

OFFICE OF THE SECRETARY OF STATE

SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

11/30/2022 8:15 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Proposing Changes to TANF Eligibility, Participation, Re-engagement, and Disqualifications; and SNAP Employment Program Disqualifications

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/18/2023 11:55 PM

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

CONTACT: Meorah Solar
503-602-7545
meorah.a.solar@dhsosha.state.or.us

2885 Chad Drive
Eugene, OR 97408

Filed By:
Meorah Solar
Rules Coordinator

HEARING(S)

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

DATE: 01/05/2023

TIME: 12:30 PM - 2:00 PM

OFFICER: Meorah Solar

ADDRESS: Virtual Hearing - No Physical Location

Phone 1-971-277-2343, code 316 180 092#

Ask Hearings Officer for MS Teams link

Microsoft Teams, 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.

NEED FOR THE RULE(S)

OAR 461-120-0210 about Requirement to Provide Social Security Number (SSN), needs to be amended to standardize the treatment of all individuals without an SSN who apply for TANF; regardless of age, TANF application type (new application or being added to a case), or certification dates. Under previous rule, non-newborn individuals without an SSN added to an ongoing TANF case may have had less time to provide a SSN after they have applied if the case expired before six months had passed. These individuals could have had anywhere between one to six months of TANF eligibility and time to apply for an SSN before losing TANF benefits, while others had a full six months. In addition, the ONE system allows TANF benefits to be recertified early to align the TANF certification period with other programs, which could further shorten TANF eligibility time. This rule change allows a six month TANF eligibility period for all without an SSN, providing equal TANF eligibility period and time to apply for an SSN.

OARs 461-130-0330 about Disqualifications; REF, SNAP, TANF,
461-130-0335 about Removing Disqualifications and Effect on Benefits,
461-135-0070 about Specific Requirements; TANF,
461-135-0085 about Requirement to Attend an Assessment or Evaluation, or Seek Medically Appropriate Treatment for Substance Abuse and Mental Health; Disqualification and Penalties; TANF,
461-135-0089 about Demonstrating Compliance with Substance Abuse and Mental Health Requirements; Restoring Cash Benefits; TANF, and
461-190-0231 about Re-engagement; JOBS, REP, SFPSS, TA-DVS:
Need to be amended to make large and impactful changes to how the Department runs its TANF employment program, including how it disqualifies individuals in the TANF program, how and when the Department ends TANF disqualifications and restores TANF benefits, how individuals are re-engaged, what penalty level an individual begins at for later TANF disqualifications, stopping the practice of closing benefits for two months after certain penalty levels are reached, and making the requirements and disqualifications more clear.
OAR 461-130-0330 and 461-130-0335 also need to be amended to make disqualification and disqualification removal practices for SNAP employment programs more clear, accurate, and standardized.

OAR 461-135-0070 about Specific Requirements; TANF, also needs to be amended to align the rule with a new grant agreement between ODHS and The Confederated Tribes of Siletz Indians about the eligibility of their Tribal Members for the ODHS TANF program, placing temporary rule changes that became effective October 15, 2022, into permanent rule.

OAR 461-190-0231 about Re-engagement; JOBS, REP, SFPSS, TA-DVS, also needs to be changed to remove the Parents as Scholars program and update wording.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

No documents relied upon for changes to OARs 461-120-0210, 461-130-0330, 461-130-0335, 461-135-0085, 461-135-0089, and 461-190-0231.

OAR 461-135-0070

Grant Agreement number 174732 is available from the TANF policy analyst team upon request.

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

The Department does not believe the changes to OARs 461-120-0210, 461-130-0330, 461-130-0335, 461-135-0085, 461-135-0089, and 461-190-0231, or the JOBS disqualifications changes in OAR 461-135-0070, will affect racial equity in Oregon.

The Department believes The Confederated Tribes of Siletz Indians TANF program changes to OAR 461-135-0070 will affect racial equity in Oregon by making the ODHS TANF program more equitably accessible to members of The Confederated Tribes of Siletz Indians. This change has a positive racial equity impact as it allows for individuals who may be experiencing safety concerns and are not comfortable with receiving TANF from The Confederated Tribes of Siletz Indians to pursue TANF with ODHS. This change was made in collaboration with The Confederated Tribes of Siletz Indians.

FISCAL AND ECONOMIC IMPACT:

The Department may be negatively affected by the amendment to OAR 461-120-0210 from individuals who would

have lost TANF eligibility earlier than six months under the previous rule. The Department estimates a positive fiscal impact to those who would have lost TANF eligibility earlier than six months under the previous rule. The Department is unable to estimate a dollar amount of these impacts as each TANF benefit amount is unique based on income and group size. The Department estimates no fiscal impact to the public, other state agencies, local government, and business, including small business. There is no cost of compliance for small businesses. No small businesses are subject to this rule.

The Department estimates a negative fiscal impact to the Department and a positive fiscal impact to TANF families facing disqualification from the amendments to OARs 461-130-0330, 461-130-0335, 461-035-0070, 461-135-0085, and 461-135-0089 as disqualifications will be capped at 25 percent of the benefit amount and previously disqualifications were progressively applied up to 100 percent of the TANF benefit amount, and then subsequently closed. The Department is unable to estimate a specific dollar amount of these impacts as there is no recent data for disqualifications that resulted in closure due to the pandemic, which caused a suspension of disqualifications, and because each TANF benefit disqualification amount was unique based on income, group size, disqualification level, willingness to participate, and disqualification history. 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.

Additionally, for changes to OAR 461-130-0330 and 461-130-0335, the Department estimates a positive fiscal impact to individuals whose local office may have required activities to restore SNAP eligibility after a SNAP employment program disqualification that would have prolonged SNAP restoration beyond what the new rule will allow. As there is no way to estimate who or how many this would apply to, the Department cannot make an aggregate estimate, but the maximum positive fiscal impact to a single individual would be \$281 monthly, the current maximum SNAP allotment. 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.

Additionally, the Department estimates a zero to minimal fiscal impact from the Confederated Tribes of Siletz Indians TANF changes in OAR 461-135-0070 to the Department due to the current caseload size of The Confederated Tribes of Siletz Indians TANF program, but given the nature of the change, an exact estimate was hard to determine. The Department estimates a positive fiscal impact to individuals who previously or currently have safety concerns with pursuing TANF through The Confederated Tribes of Siletz Indians and may have gone without this vital economic benefit. With this change, these individuals have a choice to receive this economic benefit via the ODHS TANF program. The Department estimates no fiscal impact to the public, other state agencies, local government, and business, including small business. There is no cost of compliance for small businesses. No small businesses are subject to this rule.

The Department estimates no fiscal impact from the amendments to OAR 461-190-0231 to the Department, those applying for or receiving TANF 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 but are invited to provide input during the public comment period.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

461-120-0210, 461-130-0330, 461-130-0335, 461-135-0070, 461-135-0085, 461-135-0089, 461-190-0231

AMEND: 461-120-0210

RULE SUMMARY: OAR 461-120-0210 is being amended to state that individuals who do not have a Social Security Number (SSN) must provide verification of application for an SSN within six months of their initial TANF approval, rather than the sooner of six months after approval or by the end of the certification period. It may also be amended to make more clear who in which eligibility group must provide verification of application for an SSN for each program.

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: 461-130-0330

RULE SUMMARY: OAR 461-130-0330 is being amended to remove Pre-TANF from the rule and change how the Department disqualifies individuals in the SNAP and TANF employment programs, including:

Limit the TANF grant subject to a disqualification to 25 percent of the TANF benefit amount, less any overpayment recovered. Under previous rule, the whole TANF grant was subject to disqualification.

Change the progressive TANF benefit penalty from 25 percent, 50 percent, 75 percent, 100 percent, and then a two-month closure; to 6.25 percent, 12.5 percent, 18.75 percent, and 25 percent with no closure.

Requiring later TANF disqualifications that happen after an individual has ended a disqualification, to begin at the first level. Under previous rule, the later disqualification began at the penalty level from the earlier disqualification.

Standardize how disqualified individuals who fail to comply with the SNAP employment program become eligible for SNAP benefits. Under previous rule, each local office was able to define and create their own participant requirements, resulting in inequity across the state. The new rule provisions will allow for SNAP eligibility after individuals serve their applicable disqualification period and agree to the general work requirements.

CHANGES TO RULE:

461-130-0330

Disqualifications; ~~Pre-TANF~~, REF, SNAP, TANF ¶

(1) In the ~~Pre-TANF~~, REF, SNAP, and TANF programs, the Department may not disqualify from program benefits an individual who is a volunteer (see OAR 461-130-0305 and 461-130-0310) participant in an employment program.¶

(2) In the ~~Pre-TANF~~ and TANF programs, a JOBS eligible (see OAR 461-130-0310) individual who fails to comply with an employment program participation requirement or a JOBS exempt (see OAR 461-130-0310) individual who fails to comply with the requirements of OAR 461-135-0085, and does not have good cause (see OAR 461-130-0327) for the failure to comply is subject to disqualification under this rule only after the individual has had the opportunity to participate in the re-engagement process under OAR 461-190-0231.¶

(3) In the REF program, a mandatory individual who fails to comply with an employment program participation requirement and does not have good cause for failure to comply is subject to disqualification under this rule only after the individual has had the opportunity to participate in the re-engagement process under OAR 461-190-0231.¶

(4) In the REF program, the effects of an REP disqualification are progressive. There are two levels of disqualification:¶

(a) At the first level of disqualification, the penalty is the removal of the disqualified individual from the need group (see OAR 461-110-0630) for three months. If the disqualified individual is the only member of the filing group (see OAR 461-110-0430), the assistance is terminated.¶

(b) At the second level, the penalty is the removal of the disqualified individual from the need group for six months. If the disqualified individual is the only member of the filing group, the assistance is terminated.¶

(5) In the TANF program, only 25 percent of the TANF benefit amount, less any overpayment recovered, are subject to a JOBS disqualification penalty. The effects of a JOBS disqualification or a disqualification imposed under OAR 461-135-0085 are progressive. There are four levels of disqualification. Once a disqualification is imposed, it affects benefits according to the following schedule and continues until the disqualification ends in accordance with OAR 461-130-0335: When a disqualification penalty ends, later disqualifications begin at the first level.¶

(a) At the first level, the penalty is a 6.25 percent reduction in benefits.¶

(b) At the second level, the penalty is a 12.50 percent reduction in benefits.¶

(c) At the third level, the penalty is a 18.75 percent reduction in benefits.¶

(d) At the fourth level, the penalty is a 25 percent reduction in benefits.¶

~~(e) At the end of a penalty remains at the fourth level, program benefits are closed and the filing group (see OAR 461-110-0310 and 461-110-0330) may not receive program benefits for the following two consecutive month~~ until the disqualification ends.¶

(6) In the SNAP program:¶

(a) A mandatory individual not covered under subsection (b) of this section who fails to comply with the requirements of an employment program (see OAR 461-130-0315) without good cause (see OAR 461-130-0327) is subject to disqualification. A disqualified individual is removed from the need group until ~~the or they agree to~~ meets the employment program requirements general work requirements (see OAR 461-130-0315(1)(c)) and

serves the applicable progressive disqualification under the following subsections:¶

(A) One calendar month for the first failure to comply.¶

(B) Three calendar months for the second failure to comply.¶

(C) Six calendar months for the third and subsequent failures to comply.¶

(b) A mandatory individual who is an ABAWD (see OAR 461-135-0520) residing in one of the time limit exempt areas (see OAR 461-135-0520) or a mandatory individual who is served by an office that does not offer OFSET (see OAR 461-190-0310) who fails to comply with the requirements in OAR 461-130-0315(1)(c)(A) to (D) is subject to disqualification as provided in subsection (a) of this section. See OAR 461-135-0520 for additional employment participation requirements for ABAWD individuals.

Statutory/Other Authority: ORS 409.050, 411.060, 411.816, 412.009, 412.049

Statutes/Other Implemented: ORS 409.010, 411.060, 411.816, 411.837, 412.009, 412.049, 45 CFR 261.12, 45 CFR 261.13, 45 CFR 261.14

AMEND: 461-130-0335

RULE SUMMARY: OAR 461-130-0335 is being amended to change how the Department removes disqualifications and how the removal impacts benefits, including:

To change when and why a TANF disqualification ends and allow immediate TANF benefit restoration on the date the disqualification is ended,

To discontinue the provision that made a TANF employment program disqualification follow the individual and impact the TANF benefits of any new TANF group they joined,

To require that after a TANF disqualification is ended, the later TANF disqualifications begin at the first level,

To remove TANF benefit closure after the fourth level of disqualification,

To end the requirement that a TANF disqualified individual show two consecutive weeks of participation before removing the TANF disqualification, and

To standardize how disqualified individuals who fail to comply with the SNAP employment program become eligible for SNAP benefits. Under previous rule, each local office was able to define and create their own participant requirements, resulting in inequity across the state. The new rule provisions will allow for SNAP eligibility after individuals serve their applicable disqualification period and agree to the general work requirements.

CHANGES TO RULE:

461-130-0335

Removing Disqualifications and Effect on Benefits ¶

(1) An applicant who would be subject to an employment program disqualification under OAR 461-130-0330 but withdraws the application before benefits are approved is not subject to disqualification.¶

(2) In the REF, SNAP, and TANF programs, a filing group (see OAR 461-110-0330, 461-110-0370, and 461-110-0430) is not subject to the impact of a disqualification for a disqualified member who has left the household group (see OAR 461-110-0210).¶

(a) In the REF and SNAP programs, if the member joins another filing group, that group is subject to the member's most recent disqualification.¶

(b) In the TANF program, if the member joins another filing group, that group is not subject to the member's most recent disqualification.¶

(3) In the REF program, a disqualification ends when:¶

(a) The Department changes the participation classification of the disqualified individual to exempt (see OAR 461-130-0305); or¶

(b) REF program benefits are closed for a reason other than described in OAR 461-130-0330(4).¶

(4) In the TANF program, ~~the following subsections apply to an individual disqualified for failure to meet the requirements of an employment program under division 190 of these rules or the requirements of~~¶

(a) The JOBS disqualification penalty imposed under OAR 461-130-0330 ends and cash benefits are restored on the date any of the following occur:¶

(A) The Department changes the participation classification of the disqualified individual to JOBS exempt or JOBS volunteer (see OAR 461-1350-0085:305);¶

(aB) At the first, second, third, and fourth level of disqualification, the individual must cooperate for JOBS eligible (see OAR 461-130-0310) individual in the need group (see OAR 461-110-0630) agrees two consecutive weeks with each engage in a JOBS program activity (see OAR 461-001-0025) specified in the individual's current or revised case plan (see OAR 461-001-0025) before the D;¶

(C) The household repaortment may remove the disqualification. Cash benefits are restored effective the date the individual completes the tws that the disqualified individual is no e)onsecutive week cooperation period.¶

(b) Whenger a member of the fhourth level of disqualification ends, TANF program benefits are closed asehold group, which ends the filing group is ineligible for TANF program benefits for two consecutive months, unless the individual contacts a representative of the Department and agrees to each activity specified in the individual's current or revised case plan before the end of the fourth level. If the individual completes the two consecutive weeks of cooperation, cash benefits are restored effective the date the individual completes the two consecutive week cooperation period.¶

(c) Cash benefits are restored effective the date it is determined, by the Department, disqualification for the individual;¶

(D) The Department determines the disqualified individual is unable to participate because there are no

appropriate activities or no support services (see OAR 461-001-0025) ~~necessary~~available to support the activity available in order for the individual to demonstrate participation.¶

(5) In the TANF program, a disqualification ends when:¶

(a) The Department changes the participation classification of the disqualified individual to JOBS exempt or JOBS volunteer (see OAR 461-130-0305); or¶

(E) The Department determines the disqualified individual is unable to participate due to a disability (461-001-0000) that prevents the individual from participating in the JOBS program, or the Department determines a needed and appropriate accommodation was not provided to the individual for a known disability.¶

(b) ~~A~~The JOBS eligible (see OAR 461-130-0310) individual in the need group (see ~~disqualification penalty imposed under OAR 461-1130-06330~~) complies with the requirements of the employment program as provided in section (4) of this rule;¶

(e) ~~ends on the last day of the calendar month following the month of closure when~~ TANF program benefits are closed for a reason other than described in OAR 461-130-0330;¶

(d) ~~The individual is no longer a member of the household group; or, (For example, if TANF benefits closed the last day of November, the disqualification will remain until the last day of December.)~~¶

(ec) ~~¶~~When the individual is unable to participate because there is no appropriate activity or support services necessary to support the activity, the disqualification penalty is ended under this rule, later disqualifications begin at the first level (see OAR 461-130-0330).¶

¶

(65) In the SNAP program: THE DEPARTMENT PROPOSES TO MAKE EDITS TO THIS SECTION TO ALIGN THE RULE WITH SNAP PROGRAM CHANGES TO OAR 461-130-0330 IN THIS SAME FILING.¶

(a) The disqualification ends the first day of the month following the month in which information is provided to the Department justifying the change in the individual's participation classification (see OAR 461-130-0310), even if the date falls within the disqualification period provided in OAR 461-130-0330.¶

(b) A mandatory individual disqualified under OAR 461-130-0330 for failure to meet the requirements of a SNAP employment program must show compliance with the employment and training program for up to 30 days. The local DHS branch will determine the activities as either work activities or cooperation with the SNAP Employment and Training contractor.¶

(c) A mandatory ABAWD who is ineligible for exceeding the SNAP time limit may regain eligibility as provided in OAR 461-135-0520.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.816, 412.009, 412.049

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837, 412.009, 412.049, 45 CFR 261.12, 45 CFR 261.13, 45 CFR 261.14

AMEND: 461-135-0070

RULE SUMMARY: OAR 461-135-0070 is being changed by permanent filing to adopt temporary changes from October 15, 2022, which allows members of The Confederated Tribes of Siletz Indians who live in their service area, the choice to apply for and receive ODHS TANF benefits when there are safety concerns in pursuing TANF from The Confederated Tribes of Siletz Indians. It is also being changed to remove the requirement for an individual to complete two-weeks of cooperation when applying for TANF program benefits as the Department will no longer close TANF benefits when there is an active Job Opportunity and Basic Skills (JOBS) program disqualification.

CHANGES TO RULE:

461-135-0070

Specific Requirements; TANF ¶¶

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

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

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

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

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

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

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

(i) The child is receiving SSI.¶¶

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

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

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

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

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

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

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

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

(2) As used in this rule:¶¶

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

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

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

(C) Voluntarily reduced work hours.¶¶

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

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

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

(C) Voluntarily reduced work hours.¶¶

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

(3) Except as provided under section (4) of this rule, a need group (see OAR 461-110-0630) is not eligible for TANF program benefits for 120 days from the date a parent or caretaker relative was separated from or voluntarily reduced work hours at their last employment in which a parent or caretaker relative in the need group was hired to work 100 or more hours per month or worked or was scheduled to work 100 or more hours in the last full calendar month of employment. This applies at initial certification, recertification, and is a condition of ongoing eligibility (see OAR 461-001-0000).¶¶

(4) A need group (see OAR 461-110-0630) may not be reduced or denied TANF program benefits based on

section (3) of this rule if the parent or caretaker relative is one of the following:¶

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

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

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

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

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

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

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

(5) Members of The Klamath Tribes may apply for either The Klamath Tribes TANF program or the ODHS TANF program.¶

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

(b) For families whose Klamath Tribes TANF program benefits have been closed due to failure to comply with program requirements:¶

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

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

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

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

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

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

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

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

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

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

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

(8) Notwithstanding sections (6) and (7) of this rule, a family who requests to apply for TANF through the ODHS TANF program rather than The Confederated Tribes of Siletz Indians TANF program due to a safety concern is not ineligible for ODHS TANF program benefits.

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

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.400, 411.404, 412.006, 412.016, 412.049, 412.064, 412.124

AMEND: 461-135-0085

RULE SUMMARY: OAR 461-135-0085 is being amended to change how a disqualification related to alcohol and drug assessment and treatment, and mental health treatment, impacts a participant in the TANF program. Only individuals who are eligible to participate in the Job Opportunity and Basic Skills (JOBS) program (also called JOBS mandatory in rule) will be subject to a disqualification. The rule is also being changed to remove references in the title and body to the Pre-TANF program and in the title to the REF program. Further edits may be made to substance abuse/substance use disorder language.

CHANGES TO RULE:

461-135-0085

Requirement to Attend an Assessment or Evaluation, or Seek Medically Appropriate Treatment for Substance Abuse and Mental Health; Disqualification and Penalties; ~~Pre-TANF, REF, TANF~~ ¶

In the ~~Pre-TANF~~ and TANF programs: ¶

(1) For the purposes of this rule: ¶

(a) "Assessment for substance abuse" means an assessment performed by an appropriate licensed professional with the purpose of discovering the presence of substance abuse. ¶

(b) "Controlled substance" means a drug or its immediate precursor classified in Schedules I through V under the Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of the term "precursor" in this subsection does not control and is not controlled by the use of the term "precursor" in ORS 475.840 to 475.980. Alcohol is not a controlled substance. ¶

(c) "Self-identified illegal use" means an individual states ~~he or she~~ illegally used a controlled substance within the previous 30 days. Illegal use does not include the use of a controlled substance pursuant to a valid prescription, or other use authorized by the Uniform Controlled Substances Act, ORS 475.005 to 475.285 and 475.840 to 475.980, the federal Controlled Substances Act, or other Federal law. ¶

(2) When directed by the Department, an adult member or parenting teen in the need group (see OAR 461-110-0630), ~~regardless of participation classification~~ who is JOBS mandatory (see OAR 461-130-03105), must participate in: ¶

(a) An assessment for substance abuse if: ¶

(A) The individual has self-identified illegal use of a controlled substance; and ¶

(B) The assessment is available and at no cost to the individual. ¶

(b) Medically appropriate treatment for substance abuse if it is available and at no cost to the individual when: ¶

(A) The individual reports a qualified and appropriate professional has diagnosed the individual with a substance abuse disorder within the previous twelve months; or ¶

(B) An assessment resulted in a diagnosis requiring medically appropriate treatment for the individual to be successful in the workplace. ¶

(3) When directed by the Department, an adult member or parenting teen in the need group (see OAR 461-110-0630), ~~regardless of participation classification~~ who is JOBS mandatory (see OAR 461-130-03105), must participate in medically appropriate treatment for mental health if it is available and at no cost to the individual when: ¶

(a) The individual reports a qualified and appropriate professional has diagnosed the individual with a mental health disorder within the previous twelve months; or ¶

(b) An evaluation resulted in a mental health diagnosis requiring medically appropriate treatment for the individual to be successful in the workplace. ¶

(4) An individual is responsible for providing information needed by the Department to determine whether the individual had good cause (see OAR 461-130-0327) for failing to meet the requirements of this rule. If a medical condition must be evaluated in regard to the requirements of this rule, the Department will assist the ~~client~~ individual in obtaining a medical opinion from an qualified and appropriate medical professional. ¶

(5) An individual who refuses to participate in a required assessment, evaluation, or the medically appropriate treatment required by this rule is subject to disqualification in accordance with this section and OAR 461-130-0330 only after the individual has had an opportunity to participate in the re-engagement process (see OAR 461-190-0231) including a determination by the Department of whether the individual had good cause for non-participation. ~~The penalties are progressive and, once imposed, continue as long as the individual refuses to participate. If there is a change in the participation classification (see OAR 461-130-0310) of the individual the penalty ends and the individual must have an opportunity to participate in the re-engagement process under OAR 461-190-0231 before applying a disqualification.~~

Statutory/Other Authority: ORS 411.060, 411.070, 411.816, 412.006, 412.009, 412.049, 412.089

Statutes/Other Implemented: ORS 411.060, 411.070, 411.816, 412.006, 412.009, 412.049, 412.089, 45 CFR 261.12, 45 CFR 261.13, 45 CFR 261.14

AMEND: 461-135-0089

RULE SUMMARY: OAR 461-135-0089 is being amended to remove references to the Pre-TANF program and to change when and why a disqualification ends, which removes the TANF benefit penalty. It is also being changed to require that after a disqualification is ended, later disqualifications begin at the first level.

CHANGES TO RULE:

461-135-0089

Demonstrating Compliance with Substance Abuse and Mental Health Requirements; Restoring Cash Benefits; ~~Pre-TANF, TANF~~

In the ~~Pre-TANF and~~ TANF programs:

(1) ~~In order to end a~~ The disqualification penalty imposed under OAR 461-135-0085:

~~(a) At the first, second, third, and fourth level of disqualification (see OAR 461-130-0330), a client must ends, and cash benefits are restored, on the date any of the following occur:~~

~~(Aa) Cooperate for a period of two consecutive weeks with each activity (see OAR 461-001-0025) specified in the client's current or revised case plan~~ The Department changes the participation classification of the disqualified individual to JOBS exempt or JOBS volunteer (see OAR 461-001-0025); and

~~(B) D130-0305).~~

~~(b) The disqualified individual demonstrates a willingness to participate~~ engage in treatment required under OAR 461-135-0085 if treatment is still required.

~~(bc) When the fourth level of disqualification~~ disqualified individual agrees to engage in JOBS program activities if treatment is no longer required or available.

~~(d) The household reports that the disqualified individual is no longer a member of the household group (see OAR 461-1310-0330) ends, program benefits are closed for two consecutive months, un~~ 201), which ends the disqualification for the individual.

~~(e) The Department determines the client:~~

~~(A) Contacts a representative of the Department and agrees to each activity in the case plan before the end of the fourth level; and~~

~~(B) Demonstrates a willingness to~~ disqualified individual is unable to participate because there are no appropriate activities or no support services (see OAR 461-001-0025) available to support the activity.

~~(f) The Department determines the disqualified individual is unable to participate due to a disability (461-001-0000) that prevents the individual from participate~~ ing in treatment required under OAR 461-135-0085 if treatment is still required.

~~(2) The penalty imposed under OAR 461-135-0085 ends when:~~

~~(a) he JOBS program, or the Department determines a needed and appropriate accommodation was not provided to the individual for a known disability.~~

~~(2) The JOBS disqualification penalty imposed under OAR 461-135-0085 ends on the last day of the calendar month following the month of closure when TANF program benefits are closed for a reason other than described in OAR 461-130-0330(5)(e); or~~

~~(b) The individual complies with the requirements of section (1) of this rule.~~

~~(3) When the Department removes a disqualification due to a client's compliance with the requirements under OAR 461-135-0085, cash benefits are restored effective the d. (For example, if TANF benefits close the last day of November, the disqualification will remain until the last day of December.)~~

~~(3) When the disqualification penalty is ended under this rule, later disqualifications begin at the client completed the two consecutive week cooperation period~~ first level (see OAR 461-135-0085).

Statutory/Other Authority: ORS 411.060, 411.070, 412.006, 412.009, 412.049

Statutes/Other Implemented: ORS 411.060, 411.070, 412.006, 412.009, 412.049, 412.089, 45 CFR 261.12, 45 CFR 261.13, 45 CFR 261.14

AMEND: 461-190-0231

RULE SUMMARY: OAR 461-190-0231 is being amended to remove the Pre-TANF program and clarify re-engagement requirements in the Job Opportunity and Basic Skills (JOBS) program prior to applying a disqualification. The rule is also being amended to update words in the rule to words currently being used by the TANF program.

CHANGES TO RULE:

461-190-0231

Re-engagement; JOBS, ~~Pre-TANF~~, REP, SFPSS, TA-DVS ¶

In the JOBS, Pre-TANF, REP, SFPSS, and TA-DVS programs:¶

(1) When aspects of the case plan have not been met or are in dispute, the re-engagement process provides an opportunity for the individual and the Department to --¶

(a) Review and re-evaluate the case plan and other information gathered related to the strengths and ~~barrier~~challenges of the individual and family;¶

(b) Identify ~~participation~~ expectations, concerns ~~related to participation~~, and completion of activities in the case plan;¶

(c) Consider whether the case plan is still appropriate;¶

(d) Develop options that support ~~full participation~~the individual; and¶

(e) Revise the case plan if appropriate.¶

(2) The re-engagement process is intended to assist the Department in identifying whether the individual is unable to fully participate or whether the individual is ~~refusor~~ unwilling to participate in the case plan ~~of the individual~~.¶

(a) In the JOBS, ~~Pre-TANF~~, REP, and SFPSS programs, if:¶

(A) A screening for physical or mental health needs, substance abuse, domestic violence (see OAR 461-001-0000), or learning needs has not been completed, the re-engagement process requires an additional opportunity to initiate those screenings for potential ~~barrier~~challenges to participation not previously identified.¶

(B) A screening described in paragraph (A) of this subsection indicates follow-up is needed. The re-engagement process requires an opportunity to initiate the follow-up for potential ~~barrier~~challenges to participation not previously identified.¶

(b) Circumstances that require a determination of whether good cause (see OAR 461-130-0327) exists include disagreements about the case plan, irregular attendance at activities, missed appointments, failure to participate in a component of the case plan, and (in the JOBS and REP programs) refusal to accept or maintain employment.¶

(c) In the TA-DVS program, there are no participation requirements. The re-engagement process is intended to provide an opportunity to address problems with the case plan (see OAR 461-135-1230) and an opportunity to modify the case plan.¶

(3) In the JOBS and REP programs, the re-engagement process must include:¶

(a) Assessing the risk of harm posed to the children in the filing group by the reduction in aid payments and taking steps to ameliorate the risk.¶

(b) An attempted ~~home visit~~in-person offsite visit, which may occur in the community or at the individual's home.¶

(4) The individual, the Department, or the Department's contractor may initiate the re-engagement process. The re-engagement process is not a required activity. The Department may not disqualify individuals based on their failure to participate in the re-engagement process.¶

(5) The individual or Department may invite partner agencies, Department contractors, persons currently working with the individual, or other individuals who have information relevant to the re-engagement process to any appointments or meetings scheduled as part of the process.¶

(6) The re-engagement process ends when any of the following subsections applies:¶

(a) In the JOBS and ~~Pre-TANF~~ programs, when any of the following paragraphs applies:¶

(A) The Department has determined the individual has met federally required participation rates (see OAR 461-001-0025).¶

(B) The Department and the participant agree to a modified case plan.¶

(C) The Department has determined the individual is exempt from JOBS Employment Program participation and disqualification under OAR 461-130-0310.¶

(D) The Department has determined the individual is a JOBS volunteer (see OAR 461-130-0310).¶

(E) The efforts to re-engage are unsuccessful for any of the following reasons:¶

(i) The individual clearly indicates an intent not to participate in the re-engagement process;¶

(ii) The individual refuses to participate in the individual's case plan and has the ability to engage;¶

(iii) The individual has no ~~barriers or refuses~~challenges to participate or is unwilling to take appropriate steps to address identified ~~barrier~~challenges to participation in the program; or¶

- (iv) The Department determines that an individual did not have good cause (see OAR 461-130-0327) for not complying with a requirement of the JOBS employment program, and the individual is able but unwilling to address the issue through activities that address barrier challenges or through case plan modifications.¶¶
- (b) In the REP program, when any of the following paragraphs applies:¶¶
- (A) The Department has determined the individual is exempt from REP participation and disqualification under OAR 461-130-0310(4).¶¶
- (B) The individual clearly indicates an intent not to participate in the re-engagement process.¶¶
- (C) The individual is willfully non-compliant and has the ability to ~~be fully engaged~~ participate in the program.¶¶
- (D) A decision is made by the Department that an individual did not have good cause for not complying with a requirement of the REP program.¶¶
- (E) The Department has determined the individual is an REP volunteer (see OAR 461-130-0310).¶¶
- (F) The Department has determined that the case plan is inappropriate and requires modification.¶¶
- (c) In the SFPSS program, after a review team consisting of SFPSS program staff including the case manager, disability analyst, and appropriate medical professional determine the individual does not have good cause for non-cooperation and no accommodations or modifications can be made to support the ~~the~~ participant being re-engaged.¶¶
- (7) The re-engagement process must end unsuccessfully before the Department begins the process of disqualifying an individual for a failure to comply with a requirement of the JOBS or REP programs.¶¶
- (8) In the SFPSS program, when the re-engagement process ends unsuccessfully, an individual removed from the program is returned to the TANF program.¶¶
- ~~(9) For a participant in the Parents as Scholars (PAS) component of the JOBS program, when re-engagement ends unsuccessfully, PAS is ended pursuant to OAR 461-190-0199.~~
- Statutory/Other Authority: ORS 409.050, 411.060, 412.009, 412.014, 412.049
- Statutes/Other Implemented: ORS 409.010, 411.060, 411.117, 412.009, 412.014, 412.049, 45 CFR 261.12, 45 CFR 261.13, 45 CFR 261.14