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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED

01/24/2024 12:39 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Proposing Rule Changes About Self Sufficiency Program Eligibility, Benefit Issuance Dates, Definitions, and Notices

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 02/22/2024 11:55 PM

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

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HEARING(S)

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

DATE: 02/22/2024

TIME: 10:00 AM - 11:00 AM

OFFICER: Jennifer Lay

REMOTE HEARING DETAILS

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

PHONE NUMBER: 669-254-5252

CONFERENCE ID: 1602419673

SPECIAL INSTRUCTIONS:

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NEED FOR THE RULE(S)

OAR 461-135-1200 about Specific Requirements; TA-DVS needs to be amended to remove unnecessary application steps and to update eligibility requirements for Temporary Assistance for Domestic Violence Survivors (TA-DVS). Changes to this rule remove the requirements of an outdated application process and provide clarification for

Department staff and the public on current and new financial and nonfinancial eligibility requirements. In addition, this rule needs to be updated to replace outdated or undefined terms and to ensure language is inclusive of all survivors it will serve.

OAR 461-135-1230 about Benefits; TA-DVS needs to be amended because the Department will allow Temporary Assistance to Domestic Violence Survivors (TA-DVS) payments for computers, internet, and car payments. In addition, it needs to be amended to clarify eligibility for furniture and clarify which items or services are restricted. The changes to this rule provide guidance to Department staff and the public on eligibility for TA-DVS payments. Lastly, this rule needs to be amended to use clear and consistent language.

OAR 461-165-0100 about Issuance Date of Benefit needs to be amended to align the rule with Oregon Department of Human Service (ODHS) ONE system functionality. Proposed rule changes ensure the rule accurately describes benefit issuance dates for the Supplemental Nutrition Assistance Program (SNAP).

OAR 461-165-0230 about Replacing REF, SNAP, and TANF Program Benefits and EBT Cards needs to be amended because the Department has decided to adopt the definitions in the rule for "card skimming", "card cloning" and "another similar fraudulent method" in the Temporary Assistance for Needy Families (TANF) and Refugee Assistance (REF) programs. Currently, the rule defines these terms only for the Supplemental Nutrition Assistance Program (SNAP). Changes to this rule makes the definitions applicable to all three programs.

OAR 461-175-0220 about Notice Situation; Disqualification needs to be amended to align the rule with federal regulation and agency policy. Currently, the rule indicates no notice is sent when an individual's Supplemental Nutrition Assistance Program (SNAP) benefits are terminated due to an intentional program violation (IPV) disqualification. Proposed amendments ensure the rule is in line with federal guidance and agency policy.

OAR 461-190-0211 about Case Plan Activities and Standards for Support Services Payments; JOBS, Pre-TANF, REF, REP, SFPSS, TANF needs to be amended to add language indicating support services payments are not allowed for the purchase of firearms or other weapons. In addition, it needs to be amended to provide clarification on non-allowable medical assistance and services. Proposed rule changes provide clarification to Department staff and the public on support services payment eligibility.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

For OAR 461-175-0220, a January 2023 SNAP Food and Nutrition Service Management Evaluation review finding is available upon request from the SNAP policy unit.

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

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

The Department estimates no impact to racial equity in Oregon for any rule changes in this filing.

FISCAL AND ECONOMIC IMPACT:

The Department estimates that amendments to 461-135-1200 will have little or no fiscal impact on those applying for

or receiving Temporary Assistance for Domestic Violence Survivors (TA-DVS) benefits or services, or the Department. It is possible that changes to subsection 7(f), which waives ineligibility for strikers, would make previously ineligible strikers eligible. This could cause a positive fiscal impact for TA-DVS applicants who were previously ineligible due to being on strike and a negative fiscal impact to the Department; however, the Department has not identified any previous denials for this reason since December 2020. The Department estimates no fiscal impact to other state agencies, local government, and business including small business. There is no cost of compliance for small business.

The Department is unable to estimate the fiscal impact of amendments to 461-135-1230 on those applying for or receiving Temporary Assistance for Domestic Violence Survivors (TA-DVS) benefits or services, or the Department. TA-DVS grants have a maximum limit, however, amendments to this rule allow for additional payment types. This could result in increased eligibility for payments, causing a negative fiscal impact to the Department and a positive fiscal impact to individuals receiving TA-DVS. The Department does not have the data to show payment types and amounts that were previously not allowable; therefore, an amount cannot be estimated. The Department estimates no fiscal impact to other state agencies, local government, and business including small business. There is no cost of compliance for small business.

The Department estimates that amendments to 461-165-0100 will have no fiscal impact on those applying for or receiving benefits or services, the Department, other state agencies, local government, and business including small business. There is no cost of compliance for small business.

The Department estimates that the amendments to 461-165-0230 will have no fiscal impact on those applying for or receiving benefits or services, the Department, other state agencies, local government, and business including small business. There is no cost of compliance for small business.

The Department estimates that the amendments to 461-175-0220 will have no fiscal impact on those applying for or receiving benefits or services or the Department because the Oregon Department of Human Services (ODHS) Fraud Investigation Unit has already been providing notices to individuals whose Supplemental Nutrition Assistance Program (SNAP) benefits are terminated due to an intentional program violation. The Department estimates no fiscal impact to other state agencies, local government, and business including small business. There is no cost of compliance for small business.

The Department estimates that the amendments to 461-190-0211 will have no fiscal impact on those applying for or receiving benefits or services, the Department, other state agencies, local government, and business including small business. There is no cost of compliance for small business.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

See Fiscal Impact

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

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

comment period.

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

Rules Advisory Committee (RAC) members were provided with materials about the rule changes in this filing and a RAC meeting was held. However, there were not enough attendees at the meeting to fulfill the agency requirement. In addition, the Department participated in community engagement outside of a standardized RAC meeting.

RULES PROPOSED:

461-135-1200, 461-135-1230, 461-165-0100, 461-165-0230, 461-175-0220, 461-190-0211

AMEND: 461-135-1200

RULE SUMMARY: OAR 461-135-1200 is being amended to remove section (3) about narrated telephonic applications and signatures for the Temporary Assistance for Domestic Violence Survivor (TA-DVS) program because the Department no longer utilizes this process. This change does not limit survivors from completing their application verbally. This rule is also being amended to change and clarify financial and nonfinancial eligibility requirements for TA-DVS, and to clarify that the TA-DVS program addresses temporary needs of individuals whose safety is at risk because of current or future domestic violence. Finally, the rule is being amended to update terms and replace gendered language.

CHANGES TO RULE:

461-135-1200

Specific Requirements; TA-DVS ¶¶

(1) The Temporary Assistance for Domestic Violence Survivors (TA-DVS) program addresses temporary needs of individuals -- ¶¶

(a) Who are currently victim survivors of domestic violence (see OAR 461-001-0000), have been victim survivors of domestic violence, or are at risk of victimization by further domestic violence; ¶¶

(b) Whose current or future safety is at risk because of domestic violence or the current threat of domestic violence; and ¶¶

(c) Who meet the financial and non-financial requirements of this rule. ¶¶

(2) An individual must complete the application process as defined in OAR 461-115-0020. The Department is to follow the application time frames outlined under OAR 461-115-0190. ¶¶

(3) An applicant may complete the application process as follows: ¶¶

(a) In addition to the methods listed under OAR 461-115-0040, the "filing date" may be established telephonically by the Department making record of: ¶¶

(A) The name of the applicant, ¶¶

(B) The applicant's address, ¶¶

(C) The applicant's request for TA-DVS benefits, ¶¶

(D) The applicant stating their full name as their signature, and ¶¶

(E) The date the above occur. ¶¶

(b) Any individual may apply for TA-DVS benefits using the Department approved "telephonic application" (see section (c) of this rule) and "narrated telephonic signature" (see section (d) of this rule) processes. An individual submitting a telephonic application must submit the application with a narrated telephonic signature. ¶¶

(c) A telephonic application is accepted when the following requirements are met: ¶¶

(A) All questions on the application are answered. ¶¶

(B) All information necessary to determine eligibility (see OAR 461-001-0000) and benefit amount is provided for each individual in the filing group (see OAR 461-110-0310). ¶¶

(C) The applicant provides a narrated telephonic signature as defined under this rule. ¶¶

(d) A narrated telephonic signature is accepted for an application for TA-DVS benefits when the Department makes record that the following requirements are met: ¶¶

(A) The "Your Rights and Responsibilities" form is reviewed and provided to the applicant. ¶¶

(B) The following sections at the end of the application form are reviewed and provided to the applicant: ¶¶

(i) "Information about all programs," and ¶¶

(ii) "Information about your rights and responsibilities." ¶¶

(C) The applicant affirms that they: ¶

(i) Have heard and understand their rights and responsibilities; ¶

(ii) Agree to their rights and responsibilities; ¶

(iii) Have given true, correct, and complete information to the Department; and ¶

(iv) States their full name as their signature. ¶

(D) The Department makes record of the narrated telephonic signature. ¶

(4) The Department is authorized by ORS 411.117 to waive or modify requirements of the Temporary Assistance for Needy Families (TANF) program that make it more difficult for applicant individuals to escape domestic violence or put them at risk of further or future domestic violence. ¶

(54) The Department waives the TANF requirement in OAR 461-135-0070(1)(a) for a pregnant woman individual to have reached late pregnancy if an applicant individual is at risk of further or future domestic violence. ¶

(65) The filing group requirements in the TA-DVS program are the same as for the TANF program (see OAR 461-110-0330), except the abuser is not considered in the filing group. ¶

(76) The financial eligibility requirements in the TA-DVS program are the same as for the TANF program except that: ¶

(a) A TANF grant does not count as income. ¶

(b) Income received during the budget month is ~~not counted if the applicant (see OAR 461-001-0000) is not counted if the individual.~~ ¶

(A) ~~Has already spent the money,~~ does not have reasonable access to the money, or cannot access the money independently of the abuser.; ¶

(~~ε~~B) ~~Income~~ Needs the money for expenses made ~~received~~ during the budget month is not counted if the applicant necessary to flee from abuse; or ¶

(C) Needs the money for anticipated budget month expenses, including but not limiteds the money for expenses made necessary to flee from abuse, rent or mortgage, utilities, childcare, medical, food, telephone, or transportation costs. ¶

(~~d~~c) There is no resource limit. ¶

(~~e~~d) The income limit is the applicable TANF Countable Income Limit Standard (OAR 461-155-0030), but the TA-DVS program uses net income, ~~minus living deductions~~ after expenses provided in subsection (6)(b) onf the DHS Form 1542, against the amounts set out under the TANF Countable Income Limit is rule. ¶

(~~f~~e) SSI income is countable (see OAR 461-001-0000), if available in time to meet the emergent need (the immediate safety need) of the applicant individual. ¶

(87) The non-financial requirements in the TA-DVS program are the same as for the TANF program except that: ¶

(a) Citizenship and noncitizen status requirements (OAR 461-120-0110) are waived. ¶

(b) There are no requirements to assign support rights. ¶

(c) There are no requirements to pursue assets (see OAR 461-120-0330). ¶

(d) There is no requirement of regular school attendance (OAR 461-120-0510), except that if the only dependent child (see OAR 461-001-0000) is at least the age of 18, the dependent child must meet requirements of OAR 461-120-0510. ¶

(e) The recipient individual is not required to participate in an employment program. ¶

(f) The ~~TANF program requirement for Department waives the ineligibility of a eparentaker relative (see OAR 461-001-0000) in the need group or caretaker relative (see OAR 461-110-0630) to not have been separated from their most recent employment 001-0000) who is a striker (see OAR 461-1350-0070) is waived when there is risk of further or future domestic violence~~328). ¶

(98) Verification in the TA-DVS program is required as in the TANF program. Verification of financial or non-financial eligibility factors is postponed if the delay in finding the applicant individual eligible would prevent the applicant individual from meeting an emergent need. ¶

(109) No verification is required that the ~~applicant is a victim individual is a survivor~~ of domestic violence or needs to flee from abuse unless: ¶

(a) The individual has been arrested for or convicted of an act of domestic violence in the past and it is uncertain whether the individual is a victim survivor of domestic violence. In this situation, the Department verifies ~~that whether~~ the individual is ~~not or was not a perpetrator~~ currently a survivor of domestic violence. ¶

(b) It is unclear who the ~~abuses survivor~~ is because multiple individuals list each other as the ~~perpetrators survivor~~ during overlapping applications or eligibility certification periods. ¶

(110) Verification as needed in situations described in subsections (109)(a) and (109)(b) of this rule includes, but is not limited to, a statement from a law enforcement officer, a district attorney, the court, a batterer intervention program, a victim's advocate, a Child Welfare staff person, a mental health provider, a health care or other medical provider, a member of the clergy, or other professional from whom the individual has requested assistance to address the alleged domestic violence indicating that the individual is ~~not a perpetrator~~ a survivor of domestic violence or is a self-defending victim survivor. This statement is adequate verification. If no verification is available,

the Department's central office TA-DVS Policy Analyst may assist ~~the field~~ in determining what other verification is acceptable.¶

(121) The following TANF requirements remain in effect as described even if an individual is a victim survivor of domestic violence or at risk of victimization by further domestic violence:¶

(a) The TANF requirements in OAR 461-135-0070 to be a dependent child, a caretaker relative, or a parent (~~see OAR 461-001-0000~~).¶

(b) The TANF requirement in OAR 461-120-0630 that a dependent child live with a caretaker relative, except the latter requirement may be waived while the caretaker relative escapes from further or future domestic violence if the dependent child is expected to return within the 90-day eligibility period certification period (see OAR 461-001-0000).¶

(c) The TANF requirement of residency (see OAR 461-120-0010) except when an individual does not intend to stay in Oregon if the reason for leaving is due to their current domestic violence situation.¶

(d) Income or resource limits except as specifically provided in OAR 461-140-0020 and OAR 461-140-0040.

Statutory/Other Authority: ORS 409.050, 411.060, 411.117, 412.049

Statutes/Other Implemented: ORS 409.010, 411.060, 411.117, 412.049, 45 CFR 260.50 - 260.55

AMEND: 461-135-1230

RULE SUMMARY: OAR 461-135-1230 is being amended to allow Temporary Assistance for Domestic Violence Survivors (TA-DVS) payments for computers, internet, and car payments, and to clarify eligibility for furniture. It is also being amended to indicate TA-DVS payments are not authorized for non-essential services, items intended to be used for self-defense, or for payments that benefit the abuser. Lastly, it is being amended to update terms and make language more concise.

CHANGES TO RULE:

461-135-1230

Benefits; TA-DVS ¶

In the Temporary Assistance for Domestic Violence Survivors (TA-DVS) program:¶

(1) A ~~client~~recipient individual may receive TA-DVS program benefits ~~of the program~~ for up to 90 days from the date the ~~client~~recipient individual was found eligible.¶

(a) Two 90-day ~~eligibility~~eligibility certification periods may not overlap.¶

(b) Once a 90-day ~~eligibility period~~eligibility certification period (see OAR 461-001-0000) has expired, the ~~client~~recipient individual may reapply for TA-DVS program benefits under OAR 461-135-1200(2).¶

(2) A ~~recipient~~recipient individual may receive benefits simultaneously from the TA-DVS and TANF Temporary Assistance for Needy Families (TANF) programs.¶

(3) A ~~client~~recipient individual may receive benefits under the TA-DVS program not to exceed \$1,200 during the 90-day ~~eligibility~~eligibility certification period.¶

(4) The Department does not make payments -¶

(a) After the 90-day ~~eligibility~~eligibility certification period unless ~~all of the needed~~ payment verification was received by the Department by day 90 and payment was not able to be issued due to Department error.¶

(b) Notwithstanding subsection (a) of this section, more than 10 days after the last day of the ~~eligibility~~eligibility certification period.¶

(5) TA-DVS benefits address a specific crisis situation or episode of need related to the ~~applicant~~recipient individual's domestic violence (see OAR 461-001-0000) situation (such as securing new or temporary housing, payment of security deposit, first month's rent, moving expenses, furniture, and clothing replacement). TA-DVS benefits are not utilized to meet current ongoing or recurrent needs expected to continue beyond the 90 days certification period and are not used for the following items even if the ~~recipient~~recipient individual believes the item would contribute to the ~~recipient~~recipient individual's safety:¶

(a) Payments that benefit the abuser;¶

(b) Payment for attorney or other legal fees;¶

(~~b~~c) Payment of a fine or other penalty;¶

(~~e~~d) Payment of outstanding or past due costs such as rent or utilities when the individual does not intend to stay in the residence or the need for the payment was not related to the current domestic violence situation;¶

(~~d~~e) Payment of a pet fee (unless the pet is a service animal, and only when the service status has been verified by a qualified and appropriate medical professional);¶

(~~f~~g) Payment for relocation of household or personal belongings from another state;¶

(~~f~~g) Purchase of a car (including making car payments) or recreational vehicle, including a travel trailer;¶

(~~g~~h) Purchase of a firearm or other weapon;¶

(~~h~~) Purchase of new furniture unless --¶

(A) The new furniture is not available through a community resource;¶

(B) A less costly alternative for acquiring the new furniture is not available, or items intended to be used as self-defense;¶

(i) Purchase of furniture unless --¶

(CA) The ~~old~~ furniture was left behind when the individual fled domestic violence; and, or it was damaged or stolen as a result of domestic violence;¶

(~~D~~B) The new furniture is essential to setting up a household (such as a beds, dressers, a dining room table and chairs, a couch).¶

(i; and ¶

(C) The furniture is not available through a community resource or a less costly alternative.¶

(j) Purchase of a non-essential item or service such as a television or computer, or service such as, cable, or satellite, internet, even if such an item or service was left behind when the individual fled the domestic violence situation; or¶

(jk) Purchase of a pet or guard animal.¶

(~~k~~) Payment of a request about which inaccurate information was provided.¶

(~~l~~) Payment without verification to the extent required under OAR 461-115-0610.¶

(6) The recipient individual and the Department prepare a case plan that identifies activities necessary to enhance the safety of the family. The case plan specifies the payments the Department makes to meet the needs for shelter and food and for relocation or other services that will enhance safety.¶

(7) A recipient individual's available liquid resources may be considered when developing the case plan.¶

(8) A payment issued for an item in the case plan is issued as a dual-payee or vendor-pay check unless the use of a dual-payee or vendor-pay check is likely to put the recipient individual at risk of harm.¶

(9) Reimbursements are not an allowable payment unless payment was pre-authorized by the Department and the reason for purchase was related to the current episode of need related to the domestic violence situation.

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

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.117, 412.049

AMEND: 461-165-0100

RULE SUMMARY: OAR 461-165-0100 is being amended to change the monthly date of issuance of Supplemental Nutrition Assistance Program (SNAP) benefits from the last digit of the individual's case number to the last digit of the head of household's Social Security number, or the first of the month if the individual does not have a Social Security number. This change aligns the rule with Oregon Department of Human Services ONE system functionality. It is also being amended to update the terms used in the rule.

CHANGES TO RULE:

461-165-0100

Issuance Date of Benefit ¶¶

(1) For all programs except the ~~EA and SNAP programs~~ emergency Assistance (EA) program and the Supplemental Nutrition Assistance Program (SNAP):¶¶

(a) An authorized cash payment check is dated on the first day of the payment period or as soon as practicable thereafter.¶¶

(b) Checks are mailed so they can be delivered to the ~~client~~ individual on the first day of each month except in the following cases:¶¶

(A) Initial month benefits for cases that are new, reopened, or restored.¶¶

(B) If the first day of the month falls on Sunday or a holiday, the check is mailed in time for the ~~client~~ individual to receive it on Saturday or the mail day preceding the holiday.¶¶

(C) Checks redirected to the branch office may be released during the last workday preceding a weekend or holiday.¶¶

(c) Benefits issued by electronic benefit transfer (EBT) will be available on the first day of each month, except for the following:¶¶

(A) Initial month benefits for cases that are new, reopened, or restored.¶¶

(B) Benefits held by the branch office.¶¶

(2) ~~EA clients~~ Individuals receiving EA must receive their checks, either direct or vendor, in time to meet their emergent needs.¶¶

(3) SNAP benefits are available as follows:¶¶

(a) SNAP benefits issued by EBT are available in the EBT account on the day of the month corresponding to the last digit of the ~~client's case number~~ Head of Household's (see OAR 461-001-0015) Social Security number (SSN) or the first of the month if the individual does not have a SSN, except for the following:¶¶

(A) The benefits for the initial month of eligibility for a new or re-opened case.¶¶

(B) The benefits for the seventh month of the certification period for a case in the semi-annual reporting system.¶¶

(b) SNAP benefits issued through the SNAP cash-out are available as follows:¶¶

(A) Benefits accessed through an EBT account are available on the first day of the month.¶¶

(B) Checks are mailed on the first day of the month.¶¶

(C) Direct-deposit funds are available on the third working day of the month.¶¶

(4) For SNAP changes that could not be made in time to adjust the monthly allotment, a supplement is issued within 10 days of the date the change was reported.

Statutory/Other Authority: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049

Statutes/Other Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049

AMEND: 461-165-0230

RULE SUMMARY: OAR 461-165-0230 is being amended to adopt the current Supplemental Nutrition Assistance Program (SNAP) definitions of "card skimming", "card cloning", and "another similar fraudulent method" in the Refugee Assistance (REF) and Temporary Assistance for Needy Families (TANF) programs.

CHANGES TO RULE:

461-165-0230

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

(1) The Department does not replace ~~Refugee Assistance (REF), SNAP, or TANF~~ Supplemental Nutrition Assistance Program (SNAP), or Temporary Assistance for Needy Families (TANF) program benefits after they are delivered to the electronic benefit transfer (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) For the purposes of this rule, electronic benefit theft includes the following defined terms:¶¶

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

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

(c) "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.¶¶

(4) In the SNAP program,¶¶

(a) Household Misfortune or Disaster. The Department will replace the value of food purchased with SNAP program benefits 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.¶¶

(C) 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.¶¶

(D) The filing group submits 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.¶

(v) The Department has 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 electronic benefit theft, 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.¶

(45) In the REF and TANF programs, when a household is a victim of card skimming or a scam, card cloning, or another similar fraudulent method 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 card skimming or a scam, card cloning, or another similar fraudulent method, 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.¶

(56) 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

AMEND: 461-175-0220

RULE SUMMARY: OAR 461-175-0220 is being amended to indicate the Department sends a basic decision notice that specifies the disqualification period when an individual's Supplemental Nutrition Assistance Program (SNAP) benefits are terminated due to an intentional program violation (IPV) disqualification.

CHANGES TO RULE:

461-175-0220

Notice Situation; Disqualification ¶¶

(1) If a benefit group (see OAR 461-110-0750) or individual is disqualified for a SNAP Supplemental Nutrition Assistance Program (SNAP) voluntary job quit or for failure to apply for or provide an Social Security number (SSN), pursue assets, cooperate in the JOBS, JOBS Plus, REP Job Opportunity and Basic Skills (JOBS) program, JOBS Plus, Refugee Employment Program (REP), or a SNAP Employment and Training program, or assist the state's efforts to collect support, the Department sends the following type of notice:¶¶

(a) If benefits are reduced or closed because of the disqualification:¶¶

(A) A continuing benefit decision notice (see OAR 461-001-0000) is used when changes are reported on the Periodic Report form.¶¶

(B) A timely continuing benefit decision notice (see OAR 461-001-0000) is used when changes are not reported on the Periodic Report form.¶¶

(b) If benefits are opened without the disqualified individual in the benefit group or if the entire benefit group is denied assistance, a basic decision notice (see OAR 461-001-0000) is used.¶¶

(2) For a JOBS, JOBS Plus, REP, or a SNAP Employment and Training disqualification, and for a SNAP voluntary job quit by an individual receiving SNAP benefits, the notice includes the following information:¶¶

(a) The individual's action that resulted in disqualification.¶¶

(b) The length of the minimum disqualification period.¶¶

(c) The reduced benefit amount.¶¶

(d) How the individual may end the disqualification after the minimum period.¶¶

(3) For an Able Bodied Adult Without Dependents (ABAWD) disqualified due to the SNAP time limit in OAR 461-135-0520, the notice includes the following information:¶¶

(a) The action that resulted in the disqualification.¶¶

(b) The reduced amount when there are other eligible persons in the filing group.¶¶

(c) How the individual may regain eligibility for SNAP benefits.¶¶

(4) For a voluntary job quit by an individual applying for SNAP benefits, the notice includes the following information:¶¶

(a) The action that resulted in the disqualification; and¶¶

(b) The length of the disqualification period.¶¶

(5) For an intentional program violation (IPV) disqualification:¶¶

(a) In all programs except the SNAP program, the Department does not send a notice of termination to an individual disqualified for an IPV after a court order, a final order from an administrative hearing, or a signed waiver (see OAR 461-175-0200(9)(c)(C) and OAR 461-195-0621(2)) that imposes the disqualification.¶¶

(b) In the SNAP program:¶¶

(A) After an individual signs an IPV waiver, the Department sends a basic decision notice to terminate benefits. If the Department receives a timely request for a hearing, the contested case hearing addresses the issues set out in OAR 461-195-0611(3).¶¶

(B) ~~The Department does not send a~~ basic decision notice to terminate the benefits of an individual disqualified for an IPV after a court order or a final order from an administrative hearing. The notice must indicate the disqualification period.¶¶

(c) In all programs, the Department sends a continuing benefit decision notice when benefits for other individuals in the benefit group are closed or reduced because an individual in the benefit group is disqualified for an IPV.¶¶

(6) For a disqualification due to being a fleeing felon or in violation of parole, probation, or post-prison supervision (under OAR 461-135-0560):¶¶

(a) A basic decision notice is required if benefits are opened without the disqualified individual in the benefit group or if the entire filing group is denied benefits.¶¶

(b) A timely continuing benefit decision notice is required if an individual in the benefit group is disqualified.¶¶

(7) The notice situation for a disqualification due to a transfer of assets is covered in OAR 461-175-0310.

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

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

AMEND: 461-190-0211

RULE SUMMARY: OAR 461-190-0211 is being amended to clarify that support service payments are not allowed for medical screening, substance use testing, or for the purchase of firearms or other items intended to be used as self-defense or as a weapon.

CHANGES TO RULE:

461-190-0211

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

In the ~~JOBS, Pre-TANF, Job Opportunity and Basic Skills (JOBS), Pre-Temporary Assistance for Needy Families (TANF), Refugee Assistance (REF), REP, Refugee Employment Program (REP), State Family Pre-SSI/SSDI (SFPSS),~~ and TANF programs, notwithstanding any other administrative rule in chapter 461 and subject to the availability of state and federal funding, the following special provisions apply:¶

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

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

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

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

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

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

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

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

(b) Authorized in advance; and¶

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

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

(a) Family Support & Connections,¶

(b) Retention services, and¶

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

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

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

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

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

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

(e) Child Care: Payments for child care, as allowed under OAR 461-160-0193.¶

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

(g) Housing/Utilities: Payments for housing (including motor homes or trailers when it is the individual's residence) and utilities expenses. Payments are subject to the following:¶

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

- (B) Except as provided in paragraph (C) and (D) of this subsection, this payment is limited to \$3,000 per benefit group for each three-month period.¶
- (C) Except as provided in paragraph (D) of this subsection, internet service payments are limited to four months per benefit group.¶
- (D) With prior manager approval, and upon verification that an individual has greater needs to stabilize a living situation or prevent loss of housing, the Department may approve payments that exceed the limits in paragraphs (A), (B), and (C) of this subsection.¶
- (h) Grooming Needs: Payments for grooming needs for an approved activity.¶
- (i) Professional Fees: Payments for professional fees to support the case plan.¶
- (j) Tools/Equipment: Payments for equipment or tools an individual needs to accept a job offer, or for a work-related activity.¶
- (k) Books/Supplies: Payments for books and supplies an individual needs to engage in an educational activity, including vocational training (see OAR 461-001-0025).¶
- (l) Vocational Training: Payment for tuition and other educational costs for vocational training and self-initiated training (see OAR 461-001-0025), excluding payments for books and supplies. Payments are subject to the following:¶
- (A) Tuition payments for a vocational training activity or a jobs skills training (see OAR 461-001-0025) activity are limited to single payments by session as defined by the educational or vocational training entity, such as a term, semester, or quarter.¶
- (B) Tuition payments for a self-initiated training activity may be limited to no more than a twelve-month period per individual and shall be reviewed on a term-by-term basis. Individuals must show that they are making satisfactory progress (see OAR 461-001-0025) in their program and working towards receiving or clearing their standing to receive financial aid.¶
- (C) For tuition payments, lower cost alternatives, as described in section (2) of this rule, must be explored, including the individual pursuing financial aid and other sources of assistance.¶
- (m) Auto Expenses: Payments for auto expenses, repairs, or car insurance to support the goals specified in the individual's case plan. Payments for auto expenses are subject to the following limitations:¶
- (A) Payments for vehicle repairs are limited to situations where repairs are necessary to operate the vehicle. ¶
- (B) Except as provided in paragraph (C) of this subsection, payments for auto loans or auto leases, are limited to three months per calendar year and only for situations where there is a written agreement. Payments may be authorized for no more than \$1,650 per calendar year and are limited to \$550 per month.¶
- (C) With manager authorization, and upon verification that an individual has greater needs in order to participate in their case plan, the Department may approve payments that exceed the limits in paragraph (B) of this subsection.¶
- (n) Eyeglasses: Effective July 19, 2023, payments for eyeglasses (does not include contacts) when necessary to remove a barrier towards gaining employment. Requests for eyeglasses above \$50 shall require verification of the need from a qualified and appropriate professional. Payments for eyeglasses are limited to individuals who are not any of the following:¶
- (A) Under the age of 21,¶
- (B) A pregnant adult, or¶
- (C) Within the last day of the twelfth month following the month in which the individual gave birth.¶
- (o) Tax Preparation Services: Payments for personal tax preparation services are limited to payments for the current tax year and can only be accessed from January 1 through Tax Day in April, in situations where no free community resources are available.¶
- (p) Other Payments: When the need is identified and no other sources are available, the Department may provide other payments needed --¶
- (A) To look for work.¶
- (B) To accept a job offer.¶
- (C) To attain a high school diploma or GED.¶
- (D) That are not otherwise restricted , with manager approval.¶
- (q) None of the following payments are allowed for payment by the Department:¶
- (A) Medical Assistance or medical services, including eye exams, medical screenings, or substance use testing.¶
- (B) Mental health services.¶
- (C) Alcohol and drug treatment services.¶
- (D) Professional Services.¶
- (E) Non-essential items.¶
- (F) Television and cable.¶
- (G) Fines, reinstatement fees, restitution, legal fees, civil fees, court costs, or other costs associated with a penalty.¶

- (H) Purchase or rental of a car, recreational vehicle, or motor home, except as provided in subsections (5)(g) and (5)(m).¶¶
 - (I) Any payments described in this rule for individuals employed in, seeking employment in, or engaged in an illegal activity (see OAR 461-120-0215).¶¶
 - (J) Pet-related costs.¶¶
 - (K) Payments for child care, including ERDC co-payments, except as allowed under subsection (5)(e) of this rule and OAR 461-160-0193.¶¶
 - (L) Purchase of a firearm or other items intended to be used as self-defense or as a weapon.¶¶
 - (6) The Department may require an individual to provide verification of a need for, or costs associated with, support services prior to approval and issuance of payments if verification is reasonably available.¶¶
 - (7) The Department may reduce, close, or deny in whole or in part a request for support services payments in the following circumstances:¶¶
 - (a) The purpose for the payments is not related to the individual's case plan.¶¶
 - (b) The individual is failing to comply with the case plan or disqualified, unless the payments in question are necessary for the individual to demonstrate cooperation with the individual's case plan.¶¶
 - (c) The individual disagrees with support services payments offered or made by the Department as outlined in the individual's case plan.¶¶
 - (8) In the REF and REP programs, the Department may provide payments for support services for individuals eligible for REP engaged in an approved activity specified in the individual's case plan, subject to provisions in section (1)(e). Support services are subject to the following limitations:¶¶
 - (a) Transportation. The Department may provide payments to an individual when transportation costs is for travel to and from an approved REP activity. Payments are only for the cost of public transportation or fuel costs. For fuel costs the individual providing the transportation must report having a valid driver's license and vehicle insurance..¶¶
 - (b) Other Payments. When the need is identified and no other sources are available, the Department may provide other payments needed -¶¶
 - (A) To accept a job offer.¶¶
 - (B) For books and supplies to complete a an approved educational activity.¶¶
 - (c) All other payments are not allowed.
- Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.121, 412.006, 412.009, 412.014, 412.049, 412.124
- Statutes/Other Implemented: ORS 412.016, 412.049, 412.084, 412.124, ORS 291.003, 409.010, 409.040, 411.060, 411.070, 411.121, 412.001, 412.002, 412.006, 412.009, 412.011, 412.014, 45 CFR 233.20