

Oregon Secretary of State  
**Notice of Proposed Rulemaking Hearing and  
Statement of Need and Fiscal Impact**

Department of Human Services, Office of Self-Sufficiency Programs			461
Agency and Division			Chapter Number
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Rules Coordinator	Address	Telephone	Email Address

**Rule Caption:** *Amending rules relating to public assistance programs*

**In the Matter of:** *The adoption of OAR 461-180-0135; the amendment of OAR 461-130-0327, 461-130-0330, 461-130-0335, 461-135-0089, 461-135-0521, 461-145-0360, 461-155-0150, 461-160-0410, 461-165-0010, 461-165-0180, 461-175-0200, 461-175-0220, 461-175-0340, 461-190-0211, 461-190-0231, 461-193-0320, and 461-195-0501; and the repeal of OAR 461-135-0521(T), 461-160-0410(T), 461-165-0180(T), 461-180-0135(T), 461-193-0010, 461-193-0890, 461-193-0940, 461-193-0960, and 461-193-1230*

**Submit Comments:** Written comments may be submitted until Friday, June 24, 2016 at 5:00 p.m. via email to [kris.a.skaro@state.or.us](mailto:kris.a.skaro@state.or.us), faxed to 503-373-7032, or mailed to Kris Skaro, Rules Coordinator, 500 Summer Street NE, E-48, Salem, Oregon, 97301.

**Public Hearing:** Monday, June 20, 2016 at 10 a.m.  
500 Summer St. NE, room 255  
Salem, OR 97301

*This location is accessible for people with mobility impairments and auxiliary aids are available upon request.*

**RULEMAKING ACTION**

**ADOPT:** 461-180-0135

**AMEND:** 461-130-0327, 461-130-0330, 461-130-0335, 461-135-0089, 461-135-0521, 461-145-0360, 461-155-0150, 461-160-0410, 461-165-0010, 461-165-0180, 461-175-0200, 461-175-0220, 461-175-0340, 461-190-0211, 461-190-0231, 461-193-0320, 461-195-0501

**REPEAL:** 461-135-0521(T), 461-160-0410(T), 461-165-0180(T), 461-180-0135(T), 461-193-0010, 461-193-0890, 461-193-0940, 461-193-0960, 461-193-1230

ORS 409.050, 411.060, 411.816, 412.009, 412.049

**Stat. Auth.**

**Other Auth.**

ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.121, 411.816, 411.837, 412.009, 412.049

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**Stats. Implemented**

## **Rule Summary**

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OAR 461-130-0327 about good cause criteria for failure to comply with a program requirement is being amended to state that in the REF program, a client may have good cause for quitting a job if the client has to travel an "unreasonable distance" or if the hours or nature of the job interferes with a client's religious observances, convictions, or beliefs. This criteria was previously addressed in OAR 461-193-0890 which stated the good cause criteria for New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP). That rule is being repealed.

OAR 461-130-0330 about disqualifications is being amended to change the reduction schedule for TANF clients being sanctioned for non-cooperation in the Job Opportunity and Basic Skills program. The new reduction schedule will be four levels (instead of two) of progressive percentage reduction in the family's TANF grant: 25 percent for the first level, 50 for the second, 75 for the third, and 100 for the fourth. Clients may prevent the 100 percent reduction by contacting the Department to re-engage on or before the end of the fourth level. This rule is also amended to separate the re-engagement and progressive disqualification levels for the REF program and align them with [45 CFR 400.82](#). This was previously addressed in OAR 461-193-0940 about disqualifications for NAES and RCSP. That rule is being repealed.

OAR 461-130-0335 about removing disqualifications and the effect on benefits is being amended to align the requirements for disqualified TANF clients with changes being made to OAR 461-130-0330 described above. This rule is also amended to separate the REF requirements for ending a disqualification and align them with federal requirements. Specifically, a disqualification ends in the REF program when the Department determines the individual is exempt or REF program benefits close for a reason other than because of a disqualification. Ending REF disqualifications was previously addressed in OAR 461-193-1230 about removing disqualifications for NAES and RCSP. That rule is being repealed.

OAR 461-135-0089 about demonstrating compliance with substance abuse and mental health requirements and restoring benefits is being amended to align the requirements for disqualified TANF clients with changes to the progressive disqualification benefit reduction schedule in OAR 461-130-0330 described above. This rule is also amended to remove reference to the REF program; these provisions are not applicable to that program because they do not comply with the federal disqualification requirements in [45 CFR 400.82](#).

OAR 461-135-0521 about job quit for SNAP applicants is being amended to include ABAWD (able-bodied adults without dependents) as clients subject to the rule which states that applicants are not eligible for SNAP benefits if they quit a job or reduced work hours in the 30 days prior to

applying for SNAP or at any time while receiving SNAP. This makes permanent a temporary rule adopted on April 1, 2016.

OAR 461-145-0360 about motor vehicles is being amended to clarify how to determine the fair market value of an automobile, truck, or van. Specifically, Kelley Blue Book and similar publications are added as authorities that may be used to determine the "average trade-in value". Previously the rule required eligibility staff to use the NADA (National Automobile Dealers Association) Used Car Guide first and then if the vehicle was not listed, the Kelley Blue Book would be used, followed by a "similar publication".

OAR 461-155-0150 about child care eligibility standards, payments rates, and copays is being amended to state that families who use a child care provider with a Quality Rating and Improvement System (QRIS) star rating of 3, 4, or 5 are eligible for a reduced copay.

OAR 461-160-0410 about treatment of income when there are ineligible or disqualified group members in the SNAP program is being amended to state that if a member in a group is ineligible because of the ABAWD time limits, the income of the ineligible individual is prorated as described in the rule. This makes permanent a temporary rule adopted on April 1, 2016.

OAR 461-165-0010 and 461-195-0501 are being amended to prohibit the use of EBT (Electronic Benefit Transfer) cards at marijuana dispensaries and OAR 461-195-0901 is amended to state that benefits accessed at a marijuana dispensary is an overpayment.

OAR 461-165-0180 about child care provider eligibility requirements is being amended to clarify that providers are placed in failed status for failure to meet eligibility requirements in the rule that are not covered under the new suspended status and that while in failed status, the Department does not pay providers for child care at the site of a previously failed provider or at another site if a previously failed provider is involved in the child care operation, unless the Department determines that the reasons for the provider's failed status are not relevant to the new site. This make permanent a temporary rule adopted on January 20, 2016. The rule is also amended to create a finding of suspended for child care providers who have failed to meet certain eligibility requirements that cannot be immediately remedied. Providers in suspended status are ineligible for payment for six months but may reapply after six months by submitting information to the Department for review. This makes permanent a temporary rule adopted on March 14, 2016. Lastly, unnecessary references to the Child Care Billing and Attendance Tracking (CCBAT) system are being removed.

OAR 461-175-0200 about general notice requirements, OAR 461-175-0220 about notice requirements for disqualifications, and OAR 461-175-0340 about notice requirements involving voluntary client actions are being amended to state that in the SNAP program, the Department sends a notice of termination when an individual signs an IPV (intentional program violation) waiver of hearing rights.

OAR 461-180-0135 about restoring benefits for ABAWD clients is being adopted to allow the Department to restore benefits to ABAWD clients in the month after they reach the time limit without reapplying in certain circumstances. This makes permanent a temporary rule adopted on April 1, 2016.

OAR 461-190-0211 about support services is being amended to make minor language clarifications about when the Department pays for fuel costs for a privately-owned vehicle.

OAR 461-190-0231 about re-engagement is being amended to add that re-engagement includes an opportunity to follow-up on screenings for physical or mental health needs, substance abuse, domestic violence, or learning needs and that in the JOBS program, re-engagement includes an attempted home visit. This rule is also amended to include the REF re-engagement requirements which were previously addressed in OAR 461-193-0960 about re-engagement for NAES and RCSP. That rule is being repealed.

OAR 461-193-0010 about client responsibilities for NAES and RCSP is being repealed. This information is addressed in the general client responsibilities rule, OAR 461-105-0020.

OAR 461-193-0320 about the effective date for cash assistance in the Refugee Case Service Project (RCSP) is being amended to state that unless specified otherwise in the rule, the effective date is as provided for REF and TANF clients in OAR 461-180-0070.

In addition, non-substantive edits may be made to these rules to: ensure consistent terminology throughout self-sufficiency program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

The Department requests public comment on whether other options should be considered for achieving the substantive goals of the rules while reducing the negative economic impact of the rules on business. Rule text showing edits for the rules described above is available at [http://www.dhs.state.or.us/policy/selfsufficiency/ar\\_proposed.htm](http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm).

## Need for the Rules

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OAR 461-130-0330, 461-130-0335, 461-135-0089, and 461-190-0231 need to be amended because the current retention schedule for JOBS program disqualifications unfairly penalizes certain families based on the number in the household and whether it is a single or two-parent family. The changes are needed to bring more equality to the disqualifications by making the reductions equal in percentage of grant regardless of the number in the household or whether the household is a single or two-parent household. Additionally, the amendments to clarify the re-engagement requirements for clients who are about to reach the end of the fourth level disqualification, the additional steps to follow-up on identified barriers, and the home visit requirement are needed to support the intent of language in [HB 3535](#) regarding re-engagement.

OAR 461-130-0327, 461-130-0330, 461-130-0335, 461-135-0089, 461-190-0231, and 461-193-0320 need to be amended and OAR 461-193-0890, 461-193-0940, 461-193-0960, and 461-193-1230 need to be repealed to ensure the Department's rules on disqualification and re-engagement for the Department's refugee assistance programs are in compliance with [45 CFR 400.82](#). [45 CFR 400.82](#) specifically requires disqualified clients to lose benefits for three months at the first level and for six months at the second level. The amendments ensure compliance and consolidate the re-engagement and disqualification requirements for REF into the Department's main rules on those topics.

OAR 461-135-0521 needs to be amended because as it is currently written, the job quit prohibition only applies to applicants subject to OFSET requirements. OFSET is no longer offered in districts where the ABAWD time limits apply. Therefore, it unintentionally excluded ABAWD applicants from the job quit provisions, which is inconsistent with federal law. The amendment corrects the rule by clarifying that the rule applies to all clients subject to SNAP employment and training requirements, not just OFSET.

OAR 461-145-0360 needs to be amended because the rule is unnecessarily prescriptive about the process eligibility staff must use when determining the fair market value of vehicles. The change opens the process up for staff to use the best comparison available to determine the value for clients. This also aligns with internal guidance which is less prescriptive.

OAR 461-155-0150 needs to be amended because ORS [329A.500](#) (as amended by [HB 2015](#)) directs the Department to adopt rules to provide child care subsidy recipients who choose quality-rated providers with a lowered copayment. These changes bring the Department into compliance with Oregon law.

OAR 461-160-0410 needs to be amended because the current rule does not accurately reflect federal regulations which allow the Department to prorate the income and deductions of an ABAWD who is ineligible due to the time limit before applying it to the rest of the household when there are others receiving SNAP benefits. This allows the eligible members of the household to claim less income which benefits the clients and brings the Department in line with federal regulations.

OAR 461-165-0010 and 461-195-0501 need to be amended because currently EBT cards may not be used at liquor stores, strip clubs, and casinos in recognition that these are not locations that provide access to basic life necessities, which is the purpose of public assistance programs. Marijuana dispensaries similarly are not locations which provide basic necessities such as food and clothing and therefore these locations need to be added to the rules expressly prohibiting EBT card use at certain locations.

OAR 461-165-0180 needs to be amended to clarify that providers in failed status may not avoid failed status by simply applying to provide care under a different provider name at the same location or applying to provide care under the same name but at a different location (unless the Department determines the reasons for the failed status are not relevant to the care provided at the new location). The amendment makes that clarification. The rule also needs to be amended to add a finding of suspended because currently when a provider is not in compliance with the eligibility requirements, the only option for the Department is to place them in failed status and allow the provider to immediately resubmit information to show the deficiency has been remedied. For some eligibility requirements, this is appropriate. For example, if the provider is failed because of a missing safety gate, the failed status gives the provider the opportunity to immediately remedy the deficiency. However, some eligibility requirements, such as failure to maintain records or report child abuse cannot be immediately remedied and a longer term of ineligibility may be more appropriate to ensure the provider is prepared to meet the high child safety and program integrity standards. By creating a new finding of suspended for some provider deficiencies with a six-month ineligibility period will give the Department the discretion to ensure eligible providers are able to comply with all provider requirements. Lastly, references to the Child Care Billing and Attendance Tracking (CCBAT) need to be removed

because the CCBAT system was not implemented. The amendments remove those references to ensure the rule accurately reflects that.

OAR 461-175-0200, 461-175-0220, and 461-175-0340 need to be amended because the current rules do not require the Department to send an additional notice that SNAP benefits will close after an individual voluntarily signs an IPV waiver of hearing rights because that signed waiver is considered a final order under state law (see ORS [183.417\(3\)\(b\)](#)). However, that policy is inconsistent with the federal IPV notice requirements for the SNAP program (see [7 CFR 273.16\(f\)\(3\)](#)). The amendments bring the rules in line with federal IPV notice requirements.

OAR 461-180-0135 needs to be adopted because in some cases, ABAWD clients may lose eligibility for SNAP benefits because they do not understand the new time limit or associated exemptions and work requirements they are subject to. This rule will allow the Department to restore benefits without a new application if the ABAWD shows they were exempt or met the work requirements in one of the months that counted toward reaching the three-month limit on SNAP benefits. This will reduce work for staff and help clients who may not be aware of the new time limit or understand the work requirements and exemptions that make them eligible to continue to receive benefits beyond three months.

OAR 461-190-0211 needs to be amended because the current rule implies the Department would be verifying the validity of the reported driver's license and insurance. The amendment clarifies that the client or individual providing transportation only needs to report that they have a license and insurance.

OAR 461-193-0010 needs to be repealed because it is duplicative of the client responsibilities listed in OAR 461-105-0020. The repeal avoids confusion by having one client responsibilities rule for all programs.

## Documents Relied Upon

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Guide to Serving ABAWD Subject to Time-limited Participation available at [http://www.fns.usda.gov/sites/default/files/Guide\\_to\\_Serving\\_ABAWDs\\_Subject\\_to\\_Time\\_Limit.pdf](http://www.fns.usda.gov/sites/default/files/Guide_to_Serving_ABAWDs_Subject_to_Time_Limit.pdf)

Fiscal Impact of HB 2015 (2015) prepared by the Legislative Fiscal Office on 6/17/15 available at <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureAnalysisDocument/31624>

Overview of HB 3535 (2015) available at <https://olis.leg.state.or.us/liz/2015R1/Measures/Overview/HB3535>

## Fiscal and Economic Impact

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The Department estimates that amending OAR 461-130-0330, 461-130-0335, 461-135-0089, and 461-190-0231 to implement the new disqualification benefits reduction schedule will have no fiscal impact on the Department because overall the reduction amounts remain the same, only more equitably distributed among types of families. The Department estimates the changes will have a positive fiscal impact on some clients and a negative fiscal impact on other clients. Single-parent families will have their benefits reduced less at level one but more at level two and

three. Two-parent families will have their benefits reduced more at level one, two, and three. The Department estimates no fiscal impact on other state agencies, the public, or local government. No small businesses are subject to this rule. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-130-0327, 461-130-0330, 461-130-0335, 461-135-0089, and 461-190-0231 and repealing OAR 461-193-0890, 461-193-0940, 461-193-0960, and 461-193-1230 to align the re-engagement and disqualification policies for the REF program with [45 CFR 400.82](#) will have no fiscal impact on the Department because refugee assistance is federally funded. The Department estimates a negative fiscal impact on REF clients who are disqualified. Approximately three-to-five clients per month may be disqualified resulting in an average loss of \$1,017 over three months for the first level disqualification and an additional \$1,017 for the second level. If the disqualified client is a member of a two-person REF case, there will be a loss of \$264 over the next three months because the disqualified client is removed from the filing group. A second disqualification for a single client will lead to a maximum potential loss of \$2,034 over the next six months. A second disqualification for a client in a two-person REF case will lead to a maximum potential loss of \$528. Local refugee resettlement agencies who sponsor disqualified refugees may be negatively impacted if they must provide assistance to make up for the loss of REF program benefits, but the Department does not have data available to estimate the fiscal impact on these agencies. The Department estimates no fiscal impact on other state agencies, providers, the public, local government, or business, including small business. No small businesses are subject to these rules. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-135-0521 will have a negative fiscal impact on an ABAWD client residing in Multnomah or Washington County who quit a job or reduced work hours to below 30 hours per week without good cause in the 30 days prior to applying for SNAP benefits or anytime while receiving SNAP benefits. These clients will no longer be eligible for SNAP benefits. Out of an estimated 6,500 ABAWD clients, the Department estimates that less than half a percent of those clients will lose benefits due to the clarification being made to this rule. The average SNAP benefit for an ABAWD client living in Multnomah or Washington County is \$193 per month. The Department estimates no fiscal impact on the Department because SNAP benefits are federally funded, although without this rule change, FNS could impose financial sanctions on the state because its policies would be inconsistent with federal law. The Department estimates no fiscal impact on other state agencies, providers, the public, local government, or business, including small business. No small businesses are subject to this rule. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-145-0360, 461-175-0200, 461-175-0220, 461-175-0340, and 461-190-0211 and the repeal of OAR 461-193-0010 will have no fiscal impact on state agencies, including the Department, clients, providers, the public, local government, or business, including small business. No small businesses are subject to this rule. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-155-0150 will have a negative fiscal impact on the Department of approximately \$1 million for the remainder of the 2015-2017 biennium and \$1.4 million for the 2017-2019 biennium. There will be a positive fiscal impact on ERDC clients who choose a QRIS-rated child care provider. Depending on the circumstances of each family, their copay amount will be waived, reduced by \$20, or reduced by 10 percent. The Department

estimates no fiscal impact on other state agencies, providers, the public, local government, or business, including small business. No small businesses are subject to this rule. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-160-0410 will have a positive fiscal impact on individuals in a household that includes an ineligible ABAWD client who has income. The ability for the Department to prorate the income of the ABAWD may increase the benefit amount for those other household members, although data is not available to predict how much a household's benefit amount would change. The Department estimates no fiscal impact on state agencies, including the Department because SNAP benefits are federally funded, providers, the public, local government, or business, including small business. No small businesses are subject to this rule. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-165-0010 and 461-195-0501 will have no fiscal impact on the Department. Clients who use their EBT cards at marijuana dispensaries may be liable for an overpayment after a second incidence of prohibited use. The amount of the overpayment would depend on the amount of funds accessed at the location. The Department estimates no fiscal impact on other state agencies, providers, the public, local government, or business, including small business. No small businesses are subject to these rules. There is no cost of compliance for small businesses.

The Department estimates that amending OAR 461-165-0180 will have a negative fiscal impact on child care providers who are applying for payment to provide child care at a failed provider's location or at another location that is associated with a child care provider in failed status. The amount of negative fiscal impact on a provider will vary depending on the number of children receiving child care, the age and needs of the children, the geographic location of the provider, and other factors but the average payment per DHS child in care with a provider is \$393 per month. (Rates paid to providers are available at <https://apps.state.or.us/cf1/caf/arm/B/461-155-0150.htm>.) Additionally, the Department estimates that amending OAR 461-165-0180 will have a negative fiscal impact on child care providers who are placed in suspended status. Those providers are ineligible for payment for at least six months. The amount of negative fiscal impact on a provider will vary depending on the number of children receiving child care, the age and needs of the children, the geographic location of the provider, and other factors but the average payment to providers per DHS child in care per month is \$393. Child care providers, some of whom may be registered as small businesses, are subject to the requirements in OAR 461-165-0180. There are approximately 6,800 child care providers in approved listing status with the Department but the Department does not have data available to determine how many providers are registered as small businesses. There are no new eligibility requirements being added to the rule so there are no new costs of compliance for providers who may be registered as a small business. The Department estimates no fiscal impact on state agencies, including the Department, clients, the public, or local government.

The Department estimates that adopting OAR 461-180-0135 will have a positive fiscal impact on ABAWD clients who lose eligibility on April 1, 2016 because of the SNAP time limit but are able to qualify under the new rule to have their benefits restored. Of the estimated 6,500 ABAWD clients, the Department estimates that as many as 50 percent of these clients could qualify to have benefits restored which would be a positive fiscal impact of an average of \$193 per month. The Department estimates no fiscal impact on state agencies, including the Department because SNAP benefits are federally funded, providers, the public, local



government, or business, including small business. No small businesses are subject to this rule. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-193-0320 will have no fiscal impact on the Department because refugee assistance benefits are federally funded. The Department estimates a positive fiscal impact on clients who are unable to meet all eligibility requirements on the filing date. Under the change, these clients will have 45 days from the date of request to provide all the application information. If the information is provided within 45 days, the effective date for benefits will be the filing date. The Department estimates no fiscal impact on other state agencies, providers, the public, local government, or business, including small business. No small businesses are subject to these rules. There is no cost of compliance for small businesses.

### **How were small businesses involved in the development of this rule?**

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

### **Administrative Rule Advisory Committee Consulted? If no, why not?**

Yes.

In a Department program administered under OAR 461-130-0305 to 461-130-0335 and OAR 461-135-0085 and 461-135-0089:

- (1) The Department does not require a client to provide verification of good cause if providing the verification would expose the client to increased risk of *domestic violence* (see OAR 461-001-0000).
- (2) If in making a determination under this rule a client's physical or mental impairment is in question, the Department may require the client to provide documentation from a qualified and appropriate medical professional.
- (3) A client is excused for good cause from a failure to comply with a program requirement, including an *activity* in a *case plan* (both terms defined in OAR 461-001-0025) in the following circumstances:
  - (a) Participation in a required *activity* in a *case plan* would have an adverse effect on or risk to the client's physical or mental health or would expose the client to increased risk of *domestic violence* (see OAR 461-001-0000).
  - (b) Except in the SNAP program, participation is likely to cause undue hardship for the *dependent child* (see OAR 461-001-0000) or the client.
  - (c) Appropriate child care, or day care for an individual in the household who has a *disability* (see OAR 461-001-0000 and 461-001-0015 as applicable) that substantially reduces or eliminates the individual's ability to care for himself or herself, cannot be obtained. "Appropriate child care" means that—
    - (A) Both the provider and the place where care is provided meet health, safety, and provider requirements as required in OAR 461-165-0180;
    - (B) The care accommodates the parent's work schedule; and
    - (C) The care meets the specific needs of the *dependent child*, such as age and special-needs requirements.
  - (d) The work attachment position or employment offered is vacant due to a strike, lockout, or other labor dispute.
  - (e) The work attachment position or employment requires the client to join a union, and the client has religious objections to unions.
  - (f) The client belongs to a union and the employment violates the conditions of the client's membership in the union.

- (g) The wage for the client's current or potential job is:
  - (A) Less than applicable minimum wage; or
  - (B) If minimum wage laws do not apply, the wage (rate for piece work) is less than that normally paid for similar work.
- (h) The client's prospective employer engages in employment practices that are illegally discriminatory on the basis of age, sex, race, religious or political belief, marital status, disability, sexual orientation, or ethnic origin.
- (i) The client's participation in a required *activity* in a *case plan* would prevent or interfere with the client's participation in an activity of the Grande Ronde Tribe's NEW program.
- (j) The client's failure to participate is due to a circumstance beyond his or her reasonable control.
- (k) When the failure to comply is caused by an aspect of the client's *disability*, including the Department's failure to provide a reasonable accommodation.
- (l) The client quits a job to accept another job with a monthly income at least equal to the monthly income of the first job.
- (m) The Department determines there are no appropriate activities or necessary *support services* (see OAR 461-001-0025) to support an *activity* (see OAR 461-001-0025) in order for the client to participate.
- (n) In the REF program:
  - (A) If the client has no means of transportation and would have to walk an unreasonable distance to meet the participation requirement. An "unreasonable distance" is a distance that requires a commute of more than two hours each day; or
  - (B) If the hours or nature of the job interferes with the client's religious observances, convictions, or beliefs.
- (4) In the SNAP program, a client is excused from not accepting employment or for leaving a job under the following circumstances:
  - (a) The hours or nature of the job interferes with the client's religious observances, convictions, or beliefs.

- (b) The client accepts employment or enrolls at least half-time in any recognized school, training program, or institution of higher education that requires the client to quit a job.
- (c) A client accepts employment or enrolls in school in another county, requiring the *benefit group* (see OAR 461-110-0750) to move and the client to quit a job.
- (d) A client less than 60 years of age resigns, and the employer recognizes the resignation as retirement.
- (e) The client leaves a job to follow a type of employment that moves from one area to another, such as migrant labor or construction.
- (f) The client accepts a job that, for reasons beyond the control of the client, does not materialize or results in fewer work hours or a lower wage than the client's previous job.
- (g) Work demands or conditions, such as not being paid for work or not being paid on schedule, make employment unreasonable.
- (h) The wage for the client's current or potential job is less than applicable minimum wage or, if minimum wage laws do not apply, the wage (rate for piece work) is less than that normally paid for similar work.
- (i) The work schedule for the job in question does not conform to hours customary to the occupation or the hours worked each week are more than those customary to the occupation.
- (j) The client is not obligated to accept a job during the first 30 days of registration for employment if the job is not in the client's field of experience.
- (k) The client has no means of transportation and would have to walk an unreasonable distance to meet the participation requirement. An "unreasonable distance" is a distance that requires a commute of more than two hours each day. The client must make a good-faith effort to secure the needed transportation.
- (l) Lack of adequate child care for a child who is six years of age or older and less than 12 years of age.

Stat. Auth.: ORS 409.050, 411.060, 411.816, 412.006, 412.009, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.117, 411.816, 412.006, 412.009, 412.049

## Disqualifications; Pre-TANF, REF, SNAP, TANF

- (1) In the Pre-TANF, REF, SNAP, and TANF programs, the Department may not disqualify from program benefits a client who is a *volunteer* (see OAR 461-130-0305 and 461-130-0310) participant in an employment program.
- (2) In the Pre-TANF, ~~REF~~, and TANF programs, a *mandatory* (see OAR 461-130-0305) client who fails to comply with an employment program participation requirement and does not have *good cause* (see OAR 461-130-0327) for the failure to comply is subject to disqualification under this rule only after the requirements of all of the following subsections are met:
  - (a) The client has had the opportunity to participate in the re-engagement process under OAR 461-190-0231.
  - (b) The Department has determined the client is willfully non-compliant and does not have *good cause* for failing to comply with a requirement of the program.
  - (c) The Department has offered (and the client has refused) or conducted screenings (and assessed if appropriate) for physical or mental health needs, substance abuse, *domestic violence* (see OAR 461-001-0000), and learning needs.
  - (d) The Department has determined the client has no barriers (see OAR 461-001-0025) or refuses to take appropriate steps to address identified barriers.
  - (e) The Department has determined the client has not met *federally required participation rates* (see OAR 461-001-0025); ~~and~~.
  - (f) The Department has assessed for any risk of harm posed to the children by a reduction in cash assistance.
- (3) In the REF program, a *mandatory* client who fails to comply with an employment program participation requirement and does not have *good cause* for failure to comply is subject to disqualification under this rule only after the requirements of all of the following subsections are met:
  - (a) The client has had the opportunity to participate in the re-engagement process under OAR 461-190-0231.
  - (b) The Department has determined the client is willfully non-compliant and does not have *good cause* for failing to comply with a requirement of the program.
  - (c) The Department has offered available screenings (and the client has refused) or conducted available screenings (and assessed if appropriate) for physical or mental health needs, substance abuse, *domestic violence*, and learning needs.

- (d) The Department has determined the client has no barriers or refuses to take appropriate steps to address identified barriers.
- (4) In the REF program, the effects of a disqualification are progressive. There are two levels of disqualification:
- (a) At the first level of disqualification, the penalty is the removal of the disqualified client from the *need group* for three months. If the disqualified client is the only member of the filing group, the assistance is terminated.
- (b) At the second level, the penalty is the removal of the disqualified client from the *need group* for six months. If the disqualified client is the only member of the filing group, the assistance is terminated.
- (3) In the ~~REF and~~ TANF programs, the effects of a JOBS disqualification are progressive. There are ~~two~~ four levels of disqualification. Once a disqualification is imposed, it affects benefits according to the following schedule until the disqualification ends in accordance with OAR 461-130-0335:
- (a) At the first level, the penalty is ~~removal of the disqualified client from the *need group* (see OAR 461-110-0630) for up to three months or until the client has completed the two consecutive week cooperation period~~ a 25 percent reduction in benefits.
- (b) At the second level, the ~~*need group* receives no cash benefit in the program for one month~~ penalty is a 50 percent reduction in benefits.
- ~~(e) At the first or second level of disqualification, the penalty may cause the *need group* to be over income for REF or TANF program benefits (see OAR 461-160-0100).~~
- (c) At the third level, the penalty is a 75 percent reduction in benefits.
- (d) At the end of the ~~second~~ fourth level, ~~program benefits are closed~~ the penalty is a 100 percent reduction in benefits and the filing group (see OAR 461-110-0310, 461-110-0330, and 461-110-0430) may not receive program benefits for the following two consecutive months. This may be prevented if the disqualified client:
- (A) Contacts a representative of the Department in order to re-engage in the JOBS program and create a plan prior to on or before the end of the ~~second~~ fourth level; ~~and~~
- ~~(B) Begins the two consecutive weeks of cooperation as outlined in OAR 461-130-0335(3)(b) prior to the end of the second level; or~~

(B) Is no longer required to meet the requirements of the JOBS program according to OAR 461-130-0310(2)(a)(A)-(L);

- (C) Is no longer a member of the *household group* (see OAR 461-110-0210 and 461-130-0335(2)); or
- (D) Is unable to participate because there is no appropriate *activity* (see OAR 461-001-0025) or *support services* (see OAR 461-001-0025) necessary to support the *activity*.

(4) In the SNAP program:

- (a) A *mandatory* client not covered under subsection (b) of this section who fails to comply with the requirements of an employment program without *good cause* (see OAR 461-130-0327) is subject to disqualification. A disqualified client is removed from the *need group* until he or she meets the employment program requirements and serves the applicable progressive disqualification under the following subsections:
  - (A) One calendar month for the first failure to comply.
  - (B) Three calendar months for the second failure to comply.
  - (C) Six calendar months for the third and subsequent failures to comply.
- (b) A *mandatory* client who is an ABAWD (see OAR 461-135-0520) residing in Multnomah or Washington County or a *mandatory* client who is served by an office that does not offer OFSET (see OAR 461-190-0310) who fails to comply with the requirement to maintain employment in OAR 461-130-03~~30~~15(1)(f)(B) is subject to disqualification as provided in subsection (a) of this section. See OAR 461-135-0520 for additional employment participation requirements for ABAWD clients.
- (c) A client who is *exempt* (see OAR 461-130-0305) from participation in the SNAP employment program because he or she is a *mandatory* participant in the JOBS program, receiving unemployment compensation benefits, or has applied for unemployment compensation benefits and is waiting on an initial decision must comply with the requirements of those programs. If the client fails to comply with the requirements of the applicable program the client is disqualified from receiving SNAP benefits, unless he or she can show *good cause* under OAR 461-130-0327.

Stat. Auth.: ORS 411.060, 411.816, 412.009, 412.049

Stats. Implemented: ORS 411.060, 411.816, 411.837, 412.009, 412.049

## Removing Disqualifications and Effect on Benefits

- (1) An applicant who would be subject to an employment program disqualification under OAR 461-130-0330 but withdraws the application before benefits are approved is not subject to disqualification.
- (2) In the REF, SNAP, and TANF programs, a filing group (see OAR 461-110-0330, 461-110-0370, and 461-110-0430) is not subject to the impact of a disqualification for a disqualified member who has left the *household group* (see OAR 461-110-0210). If the member joins another filing group, that group is subject to the member's most recent disqualification.
- (3) In the REF program, a disqualification ends when:
  - (a) The Department changes the participation classification of the disqualified individual to *exempt* (see OAR 461-130-0305); or
  - (b) REF program benefits are closed for a reason other than described in OAR 461-130-0330(5).
- ~~(34)~~ In the ~~REF and~~ TANF programs, an individual disqualified for failure to meet the requirements of an employment program under division 190 of these rules:
  - (a) At the first, second, and third level of disqualification must cooperate for two consecutive weeks with each *activity* (see OAR 461-001-0025) specified in the individual's current or revised *case plan* (see OAR 461-001-0025) before the Department may remove the disqualification. Cash benefits are restored effective the date the individual completes the two consecutive week cooperation period.
  - (b) When the ~~second~~ fourth level of disqualification ends, TANF program benefits are closed and the filing group is ineligible for TANF program benefits for two consecutive months, unless the individual contacts a representative of the Department and begins two consecutive weeks of cooperation with agrees to each *activity* specified in the individual's current or revised *case plan* before the end of the ~~second~~ fourth level. If the individual completes the two consecutive weeks of cooperation, cash benefits are restored effective the date the individual completes the two consecutive week cooperation period.
  - (c) Cash benefits are restored effective the date it is determined, by the Department, there are no appropriate activities or *support services* (see OAR 461-001-0025) necessary to support the *activity* available in order for the individual to demonstrate participation.
- ~~(45)~~ In the ~~REF and~~ TANF programs, a disqualification ends when:



- (a) The Department changes the participation classification of the disqualified individual to *exempt* (see OAR 461-130-0305);
  - (b) The individual complies with the requirements of the employment program (see section (3) of this rule); or
  - (c) ~~REF or~~ TANF program benefits are closed for a reason other than described in OAR 461-130-0330(3)(d).
- (5) In the SNAP program:
- (a) The disqualification ends the first day of the month following the month in which information is provided to the Department justifying the change in the individual's participation classification (see OAR 461-130-0310), even if the date falls within the disqualification period provided in OAR 461-130-0330(4).
  - (b) A *mandatory* (see OAR 461-130-0305) individual disqualified under OAR 461-130-0330(4) for failure to meet the requirements of a SNAP employment program must show compliance with the employment and training program for 30 days. The local DHS branch will determine the activities as either work search activities or cooperation with the OFSET contractor.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.009, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837, 412.009, 412.049

461-135-0089

~~Eff. 1-1-13~~

Eff. 7-1-16

Demonstrating Compliance with Substance Abuse and Mental Health Requirements; Restoring Cash Benefits; Pre-TANF, TANF

In the Pre-TANF, ~~REF~~, and TANF programs:

(1) In order to end a penalty imposed under OAR 461-135-0085:

(a) At the first, second, and third level of disqualification (see OAR 461-130-0330(3)), a client must:

(A) Cooperate for a period of two consecutive weeks with each *activity* (see OAR 461-001-0025) specified in the client's current or revised *case plan* (see OAR 461-001-0025); and

(B) Demonstrate a willingness to participate in treatment required under OAR 461-135-0085 if treatment is still required.

(b) When the ~~second~~ fourth level of disqualification (see OAR 461-130-0330(3)) ends, program benefits are closed for two consecutive months, unless the client:

(A) ~~Begins two consecutive weeks of cooperation with each activity specified in the client's~~ Contacts a representative of the Department and agrees to each activity in a case plan before the end of the fourth level ~~two~~; and

(B) Demonstrates a willingness to participate in treatment required under OAR 461-135-0085 if treatment is still required.

(2) The penalty imposed under OAR 461-135-0085 ends when:

(a) ~~REF or~~ TANF program benefits are closed for a reason other than described in OAR 461-130-0330(3)(d); or

(b) The individual complies with the requirements of section (1) of this rule.

(3) When the Department removes a disqualification due to a client's compliance with the requirements under OAR 461-135-0085, cash benefits are restored effective the date the client completed the two consecutive week cooperation period.

Stat. Auth.: ORS 411.060, 411.070, 412.006, 412.009, 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.009, 412.049, 412.089

461-135-0521

~~Tech. Eff. 1-1-10~~

Temp. Eff. 4-1-16 through 9-27-16

Job Quit by Applicants; SNAP

- (1) An applicant who is required to meet the ~~OFFSET~~ SNAP employment and training requirements in OAR ~~461-130-0320~~461-130-0305 and 461-130-0315, who voluntarily and without *good cause* (see OAR 461-130-0327) quits a job or reduces the weekly number of hours of work to below 30, is ineligible for SNAP benefits.
- (2) For purposes of this rule, a person quits a job upon quitting a job of at least 30 hours a week or the equivalent of 30 hours a week multiplied by the federal minimum wage.
- (3) The period of ineligibility is determined as follows. If the filing date falls within the 30-day period following a job quit or work reduction described in sections (1) and (2) of this rule, the person who quit the job or reduced work hours will be ineligible during the month in which the filing date falls and for the appropriate ~~OFFSET~~ disqualification of one, three or six calendar months (see OAR 461-130-0330(4)).

Stat. Auth: ORS 411.816

Stats. Implemented: ORS 411.816

- (1) The value of disability-related apparatus, optional equipment, or low mileage is not considered in determining the *fair market value* (see OAR 461-001-0000) of an automobile, truck, or van. The *fair market value* of an automobile, truck, or van is presumed to be the "average trade-in value" established in the National Automobile Dealers Association's (NADA) Used Car Guide. ~~-, If the vehicle is not listed in the NADA Used Car Guide, the "average trade-in value" established in the~~ Kelley Blue Book, ~~is used. If the vehicle is not listed in the NADA Used Car Guide and Kelley Blue Book, the "average trade-in value" established in a~~ or similar publication ~~is used~~. A client may rebut the presumption with a statement from a car dealer, mechanic, or other reliable source. If the vehicle is not listed in the NADA Used Car Guide, Kelley Blue Book, or a similar publication, the estimate of the value by the client may be accepted unless it appears questionable, in which case additional evidence of the value is required.
- (2) Some programs permit an exclusion for a portion of the *equity value* (see OAR 461-001-0000) for any licensed and unlicensed motor vehicles owned by the *financial group* (see OAR 461-110-0530):
  - (a) In the REF, REFM, SNAP, and TANF programs, this exclusion is up to \$10,000.
  - (b) In the GA and GAM programs, this exclusion is up to \$4,500.
  - (c) Any remaining equity in that vehicle and the total *equity value* of all other vehicles is counted as a resource.
- (3) In the EA and ERDC programs, all motor vehicles are excluded.
- (4) In the OSIP, OSIPM, and QMB-DW programs:
  - (a) The total value of a vehicle selected by the *financial group* is excluded if it is used for transportation of the client or a member of the client's household.
  - (b) The total *equity value* of any vehicle not excluded under subsection (a) of this section and all other vehicles is counted as a resource.
- (5) In the OSIP-EPD and OSIPM-EPD programs, if a vehicle was purchased as an *employment and independence expense* (see OAR 461-001-0035) or with moneys from an *approved account* (see OAR 461-001-0035), the total value of the vehicle is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049

## Child Care Eligibility Standard, Payment Rates, and Copayments

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:

- (1) The following definitions apply to the rules governing child care rates:
  - (a) **Infant:** For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 2 years.
  - (b) **Toddler:** For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 2 years to 3 years.
  - (c) **Preschool:** A child aged 3 years to 6 years.
  - (d) **School:** A child aged 6 years or older.
  - (e) **Special Needs:** A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral, or mental disability. The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:
    - (A) A physician, nurse practitioner, clinical social worker, or any additional sources in OAR 461-125-0830.
    - (B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.
    - (C) Eligibility for SSI.
- (2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:
  - (a) The *Standard Family Rate* applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.
  - (b) The *Enhanced Family Rate* applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.

- (c) The *Registered Family Rate* applies to child care provided in the provider's own home when the provider meets criteria established by the Office of Child Care.
  - (d) The *Certified Family Rate* applies to child care provided in a residential dwelling that is certified by the Office of Child Care as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.
  - (e) The *Standard Center Rate* applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Office of Child Care Certification rules (see OAR 414-300-0000).
  - (f) The *Enhanced Center Rate* applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:
    - (A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in subsection (b) of this section.
    - (B) New staff must meet the Oregon Registry training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.
    - (C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.
  - (g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (b) or (f) of this section.
  - (h) The *Certified Center Rate* applies to child care provided in a center that is certified by the Office of Child Care.
- (3) The following provisions apply to child care payments:
- (a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.
  - (b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month, unless the provider customarily

bills all families at a part-time monthly rate subject to the maximum full-time monthly rate and is designated as the primary provider for the case.

- (c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month, customarily bill all families at a part-time monthly rate, and are designated as the primary provider for the case.
- (d) Unless required by the circumstances of the client or child, the Department will not pay for care at a part-time monthly or a monthly rate to more than one provider for the same child for the same month.
- (e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.
- (f) The Department will pay for up to five days each month the child is absent if:
  - (A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care; and
  - (B) It is the provider's policy to bill all families for absent days.
- (g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.
- (h) Child care providers are eligible to receive an incentive payment upon achieving and maintaining a three star or higher rating with the Quality Rating Improvement System (QRIS) subject to all of the following provisions.
  - (A) The incentive payment is in addition to the Department maximum rate.
  - (B) A provider may receive an incentive payment for any ERDC child that the Department paid the provider for full-time care (136 hours or more).
  - (C) Providers who are contracted for child care services through the ERDC program are not eligible to receive incentive payments.
  - (D) Eligibility for the incentive payment is effective the month after the QRIS rating has been achieved.

- (E) The incentive payment amount is based on the provider's star QRIS rating as follows:

Star Rating	Amount
3	\$54
4	\$72
5	\$90

- (4) The following are the child care rates based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (hourly or monthly):

- (a)

Group Area A  
STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	\$3.07	\$552	\$9.00	\$941
Toddler	\$3.07	\$516	\$5.25	\$928
Preschool	\$3.07	\$509	\$5.06	\$724
School	\$3.07	\$482	\$4.50	\$638
Special Needs	\$3.07	\$552	\$9.00	\$941

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$3.18	\$446	\$594	\$10.20	\$800	\$1,067
Toddler	\$3.17	\$416	\$555	\$5.95	\$788	\$1,051
Preschool	\$3.17	\$412	\$549	\$5.74	\$615	\$820
School	\$3.17	\$389	\$519	\$5.10	\$542	\$723
Special Needs	\$3.18	\$446	\$594	\$10.20	\$800	\$1,067



LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$3.75	\$503	\$670	\$6.00	\$750	\$1,000	\$12.00	\$941	\$1,255
Toddler	\$3.50	\$484	\$645	\$5.50	\$750	\$1,000	\$7.00	\$928	\$1,237
Preschool	\$3.50	\$458	\$610	\$5.00	\$653	\$870	\$6.75	\$724	\$965
School	\$3.25	\$458	\$610	\$4.50	\$488	\$650	\$6.00	\$638	\$850
Special Needs	\$3.75	\$503	\$670	\$6.00	\$750	\$1,000	\$12.00	\$941	\$1,255

Zip Codes for Group Area A:  
Portland, Bend, Eugene, Corvallis, Springfield, Monmouth and Ashland areas

97003	97004	97005	97006	97007	97008	97009	97010	97013	97014	97015	97019
97022	97023	97024	97027	97028	97030	97031	97034	97035	97036	97041	97045
97051	97055	97056	97060	97062	97064	97068	97070	97080	97086	97089	97106
97109	97112	97113	97116	97119	97123	97124	97125	97132	97133	97135	97140
97149	97201	97202	97203	97204	97205	97206	97209	97210	97211	97212	97213
97214	97215	97216	97217	97218	97219	97220	97221	97222	97223	97224	97225
97227	97229	97230	97231	97232	97233	97236	97239	97242	97258	97266	97267
97268	97286	97292	97330	97331	97333	97339	97351	97361	97371	97376	97401
97402	97403	97404	97405	97408	97454	97455	97477	97478	97482	97520	97525
97701	97702	97703	97707	97708	97709						

(b)

Group Area B  
STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	\$2.66	\$444	\$3.75	\$546
Toddler	\$2.66	\$440	\$3.75	\$536
Preschool	\$2.52	\$432	\$3.00	\$443
School	\$2.52	\$425	\$3.30	\$428
Special Needs	\$2.66	\$444	\$3.75	\$546

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$2.87	\$391	\$521	\$4.25	\$464	\$619
Toddler	\$2.87	\$375	\$500	\$4.25	\$456	\$608
Preschool	\$2.87	\$365	\$487	\$3.40	\$377	\$502
School	\$2.87	\$344	\$458	\$3.74	\$364	\$485
Special Needs	\$2.87	\$391	\$521	\$4.25	\$464	\$619

LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$3.05	\$416	\$555	\$3.60	\$469	\$625	\$5.00	\$546	\$728
Toddler	\$3.05	\$398	\$530	\$3.70	\$450	\$600	\$5.00	\$536	\$715
Preschool	\$3.05	\$398	\$530	\$3.70	\$413	\$550	\$4.00	\$443	\$590
School	\$3.05	\$383	\$510	\$3.75	\$413	\$550	\$4.40	\$428	\$570
Special Needs	\$3.05	\$416	\$555	\$3.60	\$469	\$625	\$5.00	\$546	\$728

Zip Codes for Group Area B:

Salem, Medford, Roseburg, Brookings and areas outside the metropolitan areas in Eugene and Portland

97002	97011	97016	97017	97018	97038	97042	97044	97048	97049	97053
97058	97067	97071	97103	97107	97108	97110	97111	97114	97115	97118
97121	97122	97127	97128	97131	97134	97138	97141	97143	97146	97148
97302	97303	97304	97305	97306	97307	97309	97310	97317	97321	97322
97326	97327	97328	97336	97338	97341	97343	97344	97348	97352	97353
97357	97362	97365	97366	97367	97370	97372	97374	97377	97378	97380
97383	97385	97386	97389	97391	97392	97394	97415	97420	97423	97424
97431	97444	97446	97448	97452	97456	97457	97459	97465	97470	97471
97487	97489	97501	97502	97503	97504	97524	97534	97535	97756	97759
97801	97812	97813								

(c)

Group Area C

STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	\$2.59	\$424	\$2.74	\$440

Toddler	\$2.37	\$401	\$2.91	\$432
Preschool	\$2.37	\$388	\$2.25	\$340
School	\$2.37	\$388	\$2.52	\$372
Special Needs	\$2.59	\$424	\$2.74	\$440

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$2.81	\$338	\$450	\$3.83	\$398	\$531
Toddler	\$2.57	\$321	\$428	\$3.40	\$383	\$510
Preschool	\$2.50	\$314	\$418	\$2.76	\$290	\$386
School	\$2.50	\$314	\$419	\$2.85	\$316	\$421
Special Needs	\$2.81	\$338	\$450	\$3.83	\$398	\$531

LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	\$3.00	\$360	\$480	\$3.50	\$413	\$550	\$4.50	\$469	\$625
Toddler	\$3.00	\$360	\$480	\$3.50	\$428	\$570	\$4.00	\$450	\$600
Preschool	\$2.55	\$356	\$475	\$3.50	\$371	\$495	\$3.25	\$340	\$453
School	\$2.55	\$341	\$455	\$3.50	\$356	\$475	\$3.35	\$372	\$495
Special Needs	\$3.00	\$360	\$480	\$3.50	\$413	\$550	\$4.50	\$469	\$625

Zip Codes for Group Area C: Balance of State, Other State Zips

97001	97020	97021	97026	97029	97032	97033	97037	97039	97040	97050	97054	97057
97063	97065	97101	97102	97130	97136	97137	97144	97145	97147	97324	97329	97335
97342	97345	97346	97347	97350	97358	97359	97360	97364	97368	97369	97375	97384
97388	97390	97396	97406	97407	97409	97410	97411	97412	97413	97414	97416	97417
97419	97425	97427	97428	97429	97430	97432	97433	97434	97435	97436	97437	97438
97439	97441	97442	97443	97447	97449	97450	97451	97453	97458	97460	97461	97462
97463	97464	97466	97467	97468	97469	97472	97473	97476	97480	97481	97484	97486
97488	97490	97491	97492	97493	97494	97495	97496	97497	97498	97499	97522	97523
97526	97527	97530	97531	97532	97533	97536	97537	97538	97539	97540	97541	97543
97544	97601	97603	97604	97620	97621	97622	97623	97624	97625	97626	97627	97630
97632	97633	97634	97635	97636	97637	97638	97639	97640	97641	97710	97711	97712
97720	97721	97722	97730	97731	97732	97733	97734	97735	97736	97737	97738	97739
97740	97741	97742	97750	97751	97752	97753	97754	97758	97761	97810	97814	97817
97818	97819	97820	97821	97822	97823	97824	97825	97826	97827	97828	97830	97831
97833	97834	97835	97836	97837	97838	97839	97840	97841	97842	97843	97844	97845
97846	97848	97850	97856	97857	97859	97861	97862	97864	97865	97867	97868	97869
97870	97871	97872	97873	97874	97875	97876	97877	97880	97882	97883	97884	97885
97886	97901	97902	97903	97904	97905	97906	97907	97908	97909	97910	97911	97913
97914	97918	97919	97920									

- (5) Except to the extent provided otherwise in section (12), ~~or~~ (13), or of this rule or for children in contracted child care (see OAR 461-135-0405 and 461-135-0407), this section establishes the ERDC eligibility standard and the client's copayment (copay).
- (a) At initial certification, the ERDC eligibility standard is met for a *need group* (see OAR 461-110-0630) of eight or less if monthly *countable income* (see OAR 461-001-0000) for the *need group* is less than 185 percent of the federal poverty level (FPL), as described in OAR 461-155-0180. The eligibility standard for a *need group* of eight applies to any *need group* larger than eight.
- (b) During the *certification period* (see OAR 461-001-0000) and at recertification the ERDC eligibility standard is met for a *need group* of eight or less if monthly *countable income* for the *need group* during the 12 month period is less than 250 percent FPL or 85 percent state median income (SMI), whichever is higher, as described in OAR 461-155-0180. The eligibility standard for a *need group* of eight applies to any *need group* larger than eight.
- (c) The minimum monthly ERDC copay is \$25.
- (d) For a filing group (see OAR 461-110-0310) whose *countable income* is at or below 50 percent of the 2007 FPL, the copay is \$25 or 1.5 percent of the filing group's monthly *countable income*, whichever is greater.

- (e) For a filing group whose *countable income* is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:
- (A) Divide the filing group's *countable income* by the 2007 FPL, drop all digits beyond two decimal points, subtract 0.5, and multiply this difference by 0.12.
  - (B) Add .015 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income used to determine the copay amount. Multiply this sum by the filing group's *countable income* and round to the nearest whole dollar.
- (f) The 2007 federal poverty level used to determine copay amounts under subsections (d) and (e) of this section is set at the following amounts:

Number in Family	Gross Monthly Income	Gross Yearly Income
2	\$1,141	\$13,690
3	1,431	17,170
4	1,721	20,650
5	2,011	24,130
6	2,301	27,610
7	2,591	31,090
8 or more	2,881	34,570

- (6) Subject to the provisions in section (9) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:
- (a) The monthly rate provided in section (4) of this rule.
  - (b) The product of the hours of care, limited by section (8) of this rule, multiplied by the hourly rate provided in section (4) of this rule.
- (7) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:
- (a) The amount billed by the provider or providers.
  - (b) The monthly rate established in this rule for 215 hours of care.
- (8) The number of payable billed hours of care for a child is limited as follows:

- (a) In the ERDC and TANF programs, the total payable hours of care in a month may not exceed the amounts in paragraphs (A) or (B) of this subsection:
  - (A) 125 percent of the number of child care hours authorized:
    - (i) Under OAR 461-160-0040(2) and (5); or
    - (ii) To participate in activities included in a *case plan* (see OAR 461-001-0025) including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client.
  - (B) The monthly rate established in section (4) of this rule multiplied by a factor of not more than 1.5, determined by dividing the number of hours billed by 215, when the client meets the criteria for extra hours under section (10) of this rule.
- (b) In the ERDC program, for a client who earns less than the Oregon minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time).
- (c) In the TANF program, for a client who earns less than the Oregon minimum wage or is self-employed, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.
- (d) In the ERDC program, employed caretakers eligible under OAR 461-135-0400 may have education hours added to the authorized work hours. Education hours may not exceed authorized work hours and combined hours may not exceed 215 hours per month. Education hours are hours required to participate in coursework that leads to a certificate, degree, or job-related knowledge or skills attainment at an institution of higher education approved to receive federal financial aid.
- (9) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (10) of this rule, is the lesser of one of the following:
  - (a) The amount billed by the provider or providers; or
  - (b) The monthly rate established in section (4) of this rule multiplied by a factor, of not more than 1.5, determined by dividing the number of hours billed by 215.
- (10) The limit allowed by section (9) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this section, a client has special circumstances when it is necessary for the client to obtain child care in excess

of 215 hours in a month to perform the requirements of his or her employment or training required to keep current employment, not including self-employment. This is limited to the following situations:

- (a) The commute time to and from work exceeds two hours per day.
  - (b) The caretaker works an overnight shift and care is necessary for both work hours and sleep hours.
  - (c) The caretaker works a split shift and it is not feasible to care for the child between shifts.
  - (d) The caretaker consistently works more than 40 hours per week.
- (11) The payment available for care of a child who meets the special needs criteria described in subsection (e) of section (1) of this rule is increased in accordance with OAR 461-155-0151 if the requirements of both of the following subsections are met:
- (a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age.
  - (b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.
- (12) ~~Starting-Effective~~ May 1, 2012:
- (a) The minimum monthly ERDC copay is \$27.
  - (b) Except as stated in subsection (a) of this section, the Department adds 10 percent to the monthly client copay amount set under section (5) of this rule by multiplying the copay amount by 1.1 and rounding down to the nearest whole dollar.
- (13) Effective April 1, 2016, the ERDC copay is \$27 for no more than three months after closure of Pre-TANF, SFPSS, or TANF benefits when:
- (a) The closure is because an individual in the *need group* had earned income that led to the TANF closure;
  - (b) An ERDC *date of request* (see OAR 461-115-0030) is established within 90 days of closure; and
  - (c) The individual is eligible for ERDC.

(14) Effective July 1, 2016 the ERDC copay will be reduced starting the month after the ERDC case has been connected to a child care provider with a Quality Rating and Improvement System star rating of 3, 4 or 5. The copay will be reduced by the following amounts:

(a) The \$27 copay is waived, this excludes the reduced copay in section (13) of this rule.

(b) Copay amounts of \$28 to \$200 is reduced by \$20.

(c) Copay amounts of \$201 or more is reduced by 10% rounding to the nearest dollar.

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 412.006, 412.049

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122, 411.141, 412.006, 412.049, 412.124, 418.485



461-160-0410

~~Eff. 10-1-15~~

Temp. Eff. 4-1-16 through 9-27-16

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) If the member is a *qualified non-citizen* (see OAR 461-120-0125(1)(a)-(g)) who does not meet the alien status requirements, the following procedure is used:
  - (a) Benefits are calculated as if the *qualified non-citizen* is eligible. Benefits are then calculated as if the *qualified non-citizen* is not a member of the filing group. Any income received by another member of the filing group from the *qualified non-citizen* is counted as income of the filing group. No expenses paid by the *qualified non-citizen* are deducted from gross income.
  - (b) The household's benefits are the lesser of the amounts calculated in subsection (a) of this section.
- (2) The process described in sections (3) and (4) of this rule is used if the member is:
  - (a) A non-citizen but not a *qualified non-citizen*;
  - (b) Disqualified for failing to obtain or provide a Social Security Number; ~~or~~
  - (c) Unwilling to disclose alien status; or
  - (d) An ABAWD (see OAR 461-135-0520) who is ineligible because of the time limit in OAR 461-135-0520.
- (3) If the member is in a group described in section (2) 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.
- (4) An ineligible or disqualified member covered by section (2) of this rule is entitled to all income deductions for which the member qualifies. 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.
- (5) 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 disqualified for failure to comply with the requirements of the OFSET program or because of an intentional program violation.
  - (b) A client:
    - (A) Fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the client is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the client is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or
    - (B) Violating a condition of probation or parole imposed under a federal or state law.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.837

## Legal Status of Benefit Payments

- (1) Under Oregon law, cash benefits are not subject to assignment, transfer, garnishment, levy, or execution, as long as they can be identified as program payments and are separate from other money in the client's possession.
- (2) A cash payment, once issued to or on behalf of the client, becomes vested in the client.
- (3) Except for electronic benefit transfer (EBT), the Department considers a benefit issued if the check has been handed to the client in the branch office, or mailed to the client. The Department considers a benefit issued, and received by the client, when a direct check deposit is made to the client's bank account.
- (4) For EBT, the Department considers benefits issued and received when an EBT card and personal identification number (PIN) have been issued in person to the client, or the EBT card and PIN have been received by the client in the mail during conversion, and the benefits have been deposited to the client's EBT account.
- (5) SNAP program benefits issued by EBT remain available for client access for 12 calendar months from the date of issuance. The EBT system expunges unused benefits after 12 calendar months.
- (6) Benefits, once issued, are unrestricted and do not require accountability for individual expenditures or amounts, unless limited elsewhere in rule.
- (7) In the TA-DVS program, a payment issued on behalf of a client as a vendor or dual payee payment or directly to the client becomes vested in the client when issued. The Department considers the benefit to be issued if the Department has mailed the payment to the vendor or has hand delivered or mailed a dual payee check to the client. Benefits in the TA-DVS program are restricted to uses outlined in OAR 461-135-1230.
- (8) In the REF program:
  - (a) Cash benefits are provided to help meet the basic needs of low-income refugees and may not be used in any electronic benefit transfer transaction (see section (10) of this rule) in--
    - (A) Any liquor store (see section (10) of this rule);
    - (B) Any casino, gambling casino, or gaming establishment; or
    - (C) Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

(D) Any marijuana dispensary.

- (b) The Department will take steps to ensure clients have adequate access to their cash benefits.

(9) In the SFPSS and TANF programs:

- (a) Cash benefits are provided to help meet the basic needs of low-income families with *dependent children* (see OAR 461-001-0000) and may not be used in any electronic benefit transfer transaction in--

- (A) Any liquor store;

- (B) Any casino, gambling casino, or gaming establishment; or

- (C) Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

(D) Any marijuana dispensary.

- (b) The Department will take steps to ensure clients have adequate access to their cash benefits.

(10) For purposes of sections (8) and (9) of this rule:

- (a) The term "liquor store" means any retail establishment which sells exclusively or primarily intoxicating liquor. Such term does not include a grocery store which sells both intoxicating liquor and groceries including staple foods (as defined in the Food and Nutrition Act of 2008 (7 U.S.C. 2012)).

- (b) The terms "casino", "gambling casino", and "gaming establishment" do not include--

- (A) A grocery store which sells groceries including such staple foods and which also offers, or is located within the same building or complex as, casino, gambling, or gaming activities; or

- (B) Any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

- (c) The term "electronic benefit transfer transaction" means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.

461-165-0010

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Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.014, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.816, 411.837,  
412.006, 412.014, 412.049, 412.151

## Eligibility of Child Care Providers

- (1) The Department must approve a child care provider to receive payment for child care if information available to the Department provides no basis for denying eligibility unless the Department determines, following a preliminary or final fitness determination (see OAR 407-007-0320) or Child Protective Service (CPS) records checks, that the provider or other *subject individual* (see OAR 407-007-0210(30)(a)(A), (B), (F), (I), and (P)) is not eligible for payment.
- (2) Ineligibility for payment may result from any of the following:
  - (a) A finding of "denied". A provider may be denied under OAR 461-165-0410 and 461-165-0420. If, after conducting a weighing test as described in OAR 407-007-0210, the Department finds substantial risk to the health or safety of a *child* (see OAR 461-001-0000) in the care of the provider, the provider must be denied and is ineligible for payment. A provider who has been denied has the right to a hearing under OAR 407-007-0330.
  - (b) A finding of "failed". A provider may be failed if the Department determines, based on a specific eligibility requirement and evidence, that a provider does not meet ~~the an~~ eligibility requirements of this rule not covered in subsection (d) of this section. While the provider is in failed status:
    - (A) The Department does not pay any other child care provider for child care at the failed provider's site.
    - (B) The Department does not pay a child care provider at another site if the failed provider is involved in the child care operation unless the Department determines that the reasons the provider is in failed status are not relevant to the new site.
  - (c) A provider with a status of "failed" may reapply at any time by providing the required documents and information to the Department for review.
  - (d) A finding of "suspended". A provider may be suspended if the Department determines and provides notice that the provider does not meet an eligibility requirement in the following subsections and paragraphs of section (7) of this rule: (d), (e), (h), (i), (j), (k), (L), (o)(H), (o)(I), (o)(L), or (t) or in section (10) of this rule. A provider who has been suspended may challenge this status by requesting a contested case hearing subject to the requirements and limitations of OAR 461-025. While the provider is in suspended status:
    - (A) The provider is ineligible for payment for at least six months.

- (B) The Department does not pay any other child care provider for child care at the suspended provider's site.
  - (C) The Department does not pay a child care provider at another site if the suspended provider is involved in the child care operation unless the Department determines that the reasons the provider is in suspended status are not relevant to the new site.
  - (e) A provider with a status of "suspended" may be eligible for payments after the six month ineligibility period ends if the provider has been approved following reapplication, including providing the required documents and information to the Department for review.
  - (ef) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.
- (3) The provider must submit a completed Child Care Provider Listing Form (DHS 7494) to the Department within 30 calendar days from the date the Department issues the listing form to the client. The provider and each individual identified under section (4) of this rule must complete and sign the authorization for a records check through the Criminal History (CH) record system maintained by the Oregon State Police (OSP), Federal Bureau of Investigation (FBI), and the Child Protective Service (CPS) record system maintained by the Department and, if necessary, an authorization to release information and fingerprint cards. The provider, each individual described in section (4) of this rule, and each *subject individual* described in OAR 407-007-0210(30)(a)(A), (B), (F), (I) or (P) must fully disclose all requested information as part of the records check.
- (4) This rule also establishes additional requirements for the following individuals:
- (a) The site director of an exempt child care facility and each employee of the facility who may have unsupervised access to a *child* in care.
  - (b) The child care provider and each individual the provider uses to supervise a *child* in his or her absence.
  - (c) In the case of a provider who provides care for a *child* in the provider's home--
    - (A) Each individual 16 years of age or older who lives in the provider's home; and
    - (B) Each individual who visits the home of the provider during the hours care is provided and may have unsupervised access to a *child* in care.
- (5) To receive payment or authorization for payment, the provider must meet the requirements of either subsection (a) or (b) of this section:

- (a) Currently be certified or registered with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250 unless legally exempt, and be in compliance with the applicable rules. The provider must also complete the Department's listing process and be approved by the Department.
  - (b) If legally exempt from being certified or registered with the OCC, complete the Department's background check process and be approved by the Department.
- (6) Each individual described in section (4) of this rule must:
- (a) Allow the Department to conduct a national criminal history records check through the Oregon State Police and the Federal Bureau of Investigation as specified in OAR 407-007-0250.
  - (b) Provide, in a manner specified by the Department, information required to conduct CH, FBI, OSP, and CPS records checks and determine whether the provider meets health and safety requirements.
  - (c) Have a history of behavior that indicates no substantial risk to the health or safety of a *child* in the care of the provider.
- (7) Each provider must:
- (a) Obtain written approval from their certifier or certifier's supervisor if the provider is also certified as a foster parent.
  - (b) Be 18 years of age or older and in such physical and mental health as will not affect adversely the ability to meet the needs of safety, health, and well-being of a *child* in care.
  - (c) Not be in the same *filing group* (see OAR 461-110-0350) as the *child* cared for and cannot be the *parent* (see OAR 461-001-0000) of a *child* in the *filing group*.
  - (d) Allow the Department to inspect the site of care while child care is provided.
  - (e) Keep daily attendance records showing the arrival and departure times for each *child* in care and billing records for each *child* receiving child care benefits from the Department. ~~The provider must keep written records of any attendance that is not able to be recorded in the Child Care Billing and Attendance Tracking (CCBAT) system.~~ These written records must be retained for a minimum of 12 months and provided to the Department upon request.
  - (f) Be the individual or facility listed as providing the child care. The provider may only use someone else to supervise a *child* on a temporary basis if the person was



included on the most current listing form and the provider notifies the Department's Direct Pay Unit.

- (g) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.
- (h) Report to the Department's Direct Pay Unit within five days of occurrence:
  - (A) Any arrest or conviction of any *subject individual* or individual described in section (4) of this rule.
  - (B) Any involvement of any *subject individual* or individual described in section (4) of this rule with CPS or any other agencies providing child or adult protective services.
  - (C) Any change to the provider's name or address including any location where care is provided.
  - (D) The addition of any *subject individual* or individual described in section (4) of this rule.
  - (E) Any reason the provider no longer meets the requirements under this rule.
- (i) Report suspected child abuse of any *child* in his or her care to CPS or a law enforcement agency.
- (j) Supervise each *child* in care at all times.
- (k) Prevent any individual who behaves in a manner that may harm children from having access to a *child* in the care of the provider. This includes anyone *under the influence* (see section (11) of this rule).
- (L) Allow the custodial parent of a *child* in his or her care to have immediate access to the *child* at all times.
- (m) Inform a parent of the need to obtain immunizations for a *child*.
- (n) Take reasonable steps to protect a *child* in his or her care from the spread of infectious diseases.
- (o) Ensure that the home or facility where care is provided meets all of the following standards:
  - (A) Each floor level used by a *child* has two usable exits to the outdoors (a sliding door or window that can be used to evacuate a *child* is considered a

usable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency.

- (B) The home or facility has safe drinking water.
- (C) The home or facility has a working smoke detector on each floor level and in any area where a *child* naps.
- (D) Each fireplace, space heater, electrical outlet, wood stove, stairway, pool, pond, and any other hazard has a barrier to protect a *child*. Gates and enclosures have the Juvenile Products Manufacturers Association (JPMA) certification seal to ensure safety.
- (E) Any firearm, ammunition, and other items that may be dangerous to children, including but not limited to alcohol, inhalants, tobacco and e-cigarette products, matches and lighters, any legally prescribed or over-the-counter medicine, cleaning supplies, paint, plastic bags, and poisonous and toxic materials are kept in a secure place out of a child's reach.
- (F) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard-free condition.
- (G) The home or facility has a telephone in operating condition.
- (H) No one may smoke or carry any lighted smoking instrument, including e-cigarettes or vaporizers, in the home or facility or within ten feet of any entrance, exit, window that opens, or any ventilation intake that serves an enclosed area, during child care operational hours or anytime child care children are present. No one may use smokeless tobacco in the home or facility during child care operational hours or anytime child care children are present. No one may smoke or carry any lighted smoking instrument, including e-cigarettes and vaporizers, or use smokeless tobacco in motor vehicles while child care children are passengers.
- (I) No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) on the *premises* (see section (11) of this rule) during child care operational hours or anytime child care children are present. No one *under the influence* of alcohol, controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) may be on the *premises* during child care operational hours or anytime child care children are present. No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) in motor vehicles while child care children are passengers.

- (J) Is not a half-way house, hotel, motel, shelter, or other temporary housing such as a tent, trailer, or motor home. The restriction in this paragraph does not apply to licensed (registered or certified) care approved in a hotel, motel, or shelter.
  - (K) Is not a structure –
    - (i) Designed to be transportable; and
    - (ii) Not attached to the ground, another structure, or to any utilities system on the same *premises*.
  - (L) Controlled substances (except lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana, marijuana edibles, and other products containing marijuana), marijuana plants, derivatives, and associated paraphernalia may not be on the premises during child care operational hours or anytime child care children are present.
  - (p) Complete and submit a new listing form every two years, or sooner at the request of the Department, so that the Department may review the provider's eligibility.
  - (q) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.
  - ~~(r) Complete registration for the CCBAT system within 45 days of the date of the registration notice.~~
  - ~~(sr)~~ Comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, and crib standards under 16 CFR 1219 and 1220.
  - ~~(ts)~~ Place infants to sleep on their backs.
  - ~~(tt)~~ Not hold a medical marijuana card; or distribute, grow, or use marijuana (including medical marijuana) or any controlled substance (except lawfully prescribed and over-the-counter medications).
- (8) Child Care providers who are License Exempt or Registered Family Child Care Providers with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170 must complete the "Basic Child Care Health and Safety" two- hour, web-based training or the three-hour Oregon Kids Healthy and Safe (OKHS) classroom training prior to being approved by the Department.
- (a) Prior to June 16, 2014, a provider who sends the Department a Child Care Provider Listing and Provider Information Sheet (DHS 7494) with a revision date of March 2013, or those who attempt to take the web-based training but are

unable due to technical difficulties at the training site, will not be failed for not meeting this training requirement.

- (b) License Exempt or Registered Family Child Care Providers who are exempt from this training are those who state at least one of the following:
  - (A) English is a second language.
  - (B) No internet access is available.
- (9) A child care provider not subject to certification or registration with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250, must complete an orientation provided by the Department or a Child Care Resource and Referral agency within 90 days of being approved by the Department if he or she:
  - (a) Receives funds from the Department; and
  - (b) Begins providing child care services after June 30, 2010, or resumes providing child care services, after a break of more than one year that began after June 30, 2010.
- (10) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be *under the influence*.
- (11) For purposes of these rules:
  - (a) "Premises" means the home or facility structure and grounds, including indoors and outdoors and space not directly used for child care.
  - (b) "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.

Stat. Auth.: ORS 181.537, 409.050, 411.060, 411.070

Stats. Implemented: ORS 181.537, 329A.340, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122

## Notice Situations; General Information

- (1) In the EA program, a *basic decision notice* (see OAR 461-001-0000) is sent for all situations.
- (2) In the SNAP program, a *basic decision notice* is sent for all actions on applications for assistance.
- (3) In the JOBS program:
  - (a) A *basic decision notice* is sent whenever a request for a support service payment is denied.
  - (b) No decision notice is required if request for a support service is approved.
- (4) A *basic decision notice* is sent to close JPI benefits when the filing group (see OAR 461-110-0310) reports a change during the reporting period in which SNAP benefits do not decrease.
- (5) In the TANF program, a notice approving benefits informs the client, within one month following eligibility determination, of the opportunity to volunteer for JOBS participation and of the procedure for JOBS program entry.
- (6) In the Pre-TANF program, a *basic decision notice* is sent when payment for basic living expenses is denied or when payment for other support services in the JOBS program is denied. No other notices are required for this program.
- (7) In the TA-DVS program, a *basic decision notice* (see OAR 461-001-0000) is sent to a safe mailing address or hand delivered for all situations. This includes when the program is approved, denied, or closed (prior to the end of the 90 day eligibility period) and when a payment under the program is denied.
- (8) In all programs except the Pre-TANF program, unless stated differently in this rule or another rule, the Department mails or otherwise provides the client with (sends) a *decision notice* (see OAR 461-001-0000) as follows:
  - (a) A *basic decision notice* is sent whenever an application for assistance, including retroactive medical assistance, is approved or denied or a request for a support service payment in the JOBS program is denied.
  - (b) A *timely continuing benefit decision notice* (see OAR 461-001-0000) is sent whenever benefits or support service payments authorized by OAR 461-190-0211 are reduced or closed, or the method of payment changes to protective, vendor, or two-party.
  - (c) A *decision notice* is sent whenever the Department adjusts previously underissued cash assistance or SNAP benefits.

- (9) In all programs:
- (a) Notwithstanding any rule in Chapter 461, to the extent permitted by OAR 137-003-0530, the Department may take any of the following actions:
    - (A) Amend a *decision notice* with another *decision notice* or a contested case notice.
    - (B) Amend a contested case notice.
    - (C) Delay a reduction or closure of benefits as a result of a client's request for hearing.
    - (D) Extend the effective date on a *decision notice* or contested case notice.
  - (b) Except as provided in subsection (a) of this section or when a delay results from the client's request for a hearing, a notice to reduce or close benefits becomes void if the reduction or closure is not initiated on the date stated on the notice. If the notice is void, a new notice is sent to inform the *financial group* (see OAR 461-110-0530) of a new date on which their benefits will be reduced or closed.
  - (c) No *decision notice* is required in each of the following situations:
    - (A) Benefits are ended because there is no living person in the *benefit group* (see OAR 461-110-0750).
    - (B) A notice was sent, the client requested a hearing, and either the hearing request is dismissed or a final order is issued.
    - (C) The client has signed a voluntary agreement that qualifies as a final order, ~~including a signed IPV waiver~~, under ORS 183.417(3)(b) (see OAR 461-175-0340(2)) except as provided otherwise in OAR 461-175-0220.
    - (D) A *decision notice* that included the eligibility begin and end dates was given for TA-DVS program benefits and the 90 day eligibility period ends.
  - (d) When the Department amends a *decision notice* with another *decision notice* under subsection (a) of this section, the date of the amended notice restarts the client's deadlines to request a hearing or continuing benefits, or both.
  - (e) When a contested case notice extends an effective date or delays a reduction or closure, the date of the amended notice restarts a client's timeline to request continuing benefits.
  - (f) When a client has a pending hearing request or is receiving continuing benefits, and the Department amends a notice under this section, the client need not re-file the hearing request or renew the request for continuing benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231

Stats. Implemented: ORS 183.415, 183.417, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826

- (1) If a *benefit group* (see OAR 461-110-0750) or individual is disqualified for a SNAP voluntary job quit or for failure to apply for or provide an SSN, pursue assets, cooperate in the JOBS, JOBS Plus, or OFSET 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 Interim Change Report form.
    - (B) A *timely continuing benefit decision notice* (see OAR 461-001-0000) is used when changes are not reported on the Interim Change 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, or OFSET disqualification, and for a SNAP voluntary job quit by an individual receiving SNAP benefits, the notice includes the following information:
  - (a) The client action that resulted in disqualification.
  - (b) The length of the minimum disqualification period.
  - (c) The reduced benefit amount.
  - (d) How the client may end the disqualification after the minimum period.
- (3) 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.
- (4) For an IPV disqualification:
  - (a) ~~The~~ 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 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 notice of termination to an individual disqualified for an IPV after a court order or a final order from an administrative hearing.
- (bc) ~~The~~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.
- (5) 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.
- (6) The notice situation for a disqualification due to a transfer of assets is covered in OAR 461-175-0310.

Stat. Auth.: 411.060, 411.070, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: 411.060, 411.070, 411.404, 411.816, 412.014, 412.049



- (1) Unless the Department chooses to proceed as described in section (2) of this rule:
  - (a) For all programs except the SNAP program, if the *primary person* (see OAR 461-001-0000), another adult member of the filing group, or the authorized representative:
    - (A) Makes an oral request to end or reduce benefits, a *timely continuing benefit decision notice* (see OAR 461-001-0000) is sent.
    - (B) Makes a signed, written request to withdraw, end, or reduce benefits, a *basic decision notice* (see OAR 461-001-0000) is sent.
    - (C) Makes an oral request to withdraw an application for benefits, a *basic decision notice* is sent.
  - (b) In the SNAP program, when the *filing group* (see OAR 461-110-0370) states it wishes to withdraw its benefits request, or states it wishes to reduce or no longer receive benefits:
    - (A) If the request is made by phone to end or reduce benefits, a *timely continuing benefit decision notice* is sent.
    - (B) If the request is made in person to reduce benefits, a *basic decision notice* is sent.
    - (C) If the request to reduce benefits is signed by the *primary person* (see OAR 461-001-0000), another adult member of the filing group, or the authorized representative, a *basic decision notice* is sent.
    - (D) If the request to end benefits is signed by the *primary person*, another adult member of the *filing group*, or the authorized representative in the presence of a worker, no notice is required. If it is not signed in the presence of a worker, a *basic decision notice* is sent.
    - (E) If the client withdraws a signed request for benefits, a *basic decision notice* is sent.
- (2) The Department may reduce or terminate benefits to an individual when the individual completes a voluntary agreement on a Department form used for this purpose. The Department provides the individual with a copy of the completed agreement and except to the extent provided by OAR 461-175-0220(4)(~~b~~) no other notice is required. The individual may request a hearing to set aside this agreement on the grounds of fraud,

duress, or reliance on misinformation provided by the Department, subject to the time limits for hearing requests in OAR 461-025-0310.

- (3) In the SNAP program, a *timely continuing benefit decision notice* is sent if the *filing group* returns a signed Change Report form with information that requires a reduction or closure of benefits.

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 183.417, 411.060, 411.816, 412.014, 412.049, 414.042

Effective Dates; Restoring SNAP Benefits for ABAWD Following Counting Month (Not Regaining)

THIS IS A NEW RULE

(1) In the SNAP program, benefits may be restored effective the first of the month when SNAP benefits for an ABAWD (see OAR 461-135-0520) end following the third countable month when all of the following requirements are met:

(a) Benefits ended as of the last calendar day of the prior month or were reduced as of the first day of the current month.

(b) The reason for the closure or reduction was the ABAWD lost *eligibility* (see OAR 461-001-0000) due to the time limit in OAR 461-135-0520.

(c) The client contacted the Department within the first calendar month following the closure or reduction and provided information that the client met one of the following in at least one of the first three *countable months* (see OAR 461-135-0520):

(A) An exemption in OAR 461-130-0310(3)(a)(A) - (J).

(B) The work requirements in OAR 461-135-0520(3)(d) or (e).

(d) There is at least one month remaining in the *certification period* (see OAR 461-001-0000).

(2) This policy does not include regaining *eligibility* (see OAR 461-135-0520(5)) or to the month following closure or reduction following receipt of six *countable months* or any month thereafter.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

Case Plan Activities and Standards for Support Service Payments; JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, TANF

In the JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, and TANF programs, notwithstanding any other administrative rule in chapter 461 and subject to the limitations of state funding, the following special provisions apply:

- (1) Participation in an *activity* (see OAR 461-001-0025) is available to the following individuals:
  - (a) An individual who is an adult parent, needy *caretaker relative* (see OAR 461-001-0000), or *teen parent* (see OAR 461-001-0000) receiving TANF who 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 an applicant or recipient in the Pre-TANF, Post-TANF, or SFPSS program.
  - (c) Subject to local services and budget, an individual who is *exempt* from JOBS requirements as a one-parent household with a *dependent child* (see OAR 461-001-0000) under six months of age and has approved activities as specified in the individual's *case plan* (see OAR 461-001-0025).
  - (d) An individual who has gone over-income for the TANF program due to earnings and needs to increase *activity* hours to meet Post-TANF *federally required participation rates* (see OAR 461-001-0025).
  - (e) An individual who has become over-income for the TANF program due to earnings in an *on-the-job training* (see OAR 461-001-0000) *activity* is eligible to receive *support services* (see OAR 461-001-0025) for no more than three months, unless circumstances unique to the situation are identified and warrant the Department to approve a limited number of additional months. Eligibility for *support services* under this subsection is only permitted while the individual continues to participate in the *on-the-job training activity*.
- (2) For eligible individuals, subject to the requirements and limitations in sections (1), (5), (6), and (7) of this rule, the following activities are available, and include *support services* payments if needed:
  - (a) *Job search* (see OAR 461-001-0025).
  - (b) *JOBS Plus* (see OAR 461-001-0025 and OAR 461-101-0010) is limited to six months per individual, unless circumstances unique to the employment situation are identified and warrant the Department to approve a limited number of additional months.

- (c) *Work experience* (see OAR 461-001-0025).
  - (d) *Supported work* (see OAR 461-001-0025).
  - (e) *High School or GED Completion Attendance* (see OAR 461-001-0025).
  - (f) *Parents as Scholars* (see OAR 461-001-0025).
  - (g) *Limited family stability* (see OAR 461-001-0000) *activity*.
    - (A) *Drug and alcohol services* (see OAR 461-001-0025).
    - (B) *Mental health services* (see OAR 461-001-0025).
    - (C) Attending medical appointments or services.
    - (D) *Rehabilitation activities* (see OAR 461-001-0025).
    - (E) *Crisis Intervention* (see OAR 461-001-0025).
    - (F) SSI application process.
  - (h) *Vocational training* (see OAR 461-001-0025).
  - (i) *Life skills* (see OAR 461-001-0025).
  - (j) *On-the-job training*.
  - (k) Unsubsidized employment (work).
  - (L) *Adult Basic Education* (see OAR 461-001-0025).
  - (m) *Job skills training* (see OAR 461-001-0025).
  - (n) *Self-initiated training* (see OAR 461-001-0025).
- (3) The following activities do not include *support services* payments:
- (a) Domestic Violence Intervention.
  - (b) Family Support & Connections.
  - (c) *Microenterprise* (see OAR 461-001-0000).
  - (d) Post-TANF.

- (e) *Program entry* (see OAR 461-001-0025).
- (4) Participation in an *activity* is based on whether an individual is Job Ready, Near Job Ready, Not Job Ready, or a *teen parent*.
- (a) Job Ready means the individual has no *barrier* (see OAR 461-001-0025) or current barriers do not impact participation or employment. In addition, the individual has all of the following:
    - (A) Prior stable work history, either paid or unpaid.
    - (B) Had not voluntarily quit or been dismissed from his or her *most recent employment* (see OAR 461-135-0070) without *good cause* (see OAR 461-135-0070).
    - (C) Reliable or available transportation.
    - (D) No outstanding legal issues that would impact or prevent employment.
    - (E) Access to reliable child care within *support services* limits, or does not need help to pay for child care, or does not need child care.
  - (b) Near Job Ready means the individual has minimal barriers to participation or employment and the individual is addressing the barriers. In addition, the individual has all of the following:
    - (A) Limited or no work history, either paid or unpaid.
    - (B) Reliable or available transportation.
    - (C) No outstanding legal issues that would impact or prevent employment, or such legal issues are identified and are being addressed.
    - (D) Access to reliable child care within *support services* limits, or does not need help to pay for child care, or does not need child care.
  - (c) Not Job Ready means the individual has one or more barriers to participation or employment or is in crisis, and the individual is not addressing the barriers. For example, the individual has one or more of the following:
    - (A) Lack of stable housing that is preventing participation in an *activity* or employment.
    - (B) *Domestic violence* (see OAR 461-001-0000), mental health, or alcohol and drug issues, and the individual is not addressing the issue.

- (C) Medical issues that prevent participation in an *activity* or employment.
  - (D) Outstanding legal issues that would impact or prevent employment.
  - (E) Literacy issues that impact the ability for the individual to participate in an *activity* or obtain employment.
  - (F) Other *family stability* issues that need to be addressed.
- (5) In approving JOBS 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 case managers and clients work collaboratively to seek resources that are reasonably available to the client in order to participate in activities.
- (6) Payments for *support services* are only provided when:
- (a) Necessary to participate in activities in a signed *case plan*;
  - (b) Authorized in advance; and
  - (c) All other provisions of this rule are met.
- (7) Payments for *support services* are subject to the following limitations:
- (a) Child Care. Payments for child care may be authorized, as limited by OAR 461-160-0040, if necessary to enable Job Ready or Near Job Ready individuals or teen parents to participate in an approved JOBS program *activity* specified in the individual's *case plan*, including a Not Job Ready individual approved by the district to complete a *family stability activity*. If authorized, payment for child care is:
    - (A) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150.
    - (B) The minimum hours necessary, including meal and commute time, for the individual to participate in an approved JOBS program *activity*.
  - (b) Transportation. The Department may provide payments for a Job Ready or Near Job Ready individual or *teen parent* for transportation costs incurred in travel to and from an approved JOBS program *activity* or a Not Job Ready individual approved by the district to complete a *family stability activity*. Payment is made only for the cost of public transportation or the cost of fuel. Payments are subject to the following considerations:

- (A) Payment for public transportation is a priority over payment for a privately owned vehicle.
- (B) Payment for fuel costs for a privately-owned vehicle is ~~only~~ provided if the client or individual providing the transportation has reports having a valid driver's license and vehicle insurance and either of the following is true:
  - (i) No public transportation is available or the client is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.
  - (ii) Public transportation is available but is more costly than the cost of fuel.
- (c) Housing and Utilities. Payments for housing and utilities are not allowed.
- (d) Other Payments. When the need is identified by the district 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) For books and supplies to complete a district-approved *vocational training*.
  - (E) Other payments with manager approval that are not otherwise restricted by rule.
- (e) None of the following payments are allowed:
  - (A) Non-essential items.
  - (B) Television, cable, and Internet.
  - (C) Fines, reinstatement fees, restitution, legal fees, civil fees, court costs, or other costs associated with a penalty.
  - (D) Purchase of a car, recreational vehicle, or motor home.
  - (E) *Support services* for *exempt* individuals.



- (F) Pet-related costs.
  - (G) ERDC co-payments.
- (8) 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 payment if verification is reasonably available.
- (9) The Department may reduce, close, or deny in whole or in part a request for a *support services* payment in the following circumstances:
- (a) The individual is disqualified for failing to comply with a *case plan*, unless the payment in question is necessary for the individual to demonstrate cooperation with his or her *case plan*.
  - (b) The purpose for the payment is not related to the individual's *case plan*.
  - (c) The individual disagrees with a *support services* payment offered or made by the Department as outlined in the individual's *case plan*.
  - (d) The individual is not determined to be a Job Ready or Near Job Ready individual under section (1) of this rule, a Not Job Ready individual in a *family stability activity*, or a *teen parent*.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.121, 412.006, 412.009, 412.014, 412.049, 412.124

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.121, 412.001, 412.006, 412.009, 412.014, 412.049, 412.124

Re-engagement; JOBS, Pre-TANF, REF, SFPSS, TA-DVS

In the JOBS, Pre-TANF, REF, SFPSS, and TA-DVS programs:

- (1) When aspects of the *case plan* have not been met or are in dispute, the re-engagement process provides an opportunity for the client and the Department to --
  - (a) Review and re-evaluate the *case plan* and other information gathered related to the client's strengths and barriers;
  - (b) Identify participation expectations, concerns related to participation, and completion of *activities* in the *case plan*;
  - (c) Consider whether the *case plan* is still appropriate;
  - (d) Develop options that support full participation; and
  - (e) Revise the *case plan* if appropriate.
- (2) The re-engagement process is intended to assist the Department in identifying whether the client is unable to fully participate or whether the client is or has been willfully non-compliant.
  - (a) In the JOBS, Pre-TANF, REF, and SFPSS programs, if:
    - (A) ~~A~~ screenings for physical or mental health needs, substance abuse, *domestic violence* (see OAR 461-001-0000), or learning needs ~~have~~has not been completed, the re-engagement process requires an additional opportunity to initiate those screenings for potential barriers to participation not previously identified.
    - (B) A screening described in paragraph (A) of this subsection indicates follow-up is needed. The re-engagement process requires an opportunity to initiate the follow-up for potential barriers to participation not previously identified.
  - (b) Circumstances that require a determination of whether *good cause* (see OAR 461-130-0327) exists include disagreements about the *case plan*, irregular attendance at *activities*, missed appointments, failure to participate in a *component* of the *case plan*, and (in the JOBS program) refusal to accept or maintain employment.
  - (c) In the TA-DVS program, there are no participation requirements. The re-engagement process is intended to provide an opportunity to address problems with the case plan (see OAR 461-135-1230) and an opportunity to modify the case plan.
- (3) In the JOBS program, the re-engagement process must include:

~~(a)~~ aAn assessment of the risk of harm posed to the children in the filing group by the reduction in aid payments and taking steps to ameliorate the risk.

~~(b)~~ An attempted home visit.

- (4) The client, the Department, or the Department's contractor may initiate the re-engagement process. The re-engagement process is not a required *activity*. The Department may not disqualify clients based on their failure to participate in the re-engagement process.
- (5) The client or Department may invite partner agencies, Department contractors, persons currently working with the client, or other individuals who have information relevant to the re-engagement process to any appointments or meetings scheduled as part of the process.
- (6) The re-engagement process ends when any of the following subsections applies:
- (a) The Department and the client agree to a modified *case plan*.
  - (b) Efforts to re-engage are unsuccessful.
  - (c) In the JOBS, Pre-TANF, and REF programs:
    - (A) ~~F~~Except in the REF program, the Department has determined the client has met *federally required participation rates* (see OAR 461-001-0025);
    - ~~(B)~~ The Department has determined the client is *exempt* from JOBS participation and disqualification under OAR 461-130-0310(2)(a).
    - ~~(B)~~C The client clearly indicates an intent not to participate in the re-engagement process;
    - ~~(C)~~D The client is willfully non-compliant and has the ability to be fully engaged;
    - ~~(D)~~E The client has no barriers or refuses to take appropriate steps to address identified barriers to participation in the program; or
    - ~~(E)~~F A decision is made by the Department that a client did not have *good cause* for not complying with a requirement of the JOBS program, and the client is able but unwilling to address the issue through *activities* that address barriers or through *case plan* modifications.
  - (d) In the SFPSS program, after a review team consisting of SFPSS program staff including the case manager, disability analyst, and appropriate medical professional determine the client does not have good cause for non-cooperation and no accommodations or modifications can be made to support the client being re-engaged.

- (7) The re-engagement process must end unsuccessfully before the Department begins the process of disqualifying a client for a failure to comply with a requirement of the JOBS program.
- (8) In the SFPSS program, when the re-engagement process ends unsuccessfully, a client removed from the program is returned to the TANF program.
- (9) For a participant in the Parents as Scholars (PAS) component of the JOBS program, when re-engagement ends unsuccessfully, PAS is ended pursuant to OAR 461-190-0199.

Stat. Auth.: ORS 411.060, 412.009, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.117, 412.009, 412.014, 412.049

461-193-0010

Client Responsibilities; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

THIS RULE IS REPEALED

~~In the NAES and RCSP programs, to be eligible for benefits a client and a client's spouse residing in the same household must do all of the following:~~

- ~~(1) — Provide true, complete, and accurate information required to determine eligibility and verify that information, to the extent permitted by the client's physical and mental condition, or authorize the Resettlement Agency to obtain verification.~~
- ~~(2) — Comply with the eligibility requirements of the project.~~
- ~~(3) — Report within ten working days any changes that could affect eligibility for benefits (see OAR 461-170-0011).~~
- ~~(4) — Repay any overpayment of cash assistance benefits.~~
- ~~(5) — Accept social services that are court ordered or related to a case plan.~~
- ~~(6) — Cooperate during a case review by providing the requested information and verification.~~
- ~~(7) — Complete the application process or inform the Resettlement Agency of the decision to withdraw the application for program benefits.~~

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

## Effective Dates for Cash Assistance; Refugee Case Service Project

- (1) Except as provided otherwise in this rule, in the Refugee Case Service Project (RCSP)-, eligibility for cash assistance is according to the following dates: effective as provided for REF and TANF clients in OAR 461-180-0070.
- ~~(1) After all initial eligibility factors for the case are completed and verified, the initial cash assistance date is set as the date of the case service intake, except as stated in section (2).~~
- (2) When all of the following subsections are met, the effective date for cash assistance is the first day of the month in which the date of application falls:
- (a) The individual is eligible to receive REF assistance.
  - (b) The individual's entry to the United States --
    - (A) And application date fall within the same month; or
    - (B) Was in another state while in transit to Oregon for resettlement, and the application date falls in the second month of arrival in the United States.
  - (c) The individual has not received refugee cash assistance in any other state.
- (3) For a child born in the United States to a refugee already enrolled in RCSP as per section (1) of this rule, the initial cash assistance date is ~~set as~~ the date of birth.
- (4) For an applicant who quit a job or refused to accept an offer of employment without *good cause* (see OAR 461-193-0890) within 30 consecutive calendar days immediately prior to the application, the initial cash assistance eligibility is no earlier than the 30th day from the date of the job quit or job refusal.
- ~~(5) For cases in which a disqualification has been removed due to a client's compliance with participation requirements and completion of a cooperation period of two consecutive weeks as specified in a new employment plan, the cash eligibility date is the date the client agreed to re-engage, per OAR 461-193-1230.~~
- (5) Cash eligibility date for TANF and REF clients after a disqualification is as provided in OAR 461-130-0330.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 412.006, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 412.006, 412.049

461-193-0890

Good Cause; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

THIS RULE IS REPEALED

~~In the NAES and RCSP programs:~~

- ~~(1) — A client has good cause for a failure to comply with a requirement of an employment program, including an *activity* (see OAR 461-001-0025) in an employment plan, in any of the following circumstances:~~
- ~~(a) — Participation in a required *activity* in an employment plan would have an adverse effect on or be a risk to the client's physical or mental health or would expose the client to increased risk of *domestic violence* (see OAR 461-001-0000).~~
  - ~~(b) — Participation is likely to cause undue hardship for the client or a child of the client.~~
  - ~~(c) — The failure to comply was caused by the failure of the Department to provide or authorize a timely support service payment.~~
  - ~~(d) — *Appropriate child care* cannot be obtained for an individual in the household who has a *disability* (see OAR 461-001-0000) that substantially reduces or eliminates the individual's ability to care for himself or herself. "Appropriate child care" means that —~~
    - ~~(A) — Both the provider and the place where care is provided meet health, safety, and provider requirements under OAR 461-165-0180;~~
    - ~~(B) — The care accommodates the parent's work schedule; and~~
    - ~~(C) — The care meets the specific needs of the child, such as age and special-needs requirements.~~
  - ~~(e) — The work attachment position or employment offered is vacant due to a strike, lockout, or other labor dispute.~~
  - ~~(f) — The work attachment position or employment requires the client to join a union, and the client has religious objections to unions.~~
  - ~~(g) — The client belongs to a union and the employment violates the conditions of the client's membership in the union.~~
  - ~~(h) — The wage for the client's current or potential job is:~~

- (A) ~~Less than applicable minimum wage; or~~
- (B) ~~If minimum wage laws do not apply, the wage or rate for piece work is less than that normally paid for similar work.~~
- (i) ~~The client's prospective employer engages in employment practices that are illegally discriminatory on the basis of age, sex, race, religious or political belief, marital status, disability, sexual orientation, or ethnic origin.~~
- (j) ~~The client's failure to participate is due to a circumstance beyond his or her reasonable control.~~
- (k) ~~When the failure to comply is caused by an aspect of the client's disability.~~
- (l) ~~The client has no means of transportation and would have to walk an unreasonable distance to meet the participation requirement. An "unreasonable distance" is a distance that requires a commute of more than two hours each day. The client must make a good faith effort to secure the needed transportation.~~
- (m) ~~The hours or nature of the job interferes with the client's religious observances, convictions, or beliefs.~~
- (n) ~~The client accepts a job that, for reasons beyond the control of the client, does not materialize or results in fewer work hours or a lower wage than the client's previous job.~~
- (o) ~~The client is in her seventh or eighth month of pregnancy and either works in a job that requires her to work more than 10 hours each week or has a *case plan* (see OAR 461-001-0025) that requires her to participate more than 10 hours each week.~~
- (p) ~~The client quits a full time job to accept another full time job with a wage at least equal to the wage of the first job.~~
- (q) ~~The client makes a good faith effort to complete an activity on the employment plan but is unable to do so.~~
- (2) ~~A client is excused from a failure to comply with a requirement of an employment program for good cause when the client participates in suitable activities for the number of hours required each month to satisfy *federally required participation rates* (see OAR 461-001-0025).~~
- (3) ~~The Department does not require a client to provide verification of good cause if providing the verification would expose the client to increased risk of *domestic violence*.~~



Stats. Implemented: ORS 411.060

461-193-0940

Disqualifications; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

THIS RULE IS REPEALED

~~In the NAES and RCSP programs:~~

- ~~(1) — A client may be disqualified for failure to comply with the requirements of the program. A disqualification is initiated only after the client has had an opportunity to participate in the re-engagement process under OAR 461-193-0960.~~
- ~~(2) — In the NAES program, the Department does not apply a disqualification until the Department:
  - ~~(a) — Determines the client is willfully non-compliant and does not have *good cause* (see OAR 461-193-0890) for failing to comply with a requirement of the program;~~
  - ~~(b) — Offers (and the client refuses) or conducts screenings (and assesses if appropriate) for physical or mental health needs, substance abuse, domestic violence, and learning needs;~~
  - ~~(c) — Determines the client has no *barrier* (see OAR 461-001-0025) or the client refuses to take appropriate steps to address any identified *barrier*;~~
  - ~~(d) — Determines the client has not met *federally required participation rates* (see OAR 461-001-0025); and~~
  - ~~(e) — Assesses the risk of harm posed to a child of the client by a reduction in cash assistance.~~~~
- ~~(3) — Disqualifications are imposed under the following conditions and are progressive, with three levels of penalties:
  - ~~(a) — The first disqualification results in a \$50 decrease in the payment standard for the case. This disqualification may be applied only one time during project eligibility.~~
  - ~~(b) — The second disqualification results in removal of the client from the *need group* (see OAR 461-110-0630).~~
  - ~~(c) — The third disqualification results in loss of cash assistance for the entire case.~~~~
- ~~(4) — An applicant disqualified for failure to comply with the requirements of an employment program is treated the same as a client under section (1) of this rule.~~

Stat. Auth.: ORS 411.060, 411.116

Stats. Implemented: ORS 411.070, 411.135, 412.006, 412.049, 414.025

461-193-0960

Re-engagement; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

THIS RULE IS REPEALED

~~In the NAES and RCSP programs:~~

- ~~(1) — When an aspect of the RCSP program or an employment plan is unmet or in dispute, the re-engagement process provides an opportunity for the client and the Department to—~~
  - ~~(a) — Review and re-evaluate the RCSP program expectations or the employment plan and other information about each strength and *barrier* (see OAR 461-001-0025) of the client;~~
  - ~~(b) — Identify participation expectations and concerns about participation and completion of each *activity* (see OAR 461-001-0025) in the RCSP program or the employment plan;~~
  - ~~(c) — Consider whether the employment plan is still appropriate;~~
  - ~~(d) — Develop options that support the client's full participation; and~~
  - ~~(e) — Revise the employment plan as appropriate.~~
- ~~(2) — The re-engagement process assists the Department in identifying whether the client is unable to participate fully or is willfully non-compliant.~~
  - ~~(a) — If screenings for physical or mental health needs, substance abuse, *domestic violence* (see OAR 461-001-0000), or learning needs are incomplete, the re-engagement process provides an additional opportunity to initiate screenings for any previously unidentified *barrier* to participation.~~
  - ~~(b) — Circumstances requiring a determination of whether *good cause* (see OAR 461-193-0890) exists include: disagreements about an RCSP program *activity*, the employment plan, irregular attendance at activities, missed appointments, failure to participate in a component of the case plan, and refusal to accept or maintain employment.~~
- ~~(3) — The re-engagement process must assess the risk of harm posed to a *child* (see OAR 461-001-0000) in the *filing group* (see OAR 461-110-0430) by the potential reduction in aid payments and take steps to ameliorate any identified risk.~~
- ~~(4) — The client, the Department, or the Department's contractor may initiate the re-engagement process. The re-engagement process is not a required activity.~~

- ~~(5) — The Department will not disqualify a client based on the client's failure to participate in the re-engagement process.~~
- ~~(6) — The client or Department may invite a partner agency, a Department contractor, an individual currently working with the client, or another individual with information relevant to the re-engagement process to any appointment or meeting scheduled as part of the re-engagement process.~~
- ~~(7) — The re-engagement process ends when any of the following occurs:~~
- ~~(a) — The Department and the client agree to a modified employment plan;~~
  - ~~(b) — Efforts to re-engage the client are unsuccessful;~~
  - ~~(c) — The Department determines the client meets the *federally required participation rates* (see OAR 461-001-0025);~~
  - ~~(d) — The client clearly indicates the intent not to participate in the re-engagement process;~~
  - ~~(e) — The client is willfully non-compliant and has the ability to be fully engaged;~~
  - ~~(f) — The client has no identified *barrier* to participation or refuses to take an appropriate step to address an identified *barrier* to participation in the program; or~~
  - ~~(g) — A client does not have *good cause* (see OAR 461-193-0890) for not complying with a requirement of the program, and the client is able but unwilling to address the issue through activities that address an identified *barrier* to participation or a case plan modification.~~
- ~~(8) — When the re-engagement process ends unsuccessfully the Department may begin the process of disqualifying a client for failure to comply with a requirement of the NAES or RCSP program.~~

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

461-193-1230

Removing Disqualifications; New Arrival Employment Services (NAES), Refugee Client Services Project (RCSP)

THIS RULE IS REPEALED

~~In the NAES and RCSP programs:~~

- ~~(1) — A client disqualified for failure to meet the requirements of the NAES or RCSP program must comply with those requirements before the disqualification may be removed.~~
- ~~(a) — When the Department removes a disqualification due to a client's compliance with participation requirements and completion of a cooperation period of two consecutive weeks as specified in a new employment plan, the client is eligible for cash benefits effective the date the client agreed to re-engage.~~
- ~~(b) — If a client requests an opportunity to comply with the participation requirements prior to the effective date of a proposed disqualification, the Department amends the employment plan to enable the client to comply with the requirements for the period remaining before the effective date of the disqualification. If the client meets participation requirements during this period, the disqualification penalty is not imposed but the month in which the disqualification penalty was to be imposed counts as a month of disqualification.~~
- ~~(c) — A client stating a desire to cooperate with participation requirements on or after the date the disqualification takes effect, must be assigned a cooperation period of two consecutive weeks. The client must complete a new employment plan before cash benefits are restored. The disqualification ends after the client participates in the cooperation period of two consecutive weeks.~~
- ~~(d) — For a client who completes the cooperation period of two consecutive weeks under subsection (c) of this section, the disqualification ends and only one month of the penalty imposed counts as a disqualification.~~
- ~~(2) — A disqualification ends when the client is no longer required to participate in the NAES program or complies with the requirements of the employment program under section (1) of this rule. For a client no longer required to participate in the NAES program, the disqualification ends on the first day of the month in which the client informs the Department of the facts that justify the change in the participation requirement.~~

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

## Definitions and Categories of Overpayments

This rule applies to benefits and services delivered under chapters 410, 411, and 461 of the Oregon Administrative Rules.

(1) "Overpayment" means:

- (a) A benefit or service received by or on behalf of a client, or a payment made by the Department on behalf of a client, that exceeds the amount for which the client is eligible.
- (b) A payment made by the Department and designated for a specific purpose which is spent by a person on an expense not approved by the Department.
  - (A) In the REF program, there is a rebuttable presumption that the full amount of cash benefits was improperly spent in violation of OAR 461-165-0010(8)(a) when cash benefits are used or accessed in:
    - (i) Any liquor store;
    - (ii) Any casino, gambling casino, or gaming establishment; or
    - (iii) Any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.
    - (iv) Any marijuana dispensary.
  - (B) In the SFPSS and TANF programs, there is a rebuttable presumption that the full amount of cash benefits was improperly spent in violation of OAR 461-165-0010(9)(a) when cash benefits are used or accessed in:
    - (i) Any liquor store;
    - (ii) Any casino, gambling casino, or gaming establishment; or
    - (iii) Any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.
    - (iv) Any marijuana dispensary.
- (c) A payment for child care made by the Department to, or on behalf of, a client that:
  - (A) Is paid to an ineligible provider;
  - (B) Exceeds the amount for which a provider is eligible;

- (C) Is paid when the client was not engaged in an activity that made the client eligible for child care, such as an activity of the JOBS program (see OAR 461-001-0025 and OAR 461-190-0151 to OAR 461-190-0401);
  - (D) Is paid when the client was not eligible for child care benefits; or
  - (E) Has given an electronic benefit transfer (EBT) card, card number, or personal identification number (PIN) to a provider for the purpose of checking a *child* (see OAR 461-001-0000) in or out from the provider's child care.
- (d) A misappropriated payment when a person cashes and retains the proceeds of a check from the Department on which that person is not the payee and the check has not been lawfully endorsed or assigned to the person.
  - (e) A benefit or service provided for a need when that person is compensated by another source for the same need and the person fails to reimburse the Department when required to do so by law.
  - (f) A cash benefit received by an individual in the GA or SFPSS programs for each month for which the client receives a retroactive SSI lump sum payment.
  - (g) In the TA-DVS program, a payment made by the Department to an individual or on behalf of an individual when the individual intentionally and without intimidation or coercion by an abuser:
    - (A) Makes a false or misleading statement or misrepresents, conceals, or withholds information for the purpose of establishing *eligibility* (see OAR 461-001-0000) for or receiving a benefit from the TA-DVS program; or
    - (B) Commits any act intended to mislead or misrepresent, conceal, or withhold information for the purpose of establishing *eligibility* for or receiving a benefit from the TA-DVS program.
- (2) The Department may establish an *overpayment* for the *initial month* (see OAR 461-001-0000) of *eligibility* under circumstances including, but not limited to:
    - (a) The filing group (see OAR 461-110-0310), ineligible student, or *authorized representative* (see OAR 461-115-0090) withheld information;
    - (b) The filing group, ineligible student, or *authorized representative* provided inaccurate information;
    - (c) The Department failed to use income reported as received or anticipated in determining the benefits of the filing group; or



- (d) The error was due to an error in computation or processing by the Department.
- (3) In the OCCS Medical programs, the Department may establish an *overpayment* for the *budget month* (see OAR 410-200-0015) when the OCCS medical program *household group* (see OAR 410-200-0015) or *authorized representative* (see OAR 410-200-0015) withheld or provided inaccurate information.
- (4) Overpayments are categorized as follows:
  - (a) An administrative error *overpayment* is an *overpayment* caused by any of the following circumstances:
    - (A) The Department fails to reduce, suspend, or end benefits after timely reporting by the filing group, OCCS medical program *household group*, ineligible student, or *authorized representative* (see OAR 461-115-0090 and 410-200-0015) of a change covered under OAR 461-170-0011 or 410-200-0235 and that reported change requires the Department to reduce, suspend, or end benefits;
    - (B) The Department fails to use the correct benefit standard;
    - (C) The Department fails to compute or process a payment correctly based on accurate information timely provided by the filing group, OCCS medical program *household group*, ineligible student, or *authorized representative*;
    - (D) In the GA and SFPSS programs, the Department fails to require a client to complete an interim assistance agreement; or
    - (E) The Department commits a procedural error that was no fault of the filing group, OCCS medical program *household group*, ineligible student, or *authorized representative*.
  - (b) A client error *overpayment* is any of the following:
    - (A) An *overpayment* caused by the failure of a filing group, OCCS medical program *household group*, ineligible student, or *authorized representative* to declare or report information or a change in circumstances as required under OAR 461-170-0011 or 410-200-0235, including information available to the Department, that affects the client's *eligibility* to receive benefits or the amount of benefits.
    - (B) A client's unreduced liability or receipt of unreduced benefits pending a contested case hearing decision or other final order favorable to the Department.
    - (C) A client's failure to return a benefit known by the client to exceed the correct amount.

- (D) A client's use of a JOBS or SFPSS program support payment (see OAR 461-190-0211) for other than the intended purpose.
  - (E) A payment for child care when the client was not engaged in an activity that made the client eligible for child care, such as an activity of the JOBS program (see OAR 461-001-0025 and OAR 461-190-0151 to OAR 461-190-0401).
  - (F) A payment for child care when the client was not eligible for child care benefits.
  - (G) The failure of a client to pay his or her entire share of the cost of services or the participant fee (see OAR 461-160-0610 and 461-160-0800) in the month in which it is due.
  - (H) An *overpayment* caused by a client giving an electronic benefit transfer (EBT) card, card number, or personal identification number (PIN) to a provider for the purpose of checking a *child* in or out from the provider's child care.
  - (I) In the REF, SFPSS, and TANF programs, an *overpayment* caused by the client using or accessing cash benefits in any electronic benefit transaction in any liquor store; casino, gambling, or gaming establishment; or retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclad state for entertainment (see OAR 461-165-0010).
- (c) A fraud *overpayment* is an *overpayment* determined to be an *intentional program violation* (see OAR 461-195-0601 and 461-195-0611) or substantiated through a criminal prosecution.
- (d) In the SNAP program, a provider error *overpayment* is an *overpayment* made to a drug or alcohol treatment center or residential care facility that acted as a client's *authorized representative*.
- (e) In the child care program, a provider error *overpayment* is a payment made by the Department on behalf of a client to a child care provider when:
- (A) Paid to an ineligible provider; or
  - (B) The payment exceeds the amount for which a provider is eligible.
- (5) When an *overpayment* is caused by both an administrative and client error in the same month, the Department determines the primary cause of the *overpayment* and assigns as either an administrative or client error *overpayment*.

- (6) In the TANF and TA-DVS programs, when an *overpayment* puts the client at greater risk of *domestic violence* (see OAR 461-001-0000), the *overpayment* is waived (see OAR 461-135-1200).
- (7) Except as provided in section (8) of this rule, the Department establishes an *overpayment* when the following thresholds are exceeded:
  - (a) Administrative error overpayments concerning --
    - (A) Cash and child care programs, when the amount is greater than \$200;
    - (B) SNAP open case, when the amount is greater than \$100; and
    - (C) SNAP closed case, when the amount is greater than \$200.
  - (b) Client error overpayments in:
    - (A) Cash and child care programs, when the amount is greater than \$200;
    - (B) SNAP open case, when the amount is greater than \$100;
    - (C) SNAP closed case, when the amount is greater than \$200;
    - (D) Medical programs, when the amount is greater than \$750.
  - (c) Provider error overpayments in:
    - (A) Cash and child care programs, when the amount is greater than \$200;
    - (B) SNAP open case, when the amount is greater than \$100;
    - (C) SNAP closed case, when the amount is greater than \$200.
- (8) There are no *overpayment* thresholds in all of the following situations:
  - (a) In SNAP program, if the *overpayment* was identified in a quality control review.
  - (b) In all programs, if the *overpayment* was caused by a client's receipt of continuing benefits in a contested case.
  - (c) In all programs, if the *overpayment* was caused by possible fraud by a client or provider.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.081, 411.404, 411.816, 412.001, 412.014, 412.049, HB 2089 (2013, Section 10)

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.081, 411.117, 411.404, 411.620, 411.640, 411.690, 411.816, 411.892, 412.001, 412.014, 412.049, 414.025, 416.350