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SSP 47-2023

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

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FILING CAPTION: Rule Changes about Self Sufficiency Program Eligibility, Verification Requirements, and Benefit Replacement

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RULES:

461-105-0020, 461-115-0430, 461-115-0651, 461-135-0073, 461-135-0900, 461-135-1260, 461-135-1270, 461-135-1512, 461-135-1513, 461-140-0266, 461-145-0130, 461-145-0260, 461-145-0410, 461-145-0910, 461-155-0180, 461-155-0190, 461-160-0410, 461-160-0420, 461-160-0430, 461-165-0230

AMEND: 461-105-0020

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-105-0020 is being amended to update rule language to more current, defined, and specific words. This rule has not been amended since 1999, so some of the words or phrases are outdated or have since been defined in rule. It is also being updated to clarify change reporting responsibilities and make clear who an individual must share the rule's responsibilities with to align with regulations, current policy, and Department applications.

CHANGES TO RULE:

461-105-0020

Responsibilities of Clients ¶¶

To be eligible for benefits, ~~client~~ individuals must do all the following:¶¶

- (1) Provide true, complete, and accurate information required to determine eligibility (see OAR 461-001-0000) and verify that information, to the extent permitted by their physical and mental condition, or authorize the branch office (see OAR 461-001-0000) to obtain verification.¶¶
- (2) Comply with the eligibility requirements of the program for which they are requesting or receiving benefits.¶¶
- (3) Report ~~within 10 calendar days any changes that could affect their eligibility for benefits~~ changes as required under OAR 461-170-0010.¶¶
- (4) Accept social services that are court-ordered or related to a case plan.¶¶
- (5) ~~Cooperate with case~~ (see OAR 461-001-0020, 461-001-0025, and 461-001-0027).¶¶
- (5) Cooperate with quality control (see OAR 461-105-0410) and eligibility (see division 115 of chapter 461) reviews by providing requested information and verification.¶¶
- (6) Complete the application process or inform the branch office of their decision to withdraw the application for program benefits.¶¶

(7) Share these responsibilities with a ~~spouse~~ adults who resides in the same household, for whom benefits are being requested, who are required to apply together, and who would be held liable for an overpayment under OAR 461-195-0541.

Statutory/Other Authority: ORS 411.060, 411.070, 411.087

Statutes/Other Implemented: ORS 411.060, 411.111, 411.113, 411.085

AMEND: 461-115-0430

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-115-0430 is being amended to expand eligibility for twelve-month Temporary Assistance for Needy Families (TANF) certifications and to clarify that the Department redetermines TANF eligibility at least once every six months if citizenship or noncitizen status eligibility requirements were waived for a caretaker in the benefit group based on a risk of further or future domestic violence.

CHANGES TO RULE:

461-115-0430

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

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

- (1) In the GA program, the Department redetermines eligibility at least once every 12 months.¶¶
- (2) In the OSIP, OSIPM, and QMB programs, the Department reviews eligibility at least once every 12 months and in accordance with OAR 410-200-0110. The redetermination or renewal provisions for "HSD Medical" programs in OAR 410-200-0110 are also the provisions for OSIP, OSIPM, and QMB programs.¶¶
- (3) The REF and REFM programs are time limited programs; therefore, no periodic redeterminations are made.¶¶
- (4) In the SFPSS program, the Department redetermines eligibility at least once every 12 months. The Department redetermines program eligibility by redetermining eligibility for the TANF program.¶¶
- (5) In the TANF program, benefits will end the last day of the certification period (see OAR 461-001-0000). The Department redetermines eligibility according to the following schedule:¶¶
 - (a) At least once every six months for each of the following:¶¶
 - ~~(A) Individuals not participating in an activity (see OAR 461-001-0025) of an open case plan (see OAR 461-001-0025).¶¶~~
 - (B) Individuals who are currently serving a JOBS disqualification if the citizenship or noncitizen status requirements of OAR 461-120-0110(1) were waived for a caretaker (see OAR 461-001-0000) in the benefit group (see OAR 461-110-0750) based on a risk of further or future domestic violence (see OAR 461-001-0000).¶¶
 - (b) At least once every 12 months for all other individuals.

Statutory/Other Authority: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 413.085, 414.619, 414.826, 414.117, 409.050

Statutes/Other Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 413.085, 414.619, 414.826, 414.117, 409.010, 42 CFR 435.916

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-115-0651 is being amended because the Oregon Department of Human Services (ODHS) has chosen the option to exclude legally obligated child support payments paid by an individual applying for or receiving SNAP benefits to determine countable income for the SNAP program. The payments must be for an individual who is not in the obligor's SNAP filing group. The exclusion includes court ordered child support payments made to a third party, cash medical support, and child support arrearages. The rule is also being changed to clarify medical expense verification requirements and to standardize language.

CHANGES TO RULE:

461-115-0651

Required Verification and When to Verify; SNAP ¶¶

- (1) The Department must give households at least 10 days to provide required verification.¶¶
- (2) All of the following information must be verified when an individual initially applies for SNAP benefits:¶¶
 - (a) The identity of the applicant and any authorized representative or alternate payee.¶¶
 - (b) ~~Ali~~Noncitizen status.¶¶
 - (c) Social Security Number (SSN) or application for an SSN.¶¶
 - (d) Countable income.¶¶
 - (e) Medical expenses, if they are used as a deduction.¶¶
 - (f) Effective January 19, 2023, an order to pay child support and the amount actually paid, if the child for which the support is paid is not in the individual's SNAP household group and the child support payments are used as an exclusion.¶¶
 - (g) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility (see OAR 461-001-0000) or the benefit amount.¶¶
 - (h) For an ABAWD who resides in a SNAP time limit county (see OAR 461-135-0520):¶¶
 - (A) Work hours.¶¶
 - (B) The number of countable months (see OAR 461-135-0520) used in another state if the individual is applying for food benefits after receiving food benefits in another state.¶¶
- (3) All of the following information must be verified when an individual reapplies for SNAP benefits:¶¶
 - (a) Countable income.¶¶
 - (b) ~~Previously unreported medical expenses, and~~Medical expenses, if used as a deduction, and one of the following are true:¶¶
 - (A) ~~The total amount of recurring medical expenses which have~~has changed by more than \$25.¶¶
 - (~~ε~~B) ~~Any changes in the legal obligation~~The medical expense is new, or¶¶
 - (C) ~~The medical expense information is incomplete, inaccurate, inconsistent, or outdated.~~¶¶
 - (c) Effective January 19, 2023, any changes to an order to pay child support, and the obligated amount, and the amount the individual is paying for children that live in a different household group actually paid, if the child for which the support is paid is not in the individual's SNAP household group and the child support payments are used as an exclusion.¶¶
 - (d) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.¶¶
- (4) For cases using the Change Reporting System (CRS), each of the following changes reported during the certification period (see OAR 461-001-0000) must be verified:¶¶
 - (a) A change in source of income, or the amount of stable income has changed by more than \$50.¶¶
 - (b) The amount of variable income from any source.¶¶
 - (c) Changes in reported medical expenses by more than \$25, and previously unreported medical expenses.¶¶
 - (d) ~~Any changes in the legal obligation~~Effective January 19, 2023, any changes to an order to pay child support, and the obligated amount, and the amount the individual is paying for children that live in a different household group amount actually paid, if the child for which the support is paid is not in the individual's SNAP household group and the child support payments are used as an exclusion.¶¶
 - (e) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.¶¶
- (5) For cases using the Simplified Reporting System (SRS), each of the following changes reported during the certification period must be verified in accordance with OAR 461-170-0103:¶¶

(a) ~~Ali~~Noncitizen status and SSN or application for an SSN when a new member joins the benefit group (see OAR 461-110-0750).¶

(b) Countable income.¶

(c) Medical expenses, if used as a deduction.¶

~~(d) An order to pay child support and the amount actually paid, if used as a deduct, and one of the following are true:¶~~

~~(A) The total amount of medical expenses has changed by more than \$25.¶~~

~~(B) The medical expense is new, or¶~~

~~(C) The medical expense information is incomplete, inaccurate, inconsistent, or outdated.¶~~

~~(d) Effective January 19, 2023, an order to pay child support and the amount actually paid, if the child for which the support is paid is not in the individual's SNAP household group and the child support payments are used as an exclusion.¶~~

(6) A claimed expense or cost may be used to determine the SNAP benefit only when the individual provides the required or requested verification.¶

(7) In addition to the verification required by sections (2) to (5) of this rule, the income for an individual must be verified every six months for SRS cases certified for twelve months, except those in which every adult member of the filing group (see in accordance with OARs 461-150-0060(5) and 461-170-0102 --)¶

~~(a) Every six months for SRS cases certified for twelve months under OAR 461-1105-0370) is eld450.¶~~

~~(b) Everly (see OAR 461-001-0015) or an individual with a disability (see OAR 461-001-0015) and has no earned income (NED) twelve months for SRS cases certified for 24 months under OAR 461-115-0450.~~

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

Statutes/Other Implemented: ORS 409.050, 411.060, 411.070, 411.081, 411.087, 411.816, 411.825, 411.837, 7
CFR 273.2

AMEND: 461-135-0073

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-135-0073 is being amended to indicate Temporary Assistance for Needy Families (TANF) time limit extension verification must be reverified upon expiration of the documentation, or every twelve months, whichever occurs first.

CHANGES TO RULE:

461-135-0073

TANF Time Limit; Extension Criteria ¶¶

(1) Effective April 1, 2016, a minor parent (see OAR 461-001-0000) head of household or needy caretaker relative (see OAR 461-001-0000) who has reached the 60-month time limit in OAR 461-135-0071 may receive an extension of benefits if the individual is unable to obtain or maintain employment that provides earnings in excess of income limits established by the Department because the minor parent head of household or needy caretaker relative:¶¶

(a) Is a ~~victim of~~ victim of risk of further or future domestic violence (see OAR 461-001-0000);¶¶

(b) Has a learning disability;¶¶

(c) Has a mental health condition or an alcohol or drug abuse problem;¶¶

(d) Has a disability (see OAR 461-001-0000);¶¶

(e) Has a child (see OAR 461-001-0000) with a disability;¶¶

(f) Is deprived of needed medical care; or¶¶

(g) Is subjected to battery or extreme cruelty. For purposes of this rule, an individual is subjected to battery or extreme cruelty if the individual has been subjected to one or more of the following:¶¶

(A) Physical acts that resulted in, or threatened to result in, physical injury to the individual.¶¶

(B) Sexual abuse.¶¶

(C) Sexual activity involving a dependent child (see OAR 461-001-0000).¶¶

(D) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.¶¶

(E) Threats of, or attempts at, physical or sexual abuse.¶¶

(F) Mental abuse.¶¶

(G) Neglect or deprivation of medical care.¶¶

(2) When a minor parent head of household or needy caretaker relative receiving TANF reaches 60 months of receipt of TANF benefits, benefits may be temporarily continued past 60 months if the individual is otherwise eligible and:¶¶

(a) Is completing a previously approved JOBS Plus agreement; or¶¶

(b) Is experiencing a situation that is expected to last less than 12 months and the Department has determined it is not reasonable for the individual to obtain or maintain employment while the situation is continuing.¶¶

(3) Extensions granted based on a condition described in subsections (1)(b) to (1)(e) of this rule ~~are~~:¶¶

(a) Require documentation from a licensed or certified professional qualified to make such a determination (see OAR 461-125-0830); and¶¶

(b) Must be reverified upon expiration of the documentation or every twelve months, whichever date occurs first.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.079

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 412.001, 412.006, 412.049, 412.064, 412.079, 412.084

AMEND: 461-135-0900

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-135-0900 is being amended to clarify Refugee Assistance Medical (REFM) eligibility requirements for a newborn child born in the United States to an individual receiving REF.

CHANGES TO RULE:

461-135-0900

Specific Requirements; REF, REFM ¶

(1) In addition to the eligibility (see OAR 461-001-0000) requirements in other rules in OAR chapter 461, an individual must meet all of the requirements in this rule to be eligible for the REF and REFM programs.¶

(2) An individual must meet the noncitizen status requirements of OAR 461-120-0125, ~~except a to be eligible for REF and REFM programs except as follows.~~ In the REFM program, a newborn child (see OAR 461-001-0000) born in the United States to an individual in the REF or REFM program is not required to meet the noncitizen status requirements for the REF and REFM programs as long as each parent (see OAR 461-001-0000) in the ~~household~~ family group (see OAR 461-110-0210) meets the noncitizen status requirements of OAR 461-120-0125.¶

(3) An individual is not eligible to receive REF and REFM program benefits if the individual is a full-time student of "higher education", unless such education is part of a cash assistance case plan. Any education or training allowable under an approved case plan must be less than one year in length. For the purposes of this rule, "higher education" means education that meets the requirements of one of the following subsections:¶

(a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL, and high school equivalency programs at these institutions are not considered "higher education".¶

(b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered "higher education".¶

(4) Eligibility for REF and REFM program benefits -¶

(a) For individuals whose date of eligibility is before October 1, 2021, is limited to the first eight months from the date the immigration status was granted. Months in the United States are counted as whole months. There is no prorating of months.¶

(b) For individuals whose date of eligibility is on or after October 1, 2021, is limited to the first twelve months from the date the immigration status was granted, except for individuals that meet the criteria of paragraph (B) of this subsection.¶

(A) Months in the United States are counted as whole months. There is no prorating of months.¶

(B) The twelve-month period begins May 21, 2022, for an individual who is a citizen or national of Ukraine, or an individual who last habitually resided in Ukraine, who was paroled into the United States between February 24, 2022, and May 21, 2022.¶

(5) In the REF and REFM programs, if an individual was originally resettled in Oregon through the federal refugee resettlement process, then the individual must provide the name of the local resettlement agency that resettled them.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.116, 411.121, 411.404, 414.685

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.121, 411.404, 411.878, 412.049, 414.685, 45 CFR 400, H.R. 7691, 117th Cong. (2021-2022)

AMEND: 461-135-1260

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-135-1260 is being amended to clarify that the income limit for JPI (Jobs Participation Incentive) is 200% of the Federal Poverty Level and to clarify that an individual is not eligible for JPI benefits if they are receiving TANF program Employment Payments. These amendments align the rule with current policy. OAR 461-135-1260 is also being amended to implement a federal requirement that individuals must provide their marital status to the Department to be eligible for JPI benefits.

CHANGES TO RULE:

461-135-1260

Specific Requirements: Job Participation Incentive ¶¶

- (1) This rule explains specific requirements of the Job Participation Incentive (JPI). The JPI food benefit provides \$10 per month for qualifying SNAP households with a dependent child (see OAR 461-001-0000) under age 18.¶¶
- (2) An individual eligible for JPI may receive a \$10 monthly food benefit.¶¶
- (a) The individual receives the \$10 incentive payment starting the month the Department receives documentation that all enrollment criteria in section (3) of this rule have been met.¶¶
- (b) There are no partial months of JPI benefits.¶¶
- (c) The individual may only be issued retroactive JPI benefits as allowed under OAR 461-180-0130.¶¶
- (3) As used in this rule, a "two-parent household" refers to a SNAP household group (see OAR 461-110-0210) that contains a dependent child under age 18 and the dependent child's two parents.¶¶
- (4) To receive JPI, an individual must be in a SNAP filing group (see OAR 461-110-0370) and meet the requirements of all of the following subsections:¶¶
- (a) Be working at an unsubsidized paid employment that meets the federally required participation rates (see OAR 461-001-0025) and total countable (see OAR 461-001-0000) income is at or below 200 percent of the federal poverty level (see OAR 461-155-0180). For self-employment or piece rate work, the hours of work must be equivalent to the required average weekly hours at Oregon State minimum wage. An individual must meet the requirements of at least one of the following paragraphs:¶¶
- (A) Be a single parent (see OAR 461-001-0000) of a dependent child under six years of age and working at an unsubsidized paid employment for an average of at least 20 weekly hours.¶¶
- (B) Be a single parent of a dependent child at least six years of age and under 18 years of age, and working at an unsubsidized paid employment for an average of at least 30 weekly hours.¶¶
- (C) Be a parent in a two-parent household (see section (3) of this rule) that does not receive federally-funded child care assistance, and the parents are working at unsubsidized paid employment for a combined average of at least 35 hours per week.¶¶
- (D) Be a parent in a two-parent household that receives federally-funded child care assistance and the parents are working at unsubsidized paid employment for a combined average of 55 hours per week.¶¶
- (b) Provide the Department with employer-produced documents of paid, unsubsidized work hours covering a consecutive two-week period that has occurred within the last 60 days.¶¶
- (c) Anticipate weekly employment hours will remain the same or increase for the reporting period.¶¶
- (d) Provide employer-produced documents of paid, unsubsidized work hours each time requested by the Department and no later than the last day of the sixth month following the date the individual provides the verification of work hours in accordance with subsections (a) and (b) of this section.¶¶
- (e) Be an eligible adult in a SNAP benefit group (see OAR 461-110-0750) and the parent of an eligible dependent child under age 18 in the same SNAP benefit group.¶¶
- (f) Not be receiving any Employment Payments (see OAR 461-001-0025 and 461-135-1270), SFPSS, or TANF program benefits in the same month.¶¶
- (g) All eligible adults must provide marital status to the Department.¶¶
- (5) To remain eligible for JPI, an individual must meet all requirements in section (4) of this rule and all SNAP eligibility and reporting requirements (see OAR 461-170-0011).¶¶
- (6) Household income in JPI is calculated in accordance with all SNAP financial rules.¶¶
- (7) An individual is no longer eligible for JPI when it has been determined that the individual does not meet federally required participation rates and requirements due to any of the following:¶¶
- (a) Loss of employment.¶¶
- (b) A reduction in work hours.¶¶
- (c) The individual no longer has a dependent child under age 18 in their SNAP benefit group.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 412.049
Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 412.049

AMEND: 461-135-1270

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-135-1270 is being amended to allow eligibility for Employment Payments when State Family Pre-SSI/SSDI (SFPSS) or Temporary Assistance to Needy Families (TANF) program renewals are denied due to anticipated income above the SFPSS or TANF income standard. This rule is also being amended to clarify change reporting eligibility requirements.

CHANGES TO RULE:

461-135-1270

Specific Requirements; Employment Payments ¶¶

(1) Effective April 1, 2016, a benefit group (see OAR 461-110-0630) that includes an individual who meets the requirements in section (2) of this rule is eligible to receive \$225 in Employment Payments (see OAR 461-001-0025) paid over three months as provided in section (3) of this rule.¶¶

(2) To be eligible for three months of Employment Payments, an individual in the benefit group (see OAR 461-110-0750) or an individual not in the benefit group due to the time limit in OAR 461-135-0071 must meet all of the following requirements:¶¶

(a) Have obtained unsubsidized paid employment and reported it timely in accordance with ~~OAR 461-170-0011.~~¶¶

~~(b) Have reported all changes timely in accordance with TANF program requirements (OAR 461-170-0011).~~¶¶

(e**b**) Have been a JOBS eligible or JOBS volunteer (see OAR 461-130-0310) individual who closed TANF for one of the following reasons:¶¶

(A) Became ineligible for the Pre-TANF, SFPSS or TANF programs due to income above the applicable income standard in OAR 461-155-0030.¶¶

(B) Became ineligible for the Pre-TANF, SFPSS or TANF programs due to TANF benefit amount being less than \$10.00 in accordance with OAR 461-135-0070.¶¶

(C) Became ineligible for the SFPSS or TANF programs at renewal due to anticipated income above the applicable income standard in OAR 461-155-0030.¶¶

(D) Voluntarily closed TANF to avoid accruing time toward the time limit in OAR 461-135-0071.¶¶

~~(D~~E) Voluntarily closed TANF to be eligible for TBA (see OAR 461-135-0506).¶¶

~~(d~~c) Meet the TANF residency requirements in OAR 461-120-0010.¶¶

~~(e~~d) Remain at or below 350 percent FPL in OAR 461-155-0180.¶¶

(3) Employment Payments begin the month following the month in which Pre-TANF, SFPSS, or TANF benefits close. Payments are limited to one payment per month per benefit group. Payments may not be prorated and are paid in the following amounts and order:¶¶

(a) \$100 the first month after benefits close.¶¶

(b) \$75 the second month after benefits close.¶¶

(c) \$50 the third month after benefits close.¶¶

(4) An individual receiving Employment Payments is not eligible for JOBS Plus or JPI (see OAR 461-135-1260).¶¶

(5) Employment Payments end when:¶¶

(a) An individual is approved for REF, Pre-TANF, SFPSS, or TANF program benefits;¶¶

(b) An individual is a member of a filing group (see OAR 461-110-0330) approved for REF, Pre-TANF, SFPSS, or TANF program benefits;¶¶

(c) There is not a dependent child (see OAR 461-001-0000) remaining in the household; or¶¶

(d) An individual loses unsubsidized paid employment and the loss is verified by the Department.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 412.049, 412.124

Statutes/Other Implemented: ORS 409.050, 411.060, 411.070, 412.049, 412.124

AMEND: 461-135-1512

REPEAL: Temporary 461-135-1512 from SSP 26-2023

NOTICE FILED DATE: 07/31/2023

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). The filing will make temporary rule changes permanent.

CHANGES TO RULE:

461-135-1512

Application and Eligibility; P-EBT

(1) Program Period September 2022 through May 2023 (School Year 2022-2023)

(a) There is no application for P-EBT program period September 2022 through May 2023.

(b) Children will be eligible for P-EBT in each month from September 2022 to May 2023 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 2022 and May 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 2023 through August 2023 (Summer 2023)

(a) There is no application for P-EBT program period June 2023 through August 2023.

(b) NSLP students will be eligible for P-EBT from June 2023 through August 2023 based on the following criteria:

(A) An NSLP student is eligible for P-EBT if, by May 2023, 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 ~~ODE~~ Oregon 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 2023 and August 2023;

(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, 2023 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 who are part of an active SNAP case between June 2023 and August 2023.~~

~~(B) Under six years of age for at least one month between June 2022 and August 2023 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

REPEAL: Temporary 461-135-1513 from SSP 26-2023

NOTICE FILED DATE: 07/31/2023

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). This filing makes temporary rule changes permanent.

CHANGES TO RULE:

461-135-1513

Benefit Amount and Issuance of Benefit; P-EBT

(1) Program Period September 2022 through May 2023 (School Year 2022-2023)

(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 2022 through April 2023.

(B) The monthly P-EBT benefit is \$29 for a child that is eligible for the program for May 2023.

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

(D) 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 than October 31, 2023.

(B) A resolution issuance, for children who did not receive the initial issuance, no later than December 31, 2023.

(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 2023 through August 2023 (Summer 2023)

(a) P-EBT Benefit Standard

(A) The P-EBT benefit is \$391.20 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.

(D) 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 than August 15, 2023.

(B) A resolution issuance for children who did not receive the initial issuance no later than May 31, 2023.

(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

ADOPT: 461-140-0266

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-140-0266 is being adopted because the Oregon Department of Human Services (ODHS) has chosen the option to exclude legally obligated child support payments paid by an individual applying for or receiving SNAP program benefits to determine countable income for the SNAP program. The payments must be for an individual who is not in the obligor's SNAP filing group.

CHANGES TO RULE:

461-140-0266

Court Ordered Child Support Exclusion; SNAP

Effective January 19, 2023, in the SNAP program:¶¶

(1) Notwithstanding other rules in Chapter 461, child support payments made by a member of the filing group, including cash medical support and arrearages, are excluded to determine countable (see OAR 461-001-0000) income if they meet both of the following:¶¶

(a) The child support payments are court ordered.¶¶

(b) The child (see OAR 461-001-0000) for whom the payments are intended to support is not a member of the filing group.¶¶

(2) When an individual cannot verify court-ordered child-support payments, the payments are not used to calculate the exclusion. When the individual provides verification, the exclusion is applied when calculating countable income.¶¶

(3) This income exclusion is not subject to the provisions of OAR 461-140-0070.

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

Statutes/Other Implemented: ORS 409.050, 411.060, 411.070, 411.816, ORS 409.010, 411.825, 411.837, 7 CFR 273.9, 7 CFR 273.10, 7 CFR 273.11

AMEND: 461-145-0130

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-145-0130 is being amended to clarify how the Department treats income from the Temporary Assistance for Needy Families Youth Employment Program (TANF YEP) when determining eligibility for programs in OAR Chapter 461.

CHANGES TO RULE:

461-145-0130

Earned Income; Treatment ¶¶

(1) Earned income (see OAR 461-145-0120) is countable (see OAR 461-001-0000) in determining eligibility (see OAR 461-001-0000) for programs, subject to the provisions in sections (2) to (9) of this rule.¶¶

(2) JOBS Plus income is earned income and is treated as follows:¶¶

(a) In the SNAP program:¶¶

(A) JOBS Plus income earned by a TANF-PLS (see OAR 461-101-0010) participant:¶¶

(i) Is counted in determining initial SNAP program eligibility.¶¶

(ii) Is excluded in determining ongoing eligibility.¶¶

(B) JOBS Plus wages received after the individual's last month of work under a TANF-PLS JOBS Plus agreement are counted.¶¶

(b) In the TANF program, when determining the need for a TANF supplement for a TANF-PLS individual, the income is treated as follows:¶¶

(A) It is excluded in determining the countable income limit and in calculating the benefit equivalency standards.¶¶

(B) It is counted in calculating the wage supplement.¶¶

(C) JOBS Plus wages received after the individual's last month of work under a JOBS Plus agreement are counted.¶¶

(c) In the OSIPM and QMB programs, JOBS Plus wages received after the individual's last month of work under a TANF-PLS JOBS Plus agreement are counted.¶¶

(d) In all programs not covered under subsections (a) to (c) of this section, TANF-PLS income is counted as earned income.¶¶

(e) In all programs, wages received under the Tribal TANF JOBS programs are counted as earned income.¶¶

(3) TANF YEP income is treated as follows:¶¶

(a) In all programs except SNAP, the income is excluded.¶¶

(b) In the SNAP program, unless excluded under section (8) of this rule, the income is treated as earned income. ¶¶

(4) Welfare-to-Work work experience income is treated as follows:¶¶

(a) In the REF, REFM, and TANF programs, the income is earned income, and the first \$260 is excluded each month.¶¶

(b) In the SNAP program, the income is earned income.¶¶

(45) In the OSIP, OSIPM, and QMB programs, documented net losses from a self-employment business (see OAR 461-150-0095) are excluded from any other source of earned income of the financial group (see OAR 461-110-0530). This does not include dividends or profits (see OAR 461-145-0089).¶¶

(56) In the REF and REFM programs:¶¶

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

(b) Earned in-kind income is excluded (see OAR 461-145-0280 and 461-145-0470).¶¶

(67) In the TANF program:¶¶

(a) Earned income of the following children is excluded:¶¶

(A) Dependent children under the age of 19 years, and minor parents under the age of 18 years, who are full-time students in grade 12 or below (or the equivalent level of vocational training, in GED courses), or in home schooling approved by the local school district.¶¶

(B) Dependent children under the age of 18 years who are attending school part-time (as defined by the institution) and are not employed full-time.¶¶

(C) Dependent children too young to be in school.¶¶

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

(c) Earned in-kind income is excluded (see OAR 461-145-0280 and 461-145-0470).¶¶

(78) In the SNAP program:¶¶

(a) If a cafeteria plan (see OAR 461-001-0000) benefit that the employee may not elect to receive as a cash payment is designated and used to pay for child care, medical care, or health insurance, the benefit is excluded unless it is reimbursed by the Department. If reimbursed, the Department counts it as earned income.¶¶

(b) The following types of income are excluded:¶

(A) The earned income of an individual under the age of 18 years who is under the parental control of another member of the household and is:¶

(i) Attending elementary or high school;¶

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

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

(iv) Too young to attend elementary school.¶

(B) Earned in-kind income, except as provided in section (89) of this rule.¶

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

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

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

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

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

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

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 413.085, 414.619

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 413.085, 414.619, 414.117

AMEND: 461-145-0260

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-145-0260 is being amended to insert the correct phrase, "fee property," for land not held in trust by the Bureau of Indian Affairs.

CHANGES TO RULE:

461-145-0260

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

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

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

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

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

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

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

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

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

(A) Assiniboine and Sioux Tribes of Montana.¶

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

(C) Blackfeet Tribe of Montana.¶

(D) Cherokee Nation of Oklahoma.¶

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

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

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

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

(I) Fort Belknap Indian Community of Montana.¶

(J) Keweenaw Bay Indian Community of Michigan.¶

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

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

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

(N) Oglala Sioux Tribe of South Dakota.¶

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

(P) Shoshone - Bannock Tribes of Idaho.¶

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(gg) Public Law 103-116: Settlement funds, income, payments or distributions from Trust Funds to members of the Catawba Indian Tribe (The Catawba Nation or yeh is-WAH h'reh) under the Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993.¶

- (hh) Public Law 103-436: Payments from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (comprised of the Chelan or see emboldened word in attachment, Chief Joseph Band of Nez Perce or wal'wama, Colville or see emboldened word in attachment, Entiat or see emboldened word in attachment, Lakes or see emboldened word in attachment, Methow or see emboldened word in attachment, Moses-Columbia or see emboldened word in attachment, Nespelem or see emboldened word in attachment, Okanogan or see emboldened word in attachment, Palus or paluspam, Sanpoil or see emboldened word in attachment, and Wenatchi or see emboldened word in attachment).¶¶
- (ii) Public Law 103-444: Payments made or benefits granted by the Crow Boundary Settlement Act of 1994.¶¶
- (jj) Public Law 105-143: Distributions of judgment funds to the Ottawa and Chippewa of Michigan under the Michigan Indian Land Claims Settlement Act.¶¶
- (kk) Public Law 108-270: Per capita distribution of judgment funds to members of the Western Shoshone Indians (Newe).¶¶
- (ll) Public Law 111-291 section 101: Payments from the Tribal Trust Accounting and Management Lawsuits. If the funds are comingled with other funds, the resource is excluded for only 12 months and counted thereafter.¶¶
- (mm) Tribal Benefits from timber sales or oil reserves from land held in trust by the Secretary of the Interior.¶¶
- (3) Payments from the Bureau of Indian Affairs are treated as follows:¶¶
- (a) In the SNAP program, payments from the General Assistance program are counted as unearned income.¶¶
- (b) In all programs except the SNAP program, payments from the General Assistance program are excluded.¶¶
- (c) Educational income treatment is under OAR 461-145-0150.¶¶
- (4) In all programs except the SNAP program, the following payments are excluded unearned income. In the SNAP program, the Department excludes the first \$2,000 of each per capita payment per individual in the financial group (see OAR 461-110-0530) and the balance is counted as unearned periodic income.¶¶
- (a) Public Law 85-794: Distribution of Per Capita Funds to the Red Lake Band of Chippewa Indians (Red Lake Nation or Miskwaagamiwi-Zaagaiganing) from the proceeds of the sale of timber and lumber on the Red Lake Reservation.¶¶
- (b) Public Law 93-134: Indian Judgement Funds Distribution Act payments received from trust or restricted lands under 25 USC 1408.¶¶
- (c) Public Law 97-458: Payments received from trust or restricted lands under 25 USC 1408. ¶¶
- (5) In all programs except the SNAP program, the following payments are excluded unearned income. In the SNAP program, the Department excludes the first \$2,000 of each per capita payment per individual in the financial group and the balance is counted as unearned periodic income. ¶¶
- (a) Public Law 100-411: Per capita payments of claims settlement funds to members of the Coushatta Tribe of Louisiana (The Sovereign Nation of the Coushatta Tribe of Louisiana).¶¶
- (b) Public Law 100-581: Judgment funds distributed to members of the Wisconsin Band of Potawatomi (Hannahville Indian Community and Forest County Potawatomi).¶¶
- (c) Public Law 101-618: Per capita distributions of settlement funds under the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990 (Toi-Ticutta). ¶¶
- (6) Public Law 101-277 funds appropriated in satisfaction of judgments awarded to the Seminole and paid by the Indians Claims Commission are excluded unearned income in the SNAP program. In all programs other than the SNAP program, the Department excludes the first \$2,000 of each per capita payment per individual in the financial group and counts the balance as unearned periodic income. These payments are allocated to members of the Seminole Nation of Oklahoma, Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida and the independent Seminole of Florida.¶¶
- (7) In all programs, the payments in this section are excluded unearned income. ¶¶
- (a) Public Law 94-189: Judgment funds distributed to members of the Sac and Fox Nation.¶¶
- (b) Public Law 98-602: Per Capita distributions of judgment funds to members of the Wyandotte Tribe (Wyandotte Nation, see emboldened word in attachment, or Wanda; consisting of Tionontati, Attignawantan, and Wenrohonon (Wenro)) in Oklahoma and Absentee Wyandotte.¶¶
- (8) In all programs except the SNAP program, the payments in this section are excluded unearned income. In the SNAP program, the Department excludes the first \$2,000 each year of per capita payments per individual in the financial group and count the balance as unearned periodic income.¶¶
- (a) Public Law 92-254: Distribution of Per Capita Funds by the Blackfeet Tribe and Gros Ventre (Aaniih) Tribe tribal governments to members, which resulted from judgment funds to the Tribes.¶¶
- (b) Public Law 103-66: Payments for land held in trust by the Secretary of the Interior under 25 USC 1408.¶¶
- (c) Payments from land designated as American Indian or Alaska Native trust land and not addressed elsewhere in this rule.¶¶
- (9) For the following payments, the Department excludes the first \$2,000 each year of per capita payments per individual in the financial group and counts the balance as unearned periodic income.¶¶
- (a) Public Law 92-203, the Alaska Native Claim Settlement Act payments.¶¶

(b) Public Law 100-241, the Alaska Native Claim Settlement Act Amendment of 1987.¶

(10) Public Law 98-500, section 8(b) (Old Age Assistance Claims Settlement Act): In all programs, the Department excludes the first \$2,000 of each per capita payment per individual in the financial group and counts the balance as unearned periodic income.¶

(11) The Department excludes the first \$2,000 of each per capita payment per individual in the financial group and counts the balance as unearned periodic income for the following:¶

(a) Public Law 100-580: Funds distributed to the Hoopa Valley Tribe and the Yurok Tribe under the Hoopa-Yurok Settlement Act, and paid by the Indian Claims Commission.¶

(b) Public Law 97-436: Per capita distributions of judgment funds to members of the Confederated Tribes (Wascoes, Warm Springs, Paiutes) of the Warm Springs Reservation.¶

(12) Tribal payments for child care are treated as follows:¶

(a) Provider-direct payments are counted as the provider's earned income.¶

(b) All client-direct payments are excluded.¶

(13) Commercial fishing income under one of the Columbia River Fishing Treaties for the Confederated Tribes and Bands of the Yakama (formerly Yakima) Indian Nation (comprised of the Yakama Palouis, Pisquouse, Wenatchsahpam, Klikatat, Klingquit, Kow-was-say-ee, Li-was, Skin-pha, Wish-ham, Shyiks, Ocehchotes, Ka-milt-pha, and Se-ap-Cat), Confederated Tribes of the Warm Springs (comprised of the Wascoes, Warm Springs, and Paiutes), Confederated Tribes of the Umatilla Indian Reservation (comprised of the Cayuse, Umatilla, and Walla Walla), and Nez Perce Tribe (Nimiipuu) is counted as earned income.¶

(14) Tribal-TANF payments are counted in the same manner as TANF program payments under OAR 461-145-0410.¶

(15) In all programs except TA-DVS and TANF, all other American Indian or Alaska Native benefit payments distributed by the tribe and not excluded by public law are counted as unearned income. This includes the following:¶

(a) Profit share or per capita income from tribal casinos¶

(b) Income derived from fee property (land not held in trust by the ~~secretary of the interior~~ Bureau of Indian Affairs) such as timber sales or sale of oil reserves. ¶

(c) Public Law 91-259: Payments from the distribution of judgment funds to members of the Confederated Tribes of the Umatilla Indian Reservation (comprised of the Cayuse, Umatilla, and Walla Walla).¶

(16) In the TA-DVS and TANF programs, all other American Indian or Alaska Native benefit payments distributed by a Tribe and not included or excluded by public law are excluded assets (see OAR 461-001-0000). ¶

(17) American Indian or Alaska Native lands held jointly with the tribe, or land that may not be sold without the approval of the Bureau of Indian Affairs (BIA) are excluded resources.

Statutory/Other Authority: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049

Statutes/Other Implemented: ORS 411.060, 411.083, 411.404, 411.816, 412.014, 412.049

AMEND: 461-145-0410

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-145-0410 is being amended to clarify how the Department treats Temporary Assistance for Needy Families Youth Employment Program (TANF YEP) support services payments when determining eligibility for programs in Chapter 461. It is also being amended to direct readers to the administrative rule that addresses how to treat income from TANF YEP when determining eligibility for programs in Chapter 461.

CHANGES TO RULE:

461-145-0410

Program Benefits ¶¶

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

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

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

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

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

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

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

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

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

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

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

(b) OFSET service payments are excluded.¶¶

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

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

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

(c) In the SNAP program:¶¶

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

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

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

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

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

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

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

(e) In all programs:¶¶

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

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

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

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

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

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

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

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

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

Statutory/Other Authority: ORS 409.050, 411.083, 411.404, 411.816, 412.014, 412.049, 413.085, 414.619

Statutes/Other Implemented: ORS 409.010, 411.083, 411.404, 411.816, 412.014, 412.049, 7 CFR 273.9

AMEND: 461-145-0910

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-145-0910 is being amended to make clear that an individual with a business is still considered self-employed when their business is running at a loss and not making a profit. This rule is also being amended to update a rule reference.

CHANGES TO RULE:

461-145-0910

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

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

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

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

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

(c) Meets all the following criteria:¶¶

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

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

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

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

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

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

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

(F) Receives profits from the business, or could receive profits from the business but the business is not making a profit.¶¶

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

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

(b) Providers considered an employee of an Aging and People with Disabilities, Office of Developmental Disabilities Services, or Oregon Health Authority benefit recipient, such as Independent Choices Program (see OAR 411-030-0100) providers, Personal Support Workers (see OAR 411-375-0000), and Personal Care Attendants (see OAR 410-172-0810~~776~~) are not self-employed.¶¶

(c) Specific self-employment income types and professions:¶¶

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

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

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

(iii) Realty agents.¶¶

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

(i) Selling plasma,¶¶

(ii) Redeeming beverage containers,¶¶

(iii) Foraging items to sell (mushrooms for example), and¶¶

(iv) Similar enterprises.¶¶

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

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

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

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

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

(5) In the REFM program:¶¶

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

(b) If self-employment income counted in the month of application puts the applicant over the income limits for

REFM, the income is calculated according to section (4) of this rule.¶

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

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.619

Statutes/Other Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.619, ORS 409.010

AMEND: 461-155-0180

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-155-0180 is being amended to reflect federal cost of living adjustments published annually.

CHANGES TO RULE:

461-155-0180

Income Standards; Not OSIPM or QMB ¶

(1) A Department program may cite this rule if the program uses a monthly income standard based on the federal poverty level.¶

(2) A monthly income standard set at 100 percent of the 2022³ federal poverty level, and updated every October, is set at the following amounts: ¶

Size of Group&&&&Standard¶

1&&&&&&&&&\$ 1,133215¶

2&&&&&&&&& 1,526644¶

3&&&&&&&&& 1,9202,072¶

4&&&&&&&&& 2,313500¶

5&&&&&&&&& 2,706929¶

6&&&&&&&&& 3,100357¶

7&&&&&&&&& 3,493785¶

8&&&&&&&&& 3,8864,214¶

9&&&&&&&&& 4,280643¶

10&&&&&&&&&.. 4,6745,072¶

+1&&&&&&&&&... +394429¶

(3) A monthly income standard set at 130 percent of the 2022³ federal poverty level, and updated every October is set at the following amounts:¶

Size of Group&&&&Standard¶

1&&&&&&&&&\$ 1,473580¶

2&&&&&&&&& 1,9842,137¶

3&&&&&&&&& 2,495694¶

4&&&&&&&&& 3,007250¶

5&&&&&&&&& 3,518807¶

6&&&&&&&&& 4,029364¶

7&&&&&&&&& 4,54921¶

8&&&&&&&&& 5,052478¶

9&&&&&&&&& 5,5646,035¶

10&&&&&&&&&.. 6,076592¶

+1&&&&&&&&&... +51257¶

(4) A monthly income standard set at 165 percent of the 2022³ federal poverty level, and updated every October, is set at the following amounts: ¶

Size of Group&&&&Standard¶

1&&&&&&&&&\$ 1,8692,005¶

2&&&&&&&&& 2,518712¶

3&&&&&&&&& 3,167419¶

4&&&&&&&&& 3,8164,125¶

5&&&&&&&&& 4,465832¶

6&&&&&&&&& 5,114539¶

7&&&&&&&&& 5,7636,246¶

8&&&&&&&&& 6,41952¶

+1&&&&&&&&&... +649707¶

(5) A monthly income standard set at 185 percent of the 2023 federal poverty level, and updated every March, is set at the following amounts: ¶

Size of Group&&&&Standard¶

1&&&&&&&&&\$ 2,248¶

2&&&&&&&&& 3,041¶

3&&&&&&&&& 3,833¶

4&&&&&&&&&& 4,625¶
5&&&&&&&&&& 5,418¶
6&&&&&&&&&& 6,210¶
7&&&&&&&&&& 7,003¶
8&&&&&&&&&& 7,795¶
9&&&&&&&&&& 8,588¶
10&&&&&&&&&&.. 9,381¶
+1&&&&&&&&&... + 793¶

(6) A monthly income standard set at 200 percent of the 2023 federal poverty level, and updated every March, is set at the following amounts: ¶

Size of Group&&&&Standard¶
1&&&&&&&&&&\$ 2,430¶
2&&&&&&&&&& 3,287¶
3&&&&&&&&&& 4,144¶
4&&&&&&&&&& 5,000¶
5&&&&&&&&&& 5,857¶
6&&&&&&&&&& 6,714¶
7&&&&&&&&&& 7,570¶
8&&&&&&&&&& 8,427¶
+1&&&&&&&&&... + 857¶

(7) A monthly income standard set at 250 percent of the 2023 federal poverty level, and updated every March, is set at the following amounts: ¶

Size of Group&&&&Standard¶
1&&&&&&&&&&\$ 3,038¶
2&&&&&&&&&& 4,109¶
3&&&&&&&&&& 5,180¶
4&&&&&&&&&& 6,250¶
5&&&&&&&&&& 7,321¶
6&&&&&&&&&& 8,392¶
7&&&&&&&&&& 9,463¶
8&&&&&&&&&& 10,534¶
+1&&&&&&&&&. +1,071¶

(8) A monthly income standard set at 350 percent of the 2023 federal poverty level, and updated every March beginning 2023, is set at the following amounts: ¶

Size of Group&&&&Standard ¶
1&&&&&&&&&&\$ 4,253¶
2&&&&&&&&&& 5,752¶
3&&&&&&&&&& 7,251¶
4&&&&&&&&&& 8,750¶
5&&&&&&&&&& 10,250¶
6&&&&&&&&&& 11,749¶
7&&&&&&&&&& 13,248¶
8&&&&&&&&&& 14,747 ¶
9&&&&&&&&&& 16,247¶
10&&&&&&&&&&.. 17,745 ¶
+1&&&&&&&&&... + 1,500¶

(9) A monthly Disaster Supplemental Nutrition Assistance Program (DSNAP) income standard, updated every October, is set at the following amounts for the household (see OAR 461-135-0491):¶

Size of Group&&&&Standard¶
1&&&&&&&&&&\$ ~~1,950~~2,085¶
2&&&&&&&&&& ~~2,343~~5,14¶
3&&&&&&&&&& ~~2,737~~942¶
4&&&&&&&&&& ~~3,138~~0¶
5&&&&&&&&&& ~~3,558~~45¶
6&&&&&&&&&& ~~3,982~~4,308¶
7&&&&&&&&&& ~~4,375~~736¶
8&&&&&&&&&& ~~4,768~~5,165¶
+1&&&&&&&&&... +~~394~~429

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

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.816, 412.014, 412.049, 7 CFR 280.1

AMEND: 461-155-0190

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-155-0190 is being amended to reflect federal cost of living adjustments published annually.

CHANGES TO RULE:

461-155-0190

Income and Payment Standards; SNAP and DSNAP ¶

(1) The monthly SNAP Countable Income Limit is set at 130 percent of the federal poverty level under OAR 461-155-0180 for the number of individuals in the need group (see OAR 461-110-0630). The monthly SNAP Adjusted Income Limit is set at 100 percent of the federal poverty level under OAR 461-155-0180 for the number of individuals in the need group.¶

(2) The SNAP Payment Standard (Thrifty Food Plan) is:¶

No. in Benefit Group.....Monthly Amount ¶

1.....\$ 2821¶

2.....51635¶

3.....74066¶

4.....9739¶

5.....1,14655¶

6.....1,33986¶

7.....1,480532¶

8.....1,69751¶

+1.....+2149¶

(3) The full-month Disaster SNAP (DSNAP) Payment Standard is: ¶

No. in Benefit Group.....Monthly Amount¶

1.....\$ 2821¶

2.....51635¶

3.....74066¶

4.....9739¶

5.....1,14655¶

6.....1,33986¶

7.....1,480532¶

8.....1,69751¶

+1.....+2149¶

(4) The DSNAP Gross Income Limit is set under OAR 461-155-0180 for the number of individuals in the household (see OAR 461-135-0491) group.

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

Statutes/Other Implemented: ORS 411.070, 411.816, 411.825, 411.837, ORS 409.010, 409.050, 411.060, 7 CFR 273.1, 7 CFR 273.10, 7 CFR 280.1, H.R. 133

AMEND: 461-160-0410

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-160-0410 is being amended because the Oregon Department of Human Services (ODHS) has chosen the option to exclude, rather than deduct, legally obligated child support payments paid by an individual applying for or receiving SNAP program benefits to determine countable income for the SNAP program. The rule is also being changed to update the name of the SNAP Employment and Training program.

CHANGES TO RULE:

461-160-0410

Use of Income and Income Deductions When There Are Ineligible or Disqualified Group Members; SNAP ¶¶

When a member of the filing group (see OAR 461-110-0310 and 461-110-0370) is not in the need group (see OAR 461-110-0630), benefits in the SNAP program are calculated as follows:¶¶

(1) The process described in sections (2) and (3) of this rule is used if the member is any of the following:¶¶

(a) A non-citizen but not a qualified non-citizen (see OAR 461-120-0125);¶¶

(b) A qualified non-citizen who does not meet the ~~an~~noncitizen status requirements;¶¶

(c) Disqualified for failing to obtain or provide a Social Security Number;¶¶

(d) Unwilling to disclose ~~an~~noncitizen status; or¶¶

(e) An ABAWD (see OAR 461-135-0520) who is ineligible because of the SNAP time limit in OAR 461-135-0520.¶¶

(2) If the member is in a group described in section (1) of this rule:¶¶

(a) The member's countable (see OAR 461-001-0000) income is prorated among the members in the filing group.¶¶

(b) The pro rata share of each individual not in the benefit group (see OAR 461-110-0750) is excluded.¶¶

(c) The rest of the prorated income is countable income for the filing group.¶¶

(3) An ineligible or disqualified member covered by section (1) of this rule is entitled to all income deductions for which the member qualifies. ~~W~~Effective January 19, 2023, when paid by the member, or billed to the member and unpaid, deductions for shelter, ~~child support~~, medical costs, and dependent care are calculated as follows:¶¶

(a) The deductions, except deductions for the utility standard, are prorated among the members of the filing group.¶¶

(b) The prorated share of the members of the benefit group is deducted.¶¶

(c) The deduction for the utility standard is made in accordance with OAR 461-160-0420.¶¶

(4) The countable income of the following financial group (see OAR 461-110-0530) members, subject to allowable deductions, is used to determine benefits:¶¶

(a) ~~A client~~ an individual disqualified for failure to comply with the requirements of the ~~OFSET program under the SNAP Employment and Training program (see OAR 461-001-0020)~~ or because of an intentional program violation.¶¶

~~(b) A client (see OAR 461-195-0601).~~¶¶

(b) An individual determined ineligible for SNAP in accordance with OAR 461-135-0560.

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

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.837, 7 CFR 273.11, 7 CFR 273.9, 7 CFR 273.10

AMEND: 461-160-0420

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-160-0420 is being amended to update the shelter cost standards to reflect federal cost of living adjustments published annually.

CHANGES TO RULE:

461-160-0420

Shelter Cost; SNAP ¶¶

(1) This rule explains how to calculate the shelter cost. The shelter cost is used to determine the shelter deduction (see OAR 461-160-0430). The shelter cost is the sum of the filing group's cost of housing plus an allowance for utilities, if the individual incurs a utility cost. The shelter deduction is calculated considering the shelter cost and may be subject to a limitation described in OAR 461-160-0430.¶¶

(2) Cost of housing.¶¶

(a) The following comprise the cost of housing if they are incurred with respect to the filing group's current residence or the home described in section (5) of this rule:¶¶

(A) Regular, periodic charges for the shelter of the filing group (see OAR 461-110-0370), such as rent, mortgage payments, and condominium or association fees. Late fees charged because a mortgage or rent payment was made late are not deductible.¶¶

(B) Property taxes, state and local assessments, and property insurance on the structure.¶¶

(C) Costs for repairing a home substantially damaged or destroyed by a natural disaster (such as a fire or flood), if such costs are not reimbursed.¶¶

(D) ~~If the living circumstances of a filing group~~ a filing group is experiencing homelessness and their living circumstances meet the definition of homeless under OAR 461-001-0015, the following are allowable costs:¶¶

(i) Working in exchange for housing costs; or¶¶

(ii) If living in a vehicle, vehicle payments and collision and comprehensive insurance premiums.¶¶

(E) For filing group members required to pay room and board in a nonstandard living arrangement (see OAR 461-001-0000), the shelter cost is the cost of room and board, minus the payment standard for the benefit group; or the actual room cost if the individual can prove that the room cost exceeds the room and board minus the payment standard.¶¶

(b) If housing costs are billed on a weekly or biweekly basis, the monthly cost is the weekly cost multiplied by 4.3 or the biweekly cost multiplied by 2.15.¶¶

(c) The filing group has the following choices about housing costs:¶¶

(A) The group may choose to apply the cost in the month it is billed or becomes due.¶¶

(B) The group may choose to have periodic costs averaged.¶¶

(C) For expenses that are billed less often than monthly, the group may choose to have them averaged over the period they are intended to cover.¶¶

(3) Shared housing. If the filing group shares housing costs with an individual in the dwelling who is not in the filing group, only the housing costs incurred by the filing group are included in the calculation. If the portion paid by an individual outside the filing group cannot be ascertained, the cost is apportioned among the individuals contributing to the cost. The pro rata share of those not in the filing group is deducted from the total, and the balance is considered a housing cost of the filing group.¶¶

(4) Cost for utilities.¶¶

(a) A filing group has a cost for utilities if it incurs a cost for heating or cooling; cooking fuel; electricity; water and sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; service for a telephone, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes; or initial installation fees charged by a utility provider.¶¶

(b) If the group incurs no cost for utilities in either its current home or in the home described in section (5) of this rule, then the shelter cost is calculated without an allowance for utilities.¶¶

(c) If a ~~homeless-filing group~~ experiencing homelessness uses a vehicle for shelter, the cost of fuel for the vehicle is considered a utility cost.¶¶

(d) If a filing group incurs a cost for utilities, then the utility allowance is one of the following:¶¶

(A) Allowance with heating or cooling. A full standard utility allowance of ~~\$45269~~ per month is used if the household group (see OAR 461-110-0210) is billed for heating or cooling costs for its dwelling. Charges for any fuel and for electricity are considered heating costs if they are used for heating. A filing group who receives an energy assistance payment for the dwelling provided through the Low Income Energy Assistance Act of 1981 is eligible for the utility allowance established by this paragraph (A). This energy assistance payment must be greater

than \$20 annually.¶

(B) Allowance without heating or cooling.¶

(i) A limited standard utility allowance of ~~\$355~~70 per month is used if the filing group is not billed for heating or cooling costs but is billed for at least two other costs enumerated in subsection (4)(a) of this rule.¶

(ii) An individual standard utility allowance of ~~\$57~~9 per month is used if the filing group is not billed for heating or cooling costs but is billed for only one of the costs enumerated in subsection (4)(a) of this rule other than the service cost for a telephone, including the related taxes or fees.¶

(iii) A telephone standard utility allowance of ~~\$74~~6 per month is used if the filing group is billed only for telephone service, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes.¶

(5) Housing costs for a home not occupied by the filing group. Housing and utility costs with respect to a home not currently occupied may be considered in calculating the shelter cost if--¶

(a) The home is temporarily unoccupied because of employment or training away from home, illness, or abandonment caused by casualty or natural disaster;¶

(b) The filing group intends to return to the home;¶

(c) No other, current occupant is claiming a deduction for shelter costs in the SNAP program; and¶

(d) The home is not leased during the household's absence.

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

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837, 7 CFR 273.5

AMEND: 461-160-0430

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-160-0430 is being amended because the Oregon Department of Human Services (ODHS) has chosen the option to exclude, rather than deduct, legally obligated child support payments paid by an individual applying for or receiving SNAP program benefits to determine countable income for the SNAP program. OAR 461-160-0430 is also being amended to reflect cost of living adjustments published annually.

CHANGES TO RULE:

461-160-0430

Income Deductions; SNAP ¶¶

In the SNAP program:¶¶

(1) Deductions from income are subtracted from countable (see OAR 461-001-0000) income (see OAR 461-140-0010) in the following order to determine adjusted income (see OAR 461-001-0000) for the SNAP program:¶¶

(a) ~~An earned income deduction of 20 percent of countable earned income. The 20 percent deduction is not taken from the wages funded by grant diversions such as Work Supplementation wages as follows:¶¶~~

(A) An earned income deduction of 20 percent of countable earned income. Multiply the total countable earned income by 20 percent and subtract that amount from the countable income. The 20 percent deduction is not taken from the wages funded by grant diversions such as Work Supplementation wages.¶¶

(B) Effective January 19, 2023, an earned income deduction of 20 percent of the earned income excluded due to payment of court ordered child support (see OAR 461-140-0265). For individuals who qualify for this exclusion, multiply the excluded earned income used to pay child support by 20 percent and deduct that amount from the countable income.¶¶

(b) A standard deduction of:¶¶

(A) \$ ~~1938~~ per month for a benefit group (see OAR 461-110-0750) of one, two, or three individuals.¶¶

(B) \$ ~~193208~~ per month for a benefit group of four individuals.¶¶

(C) \$ ~~22544~~ per month for a benefit group of five individuals.¶¶

(D) \$ ~~25879~~ per month for a benefit group of six or more individuals.¶¶

(c) A dependent care deduction for dependent care costs billed to a member of the filing group (see OAR 461-110-0370) and not paid for through any other program of the Department. For the cost to be deductible under this section, the care must be necessary to enable a member of the filing group to--¶¶

(A) Accept or continue employment;¶¶

(B) Seek employment, including a job search that meets the requirements of a case plan (see OAR 461-001-0020); or¶¶

(C) Attend vocational or educational training. A student receiving educational income is entitled to a deduction only for costs not excluded from educational income by OAR 461-145-0150.¶¶

(d) The medical deduction for elderly (see OAR 461-001-0015) individuals and individuals who have a disability (see OAR 461-001-0015) in the filing group. The deduction is calculated by determining the total of their deductible medical costs (see OAR 461-160-0415) and subtracting \$35. The Department uses the resulting amount to determine the allowable deduction as follows:¶¶

(A) For an amount less than \$0, no deduction is allowed.¶¶

(B) For an amount greater than \$0 but less than \$170.01, a deduction of \$170 is allowed.¶¶

(C) For an amount greater than \$170, a deduction of the amount determined under this subsection is allowed.¶¶

~~(e) A deduction for child support payments (including cash medical support) a member of the filing group makes under a legal obligation to a child (see OAR 461-001-0000) not a member of the filing group, including payments for the current month and for payments on arrearages. Child support is not deductible if collected by setoff through the Oregon Department of Revenue or by interception of a federal tax refund.¶¶~~

~~(f) An Excess Shelter Deduction or Homeless Shelter Deduction is calculated if the filing group has an allowable shelter cost under OAR 461-160-0420. ¶¶~~

~~(A) If the group is eligible for both deductions listed in paragraphs (B) and (C) of this subsection, they will receive the higher of the two.¶¶~~

~~(B) Excess Shelter Deduction is calculated as follows:¶¶~~

~~(i) The standard deduction and the deductions of earned income, dependent care, court-ordered child support, and medical expenses are subtracted from countable income.¶¶~~

~~(ii) Fifty percent of the remainder is subtracted from the shelter cost calculated in accordance with OAR 461-160-0420.¶¶~~

(iii) The rounded balance is the deduction, except the deduction is limited if the filing group has no member who has a disability or is elderly. The limit is \$6724 per month.¶

(C) The Homeless Shelter Deduction is \$166.8479.66 for a filing group experiencing homelessness whose living circumstances meet the definition of homeless (see OAR 461-001-0015).¶

(2) If an individual cannot verify a medical ~~or court-ordered child-support~~ expense or cannot verify any other expense when asked to do so, the unverified expense is not used to calculate the deduction. If the individual provides verification, the deduction is applied when calculating the next month's benefits. If verification is provided within the period authorized for processing applications (see OAR 461-115-0210), the benefits for the initial month (see OAR 461-001-0000) are recalculated using the deduction.

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

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837, 7 CFR 273.5, 7 CFR 273.9, 7 CFR 273.10, 7 CFR 273.11

AMEND: 461-165-0230

REPEAL: Temporary 461-165-0230 from SSP 25-2023

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: OAR 461-165-0230 is being amended to allow for replacement of SNAP benefits lost due to electronic benefit theft. This includes card skimming, card cloning, or other similar fraudulent methods. OAR 461-165-0230 is also being amended to clarify benefit replacement provisions for SNAP benefits lost due to household misfortune, disaster, and EBT card caused loss. This filing makes some temporary rule changes permanent.

CHANGES TO RULE:

461-165-0230

Replacing REF, SNAP, and TANF Program Benefits and EBT Cards ¶

- (1) The Department does not replace REF, SNAP, or TANF program benefits after they are delivered to the EBT account unless one of the provisions in this rule apply.¶
- (2) The Department shall replace REF, SNAP, or TANF benefits when the Department failed to cancel the EBT card of an individual leaving a REF, SNAP, or TANF program household and that individual continues to access the REF, SNAP, or TANF program benefits in subsequent months.¶
- (3) In the SNAP program,¶
- (a) Household Misfortune or Disaster. The Department will replace the value of food purchased with SNAP program benefits if all of the following are true:¶
- ~~(A) The food was destroyed by a verified when paragraphs (A) through (D) of this subsection are true. The replacement is limited and issued under paragraph (E) of this subsection.¶~~
- (A) The food was destroyed by a household misfortune or disaster.¶
- (B) The household misfortune or disaster is verified.¶
- ~~(B) The filing group (see OAR 461-110-0370) reports the loss of food:¶~~
- (i) Within ten days of occurrence, or¶
- (ii) By the deadline permitted through Food and Nutrition Service waiver.¶
- ~~(C) The filing group submits a signed statement or affidavit attesting to the loss within ten days of reporting the loss.¶~~
- ~~(b) The replacement must meet the following:¶~~
- ~~(A) The amount may not exceed one month's allotment, unless the issuance includes restored benefits which will be replaced up to the full value of the restored benefits both of the following within ten days of reporting the loss:¶~~
- (i) An itemized list of the food lost and the estimated cost of the food.¶
- (ii) A signed statement or affidavit attesting to the loss.¶
- ~~(E) The replacement of destroyed food is governed as follows:¶~~
- (i) The amount may not exceed one month's allotment of the benefit group (see OAR 461-110-0750), unless the issuance includes restored benefits which will be replaced up to the full value of the restored benefits.¶
- (ii) The Department will issue a timely replacement of the value of the loss by the later of these two timeframes:¶
- (I) Within ten days after the filing group reported the loss; or¶
- (II) Within two working days of receiving the signed statement or affidavit, the itemized list of destroyed food and cost, and verification of the household misfortune or disaster.¶
- (b) EBT Card-Caused Loss. The Department shall replace the amount of SNAP program benefits stolen or compromised (see paragraph (A) of this subsection) by means other than electronic benefit theft (see subsection (3)(c) of this section) when paragraph (B) of this subsection occurs. The replacement is limited and issued under paragraph (C) of this subsection.¶
- (A) For the purposes of this subsection, compromised means the EBT card or the EBT card number has been used by an unauthorized individual to withdraw or spend the SNAP benefits of the filing group.¶
- (B) The loss of SNAP benefits must be caused by one of the following reasons:¶
- (i) The Department issued the EBT card to an unauthorized individual who was not in the filing group.¶
- (ii) The Department failed to cancel the EBT card after the filing group reported to the Department it had been lost, stolen, or compromised.¶
- (C) The replacement of lost SNAP benefits is governed as follows:¶
- (i) When the loss is caused under subparagraph (B) (i) of this subsection, the Department will replace all SNAP benefits compromised.¶
- (ii) When the loss is caused under subparagraph (B) (ii) of this subsection, the Department will only replace the additional SNAP benefits compromised after the filing group reported to the Department the EBT card had been

lost, stolen, or compromised.

(iii) The Department will issue a timely replacement of the value of the loss within ten days after the filing group reported the loss.

(c) Electronic Benefit Theft. Effective May 22, 2023, the Department shall replace the value of SNAP program benefits lost due to electronic benefit theft when paragraph (B) occurs. The replacement is limited and issued under paragraph (C) of this subsection.

(A) For the purposes of this subsection, electronic benefit theft includes the following defined terms:

(i) "Card skimming" is defined as EBT card information stolen utilizing a store's card-swiping machine.

(ii) "Card cloning" is defined as the use of information obtained by "card skimming" to create a fake EBT card for fraudulent use.

(iii) "Another similar fraudulent method" is defined as EBT card information compromised through electronic means. This may include but is not limited to scams such as text, email and telephone. It does not include the theft or unauthorized use of an individual's physical EBT card.

(B) All of the following must occur:

(i) The filing group reports to the Department that SNAP benefits have been lost due to electronic benefit theft due to card skimming, card cloning, or another similar fraudulent method.

(ii) The electronic benefit theft occurred on or after October 1, 2022.

(iii) The theft is reported to the Department within thirty days of the date the electronic benefit theft is discovered.

(iv) The filing group submits a signed statement or affidavit attesting to the electronic benefit theft within ten days of reporting the theft to the Department. The signed statement or affidavit must include all of the following:

(I) The date they discovered the electronic benefit theft.

(II) The total amount of benefits lost due to the electronic benefit theft.

(III) Which EBT card transactions were electronic benefit theft.

(IV) If their physical EBT card was in their possession on the date of each electronic benefit theft transaction.

(Bv) The Department will issue a timely replacement of the value of the loss as validated the filing group's electronic benefit claim through the EBT card transaction history.

(C) The replacement of SNAP benefits lost due to electronic benefit theft is limited and governed as follows:

(i) Replacement issuances are limited to the lesser of the following:

(I) The amount of SNAP benefits reported and qualifying as stolen under paragraph (B) of this subsection.

(II) Two times the monthly allotment of the benefit group immediately prior to the date of the first electronic benefit theft transaction.

(ii) A filing group shall only receive replacements for two instances of electronic benefit theft in each federal fiscal year (FFY), even if an occurrence of electronic theft crosses two FFYs. Each FFY begins October 1 and ends September 30. When electronic benefit theft occurs over the course of several transactions and several days, this is considered one incident.

(iii) The Department will issue a timely replacement of SNAP benefits by the later of these two timeframes:

(i) Within ten days after the filing group reported the loss; or

(ii) Within two working days of receiving the signed statement or affidavit that includes all required information.

(iv) As permitted through the Consolidated Appropriations Act (Omnibus) of 2023 and allowed by the Food and Nutrition Service.

(4) In the REF and TANF programs, when a household is a victim of skimming or a scam that causes a loss in benefits, or when the Department issues an EBT card in error to an individual that is not associated with the case that causes a loss in benefits --

(a) A benefit replacement request must meet all of the following for lost benefits to be replaced:

(A) The household must report to the Department they are the victim of skimming or a scam, or that the Department issued an EBT card in error, within 30 days of occurrence.

(B) The household must submit a signed statement or affidavit attesting to the loss of benefits within ten days of reporting the loss.

(b) When the provisions in subsection (a) of this section are met,

(A) The Department will replace up to the amount of benefits lost.

(B) The Department will issue a timely replacement of the value of the loss by the later of these two timeframes:

(i) Within ten days after the group reported the loss; or

(ii) Within two working days of receiving the signed statement or affidavit.

(C) Benefits may be replaced only once in a calendar month.

(5) The Department will replace an EBT card reported lost, stolen, or not received only after the current card has been deactivated. An EBT card that is damaged or not functioning properly is replaced only after the card's status is changed to "card damaged" and the card is destroyed.

Statutory/Other Authority: ORS 409.050, ORS 409.010, 411.060, 411.816, Public Law 117-328
Statutes/Other Implemented: ORS 409.010, 411.060, 411.816, 7 CFR 280.1, Public Law 117-328