

Policy Transmittal

Office of Self-Sufficiency Programs



Heather Miles, SNAP, CSFP & TEFAP Program
Manager

Authorized signature

Number: SS-PT-21-022
Issue date: 9/28/2021

Topic: Other

Due date:

Transmitting (check the box that best applies):

- New policy
 Policy change
 Policy clarification
 Executive letter
 Administrative Rule
 Manual update
 Other:

Applies to (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County Mental Health Directors |
| <input checked="" type="checkbox"/> Area Agencies on Aging: Type B | <input type="checkbox"/> Health Services |
| <input checked="" type="checkbox"/> Aging and People with Disabilities | <input type="checkbox"/> Office of Developmental Disabilities Services (ODDS) |
| <input checked="" type="checkbox"/> Self Sufficiency Programs | <input type="checkbox"/> ODDS Children’s Intensive In Home Services |
| <input type="checkbox"/> County DD program managers | <input type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input type="checkbox"/> Support Service Brokerage Directors | <input type="checkbox"/> Other (<i>please specify</i>): |
| <input type="checkbox"/> ODDS Children’s Residential Services | |
| <input type="checkbox"/> Child Welfare Programs | |

Policy/rule title:	Administrative Rules for Various Self-Sufficiency and Aging & People with Disabilities Programs		
Policy/rule number(s):	Various (see below)	Release number:	
Effective date:	October 1, 2021 unless otherwise noted	Expiration date:	N/A
References:			
Web address:	Various (see below)		

Discussion/interpretation:

This transmittal provides an advance summary and links to SSP administrative rule amendments (including many that apply to APD programs) with effective dates during September and on October 1, 2021, as noted. The rule changes can be found on the Chapter 461 OAR website [here](#), the Chapter 461 Recent Rulemaking website [here](#),

and the Secretary of State (SOS) Rules website [here](#). The track change text of the rules can be found following the rule change summaries.

For rule changes made with effective dates in July and August of 2021, see the August 26, 2021, Policy Transmittal SS-PT-21-021 [here](#).

Effective 09/28/2021

AMEND: 461-135-0660

RULE TITLE: SNAP; COVID-19

RULE SUMMARY: OAR 461-135-0660 is being amended to update and align the rule with Department policy and Federal regulations, flexibilities, and waivers regarding the SNAP program due to and during the COVID-19 pandemic.

AMEND: 461-135-1270

RULE TITLE: Specific Requirements; Employment Payments

RULE SUMMARY: OAR 461-135-1270 is being amended to expand eligibility for TANF program employment payments to JOBS Volunteers who meet specific criteria, a provision that was adopted into rule temporarily on June 3, 2021.

AMEND: 461-145-0910

RULE TITLE: Self-Employment; General; Not OSIP, OSIPM, or QMB

RULE SUMMARY: OAR 461-145-0910 is being amended to adopt into rule Department policy that providers considered an employee of an Aging and People with Disabilities, Office of Developmental Disabilities Services, or Oregon Health Authority benefit recipient are not self-employed.

AMEND: 461-145-0915

RULE TITLE: Self-Employment; General; OSIP, OSIPM, QMB

RULE SUMMARY: OAR 461-145-0915 is being amended to adopt into rule an existing Department policy: providers considered an employee of an Aging and People with Disabilities, Office of Developmental Disabilities Services, or Oregon Health Authority benefit recipient are not self-employed.

AMEND: 461-155-0180

RULE TITLE: Income Standards; Not OSIP, OSIPM, QMB

RULE SUMMARY: OAR 461-155-0180 is being amended effective October 1, 2021, to update a few federal poverty level income standards aligning the financial eligibility guidelines in the rule with the annual adjustments set forth by the Food and Nutrition Service.

AMEND: 461-155-0190

RULE TITLE: Income and Payment Standards; SNAP and DSNAP

RULE SUMMARY: OAR 461-155-0190 is being amended effective October 1, 2021, to align the SNAP Payment Standard (Thrifty Food Plan) with annual adjustments set forth by the Food and Nutrition Service.

AMEND: 461-160-0015

RULE TITLE: Resource Limits

RULE SUMMARY: OAR 461-160-0015 is being amended to align resource limit eligibility guidelines for SNAP with the annual adjustments set forth by the Food and Nutrition Service.

AMEND: 461-160-0420

RULE TITLE: Shelter Cost; SNAP

RULE SUMMARY: OAR 461-160-0420 is being amended October 1, 2021, to align the amount of shelter cost used to determine the shelter deduction for SNAP with the annual adjustments set forth by the Food and Nutrition Service.

AMEND: 461-160-0430

RULE TITLE: Income Deductions; SNAP

RULE SUMMARY: OAR 461-160-0420 is being amended effective October 1, 2021, to align income deductions used to determine adjusted income for SNAP with the annual adjustments set forth by the Food and Nutrition Service.

AMEND: 461-165-0060

RULE TITLE: Minimum Benefit Amount; REF, SNAP, TANF

RULE SUMMARY: OAR 461-165-0060 is being changed effective October 1, 2021 to align the minimum SNAP Payment Standards (Thrifty Food Plan) with annual adjustments set forth by the Food and Nutrition Service.

AMEND: 461-175-0210

RULE TITLE: Notice Situation; Individual Moved or Whereabouts Unknown

RULE SUMMARY: OAR 461-175-0210 is being amended to align rule with federal regulation and Oregon policy that have prohibited, for some time, closure of SNAP cases certified in Simplified Reporting System or Transitional Benefit Alternative, when the Department receives returned mail. It is also being amended to restructure the rule to make clear the unique returned mail and moved out of state rules that apply to the SNAP program. Lastly, it is being amended for the TA-DVS Program to cease case closure when mail is returned or whereabouts become unknown. ODHS is making this change because they are

aware that in the TA-DVS Program, survivors may decide it is best to flee from a residence, which results in a change in address or whereabouts.

AMEND: 461-180-0125

RULE TITLE: Effective Dates; Reopen After Returned Mail; ERDC

RULE SUMMARY: OAR 461-180-0125 is being changed to remove the SNAP program from the rule and to make remaining language more accurate and respectful.

Temporary Effective 9/10/2021

AMEND: 461-195-0501

RULE TITLE: Definitions and Categories of Overpayments

RULE SUMMARY: OAR 461-195-0501 is being amended to adopt a new definition and criteria for medical assistance overpayment establishment, according to the guidance from the Centers for Medicare and Medicaid Services (CMS) and Oregon Health Authority (OHA). The rule is also being amended to align the rule to Department current practice, which disallows administrative error overpayments in the General Assistance (GA) program. The amendment restricts establishment of new medical assistance overpayments to certain causes.

Temporary Effective 9/10/2021

AMEND: 461-195-0521

RULE TITLE: Calculation of Overpayments

RULE SUMMARY: OAR 461-195-0521 is being amended to align the rule with Department policy, that the Department shall not establish administrative error overpayments for medical assistance. The rule is also being amended to adopt a new definition and criteria for medical assistance overpayment establishment, according to the guidance from the Centers for Medicare and Medicaid Services (CMS) and Oregon Health Authority (OHA). The amendment restricts establishment of new medical assistance overpayments to certain causes.

Implementation/transition instructions:

Training/communication plan:

Local/branch action required: Review changes with staff who determine eligibility.

Central office action required: N/A

Field/stakeholder review: Yes No

If yes, reviewed by: Most of these rules were reviewed by a Rules Advisory Committee (RAC) for Self-Sufficiency Programs (SSP) or Aging and People with Disabilities (APD)

Filing instructions: N/A

If you have any questions about this policy, contact:

Contact(s): Policy specific questions: Contact the policy box for the specific program. Questions about the rules site, filing dates, or this transmittal: Contact Meorah Solar, Chapter 461 Hearings Policy Analyst and Rule Coordinator.

Phone: (503) 602-7545

Fax: (503) 373-7032

Email: meorah.a.solar@dhsosha.state.or.us

SNAP; COVID-19

The provisions in this rule apply to the SNAP program.

- (1) The Department suspends the following rule sections regarding the SNAP program as provided in this rule:
 - (a) OAR 461-115-0230(3), and
 - (b) OAR 461-135-0520(2) and (6).
- (2) The Department amends the following rules and rule sections regarding the SNAP program as provided in this rule:
 - (a) OAR 461-115-0020(2),
 - (b) OAR 461-115-0450(1) and (2),
 - (c) OAR 461-135-0570(3), and
 - (d) OAR 461-170-0102.
- (3) Per the Families First Coronavirus Act, Title 3, Section 2301:
 - (a) SNAP time limit work requirements for ABAWDs (see OAR 461-135-0520) are temporarily waived.
 - (b) ABAWDs will not be subject to earning *countable months* (see OAR 461-135-0520).
- (4) An individual who the Department has determined is mandatory (see OAR 461-130-0305) will be granted “good cause” (see OAR 461-130-0327) if the reason for not accepting employment or for leaving a job was due to the individual’s concerns regarding their health due to the COVID-19 pandemic.
- (5) Notwithstanding OAR 461-115-0450, the Department may extend a *certification period* (see OAR 461-001-0000) before the *certification period* ends:
 - (a) Not to exceed 6 months, when the *certification period* ends in the months of March, April, May, or June of 2020.
 - (b) When the *certification period* ends in October or November 2020:

- (A) The *certification period* is extended to April 30, 2021, for a *filing group* with a *certification period* of 12 or fewer months.
 - (B) The *certification period* is extended to October 31, 2021, for a *filing group* with a *certification period* of 24-months.
- (c) When the Mid-Certification Review is due in the months of October, November or December 2020, the Department waives the requirement to submit the Review and:
- (A) The *certification period* is extended to October 31, 2022 and the Mid-Certification Review is due in October 2021, for a *filing group* with a Review due in October or November 2020.
 - (B) The *certification period* is extended to December 31, 2022 and the Mid-Certification Review is due in December 2021, for a *filing group* with a Review due in December 2020.
- (d) When the *certification period* ends in December 2020:
- (A) The *certification period* is extended to June 30, 2021 for a *filing group* with a *certification period* of 12 or fewer months.
 - (B) The *certification period* is extended to December 31, 2021 for a *filing group* with a *certification period* of 24-months.
- (e) When the *certification period* ends in the months of February or March 2021 and the *certification period* of the *filing group* has not been previously extended by the Department:
- (A) Not to exceed 6 months when the only countable income is TANF program benefits or TANF program benefits and Social Security benefits.
 - (B) Not to exceed 12 months when the only countable income is Social Security benefits.
- (f) When the *certification period* ends in the month of June 2021, the *certification period* of the *filing group* has not been previously extended by the Department, and the *filing group* is not Job Participation Incentive (see OAR 461-135-1260) eligible.
- (g) When the *certification period* ends in the month of October 2021, the *certification period* of the *filing group* has not been previously extended by the Department, the *filing group* is not Job Participation Incentive (see OAR 461-135-1260) eligible, the *filing group* is not in Transitional Benefits Alternative (see 461-135-0506), and meets one of the following:

(A) The only countable (see OAR 461-001-0000) income is TANF program benefits, SSI (see OAR 461-145-0510), Social Security Benefits (see OAR 461-145-0490), or Social Security Death Benefit (see OAR 461-145-0500).

(B) The countable income of the financial group is less than 25 percent of the Federal Poverty Level (see OAR 461-155-0180).

(C) The group completed a renewal for a medical program maintained in the ONE system between August 1, 2021 and September 15, 2021, with a countable income of less than 130 percent of the Federal Poverty Level.

~~(A)~~(D) The group was determined eligible for a Chapter 461 program maintained in the ONE system between August 1, 2021 and September 15, 2021, with a countable income of less than 130 percent of the Federal Poverty Level.

(6) Notwithstanding OAR 461-170-0102, the Department waives the requirement to submit an “Interim Change Report” or a “Mid-Certification Review” in order to continue receiving benefits:

(a) When the Interim Change Report or Mid-Certification Review is due in the months of March, April, May, or June of 2020.

(b) When the Interim Change Report is due in the months of October, November, or December of 2020.

(7) Emergency allotments (supplements) are permitted through USDA waiver under Families First coronavirus Response Act of 2020. The Department may issue an emergency allotment of SNAP benefits for any months approved for an emergency allotment by the Food and Nutrition Service, with the following limitations:

(a) The emergency allotment does not change the benefit level, calculated under OAR 461-160-0400, for the *benefit group* (see OAR 461-110-0750).

(b) The emergency allotment shall be issued on a date determined by the Department, not subject to OAR 461-165-0100.

(c) Beginning April 2020, and except as provided in paragraphs (A) and (B) of this subsection, the amount of the emergency allotment shall be the difference between the benefit level calculated under OAR 461-160-0400 and the maximum Payment Standard for the number of individuals in the *benefit group*. If there is no difference, no emergency allotment shall be issued.

(A) Beginning April 2021, if the difference calculated equals an amount less than \$95, the amount emergency allotment shall be \$95.

- (B) Beginning May 2021, if the benefit level calculated under OAR 461-160- of a *benefit group* is \$0, no emergency allotment shall be issued.
 - (d) When the Food and Nutrition Service makes a change that ends, reduces, or suspends the emergency allotment:
 - (A) No *decision notice* (see OAR 461-001-0000) is required. The Department is not required to mail a notice of intended action.
 - (B) The Department shall publicize the change using one or more of the following methods:
 - (i) Informing the public through the news media.
 - (ii) Placing posters in the offices that serve affected individuals, in the locations where SNAP is issued, and at other sites frequented by individuals receiving SNAP.
 - (iii) Mailing a general notice to the households of affected recipients.
 - (e) Excepting an overpayment (see OAR 461-195-0501), there is no right to hearing to dispute emergency allotment and no right to continuing benefits.
- (8) For applications with a *filing date* (see OAR 461-115-0040):
- (a) Established from March 23, 2020 to ~~June-December 31~~30, 2021, the Department waives the requirement under OAR 461-115-0020 section (1) to meet the interview requirements in order to complete the application process, and
 - (b) Established from March 23, 2020 to ~~June-December 31~~30, 2021, the Department suspends the requirement under OAR 461-115-0230(3)(b) to grant a face-to-face interview at the applicant's request.
 - (c) The provisions in this section are retroactively effective for applications with a filing date of March 23, 2020, and after.
- (9) Retroactively effective January 16, 2021: In addition to the provisions under section (3) of OAR 461-135-0570, to be eligible for SNAP benefits, a *student of higher education* (see OAR 461-135-0570) may also meet the requirements of one of the following subsections:
- (a) The *student of higher education* is eligible to participate in state or federally funded work study program during the regular school year.
 - (b) The *student of higher education* has an Expected Family Contribution (EFC) of \$0 in the current academic year, as determined through the Free Application for Federal Student Aid (FAFSA).

(10) The provisions--

- (a) Listed in sections (3) and (4) of this rule end on the last day of the month in which the public health emergency declaration made by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) is lifted.
- (b) Listed in section (9) of this rule end 30 days after the day upon which the public health emergency declaration made by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) is lifted.

Statutory/Other Authority: ORS [409.050](#), [411.060](#), [411.070](#), [411.121](#), [411.816](#)

Statutes/Other Implemented: ORS [409.010](#), [409.050](#), [411.060](#), [411.070](#), [411.121](#), [411.816](#), [411.825](#), [411.837](#), 7 USC 2015, 7 USC 2029, 7 CFR 273.7, 7 CFR 273.10, 7 CFR 273.14, 7 CFR 273.24, Pub. L. 116-127

Specific Requirements; Employment Payments

- (1) Effective April 1, 2016, a *benefit group* (see OAR 461-110-0630) that includes an individual who meets the requirements in section (2) of this rule is eligible to receive \$225 in *Employment Payments* (see OAR 461-001-0025) paid over three months as provided in section (3) of this rule.
- (2) To be eligible for three months of *Employment Payments*, an individual in the *benefit group* (see OAR 461-110-0750) or an individual not in the *benefit group* due to the time limit in OAR 461-135-0071 must meet all of the following requirements:
 - (a) Have obtained unsubsidized paid employment and reported it timely.
 - (b) Have been a JOBS eligible or JOBS volunteer (see OAR 461-130-0310) individual who closed TANF for one of the following reasons:
 - (A) Became ineligible for the Pre-TANF, SFPSS or TANF programs due to income above the applicable income standard in OAR 461-155-0030.
 - (B) Voluntarily closed TANF to avoid accruing time toward the time limit in OAR 461-135-0071.
 - (C) Voluntarily closed TANF to be eligible for TBA (see OAR 461-135-0506).
 - (c) Meet the TANF residency requirements in OAR 461-120-0010.
 - (d) Remain at or below 350 percent FPL in OAR 461-155-0180.
- (3) *Employment Payments* begin the month following the month in which Pre-TANF, SFPSS, or TANF benefits close. Payments are limited to one payment per month per *benefit group*. Payments may not be prorated and are paid in the following amounts and order:
 - (a) \$100 the first month after benefits close.
 - (b) \$75 the second month after benefits close.
 - (c) \$50 the third month after benefits close.
- (4) An individual receiving *Employment Payments* is not eligible for JOBS Plus or JPI (see OAR 461-135-1260).

- (5) *Employment Payments* end when an individual:
- (a) Is approved for REF, Pre-TANF, SFPSS, or TANF program benefits;
 - (b) Is a member of a *filing group* (see OAR 461-110-0330) approved for REF, Pre-TANF, SFPSS, or TANF program benefits; or
 - (c) Loses unsubsidized paid employment and the loss is verified by the Department.

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

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

Self-Employment; General; Not OSIP, OSIPM, or QMB

- (1) Self-employment income is income resulting from an individual's business, trade, or profession, rather than from a salary or wage paid by an employer. An individual is considered self-employed if the individual meets the criteria in sections (2) or (3) of this rule. Except as noted in section (3) of this rule when an individual has established a corporation, determine if the individual is self-employed according to section (2) of this rule. If the individual has more than one self-employment business, trade, or profession, the income from each is determined separately.
- (2) Except as provided in OAR 461-145-0250(1), an individual is self-employed for the purposes of this division of rules if the individual meets the requirements of one or more of (a), (b), or (c):
 - (a) Files taxes as self-employed for their business on their personal taxes.
 - (b) Is considered an independent contractor by the business.
 - (c) Meets all the following criteria:
 - (A) Is not required by the business to complete an IRS W-4 form;
 - (B) Is not required to pay federal income tax or FICA payments from their paycheck(s);
 - (C) Liability or worker's compensation insurance for the individual is not paid by the business;
 - (D) Meets at least one of the following:
 - (i) Creates or provides the products or services they sell, or
 - (ii) Sets the price for the products or services they sell;
 - (E) Is responsible for the business expense and losses; and
 - (F) Receives profits from the business.
- (3) Notwithstanding section (2) of this rule:
 - (a) Homecare Workers (see OAR 411-031-0020) paid by the Department are not self-employed.
 - (b) Providers considered an employee of an Aging and People with Disabilities, Office of Developmental Disabilities Services, or Oregon Health Authority

benefit recipient, such as Independent Choices Program (see OAR 411-030-0100) providers, Personal Support Workers (see OAR 411-375-0000), and Personal Care Attendants (see OAR 410-172-0810) are not self-employed.

- (c) Child care providers (see OAR 461-165-0180) paid by the Department, adult foster home providers (see OAR 411-050-0602) paid by the Department, realty agents, and individuals who sell plasma, redeem beverage containers, pick mushrooms for sale, or engage in similar enterprises are considered to be self-employed.
- (4) In the ERDC, REF, SNAP, and TANF programs, self-employment income is counted prospectively to determine *eligibility* (see OAR 461-001-0000) as follows:
- (a) Self-employment income is annualized when it is:
 - (A) Received during less than a 12-month period but is intended as a full year's income.
 - (B) From a business that has operated for a full year and the previous year is representative of what the income and costs will be during the budget month.
 - (b) Except in the ERDC program, self-employment income is treated as anticipated income when a *financial group* (see OAR 461-110-0530) begins self-employment and is unable to determine what the income and costs will be during the budget month.
- (5) In the REFM program:
- (a) Self-employment income is counted only if received in the month of application.
 - (b) If self-employment income counted in the month of application puts the applicant over the income limits for REFM, the income is calculated according to section (4) of this rule.
- (6) When determining the amount of *countable* (see OAR 461-001-0000) self-employment income, use gross receipts and sales, including mileage reimbursements, before costs.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

~~7/08/2010/01/21~~

Self-Employment; General; OSIP, OSIPM, QMB

~~Retroactively effective July 6, 2020:~~

- (1) For purposes of this rule:
 - (a) "Business entity" includes a sole proprietorship, a partnership, and an unincorporated limited liability company.
 - (b) "Principal" means an individual with significant authority in a "business entity" (see subsection (a) of this section), including a sole proprietor, a general partner in a partnership, or a member or manager of an unincorporated limited liability company.
- (2) Notwithstanding any other sections of this rule:
 - (a) Homecare workers (see OAR 411-031-0020) paid by the Department are not self-employed.
 - (b) Providers considered an employee of an Aging and People with Disabilities, Office of Developmental Disabilities Services, or Oregon Health Authority benefit recipient, such as Independent Choices Program (see OAR 411-030-0100) providers, Personal Support Workers (see OAR 411-375-0000), and Personal Care Attendants (see OAR 410-172-0810) are not self-employed.
 - (c) Child care providers (see OAR 461-165-0180) paid by the Department, adult foster home providers (see OAR 411-050-0602) paid by the Department, realty agents, and individuals who sell plasma, redeem beverage containers, pick mushrooms for sale, or engage in similar enterprises are considered self-employed.
 - (~~d~~e) Self-employment does not include non-business activities such as property rentals (see OAR 461-145-0252) or renting a room out of the financial group's primary residence (see OAR 461-145-0340).
- (3) Self-employment means active engagement in one's own business, trade, or profession, rather than earning a salary or wage paid by an employer or maintaining a passive ownership interest in a *business entity*. An individual is considered self-employed if the individual meets the criteria in subsection (2)(b) or section (5) of this rule.
- (4) A *principal* (see subsection (1)(b) of this rule) of a corporation or incorporated limited liability company cannot be considered self-employed unless the criteria in either subsection (a) or (b) are met. All other payments for working or performing services for

the corporation or holding corporate office are treated in accordance with OAR 461-145-0089 and OAR 461-145-0130.

- (a) The individual files taxes for the incorporated business entity as self-employed on their personal taxes, rather than as a corporation.
 - (b) The individual does not file taxes and meets the criteria in section (5)(c) of this rule.
- (5) Except as provided in OAR 461-145-0089(3), an individual is self-employed for the purposes of this division of rules if the individual meets the requirements of one or more of (a), (b), or (c):
- (a) Files taxes as self-employed for their business on their personal taxes.
 - (b) Is considered an independent contractor by the business.
 - (c) Meets all the following criteria:
 - (A) Is not required by the business to complete an IRS W-4 form;
 - (B) Is not required to pay federal income tax or FICA payments from their paycheck(s);
 - (C) Liability or workers' compensation insurance for the individual is not paid by the business;
 - (D) Meets at least one of the following:
 - (i) Creates or provides the products or services they sell, or
 - (ii) Sets the price for the products or services they sell;
 - (E) Is responsible for the business expenses and losses; and
 - (F) Receives profits from the business.
- (6) For a *principal* or any individual with an ownership interest in a *business entity* who cannot be considered self-employed using the criteria in this rule:
- (a) See OAR 461-145-0089 for individuals who are not actively working in the *business entity* to determine how to treat income and resources.
 - (b) For individuals who are actively working for the *business entity* but do not have significant authority or responsibility for its success or failure:

(A) See OAR 461-145-0130 to determine how to treat income.

(B) See OAR 461-145-0089 to determine how to treat resources.

(7) For an individual who is considered self-employed:

(a) See OAR 461-145-0920 and 461-145-0930 to determine how to treat income from self-employment.

(b) See OAR 461-145-0600 to determine how to treat resources used in self-employment.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.400, 411.404, 411.706, 413.085, 414.685, 414.839

- (1) A Department program may cite this rule if the program uses a monthly income standard based on the federal poverty level or state median income. The standards in this rule are effective as of March-October 1, 2021, except as provided otherwise.
- (2) A monthly income standard set at 100 percent of the 2020-2021 federal poverty level is set at the following amounts:

Size of Group.....	Standard
1.....	\$ <u>1,0641,074</u>
2.....	<u>1,4371,452</u>
3.....	<u>1,8101,830</u>
4.....	<u>2,1842,209</u>
5.....	<u>2,5572,587</u>
6.....	<u>2,9302,965</u>
7.....	<u>3,3043,344</u>
8.....	<u>3,6773,722</u>
9.....	<u>4,0514,101</u>
10.....	<u>4,4254,480</u>
+1.....	+ <u>374379</u>

- (3) A monthly income standard set at 130 percent of the 2020-2021 federal poverty level is set at the following amounts:

Size of Group.....	Standard
1.....	\$ <u>1,3831,396</u>
2.....	<u>1,8681,888</u>
3.....	<u>2,3532,379</u>
4.....	<u>2,8392,871</u>
5.....	<u>3,3243,363</u>
6.....	<u>3,8093,855</u>
7.....	<u>4,2954,347</u>
8.....	<u>4,7804,839</u>
9.....	<u>5,2665,331</u>
10.....	<u>5,7525,823</u>
+1.....	+ <u>486492</u>

- (4) A monthly income standard set at 165 percent of the 2020-2021 federal poverty level is set at the following amounts:

Size of Group.....	Standard
1.....	\$ <u>1,7551,771</u>
2.....	<u>2,3712,396</u>

3.....	<u>2,9873,020</u>
4.....	<u>3,6033,644</u>
5.....	<u>4,2194,268</u>
6.....	<u>4,8354,893</u>
7.....	<u>5,4515,517</u>
8.....	<u>6,0676,141</u>
+1.....	<u>+616625</u>

- (5) A monthly income standard set at 185 percent of the 2021 federal poverty level is set at the following amounts:

Size of Group.....	Standard
1.....	\$ 1,986
2.....	2,686
3.....	3,386
4.....	4,086
5.....	4,786
6.....	5,486
7.....	6,186
8.....	6,886
9.....	7,586
10.....	8,286
+1.....	+700

- (6) A monthly income standard set at 200 percent of the 2021 federal poverty level is set at the following amounts:

Size of Group.....	Standard
1.....	\$ 2,147
2.....	2,904
3.....	3,660
4.....	4,417
5.....	5,174
6.....	5,930
7.....	6,687
8.....	7,444
+1.....	+757

- (7) A monthly income standard set at 250 percent of the 2021 federal poverty level is set at the following amounts:

Size of Group.....	Standard
1.....	\$ 2,684

2.....	3,630
3.....	4,575
4.....	5,521
5.....	6,467
6.....	7,413
7.....	8,359
8.....	9,305

- (8) A monthly income standard set at 350 percent of the ~~2020-2021~~ federal poverty level is set at the following amounts:

Size of Group.....	Standard
1.....	\$ 3,722 3,757
2.....	5,029 5,081
3.....	6,335 6,405
4.....	7,642 7,730
5.....	8,949 9,054
6.....	10,255 10,378
7.....	11,562 11,702
8.....	12,869 13,026
9.....	14,176 14,351
10.....	15,483 15,676
+1.....	+ 1,307 1,325

- (9) A monthly income standard set at 85 percent of the 2021 state median income is set at the following amounts:

Size of Group.....	Standard
2.....	\$ 4,293
3.....	5,303
4.....	6,313
5.....	7,323
6.....	8,333
7.....	8,523
8.....	8,712

- (10) A monthly Disaster Supplemental Nutrition Assistance Program (DSNAP) income standard is set at the following amounts for the *household* (see OAR 461-135-0491):

Size of Group.....	Standard
1.....	\$ 1,817 1,848
2.....	2,190 2,226
3.....	2,563 2,604

4.....	<u>2,9512,990</u>
5.....	<u>3,3553,399</u>
6.....	<u>3,7593,808</u>
7.....	<u>4,1334,187</u>
8.....	<u>4,5064,565</u>
+1.....	<u>+374379</u>

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.816, 412.014, 412.049

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.816, 412.014, 412.049, 7 CFR 280.1

461-155-0190

Eff.

~~1007~~/01/21

Income and Payment Standards; SNAP and DSNAP

- (1) The monthly SNAP Countable Income Limit is set at 130 percent of the federal poverty level under OAR 461-155-0180 for the number of individuals in the ~~need-group~~ *need group* (see OAR 461-110-0630). The monthly SNAP Adjusted Income Limit is set at 100 percent of the federal poverty level under OAR 461-155-0180 for the number of individuals in the ~~need-group~~ *need group*.
- (2) The SNAP Payment Standard (Thrifty Food Plan) is:

SNAP Payment Standard (TFP)	
No. in Benefit Group	Monthly Amount
1	\$ 234 <i>250</i>
2	430 <i>459</i>
3	616 <i>658</i>
4	782 <i>835</i>
5	929 <i>992</i>
6	1,141 <i>1,190</i>
7	1,232 <i>1,316</i>
8	1,408 <i>1,504</i>
Each additional individual	+ 188 <i>176</i>

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

No. in Benefit Group	Monthly Amount
1	\$ 204
2	374
3	535
4	680
5	807
6	969
7	1,071
8	1,224
Each additional individual	+153

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

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

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

~~4/01/2010/01/21~~

Resource Limits

- (1) In the EA program, all *countable* (see OAR 461-001-0000) resources must be used to meet the emergent need.
- (2) In the ERDC program, the limit is \$1,000,000.
- (3) In the OSIP and OSIPM programs, the resource limit is as follows:
 - (a) \$2,000 for a one-person *need group* (see OAR 461-110-0630) and \$3,000 for a two-person *need group*.
 - (b) \$5,000 for the OSIP-EPD and OSIPM-EPD programs (see OAR 461-001-0035 and 461-145-0025 for funds that may be excluded as approved accounts).
- (4) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all resources are excluded.
- (5) In the QMB-DW program, the resource limit is \$4,000 for a one-person *need group* and \$6,000 for a *need group* containing two or more individuals.
- (6) In the REF and REFM programs, the resource limit is:
 - (a) \$2,500 for any of the following:
 - (A) A new REF or REFM applicant for benefits.
 - (B) In the REF program, the *need group* that has at least one *mandatory* (see OAR 461-130-0305) participant in an employment program who is:
 - (i) Receiving REF and not progressing in a required activity of an open case plan; or
 - (ii) Serving a current employment program disqualification (see OAR 461-130-0330).
 - (b) \$10,000 for an REF *need group* not covered under subsection (a) of this section.
- (7) In the SNAP program, unless *categorically eligible* (see OAR 461-135-0505), the resource limit is:
 - (a) ~~\$3,750~~~~3,500~~ for a *financial group* (see OAR 461-110-0530) with at least one member who is *elderly* (see OAR 461-001-0015) or an individual with a *disability* (see OAR 461-001-0015).

- (b) ~~\$2,250~~2,500 for all other financial groups.
- (8) In the TANF program, the resource limit is:
- (a) \$2,500 for any of the following:
- (A) A new TANF applicant for benefits.
- (B) TANF *need group* that does not have at least one *caretaker relative* (see OAR 461-001-0000) or *parent* (see OAR 461-001-0000) who is receiving TANF.
- (C) TANF *need group* that has at least one JOBS participant who is serving a current JOBS disqualification (see OAR 461-130-0330).
- (b) \$10,000 for a *need group* not covered under subsection (a) of this section.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 411.837, 412.049, 413.085, 414.685, 414.839

- (1) This rule explains how to calculate the shelter cost. The shelter cost is used to determine the shelter deduction (see OAR 461-160-0430). The shelter cost is the sum of the filing group's cost of housing plus an allowance for utilities, if the individual incurs a utility cost. The shelter deduction is based on the shelter cost but is subject to a limitation described in OAR 461-160-0430.
- (2) Cost of housing.
 - (a) The following comprise the cost of housing if they are incurred with respect to the filing group's current residence or the home described in section (5) of this rule:
 - (A) Regular, periodic charges for the shelter of the *filing group* (see OAR 461-110-0370), such as rent, mortgage payments, and condominium or association fees. Late fees charged because a mortgage or rent payment was made late are not deductible.
 - (B) Property taxes, state and local assessments, and property insurance on the structure.
 - (C) Costs for repairing a home substantially damaged or destroyed by a natural disaster (such as a fire or flood), if such costs are not reimbursed.
 - (D) If the *filing group* is homeless and living in a vehicle---vehicle payments and collision and comprehensive insurance premiums for the vehicle.
 - (b) If housing costs are billed on a weekly or biweekly basis, the monthly cost is the weekly cost multiplied by 4.3 or the biweekly cost multiplied by 2.15.
 - (c) The *filing group* has the following choices about housing costs:
 - (A) The group may choose to apply the cost in the month it is billed or becomes due.
 - (B) The group may choose to have periodic costs averaged.
 - (C) For expenses that are billed less often than monthly, the group may choose to have them averaged over the period they are intended to cover.
- (3) Shared housing. If the *filing group* shares housing costs with an individual in the dwelling who is not in the *filing group*, only the housing costs incurred by the *filing group* are included in the calculation. If the portion paid by an individual outside the *filing group* cannot be ascertained, the cost is apportioned among the individuals

contributing to the cost. The pro rata share of those not in the *filing group* is deducted from the total, and the balance is considered a housing cost of the *filing group*.

(4) Cost for utilities.

- (a) A *filing group* has a cost for utilities if it incurs a cost for heating or cooling; cooking fuel; electricity; water and sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; service for a telephone, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes; or initial installation fees charged by a utility provider.
- (b) If the group incurs no cost for utilities in either its current home or in the home described in section (5) of this rule, then the shelter cost is calculated without an allowance for utilities.
- (c) If a homeless *filing group* uses a vehicle for shelter, the cost of fuel for the vehicle is considered a utility cost.
- (d) If a *filing group* incurs a cost for utilities, then the utility allowance is one of the following:
 - (A) Allowance with heating or cooling. A full standard utility allowance of ~~\$450442~~ per month is used if the *household group* (see OAR 461-110-0210) is billed for heating or cooling costs for its dwelling. Charges for any fuel and for electricity are considered heating costs if they are used for heating. A *filing group* who receives an energy assistance payment for the dwelling provided through the Low-Income Energy Assistance Act of 1981 is eligible for the utility allowance established by this paragraph (A). This energy assistance payment must be greater than \$20 annually.
 - (B) Allowance without heating or cooling.
 - (i) A limited standard utility allowance of ~~\$353341~~ per month is used if the *filing group* is not billed for heating or cooling costs but is billed for at least two other costs enumerated in subsection (4)(a) of this rule.
 - (ii) An individual standard utility allowance of ~~\$5755~~ per month is used if the *filing group* is not billed for heating or cooling costs but is billed for only one of the costs enumerated in subsection (4)(a) of this rule other than the service cost for a telephone, including the related taxes or fees.
 - (iii) A telephone standard utility allowance of ~~\$7068~~ per month is used if the *filing group* is billed only for telephone service, such as basic

service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes.

- (5) Housing costs for a home not occupied by the filing group. Housing and utility costs with respect to a home not currently occupied may be considered in calculating the shelter cost if--
- (a) The home is temporarily unoccupied because of employment or training away from home, illness, or abandonment caused by casualty or natural disaster;
 - (b) The *filing group* intends to return to the home;
 - (c) No other, current occupant is claiming a deduction for shelter costs in the SNAP program; and
 - (d) The home is not leased during the household's absence.

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

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

10/01/~~2120~~

Income Deductions; SNAP

In the SNAP program:

- (1) Deductions from income are subtracted from *countable* (see OAR 461-001-0000) income (see OAR 461-140-0010) in the following order to determine *adjusted income* (see OAR 461-001-0000) for the SNAP program:
 - (a) An earned income deduction of 20 percent of *countable* earned income. The 20 percent deduction is not taken from the wages funded by grant diversions such as Work Supplementation wages.
 - (b) A standard deduction of:
 - (A) \$ ~~177167~~ per month for a *benefit group* (see OAR 461-110-0750) of one, two, or three individuals.
 - (B) \$ ~~184181~~ per month for a *benefit group* of four individuals.
 - (C) \$ ~~215212~~ per month for a *benefit group* of five individuals.
 - (D) \$ ~~246243~~ per month for a *benefit group* of six or more individuals.
 - (c) A dependent care deduction for dependent care costs billed to a member of the *filing group* (see OAR 461-110-0370) and not paid for through any other program of the Department. For the cost to be deductible under this section, the care must be necessary to enable a member of the *filing group* to--
 - (A) Accept or continue employment;
 - (B) Seek employment, including a job search that meets the requirements of a *case plan* (see OAR 461-001-0020); or
 - (C) Attend vocational or educational training. A student receiving educational income is entitled to a deduction only for costs not excluded from educational income by OAR 461-145-0150.
 - (d) The medical deduction for *elderly* (see OAR 461-001-0015) individuals and individuals who have a *disability* (see OAR 461-001-0015) in the *filing group*. The deduction is calculated by determining the total of their deductible medical costs (see OAR 461-160-0415) and subtracting \$35. The Department uses the resulting amount to determine the allowable deduction as follows:
 - (A) For an amount less than \$0, no deduction is allowed.

- (B) For an amount greater than \$0 but less than \$170.01, a deduction of \$170 is allowed.
 - (C) For an amount greater than \$170, a deduction of the amount determined under this subsection is allowed.
 - (e) A deduction for child support payments (including cash medical support) a member of the *filing group* makes under a legal obligation to a *child* (see OAR 461-001-0000) not a member of the *filing group*, including payments for the current month and for payments on arrearages. Child support is not deductible if collected by setoff through the Oregon Department of Revenue or by interception of a federal tax refund.
 - (f) A shelter deduction, calculated as follows:
 - (A) For SNAP *filing group* members required to pay room and board in a *nonstandard living arrangement* (see OAR 461-001-0000), the shelter deduction is--
 - (i) The cost of room and board, minus the payment standard for the *benefit group*; or
 - (ii) The actual room cost, if the individual can prove that the room cost exceeds the cost described in subparagraph (i) of this paragraph.
 - (B) For all other *filing group* members, the shelter deduction is calculated as follows:
 - (i) The standard deduction and the deductions of earned income, dependent care, court-ordered child support, and medical expenses are subtracted from *countable* income. Fifty percent of the remainder is subtracted from the shelter cost calculated in accordance with OAR 461-160-0420.
 - (ii) The rounded balance is the deduction, except the deduction is limited if the *filing group* has no member who has a *disability* or is *elderly*. The limit is \$ ~~597586~~ per month.
- (2) If an individual cannot verify a medical or court-ordered child-support expense or cannot verify any other expense when asked to do so, the unverified expense is not used to calculate the deduction. If the individual provides verification, the deduction is applied when calculating the next month's benefits. If verification is provided within the period authorized for processing applications (see OAR 461-115-0210), the benefits for the *initial month* (see OAR 461-001-0000) are recalculated using the deduction.

461-160-0430

Page 3

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

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

461-165-0060

Eff.

10/01/2149

Minimum Benefit Amount; REF, SNAP, TANF

- (1) In the SNAP program:
 - (a) A *benefit group* (see OAR 461-110-0750) is not eligible for benefits in the *initial month* (see OAR 461-001-0000) if the allotment is less than \$10.
 - (b) Except as provided otherwise in section (1) of this rule and in OAR 461-160-0070, minimum benefits are determined as follows:
 - (A) An eligible *benefit group* of one or two persons receives ~~the monthly calculated benefit with~~ a minimum monthly allotment of \$20 for an ongoing month (see OAR 461-001-0000) and a proration of \$20 when OAR 461-160-0070 applies. The minimum monthly allotment is a calculation of eight percent of the Thrifty Food Plan (TFP) (see OAR 461-155-0190), rounded to the nearest whole dollar, for one person as determined annually by FNS.
 - (B) An eligible *benefit group* of three or more persons receives the monthly calculated benefit, except that a group whose calculated benefit is \$1, \$3, or \$5 receives instead an allotment of \$2, \$4, or \$6 respectively. A *benefit group* in a *categorically eligible filing group* may be eligible for zero benefits (\$0) for the *certification period* (see OAR 461-001-0000).
- (2) In the REF and TANF programs, except as provided in section (3) of this rule, benefits are not issued if the monthly benefit is less than \$10. Individuals who do not receive a cash payment because the monthly benefit is less than \$10 may be eligible for medical benefits.
- (3) The \$10 requirement in section (2) of this rule does not apply to any of the following:
 - (a) Special payments, such as one-time special needs, emergency assistance, supplements, or a benefit reduced from \$10 or more to under \$10 due to the recovery of an overpayment.
 - (b) Dual payee payments made in money management cases if the monthly benefit amount is \$10 or more.
 - (c) Wage supplements issued to JOBS Plus participants.

Statutory/Other Authority: ORS 411.060, 411.816, 412.049

Statutes/Other Implemented: ORS 411.060, 411.816, 412.049

461-175-0210
Eff. 10/7/21

Temporary

Notice Situation; Individual Moved or Whereabouts Unknown

- (1) In all programs except the SNAP program, ~~To~~ to end benefits for an individual who has moved out of Oregon and no longer meets residency requirements under OAR 461-120-0010, the Department sends the following *decision notice* (see OAR 461-001-0000):
 - (a) In the ERDC, OSIP, OSIPM, QMB, REF, REFM, and TANF programs:
 - (A) The Department sends a *timely continuing benefit decision notice* (see OAR 461-001-0000) to the individual who has moved out of Oregon.
 - (B) The Department sends a *basic decision notice* (see OAR 461-001-0000) if the individual becomes eligible for benefits in another state.
 - (b) In the GA program:
 - (A) No *decision notice* is required to end housing assistance payments.
 - (B) The Department sends a *timely continuing benefit decision notice* to end Personal Incidental Fund and utility assistance payments.
 - (c) For *Employment Payments* (see OAR 461-001-0025 and 461-135-1270) and JPI (see OAR 461-135-1260), no *decision notice* is required if the Department determines that the *benefit group* (see OAR 461-110-0750) has moved out of Oregon.
- (2) In all programs except the SNAP and TA-DVS programs, if Department mail or benefits have been returned with no forwarding address, the Department gives the individual the benefits if the individual's whereabouts become known during the period covered by the returned benefits.
- (3) In all programs except the SNAP and TA-DVS programs, if Department mail or benefits have been returned with no forwarding address, and the individual's whereabouts remain unknown, the Department ends benefits by sending the following *decision notice* to their last known address:
 - (a) Except for *Employment Payments* and JPI, a *basic decision notice*.
 - (b) For *Employment Payments* and JPI, no *decision notice* is required.
- (4) In the SNAP program,
 - (a) When the *filing group* is participating in the Change Report System (CRS) and:

- (A) Department mail or benefits have been returned with no forwarding address, or with an Oregon address not yet reported to ODHS, the Department shall allow the filing group 10 days to meet residence and shelter cost reporting requirements under OAR 461-170-0011. If the information is not provided, the Department sends a *timely continuing benefit decision notice*.
 - (B) Department mail or benefits have been returned with an address outside of Oregon, no *decision notice* is required to end benefits.
- (b) When the *filing group* is participating in the Simplified Reporting System (SRS) or Transitional Benefit Alternative (TBA),
- (A) The Department shall not end SNAP program benefits when Department mail or benefits have been returned.
 - (B) The Department shall end benefits when the *head of household* (see OAR 461-001-0015) reports they moved out of Oregon and no longer meet residency requirements under OAR 461-120-0010, or when they are applying for benefits in another state. No *decision notice* is required.

(5) In the TA-DVS program, the Department shall not end benefits when Department mail or benefits have been returned with no forwarding address and the individual's whereabouts remain unknown.

(65) See OAR 461-165-0130 for when benefits may be sent out of Oregon.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.095, 411.404, 411.816, 412.049, 413.085, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.095, 411.404, 411.816, 412.049

Effective Dates; Reopen After Returned Mail; ERDC, ~~SNAP~~

In the ERDC ~~and SNAP~~ programs, benefits may be reopened effective the first of the month when mail is returned and benefits are closed under OAR 461-175-0210 ~~by the U.S. Post Office marked "undeliverable, no forwarding address"~~ in the following situation:

- (1) Benefits ended as of the last calendar day of the prior month;
- (2) The reason for the case closure was mail returned, no forwarding address; and
- (3) ~~The client~~ A responsible member of the filing group (see OAR 461-110-0350) contacted the Department within the first calendar month following the case closure with a new mailing address.

Statutory/Other Authority ~~Stat. Auth.:~~ ORS 411.060, 411.816

Statutes/Other Stats. Implemented: ORS 411.060, 411.816

461-195-0501
Eff. ~~94/1001~~/21

Temporary

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 Oregon, outside of Oregon, or on ~~tribal~~Tribal lands at:
 - (i) Any *liquor store* (see OAR 461-165-0010);
 - (ii) Any *casino, gambling casino, or gaming establishment* (see OAR 461-165-0010);
 - (iii) Any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; or
 - (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 Oregon, outside of Oregon, or on ~~tribal~~Tribal lands at:
 - (i) Any *liquor store*;
 - (ii) Any *casino, gambling casino, or gaming establishment*;
 - (iii) Any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment; or
 - (iv) Any marijuana dispensary.

- (C) The rebuttable presumptions in paragraphs (A) and (B) of this section also apply when an individual in a location covered in paragraphs (A) or (B) uses or accesses cash benefits from a private bank account.
- (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 HSD medical programs (see OAR 461-001-0000), the Department may establish an overpayment for the budget month (see OAR 410-200-0015) when the HSD medical programs eligibility determination group (see OAR 410-200-0015) or authorized representative (see OAR 410-200-0015) withheld or provided inaccurate information. Retroactively effective April 21, 2021, for medical assistance the Department:~~
- ~~(a) Shall not establish an administrative error overpayment,~~
 - ~~(b) Shall not establish a client error overpayment unless an individual received unreduced liability or unreduced benefits pending a contested case hearing decision or other final order favorable to the Department, and~~
 - ~~(c) May establish a fraud overpayment when a court determines the individual made a false or misleading statement or misrepresented, concealed, or withheld a fact for the purpose of establishing or maintaining eligibility.~~
- (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, ~~HSD medical programs eligibility determination 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, ~~HSD medical programs eligibility determination 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, ~~HSD medical programs eligibility determination 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, ~~HSD medical programs eligibility determination 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 their 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*; retail establishment that provides adult-oriented entertainment in which

performers disrobe or perform in an unclotted state for entertainment; or marijuana dispensary (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 court determining the individual made a false or misleading statement or misrepresented, concealed, or withheld a fact for the purpose of establishing or maintaining eligibility~~eriminal 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 a~~ 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; and
 - (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.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.081, 411.404, 411.816, 412.001, 412.014, 412.049, 413.085

Statutes/Other Implemented: ORS 409.010, 409.050, 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, 413.085, 416.350

Calculation of Overpayments

This rule specifies how the Department calculates an *overpayment* (see OAR 461-195-0501).

- (1) The Department calculates an *overpayment* by determining the amount the individual received, or the payment made by the Department on behalf of the individual that exceeds the amount for which the individual was eligible.
- (2) When a filing group, ~~HSD medical programs~~ *HSD medical programs* (see OAR 461-001-0000) *eligibility determination group* (see OAR 410-200-0015), ineligible student, or *authorized representative* (see OAR 461-115-0090 and OAR 410-200-0015) fails to report income, the Department establishes, calculates and determines the *overpayment* by assigning unreported income to the applicable budget month without averaging the unreported income, except:
 - (a) An individual's earned income reported quarterly from the Employment Department is considered received by the individual in equal amounts during the months identified in the report.
 - (b) In the ERDC, REF, SNAP, and TANF programs, an individual's actual self-employment income is annualized retrospectively to calculate the *overpayment*.
 - (c) In the ~~HSD medical programs~~ *HSD medical programs*, if actual income is not available for the months in which an *overpayment* occurred, an individual's actual self-employment income (see OAR 410-200-0015) received during the year when an *overpayment* occurred is annualized to calculate an *overpayment*.
 - (d) In all programs, if verification of self-employment income is not provided to the Department following the issuance of a subpoena, or is not yet available to the individual, self-employment income from a prior year is annualized prospectively to calculate an *overpayment*. There is a rebuttable presumption that self-employment income from the prior year is representative of actual self-employment income for the time of *overpayment*. The presumption may be rebutted only by clear and convincing evidence.
- (3) The Department establishes, calculates, and determines an *administrative error overpayment* (see OAR 461 195 0501) based on information initially provided by a filing group, ~~HSD medical programs eligibility determination group~~, ineligible student, or authorized representative. The Department may calculate the *administrative error overpayment* by using any of the following:
 - (a) Correct prospective budgeting (see OAR division 461-150 ~~and division 410-200~~) based on information initially provided; or if it results in a lower *overpayment* amount;

- (b) Actual income; or
 - (c) Averaging an individual's earned income reported quarterly from the Employment Department.
- (4) When using prospective budgeting (see OAR division 461-150) and the actual income differs from the amount determined under OAR 461-150-0020(2), there may be a *client error overpayment* (see OAR 461-195-0501) only when the filing group, ineligible student, or *authorized representative* withheld information, failed to report a change, or provided inaccurate information. In such a case, the Department uses the actual income to determine the amount of an *overpayment*.
- (5) ~~The Department uses actual income to determine the amount of a medical assistance overpayment caused by possible fraud. When using anticipated income for the HSD medical programs and the actual income differs from the amount determined under OAR 410-200-0310, there may be a *client error overpayment* only when the HSD medical programs eligibility determination group or *authorized representative* (see OAR 410-200-0015) knowingly withheld information, failed to report a change, or provided inaccurate information. In such a case, the Department uses the actual income to determine the amount of an *overpayment*.~~
- (6) When a filing group, ineligible student, or *authorized representative* fails to report all earned income within the reporting time frame, the earned income deduction (see OAR 461-160-0160, 461-160-0190, 461-160-0430, 461-160-0550, and 461-160-0552) is applied as follows:
- (a) In the OSIP, OSIPM, QMB, and REFM programs, the Department allows the earned income deduction.
 - (b) In the REF and TANF programs, the Department allows the earned income deduction when *good cause* (see section (6) of this rule) exists.
 - (c) In the SNAP program, no deduction is applied to earned income if the amount or source of income was not timely reported.
- (7) For the purposes of OAR 461-195-0501 to 461-195-0561, "good cause" means circumstances beyond the individual's reasonable control that caused the individual to be unable to report income timely and accurately.
- (8) When support is retained:
- (a) In the TANF program, the amount of support (other than cash medical support) the Department of Justice retains as a current reimbursement each month is added to other income to determine *eligibility* (see OAR 461-001-0000). When an

individual is not eligible for TANF program benefits, the *overpayment* is offset by the support the Department of Justice retains as a current reimbursement.

- (b) ~~In the~~For medical ~~programs~~assistance, the amount of the cash medical support the Department retains each month is excluded income and not used to determine ~~eligibility for medical program benefits~~. When an individual has incurred a medical ~~program~~assistance *overpayment*, the *overpayment* is offset by the amount of the cash medical support the Department retains during each month of the *overpayment*.
- (9) In the REF and TANF programs, when an individual directly receives support used to determine *eligibility* or calculate benefits, the *overpayment* is:
- (a) If still eligible for REF or TANF program benefits, the amount of support the individual received directly; or
 - (b) If no longer eligible for REF or TANF program benefits, the amount of program benefits the individual received.
- (10) When an *overpayment* occurs due to the failure of an individual to reimburse the Department, when required by law to do so, for benefits or services (including cash medical support) provided for a need for which that individual is compensated by another source, the *overpayment* is limited to the lesser of the following:
- (a) The amount of the payment from the Department;
 - (b) Cash medical support; or
 - (c) The amount by which the total of all payments exceeds the amount payable for such a need under the Department's rules.
- (11) Benefits paid during a required *notice period* (see OAR 461-175-0050, OAR 410-200-0120) are included in the calculation of the *overpayment* when:
- (a) The filing group, HSD medical programs *eligibility determination group*, ineligible student, or *authorized representative* (see OAR 461-115-0090 and OAR 410-200-0015) failed to report a change within the reporting time frame under OAR 461-170-0011 or OAR 410-200-0235; and
 - (b) Sufficient time existed for the Department to adjust the benefits to prevent the *overpayment* if the filing group, HSD medical programs *eligibility determination group*, ineligible student, or *authorized representative* (see OAR 461-115-0090 and OAR 410-200-0015) had reported the change at any time within the reporting time frame.

- (12) In the SNAP program, if the *benefit group* (see OAR 461-110-0750) was categorically eligible under OAR 461-135-0505, there is no *overpayment* based on resources.
- (13) In the OSIP and OSIPM programs, when an individual does not pay their share of the cost of services (see OAR 461-160-0610) or the OSIP-EPD or OSIPM-EPD program *participant fee* (see OAR 461-160-0800) in the month in which it is due, an *overpayment* is calculated as follows:
- (a) All payments made by the Department on behalf of the individual during the month in question are totaled, including but not limited to any payment for:
- (A) Capitation;
 - (B) Long term care services;
 - (C) Medical expenses for the month in question;
 - (D) Medicare buy-in (when not concurrently eligible for an MSP);
 - (E) Medicare Part D;
 - (F) Mileage reimbursement;
 - (G) Special needs under OAR 461-155-0500 to 461-155-0710; and
 - (H) *Home and community-based care* (see OAR 461-001-0030), including home delivered meals and non-medical transportation.
- (b) Any partial or late liability payment made by an individual receiving *home and community-based care* in-home services or *participant fee* paid by an OSIP-EPD or OSIPM-EPD program participant is subtracted from the total calculated under subsection (a) of this section. The remainder, if any, is the amount of the *overpayment*.
- (14) When an individual's liability is unreduced pending the outcome of a contested case hearing about that liability the *overpayment* is the difference between the liability amount determined in the final order and the amount, if any, the individual has repaid.
- (15) ~~In the HSD medical programs~~ For medical assistance, OSIPM, QMB, and REFM programs if the individual was not eligible for one program, but during the period in question was eligible for another program:

~~(a)~~ ~~W~~with the same benefit level, there is no *overpayment*.

~~(b) — With a lesser benefit level, the *overpayment* is the amount of medical program benefit payments made on behalf of the individual exceeding the amount for which the individual was eligible.~~

~~(16) — When an *overpayment* is caused by *administrative error* (see OAR 461-195-0501), any *overpayment* of GA, OSIP, REF, SFPSS, or TANF program benefits is not counted as income when determining *eligibility* for the HSD medical programs, OSIPM, and REFM programs.~~

(167) Credit against an *overpayment* is allowed as follows:

- (a) In the GA, REF, and TANF programs, a credit is allowed for an individual's payment for medical ~~services~~ assistance made during the period covered by the *overpayment*, in an amount not to exceed the Department fee schedule for the service, but credit is not allowed for an elective procedure unless the Department authorized the procedure prior to its completion.
- (b) In the SNAP program, if the *overpayment* was caused by unreported earned income, verified child care costs are allowed as a credit to the extent the costs would have been deductible under OAR 461-160-0040 and 461-160-0430.
- (c) In all programs, for an underpayment of benefits in the program in which the *overpayment* occurred.

(178) In the REF program, when an individual used or accessed cash benefits in violation of OAR 461-165-0010(8)(a), the amount of the *overpayment* is the amount of cash benefits the individual used or accessed.

(189) In the SFPSS and TANF programs, when an individual used or accessed cash benefits in violation of OAR 461-165-0010(9)(a), the amount of the *overpayment* is the amount of cash benefits the individual used or accessed.

Statutory/Other Authority: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.660, 411.706, 411.816, 412.014, 412.049, 412.124, 413.085, 414.231, 414.685

Statutes/Other Implemented: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231, 416.350