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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**SSP 10-2023**

CHAPTER 461

DEPARTMENT OF HUMAN SERVICES

SELF-SUFFICIENCY PROGRAMS

**FILED**

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ARCHIVES DIVISION  
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& LEGISLATIVE COUNSEL

FILING CAPTION: Temporary Rule Changes to Establish the SNAP Program Court Ordered Child Support Payment Exclusion

EFFECTIVE DATE: 02/15/2023 THROUGH 08/13/2023

AGENCY APPROVED DATE: 02/15/2023

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**NEED FOR THE RULE(S):**

The rule being amended in this filing and the rule being adopted in this filing, are needed to establish the new SNAP program court ordered child support payment exclusion. Verified court ordered support payments for an individual outside of the SNAP filing group used to be treated as a deduction from countable income. Effective January 19, 2023, the Department began excluding these payments when determining countable income. As current OAR treats and lists these payments as a deduction, the rules must be changed, and a new rule adopted, to establish the shift of Department policy in rule.

OAR 461-160-0410 about Use of Income and Income Deductions When There Are Ineligible or Disqualified Group Members; SNAP, also needs to be changed to remove the OFSET program, which was terminated years ago, and replace it with the current SNAP Employment and Training program.

**JUSTIFICATION OF TEMPORARY FILING:**

The Department finds that failure to act promptly amending and adopting the rules in this filing will result in serious prejudice to the public interest, the Department, and individuals eligible for the new SNAP child support payment exclusion. The Department needs to proceed by temporary rule due to immediate nature of ongoing SNAP eligibility determinations and the need for Department rules to align with policy and ONE system programming. Failure to act immediately could result in confusion for administrative law judges, state employees, SNAP applicants and recipients to whom the provision applies, as well as errors in SNAP eligibility calculations. This temporary rule filing will bring the rule language into alignment with the most recent policy decision, which will be reflected in ODHS communications and ONE system programming.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:**

No documents relied upon.

RULES:

461-115-0651, 461-140-0265, 461-160-0410, 461-160-0430

AMEND: 461-115-0651

RULE SUMMARY: OAR 461-115-0651 is being changed because the Oregon Department of Human Services (ODHS) has chosen the option to exclude legally obligated child support payments paid by an individual applying for or receiving SNAP program benefits to determine countable income for the SNAP program. The payments must be for an individual who is not in the obligor's SNAP filing group. The exclusion includes court ordered child support payments made to a third party, cash medical support, and child support arrearages. The rule is also being changed to standardize language.

CHANGES TO RULE:

461-115-0651

Required Verification and When to Verify; SNAP ¶¶

- (1) The Department must give households at least 10 days to provide required verification.¶¶
- (2) All of the following information must be verified when an individual initially applies for SNAP benefits:¶¶
  - (a) The identity of the applicant and any authorized representative or alternate payee.¶¶
  - (b) ~~Ali~~Noncitizen status.¶¶
  - (c) Social Security Number (SSN) or application for an SSN.¶¶
  - (d) Countable income.¶¶
  - (e) Medical expenses, if they are used as a deduction.¶¶
  - (f) ~~Effective January 19, 2023, an order to pay child support and the amount actually paid, if the child for which the support is paid is not in the individual's SNAP household group and the child support payments are used as an exclusion.~~¶¶
  - (g) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility (see OAR 461-001-0000) or the benefit amount.¶¶
  - (h) For an ABAWD who resides in a SNAP time limit county (see OAR 461-135-0520):¶¶
    - (A) Work hours.¶¶
    - (B) The number of countable months (see OAR 461-135-0520) used in another state if the individual is applying for food benefits after receiving food benefits in another state.¶¶
- (3) All of the following information must be verified when an individual reapplies for SNAP benefits:¶¶
  - (a) Countable income.¶¶
  - (b) ~~Previously unreported medical expenses, and~~Medical expenses, if used as a deduction, and one of the following are true:¶¶
    - (A) ~~The total amount of recurring medical expenses which have~~has changed by more than \$25.¶¶
    - (B) ~~Any changes in the legal obligation~~The medical expense is new, or¶¶
    - (C) ~~The medical expense information is incomplete, inaccurate, inconsistent, or outdated.~~¶¶
  - (c) ~~Effective January 19, 2023, any changes to an order to pay child support, and the obligated amount, and the amount the individual is paying for children that live in a different household group~~actually paid, if the child for which the support is paid is not in the individual's SNAP household group and the child support payments are used as an exclusion.¶¶
  - (d) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.¶¶
- (4) For cases using the Change Reporting System (CRS), each of the following changes reported during the certification period (see OAR 461-001-0000) must be verified:¶¶
  - (a) A change in source of income, or the amount of stable income has changed by more than \$50.¶¶
  - (b) The amount of variable income from any source.¶¶
  - (c) Changes in reported medical expenses by more than \$25, and previously unreported medical expenses.¶¶
  - (d) ~~Any changes in the legal obligation~~Effective January 19, 2023, any changes to an order to pay child support, and the obligated amount, and the amount the individual is paying for children that live in a different household groupamount actually paid, if the child for which the support is paid is not in the individual's SNAP household group and the child support payments are used as an exclusion.¶¶
  - (e) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.¶¶
- (5) For cases using the Simplified Reporting System (SRS), each of the following changes reported during the certification period must be verified in accordance with OAR 461-170-0103:¶¶

(a) ~~Ali~~Noncitizen status and SSN or application for an SSN when a new member joins the benefit group (see OAR 461-110-0750).¶

(b) Countable income.¶

(c) Medical expenses, if used as a deduction.¶

~~(d) An order to pay child support and the amount actually paid, if used as a deduct, and one of the following are true:¶~~

~~(A) The total amount of medical expenses has changed by more than \$25.¶~~

~~(B) The medical expense is new, or¶~~

~~(C) The medical expense information is incomplete, inaccurate, inconsistent, or outdated.¶~~

~~(d) Effective January 19, 2023, an order to pay child support and the amount actually paid, if the child for which the support is paid is not in the individual's SNAP household group and the child support payments are used as an exclusion.¶~~

(6) A claimed expense or cost may be used to determine the SNAP benefit only when the individual provides the required or requested verification.¶

(7) In addition to the verification required by sections (2) to (5) of this rule, the income for an individual must be verified every six months for SRS cases certified for twelve months, except those in which every adult member of the filing group (see in accordance with OARs 461-150-0060(5) and 461-170-0102 --)¶

~~(a) Every six months for SRS cases certified for twelve months under OAR 461-1105-0370) is eld450.¶~~

~~(b) Everly (see OAR 461-001-0015) or an individual with a disability (see OAR 461-001-0015) and has no earned income (NED) twelve months for SRS cases certified for 24 months under OAR 461-115-0450.~~

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

Statutes/Other Implemented: ORS 409.050, 411.060, 411.070, 411.081, 411.087, 411.816, 411.825, 411.837, 7  
CFR 273.2

ADOPT: 461-140-0265

RULE SUMMARY: OAR 461-140-0265 is being adopted because the Oregon Department of Human Services (ODHS) has chosen the option to exclude legally obligated child support payments paid by an individual applying for or receiving SNAP program benefits to determine countable income for the SNAP program. The payments must be for an individual who is not in the obligor's SNAP filing group.

CHANGES TO RULE:

461-140-0265

Court Ordered Child Support Exclusion: SNAP

Effective January 19, 2023, in the SNAP program:¶

(1) Notwithstanding other rules in Chapter 461, child support payments made by a member of the filing group, including cash medical support and arrearages, are excluded to determine countable (see OAR 461-001-0000) income if they meet both of the following:¶

(a) The child support payments are court ordered.¶

(b) The child (see OAR 461-001-0000) for whom the payments are intended to support is not a member of the filing group.¶

(2) When an individual cannot verify court-ordered child-support payments, the payments are not used to calculate the exclusion. When the individual provides verification, the exclusion is applied when calculating countable income.¶

(3) This income exclusion is not subject to the provisions of OAR 461-140-0070.

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

Statutes/Other Implemented: ORS 409.050, 411.060, 411.070, 411.816, ORS 409.010, 411.825, 411.837, 7 CFR 273.9, 7 CFR 273.10, 7 CFR 273.11

AMEND: 461-160-0410

RULE SUMMARY: OAR 461-160-0410 is being changed because the Oregon Department of Human Services (ODHS) has chosen the option to exclude, rather than deduct, legally obligated child support payments paid by an individual applying for or receiving SNAP program benefits to determine countable income for the SNAP program. The rule is also being changed to update the name of the SNAP Employment and Training program.

CHANGES TO RULE:

461-160-0410

Use of Income and Income Deductions When There Are Ineligible or Disqualified Group Members; SNAP ¶¶

When a member of the filing group (see OAR 461-110-0310 and 461-110-0370) is not in the need group (see OAR 461-110-0630), benefits in the SNAP program are calculated as follows:¶¶

(1) The process described in sections (2) and (3) of this rule is used if the member is any of the following:¶¶

(a) A non-citizen but not a qualified non-citizen (see OAR 461-120-0125);¶¶

(b) A qualified non-citizen who does not meet the ~~an~~noncitizen status requirements;¶¶

(c) Disqualified for failing to obtain or provide a Social Security Number;¶¶

(d) Unwilling to disclose ~~an~~noncitizen status; or¶¶

(e) An ABAWD (see OAR 461-135-0520) who is ineligible because of the SNAP time limit in OAR 461-135-0520.¶¶

(2) If the member is in a group described in section (1) of this rule:¶¶

(a) The member's countable (see OAR 461-001-0000) income is prorated among the members in the filing group.¶¶

(b) The pro rata share of each individual not in the benefit group (see OAR 461-110-0750) is excluded.¶¶

(c) The rest of the prorated income is countable income for the filing group.¶¶

(3) An ineligible or disqualified member covered by section (1) of this rule is entitled to all income deductions for which the member qualifies. ~~W~~Effective January 19, 2023, when paid by the member, or billed to the member and unpaid, deductions for shelter, ~~child support~~, medical costs, and dependent care are calculated as follows:¶¶

(a) The deductions, except deductions for the utility standard, are prorated among the members of the filing group.¶¶

(b) The prorated share of the members of the benefit group is deducted.¶¶

(c) The deduction for the utility standard is made in accordance with OAR 461-160-0420.¶¶

(4) The countable income of the following financial group (see OAR 461-110-0530) members, subject to allowable deductions, is used to determine benefits:¶¶

(a) ~~A client~~n individual disqualified for failure to comply with the requirements of the ~~OFSET~~ program under the SNAP Employment and Training program (see OAR 461-001-0020) or because of an intentional program violation.¶¶

~~(b) A client~~ (see OAR 461-195-0601).¶¶

(b) An individual determined ineligible for SNAP in accordance with OAR 461-135-0560.

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

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.837, 7 CFR 273.11, 7 CFR 273.9, 7 CFR 273.10

AMEND: 461-160-0430

RULE SUMMARY: OAR 461-160-0430 is being amended because the Oregon Department of Human Services (ODHS) has chosen the option to exclude, rather than deduct, legally obligated child support payments paid by an individual applying for or receiving SNAP program benefits to determine countable income for the SNAP program. The rule is also being changed to make clear that the 20 percent earned income deduction shall be applied to excluded child support paid from earned income.

CHANGES TO RULE:

461-160-0430

Income Deductions; SNAP ¶

In the SNAP program:¶

(1) Deductions from income are subtracted from countable (see OAR 461-001-0000) income (see OAR 461-140-0010) in the following order to determine adjusted income (see OAR 461-001-0000) for the SNAP program:¶

(a) ~~An earned income deduction of 20 percent of countable earned income. The 20 percent deduction is not taken from the wages funded by grant diversions such as Work Supplementation wages as follows:¶~~

(A) An earned income deduction of 20 percent of countable earned income. Multiply the total countable earned income by 20 percent and subtract that amount from the countable income. The 20 percent deduction is not taken from the wages funded by grant diversions such as Work Supplementation wages.¶

(B) Effective January 19, 2023, an earned income deduction of 20 percent of the earned income excluded due to payment of court ordered child support (see OAR 461-140-0265). For individuals who qualify for this exclusion, multiply the excluded earned income used to pay child support by 20 percent and deduct that amount from the countable income.¶

(b) A standard deduction of:¶

(A) \$ 193 per month for a benefit group (see OAR 461-110-0750) of one, two, or three individuals.¶

(B) \$ 193 per month for a benefit group of four individuals.¶

(C) \$ 225 per month for a benefit group of five individuals.¶

(D) \$ 258 per month for a benefit group of six or more individuals.¶

(c) A dependent care deduction for dependent care costs billed to a member of the filing group (see OAR 461-110-0370) and not paid for through any other program of the Department. For the cost to be deductible under this section, the care must be necessary to enable a member of the filing group to--¶

(A) Accept or continue employment;¶

(B) Seek employment, including a job search that meets the requirements of a case plan (see OAR 461-001-0020); or¶

(C) Attend vocational or educational training. A student receiving educational income is entitled to a deduction only for costs not excluded from educational income by OAR 461-145-0150.¶

(d) The medical deduction for elderly (see OAR 461-001-0015) individuals and individuals who have a disability (see OAR 461-001-0015) in the filing group. The deduction is calculated by determining the total of their deductible medical costs (see OAR 461-160-0415) and subtracting \$35. The Department uses the resulting amount to determine the allowable deduction as follows:¶

(A) For an amount less than \$0, no deduction is allowed.¶

(B) For an amount greater than \$0 but less than \$170.01, a deduction of \$170 is allowed.¶

(C) For an amount greater than \$170, a deduction of the amount determined under this subsection is allowed.¶

~~(e) A deduction for child support payments (including cash medical support) a member of the filing group makes under a legal obligation to a child (see OAR 461-001-0000) not a member of the filing group, including payments for the current month and for payments on arrearages. Child support is not deductible if collected by setoff through the Oregon Department of Revenue or by interception of a federal tax refund.¶~~

(f) An Excess Shelter Deduction or Homeless Shelter Deduction is calculated if the filing group has an allowable shelter cost under OAR 461-160-0420. ¶

(A) If the group is eligible for both deductions listed in paragraphs (B) and (C) of this subsection, they will receive the higher of the two.¶

(B) Excess Shelter Deduction is calculated as follows:¶

(i) The standard deduction and the deductions of earned income, dependent care, ~~court-ordered child support~~, and medical expenses are subtracted from countable income.¶

(ii) Fifty percent of the remainder is subtracted from the shelter cost calculated in accordance with OAR 461-160-0420.¶

(iii) The rounded balance is the deduction, except the deduction is limited if the filing group has no member who

has a disability or is elderly. The limit is \$624 per month.¶

(C) The Homeless Shelter Deduction is \$166.81 for a filing group whose living circumstances meet the definition of homeless (see OAR 461-001-0015).¶

(2) If an individual cannot verify a medical ~~or court-ordered child support~~ expense or cannot verify any other expense when asked to do so, the unverified expense is not used to calculate the deduction. If the individual provides verification, the deduction is applied when calculating the next month's benefits. If verification is provided within the period authorized for processing applications (see OAR 461-115-0210), the benefits for the initial month (see OAR 461-001-0000) are recalculated using the deduction.

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

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837, 7 CFR 273.5, 7 CFR 273.9, 7 CFR 273.10, 7 CFR 273.11