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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 40-2024
CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILED
06/18/2024 1:44 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Adopting and Amending Rules to Implement the Summer EBT Program

EFFECTIVE DATE: 06/18/2024 THROUGH 12/14/2024

AGENCY APPROVED DATE: 06/18/2024

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NEED FOR THE RULE(S):

All of the rules in this filing need to be adopted or amended to implement the new Summer EBT program in Oregon. This program helps families buy food for their school age children during summer when school is out. Currently, no rules for this program exist in Oregon and the Department must adopt and amend rules to govern Summer EBT before issuing benefits.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by adopting and amending the rules in this filing will result in serious prejudice to the public interest, the Department, and children who qualify for Summer EBT benefits. The Department needs to proceed with temporary rules because the length of time required to establish permanent rules would not be complete before this summer, when benefits will be issued. Failure to act immediately to establish rules for the Summer EBT program could result in benefit issuance delays, confusion for the public, or inaccurate eligibility decisions.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

United States Department of Agriculture Food and Nutrition Service Summer EBT 2024 Q&A:
https://fns-prod.azureedge.us/sites/default/files/resource-files/sebt-webinar-qa-II.pdf

Oregon's Summer EBT website:
https://www.oregon.gov/odhs/food/Pages/sebt.aspx

Oregon's Summer EBT Plan of Operation and Management and Oregon's Summer EBT Waivers Request are both available by submitting a request to the Summer EBT policy team.

RULES:
461-025-0310, 461-025-0316, 461-196-0000, 461-196-0010, 461-196-0020, 461-196-0030, 461-196-0040, 461-196-0050, 461-196-0060, 461-196-0070, 461-196-0080, 461-196-0090, 461-196-0100, 461-196-0110, 461-196-

0120, 461-196-0130

AMEND: 461-025-0310

RULE TITLE: Hearing Requests

RULE SUMMARY: OAR 461-025-0310 is being amended to add contested case hearing provisions for the Summer EBT program.

RULE TEXT:

(1) A claimant (see OAR 461-025-0305) has the right to a contested case hearing in the following situations upon the timely completion of a request for hearing:

(a) Except as provided in subsection (o) of this section, the Department has not approved or denied a request or application for public assistance or medical assistance within 45 days of the application.

(b) The Department has not acted timely on an application as follows:

(A) An application for SNAP program benefits, within 30 days of the filing date.

(B) An application for a JOBS support service payment, within the time frames established in OAR 461-115-0190(3).

(c) The Department acts to deny, reduce, close, or suspend SNAP program benefits, a grant of public assistance, a grant of aid, a support service payment authorized in the JOBS program by OAR 461-190-0211, medical assistance, or child care benefits authorized under Division 160 or 165 of this chapter of rules in the ERDC or TANF child care programs. When used in this subsection, grant of public assistance and grant of aid mean the grant of cash assistance calculated according to the claimant's need.

(d) The Department has sent a decision notice (see OAR 461-001-0000) that the claimant is liable for an overpayment (see OAR 461-195-0501).

(e) The Department modifies a grant of public assistance or a grant of aid; or the claimant claims that the Department previously underissued public assistance, medical assistance, or SNAP program benefits and the Department denies, or denies in part, that claim.

(f) The household disputes its current level of SNAP program benefits.

(g) The filing group (see OAR 461-110-0370) is aggrieved by any action of the Department that affects the participation of the filing group in the SNAP program.

(h) The claimant asks for a hearing to determine if the waiver of an Intentional Program Violation hearing was signed under duress.

(i) A child care provider is disputing an allegation of an overpayment of child care provided under Chapter 461 or “a finding of suspended” established under Chapter 461.

(j) In the Pre-TANF program, the Department denies payment for a basic living expense (see OAR 461-135-0475) or other support service payment in the JOBS program (see subsection (c) of this section).

(k) In the TA-DVS program, when OAR 461-135-1235 provides a right to a hearing.

(l) A service re-assessment of a claimant conducted in accordance with OAR Division 411-015 has resulted in a reduction or termination of nursing facility services or home and community-based care (see OAR 461-001-0030).

(m) The claimant's benefits are changed to vendor, protective, or two-party payments.

(n) Department has issued a notice seeking repayment under ORS 411.892 to an employer participating in the JOBS program.

(o) In the OSIP and OSIPM programs, when the Department has not approved or denied an application within the time frames established in OAR 461-115-0190.

(p) The right to a hearing is otherwise provided by statute or rule.

(q) To resolve a grievance under 45 CFR 261.70 against an employer. A hearing request under this subsection must be in writing with the claimant's name, address, and daytime phone number (if available). The hearing request must be received by the Department within 45 days of the alleged violation or within 30 days after completion of an employer grievance process.

(r) In the Summer EBT (SEBT) program:

(A) The Summer EBT agency (see OAR 461-196-0020) acts to deny an SEBT application.
(B) The claimant disputes a Summer EBT agency verification requirement.
(C) Any adverse action taken against the filing group (see OAR 461-196-0020) by the Summer EBT agency.
(2) A claimant is not entitled to a hearing on the question of the contents of a case plan (defined in OAR 461-190-0151) unless the right to hearing is specifically authorized by the Department's rules. For a dispute about an activity in the JOBS program, the claimant is entitled to use the Department's re-engagement process (see OAR 461-190-0231). In the TA-DVS program, a dispute about the contents of a TA-DVS case plan is resolved through re-engagement if there is no right to a hearing under OAR 461-135-1235.
(3) A request for hearing is complete:
(a) In public assistance, SNAP, and SEBT programs when the Department's Administrative Hearing Request form (form DHS 443) is:
(A) Completed;
(B) Signed by the claimant, the claimant's attorney, or the claimant's authorized representative (see OAR 461-115-0090); and
(C) Received by the Department. OAR 137-003-0528(1)(a) (which allows hearing requests to be treated as timely based on the date of the postmark) does not apply to hearing requests contesting a decision notice (see OAR 461-001-0000). The Department has adopted the exception to the Attorney General's model rules set out in this paragraph due to operational conflicts.
(b) In the SNAP program, when the Department receives an oral or written statement from the claimant, the claimant's attorney, or the claimant's authorized representative that the claimant wishes to appeal a decision affecting the claimant's SNAP program benefits to a higher authority.
(c) In the case of a provider of child care, when a written request for hearing from the provider about an action or decision taken under Chapter 461 is received by the Department.
(d) For medical assistance, when a hearing request is made in a manner permitted under OAR 410-200-0145 or this section.
(e) In the SEBT program, when the Department receives an oral or written statement from the claimant, the claimant's attorney, or the claimant's authorized representative that the claimant wishes to appeal a decision affecting the claimant's SEBT program benefits to a higher authority.
(4) In the event a request for hearing is not timely, the Department may issue an order of dismissal if there is no factual dispute about whether sections (7) and (10) of this rule provide a right to a hearing. The Department may refer an untimely request to the Office of Administrative Hearings for a hearing on the question of timeliness.
(5) In the event the claimant has no right to a contested case hearing on an issue, the Department may enter an order accordingly. The Department may refer a hearing request to the Office of Administrative Hearings for a hearing on the question of whether the claimant has the right to a contested case hearing.
(6) For medical assistance, to be timely, a hearing request must be received by the Department or the OHP Customer Service in the time frame set out in OAR 410-200-0015 and 410-200-0145. In other programs, to be timely, a completed hearing request must be received by the Department not later than:
(a) Except as provided in subsection (b) of this section, the 45th day following the date of the decision notice (see OAR 461-001-0000) in public assistance programs.
(b) The 90th day following the effective date of the reduction or termination of benefits in a public assistance program if the reduction or termination of aid is a result of a JOBS disqualification (see OAR 461-130-0330) or a penalty for failure to seek treatment for substance abuse or mental health (see OAR 461-135-0085).
(c) The 90th day following the date of the decision notice in the SNAP program, except:
(A) A filing group may submit a hearing request at any time within a certification period (see OAR 461-001-0000) to dispute its current level of benefits.
(B) A filing group may submit a hearing request within 90 days of the denial of a request for restoration of benefits if not more than twelve months has expired since the loss of benefits.

(d) The 30th day following the date of notice from the Oregon Department of Revenue in cases covered by ORS 293.250.
(e) In a case described in subsection (1)(h) of this rule, the request must be made within 90 days of the date the waiver was signed.
(f) For the SEBT program, the filing group must submit an appeal by the 90th day after the end of the summer operational period (see OAR 461-196-0020 and 461-196-0060) or the 30th day after the filing group is notified of its eligibility, whichever is later.
(7) When the Department receives a completed hearing request that is not filed within the timeframe required by section (6) of this rule but is filed no later than 120 days after a decision notice became a final order:
(a) The Department refers the hearing request to the Office of Administrative Hearings for a contested case hearing on the merits of the Department's action described in the notice:
(A) If the Department finds that the claimant and claimant's representative did not receive the decision notice and did not have actual knowledge of the notice; or
(B) If the Department finds that the claimant did not meet the timeframe required by section (6) of this rule due to excusable mistake, surprise, excusable neglect (which may include neglect due to significant cognitive or health issues), good cause (see OAR 461-025-0305), reasonable reliance on the statement of a Department employee relating to procedural requirements, or due to fraud, misrepresentation, or other misconduct of the Department.
(b) The Department refers the request for a hearing to the Office of Administrative Hearings for a contested case proceeding to determine whether the claimant is entitled to a hearing on the merits if there is a dispute between the claimant and the Department about either of the following paragraphs.
(A) The claimant or claimant's representative received the decision notice or had actual knowledge of the decision notice. At the hearing, the Department must show that the claimant or claimant's representative had actual knowledge of the notice or that the Department mailed or electronically mailed the notice to the correct address of the claimant or claimant's representative, as provided to the Department.
(B) The claimant qualifies for a contested case hearing on the merits under paragraph (a)(B) of this section.
(c) The Department may only dismiss such a request for hearing as untimely without a referral to the Office of Administrative Hearings if the following requirements are met:
(A) The undisputed facts show that the claimant does not qualify for a hearing under this section; and
(B) The decision notice was served personally or by registered or certified mail.
(8) In computing the time periods provided by this rule, see OAR 461-025-0300(1).
(9) In the REF and REFM programs, a claimant is not eligible for a contested case hearing when assistance is terminated because the eligibility time period imposed by OAR 461-135-0900 has been reached. If the issue is the date of entry into the United States the Department provides for prompt resolution of the issue by inspection of the individual's documentation issued by the US Citizenship and Immigration Services (USCIS) or by information obtained from USCIS, rather than by contested case hearing.
(10) If the Department receives a hearing request more than 120 days after an overpayment notice became a final order by default:
(a) The Department verifies whether its records indicate that the liable adult requesting the hearing was sent the overpayment notice.
(b) If no overpayment notice was sent to that liable adult, the overpayment hearing request is timely. The Department will send the claimant a decision notice or a contested case notice.
(c) If the Department determines that an overpayment notice was sent to the liable adult, there is no hearing right based on the issue of whether or not the overpayment notice was received.
(d) Any hearing request is treated as timely when required under the Servicemembers Civil Relief Act.
(e) The Department may dismiss a request for hearing as untimely if the claimant does not qualify for a hearing under this section.
(11) If the Department receives a hearing request more than 120 days after a decision notice (other than an

overpayment notice) became a final order by default:

(a) Any hearing request is treated as timely when required under the Servicemembers Civil Relief Act.

(b) The Department may dismiss a request for hearing as untimely if the claimant does not qualify for a hearing under subsection (a) of this section.

(12) Notwithstanding sections (7), (10), and (11) of this rule, for medical assistance, the time frame is the same as the one in OAR 410-200-0146 instead of 120 days.

[ED. NOTE: Forms referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 411.060, 411.095, 411.404, 411.408, 411.816, 411.892, 412.014, 412.049

STATUTES/OTHER IMPLEMENTED: ORS 411.060, 411.095, 411.404, 411.408, 411.816, 411.892, 412.014, 412.049, 411.103, 412.009, 412.069, 412.072

AMEND: 461-025-0316

RULE TITLE: Intentional Program Violation (IPV) Hearings; ERDC, REF, REFM, SFPSS, SNAP, SEBT and TANF programs

RULE SUMMARY: OAR 461-025-0316 is being amended to add Summer EBT to this rule to establish Intentional Program Violation Hearing (IPV) hearing rule provisions for the program.

RULE TEXT:

Notwithstanding the other rules in this division of rules and the rules at OAR 137-003-0501 and following, this rule governs intentional program violation hearings for the Employment Related Day Care (ERDC) under the authority of Chapter 461, Refugee Assistance (REF), Refugee Assistance Medical (REFM), State Family Pre-SSI/SSDI (SFPSS), Supplemental Nutrition Asstance Program (SNAP), Summer EBT (SEBT) and Temporary Assistance for Needy Families (TANF) programs.

(1) An individual accused of an Intentional Program Violation may waive the right to an IPV hearing by signing a waiver on a form prescribed by the Department. There is no further administrative appeal after the individual signs the waiver unless the individual asserts that the signature on the waiver was obtained by fraud or under duress and, within 90 days from the date the waiver was signed, requests a hearing (see OAR 461-025-0310) to prove this. The individual has the burden of proving fraud or duress. If an Administrative Law Judge determines that the signature on the waiver was obtained by fraud or under duress, the waiver may be nullified and the Department may thereafter initiate an Intentional Program Violation hearing.

(2) If an IPV is not established by waiver or in court, the Department may initiate the IPV hearing. The individual is entitled to an Advanced Notice of Intentional Program Violation Hearing at least 30 days in advance of the scheduled hearing. The notice includes the specific charge(s) alleged by the Department.

(3) Within 90 days of the date the individual is notified in writing of the disqualification hearing, the Office of Administrative Hearings will conduct the hearing and serve a final order on the individual.

(4) The individual is entitled to a postponement of the scheduled hearing, if the request for postponement is made at least 10 days before the date of the scheduled hearing. The hearing will not be postponed for more than a total of 30 days, and the Office of Administrative Hearings may limit the postponements to one.

(5) When the individual fails to appear for the scheduled IPV hearing, the hearing may be conducted without the individual if:

(a) The individual refused the notice of hearing;

(b) The individual refused to claim the notice of hearing;

(c) The individual received the notice of hearing; or

(d) The notice of hearing was sent to the address last reported by the individual to the Department and was returned as undeliverable.

(6) An individual who received notice of the scheduled IPV hearing has 10 days from the date of the scheduled hearing to present reasons indicating a "good cause" for failure to appear. An individual who did not receive notice of the scheduled IPV hearing must present reasons indicating "good cause" for failure to appear as part of a petition for reconsideration or rehearing of the final order within 30 days of the date of the final order.

(a) For purposes of this rule, "good cause" means the individual was unable to attend the hearing and unable to request a postponement for reasons beyond their control.

(b) "Good cause" will be determined on the record by the Office of Administrative Hearings. If the individual shows "good cause", the Office of Administrative Hearings will schedule another IPV hearing for the individual.

(7) The Administrative Law Judge must advise the individual that they may refuse to answer questions during the hearing.

(8) The standard for proving that an individual has committed an Intentional Program Violation is clear and convincing evidence.

(9) There is no administrative appeal of a final order, except as provided in section (6) of this rule.

STATUTORY/OTHER AUTHORITY: 411.816, ORS 409.050

STATUTES/OTHER IMPLEMENTED: ORS 183.417, 409.010, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.816, 411.840

ADOPT: 461-196-0000

RULE TITLE: General Purpose and Scope; SEBT

RULE SUMMARY: OAR 461-196-0000 is being adopted to describe the general purpose of the Summer EBT program.

RULE TEXT:
Summer Electronic Benefit Transfer (SEBT) program is established for the purpose of providing nutrition assistance during the summer months for each eligible child, to ensure continued access to food when school is not in session for the summer.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0010

RULE TITLE: Administration; SEBT

RULE SUMMARY: OAR 461-196-0010 is being adopted to summarize which agencies, the Oregon Department of Human Services, and the Oregon Department of Education, are responsible for the Summer EBT program and the key responsibilities of each agency.

RULE TEXT:

Summer EBT (SEBT) is administered through a partnership between the Oregon Department of Human Services (ODHS) and Oregon Department of Education (ODE). Roles and responsibilities of both agencies are clarified as follows:

(1) Coordinating SEBT agency.

(a) For the purposes of the SEBT program ODHS will act as the coordinating agency.

(b) The coordinating agency is the primary point of contact for the SEBT program within the State.

(c) The coordinating agency is responsible for completion and timely submission of any required plans, forms and reports as well as responsible for activities outlined in the inter-agency agreement with the partnering agency.

(2) Partnering SEBT agency.

(a) For the purposes of the SEBT program ODE will act as the partnering agency.

(b) The partnering agency is responsible for activities outlined in the inter-agency agreement.

(c) The partnering agency is responsible for the effective and efficient administration of the program.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0020

RULE TITLE: Definitions; Summer Electronic Benefits Transfer (SEBT)

RULE SUMMARY: OAR 461-196-0020 is being adopted to establish definitions of commonly used words or phrases within the Summer EBT program.

RULE TEXT:
The following definitions apply to the rules of the Summer EBT (SEBT) program in Chapter 461.
(1) Adult means an individual 18 years of age or older.
(2) Benefit means the value of SEBT provided to a household by means of an EBT system.
(3) Categorically eligible means considered eligible for SEBT, as applicable, based on documentation that a child is a member of a filing group, as defined in this section, and one or more children in that filing group are receiving assistance under SNAP, TANF, Medicaid or FDPIR, or another means tested program, as approved by the Secretary. A foster child, homeless child, migrant child, Head Start child and runaway child, as defined in this chapter are also categorically eligible. Categorical eligibility streamlined eligibility and automatic eligibility may be used synonymously.
(4) Department refers to the SEBT Agency.
(5) Dual participation means a child simultaneously receiving benefits from more than one State administered SEBT Program, US Territories or Tribal Lands or receiving SEBT in one or more households or receiving multiple allotments from the same State administered SEBT Program.
(6) Electronic Benefit Transfer (EBT) account means a set of records containing demographic, card, benefit, transaction, and balance data for an individual household within the EBT system that is maintained and managed by ODHS or its contractor as part of the client case record.
(7) Electronic Benefit Transfer (EBT) card means a method to access EBT benefits issued to a household member or authorized representative through the EBT system by a benefit issuer. This method may include an on-line magnetic stripe card, an off-line smart card, a chip card, a contactless digital wallet with a stored card, or any other similar benefit access technology approved by FNS.
(8) Electronic Benefit Transfer (EBT) contractor or vendor means an entity that is selected to perform EBT–related services for the State agency.
(9) Electronic Benefit Transfer (EBT) system means an electronic payments system under which household benefits are issued from and stored in a central databank, maintained, and managed by a State or its contractor, and uses electronic funds transfer technology for the delivery and control of food and other public assistance benefits.
(10) Eligible child(ren) means a child who meets the requirements to receive SEBT benefits as provided in OAR 461-196-0060.
(11) Eligible household means a household that includes at least one eligible child.
(12) Eligibility period means first day of the instructional year immediately preceding the summer operational period through the last day of the summer operational period.
(13) Enrolled students means students who are enrolled in and attending a school participating in the USDA National School Lunch Program (NSLP) and who have access to a meal service (breakfast or lunch) on a regular basis.
(14) Expungement means the removal of SEBT benefits from the EBT account to which they were issued, typically by an EBT processor on behalf of the Department.
(15) FDPIR means the Food Distribution Program for households on Indian Reservations.
(16) Filing group means a group of related or nonrelated individuals, who live together and share things like food and money.
(17) FNS means the Food and Nutrition Service, United States Department of Agriculture.
(18) Foster child means a child who is formally placed by a court or an agency that administers a State plan under parts B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq.).
(19) Free or reduced-price meal eligible means a student which is determined by the school as eligible to receive free or reduced-price National School Lunch Program.

(20) Head Start child means a child enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.)
(21) Homeless child means a child identified as lacking a fixed, regular and adequate nighttime residence, as specified under section 725(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)) by the local educational agency liaison, director of a homeless shelter or other individual identified by FNS.
(22) Instructional year means the period that generally reflects the time between the start and end of classes during the current school year, as determined by the Department.
(23) Medicaid means medical assistance under title XIX of the Social Security Act, as amended. For the purposes for SEBT eligibility this applies only to individuals eligible under 185% of the federal poverty level.
(24) Migrant child means a child identified as meeting the definition of migrant in section 1309 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399) by the State or local Migrant Education Program coordinator or the local educational liaison, or other individual identified by FNS.
(25) NSLP means the National School Lunch Program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).
(26) NSLP application means an application for free and reduced-price meals, submitted by a household for a child or children enrolled at an NSLP participating school(s). Eligibility determinations based on NSLP applications may be used to confer eligibility for SEBT.
(27) NSLP school means an Oregon public school, nonprofit private school, or residential child care institution that is a sponsor of the National School Lunch Program.
(28) NSLP student means an individual enrolled in an Oregon public school, nonprofit private school, or residential child care institution that provide meal service as a sponsored National School Lunch Program school.
(29) ODE means the Oregon Department of Education.
(30) ODHS means the Oregon Department of Human Services.
(31) Period of eligibility means the period of time from the first day of instructional year immediately preceding the summer operational period through the last day of the summer operational period.
(32) Runaway child means a child identified as a runaway receiving assistance under a program under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) by the local educational liaison, or other individual in accordance with guidance issued by FNS.
(33) School aged means the years in which a child is required to attend school, or an equivalent program as defined by State or Tribal law. Also known as the age requirement for compulsory education which is defined as six (6) to eighteen (18) years old in Oregon.
(34) SEBT means Summer Electronic Benefits Transfer.
(35) Signature means a person's name written in a distinctive way as a form of identification. For the purposes of SEBT the following signatures are acceptable: hand written, telephonic, and electronic signature including a typed signature.
(36) SNAP means Supplemental Nutrition Assistance Program which is a Federal food benefits program for low-income individuals to supplement their grocery budget.
(37) SNAP participant means an individual who is a member of a SNAP filing group (see OAR 461-110-0370) that received more than $0 in SNAP benefits.
(38) Streamlined certification means automatically enrolling an eligible child for SEBT, without need for further application or confirmation of school enrollment. Streamlined eligibility, categorical eligibility and automatic eligibility may be used synonymously.
(39) Summer EBT agency means the Oregon Department of Human Services.
(40) Summer Operational Period means the benefit period that generally reflects the period between the end of classes during the current school year and the start of classes for the next school year, as determined by the Department.
(41) TANF means Temporary Assistance to Needy Families which is the State funded program under part A of title IV of the Social Security Act.
(42) USDA means United States Department of Agriculture.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0030

RULE TITLE: Authorized Representative; SEBT

RULE SUMMARY: OAR 461-196-0030 is being adopted to establish authorized representative provisions for the Summer EBT program. This rule will follow the general authorized representative provisions in OAR 461-115-0090.

RULE TEXT:
For the purposes of the Summer EBT (SEBT) program, the Department (see OAR 461-196-0020) adopts the general Authorized Representative rule provisions of 461-115-0090.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0040

RULE TITLE: Application Requirements; SEBT

RULE SUMMARY: OAR 461-196-0040 is being adopted to explain when an application is considered complete and application deadlines for the Summer EBT program.

RULE TEXT:

(1) An application for Summer EBT (SEBT) is considered complete if the following information is provided:

(a) Full name(s) of child(ren) and other filing group (see OAR 461-196-0020) members;

(b) Name of school(s) where the child(ren) attend;

(c) Mailing address;

(d) Amount, source, and frequency of income for each filing group member; and

(e) Signature of an adult filing group member.

(2) The application for SEBT must be received by the Department (see OAR 461-196-0020) by the last day of the Summer Operational Period (see OAR 461-196-0020 and 461-196-0060), as defined by the State Plan of Operations and Management (POM).

(3) Applications that are submitted after the last day of the summer operational period may be used to establish eligibility for the following summer.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0050

RULE TITLE: Benefit Amount, Access, and Use; SEBT

RULE SUMMARY: OAR 461-196-0050 is being adopted to explain the benefit amount and how often benefits will be issued for the Summer EBT program. It is also being adopted to explain benefits will be issued on an electronic benefit transfer (EBT) card. Lastly, this rule is being adopted to establish benefit expungement provisions for the program.

RULE TEXT:

(1) The Summer EBT (SEBT) benefit will be $40 per month of the summer operational period (see OAR 461-196-0020 and OAR 461-196-0060) for a total of $120, for each eligible child (see OAR 461-196-0020).

(2) SEBT benefits are not prorated.

(3) Eligible children on Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) cases will receive benefits on the same EBT card as the household receives Oregon Department of Human Services (ODHS) benefits.

(4) Eligible children will receive a separate card for SEBT benefits if not eligible through SNAP or TANF eligibility.

(5) The Department (see OAR 461-196-0020) considers benefits available when an EBT card has been received and the benefits have been issued and made available to the individual in their EBT account.

(6) Unused benefits will remain available to access for 122 days from the date the benefits were made available on the EBT account.

(7) Unused benefits are expunged (see OAR 461-196-0020) by the oldest benefit allotment after 122 days if none of the benefits have been used during the 122 days. “Used” includes a purchase of any amount.

(8) Expunged benefits will not be restored to the client.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0060

RULE TITLE: Eligibility; SEBT

RULE SUMMARY: OAR 461-196-0060 is being adopted to describe how a child becomes eligible for the Summer EBT program through streamlined eligibility and by an application process.

RULE TEXT:
(1) Eligibility for Summer EBT (SEBT) will be established from the first day of the instructional year (see OAR 461-196-0020) immediately preceding the summer operational period (see section (2) of this rule and OAR 461-196-0020) through the last day of the summer operational period, as defined by the approved State Plan of Operations and Management.
(2) For the school year 2024, the summer operational period is the first day of the instructional year immediately preceding the summer operational period, September 1, 2023.
(a)The start of the summer operational period is May 24, 2024.
(b) The end of the summer operational period is September 2, 2024.
(3) Eligibility for SEBT is determined through the following methods:
(a) Streamlined certification (see OAR 461-196-0020).
(A) Certified to receive free or reduced-price school meals through the National School Lunch Program (NSLP) (see OAR 461-196-0020); or
(B) For at least one month during the period of eligibility (see OAR 461-196-0020) was aged 6-18 years old and part of a household which received one of the following:
(i) Supplemental Nutrition Assistance Plan (SNAP).
(ii) Temporary Assistance for Needy Families (TANF).
(iii) Medicaid (Oregon Health Plan) eligibility with countable income under 185 percent of the federal poverty level (FPL).
(iv) Head Start.
(v) Foster or Resource Care through Child Welfare.
(vi) Food Distribution Program on an Indian Reservation (FDPIR).
(vii) Migrant, homeless or runaway as defined by the student's school.
(C) Children who are determined eligible through streamlined certification do not need to submit an application.
(D) Children who are determined eligible through streamlined certification do not have to be verified as enrolled in a NSLP participating school.
(b) SEBT application.
(A) The filing group's (see OAR 461-196-0020) total countable income is at or below the eligibility limits specified in OAR 461-196-0120; and
(B) Enrolled at a NSLP participating school.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0070

RULE TITLE: Enrollment Verification; SEBT

RULE SUMMARY: OAR 461-196-0070 is being adopted to explain the different sources of enrollment verification and when school enrollment must be verified for Summer EBT program eligibility.

RULE TEXT:
(1) Enrollment verification used to determine eligibility for the Summer EBT (SEBT) program will be provided according to sections (2) and (3) of this rule.
(2) Automatic enrollment with streamlined certification (see OAR 461-196-0060).
(a) Data for school aged children who are categorically eligible (see OAR 461-196-0020) based on their participation in Head Start, Food Distribution Program for households on Indian Reservations (FDPIR), or because of their Migrant, homeless, or runaway status will be shared by schools with the Department (see OAR 461-196-0020) as part of the regular direct certification data share to be used for SEBT eligibility.
(b) Data for school aged children who are on an active Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) case at any time during the eligibility period will be shared by Oregon Department of Human Services (ODHS) with the Department to be used for SEBT eligibility.
(c) Data for school aged children who are part of a foster care case through ODHS Child Welfare will be shared by ODHS Child Welfare with the Department for SEBT eligibility.
(d) Data for school aged children who are part of an Oregon Health Plan Medicaid case through Oregon Health Authority will be shared by the Oregon Health Authority with the Department for SEBT eligibility.
(3) Enrollment through SEBT application (see OAR 461-196-0060).
(a) Confirmation of enrollment in a National School Lunch Program (NSLP) (see OAR 461-196-0020) participating school during the instructional year immediately preceding the summer period will be used for SEBT eligibility.
(b) Enrollment confirmation can be verified by:
(A) The Student Enrollment Data (SED) file provided by Oregon Department of Education (ODE) to the Department.
(B) An official document from or through the school which shows the students full name, school year and school name. Examples of this verification include a letter from a school official, online registration or enrollment systems or last quarter of grades.
(c) Children who are not enrolled in an NSLP participating school in the immediately preceding instructional year (see OAR 461-196-0020) cannot be certified as eligible, and therefore cannot be deemed eligible for SEBT through submission of an application for SEBT benefits.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0080

RULE TITLE: Verification; SEBT

RULE SUMMARY: OAR 461-196-0080 is being adopted to describe Summer EBT program verification requirements that are needed for program compliance.

RULE TEXT:

(1) Individuals who are determined to be eligible through streamlined eligibility as described in OAR 461-196-0060, are not required to provide verification.

(2) Summer EBT (SEBT) applications are subject to the following verification requirements at any time during the eligibility period (see OAR 461-196-0020).

(a) Verification for Cause. The Department (see OAR 461-196-0020) must verify for cause applications when the agency has knowledge or available information suggesting a filing group (see OAR 461-196-0020) has intentionally misreported its income, including by leaving the income fields blank on the SEBT application.

(b) Verification Sample of three percent of Approved Applications.

(A) The Department must verify eligibility of children in a sample of SEBT applications approved for benefits for the summer.

(B) The sample size for the Department must equal three percent of all applications approved by the Department from the start of the instructional year through April 1 of the school year immediately preceding the summer operational period (see OAR 461-196-0020 and 461-196-0060), selected randomly from all applications.

(3) Individuals must provide verification when requested by the Department. The Department will notify the filing group through a Notice of Requested Information as described in OAR 461-196-0100, when verification, or additional verification, of any factor affecting eligibility is required.

(4) Benefits cannot be issued for applications selected for verification until the verification process is completed with the exception of verification for cause, as described in subsection (2)(a) of this rule.

(5) If a filing group refuses to cooperate with efforts to verify, the filing group's eligibility for SEBT benefits will be terminated.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0090

RULE TITLE: Income Availability; SEBT

RULE SUMMARY: OAR 461-196-0090 is being adopted to describe what income is considered countable to determine eligibility for the Summer EBT program and to establish income availability guidelines.

RULE TEXT:

(1) Income is defined as means before any deductions such as income taxes, social security taxes, insurance premiums, charitable contributions, and bonds.

(2) Earned or unearned income is considered countable for determining Summer EBT (SEBT) eligibility unless specified as excluded per section (5) of this rule.

(3) Earned or unearned income of a child, who is under 18 years old, is considered countable unless excluded per section (5) of this rule.

(4) Income is considered available the date it is received or the date a member of the filing group (see OAR 461-196-0020) has a legal right to the payment and the legal ability to make it available, whichever is earlier, except as follows:

(a) Income usually paid monthly or on some other regular payment schedule is considered available on the regular payment date if the date of payment is changed because of a holiday or weekend.

(b) Income withheld or diverted at the request of an individual is considered available on the date the income would have been paid without the withholding or diversion.

(c) An advance or draw of earned income is considered available on the date it is received.

(5) The following is excluded income for determining SEBT eligibility:

(a) Disaster Assistance:

(A) National Flood Insurance Program (NFIP) payments received by property owners.

(B) Payments under the Disaster Relief Act of 1974, as amended by the Disaster Relief and Emergency Assistance Amendments of 1989, P.L. 100-707.

(b) Housing assistance:

(A) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(B) Payments received under the Cranston-Gonzales National Affordable Housing Act, P.L. 101-625.

(C) Payments received under the Housing and Community Development Act of 1987.

(c) In-kind benefit including housing for clergy, cars for salespersons, employee medical or dental benefits, etc. are not cash payments and, therefore, are not considered as income.

(d) Infrequent earnings received on an irregular basis, such as payment for occasional baby-sitting or yard work.

(e) Loans, such as bank loans since these funds are only temporarily available and must be repaid.

(f) Lump-sum payments or large cash settlements that are not received on a regular basis.

(g) Military compensation:

(A) Combat pay.

(B) Family Subsistence Supplemental Allowance.

(C) Privatized housing allowances.

(D) Payments under the Agent Orange Compensation Exclusion Act, P.L. 101-201.

(h) Payments received from a foster care agency or court for the care of foster children.

(i) Supplemental Nutrition Assistance Program (SNAP) benefits.

(j) Student financial aid:

(A) Financial assistance provided for the costs of attendance at an educational institution, such as grants and scholarships awarded to meet educational expenses and not available to pay for meals.

(B) Student financial assistance received under Title IV of the Higher Education Act of 1965, including the Pell Grant, Supplemental Education Opportunity Grant, State Student Incentive Grants, National Direct Student Loan, PLUS, College Work Study, and Byrd Honor Scholarship Programs, to the extent excluded by the Act.

(C) Payments received under the Carl D. Perkins Vocational Education Act, as amended by the Carl D. Perkins

Vocational and Applied Technology Act Amendments of 1990, P.L. 101-392.
(k) Tribal per Capita income if the income is held in a trust.
(l) Volunteer payments:
(A) Any payment to volunteers under Title I (VISTA and others) and Title II (RSVP, foster grandparents, and others) of the Domestic Volunteer Service Act of 1973 to the extent excluded by the Act.
(B) Payments to volunteers under Section 8(b)(1)(B) of the Small Business Act (SCORE and ACE).
(C) Payments and allowances to individuals participating in AmeriCorps to the extent excluded by the National and Community Service Act of 1990.
(m) Utility assistance payments under the Low-income Home Energy Assistance Act P.L. 99-125.
(n) Women Infant and Children (WIC) benefits.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0100

RULE TITLE: Notices; SEBT

RULE SUMMARY: OAR 461-196-0100 is being adopted to establish notice situations and requirements for the Summer EBT program.

RULE TEXT:

(1) Notice of Eligibility, Approval.

(a) When a filing group (see OAR 461-196-0020) is determined eligible through a Summer EBT (SEBT) application the Department (see OAR 461-196-0020) will provide notice to the filing group of a child's approved status within 30 operational days of receipt of a complete application.

(b) When a filing group is determined eligible through streamlined certification (see OAR 461-196-0020) the Department will provide notice to the filing group of a child's approved status within 30 operational days of the date benefits are made available to the filing group. The notice of approval will inform the filing group how to opt-out if they do not want their children to receive SEBT benefits, and that no application is required.

(c) The approval notice will inform the filing group that dual participation in SEBT in the same summer operational period (see OAR 461-196-0020) is not allowed. Dual participation (see OAR 461-196-0020) means a child simultaneously receiving benefits from more than one State administered SEBT Program, US Territories or Tribal Lands or receiving SEBT in one or more filing group or receiving multiple allotments from the same State administered SEBT Program.

(2) Notice of Eligibility, Denial.

(a) When a filing group is determined ineligible through a SEBT application, the Department will provide a notice to the filing group of a child's denied status within 30 operational days of receipt of a complete application.

(b) The Notice of Eligibility, Denial will include the following information:

(A) The specific reason or reasons for the denial of benefits, for example, income over the allowable limits or the Department was unable to confirm the student was enrolled in a National School Lunch Program (NSLP) (see OAR 461-196-0020) participating school.

(B) Notification of the right to appeal.

(C) Instructions on how to appeal.

(D) A statement reminding households that they may reapply for benefits at any time.

(3) Notice of Incomplete Application.

(a) When a SEBT application is submitted and determined as incomplete, the Department will notify the filing group within 14 operational days of the receipt of the application that additional information is needed.

(b) The Notice of Incomplete Application will include the following information:

(A) What information is missing.

(B) How to provide the missing information back to the Department.

(C) The date the missing information is due back to the Department.

(D) That no further action will be taken on the application if the missing information is not provided back to the Department.

(c) The information requested through the Notice of Incomplete Application is due back to the Department within 10 calendar days from the date the notice was sent.

(d) A Notice of Incomplete Application will not be sent if a mailing address or email is not provided on the application.

(4) Notice of Request for Information.

(a) The Department will notify the filing group through a Notice of Request for Information when verification is required through Verification for Cause or Verification Sample of three percent of Approved Applications as detailed in OAR 461-196-0080.

(b) The Notice of Request for Information will include the following information:

(A) Informs the filing group they may provide proof of receiving assistance under Supplemental Nutrition Assistance

Program (SNAP), Temporary Assistance for Needy Families (TANF), Medicaid (Oregon Health Plan) or Foster Care through Child Welfare which would confer automatic eligibility for SEBT.
(B) The filing group may request the Department to contact the appropriate officials to confirm their child(ren) are determined Migrant, homeless, runaway or missing by the school or part of a household which receives Food Distribution Program for households on Indian Reservations (FDPIR) or Head Start.
(C) Failure to cooperate with the request for verification will result in the termination of benefits or inability to receive SEBT benefits in future program years.

STATUTORY/OTHER AUTHORITY: 411.060

STATUTES/OTHER IMPLEMENTED: 411.060

ADOPT: 461-196-0110

RULE TITLE: Processing Timeframes; SEBT

RULE SUMMARY: OAR 461-196-0110 is being adopted to describe the timeline for when benefits will be available to children found eligible for the Summer EBT program.

RULE TEXT:
(1) Children found eligible for Summer EBT (SEBT) through streamlined eligibility (see OAR 461-196-0060) or who have an approved application on file prior to the start of the summer operational period (see OAR 461-196-0020 and 461-196-0060) will have benefits available no later than 30 calendar days after the start of the summer operational period.
(2) Children found eligible through an SEBT application (see OAR 461-196-0060) after the start of the summer operational period will have benefits available no later than 30 calendar days from the date of receipt of a completed application.
(3) Children found eligible through information provided from the child's school after the start of the summer operational period will have benefits available no later than 30 calendar days from the date of receipt of information from the school.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0120

RULE TITLE: Budgeting; SEBT

RULE SUMMARY: OAR 461-196-0120 is being adopted to describe the budgeting guidelines for the Summer EBT program.

RULE TEXT:

(1) In the Summer EBT (SEBT) program, income eligibility criteria for the program is based upon filing group (see OAR 461-196-0020) size and income.

(2) Current income means the gross income received by a filing group, before deductions, for the current month, or the amount projected for the month for which the application is completed, or for the month prior to application. If this income is higher or lower than usual and does not fairly or accurately represent the filing group's actual circumstances the filing group may project their annual income.

(3) The SEBT income eligibility table for 2024 is from July 1, 2023, to June 30, 2024. [see attached table 1]

(4) The SEBT income eligibility table for 2025 is from July 1, 2024, to June 30, 2025. [see attached table 2]

STATUTORY/OTHER AUTHORITY: 411.060

STATUTES/OTHER IMPLEMENTED: 411.060

461-196-0120

Table 1

Household Size	185% of Federal Poverty Guidelines				
	Annual	Monthly	Twice Per Month	Every Two Weeks	Weekly
1	$26,973	$2,248	$1,124	$1,038	$519
2	$36,482	$3,041	$1,521	$1,404	$702
3	$45,991	$3,833	$1,917	$1,769	$885
4	$55,500	$4,625	$2,313	$2,135	$1,068
5	$65,009	$5,418	$2,709	$2,501	$1,251
6	$74,518	$6,210	$3,105	$2,867	$1,434
7	$84,027	$7,003	$3,502	$3,232	$1,616
8	$93,536	$7,795	$3,898	$3,598	$1,799
+1	$9,509	$793	$397	$366	$183

Table 2

Household Size	185% of Federal Poverty Guidelines				
	Annual	Monthly	Twice Per Month	Every Two Weeks	Weekly
1	$27,861	$2,322	$1,161	$1,072	$536
2	$37,814	$3,152	$1,576	$1,455	$728
3	$47,767	$3,981	$1,991	$1,838	$919
4	$57,720	$4,810	$2,405	$2,220	$1,110
5	$67,673	$5,640	$2,820	$2,603	$1,302
6	$77,626	$6,469	$3,235	$2,986	$1,493
7	$87,579	$7,299	$3,650	$3,369	$1,685
8	$97,532	$8,128	$4,064	$3,752	$1,876
+1	$9,953	$830	$415	$383	$192

ADOPT: 461-196-0130

RULE TITLE: Hearings; SEBT

RULE SUMMARY: OAR 461-025-0130 is being adopted to explain which rules authorize hearings in the Summer EBT program and to adopt provisions in OAR chapter 461 division 025 for the Summer EBT program. In addition, this rule is being adopted to explain there is no right expedited hearings or continuation of benefits in the Summer EBT program, and that designated employees of the Oregon Department of Human Services are authorized to appear on behalf of the Department in Summer EBT program hearings, subject to the approval of the Attorney General.

RULE TEXT:
(1) Contested case hearings in the Summer EBT (SEBT) program are authorized by OAR 461-025-0310 and the Department adopts the general contested case hearing provisions in OAR chapter 461 division 025 for the Summer EBT (SEBT) program, except:
(a) There is no right to an expedited hearing in the SEBT program.
(b) There is no right to continuation of benefits in the SEBT program.
(2) Intentional program violation (IPV) hearings in the SEBT program are authorized by OAR 461-025-0316.
(3) Subject to the approval of the Attorney General, an officer or employee of the Oregon Department of Human Services is authorized to appear on behalf of the Department in SEBT program hearings conducted by the Office of Administrative Hearings.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060