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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 41-2020

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED
11/30/2020 11:07 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Making a Temporary Amendment to a Rule Regarding REF, REFM, and TANF during COVID-19

EFFECTIVE DATE: 12/01/2020 THROUGH 05/29/2021

AGENCY APPROVED DATE: 11/25/2020

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NEED FOR THE RULE(S):

OAR 461-135-0220 about REF, REFM, and TANF Programs; COVID-19; needs to be amended to adopt recent extensions to resource limit modifications and extensions to the eight month REF program eligibility limit for certain individuals.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-135-0220 will result in serious prejudice to the public interest, the Department, and clients of its programs. The Department needs to proceed by temporary rule due to immediate nature of the pandemic in order to put into rule federal and local guidance that provides support to Oregon refugees and TANF eligible families in need. Failure to act immediately could create barriers and restrict eligibility to those needing to access benefits. This rule amendment adopts extensions of certain eligibility provisions.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Covid-19 Extended Assistance for ORR Populations; Policy Letter 20-06, available here:

https://www.acf.hhs.gov/sites/default/files/orr/pl_20_06_extended_assistance_for_orr_populations_affected_by_covid.pdf

Governor's state of emergency declaration on 3/8/2020 in response to the COVID -19 pandemic, available here:

https://govsite-assets.s3.amazonaws.com/jkAULYKcSh6DoDF8wBM0_EO 20-12.pdf

Governor's fourth extension of executive order 20-03 and COVID 19 state of emergency until January 2nd 2021 response to the COVID -19 pandemic, available here: https://www.oregon.gov/gov/Documents/executive_orders/eo_20-59.pdf

TANF-ACF-PI-2020-01 (Questions and answers about TANF and the Coronavirus Disease 2019 (COVID-19) pandemic),

available here: <https://www.acf.hhs.gov/ofa/resource/tanf-acf-pi-2020-01>

American Public Human Services Association - Policy Levers for State Human Service Agencies in Response to COVID-19, available here: <https://files.constantcontact.com/391325ca001/09c14e28-eba2-4042-8d4f-c039289689bd.pdf>

Office of the Governor, State of Oregon Executive order N. 20-65, Temporary Freeze to Address surge in Covid-19 Cases in Oregon, available here: https://www.oregon.gov/gov/Documents/executive_orders/eo_20-65.pdf

AMEND: 461-135-0220

RULE SUMMARY: OAR 461-135-0220 about REF, REFM, and TANF Programs; COVID-19, is being amended to extend COVID-19 resource limit provisions past November 30, 2020; and to extend the eight month REF program eligibility limit and allow limited retroactive REF benefits for individuals meeting certain criteria. The rule is also being amended to expand the definition of client error overpayment for the REF program.

CHANGES TO RULE:

461-135-0220

REF, REFM, and TANF Programs; COVID-19

The provisions in this rule apply to the REF, REFM, and TANF programs.¶

(1) Notwithstanding OAR 461-115-0040(2), the "filing date" may be established telephonically by the Department making record of:¶

(a) The name of the applicant, and their authorized representative (see OAR 461-115-0090) if one exists,¶

(b) The applicant's address,¶

(c) The applicant's request for REF, REFM, or TANF benefits,¶

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

(e) The date the above occur. ¶

(2) Any individual may apply for REF, REFM, or TANF benefits using the Department approved "telephonic application" (see section (3) of this rule) and "narrated telephonic signature" (see section (4) of this rule) processes. An individual submitting a telephonic application must submit the application with a narrated telephonic signature.¶

(3) A telephonic application is accepted if 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 or their authorized representative provides a narrated telephonic signature as defined in this rule. ¶

(4) A narrated telephonic signature is accepted for an application for REF, REFM, or TANF benefits if the following requirements are met:¶

(a) The "Your Rights and Responsibilities" form is reviewed and sent to the mailing address of the applicant.¶

(b) The following sections at the end of the application form are reviewed and sent to the mailing address of the applicant:¶

(A) "Information about cash benefits,"¶

(B) "Information about TANF program penalties,"¶

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

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

(c) The "Cooperating with Child Support Enforcement" form, is reviewed, including the good cause for non-cooperation with Child Support section, and sent to the mailing address of the applicant.¶

- (d) The "Your Rights and Responsibilities While in JOBS, JOBS Plus, and Refugee Employment Services" form is sent to the mailing address of the applicant.¶
- (e) The applicant or their authorized representative affirms that they:¶
- (A) Have heard and understand their rights and responsibilities; ¶
 - (B) Agree to their rights and responsibilities;¶
 - (C) Have given true, correct, and complete information to the Department; and¶
 - (D) States their full name as their signature.¶
- (f) The Department makes record of the narrated telephonic signature.¶
- (5) The Department determines eligibility at least once every six months when telephonic application and narrated telephonic signature are used.¶
- (6) The Department amends the resource limit for the REF, REFM, and TANF programs (see OAR 461-160-0015(6) and (8)) ~~until November 30, 2020~~, as follows:¶
- (a) \$2,500 for a need group (see OAR 461-110-0630) with every caretaker relative (see OAR 461-001-0000) serving an intentional program violation (see OAR 461-195-0601). ¶
 - (b) \$10,000 for new applicants and all other need groups (see OAR 461-110-0630).¶
- (7) In the REF program, notwithstanding the provisions in OAR 461-190-0211(1)(d) and (8), the Department may authorize payments, to be made through partner agencies, for housing, utilities, and other emergency expenses for individuals who are within 60 months of being granted an eligible noncitizen status as defined in OAR 461-120-0125(5). Eligibility for payments are subject to the following requirements:¶
- (a) Individuals are not eligible for payments if they:¶
 - (A) Are currently enrolled in the Matching Grant program.¶
 - (B) Have received any other subsidized payment for the same expense for the same month.¶
 - (b) The income of the financial group (see OAR 461-110-0530) must have been negatively affected by COVID-19.¶
 - (c) The gross income of the financial group shall not exceed 250 percent of the federal poverty level as listed OAR 461-155-0180. ¶
 - (d) The resource limit of the financial group must meet section (6) of this rule. ¶
 - (e) The sum of all assistance payments under this section must not exceed \$2500 per filing group (see OAR 461-110-0430). ¶
 - (f) Payments shall be made through partner agencies designated by the Department and are subject to availability of funding.¶
- (8) The following provisions apply to individuals issued an immigration status listed under OAR 461-120-0125(5) between April 1, 2019 and May 31, 2020:¶
- (a) The eight-month program eligibility limit stated in OAR 461-135-0090(4), OAR 461-135-0930(3) and (6), and OAR 461-195-0621(4)(c) is extended to January 31, 2021, provided:¶
 - (A) All other financial and non-financial eligibility requirements for REF are met, and¶
 - (B) The income or employability of the financial group was negatively affected by COVID-19.¶
 - (b) A filing group that establishes a filing date (see OAR 461-115-0040) between December 1, 2020 and December 31, 2020, shall receive REF benefits for the months of October and November 2020 if:¶
 - (A) All financial and non-financial eligibility requirements for REF are met for the months of October and November 2020.¶
 - (B) The filing group did not already receive REF benefits for October and November 2020, and¶
 - (C) The filing group was not in a Matching Grant Program during the months of October and November 2020.¶
- (c) REF benefits shall be categorized as client error overpayment (see OAR 461-195-0501) for any month in which both REF benefits and unemployment compensation benefits (see OAR 461-145-0550) were issued. An overpayment created under this provision will be handled in accordance with OAR 461-195-0301 to OAR 461-195-0350.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.083, 412.006, 412.049, 412.064

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.081, 411.083, 411.087, 412.006, 412.049,

412.064, 45 CFR 206.10, 45 CFR 400.155, 45 CFR 261.11