

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

03/27/2023 9:00 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Proposing Rule Changes to move ERDC to DELC for Divisions 461-001 through 461-140

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/15/2023 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.

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Filed By:
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HEARING(S)

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

DATE: 05/02/2023

TIME: 1:00 PM - 3:00 PM

OFFICER: Meorah Solar & Jennifer Lay

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 669-254-5252

CONFERENCE ID: 1604270574

SPECIAL INSTRUCTIONS:

Passcode: 187647

Special Instructions: Everyone has a right to know about and use Oregon Department of Human Services (ODHS) programs and services. ODHS 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, Jennifer Lay at (541) 844-6136, 711 TTY, or RulesHearings.Ch461@odhsoha.oregon.gov at least 48 hours before the meeting.

NEED FOR THE RULE(S)

All rules proposed for amendment in this filing need to be amended to remove the Employment Related Day Care (ERDC) program. House Bill 3073 transfers the governance of the ERDC program from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELC). HB 3073 also increases access to affordable, high-quality learning experiences and supports for children and families by establishing a new early learning agency. These rule changes will bring ODHS into compliance with the legislated program transfer. DELC will draft and adopt rules that govern ERDC under Chapter 414.

All rules proposed for repeal in this filing need to be repealed to remove the ERDC program from Chapter 461 of ODHS as required by HB 3073. HB 3073 directs the transfer of the ERDC program from ODHS to DELC. Repealing these rules will bring ODHS into compliance with HB 3073.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

House Bill 3073 from 2021 regular session:

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB3073/Enrolled>

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

The Department estimates the rules proposed for amendment and repeal in this filing will have no impact to racial equity in Oregon. Governance of the ERDC program is moving from under the authority of ODHS to the authority of DELC as mandated by HB3073. The Department estimates no change in the application process, provider payments, or eligibility provisions during the transfer, however, beginning July 1, 2023, ODHS will have no authority as to how DELC implements the ERDC program.

FISCAL AND ECONOMIC IMPACT:

The Department estimates the rules proposed for amendment and repeal in this filing will have no fiscal impact to the Department. ODHS will see a reduction of \$127,926,690, a combination of general and federal funding for the 2023-2025 biennium, as these funds will be transferred to DELC. ODHS will also reduce their position funding levels by \$528,841 for the 2023-25 biennium. However, these funds were used to pay the direct provider payments or ODHS ERDC Child Care Policy Analyst positions, which ODHS will no longer be responsible to pay. Therefore, there will be no impact to the overall ODHS budget. The Department estimates no fiscal impact to DELC, which will not exist until July 2023. The positive fiscal impact to DELC by the movement of the funds from ODHS to DELC will be offset by the unchanged cost of payments and ERDC Policy Analyst staffing that DELC will be responsible to pay. The Department estimates no fiscal impact to ERDC program applicants, recipients, or providers; local government; small businesses including providers who consider themselves a small business; and large businesses. There is no cost of compliance for small business.

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 childcare providers that consider themselves a small business.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

461-001-0000, 461-025-0301, 461-025-0310, 461-025-0311, 461-025-0316, 461-101-0010, 461-105-0006, 461-105-0410, 461-110-0210, 461-110-0350, 461-110-0530, 461-110-0630, 461-115-0016, 461-115-0030, 461-115-0050, 461-115-0071, 461-115-0230, 461-115-0430, 461-120-0110, 461-120-0125, 461-120-0210, 461-120-0330,

461-120-0510, 461-120-0630, 461-135-0400, 461-135-0405, 461-135-0415, 461-135-0440, 461-135-0505, 461-140-0040, 461-140-0110, 461-140-0120, 461-140-0210

AMEND: 461-001-0000

RULE SUMMARY: OAR 461-001-0000 is being amended to remove the ERDC program from Chapter 461 to transfer it from Oregon Department of Human Services to Department of Early Learning Care as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-001-0000

Definitions for Chapter 461 ¶¶

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:¶¶

(1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDSD), Department of Human Services (DHS), or any other agency formerly part of the Oregon Department of Human Services means the Oregon Department of Human Services (ODHS), except:¶¶

(a) The rule in which reference occurs only regulates programs covered by OAR chapter 461.¶¶

(b) Eligibility rules for HSD medical programs (see section (35) of this rule) are in OAR chapter 410, division 200.¶¶

(2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are ~~victims~~survivors of domestic violence (see section (25) of this rule), sexual assault, or stalking.¶¶

(3) "Adjusted income" means the amount determined by subtracting income deductions from countable (see section (19) of this rule) income (see OAR 461-140-0010). Specific rules on the deductions are in OAR chapter 461, division 160.¶¶

(4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. "Adoption assistance" may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.¶¶

(5) "Assets" mean income and resources.¶¶

(6) "Basic decision notice" means a decision notice (see section (21) of this rule) mailed no later than the date of action given in the notice.¶¶

(7) "Blind Work Expenses" has the meaning given in OAR 461-001-0035.¶¶

(8) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.¶¶

(9) "Budgeting" means the process of calculating the benefit level.¶¶

(10) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine eligibility (see section (28) of this rule) and benefit level for the payment month (see section (510) of this rule).¶¶

(11) "Cafeteria plan" means a written benefit plan offered by an employer in which:¶¶

(a) All participants are employees; and¶¶

(b) Participants may choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Service does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:¶¶

(A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);¶¶

(B) Group term life insurance plans (up to \$50,000);¶¶

(C) Dependent care assistance plans; and¶¶

(D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).¶¶

(12) "Capital asset" means property that contributes toward earning self-employment income, either directly or indirectly. A "capital asset" generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.¶¶

(13) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child (see section (16) of this rule). The status of "caretaker" ends once the individual no longer exercises care, control, and supervision of the child for 30 days.¶¶

(14) "Caretaker relative" means an individual with whom the dependent child (see section (23) of this rule) is

living, who assumes primary responsibility for the care of the dependent child, and:

(a) Is a biological, step, or adoptive relative of the dependent child; or

(b) Is the spouse of an individual described in subsection (a), even after the marriage is terminated by death or divorce.

(15) "Certification period" means the period for which an individual is certified eligible for a program.

(16) "Child" includes natural, step, and adoptive children. The term "child" does not include an unborn.

~~(a) In the ERDC program, a "child" need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or noncitizen status requirements of OAR 461-120-0110, and must be:~~

~~(A) Under the age of 18; or~~

~~(B) Under the age of 19 and in secondary school or vocational training at least half time.~~

~~(b) In the GA and OSIP programs, a "child" is an individual under the age of 18.~~

~~(c) In the OSIPM and QMB programs, "child" means an unmarried individual who:~~

~~(A) Is not considered a decision-maker in the household;~~

~~(B) Is under the age of 18; and~~

~~(C) Has at least one natural or adoptive parent in the same household.~~

~~(d) In the REF and REFM programs, a "child" is an individual who is not an emancipated minor and is under the age of 18.~~

(17) "Community-based care" is any of the following:

(a) Adult foster care - Room and board and 24-hour care and services for the elderly or for people with disabilities 18 years of age or older. The care is contracted to be provided in a home for five or fewer individuals.

(b) Assisted living facility - A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services - Individuals living in their home receiving services determined necessary by the Department.

(d) Residential care facility - A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.

(e) Specialized living facility - Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition, or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices - In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).

(18) "Continuing benefit decision notice" means a decision notice that informs the individual of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.

(19) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.

(20) "Custodial parents" mean parents who have physical custody of a child. "Custodial parents" may be receiving benefits as dependent children or as caretaker relatives for their own children.

(21) "Decision notice" means a written notice of a decision by the Department regarding an individual's eligibility for benefits in a program.

(22) "Department" means the Oregon Department of Human Services (ODHS).

(23) "Dependent child" in the TANF program means an individual who has not been legally emancipated and who is one of the following:

(a) An individual who is not a caretaker relative (see section (14) of this rule) of a child in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(b) A minor parent (see section (476) of this rule) whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.

(24) "Disability" means:

(a) In the SNAP program, see OAR 461-001-0015.

(b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining eligibility:

(A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or

(B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

(25) "Domestic violence" means the occurrence of one or more of the acts described in subsections (a) to (d) of this section between family members, intimate partners, or household members:

- (a) Attempting to cause or intentionally, knowingly, or recklessly causing physical injury or emotional, mental, or verbal abuse.¶¶
- (b) Intentionally, knowingly, or recklessly placing another in fear of imminent serious physical injury.¶¶
- (c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.¶¶
- (d) Using coercive or controlling behavior.¶¶
- (e) As used in this section, "family members" and "household members" mean any of the following:¶¶
- (A) Spouse;¶¶
- (B) Former spouse;¶¶
- (C) Individuals related by blood, biologically, by marriage (see section (465) of this rule), or adoption;¶¶
- (D) Individuals who are cohabitating or have cohabited with each other;¶¶
- (E) Individuals who have been involved in a sexually intimate or dating relationship; or¶¶
- (F) Unmarried parents of a child.¶¶
- (26) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to survivors of domestic violence. If the facility serves other people, a portion must be used solely for survivors of domestic violence.¶¶
- (27) "Electronic application" is an application electronically signed and submitted through the Internet.¶¶
- (28) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.¶¶
- (29) "Equity value" means fair market value (see section (30) of this rule) minus encumbrances.¶¶
- (30) "Fair market value" means the amount an item is worth on the open market.¶¶
- (31) "Family stability" in the JOBS, Pre-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.¶¶
- (32) "Family stability activity" in the JOBS, Pre-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by an individual, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain family stability (see section (31) of this rule).¶¶
- (33) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.¶¶
- (34) "HSD" is the Health Systems Division.¶¶
- (35) "HSD medical programs" means all programs under HSD, including:¶¶
- (a) Breast and Cervical Cancer Treatment Program (BCCTP);¶¶
- (b) Extended Medical Assistance (EXT);¶¶
- (c) Former Foster Care Youth Medical (FFCYM);¶¶
- (d) Substitute Care; and¶¶
- (e) MAGI Medicaid/CHIP programs for which eligibility is based on MAGI methodology, including:¶¶
- (A) MAGI Child, ¶¶
- (B) MAGI Parent or Caretaker Relative,¶¶
- (C) MAGI Pregnant Woman,¶¶
- (D) MAGI Children's Health Insurance Program (CHIP), and¶¶
- (E) MAGI Adult.¶¶
- ~~(36) "Homeless" in the ERDC program means an individual who is experiencing a lack of fixed regular and adequate nighttime residence and includes living in an emergency shelter, shared housing with others due to loss of housing or economic hardship, staying in motels, cars, parks, public places, tents, trailers, or other similar settings.¶¶~~
- ~~(37) "Impairment-Related Work Expenses" have the meaning found in OAR 461-001-0035.¶¶~~
- ~~(38) "Income producing property" means:¶¶~~
- (a) In all programs except OSIP, OSIPM, and QMB, real or personal property that generates income for the financial group (see OAR 461-110-0530). Examples of "income producing property" are:¶¶
- (A) Livestock, poultry, and other animals.¶¶
- (B) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, and condominiums.¶¶
- (b) In the OSIP, OSIPM, and QMB programs, "income-producing property" means any real or personal property not used in self-employment (see OAR 461-145-0600 and 461-145-0915) that produces income for the financial group. "Income-producing property" includes:¶¶
- (A) Livestock, poultry, or other animals that produce marketable products sold by the financial group.¶¶
- (B) Farmland not excluded under OAR 461-145-0220 that is farmed or rented out by the financial group.¶¶
- (C) Real property other than the home (including vacation homes and condominiums), that is rented out.¶¶
- (c) In the OSIP, OSIPM, and QMB programs, "income-producing property" does not include:¶¶
- (A) Rooms or other space for rent in the home (see OAR 461-145-0220).¶¶

- (B) Livestock, poultry, or other animals kept for resale (see OAR 461-145-0010).¶
- (398) "Initial month" of eligibility means any of the following:¶
- (a) In all programs, the first month a benefit group (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.¶
- (b) In all programs except the SNAP program, the first month a benefit group is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.¶
- (c) In the SNAP program:¶
- (A) The first month for which the benefit group is certified following any period during which they were not certified to participate, except for migrant and seasonal farm workers (see OAR 461-001-0015).¶
- (B) For migrant and seasonal farmworkers, the first month for which the benefit group is certified following any period of one month or more during which they were not certified to participate.¶
- (d) For a new applicant to the OSIP or OSIPM program applying for care in a nonstandard living arrangement (see section (487) of this rule), for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the individual would have been eligible had it not been for the disqualifying transfer of assets (see section (5) of this rule).¶
- (e) For a current recipient of the OSIP or OSIPM program receiving or applying for care in a nonstandard living arrangement, for the purpose of calculating the correct divisor in OAR 461-140-0296, the later of the following:¶
- (A) The month the disqualifying transfer occurred.¶
- (B) The month of application for long-term care (see section (44) of this rule) services if the individual would have been eligible had it not been for the disqualifying transfer of assets.¶
- (4039) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).¶
- (410) "Legally married" means a marriage uniting two individuals according to:¶
- (a) The statutes of the state where the marriage occurred;¶
- (b) Except in the SNAP program, the common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or¶
- (c) The laws of a country in which the two individuals previously resided while meeting the requirements for legal or cultural marriage in that country.¶
- (421) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a "life estate" enables the owner of the "life estate" to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A "life estate" is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of the individual's life, certain rights to that property. In addition, a "life estate" is established when a member of the financial group purchases a "life estate" interest in the home of another individual.¶
- (432) "Lodger" means an individual who:¶
- (a) Is living with an individual receiving Department benefits;¶
- (b) Is not a member of the individual's filing group (see OAR 461-110-0310); and¶
- (c) Pays the filing group:¶
- (A) In all programs except the OSIP, OSIPM, and QMB programs, for room and board.¶
- (B) In the OSIP, OSIPM, and QMB programs, for room with or without board.¶
- (443) "Long term care" means the system through which the Department provides a broad range of social and health services for extended periods of time to eligible adults who are aged, blind, or have disabilities. This includes nursing facilities and the Oregon State Hospital.¶
- (454) "Lump-sum income" means earned or unearned income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. "Lump-sum income" includes but is not limited to:¶
- (a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.¶
- (b) Income from inheritance, gifts, winnings, and personal injury claims.¶
- (c) Income received less frequently than annually.¶
- (465) "Marriage" means the union of two individuals who are legally married (see section (41) of this rule).¶
- (476) "Minor parent" in the ERDC and TANF programs means a parent under the age of 18.¶
- (487) "Nonstandard living arrangement" is defined as follows:¶
- (a) In the GA, OSIP, OSIPM, and QMB programs, an individual is considered to be in a "nonstandard living arrangement" when the individual is applying for or receiving services in any of the following locations:¶
- (A) A nursing facility in which the individual receives long-term care services paid with Medicaid funding, except this subsection does not apply to a Medicare recipient in a skilled-stay nursing facility.¶
- (B) An intermediate care facility for individuals with intellectual disabilities (ICF/ID).¶

- (C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.¶
- (D) A community-based care (see section (17) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a "nonstandard living arrangement".¶
- (b) In all programs except GA, OSIP, OSIPM, and QMB, "nonstandard living arrangement" means each of the following locations:¶
- (A) Foster care.¶
- (B) Residential Care facility.¶
- (C) Drug or alcohol residential treatment facility.¶
- (D) Shelter for individuals ~~who are~~experiencing homelessness or domestic violence shelter.¶
- (E) Lodging house if paying for room and board.¶
- (F) Correctional facility.¶
- (G) Medical institution.¶
- (498) "Ongoing month" means one of the following:¶
- (a) For all programs except the SNAP program, any month following the initial month (see section (398) of this rule) of eligibility, if there is no break in the program benefit of one or more calendar months.¶
- (b) For the SNAP program, any month in the certification period (see section (15) of this rule) following the initial month of eligibility.¶
- (5049) "Parent" for all programs except JPI (see OAR 461-135-1260) and the SNAP program means the biological or legal ~~mother or father~~parent of an individual or unborn. For JPI and the SNAP program, "parent" means the biological or legal ~~mother or father~~parent of an individual.¶
- (a) If the ~~mother lives with a male and either she or the male~~person who gave birth (parent 1) to the child lives with an individual (parent 2) and either parent 1 or parent 2 claims that ~~he~~parent 2 is the ~~father~~ biological parent of the child or unborn, and no one else claims to be the ~~father~~, he biological parent, parent 2 is treated as the father a parent even if paternityparentage has not been legally established.¶
- (b) A stepparent relationship exists if:¶
- (A) The individual is legally married to the child's biological or adoptive parent; and¶
- (B) The marriage has not been terminated by legal separation, divorce, or death.¶
- (c) A legal adoption erases all prior legal and ~~blood~~biological relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a "parent" if both of the following are true:¶
- (A) The child lives with the biological parent; and¶
- (B) The legal parent has given up care, control, and supervision of the child.¶
- (510) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.¶
- (521) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.¶
- (532) "Periodic income" means income received on a regular basis less often than monthly.¶
- (543) "Primary person" for all programs except the SNAP program, means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The "primary person" for individual programs is as follows:¶
- (a) In the TANF program, the parent or caretaker relative.¶
- (b) ~~In the ERDC program, the caretaker.~~¶
- (c) In the SNAP program, see OAR 461-001-0015.¶
- (d) In the GA, OSIP, OSIPM, QMB, REF, and REFM programs, the individual or individual's spouse.¶
- (554) "Qualified Partnership Policy" means a long-term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:¶
- (a) Issued while the individual was a resident in Oregon on January 1, 2008 or later; or¶
- (b) Issued in another state while the individual was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.¶
- (565) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as "real property".¶
- (576) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.¶
- (587) "Safe homes" mean private homes that provide a few nights lodging to survivors of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.¶
- (598) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.¶
- (6059) "Shelter-in-kind" means an agency or individual outside the financial group provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs (see section (598) of this rule) of the financial group. "Shelter-in-kind" does not include temporary shelter provided by a domestic violence shelter, shelter for individuals ~~who are~~experiencing homelessness, or residential alcohol and drug treatment

facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.¶
(640) "Sibling" means the brother or sister of an individual. "~~Biologically~~-related" means they share at least one biological or adoptive parent. "Step" means they are not related by ~~biologically~~, but are related by the marriage of their parents.¶
(621) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the financial group.¶
(632) "Spouse" means an individual who is legally married to another individual.¶
(643) "Stable income" means income that is the same amount each time it is received.¶
(654) "Standard living arrangement" means a location that does not qualify as a nonstandard living arrangement.¶
(665) "Teen parent" means, in the JOBS, REF, REFM, and TANF programs, a parent who is the age of 18 or 19.¶
(676) "Timely continuing benefit decision notice" means a decision notice that informs the individual of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.¶
(687) "Trust funds" mean money, securities, or similar property held by an individual or institution for the benefit of another individual.¶
(698) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.¶
(7069) "Variable income" means earned or unearned income that is not always received in the same amount each month.
Statutory/Other Authority: ORS ~~329A.500~~, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.685 19
Statutes/Other Implemented: ORS ~~329A.500~~, 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 411.837, 412.001, 412.006, 412.014, 412.049, 413.085, 414.685 19

AMEND: 461-025-0301

RULE SUMMARY: OAR 461-025-0301 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-025-0301

Lay Representation in Contested Case Hearings ¶¶

(1) Subject to the approval of the Attorney General, an officer or employee of the Oregon Department of Human Services (Department) is authorized to appear on behalf of the Department in the following types of hearings conducted by the Office of Administrative Hearings:¶¶

(a) Public assistance, including but not limited to eligibility for services available through a waiver or state plan or other benefits, the level and amount of services or benefits, effective date, and the termination, suspension, reduction, or denial of services or benefits;¶¶

(b) Medical assistance, including but not limited to eligibility for services available through a waiver or state plan for medical assistance or other medical benefits, the level and amount of services or benefits, effective date, prior authorizations, medical management decisions, and the termination, suspension, reduction, or denial of services or benefits;¶¶

(c) Employment Related Day Care under the authority of Chapter 461, including child care provider overpayments and intentional program violations;¶¶

(d) Eligibility for Supplemental Nutrition Assistance Program (SNAP), the level and amount of benefits, effective date, and the termination, suspension, reduction, or denial of benefits;¶¶

(e) ~~Client~~ Overpayments and intentional program violations, related to public assistance or medical assistance, Employment Related Day Care under the authority of Chapter 461, SNAP, waived service benefits or medical benefits or services;¶¶

(f) Provider enrollment or denial of enrollment, provider overpayments, audits, and audit sanctions; and¶¶

(g) Estate administration hardship waivers.¶¶

(2) The Department's representative may not make legal argument on behalf of the Department.¶¶

(a) "Legal argument" includes arguments on:¶¶

(A) The jurisdiction of the Department to hear the contested case;¶¶

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to the Department; and¶¶

(C) The application of court precedent to the facts of the particular contested case proceeding.¶¶

(b) "Legal argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses, or presentation of factual arguments or arguments on:¶¶

(A) The application of the statutes or rules to the facts in the contested case;¶¶

(B) Comparison of prior actions of the Department in handling similar situations;¶¶

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;¶¶

(D) The admissibility of evidence; and¶¶

(E) The correctness of procedures being followed in the contested case hearing.¶¶

(3) When an officer or employee appears on behalf of the Department, the administrative law judge shall advise the Department's representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection.¶¶

(4) If the administrative law judge determines that statements or objections made by the Department representative appearing under section (1) of this rule involve legal argument as defined in this rule, the administrative law judge shall provide reasonable opportunity for the Department representative to consult the Attorney General and permit the Attorney General to present argument at the hearing or to file written legal argument within a reasonable time after conclusion of the hearing.¶¶

(5) The Department is subject to the Code of Conduct for Non-Attorney Representatives at Administrative Hearings, which is maintained by the Oregon Department of Justice and available on its website at <http://www.doj.state.or.us>. A Department representative appearing under section (1) of this rule must read and be familiar with it.

Statutory/Other Authority: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049

Statutes/Other Implemented: ORS 183.452, 409.010, 411.060, 411.404, 411.816, 412.014, 412.049

AMEND: 461-025-0310

RULE SUMMARY: OAR 461-025-0310 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-025-0310

Hearing Requests ¶¶

(1) A claimant (see OAR 461-025-0305) has the right to a contested case hearing in the following situations upon the timely completion of a request for hearing:¶¶

(a) Except as provided in subsection (o) of this section, the Department has not approved or denied a request or application for public assistance or medical assistance within 45 days of the application.¶¶

(b) The Department has not acted timely on an application as follows:¶¶

(A) An application for SNAP program benefits, within 30 days of the filing date.¶¶

(B) An application for a JOBS support service payment, within the time frames established in OAR 461-115-0190(3).¶¶

(c) The Department acts to deny, reduce, close, or suspend SNAP program benefits, a grant of public assistance, a grant of aid, a support service payment authorized in the JOBS program by OAR 461-190-0211, medical assistance, or child care benefits authorized under Division 160 or 165 of this chapter of rules in the ERDC or TANF child care programs. When used in this subsection, grant of public assistance and grant of aid mean the grant of cash assistance calculated according to the ~~client's~~ claimant's need.¶¶

(d) The Department has sent a decision notice (see OAR 461-001-0000) that the claimant is liable for an overpayment (see OAR 461-195-0501).¶¶

(e) The Department modifies a grant of public assistance or a grant of aid; or the claimant claims that the Department previously underissued public assistance, medical assistance, or SNAP program benefits and the Department denies, or denies in part, that claim.¶¶

(f) The household disputes its current level of SNAP program benefits.¶¶

(g) The filing group (see OAR 461-110-0370) is aggrieved by any action of the Department that affects the participation of the filing group in the SNAP program.¶¶

(h) The claimant asks for a hearing to determine if the waiver of an Intentional Program Violation hearing was signed under duress.¶¶

(i) ~~The Department establishes or changes the client's premium for the Oregon Health Plan~~A child care provider is disputing an allegation of an overpayment of child care provided under Chapter 461 or "a finding of suspended" established under Chapter 461.¶¶

(j) In the Pre-TANF program, the Department denies payment for a basic living expense (see OAR 461-135-0475) or other support service payment in the JOBS program (see subsection (c) of this section).¶¶

(k) In the TA-DVS program, when OAR 461-135-1235 provides a right to a hearing.¶¶

(l) A service re-assessment of a ~~client's~~ claimant conducted in accordance with OAR Division 411-015 has resulted in a reduction or termination of nursing facility services or home and community-based care (see OAR 461-001-0030).¶¶

(m) The claimant's benefits are changed to vendor, protective, or two-party payments.¶¶

(n) Department has issued a notice seeking repayment under ORS 411.892 to an employer participating in the JOBS program.¶¶

(o) In the OSIP and OSIPM programs, when the Department has not approved or denied an application within the time frames established in OAR 461-115-0190.¶¶

(p) The right to a hearing is otherwise provided by statute or rule.¶¶

(q) To resolve a grievance under 45 CFR 261.70 against an employer. A hearing request under this subsection must be in writing with the claimant's name, address, and daytime phone number (if available). The hearing request must be received by the Department within 45 days of the alleged violation or within 30 days after completion of an employer grievance process.¶¶

(2) A ~~client's~~ claimant is not entitled to a hearing on the question of the contents of a case plan (defined in OAR 461-190-0151) unless the right to hearing is specifically authorized by the Department's rules. For a dispute about an activity in the JOBS program, the ~~client's~~ claimant is entitled to use the Department's re-engagement process (see OAR 461-190-0231). In the TA-DVS program, a dispute about the contents of a TA-DVS case plan ~~(see OAR 461-135-1205)~~ is resolved through re-engagement if there is no right to a hearing under OAR 461-135-1235.¶¶

(3) A request for hearing is complete:¶¶

(a) In public assistance and SNAP programs, when the Department's Administrative Hearing Request form (form DHS 443) is:¶¶

- (A) Completed;¶
- (B) Signed by the claimant, the claimant's attorney, or the claimant's authorized representative (see OAR 461-115-0090); and¶
- (C) Received by the Department. OAR 137-003-0528(1)(a) (which allows hearing requests to be treated as timely based on the date of the postmark) does not apply to hearing requests contesting a decision notice (see OAR 461-001-0000). The Department has adopted the exception to the Attorney General's model rules set out in this paragraph due to operational conflicts.¶
- (b) In the SNAP program, when the Department receives an oral or written statement from the claimant, the claimant's attorney, or the claimant's authorized representative that the claimant wishes to appeal a decision affecting the claimant's SNAP program benefits to a higher authority.¶
- (c) In the case of a provider of child care, when a written request for hearing from the provider about an action or decision taken under Chapter 461 is received by the Department.¶
- (d) For medical assistance, when a hearing request is made in a manner permitted under OAR 410-200-0145 or this section.¶
- (4) In the event a request for hearing is not timely, the Department may issue an order of dismissal if there is no factual dispute about whether sections (7) and (10) of this rule provide a right to a hearing. The Department may refer an untimely request to the Office of Administrative Hearings for a hearing on the question of timeliness.¶
- (5) In the event the claimant has no right to a contested case hearing on an issue, the Department may enter an order accordingly. The Department may refer a hearing request to the Office of Administrative Hearings for a hearing on the question of whether the claimant has the right to a contested case hearing.¶
- (6) For medical assistance, to be timely, a hearing request must be received by the Department or the OHP Customer Service in the time frame set out in OAR 410-200-0015 and 410-200-0145. In other programs, to be timely, a completed hearing request must be received by the Department not later than:¶
 - (a) Except as provided in subsection (b) of this section, the 45th day following the date of the decision notice (see OAR 461-001-0000) in public assistance programs.¶
 - (b) The 90th day following the effective date of the reduction or termination of benefits in a public assistance program if the reduction or termination of aid is a result of a JOBS disqualification (see OAR 461-130-0330) or a penalty for failure to seek treatment for substance abuse or mental health (see OAR 461-135-0085).¶
 - (c) The 90th day following the date of the decision notice in the SNAP program, except:¶
 - (A) A filing group may submit a hearing request at any time within a certification period (see OAR 461-001-0000) to dispute its current level of benefits.¶
 - (B) A filing group may submit a hearing request within 90 days of the denial of a request for restoration of benefits if not more than twelve months has expired since the loss of benefits.¶
 - (d) The 30th day following the date of notice from the Oregon Department of Revenue in cases covered by ORS 293.250.¶
 - (e) In a case described in subsection (1)(h) of this rule, the request must be made within 90 days of the date the waiver was signed.¶
- (7) When the Department receives a completed hearing request that is not filed within the timeframe required by section (6) of this rule but is filed no later than 120 days after a decision notice became a final order:¶
 - (a) The Department refers the hearing request to the Office of Administrative Hearings for a contested case hearing on the merits of the Department's action described in the notice:¶
 - (A) If the Department finds that the claimant and claimant's representative did not receive the decision notice and did not have actual knowledge of the notice; or¶
 - (B) If the Department finds that the claimant did not meet the timeframe required by section (6) of this rule due to excusable mistake, surprise, excusable neglect (which may include neglect due to significant cognitive or health issues), good cause (see OAR 461-025-0305), reasonable reliance on the statement of a Department employee relating to procedural requirements, or due to fraud, misrepresentation, or other misconduct of the Department.¶
 - (b) The Department refers the request for a hearing to the Office of Administrative Hearings for a contested case proceeding to determine whether the claimant is entitled to a hearing on the merits if there is a dispute between the claimant and the Department about either of the following paragraphs.¶
 - (A) The claimant or claimant's representative received the decision notice or had actual knowledge of the decision notice. At the hearing, the Department must show that the claimant or claimant's representative had actual knowledge of the notice or that the Department mailed or electronically mailed the notice to the correct address of the claimant or claimant's representative, as provided to the Department.¶
 - (B) The claimant qualifies for a contested case hearing on the merits under paragraph (a)(B) of this section.¶
 - (c) The Department may only dismiss such a request for hearing as untimely without a referral to the Office of Administrative Hearings if the following requirements are met:¶
 - (A) The undisputed facts show that the claimant does not qualify for a hearing under this section; and¶
 - (B) The decision notice was served personally or by registered or certified mail.¶

(8) In computing the time periods provided by this rule, see OAR 461-025-0300(1).¶

(9) In the REF and REFM programs, a claimant is not eligible for a contested case hearing when assistance is terminated because the eligibility time period imposed by OAR 461-135-0900 has been reached. If the issue is the date of entry into the United States the Department provides for prompt resolution of the issue by inspection of the individual's documentation issued by the US Citizenship and Immigration Services (USCIS) or by information obtained from USCIS, rather than by contested case hearing.¶

(10) If the Department receives a hearing request more than 120 days after an overpayment notice became a final order by default:¶

(a) The Department verifies whether its records indicate that the liable adult requesting the hearing was sent the overpayment notice.¶

(b) If no overpayment notice was sent to that liable adult, the overpayment hearing request is timely. The Department will send the claimant a decision notice or a contested case notice.¶

(c) If the Department determines that an overpayment notice was sent to the liable adult, there is no hearing right based on the issue of whether or not the overpayment notice was received.¶

(d) Any hearing request is treated as timely when required under the Servicemembers Civil Relief Act.¶

(e) The Department may dismiss a request for hearing as untimely if the claimant does not qualify for a hearing under this section.¶

(11) If the Department receives a hearing request more than 120 days after a decision notice (other than an overpayment notice) became a final order by default:¶

(a) Any hearing request is treated as timely when required under the Servicemembers Civil Relief Act.¶

(b) The Department may dismiss a request for hearing as untimely if the claimant does not qualify for a hearing under subsection (a) of this section.¶

(12) Notwithstanding sections (7), (10), and (11) of this rule, for medical assistance, the time frame is the same as the one in OAR 410-200-0146 instead of 120 days.¶

[ED. NOTE: Forms referenced are available from the agency.]

Statutory/Other Authority: ORS 411.060, 411.095, 411.404, 411.408, 411.816, 411.892, 412.014, 412.049

Statutes/Other Implemented: ORS 411.060, 411.095, 411.103, 411.117, 411.404, 411.408, 411.816, 411.892, 412.009, 412.014, 412.049, 412.069

AMEND: 461-025-0311

RULE SUMMARY: OAR 461-025-0311 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-025-0311

Continuation of Benefits ¶¶

- (1) This rule explains who may receive continuing benefits until a final order is issued in a contested case.¶
- (2) Except as provided otherwise in this rule, a ~~client~~ individual who is entitled to a continuing benefit decision notice (see OAR 461-001-0000) or a timely continuing benefit decision notice (see OAR 461-001-0000) under a rule in division 175 of this chapter of rules may, at the option of the client individual, receive continuing benefits, in the same manner and same amount, until a final order resolves the contested case. To be entitled to continuing benefits, the client individual must complete a ~~hearing request~~ request for hearing (see OAR 461-025-0305) not later than the later of:¶
- (a) The tenth day following the date of the notice; and¶
- (b) The effective date of the action proposed in the notice.¶
- (3) The continuing benefits are subject to modification based on additional changes affecting the client individual's eligibility or level of benefits.¶
- (4) In determining timeliness under section (2) of this rule, delay caused by circumstances beyond the control of the claimant ~~is not counted~~.¶
- ~~(5) In the ERDC program, if benefits are reduced or closed to reflect a mass change, continuing benefits are not available (see OAR 461-025-0305) is not counted.¶~~
- ~~(6)~~ (5) In the REF and REFМ programs, individuals are not entitled to continuing benefits when the issue in question is regarding the termination of benefits because the eligibility time period imposed by OAR 461-135-0900 has been reached.

Statutory/Other Authority: ORS 409.010, 409.050, 411.060, 411.404, 411.408, 411.816, 412.014, 412.049

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.404, 411.408, 411.816, 412.014, 412.049

AMEND: 461-025-0316

RULE SUMMARY: OAR 461-025-0316 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-025-0316

Intentional Program Violation (IPV) Hearings; ERDC, REF, REFM, SFPSS, SNAP, and TANF programs ¶

Notwithstanding the other rules in this division of rules and the rules at OAR 137-003-0501 and following, this rule governs intentional program violation hearings for the ~~ERDC, REF, REFM~~ SNAP, ERDC under the authority of Chapter 461, TANF, SFPSS, SNAPREF, and TANFREEM programs. ¶

- (1) An individual accused of an Intentional Program Violation may waive the right to an IPV hearing by signing a waiver on a form prescribed by the Department. There is no further administrative appeal after the individual signs the waiver unless the individual asserts that the signature on the waiver was obtained by fraud or under duress and, within 90 days from the date the waiver was signed, requests a hearing (see OAR 461-025-0310) to prove this. The individual has the burden of proving fraud or duress. If an Administrative Law Judge determines that the signature on the waiver was obtained by fraud or under duress, the waiver may be nullified and the Department may thereafter initiate an Intentional Program Violation hearing. ¶
- (2) If an IPV is not established by waiver or in court, the Department may initiate the IPV hearing. The individual is entitled to an Advanced Notice of Intentional Program Violation Hearing at least 30 days in advance of the scheduled hearing. The notice includes the specific charge(s) alleged by the Department. ¶
- (3) Within 90 days of the date the individual is notified in writing of the disqualification hearing, the Office of Administrative Hearings will conduct the hearing and serve a final order on the individual. ¶
- (4) The individual is entitled to a postponement of the scheduled hearing, if the request for postponement is made at least 10 days before the date of the scheduled hearing. The hearing will not be postponed for more than a total of 30 days, and the Office of Administrative Hearings may limit the postponements to one. ¶
- (5) When the individual fails to appear for the scheduled IPV hearing, the hearing may be conducted without the individual if: ¶
 - (a) The individual refused the notice of hearing; ¶
 - (b) The individual refused to claim the notice of hearing; ¶
 - (c) The individual received the notice of hearing; or ¶
 - (d) The notice of hearing was sent to the address last reported by the individual to the Department and was returned as undeliverable. ¶
- (6) An individual who received notice of the scheduled IPV hearing has 10 days from the date of the scheduled hearing to present reasons indicating a "good cause" for failure to appear. An individual who did not receive notice of the scheduled IPV hearing must present reasons indicating "good cause" for failure to appear as part of a petition for reconsideration or rehearing of the final order within 30 days of the date of the final order. ¶
 - (a) For purposes of this rule, "good cause" means the individual was unable to attend the hearing and unable to request a postponement for reasons beyond ~~his or her~~ their control. ¶
 - (b) "Good cause" will be determined on the record by the Office of Administrative Hearings. If the individual shows "good cause", the Office of Administrative Hearings will schedule another IPV hearing for the individual. ¶
- (7) The Administrative Law Judge must advise the individual that ~~the or she~~ they may refuse to answer questions during the hearing. ¶
- (8) The standard for proving that an individual has committed an Intentional Program Violation is clear and convincing evidence. ¶
- (9) There is no administrative appeal of a final order, except as provided in section (6) of this rule.

Statutory/Other Authority: ORS 411.060

Statutes/Other Implemented: ORS 411.095

AMEND: 461-101-0010

RULE SUMMARY: OAR 461-101-0010 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-101-0010

Program Acronyms and Overview ¶¶

- (1) Acronyms are frequently used when referring to a program. There is an acronym for each umbrella program and acronyms for each subprogram.¶¶
- (2) When no program acronym appears in a rule in chapter 461 of these rules, the rule with no program acronym applies to all programs listed in this rule. If a rule does not apply to all programs, the rule uses program acronyms to identify the programs to which the rule applies.¶¶
- (3) Wherever an umbrella acronym appears, that means the rule covers all the subprograms under that code.¶¶
- (4) ABAWD; Able-Bodied Adults Without Dependents. The ABAWD employment program is one of the SNAP employment and training programs. Individuals who are identified as ABAWD are subject to the SNAP time limits (see OAR 461-135-0520).¶¶
- (5) ~~CAWEWM~~; ~~Citizen/Alien-Waived Emergentship Waived~~ Medical. Medicaid coverage of emergent medical needs for individuals who are not eligible for other medical programs solely because they do not meet citizenship or noncitizen status requirements.¶¶
- (6) DSNAP; Disaster Supplemental Nutrition Assistance Program. Following a presidential declaration of a major disaster in Oregon, DSNAP provides emergency DSNAP program benefits to victims. OAR 461-135-0491 to 461-135-0497 cover DSNAP eligibility and benefits.¶¶
- (7) EA; Emergency Assistance. Emergency cash to ~~families without the resources to~~ eligible families to help meet emergent needs.¶¶
- (8) ~~ERDC or ERDC-BAS~~; Employment Related Day Care ~~Basic~~. Helps ~~low-income working~~ eligible families pay the cost of child care. The program is governed by the Department of Early Learning and Care (DELC) under Oregon Administrative Rule chapter and division 414-175 beginning July 1, 2023.¶¶
- (9) GA; General Assistance. Cash assistance to ~~certain low-income~~ eligible individuals with disabilities.¶¶
- (10) HSP; Housing Stabilization Program. A program that helps ~~low-income~~ eligible families obtain stable housing. The program is operated through the Housing and Community Services Department through community-based, service-provider agencies. The Department's rules for the program (OAR 461-135-1305 to 461-135-1335) were repealed July 1, 2001.¶¶
- (11) JOBS; Job Opportunity and Basic Skills. An employment program for TANF participants. JOBS helps these individuals attain self-sufficiency through training and employment. The program is part of Welfare Reform.¶¶
- (12) JOBS Plus. JOBS Plus is a component of the JOBS Program. ~~¶~~ Except as provided under OAR 461-190-0416, JOBS Plus provides subsidized jobs, rather than SNAP or TANF benefits, for individuals receiving TANF and determined JOBS eligible. Eligibility for the JOBS Plus component is determined by the Department. ¶¶
- (13) JPI; Job Participation Incentive. An additional \$10 food benefit to help increase the ability of parents with children, who meet federal TANF participation rate, to meet the nutritional needs of their families.¶¶
- (14) LIS; Low-Income Subsidy. The Low-Income Subsidy program is a federal assistance program for Medicare recipients who are eligible for extra help meeting their Medicare Part D prescription drug costs.¶¶
- (15) OFSET. The Oregon Food Stamp Employment Transition Program, which helped SNAP program benefit recipients find employment. This program was mandatory for some SNAP program benefit recipients.¶¶
- (16) OSIP; Oregon Supplemental Income Program. Cash supplements and special need payments to individuals who are blind, have a disability, or are 65 years of age or older. When used alone, OSIP refers to all OSIP programs. The following acronyms are used for OSIP subprograms:¶¶
 - (a) OSIP-AB; Oregon Supplemental Income Program - Aid to the Blind.¶¶
 - (b) OSIP-AD; Oregon Supplemental Income Program - Aid to the Disabled.¶¶
 - (c) OSIP-EPD; Oregon Supplemental Income Program - Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.¶¶
 - (d) OSIP-OAA; Oregon Supplemental Income Program - Old Age Assistance.¶¶
- (17) OSIPM; Oregon Supplemental Income Program Medical. Medical coverage for individuals who are elderly or who have a disability. When used alone, OSIPM refers to all OSIP-related medical programs. The following codes are used for OSIPM subprograms:¶¶
 - (a) OSIPM-AB; Oregon Supplemental Income Program Medical - Aid to the Blind.¶¶
 - (b) OSIPM-AD; Oregon Supplemental Income Program Medical - Aid to the Disabled.¶¶

(c) OSIPM-EPD; Oregon Supplemental Income Program Medical - Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.¶¶

(d) OSIPM-OAA; Oregon Supplemental Income Program Medical - Old Age Assistance.¶¶

(e) OSIPM-ICP; Oregon Supplemental Income Program Medical - Independent Choices Program.¶¶

(18) The Post-TANF program provided a monthly transitional payment to employed individuals who were no longer eligible for the Pre-TANF or TANF programs due to earnings, and met the other eligibility requirements.¶¶

(19) The Pre-TANF program is an up-front assessment and resource-search program for TANF applicant families. The intent of the program is to assess the individual's employment potential; determine any barriers to employment or family stability; develop an individualized case plan that promotes family stability and financial independence; help individuals find employment or other alternatives; and provide basic living expenses immediately to families in need.¶¶

(20) QMB; Qualified Medicare Beneficiaries. Programs providing payment of Medicare premiums and one program also providing additional medical coverage for Medicare recipients. Each of these programs also is considered to be a Medicare Savings Program (MSP). When used alone in a rule, QMB refers to all MSP. The following codes are used for QMB subprograms:¶¶

(a) QMB-BAS; Qualified Medicare Beneficiaries - Basic. The basic QMB program.¶¶

(b) QMB-DW; Qualified Medicare Beneficiaries - Disabled Worker. Payment of the Medicare Part A premium for individuals under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed.¶¶

(c) QMB-SMB; Qualified Medicare Beneficiaries - Specified Low-Income Medicare Beneficiary. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMB.¶¶

(d) QMB-SMF; Qualified Medicare Beneficiaries - Qualified Individuals. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMF. This program has a 100-percent federal match, but also has an allocation that, if reached, results in the closure of the program.¶¶

(21) REF; Refugee Assistance. Cash assistance to ~~low-income~~ refugee singles or married couple eligible refugees, without children, who are not eligible for the TANF program.¶¶

(22) REFM; Refugee Assistance Medical. Medical coverage for ~~low-income~~ eligible refugees who are not eligible for Medicaid.¶¶

(23) REP; Refugee Employment Program. Any self-sufficiency service, employment service, or case plan that is available to or developed for individuals in the REF program.¶¶

(24) The Repatriate Program helps Americans resettle in the United States if they have left a foreign land because of an emergency situation.¶¶

(25) SFDNP; Senior Farm Direct Nutrition Program. Food vouchers for ~~low-income~~ eligible seniors. Funded by a grant from the United States Department of Agriculture.¶¶

(26) SFPSS; State Family Pre-SSI/SSDI Program. A voluntary program providing cash assistance and case management services to families when at least one TANF eligible adult in the household has an impairment (see OAR 461-125-0260) and is or will be applying for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).¶¶

(27) SNAP; Supplemental Nutrition Assistance Program. Helps ~~low-income~~ eligible households maintain proper nutrition by giving them the means to purchase food. SNAP used to be known as FS or Food Stamps; any reference to SNAP also includes FS and Food Stamps.¶¶

(28) STEP; SNAP Training and Employment Program. A training and employment program for certain SNAP participants.¶¶

(29) TA-DVS; Temporary Assistance for Domestic Violence Survivors. Assistance for families where there is a current or future risk of further domestic violence.¶¶

(30) TANF; Temporary Assistance for Needy Families. Cash assistance for eligible families when with children in those families are deprived of parental support because of continued absence, death, incapacity, or unemployment to help meet a family's basic needs.

Statutory/Other Authority: ORS 414.025, 414.826, ORS 413.085, 414.685~~19~~, ORS 329A.500, 409.050, 411.060, 411.404, 411.706, 411.816, 412.014, 412.049

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 414.839~~117~~

AMEND: 461-105-0006

RULE SUMMARY: OAR 461-105-0006 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-105-0006

Business Continuity Provisions ¶¶

(1) The use of this rule by any self-sufficiency branch office (see OAR 461-001-0000) requires the approval for that site by:¶¶

(a) The Director of Self-Sufficiency Programs or the designee of this official; or¶¶

(b) The Deputy Director of Self Sufficiency Programs.¶¶

(2) The Department will only approve the use of this rule after considering the feasibility of avoiding the use of the rule by moving enough employees who are able to perform the needed tasks to the sites that have too few employees.¶¶

(3) For purposes of this rule:¶¶

(a) "Business continuity disruption" refers to an emergency event or a work stoppage that causes the absence of most of the employees in at least one branch office for an expected time period of sufficient duration that compliance with applicable administrative rules in chapter 461 is not feasible. A "business continuity disruption" continues until a sufficient number of employees return to work to permit compliance at the branch office with the administrative rules in chapter 461.¶¶

(b) "Emergent need".¶¶

~~(A) In the ERDC program, the term "emergent need" refers to an individual who requires child care in order to work and who will lose this child care unless the application is processed promptly.¶¶~~

~~(B)~~ In the SNAP program, the term "emergent need" refers to an individual who qualifies for expedited services under OAR 461-135-0575.¶¶

~~(C)~~ In the medical assistance programs:¶¶

(i) The term "emergent need" refers to an individual reporting either of the following:¶¶

(I) A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention or medication may reasonably be expected to result in placing the health of the patient in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.¶¶

(II) A need for prompt processing of an application to secure provider services for mental health, substance abuse, or long-term care.¶¶

(ii) An individual does not need to document the "emergent need".¶¶

~~(D)~~ In the REF and TANF programs, the term "emergent need" refers to a household that meets the requirements of one of the following subparagraphs:¶¶

(i) Countable income less than \$150 a month, and liquid resources that do not exceed \$100.¶¶

(ii) Gross income and resources that combined are less than the total of the household's monthly rent or mortgage, plus its utilities.¶¶

(iii) Liquid resources (see subsection (c) of this section) that do not exceed \$100 as well as being a destitute household of migrant and seasonal farmworkers (see OAR 461-001-0015) with little or no income at the time of application.¶¶

~~(E)~~ In the TA-DVS program, the term "emergent need" refers to an individual with an immediate safety need.¶¶

(c) "Liquid resources" refers to cash on hand, a checking or savings account, a savings certificate, and a lump sum payment.¶¶

(4) During a business continuity disruption, a branch office issues DSNAP benefits as provided in OAR 461-135-0491 to 461-135-0497 if the branch office is in a location authorized by the Food and Nutrition Service (FNS) during a disaster benefit period. This rule does not otherwise apply to the DSNAP program.¶¶

(5) Notwithstanding any other administrative rule in chapter 461, during a business continuity disruption under the authorization required in section (1) of this rule, a Self-Sufficiency branch office may use any or all of the following special provisions:¶¶

(a) Application process.¶¶

(A) Individuals qualifying as emergent need.¶¶

(i) In the ~~ERDC~~, medical assistance, REF, and TANF programs, acceptance or processing by the Department of applications may be limited to individuals in emergent need.¶¶

(ii) In the SNAP program, processing of applications for new ~~client~~ individuals may be limited to individuals in emergent need.¶¶

(B) Application process for individuals without an emergent need.¶

(i) In the ~~ERDC~~, REF, and TANF programs, each branch office using this provision may document a request for benefits by maintaining a dated list of the names of these new ~~client~~ individuals as well as social security numbers (if available). The Department will use these lists to establish the date of request for those who request assistance during the business continuity disruption and complete the application within 30 days after the conclusion of the business continuity disruption or by the deadline that applies under another program rule, whichever occurs later.¶

(ii) In the SNAP program, for a new ~~client~~ applicant, each branch office using this provision may document a filing date by maintaining a file of completed filing pages. The Department will schedule and conduct interviews with each applicant after the conclusion of the business continuity disruption.¶

(iii) In the medical assistance programs, each branch office should establish a date of request using OAR 461-115-0030.¶

(iv) In the TA-DVS program, the Department may document a request for benefits by maintaining a dated list of the names of the applicants as well as social security numbers (if available). The Department will use this list to establish a filing date for those ~~client~~ applicants who request assistance during the business continuity disruption. After the conclusion of the business continuity disruption, the Department will schedule and conduct interviews with each ~~client~~ applicant within two business days, or when an immediate safety need arises, whichever occurs sooner.¶

(b) Benefit levels. In the ~~ERDC~~, REF, SFPSS, and TANF programs:¶

(A) Except as provided for REF in OAR 461-135-0900(4), a current benefit recipient, including an individual in the Simplified Reporting System (SRS), may continue to receive benefits at the level in effect the day before the special provisions of this rule applied to the branch office.¶

(B) In the ~~ERDC~~, SFPSS, and TANF programs, the Department may authorize a branch office to automatically extend certification periods for the duration of the business continuity disruption.¶

(C) Payments for support services (see OAR 461-001-0025) listed in a case plan (see OAR 461-001-0025) may continue at the level in effect the day before the special provisions of this rule applied to the branch office. The Department approves or denies any new request for a support services payment on a case by case basis.¶

(D) In the REF and TANF programs, for an emergent need household, the Department may issue a temporary benefit in the following amounts:¶

(i) \$200 for a single individual.¶

(ii) \$100 for each additional individual to a maximum payment of \$900.¶

(E) In the TA-DVS program, payments will be made to address immediate safety needs.¶

(c) Processing changes for current recipients. Except in the SNAP program, a branch office may suspend the processing of changes during the business continuity disruption.¶

(d) Redetermination of benefits issued in accordance with this rule; payments for supplemental benefits and establishment of overpayments. For each individual who receives a benefit under the provisions of this rule, after the business continuity disruption ends:¶

(A) The Department will determine the correct benefit amount and either provide a supplemental payment or assess an overpayment as appropriate.¶

(B) In the SNAP program, the Department will make the determination about supplemental payments under paragraph (A) of this subsection within 10 days of the end of the business continuity disruption.¶

(e) In the SNAP program, in addition to the other processes described in this rule:¶

(A) SNAP program benefits may be maintained at the current level and extended for two additional months when the Department receives FNS approval within any month described in the following situations:¶

(i) The last month of a certification period (see OAR 461-001-0000).¶

(ii) The month a Periodic Report form is due.¶

(iii) The month a Transitional Benefit Alternative period ends.¶

(iv) The month a Monthly Change Report is due.¶

(B) A current benefit recipient must report changes described in OAR 461-170-0011 by the last day of the month following the month in which the change occurred.¶

(6) Notwithstanding any other administrative rule in chapter 461, during a business continuity disruption with the approval of the Direct Service Delivery Administrator for Aging and People with Disabilities (APD) or the designee of this official:¶

(a) A branch office may limit acceptance or processing of applications for long-term services to individuals in emergent need who do not yet have a placement or are at risk of losing their current one.¶

(b) An APD or AAA office may apply any exception in this rule for SNAP and Medicaid programs to the extent authorized.

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

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

AMEND: 461-105-0410

RULE SUMMARY: OAR 461-105-0410 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-105-0410

~~Client~~ Requirement to Cooperate in Quality Control Review; ~~ERDC, SNAP, REF, REFM, SNAP~~ and TANF ¶

(1) In the ~~ERDC, SNAP, REF, REFM, SNAP~~ and TANF programs, ~~client~~individuals are required to cooperate in the Department's quality control review process.¶

(2) In the ~~ERDC, REF, REFM, and TANF~~ programs, a ~~client~~individual who refuses to cooperate is ineligible for the program in which the review takes place until the ~~client~~individual cooperates.¶

(3) In the SNAP program, if a ~~client~~individual refuses to cooperate, the ~~client~~individual's filing group (see OAR 461-110-0370) is ineligible for the program. The ~~client~~individual may choose to cooperate at any time. If the SNAP benefits have not already closed, the filing group does not need to reapply. The filing group, upon filing a new application, may again be found eligible only in accordance with federal Food Stamp regulations in 7 CFR 273.2(d)(2).

Statutory/Other Authority: ORS 411.060, 411.816, 412.049

Statutes/Other Implemented: ORS 411.060, 411.816, ~~4142.0429, 412.0429~~, ~~ORS 411.4049~~

AMEND: 461-110-0210

RULE SUMMARY: OAR 461-110-0210 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-110-0210

Household Group ¶¶

- (1) This rule describes who is included in the household group. The household group generally consists of the individuals who live together with or without the benefit of a dwelling.¶¶
- (2) For individuals who are experiencing homelessness, the household group consists of the individuals who consider themselves living together. Individuals who are experiencing homelessness who do not consider themselves living together are considered separate households.¶¶
- (3) A separate dwelling is not recognized for the purpose of determining the members of a household group unless the living space has, separate from any other dwelling, an access to the outside that does not pass through another dwelling, a functional sleeping area, bathroom, and kitchen facility.¶¶
- (4) Each individual in the household group who applies for benefits is an applicant. The household group and applicants form the basis for determining who is in the remaining eligibility groups.¶¶
- (5) For all programs except the SNAP program, a separate household group is established for individuals who live in the same dwelling as another household group, if all the following subsections are true:¶¶
 - (a) There is a landlord-tenant relationship between the two household groups in which the tenant is billed by the landlord at fair market value (see OAR 461-001-0000) for housing.¶¶
 - (b) The tenant lives independently from the landlord.¶¶
 - (c) The tenant:¶¶
 - (A) Has and uses sleeping, bathroom, and kitchen facilities separate from the landlord; or¶¶
 - (B) Shares bathroom or kitchen facilities with the landlord, but the facilities are in a commercial establishment that provides room or board or both for compensation at fair market value.¶¶
- (6) Individuals who live with more than one household group during a calendar month are members of the household group in which they spend more than half of their time, except as follows:¶¶
 - ~~(a) In the ERDC program, if a child (see OAR 461-001-0000) lives with different caretakers during the month, the child is considered a member of both household groups.¶¶~~
 - ~~(b) In the TANF program:¶¶~~
 - (A) If a parent (see OAR 461-001-0000) sleeps at least 30 percent of the time during the calendar month in the home of the dependent child (see OAR 461-001-0000), the parent is in the same household group as the dependent child.¶¶
 - (B) A dependent child is included in the household group with the caretaker relative (see OAR 461-001-0000), who usually has the major responsibility for care and control of the dependent child, if the dependent child lives with two household groups in the same calendar month for at least one of the following reasons:¶¶
 - (i) Education.¶¶
 - (ii) The usual caretaker relative is gone from the household for part of the month because of illness.¶¶
 - (iii) A family emergency.¶¶
 - ~~(c) In the SNAP program:¶¶~~
 - (A) The individual is a member of the household group that provides the individual more than half of the individual's 21 weekly meals. If the individual is a child, the child is a member of the household group credited with providing the child more than half of the individual's 21 weekly meals. A household group is credited with providing breakfast and lunch for each day the child departs that group's home for school, even if the child eats no breakfast or lunch at that home.¶¶
 - (B) During the month in which a resident of a domestic violence shelter (see OAR 461-001-0000) enters the domestic violence shelter, the resident may be included both in the household group ~~he or she~~ left and in a household group in the domestic violence shelter.¶¶
- (7) In the OSIPM program, individuals who are being evaluated under OAR 461-135-0745 or OAR 461-135-0750, or who are residing in a 24-hour mental health residential care setting are a household group of one regardless of others living in the individual's dwelling or facility.¶¶
- (8) Individuals absent from the household for 30 days or more are no longer part of the household group, except for the following:¶¶
 - (a) In all programs except the OSIPM and SNAP programs, an individual in an acute care medical facility remains in the household group unless the individual enters long-term care (see OAR 461-001-0000).¶¶
 - ~~(b) In the ERDC and TANF programs:¶¶~~

(A) A caretaker relative who is absent for up to 90 days while in a residential alcohol or drug treatment facility is in the household group.¶¶

(B) A child who is absent for 30 days or more is in the household group if the child is:¶¶

(i) Absent for illness (unless the child is in a long-term care Title XIX facility), social service, or educational reasons;¶¶

(ii) In foster care, but expected to return to the household within the next 30 days.¶¶

(c) ~~In the ERDC program, an individual in the household group who is:¶¶~~

~~(A) Absent because of education, training, or employment, including long-haul truck driving, fishing, or active duty in the U.S. armed forces;¶¶~~

~~(B) Absent to care for an emergent need of an individual related to illness, injury, or death; or¶¶~~

~~(C) Absent but reasonably anticipated to return within 90 days.¶¶~~

(d) In the TANF program, when a filing group (see OAR 461-110-0310 and 461-110-0330) includes more than one caretaker relative, a caretaker relative in the household group who is absent:¶¶

(A) Because of education, training, or employment - including absence while working or looking for work outside the area of the residence of the caretaker relative, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces; or¶¶

(B) For up to 60 days solely due to the regulations of a shelter for individuals who are experiencing homelessness or domestic violence shelter or other circumstances beyond the individual's control but who would otherwise be included in the household group.¶¶

(ed) In the REF and REFM programs, an individual in the household group who was absent:¶¶

(A) For up to 90 days while in a residential alcohol or drug treatment facility;¶¶

(B) To care for an emergent need of an individual related to illness, injury, or death;¶¶

(C) Because of education, training, or employment - including absence while working or looking for work outside the area of the individual's residence, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces; or¶¶

(D) For up to 60 days solely due to the regulations of a shelter for individuals who are experiencing homelessness or domestic violence shelter or other circumstances beyond the individual's control but who would otherwise be included in the household group.¶¶

(fe) In the REF, REFM, and TANF programs, the Department may approve one or more 30-day extensions of this time period if the Department receives sufficient information to assure the Department that the absent individual will return within the extension period.¶¶

(9) In the OSIP-EPD and OSIPM-EPD programs, the household group consists only of the individual applying for or receiving benefits.

Statutory/Other Authority: ~~ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 413.085, 414.685~~19

Statutes/Other Implemented: ~~ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.001, 412.006, 412.049, 413.085, 414.685, 414.839~~19, ORS 409.010, 411.704, 412.001, 414.117

REPEAL: 461-110-0350

RULE SUMMARY: OAR 461-110-0350 is being repealed to move the Employment Related Day Care (ERDC) program from the authority of the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELIC), as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

~~461-110-0350~~

~~Filing Group; ERDC~~

~~In the ERDC program:¶¶~~

~~(1) The filing group consists of each of the following applicants and household group (see OAR 461-110-0210) members, even if the individual does not meet nonfinancial eligibility requirements:¶¶~~

~~(a) The caretaker (see OAR 461-001-0000) of the child for whom ERDC benefits are requested, except this does not apply to a child care provider caring for the child of an individual:¶¶~~

~~(A) Who is a member of a National Guard or U.S. Armed Forces Reserve unit; and¶¶~~

~~(B) Who has been called to active duty away from the child's home for more than 30 days.¶¶~~

~~(b) An unmarried child and any sibling (see OAR 461-001-0000), less than 18 years of age or 18 years of age and attending secondary school or vocational training at least half time, in the care and custody of the caretaker. A foster child is included if the caretaker wants to include the child in the need group (see OAR 461-001-0000).¶¶~~

~~(c) Any parent (see OAR 461-001-0000) of a child required to be in the filing group.¶¶~~

~~(d) Any parent of an unborn child.¶¶~~

~~(e) The spouse (see OAR 461-001-0000) of the caretaker.¶¶~~

~~(2) A minor parent (see OAR 461-001-0000) may form a separate filing group with his or her dependent child or children when the minor parent applies as the caretaker.~~

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

~~Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060~~

AMEND: 461-110-0530

RULE SUMMARY: OAR 461-110-0530 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-110-0530

Financial Group ¶¶

(1) Except as provided in section (4) of this rule, the "financial group" consists of the filing group (see OAR 461-110-0310) members whose income and resources the Department considers in determining eligibility (see OAR 461-001-0000) and benefits.¶¶

(2) In the ~~ERDC~~, OSIPM-EPD, QMB, and SNAP programs, the "financial group" consists of each individual in the filing group.¶¶

(3) In the REF and REFM programs, the "financial group" consists of each individual in the filing group, except an individual who is eligible for and receives an SSI cash payment.¶¶

(4) In the OSIPM (except OSIPM-EPD) program:¶¶

(a) For the purposes of this section of this rule, "ineligible" means an individual not eligible to receive either Supplemental Security Income (SSI) or TANF program benefits.¶¶

(b) When an individual lives in a standard living arrangement (see OAR 461-001-0000):¶¶

(A) Except as provided in paragraph (B) of this subsection, each member of the filing group is in the "financial group".¶¶

(B) When an individual is married, not assumed eligible (see OAR 461-135-0010) for OSIPM, and the individual's spouse (see OAR 461-001-0000) is considered "ineligible" (see subsection (a) of this section):¶¶

(i) If the individual's adjusted income (see OAR 461-001-0000) using the deductions allowed under OAR 461-160-0550(4), or after being evaluated under certain protected groups (see OAR 461-135-0771 to OAR 461-135-0830), is greater than the OSIPM program adjusted income standard for a need group of one under OAR 461-155-0250, the individual is in his or her own "financial group" and not eligible for OSIPM.¶¶

(ii) When there are children in the home, if the ineligible spouse's remaining countable (see OAR 461-001-0000) income after allocation (see OAR 461-160-0551) to each ineligible child is equal to or less than the difference between the couple and the individual SSI standards: the spouse is not included in the "financial group" when determining income eligibility; however, the spouse is included in the "financial group" when determining resource eligibility.¶¶

(iii) When there are no children in the home, if the ineligible spouse's countable income is less than the difference between the couple and the individual SSI standards: the spouse is not included in the "financial group" when determining income eligibility; however, the spouse is included in the "financial group" when determining resource eligibility.¶¶

(c) When an individual or is being evaluated under OAR 461-135-0745 or OAR 461-135-0750, the "financial group" consists only of the individual applying for benefits, except that the community spouse (see OAR 461-001-0030) is included in the "financial group" to determine initial eligibility as follows:¶¶

(A) At initial eligibility, the resources of the community spouse are considered and the provisions of OAR 461-160-0580 apply.¶¶

(B) The income of the community spouse is not considered in determining initial eligibility, and the community spouse is not included in any other eligibility group.¶¶

(d) When an individual is in a nonstandard living arrangement (see OAR 461-001-0000), the individual is not evaluated under either OAR 461-135-0745 or OAR 461-135-0750, and the community spouse is not in the household group; the community spouse is included in the "financial group" to determine initial eligibility as follows:¶¶

(A) At initial eligibility, the resources of the community spouse are considered and the provisions of OAR 461-160-0580 apply.¶¶

(B) The income of the community spouse is not considered in determining initial eligibility, and the community spouse is not included in any other eligibility group.¶¶

(5) In the TANF program, the "financial group" consists of each individual in the filing group except the following:¶¶

(a) A caretaker relative, other than a parent, who chooses not to be included in the need group and has income less than the non-needy countable income limit standard (see OAR 461-155-0030) for the filing group of the caretaker relative.¶¶

(b) The spouse of a caretaker relative, when the caretaker relative meets the requirements under subsection (a) of this section.¶¶

(c) A dependent child of a caretaker relative when the caretaker relative meets the requirements under

subsection (a) of this section.¶

(d) An individual who is eligible for and receives an SSI cash payment.

Statutory/Other Authority: ~~ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 412.064, 412.124, 413.085, 414.64.712~~, ORS 409.050, 411.060, 411.070, 413.085, 414.712, 619

Statutes/Other Implemented: 414.826, 414.839, ~~411.070~~117, 411.404, 411.706, 411.816, 412.006, 412.049, 412.064, 412.124, 414.712, ~~ORS 409~~411.0160, 411.0670, ORS 409.010

AMEND: 461-110-0630

RULE SUMMARY: OAR 461-110-0630 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-110-0630

Need Group ¶¶

(1) The "need group" consists of the individuals whose basic and special needs are used in determining eligibility (see OAR 461-001-0000) and benefit level.¶¶

(2) In the EA program, the need group consists of the members of the financial group (see OAR 461-110-0530) who meet all nonfinancial eligibility requirements, except that members disqualified for an intentional program violation (see OAR 461-195-0601) are not in the need group.¶¶

(3) In the ~~ERDC~~, OSIPM-EPD, and QMB programs, the need group consists of each member of the financial group.¶¶

(4) In the OSIPM (except OSIPM-EPD) program:¶¶

(a) If a child (see OAR 461-001-0000) is applying, the need group consists of the child.¶¶

(b) In all other situations, the need group consists of each member of the financial group.¶¶

(5) In the Pre-TANF and TANF programs, the need group consists of all the members of the financial group except:¶¶

(a) A parent (see OAR 461-001-0000) who is in foster care and for whom foster care payments are being made.¶¶

(b) An unborn child.¶¶

(6) In the SNAP program, the need group consists of the members of the financial group who meet all nonfinancial eligibility requirements, except the following individuals are not in the need group:¶¶

(a) A member disqualified for an intentional program violation.¶¶

(b) A fleeing felon under OAR 461-135-0560.¶¶

(c) An individual violating a condition of state or federal parole, probation, or post-prison supervision under OAR 461-135-0560.¶¶

(d) An individual who becomes ineligible due to the time limit in OAR 461-135-0520.¶¶

(7) In the REF and REM programs, the need group consists of all the members of the financial group except an unborn child.

Statutory/Other Authority: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 414.231

Statutes/Other Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.831, 414.839, 414.117

REPEAL: 461-115-0016

RULE SUMMARY: OAR 461-115-0016 is being repealed to move the Employment Related Day Care (ERDC) program from the authority of the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELC), as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

~~461-115-0016~~

~~Application Process; Reservation List for ERDC ¶¶~~

~~Notwithstanding any other rule in OAR chapter 461, in the ERDC program:¶¶~~

~~(1) Eligibility (see OAR 461-001-0000) is subject to the availability of funds. The Department may implement a Child Care Reservation List whenever the Department determines that sufficient funding is not available to sustain benefits for all of the applicants requesting assistance.¶¶~~

~~(2) Except as provided in section (3) of this rule, the following applicants are subject to placement on the Child Care Reservation List when the Child Care Reservation List is in effect:¶¶~~

~~(a) New applicants for ERDC when no member of the ERDC filing group (see OAR 461-110-0310 and 461-110-0350) meets the requirements of one or more of the following paragraphs:¶¶~~

~~(A) Received a partial or full month of REF, SFPSS, or TANF program cash benefits from the state of Oregon in at least one of the preceding three months; and no member of the ERDC program filing group may be concurrently receiving TANF program benefits except as allowed under OAR 461-165-0030.¶¶~~

~~(B) Is eligible for and being placed in a current opening in a Head Start program contracted slot under OAR 461-135-0405 or an Early Head Start Child Care Partnership contracted slot.¶¶~~

~~(C) The caretaker (see OAR 461-001-0000) is currently working with Child Welfare as part of a CPS assessment or open case, an ongoing safety plan is in place, and Child Welfare has determined the use of child care as part of an ongoing safety plan will:¶¶~~

~~(i) Prevent removal of the child (see OAR 461-001-0000) from their home;¶¶~~

~~(ii) Allow a child to be returned home; or¶¶~~

~~(iii) Allow for placement of the child with a relative or with an adult whom the child or the family of the child has an established relationship.¶¶~~

~~(D) Determined eligible for TA-DVS program benefits (see OAR 461-135-1200) from the state of Oregon in the current month or at least one of the preceding three months.¶¶~~

~~(b) Caretakers who are reapplying for ERDC after a break in ERDC benefits of two consecutive, calendar months or more.¶¶~~

~~(3) Except as allowed under OAR 461-165-0030, no member of an ERDC program filing group may be concurrently receiving TANF program benefits. When concurrent benefits are not allowed, the Department sends a decision notice (see OAR 461-001-0000) of ineligibility for the ERDC program and the filing group is not placed on the Child Care Reservation List.¶¶~~

~~(4) When the Child Care Reservation List is in effect, the Department must place all applicants who are subject to the Child Care Reservation List under section (2) of this rule on the Child Care Reservation List for future selection. The Department sends these applicants a decision notice of ineligibility for the ERDC program.¶¶~~

~~(5) Each month, on the basis of an estimate of available funds, an appropriate number of individuals from the Child Care Reservation List are selected on a first-in and first-out basis and invited to apply for ERDC.¶¶~~

~~(6) After an individual is selected from the Child Care Reservation List, the individual must contact the Department to establish a date of request (see OAR 461-115-0030) no later than 45 days after the date on the selection letter. The individual may request child care benefits from the Department:¶¶~~

~~(a) Without completing a new application, when the previous application is within 45 days of its date of request; or¶¶~~

~~(b) By submitting a new application for child care benefits to the Department.¶¶~~

~~(7) The processing time frame for the ERDC application is the same as that specified in OAR 461-115-0190, except that:¶¶~~

~~(a) An individual who requests benefits after the 45-day deadline to apply (see section (6) of this rule) will be returned to the Child Care Reservation List.¶¶~~

~~(b) If the Department does not receive a request for benefits within the deadline to apply, the individual is dropped from the Child Care Reservation List.~~

~~Statutory/Other Authority: 409.050, 411.060, 411.116, ORS 329A.500~~

~~Statutes/Other Implemented: 409.010, 409.050, 409.610, 411.060, 411.116, 411.121, 411.122, 411.135, ORS 329A.500~~

AMEND: 461-115-0030

RULE SUMMARY: OAR 461-115-0030 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-115-0030

Date of Request ¶¶

(1) For all programs covered by OAR chapter 461, an individual or someone authorized to act on behalf of an individual must contact the Department or use another appropriate method to request benefits (see OAR 461-115-0150). The request may be oral or in writing.¶¶

(2) The "date of request" is one of the following:¶¶

(a) In the EA, ~~ERDC~~, and OSIP programs, the "date of request" is the day the request for benefits is received by the Department.¶¶

(b) In the REF, SNAP, TA-DVS, and TANF programs, this section does not apply. See OAR 461-115-0040.¶¶

(c) In the OSIPM, QMB, and REFM programs, for a new applicant, the "date of request" is determined as follows:¶¶

(A) The day the request for medical benefits is received by a Department representative, except as described in paragraph (B) of this subsection.¶¶

(B) If the request for medical benefits is received by a Department representative no later than the next business day after medical services are received, the "date of request" is the day these medical services were received.¶¶

(d) In the OSIPM, QMB, and REFM programs, for a current recipient, the "date of request" is one of the following:¶¶

(A) The date the individual reports a change requiring a redetermination of eligibility (see OAR 461-001-0000).¶¶

(B) The date the Department initiates a review.¶¶

(C) The date the individual establishes a "date of request" by contacting the Department orally or in writing or by submitting an application.¶¶

(e) In the SFPSS program:¶¶

(A) Except as provided in paragraph (B) of this subsection, the "date of request" is the day the individual signs the Interim Assistance Agreement.¶¶

(B) The "date of request" for support service payments is the day the request for benefits is received by the Department.

Statutory/Other Authority: ~~ORS 329A.500~~, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.68519, 414.826, 414.839117

Statutes/Other Implemented: ~~ORS 329A.500~~, 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.041, 414.68519, 414.826, 414.839117

AMEND: 461-115-0050

RULE SUMMARY: OAR 461-115-0050 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-115-0050

When an Application Must Be Filed ¶

(1) An individual must file an application, or may amend a completed application, as a prerequisite to receiving benefits as follows:¶

(a) An individual may apply for the GA program by completing an application for the OSIPM program.¶

(b) An individual may apply for the TA-DVS program as provided in OAR 461-135-1200.¶

(c) In all programs except the TA-DVS program:¶

(A) Except as provided otherwise in this rule, to apply for program benefits, an individual must submit a complete application on a form approved by the Department.¶

(B) An application is complete if all of the following requirements are met:¶

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

(ii) The applicant, even if an individual who is experiencing homelessness, provides a valid mailing address.¶

(iii) The application is signed by the individual, the authorized representative (see OAR 461-115-0090) of the individual, or another individual applying for benefits on behalf of the individual, and received by the Department.¶

(l) An individual required but unable to sign the application may sign with a mark, witnessed by another individual.¶

(II) An individual submitting an electronic application (see OAR 461-001-0000) must submit the application with an electronic signature.¶

(2) A new application is not required in the following situations:¶

(a) In the GA program, when an individual is receiving OSIPM on the date of request (see OAR 461-115-0030) for GA.¶

(b) In the SNAP program, when a single application can be used both to determine an individual is ineligible in the month of application and to determine the individual is eligible the next month. This may be done when--¶

(A) Anticipated changes make the filing group (see OAR 461-110-0370) eligible the second month; or¶

(B) The filing group provides verification between 30 and 60 days following the filing date (see OAR 461-115-0040), under OAR 461-180-0080.¶

(c) In all programs except the SNAP program, when a single application can be used both to determine an individual is ineligible on the filing date (see OAR 461-115-0040) or the date of request (~~see OAR 461-115-0030~~) as applicable to the term used by the program, and to determine the individual is eligible when anticipated changes make the filing group eligible within 30 days from the filing date or 45 days from the date of request (as applicable to the term used by the program).¶

(d) When the case is closed and reopened during the same calendar month.¶

(e) When benefits were suspended for one month because of the level of income, and the case is reopened the month following the month of suspension.¶

(f) When reinstating medical benefits for a pregnant individual covered by OAR 461-135-0950, ~~notwithstanding subsection (g) of this section.~~¶

~~(g) In the ERDC program, when a case closed during the certification period (see OAR 461-001-0000) and the individual reports a change in circumstances prior to the end of the month following the closure and the reported change will make the individual eligible.¶~~

~~(h.~~¶

(g) In the OSIP, OSIPM and QMB programs,¶

(A) When a new application is not required under section (2) or (4) of OAR 410-200-0110, except subsection (4)(b), including provisions that specify they are for "HSD Medical" programs.¶

(B) When the medical benefits of an individual are suspended because the individual lives in a public institution (see OAR 461-135-0950), if the Department is notified within 10 calendar days of the release.¶

~~(h)~~ In the REF, TA-DVS, and TANF programs, when a single application can be used both to determine an individual is ineligible in the month of application and to determine the individual is eligible the next month. This may be done when -¶

(A) Anticipated changes make the filing group (see OAR 461-110-0330 and OAR 461-110-0430) eligible in the following month; or ¶

(B) Amending a current application if the information is sufficient to determine eligibility; otherwise a new application is required.¶

(3) When an individual establishes a new date of request prior to the end of the month following the month of case closure, unless the Department determines a new application is required, a new application is not required in the following situations:¶

(a) In the OSIPM program, when the individual's case closed due to failure to make a liability payment required under OAR 461-160-0610.¶

(b) In the OSIPM-EPD program, when the individual's case closed due to failure to make a participant fee payment required under OAR 461-160-0800.¶

(4) A new application is required to add a newborn child (see OAR 461-001-0000) to a benefit group (see OAR 461-110-0750) according to the following requirements:¶

(a) In the ERDC and SNAP programs, an application is not required to add the child to the benefit group.¶

(b) In the OSIPM, QMB, and REFM programs, an additional application is not required to add an assumed eligible newborn (see OAR 461-135-0010) to a benefit group currently receiving Department medical program benefits.¶

(c) In the TANF program:¶

(A) A new application is not required if the child is listed on the application as "unborn" and there is sufficient information about the child to establish its eligibility.¶

(B) A new application is required if the child is not included on the application as "unborn."¶

(d) In all programs other than ERDC, QMB, REF, REFM, SNAP, and TANF, an application is required.¶

(5) A new application is required to add an individual, other than a newborn child, to a benefit group according to the following requirements:¶

(a) In the ERDC, QMB, OSIP, OSIPM, and SNAP programs, a new application is not required.¶

(b) In the REF, REFM, and TANF programs, an individual may be added by amending a current application if the information is sufficient to determine eligibility; otherwise a new application is required.¶

~~(6) An individual whose TANF grant is closing may request ERDC orally or in writing.¶~~

~~(7) Except for an applicant for the OSIPM, QMB, or SNAP program, an individual may change between programs administered by the Department using the current application if the following conditions are met:¶~~

~~(a) The individual makes an oral or written request for the change.¶~~

~~(b) The Department has sufficient evidence to determine eligibility and benefit level for the new program without a new application.¶~~

~~(c) The program change can be effected while the individual is eligible for the first program.~~

~~Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.025, 414.68519~~

~~Statutes/Other Implemented: ORS 329A.504, 411.060, 40911.0170, 411.060404, 411.0706, 411.117, 411.404816, 409.010, 411.44117, 411.704447, 411.7064, 411.8162014, 412.0149, 4123.04985, 414.025, 414.041, 414.231, 414.68519, 414.839117, CFR 435.916~~

AMEND: 461-115-0071

RULE SUMMARY: OAR 461-115-0071 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-115-0071

Who Must Sign the Application and Complete the Application Process ¶

(1) In the ERDC and TANF programs, ~~the following individuals~~ at least one caretaker relative (see OAR 461-001-0000) must sign the application and complete the application process:¶

~~(a) In the ERDC program, a caretaker (see OAR 461-001-0000).¶~~

~~(b) In the TANF program, at least one caretaker relative (see OAR 461-001-0000).¶~~

(2) In the EA program:¶

(a) A caretaker relative must sign the application and complete the application process for a child (see OAR 461-001-0000). If the child is not living with a caretaker relative, another adult may act on behalf of the child.¶

(b) If the caretaker relative lives with a spouse (see OAR 461-001-0000), both must sign the application.¶

(c) A dependent child 18 years of age who applies must sign the application and complete the application process.¶

(3) In the GA, OSIP, OSIPM, and QMB programs,¶

(a) At least one of the following individuals must sign the application and complete the application process:¶

(A) A member of the filing group (see OAR 461-110-0310).¶

(B) For individuals applying for long-term care (see OAR 461-001-0000) services, the individual's community spouse (see OAR 461-001-0030) who lives with the individual or who was living with the individual immediately prior to the continuous period of care (see OAR 461-001-0030).¶

(C) The authorized representative (see OAR 461-115-0090).¶

(D) If a signature cannot be obtained under paragraphs (A) through (C) of this subsection, anyone 18 years of age or older acting responsibly on behalf of a child under age 18 or an individual who is incapacitated.¶

(b) If the applicant dies prior to the determination of eligibility for OSIPM, the application may be processed if the Department receives the information required to determine eligibility under OAR 461-115-0190(1).¶

(4) In the REF and REFPM programs, at least one adult (see OAR 461-110-0430) member of the filing group (see OAR 461-110-0430) must sign the application.¶

(5) In the SNAP program, at least one of the following individuals must sign the application and complete the application process:¶

(a) An adult (see OAR 461-110-0370) or primary person (see OAR 461-001-0015) in the filing group (see OAR 461-110-0370).¶

(b) An adult or primary person excluded from the filing group under OAR 461-110-0370(8)(b).¶

(c) The authorized representative (see OAR 461-001-0000, 461-115-0090, and 461-135-0510) of the filing group.¶

(6) An individual required to sign the application but unable to sign may sign with a mark, witnessed by an employee of the:¶

(a) Branch office (see OAR 461-001-0000); or¶

(b) Public institution (see OAR 461-135-0950), when the individual applying is a resident of a public institution (see OAR 461-135-0950) and is applying for benefits under the OSIPM program.

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

Statutes/Other Implemented: ORS 411.060, 411.070, 411.081, 411.087, 411.400, 411.404, 411.816, 412.049, 42 CFR 435.907

AMEND: 461-115-0230

RULE SUMMARY: OAR 461-115-0230 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-115-0230

Interviews ¶¶

(1) In the REF, REFM, and TANF programs,¶¶

(a) An interview with an adult in the filing group (see OAR 461-110-0350) or the authorized representative (OAR 461-115-0090) 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 Supplemental Security Income (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: 461-115-0430

RULE SUMMARY: OAR 461-115-0430 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-115-0430

Periodic Redeterminations or Renewal; Not EA, ~~ERDC~~, SNAP, or TA-DVS ¶¶

The Department periodically reviews eligibility (see OAR 461-001-0000) of individuals receiving benefits and assigns a redetermination or renewal date by which the next review of eligibility is required. The Department selects the redetermination or renewal date based on the individual's circumstances and according to the following requirements:¶¶

- (1) In the GA program, the Department redetermines eligibility at least once every 12 months.¶¶
- (2) In the OSIP, OSIPM, and QMB programs, the Department reviews eligibility at least once every 12 months and in accordance with OAR 410-200-0110. The redetermination or renewal provisions for "HSD Medical" programs in OAR 410-200-0110 are also the provisions for OSIP, OSIPM, and QMB programs.¶¶
- (3) The REF and REFM programs are time limited programs; therefore, no periodic redeterminations are made.¶¶
- (4) In the SFPSS program, the Department redetermines eligibility at least once every 12 months. The Department redetermines program eligibility by redetermining eligibility for the TANF program.¶¶
- (5) In the TANF program, benefits will end the last day of the certification period (see OAR 461-001-0000). The Department redetermines eligibility according to the following schedule:¶¶
 - (a) At least once every six months for each of the following:¶¶
 - (A) Individuals not participating in an activity (see OAR 461-001-0025) of an open case plan (see OAR 461-001-0025).¶¶
 - (B) Individuals who are currently serving a JOBS disqualification.¶¶
 - (b) At least once every 12 months for all other individuals.

Statutory/Other Authority: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 413.085, 414.68519, 414.826, 414.839117, 409.050

Statutes/Other Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 413.085, 414.68519, 414.826, 414.839117, 409.010, 42 CFR 435.916

AMEND: 461-120-0110

RULE SUMMARY: OAR 461-120-0110 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-120-0110

Citizenship and Noncitizen Status Requirements ¶

(1) Except as provided in section (5) of this rule, in all programs except the CWM, ~~ERDC~~, REF, and REFM programs, to be a member of a benefit group (see OAR 461-110-0750) an individual must meet the requirements of at least one of the following subsections:¶

(a) Be a citizen of the United States; Citizens of federally-recognized, sovereign American Indian and Alaska Native nations as defined in section (4)(e) of the Indian Self-Determination and Education Act (25 U.S.C. 450b(e)), are citizens of their Sovereign Nation and of the United States.¶

(b) Meet the noncitizen status requirements in OAR 461-120-0125;¶

(c) Be a citizen of Puerto Rico, Guam, the Virgin Islands or Saipan, Tinian, Rota or Pagan of the Northern Mariana Islands; ~~or.~~¶

(d) Be a national from American Samoa or Swains Islands.¶

(2) In the CWM program, to be a member of the benefit group an individual must meet the eligibility requirements of OAR 461-135-1070.¶

(3) In the Healthier Oregon medical program, to be a member of the benefit group an individual must meet the eligibility requirements of OAR 461-135-1080.¶

~~(4) In the ERDC program, the need group (see OAR 461-110-0630) and benefit group must include a child who meets the requirements of section (1) of this rule except that:¶~~

~~(a) For children enrolled in programs that are subject to Head Start Performance Standards and are supported by both Head Start and CCDF funds, parents must submit verification of Head Start enrollment in lieu of other documentation; and¶~~

~~(b) For children in contracted programs, a Head Start eligibility checklist may be used as verification.¶~~

(5) In the REF and REFM programs, to be a member of the need group and the benefit group an individual must meet the noncitizen status requirements of OAR 461-120-0125.¶

(6) In the TA-DVS and TANF programs, a survivor of domestic violence (see OAR 461-001-0000) is not subject to section (1) of this rule when OAR 461-135-1200 applies.

Statutory/Other Authority: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124

Statutes/Other Implemented: ORS 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 409.050, 414.231, HB 3352 Oregon 2021 Reg. Sess.

AMEND: 461-120-0125

RULE SUMMARY: OAR 461-120-0125 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-120-0125

Noncitizen Status Requirements ¶¶

An individual who must meet noncitizen status requirements under OAR 461-120-0110, must meet the noncitizen status requirements of the program for which they are applying. The requirements are listed in sections (2) through (6) of this rule.¶¶

(1) For purposes of this chapter of rules,¶¶

(a) In all programs, an individual is a "qualified noncitizen" if the individual is any of the following:¶¶

(A) An individual who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq). ¶¶

(B) An Iraqi or Afghan individual granted special immigrant visa status (SIV) under section 101(a)(27) of the INA. These individuals are lawfully admitted for permanent residence under the INA.¶¶

(C) An individual who is an "Amerasian" who is granted immigration status under section 584 of Public Law 100-202; the Foreign Operations, Export Financing, and Related Program Appropriations Act of 1988; as amended by Public Law 100-461. These individuals are lawfully admitted for permanent residence under the INA.¶¶

(D) An individual who is admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157).¶¶

(E) An individual who is granted asylum under section 208 of the INA (8 U.S.C. 1158).¶¶

(F) An individual who is a "Cuban or Haitian entrant" (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).¶¶

(G) An individual who is a "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).¶¶

(H) An individual who is a family member of a "victim of a severe form of trafficking in persons" who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).¶¶

(I) An individual whose deportation is being withheld under section 243(h) of the INA (8 U.S.C. 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 U.S.C. 1231(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).¶¶

(J) An individual who is paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) for a period of at least one year.¶¶

(K) An individual who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) as in effect prior to April 1, 1980.¶¶

(L) An individual who is a battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c), as determined by the U.S. Citizenship and Immigration Services (USCIS).¶¶

(b) In the OSIPM and QMB programs, in addition to subsection (a) of this section, an individual is a "qualified noncitizen" if the individual is from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau who lawfully reside in the United States in accordance with the Compacts of Free Association. The provisions in this subsection are retroactively effective December 28, 2020.¶¶

(2) In all programs except the REF and REFM programs, an individual meets the noncitizen status requirements if the individual is one of the following:¶¶

(a) ~~An individual who is an "American Indian"genous, First Nation, Inuit, M?tis, or Aboriginal individual who is born in Canada to whom the provisions of section 289 of the INA (8 U.S.C. 1359) apply.~~¶¶

~~(b) A member of an "Indian tribe," as defined in section 4(e) of the Indian Self-Determination and Education Act (25 U.S.C. 450b(e)).~~¶¶

~~(c) A qualified noncitizen (see section (1) of this rule) who is any of the following:¶¶~~

~~(A) A veteran of the United States Armed Forces who was honorably discharged for reasons other than noncitizen status and who fulfilled the minimum active-duty service requirements described in 38 U.S.C. 5303A(d).~~¶¶

~~(B) A member of the United States Armed Forces on active duty (other than active duty for training).~~¶¶

~~(C) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in paragraphs (A) or (B) of this subsection.~~¶¶

~~(3) In the ERDC, TA-DVS, and TANF programs, an individual meets the noncitizen status requirements if the individual is one of the following:¶¶~~

~~(a) An individual who is a qualified noncitizen (see subsection (1)(a) of this rule).~~¶¶

- (b) An individual who is a noncitizen who is currently a victim survivor of domestic violence (see OAR 461-001-0000) or who ~~has at risk of becoming a victim of safety concern related to~~ domestic violence.¶
- (c) Effective October 1, 2021 until March 31, 2023, or through the end of their parole, whichever is later:¶
- (A) An individual who is a citizen or national of Afghanistan paroled into the U.S. between July 31, 2021 through September 30, 2022.¶
- (B) An unmarried child under the age of 21 or spouse of an individual listed in paragraph (A) of this subsection.¶
- (d) Effective May 21, 2022, through the end of their parole:¶
- (A) An individual who was paroled into the U.S. between February 24, 2022, and September 30, 2023, and meets one of the following:¶
- (i) Is a citizen or national of Ukraine. ¶
- (ii) Last habitually resided in Ukraine.¶
- (B) An individual who was paroled after September 30, 2023, and who is one of the following:¶
- (i) An unmarried child, defined in section 101(b) of the Immigration and Nationality Act (INA) (8 U.S.C. § 1101(b)), under the age of 21.¶
- (ii) The spouse of an individual listed in paragraph (A) of subsection (d).¶
- (C) An individual who was paroled into the U.S. after September 30, 2023, and is one of the following:¶
- (i) A parent, legal guardian, or primary caregiver of an unaccompanied refugee minor, as defined in section 412(d)(2)(B) of the INA (8 U.S.C. § 1522(d)(2)(B)).¶
- (ii) An unaccompanied child, as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. § 279(g)(2)).¶
- (4) In the OSIPM and QMB programs an individual meets the noncitizen status requirements if the individual meets any of the following:¶
- (a) The individual has been granted a USCIS status listed under paragraphs (1)(a)(B) through (1)(a)(I) or paragraph (1)(b) of this rule.¶
- (b) Effective October 1, 2009, the individual is a qualified noncitizen and is under 19 years of age.¶
- (c) The individual was a qualified noncitizen before August 22, 1996.¶
- (d) The individual has been granted a USCIS status listed under paragraphs (1)(a)(A), and (1)(a)(J) through (1)(a)(L) and meets one of the following:¶
- (A) Physically entered the United States or was granted the USCIS status on or after August 22, 1996; and has been in the U.S. for five years beginning on the date the USCIS status was granted.¶
- (B) Physically entered the United States before August 22, 1996 and was continuously present in the United States between August 22, 1996, and the date the USCIS status was granted. An individual is not continuously present in the United States if the individual is absent from the United States for more than 30 consecutive days or a total of more than 90 days between August 22, 1996 and the date the USCIS status was granted.¶
- (e) The individual is under the age of 19 and is one of the following:¶
- (A) An individual described in 8 CFR section 103.12(a)(4) who belongs to one of the following classes of noncitizens permitted to remain in the United States because the Attorney General has decided for humanitarian or other public policy reasons not to initiate deportation or exclusion proceedings or enforce departure:¶
- (i) An individual currently in temporary resident status pursuant to section 210 or 245A of the INA (8 USC 1160 and 1255a);¶
- (ii) An individual currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 USC 1229b);¶
- (iii) An individual who is a "Cuban or Haitian entrant," as defined in section 202(b) Pub. L. 99-603 (8 USC 1255a), as amended;¶
- (iv) Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649 (8 USC 1255a), as amended;¶
- (v) An individual currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;¶
- (vi) An individual currently in deferred action status pursuant to Department of Homeland Security Operating Instruction OI 242.1(a)(22); or¶
- (vii) An individual who is the spouse or child of a United States citizen whose visa petition has been approved and who has a pending application for adjustment of status.¶
- (B) An individual in non-immigrant classifications under the INA who is permitted to remain in the U.S. for an indefinite period, including those individuals as specified in section 101(a)(15) of the INA (8 USC 1101).¶
- (f) In the OSIPM program, is receiving Supplemental Security Income (SSI) benefits.¶
- (g) In the QMB program, is receiving SSI and Medicare Part A benefits.¶
- (h) Effective July 31, 2021 until March 31, 2023, or through the end of their parole, whichever is later:¶
- (A) An individual who is a citizen or national of Afghanistan paroled into the U.S. between July 31, 2021 through September 30, 2022.¶
- (B) An unmarried child under the age of 21 or spouse of an individual listed in paragraph (A) of this subsection.¶

- (i) Effective February 24, 2022, through the end of their parole:¶
 - (A) An individual who was paroled into the U.S. between February 24, 2022, and September 30, 2023, and meets one of the following:¶
 - (i) Is a citizen or national of Ukraine. ¶
 - (ii) Last habitually resided in Ukraine.¶
 - (B) An individual who was paroled after September 30, 2023, and who is one of the following:¶
 - (i) An unmarried child, defined in section 101(b) of the Immigration and Nationality Act (INA) (8 U.S.C. § 1101(b)), under the age of 21.¶
 - (ii) The spouse of an individual listed in paragraph (A) of subsection (d).¶
 - (C) An individual who was paroled into the U.S. after September 30, 2023, and is one of the following:¶
 - (i) A parent, legal guardian, or primary caregiver of an unaccompanied refugee minor, as defined in section 412(d)(2)(B) of the INA (8 U.S.C. § 1522(d)(2)(B)).¶
 - (ii) An unaccompanied child, as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. § 279(g)(2)).¶
- (5) In the REF and REFM programs, an individual meets the noncitizen status requirements if the individual is admitted lawfully under any of the following provisions of law:¶
 - (a) The individual has been granted a USCIS status listed under paragraphs (1)(a)(B) through (1)(a)(H).¶
 - (b) The individual has been paroled as a refugee or asylee under section 212(d)(5) of the Immigration and Nationality Act (INA) (8 USC 1182(d)(5)).¶
 - (c) Effective October 1, 2021 until March 31, 2023, or through the end of their parole, whichever is later:¶
 - (A) An individual who is a citizen or national of Afghanistan paroled into the U.S. between July 31, 2021 through September 30, 2022.¶
 - (B) An unmarried child under the age of 21 or spouse of an individual listed in paragraph (A) of this subsection.¶
 - (d) Effective May 21, 2022, through the end of their parole:¶
 - (A) An individual who was paroled into the U.S. between February 24, 2022, and September 30, 2023, and meets one of the following:¶
 - (i) Is a citizen or national of Ukraine. ¶
 - (ii) Last habitually resided in Ukraine.¶
 - (B) An individual who was paroled after September 30, 2023, and who is one of the following:¶
 - (i) An unmarried child, defined in section 101(b) of the Immigration and Nationality Act (INA) (8 U.S.C. § 1101(b)), under the age of 21.¶
 - (ii) The spouse of an individual listed in paragraph (A) of subsection (d).¶
 - (C) An individual who was paroled into the U.S. after September 30, 2023, and is one of the following:¶
 - (i) A parent, legal guardian, or primary caregiver of an unaccompanied refugee minor, as defined in section 412(d)(2)(B) of the INA (8 U.S.C. § 1522(d)(2)(B)).¶
 - (ii) An unaccompanied child, as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. § 279(g)(2)).¶
- (6) In the SNAP program,¶
 - (a) An individual meets the noncitizen status requirements if the individual:¶
 - (A) Has been granted a USCIS status listed under paragraphs (1)(a)(B) through (1)(a)(I) of this rule.¶
 - (B) Has been granted a qualified noncitizen USCIS status and is under age 18.¶
 - (C) Has been granted a qualified noncitizen USCIS status and has a disability (see OAR 461-001-0015).¶
 - (D) Was born on or before August 22, 1931, and on August 22, 1996, was lawfully residing in the United States.¶
 - (E) Was a member of a Hmong or Highland Laotian Tribe at the time that the Tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in 38 U.S.C. 101), and is a noncitizen who is lawfully residing in the United States.¶
 - (F) Is a spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in paragraph (E) of this subsection.¶
 - (b) An individual meets the noncitizen status requirements when the individual has been granted a USCIS status listed under paragraph (1)(a)(A) or paragraphs (1)(a)(J) through (1)(a)(L) of this rule, and has completed one of the following:¶
 - (A) The individual has been residing in the United States for at least five years while a qualified noncitizen.¶
 - (B) The individual has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, or can be credited with such qualifying quarters as provided under 8 U.S.C. 1645, subject to the following provisions:¶
 - (i) No quarter beginning after December 31, 1996, is a qualifying quarter if the client/individual received any federal, means-tested benefit during the quarter. Federal means-tested benefits include SNAP, TANF, and Medicaid (except emergency medical).¶
 - (ii) For the purpose of determining the number of qualifying quarters of coverage, a client/n individual is credited

with all of the quarters of coverage worked by a parent of the client/individual while the client/individual was under the age of 18 and all of the qualifying quarters worked by a spouse of the client/individual during their marriage, during the time the client/individual remains married to such spouse or such spouse is deceased.¶

(iii) A lawful permanent resident who would meet the noncitizen status requirements, except for a determination by the Social Security Administration (SSA) that the individual has fewer than 40 quarters of coverage, may be provisionally certified for SNAP program benefits while SSA investigates the number of quarters creditable to the client/individual. An individual provisionally certified under this section who is found by SSA, in its final administrative decision after investigation, not to have 40 qualifying quarters is not eligible for SNAP program benefits received while provisionally certified. The provisional certification is effective according to the rule on effective dates for opening benefits, OAR 461-180-0080. The provisional certification cannot run more than six months from the date of original determination by SSA that the client/individual does not have sufficient quarters.¶

(c) Effective October 1, 2021 until March 31, 2023, or through the end of their parole, whichever is later:¶

(A) An individual who is a citizen or national of Afghanistan paroled into the U.S. between July 31, 2021 through September 30, 2022.¶

(B) An unmarried child under the age of 21 or spouse of an individual listed in paragraph (A) of this subsection.¶

(d) Effective May 21, 2022, through the end of their parole:¶

(A) An individual who was paroled into the U.S. between February 24, 2022, and September 30, 2023, and meets one of the following:¶

(i) Is a citizen or national of Ukraine. ¶

(ii) Last habitually resided in Ukraine.¶

(B) An individual who was paroled after September 30, 2023, and who is one of the following:¶

(i) An unmarried child, defined in section 101(b) of the Immigration and Nationality Act (INA) (8 U.S.C. § 1101(b)), under the age of 21.¶

(ii) The spouse of an individual listed in paragraph (A) of subsection (d).¶

(C) An individual who was paroled into the U.S. after September 30, 2023, and is one of the following:¶

(i) A parent, legal guardian, or primary caregiver of an unaccompanied refugee minor, as defined in section 412(d)(2)(B) of the INA (8 U.S.C. § 1522(d)(2)(B)).¶

(ii) An unaccompanied child, as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. § 279(g)(2)).

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.231, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826, H.R. 133, 116th Cong. (2019-2020), Public Law 117-43, H.R. 7691, 117th Cong. (2021-2022)

AMEND: 461-120-0210

RULE SUMMARY: OAR 461-120-0210 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-120-0210

Requirement to Provide Social Security Number (SSN) ¶¶

- (1) In the CWM, ~~ERDC~~, REF, and REFM programs, an individual is not required to provide or apply for a social security number (SSN) to be included in the need group (see OAR 461-110-0630) or benefit group (see OAR 461-110-0750). 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, to be included in the need group or benefit group 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 or benefit 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, to be included in the need group or benefit group:¶¶
- (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. ¶¶
- (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.¶¶
- (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, ~~411.704~~, 414.025, 414.826, 414.831, ~~414.839~~117

AMEND: 461-120-0330

RULE SUMMARY: OAR 461-120-0330 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-120-0330

Requirement to Pursue Assets ¶¶

- (1) In all programs except the ~~ERDC~~, REFM, and SNAP programs, an individual must make a good faith effort to obtain any asset (other than support and medical coverage, which are covered in OAR 461-120-0340 and 461-120-0345, respectively) to which the individual has a legal right or claim, except as follows:¶¶
- (a) A parent (see OAR 461-001-0000) or caretaker relative (see OAR 461-001-0000) who is exempt from participation in the JOBS program is not required to apply for unemployment insurance benefits.¶¶
 - (b) Except as specified by law, an individual applying for or receiving any program benefits from the Department is not required to apply for other programs it administers or for supplemental security income (SSI).¶¶
 - (c) An individual applying for the EA program is required to pursue, obtain, and use an asset only if the asset can be made available in time to meet the emergent need.¶¶
 - (d) An individual is not required to borrow money.¶¶
 - (e) An individual is not required to make a good faith effort to obtain any asset if the individual can show good cause for not doing so. Good cause means a circumstance beyond the ability of the individual to control.¶¶
 - (f) In the REF program, an individual is not required to pursue assets that remain in their country of origin.¶¶
 - (g) An individual is not required to make a good faith effort to obtain an asset if it will put the individual at further risk of current or future domestic violence (see OAR 461-001-0000).¶¶
- (2) In the REFM program, an individual must make a good faith effort to obtain any asset (other than support and medical coverage, which is covered in OAR 461-120-0350) to which the individual has a legal right or claim, except as follows:¶¶
- (a) Except as specified by law, an individual applying for or receiving REFM is not required to apply for other programs the Department administers or for ~~supplemental security income (SSI)~~.¶¶
 - (b) An individual is not required to borrow money.¶¶
 - (c) An individual is not required to make a good faith effort to obtain any asset if the individual can show good cause for not doing so. Good cause means a circumstance beyond the ability of the individual to control.¶¶
 - (d) An individual is not required to pursue assets that remain in their country of origin.¶¶
 - (e) An individual is not required to make a good faith effort to obtain an asset if it will put the individual at further risk of current or future domestic violence (~~see OAR 461-001-0000~~).¶¶
 - (f) An individual is not required to apply for, accept, and maintain employer-sponsored health insurance.¶¶
- (3) In all programs except the ~~ERDC~~, OSIP, OSIPM, QMB, and SNAP programs:¶¶
- (a) The effect of failing to comply with this rule is that everyone in the filing group is ineligible. In addition, when a REF, SFPSS, or TANF program payment ends due to the penalty described in this subsection, eligibility for and the level of SNAP benefits are determined as if the individual were receiving benefits without the effects of this rule.¶¶
 - (b) The penalty provided by subsection (3)(a) of this rule is effective until all members of the filing group comply with the requirements of sections (1) and (2) of this rule.¶¶
- (4) In the OSIP, OSIPM, and QMB programs:¶¶
- (a) An individual is ineligible for benefits if the individual fails to comply with the requirements of this rule.¶¶
 - (b) The penalty provided by subsection (a) of this section is effective until the individual complies with the requirements of section (1) of this rule.
- Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 413.085, 414.231, 414.68519
- Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 414.231

AMEND: 461-120-0510

RULE SUMMARY: OAR 461-120-0510 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-120-0510

Age Requirements for ~~Client~~Individuals to Receive Benefits ¶

- (1) If the year of an individual's birth is known but the month is unknown, the month of birth is presumed to be July. If the date of birth is unknown, the date of birth is presumed to be the first of the month. ¶
- (2) To be eligible for the TANF program: ¶
- (a) A dependent child (see OAR 461-001-0000) -- ¶
- (A) May not be legally married (see OAR 461-001-0000), legally married and separated, or legally emancipated; and ¶
- (B) Must be under 18 years of age; or under 19 years of age and regularly attending school (see subsection (c) of this section) full time, as determined by the school. ¶
- (b) A caretaker relative (see OAR 461-001-0000) may be any age. ¶
- (c) "Regularly attending school" means enrolled in and attending any of the following: ¶
- (A) A school in grade 12 or below, including home schooling approved by the local school district. ¶
- (B) GED classes in lieu of high school. ¶
- (C) A course of vocational or technical training, including Job Corps, in lieu of high school. ¶
- (D) The Oregon School for the Deaf. ¶
- (d) The student's full-time status is defined by the school. ¶
- (e) Regular attendance continues when a student misses school because of an illness, family emergency, or vacation, as long as the student intends to return to school. Students are considered to be in attendance for the full month in which they complete or discontinue school or training. ¶
- ~~(3) To be determined eligible for payment of child care costs for the ERDC or TANF program, a child must be -- ¶~~
- ~~(a) Under 13 years of age; or ¶~~
- ~~(b) Under 18 years of age and -- ¶~~
- ~~(A) Physically or mentally incapable of selfcare; ¶~~
- ~~(B) Under court supervision; ¶~~
- ~~(C) Receiving foster care; ¶~~
- ~~(D) Eligible for the special need rate for child care in OAR 461-155-0150; or ¶~~
- ~~(E) Subject to circumstances that significantly compromise the child's safety or the caretaker's ability to work or participate in an assigned activity if child care is not available. ¶~~
- (4) To be eligible for the OSIP-AB, OSIPM-AB, QMB-BAS, QMB-SMB, or SNAP programs, a ~~client~~individual may be any age. ¶
- ~~(5)~~ To be eligible for the OSIP-AD (except OSIP-EPD), OSIPM-AD (except OSIPM-EPD), and QMB-DW programs, a ~~client~~individual must be under 65 years of age. ¶
- ~~(6)~~ To be eligible for the OSIP-EPD and OSIPM-EPD programs, the ~~client~~individual must be 18 years of age or older. ¶
- ~~(7)~~ To be eligible for the OSIP-OAA or OSIPM-OAA programs, a ~~client~~individual must be 65 years of age or older. ¶
- ~~(8)~~ To be eligible for the REF or REFM programs, a ~~client~~individual must be one of the following: ¶
- (a) 18 years of age or older. ¶
- (b) A legally emancipated minor. ¶
- (c) In the REFM program, a newborn according to OAR 461-135-0930.
- Statutory/Other Authority: ORS ~~329A.500~~, 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685 19
- Statutes/Other Implemented: ORS ~~329A.500~~, 409.010, 411.060, 411.070, 411.404, 411.816, 412.049, 42 USC 1396a, 45 CFR 98.20

AMEND: 461-120-0630

RULE SUMMARY: OAR 461-120-0630 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-120-0630

Requirement to Live with a Caretaker or Caretaker Relative ¶¶

(1) Except as provided otherwise in OAR 461-135-1200, to be eligible for the TANF program, a dependent child (see OAR 461-001-0000) must live with a caretaker relative (see OAR 461-001-0000). ~~¶The Department may require documentary evidence is required to show that an individual is the father a caretaker relative of a the~~ dependent child.¶¶

(2) To be eligible for the EA program, a child must either live with a caretaker relative or have lived with a caretaker relative within the last six months.¶¶

~~(3) To be eligible for the ERDC program, a child must live with a caretaker (see OAR 461-001-0000).~~

Statutory/Other Authority: ORS 411.060, 411.070, 411.404, 412.049

Statutes/Other Implemented: ORS 411.060, 411.070, 411.404, 412.049

REPEAL: 461-135-0400

RULE SUMMARY: OAR 461-135-0400 is being repealed to move the Employment Related Day Care (ERDC) program from the authority of the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELG), as required by House Bill 3073 (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 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 adult is physically or mentally unable to provide adequate child care. This must be verified (see OAR 461-125-0830).¶¶~~

~~(B) The adult is unavailable to provide child care while participating in the requirements of a case plan (see OAR 461-001-0025).¶¶~~

~~(C) Confirmation is received from the Office of Child Welfare Programs that supervised contact is required between the child and 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 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 461-160-0300.¶¶~~

~~(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 the ERDC program.¶¶~~

~~(4) 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 Office of Student Access 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.~~

REPEAL: 461-135-0405

RULE SUMMARY: OAR 461-135-0405 is being repealed to move the Employment Related Day Care (ERDC) program from the authority of the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELIC), as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

~~461-135-0405~~

~~Children in the Head Start Program; ERDC ¶¶~~

~~Retroactively effective July 6, 2020: ¶¶~~

~~(1) Initial eligibility (see OAR 461-001-0000) for the ERDC program (see OAR 461-135-0400) must be met prior to receiving child care under a contract between a Head Start agency and the Department. ¶¶~~

~~(2) The following subsections apply when a child (see OAR 461-001-0000) in the ERDC program receives child care under a contract between a Head Start agency and the Department. ¶¶~~

~~(a) The Head Start agency is considered the provider of child care. ¶¶~~

~~(b) If the Head Start agency uses another provider for the child care, that provider must meet the requirements in OAR 461-165-0160 and following. ¶¶~~

~~(c) The payment made by the Department on behalf of the child is made only to the Head Start agency. The child is ineligible for child care payments for care not provided under the contract between the Head Start agency and the Department. ¶¶~~

~~(d) Once the Department makes a child care payment for the child under the contract, the child may not lose child care benefits until the next August 31, unless any of the following paragraphs apply: ¶¶~~

~~(A) The child's caretaker (see OAR 461-001-0000) has been found ineligible for ERDC program benefits under OAR 461-135-0415 for failure to make a copayment. ¶¶~~

~~(B) The caretaker was found ineligible because of inaccurate information provided to the Department or because information was withheld from the Department when eligibility was determined. ¶¶~~

~~(C) The caretaker fails to meet the requirements of the locally prepared agreement among the client and the Head Start program. ¶¶~~

~~(D) The child is no longer attending a Head Start contracted program. ¶¶~~

~~(E) The caretaker of the child voluntarily quits their job or causes their own dismissal and does not meet the "good cause" criteria set out in OAR 461-135-0070(2). ¶¶~~

~~(F) The caretaker of the child is no longer employed and enrolls in school, unless the caretaker is: ¶¶~~

~~(i) Continuing to actively seek employment during the hours the contracted Head Start program is operating; and ¶¶~~

~~(ii) Available to work during the operating hours of the contracted Head Start program. ¶¶~~

~~(G) The filing group (see OAR 461-110-0310 and 461-110-0350) no longer meets Oregon residency requirements under OAR 461-120-0010. ¶¶~~

~~(e) For any month in which the child is eligible to be served under a contract covered by this rule, the copayment is \$0. ¶¶~~

~~(3) The Department will not make a child care payment for a child in a Head Start program if the child's caretaker has been found ineligible for ERDC program under OAR 461-135-0415 for failure to make a copayment.~~

~~Statutory/Other Authority: ORS 411.060, 411.116, 412.049, ORS 409.050~~

~~Statutes/Other Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.116, 411.122, 412.049~~

REPEAL: 461-135-0415

RULE SUMMARY: OAR 461-135-0415 is being repealed to move the Employment Related Day Care (ERDC) program from the authority of the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELC), as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

~~461-135-0415~~

~~Requirement to Make Copay or Satisfactory Arrangements; ERDC~~

~~In the ERDC program:¶¶~~

- ~~(1) The caretaker is responsible for paying the copayment to the primary provider of child care unless the Child Care Billing form was sent to the provider showing no copayment.¶¶~~
- ~~(2) If the client has only one provider during a month, that provider is the primary provider. If the client uses more than one provider, the client must designate one as the primary provider. Notwithstanding any designation by the client, the Department considers a provider having the copayment amount (not to exceed the client's established copayment amount) deducted from its valid billing statement the primary provider for that period.¶¶~~
- ~~(3) If the copayment exceeds the amount billed by the primary provider, the Department may treat a different provider as the primary provider or split the copayment among the providers who bill for care.¶¶~~
- ~~(4) The copayment amount due from the caretaker to the provider is the lesser of:¶¶~~
 - ~~(a) The copayment amount determined by the Department based on family size and income.¶¶~~
 - ~~(b) The total amount allowed by the Department on a provider claim.¶¶~~
- ~~(5) A client who fails to pay a copayment to or to make satisfactory arrangements with the primary provider is ineligible for ERDC if the provider notifies the Department of an overdue copayment within 60 days after the Department issues payment for the month at issue. The period of ineligibility ends under any of the following circumstances:¶¶~~
 - ~~(a) On the first day of the month in which the client makes the copayment or makes satisfactory arrangements with the provider.¶¶~~
 - ~~(b) On the first day of the month after three years have lapsed from the date the client failed to make the copayment.¶¶~~
 - ~~(c) On the first day of the month in which the client provides verification that the copayment debt was discharged by a bankruptcy filing.¶¶~~
- ~~(6) The Department will make the payment to a provider if a Child Care Billing form is mailed to the provider prior to the notification described in section (5) of this rule.~~

~~Statutory/Other Authority: ORS 409.050, 409.610, 411.060, 411.070, 411.122~~

~~Statutes/Other Implemented: ORS 409.050, 409.610, 411.060, 411.070, 411.122~~

REPEAL: 461-135-0440

RULE SUMMARY: OAR 461-135-0440 is being repealed to move the Employment Related Day Care (ERDC) program from the authority of the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELIC), as required by House Bill 3073 (2021 regular session).

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.~~

~~(2) The Department shall 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 paragraph (A)(i) through (iii) of this subsection, 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.~~

~~(b) 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.~~

~~(c) In 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 who, 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~~

~~(C) 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: 461-135-0505

RULE SUMMARY: OAR 461-135-0505 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-135-0505

Categorical Eligibility for SNAP ¶

(1) Individuals and categorical eligibility.¶

(a) Except as provided under section (c) of this section, an individual is categorically eligible for SNAP benefits:¶

(A) Under original Categorical Eligibility (CE) regulations, when they receive or are authorized to receive:¶

(i) Temporary Assistance to Needy Families (TANF) cash assistance,¶

(ii) General Assistance (GA), or¶

(iii) Supplemental Security Income (SSI).¶

(B) Under Expanded Categorical Eligibility (ECE) regulations:¶

(i) When deemed to be receiving SSI under Section 1619(a) or 1619(b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)); or¶

(ii) When they receive or are authorized to receive cash, in-kind benefits, or services either under Title IV-A of the Social Security Act or by the state as part of the TANF maintenance of effort:¶

(I) Employment Related Day Care (ERDC) under the Department of Early Learning and Care (DELC); or¶

(II) TANF-related programs: Pre-TANF, TA-DVS, TANF-JOBS Plus, Housing Stabilization Program through Housing and Community Services, and Employment Payments.¶

(b) For the purposes of categorical eligibility, every individual filing group (see OAR 461-110-0370) member:¶

(A) Of ERDC and TA-DVS programs are considered receiving the benefits of the program.¶

(B) Eligible for transition services or the TA-DVS program is considered receiving benefits for the entire period of eligibility even if benefits are not received during each month of that period.¶

(c) The following individuals shall not be categorically eligible for SNAP benefits:¶

(A) Those disqualified from receiving SNAP benefits because of an established intentional program violation under OAR 461-195-0611.¶

(B) The primary person (see OAR 461-001-0015) disqualified from receiving SNAP benefits for failure to comply with a SNAP employment and training requirement under OAR 461-130-0315.¶

(2) Filing group and categorical eligibility.¶

(a) Except as provided under subsections (b) and (c) of this section, a filing group is categorically eligible for SNAP benefits:¶

(A) Under CE when all members of the filing group meet the CE provisions under paragraph (1)(a)(A) of this rule;¶

(B) Under ECE when one of the following is met:¶

(i) All members meet the ECE provisions under paragraph (1)(a)(B) of this rule, or¶

(ii) All members meet either CE or ECE provisions under subsection (1)(a) of this rule with at least one member meeting CE provisions and at least one meeting ECE provisions.¶

(C) Under Broad-Based Categorical Eligibility (BBCE) when at least one member meets neither CE nor ECE provisions, but the filing group meets all of the following:¶

(i) Has received, or will receive upon approval, the pamphlet about Information and Referral Services. The receipt of the Information and Referral services pamphlet by one member of the filing group is considered received by the entire group.¶

(ii) The countable income (see OAR 461-140-0010) is less than 200 percent of the federal poverty level (see OAR 461-155-0180). If there are filing group members who are ineligible or disqualified for SNAP (see OAR 461-160-0410), to determine categorical eligibility, countable income without proration is compared to the federal poverty level for the number in the filing group.¶

(iii) The filing group has liquid assets from lottery or gambling winnings less than the resource limit listed in OAR 461-160-0015(7)(a). For the purposes of this rule, liquid assets are assets that are easily accessible and do not need to be sold to access their value.¶

(b) A filing group shall not be categorically eligible for SNAP benefits when a member of the filing group is not categorically eligible.¶

(c) A filing group that loses SNAP benefit eligibility (see OAR 461-001-0000) due to lottery or gambling winnings (see OAR 461-140-0263) is not eligible for SNAP benefits, or to have SNAP eligibility determined using categorical eligibility, until they meet financial eligibility under the following SNAP financial eligibility resource and income requirements (see OAR 461-160-0400): ¶

(A) Resources must be below the resource limit set under OAR 461-160-0015,¶

(B) Countable income (see OARs 461-001-0000 and 461-140-0010) must be below the countable income limit set at 130 percent of the federal poverty level under OAR 461-155-0180, except for a financial group (see OAR 461-110-0530) that includes an individual who is elderly (see OAR 461-001-0015) or has a disability (see OAR 461-001-0015), and¶¶

(C) Adjusted income (see OAR 461-001-0000) must be below the adjusted income limit set at 100 percent of the federal poverty level under OAR 461-155-0180.¶¶

(D) This provision applies to all types of categorical eligibility.¶¶

(E) After a filing group regains eligibility for SNAP under this subsection, future eligibility may be determined using categorical eligibility.¶¶

(3) When a filing group contains both members who are categorically eligible for SNAP benefits and those who are not, a resource owned in whole or in part by a categorically eligible member is excluded.¶¶

(4) Presumed eligibility.¶¶

(a) If verified in a public assistance or medical assistance program, an individual found categorically eligible for the SNAP program is presumed to meet the following eligibility requirements, unless questionable:¶¶

(A) Social security number,¶¶

(B) U.S. Citizenship and Immigration Services sponsorship information, and¶¶

(C) Oregon residency.¶¶

(b) A filing group found categorically eligible for the SNAP program is presumed to meet the following financial eligibility resource and income requirements (see OAR 461-160-0400): ¶¶

(A) Resource limit,¶¶

(B) Countable income limit, and¶¶

(C) Adjusted income limit.

Statutory/Other Authority: ORS 411.816

Statutes/Other Implemented: ORS 411.816, 7 CFR 273.11

AMEND: 461-140-0040

RULE SUMMARY: OAR 461-140-0040 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-140-0040

Determining Availability of Income ¶¶

(1) This rule describes the date income is considered available, what amount of income is considered available, and situations in which income is considered unavailable.¶¶

(2) Income is considered available the date it is received or the date a member of the financial group (see OAR 461-110-0530) has a legal right to the payment and the legal ability to make it available, whichever is earlier, except as follows:¶¶

(a) Income usually paid monthly or on some other regular payment schedule is considered available on the regular payment date if the date of payment is changed because of a holiday or weekend.¶¶

(b) Income withheld or diverted at the request of an individual is considered available on the date the income would have been paid without the withholding or diversion.¶¶

(c) An advance or draw of earned income is considered available on the date it is received.¶¶

(d) Income that is averaged, annualized, converted, or prorated is considered available throughout the period for which the calculation applies.¶¶

(e) A payment due to a member of the financial group, but paid to a third party for a household expense, is considered available when the third party receives the payment.¶¶

(f) In prospective budgeting, income is considered available in the month the income is expected to be received (see OAR 461-150-0020).¶¶

(g) In the OSIP, OSIPM, and QMB programs, except for self-employment (see OAR 461-145-0915), wages that are earned in one period of time but paid in another are considered available when they are received, such as a teacher who works for nine months but is paid over twelve.¶¶

(3) The following income is considered available even if not received:¶¶

(a) Deemed income.¶¶

(b) In the ~~ERDC~~, REF, REFM, and TANF programs, the portion of a payment from an assistance program, such as public assistance, unemployment compensation, or Social Security, withheld to repay an overpayment.¶¶

(c) In the OSIPM and QMB programs, the portion of a payment from an assistance program (such as public assistance, unemployment compensation, or Social Security) withheld to repay an overpayment of the same source:¶¶

(A) If withheld prior to July 1, 2014.¶¶

(B) If withheld on or after July 1, 2014 and:¶¶

(i) No member of the financial group was receiving OSIP, OSIPM, or QMB during the period the benefit was overpaid; or¶¶

(ii) The withheld amount is not excluded under paragraph (5)(e)(A) of this rule.¶¶

(d) In the SNAP program, the portion of a payment from the TANF program counted as disqualifying income under OAR 461-145-0105.¶¶

(4) The amount of income considered available is the gross before deductions, such as garnishments, taxes, or other payroll deductions including flexible spending accounts.¶¶

(5) The following income is not considered available:¶¶

(a) Wages withheld by an employer in violation of the law.¶¶

(b) Income received by another individual who does not pay the ~~el~~benefit applicant or recipient their share.¶¶

(c) Income received by a member of the financial group after the individual has left the household.¶¶

(d) Moneys withheld from or returned to the source of the income to repay an overpayment from that source unless the repayment is countable (see OAR 461-001-0000):¶¶

(A) In the SNAP program, under OAR 461-145-0105.¶¶

(B) In the ~~ERDC~~, REF, REFM, and TANF programs, under subsection (3)(b) of this rule.¶¶

(e) In the OSIP, OSIPM, and QMB programs:¶¶

(A) The portion of a payment from an assistance program, such as public assistance, unemployment compensation, or Social Security withheld on or after July 1, 2014 to repay an overpayment from the same source if at least one member of the financial group was receiving OSIP, OSIPM, or QMB during the period the benefit was overpaid. The amount considered unavailable cannot exceed the amount of the overpaid benefit previously counted in determining eligibility (see OAR 461-001-0000) for OSIP, OSIPM, or QMB.¶¶

(B) Monies withheld from or returned to a source of income, when the source is not an assistance program, to

repay an overpayment of the same source.¶

(C) Unearned income not received because a payment was reduced to cover expenses incurred by a member of the financial group to secure the payment. (For example, if a retroactive check is received from a benefit program other than Supplemental Security Income (SSI), legal fees connected with the claim are subtracted to determine available income. Or, if payment is received for damages received as a result of an accident the amount of legal, medical, or other expenses incurred by a member of the financial group to secure the payment are subtracted to determine available income.)¶

(D) For an individual determined eligible for community-based care (see OAR 461-155-0630) or nursing facility services, income that cannot be accessed due to incapacity shall be considered unavailable for up to three months while a legal or financial representative is being established, if necessary to secure placement. The Department may continue to consider this income unavailable past the three months if additional time is needed to establish a legal or financial representative.¶

(f) For an individual who is not self-employed, income required to be expended on an ongoing, monthly basis on an expense necessary to produce the income, such as supplies or rental of work space.¶

(g) Income received by the financial group but intended and used for the care of an individual not in the financial group as follows:¶

(A) If the income is intended both for an individual in the financial group and an individual not in the financial group, the portion of the income intended for the care of the individual not in the financial group is considered unavailable.¶

(B) If the income is intended only for an individual not in the financial group, the portion of the income used for the care of the individual not in the financial group is considered unavailable.¶

(C) If the income is intended both for an individual in the financial group and an individual not in the financial group and the portion intended for the care of the individual not in the financial group cannot readily be identified, the income is prorated evenly among the individuals for whom the income is intended. The prorated share intended for the care of the individual not in the financial group is then considered unavailable.¶

(h) In the ERDC, REF, REFM, SNAP, and TANF programs, income controlled by the client/individual's abuser if the client/individual is a survivor of domestic violence (see OAR 461-001-0000), the client/individual's abuser controls the income and will not make the money available to the filing group (see OAR 461-110-0310), and the abuser is not in the client/individual's filing group.¶

(6) The availability of lump-sum income (see OAR 461-001-0000) is covered in OAR 461-140-0120.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.68519

Statutes/Other Implemented: ORS ~~409.010~~, 409.050, 411.060, 411.070, 411.~~117~~404, 411.816, ~~411.42~~049, ~~411.706~~, 411.816, 412.049, 413.085, ~~414.685~~3.085, 414.619, ORS 409.010, 411.117, 411.706, 414.839117

AMEND: 461-140-0110

RULE SUMMARY: OAR 461-140-0110 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-140-0110

Treatment of Periodic Income ¶

(1) In the SNAP and TANF programs, for a filing group (see OAR 461-110-0330 and 461-110-0370) that includes at least one member who is working under a TANF JOBS Plus agreement, periodic income (see OAR 461-001-0000) is excluded.¶

(2) In the REF, SNAP, and TANF programs, for filing groups not covered under section (1) of this rule, periodic income is averaged over the applicable period.¶

~~(3) In the ERDC program, periodic income is averaged over the applicable period.¶~~

~~(4)~~ In the OSIPM and QMB programs, periodic income is averaged over the applicable period, except as follows:¶

(a) A new source of periodic income received or expected to be received in any month following the month containing the date of request (see OAR 461-115-0030) is not averaged and counted until the first month it is received following the month containing the date of request.¶

(b) When determining countable (see OAR 461-001-0000) income for retroactive eligibility:¶

(A) Any ongoing periodic income received in a retroactive month is averaged.¶

(B) A new source of periodic income received in a retroactive month is averaged from the month of receipt forward.¶

(c) When determining countable income for the purposes of eligibility, the following exclusions apply to the total amount of combined periodic income and lump-sum income (see OAR 461-001-0000) received by an individual each month, including non-applying spouses and children:¶

(A) A \$10 monthly exclusion from earned income.¶

(B) A \$20 monthly exclusion from unearned income.¶

(d) For purposes of calculating ~~patient~~ liability under OAR 461-160-0620:¶

(A) Any periodic income received in a month prior to the month containing the date of request for services is excluded.¶

(B) Any periodic income received or expected to be received in the month containing the date of request for services, is not averaged and counted until the next time it is received after the month containing the date of request.¶

(C) For purposes of counting periodic income and calculating liability, an individual is not considered to have a break in services when the individual is admitted to a nursing facility or hospital and begins receiving services again upon discharge.¶

~~(54)~~ In the REFM program, periodic income is averaged over the applicable period if received in the month of application.¶

~~(65)~~ In all programs not covered under sections (1) to ~~(43)~~ of this rule, periodic income is counted in the month received.

Statutory/Other Authority: ~~ORS 329A.500~~, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 413.085, 414.68519

Statutes/Other Implemented: ~~ORS 329A.500~~, 409.010, 409.610, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.68519

AMEND: 461-140-0120

RULE SUMMARY: OAR 461-140-0120 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-140-0120

Availability and Treatment of Lump-Sum Income ¶

(1) Lump-sum income (see OAR 461-001-0000) is treated as follows if it is received by a member of a financial group (see OAR 461-110-0530). ¶

(2) In the EA, REF, REFM, SNAP, and TANF programs: ¶

(a) Lump-sum income is a resource. ¶

(b) In the EA, REF, REFM, and TANF programs: ¶

(A) Lump-sum income is considered available to the financial group when a member of the group receives the income and until the income becomes unavailable for a reason beyond the group's control. ¶

(B) Lump-sum income is considered unavailable for a reason beyond the group's control if the member who received the lump-sum income: ¶

(i) Leaves the financial group before spending any of the lump-sum income; or ¶

(ii) Spends the lump-sum income on an immediate basic need or emergency. ¶

~~(3) In the ERDC program, lump-sum income is excluded. ¶~~

~~(4) In the OSIP, OSIPM, and QMB-DW programs, lump-sum income is treated as follows: ¶~~

~~(a) Lump-sum income not excluded is income in the month of receipt, and any amount remaining in future months is a resource, except that in the OSIP and OSIPM programs retroactive SSB and Social Security Benefits (SSB) and Supplemental Security Income (SSI) payments are treated in accordance with OAR 461-145-0490 and 461-145-0510. ¶~~

~~(b) The following lump-sum income is excluded when calculating countable (see OAR 461-001-0000) income for the purposes of determining eligibility and calculating patient liability under OAR 461-160-0620: ¶~~

~~(A) The income the client/individual turns over to the Department as reimbursement for previous assistance; and ¶~~

~~(B) The income the client/individual uses to pay for special need items approved by the Department. Special needs are explained in OAR 461-155-0500 and following. ¶~~

~~(c) When calculating countable income for the purposes of eligibility, the following exclusions apply to the total amount of combined lump-sum income and periodic income (see OAR 461-001-0000) received by an individual each month, including non-applying spouses and children: ¶~~

~~(A) The first \$10 of earned income received in a month. ¶~~

~~(B) The first \$20 of unearned income received in a month. ¶~~

~~(54) In the QMB-BAS, QMB-SMB, and QMB-SMF programs: ¶~~

~~(a) Lump-sum income not excluded is income in the month of receipt, except that retroactive SSB and SSI payments are treated in accordance with OAR 461-145-0490 and 461-145-0510. ¶~~

~~(b) The following lump-sum income is excluded: ¶~~

~~(A) The income the client/individual turns over to the Department as reimbursement for previous assistance; and ¶~~

~~(B) The income the client/individual uses to pay for special need items approved by the Department. Special needs are explained in OAR 461-155-0500 and following. ¶~~

~~(c) The following exclusions apply to combined lump-sum income and periodic income received by an individual, including non-applying spouses and children: ¶~~

~~(A) The first \$10 of earned income received in a month. ¶~~

~~(B) The first \$20 of unearned income received in a month.~~

Statutory/Other Authority: ~~ORS 329A.500~~, 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685 19

Statutes/Other Implemented: ~~ORS 329A.500~~, 409.010, 410.010, 410.020, 410.070, 410.080, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685 19, 414.839 17

AMEND: 461-140-0210

RULE SUMMARY: OAR 461- 140-0210 is being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-140-0210

Asset Transfer; General Information and Timelines ¶¶

- (1) OAR 461-140-0210 to 461-140-0300 regulate the effect of a transfer of an asset on a client individual. ¶
- (2) If an asset is transferred during the periods of time listed in section (4) or (5) of this rule and if the transfer is made in whole or in part for the purpose of establishing or maintaining eligibility for benefits: ¶
- (a) In the REF and REFM programs, the filing group is disqualified if a member of the financial group (see OAR 461-110-0530) transferred the asset while that member was in the U.S. and the asset was located in the U.S. ¶
- (b) In the REF, REFM, SNAP, and TANF programs, the filing group is disqualified if: ¶
- (A) The asset was a resource; and ¶
- (B) A member of the financial group transferred the resource. ¶
- (c) In the OSIP and OSIPM programs, a client individual in a nonstandard living arrangement (see OAR 461-001-0000) is disqualified if the client individual or the spouse of the client individual transferred the asset. ¶
- (3) In all programs ~~except the ERDC program~~, client individuals in financial groups whose members transfer an asset covered under section (2) of this rule within the time periods listed in section (4) or (5) of this rule must report the transfer as soon as practicable and must provide information requested by the Department concerning the transfer. ¶
- (4) In the REF, REFM, SNAP, and TANF programs, a transfer of an asset may be disqualifying if the transfer occurs: ¶
- (a) In the REF and REFM programs, during the three years preceding the filing date (see OAR 461-115-0040), if: ¶
- (A) The member of the financial group was residing in the U.S. at the time of transfer; and ¶
- (B) The asset was a resource. ¶
- (b) In the SNAP program, during the three months preceding the filing date or during a certification period (see OAR 461-001-0000) if the asset was a resource. ¶
- (c) In the TANF program, during the three years preceding the filing date (see OAR 461-115-0040) if the asset was a resource. ¶
- (5) In the OSIP and OSIPM programs, for a client individual in a nonstandard living arrangement, a transfer of an asset may be disqualifying if the transfer occurs: ¶
- (a) On or before June 30, 2006 and as described in one of the following paragraphs: ¶
- (A) On or after the date that is 60 months prior to the date of request (see OAR 461-115-0030) - for assets that are transferred without compensation equal to or greater than fair market value from a revocable trust (see OAR 461-145-0540(8)(c)). ¶
- (B) On or after the date that is 60 months prior to the date of request - for assets that are transferred without compensation equal to or greater than fair market value to an irrevocable trust (see OAR 461-145-0540(9)(a)). ¶
- (C) On or after the date that is 60 months prior to the date of request - when there is a change in circumstances that makes assets in an irrevocable trust unavailable to the client individual (see OAR 461-145-0540(9)(d)). ¶
- (D) On or after the date that is 36 months prior to the date of request - for assets transferred without compensation equal to or greater than fair market value from an irrevocable trust (see OAR 461-145-0540(9)(b) and (c)). ¶
- (E) On or after the date that is 36 months prior to the date of request - for other asset transfers made without compensation equal to or greater than fair market value. ¶
- (b) On or after: ¶
- (A) July 1, 2006; and ¶
- (B) The date that is 60 months prior to the date of request. ¶
- (6) The duration of the period of disqualification or ineligibility is set out in OAR 461-140-0260 to 461-140-0300. Statutory/Other Authority: ORS 409.050, 411.060, 411.404, 411.710, 411.816, 412.049, 413.085, 414.685 ~~19~~ Statutes/Other Implemented: ORS 409.010, 411.060, 411.404, 411.710, 411.816, 412.049