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DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILING CAPTION: Summer EBT Program Permanent Rules

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RULES:
461-025-0310, 461-025-0316, 461-195-0501, 461-195-0521, 461-195-0541, 461-195-0601, 461-195-0611, 461-195-0621, 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, 461-196-0140, 461-196-0150, 461-196-0160, 461-196-0170

AMEND: 461-025-0310

REPEAL: Temporary 461-025-0310 from SSP 40-2024

RULE TITLE: Hearing Requests

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-025-0310 is being amended to add contested case hearing provisions for the Summer EBT program. Subsection (6)(f) is being amended to align with federal regulation about the time limit to appeal a decision.

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).
(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

REPEAL: Temporary 461-025-0316 from SSP 40-2024

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

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-025-0316 is being amended to add intentional program violation (IPV) hearing rule provisions for the Summer EBT 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 Assistance 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

AMEND: 461-195-0501

REPEAL: Temporary 461-195-0501 from SSP 47-2024

RULE TITLE: Definitions and Categories of Overpayments

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-195-0501 is being amended to add overpayment provisions for the Summer EBT program.

RULE TEXT:

This rule applies to benefits and services delivered under chapters 410, 411, 414, and 461 of the Oregon Administrative Rules.

(1) "Overpayment" means:

(a) A benefit or service received by or on behalf of a recipient (see OAR 461-195-0301), or a payment made by the Department (see OAR 461-195-0301) on behalf of a recipient, that exceeds the amount for which the recipient 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 Refugee Assistance (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 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 State Family Pre-SSI/SSDI (SFPSS) and Temporary Assistance for Needy Families (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 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 recipient that:

(A) Is paid to an ineligible provider;

(B) Exceeds the amount for which a provider is eligible;

(C) Is paid when the recipient was not engaged in an activity that made the recipient eligible for child care, such as an activity of the Job Opportunity and Basic Skills (JOBS) program (see OAR 461-001-0025 and OAR 461-190-0151 to OAR 461-190-0401); or

(D) Is paid when the recipient was not eligible for child care benefits.

(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 recipient receives a retroactive Supplemental Security Income (SSI) lump sum payment.

(g) In the Temporary Assistance for Domestic Violence Survivors (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 and 414-175-0015), ineligible student, or authorized representative (see OAR 461-115-0090 and 414-175-0002) 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) 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, ineligible student, or authorized representative of a change covered under OAR 461-170-0011 or 414-175-0060 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, ineligible student, or authorized representative;
(D) In the General Assistance (GA) and SFPSS programs, the Department fails to require a recipient to complete an interim assistance agreement; or
(E) The Department commits a procedural error that was no fault of the filing 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, ineligible student, or authorized representative to declare or report information or a change in circumstances as required under OAR 461-170-0011 or 414-175-0060, including information available to the Department, that affects the recipient's eligibility to receive benefits or the amount of benefits.
(B) A recipient's unreduced liability or receipt of unreduced benefits pending a contested case hearing decision or other final order favorable to the Department.
(C) A recipient's failure to return a benefit known by the recipient to exceed the correct amount.
(D) A recipient'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 recipient was not eligible for child care benefits.
(F) The failure of a recipient 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.
(G) In the REF, SFPSS, and TANF programs, an overpayment caused by the recipient 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 unclothed 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.
(d) In the Supplemental Nutrition Assistance Program (SNAP), a provider error overpayment is an overpayment made to a drug or alcohol treatment center or residential care facility that acted as a recipient's authorized representative.
(e) In a child care program, a provider error overpayment is a payment made by the Department on behalf of a recipient 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 recipient 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.
(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 recipient's receipt of continuing benefits in a contested case.
(c) In all programs except Summer EBT (SEBT), if the overpayment was caused by possible fraud by a recipient or provider.
(9) In the SEBT program, the Department (see 461-196-0020) establishes an overpayment when OAR 461-196-0160 subsections (1)(a) through (1)(c) are true.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 411.060, 411.070, 411.081, 411.404, 411.816, 412.001, 412.014, 412.049, HB 2089 (2013 Section 10)

STATUTES/OTHER IMPLEMENTED: 411.060, 411.070, 411.081, 411.404, 411.816, 412.001, 412.014, 412.049, ORS 409.010, 411.620, 411.640, 411.690, 411.892, 414.025, 416.350, 7 CFR 273.18, 42 U.S.C. 608, 412.072

AMEND: 461-195-0521

REPEAL: Temporary 461-195-0521 from SSP 47-2024

RULE TITLE: Calculation of Overpayments

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-195-0521 is being amended to add Summer EBT provisions for calculating overpayments.

RULE TEXT:

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 (see OAR 461-110-0310, 461-196-0020 and OAR 414-175-0015), 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 Employment Related Day Care (ERDC), Refugee Assistance (REF), Summer EBT (SEBT), Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families (TANF) programs, an individual's actual self-employment income is annualized retrospectively to calculate the overpayment.

(c) In the 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, 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 OAR 414-175-0040) 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 or OAR 414-175-0040) and the actual income differs from the amount determined under OAR 461-150-0020(2) or OAR 414-175-0040, 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.

(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, or 461-160-0552) is applied as follows:

(a) In the Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), Qualified Medicare Beneficiaries (QMB), and Refugee Assistance Medical (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 (7) 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) For medical assistance, the amount of the cash medical support the Department retains each month is excluded income and not used to determine eligibility. When an individual has incurred a medical 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, or 414-175-0055) 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, OAR 410-200-0015, and OAR 414-175-0002) failed to report a change within the reporting time frame under OAR 461-170-0011, OAR 410-200-0235, or OAR 414-175-0060; 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 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 a individual does not pay their share of the cost of services (see OAR 461-160-0610) or the Oregon Supplemental Income Program-Employed Persons with Disabilities (OSIP-EPD) or Oregon Supplemental Income Program Medical-Employed Persons with Disabilities (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) For medical assistance, if the individual was not eligible for one program, but during the period in question was eligible for another program with the same benefit level, there is no overpayment.
(16) Credit against an overpayment is allowed as follows:
(a) In the General Assistance (GA), REF, and TANF programs, a credit is allowed for an individual's payment for medical 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.
(17) 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.
(18) In the State Family Pre-SSI/SSDI (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, 413.085, 414.685, ORS 409.050, 411.060, 411.070, 411.404, 411.660, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231

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

AMEND: 461-195-0541

REPEAL: Temporary 461-195-0541 from SSP 47-2024

RULE TITLE: Liability for Overpayments

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-195-0541 is being amended to add provisions for liability for overpayments in the Summer EBT program.

RULE TEXT:

(1) In all programs except the Health Systems Division (HSD) medical, Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), Qualified Medicare Beneficiaries (QMB), Refugee Assistance Medical (REFM), Summer EBT (SEBT) and Supplemental Nutrition Assistance Program (SNAP) or a child care program, the following persons are liable for repayment of an overpayment (see OAR 461-195-0501):

(a) Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who did not reside with and did not know they were included in the filing group.

(b) A caretaker relative (see OAR 461-001-0000) and their spouse (see OAR 461-001-0000) who were not part of, but resided with, the filing group when the overpayment was incurred.

(c) A parent (see OAR 461-001-0000) or caretaker relative of a child (see OAR 461-001-0000) in the benefit group (see OAR 461-110-0750) and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred.

(d) An individual determined liable for an overpayment remains liable when the individual becomes a member of a new filing group.

(e) An authorized representative (see OAR 461-115-0090) when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information resulting in the overpayment.

(2) In the HSD medical and REFM programs, the following persons are liable for repayment of an overpayment:

(a) Each individual in the filing group, the HSD medical programs eligibility determination group (see OAR 410-200-0015), or required to be in the filing group and the payee when the overpayment was incurred, except an individual who ---

(A) Was a child or dependent child (see OAR 461-001-0000) at the time of the overpayment; or

(B) Did not reside with and did not know they were included in the filing group.

(b) A caretaker relative and their spouse who were not part of, but resided with, the filing group or HSD medical programs eligibility determination group when the overpayment was incurred.

(c) A parent or caretaker relative of a child in the filing group or HSD medical programs eligibility determination group and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group or HSD medical programs eligibility determination group when the overpayment was incurred.

(d) An authorized representative (see OAR 461-115-0090 and OAR 410-200-0015) when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the overpayment.

(3) In a child care program:

(a) An overpayment caused by administrative error is collectible as follows:

(A) The provider is liable for a provider overpayment made on behalf of a recipient (see OAR 461-195-0301) eligible for child care payments.

(B) Each adult in the filing group or required to be in the filing group is liable for an overpayment if the recipient was not eligible for the payment.

(b) Each adult in the filing group or required to be in the filing group is liable for a client error overpayment (see OAR 461-195-0501), and a provider is liable for an overpayment caused by the provider. The recipient and provider are jointly and severally liable for an overpayment caused by both. In the case of an alleged provider overpayment, a

provider's failure to provide contemporaneous records of care provided creates a rebuttable presumption that the care was not provided.
(c) An adult who cosigned an application with a minor provider applicant is liable for an overpayment incurred by the minor provider.
(d) An authorized representative (see OAR 461-115-0090 and 414-175-0002) is liable for an overpayment when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the overpayment.
(4) In the General Assistance (GA), OSIP, OSIPM, and QMB programs, the following persons are liable for repayment of an overpayment:
(a) Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who ---
(A) Was a child or dependent child at the time of the overpayment; or
(B) Did not reside with and did not know they were included in the filing group.
(b) A caretaker relative and their spouse who were not part of, but resided with, the filing group when the overpayment was incurred.
(c) A parent or caretaker relative of a child in the filing group and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred.
(d) An authorized representative when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the overpayment.
(5) In the SNAP program, the following persons are liable for repayment of an overpayment or a claim that results from trafficking (see OAR 461-195-0601(2)) of SNAP benefits:
(a) The primary person (see OAR 461-001-0015) of any age, an ineligible student in the household, and all adults (see OAR 461-001-0015) who were members of or required to be in the filing group (see OAR 461-110-0370) when excess benefits were issued.
(b) A sponsor of a noncitizen household member if the sponsor is at fault, for payments prior to November 21, 2000.
(c) A drug or alcohol treatment center or residential care facility that acted as the authorized representative of the recipient.
(d) An authorized representative when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the overpayment.
(e) For a claim that results in trafficking, the payee and the authorized representative when they actually traffic the benefits.
(6) Except as provided otherwise in section (7) of this rule, in all programs, both a noncitizen and the sponsor of the noncitizen are liable for an overpayment incurred if the overpayment results from the failure of the sponsor to provide correct information (see OAR 461-145-0820 to 461-145-0840). If the sponsor had good cause (see OAR 461-195-0521(5)) for withholding the information, the sponsor is not liable for the overpayment.
(7) In the SNAP program, the sponsor of a noncitizen is not liable under section (6) of this rule for payments on or after November 21, 2000.
(8) In the HSD medical programs, the November 2013 amendments to OAR 461-195-0501, 461-195-0521, 461-195-0541, and 461-195-0561 apply as of October 1, 2013.
(9) In the SEBT program, the following individuals are liable for repayment of an overpayment or a claim that results from trafficking (see OAR 461-195-0601(6)(b)) of SEBT benefits:
(a) All adults (see OAR 461-196-0020) who were members of or required to be in the filing group (see OAR 461-196-0020) when excess benefits were issued.
(b) An authorized representative (see OAR 461-196-0030) when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the overpayment.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049, 329A.500, 413.085,

414.685

STATUTES/OTHER IMPLEMENTED: 411.060, 411.404, 411.816, 412.014, 412.049, ORS 409.010, 411.087, 411.630, 411.635, 411.640, 411.690, 416.350, 329A.500

AMEND: 461-195-0601

REPEAL: Temporary 461-195-0601 from SSP 47-2024

RULE TITLE: Intentional Program Violations; Defined

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-195-0601 is being amended to add intentional program violation provisions for the Summer EBT program.

RULE TEXT:

(1) In the child care programs, a provider commits an intentional program violation (IPV) by intentionally making a false or misleading statement or misrepresenting, concealing, or withholding information related to their request to be eligible for a child care payment under OAR 461-165-0180 or 414-175-0080, or a claim for a child care payment.

(2) In the Supplemental Nutrition Assistance Program (SNAP):

(a) An individual commits an intentional program violation by:

(A) Making a false or misleading statement or misrepresenting, concealing or withholding a fact relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking (see OAR 461-195-0601(2)(b)) of SNAP benefits; or

(B) Committing any act that constitutes a violation of the Food Stamp Act, the SNAP program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking of SNAP benefits.

(b) "Trafficking" means any of the following:

(A) The buying, selling, stealing, or other exchange of SNAP benefits for cash or consideration other than eligible food, either directly or indirectly, in complicity or collusion with others or acting alone.

(B) The exchange of firearms, ammunition, explosives, or controlled substances (as defined in section 802 of title 21, United States Code), for SNAP benefits.

(C) Purchasing a product with SNAP benefits that has a container return deposit with the intent of obtaining cash by intentionally discarding the product and returning the container for the deposit amount.

(D) Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by intentionally reselling the product purchased with SNAP benefits.

(E) Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food.

(3) In the State Family Pre-SSI/SSDI (SFPSS) program, an individual commits an intentional program violation by intentionally:

(a) Making a false or misleading statement or misrepresenting, concealing, or withholding a fact for the purpose of establishing or maintaining eligibility (see OAR 461-001-0000) for SFPSS or increasing, or preventing a reduction in, the amount of the SFPSS grant; or

(b) Committing any act intended to mislead or to conceal or withhold information for the purpose of establishing or maintaining eligibility for SFPSS or increasing, or preventing a reduction in, the amount of the SFPSS grant.

(4) In the Refugee Assistance (REF), Refugee Assistance Medical (REFM), and Temporary Assistance for Needy Families (TANF) programs, an individual commits an intentional program violation by intentionally:

(a) Making a false or misleading statement or misrepresenting, concealing, or withholding a fact for the purpose of establishing or maintaining eligibility for the REF, REFM, or TANF programs, or increasing or preventing a reduction in the amount of the REF or TANF grant; or

(b) Committing any act intended to mislead or to conceal or withhold information for the purpose of establishing or maintaining eligibility for the REF, REFM, or TANF programs, or increasing or preventing a reduction in the amount of the REF or TANF grant.

(5) In the Summer EBT (SEBT) program, intentional program violation penalties apply to an adult (see OAR 461-196-0020) who:

(a) Commits an intentional program violation as defined in subsection (6)(a) of this rule; or

(b) Ordered, coerced, persuaded, encouraged, or otherwise induced an individual under the age of 18 to commit an SEBT intentional program violation.
(6) In the SEBT program:
(a) An individual commits an intentional program violation by:
(A) Making a false or misleading statement or misrepresenting, concealing, or withholding a fact for the purpose of establishing or maintaining eligibility for the SEBT program or trafficking (see OAR 461-195-0601(6)(b)) of SEBT benefits; or
(B) Committing any act that constitutes a violation of the Agricultural Act of 2014, the SEBT program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking of SEBT benefits.
(b) "Trafficking" means any of the following:
(A) The buying, selling, stealing, or other exchange of SEBT benefits for cash or consideration other than eligible food, either directly or indirectly, in complicity or collusion with others or acting alone.
(B) The exchange of firearms, ammunition, explosives, or controlled substances (as defined in section 802 of title 21, United States Code), for SEBT benefits.
(C) Purchasing a product with SEBT benefits that has a container return deposit with the intent of obtaining cash by intentionally discarding the product and returning the container for the deposit amount.
(D) Purchasing a product with SEBT benefits with the intent of obtaining cash or consideration other than eligible food by intentionally reselling the product purchased with SEBT benefits.
(E) Intentionally purchasing products originally purchased with SEBT benefits in exchange for cash or consideration other than eligible food.

STATUTORY/OTHER AUTHORITY: ORS 411.060, 411.660, 411.816, 412.014, 412.049

STATUTES/OTHER IMPLEMENTED: ORS 411.060, 411.630, 411.635, 411.660, 411.816, 412.014, 412.049

AMEND: 461-195-0611

REPEAL: Temporary 461-195-0611 from SSP 47-2024

RULE TITLE: Intentional Program Violations; Establishment and Appeal

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-195-0611 is being amended to add the Summer EBT program to existing rule provisions about intentional program violation establishment and appeals.

RULE TEXT:

(1) In the Employment Related Day Care (ERDC), Refugee Assistance (REF), Refugee Assistance Medical (REFM), Summer EBT (SEBT), Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families (TANF) programs, an intentional program violation (IPV) is established by a state or federal court, by an administrative agency in a contested case, or by a person signing the designated form acknowledging the IPV and waiving the right to an administrative hearing. If the IPV will be established in a contested case, the Department initiates the IPV hearing.

(2) Except as provided in section (3) of this rule, there is no administrative appeal after a person waives the right to an IPV hearing and the penalty may not be changed by subsequent administrative action.

(3) A person who waives the right to an IPV hearing may seek relief in court or request a contested case hearing on the sole issue of whether the waiver was signed under duress (see OAR 461-025-0310 and 414-175-0095). If there is a determination that the waiver was signed under duress, the initial IPV penalty is void, and:

(a) If a court determines that a waiver was signed under duress, the court may determine whether an IPV occurred and the amount of the penalty.

(b) If an administrative law judge determines that a waiver was signed under duress, the Department may initiate an IPV hearing to determine whether an IPV occurred and the amount of the penalty.

STATUTORY/OTHER AUTHORITY: 411.060, 411.095, 411.816, 412.049, ORS 329A.500, 409.050, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: 411.060, 411.095, 411.816, 412.049, 409.010

AMEND: 461-195-0621

REPEAL: Temporary 461-195-0621 from SSP 47-2024

RULE TITLE: Intentional Program Violations; Penalties and Liability for Overpayments

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-195-0621 is being amended to add intentional program violation penalties for the Summer EBT program. It is also being amended to remove the Refugee Assistance Medical program because intentional program violations are not established in this program.

RULE TEXT:

(1) Disqualification penalties resulting from intentional program violations and other violations of law are listed in this rule. An individual may be subject to disqualification for an intentional program violation (IPV) (see OAR 461-195-0601) only if the individual was advised of the disqualification penalties prior to committing the IPV. A disqualification established in another state or established in the Food Distribution Program on Indian Reservations continues in effect in Oregon.

(2) In the Employment Related Day Care (ERDC) program, if an IPV is established against an individual through a contested case hearing, a waiver of the right to hearing, or by a state or federal court, that individual is liable for repayment to the Department of the full amount of overpayment (see OAR 461-195-0501) the Department has established. Payments of restitution to the Department are credited against the amount owed. A recipient (see OAR 461-195-0301) is not subject to an IPV disqualification but is still required to repay overpayment amounts.

(3) A child care provider who has incurred an overpayment established as an IPV claim is ineligible for payment---

(a) For six months and until the full amount of the overpayment is paid; or

(b) Permanently, if the Department of Early Learning and Care (DELC) finds that such ineligibility is in the public interest. The following is a non-exclusive list of reasons that support a determination of permanent ineligibility: safety concerns; or, the likelihood of future violations; or, the degree of egregiousness of any of the established IPVs; or, the degree of primary involvement in the violation by the provider.

(4) In the Refugee Assistance (REF), Summer EBT (SEBT), Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families (TANF) programs, when an IPV is established against an individual through a contested case hearing, a waiver of the right to hearing, or by a state or federal court:

(a) Except as otherwise set forth in this section, the individual is disqualified from receiving benefits in the program in which the IPV was committed for a period of 12 calendar months for the first IPV, 24 calendar months for the second IPV, and permanently for the third IPV.

(b) In the REF program, the individual is disqualified from receiving benefits in the program in which the IPV was committed for the remaining twelve months of eligibility.

(c) An individual found by a federal, state, or local court to have traded a controlled substance for SNAP benefits is disqualified from participation in the SNAP program as follows:

(A) For a period of two years upon the first occasion.

(B) Permanently upon the second occasion.

(d) An individual found by a federal, state, or local court to have traded a controlled substance for SEBT benefits is disqualified from participation in the SEBT program as follows:

(A) For a period of two years upon the first occasion.

(B) Permanently upon the second occasion.

(e) An individual found by a federal, state, or local court to have traded firearms, ammunition, or explosives for SNAP benefits is permanently disqualified from participation in the SNAP program.

(f) An individual found by a federal, state, or local court to have traded firearms, ammunition, or explosives for SEBT benefits is permanently disqualified from participation in the SEBT program.

(g) An individual convicted of trafficking (see OAR 461-195-0601) SNAP benefits for a value of $500 or more is permanently disqualified from participation in the SNAP program.

(h) An individual convicted of trafficking (see OAR 461-195-0601) SEBT benefits for a value of $500 or more is permanently disqualified from participation in the SEBT program.
(i) Unless permanently disqualified in the same program, an individual is disqualified for a 10-year period from receiving benefits in the program in which the individual committed fraud if the individual --
(A) In TANF program:
(i) Is convicted in state or federal court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two or more states under programs that are funded under Title IV or XIX of the Social Security Act; or
(ii) Is found in an IPV hearing or admits, in a written waiver of the right to an IPV hearing, to having made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive benefits simultaneously from two or more states.
(B) In the SNAP program, is found to have or admits to having made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple SNAP benefits simultaneously.
(C) In the SEBT program, is found to have or admits to having made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple SEBT benefits simultaneously.
(5) If the TANF grant is affected by the IPV penalty imposed under this rule, eligibility (see OAR 461-001-0000) for and the level of SNAP benefits are determined in accordance with OAR 461-145-0105.
(6) In the SEBT program, an individual disqualified for an intentional program violation (IPV) under OAR 461-195-0601 is ineligible to receive SEBT benefits for qualifying children for the duration of their disqualification period.
(7) Once a disqualification period begins, it continues uninterrupted until completed, regardless of the eligibility of the filing group (see OAR 461-110-0310 and 461-196-0020) of the disqualified individual.

STATUTORY/OTHER AUTHORITY: 409.050, 411.060, 411.816, 412.049, ORS 329A.500

STATUTES/OTHER IMPLEMENTED: 411.060, 411.816, 412.049, 409.010, ORS 329A.500, 7 CFR 273.16, 7 CFR 273.18, 45 CFR 400

ADOPT: 461-196-0000

REPEAL: Temporary 461-196-0000 from SSP 40-2024

RULE TITLE: General Purpose and Scope; SEBT

NOTICE FILED DATE: 08/30/2024

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

REPEAL: Temporary 461-196-0010 from SSP 40-2024

RULE TITLE: Administration; SEBT

NOTICE FILED DATE: 08/30/2024

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

REPEAL: Temporary 461-196-0020 from SSP 40-2024

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

NOTICE FILED DATE: 08/30/2024

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 filing group 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. A foster child, homeless child, migrant child, Head Start child and runaway child, as defined in this rule are also categorically eligible. Categorically eligible, streamlined eligibility and automatic eligibility may be used synonymously.

(4) Department refers to the SEBT Agency.

(5) Direct Verification means the process of verifying the filing group's income or categorial eligibility by matching against data sources or other records without the need to contact the filing group for documentation.

(6) 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.

(7) 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 the Department or its contractor as part of the client case record.

(8) 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.

(9) Electronic Benefit Transfer (EBT) contractor or vendor means an entity that is selected to perform EBT–related services for the State agency.

(10) 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.

(11) Eligible child(ren) means a child who meets the requirements to receive SEBT benefits as provided in OAR 461-196-0060.

(12) Eligible household means a household that includes at least one eligible child.

(13) Eligibility period means the timeframe during which a child may meet the eligibility criteria for SEBT.

(14) 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.

(15) 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.

(16) FDPIR means the Food Distribution Program on Indian Reservations.

(17) Filing group means a group of related or nonrelated individuals who are living together as one economic unit.

(18) FNS means the Food and Nutrition Service, United States Department of Agriculture.

(19) 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.).

(20) 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.
(21) 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.)
(22) 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.
(23) Instructional year means the period from July 1 of the prior year through one day prior to the summer operational period.
(24) 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.
(25) 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.
(26) NSLP/SBP means the National School Lunch Program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the School Breakfast Program established under the Child Nutrition Act of 1996 (42 U.S.C. 1771 et seq.).
(27) NSLP/SBP application means an application for free and reduced-price meals, submitted by a household for a child or children enrolled at an NSLP/SBP participating school(s). Eligibility determinations based on NSLP/SBP applications may be used to confer eligibility for SEBT.
(28) NSLP school means an Oregon public school, nonprofit private school, or residential childcare institution that is a sponsor of the National School Lunch Program.
(29) NSLP student means an individual enrolled in an Oregon public school, nonprofit private school, or residential childcare institution that provide meal service as a sponsored National School Lunch Program school.
(30) ODE means the Oregon Department of Education.
(31) ODHS means the Oregon Department of Human Services.
(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 certification, categorically eligible and automatic eligibility may be used synonymously.
(39) Summer EBT agency means the Oregon Department of Human Services.
(40) Summer EBT application means an application submitted to the Department by a filing group for a child or children who are enrolled at a NSLP/SBP participating school for SEBT benefits.
(41) 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.

(42) TANF means Temporary Assistance to Needy Families which is the State funded program under part A of title IV of the Social Security Act.
(43) USDA means United States Department of Agriculture.
(44) Verification means confirmation of eligibility for the Summer EBT Program when a child's eligibility is established through a Summer EBT application. Verification includes confirmation of income eligibility and may also include confirmation of any other information required in the application.
(45) Verification for Cause means verification of questionable applications, on a case-by-case basis, such as an instance when the Department is made aware of conflicting or inconsistent information than what was provided on the application.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0030

REPEAL: Temporary 461-196-0030 from SSP 40-2024

RULE TITLE: Authorized Representative; SEBT

NOTICE FILED DATE: 08/30/2024

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

REPEAL: Temporary 461-196-0040 from SSP 40-2024

RULE TITLE: Application; SEBT

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-196-0040 is being adopted to explain application requirements, 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) Applications for SEBT must be received by the Department (see OAR 461-196-0020) by:

(a) The last day of the summer operational period (see OAR 461-196-0020 and 461-196-0060); or

(b) The deadline permitted by the USDA Food and Nutrition Services.

(3) Children who are in a filing group with a streamlined certification (see OAR 461-196-0020 and 461-196-0060) do not need to submit an application.

(4) If an adult (see OAR 461-196-0020) applicant in the filing group is ineligible to receive SEBT benefits for a qualifying child due to serving an intentional program violation (see OAR 461-195-0601) disqualification:

(a) An authorized representative may represent a SEBT applicant or participant, or

(b) The Department will work with the filing group to identify another adult to send the EBT card and benefits to for that child.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0050

REPEAL: Temporary 461-196-0050 from SSP 40-2024

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

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-196-0050 is being adopted to explain the benefit amount 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 $120 per each eligible child (see OAR 461-196-0020) for the summer operational period (see OAR 461-196-0020 and 461-196-0060).

(2) Eligible children who have an active EBT card associated with a Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) case, will receive benefits on the same EBT card.

(3) Eligible children who do not have an active EBT card associated with a SNAP or TANF case will receive a separate EBT card for their SEBT benefits.

(4) SEBT benefits are not prorated.

(5) The Department (see OAR 461-196-0020) considers benefits available when the SEBT benefits have been issued on an EBT account.

(6) Unused benefits are expunged (see OAR 461-196-0020) 122 days after the date of issuance.

(7) Expunged benefits will not be restored.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0060

REPEAL: Temporary 461-196-0060 from SSP 48-2024

RULE TITLE: Eligibility; SEBT

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-196-0060 is being adopted to describe how a child becomes eligible for the Summer EBT program and to identify operational dates for the 2024 and 2025 program period.

RULE TEXT:
(1) For the purposes of Summer EBT (SEBT), categorically eligible (see OAR 461-196-0020) is used synonymously with streamlined certification (see OAR 461-196-0020) and means any of the following:
(a) Receiving foster or resource care through Child Welfare.
(b) Part of a filing group (see OAR 461-196-0020) that receives Temporary Assistance for Needy Families (TANF).
(c) Part of a filing group that receives Supplemental Nutrition Assistance Program (SNAP) with benefits greater than $0.
(d) Part of a filing group that receives Medicaid (Oregon Health Plan) with countable income under 185 percent of the federal poverty level.
(e) Attending a Head Start program which participates in the National School Lunch Program/School Breakfast Program (NSLP/SBP) (see OAR 461-196-0020).
(f) Receiving Food Distribution Program on Indian Reservations (FDPIR) (see OAR 461-196-0020).
(g) Migrant, homeless, or runaway as defined by the student's school.
(2) Children eligible for SEBT include those who, at any time during the eligibility period (see OAR 461-196-0020) are:
(a) School-aged (see OAR 461-196-0020) and categorically eligible.
(b) Enrolled in an NSLP/SBP participating school during the instructional year immediately preceding the summer operational period and:
(A) Categorically eligible;
(B) Certified to receive free or reduced-price school meals through an NSLP/SBP participating school;
(C) Otherwise determined eligible to receive a free or reduced-price meal; or
(D) Determined eligible through a Summer EBT (SEBT) application (see OAR 461-196-0020) with the filing group's total countable income below 185% of the federal poverty level (see OAR 461-196-0120) on the date the completed application is received.
(3) Eligibility for SEBT is established from the first day of the instructional year (see OAR 461-196-0020) immediately preceding the summer operational period (see OAR 461-196-0020) through the last day of the summer operational period, with the exception of the 2024 program period.
(4) For the 2024 program period:
(a) The summer operational period is May 24, 2024, through September 2, 2024.
(b) The instructional year is July 1, 2023, through May 23, 2024.
(c) The eligibility period is from September 1, 2023, through September 2, 2024.
(d) Retroactively effective September 3, 2024, the SEBT application deadline is extended from the end of the summer operational period to September 30, 2024. To qualify for SEBT based on a completed application submitted to the Department from September 3, 2024, through September 30, 2024, a child must meet the eligibility criteria identified in section (2) of this rule during the 2024 eligibility period.
(5) For the 2025 program period:
(a) The summer operational period is May 30, 2025, through September 3, 2025.
(b) The instructional year is July 1, 2024, to May 29, 2025.
(c) The eligibility period is July 1, 2024, through September 3, 2025.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0070

REPEAL: Temporary 461-196-0070 from SSP 40-2024

RULE TITLE: Enrollment Verification; SEBT

NOTICE FILED DATE: 08/30/2024

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 461-196-0020 and 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, the Food Distribution Program 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 and 461-196-0060) 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

REPEAL: Temporary 461-196-0080 from SSP 40-2024

RULE TITLE: Verification; SEBT

NOTICE FILED DATE: 08/30/2024

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 certification as described in OAR 461-196-0060, are not required to provide verification.

(2) Summer EBT (SEBT) applications (see OAR 461-196-0020) are subject to the following verification requirements at any time during the eligibility period (see OAR 461-196-0020 and 461-196-0060):

(a) Verification for Cause. The Department (see OAR 461-196-0020) must verify for cause SEBT applications when the Department 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 SEBT applications approved by the Department from the start of the eligibility period 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 Request for Information as described in OAR 461-196-0100, when verification, or additional verification, of any factor affecting eligibility is required.

(4) The Department must give filing groups at least 10 calendar days to provide required verification.

(5) Benefits cannot be issued for SEBT 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.

(6) If the filing group refuses to cooperate or does not provide verification when requested by the Department, the filing group's eligibility for SEBT benefits will be denied.

STATUTORY/OTHER AUTHORITY: ORS 411.060

STATUTES/OTHER IMPLEMENTED: ORS 411.060

ADOPT: 461-196-0090

REPEAL: Temporary 461-196-0090 from SSP 40-2024

RULE TITLE: Income Availability; SEBT

NOTICE FILED DATE: 08/30/2024

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) Current Income refers to the gross income received by the filing group (see OAR 461-196-0020) the month prior to the Summer EBT application (see OAR 461-196-0020), before any deductions. If this income does not reflect the filing group's typical income, they can estimate their annual income.

(2) Self-employment income is considered countable based upon the net income after expenditures. Net income for self-employed individuals is figured by subtracting the individual's operating expenses from the gross receipts.

(a) Deductible business expenses include, but are not limited to:

(A) The cost of goods purchased.

(B) Rent.

(C) Utilities.

(D) Wages and salaries paid.

(E) Business taxes.

(b) Non-deductible business expenses include:

(A) The value of salable merchandise used by the proprietors of retail businesses.

(B) Personal, Federal, State, or local income taxes.

(c) Gross receipts include:

(A) The total income from goods sold or services rendered by the business.

(B) The value of all products sold.

(C) Money received from the rental of land, buildings, or equipment to others.

(3) Income is considered countable for determining SEBT eligibility unless specified as excluded per section (6) of this rule.

(4) Income of a child, who is under 18 years old, is considered countable unless excluded per section (6) of this rule.

(5) Income is considered available the date it is received or the date a member of the filing group 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.

(6) 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

REPEAL: Temporary 461-196-0100 from SSP 40-2024

RULE TITLE: Notices; SEBT

NOTICE FILED DATE: 08/30/2024

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 (see OAR 461-196-0020), the Department (see OAR 461-196-0020) will provide notice to the filing group of a child's approved status within 15 business days of receipt of a complete application.

(b) When a filing group is determined eligible through streamlined certification (see OAR 461-196-0020 and 461-196-0060), the Department will provide notice to the filing group of a child's approved status within 15 business 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 child to receive SEBT benefits and that an application is not required.

(c) The approval notice will inform the filing group that dual participation (see OAR 461-196-0020) in the SEBT program in the same summer operational period (see OAR 461-196-0020 and 461-196-0060) is not allowed.

(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 15 business 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.

(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 10 business 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 Department must give the filing group at least 10 calendar days to provide the requested information.

(d) A Notice of Incomplete Application will not be sent if a mailing address or email address 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 (see OAR 461-196-0020) 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 streamlined certification 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 on Indian Reservations (FDPIR) or Head Start.

(C) The Department must give the filing group at least 10 days to provide the requested information.

(D) Failure to cooperate with the Request for Information will result in the filing group's request for SEBT benefits being denied.

STATUTORY/OTHER AUTHORITY: 411.060

STATUTES/OTHER IMPLEMENTED: 411.060

ADOPT: 461-196-0110

REPEAL: Temporary 461-196-0110 from SSP 40-2024

RULE TITLE: Processing Timeframes; SEBT

NOTICE FILED DATE: 08/30/2024

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 through streamlined certification (see OAR 461-196-0020 and 461-196-0060) or who have an approved Summer EBT (SEBT) application (see OAR 461-196-0020) on file prior to the start of the summer operational period (see OAR 461-196-0020 and 461-196-0060) must have benefits issued and available to use at least seven calendar days and no more than 14 calendar days before the start of the summer operational period.

(2) Children found eligible through an SEBT application after the start of the summer operational period must have benefits issued and available no later than 15 business days after a complete application is received by the Department (see OAR 461-196-0020).

(3) Children found eligible through information provided from the child's school after the start of the summer operational period must have benefits issued and available no later than 15 business 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

REPEAL: Temporary 461-196-0120 from SSP 40-2024

RULE TITLE: Budgeting; SEBT

NOTICE FILED DATE: 08/30/2024

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, the income eligibility criteria for the program is based upon the filing group's (see OAR 461-196-0020) size and current income which is converted to arrive at an annual amount.

(2) Current income means the gross income received by the filing group in the month prior to the SEBT application (see OAR 461-196-0020) before any deductions.

(3) If the current income does not reflect the filing group's typical monthly income, they can estimate their annual income.

(4) If self-attested income is questionable, the Department (OAR 461-196-0020) will request verification for cause (OAR 461-196-0080).

(5) Self-employed individuals may use their previous year's income to estimate this year's net income unless their current net income is more representative of their actual earnings in accordance with OAR 461-196-0090.

(6) The Department will calculate the filing group's current income based on the frequency of pay and converted as follows to arrive at an annual amount:

(a) Once a week pay is converted to an annual amount by multiplying by 52.

(b) Biweekly pay (e.g., paid every other Friday) is converted to an annual amount by multiplying by 26.

(c) Twice a month pay (e.g., paid 15th and 30th of each month) is converted to an annual amount by multiplying by 24.

(d) Monthly pay is converted to an annual amount by multiplying by 12.

(7) For children who are not eligible through streamlined certification (OAR 461-196-0020 and 461-196-0060), the filing group's annual income must be under the income limit identified in section (8) of this rule to be eligible for SEBT.

(8) The National School Lunch Program/School Breakfast Program (NSLP/SBP) (see OAR 461-196-0020) income standards are published annually and change on July 1st of each year.

(a) The income standards for 2024 are from July 1, 2023, to June 30, 2024. [see attached table 1]

(b) The income standards for 2025 are 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

REPEAL: Temporary 461-196-0130 from SSP 40-2024

RULE TITLE: Hearings; SEBT

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-025-0130 is being adopted to explain which rules authorize hearings in the Summer EBT (SEBT) program and to adopt hearing provisions in OAR chapter 461 division 025 for the SEBT program.

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

ADOPT: 461-196-0140

REPEAL: Temporary 461-196-0140 from SSP 47-2024

RULE TITLE: Replacement of Benefits; SEBT

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-196-0140 is being adopted to describe when the Department can and cannot replace Summer EBT benefits.

RULE TEXT:

(1) The Department (see OAR 461-196-0020) will only replace Summer EBT (SEBT) benefits if the provisions in section (2) or (3) of this rule apply.

(2) In the event of a filing group (see OAR 461-196-0020) misfortune or disaster, the Department will replace the value of food purchased with SEBT benefits when subsections (2)(a) through (2)(d) are true. The replacement of SEBT benefits are limited and issued under subsection (2)(e).

(a) The food was destroyed by a filing group misfortune or disaster.

(b) The filing group misfortune or disaster is verified.

(c) The filing group must report the loss within 10 calendar days of the occurrence, either orally or in writing. If the 10th day falls on a weekend or holiday and the statement is received the first workday after the weekend or holiday, the Department will consider the statement received on time.

(d) The filing group submits both of the following:

(A) The estimated cost of the lost food.

(B) A signed statement or affidavit attesting to the loss.

(e) The replacement of destroyed food is governed as follows:

(A) The amount of SEBT benefits replaced is only for the value of the food purchased with SEBT benefits lost due to the misfortune and may not exceed the SEBT benefit amount per child for the summer operational period (see OAR 461-196-0020 and 461-196-0060).

(B) The Department will issue a timely replacement of the value of loss by the later date of these two timeframes:

(i) Within 10 calendar days after the filing group reported the loss; or

(ii) Within two working days of receiving a signed statement or affidavit, the estimated cost of lost food and verification of the filing group's misfortune or disaster.

(3) The Department shall replace stolen or compromised SEBT program benefits only if the loss is caused by one of the reasons listed in paragraphs(3)(a)(A) or (3)(a)(B) of this rule. For the purposes of this section, compromised means the EBT card or the EBT card number has been used by an unauthorized individual to withdraw or spend the SEBT benefits of the filing group.

(a) The loss of SEBT benefits must be caused by one of the following:

(A) The Department issued the EBT card to an unauthorized individual who was not in the filing group.

(B) The Department failed to cancel the EBT card after the filing group reported to the Department that it had been lost, stolen, or compromised.

(b) The replacement of lost SEBT benefits is governed as follows:

(A) When the loss is caused under paragraph 3(a)(A) of this rule, the Department shall replace all compromised SEBT benefits.

(B) When the loss is caused under paragraph (3)(a)(B) of this rule, the Department will only replace the additional compromised SEBT benefits after the filing group reported to the Department the EBT card had been lost, stolen, or compromised.

(C) The Department will issue a timely replacement of the value of the loss only after the filing group reported the loss.

(4) The Department will replace an EBT card reported lost, stolen, or not received only after the current card has been deactivated. An EBT card that is damaged or not functioning properly is replaced only after the card's status is changed to "card damaged" and the card is destroyed.

(5) The Department will not replace SEBT benefits that were stolen due to electronic benefit theft. Electronic benefit theft includes the following defined terms:
(a) “Card skimming” is defined as EBT card information stolen utilizing a store’s card-swiping machine.
(b) “Card cloning” is defined as the use of information obtained by “card skimming” to create a fake EBT card for fraudulent use.
(c) “Another similar fraudulent method” is defined as EBT card information compromised through electronic means. This may include but is not limited to scams sent by text, e-mail, or telephone. It does not include the theft or unauthorized use of an individual’s physical EBT card.

STATUTORY/OTHER AUTHORITY: 411.060

STATUTES/OTHER IMPLEMENTED: 411.060

ADOPT: 461-196-0150

REPEAL: Temporary 461-196-0150 from SSP 47-2024

RULE TITLE: Restoration of Lost Benefits; SEBT

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-196-0150 is being adopted to describe when benefits will be restored in the Summer EBT program.

RULE TEXT:

(1) An individual is entitled to a restoration of lost benefits if:

(a) The loss was caused by an error by the Department (see OAR 461-196-0020), including an action to restore any benefits that were lost, or the failure to issue due to agency error; or

(b) An administrative disqualification for intentional program violation (see OAR 461-195-0601) was subsequently reversed.

(2) Benefits shall be restored for not more than twelve months prior to whichever of the following occurred first:

(a) The date the Department receives a request for restoration from the filing group (see OAR 461-196-0020); or

(b) The date the Department is notified or otherwise discovers that a loss to a filing group has occurred.

(3) The Department must restore benefits found to have been wrongfully withheld through judicial action.

(a) If the judicial action is the filing group's first attempt to regain lost benefits, the benefits must be restored for not more than twelve months from the date the court action began.

(b) When the judicial action involves reviewing the Department's action, benefits must be restored not more than twelve months from:

(A) The date the agency receives a restoration request.

(B) If no request is made, the date the hearing action is initiated.

(C) Never exceeding one year from when the agency is informed of or discovers the loss.

(D) Benefits must be restored even if the child is currently ineligible.

(4) The Department must restore any lost benefits to a filing group by issuing an allotment equal to the amount of benefits that were lost, irrespective of the filing group's current eligibility status. This restored amount will be issued in addition to the regular allotment entitled to the eligible filing group.

(5) Individuals disqualified for intentional program violation are entitled to restoration of any benefits lost during the months that they were disqualified, not to exceed twelve months prior to the date of Department notification, only if the decision which resulted in disqualification is subsequently reversed.

STATUTORY/OTHER AUTHORITY: 411.060

STATUTES/OTHER IMPLEMENTED: 411.060

ADOPT: 461-196-0160

REPEAL: Temporary 461-196-0160 from SSP 47-2024

RULE TITLE: Overpayments; SEBT

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-196-0160 is being adopted to establish overpayment claim provisions for the Summer EBT program.

RULE TEXT:

(1) The Department (see OAR 461-196-0020) will pursue an overpayment claim when:

(a) The overpayment amount is $200 or more;

(b) The filing group (see OAR 461-196-0020) was found eligible through a Summer EBT (SEBT) application; and

(c) An individual in the filing group knowingly obtained SEBT benefits through fraudulent activity and there is an established intentional program violation (IPV) in accordance with OAR 461-195-0611.

(2) The Department will not recover an SEBT overpayment claim through the reduction of the filing group's Supplemental Nutrition Assistance Program (SNAP) or any other public assistance benefits.

(3) Overpayments are calculated in accordance with OAR 461-195-0521 and liability for repayment of overpayments is addressed in OAR 461-195-0541.

STATUTORY/OTHER AUTHORITY: 411.060

STATUTES/OTHER IMPLEMENTED: 411.060

ADOPT: 461-196-0170

REPEAL: Temporary 461-196-0170 from SSP 47-2024

RULE TITLE: Concurrent and Duplicate Program Benefits; SEBT

NOTICE FILED DATE: 08/30/2024

RULE SUMMARY: OAR 461-196-0170 is being adopted to establish rule provisions for concurrent and duplicate benefits in the Summer EBT program.

RULE TEXT:

(1) An individual is not eligible to receive benefits from both Oregon and another state or Indian Tribal Organization for the same time period.

(2) An individual is not eligible to receive benefits as a member of more than one filing group (see OAR 461-196-0020) for the same time period.

STATUTORY/OTHER AUTHORITY: 411.060

STATUTES/OTHER IMPLEMENTED: 411.060