



PERMANENT ADMINISTRATIVE ORDER

FILED

03/09/2018 1:18 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

SSP 11-2018

CHAPTER 461
DEPARTMENT OF HUMAN SERVICES
SELF-SUFFICIENCY PROGRAMS

FILING CAPTION: Amending rules relating to APD medical programs

EFFECTIVE DATE: 04/01/2018

AGENCY APPROVED DATE: 03/08/2018

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RULES:

461-001-0030, 461-115-0540, 461-115-0610, 461-120-0510, 461-135-0010, 461-135-0780, 461-135-0830, 461-135-0950, 461-140-0110, 461-140-0120, 461-145-0080, 461-145-0089, 461-145-0108, 461-145-0120, 461-145-0130, 461-150-0050, 461-150-0070, 461-150-0080, 461-160-0010, 461-160-0030, 461-160-0540, 461-160-0550, 461-160-0551, 461-160-0552, 461-160-0630, 461-160-0780, 461-170-0011, 461-175-0230, 461-175-0300, 461-180-0020

AMEND: 461-001-0030

RULE TITLE: Definitions; OSIP, OSIPM Long-Term Care or Home and Community-Based Care

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-001-0030 about definitions in the OSIPM program for long-term care or home and community-based care is being amended to add references in the definition of eligible dependent to tax dependency, and add language that the potential dependent must reside with the institutionalized spouse (if there is no community spouse) or with the community spouse (if there is a community spouse). These changes clarify the rule.

RULE TEXT:

These terms apply to rules in Chapter 461 about OSIP and OSIPM long-term care and home and community-based care clients:

- (1) Community spouse: An individual who is legally married (see OAR 461-001-0000) to an institutionalized spouse and is not in a medical institution or nursing facility.
- (2) Continuous period of care: Reside for a period of at least 30 consecutive days or until death in a longterm care facility, home and community-based care setting, or an acute care hospital. There must be sufficient evidence to show there is a reasonable expectation that the client will remain in care for at least 30 consecutive days. For the purposes of this policy, an interruption in care (for example, leaving and then returning to a nursing home, or switching from one type of care to another) that lasts less than 30 days is not considered a break in the 30 consecutive days of care. A new period of care begins if care is interrupted for 30 or more days.
- (3) Eligible dependent:
 - (a) For cases with a community spouse:

(A) An "eligible dependent" is one of the following:

(i) A child of the institutionalized spouse or community spouse who resides with the community spouse, and who must also be either a minor (under the age of 21) or 21 or older but still a tax dependent of either spouse.

(ii) A parent or sibling of the institutionalized spouse or community spouse who resides with the community spouse and is claimed as a tax dependent by either spouse.

(B) A grandchild of the institutionalized spouse or community spouse is not considered an "eligible dependent".

(b) For cases without a community spouse, an "eligible dependent" resides with the institutionalized spouse and is either a minor child (under the age of 21) of the institutionalized spouse, or a child 21 or older but still a tax dependent of the institutionalized spouse.

(4) Home and community-based care: Title XIX services needed to keep an individual out of a long-term care facility.

These services are:

(a) In-home services except for state plan personal care services.

(b) Residential care facility services.

(c) Assisted living facility services.

(d) Adult foster care services.

(e) Home adaptations to accommodate a client's physical condition.

(f) Home-delivered meals provided in conjunction with in-home services.

(g) Specialized living facility services.

(h) Adult day care services.

(i) Community transition services.

(5) Home and community-based care client: A client receiving home and community-based care for a continuous period.

(6) Institutionalized spouse: An individual who is in long-term care or receiving home and community-based care for a continuous period and is married to a community spouse.

STATUTORY/OTHER AUTHORITY: 411.060, ORS 409.050, 411.083, 411.404, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: 411.060, 411.700, ORS 409.010, 411.083, 411.404, 42 USC 1396r, 42 CFR 435.726

REPEAL: 461-115-0540

RULE TITLE: Certification Period; OSIP-EPD and OSIPM-EPD

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-115-0540 about the certification period for the OSIP-EPD and OSIPM-EPD programs is being repealed to align the certification period for these programs with the OSIP and OSIPM programs.

RULE TEXT:

(1) In the OSIP-EPD and OSIPM-EPD programs, the Department determines eligibility and assigns a redetermination date by which the next determination of eligibility is required. The Department determines the length of the certification period (see OAR 461-001-0000) based on the stability of the client's circumstances, as follows:

(a) The period may extend up to 12 months if the client's circumstances are sufficiently predictable.

(b) If the client's circumstances are not stable or changes are expected in the near future, the period may be a minimum of three and a maximum of six months.

(2) To receive uninterrupted benefits for the next certification period, OSIP-EPD and OSIPM-EPD clients must submit a completed redetermination form in the last month of their current certification period.

STATUTORY/OTHER AUTHORITY: ORS 411.060, 411.070

STATUTES/OTHER IMPLEMENTED: ORS 411.060, 411.070

AMEND: 461-115-0610

RULE TITLE: Verification; General

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-115-0610 about verification is being amended to add self-attestation and electronic sources as additional categories of information used in the verification process and remove APD medical programs from the provision stating documentary evidence is the primary source of verification, making the rule consistent with other verification rules.

RULE TEXT:

- (1) To be eligible for benefits, individuals must provide verification when the Department requests verification. The Department will notify an individual when verification, or additional verification, of any factor affecting eligibility or benefit level is required.
- (2) Verification provided for one program is considered for all programs in which the individual participates. The Department will notify an individual when a particular method of verification is required. More information about what methods are accepted is in the following Oregon Administrative Rules:
 - (a) In the GA, OSIP, OSIPM, and QMB programs, see OAR 461-115-0700 and 461-115-0704.
 - (b) In the SNAP program, see OAR 461-115-0651 and 461-115-0690.
- (3) The three methods of receiving verification are:
 - (a) Self-attestation. Information provided orally or in writing by or on behalf of an individual.
 - (b) Electronic. Information available and provided to the Department from an electronic source, including but not limited to:
 - (A) The State Wage Information Collection Agency.
 - (B) The Internal Revenue Service.
 - (C) The Social Security Administration.
 - (D) The State Unemployment Compensation Agency.
 - (E) State agencies administering programs under Title 1, 10, 14, or 16 of the Social Security Act.
 - (F) SNAP agencies.
 - (G) Other insurance affordability programs.
 - (H) The Department of Treasury.
 - (I) The Department of Homeland Security.
 - (c) Documentary. Evidence which is provided by or on behalf of an individual, or obtained by the Department from a third party.
 - (A) Documentary evidence can be received in many ways, including:
 - (i) A paper or electronic copy of a document.
 - (ii) An oral or written collateral statement from someone outside the filing group.
 - (iii) Viewing a document during a home visit.
 - (B) In the REF and REFM programs, the immigration status of an individual must be verified using documentary evidence from a federal agency that holds authority to grant legal immigration status.
- (4) Verification of the occurrence of an act of domestic violence (see OAR 461-001-0000) is not required for any program.

STATUTORY/OTHER AUTHORITY: 411.060, 411.816, 414.042, 418.100, ORS 409.050, 411.402, 411.404, 412.014, 412.049, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: 411.060, 411.117, 411.087, 411.816, ORS 409.010, 411.402, 412.014, 412.049

AMEND: 461-120-0510

RULE TITLE: Age Requirements for Clients to Receive Benefits

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-120-0510 about age requirements for clients to receive benefits is being amended to remove the provision allowing age eligibility for emancipated minors for the OSIPM-EPD program, consistent with federal law.

RULE TEXT:

(1) If the year of an individual's birth is known but the month is unknown, the month of birth is presumed to be July. If the date of birth is unknown, the date of birth is presumed to be the first of the month.

(2) To be eligible for the TANF program:

(a) A dependent child (see OAR 461-001-0000) --

(A) May not be legally married (see OAR 461-001-0000), legally married and separated, or legally emancipated; and

(B) Must be under 18 years of age; or under 19 years of age and regularly attending school (see subsection (c) of this section) full time, as determined by the school.

(b) A caretaker relative (see OAR 461-001-0000) may be any age.

(c) "Regularly attending school" means enrolled in and attending any of the following:

(A) A school in grade 12 or below, including home schooling approved by the local school district.

(B) GED classes in lieu of high school.

(C) A course of vocational or technical training, including Job Corps, in lieu of high school.

(D) The Oregon School for the Deaf.

(d) The student's full-time status is defined by the school.

(e) Regular attendance continues when a student misses school because of an illness, family emergency, or vacation, as long as the student intends to return to school. Students are considered to be in attendance for the full month in which they complete or discontinue school or training.

(3) To be eligible for payment of child care costs for the ERDC or TANF program, a child must be --

(a) Under 12 years of age for the ERDC program or under 13 years of age for the TANF program; or

(b) Under 18 years of age and --

(A) Physically or mentally incapable of selfcare;

(B) Under court supervision;

(C) Receiving foster care;

(D) Eligible for the special need rate for child care in OAR 461-155-0150; or

(E) Subject to circumstances that significantly compromise the child's safety or the caretaker's ability to work or participate in an assigned activity if child care is not available.

(4) To be eligible for the OSIP-AB, OSIPM-AB, QMB-BAS, QMB-SMB, or SNAP programs, a client may be any age.

(5) To be eligible for the OSIP-AD (except OSIP-EPD), OSIPM-AD (except OSIPM-EPD), and QMB-DW programs, a client must be under 65 years of age.

(6) To be eligible for the OSIP-EPD and OSIPM-EPD programs, the client must be 18 years of age or older.

(7) To be eligible for the OSIP-OAA or OSIPM-OAA programs, a client must be 65 years of age or older.

(8) To be eligible for the REF or REFM programs, a client must be one of the following:

(a) 18 years of age or older.

(b) A legally emancipated minor.

(c) In the REFM program, a newborn according to OAR 461-135-0930.

STATUTORY/OTHER AUTHORITY: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.816, 412.049, 42 USC

AMEND: 461-135-0010

RULE TITLE: Assumed Eligibility for Medical Programs

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-135-0010 about assumed eligibility for medical programs is being amended to remove failure to pursue assets from the exceptions to assumed eligibility, and to clarify that all of the requirements set forth in OAR 461-120-0345 apply, not just the pursuit of medical insurance. These changes make the rule consistent with federal policy.

RULE TEXT:

- (1) This rule sets out when a client is assumed eligible for certain medical programs because the client receives or is deemed to receive benefits of another program.
- (2) A pregnant woman who is eligible for and receiving benefits the day the pregnancy ends is assumed eligible for the OSIPM program until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.
- (3) A pregnant woman who was eligible for and receiving medical assistance under the OSIPM program or OCCS Medical Programs (see OAR 461-001-0000) and becomes ineligible while pregnant is assumed eligible for Medicaid and can continue to receive OSIPM or OCCS Medical Programs benefits until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.
- (4) A child (see OAR 461-001-0000) born to a mother eligible for and receiving OSIPM benefits is assumed eligible for medical benefits under this section until the end of the month the child turns one year of age.
- (5) The individuals described in subsection (a) and (b) of this section are assumed eligible for OSIPM (except OSIPM-EPD) unless subsection (c), (d), or (e) of this section applies:
 - (a) A recipient of SSI benefits who meets all non-financial requirements for the OSIPM program except citizen and non-citizen status. SSI recipients are presumed to meet all citizen and non-citizen status requirements for the OSIP program.
 - (b) An individual deemed eligible for SSI under Sections 1619(a) or (b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)), which cover individuals with disabilities whose impairments have not changed but who have become gainfully employed and have continuing need for OSIPM. Individuals deemed eligible for SSI under Sections 1619(a) or (b) of the Social Security Act are assumed to meet all citizen and non-citizen status requirements for the OSIPM program.
 - (c) An individual described in subsection (a) or (b) of this section who is in a nonstandard living arrangement (see OAR 461-001-0000) is not eligible for long-term care (see OAR 461-001-0000) services if the individual would otherwise be ineligible for OSIPM due to a disqualifying transfer of assets (OAR 461-140-0210 to 461-140-0300 regulate the effect of a transfer of assets on a client).
 - (d) An individual described in subsection (a) or (b) of the section who is in a nonstandard living arrangement is not assumed eligible for long-term care services if countable (see OAR 461-001-0000) resources exceed the limit after performing the calculation under OAR 461-160-0580.
 - (e) An individual described in subsection (a) or (b) of the section who does not meet the requirements of OAR 461-120-0345 or the residency requirements (see OAR 461-120-0010) is not assumed eligible for OSIPM.
- (6) For the purposes of this section the definition of a "child" means an unmarried individual under age 19 and includes natural, step, and adoptive children. A child found eligible for OSIPM is assumed eligible until the end of the twelfth month following the determination of the child's OSIPM eligibility or redetermination of eligibility unless the child:
 - (a) No longer meets the definition of a child given in this section;
 - (b) Moves out of state;
 - (c) Voluntarily ends benefits; or
 - (d) Is eligible for any other Medicaid program that provides OHP Plus benefits.
- (7) A client who receives both benefits under Part A of Medicare and SSI benefits is assumed eligible for the QMB-BAS program unless the individual does not meet the pursuit of assets requirements (see OAR 461-120-0330), the health care coverage requirements (see OAR 461-120-0345), or the residency requirements (see OAR 461-120-0010).

STATUTORY/OTHER AUTHORITY: ORS 409.050, 411.060, 411.070, 411.404, 412.049

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 411.060, 411.070, 411.404, 412.049, 414.025

AMEND: 461-135-0780

RULE TITLE: Pickle Amendment Clients; OSIPM

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-135-0780 about eligibility for Pickle Amendment clients is being amended to make permanent a temporary rule change that set out only one multiplier that applies to Social Security benefits in the year 2016. This corrects an error that had an overlap in dates for the multiplier used for the year 2016.

RULE TEXT:

In the OSIPM program:

(1) The countable (see OAR 461-001-0000) SSB income of an individual is determined according to sections (2) to (4) of this rule if the individual meets all of the following requirements:

(a) Is receiving Social Security Benefits (SSB);

(b) Was eligible for and receiving SSI or state supplements but became ineligible for those payments after April 1977;
and

(c) Would be eligible for SSI or state supplement if the SSB COLA increases paid under section 215(i) of the Social Security Act, after the last month the individual was both eligible for and received SSI or a supplement and was entitled to SSB, were deducted from current SSB.

(2) The SSB amount received by the individual when the individual became ineligible for SSI or OSIP is used as the individual's countable SSB income, for the purposes of the Pickle Amendment. If the spouse (see OAR 461-001-0000) of the individual also had Social Security benefits at the time the individual lost SSI benefits, SSB amount at that time of the spouse is considered the countable income of the spouse. If the amount cannot be determined using the information provided by the SSA, it is calculated in accordance with section (3) of this rule.

(3) The Department determines the month in which the individual was entitled to SSB and received SSI in the same month. The Department uses the table in section (4) of this rule to find the percentage that applies to that month. The Department multiplies the present amount of the SSB of the individual by the applicable percentage. If the spouse of the individual also had SSB at the time the individual lost SSI benefits, the Department adjusts the SSB of the spouse using the same multiplier that was used for the individual's calculation under this section. This amount, rounded down to the next lower whole dollar, is the individual's countable SSB income.

(4) The following guide contains the calculations used to determine the SSB for prior years (the Department uses this table only if the prior year's amount using information provided by SSA): [see attached table]

STATUTORY/OTHER AUTHORITY: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.704, 413.085, 414.685

In the OSIPM program:

- (1) The *countable* (see OAR 461-001-0000) SSB income of an individual is determined according to sections (2) to (4) of this rule if the individual meets all of the following requirements:
 - (a) Is receiving Social Security Benefits (SSB);
 - (b) Was eligible for and receiving SSI or state supplements but became ineligible for those payments after April 1977; and
 - (c) Would be eligible for SSI or state supplement if the SSB COLA increases paid under section 215(i) of the Social Security Act, after the last month the individual was both eligible for and received SSI or a supplement and was entitled to SSB, were deducted from current SSB.
- (2) The SSB amount received by the individual when the individual became ineligible for SSI or OSIP is used as the individual's *countable* SSB income, for the purposes of the Pickle Amendment. If the *spouse* (see OAR 461-001-0000) of the individual also had Social Security benefits at the time the individual lost SSI benefits, SSB amount at that time of the *spouse* is considered the *countable* income of the *spouse*. If the amount cannot be determined using the information provided by the SSA, it is calculated in accordance with section (3) of this rule.
- (3) The Department determines the month in which the individual was entitled to SSB and received SSI in the same month. The Department uses the table in section (4) of this rule to find the percentage that applies to that month. The Department multiplies the present amount of the SSB of the individual by the applicable percentage. If the *spouse* of the individual also had SSB at the time the individual lost SSI benefits, the Department adjusts the SSB of the *spouse* using the same multiplier that was used for the individual's calculation under this section. This amount, rounded down to the next lower whole dollar, is the individual's *countable* SSB income.
- (4) The following guide contains the calculations used to determine the SSB for prior years (the Department uses this table only if the prior year's amount using information provided by SSA):

If SSI was Last Received During	Multiply Current SSB by
January 2017 – December 2017.....	.983
January 2015 - December 2016.....	.980
January 2014 - December 2014.....	.964
January 2013 - December 2013.....	.950
January 2012 - December 2012.....	.934
January 2009 - December 2011.....	.901

January 2008 - December 2008.....	.852
January 2007 - December 2007.....	.833
January 2006 - December 2006.....	.806
January 2005 - December 2005.....	.775
January 2004 - December 2004.....	.754
January 2003 - December 2003.....	.739
January 2002 - December 2002.....	.728
January 2001 - December 2001.....	.710
January 2000 - December 2000.....	.686
January 1999 - December 1999.....	.670
January 1998 - December 1998.....	.661
January 1997 - December 1997.....	.648
January 1996 - December 1996.....	.629
January 1995 - December 1995.....	.613
January 1994 - December 1994.....	.597
January 1993 - December 1993.....	.582
January 1992 - December 1992.....	.565
January 1991 - December 1991.....	.544
January 1990 - December 1990.....	.517
January 1989 - December 1989.....	.493
January 1988 - December 1988.....	.474
January 1987 - December 1987.....	.455
January 1986 - December 1986.....	.449
January 1985 - December 1985.....	.436
January 1984 - December 1984.....	.421
July 1982 - December 1983.....	.407
July 1981 - June 1982.....	.379
July 1980 - June 1981.....	.341
July 1979 - June 1980.....	.298
July 1978 - June 1979.....	.271
July 1977 - June 1978.....	.255
May or June 1977.....	.241

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 413.085, 414.685
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.083, 411.404, 411.704, 413.085,
414.685

AMEND: 461-135-0830

RULE TITLE: Eligibility for Disabled Adult Children; OSIPM

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-135-0830 about eligibility as a Disabled Adult Child in the OSIPM program is being amended to clarify the treatment of income and eligibility requirements, state that the Social Security Benefits received by the individual are benefits received from a parent's Social Security Benefit, and how the individual's countable income is determined. These amendments make the rule consistent with federal requirements.

RULE TEXT:

An individual is evaluated for OSIPM as a Disabled Adult Child if the individual meets all of the following requirements:

- (1) The individual is age 18 or older.
- (2) The Social Security Administration has determined that the individual became blind or a person with a disability (as defined by SSA) before reaching the age of 22.
- (3) The individual lost SSI benefits on or after July 1, 1987 because the individual became eligible for Social Security benefits from a parent's Social Security benefit as a result of a parent's retirement, death, or disability, or because of an increase in such benefits.
- (4) The individual would continue to be eligible for SSI in the absence of the Social Security Disabled Adult Child benefit or increases to that benefit. The amount of the individual's countable (see OAR 461-001-0000) income is determined as follows:
 - (a) For an individual who loses SSI as a result of receiving an initial award of Title II Disabled Adult Child benefits, the original Title II Disabled Adult Child benefit amount, including any subsequent COLAs, that creates ineligibility for SSI is excluded.
 - (b) For an individual who received both SSI and Title II Disabled Adult Child benefits and who lost SSI as a result of receiving an increase in Title II Disabled Adult Child benefits, the disregard is determined as follows:
 - (A) For individuals who received a non-COLA-related increase to Title II Disabled Adult Child benefits that created ineligibility for SSI, the amount of the increase, and any subsequent COLAs, are excluded and the amount received prior to the increase is used as the countable income amount.
 - (B) For an individual who lost SSI due to an annual Title II COLA, all COLAs received since the last month that the individual was eligible for and received both Title II Disabled Adult Child and SSI benefits are excluded.
 - (c) All other income of the individual is treated according to the administrative rule for that type of asset.
 - (5) An individual receiving Title II Disabled Adult Child benefits must meet the OSIPM resource limit and all other non-financial eligibility requirements.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 411.060, 411.404, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 411.060, 411.404, 42 USC 1383c

AMEND: 461-135-0950

RULE TITLE: Eligibility for Inmates and Residents of Public Institutions

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-135-0950 about eligibility for inmates and residents of state hospitals is being amended to set a 10-day reporting requirement to reinstate benefits automatically after an inmate is released, consistent with other change reporting requirements.

RULE TEXT:

(1) This rule sets out additional restrictions on the eligibility of inmates and residents of state hospitals for programs covered by Chapter 461 of the Oregon Administrative Rules.

(2) Definition of an "inmate".

(a) An inmate is an individual living in a public institution (see section (3) of this rule) who is:

(A) Confined involuntarily in a local, state or federal prison, jail, detention facility, or other penal facility, including an individual being held involuntarily in a detention center awaiting trial or an individual serving a sentence for a criminal offense;

(B) Residing involuntarily in a facility under a contract between the facility and a public institution where, under the terms of the contract, the facility is a public institution;

(C) Residing involuntarily in a facility that is under governmental control;

(D) Receiving care as an outpatient while residing involuntarily in a public institution; or

(E) In the OSIPM and QMB programs, released from the public institution during a temporary period of hospitalization in a medical institution outside of the correctional facility.

(b) An individual is not considered an inmate when:

(A) The individual is released on parole, probation, or post-prison supervision;

(B) The individual is on home- or work-release, unless the individual is required to report to a public institution for an overnight stay;

(C) The individual is staying voluntarily in a detention center, jail, or county penal facility after his or her case has been adjudicated and while other living arrangements are being made for the individual; or

(D) The individual is in a public institution pending other arrangements as defined in 42 CFR 435.1010.

(3) A "public institution" is any of the following:

(a) A state hospital (see ORS 162.135).

(b) A local correctional facility (see ORS 169.005): a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds individuals for more than 36 hours.

(c) A Department of Corrections institution (see ORS 421.005): a facility used for the incarceration of individuals sentenced to the custody of the Department of Corrections, including a satellite, camp, or branch of a facility.

(d) A youth correction facility (see ORS 162.135):

(A) A facility used for the confinement of youth offenders and other individuals placed in the legal or physical custody of the youth authority, including a secure regional youth facility, a regional accountability camp, a residential academy and satellite, and camps and branches of those facilities; or

(B) A facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youth, or youth offenders pursuant to a judicial commitment or order.

(4) Definition of serious mental illness. An individual has a serious mental illness if the individual has been diagnosed by a psychiatrist, a licensed clinical psychologist or a certified non-medical examiner as having dementia, schizophrenia, bipolar disorder, major depression or other affective disorder or psychotic mental disorder other than a substance abuse disorder and other than a disorder that is caused primarily by substance abuse.

(5) An individual who resides in a state hospital (see subsection (3)(a) of this rule) meets the definition of a serious mental illness (see section (4) of this rule), and applies for medical assistance between 90 and 120 days prior to the expected date of the person's release from the state hospital may be found eligible for medical assistance. If the

individual is determined to be eligible, the effective date of the individual's medical assistance is the date the individual is released from the institution.

(6) In the OSIPM and QMB programs, a client who becomes a resident of a state hospital has medical benefits suspended if the client is at least 21 years of age and under 65 years of age. When a client with suspended medical benefits is no longer a resident of the state hospital, or when the individual is admitted to a medical institution outside of the state hospital for a period of hospitalization, medical benefits are reinstated effective the first day the client is no longer a resident, if the client continues to meet eligibility for the medical program.

(7) An individual residing in a state hospital may be eligible for OSIPM benefits if the individual:

(a) Receives services on a certified ward;

(b) Receives a Certificate of Need for Services from the State-authorized agency; and

(c) Meets one of the following:

(A) Is 65 years of age or older;

(B) Is under 21 years of age; or

(C) Is 21 years of age or older, if the basis of need is disability or blindness; eligibility was determined before the individual reached 21 years of age; and the individual entered the state hospital before reaching 22 years of age.

(8) For all programs covered under chapter 461 of the Oregon Administrative Rules:

(a) Except as provided otherwise in this rule, an inmate (see section (2) of this rule) of a public institution is not eligible for benefits.

(b) If a pregnant woman receiving medical assistance through the OSIPM program becomes an inmate of a public institution, her medical benefits are suspended. When the Department is informed the woman is no longer an inmate, her medical benefits are reinstated – effective on the first day she is no longer an inmate – if she is still in her protected period of eligibility under OAR 461-135-0010.

(c) If an individual receiving medical assistance through the OSIPM or QMB programs becomes an inmate of a correctional facility, medical benefits are suspended during the incarceration period.

(d) In the OSIPM and QMB programs, when the Department is notified that an individual with suspended benefits has been released or has been admitted to a hospital outside of the public institution for a period of hospitalization, medical benefits are reinstated effective the first day the client is no longer an inmate if both of the following are true:

(A) The client continues to meet eligibility for the medical program; and

(B) The notification takes place within ten calendar days of the release, or the notification takes place more than ten calendar days from the release date and there is good cause for the late reporting.

(9) In the GA and SNAP programs, in addition to the other provisions of this rule, an inmate released from a public institution on home arrest, and required to wear an electronic device to monitor his or her activity, is ineligible for benefits if the correctional agency provides room and board to the individual.

(10) In the GA program, when an individual becomes an inmate of a public institution:

(a) Benefits may continue for the two calendar months following the month the Department is notified of the incarceration, if the individual will be released before the end of the second calendar month and the housing arrangement is still available.

(b) If the individual will be released after the end of the second calendar month following the month of notification, or if the release date is not known, benefits will be closed effective the end of the notice period (see OAR 461-175-0050) for a timely continuing benefit decision notice (see OAR 461-001-0000).

STATUTORY/OTHER AUTHORITY: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685, 412.014

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 411.060, 411.070, 411.404, 411.447, 411.816, 412.014, 412.049, 414.426

AMEND: 461-140-0110

RULE TITLE: Treatment of Periodic Income

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-140-0110 about the treatment of periodic income is being amended to establish that for the OSIPM and QMB programs periodic income will be averaged for both determining eligibility and calculating client liability. This amendment also incorporates a monthly \$10 earned and \$20 unearned exclusion of combined periodic and lump-sum income. These changes provide clearer direction on prospective budgeting and are more compatible with the Integrated Eligibility system.

RULE TEXT:

- (1) In the SNAP and TANF programs, for a filing group (see OAR 461-110-0330 and 461-110-0370) that includes at least one member who is working under a TANF JOBS Plus agreement, periodic income (see OAR 461-001-0000) is excluded.
- (2) In the REF, SNAP, and TANF programs, for filing groups not covered under section (1) of this rule, periodic income is averaged over the applicable period.
- (3) In the ERDC program, periodic income is averaged over the applicable period.
- (4) In the OSIPM and QMB programs, periodic income is averaged over the applicable period, except as follows:
 - (a) A new source of periodic income received or expected to be received in any month following the month containing the date of request (see OAR 461-115-0030) is not averaged and counted until the first month it is received.
 - (b) When determining countable (see OAR 461-001-0000) income for the purposes of eligibility, the following exclusions apply to the total amount of combined periodic income and lump-sum income (see OAR 461-001-0000) received by an individual each month, including non-applying spouses and children:
 - (A) A \$10 monthly exclusion from earned income.
 - (B) A \$20 monthly exclusion from unearned income.
 - (c) For purposes of calculating client liability under OAR 461-160-0620:
 - (A) Any periodic income received in a month prior to the month containing the date of request is excluded.
 - (B) Any periodic income received or expected to be received in any month following the month containing the date of request is not averaged and counted until the month it is received.
- (5) In the REFM program, periodic income is averaged over the applicable period if received in the month of application.
- (6) In all programs not covered under sections (1) to (4) of this rule, periodic income is counted in the month received.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

AMEND: 461-140-0120

RULE TITLE: Availability and Treatment of Lump-Sum Income

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-140-0120 about the availability and treatment of lump-sum income is being amended to incorporate a \$10 earned and \$20 unearned monthly exclusion of combined periodic and lump-sum income for QMB programs and all OSIPM programs, including EPD. This rule is also amended to acknowledge that not all lump-sum income is unearned. These changes are more compatible with the Integrated Eligibility system.

RULE TEXT:

- (1) Lump-sum income (see OAR 461-001-0000) is treated as follows if it is received by a member of a financial group (see OAR 461-110-0530).
- (2) In the EA, REF, REFM, SNAP, and TANF programs:
 - (a) Lump-sum income is a resource.
 - (b) In the EA, REF, REFM, and TANF programs:
 - (A) Lump-sum income is considered available to the financial group when a member of the group receives the income and until the income becomes unavailable for a reason beyond the group's control.
 - (B) Lump-sum income is considered unavailable for a reason beyond the group's control if the member who received the lump-sum income:
 - (i) Leaves the financial group before spending any of the lump-sum income; or
 - (ii) Spends the lump-sum income on an immediate basic need or emergency.
- (3) In the ERDC program, lump-sum income is excluded.
- (4) In the OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD), and QMB-DW programs, lump-sum income is treated as follows:
 - (a) Lump-sum income not excluded is income in the month of receipt, and any amount remaining in future months is a resource, except that in the OSIP and OSIPM programs retroactive SSB and SSI payments are treated in accordance with OAR 461-145-0490 and 461-145-0510.
 - (b) The following lump-sum income is excluded when calculating countable (see OAR 461-001-0000) income for the purposes of determining eligibility and calculating client liability under OAR 461-160-0620:
 - (A) The income the client turns over to the Department as reimbursement for previous assistance; and
 - (B) The income the client uses to pay for special need items approved by the Department. Special needs are explained in OAR 461-155-0500 and following.
 - (c) When calculating countable income for the purposes of eligibility, the following exclusions apply to the total amount of combined lump-sum income and periodic income (see OAR 461-001-0000) received by an individual each month, including non-applying spouses and children:
 - (A) The first \$10 of earned income received in a month.
 - (B) The first \$20 of unearned income received in a month.
- (5) In the QMB-BAS, QMB-SMB, and QMB-SMF programs:
 - (a) Lump-sum income not excluded is income in the month of receipt, except that retroactive SSB and SSI payments are treated in accordance with OAR 461-145-0490 and 461-145-0510.
 - (b) The following lump-sum income is excluded:
 - (A) The income the client turns over to the Department as reimbursement for previous assistance; and
 - (B) The income the client uses to pay for special need items approved by the Department. Special needs are explained in OAR 461-155-0500 and following.
 - (c) The following exclusions apply to combined lump sum income and periodic income received by an individual, including non-applying spouses and children:
 - (A) The first \$10 of earned income received in a month.
 - (B) The first \$20 of unearned income received in a month.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 410.010, 410.020, 410.070, 410.080, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

AMEND: 461-145-0080

RULE TITLE: Child Support and Cash Medical Support

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-145-0080 about child support and cash medical support is being amended to support changes to OAR, 461-160-0550, OAR 461-160-0551, and OAR 461-160-0552 which establish a new deduction for child support paid by an ineligible or non-applying spouse to someone outside the home (when the ineligible or non-applying spouse is in the individual's OSIPM or QMB program financial group). These changes align with federal policy and are more compatible with the Integrated Eligibility system.

RULE TEXT:

(1) Child support and cash medical support paid by a non-custodial parent for a dependent child (see OAR 461-001-0000) or minor parent (see OAR 461-001-0000) in the financial group (see OAR 461-110-0530) are considered income of the dependent child or minor parent, whether the support is paid voluntarily or in accordance with an order to pay child support.

(2) For the purposes of this rule:

(a) "Absent parent" means a parent (see OAR 461-001-0000) whose parental rights have not been legally severed or a stepparent currently legally married (see OAR 461-001-0000) to a parent of a child (see OAR 461-001-0000) who does not live in the same household as the child.

(b) "Disregard" means child support, up to \$50 per dependent child or minor parent per financial group per month and not to exceed \$200 per financial group per month, that is not counted as income of the client. "Disregard" includes current child support only.

(c) "Pass-through" means child support, up to \$50 per dependent child or minor parent per financial group per month and not to exceed \$200 per financial group per month, that is sent to the client before any remaining amount of current child support is withheld by the State. "Pass-through" includes current child support only.

(3) In the ERDC program, child support is considered countable (see OAR 461-001-0000) unearned income if it is received by the financial group or is countable under OAR 461-145-0280. Otherwise it is excluded.

(4) In the SNAP program, child support and cash medical support are treated as follows:

(a) Child support payments the group receives that must be assigned to the Department to maintain TANF eligibility are excluded, even if the group fails to turn the payments over to the Department.

(b) Child support payments received by a filing group (see OAR 461-110-0370) with at least one member working under a TANF JOBS Plus agreement are excluded, except:

(A) It is considered countable unearned income in the calculation of the wage supplement; and

(B) Any pass-through pursuant to section (2) of this rule is considered countable unearned income.

(c) All other child support, including any pass-through pursuant to section (2) of this rule, is considered countable unearned income.

(d) Cash medical support is considered countable unearned income except to the extent it is used to reimburse (see OAR 461-145-0440) an actual medical cost.

(e) Payments made by a non-custodial parent to a third party for the benefit of the financial group are treated in accordance with OAR 461-145-0280.

(5) Except as provided otherwise in section (8) of this rule, in the TANF program:

(a) In determining initial eligibility (see OAR 461-001-0000), except for disregard pursuant to section (2) of this rule, child support received by the Oregon Department of Justice, Division of Child Support (DCS) is considered countable unearned income, if continued receipt of the child support is reasonably anticipated. These payments are excluded when determining the benefit amount.

(b) In determining on-going eligibility, except for clients working under a TANF JOBS Plus agreement and except for child support passed through to the client and disregarded pursuant to section (2) of this rule, child support received by the DCS is considered countable unearned income, if continued receipt of the child support is reasonably anticipated.

These payments are excluded when determining the benefit amount.

(c) For clients working under a TANF JOBS Plus agreement:

(A) Child support is excluded in determining countable income.

(B) Child support is excluded when calculating the TANF portion of the benefit equivalency standards.

(C) All child support paid directly to the client is considered countable unearned income in the calculation of the wage supplement.

(d) All other child support payments:

(A) Paid directly to the financial group that are turned over to the Department or to the DCS are considered countable unearned income except for any amount of pass-through and disregard pursuant to section (2) of this rule.

(B) Paid directly to the financial group that are not turned over to the Department or to the DCS are considered countable unearned income.

(C) Paid to a third party for the benefit of the financial group are considered countable unearned income. This includes but is not limited to payments made by a non-custodial parent to a third party for rent, mortgage, utilities, or child care.

(e) Cash medical support is excluded in determining countable income.

(6) In the OSIP, OSIPM, and QMB programs:

(a) Child support and cash medical support paid to the financial group are considered countable unearned income, except as follows:

(A) One-third of all cash child support (including cash medical support) paid to an individual is excluded.

(B) All in-kind child support paid to the financial group is excluded.

(C) Child support collected from an absent parent (see section (2) of this rule) by the State on behalf of a child in the custody of the State of Oregon (such as foster care) that is not given to the child or the custodial parent of the child is excluded.

(D) Child support payments collected by the State of Oregon that are given to the individual or to the custodial parent are counted in accordance with paragraph (A) of this subsection.

(b) Child support and cash medical support paid by the financial group are not deductible from income except as provided in OAR 461-160-0550, OAR 461-160-0551, and OAR 461-160-0552.

(7) In the SFPSS program, notwithstanding section (5) of this rule, for on-going eligibility and benefit determination:

(a) Except for disregard pursuant to section (2) of this rule, child support is considered countable unearned income.

(b) Cash medical support is excluded in determining countable income.

(c) Payments made by a non-custodial parent to a third party for the benefit of the financial group are considered countable unearned income. This includes but is not limited to payments made by a non-custodial parent to a third party for rent, mortgage, utilities, or child care.

(8) For on-going eligibility and benefit determination for TANF clients in a two-parent household:

(a) Except for disregard pursuant to section (2) of this rule, child support is considered countable unearned income.

(b) Cash medical support is excluded in determining countable income.

(c) Payments made by a non-custodial parent to a third party for the benefit of the financial group are considered countable unearned income. This includes but is not limited to payments made by a non-custodial parent to a third party for rent, mortgage, utilities, or child care.

(d) For a filing group (see OAR 461-110-0330) with at least one member working under a TANF JOBS Plus agreement:

(A) Child support is excluded in determining countable income.

(B) Child support is excluded when calculating the TANF portion of the benefit equivalency standards.

(C) All child support paid directly to the client is considered countable unearned income in the calculation of the wage supplement.

STATUTORY/OTHER AUTHORITY: 409.050, 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049, 413.085, 414.685, ORS 329A.500

STATUTES/OTHER IMPLEMENTED: ORS 329A.500, 409.010, 411.060, 411.070, 411.404, 411.816, 412.009, 412.014,

412.049, 413.085, 414.685

AMEND: 461-145-0089

RULE TITLE: Corporations and Other Business Entities; Income and Resources, Not Self-Employment; OSIP, OSIPM, QMB

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-145-0089 about the treatment of business entity income and resources for the OSIP, OSIPM, and QMB programs is being amended to remove references to the in-kind income rule, clarifying that non-business expenditures paid by a corporation or business entity are either earned or unearned income to the individual.

RULE TEXT:

In the OSIP, OSIPM, and QMB programs:

(1) For purposes of this rule:

(a) "Business entity" includes a sole proprietorship, a partnership, and an unincorporated limited liability company.

(b) "Principal" means an individual with significant authority in and responsibility for the success or failure of a corporation or "business entity" (see subsection (a) of this section), including:

(A) A sole proprietor.

(B) A general partner in a partnership.

(C) A member or manager of a limited liability company.

(D) An officer or stockholder with controlling shares in a closely-held corporation.

(2) This rule applies to an individual who has an ownership interest in:

(a) A corporation; or

(b) A business entity, but is not considered self-employed (see OAR 461-145-0915).

(3) For an individual with an ownership interest in and actively working for a corporation:

(a) The individual cannot be considered self-employed, regardless of whether or not the individual is a principal (see subsection (1)(b) of this rule). Income from actively working for the corporation is treated as earned income as provided in OAR 461-145-0130.

(b) Dividends or profits are treated as unearned income.

(c) Income not paid to an individual but retained by the corporation is not considered income of the individual.

(d) Property and resources owned by the corporation are excluded.

(e) Except for QMB-BAS, QMB-SMB, and QMB-SMF, if maintaining an ownership interest in a corporation is required for employment, the equity value (see OAR 461-001-0000) of the ownership interest is excluded; otherwise it is counted as provided in subsection (6)(a) of this rule.

(f) A non-business expenditure – including, but not limited to, a car or housing payment – paid by the corporation that benefits the individual is treated as earned income of the individual.

(4) If the individual has an ownership interest in a business entity, is considered a principal, and is actively working in the business entity, the individual is considered self-employed (see OAR 461-145-0915).

(5) If the individual has an ownership interest in a business entity, is not considered a principal, and is actively working in the business entity:

(a) The individual's income, not including dividends or profits from the business entity, is treated as earned income as provided in OAR 461-145-0130.

(b) Dividends or profits are treated as unearned income.

(c) Except for QMB-BAS, QMB-SMB, and QMB-SMF, if maintaining an ownership in the business entity is required for employment, the equity value of the ownership interest is excluded; otherwise it is counted as provided in subsection (6)(a) of this rule.

(d) A non-business expenditure – including, but not limited to, a car or housing payment – paid by a business entity that benefits the individual is treated as earned income of the individual.

(6) If the individual has an ownership interest in a corporation or business entity, but is not actively working in the corporation or business entity:

(a) Except for QMB-BAS, QMB-SMB, and QMB-SMF, and except as provided in OAR 461-140-0020, the equity value of an ownership interest in a corporation or business entity, such as stock in the corporation, is treated as a resource. See OAR 461-145-0520 for how to treat stock.

(b) Except as provided in OAR 461-140-0040, income of the individual from a corporation or business entity is treated as unearned income of the individual.

(c) A non-business expenditure – including, but not limited to, a car or housing payment – paid by a corporation or business entity that benefits the individual is treated as unearned income of the individual.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685, 414.839

AMEND: 461-145-0108

RULE TITLE: Dividends, Interest and Royalties

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-145-0108 about dividends, interest and royalties is being amended to indicate how income is treated for clients actively working in the trade or business that generates the royalties, including whether the income is treated as self-employment income or earned income. These changes clarify the rule.

RULE TEXT:

(1) In the OSIP, OSIPM, and QMB programs:

(a) Unless otherwise stated in chapter 461 of the Oregon Administrative Rules, dividends and interest earned on mutual funds and securities, including stocks, bonds, educational savings bonds, and certificates of deposit (CDs), are excluded as income. Interest earned on other assets is treated according to the rule for that asset.

(b) Royalties include compensation paid to the owner for the use of property, usually copyrighted material or natural resources, such as coal, oil, or natural gas, which normally are extracted from the ground. Except as provided in paragraphs (A) and (B) of this subsection, royalties are treated as unearned income.

(A) For an individual who is actively working in the trade or business that generates the royalties:

(i) Income is treated as self-employment if self-employment criteria are met (see OAR 461-145-0915 regarding self-employment criteria).

(ii) Income that does not meet self-employment criteria is counted as earned income.

(B) Royalties received by an individual in connection with any publication of the individual's work are treated as earned income (see OAR 461-145-0130).

(2) In all programs except the OSIP, OSIPM, and QMB programs:

(a) Dividends are counted as unearned income.

(b) Interest income is counted as unearned income.

(c) Royalties are counted as unearned income, except that royalties are counted as earned income if the client is actively engaged in the activity from which the royalties are accrued.

STATUTORY/OTHER AUTHORITY: ORS 411.060, 411.070, 411.816, 414.042, 412.049

STATUTES/OTHER IMPLEMENTED: ORS 411.060, 411.070, 411.816, 414.042, 412.049

AMEND: 461-145-0120

RULE TITLE: Earned Income; Defined

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-145-0120 about the definition of earned income is being amended to remove the reference to the in-kind income rule in the non-business expenditure section and address the income a principal of a corporation earns working for that corporation, a topic in the treatment of earned income rule. This amendment better conforms the content of the rule to its topic.

RULE TEXT:

Earned income is income received in exchange for an individual's physical or mental labor. Earned income includes all of the following:

- (1) Compensation for services performed, including wages, salaries, commissions, tips, sick leave, vacation pay, draws, or the sale of blood or plasma.
- (2) Income from on-the-job-training, paid job experience, JOBS Plus work experience, or Welfare-to-Work work experience.
- (3) In-kind income, when an individual is an employee of the person providing the in-kind income and the income is in exchange for work performed by the individual, or when received as compensation from self-employment.
- (4) For self-employment, gross receipts and sales, including mileage reimbursements, before costs.
- (5) In:
 - (a) The SNAP program, cafeteria plan (see OAR 461-001-0000) benefits, and funds placed in a flexible spending account.
 - (b) All programs except the SNAP program, cafeteria plan benefits that an employee takes as cash, and funds placed in a flexible spending account.
- (6) Income from work-study.
- (7) Income from profit sharing that the individual receives monthly or periodically.
- (8) The fee for acting as an individual's representative payee, when that individual is not included in the filing group (see OAR 461-110-0310).
- (9) In the SNAP program, expenditure by a business entity that substantially benefits a principal (see OAR 461-145-0088).
- (10) In the OSIP, OSIPM, and QMB programs:
 - (a) A non-business expenditure — including, but not limited to, a personal car or housing payment — paid by an individual's corporation or business entity (see OAR 461-145-0089) that benefits the individual.
 - (b) The income a principal (see OAR 461-145-0089) earns working for a corporation.

STATUTORY/OTHER AUTHORITY: 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, ORS 409.050, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839

AMEND: 461-145-0130

RULE TITLE: Earned Income; Treatment

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-145-0130 about the treatment of earned income is being amended to remove content about corporation income that is more appropriate in the earned income definition rule. This amendment better conforms the content of the rule to its topic.

RULE TEXT:

(1) Earned income (see OAR 461-145-0120) is countable (see OAR 461-001-0000) in determining eligibility (see OAR 461-001-0000) for programs, subject to the provisions in sections (2) to (10) of this rule.

(2) JOBS Plus income is earned income and is treated as follows:

(a) In the SNAP program:

(A) JOBS Plus income earned by a TANF-PLS (see OAR 461-101-0010) client:

(i) Is counted in determining initial SNAP program eligibility.

(ii) Is excluded in determining ongoing eligibility.

(B) JOBS Plus wages received after the individual's last month of work under a TANF-PLS JOBS Plus agreement are counted.

(b) In the TANF program:

(A) JOBS Plus income earned by an NCP-PLS (see OAR 461-101-0010) client is counted in determining initial TANF eligibility.

(B) When determining the need for a TANF supplement for a TANF-PLS client, the income is treated as follows:

(i) It is excluded in determining the countable income limit and in calculating the benefit equivalency standards.

(ii) It is counted in calculating the wage supplement.

(C) JOBS Plus wages received after the individual's last month of work under a JOBS Plus agreement are counted.

(c) In the OSIPM and QMB programs, JOBS Plus wages received after the individual's last month of work under a TANF-PLS JOBS Plus agreement are counted.

(d) In all programs not covered under subsections (a) to (c) of this section, TANF-PLS income is counted as earned income.

(e) In all programs other than the TANF program, NCP-PLS income is counted as earned income.

(f) In all programs, wages received under the Tribal TANF JOBS programs are counted as earned income.

(3) Welfare-to-Work work experience income is treated as follows:

(a) In the REF, REFM, and TANF programs, the income is earned income, and the first \$260 is excluded each month.

(b) In the SNAP program, the income is earned income.

(4) In the ERDC program, earned income of a child (see OAR 461-001-0000) is excluded.

(5) In the OSIP, OSIPM, and QMB programs, documented net losses from a self-employment business (see OAR 461-150-0095) are excluded from any other source of earned income of the financial group (see OAR 461-110-0530).

(6) In the REF and REFM programs:

(a) Income remaining after the month of receipt is a resource.

(b) Earned in-kind income is excluded (see OAR 461-145-0280 and 461-145-0470).

(7) In the TANF program:

(a) Earned income of the following children is excluded:

(A) Dependent children under the age of 19 years, and minor parents under the age of 18 years, who are full-time students in grade 12 or below (or the equivalent level of vocational training, in GED courses), or in home schooling approved by the local school district.

(B) Dependent children under the age of 18 years who are attending school part-time (as defined by the institution) and are not employed full-time.

(C) Dependent children too young to be in school.

- (b) Income remaining after the month of receipt is a resource.
- (c) Earned in-kind income is excluded (see OAR 461-145-0280 and 461-145-0470).
- (8) In the SNAP program:
 - (a) If a cafeteria plan (see OAR 461-001-0000) benefit that the employee may not elect to receive as a cash payment is designated and used to pay for child care, medical care, or health insurance, the benefit is excluded unless it is reimbursed by the Department. If reimbursed, the Department counts it as earned income.
 - (b) The following types of income are excluded:
 - (A) The earned income of an individual under the age of 18 years who is under the parental control of another member of the household and is:
 - (i) Attending elementary or high school;
 - (ii) Attending GED classes recognized by the local school district;
 - (iii) Completing home-school elementary or high school classes recognized by the local school district; or
 - (iv) Too young to attend elementary school.
 - (B) Earned in-kind income, except as provided in section (9) of this rule.
 - (C) Deductions from base pay for future educational costs under Pub. L. No. 99-576, 100 Stat. 3248 (1986), for an individual on active military duty.
 - (D) Income remaining after the month of receipt is a resource.
 - (9) In the SNAP program, earned in-kind income (see OAR 461-145-0280) is excluded unless it is an expenditure by a business entity that benefits a principal (see OAR 461-145-0088).
 - (10) In all programs except in the OSIPM program, for an individual in a nonstandard living arrangement (see OAR 461-001-0000), the income of a temporary employee of the U.S. Census Bureau employed to assist in taking the census is excluded.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 413.085, 414.685, 414.839

AMEND: 461-150-0050

RULE TITLE: Prospective Eligibility and Budgeting; OSIP, OSIPM, and QMB

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-150-0050 about prospective eligibility and budgeting in the OSIP, OSIPM and QMB programs is being amended to explain how prospective budgeting works when determining eligibility for APD medical programs. These changes provide clearer direction on prospective budgeting and are more compatible with the Integrated Eligibility system.

RULE TEXT:

In the OSIP, OSIPM, and all QMB programs, the Department uses prospective eligibility (see OAR 461-001-0000) and budgeting (see OAR 461-001-0000) as follows:

(1) In the OSIP (except OSIP-IC), OSIPM (except OSIPM-IC), and all QMB programs:

(a) For the initial month (see OAR 461-001-0000):

(A) When a new source of income begins in the initial month, only income received or expected to be received in that month is counted.

(B) Except as provided in paragraph (A) of this subsection, the Department converts and averages prospective income in accordance with OAR 461-150-0070 and OAR 461-050-0080.

(b) For each ongoing month (see OAR 461-001-0000), the Department converts and averages prospective income in accordance with OAR 461-150-0070 and OAR 461-150-0080.

(2) In the OSIP-IC and OSIPM-IC programs, the budget month (see OAR 461-001-0000) is the initial month of eligibility.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 410.010, 410.070, 410.080, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685, 414.839

AMEND: 461-150-0070

RULE TITLE: Prospective Budgeting of Stable Income

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-150-0070 about prospective budgeting of stable income is being amended to provide clearer direction on how to count stable income in the initial, retroactive, and ongoing months in the OSIP, OSIPM and QMB programs. These changes provide clearer direction on prospective budgeting and are more compatible with the Integrated Eligibility system.

RULE TEXT:

(1) Stable income (see OAR 461-001-0000) in prospective budgeting (see OAR 461-001-0000) and eligibility (see OAR 461-001-0000) is treated so that the monthly amount is used to anticipate the income of the financial group (see OAR 461-110-0530). The amount of stable income for each month is determined as follows:

- (a) If paid once per month, that amount is used.
- (b) If paid twice per month or semi-monthly, that amount is converted to a monthly amount by multiplying it by two.
- (c) If paid once every other week or biweekly, that amount is converted to a monthly amount by multiplying it by 2.15.
- (d) If paid once per week, that amount is converted to a monthly amount by multiplying it by 4.3.

(2) In the OSIP, OSIPM, and QMB programs:

(a) In the initial month and for any months of retroactive eligibility (see OAR 461-135-0875):

(A) When a new source of stable income begins in the initial month or retroactive months, the amount counted is the actual amount received or the amount expected to be received.

(B) Except as provided for in paragraph (A) of this subsection, stable income is converted and averaged in accordance with section (1) of this rule.

(b) In each ongoing month (see OAR 461-001-0000), stable income is converted and averaged in accordance with section (1) of this rule.

(3) In the SNAP program, stable income the client expects to receive less often than monthly is treated as periodic income (see OAR 461-001-0000) under OAR 461-140-0110.

STATUTORY/OTHER AUTHORITY: 411.060, 411.404, 411.816, 412.049, ORS 409.050, 412.014, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: 411.060, 411.404, 411.816, 412.049, ORS 409.010, 412.014

AMEND: 461-150-0080

RULE TITLE: Prospective Budgeting of Variable Income

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-150-0080 about prospective budgeting of variable income is being amended to set out how to count variable income in the initial, retroactive, and ongoing months in the OSIP, OSIPM and QMB programs. These changes provide clearer direction on prospective budgeting and are more compatible with the Integrated Eligibility system.

RULE TEXT:

Variable income (see OAR 461-001-0000) is used as follows in prospective budgeting (see OAR 461-001-0000) and eligibility (see OAR 461-001-0000) so that the anticipated amount is the same for each month, except as specified in OAR 461-150-0060 and section (6) of this rule:

- (1) For income paid more than once per month, determine an average amount per pay period in accordance with sections (2) to (4) of this rule. The average amount is then converted to a monthly amount as follows, if paid –
 - (a) Twice per month, multiply by 2;
 - (b) Every other week, multiply by 2.15; or
 - (c) Once per week, multiply by 4.3.
- (2) For variable earned income based on an hourly wage when the past is representative, monthly income is determined by calculating an average number of hours per pay period, then these hours are multiplied by the hourly wage and converted to a monthly amount under section (1) of this rule.
- (3) For variable earned income involving various rates of pay (overtime, shift differential, tips) when the past is representative, monthly income is determined by calculating the average income per pay period, then the average income is converted to a monthly amount under section (1) of this rule.
- (4) For variable earned or unearned income when the past is representative and income cannot be calculated under section (2) or (3) of this rule, monthly income is determined by averaging the income over --
 - (a) A representative period of months by totaling the income for those months and dividing by the number of months used; or
 - (b) A representative number of pay periods and converting to a monthly amount under section (1) of this rule.
- (5) For variable earned and unearned income when the past is not representative of the income the financial group (see OAR 461-110-0530) will receive during the eligibility period, the client and the Department jointly determine the anticipated income.
- (6) In the OSIP, OSIPM, and QMB programs:
 - (a) In the initial month and for any months of retroactive eligibility (see OAR 461-135-0875):
 - (A) When a new source of variable income begins in the initial month or retroactive months, the amount counted is the actual amount received or the amount expected to be received.
 - (B) Except as provided for in paragraph (A) of this subsection, variable income is converted and averaged in accordance with sections (1) to (5) of this rule.
 - (b) In each ongoing month (see OAR 461-001-0000), variable income is converted and averaged in accordance with sections (1) to (5) of this rule.
- (7) In the SNAP program, a financial group meeting the definition of "destitute household" in OAR 461-135-0575 is not eligible to use the income averaging option for the initial month (see OAR 461-001-0000) of eligibility or the first month of a new certification period. For a destitute financial group, income for the initial month of eligibility and the first month of a certification period is determined under OAR 461-150-0100, thereafter, the financial group is subject to sections (2) to (5) of this rule.

STATUTORY/OTHER AUTHORITY: 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, ORS 409.050, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, ORS 409.010

AMEND: 461-160-0010

RULE TITLE: Use of Resources in Determining Financial Eligibility

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-160-0010 about the use of resources in determining financial eligibility is being amended for the OSIP and OSIPM programs to correct and move the definition of parental resources, state that the rule applies to the individual's eligibility rather than the need group, state that the rule should be used only for children who are not assumed eligible, and add a definition of "ineligible parent". These changes clarify the parental resource deeming process when children apply.

RULE TEXT:

Countable (see OAR 461-001-0000) resources are used to determine eligibility (see OAR 461-001-0000) as follows:

- (1) In the EA program, the countable resources of a financial group (see OAR 461-110-0530) are used to reduce benefits.
- (2) In the ERDC, QMB-DW, REF, REFM, SNAP, and TANF programs, a need group (see OAR 461-110-0630) is not eligible for benefits if the financial group has countable resources above the resource limit (see OAR 461-160-0015).
- (3) In the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs:
 - (a) An individual is not eligible for benefits if the financial group has countable resources above the resource limit (see OAR 461-160-0015).
 - (b) The following provisions apply when a child (see OAR 461-001-0000) who is not assumed eligible (see OAR 461-135-0010) is applying:
 - (A) As used in the subsection, "ineligible parent" means a parent (see OAR 461-001-0000) who is not receiving SSI or TANF.
 - (B) As used in this section, "parental resources" means the countable resources of:
 - (i) Each ineligible parent (see paragraph (A) of this subsection) in the financial group of the child; and
 - (ii) Each spouse (see OAR 461-001-0000) of an ineligible parent in the financial group of the child.
 - (C) The parental resources (see paragraph (B) of this subsection) are deemed available to the child. The amount deemed available to the child is the amount the parental resources exceed the resource limit (see OAR 461-160-0015) of:
 - (i) A one-person need group, if one parent (see OAR 461-001-0000) lives in the household of the child; or
 - (ii) A two-person need group, if two parents (or one parent and the spouse (see OAR 461-001-0000) of that parent) live in the household of the child.
 - (D) If more than one child is applying, the value of the deemed resources is divided evenly between the applying children.
 - (E) The parental resources are not deemed available to a non-applying child.
 - (F) The value of the parental resources is subject to deeming whether or not those resources are available to the child.
 - (4) In the OSIP-EPD and OSIPM-EPD programs:
 - (a) A need group is not eligible for benefits if the financial group has countable resources above the resource limit (see OAR 461-160-0015).
 - (b) Any money in an approved account (see OAR 461-001-0035) is excluded during the determination of eligibility.
 - (c) Assets purchased from moneys in an approved account are excluded, provided they meet the requirements of OAR 461-145-0025.
 - (d) Assets purchased as employment and independence expenses (see OAR 461-001-0035) are excluded, provided they meet the requirements of OAR 461-145-0025.
 - (5) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, all resources are excluded and have no effect on eligibility (see OAR 461-160-0015).

STATUTORY/OTHER AUTHORITY: ORS 329A.500, 409.050, 411.060, 411.070, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 329A.500, 409.010, 411.060, 411.070, 411.117, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685, 414.839

AMEND: 461-160-0030

RULE TITLE: Overview of Costs

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-160-0030 about overview of costs is being amended for the OSIP and OSIPM programs to establish that the cost is incurred when it is either paid or the individual is billed. This amendment also establishes that costs must be reported within 10 days to be used and addresses how and when costs are applied. For ongoing costs, this amendment allows ongoing costs over the determination period (or through the next annual review) instead of being limited to a six-month projection. These amendments set clearer and more consistent parameters.

RULE TEXT:

(1) Costs incurred by the filing group that the filing group has a legal responsibility to pay are deductible from income in accordance with the rules in this division of rules.

(2) The following costs are not deductible:

(a) A cost paid by someone outside the filing group through a reimbursement, vendor payment, or inkind benefit.

(b) A cost that is paid by a person or company outside the filing group or that is written off by a medical facility. These are referred to as thirdparty payments.

(c) The cost for a service provided by someone in the filing group, such as child care provided by the father while the mother works.

(d) A cost used as an income deduction in one budget month or averaged over several months cannot be used again.

(e) In the OSIPM program, a cost that the client incurred while the client was serving a disqualification from Medicaid under OAR 461-140-0210 to 461-140-0300 for a transfer of assets for less than fair market value.

(3) In the OSIP and OSIPM programs, to determine the medical deduction allowed under OAR 461-160-0620, the Department uses the following methods:

(a) Costs are considered incurred when they are either paid by the individual or billed by the provider.

(b) In order to be allowed as a deduction, costs must be reported within 10 days of the date they are incurred (see OAR 461-180-0020).

(c) One-time medical expenses are treated as follows:

(A) If the individual reports an expense that was paid in full, the cost is allowed in the month in which it was paid (see OAR 461-180-0020).

(B) If the expense was billed but not paid in full:

(i) The amount allowed as a deduction is the amount the individual expects to pay each month, not to exceed the total amount due at time the expense is reported.

(ii) Additional deductions are not allowed if the individual fails to pay the cost.

(iii) The deduction begins the month the individual reports they will begin making payments.

(d) Recurring costs, such as those for ongoing prescription medications, may be anticipated and allowed through the next annual redetermination (see OAR 461-115-0430).

(A) The amount anticipated should reflect actual and verified costs.

(B) Recurring expenses may not be averaged.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 411.060, 411.400, 411.816, 412.014, 412.049, 411.404, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 411.060, 411.400, 411.816, 412.014, 412.049, 411.404

AMEND: 461-160-0540

RULE TITLE: Determining Income Eligibility; QMB and OSIPM (except OSIPM-EPD) Living in the Community

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-160-0540 about determining income eligibility for individuals who live in the community for the QMB and OSIPM programs (except OSIPM-EPD) is being amended to state the policy on this topic for the QMB-DW and QMB-SMF programs, and make changes to indicate the rule strictly deals with income eligibility. These changes clarify and correct the rule.

RULE TEXT:

(1) This rule is used to determine income eligibility for the OSIPM (except OSIPM-EPD) and QMB programs for individuals who---

(a) Live in the community;

(b) Do not receive SSI; and

(c) Do not receive home and community-based care (see OAR 461-001-0030).

(2) In the OSIPM program, to determine eligibility for individuals residing in a 24-hour mental health residential care setting, such as an adult foster home, residential treatment home, residential treatment facility, or a secure treatment facility, the amount of the service payment is added to the adjusted income standard defined in 4611550250. The sum of the service payment and the OSIPM program adjusted income standard must be greater than the individual's adjusted income. If the sum of the service payment and the OSIPM program standard is less than the adjusted income, the individual is not eligible.

(3) For all OSIPM program individuals who are covered under section (1) but not section (2) of this rule, an individual meets the income requirements if their adjusted income is less than the OSIPM program standard.

(4) In the QMB-BAS and QMB-DW programs, an individual meets the income requirements if their adjusted income is equal to or less than the QMB program adjusted income standard.

(5) In the QMB-SMB and QMB-SMF programs, an individual meets the income requirements if their adjusted income is less than the adjusted income standard.

STATUTORY/OTHER AUTHORITY: 411.060, 411.070, 411.404, 411.706, ORS 409.050, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: 411.060, 411.070, 411.404, 411.706, ORS 409.010

AMEND: 461-160-0550

RULE TITLE: Income Deductions; Non-SSI OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) in the Community When There Are No Children in the Household Group

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-160-0550 about income deductions for non-SSI OSIPM individuals in the community when there are no children in the household group is being amended to change the order of deductions, clarify how the deductions are applied when determining eligibility and financial group members, clarify to whom the rule applies, incorporate a new child support deduction for an ineligible spouse, and remove the \$85 earned income deduction for individuals who are blind. These changes align with federal policy and are more compatible with the Integrated Eligibility system.

RULE TEXT:

(1) For purposes of this rule:

(a) "Ineligible child" means an individual who is:

(A) Unmarried;

(B) Living with a natural or adoptive parent;

(C) Not considered a decision-maker in the household;

(D) Not eligible to receive SSI or TANF benefits, and

(E) Either under the age of 18; or under the age of 22 and attending full-time secondary, postsecondary, or vocational-technical training designed to prepare the individual for employment.

(b) "Ineligible spouse" means a spouse (see OAR 461-001-0000) who is not eligible to receive either SSI or TANF benefits.

(2) This rule is used to calculate adjusted income (see OAR 461-001-0000) for individuals in the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs who:

(a) Live in the community;

(b) Are not assumed eligible (see OAR 461-135-0010);

(c) Do not receive home and community-based care (see OAR 461-001-0030); and

(d) Do not have at least one ineligible child (see subsection (1)(a) of this rule) or child (see OAR 461-001-0000) in the household group (see OAR 461-110-0210).

(3) For purposes of this rule, and for determining whether an ineligible spouse is included in the financial group (see OAR 461-115-0530), the countable (see OAR 461-001-0000) income of the ineligible spouse is further reduced by the following:

(a) All child support paid by an ineligible spouse to any individual not in the household group.

(b) The Department deducts the amount of child support paid from unearned income first, and uses any remaining balance to reduce earned income.

(4) For an individual described in section (2) of this rule with no spouse (see OAR 461-001-0000) in the household group, the Department calculates the adjusted income of the individual under section (6) of this rule. If the individual's adjusted income is equal to or greater than the OSIPM adjusted income standard for a need group of one under OAR 461-155-0250, the individual is not eligible for the OSIPM program.

(5) For an individual described in section (2) of this rule with an ineligible spouse who is in the household group, the Department calculates the adjusted income of the individual under section (6) of this rule first.

(a) If the individual's adjusted income is equal to or greater than the OSIPM program adjusted income standard for a need group of one under OAR 461-155-0250, the individual is not eligible for the OSIPM program.

(b) If the individual's adjusted income is less than the OSIPM program adjusted income standard after completing the calculation referenced in subsection (a) of this section, and the ineligible spouse is in the individual's financial group, the

Department calculates the adjusted income of the financial group under sections (3) and (6) of this rule.

(c) If the individual's adjusted income is less than the OSIPM program adjusted income standard after completing the calculation referenced in subsection (a) of this section, and the ineligible spouse is not in the individual's financial group, the individual meets the income requirements for the OSIPM program.

(6) To determine adjusted income, deductions from the countable (see OAR 461-001-0000) income are made in the following order:

(a) One standard deduction of \$20 from unearned income.

(A) This deduction may be taken from earned income if the individual or financial group has less than \$20 in unearned income.

(B) This deduction does not apply to a benefit based on need that is totally or partially funded by the federal government or by a nongovernmental agency.

(b) One standard earned income deduction of \$65.

(c) An income deduction for documented Impairment Related Work Expenses.

(d) One half of the remaining earned income.

(e) An income deduction for documented Blind Work Expenses (see OAR 461-001-0000).

(f) Any earned income used to fulfill a plan for self-support approved by the Social Security Administration.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685

AMEND: 461-160-0551

RULE TITLE: Income Deductions; Non-SSI OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) in the Community When There Are Children in the Household Group

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-160-0551 about income deductions for non-SSI OSIPM individuals in the community when there are children in the household group is being amended to change the order of deductions, clarify to whom the rule applies, clarify how deductions are applied when determining eligibility and financial group members, incorporate a new child support deduction for an ineligible spouse, and remove the \$85 earned income deduction for individuals who are blind. These changes align with federal policy and are more compatible with the Integrated Eligibility system.

RULE TEXT:

(1) For purposes of this rule:

(a) "Ineligible child" means an individual who is:

(A) Unmarried;

(B) Living with a natural or adoptive parent;

(C) Not considered a decision-maker in the household;

(D) Not eligible to receive SSI or TANF benefits; and

(E) Either under the age of 18; or under the age of 22 and attending full-time secondary, postsecondary, or vocational-technical training designed to prepare the individual for employment.

(b) "Ineligible spouse" means a spouse (see OAR 461-001-0000) who is not eligible to receive either SSI or TANF.

(2) This rule is used to calculate adjusted income (see OAR 461-001-0000) for an individual in the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs who meets the requirements of all of the following subsections:

(a) Either:

(A) The individual is considered a child under OAR 461-001-0000; or

(B) The individual is age 18 or older and has at least one ineligible child (see subsection (1)(a) of this rule) in the household group (see OAR 461-110-0210).

(b) Live in the community.

(c) Is not assumed eligible (see OAR 461-135-0010).

(d) Does not receive home and community-based care (see OAR 461-001-0030).

(3) For purposes of this rule, and for determining whether an individual's ineligible spouse is included in the financial group (see OAR 461-115-0530), the countable (see OAR 461-001-0000) income of the ineligible spouse is further reduced by the following:

(a) All child support paid by an ineligible spouse to any individual who is not in the household group.

(b) The Department deducts the amount of child support paid from unearned income first, and uses any remaining balance to reduce earned income.

(4) For an individual described in section (2) of this rule who is 18 or older and does not have a spouse in the household group, the Department calculates the adjusted income of the individual under subsections (7)(b) to (7)(g) of this rule. If the individual's adjusted income is equal to or greater than the OSIPM program adjusted income standard for a need group of one under OAR 461-155-0250, the individual is not eligible for the OSIPM program.

(5) For an individual described in section (2) of this rule who is 18 or older, and has a spouse in the household group who is receiving TANF or SSI benefits, the Department calculates the adjusted income of the financial group under subsections (7)(b) to (7)(g) of this rule. If the adjusted income of the financial group is equal to or greater than the OSIPM program adjusted income standard for a need group of two under OAR 461-155-0250, the individual is not eligible for the OSIPM program.

(6) For an individual described in section (2) of this rule who is 18 or older, with an ineligible spouse in the household

group, the Department calculates the adjusted income of the individual under subsections (7)(b) to (7)(g) of this rule first.

(a) If the individual's adjusted income is equal to or greater than the OSIPM program adjusted income standard for a need group of one under OAR 461-155-0250 after completing the calculation referenced in section (6) of this rule, the individual is not eligible for OSIPM.

(b) If the individual's adjusted income is less than the OSIPM program adjusted income standard for a need group of one under OAR 461-155-0250 after completing the calculation referenced in section (6) of this rule, and the ineligible spouse is in the individual's financial group, the Department calculates the adjusted income of the financial group under sections (3) and (7) of this rule.

(c) If the individual's adjusted income is less than the OSIPM program adjusted income standard for a need group of one under OAR 461-155-0250 after completing the calculation referenced in section (6) of this rule, and the ineligible spouse is not in the individual's financial group, the individual meets the income requirements for the OSIPM program.

(7) To determine adjusted income, deductions from countable (see OAR 461-001-0000) income are made in the following order:

(a) An allocation as described below:

(A) When an adult is applying, income is allocated (see paragraph (C) of this subsection) from an ineligible spouse included in the financial group to each ineligible child of the couple.

(B) When a child is applying:

(i) Income from ineligible parents is first allocated to each ineligible child in the household group.

(ii) Second, the remaining income from subparagraph (i) of this paragraph is reduced as provided in subsections (b) to (g) of this section.

(iii) Third, the remaining income is reduced by the non-SSI OSIP and OSIPM adjusted income standard of the –

(I) Couple if both parents live with the child; or

(II) Individual if only one ineligible parent lives with the child.

(iv) Fourth, the remainder is deemed equally to each child applicant in the household group.

(v) The income deemed to the child is added to the other income of the child and deductions are taken as described in subsections (b) to (g) of this section to calculate the child's adjusted income.

(C) The maximum amount of each allocation under paragraphs (A) and (B) of this subsection is the difference between the couple and the individual SSI Standard. The allocation for paragraphs (A) and (B) of this subsection is reduced by the other countable income of each ineligible child. An allocation is taken from unearned income first, and any remaining allocation is then taken from earned income.

(b) One standard deduction of \$20 from unearned income.

(A) This deduction may be taken from earned income if the individual or financial group has less than \$20 in unearned income.

(B) This deduction does not apply to a benefit based on need that is totally or partially funded by the federal government or by a nongovernmental agency.

(c) One standard earned income deduction of \$65.

(d) An income deduction for documented Impairment Related Work Expenses (see OAR 461-001-0000).

(e) One half of the remaining earned income.

(f) An income deduction for documented Blind Work Expenses (see OAR 461-001-0000).

(g) Any earned income used to fulfill a plan for self-support approved by the Social Security Administration.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 410.070, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685

AMEND: 461-160-0552

RULE TITLE: Income Deductions; Qualified Medicare Beneficiaries Programs

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-160-0552 about income deductions in the QMB programs is being amended to change the order of deductions, incorporate a new child support deduction for a non-applying spouse, and remove the \$85 earned income deduction for blind individuals. These changes align with federal policy and are more compatible with the Integrated Eligibility system.

RULE TEXT:

- (1) This rule is used to determine adjusted income (see OAR 461-001-0000) for the Qualified Medicare Beneficiaries programs: QMB-BAS and QMB-SMB (including SMF) programs.
- (2) To determine adjusted income, deductions from the countable (see OAR 461-001-0000) income of the financial group (see OAR 461-110-0530) are made in the following order:
 - (a) All child support paid by a non-applying spouse (see OAR 461-001-0000) to any individual who does not live in the household.
 - (b) One standard deduction of \$20 from unearned income.
 - (A) This deduction may be taken from earned income if the financial group has less than \$20 in unearned income.
 - (B) This deduction does not apply to in-kind support and maintenance.
 - (C) This deduction does not apply to a benefit based on need that is totally or partially funded by the federal government or by a nongovernmental agency.
 - (b) One standard earned income deduction of \$65.
 - (c) An income deduction for documented Impairment-Related Work Expenses (see OAR 461-001-0000).
 - (d) One half of the remaining earned income.
 - (e) An income deduction for documented Blind Work Expenses (see OAR 461-001-0000).
 - (f) Any earned income used to fulfill a plan for self-support approved by the Social Security Administration.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 410.070, 411.060, 411.070, 411.404, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 410.070, 411.060, 411.070, 411.404, 413.085, 414.685, 414.839

AMEND: 461-160-0630

RULE TITLE: Deduction for Maintaining a Home; Nursing Facility Care Client

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-160-0630 about the deduction for maintaining a home for long-term care clients is being amended to change the amount of the deduction from the OSIPM shelter standard of \$451 (which has been removed from rule) to the total of the client's housing costs plus the SNAP standard utility allowance. These changes clarify the rule and make it easier to apply.

RULE TEXT:

In the OSIP and OSIPM programs:

(1) A single client in a nursing facility is eligible for a home maintenance deduction for up to six months if:

(a) A physician has documented that the client is likely to return home within six months; and

(b) The Department determines that maintaining the home is an essential part of a plan for the client's relocation to a less restrictive living situation.

(2) The amount of the deduction is the total of the client's housing cost, including taxes and insurance, plus the limited standard utility allowance for the SNAP program provided in OAR 461-160-0420.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 411.060, 411.404, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 411.060, 411.404

AMEND: 461-160-0780

RULE TITLE: Determining Adjusted Income; OSIP-EPD and OSIPM-EPD

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-160-0780 about determining adjusted income for the OSIPM-EPD program is being amended to remove the \$85 earned income deduction for individuals for are blind. This change aligns with federal policy and are more compatible with the Integrated Eligibility system.

RULE TEXT:

Adjusted income for OSIP-EPD and OSIPM-EPD is determined as follows:

- (1) All unearned income is excluded.
- (2) Starting with countable (see OAR 461-001-0000) earned income, one standard income deduction of \$20 is subtracted.
- (3) One standard earned income deduction of \$65 is then subtracted.
- (4) The remainder is divided by two.
- (5) Any costs allowed as employment and independence expenses, Impairment Related Work Expenses, or Blind Work Expenses as defined in OAR 461-001-0035 are deducted.
- (6) The remainder is adjusted income.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 411.060, 411.404, 411.706, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685

AMEND: 461-170-0011

RULE TITLE: Changes That Must Be Reported

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-170-0011 about changes that must be reported is being amended to specify that changes affecting benefit level must be reported in the In the GA, OSIP, OSIPM, and QMB programs. This rule is also being amended to require that changes to out-of-pocket medical costs and incarceration status be reported in APD medical programs. These changes make the rule consistent with amendments to OAR 461-135-0950 and OAR 461-160-0030.

RULE TEXT:

(1) A change in employment status is considered to occur as follows:

(a) For a new job, the change occurs the first day of the new job.

(b) For a job separation, the change occurs on the last day of employment.

(2) A change in source of income is considered to occur as follows:

(a) For earned income, the change occurs upon the receipt by the individual of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.

(b) For unearned income, the change occurs the day the individual receives the new or changed payment.

(3) An individual must report, orally or in writing, the following changes:

(a) In the ERDC program, an individual must report the following changes within 10 days of occurrence:

(A) A change in child care provider.

(B) A change in employment status.

(C) A change in mailing address or residence.

(D) A change in membership of the filing group (see OAR 461-110-0350).

(E) A member of the filing group is discharged from the U.S. military and returning from active duty in a military war zone.

(F) A change in income above the ERDC income limit as defined in OAR 461-155-0150(5)(b) that is expected to continue.

(b) In the SNAP program:

(A) An ABAWD residing in one of the SNAP time limit counties (see OAR 461-135-0520), who is employed and assigned to CRS or SRS, must report a change in work hours when work hours are below 20 hours per week. This change must be reported within 10 days of occurrence.

(B) An individual assigned to CRS must report any of the following changes within 10 days of occurrence:

(i) A change in earned income of more than \$100.

(ii) A change in unearned income of more than \$50.

(iii) A change in source of income.

(iv) A change in membership of the filing group (see OAR 461-110-0370) and any resulting change in income.

(v) A change in residence and the shelter costs in the new residence.

(vi) A change in the legal obligation to pay child support.

(vii) When the sum of cash on hand, stocks, bond, and money in a bank or savings institution account reaches or exceeds program resource limits.

(viii) Acquisition or change in ownership of a non-excluded vehicle.

(C) An individual assigned to SRS must report when the monthly income of the filing group exceeds the SNAP countable (see OAR 461-001-0000) income limit by the tenth day of the month following the month of occurrence.

(D) An individual assigned to TBA is not required to report any changes.

(c) For Employment Payments (see OAR 461-135-1270) and JPI (see OAR 461-135-1260), an individual must follow the same reporting requirements as a SNAP client assigned to CRS, SRS, or TBA reporting systems (see OAR 461-170-0010).

(d) In the GA, OSIP, OSIPM, and QMB programs, an individual must report all changes that may affect eligibility (see

OAR 461-001-0000) or benefit level within 10 days of occurrence, including any of the following changes:

- (A) A change in employment status.
 - (B) A change in health care coverage.
 - (C) A change in membership of the household group (see OAR 461-110-0210).
 - (D) A change in marital status.
 - (E) A change in residence.
 - (F) Except for QMB-BAS, QMB-SMB, and QMB-SMF, a change in resources.
 - (G) A change in source or amount of income.
 - (H) Except for the QMB programs, out-of-pocket medical expenses.
 - (I) For inmates whose medical benefits have been suspended (see OAR 461-135-0950), a change in incarceration status.
- (e) In the REF, SFPSS, and TANF programs, an individual assigned to CRS must report any of the following changes within 10 days of occurrence:
- (A) Acquisition or change in ownership of a non-excluded vehicle.
 - (B) A change in earned income more than \$100.
 - (C) Employment separation.
 - (D) A change in membership of the household group.
 - (E) A change in marital status or other changes in membership of the filing group.
 - (F) A change in mailing address or residence.
 - (G) A change in pregnancy status of any member of the filing group.
 - (H) A change in source of income.
 - (I) A change in unearned income more than \$50.
 - (J) A change in who pays the shelter costs if the costs will be paid by a non-custodial parent.
 - (K) Sale or receipt of a resource that causes total resources to exceed program resource limits.
- (f) In the REFM program, an individual must report the following changes within 10 days of occurrence:
- (A) A change in membership of the household group.
 - (B) A change in residence.
 - (C) A change in pregnancy status of any member of the filing group.

STATUTORY/OTHER AUTHORITY: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.081, 411.404, 411.704, 411.706, 411.816, 411.825, 411.837, 412.014, 412.049, 413.085, 414.685, 414.826

AMEND: 461-175-0230

RULE TITLE: Notice Situation; Nonstandard Living Situations

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-175-0230 about notices sent to APD medical clients is being amended make permanent a temporary rule change stating that a continuing benefit decision notice is issued for liability increases (instead of a timely notice) when the increase is due to mass changes such as COLA increases. This amendment allows the Department to process mass changes at the end of a month. This rule is also being amended to cross-reference exceptions that apply under OAR 461-175-0300, clarifying the rule.

RULE TEXT:

(1) In the SNAP program:

(a) A timely continuing benefit decision notice (see OAR 461-001-0000) is sent to terminate, suspend, or reduce benefits if the notice occurs as a result of any of the following situations:

(A) A client has been admitted or committed to an institution.

(B) A client has been placed in foster care, skilled nursing care, intermediate care, or long term hospitalization.

(C) A client is placed in official custody or a correctional facility.

(D) A client enters a drug or alcohol residential treatment facility.

(E) A client leaves a drug or alcohol residential treatment facility without reapplying for SNAP benefits.

(b) No decision notice (see OAR 461-001-0000) is required if the Department determines that a resident of a group living (see OAR 461-001-0015) facility or a drug or alcohol treatment center is ineligible as a result of one of the following actions taken against the center or facility:

(A) Disqualification by Food and Nutrition Services (FNS) as an authorized representative.

(B) Loss of certification with the Department.

(c) A resident of a facility that is disqualified or loses its certification as described in subsection (b) of this section may still qualify for SNAP benefits through a separate application.

(2) Except as provided in section (3) of this rule, for all programs except the SNAP program, a basic decision notice (see OAR 461-001-0000) is sent to terminate, suspend, or reduce benefits in each of the following situations:

(a) The client has been admitted or committed to an institution, or the client loses Medicaid eligibility while in the institution.

(b) The client has been placed in skilled nursing care, intermediate care, or long-term hospitalization.

(c) The client is placed in official custody or a correctional facility.

(3) Except as provided in OAR 461-175-0300, in the OSIPM program, a client receiving home and community-based care (see OAR 461-001-0030) or long term care services is sent –

(a) A timely continuing benefit decision notice in each of the following situations:

(A) A reduction or closure of services occurs as the result of a process of reevaluating both the functional impairment levels of a client and the requirements of a client for assistance in performing activities of daily living.

(B) Services are closing because the client has not paid the client liability.

(C) The client receives benefits in the OSIP-IC or OSIPM-IC program, and benefits will end under OAR 411-030-0100.

(D) There is a change in special needs as described in OAR 461-180-0040.

(E) Except as provided in subsection (b) of this section, when there is an increase in the client liability as described in OAR 461-160-0610 and OAR 461-160-0620

(b) A continuing benefit decision notice (see OAR 461-001-0000) when there is an increase in a client liability as a result of any of the following:

(A) A cost-of-living adjustment (COLA).

(B) A mass change under a program operated by a federal agency.

(C) A mass change to payments in a program operated by the Department.

(c) A basic decision notice when there is a decrease in the client liability.

STATUTORY/OTHER AUTHORITY: ORS 329A.500, 409.050, 411.060, 411.101, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: ORS 411.060, 411.085, 411.095, 411.099, 411.101, 411.103, 411.816, 412.014, 412.049

AMEND: 461-175-0300

RULE TITLE: Notice Situation; Prior Notice

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-175-0300 about subsequent notices is being amended to establish that the Department sends a basic decision notice rather than a continuing benefit notice when a prior notice has been sent to notify an individual that a one-time allowable deduction is applied to reduce a liability amount and the client liability returns to the previous liability amount for the following month. This rule is also being amended to clarify its references to liability amounts and one-time deductions. These changes support current practices.

RULE TEXT:

(1) Except as provided in section (5) of this rule, when benefits in any Department program except a medical program and the SNAP program will end or be reduced after a specific period of time, the Department may issue a decision notice (see OAR 461-001-0000) informing the benefit group (see OAR 461-110-0750) of the date benefits will end or be reduced, and no further decision notice is required.

(2) Except as provided in section (5) of this rule, in any Department program except a medical program and the SNAP program, if the benefit group was informed in writing when the benefits began that the benefit group would receive benefits only for a specific period of time a basic decision notice (see OAR 461-001-0000) may be used to--

(a) Deny an application to start or continue benefits after the completion of a certification period (see OAR 461-001-0000) or to approve benefits at a level lower than the prior certification period.

(b) Indicate that benefits have been ended or reduced when no timely application is submitted.

(3) A basic decision notice is used when a special need allowance granted for a specific period of time is removed at the end of the specified period and the benefit group was informed of this in writing when the allowance began. A timely continuing benefit decision notice (see OAR 461-001-0000) is required if stopping the special need allowance results in benefit closure.

(4) In the JOBS Plus program, a basic decision notice is used if--

(a) An employer submits a wage reimbursement billing and the Department calculates a supplement (see OAR 461-190-0416 about supplements);

(b) The benefit group received a timely continuing benefit decision notice that the method of payment would be changed from cash to employer-paid wages; and

(c) The notice specified the period of time that benefits would be diverted.

(5) No additional decision notice is required when:

(a) Notwithstanding OAR 461-115-0010(6), when a benefit group submits an application for a program from which they currently are receiving benefits.

(b) In the OSIPM program:

(A) A client's liability returns to the previous liability amount after the Department sent the client a basic decision notice for a decrease in the client liability due to a one-time allowable deduction and that notice also specified when the deduction no longer would apply causing the client liability to return to the previous liability amount; or

(B) A client's benefits are being closed or reduced and the Department sent the client a basic decision notice of eligibility and a simultaneous continuing benefit decision notice because the client's circumstances changed between the date of the client's application and the date of the Department's eligibility decision and the change caused the client's benefits to be reduced or closed.

(c) In the ERDC program when a filing group (see OAR 461-110-0310 and 461-110-0350) is receiving priority processing (see OAR 461-170-0150(2)) but does not return postponed verification to the Department by the last day of the month in which the application period ends (see OAR 461-115-0190).

(d) A decision notice that included the eligibility begin and end dates for the three consecutive months of Employment Payments (see OAR 461-001-0025 and 461-135-1270) was given and the three month eligibility period ends.

(e) A decision notice that informed the JPI benefit group in writing, when their benefits began, that they would receive

JPI (see OAR 461-135-1260) benefits only for a specific period of time.

(f) A decision notice that included the eligibility begin and end dates was given for the reduced ERDC copay described in OAR 461-155-0150(13) and the three-month eligibility period ends.

(g) A decision notice that included the eligibility begin and end dates was given for TA-DVS program benefits and the 90-day eligibility period ends.

(6) In the SNAP program:

(a) A basic decision notice is used to close benefits if the benefit group was informed in writing, when their benefits began, that they would receive benefits only for a specific period of time.

(b) No decision notice is required if the client is provided a decision notice at the time of application or redetermination that –

(A) The allotment of the benefit group would vary from month to month and listed the anticipated changes;

(B) In the case the client applied at the same time for both cash assistance and SNAP benefits, the SNAP benefits would be reduced or closed upon approval of the cash assistance; or

(C) In the case of a benefit group receiving benefits under expedited services with postponed verification:

(i) The expedited services benefits would close if the Department did not receive the postponed verification within the timeframe established under OAR 461-115-0690.

(ii) The expedited services benefits may be adjusted beyond the timeframe established under OAR 461-115-0690 based on the verified information provided to the Department without further notice.

STATUTORY/OTHER AUTHORITY: ORS 183.417, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 414.231, 414.826

STATUTES/OTHER IMPLEMENTED: ORS 183.417, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 414.231, 414.826

AMEND: 461-180-0020

RULE TITLE: Effective Dates; Changes in Income or Income Deductions That Cause Increases

NOTICE FILED DATE: 01/16/2018

RULE SUMMARY: OAR 461-180-0020 about the effective dates for changes in income or income deductions that cause increases is being amended to add APD medical programs and establish that changes in eligibility are effective the month the change is reported (unless the change will occur in the future) and for liability, the change is effective the first month the change occurred, if reported timely. This amendment sets policy on this topic consistent with how the Integrated Eligibility system will operate.

RULE TEXT:

For all programs in Chapter 461, except the ERDC program, this rule is used to determine the effective date when a change in income or income deductions causes an increase in benefits. For all changes, the effective date is one of the following:

(1) In the GA, SFPSS, and TANF programs, the effective date for an anticipated change reported before the payment month is the first of the payment month in which it will occur. If the change is not reported until the month it occurs or later, the effective date is the first of the month following the month in which the change was reported.

(2) In the SNAP program:

(a) The effective date when verification is not requested is the first of the month following the date the change was reported.

(b) The effective date if verification is requested is:

(A) The first of the month following the date the change was reported if verification is received no later than the due date for the verification.

(B) The first of the month following the date the verification is received by the Department, if received after the verification due date.

(3) In the OSIPM and QMB programs, the effective date for a change that is reported is:

(a) The first of the month the change is reported, unless the change is anticipated, in which case it will be effective the first of the month the change occurs.

(b) For changes that affect liability:

(A) If the change was reported timely, the change is effective the month the change occurred.

(B) One-time expenses that are not reported timely will not be used.

(C) For ongoing expenses that are not reported timely, the change is effective the month it is reported.

STATUTORY/OTHER AUTHORITY: 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, ORS 409.050, 413.085, 414.685

STATUTES/OTHER IMPLEMENTED: 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, ORS 409.010