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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 26-2023

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

07/13/2023 9:01 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Temporary Rule Changes: Pandemic Electronic Benefits Transfer (P-EBT) Eligibility, Amount, and Issuance Provisions

EFFECTIVE DATE: 07/15/2023 THROUGH 01/10/2024

AGENCY APPROVED DATE: 07/12/2023

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NEED FOR THE RULE(S):

OAR 461-135-1512 about Application and Eligibility; P-EBT and OAR 461-135-1513 about Benefit Amount and Issuance of Benefit; P-EBT need to be changed to implement the Oregon Pandemic Electronic Benefits Transfer (P-EBT) program for the 2022-2023 School Year and Summer 2023.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly to amend the rules in this filing will result in prejudice to public interest. If the Department does not act immediately, Pandemic Electronic Benefits Transfer (P-EBT) benefits could be issued for School Year 2022-2023 and Summer 2023 without rule authority, which may result in confusion for the public. Amending the rules through temporary filing ensures rule guidance is in place before P-EBT payments are issued.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Pandemic EBT - State Plans for 2022 -2023, available here:
<https://www.fns.usda.gov/snap/p-ebt-guidance-state-plans-2022-23>

Pandemic EBT - Summer 2023, available here:
<https://www.fns.usda.gov/snap/pandemic-ebt-summer-2023>

P-EBT School Year 2022 - 2023 Q & A, available here:
<https://fns-prod.azureedge.us/sites/default/files/resource-files/attachment1-pebt-qa-sy2022-23.pdf>

P-EBT Summer 2023 Q & A, available here:
<https://fns-prod.azureedge.us/sites/default/files/resource-files/summer-pebt-2023qa.pdf>

State Plan for P-EBT, available here:

<https://fns-prod.azureedge.us/sites/default/files/resource-files/Oregon-PEBT-SY-22-23-State-Plan.pdf>

USDA approval of Oregon's P-EBT State Plan for Children in Child-Care, School Year 2022 - 2023, available here:

<https://fns-prod.azureedge.us/sites/default/files/resource-files/Oregon-P-EBT-Approval-SY22-23-CC.pdf>

RULES:

461-135-1512, 461-135-1513

AMEND: 461-135-1512

RULE SUMMARY: OAR 461-135-1512 is being amended to update rule provisions about Pandemic Electronic Benefits Transfer (P-EBT) eligibility for program periods September 2022 through May 2023 (School Year 2022 -2023) and June 2023 through August 2023 (Summer 2023).

CHANGES TO RULE:

461-135-1512

Application and Eligibility; P-EBT

(1) Program Period September 2024~~2~~ through May 2022~~3~~ (School Year 2024~~2~~-2022~~3~~)¶

(a) There is no application for P-EBT program period September 2024~~2~~ through May 2022~~3~~.¶

(b) Children will be eligible for P-EBT in each month from September 2024~~2~~ to May 2022~~3~~ based on the following criteria: ¶

(A) Were part of a household that received more than \$0 in SNAP for at least one month between September 2024~~2~~ and May 2022~~3~~, 11, 2023; and¶

(B) Under six years of age.¶

(c) Children that were part of a household that applied for SNAP benefits on or after May 12, 2023, are not eligible for P-EBT.¶

(2) Program Period June 2022~~3~~ through August 2022~~3~~ (Summer 2022~~3~~)¶

(a) There is no application for P-EBT program period June 2022~~3~~ through August 2022~~3~~.¶

(b) NSLP students will be eligible for P-EBT from June 2022~~3~~ through August 2022~~3~~ based on the following criteria:¶

(A) An NSLP student is eligible for P-EBT if, by May 2022~~3~~, the NSLP student was enrolled at a school that provides meal service as a sponsored NSLP school, and they meet one of the following:¶

(i) Was determined income eligible based on NSLP eligibility criteria as determined by ODEregon Department of Education (ODE), the local education agency, or a state agency that ODE has designated to determine student eligibility for P-EBT;¶

(ii) Was a SNAP participant or part of a household that received TANF for at least one month between June 2022~~3~~ and August 2022~~3~~;¶

(iii) Enrolled with the Food Distribution Program on Indian Reservations (FDPIR);¶

(iv) Was a youth placed in foster care;¶

(v) Participant in the Migrant Education Program (MEP); or¶

(vi) Participant in the McKinney-Vento Act's Education of Homeless Children and Youth Program.¶

(B) P-EBT eligibility is determined by the child's school designation as a sponsored NSLP school.¶

(C) NSLP students who submitted a free or reduced price meals application by August 31, 2022~~3~~ and are determined eligible under federal income limits will receive P-EBT benefits back to the start of the P-EBT program period.¶

(D) NSLP Students who are determined eligible for free and reduced meals under Oregon's Extended Income Limits and were not SNAP participants beginning October 1, 2020, are not eligible for P-EBT.¶

(E) School children who are homeschooled, enrolled in a virtual charter school, or enrolled in a school that does not participate in NSLP are not eligible for P-EBT.¶

~~(e) Children under the age of 6 will be eligible for P-EBT from June 2022 through August 2022 if they meet both of the following criteria:¶~~

~~(A) Was a SNAP participant for at least one month, ho are part of an active SNAP case between June 2022~~3~~ and August 2022~~3~~.¶~~

~~(B) Under six years of age for at least one month between June 2022 and August 2022~~3~~ are not eligible for P-EBT.~~

Statutory/Other Authority: ORS 411.816

Statutes/Other Implemented: ORS 411.816, PL 116-127, PL 116-159, PL116-260, PL 117-2

AMEND: 461-135-1513

RULE SUMMARY: OAR 461-135-1513 is being amended to update the Pandemic Electronic Benefits Transfer (P-EBT) benefit amount and issuance provisions for program periods September 2022 through May 2023 (School Year 2022 - 2023) and June 2023 through August 2023 (Summer 2023).

CHANGES TO RULE:

461-135-1513

Benefit Amount and Issuance of Benefit; P-EBT

(1) Program Period ~~September 2021~~ through ~~May 2022~~ (School Year ~~2021-2022~~)

(a) P-EBT Benefit Standard

(A) The monthly P-EBT benefit is ~~\$634~~ for each month a child is eligible within the program period September 2021 through ~~April 2023~~.

~~(B) The monthly P-EBT benefit is \$29 for a child that is eligible for the program for May 2022.~~

~~(B) P-EBT benefits will be issued to the SNAP case of which the child was a filing group (see OAR 461-110-0370) member.~~

~~(C) P-EBT benefits will be issued through a batch issuance.~~

(b) P-EBT benefits will be issued according to the following schedule:

(A) Initial issuance no ~~later~~ sooner than ~~October 31~~, 2022.

(B) A resolution issuance, for children who did not receive the initial issuance, no later than ~~December 31~~, 2022.

(C) There will be no additional reconciliation or issuance of benefits for children who were not issued P-EBT during the dates in paragraphs (A) or (B) of this subsection.

(D) P-EBT benefits, once issued, shall not be transferred to another EBT account.

(2) Program Period ~~June 2022~~ through ~~August 2022~~ (Summer 2022)

(a) P-EBT Benefit Standard

(A) The P-EBT benefit is ~~\$394~~ for the P-EBT program period.

~~(B) P-EBT benefits will be issued to the Electronic Benefit Transfer (EBT) card provided for P-EBT Summer 2022 benefits if the child previously received P-EBT benefits.~~

~~(C) If the child did not previously receive P-EBT benefits, the P-EBT benefits will be issued through a separate Electronic Benefit Transfer (EBT) card for each eligible individual.~~

~~(C) P-EBT benefits will be issued through a batch issuance.~~

(b) P-EBT benefits will be issued according to the following schedule:

(A) Initial issuance no ~~later~~ sooner than ~~April 15~~, 2022.

(B) A resolution issuance for children who did not receive the initial issuance no later than ~~May 31~~, 2022.

(C) There will be no additional reconciliation or issuance of benefits for children who were not issued P-EBT during the dates detailed in (A) or (B) of this subsection.

(D) P-EBT benefits, once issued, shall not be transferred to another EBT account.

Statutory/Other Authority: ORS 411.816

Statutes/Other Implemented: ORS 411.816, PL 116-127, PL 116-159, PL116-260, PL 117-2