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CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILING CAPTION: Rule changes about Self Sufficiency Program Eligibility, Asset Treatment, and Child Care

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RULES:

461-120-0215, 461-135-0520, 461-145-0090, 461-145-0254, 461-145-0375, 461-145-0380, 461-160-0015, 461-160-0193, 461-190-0211

AMEND: 461-120-0215

NOTICE FILED DATE: 04/28/2023

RULE SUMMARY: OAR 461-120-0215 is being amended to remove references to Temporary Assistance to Needy Families (TANF) child care support services and ERDC copay. Rules governing eligibility for child care benefits for most TANF recipients will transition from the Oregon Department of Human Services (ODHS) to the Department of Early Learning and Care (DELIC) effective July 1, 2023. Beginning July 1, 2023, the ERDC program will support the child care needs of most families receiving TANF.

CHANGES TO RULE:

461-120-0215

Illegal Activity

- (1) As used in this rule, "illegal activity" means an activity that is illegal under either Oregon law or federal law, or both. Working in the marijuana industry is considered an "illegal activity" under this rule.¶
- (2) In all programs, income received from an illegal activity (see section (1) of this rule) is considered countable (see OAR 461-001-0000) income.¶
- (3) In the TANF JOBS and REP programs:¶
 - (a) Support services, ~~including child care~~, are not allowed for a participant seeking employment in or engaged in an illegal activity.¶
 - (b) An illegal activity is not counted towards JOBS engagement and may not be indicated as an activity or employment goal in the participant's Personal Development Plan.¶
 - (c) For a participant working in an illegal activity, activity hours and employment placement may not be documented by the Department.¶
 - (4) In the TANF program, a participant who gains employment in an illegal activity is not eligible for any of the following transitional benefits:¶
 - (a) Jobs Participation Incentive (JPI).¶
 - (b) ~~Reduced Co-Pay (RCP)~~.¶
 - (c) Employment Payments (EP).¶

(5) In the SNAP program:¶

(a) Support services are not allowed for an ABAWD seeking employment in or engaged in an illegal activity.¶

(b) The hours looking for work and the hours worked in an illegal activity are not counted as part of the required 80 hours in work-related activities for an ABAWD in a non-waived area per OAR 461-135-0520.

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 291.003, 329A.500, 409.010, 409.040, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049

AMEND: 461-135-0520

NOTICE FILED DATE: 04/28/2023

RULE SUMMARY: OAR 461-135-0520 is being amended to implement a waiver approved by the United States Department of Agriculture Food and Nutrition Services which allows Supplemental Nutrition Assistance Program (SNAP) time limits for Able Bodied Adults Without Dependents (ABAWD) to be waived in some Oregon counties and reservation and trust lands of some Tribal Nations. Additionally, the rule is being amended to establish discretionary exemptions for certain individuals.

CHANGES TO RULE:

461-135-0520

Time Limit and Special Requirements for ABAWD; SNAP ¶¶

This rule establishes the time limit and special requirements for receipt of SNAP benefits for certain adults.¶¶

(1) Unless the context indicates otherwise, the following definitions apply to rules in OAR chapter 461:¶¶

(a) "Able-bodied adult without dependents (ABAWD)" means an individual 18 years of age or over, but under the age of 50, without dependents. For the purpose of this definition, "without dependents" means there is no child (see OAR 461-001-0000) under the age of 18 years in the filing group (see OAR 461-110-0310 and 461-110-0370).¶¶

(b) "SNAP time-limit areas" means areas of Oregon in which the limitation on eligibility (see OAR 461-001-0000) for SNAP benefits for ~~ABAWD~~ individuals with an ABAWD status in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)) applies. "SNAP time-limit areas" are ~~Baker;~~¶¶

~~(A) Benton, Clackamas, Columbia, Coos, Deschutes, Douglas, Hood River, Jackson, Josephine, Lane, Linn, Marion, Malheur, Morrow, Multnomah, Polk, Umatilla, Union, Wallowa, Wasco, Washington, and Yamhill counties~~ Washington, and Yamhill counties.¶¶

~~(B) The reservation and trust lands of the Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation.~~¶¶

(c) "SNAP time-limit exempt areas" means areas of Oregon in which the limitation on eligibility for SNAP benefits contained in section 6(o)(2) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)(2)) does not apply per a waiver approved by the United States Department of Agriculture. "Exempt areas" are:¶¶

(A) ~~Baker, Clatsop, Coos, Crook, Curry, Douglas, Gilliam, Grant, Harney, Jefferson, Josephine, Klamath, Lake, Lincoln, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, and Wheeler counties.~~¶¶

~~(B) The lands reservation and trust lands of the Cow Creek Band of Umpqua Tribe of Indians, any Sovereign Tribal Nation located within those counties.~~¶¶

~~(B) The reservation and trust lands of the Confederated Tribes of Grand Ronde, the reservation and trust lands of The Klamath Tribes, the res Burns Paiute Tribe; the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw; the Confederated Tribes of Siletz Indians; the Confederation and trust lands of ed Tribes of Grand Ronde; the Confederated Tribes of Siletz Indians, and the reservation and trust lands of the Confederated Tribes of Warm Spring the Umatilla Indian Reservation; the Confederated Tribes of Warm Springs; the Coquille Indian Tribe; and the Cow Creek Band of Umpqua Tribe of Indians.~~¶¶

(2) Except as provided otherwise in this rule, an ABAWD individual with an ABAWD status who resides in one of the SNAP time-limit areas (see section (1) of this rule) is ineligible to receive food benefits as a member of any household after the individual received food benefits for three countable months (see section (3) of this rule) during January 1, 2022 to December 31, 2024. Due to the COVID-19 pandemic and under OAR 461-135-0660, the Department shall not assign countable months until July 1, 2023, and after.¶¶

(3) "Countable months" means months within the 36-month period of January 1, 2022 to December 31, 2024 in which an individual as a member of any household receives SNAP benefits in Oregon or in any other state, unless at least one of the following applies:¶¶

(a) Benefits were prorated for the month.¶¶

(b) The individual was exempt from the SNAP time limit for any part of the month for any of the following reasons:¶¶

(A) The individual resided for any part of the month in one of the SNAP time-limit exempt areas (see section (1) of this rule).¶¶

(B) The individual was pregnant.¶¶

(C) A child under the age of 18 years joined the filing group.¶¶

(D) The individual met the criteria under OAR 461-130-0310(3)(a) or (b).¶¶

(c) The individual participated in one or more of the activities in paragraphs (A) to (D) of this subsection for 20

hours per week averaged over the month. For purposes of this rule, 20 hours per week averaged monthly means 80 hours per month. (Activities may be combined in one month to meet the 20 hours per week averaged monthly requirement.)¶

(A) Work for pay, in exchange for goods or services, or unpaid work as a volunteer.¶

(i) Work in exchange for goods and services includes bartering and in-kind work.¶

(ii) Unpaid or voluntary work hours must be verified by the employer.¶

(iii) For self-employed individuals, countable income after deducting the costs of producing income (as described in OAR 461-145-0930(5)) must average at least the federal minimum wage times 20 hours per week.¶

(B) Participate in a program under the Workforce Investment Act of 1998, Pub. L. No. 105-220, 112 Stat. 936 (1998).¶

(C) Participate in a program under section 236 of the Trade Act of 1974, Pub. L. 93-618, 88 Stat. 2023, (1975) (19 U.S.C. 2296).¶

(D) Comply with the SNAP Employment and Training program requirements described in OAR 461-001-0020, 461-130-0305, and 461-130-0315. Work search activities must be combined with other work-related activities to equal 20 hours per week and may not exceed 9 hours per week.¶

(d) The individual complied with the Workfare requirements in OAR 461-190-0500.¶

(4) An ~~ABAWD~~ individual with an ABAWD status must submit evidence to the Department within 90 days following the month they received the countable month to show they were exempt or met the 80 hour activity requirement.¶

(5) An ~~ABAWD~~ individual with an ABAWD status who is ineligible under section (2) of this rule but otherwise eligible may regain eligibility if the requirements of subsections (a) or (b) of this section are met. ¶

(a) The individual becomes exempt under subsection (3)(b) of this rule. Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual is exempt and is otherwise eligible. If not eligible on the filing date (see OAR 461-115-0040), eligibility begins the date all other eligibility requirements are met.¶

(b) The individual, during a consecutive 30-day period during which the individual is not receiving SNAP benefits, meets the requirements of subsection (3)(c) or (3)(d) of this rule.¶

(A) Eligibility regained under this subsection begins on the date the individual files a new application and continues as long as the individual meets the requirements of subsection (3)(c) or (3)(d) of this rule and is otherwise eligible. If not eligible on the filing date, eligibility begins the date all other eligibility requirements are met.¶

(B) There is no limit to how many times an individual may regain eligibility under this subsection during January 1, 2022 to December 31, 2024. ¶

(c) See OAR 461-180-0010 to add an individual to an open SNAP case after the individual has regained eligibility under this section.¶

(6) An individual who regains eligibility under section (5) of this rule and later fails to comply with the participation requirements of subsection (3)(c) or (3)(d) of this rule may receive a second set of food benefits for three consecutive countable months. The countable months are determined as follows:¶

(a) If the individual stopped participation in a work program, countable months start when the Department notifies the individual they are no longer meeting the work requirement.¶

(b) If the individual stopped participation in a work program, countable months start when the individual notifies the Department they are no longer meeting the work requirement.¶

(c) If a change occurred which results in an individual becoming subject to the time limit in section (2) of this rule and the change was required to be reported under rules in OAR chapter 461, division 170, the countable months start when the change occurred.¶

(d) If a change occurred which results in an individual becoming subject to the time limit and the change was not required to be reported under rules in OAR chapter 461, division 170, countable months start when the Department notifies the individual they must meet the work requirement.¶

(e) An individual may only receive benefits without meeting the requirements of subsection (3)(c) or (3)(d) of this rule for no more than a total of six countable months during January 1, 2022 to December 31, 2024. ¶

~~(7) This space is reserved for Department is authorizing the use of discretionary exemptions, granted by the Food and Nutrition Service, for ABAWDs residing in certain SNAP time-limit areas who are at risk of having their benefits close~~ individuals with an ABAWD status who are at risk of having their benefits closed or reduced. Under these special exemptions, individuals will be eligible to receive a discretionary exemption each month beginning July 2023. All of the following restrictions apply: ¶

(a) The individual must reside in one of the following SNAP time-limit areas that will not be offering ABAWD support services: Benton, Columbia, Hood River, Malheur, Polk, and Yamhill counties.¶

(b) The individual resides in an area offering ABAWD support services but is not eligible for those support services due to lacking USCIS work authorization (also called employment authorization).¶

(c) A discretionary exemption is only valid for reduced. The Department is not granting discretionary

exemptions.¶

~~(8) An ABAWD one month at a time.¶~~

~~(d) A discretionary exemption may not be granted for a previous month.¶~~

~~(e) The Department will not disqualify an individual with an ABAWD status from the SNAP program for non-participation when they have been issued a discretionary exemption for the following month.¶~~

~~(8) An individual with an ABAWD status involved in the activities specified in subsection (3)(c) or (3)(d) of this rule or an activity listed in the individual's case plan (see OAR 461-001-0020) is eligible for support service payments necessary for transportation and other costs related to completing the activity as allowed by OAR 461-190-0360.~~

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.121, 411.816

Statutes/Other Implemented: 7 USC 2015, 7 USC 2029, 7 CFR 273.7, 7 CFR 273.24, ORS 409.010, 409.050, 411.060, 411.070, 411.121, 411.816, 411.825, 411.837

AMEND: 461-145-0090

NOTICE FILED DATE: 04/28/2023

RULE SUMMARY: OAR 461-145-0090 is being amended to address income from the Paid Leave Oregon program. This rule amendment makes clear that OAR 461-145-0090 does not cover how to treat income from the Paid Leave Oregon program and directs readers to a new administrative rule that establishes how the Department treats this income when determining eligibility for programs in OAR Chapter 461. OAR 461-145-0090 is also being amended to remove rule provisions regarding how assets are treated when determining eligibility for the ERDC program. The authority and administration of the ERDC program is being transferred from ODHS to DELC beginning July 1, 2023, as required by House Bill 3073 (regular session). These changes were in two different Notices of Proposed Rulemaking filed 03/27/23 and 04/28/23.

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) Paid Leave Oregon benefits (covered in OAR 461-145-0375).¶

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

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

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

(~~f~~) 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.~~700~~083, 411.816, 412.049

ADOPT: 461-145-0254

REPEAL: Temporary 461-145-0254 from SSP 15-2023

NOTICE FILED DATE: 04/28/2023

RULE SUMMARY: OAR 461-145-0254 is being adopted to establish how Chapter 461 programs will treat the Youth Experiencing Homeless Program Direct Cash

Transfer (DCT) payments when determining eligibility for programs in OAR Chapter 461. It is also being amended effective 07/01/2023 to remove the Employment Related Day Care (ERDC) program. House Bill 3073 transfers the governance of the ERDC program rules from ODHS to DELC.

CHANGES TO RULE:

461-145-0254

Youth Experiencing Homelessness Program Direct Cash Transfer Payments

(1) Youth Experiencing Homelessness Program (YEHP) Direct Cash Transfer (DCT) payments are provided to eligible youth 18 to 24 years of age. The payments help youth who are experiencing homelessness to establish housing stability and support successful independent living.¶

(2) In all programs except SNAP, the payments are excluded to determine countable (see OAR 461-001-0000) assets (see OAR 461-001-0000).¶

(3) In the SNAP program, the payments are countable unearned income.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 413.085, 414.619

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.706, 411.816, 413.085, 414.619, 417.799

ADOPT: 461-145-0375

NOTICE FILED DATE: 04/28/2023

RULE SUMMARY: OAR 461-145-0375 is being adopted to establish how the Department treats payments from Paid Leave Oregon when determining eligibility for programs in OAR Chapter 461.

CHANGES TO RULE:

461-145-0375

Paid Leave Oregon

(1) For all programs except REF and TANF programs, payments from Paid Leave Oregon are counted as unearned income.¶

(2) In the REF and TANF programs, payments from Paid Leave Oregon are counted as one of the following:¶

(a) Earned income (see OAR 461-145-0130) if paid to an individual who is still employed while receiving payments from this program.¶

(b) Unearned income if no longer employed.¶

(3) In all programs covered by Chapter 461 of the Oregon Administrative Rules, retroactive payments from Paid Leave Oregon are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).

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

Statutes/Other Implemented: ORS 411.060, 411.404, 411.816, 412.049, 411.700

AMEND: 461-145-0380

NOTICE FILED DATE: 04/28/2023

RULE SUMMARY: OAR 461-145-0380 is being amended to align the way benefits from pension and retirement plans are treated in the Refugee Assistance/Refugee Assistance Medical (REF/REFM) and TANF programs.

CHANGES TO RULE:

461-145-0380

Pension and Retirement Plans ¶¶

(1) Pension and retirement plans include the following:¶¶

(a) Benefits employees receive only when they retire. These benefits can be disbursed in lump-sum or monthly payments.¶¶

(b) Benefits that employees are allowed to withdraw when they leave a job before retirement.¶¶

(c) The following retirement plans authorized by section 401 of the Internal Revenue Code of 1986:¶¶

(A) Traditional Defined-Benefit Plan.¶¶

(B) Cash Balance Plan.¶¶

(C) Employee Stock Ownership Plan.¶¶

(D) Keogh Plan.¶¶

(E) Money Purchase Pension Plan.¶¶

(F) Profit-Sharing Plan.¶¶

(G) Simple 401(k).¶¶

(H) 401(k).¶¶

(d) Retirement plans authorized by section 403 of the Internal Revenue Code of 1986 at subsections (a) or (b).¶¶

(e) The following retirement plans and annuities authorized by section 408 of the Internal Revenue Code of 1986 at subsections (a), (b), (c), (k), (p), or (q), or at section 408A:¶¶

(A) Individual Retirement Annuity.¶¶

(B) Individual Retirement Account (IRA).¶¶

(C) Deemed Individual Retirement Account or Annuity under a qualified employer plan.¶¶

(D) Accounts established by employers and certain associations of employees.¶¶

(E) Simplified Employee Pension (SEP).¶¶

(F) Simple Individual Retirement Account (Simple-IRA).¶¶

(G) Roth IRA.¶¶

(f) The following retirement plans offered by governments, nonprofit organizations, or unions:¶¶

(A) 457(b) Plan.¶¶

(B) 501(c)(18) Plan.¶¶

(C) Federal Thrift Savings Plan under 5 USC 8439.¶¶

(g) In all programs except the OSIP, OSIPM, and QMB programs, an annuity purchased by an individual with funds from a plan authorized under subsection (c), (d), or (f) of this section.¶¶

(2) An annuitized retirement plan described in subsection (1)(e) of this rule, purchased by the spouse (see OAR 461-001-0000), is not considered a retirement plan and is treated in accordance with OAR 461-145-0020 and OAR 461-145-0022.¶¶

(3) Except as provided in subsection (c) of this section, benefits an individual receives from pension and retirement plans are treated as follows:¶¶

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

(b) All payments not covered by subsection (a) of this section are 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).¶¶

(c) In the OSIP, OSIPM, and QMB-DW programs, if the equity value (see OAR 461-001-0000) of the pension or retirement plan is counted as a resource under section (4) of this rule, any payments received are considered the conversion of a resource and are not counted as income.¶¶

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

(a) Except for an annuity purchased with funds from a retirement plan described in subsection (1)(e) of this rule:¶¶

(A) The equity value of a pension or retirement plan is excluded as a resource if the individual is eligible for monthly or periodic payments under the terms of the plan and has applied for those payments. When an individual is permitted to choose or change a payment option, the individual must select the option that:¶¶

(i) Provides payments commencing on the earliest possible date; and¶¶

(ii) Completes payments over the actuarial life expectancy, as published in the Periodic Life Table of the Office of the Chief Actuary of the Social Security Administration, of the individual.¶¶

(B) The equity value of all pension and retirement plans not covered by paragraph (A) of this subsection that allows an individual to withdraw funds, minus any penalty for withdrawal, is counted as a resource.¶

(b) The equity value of an annuitized retirement plan described in subsection (1)(e) of this rule is excluded as a resource if it meets the payout requirements of OAR 461-145-0022(10)(ed). Otherwise, the equity value is counted as a resource.¶

(c) For an individual in a standard living arrangement (see OAR 461-001-0000), the equity value of pension and retirement plans owned by a non-applying spouse or parent (see OAR 461-001-0000) is excluded as a resource. Dividends and interest earned on pension funds owned by a non-applying spouse or parent are excluded as income.¶

(5) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, dividends and interest earned on pension funds owned by a non-applying spouse are excluded as income.¶

(6) In the REF, REFM, SNAP and TANF programs, the value of retirement accounts identified in sections 401(a), 401(k), 403(a), 403(b), 408, 408(k), 408(p), 408A, 457(b), 501(c)(18), or 529A of the Internal Revenue Code are excluded as resources. The value of retirement accounts designated as a Federal Thrift Savings Plan account, IRA, myRA, Roth IRA, SEP, Simple IRA, and any other retirement plan designated as tax-exempt under a successor or similar provision of the Internal Revenue Code of 1986 are excluded resources.¶

(7) In all programs except the OSIP, OSIPM, QMB, REF, REFM, SNAP, and TANF programs, the equity value of a pension and retirement plan that allows an individual to withdraw funds before retirement, minus any penalty for early withdrawal, is counted as a resource.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 412.007

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 412.007

AMEND: 461-160-0015

NOTICE FILED DATE: 04/28/2023

RULE SUMMARY: OAR 461-160-0015 is being amended to increase the resource limit to \$10,000 for all Refugee Assistance (REF) and Refugee Assistance Medical (REFM) program applicants and recipients. This aligns the resource limit in the REF and REFM programs with the resource limit for the Temporary Assistance for Needy Families (TANF) program. OAR 461-160-0015 is also being amended to remove the ERDC program from Chapter 461 to transfer it from ODHS to DELC as required by House Bill 3073 (2021 regular session). These changes were in two different Notices of Proposed Rulemaking filed 03/27/23 and 04/28/23.

CHANGES TO RULE:

461-160-0015

Resource Limits ¶¶

(1) In the EA program, all countable (see OAR 461-001-0000) resources must be used to meet the emergent need.¶¶

~~(2) In the ERDC program, the limit is \$1,000,000.¶¶~~

~~(3) In the OSIP and OSIPM programs, the resource limit is as follows:¶¶~~

~~(a) \$2,000 for a one-person need group (see OAR 461-110-0630) and \$3,000 for a two-person need group.¶¶~~

~~(b) \$5,000 for the OSIP-EPD and OSIPM-EPD programs (see OAR 461-001-0035 and 461-145-0025 for funds that may be excluded as approved accounts).¶¶~~

~~(4) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all resources are excluded.¶¶~~

~~(5) In the QMB-DW program, the resource limit is \$4,000 for a one-person need group and \$6,000 for a need group containing two or more individuals.¶¶~~

~~(6) In the REF and REFM programs, the resource limit is:¶¶~~

~~(a) \$2,500 for any of the following:¶¶~~

~~(A) A new REF or REFM applicant for benefits.¶¶~~

~~(B) In the RE and TANF programs, the need group that has at least one mandatory (see OAR 461-130-0305) participant in an employment program who is:¶¶~~

~~(i) Receiving REF and not progressing in a required activity of an open case plan; or¶¶~~

~~(ii) Serving a current employment program disqualification (see OAR 461-130-0330).¶¶~~

~~(b) \$10,000 for an REF need group not covered under subsection (a) of this section resource limit is \$10,000.¶¶~~

~~(7) In the SNAP program, unless categorically eligible (see OAR 461-135-0505), the resource limit is:¶¶~~

~~(a) \$4,250 for a financial group (see OAR 461-110-0530) with at least one member who is elderly (see OAR 461-001-0015) or an individual with a disability (see OAR 461-001-0015).¶¶~~

~~(b) \$2,750 for all other financial groups.¶¶~~

~~(8) In the TANF program, the resource limit is \$10,000.~~

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 411.837, 412.049, 413.085, 414.685, 414.839, HB 5202 Oregon 2022 Sess.

AMEND: 461-160-0193

NOTICE FILED DATE: 04/28/2023

RULE SUMMARY: OAR 461-160-0193 is being amended to remove some eligibility provisions for TANF child care support services direct provider payments and to clarify that ODHS will continue to provide TANF child care support services payments for the care of some children who will not be eligible for ERDC child care hours. Most rules governing eligibility for child care benefits will transition from ODHS to DELC effective July 1, 2023 and the ERDC program will support the child care needs of most families receiving TANF. The rule is also being amended to make clear requirements for providers to receive payment and how payments will be made.

CHANGES TO RULE:

461-160-0193

~~Determining Eligibility and Calculating Payment; Direct Provider Payments for TANF~~Support Services Payments; Child Care

- (1) ~~Clients in the TANF program are eligible for direct provider payments for child care~~child care support services (see OAR 461-001-0025) payments allowed under the authority of OAR 461-190-0211 are limited to the care of children who are not eligible for the ERDC program under categorical eligibility (see OAR 461-1675-0160) if:
- (a) ~~The child care cost is deductible under OAR 461-160-0040; allowed weekly hours of child care are the weekly hours allowed for a need group receiving ERDC benefits under categorical eligibility (see OAR 414-175-0025) as provided under OAR 414-175-0023.~~
- (b) ~~The caretaker relative is employed and is in the financial group. For the purpose of this rule, work study and a job with earnings th~~Providers receiving direct payment for child care support services -
- (a) ~~Must be an eligible child care provider, as determined by division 175 of Oregon Administrative Rule chapter 414.~~
- (b) ~~Are paid in the same manner and at the same rate are excluded~~child care providers for the TANFERDC program are not considered employment; and under division 175 of Oregon Administrative Rule Chapter 414.
- (c) ~~The child meets the age requirements of OAR 461-120-0510.~~
- (2) ~~Payments are limited aso~~be determined eligible for child care support services, a child (see OAR 461-001-0000) must be one of the following:
- (a) ~~The cost must be allowed by OAR 461-160-0040; Under 13 years of age; or~~
- (b) ~~Under 18 years of age and~~
- (bA) ~~Payment is limited to the rates provided~~physically or mentally incapable of self-care;
- (B) ~~Under court supervision;~~
- (C) ~~Receiving foster care;~~
- (D) ~~Eligible for the special need rate for child care in OAR 461-1575-0150; or~~
- (e) ~~The direct child care payment is calculated in accordance with OAR 461-160-0300; and~~
- (d) ~~Payment is made only for child care already provided~~Subject to circumstances that significantly compromise the child's safety or the caretaker's ability to work or participate in an assigned activity if child care is not available.

Statutory/Other Authority: ORS 411.060

Statutes/Other Implemented: ORS 411.060, 411.083

AMEND: 461-190-0211

NOTICE FILED DATE: 04/28/2023

RULE SUMMARY: OAR 461-190-0211 is being amended to remove some eligibility provisions for TANF child care support services payments and to clarify that ODHS will continue to provide TANF child care support services payments for the care of some children. Most rules governing eligibility for child care benefits will transition from the ODHS to DELC effective July 1, 2023 and the ERDC program will support the child care needs of most families receiving TANF. Additionally, OAR 461-190-0211 is being amended to clarify who is eligible for support services, to add new support services for eyeglasses, to change the term 'Moving Expense/Relocation' to 'Housing/Utilities' and to clarify that eye exams are not eligible for payment.

CHANGES TO RULE:

461-190-0211

Case Plan Activities and Standards for Support Service Payments; JOBS, Pre-TANF, REF, REP, SFPSS, TANF ¶

In the JOBS, Pre-TANF, REF, REP, SFPSS, and TANF programs, notwithstanding any other administrative rule in chapter 461 and subject to the availability of state and federal funding, the following special provisions apply:¶

(1) Support services (see OAR 461-001-0025) payments are available to the following individuals who are eligible (see OAR 461-130-0310) to engage in a case plan (see OAR 461-001-0025):¶

(a) An individual who is an adult parent, needy caretaker relative (see OAR 461-001-0000), teen parent (see OAR 461-001-0000), or a minor parent (see OAR 461-001-0000) who is head of household; ~~receiving TANF who in the TANF filing group (see 461-110-0330) and~~ is not otherwise exempt (see OAR 461-130-0305) and in accordance with participation requirements in OAR 461-130-0310.¶

(b) An individual who is a recipient of Pre-TANF or SFPSS programs.¶

(c) An individual who is a JOBS volunteer (see OAR 461-130-0310) and has a JOBS case plan.¶

(d) Subject to the limitations in section (8) of this rule, an individual who is receiving REF and participating in REP, who is not otherwise exempt (see OAR 461-130-0305).¶

(2) In approving JOBS program or REP program support services payments, the Department must consider lower cost alternatives. This rule is not intended to supplant Department funding with other funding that is available in the community. The expectation of the Department is that Department staff and individuals work collaboratively to seek resources that are reasonably available to the individual in order to participate in activities.¶

(3) Payment for support services are provided when:¶

(a) Necessary to participate in an approved activity (see OAR 461-001-0025) specified in the individual's case plan;¶

(b) Authorized in advance; and¶

(c) All other provisions of this rule are met.¶

(4) A Department approved activity is eligible for support services payments, except for the following activities:¶

(a) Family Support & Connections,¶

(b) Retention services, and¶

(c) Microenterprise (see OAR 461-190-0197).¶

(5) In the JOBS, Pre-TANF, SFPSS, and TANF programs, the Department may provide payments for support services for eligible individuals engaged in an approved activity specified in the individual's case plan, subject to provisions in sections (1)(a) through (1)(d) of this rule. Support services payment types are described as follows and are subject to the following limitations:¶

(a) JOBS Incidentals: In kind goods or items provided to individuals by the office to support the goals of the family while participating in the JOBS program.¶

(b) Bus Pass/Tickets: Bus tickets or pass that are issued in person out of office.¶

(c) Bus Payment: Payments issued to the individual to pay for public transportation. Requests for recurring bus payments may not exceed six consecutive months of issuance per request. If the individual's eligibility changes during the six months of recurring payments, timely continuing benefit decision notice (see OAR 461-001-0000) must be sent.¶

(d) Gas Payment: Payments for an individual to pay for transportation costs incurred in travel to and from an approved activity. Requests for recurring gas payments may not exceed six consecutive months of issuance per request. If the individual's eligibility changes during the six months of recurring payments, timely continuing benefit decision notice (see OAR 461-001-0000) must be sent.¶

(e) Child Care: Payments for child care, as ~~limited by OAR 461-160-0040, if necessary to enable individuals to participate in an approved activity specified in the individual's case plan. If authorized, payment for child care is:~~¶

(A) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150.¶

(B) The minimum hours necessary, including meal and commute time, for the individual to participate in an approved activity allowed under OAR 461-160-0193.¶

(f) Clothing: Payments for clothing items to support the individual to engage in an approved activity.¶

(g) ~~Moving Expense/Relocation~~Housing/Utilities: Payments for housing and utilities expenses. Payments are subject to the following:¶

(A) Except as provided in paragraph (C) and (D) of this subsection, each payment type (such as rent, mortgage, utility bill, storage fees) is limited to two months per benefit group (see OAR 461-110-0750).¶

(B) Except as provided in paragraph (C) and (D) of this subsection, this payment is limited to \$3,000 per benefit group for each three-month period.¶

(C) Except as provided in paragraph (D) of this subsection, internet service payments are limited to four months per benefit group.¶

(D) With prior manager approval, and upon verification that an individual has greater needs to stabilize a living situation or prevent loss of housing, the Department may approve payments that exceed the limits in paragraphs (A), (B), and (C) of this subsection.¶

(h) Grooming Needs: Payments for grooming needs for an approved activity.¶

(i) Professional Fees: Payments for professional fees to support the case plan.¶

(j) Tools/Equipment: Payments for equipment or tools an individual needs to accept a job offer, or for a work-related activity.¶

(k) Books/Supplies: Payments for books and supplies an individual needs to engage in an educational activity, including vocational training (see OAR 461-001-0025).¶

(l) Vocational Training: Payment for tuition and other educational costs for vocational training and self-initiated training (see OAR 461-001-0025), excluding payments for books and supplies. Payments are subject to the following:¶

(A) Tuition payments for a vocational training activity or a jobs skills training (see OAR 461-001-0025) activity are limited to single payments by session as defined by the educational or vocational training entity, such as a term, semester, or quarter.¶

(B) Tuition payments for a self-initiated training activity may be limited to no more than a twelve-month period per individual and shall be reviewed on a term-by-term basis. Individuals must show that they are making satisfactory progress (see OAR 461-001-0025) in their program and working towards receiving or clearing their standing to receive financial aid.¶

(C) For tuition payments, lower cost alternatives, as described in section (2) of this rule, must be explored, including the individual pursuing financial aid and other sources of assistance.¶

(m) Auto Expenses: Payments for auto expenses, repairs, or car insurance to support the goals specified in the individual's case plan. Payments for auto expenses are subject to the following limitations:¶

(A) Payments for vehicle repairs may be authorized at the discretion of the district if the cost to repair the individual's vehicle is reasonable in relation to the value of the vehicle and the minimum necessary repairs.¶

(B) Payments for car insurance may be authorized for no more than two months in a 12-month period.¶

(n) Eyeglasses: Effective July 19, 2023, payments for eyeglasses (does not include contacts) when necessary to remove a barrier towards gaining employment. Requests for eyeglasses above \$50 shall require medical documentation (see OAR 461-125-0830). Payments for eyeglasses are limited to individuals who are not any of the following:¶

(A) Under the age of 21.¶

(B) A pregnant adult, or¶

(C) Within the last day of the twelfth month following the month in which the individual gave birth.¶

(o) Other Payments: When the need is identified and no other sources are available, the Department may provide other payments needed --¶

(A) To look for work.¶

(B) To accept a job offer.¶

(C) To attain a high school diploma or GED.¶

(D) That are not otherwise restricted , with manager approval.¶

(op) None of the following payments are allowed for payment by the Department:¶

(A) Medical Assistance or medical services, including eye exams.¶

(B) Mental health services.¶

(C) Alcohol and drug treatment services.¶

(D) Professional Services.¶

(E) Non-essential items.¶

(F) Television and cable.¶

(G) Fines, reinstatement fees, restitution, legal fees, civil fees, court costs, or other costs associated with a penalty.¶

(H) Purchase of a car, recreational vehicle, or motor home.¶

(I) Any payments described in this rule for individuals employed in, seeking employment in, or engaged in an illegal activity (see OAR 461-120-0215).¶

(J) Pet-related costs.¶

(K) ~~ERDC co-payments~~ Payments for child care, including ERDC co-payments, except as allowed under subsection (5)(e) of this rule and OAR 461-160-0193.¶

(6) The Department may require an individual to provide verification of a need for, or costs associated with, support services prior to approval and issuance of payments if verification is reasonably available.¶

(7) The Department may reduce, close, or deny in whole or in part a request for support services payments in the following circumstances:¶

(a) The purpose for the payments is not related to the individual's case plan.¶

(b) The individual is failing to comply with the case plan or disqualified, unless the payments in question are necessary for the individual to demonstrate cooperation with the individual's case plan.¶

(c) The individual disagrees with support services payments offered or made by the Department as outlined in the individual's case plan.¶

(8) In the REF and REP programs, the Department may provide payments for support services for individuals eligible for REP engaged in an approved activity specified in the individual's case plan, subject to provisions in section (1)(e). Support services are subject to the following limitations:¶

(a) Transportation. The Department may provide payments to an individual when transportation costs is for travel to and from an approved REP activity. Payments are only for the cost of public transportation or fuel costs. For fuel costs the individual providing the transportation must report having a valid driver's license and vehicle insurance..¶

(b) Other Payments. When the need is identified and no other sources are available, the Department may provide other payments needed -¶

(A) To accept a job offer.¶

(B) For books and supplies to complete a an approved educational activity.¶

(c) All other payments are not allowed.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.121, 412.006, 412.009, 412.014, 412.049, 412.124

Statutes/Other Implemented: ORS 412.016, 412.049, 412.084, 412.124, ORS 291.003, 409.010, 409.040, 411.060, 411.070, 411.121, 412.001, 412.002, 412.006, 412.009, 412.011, 412.014, 45 CFR 233.20