

OFFICE OF THE SECRETARY OF STATE

SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

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

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

03/27/2023 9:56 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Proposing Rule Changes to move ERDC to DELC for Division 145

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.

CONTACT: Jennifer Lay
541-844-6136
RulesHearings.Ch461@odhsoha.oregon.gov

2885 Chad Drive
Eugene, OR 97408

Filed By:
Meorah Solar
Rules Coordinator

HEARING(S)

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

DATE: 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 rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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).

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

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

The Department estimates the rules proposed for amendment 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 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 Child Care 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:

461-145-0001, 461-145-0040, 461-145-0050, 461-145-0080, 461-145-0090, 461-145-0110, 461-145-0130, 461-145-0150, 461-145-0200, 461-145-0210, 461-145-0230, 461-145-0250, 461-145-0260, 461-145-0270, 461-145-0320, 461-145-0330, 461-145-0360, 461-145-0365, 461-145-0400, 461-145-0410, 461-145-0420, 461-145-0433, 461-145-0440, 461-145-0455, 461-145-0460, 461-145-0470, 461-145-0490, 461-145-0505, 461-145-0510, 461-145-0540, 461-145-0590, 461-145-0600, 461-145-0820, 461-145-0830, 461-145-0910, 461-145-0920, 461-145-0930

AMEND: 461-145-0001

RULE SUMMARY: OAR 461-145-0001 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0001

Adoption Assistance ¶¶

(1) In all programs except the ~~ERDC~~, SNAP, and TANF programs, adoption assistance (see OAR 461-001-0000) is treated as follows:¶¶

(a) The portion of adoption assistance that is for the special needs of the child is excluded, including needs such as special diet, special clothing, counseling, and medical costs not covered under Title XIX.¶¶

(b) The rest of the adoption assistance is counted as unearned income.¶¶

(2) In the ~~ERDC and~~ TANF programs, adoption assistance is excluded.¶¶

(3) In the SNAP program, adoption assistance is counted as unearned income.

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

Statutes/Other Implemented: ~~ORS 329A.500~~, 409.010, 411.060, ~~411.122~~, 411.404, 411.816, 412.014, 412.049

AMEND: 461-145-0040

RULE SUMMARY: OAR 461-145-0040 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0040

Burial Arrangements and Burial Fund ¶¶

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

(1) The following definitions apply to this rule:¶¶

(a) "Burial arrangement" means an agreement with an entity - such as a funeral agreement (which means an arrangement made with a licensed funeral provider), burial insurance, or a burial trust designating a funeral director as the beneficiary that establishes provisions for payment of an individual's burial costs. A "burial arrangement" does not include a burial space, which is covered in OAR 461-145-0050, or a burial fund (see subsection (b) of this section).¶¶

(b) "Burial fund" means an identifiable fund set aside for ~~a client~~ an individual's burial costs. A "burial fund" does not include a burial space, which is covered in OAR 461-145-0050, or a burial arrangement (see subsection (a) of this section).¶¶

(c) In all programs except OSIP, OSIPM, and QMB-DW, burial insurance is considered a form of life insurance and treated in accordance with OAR 461-145-0320.¶¶

(2) Except as provided in subsection (e) of this section, a burial arrangement is treated as follows:¶¶

(a) In the ~~ERDC~~, REF, REFM, SNAP, and TANF programs, the equity value (see OAR 461-001-0000) of one prepaid burial arrangement for each member of the filing group (see OAR 461-110-0310) is excluded.¶¶

(b) ~~For grandfathered OSIP and OSIPM clients (see OAR individuals eligible for OSIP and OSIPM under 461-125-0330(2), 461-125-0370(1)(b), and 461-135-0771),~~ up to \$1,000 in combined equity value of each burial arrangement with a licensed funeral director (plus accrued interest) and life insurance policies are excluded. The amount of combined cash and equity value of all life insurance and burial arrangements that exceeds \$1,000 is counted as a resource.¶¶

(c) In the OSIP, OSIPM, and QMB-DW programs:¶¶

(A) The amount in an irrevocable burial trust or any other irrevocable arrangement to cover burial costs is excluded.¶¶

(B) Burial insurance that does not generate a cash surrender value or generates cash surrender value to which the owner does not have access, is considered an irrevocable arrangement and excluded.¶¶

(C) Burial insurance that generates a cash surrender value to which the owner has access is considered life insurance and is treated in accordance with OAR 461-145-0320 and, as applicable, subsection (b) of this section.¶¶

(d) Except as provided in subsections (b) and (c) of this section, in all programs not listed in subsection (a) of this section, a burial arrangement is treated in the manner as the program treats a burial fund under section (3) of this rule.¶¶

(3) A burial fund is treated as follows:¶¶

(a) In the OSIP, OSIPM, and QMB-DW programs:¶¶

(A) A burial fund may be established only from financial means such as cash, burial contracts, bank accounts, stocks, bonds, or life insurance policies.¶¶

(B) A burial fund is counted as a resource if it is commingled with assets unrelated to a burial. The amount set aside for burial must be in a separate account to be excluded from resource consideration.¶¶

(C) A burial fund may be established if the countable (see OAR 461-001-0000) resources of ~~a client~~ the individual exceed allowable limits. A burial fund is excluded from the resource calculation to the extent allowed in paragraph (D) of this subsection.¶¶

(D) The following calculation determines the exclusion for a burial fund:¶¶

(i) Up to \$1,500 of a burial fund may be excluded from resources for each of the following:¶¶

(I) ~~The client~~ the individual.¶¶

(II) ~~The client~~ the individual's spouse.¶¶

(ii) The amount in subparagraph (i) of this paragraph is reduced by the total of the following amounts:¶¶

(I) The face value of life insurance policies owned by ~~the client~~ the individual that have already been excluded from resources. This does not include term life insurance policies that do not generate a cash surrender value.¶¶

(II) The amount in an irrevocable burial trust or any other irrevocable arrangement designated to cover burial

costs, including the face value of burial insurance considered an irrevocable arrangement (see subsection (2)(f)(B) of this rule). Burial costs do not include burial spaces or merchandise (see OAR 461-145-0050).¶

(E) All interest earned on an excluded burial fund or increases in the value of an excluded burial arrangement if left in the fund is excluded from income.¶

(b) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, a burial fund is excluded as a resource.¶

(c) In all programs not listed in subsections (a) or (b) of this section, a burial fund is counted as a resource.¶

(4) There is no overpayment for the time period during which the burial arrangement or burial fund existed if a ~~client~~the individual:¶

(a) Cancels an excluded burial arrangement; or¶

(b) Uses an excluded burial fund for any purpose other than burial costs.¶

(5) If an asset originally used as a burial arrangement or burial fund is converted to other uses, the asset is treated under the other applicable rules.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.68519

Statutes/Other Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.68519, 414.839117

AMEND: 461-145-0050

RULE SUMMARY: OAR 461-145-0050 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0050

Burial Space and Merchandise ¶

(1) For the purpose of this rule, burial spaces include conventional gravesites, crypts, mausoleums, urns, niches, burial vaults, and other repositories that are traditionally used for the remains of deceased individuals. Burial spaces also include headstones and the opening and closing of the gravesite, and the reasonable and necessary improvements or additions to such spaces. Burial merchandise includes, but is not limited to, urns, caskets, liners, headstones, markers, plaques and foundations.¶

(2) In the ~~ERDC~~, REF, REFM, SNAP, and TANF programs, the Department excludes as a resource the equity value (see OAR 461-001-0000) of all burial space or merchandise for each member of the financial group (see OAR 461-110-0530), except that for burial space and merchandise that serves the same purpose, only one item per individual is excluded.¶

(3) In the OSIP, OSIPM, and QMB-DW programs, the Department excludes as a resource the equity value (see OAR 461-001-0000) of a burial space and merchandise if owned by the ~~client~~individual and designated for the ~~client~~individual, the spouse (see OAR 461-001-0000) of the ~~client~~individual, minor and adult children, siblings, parents, and the spouse of any of these individuals - except that for burial space and merchandise that serves the same purpose, only one item per individual is excluded.

Statutory/Other Authority: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.68519

Statutes/Other Implemented: ORS 409.010, 409.050, 410.020, 410.070, 410.080, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.68519, 414.839117

RULE SUMMARY: OAR 461-145-0080 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0080

Child Support and Cash Medical Support ¶

(1) Child support and cash medical support paid by a non-custodial parent for a dependent child (see OAR 461-001-0000) or minor parent (see OAR 461-001-0000) in the financial group (see OAR 461-110-0530) are considered income of the dependent child or minor parent, whether the support is paid voluntarily or in accordance with an order to pay child support.¶

(2) For the purposes of this rule:¶

(a) "Absent parent" means a parent (see OAR 461-001-0000) whose parental rights have not been legally severed or a stepparent currently legally married (see OAR 461-001-0000) to a parent of a child (see OAR 461-001-0000) who does not live in the same household as the child.¶

(b) "Disregard" means child support, up to \$50 per dependent child or minor parent per financial group per month and not to exceed \$200 per financial group per month, that is not counted as income of the individual. "Disregard" includes current child support only.¶

(c) "Pass-through" means child support, up to \$50 per dependent child or minor parent per financial group per month and not to exceed \$200 per financial group per month, that is sent to the individual before any remaining amount of current child support is withheld by the State. "Pass-through" includes current child support only.¶

~~(3) In the ERDC program, child support is considered countable (see OAR 461-001-0000) unearned income if it is received by the financial group or is countable under OAR 461-145-0280. Otherwise it is excluded.¶~~

~~(4) In the SNAP program, child support and cash medical support are treated as follows:¶~~

~~(a) Child support payments the group receives that are subject to assignment of support rights under OAR 461-120-0310 in order to maintain TANF eligibility are excluded, even if the group fails to turn the payments over to the Division of Child Support (DCS).¶~~

~~(b) Child support payments received by a filing group (see OAR 461-110-0370) with at least one member working under a TANF JOBS Plus agreement are excluded, except:¶~~

~~(A) It is considered countable unearned income in the calculation of the wage supplement; and¶~~

~~(B) Any pass-through pursuant to section (2) of this rule is considered countable unearned income.¶~~

~~(c) All other child support, including any pass-through pursuant to section (2) of this rule, is considered countable unearned income.¶~~

~~(d) Cash medical support is considered countable unearned income except to the extent it is used to reimburse (see OAR 461-145-0440) an actual medical cost.¶~~

~~(e) Payments made by an absent parent (see section (2) of this rule) to a third party for the benefit of the financial group are treated in accordance with OAR 461-145-0280.¶~~

~~(5) In the TANF program:¶~~

~~(a) Cash medical support is excluded in determining countable income.¶~~

~~(b) Child support paid to a third party for the benefit of the financial group is considered countable unearned income. This includes but is not limited to payments made by an absent parent to a third party for rent, mortgage, utilities, or child care.¶~~

~~(c) Initial eligibility (see OAR 461-001-0000) and benefit amount -¶~~

~~(A) In determining initial eligibility for all households, child support payments, except for disregard pursuant to section (2) of this rule, are considered countable unearned income. This includes any child support payments that would be assigned to DCS if the TANF application is approved.¶~~

~~(B) In calculating initial benefit amount for single parent or single caretaker relative (see OAR 461-001-0000) households, child support payments received after eligibility is determined and authorized are excluded, except certain child support arrears payments. Child support arrear payments that the Department reasonably determines will continue to be sent by DCS to the financial group are considered countable unearned income.¶~~

~~(C) In calculating initial benefit amount for two parent or two caretaker relative households, child support payments, except for disregard, are considered countable unearned income.¶~~

~~(d) Ongoing eligibility (see OAR 461-001-0000) and benefit amount, except households with an individual working under a TANF JOBS Plus agreement -¶~~

- (A) In determining on-going eligibility for single parent or single caretaker relative households, child support payments received by DCS or received directly and turned over to DCS are considered countable unearned income, except disregard, which is excluded in determining countable income. No disregard is allowed for child support payments received directly and not turned over to DCS.¶
- (B) In determining ongoing eligibility for two parent or two caretaker relative households, child support payments are considered countable unearned income, except disregard which is excluded in determining countable income.¶
- (C) In calculating ongoing benefit amount for single parent or single caretaker relative households --¶
- (i) Child support payments received by DCS and pass-through are excluded, except certain child support arrears payments. Child support arrear payments that are sent by DCS to the financial group and reasonably anticipated to continue are considered countable unearned income.¶
- (ii) Child support payments paid directly to the financial group that are not turned over to DCS are considered countable unearned income. No disregard is allowed.¶
- (D) In calculating ongoing benefit amount for two parent or two caretaker relative households, child support payments are considered countable unearned income, except for disregard which is excluded in determining countable income.¶
- (e) Ongoing eligibility and benefit amount for households that include an individual working under a TANF JOBS Plus agreement:¶
- (A) Child support payments are excluded in determining countable income.¶
- (B) Child support payments are excluded when calculating the TANF portion of the benefit equivalency standards (see OAR 461-190-0416).¶
- (C) All child support payments paid directly to the financial group are considered countable unearned income in the calculation of the wage supplement (see OAR 461-190-0416).¶
- (65) Effective July 6, 2020, in the OSIP, OSIPM, and QMB programs:¶
- (a) Child support and cash medical support paid to the financial group are considered countable unearned income, except as follows:¶
- (A) One-third of all cash child support (including cash medical support) paid to an individual is excluded.¶
- (B) All in-kind child support paid to the financial group is excluded.¶
- (C) Child support collected from an absent parent (see section (2) of this rule) by the State on behalf of a child in the custody of the State of Oregon (such as foster care) that is not given to the child or the custodial parent of the child is excluded. ¶
- (D) Child support payments collected by the State of Oregon that are given to the individual or to the custodial parent are counted in accordance with paragraph (A) or (C) of this subsection.¶
- (b) Child support and cash medical support paid by the financial group are not deductible from income except as provided in OAR 461-160-0550, OAR 461-160-0551, and OAR 461-160-0552.¶
- (76) In the SFPSS program, notwithstanding section (54) of this rule, for on-going eligibility and benefit determination:¶
- (a) Except for disregard pursuant to section (2) of this rule, child support is considered countable unearned income.¶
- (b) Cash medical support is excluded in determining countable income.¶
- (c) Payments made by an absent parent to a third party for the benefit of the financial group are considered countable unearned income. This includes but is not limited to payments made by an absent parent to a third-party for rent, mortgage, utilities, or child care.
- Statutory/Other Authority: ~~ORS 329A.500~~, 409.050, 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049, 413.085, 414.68519
- Statutes/Other Implemented: ~~ORS 329A.500~~, 409.010, 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049, 413.085, 414.68519

AMEND: 461-145-0090

RULE SUMMARY: OAR 461-145-0090 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0090

Disability Benefit ¶

(1) This rule covers public and private disability benefits, except the following:¶

(a) Agent Orange disability benefits (covered in OAR 461-145-0005).¶

(b) Radiation Exposure Compensation Act payments (covered in OAR 461-145-0415).¶

(c) Social security based on disability or Supplemental Security Income (SSI) (covered in OAR 461-145-0490 and 461-145-0510).¶

(d) Veterans benefits (covered in OAR 461-145-0580).¶

(e) Workers compensation (covered in OAR 461-145-0590).¶

(2) For each disability payment covered under this rule:¶

(a) If received monthly or more frequently:¶

(A) In the ~~ERDC~~, REF, REFM, SNAP, and TANF programs, income from employer-sponsored disability insurance is counted as earned income (see OAR 461-145-0130) if paid to a ~~client~~ individual who is still employed while recuperating from an illness or injury.¶

(B) In the OSIP, OSIPM, and QMB programs, income from employer-paid disability insurance is counted as earned income if received within six full calendar months after stopping work.¶

(C) Except as provided in paragraphs (A) and (B) of this subsection, the payment is counted as unearned income.¶

(b) All payments other than those in subsection (a) of this section are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).

Statutory/Other Authority: ORS 411.060, 411.816, 412.049

Statutes/Other Implemented: ORS 411.060, 411.700083, 411.816, 412.049

AMEND: 461-145-0110

RULE SUMMARY: OAR 461-145-0110 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELCO) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0110

Domestic Volunteer Services Act (VISTA, RSVP) and Small Business Act (SCORE, ACE) ¶¶

In all Department programs covered by Chapter 461 of the Oregon Administrative Rules, with respect to federal programs under the Domestic Volunteers Service Act of 1973 (Pub. L. No. 93 113):¶¶

(1) Payments under Title I - VISTA, University Year of Action, and Urban Crime Prevention - are treated as follows:¶¶

(a) In the ~~ERDC~~, OSIP, OSIPM, and QMB programs, these payments are excluded, ~~except that in the ERDC program, these payments are counted as earned income if the total value of all compensation is equal to or greater than compensation at the state minimum wage.~~¶¶

(b) In all programs except the ~~ERDC~~, OSIP, OSIPM, QMB, REF, REFM, and TANF programs:¶¶

(A) The payments are excluded if the client individual is receiving Department program benefits when they join the Title I program. The exclusion of payments continues until the client individual has a break in receiving Department benefits of more than one month.¶¶

(B) The payments are counted as earned income for client individuals who joined the Title I program before applying for Department program benefits.¶¶

(c) In the REF, REFM, and TANF programs, the value of the educational award is excluded; all remaining payments count as earned income.¶¶

(2) Payments are excluded for programs under Title II (National Older Americans Volunteer Programs), which include:¶¶

(a) Retired Senior Volunteer Program (RSVP) Title II, Section 201.¶¶

(b) Foster Grandparent Program Title II, Section 211.¶¶

(c) Older American Community programs.¶¶

(d) Senior Companion Program.¶¶

(3) Payments are excluded for programs under 15 USC 637(a)(1) (the Small Business Act), which include:¶¶

(a) Service Corps of Retired Executives (SCORE); and¶¶

(b) Active Corps of Executives (ACE).

Statutory/Other Authority: ~~ORS 329A.500, 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685~~19

Statutes/Other Implemented: ~~ORS 329A.500, 409.010, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685~~19

RULE SUMMARY: OAR 461-145-0130 being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0130

Earned Income; Treatment ¶¶

- (1) Earned income (see OAR 461-145-0120) is countable (see OAR 461-001-0000) in determining eligibility (see OAR 461-001-0000) for programs, subject to the provisions in sections (2) to (49) of this rule.¶¶
- (2) JOBS Plus income is earned income and is treated as follows:¶¶
- (a) In the SNAP program:¶¶
- (A) JOBS Plus income earned by a TANF-PLS (see OAR 461-101-0010) participant:¶¶
- (i) Is counted in determining initial SNAP program eligibility.¶¶
- (ii) Is excluded in determining ongoing eligibility.¶¶
- (B) JOBS Plus wages received after the individual's last month of work under a TANF-PLS JOBS Plus agreement are counted.¶¶
- (b) In the TANF program, when determining the need for a TANF supplement for a TANF-PLS individual, the income is treated as follows:¶¶
- (A) It is excluded in determining the countable income limit and in calculating the benefit equivalency standards.¶¶
- (B) It is counted in calculating the wage supplement.¶¶
- (C) JOBS Plus wages received after the individual's last month of work under a JOBS Plus agreement are counted.¶¶
- (c) In the OSIPM and QMB programs, JOBS Plus wages received after the individual's last month of work under a TANF-PLS JOBS Plus agreement are counted.¶¶
- (d) In all programs not covered under subsections (a) to (c) of this section, TANF-PLS income is counted as earned income.¶¶
- (e) In all programs, wages received under the Tribal TANF JOBS programs are counted as earned income.¶¶
- (3) Welfare-to-Work work experience income is treated as follows:¶¶
- (a) In the REF, REFM, and TANF programs, the income is earned income, and the first \$260 is excluded each month.¶¶
- (b) In the SNAP program, the income is earned income.¶¶
- ~~(4) In the ERDC program, earned income of a child (see OAR 461-001-0000) is excluded.¶¶~~
- ~~(5) In the OSIP, OSIPM, and QMB programs, documented net losses from a self-employment business (see OAR 461-150-0095) are excluded from any other source of earned income of the financial group (see OAR 461-110-0530). This does not include dividends or profits (see OAR 461-145-0089).¶¶~~
- ~~(6) In the REF and REFM programs:¶¶~~
- (a) Income remaining after the month of receipt is a resource.¶¶
- (b) Earned in-kind income is excluded (see OAR 461-145-0280 and 461-145-0470).¶¶
- ~~(7) In the TANF program:¶¶~~
- (a) Earned income of the following children is excluded:¶¶
- (A) Dependent children under the age of 19 years, and minor parents under the age of 18 years, who are full-time students in grade 12 or below (or the equivalent level of vocational training, in GED courses), or in home schooling approved by the local school district.¶¶
- (B) Dependent children under the age of 18 years who are attending school part-time (as defined by the institution) and are not employed full-time.¶¶
- (C) Dependent children too young to be in school.¶¶
- (b) Income remaining after the month of receipt is a resource.¶¶
- (c) Earned in-kind income is excluded (see OAR 461-145-0280 and 461-145-0470).¶¶
- ~~(8) In the SNAP program:¶¶~~
- (a) If a cafeteria plan (see OAR 461-001-0000) benefit that the employee may not elect to receive as a cash payment is designated and used to pay for child care, medical care, or health insurance, the benefit is excluded unless it is reimbursed by the Department. If reimbursed, the Department counts it as earned income.¶¶
- (b) The following types of income are excluded:¶¶
- (A) The earned income of an individual under the age of 18 years who is under the parental control of another

member of the household and is:¶

(i) Attending elementary or high school;¶

(ii) Attending GED classes recognized by the local school district;¶

(iii) Completing home-school elementary or high school classes recognized by the local school district; or¶

(iv) Too young to attend elementary school.¶

(B) Earned in-kind income, except as provided in section (98) of this rule.¶

(C) Deductions from base pay for future educational costs under Pub. L. No. 99-576, 100 Stat. 3248 (1986), for an individual on active military duty.¶

(D) Income remaining after the month of receipt is a resource.¶

(98) In the SNAP program, earned in-kind income (see OAR 461-145-0280) is excluded unless it is one of the following:¶

(a) An expenditure by a business entity that benefits a principal (see OAR 461-145-0088).¶

(b) A credit card company gift card, such as Mastercard or Visa, which is received regularly and can be reasonably anticipated. This does not include specific gift cards, such as those from a retailer or restaurant.¶

(109) In all programs, the income of a temporary employee of the U.S. Census Bureau employed to assist in taking the census is excluded.

Statutory/Other Authority: ~~ORS 329A.500~~, 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 414.68519

Statutes/Other Implemented: ~~ORS 329A.500~~, 409.010, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 413.085, 414.68519, 414.839117

RULE SUMMARY: OAR 461-145-0150 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELDC) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0150

Educational Income ¶

(1) Educational income is income designated specifically for educational expenses. To be considered educational income, the income must be received by one of the following:¶

(a) A student at a recognized institution of post-secondary education. Post-secondary education is education offered primarily to individuals 18 years of age or older. Admission may - but does not necessarily - require a high school diploma or equivalent.¶

(b) A student at a school for individuals with disabilities.¶

(c) A student in a vocational education program.¶

(d) A student in a program that provides for completion of requirements for a secondary school diploma or the equivalent.¶

(2) To determine the amount of educational income to exclude, education expenses listed in the financial aid award letter are used unless one of the following is true:¶

(a) The student provides verification of amounts different from those listed in the award letter, in which case the verified amounts from the student are used.¶

(b) The student receives child care benefits ~~ERDC~~ through the Employment Related Day Care (ERDC) program under the Department of Early Learning and Care (DELDC) or other child care subsidies. The amount the student actually pays for child care (including the ERDC copay) is excluded as educational income instead of the amount shown in the award letter.¶

(c) The student states that actual transportation costs exceed the amount allowed for the expense in the award letter. In that situation, the number of miles to and from school is multiplied by \$0.20. The product or the amount from the award letter, whichever is greater, is excluded.¶

(3) The following items are excluded:¶

(a) Educational income authorized by the Carl D. Perkins Vocational and Applied Technology Education Act or Title IV of the Higher Education Act or made available by the Bureau of Indian Affairs (BIA).¶

(b) All income from educational loans.¶

(c) In the OSIP, OSIPM, and QMB programs, the augmented portion of a shelter stipend from the Department of Veterans Affairs designated for the individual's dependent.¶

(4) Except as provided in section (5) of this rule, the cost of the following items from remaining educational funds (including non-Title IV work study, externship (see OAR 461-001-0015), graduate assistantship (see OAR 461-001-0015), graduate fellowship (see OAR 461-001-0015) wages, and internship (see OAR 461-001-0015)) is excluded:¶

~~(a) ¶ dependent care, tuition, mandatory fees, books and supplies, transportation, required rental or purchase of equipment or materials charged to students enrolled in a specific curriculum, other miscellaneous personal expenses (except room and board), and loan originator fees and insurance premiums required to obtain an educational loan.¶~~

~~(b) In all programs except ERDC—dependent care.¶~~

(5) For a participant in the Parents as Scholars (PAS) component of the JOBS program who has been approved for PAS pursuant to OAR 461-190-0199, all remaining educational funds, including those funds intended for room and board, are excluded.¶

(6) In all programs covered by chapter 461 of the Oregon Administrative Rules, after allowing exclusions, the remaining income is treated as follows:¶

(a) Income received through work study (including work study provided through a VA program or other educational program), fellowships and teaching-assistant positions not excluded by section (3) or (4) of this rule is earned income.¶

(b) Educational income not covered by subsection (a) of this section is prorated over the period it is intended to cover. If the client/individual has already received the income, the prorated amount is counted monthly beginning with the first month of the period. If the client/individual has not received the income at the time the determination is made, the prorated income is counted starting in the month the client/individual expects to receive it.¶

(7) Educational awards paid under the National and Community Service Trust Act of 1993 (including AmeriCorps) are treated in accordance with OAR 461-145-0365.¶

(8) In the OSIP, OSIPM, and QMB programs, distributions from a Coverdell Education Savings account and gifts used for education purposes are treated in accordance with OAR 461-145-0145.

Statutory/Other Authority: ~~ORS 329A.500~~, 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.68519

Statutes/Other Implemented: ~~ORS 329A.500~~, 409.010, 411.060, 411.083, 411.404, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.706, 411.816, 411.825, 412.014, 412.049, 413.085, 414.68519

AMEND: 461-145-0200

RULE SUMMARY: OAR 461-145-0200 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELCO) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0200

Foster Care Payments and Guardianship Assistance Benefits ¶¶

Payments for foster care and benefits from the Guardianship Assistance program (see OAR 413-070-0000) are treated as follows:¶¶

(1) In all programs except the ~~ERDC~~, REF, REFM, SNAP, and TANF programs:¶¶

(a) If the provider of foster care or the guardian is in the financial group (see OAR 461-110-0530), the payments or benefits are treated as earned income except that it is excluded in the following situations:¶¶

(A) The amount the placement agency identifies as being for room and board, clothing, or personal incidental needs (including recreational expenses) of the individual in foster care client is excluded.¶¶

(B) The amount designated for special need items of the individual in foster care client is excluded.¶¶

(b) If the provider of foster care or the guardian is not in the financial group, the payments or benefits are excluded.¶¶

~~(2) In the ERDC program, the payments or benefits are excluded.¶¶~~

~~(3) In the SNAP program:¶¶~~

(a) The payments or benefits are counted as unearned income only if the person in foster care or under guardianship is in the filing group (see OAR 461-110-0370). The payments or benefits are excluded if the person in foster care or under guardianship is in the household group (see OAR 461-110-0210) but not in the filing group.¶¶

(b) The payments or benefits are counted as self-employment income if the provider of foster care and the person receiving the care or the guardian and the person under guardianship are not in the same household group.¶¶

~~(4) In the REF, REFM, and TANF programs:¶¶~~

(a) For adult foster care, if the provider or the guardian is in the financial group, the payments or benefits are treated as earned income except that they are excluded in the following situations:¶¶

(A) The amount the placement agency identifies as being for room and board, clothing, or personal incidental needs (including recreational expenses) of the individual in foster care client is excluded.¶¶

(B) The amount designated for special items of the individual in foster care client is excluded.¶¶

(b) For adult foster care, if the provider or the guardian is not in the financial group, the payments or benefits are excluded.¶¶

(c) Payments or benefits for children in foster care are excluded.

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

Statutes/Other Implemented: ~~ORS 329A.500, 409.050, 409.61~~ 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049

AMEND: 461-145-0210

RULE SUMMARY: OAR 461-145-0210 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0210

Gifts and Winnings ¶¶

(1) For the purposes of this rule:¶¶

(a) "Gifts" are items given to or received by an individual on or for a special occasion, such as a holiday, birthday, graduation, or wedding. "Gifts" are not given or received on a regular basis.¶¶

(b) "Winnings" are prizes given to an individual in a contest, game of chance, or similar event. "Winnings" in the form of money may be distributed in different payment frequencies, such as monthly, periodically (such as quarterly), or in a single payment.¶¶

(2) In all programs, gambling losses are not subtracted from gambling winnings (see section (1) of this rule) in determining the individual's countable (see OAR 461-001-0000) income.¶¶

~~(3) In the ERDC program, gifts (see section (1) of this rule) and winnings are excluded.¶¶~~

~~(4) In the OSIP, OSIPM, and QMB programs, except as provided otherwise in section (76) of this rule:¶¶~~

~~(a) In-kind gifts and winnings are treated according to the rule applicable to the specific type of asset, except for, if an individual is offered a choice between an in-kind item and cash, the cash amount is considered unearned income, even if the individual chooses the in-kind item and regardless of the value, if any, of the in-kind item.¶¶~~

~~(b) The value of gifts and winnings in the form of cash are treated in accordance with the rule applicable to the payment frequency: stable income under OAR 461-150-0070, variable income under OAR 461-150-0080, periodic income under OAR 461-140-0110, or lump-sum income under OAR 461-140-0120.¶¶~~

~~(c) The value of a gift card or certificate is considered income in the month it is received if the gift card or certificate can be used to purchase food or shelter or can be resold. There is a rebuttable presumption that the gift card can be resold.¶¶~~

~~(d) Monetary gifts given for educational purposes are treated in accordance with OAR 461-145-0145.¶¶~~

~~(54) In the SNAP program, except as provided otherwise in section (76) of this rule,¶¶~~

~~(a) A filing group immediately loses SNAP benefit eligibility due to lottery or gambling winnings when provisions of section (1) of OAR 461-140-0262 are met.¶¶~~

~~(b) In-kind gifts and winnings are treated according to the rule applicable to the specific type of asset.¶¶~~

~~(c) Gifts and winnings, except cash prizes from lottery or gambling subject to section (1) of OAR 461-140-0262, in the form of money or credit card company gift cards are treated in accordance with the rule applicable to the payment frequency: stable income under OAR 461-150-0070, variable income under OAR 461-150-0080, periodic income under OAR 461-140-0110, or lump-sum income under OAR 461-140-0120.¶¶~~

~~(d) Establishment-specific gift cards are excluded from assets (see OAR 461-001-0000).¶¶~~

~~(65) In all programs except the ERDC, OSIP, OSIPM, QMB, and SNAP programs and except as provided otherwise in section (76) of this rule:¶¶~~

~~(a) In-kind gifts and winnings are treated according to the rule applicable to the specific type of asset. ¶¶~~

~~(b) Gifts and winnings in the form of money or credit card company gift cards are treated in accordance with the rule applicable to the payment frequency: stable income under OAR 461-150-0070, variable income under OAR 461-150-0080, periodic income under OAR 461-140-0110, or lump-sum income under OAR 461-140-0120. ¶¶~~

~~(c) Establishment-specific gift cards are excluded as income and not considered a resource.¶¶~~

~~(76) For employment-related gifts or winnings, see OAR 461-145-0130.~~

Statutory/Other Authority: ~~ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685~~ 19

Statutes/Other Implemented: ~~ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.700~~ 083, 411.706, 411.816, 412.014, 412.049

AMEND: 461-145-0230

RULE SUMMARY: OAR 461-145-0230 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELCO) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0230

Housing and Urban Development ¶¶

(1) Payments from ~~HUD~~ Housing and Urban Development (HUD) made to a third party ~~on~~ behalf of the ~~client~~ individual are treated as follows:¶¶

(a) In the REF, REFM, and TANF programs, the payment is used to determine shelter-in-kind income.¶¶

(b) In the EA, ~~ERDC~~, OSIP, OSIPM, QMB, and SNAP programs, the payments are excluded.¶¶

(2) HUD payments made directly to a member of the financial group, except Youthbuild Program payments and Family Investment Centers payments, are treated as follows:¶¶

(a) In the REF, REFM, and TANF programs, the payment is used to determine shelter-in-kind income. If the payments are made in a lump sum, the lump sum is unearned income.¶¶

(b) In the EA program, the payment is unearned income.¶¶

(c) In the ~~ERDC~~, OSIP, OSIPM, and QMB programs, the payments are excluded.¶¶

(d) In the SNAP program, payments for utilities are excluded. Other payments are unearned income.¶¶

(3) Escrow accounts established for families participating in the Family Self-Sufficiency (FSS) program sponsored by HUD are excluded.¶¶

(4) Payments related to family investment centers issued under the Cranston-Gonzalez National Affordable Housing Act, Pub. L. No. 101-625, sec. 515, 104 Stat. 4196 (1990), are treated as follows:¶¶

(a) Wages are earned income, and stipends are unearned income.¶¶

(b) Service payments for items such as child care, basic education, literacy, or computer skills training are excluded.

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

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

AMEND: 461-145-0250

RULE SUMMARY: OAR 461-145-0250 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0250

Income-Producing Property; Not OSIP, OSIPM, or QMB ¶¶

(1) In all programs except the REF, REFM, and TANF programs, income from income producing property (see OAR 461-001-0000) is counted as follows:¶¶

(a) If a member of the financial group (see OAR 461-110-0530) actively manages the property 20 hours or more per week, the income is treated in the same manner as self-employment income (see OAR 461-145-0910, 461-145-0920, and 461-145-0930).¶¶

(b) If a member of the financial group does not actively manage the property 20 hours or more per week, the income is counted as unearned income with exclusions allowed only in accordance with OAR 461-145-0920. In the SNAP program, if the financial group owns more than one property, the exclusions for one property may not be used to offset income from a different property.¶¶

(2) In the REF, REFM, and TANF programs, income from income producing property is treated in the same manner as self-employment income (see OAR 461-145-0910, 461-145-0920, and 461-145-0930).¶¶

(3) The equity value (see OAR 461-001-0000) of income-producing property is treated as follows:¶¶

(a) In the EA and ERDC programs, it is excluded.¶¶

(b) In the SNAP program, it is counted as a resource except to the extent described in each of the following situations:¶¶

(A) If the property produces an annual countable (see OAR 461-001-0000) income similar to other properties in the community with comparable market value, the equity value of the property is excluded.¶¶

(B) The property is excluded under OAR 461-145-0600.¶¶

(C) The equity value of income-producing livestock, poultry, and other animals is excluded.¶¶

(D) If selling the resource would produce a net gain to the financial group of less than \$1,500, the equity value is excluded.¶¶

(c) In the REF, REFM, and TANF programs, it is counted as a resource.

Statutory/Other Authority: ORS ~~329A.500~~, 409.050, 411.060, 411.070, 411.083, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685 19

Statutes/Other Implemented: ORS ~~329A.500~~, 409.010, 409.050, 411.060, 411.070, 411.083, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685 19

AMEND: 461-145-0260

RULE SUMMARY: OAR 461-145-0260 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0260

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

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

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

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

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

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

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

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

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

(A) Assiniboine and Sioux Tribes of Montana.¶

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

(C) Blackfeet Tribe of Montana.¶

(D) Cherokee Nation of Oklahoma.¶

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

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

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

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

(I) Fort Belknap Indian Community of Montana.¶

(J) Keweenaw Bay Indian Community of Michigan.¶

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

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

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

(N) Oglala Sioux Tribe of South Dakota.¶

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

(P) Shoshone - Bannock Tribes of Idaho.¶

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

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

(h) Public Law 95-433: Judgment funds distributed to members of the Confederated Tribes and Bands of the Yakama (formerly Yakima) Indian Nation (comprised of the Yakama Palouis, Pisquouse, Wenatchsahpam, Klikatat, Klingquit, Kow-was-say-ee, Li-was, Skin-pha, Wish-ham, Shyiks, Oechchotes, Ka-milt-pha, and Se-ap-Cat), or the Apache Tribe of the Mescalero Reservation (Mescalero Apache Tribe).¶

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

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

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

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

Tribe.¶¶

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(cc) Public Law 100-383: Per capita restitution payments made to eligible Aleuts (Unangan or Unangax) who were relocated or interned during World War II.¶¶

(dd) Public Law 101-41: Funds, assets or income received from the trust fund established and paid to the Puyallup Tribe (the Puyallup Tribe of Indians or see emboldened word in attachment) of the State of Washington under Section 9(b) of the Puyallup Tribe of Indians Settlement Act of 1989.¶¶

(ee) Public Law 101-503 Section 8(b): Settlement payments, funds distributed or held in trust to members of the Seneca Nation (Seneca Nation of Indians or O-non-dowa-gah) under the Seneca Nation Settlement Act of 1990.¶¶

(ff) Public Law 102-171: Payments to the Aroostook Band (Mi'kmaq Nation) under the Micmac Settlement Act.¶¶

(gg) Public Law 103-116: Settlement funds, income, payments or distributions from Trust Funds to members of the Catawba Indian Tribe (The Catawba Nation or yeh is-WAH h'reh) under the Catawba Indian Tribe of South

Carolina Land Claims Settlement Act of 1993.¶

(hh) Public Law 103-436: Payments from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (comprised of the Chelan or see emboldened word in attachment, Chief Joseph Band of Nez Perce or wal'wama, Colville or see emboldened word in attachment, Entiat or see emboldened word in attachment, Lakes or see emboldened word in attachment, Methow or see emboldened word in attachment, Moses-Columbia or see emboldened word in attachment, Nespelem or see emboldened word in attachment, Okanogan or see emboldened word in attachment, Palus or paluspam, Sanpoil or see emboldened word in attachment, and Wenatchi or see emboldened word in attachment).¶

(ii) Public Law 103-444: Payments made or benefits granted by the Crow Boundary Settlement Act of 1994.¶

(jj) Public Law 105-143: Distributions of judgment funds to the Ottawa and Chippewa of Michigan under the Michigan Indian Land Claims Settlement Act.¶

(kk) Public Law 108-270: Per capita distribution of judgment funds to members of the Western Shoshone Indians (Newe).¶

(ll) Public Law 111-291 section 101: Payments from the Tribal Trust Accounting and Management Lawsuits. If the funds are comingled with other funds, the resource is excluded for only 12 months and counted thereafter.¶

(mm) Tribal Benefits from timber sales or oil reserves from land held in trust by the Secretary of the Interior.¶

(3) Payments from the Bureau of Indian Affairs are treated as follows:¶

(a) In the SNAP program, payments from the General Assistance program are counted as unearned income.¶

(b) In all programs except the SNAP program, payments from the General Assistance program are excluded.¶

(c) Educational income treatment is under OAR 461-145-0150.¶

(4) In all programs except the SNAP program, the following payments are excluded unearned income. In the SNAP program, the Department excludes the first \$2,000 of each per capita payment per individual in the financial group (see OAR 461-110-0530) and the balance is counted as unearned periodic income.¶

(a) Public Law 85-794: Distribution of Per Capita Funds to the Red Lake Band of Chippewa Indians (Red Lake Nation or Miskwaagamiwi-Zaagaiganing) from the proceeds of the sale of timber and lumber on the Red Lake Reservation.¶

(b) Public Law 93-134: Indian Judgement Funds Distribution Act payments received from trust or restricted lands under 25 USC 1408.¶

(c) Public Law 97-458: Payments received from trust or restricted lands under 25 USC 1408. ¶

(5) In all programs except the ERDC and SNAP programs, the following payments are excluded unearned income. In the SNAP and ERDC programs, the Department excludes the first \$2,000 of each per capita payment per individual in the financial group and the balance is counted as unearned periodic income. ¶

(a) Public Law 100-411: Per capita payments of claims settlement funds to members of the Coushatta Tribe of Louisiana (The Sovereign Nation of the Coushatta Tribe of Louisiana).¶

(b) Public Law 100-581: Judgment funds distributed to members of the Wisconsin Band of Potawatomi (Hannahville Indian Community and Forest County Potawatomi).¶

(c) Public Law 101-618: Per capita distributions of settlement funds under the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990 (Toi-Ticutta). ¶

(6) Public Law 101-277 funds appropriated in satisfaction of judgments awarded to the Seminole and paid by the Indians Claims Commission are excluded unearned income in the SNAP program. In all programs other than the SNAP program, the Department excludes the first \$2,000 of each per capita payment per individual in the financial group and counts the balance as unearned periodic income. These payments are allocated to members of the Seminole Nation of Oklahoma, Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida and the independent Seminole of Florida.¶

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

(a) Public Law 94-189: Judgment funds distributed to members of the Sac and Fox Nation.¶

(b) Public Law 98-602: Per Capita distributions of judgment funds to members of the Wyandotte Tribe (Wyandotte Nation, see emboldened word in attachment, or Wanda; consisting of Tionontati, Attignawantan, and Wenrohronon (Wenro)) in Oklahoma and Absentee Wyandotte.¶

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

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

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

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

- (9) For the following payments, the Department excludes the first \$2,000 each year of per capita payments per individual in the financial group and counts the balance as unearned periodic income.¶
- (a) Public Law 92-203, the Alaska Native Claim Settlement Act payments.¶
 - (b) Public Law 100-241, the Alaska Native Claim Settlement Act Amendment of 1987.¶
- (10) ~~Public Law 98-500, section 8(b) (Old Age Assistance Claims Settlement Act) payments are excluded in the ERDC program. In all programs other than the ERDC program:~~ In all programs, the Department excludes the first \$2,000 of each per capita payment per individual in the financial group and counts the balance as unearned periodic income.¶
- (11) The Department excludes the first \$2,000 of each per capita payment per individual in the financial group and counts the balance as unearned periodic income for the following:¶
- (a) Public Law 100-580: Funds distributed to the Hoopa Valley Tribe and the Yurok Tribe under the Hoopa-Yurok Settlement Act, and paid by the Indian Claims Commission.¶
 - (b) Public Law 97-436: Per capita distributions of judgment funds to members of the Confederated Tribes (Wascoes, Warm Springs, Paiutes) of the Warm Springs Reservation.¶
- (12) Tribal payments for child care are treated as follows:¶
- (a) Provider-direct payments are counted as the provider's earned income.¶
 - (b) All client-direct payments are excluded.¶
- (13) Commercial fishing income under one of the Columbia River Fishing Treaties for the Confederated Tribes and Bands of the Yakama (formerly Yakima) Indian Nation (comprised of the Yakama Palouis, Pisquouse, Wenatchahpam, Klikatat, Klingquit, Kow-was-say-ee, Li-was, Skin-pha, Wish-ham, Shyiks, Ocehchotes, Ka-milt-pha, and Se-ap-Cat), Confederated Tribes of the Warm Springs (comprised of the Wascoes, Warm Springs, and Paiutes), Confederated Tribes of the Umatilla Indian Reservation (comprised of the Cayuse, Umatilla, and Walla Walla), and Nez Perce Tribe (Nimiipuu) is counted as earned income.¶
- (14) Tribal-TANF payments are counted in the same manner as TANF program payments under OAR 461-145-0410.¶
- (15) In all programs except ~~ERDC~~, TA-DVS, and TANF, all other American Indian or Alaska Native benefit payments distributed by the tribe and not excluded by public law are counted as unearned income. This includes the following:¶
- (a) Profit share or per capita income from tribal casinos¶
 - (b) Income derived from land not held in trust by the secretary of the interior such as timber sales or sale of oil reserves. ¶
 - (c) Public Law 91-259: Payments from the distribution of judgment funds to members of the Confederated Tribes of the Umatilla Indian Reservation (comprised of the Cayuse, Umatilla, and Walla Walla).¶
- (16) In the ~~ERDC~~, TA-DVS, and TANF programs, all other American Indian or Alaska Native benefit payments distributed by a Tribe and not included or excluded by public law are excluded assets (see OAR 461-001-0000). ¶
- (17) American Indian or Alaska Native lands held jointly with the tribe, or land that may not be sold without the approval of the Bureau of Indian Affairs (BIA) are excluded resources.
- Statutory/Other Authority: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049
 Statutes/Other Implemented: ORS 411.060, 411.083, 411.404, 411.816, 412.014, 412.049

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

461-145-0260

American Indian and Alaska Native Benefits; Not OSIP, OSIPM, and QMB

(2)

(dd) Public Law 101-41: Funds, assets or income received from the trust fund established and paid to the Puyallup Tribe (the Puyallup Tribe of Indians or **spuyaləpabš**) of the State of Washington under Section 9(b) of the Puyallup Tribe of Indians Settlement Act of 1989.

(hh) Public Law 103-436: Payments from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (comprised of the Chelan or **ščəlámxəx^w**, Chief Joseph Band of Nez Perce or wal'wáma, Colville or **sǰ'ý?łpx**, Entiat or **šntiyátk^{wəx^w}**, Lakes or **sńŋáyckstx**, Methow or **spałmuləx^{wəx^w}**, Moses-Columbia or **škwáxcənəx^w**, Nespelem or **nspiləm**, Okanogan or **s?uk^wna?qín**, Palus or palúspam, Sanpoil or **sńpŋawílx**, and Wenatchi or **šnpəšq^wáwšəx^w**).

(7)

(b) Public Law 98-602: Per Capita distributions of judgment funds to members of the Wyandotte Tribe (Wyandotee Nation, **Wa^wdát**, or Wanda; consisting of Tionontati, Attignawantan, and Wenrohronon (Wenro)) in Oklahoma and Absentee Wyandotte.

AMEND: 461-145-0270

RULE SUMMARY: OAR 461-145-0270 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0270

Inheritance ¶

(1) An inheritance may be received in the form of monies, property, or other assets.¶

(2) An inheritance is treated as follows:¶

~~(a) In all programs except the ERDC program:¶~~

~~(A) A noncash inheritance is treated according to the policy for the specific type of asset inherited.¶~~

~~(B) A cash inheritance is counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).¶~~

~~(b) In the ERDC program, an inheritance is excluded.~~

Statutory/Other Authority: 411.060, 411.816, 412.049

Statutes/Other Implemented: ORS 411.060, 411.105081, 411.111085, 411.730, 411.816, 411.4.042, 412.049

AMEND: 461-145-0320

RULE SUMMARY: OAR 461-145-0320 being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0320

Life Insurance ¶¶

(1) Benefits paid on a life insurance policy are counted as unearned income in the month received. Except in the QMB-BAS, QMB-SMB, and QMB-SMF programs, any amount retained into the following month is counted as a resource.¶¶

(a) The Department counts benefits as received when the insured individual dies or when the insured individual is eligible for and receives accelerated payments before death, such as when the insured individual has a terminal illness.¶¶

(b) When the payment is a lump sum due to the death of the insured individual a deduction is allowed, not to exceed \$1,500, for the cost of the deceased individual's last illness and burial if these costs were not otherwise insured.¶¶

(2) Burial insurance that generates a cash surrender value is treated in the same manner that this rule treats life insurance.¶¶

(3) Burial insurance that does not generate a cash surrender value is treated as follows:¶¶

(a) For all programs except OSIP, OSIPM, and QMB-DW, it is excluded. ¶¶

(b) In the OSIP, OSIPM, and QMB-DW programs, it is considered an irrevocable burial arrangement and treated in accordance with OAR 461-145-0040. ¶¶

(4) When the ownership or beneficiary of a life insurance policy has been irrevocably assigned and designated for burial, it is treated in accordance with OAR 461-145-0040 and is not counted towards the \$1500 life insurance limit.¶¶

(5) The value of a life insurance policy is treated as follows:¶¶

(a) All term insurance that has no cash surrender value is excluded.¶¶

(b) In the ~~ERDC~~, QMB-BAS, QMB-SMB, QMB-SMF, REF, REFM, SFPSS, SNAP, TA-DVS, Pre-TANF, and TANF programs, the cash surrender value of the life insurance policy is excluded.¶¶

(c) In the OSIP, OSIPM, and QMB-DW programs:¶¶

(A) For the purposes of this subsection, the following definitions apply:¶¶

(i) "Cash surrender value" means the equity that the policy acquires over time.¶¶

(ii) "Dividend" means a payment of surplus company earnings from the insurer.¶¶

(iii) "Dividend accumulation" means a dividend left with the insurer to accumulate interest that may be withdrawn without affecting the policy's face value or cash surrender value.¶¶

(iv) "Dividend addition" means the amount of insurance purchased with a dividend that increases the policy's death benefit and cash surrender value.¶¶

(v) "Face value" means the amount of the death benefit contracted for at the time the policy was purchased and does not include a dividend addition added after purchase of the policy.¶¶

(vi) "Viatical settlement" means an agreement allowing a third party to acquire a life insurance policy from a terminally ill individual at an agreed-upon percentage of the life insurance policy's face value.¶¶

(B) The cash surrender value of life insurance policies owned by the financial group (see 461-110-0530) is excluded if the total face value of all policies for the insured individual is less than or equal to \$1,500. If the total face value of all policies for the insured individual is more than \$1,500, the entire cash surrender value are counted as a resource to the owner of the policies. The total face value does not include any dividend addition. A dividend accumulation must count as a resource even if the face value of the policy that generated the dividend accumulation is excluded.¶¶

(C) The face value of term life insurance policies excluded under subsection (a) of this section are not counted in determining if the \$1,500.00 life insurance exclusion limit is exceeded.¶¶

(D) The cash surrender value of a policy acquired through a viatical settlement is excluded.

Statutory/Other Authority: ORS 411.706, 411.816, 412.049, 413.085, 414.685, ~~ORS 329A.500~~19, 409.050, 411.060, 411.070, 411.083, 411.404, 411.704

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 413.085, 414.68519, 414.839, ~~ORS 329A.500~~117

AMEND: 461-145-0330

RULE SUMMARY: OAR 461-145-0330 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0330

Loans and Interest on Loans ¶¶

(1) This rule covers proceeds of loans, loan repayments, and interest earned by a lender. If the proceeds of a loan are used to purchase an asset, the asset is evaluated under the other rules in this division of rules.¶¶

(2) For purposes of this rule:¶¶

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

(A) "Bona fide loan agreement" means an agreement that:¶¶

(i) Is enforceable under state law;¶¶

(ii) Is in effect at the time the cash proceeds are provided to the borrower; and¶¶

(iii) Includes an obligation to repay and a feasible repayment plan.¶¶

(B) "Negotiable loan agreement" means a loan agreement in which the instrument ownership and the whole amount of money expressed on its face can be transferred from one person to another (i.e., sold) at prevailing market rates.¶¶

(b) In all programs:¶¶

(A) "Reverse-annuity mortgage" means a contract with a financial institution (see OAR 461-001-0000) under which the financial institution provides payments against the equity in the home that must be repaid when the homeowner dies, sells the home, or moves.¶¶

(B) The proceeds of a home equity loan or reverse-annuity mortgage (see paragraph (A) of this subsection) are considered loans.¶¶

(3) In all programs, in order to treat payments as a loan that a member of the financial group (see OAR 461-110-0530) receives as a borrower, there must be an oral or written loan agreement. This agreement must state when repayment of the loan is due to the lender.¶¶

(4) Payments for a purported loan that do not meet the requirements of section (3) of this rule are counted as unearned income.¶¶

(5) When a member of a financial group receives cash proceeds as a borrower from a loan that meets the requirements of section (3) of this rule:¶¶

(a) In all programs, educational loans are treated according to OAR 461-145-0150.¶¶

(b) In the ERDC, REF, REFM, SNAP, and TANF programs, the loan is excluded. If retained after the month of receipt, the loan proceeds are treated in accordance with OAR 461-140-0070.¶¶

(c) In the OSIP, OSIPM, and QMB-DW programs:¶¶

(A) If the loan is a bona fide loan agreement (see paragraph (2)(a)(A) of this rule), the money provided by the lender is not income but is counted as the borrower's resource if retained in the month following the month of receipt (notwithstanding OAR 461-140-0070).¶¶

(B) If the loan is not a bona fide loan agreement, the money provided by the lender is counted as income in the month received and is counted as a resource if retained in the month following the month it was received.¶¶

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

(A) If the loan is a bona fide loan agreement, the money provided by the lender is not considered income.¶¶

(B) If the loan is not a bona fide loan agreement, the money provided by the lender is counted as income in the month received.¶¶

(C) All money provided by the lender is excluded as a resource.¶¶

(6) In the OSIPM (except OSIPM-EPD) program, if an individual or a spouse (see OAR 461-001-0000) of an individual uses funds to purchase a mortgage or to purchase or lend money for a promissory note or loan:¶¶

(a) In a transaction occurring on or after July 1, 2006:¶¶

(A) The balance of the payments owing to the individual or spouse of the individual is a transfer of assets for less than fair market value (see OAR 461-001-0000), unless all of the following requirements are met:¶¶

(i) The total value of the transaction is being repaid to the individual or spouse of the individual within three months of the life expectancy per the actuarial life expectancy of that individual as established by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration. If the loan, promissory note, or mortgage are jointly owned by the individual and their spouse, the requirements of this section are met if the

transaction is repaid according to the life expectancy of either the individual or their spouse.¶

(ii) Payments are made in equal amounts over the term of the transaction without any deferrals or balloon payments.¶

(iii) The contract is not cancelled upon the death of the individual receiving the payments under this transaction.¶

(iv) No one other than the estate of the lender is designated as remainder beneficiary. ¶

(B) If any of the requirements in paragraph (a)(A) of this section are not met, payments against the principal and interest are treated as unearned income. The outstanding principal balance of the loan is excluded as a resource.¶

(b) In a transaction occurring before July 1, 2006, or for a transaction occurring on or after July 1, 2006, that meets all of the requirements of subsection (a) of this section, the loan is treated as follows:¶

(A) Interest income is treated as unearned income.¶

(B) If the loan is both a negotiable loan agreement (see paragraph (2)(a)(B) of this rule) and a bona fide loan agreement, the loan is counted as a resource valued at the outstanding principal balance. Payments against the principal are excluded as income.¶

(C) If the loan does not qualify under paragraph (B) of this subsection, payments against the principal are counted as unearned income. The outstanding principal balance of the loan is excluded as a resource.¶

(7) In the OSIP, OSIPM, and QMB-DW programs, if an individual uses funds to purchase a mortgage or to purchase or lend money for a promissory note or loan:¶

(a) Interest income is treated as unearned income.¶

(b) If the loan is both a negotiable loan agreement and a bona fide loan agreement, the loan is counted as a resource of the lender valued at the outstanding principal balance. Payments against the principal are excluded as income.¶

(c) If the loan does not qualify under subsection (b) of this section, the balance of the loan is excluded as a resource. The payments against the principal are counted as income to the lender.¶

(8) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, if an individual uses funds to purchase a mortgage or to purchase or lend money for a promissory note or loan:¶

(a) Interest income is counted as unearned income.¶

(b) Payments against the principal of all loans are excluded as income.¶

(9) In all programs other than the OSIP, OSIPM, and QMB programs:¶

(a) The interest payment is counted as unearned income.¶

(b) The payment of principal is excluded.

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

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

AMEND: 461-145-0360

RULE SUMMARY: OAR 461-145-0360 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELDC) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0360
Motor Vehicle ¶

(1) The value of disability-related apparatus, optional equipment, or low mileage is not considered in determining the fair market value (see OAR 461-001-0000) of an automobile, truck, or van. The fair market value of an automobile, truck, or van is presumed to be the "average trade-in value" established in the National Automobile Dealers Association's (NADA) Used Car Guide, Kelley Blue Book, or similar publication. A client individual may rebut the presumption with a statement from a car dealer, mechanic, or other reliable source. If the vehicle is not listed in the NADA Used Car Guide, Kelley Blue Book, or a similar publication, the estimate of the value by the client individual may be accepted unless it appears questionable, in which case additional evidence of the value is required.¶

(2) Some programs permit an exclusion for a portion of the equity value (see OAR 461-001-0000) for any licensed and unlicensed motor vehicles owned by the financial group (see OAR 461-110-0530):¶

(a) In the REF, REFM, SNAP, and TANF programs, this exclusion is up to \$10,000 of the total equity value of all vehicles.¶

(b) Any remaining equity in the total equity value of all vehicles is counted as a resource.¶

(3) In the EA and ERDC programs, all motor vehicles are excluded.¶

(4) In the OSIP, OSIPM, and QMB-DW programs:¶

(a) The total value of a vehicle selected by the financial group is excluded if it is used for transportation of the client individual or a member of the client individual's household.¶

(b) The total equity value of any vehicle not excluded under subsection (a) of this section and all other vehicles is counted as a resource.¶

(5) In the OSIP-EPD and OSIPM-EPD programs, if a vehicle was purchased as an employment and independence expense (see OAR 461-001-0035) or with moneys from an approved account (see OAR 461-001-0035), the total value of the vehicle is excluded.

Statutory/Other Authority: ORS ~~329A.500~~, 409.050, 411.060, 411.070, 411.083, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 413.085, 414.065

Statutes/Other Implemented: ORS ~~329A.500~~, 409.010, 411.060, 411.070, 411.083, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049

AMEND: 461-145-0365

RULE SUMMARY: OAR 461-145-0365 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0365

National and Community Services Trust Act (NCSTA), including AmeriCorps (other than AmeriCorps VISTA) ¶

(1) The National and Community Service Trust Act (NCSTA) of 1993 (P.L. 103-82) amended the National and Community Service Act (NCSA) of 1990 (P.L. 101-610) that established a Corporation for National and Community Service. The Corporation administers national service programs providing living allowance, educational award, child care, and in-kind benefits.¶

(2) NCSTA payments, including AmeriCorps (except AmeriCorps VISTA which is covered in OAR 461-145-0110) are treated as follows:¶

(a) The living allowance (stipend benefits) is excluded.¶

(b) Educational award and in-kind benefits are excluded.¶

(c) The child care allowance is treated as follows:¶

(A) For client individuals in the ~~ERDC~~, REF, REFM, and TANF programs who are eligible for direct provider payment of child care, the allowance is counted as unearned income. The allowance is excluded only if the client individual already pays the provider. The provider may be paid for only the costs not covered by the allowance.¶

(B) For client individuals in the SNAP program who are receiving a child care deduction, the deduction is allowed only for the costs not covered by the allowance.¶

(C) In all other programs, the allowance is excluded.

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

Statutes/Other Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.049

AMEND: 461-145-0400

RULE SUMMARY: OAR 461-145-0400 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELDC) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0400

Personal Injury Settlement ¶

(1) For all programs ~~except the ERDC program~~, personal injury settlements are treated as follows:¶

(a) Monthly payments are counted as unearned income.¶

(b) For ~~client~~ individuals in all programs; ~~except grandfathered clients in the~~ individuals eligible for OSIP and OSIPM programs (see under OAR 461-125-0330(2), 461-125-0370(1)(b), and 461-135-0771); all other payments are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).¶

(c) For ~~grandfathered OSIP and OSIPM clients,~~ individuals eligible for OSIP and OSIPM under OAR 461-125-0330(2), 461-125-0370(1)(b), and 461-135-0771; the balance from personal injury claims after the Department's lien is satisfied is counted as lump-sum income (see OAR 461-140-0120). If the lien was not filed due to the recipient's failure to notify the Department of the claim, the payment is counted as unearned income.¶

(2) ~~In the ERDC program, personal injury settlements are excluded.~~¶

(3) This rule does not apply to workers compensation payments (see OAR 461-145-0590 for the treatment of those payments).

Statutory/Other Authority: ORS 411.060, 411.730, 411.816, 412.049

Statutes/Other Implemented: ORS 411.060, 411.700083, 411.730, 411.816, 412.049

AMEND: 461-145-0410

RULE SUMMARY: OAR 461-145-0410 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELCO) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0410

Program Benefits ¶¶

(1) EA; Emergency Assistance payments are treated as follows:¶¶

(a) In the ~~ERDC and~~ SNAP programs, a payment made directly to the ~~client~~financial group (see OAR 461-110-0530) is counted as unearned income. Dual payee and provider-direct payments are excluded.¶¶

(b) In all programs except the ~~ERDC and~~ SNAP programs, these payments are excluded.¶¶

(2) Employment Payments (see OAR 461-001-0025 and 461-135-1270) are treated as follows:¶¶

(a) In the REF, REFM, SNAP, and TANF programs, these payments are counted as unearned income in the month received.¶¶

(b) In all programs not covered in subsection (a) of this section, these payments are excluded.¶¶

(3) Payments from ERDC and TANF child care are excluded unless the ~~client~~individual is the provider.¶¶

(4) Payments from the MAGI medical (including MAGI-CHIP), OSIPM, QMB, and REFM programs are excluded.¶¶

(5) Payments from JPI (see OAR 461-135-1260) are issued as a food benefit and are excluded.¶¶

(6) SNAP payments are treated as follows:¶¶

(a) The value of an SNAP benefit is excluded in all programs except the EA program. In the EA program, the value is counted as a resource when determining the emergency food needs of the filing group (see OAR 461-110-0310 and 461-110-0370).¶¶

(b) OFSET service payments are excluded.¶¶

(7) Benefits from the GA, OSIP (except OSIPM-ICP), REF, SFPSS, TANF, and ~~tribal~~Tribal TANF programs are treated as follows:¶¶

(a) In the EA program, these payments are counted as unearned income, except that these payments are excluded for a benefit group (see OAR 461-110-0750) whose emergent need is the result of domestic violence (see OAR 461-001-0000).¶¶

(b) ~~In the ERDC program, payments are counted as unearned income.~~¶¶

(~~c~~) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, these payments are excluded.¶¶

(~~d~~) In the SNAP program:¶¶

(A) These payments are treated as unearned income.¶¶

(B) An amount received as a late processing payment is treated as lump-sum income (see OAR 461-001-0000 and 461-140-0120).¶¶

(C) Payments made to correct an underpayment are treated as lump-sum income.¶¶

(D) Ongoing special needs payments for laundry allowances, special diet or meal allowance, restaurant meals, accommodation allowances, and telephone allowances are treated as unearned income. All other special needs payments are excluded as reimbursements.¶¶

(~~e~~) In all programs except the EA, ~~ERDC~~, QMB-BAS, QMB-SMB, QMB-SMF, and SNAP programs:¶¶

(A) These payments are excluded in the month received, and any portion remaining following the month of receipt is counted as a resource.¶¶

(B) Payments made to correct an underpayment are excluded.¶¶

(~~f~~) In all programs:¶¶

(A) JOBS, REF, and TANF JOBS Plus support service payments are excluded.¶¶

(B) For the treatment of JOBS Plus income, see OAR 461-145-0130.¶¶

(8) Payments from OSIPM-ICP (OSIPM-Independent Choices Program) are treated as follows:¶¶

(a) In the SNAP program, these payments are counted as unearned income and assets held in a contingency fund (see OAR 411-030-0020) are counted as a resource.¶¶

(b) In all other programs, these payments and funds held in a contingency fund are excluded.¶¶

(9) Pre-TANF program payments are treated as follows:¶¶

(a) In the SNAP program, a payment for basic living expenses, made directly to the ~~client~~financial group, is counted as unearned income. All other payments are excluded.¶¶

(b) In all programs except the SNAP program, these payments are excluded.¶¶

(10) TA-DVS payments are excluded for all programs.

Statutory/Other Authority: ~~ORS 329A.500~~, 409.050, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.68519

Statutes/Other Implemented: ~~ORS 329A.500~~, 409.010, 411.083, 411.404, 411.700083, 411.816, 412.014, 412.049, 7 CFR 273.9

AMEND: 461-145-0420

RULE SUMMARY: OAR 461-145-0420 being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0420

Real Property ¶¶

(1) For purposes of this rule, manufactured and mobile homes and floating homes and houseboats are treated in the same manner as real property (see OAR 461-001-0000).¶¶

(2) The applicant has the burden of proof of establishing the fair market value (see OAR 461-001-0000) of real property. Fair market value may be established by any methodology determined to accurately reflect the fair market value of the real property, including the provision of an appraisal or comparative market analysis performed by an impartial individual who is certified or licensed in the applicable jurisdiction.¶¶

(3) Real property that is not income-producing or the home of the financial group (see OAR 461-110-0530) is treated as follows:¶¶

(a) In the REF, REFM, and TANF programs, the equity value (see OAR 461-001-0000) of all real property that is not excluded under an Interim Assistance agreement is counted as a resource.¶¶

(b) In the EA and ~~ERDC~~ programs, real property is excluded.¶¶

(c) In the SNAP program, real property is treated as follows:¶¶

(A) The equity value of real property is excluded if the financial group is making a good-faith effort to sell the real property at a fair market price.¶¶

(B) The equity value of the real property is counted as a resource if the financial group refuses to make a good-faith effort to sell.¶¶

(C) The resource is excluded if selling the resource would produce a net gain to the financial group of less than \$1,500.¶¶

(d) In the OSIP, OSIPM, and QMB-DW programs:¶¶

(A) The equity value of real property that was the home of the financial group is excluded if the financial group is making a good-faith effort to sell the real property at a reasonable price, unless the equity value in the home makes the ~~client~~ individual ineligible under OAR 461-145-0220(2)(a).¶¶

(B) The equity value of all other real property is excluded if the financial group is making a good-faith effort to sell the real property at a reasonable price. The equity value is counted after the real property is excluded for nine months unless the failure to sell it is for reasons beyond the reasonable control of the financial group.¶¶

(4) The treatment of real property that is income producing is covered in OAR 461-145-0250 and 461-145-0252.¶¶

(5) The treatment of the home of the financial group is covered in OAR 461-145-0220.

Statutory/Other Authority: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 419.019

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

AMEND: 461-145-0433

RULE SUMMARY: OAR 461-145-0433 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0433

Recreational Vehicles ¶¶

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

(1) For purposes of this rule, a recreational vehicle includes both of the following subsections:¶¶

(a) A vehicle (a means for carrying or transporting something) if:¶¶

(A) The vehicle is used primarily for amusement and not for day-to-day transportation; and¶¶

(B) The vehicle cannot be licensed as a motor vehicle for use on a public highway (even if the vehicle is registered or licensed as a non-motor vehicle).¶¶

(b) An ATV, boat, camper, dune buggy, plane, snowmobile, and trailer, unless one of the following applies:¶¶

(A) The item qualifies as a capital asset (see OAR 461-001-0000). ¶¶

(B) The item qualifies as work-related equipment (see OAR 461-145-0600).¶¶

(2) Except as provided in section (43) and (54) of this rule, ~~for all programs except ERDC,~~ the equity value (see OAR 461-001-0000) of a recreational vehicle is counted as a resource.¶¶

~~(3) In the ERDC program, the value of a recreational vehicle is excluded.¶¶~~

(4) In the SNAP program only, the equity value of a recreational vehicle is excluded if selling the vehicle would produce a net gain to the financial group of less than \$1,500.¶¶

(54) In the OSIP and OSIPM programs, items used as a means of day-to-day transportation or used for OSIP-EPD and OSIPM-EPD are treated in accordance with OAR 461-145-0360.

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

Statutes/Other Implemented: ORS 411.060, 411.070, ~~411.700~~083, 411.816, 412.049

AMEND: 461-145-0440

RULE SUMMARY: OAR 461-145-0440 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELDC) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0440

Reimbursement ¶¶

(1) For the treatment of USDA meal reimbursements, see OAR 461-145-0570.¶¶

(2) The reimbursement (see OAR 461-001-0000) of a business expense for an individual who is self-employed is treated as self-employment income (see OAR 461-145-0910, 461-145-0915, and 461-145-0920).¶¶

(3) Except as provided in sections (1) and (2) of this rule, a reimbursement is treated as follows:¶¶

(a) ~~In the ERDC program, a reimbursement is excluded, except that a reimbursement for child care from a source outside of the Department is counted as unearned income.¶¶~~

~~(b) In the SNAP program:¶¶~~

~~(A) A reimbursement in the form of money for a normal household living expense, such as rent or payment on a home loan, personal clothing, or food eaten at home, is unearned income.¶¶~~

~~(B) Any other reimbursement is treated as follows:¶¶~~

~~(i) An in-kind reimbursement is excluded.¶¶~~

~~(ii) A reimbursement in the form of money is excluded if used for the identified expense, unless the expense is covered by program benefits.¶¶~~

~~(iii) A reimbursement is counted as periodic income (see OAR 461-001-0000 and 461-140-0110) or lump-sum income (see OAR 461-001-0000 and 461-140-0120) if not used for the identified expense.¶¶~~

~~(iv) A reimbursement for an item already covered by the benefits of the benefit group (see OAR 461-110-0750) is counted as periodic income or lump-sum income.¶¶~~

~~(e) In the OSIP, OSIPM, QMB, and SNAP programs, a reimbursement from a business entity that benefits a principal (see OAR 461-145-0088) is counted as earned income (see OAR 461-145-0130).¶¶~~

~~(d) In all programs except the ERDC and SNAP programs, a reimbursement is treated as follows:¶¶~~

~~(A) An in-kind reimbursement is excluded.¶¶~~

~~(B) A reimbursement in the form of money is excluded if used for the identified expense, unless the expense is covered by program benefits.¶¶~~

~~(C) A reimbursement is counted as periodic income or lump-sum income if not used for the identified expense.¶¶~~

~~(D) A reimbursement for an item already covered by the benefits of the benefit group is counted as follows:¶¶~~

~~(i) In all programs except the OSIPM and QMB programs, it is counted as unearned income.¶¶~~

~~(ii) In the OSIPM and QMB programs, it is counted as unearned income unless the payment is turned over to the Department (see OAR 461-120-0315).¶¶~~

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

Statutes/Other Implemented: ORS 659.830, 743B.470, ~~ORS 329A.500~~, ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.68519

AMEND: 461-145-0455

RULE SUMMARY: OAR 461-145-0455 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELCO) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0455

Resettlement and Placement (R&P) Grants ¶¶

(1) A Reception and Placement (R&P) grant is a payment made by the United States Department of State through a national refugee resettlement agency to a local resettlement agency, refugee sponsor, or refugee. An R&P grant is provided to the resettlement agency to help with the costs of initial resettlement of a refugee in the United States. The resettlement agency provides a part of this grant to the refugee, usually in the refugee's first month after arrival, for the refugee's initial resettlement needs and not for ongoing living expenses.¶¶

(2) In the ~~ERDC~~, REF, REFM, and TANF programs, an R&P grant is excluded from consideration as income or a resource for purposes of determining program eligibility or benefit levels, except as provided in OAR 461-140-0070.¶¶

(3) In the SNAP program, any amount paid directly to a SNAP household from an R&P grant is counted as unearned income. For an in-kind payment made directly to a provider by the resettlement agency, see OAR 461-145-0280.¶¶

(4) In the OSIP, OSIPM, and QMB programs, an R&P grant determined to be available to the refugee case is considered unearned income.

Statutory/Other Authority: ORS 411.060, 411.116, 411.404, 411.816, 412.049

Statutes/Other Implemented: ORS 411.060, 411.070, 411.116, 411.404, 411.816, 412.006, 412.049

RULE SUMMARY: OAR 461-145-0460 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELDC) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0460

Sale of a Resource ¶¶

- ~~(1) In the ERDC program, all proceeds from the sale of a resource are excluded as income and as a resource.¶¶~~
~~(2) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, for the sale of a resource (including a home):¶¶~~
(a) The interest portion of proceeds is counted as unearned income.¶¶
(b) The principal portion of proceeds is excluded as income.¶¶
~~(3) In the OSIPM, and QMB-DW programs:¶¶~~
(a) The principal portion of proceeds from the sale of a resource (other than a home) received on a monthly or other periodic basis is counted as a resource.¶¶
(b) The principal portion of proceeds from the sale of a resource (other than a home) received on a lump-sum basis are treated as follows:¶¶
(A) If the proceeds are from the sale of an excluded resource, the amount reinvested in another excluded resource is excluded, and the remainder is counted as a resource.¶¶
(B) Proceeds from all other sales are counted as a resource.¶¶
(c) The interest portion of proceeds from the sale of a resource (other than a home) received on a monthly, other periodic, or lump-sum basis is counted as unearned income.¶¶
(d) Proceeds from the sale of a home of the financial group (see OAR 461-110-0530) are treated as follows:¶¶
(A) Principal payments, including lump-sum payments, are excluded for three full calendar months from the date of receipt if the financial group intends to use the proceeds to buy another home or for associated costs including:¶¶
(i) Down payments.¶¶
(ii) Settlement costs.¶¶
(iii) Loan processing fees and points.¶¶
(iv) Moving expenses.¶¶
(v) Necessary repairs to or replacement of the new home's structure or fixtures (including roof, furnace, plumbing, built-in appliances) that are identified and documented prior to occupancy.¶¶
(vi) Mortgage payments.¶¶
(B) For the purposes of paragraph (A) of this subsection, funds obligated by contract during these three full calendar months are also excluded.¶¶
(C) Interest payments are counted as unearned income.¶¶
(e) For individuals eligible for OSIPM under OAR 461-135-0771, the proceeds from the sale of the home of the financial group, if the financial group intends to use them to buy another home (paragraphs (d)(A) and (d)(B) of this section set out the scope of use of excluded proceeds), are treated as follows:¶¶
(A) Principal payments, including lump-sum payments, are excluded for 12 full calendar months from the date of receipt.¶¶
(B) Interest payments are counted as unearned income.¶¶
(f) Proceeds from the sale of a home that are not reinvested in another home are treated as follows:¶¶
(A) Principal payments are counted as a resource.¶¶
(B) Interest payments are treated as unearned income.¶¶
~~(4) In the REF, REFM, and TANF programs:¶¶~~
(a) Proceeds from the sale of an excluded resource to the extent reinvested in another excluded resource are excluded as income and as a resource.¶¶
(b) All proceeds from the sale of the resource are counted as unearned income, unless excluded in subsection (a) of this section.¶¶
~~(5) In the SNAP program, proceeds from the sale of a resource are treated as follows:¶¶~~
(a) Proceeds from the sale of a resource (other than a home):¶¶
(A) Received on a monthly or other periodic basis are counted as unearned income.¶¶
(B) Received on a lump-sum basis:¶¶
(i) From the sale of an excluded resource, the amount reinvested in another excluded resource is excluded, and the

remainder is counted as a resource.¶

(ii) From all other sales are counted as a resource.¶

(iii) If the proceeds put the benefit group (see OAR 461-110-0750) over the resource limit, the proceeds are counted as periodic or lump sum income (see OAR 461-140-0110 and 461-140-0120).¶

(b) Proceeds from the sale of the home of the financial group (see OAR 461-110-0530):¶

(A) If the financial group intends to use the proceeds to buy another home, are excluded for three months and counted as a resource thereafter.¶

(B) If not reinvested in another home, are treated as a resource.¶

(C) Interest received monthly or on another periodic basis from the sale of a home is counted as unearned income.¶

(c) Proceeds from the sale of a work-related asset including equipment and inventory, if the ~~client~~individual is self-employed, the proceeds of the sale are treated as self-employment income (see OAR 461-145-0910).¶

(65) Costs of the type excluded under OAR 461-145-0920 are subtracted from proceeds counted as income under this rule.

Statutory/Other Authority: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.68519

Statutes/Other Implemented: ORS 409.010, 409.050, 410.010, 410.070, 410.080, 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.68519, 414.839117

AMEND: 461-145-0470

RULE SUMMARY: OAR 461-145-0470 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELDC) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0470

Shelter-in-Kind Income ¶¶

(1) Except as provided in section (2) of this rule:¶¶

~~(a) In the ERDC program, shelter-in-kind (see OAR 461-001-0000) payments are excluded, except earned shelter-in-kind is not excluded in the ERDC program.¶¶~~

~~(b) In the GA program, for the purposes of determining the housing assistance payment (see OAR 461-160-0500), shelter-in-kind in the form of rent or other housing costs paid by a third party is counted as income.¶¶~~

~~(c) In the REF, REFM, and TANF programs, except for child support (see OAR 461-145-0080 and 461-145-0280), shelter-in-kind payments are excluded.¶¶~~

~~(d) In the SNAP program, shelter-in-kind housing and utility payments are excluded (see OAR 461-145-0130 about exclusion of earned in-kind income), except an expenditure by a business entity for shelter costs (see OAR 461-001-0000) of a principal (see OAR 461-145-0088) is counted as income.¶¶~~

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

~~(A) Unearned shelter-in-kind, including payments made to a third party for shelter expenses of the financial group (see OAR 461-110-0530), is excluded.¶¶~~

~~(B) Earned shelter-in-kind income is treated as follows:¶¶~~

~~(i) If shelter is provided on the employer's business premises, living at that location is a reasonable expectation of the job duties, and acceptance of the shelter is a condition of employment with no option to accept the value of the shelter in money, the shelter-in-kind income is excluded.¶¶~~

~~(ii) Except as provided in subparagraph (i) of this paragraph, the fair market value (see OAR 461-001-0000) of the shelter or the amount of any payment made to a third party for shelter expenses of the financial group is counted as earned income.¶¶~~

(2) In all programs except the OSIP, OSIPM, and QMB programs, a payment for which there is a legal obligation to pay to a member of the financial group (see OAR 461-110-0530) that is made to a third party for shelter expenses of a member of the financial group is counted as unearned income.

Statutory/Other Authority: ~~ORS 329A.500, 409.050, 411.060, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685~~19

Statutes/Other Implemented: ~~ORS 329A.500, 409.010, 411.060, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 411.4.042, 414.685~~19

AMEND: 461-145-0490

RULE SUMMARY: OAR 461-145-0490 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0490

Social Security Benefits ¶¶

Except for Supplemental Security Income (SSI) (see OAR 461-145-0510) and death benefits remaining after burial costs (see OAR 461-145-0500), Social Security benefits are treated as follows:¶¶

(1) Monthly payments are counted as unearned income.¶¶

(2) Except as provided in sections (3) and (4) of this rule, all payments other than monthly payments are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).¶¶

(3) In the ERDC, REF, REFM, SNAP, TA-DVS, and TANF programs, the representative payee fee paid by an individual who is required by the Social Security Administration to receive payments through a representative payee is excluded. The amount of the exclusion is limited to the amount authorized by the Social Security Administration.¶¶

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

(a) For the purposes of this section, a payment is retroactive if it is issued in any month after the calendar month for which it is intended.¶¶

(b) Retroactive payments are counted as unearned income in the month of receipt except as provided in subsection (c) of this section.¶¶

(c) When retroactive payments are made through the representative payee of an individual who is required to have a representative payee because of a drug or alcohol use disorder, the retroactive payments may be required to be made in installments. If the payments are made in installments, the total of the benefits to be paid in installments is considered unearned income in the month in which the first installment is made.¶¶

(d) Except in the QMB-BAS, QMB-SMB, and QMB-SMF programs, any remaining amount from a retroactive payment after the month of receipt is excluded as a resource for nine calendar months following the month in which the payment is received. After the nine-month period, any remaining amount is a countable (see OAR 461-001-0000) resource.

Statutory/Other Authority: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, ~~ORS 329A.50019~~

Statutes/Other Implemented: ORS 409.010, 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685~~19~~, 414.839, ~~ORS 329A.500117~~

AMEND: 461-145-0505

RULE SUMMARY: OAR 461-145-0505 being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELCO) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0505

Spousal Support ¶

(1) In the ~~ERDC~~, OSIP, OSIPM, and QMB programs, spousal support (see OAR 461-001-0000) is counted as unearned income. ¶

(2) In the SNAP program: ¶

(a) Payments made by the separated or divorced spouse to a third party for the benefit of the financial group are excluded, except that a payment for which there is a legal obligation to pay to a member of the financial group that is made to a third party for shelter expenses of a member of the financial group is counted as unearned income. ¶

(b) Spousal support is counted as unearned income. ¶

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

(a) For ~~client~~individuals not working under a TANF JOBS Plus agreement, if the spousal support is received by the Department or Department of Justice and if continued receipt of the spousal support is reasonably anticipated, the spousal support is: -- ¶

(A) Counted as unearned income when determining eligibility; and ¶

(B) Excluded when determining the REF and TANF benefit amount. ¶

(b) For ~~client~~individuals working under a TANF JOBS Plus agreement: ¶

(A) Spousal support is excluded in determining countable income. ¶

(B) Spousal support is excluded when calculating the TANF portion of the benefit equivalency standards. ¶

(C) Spousal support received by the ~~client~~individual is counted as unearned income when calculating the wage supplement. ¶

(c) Other spousal support payments (not covered under subsections (a) or (b) of this section) are counted as unearned income.

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

Statutes/Other Implemented: ORS 411.060, 411.070, 411.404, 411.700083, 411.816, 412.049

AMEND: 461-145-0510

RULE SUMMARY: OAR 461-145-0510 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELCO) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0510

Supplemental Security Income (SSI) ¶¶

(1) In the ~~ERDC~~, REF, REFM, SNAP, TA-DVS, and TANF programs, if an individual is required by law to receive a Supplemental Security Income (SSI) benefit through a representative payee, the representative's fee is excluded.¶¶

~~(2) In the ERDC program:¶¶~~

~~(a) A monthly SSI payment is counted as unearned income.¶¶~~

~~(b) Lump-sum SSI payments are counted according to OAR 461-140-0120.¶¶~~

~~(3) In the OSIP, OSIPM, and QMB-DW programs:¶¶~~

(a) A retroactive SSI payment is excluded as a resource for nine months after the month of receipt. After the nine-month period, any remaining amount is a countable (see OAR 461-001-0000) resource. For the purposes of this section, a payment is retroactive if it is issued in any month after the calendar month for which it is intended.¶¶

(b) All SSI payments received by members of the financial group (see OAR 461-110-0530) are counted as unearned income in the month received.¶¶

~~(43) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all SSI payments received by members of the financial group are counted as unearned income in the month received.¶¶~~

~~(54) In the REF, REFM, and TANF programs:¶¶~~

(a) SSI monthly and lump-sum payments are excluded if the recipient will be removed from the financial group (see OAR 461-110-0530) the month following receipt of the payment.¶¶

(b) An SSI lump-sum payment is excluded in the month received and the next month.¶¶

~~(65) In the SNAP program:¶¶~~

(a) A monthly SSI payment is counted as unearned income.¶¶

(b) A lump-sum SSI payment is excluded.

Statutory/Other Authority: ~~ORS 329A.500~~, 409.050, 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.68519

Statutes/Other Implemented: ~~ORS 329A.500~~, 409.010, 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.68519, 414.839117

AMEND: 461-145-0540

RULE SUMMARY: OAR 461-145-0540 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELCO) as required by House Bill 3073 (2021 regular session). It is also being amended to address the treatment of revocable trusts in the OSIP, OSIPM, and QMB-DW programs.

CHANGES TO RULE:

461-145-0540

Trusts ¶

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

(1) This section applies to all trust funds (see OAR 461-001-0000) in the REF, REFM, SNAP, and TANF programs. It also applies in the OSIP, OSIPM, and QMB-DW programs for trust funds established before October 1, 1993:¶

(a) Trust funds are counted as a resource if the fund is legally available for use by a member of the financial group (see OAR 461-110-0530) for items covered by program benefits.¶

(b) Trust funds are excluded if the fund is not available for use by a member of the financial group. The financial group must try to remove legal restrictions on the trust, unless that would cause an expense to the group.¶

(c) The part of the fund available for use for medical expenses covered by the medical program for which the financial group is eligible is counted.¶

(d) In the OSIP, OSIPM, and QMB-DW programs, the amount of the trust that is considered legally available is the maximum amount that could be distributed to the beneficiary under the terms of the trust, regardless of whether the trustee exercises his or her authority to actually make a distribution.¶

~~(2) In the ERDC program, all trust funds are excluded; and a revocable trust is available as a resource, in the maximum amount that could be distributed in the event of revocation.¶~~

~~(32) In the OSIP, OSIPM, and QMB-DW programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (54) to (140) of this rule.¶~~

~~(43) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:¶~~

~~(a) All trust funds are excluded as a resource.¶~~

~~(b) A payment made from the trust to or for the benefit of the individual is counted as unearned income.¶~~

~~(54) A trust is considered established if the financial group used their resources to form all or part of the trust and if any of the following established a trust, other than by a will:¶~~

~~(a) The individual.¶~~

~~(b) The individual's spouse.¶~~

~~(c) Any other person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse.¶~~

~~(d) Any other person, including a court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.¶~~

~~(65) If the trust contains resources or income of another person, only the share attributable to the individual is considered available.¶~~

~~(76) Except as provided in section (109) of this rule, the following factors are ignored when determining how to treat a trust:¶~~

~~(a) The purpose for which the trust was established.¶~~

~~(b) Whether or not the trustees have or exercise any discretion under the trust.¶~~

~~(c) Any restrictions on when or if distributions may be made from the trust.¶~~

~~(d) Any restrictions on the use of distributions from the trust.¶~~

~~(87) If the trust is revocable, it is treated as follows:¶~~

~~(a) In the OSIP, OSIPM, and QMB-DW programs:¶~~

~~(A) The total value of the trust is considered a resource available to the individual.¶~~

~~(B) A payment made from the trust to or for the benefit of the individual is excluded as income.¶~~

~~(b) In the ERDC, REF, REFM, SNAP, and TANF programs:¶~~

~~(A) The total value of the trust is considered a resource available to the individual.¶~~

~~(B) A payment made from the trust to or for the benefit of the individual is considered unearned income.¶~~

~~(c) A payment from the trust other than to or for the benefit of the individual is considered a transfer of assets covered by OAR 461-140-0210 and following.¶~~

~~(98) If the trust is irrevocable, it is treated as follows:¶~~

~~(a) If, under any circumstances, the funds transferred into the trust are unavailable to the individual and the~~

trustee has no discretion to distribute the funds to or for the benefit of the individual, the individual is subject to a transfer-of-resources penalty as provided in OAR 461-140-0210 and following.¶

(b) If, under any circumstances, payments could be made to or on behalf of the individual, the share of the trust from which the payment could be made is considered a resource. A payment from the trust other than one to or for the benefit of the individual is considered a transfer of assets that may be covered by OAR 461-140-0210.¶

(c) If, under any circumstances, income is generated by the trust and could be paid to the individual, the income is unearned income. Payments made for any reason other than to or for the benefit of the individual are considered a transfer of assets subject to disqualification per OAR 461-140-0210.¶

(d) If any change in circumstance makes assets (income or resources) from the trust unavailable to the individual, the change is a disqualifying transfer as of the date of the change.¶

(109) Notwithstanding the provisions in sections (1), (32), and (54) to (98) of this rule, the following trusts are not considered in determining eligibility (see OAR 461-001-0000) for OSIPM and QMB-DW:¶

(a) A trust containing the assets of an individual determined to have a disability that meets the Supplemental Security Income (SSI) criteria, if all of the following are met:¶

(A) The trust was created before the individual reached age 65;¶

(B) The state will receive all funds remaining in the trust upon the death of the individual, up to the amount of medical assistance provided on behalf of the individual;¶

(C) All funding of and transfers to the trust occurred before the individual reached age 65 (if funding or transfers occur after that time, see OAR 461-140-0210 as it may constitute a disqualifying transfer of assets); and ¶

(D) The trust was established by one of the following:¶

(i) The individual if the trust was established on or after December 13, 2016,¶

(ii) The individual's parent (see OAR 461-001-0000),¶

(iii) The individual's grandparent,¶

(iv) The individual's legal guardian or conservator, or¶

(v) A court.¶

(b) A trust established between October 1, 1993 and March 31, 1995 for the benefit of the individual and containing only the current and accumulated income of the individual. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the individual up to the amount of medical assistance provided on behalf of the individual. The trust is the total income in excess of the income standard for OSIPM. The remaining income not deposited into the trust is available for the following deductions in the order they appear prior to applying the patient liability:¶

(A) Personal-needs allowance.¶

(B) Community spouse monthly maintenance needs allowance.¶

(C) Medicare and other private medical insurance premiums.¶

(D) Other incurred medical.¶

(c) A trust established on or after April 1, 1995 for the benefit of the individual whose income is above 300 percent of the full SSI standard and containing the current and accumulated income of the individual. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the individual up to the amount of medical assistance provided on behalf of the individual. The trust contains all of the individual's income. The income deposited into the trust is distributed monthly in the following order with excess amounts treated as income to the individual subject to the rules on transfer of assets in division 140 of this chapter of rules:¶

(A) An earned income deduction of \$65 from earned income.¶

(B) The deductions under the plan for self-support as allowed by OAR 461-145-0405.¶

(C) Personal needs allowance and applicable room and board standard.¶

(D) Reasonable administrative costs of the trust, not to exceed a total of \$50 per month, including the following:¶

(i) Trustee fees.¶

(ii) A reserve for administrative fees and costs of the trust, including bank service charges, copy charges, postage, accounting and tax preparation fees, future legal expenses, and income taxes attributable to trust income.¶

(iii) Conservatorship and guardianship fees and costs.¶

(E) Community spouse and family monthly maintenance needs allowance.¶

(F) Medicare and other private medical insurance premiums.¶

(G) Other incurred medical costs as allowed under OAR 461-160-0030 and 461-160-0055.¶

(H) Contributions to reserves or payments for child support, alimony, and income taxes.¶

(I) Monthly contributions to reserves or payments for the purchase of an irrevocable burial plan with a maximum value of \$5,000.¶

(J) Contributions to a reserve or payments for home maintenance if the individual meets the criteria of OAR 461-155-0660 or OAR 461-160-0630.¶

(K) Patient liability not to exceed the cost of home and community-based care (see OAR 461-001-0030) or nursing facility services.¶

(110) This section of the rule applies to a trust signed on or after July 1, 2006.¶

(a) Notwithstanding the provisions of sections (1), (32) and (54) to (98) of this rule, a trust that meets the requirements of subsection (b) of this section is not considered in determining eligibility for OSIPM and QMB-DW, except that if the individual is age 65 or older when the trust is funded or a transfer is made to the trust, the transfer may constitute a disqualifying transfer of assets under OAR 461-140-0210 and following.¶

(b) This section of the rule applies to a trust that meets all of the following conditions:¶

(A) The trust is established and managed by a non-profit association.¶

(B) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.¶

(C) The trust is established by the individual, individual's parent, grandparent, or legal guardian or a court for individuals who have disabilities.¶

(D) Upon the death of the beneficiary or termination of the trust, the trust pays to the state an amount equal to the total medical assistance paid on behalf of the beneficiary under the State plan for Medicaid. The amount paid to the state may be reduced by administrative costs directly related to administering the sub-trust account of the beneficiary.¶

(E) The trust contains the resources or income of an individual who has a disability that meets the SSI criteria.¶

(121) In the OSIP, OSIPM, and QMB-DW programs, the provisions of this rule may be waived for an irrevocable trust if the Department determines that denial of benefits would create an undue hardship on the individual if, among other things:¶

(a) The absence of the services requested may result in a life-threatening situation.¶

(b) The individual was a victim of fraud or misrepresentation.

Statutory/Other Authority: ~~ORS 329A.500, 409.050, 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685~~19

Statutes/Other Implemented: ~~ORS 329A.500, 409.010, 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685~~19, 409.010, 414.839117

AMEND: 461-145-0590

RULE SUMMARY: OAR 461-145-0590 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0590

Workers Compensation ¶¶

(1) For workers compensation payments received monthly or more frequently:¶¶

(a) Except as provided in subsection (b) of this section, these payments are counted as unearned income.¶¶

(b) In the ~~ERDC~~, REF, REFM, SNAP, and TANF programs, income from workers compensation is counted as earned income (see OAR 461-145-0130) if paid to a ~~client~~ individual who is still employed while recuperating from an illness or injury.¶¶

(2) All workers compensation payments other than those in section (1) are counted as periodic or lump sum income (see OAR 461-140-0110 and 461-140-0120).

Statutory/Other Authority: ORS 411.060, 411.816, 412.049

Statutes/Other Implemented: ORS 411.060, 411.700083, 411.816, 412.049

AMEND: 461-145-0600

RULE SUMMARY: OAR 461-145-0600 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0600

Work-Related Capital Assets, Equipment, and Inventory ¶

(1) As used in this rule:¶

(a) "Inventory" means goods that are in stock and available for sale to prospective customers.¶

(b) "Work-related equipment" means property essential to the employment or self-employment of a financial group (see OAR 461-110-0530) member. Examples are a tradesman's tools, a farmer's machinery, and equipment used to maintain an income-producing vehicle.¶

(2) A capital asset (see OAR 461-001-0000), other than work-related equipment (see section (1) of this rule) and inventory (see section (1) of this rule), is treated as follows:¶

~~(a) In the ERDC program, the equity value (see OAR 461-001-0000) of a capital asset is treated according to the rules for the asset.¶~~

~~(b) In the SNAP program, a capital asset used in a business is excluded as follows:¶~~

~~(A) Non-farm assets are excluded as long as the financial group is actively engaged in self-employment activities.¶~~

~~(B) Farm assets are excluded until one year after the date the individual quit self-employment as a farmer.¶~~

~~(c) In the REF, REFM, and TANF programs, the value of a capital asset is counted according to the rules in this division of rules¶~~

~~(d) In the OSIP, OSIPM, and QMB-DW programs, a capital asset is excluded.¶~~

(3) Work-related equipment is treated as follows:¶

(a) In the EA, ~~ERDC~~, OSIP, OSIPM, QMB-DW, and SNAP programs, the equity value of work-related equipment is excluded.¶

(b) In the REF, REFM, and TANF programs, the equity value of the equipment is treated as a resource.¶

(4) Inventory is treated as follows:¶

(a) In the EA, ~~ERDC~~, OSIP, OSIPM, QMB-DW, and SNAP programs, inventory is excluded as long as the individual is engaged in self-employment activities.¶

(b) In the REF, REFM, and TANF programs, the wholesale value of inventory remaining at the end of a month, less encumbrances, is counted as a resource.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.68519

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.404, 411.816, 412.014, 412.049, 413.085, 414.68519, 414.839117

AMEND: 461-145-0820

RULE SUMMARY: OAR 461-145-0820 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELCO) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0820

Deemed Assets; Noncitizens Sponsor ¶¶

(1) An individual or organization may sponsor the admission of a noncitizen under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154).¶¶

(2) An affidavit of support (USCIS Form I-864) is the agreement between the sponsor and the United States Citizenship and Immigration Services in which the sponsor agrees to provide financial support for the noncitizen so that the noncitizen will not become a public charge.¶¶

(3) In all programs except the ERDC, OSIP, OSIPM, QMB, REF, and REFM programs, the countable assets of an individual sponsor and the spouse of the sponsor are considered countable assets of the noncitizen as provided in this section and OAR 461-145-0810 to 461-145-0860. The sponsor's assets are considered available to the noncitizen whether or not the sponsor lives in the same household as the noncitizen. The assets of the sponsor's spouse are considered available only when the spouse lives in the sponsor's household.¶¶

(4) OAR 461-145-0830 sets out situations in which the assets of the sponsor and the spouse of the sponsor are not counted, as well as how the income deemed available to the noncitizen is calculated.¶¶

(5) The value of the resources deemed available to each noncitizen is determined as follows:¶¶

(a) In all programs except the SNAP program, the total value of the countable resources is deemed to each sponsored noncitizen according to the rules of the program for which the noncitizen applies.¶¶

(b) In the SNAP program only, \$1,500 is deducted from the value. The remaining value is divided by the number of noncitizens sponsored by the individual or couple. The result is the value of the resources deemed available to the noncitizen.

Statutory/Other Authority: ~~ORS 329A.500~~, 409.050, 411.060, 411.070, 411.083, 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025

Statutes/Other Implemented: ~~ORS 329A.500~~, 409.010, 411.060, 411.070, 411.083, 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 8 USC 1183a

AMEND: 461-145-0830

RULE SUMMARY: OAR 461-145-0830 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELCO) as required by House Bill 3073 (2021 regular session). It may also be amended to replace the term "battered."

CHANGES TO RULE:

461-145-0830

When to Deem the Assets of a Sponsor of a Noncitizen and How Income is Deemed ¶

(1) In the ~~ERDC~~, OSIP, OSIPM, QMB, REF, and REFM programs, the assets (see OAR 461-001-0000) of a sponsor and the spouse (see OAR 461-001-0000) of the sponsor are not deemed to the sponsored noncitizen.¶

(2) In all programs except the ~~ERDC~~, OSIP, OSIPM, QMB, REF, and REFM programs, the assets of a sponsor and the spouse of the sponsor are considered the assets of the sponsored noncitizen, and are subject to deeming (see sections (3) and (4) of this rule), unless at least one of the following subsections applies:¶

(a) The sponsor has not signed a legally binding affidavit of support, for instance USCIS Form I-864 or I-864A.¶

(b) The sponsor receives SNAP, Supplemental Security Income (SSI), or TANF benefits.¶

(c) The sponsor is deceased. The estate of a deceased sponsor is not responsible for the noncitizen.¶

(d) The sponsored noncitizen establishes indigence. A sponsored noncitizen establishes indigence if the total income of the household including in-kind income plus any cash, food, housing, or other assistance provided by other individuals including the sponsor is:¶

(A) In the TANF program, under the countable (see OAR 461-001-0000) income standard.¶

(B) In the SNAP program, under the countable income limit, set at 130 percent of the federal poverty level (see OAR 461-155-0180).¶

(C) Each indigence determination under this subsection is effective for 12 months and may be renewed for additional 12-month periods.¶

(e) The sponsored noncitizen is a battered immigrant spouse, battered immigrant child, immigrant parent of a battered child or an immigrant child of a battered parent, as long as the battered noncitizen does not live in the same household as the person responsible for the battery.¶

(f) The sponsored noncitizen does not meet the ~~an~~noncitizen status requirement for the program for which ~~the or~~ shey applies.¶

(g) The sponsored noncitizen becomes a naturalized citizen.¶

(h) The sponsored noncitizen can be credited with 40 qualifying quarters of work.¶

(i) The sponsored noncitizen is under 18 years of age.¶

(3) In all programs except the ~~ERDC~~, OSIP, OSIPM, QMB, REF, and REFM programs, the following process is used to determine the amount of income considered available to the noncitizen from the noncitizen's sponsor and the spouse of the sponsor. The unearned income of the sponsor and the sponsor's spouse is added to their countable earned income (see OAR 461-140-0010) minus earned income deductions.¶

(4) In the SNAP program when section (2) of this rule does not apply, the income of the sponsor and the spouse of the sponsor is deemed to the sponsored noncitizen and included in the gross countable income of the noncitizen. The income of the sponsor and the spouse of the sponsor goes through the following steps to determine the amount of income to deem:¶

(a) Step One: The gross countable unearned income of the sponsor and the spouse of the sponsor are included in the subtotal.¶

(b) Step Two: The gross countable earned income of the sponsor and the spouse of the sponsor receive a 20 percent earned income deduction and the result is included in the subtotal. If the earned income of the sponsor or the spouse of the sponsor is from self-employment, the gross income is allowed deductions under OAR 461-145-0920 and OAR 161-145-0930 to determine the countable earned income amount.¶

(c) Step Three: The subtotal receives a deduction equal to the countable income limit under OAR 461-155-0190, which is set at 130 percent of the federal poverty level, for the need group (see OAR 461-110-0630) size of the sponsor. The need group size of the sponsor is determined by including the sponsor, the spouse of the sponsor, and any dependents that are claimed on federal taxes by the sponsor. The sponsored noncitizen and the members of the sponsored noncitizen's filing group (see OAR 461-110-0310 and OAR 461-110-0370) are not included when determining the need group size of the sponsor.¶

(d) Step Four: The remaining amount is divided evenly between all noncitizens sponsored by the sponsor or the spouse of the sponsor and any citizen child (see OAR 461-001-0000) or sponsored noncitizen child in the filing

group of the sponsored noncitizen. The result is the income portion for each individual.¶

(e) Step Five: The income portion of each adult (OAR 461-001-0015) sponsored noncitizen in the filing group is deemed to the sponsored noncitizen and included in their countable income.

Statutory/Other Authority: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.816, 413.085, 414.025, 414.685, ~~ORS 329A.500~~19, 409.050

Statutes/Other Implemented: ORS 411.060, 411.070, 411.083, 409.010, 411.404, 411.704, 411.816, 412.049, 414.025, 8 USC 1183a, ~~ORS 329A.500~~, 409.010, 7 CFR 273.9, 7 CFR 273.4

RULE SUMMARY: OAR 461-145-0910 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0910

Self-Employment; General; Not OSIP, OSIPM, or QMB ¶¶

(1) Self-employment income is income resulting from an individual's business, trade, or profession, rather than from a salary or wage paid by an employer. An individual is considered self-employed if the individual meets the criteria in sections (2) or (3) of this rule. Except as noted in section (3) of this rule when an individual has established a corporation, determine if the individual is self-employed according to section (2) of this rule. If the individual has more than one self-employment business, trade, or profession, the income from each is determined separately.¶¶

(2) Except as provided in OAR 461-145-0250(1), an individual is self-employed for the purposes of this division of rules if the individual meets the requirements of one or more of (a), (b), or (c):¶¶

(a) Files taxes as self-employed for their business on their personal taxes.¶¶

(b) Is considered an independent contractor by the business.¶¶

(c) Meets all the following criteria:¶¶

(A) Is not required by the business to complete an IRS W-4 form;¶¶

(B) Is not required to pay federal income tax or FICA payments from their paycheck(s);¶¶

(C) Liability or worker's compensation insurance for the individual is not paid by the business;¶¶

(D) Meets at least one of the following:¶¶

(i) Creates or provides the products or services they sell, or¶¶

(ii) Sets the price for the products or services they sell;¶¶

(E) Is responsible for the business expense and losses; and¶¶

(F) Receives profits from the business.¶¶

(3) Notwithstanding section (2) of this rule:¶¶

(a) Homecare Workers (see OAR 411-031-0020) paid by the Department are not self-employed.¶¶

(b) Providers considered an employee of an Aging and People with Disabilities, Office of Developmental Disabilities Services, or Oregon Health Authority benefit recipient, such as Independent Choices Program (see OAR 411-030-0100) providers, Personal Support Workers (see OAR 411-375-0000), and Personal Care Attendants (see OAR 410-172-0810) are not self-employed.¶¶

~~(c) Child care providers (see OAR 461-165-0180) paid by the Department, a~~Specific self-employment income types and professions:¶¶

(A) The following individuals are considered self-employed:¶¶

(i) Child care providers for the ERDC program.¶¶

(ii) Adult foster home providers (see OAR 411-050-0602) paid by the Department, and¶¶

(iii) Realty agents, and individuals who sell.¶¶

(B) The following income types are considered self-employment:¶¶

(i) Selling plasma, and¶¶

(ii) Redeeming beverage containers, pick¶¶

(iii) Foraging items to sell (mushrooms for saexample), or engage in sand¶¶

(iv) Similar enterprises are considered to be self-employed.¶¶

~~(4) In the ERDC, REF, SNAP, and TANF programs, self-employment income is counted prospectively to determine eligibility (see OAR 461-001-0000) as follows:~~¶¶

~~(a) Self-employment income is annualized when it is:~~¶¶

~~(A) Received during less than a 12-month period but is intended as a full year's income.~~¶¶

~~(B) From a business that has operated for a full year and the previous year is representative of what the income and costs will be during the budget month.~~¶¶

~~(b) Except in the ERDC program, s~~Self-employment income is treated as anticipated income when a financial group (see OAR 461-110-0530) begins self-employment and is unable to determine what the income and costs will be during the budget month.¶¶

~~(5) In the REFM program:~~¶¶

~~(a) Self-employment income is counted only if received in the month of application.~~¶¶

(b) If self-employment income counted in the month of application puts the applicant over the income limits for REFIM, the income is calculated according to section (4) of this rule.¶

(6) When determining the amount of countable (see OAR 461-001-0000) self-employment income, ~~the Department follows OAR 461-145-0930~~ use gross receipts and sales, including mileage reimbursements, before costs.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.68519

Statutes/Other Implemented: ~~ORS 409.010, 409.050~~, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.68519, ORS 409.010, 409.050

RULE SUMMARY: OAR 461- 145-0920 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from 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:

461-145-0920

Self-Employment; Costs that are Excluded to Determine Countable Income ¶¶

- (1) This rule explains how to determine which costs are excluded from gross self-employment income.¶¶
- (2) In all programs except the DSNAP, OSIP, OSIPM, and QMB programs, unless prohibited by section (4) of this rule, and subject to the provisions of sections (7) and (8) of this rule and OAR 461-145-0930, the necessary costs of producing self-employment income are excluded from gross sales and receipts including, but not limited to:¶¶
- (a) Labor (wages paid to an employee or work contracted out).¶¶
 - (b) Materials used to make a product.¶¶
 - (c) In the SNAP program - principal and interest paid to purchase income-producing property (see OAR 461-001-0000), such as real property, equipment, or capital assets. In all other programs, interest paid to purchase income-producing property, such as equipment or capital assets.¶¶
 - (d) Insurance premiums, taxes, assessments, and utilities paid on income-producing property.¶¶
 - (e) Service, repair, and rental of business equipment, including motor vehicles, and property that is owned, leased, or rented.¶¶
 - (f) Advertisement and business supplies.¶¶
 - (g) Licenses, permits, legal, or professional fees.¶¶
 - (h) Transportation costs at 20 cents per mile, if the cost is part of the business expense. Commuting expenses to and from the worksite are not part of the business expense.¶¶
 - (i) Charges for telephone service that are a necessary cost for self-employment.¶¶
 - (j) Meals and snacks provided by family day care providers for children in their care, except the provider's own children. The actual cost of the meals is used if the provider can document the cost. If the provider cannot document the actual cost, the USDA meal reimbursement rates are used.¶¶
 - (k) Materials purchased for resale, such as cosmetic products.¶¶
 - (L) For newspaper carriers, the cost of newspapers, bags, and rubber bands.¶¶
- (3) In the OSIP, OSIPM, and QMB programs, unless prohibited by section (5) of this rule, and subject to the provisions of sections (7) and (8) of this rule and OAR 461-145-0930, the necessary costs of producing self-employment income are excluded from gross sales and receipts including, but not limited to:¶¶
- (a) Advertising.¶¶
 - (b) Car and truck expenses.¶¶
 - (c) Commissions and fees.¶¶
 - (d) Contract labor.¶¶
 - (e) Depletion.¶¶
 - (f) Depreciation.¶¶
 - (g) Employee benefit programs.¶¶
 - (h) Insurance, other than health.¶¶
 - (i) Mortgage interest.¶¶
 - (j) Legal and professional services.¶¶
 - (k) Office expenses.¶¶
 - (L) Pension and profit-sharing plans.¶¶
 - (m) Rent or lease of vehicles, machinery, equipment, and other business property.¶¶
 - (n) Repairs and maintenance.¶¶
 - (o) Supplies.¶¶
 - (p) Taxes and licenses.¶¶
 - (q) Travel, meals, and entertainment.¶¶
 - (r) Utilities.¶¶
 - (s) Wages, less employment credits.¶¶
 - (t) Meals and snacks provided by family day care providers for children in their care, except the provider's own children. The actual cost of the meals is used if the provider is able to document the cost. If the provider is unable to document the actual cost, the USDA meal reimbursement rates are used.¶¶

- (u) Materials purchased for resale, such as cosmetic products.¶¶
 - (v) For newspaper carriers, the cost of newspapers, bags, and rubber bands.¶¶
 - (4) In all programs except the OSIP, OSIPM, and QMB programs, the following costs are not excluded from gross sales and receipts:¶¶
 - (a) Business losses from previous months.¶¶
 - (b) Except in the SNAP program, payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods.¶¶
 - (c) Federal, state, and local income taxes, draws or salaries paid to any financial group member, money set aside for personal retirement, and other work-related personal expenses, such as transportation, personal business, and entertainment expenses.¶¶
 - (d) Depreciation. For purposes of this section, "depreciation" means a prorated lessening of value assigned to a capital asset (see OAR 461-001-0000) based on its useful life expectancy and initial cost.¶¶
 - (e) Costs related to traveling to another area to seek business when there is no reasonable possibility of deriving income from the trip.¶¶
 - (f) Interest or fees on personal credit cards.¶¶
 - (g) Personal telephone charges.¶¶
 - (h) Shelter or utility costs associated with the individual's home, except as authorized by section (7) of this rule.¶¶
 - (5) In the OSIP, OSIPM, and QMB programs, the following costs are not excluded from gross sales and receipts:¶¶
 - (a) Federal, state, and local income taxes.¶¶
 - (b) Costs related to traveling to another area to seek business when there is no reasonable possibility of deriving income from the trip.¶¶
 - (c) Interest or fees on personal credit cards.¶¶
 - (d) Personal telephone charges.¶¶
 - (e) Shelter or utility costs associated with the individual's home, except as authorized by section (7) of this rule.¶¶
 - (6) In the DSNAP (461-101-0010) program, self-employment costs include out of pocket disaster-related expenses the household has paid or is expected to pay during the disaster benefit period authorized by FNS and where the expenses are not expected to be reimbursed during the disaster period. If the household has received or reasonably anticipates receiving a reimbursement for part or all of the expenses during the disaster benefit period, only the net expense to the household is deductible. The necessary costs of producing self-employment income are excluded from gross sales and receipts including, but not limited to:¶¶
 - (a) Damage or destruction to self-employment business.¶¶
 - (b) Equipment and supplies.¶¶
 - (c) Disaster-damaged vehicle expenses.¶¶
 - (d) Business property protection.¶¶
 - (e) Storage.¶¶
 - (f) Clean-up.¶¶
 - (g) Costs paid by credit card are excluded unless the bill is also paid during the benefit period.¶¶
 - (h) Costs listed in (2) that are incurred during the disaster benefit period.¶¶
 - (7) The exclusions for items used for both business and personal purposes, such as automobiles and a residence, including utilities, are limited by the following subsections:¶¶
 - (a) In the ERDC, OSIP, OSIPM, and QMB programs, the portion of the expense that is for business use only is excluded.¶¶
 - (b) In the SNAP program, costs are excluded for a separate office or shop located on the property used as a home, if the costs are billed separately from the residence. Costs for other items used for both business and personal use are excluded.¶¶
 - (8) If no member of the financial group (see OAR 461-110-0530) has been self-employed for a sufficiently long period to ascertain the costs of self-employment, the costs may be estimated.
- Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.68519
- Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.68519, 414.839117

AMEND: 461-145-0930

RULE SUMMARY: OAR 461-145-0930 is being amended to remove rule provisions regarding how assets are treated when determining eligibility for the Employment Related Day Care (ERDC) program from Chapter 461 as the authority and administration of the ERDC program is being transferred from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELCO) as required by House Bill 3073 (2021 regular session).

CHANGES TO RULE:

461-145-0930

Self-Employment; Determination of Countable Income ¶¶

This rule explains how different programs exclude or deduct costs from self-employment gross sales and receipts to determine countable (OAR 461-001-0000) income from self-employment.¶¶

(1) The Department initially determines gross self-employment income, totaling gross sales and receipts, including mileage reimbursements, minus any returns and allowances. If there are costs permitted under OAR 461-145-0920, the Department allows deductions or exclusions from the gross self-employment income in accordance with this rule to determine countable (OAR 461-001-0000) income from self-employment.¶¶

~~(2) In the ERDC program, no costs are deducted or excluded.¶¶~~

~~(3) In the OSIP, OSIPM, and QMB programs, all costs permitted under OAR 461-145-0920 are excluded.¶¶~~

~~(4) In the REF, REFM, and TANF programs, no costs are excluded.¶¶~~

~~(5) In the SNAP program, if there are any costs permitted under OAR 461-145-0920, there is an exclusion of 50 percent of gross self-employment income.¶¶~~

~~(6) In the DSNAP program, the Department allows all actual costs permitted under OAR 461-145-0920.~~

~~Statutory/Other Authority: ORS 414.685, 414.826, ORS 329A.500, 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.049, 413.085~~

~~Statutes/Other Implemented: ORS 414.826, 7 CFR 280.1, ORS 329A.500, 409.010, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.009, 412.049~~