

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 461  
DEPARTMENT OF HUMAN SERVICES  
SELF-SUFFICIENCY PROGRAMS

**FILED**

04/28/2023 12:20 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Proposing changes about APD Program Eligibility, Payment Standards, Change Reporting, and Notice Requirements

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/18/2023 11:55 AM

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

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Filed By:  
Lay Jennifer  
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HEARING(S)

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

DATE: 05/24/2023

TIME: 1:00 PM - 2:30 PM

OFFICER: Jennifer Lay and Meorah Solar

REMOTE MEETING DETAILS

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

PHONE NUMBER: 669-254-5252

CONFERENCE ID: 1619457677

SPECIAL INSTRUCTIONS:

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, are experiencing a disability and need this document in another format, have questions, or would like these materials in a different format, please, at least 48 hours before the meeting: Contact Jennifer Lay at 541-844-6136 or Meorah Solar at 503-602-7545, 711 TTY or email ruleshearings.ch461@odhsoha.oregon.gov

NEED FOR THE RULE(S)

OAR 461-001-0000 about Definitions for Chapter 461 needs to be amended to include all current MAGI based methodology medical and dental programs. The current rule is missing a few recently established programs.

OAR 461-101-0010 about Program Acronyms and Overview needs to be amended to clarify who may be covered by Oregon Supplemental Income Program Medical (OSIPM) and to add references to OSIPM subprograms. The current rule is missing some OSIPM subprograms.

OAR 461-135-0834 about Delivery of Required Notices to the Estate Administration Unit needs to be amended to

update requirements for notices to the Estate Administration Unit (EAU). The legislature enacted changes to the probate code in 2019 to allow for special conditions for wrongful death probate cases. The EAU is amending this rule to require that a long form death certificate is required to be sent to EAU as it assists staff to analyze claims. This rule also needs to be amended to expand the ways in which many of the notices can be sent to EAU. It adds both the unit's fax number and email addresses as methods that can be used to comply with the rule for notices.

OAR 461-140-0296 about Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM needs to be amended to remove income cap trust-related OSIP and OSIPM disqualifications from rule. Removing the disqualifications based on accumulations of funds in income carp trusts will greatly reduce the burden on Department staff to monitor and deal with this complicated and time-consuming disqualification type, further reduce barriers to eligibility, and enhance the beneficial goals of the recent elimination of the patient liability for recipients of in-home services. It also needs to be amended to make temporary changes to this rule permanent.

OAR 461-155-0210 about Payment Standards and Methods of Issuance; GA needs to be amended to raise rental, utility and cash assistance benefits for General Assistance (GA) recipients by 9%. This percentage increase aligns with the current Social Security Administration (SSA) Supplemental Security Income (SSI) cost of living adjustment. Current GA benefits provided are insufficient to meet the needs of GA recipients. Since inception in 2016, GA benefits have not been raised, even though SSA SSI rates have increased year-over-year. In addition, fair market value of rental rates throughout Oregon have increased year-over-year. The 9% increase this year to GA benefits will help meet the needs of GA recipients. Additionally, this rule needs to be amended to make temporary rule changes permanent.

OAR 461-160-0620 about Income Deductions and Patient Liability; Long Term Care Services or Home and Community Based Care; OSIPM needs to be amended to reflect annually published federal spousal impoverishment adjustments.

OAR 461-170-0011 about Changes That Must Be Reported needs to be amended to remove the requirement that a resident of a public institution whose medical benefits were suspended report a change in incarceration status within 10 days of the change. This change supports and aligns with a 4/1/23 rule change in OAR 461-135-0950 (Residents of Public Institutions) removing the 12-month period benefits were suspended due to admission into a public institution as well as the 10-day deadline to report the change. In addition, this rule needs to be amended to clearly indicate that individuals with open TANF, REF, and State Family Pre-SSI Program (SFPSS) benefits must report a change in employment status within ten days if their case is assigned to the Change Report System (CRS). This clarification supports and aligns with Department policy and procedures.

OAR 461-180-0130 about Effective Dates; Restored Benefits needs to be amended to replace "incarcerated" with "resident of a public institution" and to remove reference to time limits for suspension of benefits. This rule change is needed to align with changes made to OAR 461-135-0950 effective 4/1/23.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

OAR 461-135-0834:

Data from Oregon Judicial Department report from Odyssey system listing all probates, including probate subtype in January 2023, available from the Office of Payment Accuracy and Recovery (OPAR) Estate Administration Unit's Policy Analyst Team.

OAR 461-140-0296:

Cost of Care Survey

<https://www.genworth.com/aging-and-you/finances/cost-of-care.html>

OAR 461-155-0210:

Fair Market Rent data from 2016 to 2023

<https://www.rentdata.org/states/oregon/2016>

<https://www.rentdata.org/states/oregon/2023>

SSA SSI COLA increases

<https://www.ssa.gov/oact/cola/colaseries.html>

OAR 461-160-0620:

Centers for Medicare and Medicaid Services Informational Bulletin

<https://www.medicaid.gov/federal-policy-guidance/downloads/ssi-spousal-cib-01-2023-508.pdf>

No documents relied upon for any other rule changes in this filing.

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

OAR 461-135-0834:

The Department is unable to provide an accurate racial equity impact statement regarding changes to OAR 461-135-0834 as probate cases and underlying wrongful death tort cases do not include that data point. However, data received from a January 2023 report of probates filed with the Oregon Judicial Department, reflected less than two percent of all probate cases in the state of Oregon would have fallen under the case type that will (newly) require the filing of a long form death certificate (17 out of 949 cases in January 2023 were classified as "wrongful death"). Because of this small number, the Department believes if there is any racial equity impact it will be very small.

OAR 461-155-0210:

The Department is unable to provide an accurate racial equity impact statement regarding changes to OAR 461-155-0210 as the Department does not have racial data on General Assistance recipients.

OAR 461-001-0000, 461-101-0010, 461-140-0296, 461-160-0620, 461-170-0011, 461-180-0130:

The Department estimates no impact to racial equity in Oregon regarding changes to OAR 461-001-0000, 461-101-0010, 461-140-0296, 461-160-0620, 461-170-0011, and 461-180-0130.

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#### FISCAL AND ECONOMIC IMPACT:

OAR 461-001-0000, 461-101-0010, 461-160-0620, 461-170-0011, 461-180-0130:

The Department estimates that the amendments to OAR 461-001-0000, 461-101-0010, 461-160-0620, 461-170-0011, and 461-180-0130 will have no fiscal impact on those applying for or receiving benefits or services, the Department, other state agencies, local government, and business including small business. There is no cost of compliance for small business.

OAR 461-135-0834:

The Department estimates the proposed changes to OAR 461-135-0834 will have a small positive fiscal impact to the Department as it will decrease some Office of Payment Accuracy and Recovery, Estate Administration Unit (OPAR EAU) workload, including when they will have to order and pay for long form death certificates. The Department is unable to estimate a specific dollar amount as the exact time needed for just these duties has not been calculated, and how many cases will be impacted varies month to month (to note: January 2023 numbers showed that less than two percent of Oregon probate cases fell under this change). The Department does not believe there will be a significant economic impact to recipients or providers by this change. There will be a small potential increase to the cost of administering the estates of deceased recipients. Long form death certificates are commonly ordered for wrongful

death and probate cases, as well as for insurance and other reasons. So, the cost of compliance will be either the cost to copy a document the family of the recipient already has, or \$25 to order a new document to comply with this rule. The change in methods of notice will likely be an economic advantage to the estates as mailing and postage costs may be reduced by allowing alternative methods of delivery to EAU. The small businesses that this will impact are generally small law firms. The probate cases affected by the addition to section 2 of this rule change are nearly exclusively filed by attorneys. The economic impact to these businesses is very small, with a small additional time charge and cost to obtain the death certificate. It is hard to be sure exactly how many. According to the Oregon State Bar economic survey, tax and estate planning firms, which likely is the type of firm that would be tasked with complying and understanding this rule, make up approximately 16 percent of all Oregon law practices. The survey contained 1,000 responses to this question, and the survey itself had an approximately 34 percent response rate. The survey showed that only seven percent of law practices have more than 60 attorneys. Due to the fairly low response rate, it is difficult to make an exact inference from the data about the exact number of firms that would have to comply with this new rule, but it would likely be well over 100 firms. The changes to section 5 of this rule will make compliance easier and more economical because it allows notices to EAU to be sent via email and fax. Furthermore, the rule allows these businesses to comply with the rule with the traditional mailing methods. These businesses already have this equipment and supplies, so nothing new would be required for compliance. The fiscal impact and cost of compliance will not be significantly adverse. The Department estimates no fiscal impact to local government; small businesses except those mentioned above; or large businesses.

#### OAR 461-140-0296:

The Department estimates the amendment to OAR 461-140-0296 will have a limited fiscal impact on the Department, as individuals' income cap trusts with greater accumulations of funds will nevertheless still be subject to the requirements of the income cap trust rule itself (OAR 461-145-0540(10(c))), which requires the trustee to pay all funds remaining in the trust to the Department upon the death of the individual. This rule change will greatly reduce the burden on the Department and contracted Local County Government staff who will no longer need to monitor and handle this complicated and time-consuming disqualification. The Department estimates a positive fiscal impact on individuals who would have served a disqualification period under this rule, however, as everyone's circumstances are unique (including rate of fund accumulation and loss of benefit value during the disqualification), an accurate fiscal cannot be projected. To note, individuals' income cap trusts with greater accumulations of funds will still be subject to the requirements of the income cap trust rule itself (OAR 461-145-0540(10(c))), which requires the trustee to pay all funds remaining in the trust to the Department upon the death of the individual.

The Department estimates no fiscal impact to local government (other than what is stated above), small businesses, or large businesses. There is no cost of compliance for small business.

#### OAR 461-155-0210:

The Department estimates the amendments to OAR 461-155-0210 will have a negative fiscal impact to the Department and a positive fiscal impact to those receiving GA. As an increased benefit to those receiving GA is a Department cost, the fiscal impacts of this rule change are related, though opposite. Up to 200 individuals can receive GA at a time, however, right now there are 123 individuals receiving GA benefits. Individuals will each receive a total of \$15/month more in PIF + Utility assistance, which is a total negative impact to the Department of \$1845 per month. If every GA space was filled, the maximum negative fiscal impact to the Department would be \$3000 per month in PIF + Utility assistance. Individuals also have the potential to receive up to \$50 more in monthly rental assistance, but currently only 11 individuals qualify for an increase in rental assistance based on their rental agreement. The immediate fiscal impact is \$50 more benefit for each qualifying individual and \$550 of increased monthly cost to the Department. In the unlikely scenario that every GA space was filled and each one received the maximum rental assistance, the maximum negative fiscal impact to the Department would be \$10,000 per month. Based on historical average, the Department pays rental assistance in approximately 55% of cases and of those, the maximum rental assistance is

usually not paid out, therefore the anticipated maximum negative fiscal impact on the Department is closer to \$5500 per month. The above negative fiscal impact to the Department is lessened significantly by the fact that GA benefits paid out by the Department are collected against the Social Security back awards of individuals who received GA and are approved for SSI. As approximately 20 percent of individuals who receive GA benefits are not approved for SSI benefits, the Department anticipates 20 percent of any increased costs to not be restored back to the Department, which is estimated to be an absolute maximum of \$2600 per month. Likewise, the above positive fiscal impact to individuals who receive GA is lessened as the increase in GA benefits will result in an increase in the amount the Department is reimbursed from the individual's SSI benefit back award. The Department estimates no fiscal impact to other state agencies, local government, and business including small business. There is no cost of compliance for small business.

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**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 impact.

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**DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):**

Small businesses were not involved in the development of these rules but are invited to provide input during the public comment period.

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

A Rule Advisory Committee was consulted for all rule changes except for OAR 461-160-0620 as that rule change is based on federal spousal impoverishment adjustments published annually.

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**RULES PROPOSED:**

461-001-0000, 461-101-0010, 461-135-0834, 461-140-0296, 461-155-0210, 461-160-0620, 461-170-0011, 461-180-0130

AMEND: 461-001-0000

RULE SUMMARY: OAR 461-001-0000 is being amended to add references to additional Modified Adjusted Gross Income (MAGI) medical and dental programs.

**CHANGES TO RULE:**

**461-001-0000**  
**Definitions for Chapter 461 ¶¶**

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

- (1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDSD), Department of Human Services (DHS), or any other agency formerly part of the Oregon Department of Human Services means the Oregon Department of Human Services (ODHS), except:¶¶
- (a) The rule in which reference occurs only regulates programs covered by OAR chapter 461.¶¶
- (b) Eligibility rules for HSD medical programs (see section (35) of this rule) are in OAR chapter 410, division 200.¶¶

- (2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence (see section (25) of this rule), sexual assault, or stalking.¶
- (3) "Adjusted income" means the amount determined by subtracting income deductions from countable (see section (19) of this rule) income (see OAR 461-140-0010). Specific rules on the deductions are in OAR chapter 461, division 160.¶
- (4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. "Adoption assistance" may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.¶
- (5) "Assets" mean income and resources.¶
- (6) "Basic decision notice" means a decision notice (see section (21) of this rule) mailed no later than the date of action given in the notice.¶
- (7) "Blind Work Expenses" has the meaning given in OAR 461-001-0035.¶
- (8) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.¶
- (9) "Budgeting" means the process of calculating the benefit level.¶
- (10) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine eligibility (see section (28) of this rule) and benefit level for the payment month (see section (51) of this rule).¶
- (11) "Cafeteria plan" means a written benefit plan offered by an employer in which:¶
- (a) All participants are employees; and¶
  - (b) Participants may choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Service does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:¶
    - (A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);¶
    - (B) Group term life insurance plans (up to \$50,000);¶
    - (C) Dependent care assistance plans; and¶
    - (D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).¶
- (12) "Capital asset" means property that contributes toward earning self-employment income, either directly or indirectly. A "capital asset" generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.¶
- (13) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child (see section (16) of this rule). The status of "caretaker" ends once the individual no longer exercises care, control, and supervision of the child for 30 days.¶
- (14) "Caretaker relative" means an individual with whom the dependent child (see section (23) of this rule) is living, who assumes primary responsibility for the care of the dependent child, and:¶
- (a) Is a biological, step, or adoptive relative of the dependent child; or¶
  - (b) Is the spouse of an individual described in subsection (a), even after the marriage is terminated by death or divorce.¶
- (15) "Certification period" means the period for which an individual is certified eligible for a program.¶
- (16) "Child" includes natural, step, and adoptive children. The term "child" does not include an unborn.¶
- (a) In the ERDC program, a "child" need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or noncitizen status requirements of OAR 461-120-0110, and must be:¶
    - (A) Under the age of 18; or¶
    - (B) Under the age of 19 and in secondary school or vocational training at least half time.¶
  - (b) In the GA and OSIP programs, a "child" is an individual under the age of 18.¶
  - (c) In the OSIPM and QMB programs, "child" means an unmarried individual who:¶
    - (A) Is not considered a decision-maker in the household;¶
    - (B) Is under the age of 18; and¶
    - (C) Has at least one natural or adoptive parent in the same household.¶
  - (d) In the REF and REFM programs, a "child" is an individual who is not an emancipated minor and is under the age of 18.¶
- (17) "Community-based care" is any of the following:¶
- (a) Adult foster care - Room and board and 24-hour care and services for the elderly or for people with disabilities 18 years of age or older. The care is contracted to be provided in a home for five or fewer individuals.¶
  - (b) Assisted living facility - A program approach, within a physical structure, which provides or coordinates a range

of services, available on a 24-hour basis, for support of resident independence in a residential setting.¶

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

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

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

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

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

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

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

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

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

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

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

(b) A minor parent (see section (47) of this rule) whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.¶

(24) "Disability" means:¶

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

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

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

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

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

(a) Attempting to cause or intentionally, knowingly, or recklessly causing physical injury or emotional, mental, or verbal abuse.¶

(b) Intentionally, knowingly, or recklessly placing another in fear of imminent serious physical injury.¶

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.¶

(d) Using coercive or controlling behavior.¶

(e) As used in this section, "family members" and "household members" mean any of the following:¶

(A) Spouse;¶

(B) Former spouse;¶

(C) Individuals related by blood, marriage (see section (46) of this rule), or adoption;¶

(D) Individuals who are cohabitating or have cohabited with each other;¶

(E) Individuals who have been involved in a sexually intimate or dating relationship; or¶

(F) Unmarried parents of a child.¶

(26) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to survivors of domestic violence. If the facility serves other people, a portion must be used solely for survivors of domestic violence.¶

(27) "Electronic application" is an application electronically signed and submitted through the Internet.¶

(28) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.¶

(29) "Equity value" means fair market value (see section (30) of this rule) minus encumbrances.¶

(30) "Fair market value" means the amount an item is worth on the open market.¶

(31) "Family stability" in the JOBS, Pre-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free

- environment, stable relationships, and a supportive, flexible, and nurturing home environment.¶
- (32) "Family stability activity" in the JOBS, Pre-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by an individual, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain family stability (see section (31) of this rule).¶
- (33) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.¶
- (34) "HSD" is the Health Systems Division.¶
- (35) "HSD medical programs" means all programs under HSD, including:¶
- (a) Breast and Cervical Cancer Treatment Program (BCCTP);¶
  - (b) Extended Medical Assistance (EXT);¶
  - (c) Former Foster Care Youth Medical (FFCYM);¶
  - (d) Substitute Care; and¶
  - (e) MAGI Medicaid/CHIP programs for which eligibility is based on MAGI methodology, including:¶
    - (A) MAGI Child, ¶
    - (B) MAGI Parent or Caretaker Relative,¶
    - (C) MAGI Pregnant Woman,¶
    - (D) MAGI Children's Health Insurance Program (CHIP), and¶
    - (E) MAGI Adult,¶
    - (F) MAGI Expanded Adult.¶
    - (G) Compacts of Free Association (COFA) Dental, and¶
    - (H) Veteran Dental.¶
- (36) "Homeless" in the ERDC program means an individual who is experiencing a lack of fixed regular and adequate nighttime residence and includes living in an emergency shelter, shared housing with others due to loss of housing or economic hardship, staying in motels, cars, parks, public places, tents, trailers, or other similar settings.¶
- (37) "Impairment-Related Work Expenses" have the meaning found in OAR 461-001-0035.¶
- (38) "Income producing property" means:¶
- (a) In all programs except OSIP, OSIPM, and QMB, real or personal property that generates income for the financial group (see OAR 461-110-0530). Examples of "income producing property" are:¶
    - (A) Livestock, poultry, and other animals.¶
    - (B) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, and condominiums.¶
  - (b) In the OSIP, OSIPM, and QMB programs, "income-producing property" means any real or personal property not used in self-employment (see OAR 461-145-0600 and 461-145-0915) that produces income for the financial group. "Income-producing property" includes:¶
    - (A) Livestock, poultry, or other animals that produce marketable products sold by the financial group.¶
    - (B) Farmland not excluded under OAR 461-145-0220 that is farmed or rented out by the financial group.¶
    - (C) Real property other than the home (including vacation homes and condominiums), that is rented out.¶
  - (c) In the OSIP, OSIPM, and QMB programs, "income-producing property" does not include:¶
    - (A) Rooms or other space for rent in the home (see OAR 461-145-0220).¶
    - (B) Livestock, poultry, or other animals kept for resale (see OAR 461-145-0010).¶
- (39) "Initial month" of eligibility means any of the following:¶
- (a) In all programs, the first month a benefit group (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.¶
  - (b) In all programs except the SNAP program, the first month a benefit group is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.¶
  - (c) In the SNAP program:¶
    - (A) The first month for which the benefit group is certified following any period during which they were not certified to participate, except for migrant and seasonal farm workers (see OAR 461-001-0015).¶
    - (B) For migrant and seasonal farmworkers, the first month for which the benefit group is certified following any period of one month or more during which they were not certified to participate.¶
    - (d) For a new applicant to the OSIP or OSIPM program applying for care in a nonstandard living arrangement (see section (48) of this rule), for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the individual would have been eligible had it not been for the disqualifying transfer of assets (see section (5) of this rule).¶
    - (e) For a current recipient of the OSIP or OSIPM program receiving or applying for care in a nonstandard living arrangement, for the purpose of calculating the correct divisor in OAR 461-140-0296, the later of the following:¶
      - (A) The month the disqualifying transfer occurred.¶



- (B) The month of application for long-term care (see section (44) of this rule) services if the individual would have been eligible had it not been for the disqualifying transfer of assets.¶
- (40) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).¶
- (41) "Legally married" means a marriage uniting two individuals according to:¶
- (a) The statutes of the state where the marriage occurred;¶
  - (b) Except in the SNAP program, the common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or¶
  - (c) The laws of a country in which the two individuals previously resided while meeting the requirements for legal or cultural marriage in that country.¶
- (42) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a "life estate" enables the owner of the "life estate" to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A "life estate" is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of the individual's life, certain rights to that property. In addition, a "life estate" is established when a member of the financial group purchases a "life estate" interest in the home of another individual.¶
- (43) "Lodger" means an individual who:¶
- (a) Is living with an individual receiving Department benefits;¶
  - (b) Is not a member of the individual's filing group (see OAR 461-110-0310); and¶
  - (c) Pays the filing group:¶
    - (A) In all programs except the OSIP, OSIPM, and QMB programs, for room and board.¶
    - (B) In the OSIP, OSIPM, and QMB programs, for room with or without board.¶
- (44) "Long term care" means the system through which the Department provides a broad range of social and health services for extended periods of time to eligible adults who are aged, blind, or have disabilities. This includes nursing facilities and the Oregon State Hospital.¶
- (45) "Lump-sum income" means earned or unearned income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. "Lump-sum income" includes but is not limited to:¶
- (a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.¶
  - (b) Income from inheritance, gifts, winnings, and personal injury claims.¶
  - (c) Income received less frequently than annually.¶
- (46) "Marriage" means the union of two individuals who are legally married (see section (41) of this rule).¶
- (47) "Minor parent" in the ERDC and TANF programs means a parent under the age of 18.¶
- (48) "Nonstandard living arrangement" is defined as follows:¶
- (a) In the GA, OSIP, OSIPM, and QMB programs, an individual is considered to be in a "nonstandard living arrangement" when the individual is applying for or receiving services in any of the following locations:¶
    - (A) A nursing facility in which the individual receives long-term care services paid with Medicaid funding, except this subsection does not apply to a Medicare recipient in a skilled-stay nursing facility.¶
    - (B) An intermediate care facility for individuals with intellectual disabilities (ICF/ID).¶
    - (C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.¶
    - (D) A community-based care (see section (17) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a "nonstandard living arrangement".¶
  - (b) In all programs except GA, OSIP, OSIPM, and QMB, "nonstandard living arrangement" means each of the following locations:¶
    - (A) Foster care.¶
    - (B) Residential Care facility.¶
    - (C) Drug or alcohol residential treatment facility.¶
    - (D) Shelter for individuals who are homeless or domestic violence shelter.¶
    - (E) Lodging house if paying for room and board.¶
    - (F) Correctional facility.¶
    - (G) Medical institution.¶
- (49) "Ongoing month" means one of the following:¶
- (a) For all programs except the SNAP program, any month following the initial month (see section (39) of this rule) of eligibility, if there is no break in the program benefit of one or more calendar months.¶
  - (b) For the SNAP program, any month in the certification period (see section (15) of this rule) following the initial month of eligibility.¶
- (50) "Parent" for all programs except JPI (see OAR 461-135-1260) and the SNAP program means the biological or legal mother or father of an individual or unborn. For JPI and the SNAP program, "parent" means the biological or

legal mother or father of an individual.¶

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.¶

(b) A stepparent relationship exists if:¶

(A) The individual is legally married to the child's biological or adoptive parent; and¶

(B) The marriage has not been terminated by legal separation, divorce, or death.¶

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a "parent" if both of the following are true:¶

(A) The child lives with the biological parent; and¶

(B) The legal parent has given up care, control, and supervision of the child.¶

(51) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.¶

(52) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.¶

(53) "Periodic income" means income received on a regular basis less often than monthly.¶

(54) "Primary person" for all programs except the SNAP program, means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The "primary person" for individual programs is as follows:¶

(a) In the TANF program, the parent or caretaker relative.¶

(b) In the ERDC program, the caretaker.¶

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

(d) In the GA, OSIP, OSIPM, QMB, REF, and REFM programs, the individual or individual's spouse.¶

(55) "Qualified Partnership Policy" means a long-term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:¶

(a) Issued while the individual was a resident in Oregon on January 1, 2008 or later; or¶

(b) Issued in another state while the individual was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.¶

(56) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as "real property".¶

(57) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.¶

(58) "Safe homes" mean private homes that provide a few nights lodging to survivors of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.¶

(59) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.¶

(60) "Shelter-in-kind" means an agency or individual outside the financial group provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs (see section (59) of this rule) of the financial group. "Shelter-in-kind" does not include temporary shelter provided by a domestic violence shelter, shelter for individuals who are homeless, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.¶

(61) "Sibling" means the brother or sister of an individual. "Blood related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the marriage of their parents.¶

(62) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the financial group.¶

(63) "Spouse" means an individual who is legally married to another individual.¶

(64) "Stable income" means income that is the same amount each time it is received.¶

(65) "Standard living arrangement" means a location that does not qualify as a nonstandard living arrangement.¶

(66) "Teen parent" means, in the JOBS, REF, REFM, and TANF programs, a parent who is the age of 18 or 19.¶

(67) "Timely continuing benefit decision notice" means a decision notice that informs the individual of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.¶

(68) "Trust funds" mean money, securities, or similar property held by an individual or institution for the benefit of another individual.¶

(69) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.¶

(70) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 411.837, 412.001, 412.006, 412.014, 412.049, 413.085, 414.685

AMEND: 461-101-0010

RULE SUMMARY: OAR 461-101-0010 is being amended to clarify who may be covered by Oregon Supplemental Income Program Medical (OSIPM) and to add references to OSIPM subprograms.

CHANGES TO RULE:

461-101-0010

#### Program Acronyms and Overview ¶¶

(1) Acronyms are frequently used when referring to a program. There is an acronym for each umbrella program and acronyms for each subprogram.¶¶

(2) When no program acronym appears in a rule in chapter 461 of these rules, the rule with no program acronym applies to all programs listed in this rule. If a rule does not apply to all programs, the rule uses program acronyms to identify the programs to which the rule applies.¶¶

(3) Wherever an umbrella acronym appears, that means the rule covers all the subprograms under that code.¶¶

(4) ABAWD; Able-Bodied Adults Without Dependents. The ABAWD employment program is one of the SNAP employment and training programs. Individuals who are identified as ABAWD are subject to the SNAP time limits (see OAR 461-135-0520).¶¶

(5) ~~CAWEWM~~; ~~Citizen/Alien-Waived Emergentship Waived~~ Medical. Medicaid coverage of emergent medical needs for individuals who are not eligible for other medical programs solely because they do not meet citizenship or noncitizen status requirements.¶¶

(6) DSNAP; Disaster Supplemental Nutrition Assistance Program. Following a presidential declaration of a major disaster in Oregon, DSNAP provides emergency DSNAP program benefits to victims. OAR 461-135-0491 to 461-135-0497 cover DSNAP eligibility and benefits.¶¶

(7) EA; Emergency Assistance. Emergency cash to families without the resources to meet emergent needs.¶¶

(8) ERDC or ERDC-BAS; Employment Related Day Care-Basic. Helps low-income working families pay the cost of child care.¶¶

(9) GA; General Assistance. Cash assistance to certain low-income individuals with disabilities.¶¶

(10) HSP; Housing Stabilization Program. A program that helps low-income families obtain stable housing. The program is operated through the Housing and Community Services Department through community-based, service-provider agencies. The Department's rules for the program (OAR 461-135-1305 to 461-135-1335) were repealed July 1, 2001.¶¶

(11) JOBS; Job Opportunity and Basic Skills. An employment program for TANF participants. JOBS helps these individuals attain self-sufficiency through training and employment. The program is part of Welfare Reform.¶¶

(12) JOBS Plus. JOBS Plus is a component of the JOBS Program. ¶Except as provided under OAR 461-190-0416, JOBS Plus provides subsidized jobs, rather than SNAP or TANF benefits, for individuals receiving TANF and determined JOBS eligible. Eligibility for the JOBS Plus component is determined by the Department. ¶¶

(13) JPI; Job Participation Incentive. An additional \$10 food benefit to help increase the ability of parents with children, who meet federal TANF participation rate, to meet the nutritional needs of their families.¶¶

(14) LIS; Low-Income Subsidy. The Low-Income Subsidy program is a federal assistance program for Medicare recipients who are eligible for extra help meeting their Medicare Part D prescription drug costs.¶¶

(15) OFSET. The Oregon Food Stamp Employment Transition Program, which helped SNAP program benefit recipients find employment. This program was mandatory for some SNAP program benefit recipients.¶¶

(16) OSIP; Oregon Supplemental Income Program. Cash supplements and special need payments to individuals who are blind, have a disability, or are 65 years of age or older. When used alone, OSIP refers to all OSIP programs. The following acronyms are used for OSIP subprograms:¶¶

(a) OSIP-AB; Oregon Supplemental Income Program - Aid to the Blind.¶¶

(b) OSIP-AD; Oregon Supplemental Income Program - Aid to the Disabled.¶¶

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

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

(17) OSIPM; Oregon Supplemental Income Program Medical. Medical coverage for individuals who are elderly 65 years of age or older, who are blind, or who have a disability (see OAR 461-125-0310). When used alone, OSIPM refers to all OSIP-related medical programs. The following codes or names are used for OSIPM subprograms:¶¶

(a) OSIPM-AB; Oregon Supplemental Income Program Medical - Aid to the Blind.¶¶

(b) OSIPM-AD; Oregon Supplemental Income Program Medical - Aid to the Disabled.¶¶

(c) OSIPM-EPD; Oregon Supplemental Income Program Medical - Employed Persons with Disabilities program. ~~This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than~~

250 percent of the Federal Poverty Level.¶

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

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

(f) OSIPM-Acute Care; Oregon Supplemental Income Program Medical - Acute Care.¶

(g) OSIPM-SSI; Oregon Supplemental Income Program Medical - Assumed eligible individuals receiving Supplemental Security Income (SSI).¶

(h) OSIPM-1619B; Oregon Supplemental Income Program Medical - Assumed eligible individuals with 1619B status from the Social Security Administration.¶

(i) OSIPM-Survivor Widows; Oregon Supplemental Income Program Medical - Individuals who lost SSI due to the receipt of Social Security Benefits from a deceased spouse.¶

(dj) OSIPM-OAADAC; Oregon Supplemental Income Program Medical - ~~Old Age Assistance~~Disabled Adult Children.¶

(ek) OSIPM-ICPPickle; Oregon Supplemental Income Program Medical - ~~Independent Choices Program~~Pickle Amendment individuals.¶

(l) Healthier Oregon; Oregon Supplemental Income Program Medical - Certain individuals who are not eligible solely because they do not meet citizenship or noncitizen status requirements.¶

(m) Behavioral Health; Oregon Supplemental Income Program Medical - Individuals age 21 or older eligible for 1915(i) state plan services.¶

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(30) TANF; Temporary Assistance for Needy Families. Cash assistance for families when children in those families are deprived of parental support because of continued absence, death, incapacity, or unemployment.

Statutory/Other Authority: ORS 414.025, 414.826, ORS 413.085, 414.685, ORS 329A.500, 409.050, 411.060, 411.404, 411.706, 411.816, 412.014, 412.049, 411.070, 411.083, 411.231

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 414.839, 411.070, 411.083, 414.231

AMEND: 461-135-0834

RULE SUMMARY: OAR 461-135-0834 is being amended to change requirements for notices to the Estate Administration Unit regarding wrongful death probates.

CHANGES TO RULE:

461-135-0834

Delivery of Required Notices to the Estate Administration Unit ¶

(1) A person required by ORS 93.268, 113.038, 113.145, 114.525, 115.003, 116.093, or 130.370 to send notice to the Oregon Department of Human Services or Oregon Health Authority must send or deliver the notice to the Estate Administration Unit, Office of Payment Accuracy and Recovery, Oregon Department of Human Services at the address using one of the methods in section (5) of this rule.¶

(2) A person required by ORS 114.456 to send information to Oregon Department of Human Services or Oregon Health Authority must send or deliver the notice to the Estate Administration Unit, Office of Payment Accuracy and Recovery, Oregon Department of Human Services using one of the methods in section (45) of this rule. Notices under this section (2) must also include a copy of the decedent's long form death record, with cause of death.¶

(23) If a claim submitted by the Estate Administration Unit is disallowed, the notice of the disallowance, required by ORS 114.540, 115.135, or 130.400, shall be mailed to the Estate Administration Unit at the address in section (45)(a) of this rule, unless the claim directs that the notice of disallowance be mailed to a person or entity other than the Estate Administration Unit.¶

(34) A trustee of a trust established under 42 USC § 1396p(d)(4) shall ~~mail~~ send or deliver notice of any termination of the trust or account in a master trust ~~to the address~~ by one of the methods in section (45) of this rule.¶

(4) ~~The mailing address for the Estate Administration Unit is: Estate Administration Unit, PO Box 14021, Salem OR 97309-5024.~~5) Notices under this rule may be sent to the to the Estate Administration Unit Office of Payment Accuracy and Recovery, Oregon Department of Human Services, as follows:¶

(a) The mailing address for the Estate Administration Unit is: Estate Administration Unit, PO Box 14021, Salem OR 97309-5024.¶

(b) The facsimile number for the Estate administration Unit is: (503)-378-3137.¶

(c) The email address for the Estate Administration Unit is: estate.admin@odhsoha.oregon.gov

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 413.085, 414.685

Statutes/Other Implemented: ORS 93.268, 113.145, 114.525, 115.003, 115.135, 116.093, 130.370, 130.400, 409.010, 411.708, 411.795, 416.350, 42 USC 1396p, 113.038

RULE SUMMARY: OAR 461-140-0296 is being amended to end the disqualification of individuals from Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) when income cap trusts accumulate funds in excess of the applicable dollar amount in section (2) of the rule.

CHANGES TO RULE:

461-140-0296

Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM ¶

(1) This rule applies to individuals in the OSIP and OSIPM programs who live in a nonstandard living arrangement (see OAR 461-001-0000).¶

(2) A financial group (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:¶

(a) If the initial month (see OAR 461-001-0000) is prior to October 1, 1998-\$2,595.¶

(b) If the initial month is on or after October 1, 1998 and prior to October 1, 2000-\$3,320.¶

(c) If the initial month is on or after October 1, 2000 and prior to October 1, 2002-\$3,750.¶

(d) If the initial month is on or after October 1, 2002 and prior to October 1, 2004-\$4,300.¶

(e) If the initial month is on or after October 1, 2004 and prior to October 1, 2006-\$4,700.¶

(f) If the initial month is on or after October 1, 2006 and prior to October 1, 2008-\$5,360.¶

(g) If the initial month is on or after October 1, 2008 and prior to October 1, 2010-\$6,494.¶

(h) If the initial month is on or after October 1, 2010 and prior to October 1, 2016-\$7,663.¶

(i) If the initial month is on or after October 1, 2016 and prior to October 1, 2018--\$8,425.¶

(j) If the initial month is on or after October 1, 2018 and prior to October 1, 2020 ---\$8,784.¶

(k) If the initial month is on or after October 1, 2020 and prior to October 1, 2022---\$9,551.¶

(l) If the initial month is on or after October 1, 2022--- \$10,342.¶

(3) For transfers by an individual and the spouse of an individual that occurred before July 1, 2006:¶

(a) Add together the uncompensated value of all transfers made in one calendar month and treat this total as one transfer.¶

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, there is no disqualification.¶

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, each disqualification period is calculated separately.¶

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.¶

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.¶

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.¶

(g) If both spouses of a couple are in a nonstandard living arrangement, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a nonstandard living arrangement, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.¶

(4) For transfers by an individual and the spouse of an individual that occurred on or after July 1, 2006 ~~and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule:~~¶

(a) If there are multiple transfers by the individual and the spouse of the individual, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule. ~~For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule.~~¶

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. This number might be zero full months. The remaining decimal or fraction of the quotient is used to calculate a partial month disqualification, which may be in addition to one or more full months. This remaining decimal or fraction is converted to a number of days by

multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period, if any. If this calculation results in a fraction of a day, the fraction of a day is rounded down.¶

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:¶

(A) For an individual who transfers an asset while ~~the or she is~~ they are already receiving Department-paid long-term care (see OAR 461-001-0000) or home and community-based care (see OAR 461-001-0030) in a nonstandard living arrangement, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.¶

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for an individual who transfers an asset while ~~the or she is~~ they are already receiving benefits in a standard living arrangement (see OAR 461-001-0000), the date of request (see OAR 461-115-0030) for long-term care or home and community-based care as long as the applicant or individual would otherwise be eligible but for this disqualification period. If the applicant or individual is not otherwise eligible on the date of request, the disqualification begins the first date following the date of request that the applicant or individual would be otherwise eligible but for the disqualification period.¶

(d) If both spouses of a couple are in a nonstandard living arrangement, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a nonstandard living arrangement, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.¶

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the individual is considered transferred when any action is taken either by the individual or any other person that reduces or eliminates the individual's control or ownership in the individual's share of the asset.¶

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the uncompensated value as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.¶

(7) If an individual or the spouse of an individual purchases an annuity on or before December 31, 2005, and the only requirement that is not met is that the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.¶

(8) Effective January 1, 2023, the Department ends the disqualifications previously established under this rule based on an income cap trust.

Statutory/Other Authority: ORS 413.085, 414.685, ORS 409.050, 411.060, 411.704, 411.706

Statutes/Other Implemented: 42 USC 1396p, ORS 409.010, 411.060, 411.704, 411.706



AMEND: 461-155-0210

RULE SUMMARY: OAR 461-155-0210 is being amended to raise rental, utility and cash assistance benefits for General Assistance recipients by 9% . This percentage increase aligns with the current Social Security Administration (SSA) Supplemental Security Income (SSI) cost of living adjustment. In addition, it is being amended to make temporary changes to this rule permanent.

CHANGES TO RULE:

461-155-0210

Payment Standards and Methods of Issuance; GA ¶¶

(1) For purposes of this rule, "eligible spouse" means a spouse (see OAR 461-001-0000) who is eligible for and receiving OSIPM under OAR 461-125-0370(c).¶¶

(2) ¶Retroactively effective April 1, 2023, the GA payment standards are:¶¶

(a) \$5495 for one person.¶¶

(b) \$81892 for two persons.¶¶

(3) ¶Retroactively effective April 1, 2023, the payments for one person are as follows:¶¶

(a) The Housing Assistance Payment is the least of:¶¶

(A) The amount of monthly rent the individual owes,¶¶

(B) \$5495 minus the adjusted income determined under OAR 461-1650-0500, or¶¶

(C) \$5495.¶¶

(b) The Utility Allowance is \$909.¶¶

(c) The Personal Incidental Fund is \$606.¶¶

(4) ¶Retroactively effective April 1, 2023, the payments for two people are as follows:¶¶

(a) For a married individual whose spouse is in the OSIPM household group and is considered an eligible spouse, the Housing Assistance Payment for each eligible spouse is half of the total Housing Assistance Payment, which is the least of:¶¶

(A) The amount of monthly rent the individual and spouse owe;¶¶

(B) \$81892 minus the adjusted income determined under OAR 461-160-0500, or¶¶

(C) \$81892.¶¶

(b) For a married individual whose spouse is in the OSIPM household group and is not considered an eligible spouse, the Housing Assistance Payment is the least of:¶¶

(A) The amount of monthly rent the individual and spouse owe;¶¶

(B) \$81892 minus the adjusted income determined under OAR 461-160-0500, or¶¶

(C) \$5495.¶¶

(c) The Utility Allowance is \$13952.¶¶

(d) The Personal Incidental Fund is \$93102.¶¶

(5) The Housing Assistance Payment is issued directly to the landlord and is contingent upon the receipt of a signed and valid Rental Agreement.¶¶

(6) The Utility Allowance is issued directly to the individual.¶¶

(7) The Personal Incidental Fund is issued directly to the individual.

Statutory/Other Authority: ORS 409.050, 411.060

Statutes/Other Implemented: ORS 411.010, 411.060, 411.710, 411.730, 411.740[ED. NOTE: Table referenced are available from the agency.]

AMEND: 461-160-0620

RULE SUMMARY: OAR 461-160-0620 is being amended to reflect annually published federal spousal impoverishment adjustments.

CHANGES TO RULE:

461-160-0620

Income Deductions and Patient Liability; Long-Term Care Services or Home and Community-Based Care; OSIPM ¶

THIS RULE WILL BE AMENDED TO REFLECT FEDERAL SPOUSAL IMPOVERISHMENT ADJUSTMENTS PUBLISHED ANNUALLY. In the OSIPM program:¶

(1) Deductions from income are made for an individual residing in or entering a long-term care facility or receiving home and community-based care (see OAR 461-001-0030) as explained in subsections (3)(a) to (3)(h) of this rule.¶

(2) The liability of an individual is determined according to subsection (3)(i) of this rule, except as provided otherwise in OAR 461-160-0610.¶

(3) Deductions are made in the following order:¶

(a) One standard earned income deduction of \$65 is made from the earned income in the OSIPM program.¶

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

(c) One of the following need standards:¶

(A) A \$74.75 personal needs allowance for an individual receiving long-term care services.¶

(B) A \$90 personal needs allowance for an individual receiving long-term care services who is eligible for VA benefits based on unreimbursed medical expenses. The \$90 allowance is allowed only when the VA benefit has been reduced to \$90.¶

(C) For an individual who receives home and community-based care:¶

(i) Except as provided in subparagraph (ii) of this paragraph, the OSIPM maintenance standard.¶

(ii) For an individual who receives in-home services, the OSIPM maintenance standard plus \$500.¶

(d) A community spouse (see OAR 461-001-0030) monthly income allowance is deducted from the income of the institutionalized spouse (see OAR 461-001-0030) to the extent that the income is made available to or for the benefit of the community spouse, using the following calculation.¶

(A) Step 1--Determine the maintenance needs allowance. \$2,288.75 is added to the amount over \$686.63 that is needed to pay monthly shelter expenses for the principal residence of the couple. This sum or \$3,715.50, whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the SNAP program (see OAR 461-160-0420). If an all-inclusive rate covers items that are not allowable shelter expenses, including meals or housekeeping in an assisted living facility, or the rate includes utilities, to the extent they can be distinguished, these items must be deducted from the all-inclusive rate to determine allowable shelter expenses.¶

(B) Step 2--Compare maintenance needs allowance with community spouse's countable income. The countable (see OAR 461-001-0000) income of the community spouse is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.¶

(C) Step 3--If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.¶

(e) A dependent income allowance as follows:¶

(A) For a case with a community spouse, a deduction is permitted only if the monthly income of the eligible dependent is below \$2,288.75. To determine the income allowance of each eligible dependent:¶

(i) The monthly income of the eligible dependent is deducted from \$2,288.75.¶

(ii) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the income allowance of the eligible dependent.¶

(B) For a case with no community spouse:¶

(i) The allowance is the TANF adjusted income standard (see OAR 461-155-0030) for the individual and eligible dependents.¶

(ii) The TANF standard is not reduced by the income of the dependent.¶

(f) Costs for maintaining a home if the individual meets the criteria in OAR 461-160-0630.¶

(g) Medical deductions allowed by OAR 461-160-0030 and 461-160-0055 are made for costs not covered under the state plan.¶

(h) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income (see OAR 461-001-0000).¶

(i) The individual's liability is determined as follows:¶¶

(A) For an individual receiving home and community-based care (except individuals identified in section (2) of this rule), the liability is the actual cost of the home and community-based care or the adjusted income of the individual, whichever is less. This amount must be paid to the Department or the home and community-based care facility each month as a condition of being eligible for home and community-based care.¶¶

(B) For an individual who resides in a nursing facility, the liability is the actual cost of services or the adjusted income of the individual, whichever is less. This amount must be paid to the facility each month as a condition of being eligible for nursing facility services.

Statutory/Other Authority: ORS 409.050, 413.085, 411.060, 411.070, 411.404, 414.065, 414.685, 411.706

Statutes/Other Implemented: ORS 409.010, 413.085, 411.060, 411.070, 411.404, 414.065, 414.685, 42 USC 1396r-5, 411.706, 42 CFR 435.725 - 435.735

AMEND: 461-170-0011

RULE SUMMARY: OAR 461-170-0011 is being amended to clearly indicate that individuals with open TANF, REF, and State Family Pre-SSI Program (SFPSS) benefits must report a change in employment status within ten days if their case is assigned to the Change Report System (CRS). In addition, this rule is being amended to remove the requirement that a resident of a public institution whose medical benefits were suspended must report a change in incarceration status within 10 days.

CHANGES TO RULE:

461-170-0011

Changes That Must Be Reported ¶

- (1) A change in employment status is considered to occur as follows:¶
  - (a) For a new job, the change occurs the first day of the new job.¶
  - (b) For a job separation, the change occurs on the last day of employment.¶
- (2) A change in source of income is considered to occur as follows:¶
  - (a) For earned income, the change occurs upon the receipt by the individual of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.¶
  - (b) For unearned income, the change occurs the day the individual receives the new or changed payment.¶
- (3) An individual must report, orally or in writing, the following changes:¶
  - (a) In the ERDC program, an individual must report the following changes within 10 days of occurrence:¶
    - (A) A change in child care provider.¶
    - (B) A change in employment status.¶
    - (C) A change in mailing address or residence.¶
    - (D) A change in membership of the filing group (see OAR 461-110-0350).¶
    - (E) A member of the filing group is discharged from the U.S. military and returning from active duty in a military war zone.¶
  - (F) A change in income above the 250 percent federal poverty level (FPL) or 85 percent state median income (SMI), whichever is higher, as described in OAR 461-155-0180, that is expected to continue.¶
- (b) In the SNAP program:¶
  - (A) An ABAWD residing in one of the SNAP time limit areas (see OAR 461-135-0520), who is working, paid or unpaid, and assigned to CRS, SRS, or TBA must report a change in work hours when work hours fall below 20 hours per week. This change must be reported within 10 days of occurrence.¶
  - (B) An individual assigned to CRS must report any of the following changes within 10 days of occurrence:¶
    - (i) Retroactively effective October 1, 2021, a change in earned income of more than \$125.¶
    - (ii) Retroactively effective October 1, 2021, a change in unearned income of more than \$125.¶
    - (iii) A change in source of income.¶
    - (iv) A change in membership of the filing group (see OAR 461-110-0370) and any resulting change in income.¶
    - (v) A change in residence and the shelter costs in the new residence.¶
    - (vi) A change in the legal obligation to pay child support.¶
    - (vii) When the sum of cash on hand, stocks, bond, and money in a bank or savings institution account reaches or exceeds program resource limits.¶
    - (viii) Acquisition or change in ownership of a non-excluded vehicle.¶
- (C) An individual assigned to SRS must report by the tenth day of the month following the month of occurrence when:¶
  - (i) The monthly income of the filing group exceeds the SNAP countable (see OAR 461-001-0000) income limit.¶
  - (ii) A member of the financial group (see OAR 461-110-0530) has lottery or gambling winnings equal to or in excess of the amount listed as the resource limit in OAR 461-160-0015(7)(a).¶
- (D) An individual assigned to TBA is not required to report any changes except for the requirement set out in paragraph (3)(b)(A).¶
- (c) For Employment Payments (see OAR 461-135-1270) and JPI (see OAR 461-135-1260), an individual must follow the same reporting requirements as a SNAP client assigned to CRS, SRS, or TBA reporting systems (see OAR 461-170-0010).¶
- (d) In the GA, OSIP, OSIPM, and QMB programs, an individual must report all changes that may affect eligibility (see OAR 461-001-0000) or benefit level within 10 days of occurrence, including any of the following changes:¶
  - (A) A change in employment status.¶

- (B) A change in health care coverage.¶
- (C) A change in membership of the household group (see OAR 461-110-0210).¶
- (D) A change in marital status.¶
- (E) A change in residence.¶
- (F) A change in resources.¶
- (G) A change in source or amount of income.¶
- (H) Except for the QMB programs, out-of-pocket medical expenses.¶
- ~~(I) For a resident of a public institution (see OAR 461-135-0950) whose medical benefits have been suspended under OAR 461-135-0950, a change in incarceration status.¶~~
- (e) In the REF, SFPSS, and TANF programs, an individual assigned to CRS must report any of the following changes within 10 days of occurrence:¶
  - (A) Acquisition or change in ownership of a non-excluded vehicle.¶
  - (B) A change in earned income more than \$100.¶
  - ~~(C) Employment separation~~A change in employment status (see section 1 of this rule).¶
  - (D) A change in membership of the household group.¶
  - (E) A change in marital status or other changes in membership of the filing group.¶
  - (F) A change in mailing address or residence.¶
  - (G) A change in pregnancy status of any member of the filing group.¶
  - (H) A change in source of income.¶
  - (I) A change in unearned income more than \$50.¶
  - (J) A change in who pays the shelter costs if the costs will be paid by a non-custodial parent.¶
  - (K) Sale or receipt of a resource that causes total resources to exceed program resource limits.¶
- (f) In the REFM program, an individual must report the following changes within 10 days of occurrence:¶
  - (A) A change in membership of the household group.¶
  - (B) A change in residence.¶
  - (C) A change in pregnancy status of any member of the filing group.

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

Statutes/Other Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.081, 411.404, 411.704, 411.706, 411.816, 411.825, 411.837, 412.014, 412.049, 413.085, 414.685, 414.826

AMEND: 461-180-0130

RULE SUMMARY: OAR 461-180-0130 is being amended to replace "incarcerated" with "resident of a public institution" and to remove reference to time limits for suspension of medical benefits.

CHANGES TO RULE:

461-180-0130

Effective Dates; Restored Benefits ¶¶

(1) The effective date for restoring benefits that were underpaid (including erroneous collections of overpayments) or denied or closed in error is set as follows:¶¶

(a) Except as provided in subsections (b) and (c) of this section, in all programs except the SNAP program, for underpayments resulting from administrative error, the effective date is the date the error was made.¶¶

(b) In all programs except as provided in subsection (c) of this section, benefits may be restored only for the preceding 12 months.¶¶

(c) JPI benefits may be restored only for the preceding four months and not to a date earlier than the individual is eligible under OAR 461-135-1260.¶¶

(d) In all programs except the SNAP program, for underpayments resulting from client error, the effective date is the earliest of the following:¶¶

(A) The month the benefit group (see OAR 461-110-0750) notifies the branch office (see OAR 461-001-0000) of the possible loss.¶¶

(B) The month the branch office discovers the loss.¶¶

(C) The date a hearing is requested.¶¶

(2) In the SNAP program, for underpayments resulting from administrative error, benefits are restored for not more than twelve months prior to whichever of the following occurs first:¶¶

(a) The date the benefit group notifies the branch office of the possible loss.¶¶

(b) The date the branch office discovers the loss.¶¶

(c) The date a hearing is requested.¶¶

(3) In the SNAP program, benefits are not restored for underpayments resulting from client error.¶¶

(4) The effective date for restoring benefits that have been suspended is:¶¶

(a) For individuals whose medical assistance is suspended because they are ~~incarcerated with an anticipated stay of a year or less~~ resident of a public institution, see OAR 461-135-0950(8).¶¶

(b) When subsection (a) of this section does not apply:¶¶

(A) The first of the month after the suspension, if suspension was for only one month; or¶¶

(B) The date the benefit group again becomes eligible, if benefits have been suspended for more than 30 days. The Department treats the month in which benefits are restored as an initial month (see OAR 461-001-0000).

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 414.231

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.439, 411.816, 412.014, 412.049, 414.231