

Annette Tesch  


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**Authorized Signature**

**Number:** SS-PT-04-017  
**Issue Date:** 07/15/04

**Topic:** CAF Self-Sufficiency and SPD Programs Draft Eligibility Administrative Rules

**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        | <input type="checkbox"/> Health Services                                 |
| <input checked="" type="checkbox"/> Children, Adults and Families | <input checked="" type="checkbox"/> Seniors and People with Disabilities |
| <input type="checkbox"/> County DD Program Managers               | <input type="checkbox"/> Other (please specify):                         |

Policy/Rule Title:	Draft Administrative Rules Regarding Eligibility		
Policy/Rule Number(s):		Release No:	
Effective Date:	October 1, 2004	Expiration:	N/A
References:			
Web Address:	<a href="http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm">www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm</a>		

**Discussion/Interpretation:** This draft rule package is available for review and comment until August 24, 2004.

Rule 461-025-0310 is being amended to state that clients have a right to a hearing when a JOBS support service payment, pursuant to OAR 461-190-0211, is denied, reduced or closed.

Rule 461-025-0315 is being amended because The Department is adding language to this rule to specify that clients may receive an expedited hearing when a JOBS support service payment is denied, reduced or closed.

Rules 461-101-0010, 461-110-0410, 461-110-0610, 461-120-0510, 461-135-0875, 461-135-0990, 461-145-0540, 461-155-0360, 461-160-0030, 461-160-0055, 461-160-0540, 461-160-0610, 461-165-0100, 461-170-0120, and 461-180-0065 are being amended and rules 461-135-0720, 461-135-0721, 461-155-0110, 461-160-0080 and

461-175-0330 are being repealed to remove all reference to the Oregon Supplemental Income Program Medical – Medically Needy (OSIPM-MN) program, because the program ended January 31, 2003.

Rules 461-110-0370, 461-155-0190 and 461-160-0430 are being amended to reflect the annual increase in the standards for the Food Stamp program as published by the Food and Nutrition Service.

Rule 461-110-0410 is also being amended to clarify who is in an OSIPM filing group when children are applying.

Rule 461-115-0030 is being amended to add policy that in order to receive JOBS support service payments, clients must complete the Department's JOBS support service payment application process.

Rule 461-115-0050 is being amended to clarify that clients may change between certain medical programs without a new application.

Rule 461-115-0190 is being amended to clarify what exceptions are permitted for extending the time standards for medicaid determinations based on disability made by the state beyond 90 days from the date of application. Adopts language regarding timely determinations for Medicaid from section 435.911 of 42 CFR.

Rule 461-115-0190 is also being amended to add application processing time frames for JOBS support service payments per rule 461-190-0211.

Rule 461-115-0705 is being amended to clarify that workers are to accept the client's statement when income verification is not available for determining OHP eligibility.

Rule 461-125-0330 is being repealed because individuals who meet the eligibility requirements for Medicaid based on blindness are included in rule 461-125-0370. A reference to those who were eligible for and received Aid to the Blind in Oregon in December 1973 is being added to rule 461-125-0370. These grand fathered cases continue to be eligible for Medicaid as long as they are continuously blind as defined by Oregon requirements that were in effect in 1973.

Rule 461-125-0370 is being amended to add language that was removed when rule 461-125-0330 was repealed. This stipulates clients who were eligible for and received Aid to the Blind in Oregon in 1973 may receive Medicaid. These grand fathered cases continue to be eligible as long as they are continuously blind as defined by Oregon requirements that were in effect in 1973. This rule also needs to be amended to be in compliance with Section 3272.2 of the State Medicaid Manual which allows a claimant who is receiving Medicaid based on a disabling condition to continue receiving Medicaid provided the claimant has an active SSA administrative appeal of the denial.

Rule 461-125-0510 is being amended so clients with severe mental impairments are evaluated in the same manner as those with severe physical limitations with respect to the vocational rules used to determine eligibility for the General Assistance (GA) program.

Rule 461-135-0301 is being amended to close the Emergency Assistance (EA) program effective May 1, 2004. There will be no EA payments made after April 30, 2004.

Rule 461-135-0405 is being amended to change the duration of protected ERDC eligibility for a child in a Head Start contracted slot.

Rule 461-135-0834 is being amended to include a reference to ORS 93.268, which became effective January 1, 2004.

Rule 461-135-0847 is being amended to remove a reference to "chapter 638, Oregon Laws 2003" and replacing it with a reference to "ORS 411.694."

Rule 461-135-1070 is being amended to clarify that a client whose CAWEM eligibility is based on the OHP-OPU program is subject to OAR 461-135-1102, which closes the OHP-OPU program to new applicants on July 1, 2004.

Rule 461-135-1120 is being amended to provide that a client may request a modification to the Oregon Health Plan (OHP) premium requirement based on a disability under Title II of the Americans with Disabilities Act or Section 504 of the Rehabilitation Act.

Rule 461-140-0210 is being amended to require a penalty for a disqualifying transfer of resources when the transfer occurs not only prior to the date of application but also any time after the look back date, including while the client is a Medicaid recipient.

Rule 461-140-0296 is being amended to add the amount of the divisor for applications filed on or after October 1, 2004, and to specify that \$3,320 is the divisor to use for applications filed any time prior to October 1, 2000.

Rule 461-145-0001 is being amended to count adoption assistance payments as unearned income for the Food Stamp program.

Rule 461-145-0410 is being amended to count special diet or meal allowance as unearned income for the Food Stamp program.

Rule 461-145-0420 is being amended to clarify how to count the proceeds from the sale of real property when the equity value of that real property was temporarily excluded while the property was listed for sale.

Rule 461-155-0225 is amended to clarify the Oregon Health Plan (OHP) \$10,000 gross income standard that is applied when a principal of a business entity is a member of the OHP filing group.

Rule 461-155-0630 is being amended to allow payment of room and board for those who are residing in a residential care facility or assisted living facilities. The room and board payment is prorated from the date of admission through the end of the initial month. The amended rule permits a general fund payment if the recipient has insufficient funds to cover the amount due for the first month of admission.

Rule 461-155-0660 is being amended to limit the definition of who can qualify for a shelter allowance based on their disability. The allowance is based on higher shelter costs associated with their need for special accommodation such as ramps or handrails. The proposed rule will require the individual to demonstrate an identifiable cost in their shelter needs that increases their costs beyond the basic shelter expense allowed in the Medicaid program.

Rule 461-160-0015 is being amended to increase the resource limit from \$5,000 to \$10,000 for children applying for the Children's Health Insurance Program (OHP-CHP) of the Oregon Health Plan.

Rule 461-160-0420 is being amended to reflect the annual change in the Standard Utility Allowances for Food Stamp households. Each year Oregon surveys utility companies and the general public about increases in utility costs. The utility allowances are derived from these surveys and approved by the Food and Nutrition Service in the Food Stamp Program State Plan. Currently there are two utility allowances. The full utility allowance (FUA) is for those households that have heating and cooling costs. The limited utility allowance (LUA) is for those households with non-heating/cooling utility costs. With this amendment, the LUA will be used only when the household has at least two non-heating/cooling costs. A new utility allowance is being created for those households with only one utility non-heating/cooling cost.

Rule 461-160-0580 is being amended for clarification in two areas: that both spouse's resources are considered regardless of whether the couple lives together and that the Department considers available income first prior to allocating additional resources to generate income needed to reach a community spouse's monthly income allowance.

Rule 461-165-0060 is being amended to reflect current federal regulations regarding the amount of food stamp benefits a household of three-persons or greater may receive.

Rules 461-175-0010 and 461-175-0030 are being amended to make minor changes that are not intended to change them substantively. Rule 461-175-0010 is also being amended to explain what information is provided in a mass-change notice.

Rule 461-175-0200 is being amended to make provisions for clients to receive notice when the Department is taking an adverse action against their JOBS support service payments or their request for such payments.

Rule 461-175-0250 is being amended to bring the rule more in line with the concept of mass-change notices required by the federal Food Stamp regulations.

Rule 461-180-0070 is being amended to change policy regarding the effective date for issuing JOBS support service payments. The effective date for issuing a JOBS support service payment is the date in which a client meets all of the eligibility criteria for such payments as listed in rule 461-190-0211.

Rule 461-190-0211 is being amended as a result of HB 2696. The Department has developed standards for making payments and providing support services for the employment and self-sufficiency skills programs (JOBS). These standards describe the circumstances under which JOBS Program participants and other clients may and may not receive JOBS support service payments.

Rule 461-190-0221 is being repealed as a result of the implementation of HB 2696, which was passed by the Oregon Legislature during the 2003 Legislative Session and signed into law by Governor Ted Kulongoski.

Rule 461-190-0241 is being amended to clarify that clients may receive transitional services and benefits if they meet the criteria of OAR 461-190-0211.

Rule 461-195-0511 is being amended to clarify the Department may recover child care overpayments for which the provider is liable from future amounts due. Formerly, the rule appeared to limit the collection only to overpayments caused by provider error or the Department's use of information supplied by the provider.

**Implementation/Transition Instructions:**

**Training/Communication Plan:**

**Local/Branch Action Required:** Review draft rules and provide any comments to Annette Tesch by August 24, 2004.

**Central Office Action Required:**

**Field/Stakeholder review:**  Yes  No

**If yes, reviewed by:**

**Filing Instructions:** N/A

*If you have any questions about this policy, contact:*

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