi-Onigaming) Reservation, Bois Fort (Bois Forte Band of Chippewa or Zagaakwaandagowiniwag) Reservation (including Nett Lake, Vermillion Lake and Deer Creek), White Earth (White Earth Nation or Gaa-waabaabiganikaag) Reservation.¶

(y) Public Law 99-264: Payments and funds held in trust to the White Earth Band of Chippewa Indians in Minnesota (White Earth Nation or Gaa-waabaabiganikaag) under the White Earth Reservation Land Settlement Act of 1985, Section 16.¶

(z) Public Law 99-346 section 6(b)(2): Per capita payments and income from a distribution of funds held in trust to the Saginaw Chippewa Indian Tribe of Michigan.¶

(aa) Public Law 99-377 section 4(b): Per capita payments distributed or held in trust to the Chippewas of Mississippi under Public Law 99-377 Section 4(b), to those with affiliation with the Mille Lacs, ~~White Earth and Leech Lake~~ (Mille Lacs Band of Ojibwe or Misi-zaaga'iganiing), White Earth (White Earth Nation or Gaa-waabaabiganikaag) and Leech Lake (Leech Lake Band of Ojibwe or Gaa-zagaskwaajimekaag) Reservations in Minnesota, and paid by the Indian Claims Commission.¶

(bb) Public Law 100-139: Judgment payments disbursed to the Umpqua Tribe Cow Creek Band (Cow Creek Band of Umpqua Tribe of Indians).¶

- (cc) Public Law 100-383: Per capita restitution payments made to eligible Aleuts (Unangan or Unangax) who were relocated or interned during World War II.¶
- (dd) Public Law 101-41: Funds, assets or income received from the trust fund established and paid to the Puyallup Tribe (the Puyallup Tribe of Indians or spuaylYpaba) of the State of Washington under Section 9(b) of the Puyallup Tribe of Indians Settlement Act of 1989.¶
- (ee) Public Law 101-503 Section 8(b): Settlement payments, funds distributed or held in trust to members of the Seneca Nation (Seneca Nation of Indians or O-non-dowa-gah) under the Seneca Nation Settlement Act of 1990.¶
- (ff) Public Law 102-171: Payments to the Aroostook Band (Mi'kmaq Nation) under the Micmac Settlement Act.¶
- (gg) Public Law 103-116: Settlement funds, income, payments or distributions from Trust Funds to members of the Catawba Indian Tribe (The Catawba Nation or yeh is-WAH h'reh) under the Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993.¶
- (hh) Public Law 103-436: Payments from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (comprised of the Chelan or a Yl?mxYx?, Chief Joseph Band of Nez Perce or wal'wama, Colville or sx ?y?Bpx, Entiat or s ntiyat?Yx?, Lakes or sD?ayckstx, Methow or spa?mulYx?Yx?, Moses-Columbia or s kwaxc YnYx?, Nespelem or nspiYm, Okanogan or s?uk?na?q?n, Palus or paluspam, Sanpoil or sDp?aw?lx, and Wenatchi or s np Ys q?aw s Yx?).¶
- (ii) Public Law 103-444: Payments made or benefits granted by the Crow Boundary Settlement Act of 1994.¶
- (jj) Public Law 105-143: Distributions of judgment funds to the Ottawa and Chippewa Indians of Michigan under the Michigan Indian Land Claims Settlement Act.¶
- (kk) Public Law 108-270: Per capita distribution of judgment funds to members of the Western Shoshone Indians (Newe).¶
- (ll) Public Law 111-291 section 101: Payments from the Tribal Trust Accounting and Management Lawsuits. If the funds are comingled with other funds, the resource is excluded for only 12 months and counted thereafter.¶
- (mm) Tribal Benefits from timber sales or oil reserves from land held in trust by the Secretary of the Interior.¶
- (3) Payments from the Bureau of Indian Affairs are treated as follows:¶
- (a) In the SNAP program, payments from the General Assistance program are counted as unearned income.¶
- (b) In all programs except the SNAP program, payments from the General Assistance program are excluded.¶
- (c) Educational income treatment is under OAR 461-145-0150.¶
- (4) In all programs except the SNAP program, the following payments are excluded unearned income. In the SNAP program, the Department excludes the first \$2,000 of each per capita payment per individual in the financial group (see OAR 461-110-0530) and the balance is counted as unearned periodic income.¶
- (a) Public Law 85-794: Distribution of Per Capita Funds to the Red Lake Band of Chippewa Indians (Red Lake Nation or Miskwaagamiwi-Zaagaiganing) from the proceeds of the sale of timber and lumber on the Red Lake Reservation.¶
- (b) Public Law 93-134: Indian Judgement Funds Distribution Act payments received from trust or restricted lands under 25 USC 1408.¶
- (c) Public Law 97-458: Payments received from trust or restricted lands under 25 USC 1408. ¶
- (5) In all programs except the ERDC and SNAP programs, the following payments are excluded unearned income. In the SNAP and ERDC programs, the Department excludes the first \$2,000 of each per capita payment per individual in the financial group and the balance is counted as unearned periodic income. ¶
- (a) Public Law 100-411: Per capita payments of claims settlement funds to members of the Coushatta Tribe of Louisiana (The Sovereign Nation of the Coushatta Tribe of Louisiana).¶
- (b) Public Law 100-581: Judgment funds distributed to members of the Wisconsin Band of Potawatomi (Hannahville Indian Community and Forest County Potawatomi).¶
- (c) Public Law 101-618: Per capita distributions of settlement funds under the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990 (Toi-Ticutta). ¶
- (6) Public Law 101-277 funds appropriated in satisfaction of judgments awarded to the Seminole Indians and paid by the Indians Claims Commission are excluded unearned income in the SNAP program. In all programs other than the SNAP program, the Department excludes the first \$2,000 of each per capita payment per individual in the financial group and counts the balance as unearned periodic income. These payments are allocated to members of the Seminole Nation of Oklahoma, Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida and the independent Seminole Indians of Florida.¶
- (7) In all programs except the ERDC program, the payments in this section are excluded unearned income. In the ERDC program, the Department excludes the first \$2,000 of each capita payment per individual in the financial group and counts the balance as unearned periodic income.¶
- (a) Public Law 94-189: Judgment funds distributed to members of the Sac and Fox Indian Nation.¶
- (b) Public Law 98-602: Per Capita distributions of judgment funds to members of the Wyandotte Tribe (Wyandotte Nation, Wad?t, or Wanda; consisting of Tionontati, Attignawantan, and Wenrohonon (Wenro)) in Oklahoma and a Absentee Wyandotte.¶

(8) In all programs except the SNAP program, the payments in this section are excluded unearned income. In the SNAP program, the Department excludes the first \$2,000 each year of per capita payments per individual in the financial group and count the balance as unearned periodic income.¶

(a) Public Law 92-254: Distribution of Per Capita Funds by the Blackfeet Tribe and Gros Ventre (Aaniih) Tribe tribal governments to members, which resulted from judgment funds to the Tribes.¶

(b) Public Law 103-66: Payments for land held in trust by the Secretary of the Interior under 25 USC 1408.¶

(c) Payments from land designated as ~~Indian~~ Native American, American Indian, or Alaska Native trust land and not addressed elsewhere in this rule.¶

(9) For the following payments, the Department excludes the first \$2,000 each year of per capita payments per individual in the financial group and counts the balance as unearned periodic income.¶

(a) Public Law 92-203, the Alaska Native Claim Settlement Act payments.¶

(b) Public Law 100-241, the Alaska Native Claim Settlement Act Amendment of 1987.¶

(10) Public Law 98-500, section 8(b) (Old Age Assistance Claims Settlement Act) payments are excluded in the ERDC program. In all programs other than the ERDC program, the Department excludes the first \$2,000 of each per capita payment per individual in the financial group and counts the balance as unearned periodic income.¶

(11) The Department excludes the first \$2,000 of each per capita payment per individual in the financial group and counts the balance as unearned periodic income for the following:¶

(a) Public Law 100-580: Funds distributed to the Hoopa Valley Tribe and the Yurok Tribe under the Hoopa-Yurok Settlement Act, and paid by the Indian Claims Commission.¶

(b) Public Law 97-436: Per capita distributions of judgment funds to members of the Confederated Tribes (Wascoes, Warm Springs, Paiutes) of the Warm Springs Reservation.¶

(12) Tribal payments for child care are treated as follows:¶

(a) Provider-direct payments are counted as the provider's earned income.¶

(b) All client-direct payments are excluded.¶

(13) Commercial fishing income under one of the Columbia River Fishing Treaties for Yakima, Warm Springs, Umatilla the Confederated Tribes and Bands of the Yakama (formerly Yakima) Indian Nation (comprised of the Yakama Palouis, Pisuouse, Wenatchsahpam, Klikatat, Klingquit, Kow-was-say-ee, Li-was, Skin-pha, Wish-ham, Shyiks, Ocehchotes, Ka-milt-pha, and Se-ap-Cat), Confederated Tribes of the Warm Springs (comprised of the Wascoes, Warm Springs, and Paiutes), Confederated Tribes of the Umatilla Indian Reservation (comprised of the Cayuse, Umatilla, and Walla Walla), and Nez Perce Tribes (Nimiipuu) is counted as earned income.¶

(14) Tribal-TANF payments are counted in the same manner as TANF program payments under OAR 461-145-0410.¶

(15) ~~In all programs except ERDC, TA-DVS, and TANF, all other Indian (Native American), American Indian, or Alaska Native~~ benefit payments distributed by the tribe and not excluded by public law are counted as unearned income. This includes the following:¶

(a) Profit share or per capita income from tribal casinos¶

(b) Income derived from land not held in trust by the secretary of the interior such as timber sales or sale of oil reserves. ¶

(c) Public Law 91-259: Payments from the distribution of judgment funds to members of the Confederated Tribes of the Umatilla Indian Reservation.¶

~~(16) Indian (comprised of the Cayuse, Umatilla, and Walla Walla).¶~~

(16) In the ERDC, TA-DVS, and TANF programs, all other Native American, American Indian, or Alaska Native benefit payments distributed by a Tribe and not included or excluded by public law are excluded assets (see OAR 461-001-0000). ¶

(17) Native American, American Indian, or Alaska Native lands held jointly with the tribe, or land that may not be sold without the approval of the Bureau of Indian Affairs (BIA) are excluded resources.

Statutory/Other Authority: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049

Statutes/Other Implemented: ORS 411.060, 411.083, 411.404, 411.816, 412.014, 412.049

ADOPT: 461-155-0040

RULE SUMMARY: OAR 461-155-0040 is being adopted by permanent rule filing to allow the Department to issue nonrecurrent, short-term benefit payments for three distinct seasonal clothing need episodes of children whose families are receiving TANF benefits. This new rule explains the eligibility and manner in which the program payments will be disbursed and counted by other Department programs.

CHANGES TO RULE:

461-155-0040

Nonrecurrent Short-Term Payment; TANF

The Department may issue nonrecurrent, short-term payments to deal with an episode of need as provided in this rule. ¶

(1) One nonrecurring short-term payment per TANF benefit group (OAR 461-110-0750) may be issued for back-to-school clothing needs of the children. ¶

(2) One nonrecurring short-term payment per TANF benefit group may be issued for winter clothing needs of the children. ¶

(3) One nonrecurring short-term payment per TANF benefit group may be issued for summer clothing needs of the children. ¶

(4) Payments are subject to all of the following: ¶

(a) Payments are nonrecurrent short-term benefits, not TANF assistance, and are issued for the purposes listed in 45 CFR 260.31(b)(1) and 7 CFR 273.9(c)(8). ¶

(b) The payment shall be issued in the same method as the TANF benefit. ¶

(c) The Department shall determine the date and amount of the payment. ¶

(d) The amount of the payment shall be the same for each TANF benefit group. ¶

(e) The issuance date and amount of the payment determined by the Department are not hearable. ¶

(f) Payments are not subject to overpayment (see OAR 461-195-0501) and shall not be included in any overpayment calculation. ¶

(5) In all programs covered in OAR chapter 461, the payments are excluded from countable (see OAR 461-001-0000) income.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 45 CFR 260.31

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 412.006, 412.049, 45 CFR 260.31, 7 CFR 273.9, HB 5202 Oregon 2022 Short Sess.

AMEND: 461-155-0150

RULE SUMMARY: OAR 461-155-0150 is being amended to correct language to accurately reflect TANF child care provisions (including the minimum wage used to determine allowable child care hours), to remove language restricting allowable education hours to employed caretakers, to remove language limiting combined school and work hours to 215 per month, to expand allowed sleep hours to include two caretaker households, and to add language about special circumstances for students. The rule is being amended to align with House Bill 3073 from the Oregon 2021 regular session.

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), (6), and (7); 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~~ Federal 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 or education settings exceeds two hours per day.¶

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

(c) Multiple caretakers have, simultaneously or in an overlapping manner, overnight shifts, and care is necessary for both shift hours and sleep hours.¶

~~(ed)~~ The caretaker ~~work~~has a split shift and it is not feasible to care for the child between shifts.¶

~~(de)~~ The caretaker consistently works, participates in education hours, or both, 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), HB 3073 2021 Reg. Sess. (Oregon)

AMEND: 461-160-0015

RULE SUMMARY: OAR 461-160-0015 is being amended to change the TANF resource level for all TANF applicants and recipients to \$10,000. This is a resource limit increase for those newly applying for benefits, need groups that do not have at least one caretaker relative or parent, and need groups including at least one JOBS participant who is serving a current JOBS disqualification.

CHANGES TO RULE:

461-160-0015

Resource Limits ¶¶

(1) In the EA program, all countable (see OAR 461-001-0000) resources must be used to meet the emergent need.¶¶

(2) In the ERDC program, the limit is \$1,000,000.¶¶

(3) In the OSIP and OSIPM programs, the resource limit is as follows:¶¶

(a) \$2,000 for a one-person need group (see OAR 461-110-0630) and \$3,000 for a two-person need group.¶¶

(b) \$5,000 for the OSIP-EPD and OSIPM-EPD programs (see OAR 461-001-0035 and 461-145-0025 for funds that may be excluded as approved accounts).¶¶

(4) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all resources are excluded.¶¶

(5) In the QMB-DW program, the resource limit is \$4,000 for a one-person need group and \$6,000 for a need group containing two or more individuals.¶¶

(6) In the REF and REFM programs, the resource limit is:¶¶

(a) \$2,500 for any of the following:¶¶

(A) A new REF or REFM applicant for benefits.¶¶

(B) In the REF program, the need group that has at least one mandatory (see OAR 461-130-0305) participant in an employment program who is:¶¶

(i) Receiving REF and not progressing in a required activity of an open case plan; or¶¶

(ii) Serving a current employment program disqualification (see OAR 461-130-0330).¶¶

(b) \$10,000 for an REF need group not covered under subsection (a) of this section.¶¶

(7) In the SNAP program, unless categorically eligible (see OAR 461-135-0505), the resource limit is:¶¶

(a) \$4,250 for a financial group (see OAR 461-110-0530) with at least one member who is elderly (see OAR 461-001-0015) or an individual with a disability (see OAR 461-001-0015).¶¶

(b) \$2,750 for all other financial groups.¶¶

(8) In the TANF program, the resource limit is:¶¶

(a) \$2,500 for any of the following:¶¶

(A) A new TANF applicant for benefits.¶¶

(B) TANF need group that does not have at least one caretaker relative (see OAR 461-001-0000) or parent (see OAR 461-001-0000) who is receiving TANF.¶¶

(C) TANF need group that has at least one JOBS participant who is serving a current JOBS disqualification (see OAR 461-130-0330).¶¶

(b) \$10,000 for a need group not covered under subsection (a) of this section \$10,000.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 411.837, 412.049, 413.085, 414.685, 414.839, HB 5202 Oregon 2022 Sess.

AMEND: 461-160-0040

RULE SUMMARY: OAR 461-160-0040 is being changed to expand allowable child care hours to student hours for class and study time and establish a part-time, full time, and more than full time allowable child care hours calculation. It's also being changed to expand child care allowed hours to those on medical leave due their own condition or due to caring for a child in the ERDC group, expand allowable child care hours to parental medical leave, and allow child care eligibility for individuals on medical leave at the time of initial application. The rule is being amended to align with House Bill 3073 from the Oregon 2021 regular session.

CHANGES TO RULE:

461-160-0040

Dependent Care Costs; Deduction and Coverage ¶¶

(1) In the SNAP program, dependent care is deductible (see OAR 461-160-0430) when all of the following are true:¶¶

(a) The dependent is a member of the filing group (see OAR 461-110-0310) and is in the care, control, and custody of an individual in the group.¶¶

(b) The dependent care provider:¶¶

(A) Is not in the filing group; and¶¶

(B) Is not the parent (see OAR 461-001-0000) of the dependent.¶¶

(c) The dependent care is necessary because the caretaker (see OAR 461-001-0000) is working, commuting, on a meal break, in training, participating in pre-employment education, or participating in an OFFSET case plan (see OAR 461-001-0020).¶¶

(2) In the SNAP program, dependent care costs that are deductible under section (1) of this rule include:¶¶

(a) The costs of care provided by an individual care provider or care facility,¶¶

(b) Transportation costs to and from the individual care provider or care facility, and¶¶

(c) Activity or other fees associated with the care provided to the dependent that are necessary for the dependent to participate in the care; with the exception of fees related to penalties, fines, or advance payment for cost of care.¶¶

(3) In the ERDC and TANF programs, the cost of dependent child care may be paid for by the Department (is covered) only if when dependent child care is necessary for the working caretaker to perform the caretaker's job duties, except and in the ERDC program the cost of dependent as indicated in subsection (c) of this section.¶¶

(a) For a caretaker working under a JOBS Plus agreement, child care is allowed for approved educational hours, covered during the time the caretaker is engaged in work or in job search.¶¶

(b) Child care is covered for a caretakers participating in the Occupational Training and Child Care program who have applied for the program and actively engaged in training as outlined in the Occupational Training and Child Care program.¶¶

(c) In the ERDC Program the cost of dependent care is also allowed for education hours, study hours, and for child care authorized under sections (56) and (7) of this rule.; as follows:¶¶

(aA) For a caretaker working under a JOBS Plus agreement When the allowable child care need totals 20 or fewer weekly hours of dependent, child care is covered during the time the caretaker is engaged in work or in job search if the employer pays the caretaker during that time, the cost of 20 weekly hours is allowed.¶¶

(B) When the allowable child care need totals more than 20 but no more than 40 weekly hours of dependent child care, the cost of 40 weekly hours is allowed.¶¶

(bC) Child care is covered for caretakers participating in the Occupational Training and Child Care program who have applied for the program and actively engaged in training as outlined in the Occupational Training and Child Care program When the allowable child care need totals more than 40 weekly hours, the cost of the needed hours is allowed, up to 75 weekly hours.¶¶

(D) In addition to the weekly hours allowed in paragraphs (A), (B), and (C) above, study hours will be allowed as follows:¶¶

(i) 5 weekly hours for a caretaker who spends less than 12 hours a week in education settings.¶¶

(ii) 10 weekly hours for a caretaker who spends 12 or more hours a week in education settings.¶¶

(4) In the ERDC, JOBS, and TANF programs, the cost of dependent child care is not covered by the Department when free care is available, such as during school hours for school-age children, unless a child is not attending in-person schooling and is instead participating in distance learning.¶¶

(5) Child care is not covered in the ERDC and TANF programs if the nature of the work of the caretaker does not make it necessary for a person other than the caretaker to provide the care. Child care is not covered during a

period of time when --¶

- (a) The nature of the work allows the caretaker to provide the care without significantly affecting the work;¶
- (b) The caretaker provides child care in a residence; or¶
- (c) The caretaker works for a provider of child care in a residence, unless the provider is a certified family child care home under OAR 414-350-0000 to 414-350-0400.¶

(6) In the ERDC program the cost of dependent child care may continue to be paid for by the Department (is covered) during the certification period (see OAR 461-001-0000) with no change to the authorized child care hours subject to the following provisions:¶

- (a) When a reduction in work hours occurs the copay may be adjusted.¶
- (b) When a job loss occurs:¶

(A) When a caretaker has a permanent job loss from all employment the copay is waived for up to three months for a work search period, starting the month after the job loss occurred.¶

(B) The waiver ends at the end of the three month period if the caretaker becomes employed.¶

(C) The three month work search period does not apply when:¶

(i) The adult was discharged or fired without good cause (see OAR 461-135-0070(2)) for misconduct, felony, or theft. "Misconduct" means willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee, including an act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest.¶

(ii) The adult voluntarily quit in anticipation of discharge or without good cause.¶

(c) For ~~medical leave~~ military transition:¶

~~(A) When a caretaker is on medical leave the reason for the leave must be verified including diagnosis and prognosis under OAR 461-125-0830. Maternity leave may be authorized who is a discharged U.S. military member returns from active duty in a military war zone, the copay is waived for up to six months starting the month after the military member returns home.¶~~

~~(B) The copay waiver ends at the end of the six month period if the caretaker becomes employed. The copay waiver ends before three months (12 weeks) without medical documentation.¶~~

~~(B) Retroactively effective November 25, 2021, when a caretaker is on medical leave under paragraph (A) of this subsection, the end of the six month period if the caretaker returns to active duty.¶~~

~~(d) Under this section child care may be used for work, work search, education hours, military transition activities, or other activities to maintain a part-time or full-time slot at a child care facility.¶~~

~~(e) If the caretaker stops participating in the Occupational Training and Child Care program:¶~~

~~(A) The caretaker's copay is waived for up to three months start while the caretaker is ing the month after medical leave begins.¶~~

~~(C) The copay waiver -process of reengaging into the program.¶~~

~~(B) The waiver ends when the caretaker reengages into the Occupational Training and Child Care program.¶~~

~~(iC) May not go beyond the last day of the certification period.¶~~

~~(ii) If the caretaker does not reengage within three months, the ERDC certification ends at the end of the three-month period, unless the caretaker is still on medical leave or maternity leave and new vs if the caretaker does not reengage in the Occupational Training and Child Care program.¶~~

~~(7) In the ERDC program the cost of dependent child care may be paid for by the Department (is covered) at the beginning of the certification is received priperiod or may continue to be paid for to by the end of the month noted on the original documentation, or for maternity leave without medical documentation, prior to the endDepartment (is covered) with no change to the authorized childcare hours if the caretaker is on medical leave during the certification period. Medical leave includes a caretaker on leave due to their own condition ofr the month in which the twelfth week fell.¶~~

~~(d) For military transition: o care for a child in the filing group (see OAR 461-110-0350).¶~~

~~(a) When a caretaker is on medical leave the reason for the leave must be verified including diagnosis and prognosis under OAR 461-125-0830, except that parental leave may be authorized for up to three calendar months without medical documentation.¶~~

~~(Ab) When a caretaker who is a discharged U.S. military member returns from active duty in a military war zis on medical leave during the certification period and meets subsection (a) of this section, the copay is waived for up to six months starting the month after the military member returns home.¶~~

~~(B) The copay waiver ends at the end of the six month period if the caretaker becomes employed. The copay waiver ends before medical leave begins. The copay waiver -¶~~

~~(A) May not go beyond the last day of the certification period, subject to OAR 461-170-0150.¶~~

~~(B) Ends at the end of the six month period if the caretaker returns to active duty.¶~~

~~(e) Under this section child care may be used for work, work search, approved educational hours, military transition activities medical leave period, unless the caretaker is still on medical leave or requires extended parental leave and new verification is received prior to the end of the month noted on the original documentation,~~

~~or other activities to maintain a part-time or full-time slot at a center for parental leave without medical documentation, prior to the end of the third care facility calendar month.~~

~~(f) If the~~When a caretaker stops participating in the Occupational Training and Child Care program.

~~(A) The caretaker's is on medical leave at the time of initial application or certification, and meets subsection (a) of this section, the copay is may be waived for up to three months while the caretaker is in the process of reengaging into the program.~~

~~(B) The waiver ends when the caretaker reengages into the Occupational Training and Child Care program.~~

~~(C) If the caretaker does not reengage within three months, the ERDC e. The copay waiver -~~

~~(A) May not go beyond the last day of the certification period, subject to OAR 461-170-0150.~~

~~(B) Ends at the end of the medical leave period, unless the caretaker is still on medical leave or requires extended parental leave and new verification ends at is received prior to the end of the three month noted on ths if the caretaker does not reengage in the Occupational Training and Ce original documentation, or for parental leave without medical documentation, prior to the end of the thir d Care program calendar month.~~

~~(78) In the JOBS program, the cost of child care may be covered while the care is necessary to enable the caretaker to participate in a case plan (see OAR 461-190-0211).~~

~~(89) In the ERDC, JOBS, JOBS Plus, and TANF programs, the cost of dependent child care may be paid for (is covered) by the Department, only if all the following are true:~~

~~(a) The dependent child (see OAR 461-001-0000):~~

~~(A) In the ERDC program, is a member of the benefit group (see OAR 461-110-0750) and is in the care, control, and custody of an individual in the group.~~

~~(B) In the JOBS, JOBS Plus, and TANF programs, lives with the filing group (OAR 461-110-0330).~~

~~(b) The provider of child care is not in the filing group (OAR 461-110-0310).~~

~~(c) The provider of child care is not the parent of a child in the filing group (OAR 461-110-0310).~~

~~(910) Coverage of the cost of dependent care is subject to the requirements in OAR chapter 461, including OAR 461-120-0510(3), 461-135-0400, 461-155-0150, 461-160-0193, 461-165-0180, and 461-190-0211.~~

~~Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.700, 411.816, 412.049~~

~~Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.700, 411.816, 412.049, HB 3073 (2021 Reg. Sess. (Oregon))~~

AMEND: 461-165-0010

RULE SUMMARY: OAR 461-165-0010 is being amended to make dates of benefit issuance, availability, and receipt more clear, to change expungement of unused EBT benefits to an earlier date of 9 calendar months (274 days) rather than the current 12 calendar months, and to make expungement provisions more clear.

CHANGES TO RULE:

461-165-0010

Legal Status of Benefit Payments ¶¶

(1) Under Oregon law, cash benefits are not subject to assignment, transfer, garnishment, levy, or execution, as long as they can be identified as program payments and are separate from other money in the client's possession.¶¶

(2) Except for electronic benefit transfer (EBT), the Department considers a benefit issued if the check has been handed to the client or vendor, or mailed to the client or vendor. The Department considers a benefit issued, and received by the client, when a direct check deposit is made to the client's or vendor's bank account.¶¶

(3) Cash benefits subject to refund or rebate (see OAR 461-145-0435) by a vendor are to be issued by the vendor to the client.¶¶

(4) For EBT, ~~¶¶~~

(a) The Department considers benefits issued and received when an EBT card and has been received, a personal identification number (PIN) have been issued in person to the client, or been selected, and the benefits have been issued and made available to the individual in their EBT card and PIN have been received by the client in the mail, and the benefits have been deposited to the client's EBT account account.¶¶

(b) The Department considers benefits issued as provided under OAR 461-165-0100.¶¶

(c) The Department considers benefits available as provided under OAR 461-165-0100.¶¶

(d) Unused benefits remain available for client access for 9 calendar months (274 days) from the date the benefits were issued to or made available in the EBT account, whichever date is later.¶¶

(ae) Benefits issued by EBT remain available for client access for 12 calendar months from the date of issuance. Unused benefits are expunged by the oldest benefit allotment after 9 calendar months (274 days) if none of the benefits have been used during 9 calendar months (274 days). "Used" means a purchase or withdrawal of any amount.¶¶

(bf) The EBT system expunges unused benefits after 12 calendar months. These unusIf benefit expungement is delayed past the required 9 calendar months (274 days) for any reason, all unused benefits that have reached or exceeded the 9 calendar months (274 days) shall be expunged at the earliest date possible.¶¶

(g) Expunged benefits are shall not be restored to the client.¶¶

(5) Benefits, once issued, are unrestricted and do not require accountability for individual expenditures or amounts, unless limited elsewhere in rule.¶¶

(6) In the REF program:¶¶

(a) Cash benefits are provided to help meet the basic needs of low-income refugees and may not be used in any electronic benefit transfer transaction (see section (10) of this rule) in--¶¶

(A) Any liquor store (see section (10) of this rule);¶¶

(B) Any casino, gambling casino, or gaming establishment (see section (10) of this rule);¶¶

(C) Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; or¶¶

(D) Any marijuana dispensary.¶¶

(b) The Department will take steps to ensure individuals have adequate access to their cash benefits.¶¶

(7) In the SFPSS and TANF programs:¶¶

(a) Cash benefits are provided to help meet the basic needs of low-income families with dependent children (see OAR 461-001-0000) and may not be used in any electronic benefit transfer transaction in--¶¶

(A) Any liquor store;¶¶

(B) Any casino, gambling casino, or gaming establishment;¶¶

(C) Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; or¶¶

(D) Any marijuana dispensary.¶¶

(b) The Department will take steps to ensure individuals have adequate access to their cash benefits.¶¶

(8) For purposes of sections (6) and (7) of this rule:¶¶

(a) "Liquor store" means any retail establishment which sells exclusively or primarily intoxicating liquor. Such term does not include a grocery store which sells both intoxicating liquor and groceries including staple foods (as defined in section 3(r) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(r))). The term "liquor" includes

alcoholic beverages broadly, including beer and wine.¶¶

(b) "Casino, gambling casino, or gaming establishment" means an establishment with a primary purpose of accommodating the wagering of money, and does not include--¶¶

(A) A grocery store which sells groceries including such staple foods and which also offers, or is located within the same building or complex as, casino, gambling, or gaming activities; or¶¶

(B) Any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.¶¶

(c) "Electronic benefit transfer transaction" means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.¶¶

(A) "Electronic benefit transfer transaction" includes transactions in Oregon, outside Oregon, and on tribal lands.¶¶

(B) "Electronic benefit transfer transaction" includes using or accessing cash benefits in a private bank account.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.014, 412.049

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.816, 411.837, 412.006, 412.014, 412.049, 412.151

AMEND: 461-165-0180

RULE SUMMARY: OAR 461-165-0180 is being amended by permanent filing to transfer child care provider background checks from the ODHS Background Check Unit (BCU) to the Office of Child Care (OCC) Central Background Registry (CBR). It is also being amended to make more clear how not keeping required records impacts provider eligibility and payment.

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, it is determined~~ that the provider or other subject individual (see OAR 125-007-0210 and 407-007-0210(812)(a)(J)K, and 414-061-0030) is not eligible ~~for payment to provide care.~~¶

(2) The Department may approve a child care provider who is legally exempt (see section (121) 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 members of the household have an enrollment (see OAR 414-061-0010) or limited enrollment (see OAR 414-061-0010) in the Central Background Registry (see OAR 414-061-0020) and 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~~ child abuse and neglect 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~~ child abuse and neglect 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 (87) 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 substa~~ When a provider fails to keep daily attendance records as required under subsection (7)(e) of this rule, the "date of occurrence" is each day the provider failed to keep the required record.¶

~~(b) A finding of "denied".¶~~

~~(A) A provider may be "denied" if they are not enrolled in or are suspended from the Central Background Registry if they have submitted an application for enrollment in the Central Background Registry that has been denied for cause, or if they have been removed for cause from the Centiral risk to the health or safety Background Registry by final order of the Office of a c~~ 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~~ Care (OCC) and have not been re-enrolled. A subject individual who has been denied enrollment in the Central Background Registry due to a determination of unsuitability shall not be eligible for enrollment in the Central Background Registry for five years from the date of denial.¶

~~(B) A subject individual may appeal OCC's determination not to enroll the subject individual in the Central Background Registry, pursuant to OAR 414-061-0120.~~¶

(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 (87) of this rule: (b), (d), (e), (h), (i), (j), (k), (L), (op)(H), (op)(I), (op)(L), (tu), or in section (140) 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 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. subject individual must be enrolled in the Central Background Registry without condition or limitation as provided under OAR 414-061-0090. Any other subject individual must hold a conditional or limited enrollment as allowed under OAR 414-061-0000 through 414-061-0120.¶

(65) 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) OCC under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, 414-310-0100 to 414-310-0720, 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 (121) of this rule):¶

(A) ~~Complete the Department's background check process~~ Central Background Registry enrollment procedures under OAR 414-061-0090;¶

(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~~ Central Background Registry enrollment procedures under OAR 414-061-0090;¶

(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~~ Central Background Registry; ¶

(C) Complete the Department's listing process; and ¶

(D) Be approved by the Department. ¶

~~(76) 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) Provider and each subject individual must have a history of behavior that indicates no substantial risk to the health or safety of a child in the care of the provider. ¶~~

~~(87) 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-meet all of the following: ¶~~

~~(A) Be enrolled in and not suspended from the Central Background Registry or be ing of a child in care; and an approved status by the Department; ¶~~

~~(AB) Have competence, sound judgment and self-control when working with children; and ¶~~

~~(BC) 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 and provide daily records as follows: ¶~~

~~(A) Attendance records must accurately record the arrival and departure times for each child in care. ¶~~

~~(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. ¶~~

~~(D) Records for absent days billed to the Department under OAR 461-155-0150 must record the hours the child was scheduled to be in care and indicate the child was absent. ¶~~

~~(f) Be the individual or facility listed as providing the child care. The provider may o ¶~~

~~(g) Only use someone else to supervise a child on a temporary basis if all of the following are met: ¶~~

~~(A) The person was included on the most current listing form and t; ¶~~

~~(B) The person is enrolled in the Central Background Registry; and ¶~~

~~(C) The provider notifies the Department's Direct Pay Unit (DPU). ¶~~

~~(gh) 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. ¶~~

~~(hi) Report to the Department's Direct Pay Unit DPU 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; the Office of Training, Investigations and Safety (OTIS); 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. ¶~~

~~(ij) Report suspected child abuse of any child in their care to CPS provider's care to the child abuse and neglect hotline or a law enforcement agency. ¶~~

~~(jk) 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. ¶~~

~~(kl) 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). ¶~~

~~(lm) Allow the custodial parent of a child in their provider's care to have immediate access to the child at all times. ¶~~

~~(mn) 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. ¶~~

- (~~h~~o) Take reasonable steps to protect a child in their provider's care from the spread of infectious diseases.¶
- (~~e~~p) 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 (154) 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~~q) 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.¶
- (~~a~~r) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.¶
- (~~r~~s) 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~~t) Place infants to sleep on their backs.¶
- (~~t~~u) 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~~v) Develop and communicate expulsion and suspension policies to parents and caretakers.¶
- (~~v~~w) Provide care at a location within the state of Oregon.¶
- (~~9~~8) Legally exempt providers must complete the "Introduction to Child Care Health and Safety" two-hour, web-based training prior to Department approval.¶
- (~~1~~09) Legally exempt providers must complete 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.¶
- (~~1~~10) 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.¶

(121) 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.¶

(132) 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 Oregon Center for Career Development (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 c~~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 c~~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.¶

(143) 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~~ must comply with the following minimum 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.¶

(154) 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~~OCC.¶

(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.¶

~~(165)~~ 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.¶

(16) The Oregon Department of Human Services Background Check Unit (BCU) shall retain their authority to determine eligibility for any child care providers whose applications, including incomplete applications, were submitted before September 1, 2022.

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 98.44HB 4005 Oregon 2022 Short Sess.

AMEND: 461-165-0230

RULE SUMMARY: OAR 461-165-0230 is being changed to allow the Department to replace TANF and Refugee benefits in situations where there are agency errors, such as issuing the EBT card to the wrong person or neglecting to remove/restrict an individual's access to benefits when it was reported to the Department that they left the household. Additionally, it will allow the Department to replace TANF and Refugee benefits when individuals are the victims of skimming or a scam.

CHANGES TO RULE:

461-165-0230

Replacing ~~SNAPREF, SNAP, and TANF~~ Program Benefits and EBT Cards ¶

(1) The Department does not replace ~~SNAPREF, SNAP, or TANF~~ program benefits after they are delivered to the EBT account unless one of the provisions in this rule apply.¶

(2) The Department shall replace REF, SNAP, or TANF benefits when the Department failed to cancel the EBT card of an individual leaving a ~~SNAPREF, SNAP, or TANF~~ program household and that individual continues to access ~~SNAP~~the REF, SNAP, or TANF program benefits in subsequent months.¶

(23) In the SNAP program,¶

(a) The Department will replace the value of food purchased with SNAP program benefits if all of the following are true:¶

(aA) The food was destroyed by a verified household misfortune or disaster.¶

(bB) The filing group (see OAR 461-110-0370) reports the loss of food:¶

(A) Within ten days of occurrence, or¶

(B) By the deadline permitted through Food and Nutrition Service waiver.¶

(cC) The filing group submits a signed statement or affidavit attesting to the loss within ten days of reporting the loss.¶

(3b) ~~The replacement, based on section (2) of this rule,~~ must meet the following:¶

(aA) The amount may not exceed one month's allotment, unless the issuance includes restored benefits which will be replaced up to the full value of the restored benefits.¶

(bB) The Department will issue a timely replacement of the value of the loss by ~~meeting~~the later of these two timeframes:¶

(A) Within ten days after the filing group reported the loss; or¶

(B) Within two working days of ~~submitting a signed statement or affidavit.~~¶

~~(4)receiving the signed statement or affidavit.~~¶

(4) In the REF and TANF programs, when a household is a victim of skimming or a scam that causes a loss in benefits, or when the Department issues an EBT card in error to an individual that is not associated with the case that causes a loss in benefits --¶

(a) A benefit replacement request must meet all of the following for lost benefits to be replaced:¶

(A) The household must report to the Department they are the victim of skimming or a scam, or that the Department issued an EBT card in error, within 30 days of occurrence.¶

(B) The household must submit a signed statement or affidavit attesting to the loss of benefits within ten days of reporting the loss.¶

(b) When the provisions in subsection (a) of this section are met,¶

(A) The Department will replace up to the amount of benefits lost.¶

(B) The Department will issue a timely replacement of the value of the loss by the later of these two timeframes:¶

(i) Within ten days after the group reported the loss; or¶

(ii) Within two working days of receiving the signed statement or affidavit.¶

(C) Benefits may be replaced only once in a calendar month.¶

(5) The Department will replace an EBT card reported lost, stolen, or not received only after the current card has been deactivated. An EBT card that is damaged or not functioning properly is replaced only after the card's status is changed to "card damaged" and the card is destroyed.

Statutory/Other Authority: ORS 409.050, ORS 409.010, 411.060, 411.816

Statutes/Other Implemented: ORS 409.010, 411.060, 411.816, 7 CFR 280.1

ADOPT: 461-175-0350

RULE SUMMARY: OAR 461-175-0350 is being adopted to enact a new notice requirement, required for the SNAP program by the Food and Nutrition Service. This new rule establishes when the notice must be sent, what must be included in the notice, and when benefit expungement can continue without additional notices.

CHANGES TO RULE:

461-175-0350

Notice Situation: EBT Benefit Expungement

(1) In the SNAP and TANF programs, an expungement notice is sent no later than 30 days before the first benefit expungement required under OAR 461-165-0010.¶

(2) The notice shall include the earliest date the benefits are scheduled to be expunged and the steps an individual may take to prevent or stop the expungement of benefits.¶

(3) When benefits remain "unused" after notice is sent under section (1) of this rule, no additional notice is required to continue monthly expungement.¶

(4) When expungement is prevented or stopped because the household "used" their benefits, the Department shall send a new expungement notice as required under section (1) of this rule when benefits later become "unused" for long enough that expungement is again required under 461-165-0010.¶

(5) For the purposes of this rule:¶

(a) "Used" means a purchase or withdrawal of any amount.¶

(b) "Unused" means no purchase or withdrawal of any amount.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.816, 411.837

Statutes/Other Implemented: ORS 409.010, ORS 409.050, 411.060, 411.070, 411.816, 411.837, 7 CFR 274.2,

Pub. L. 115-334

REPEAL: 461-180-0125

RULE SUMMARY: This rule is being repealed as the department no longer closes ERDC cases when returned mailed is received.

CHANGES TO RULE:

~~461-180-0125~~

~~Effective Dates; Reopen After Returned Mail; ERDC ¶¶~~

~~In the ERDC program, benefits may be reopened effective the first of the month when mail is returned and benefits are closed under OAR 461-175-0210 in the following situation:¶¶~~

~~(1) Benefits ended as of the last calendar day of the prior month;¶¶~~

~~(2) The reason for the case closure was mail returned, no forwarding address; and¶¶~~

~~(3) A responsible member of the filing group (see OAR 461-110-0350) contacted the Department within the first calendar month following the case closure with a new mailing address.~~

~~Statutory/Other Authority: 411.060, 411.816~~

~~Statutes/Other Implemented: ORS 411.060, 411.816~~

AMEND: 461-190-0211

RULE SUMMARY: OAR 461-190-0211 is being changed to remove Stabilized Living as an activity that is not eligible for support services.

CHANGES TO RULE:

461-190-0211

Case Plan Activities and Standards for Support Service Payments; JOBS, Pre-TANF, REF, REP, SFPSS, TANF ¶

In the JOBS, Pre-TANF, REF, REP, SFPSS, and TANF programs, notwithstanding any other administrative rule in chapter 461 and subject to the availability of state and federal funding, the following special provisions apply:¶

(1) Support services (see OAR 461-001-0025) payments are available to the following individuals who are eligible (see OAR 461-130-0310) to engage in a case plan (see OAR 461-001-0025):¶

(a) An individual who is an adult parent, needy caretaker relative (see OAR 461-001-0000), teen parent (see OAR 461-001-0000), or a minor parent (see OAR 461-001-0000) who is head of household; receiving TANF who is not otherwise exempt (see OAR 461-130-0305) and in accordance with participation requirements in OAR 461-130-0310.¶

(b) An individual who is a recipient of Pre-TANF or SFPSS programs.¶

(c) An individual who is a JOBS volunteer (see OAR 461-130-0310) and has a JOBS case plan.¶

(d) Subject to the limitations in section (8) of this rule, an individual who is receiving REF and participating in REP, who is not otherwise exempt (see OAR 461-130-0305).¶

(2) In approving JOBS program or REP program support services payments, the Department must consider lower cost alternatives. This rule is not intended to supplant Department funding with other funding that is available in the community. The expectation of the Department is that Department staff and individuals work collaboratively to seek resources that are reasonably available to the individual in order to participate in activities.¶

(3) Payment for support services are provided when:¶

(a) Necessary to participate in an approved activity (see OAR 461-001-0025) specified in the individual's case plan;¶

(b) Authorized in advance; and¶

(c) All other provisions of this rule are met.¶

(4) A Department approved activity is eligible for support services payments, except for the following activities:¶

(a) Family Support & Connections,¶

(b) Retention services, and¶

(c) Microenterprise (see OAR 461-190-0197), and¶

~~(d) Stabilized living (see OAR 461-001-0025).~~¶

(5) In the JOBS, Pre-TANF, SFPSS, and TANF programs, the Department may provide payments for support services for eligible individuals engaged in an approved activity specified in the individual's case plan, subject to provisions in sections (1)(a) through (1)(d) of this rule. Support services payment types are described as follows and are subject to the following limitations:¶

(a) JOBS Incidentals: In kind goods or items provided to individuals by the office to support the goals of the family while participating in the JOBS program.¶

(b) Bus Pass/Tickets: Bus tickets or pass that are issued in person out of office.¶

(c) Bus Payment: Payments issued to the individual to pay for public transportation. Requests for recurring bus payments may not exceed six consecutive months of issuance per request. If the individual's eligibility changes during the six months of recurring payments, timely continuing benefit decision notice (see OAR 461-001-0000) must be sent.¶

(d) Gas Payment: Payments for an individual to pay for transportation costs incurred in travel to and from an approved activity. Requests for recurring gas payments may not exceed six consecutive months of issuance per request. If the individual's eligibility changes during the six months of recurring payments, timely continuing benefit decision notice (see OAR 461-001-0000) must be sent.¶

(e) Child Care: Payments for child care, as limited by OAR 461-160-0040, if necessary to enable individuals to participate in an approved activity specified in the individual's case plan. If authorized, payment for child care is:¶

(A) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150.¶

(B) The minimum hours necessary, including meal and commute time, for the individual to participate in an approved activity.¶

(f) Clothing: Payments for clothing items to support the individual to engage in an approved activity.¶

(g) Moving Expense/Relocation: Payments for housing and utilities expenses. Payments are subject to the following:¶

- (A) Except as provided in paragraph (C) and (D) of this subsection, each payment type (such as rent, mortgage, utility bill, storage fees) is limited to two months per benefit group (see OAR 461-110-0750).¶
- (B) Except as provided in paragraph (C) and (D) of this subsection, this payment is limited to \$3,000 per benefit group for each three-month period.¶
- (C) Except as provided in paragraph (D) of this subsection, internet service payments are limited to four months per benefit group.¶
- (D) With prior manager approval, and upon verification that an individual has greater needs to stabilize a living situation or prevent loss of housing, the Department may approve payments that exceed the limits in paragraphs (A), (B), and (C) of this subsection.¶
- (h) Grooming Needs: Payments for grooming needs for an approved activity.¶
- (i) Professional Fees: Payments for professional fees to support the case plan.¶
- (j) Tools/Equipment: Payments for equipment or tools an individual needs to accept a job offer, or for a work-related activity.¶
- (k) Books/Supplies: Payments for books and supplies an individual needs to engage in an educational activity, including vocational training (see OAR 461-001-0025).¶
- (l) Vocational Training: Payment for tuition and other educational costs for vocational training and self-initiated training (see OAR 461-001-0025), excluding payments for books and supplies. Payments are subject to the following:¶
 - (A) Tuition payments for a vocational training activity or a jobs skills training (see OAR 461-001-0025) activity are limited to single payments by session as defined by the educational or vocational training entity, such as a term, semester, or quarter.¶
 - (B) Tuition payments for a self-initiated training activity may be limited to no more than a twelve-month period per individual and shall be reviewed on a term-by-term basis. Individuals must show that they are making satisfactory progress (see OAR 461-001-0025) in their program and working towards receiving or clearing their standing to receive financial aid.¶
 - (C) For tuition payments, lower cost alternatives, as described in section (2) of this rule, must be explored, including the individual pursuing financial aid and other sources of assistance.¶
- (m) Auto Expenses: Payments for auto expenses, repairs, or car insurance to support the goals specified in the individual's case plan. Payments for auto expenses are subject to the following limitations:¶
 - (A) Payments for vehicle repairs may be authorized at the discretion of the district if the cost to repair the individual's vehicle is reasonable in relation to the value of the vehicle and the minimum necessary repairs.¶
 - (B) Payments for car insurance may be authorized for no more than two months in a 12-month period.¶
- (n) Other Payments: When the need is identified and no other sources are available, the Department may provide other payments needed --¶
 - (A) To look for work.¶
 - (B) To accept a job offer.¶
 - (C) To attain a high school diploma or GED.¶
 - (D) That are not otherwise restricted , with manager approval.¶
- (o) None of the following payments are allowed:¶
 - (A) Medical Assistance or medical services.¶
 - (B) Mental health services.¶
 - (C) Alcohol and drug treatment services.¶
 - (D) Professional Services.¶
 - (E) Non-essential items.¶
 - (F) Television and cable.¶
 - (G) Fines, reinstatement fees, restitution, legal fees, civil fees, court costs, or other costs associated with a penalty.¶
 - (H) Purchase of a car, recreational vehicle, or motor home.¶
- (l) Any payments described in this rule for individuals employed in, seeking employment in, or engaged in an illegal activity (see OAR 461-120-0215).¶
- (J) Pet-related costs.¶
- (K) ERDC co-payments.¶
- (6) The Department may require an individual to provide verification of a need for, or costs associated with, support services prior to approval and issuance of payments if verification is reasonably available.¶
- (7) The Department may reduce, close, or deny in whole or in part a request for support services payments in the following circumstances:¶
 - (a) The purpose for the payments is not related to the individual's case plan.¶
 - (b) The individual is failing to comply with the case plan or disqualified, unless the payments in question are necessary for the individual to demonstrate cooperation with the individual's case plan.¶

(c) The individual disagrees with support services payments offered or made by the Department as outlined in the individual's case plan.¶

(8) In the REF and REP programs, the Department may provide payments for support services for individuals eligible for REP engaged in an approved activity specified in the individual's case plan, subject to provisions in section (1)(e). Support services are subject to the following limitations:¶

(a) Transportation. The Department may provide payments to an individual when transportation costs is for travel to and from an approved REP activity. Payments are only for the cost of public transportation or fuel costs. For fuel costs the individual providing the transportation must report having a valid driver's license and vehicle insurance..¶

(b) Other Payments. When the need is identified and no other sources are available, the Department may provide other payments needed -¶

(A) To accept a job offer.¶

(B) For books and supplies to complete a an approved educational activity.¶

(c) All other payments are not allowed.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.121, 412.006, 412.009, 412.014, 412.049, 412.124

Statutes/Other Implemented: ORS 412.016, 412.049, 412.084, 412.124, ORS 291.003, 409.010, 409.040, 411.060, 411.070, 411.121, 412.001, 412.002, 412.006, 412.009, 412.011, 412.014, 45 CFR 233.20