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CWP 103-2018

CHAPTER 413
DEPARTMENT OF HUMAN SERVICES
CHILD WELFARE PROGRAMS

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RULES:

413-100-0000, 413-100-0005, 413-100-0010, 413-100-0015, 413-100-0030, 413-100-0060, 413-100-0075, 413-100-0080, 413-100-0090, 413-100-0110, 413-100-0120, 413-100-0125, 413-100-0130, 413-100-0135, 413-100-0150, 413-100-0160, 413-100-0170, 413-100-0180, 413-100-0190, 413-100-0200, 413-100-0210, 413-100-0220, 413-100-0230, 413-100-0240, 413-100-0250, 413-100-0260, 413-100-0270, 413-100-0280, 413-100-0300, 413-100-0310, 413-100-0320, 413-100-0335, 413-100-0345

AMEND: 413-100-0000

REPEAL: Temporary 413-100-0000 from CWP 26-2018

RULE TITLE: Purpose

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Revised formatting, no substantive language change.

RULE TEXT:

The purpose of these rules, OAR 413-100-0000 to 413-100-0345, is to describe the Department's responsibilities and criteria for making the following determinations, which are used to ensure proper federal reimbursement:

- (1) Title IV-E eligibility for children and young adults whose placement and care are the responsibility of the Department or another public agency with which the Department has made an agreement which is in effect; and
- (2) Adoption Assistance Title IV-E eligibility.
- (3) Guardianship Assistance Title IV-E eligibility.

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 418.005

AMEND: 413-100-0005

REPEAL: Temporary 413-100-0005 from CWP 26-2018

RULE TITLE: Definitions

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Clarified definitions to be more in line with rule.

RULE TEXT:

The following definitions apply to OAR 413-100-0000 to 413-100-0345:

- (1) "AFDC" means the Aid to Families with Dependent Children program as it existed on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.
- (2) "Child" means a person under 18 years of age.
- (3) "Child care institution" means a private or public child care institution that accommodates no more than 25 children, licensed by the state or tribe in which it is situated or approved by the agency of the state or tribal licensing authority responsible for licensing or approval of institutions of this type.
- (4) "Child support" means any voluntary or court-ordered contribution by an absent parent. Support includes, but is not limited to, money payments, education, and necessary and proper shelter, food, clothing, and medical attention.
- (5) "Countable income" means the amount of available income, including earned income and unearned income not specifically excluded by OAR 461-140-0040 (rules in effect July 16, 1996), used to determine eligibility for public assistance.
- (6) "Date the child is considered to have entered foster care" is a federal term meaning the earlier of the following:
 - (a) The date that the court makes a finding that the child was subjected to child abuse or neglect; or
 - (b) 60 days from the date the child was removed from the home.
- (7) "Department" means the Oregon Department of Human Services.
- (8) "Earned income" means all legal reportable income resulting from an individual's employment or self-employment.
- (9) "Eligibility month" means:
 - (a) The month in which court action was initiated that resulted in the child's removal from the home of his or her specified relative.
 - (b) The month a voluntary placement or voluntary custody agreement was signed.
- (10) "Eligibility status" means the status resulting from a Title IV-E eligibility determination, as described in OAR 413-100-0075.
- (11) "Eligibility unit" means a group of individuals whose needs, income, and resources are considered together to determine their eligibility for public assistance and a child's eligibility for Title IV-E.
- (12) "Foster care" means 24-hour substitute care for children placed away from their parents or guardians and for whom the Department, or another public agency, has placement and care responsibility. This includes but is not limited to placements in foster homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child or young adult is in foster care in accordance with this definition regardless of whether the foster care facility is licensed, and payments are made by the Department or local agency responsible for the care of the child, whether adoption subsidy payments are being made prior to the finalization of the adoption or whether there is federal matching of any payments that are made.
- (13) "Need standard" means the income limit for an eligibility unit as set by the Department's AFDC standards in effect on July 16, 1996.
- (14) "Parent" means, under the AFDC rules in effect on July 16, 1996:
 - (a) The biological mother or father of a person.
 - (b) The legal mother or father of a person.
 - (c) If the mother lives with a male, who both she and he claims is the father of the child, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.
 - (d) A stepparent under one of the following circumstances:

- (A) The person is legally married to the child's biological or adoptive parent; and
- (B) The marriage has not been terminated by legal separation, divorce or death.
- (e) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:
 - (A) The child lives with the biological parent; and
 - (B) The legal parent, who is the adoptive parent, has given up care, control, and supervision of the child.
- (15) "Removal" or "Removed" means either the physical act of a child being taken from his or her normal place of residence by court order or a voluntary placement agreement and placed in a foster care setting, or the removal of custody from the parent or relative guardian pursuant to a court order or voluntary placement agreement which permits the child to remain in a foster care setting.
- (16) "Removal home" means the home from which the child was removed because of a judicial finding, voluntary custody agreement, or voluntary placement agreement. This term is further described at OAR 413-100-0135(3).
- (17) "Resource" means any personal or real property that is or can be made available to meet the need of the eligibility unit that the Department does not specifically exclude from consideration.
- (18) "Reunified with parent" means that a child has been discharged from foster care through legal dismissal by the court, withdrawal of a voluntary placement agreement or after 6 months of trial reunification, unless trial reunification is extended for a specified period by court order.
- (19) "Specified relative" means an individual from whom the child is removed who is related to the child in one of the ways listed below. For the purposes of Title IV-E eligibility, if any of the following relationships are established through marriage, the relationship remains the same even if the marriage is terminated by death or divorce:
 - (a) A parent as defined in this rule;
 - (b) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great (persons with one common biological parent are half-blood relatives);
 - (c) A sibling, aunt, uncle, nephew, niece, first cousin, and first cousin once-removed;
 - (d) A person who legally adopts a child and any persons related to the child through the adoption who meet the degree of relationship specified in subsection (b) or (c) of this section;
 - (e) A stepmother, stepfather, stepbrother, or stepsister; or
 - (f) A spouse of anyone listed in subsections (b) to (e) of this section.
- (20) "Substitute care episode" means the period between the date a child is removed from his or her home by either a judicial determination or a voluntary placement or custody agreement, and the date a child or young adult is discharged from foster care for one of the reasons described in OAR 413-100-0110.
- (21) "Supplemental Security Income" or "SSI" means the federal program that pays benefits to disabled adults and children who have limited income and resources.
- (22) "Title IV-E" means Title IV-E of the Social Security Act, which provides federal payments to states for foster care maintenance, adoption assistance, and guardianship assistance on behalf of certain eligible children and young adults.
- (23) "Trial reunification" means that a child has been in a foster care placement under continuing state agency supervision and is returned to the primary caregiver the child was removed from, for a limited and specified period. The child must be considered reunified with parent at the point at which the trial reunification reaches six months or no later than the last day of a court ordered extension.
- (24) "Unearned income" means all income that does not directly result from an individual's employment or self-employment.
- (25) "Young adult" means a person aged 18 years through 20 years.

STATUTORY/OTHER AUTHORITY: ORS 409.050, ORS 418.005, ORS 409.010, ORS 418.625

STATUTES/OTHER IMPLEMENTED: ORS 409.050, ORS 418.005, ORS 409.010, ORS 418.625

REPEAL: 413-100-0010

REPEAL: Temporary 413-100-0010 from CWP 26-2018

RULE TITLE: Eligibility Requirements

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Repeal. 0010 provided policy information not required in OAR.

RULE TEXT:

(1) The Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, took effect on June 17, 1980. It amended Title IV-E of the Social Security Act, which provides federal payments to the states for foster care maintenance and adoption assistance payments made on behalf of certain eligible children. The Adoption and Safe Families Act (ASFA) took effect on November 18, 1997, and enacted further federal requirements for claiming these funds and enhancing permanency for children. The Deficit Reduction Act of 2005 took effect on February 8, 2006, and further clarified the federal requirements for Title IV-E foster care maintenance, adoption assistance, medical coverage, and administrative funds.

(2) The Administration for Children and Families is the federal agency that adopts regulations and monitors the States' Title IV-E foster care and adoption assistance programs. Oregon's Title IV-E program is administered by the Department of Human Services. The Department of Human Services acts as the applicant for the child and provides Title IV-E foster care payments to foster parents on behalf of eligible children, consistent with:

(a) The standards established by state and federal legislation and regulations, federal policy, and the State plan for the Title IV-E program; and

(b) The established financial and parental deprivation standards for the Aid to Families with Dependent Children (AFDC) program, which was in effect on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.

(3) The Fostering Connections to Success and Increasing Adoptions Act of 2008 (122 Stat. 3949-3981) was signed into law on October 7, 2008 enacting further federal requirements to help youth in foster care by promoting permanent families for children and young adults through relative guardianship and adoption and improving education and health care. Additionally:

(a) Effective April 1, 2010, the Act delinks Title IV-E eligibility redeterminations from AFDC eligibility; and

(b) Effective October 1, 2010, the Act extends federal support for young adults in foster care, guardianship, and adoption through 20 years of age.

STATUTORY/OTHER AUTHORITY: ORS 409.010, 409.050, 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 418.005

AMEND: 413-100-0015

REPEAL: Temporary 413-100-0015 from CWP 26-2018

RULE TITLE: Application for Title IV-E Foster Care Funds

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Clarified language after renumbering rule from 0070.

RULE TEXT:

(1) A child for whom the Department has responsibility for placement and care must be referred by the Department to a Title IV-E Specialist for a Title IV-E eligibility determination.

(2) Title IV-E eligibility or reimbursement must not be authorized on behalf of any child or young adult prior to the establishment of eligibility by the Department's Title IV-E Specialist. A child or young adult is not Title IV-E eligible based on presumed eligibility.

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 418.005

AMEND: 413-100-0030

REPEAL: Temporary 413-100-0030 from CWP 26-2018

RULE TITLE: Certification Documentation Requirements for Title IV-E Foster Care

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Rule revised for clarity.

RULE TEXT:

- (1) Documentation of a certificate or license must be maintained in the certification record.
- (2) The following documentation is required for an out-of-state placement in a foster care or child care institution:
 - (a) Verification that the out-of-state foster care or child care institution is fully certified or licensed, including approval of criminal records checks, fingerprint-based checks and child abuse history checks, by the agency in the state responsible for licensing or certifying such facilities; or
 - (b) In states where relative homes are not certified, there must be:
 - (A) A statement in writing that the home would meet the state's standards for certification or licensure, including a statement of the period for which a formal license or certificate would be issued for that home; and
 - (B) A copy of the verification that a criminal history check, including fingerprint-based check and child welfare history, were completed and approved.

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 418.005

AMEND: 413-100-0060

REPEAL: Temporary 413-100-0060 from CWP 26-2018

RULE TITLE: Title IV-E Reimbursable Placements and Payments

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Rule revised for clarity.

RULE TEXT:

(1) Reimbursable Placements. There are four types of out-of-home placements that meet the Title IV-E definition of a reimbursable placement. They are:

(a) The home of a certified non-relative;

(b) The home of a certified relative;

(c) A private, non-medical group home or crisis residential center licensed by a state; or

(d) A public non-medical group home or child caring agency with a licensed capacity of no more than 25 children.

(2) Reimbursable Payments. Title IV-E foster care maintenance payments for a child or young adult in foster care may cover expenses listed in the following subsections:

(a) The cost for and the cost of providing food, clothing, shelter, daily supervision, school supplies, a child or young adult's personal incidentals, liability insurance with respect to the child or young adult, and reasonable travel to the child or young adult's home for visitation with family or other caretakers, and reasonable travel for the child or young adult to remain in the school in which the child or young adult is enrolled at the time of placement. Local travel associated with providing the items listed in this subsection is also an allowable expense.

(b) For a child care institution, the Title IV-E foster care maintenance payment must include reimbursement for the institution's reasonable administrative and operating expenses required to provide the items described in subsection (a) of this section.

(c) Title IV-E funds may be claimed retroactively for up to two years.

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 418.005

ADOPT: 413-100-0075

REPEAL: Temporary 413-100-0075 from CWP 26-2018

RULE TITLE: Eligibility Status

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: New rule to add clarity regarding circumstances that impact a child's IV-E eligibility status.

RULE TEXT:

Each Title IV-E eligibility determination must result in an eligibility status based on the following criteria:

(1) Eligible and Reimbursable. The child or young adult is determined to have met all the Title IV-E eligibility requirements and is placed in a foster family home or a child care institution that is fully licensed or certified by the Department.

(2) Eligible and Not Reimbursable. The child or young adult is determined to have met all the Title IV-E eligibility requirements, and at least one of the following circumstances applies:

(a) For a period of not more than 180 days, in which an eligible child is placed in the home of a relative who has been issued a Temporary Certificate of Approval.

(b) For a period of not more than one calendar month during placement in a facility not eligible for payments when an otherwise eligible child or young adult transitions directly into a foster home or a child care institution fully licensed or certified by the Department.

(c) For the duration of an eligible child or young adult's runaway status.

(d) For up to six months, or no later than the last day of a court-ordered extension, when an eligible child is on trial reunification.

(e) For the duration of an eligible child or young adult's receipt of SSI benefits, when the Department has applied to be, or is the payee of SSI benefits.

(f) For the duration of an eligible child or young adult receiving an independent living subsidy.

(3) Ineligible. The child or young adult is determined to not meet all the Title IV-E eligibility criteria for any of the following reasons:

(a) Permanent. A child is permanently ineligible for Title IV-E foster care maintenance payments for the entire substitute care episode when the Department determines the child is ineligible because:

(A) The Department did not obtain a judicial determination at the time of removal that it was in the best interest of the child to be removed from the home;

(B) The Department did not obtain a judicial determination of reasonable efforts to prevent removal within 60 days;

(C) The Department did not obtain a judicial finding of best interest to continue placement within 180 days of a child's voluntary placement;

(D) The Department is unable to determine whether the child would have been eligible for AFDC based on Oregon administrative rules in effect on July 16, 1996; or

(E) The Department determines that a child did not live with a specified relative for some period during the six months prior to removal.

(b) Temporary. A child or young adult is temporarily ineligible for Title IV-E maintenance payments when any of the following apply:

(A) The child is placed in the month prior to the month in which the court made a finding that it was in the child's best interest to be removed.

(B) The Department does not obtain a permanency finding of reasonable efforts to achieve the permanent plan within the required timelines.

(C) The child or young adult is in a placement that is not Title IV-E reimbursable, as described in OAR 413-100-0060.

(D) The parent or parents establish residency in the home in which the child or young adult resides, and one or both parents are providing caretaking responsibility for the child or young adult.

(E) The young adult does not meet one of the age requirements in OAR 413-100-0230(2)(b).

STATUTORY/OTHER AUTHORITY: ORS 418.005, ORS 409.010, ORS 409.050

STATUTES/OTHER IMPLEMENTED: ORS 418.005, ORS 409.010, ORS 409.050

AMEND: 413-100-0080

REPEAL: Temporary 413-100-0080 from CWP 26-2018

RULE TITLE: Effective Date

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Revised to update rule references and language for consistency with current practice.

RULE TEXT:

- (1) When completing an initial determination pursuant to OAR 413-100-0125 to 413-100-0240, the child's Title IV-E eligibility status will be effective the first day of placement.
- (2) When completing an annual redetermination pursuant to OAR 413-100-0270, the child's Title IV-E eligibility status will be effective 365 days from the date the child was considered to have entered foster care and every 12 months thereafter.
- (3) When completing a redetermination as a result of a change in a child or young adult's placement, the child or young adult's Title IV-E eligibility status will be effective the date of the new placement. Placement changes affecting Title IV-E eligibility:
 - (a) The child moves from a foster home that has a Temporary Certificate of Approval to a foster home that has a Certificate of Approval.
 - (b) The child moves from a foster home that has a Certificate of Approval to a foster home that has a Temporary Certificate of Approval.
 - (c) The child or young adult is placed with the parent on trial reunification, and the Department retains placement and care responsibilities.
 - (d) The child returns to a foster care placement within six months of the start of a trial reunification, and the Department has continued placement and care responsibilities.
 - (e) The child or young adult moves to a placement that is not Title IV-E reimbursable.
 - (f) The child leaves the foster care placement and is considered to have run away.
- (4) When completing a redetermination because the child's current foster home has been issued a Certificate of Approval, the child or young adult's Title IV-E eligibility status will be effective the first day of placement in the month in which all certification criteria are met.
- (5) When completing a redetermination because the foster parent's Certificate of Approval is expiring or being revoked, the child or young adult's Title IV-E eligibility status will be effective the day the certificate expires or is revoked.
- (6) When completing a redetermination because the Department has obtained a judicial finding of best interest in a month subsequent to the month in which the child was placed in foster care, and the finding is made at the first hearing addressing the child's removal, the child's Title IV-E eligibility status will be effective the first day of the month in which the finding was made.
- (7) When completing a redetermination because the Department has not obtained a permanency finding of reasonable efforts to achieve the permanent plan within the required timelines, the child or young adult's Title IV-E eligibility status will be effective the last day of the month in which the finding was required.
- (8) When completing a redetermination because the Department obtained a delayed judicial finding, the child or young adult's Title IV-E eligibility status will be effective the first day of the month in which the finding is made.
- (9) When completing a redetermination because the Department did not obtain a finding of best interest within 180 days of a child or young adult's voluntary placement, the child or young adult's Title IV-E eligibility status will be effective on the 181st day from placement.
- (10) When completing a redetermination because of a child or young adult's approved application for SSI benefits, the child or young adult's eligibility status will be effective the first day of the month subsequent to the application month.
- (11) When completing a redetermination because a child or young adult is no longer receiving SSI benefits, the child or young adult's eligibility status will be effective the first day of the month after the SSI benefits end.
- (12) When completing a redetermination because the parent or parents establish residency in the home in which the

child or young adult resides and one or both parents are providing caretaking responsibility for the child or young adult, the child or young adult's eligibility status will be effective the date in which the parent moved into the home.

(13) When completing a redetermination because a young adult no longer meets the age requirements, as described in OAR 413-100-0230, the young adult's eligibility status will be effective the date he or she no longer meets the age requirements.

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 418.005

AMEND: 413-100-0090

REPEAL: Temporary 413-100-0090 from CWP 26-2018

RULE TITLE: Correcting Eligibility

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Renamed to match intent and remove irrelevant language.

RULE TEXT:

A child's eligibility must be corrected when any of the following circumstances occur:

- (1) Financial information for the eligibility unit is obtained.
- (2) Information becomes available that proves the denial of the child's initial Title IV-E eligibility determination was inaccurate.
- (3) A transcript or recording of the court hearing is obtained that verifies the required judicial finding was made during the court hearing.

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 418.005

AMEND: 413-100-0110

REPEAL: Temporary 413-100-0110 from CWP 26-2018

RULE TITLE: Eligibility End Date

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Renamed to match intent. Substantive changes to language.

RULE TEXT:

Title IV-E eligibility must end when a child or young adult is discharged from foster care for any of the following reasons:

- (1) The date the Department ceases to have responsibility for the placement and care of the child or young adult.
- (2) The date in which trial reunification ends at six months or no later than the last day of a court ordered extension.
- (3) The date the young adult reaches the age of 21 years old.

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 418.005

REPEAL: 413-100-0120

REPEAL: Temporary 413-100-0120 from CWP 26-2018

RULE TITLE: Verification of Eligibility

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: This rule is being repealed due to outdated policy guidance.

RULE TEXT:

(1) When the Department determines a child or young adult is ineligible for Title IV-E foster care, based on the information available at the time of the initial determination, the child or young adult is not eligible for Title IV-E foster care maintenance payments for the entire duration of that substitute care episode.

(2) To verify Title IV-E foster care eligibility, the Department must obtain acceptable documentary evidence to support certain eligibility factors. The Department determines which eligibility factors require verification and the types of acceptable documentary evidence. The Department may:

(a) Decide to require verification of additional eligibility factors; and

(b) Deny an application or end ongoing benefits when acceptable verification is not provided or available.

(3) Verification is required for the following eligibility factors:

(a) Residency;

(b) U.S. Citizenship status;

(c) Age;

(d) Removal from the home of the specified relative;

(e) Judicial language in Court Orders;

(f) Countable family, child, or young adult income and benefits;

(g) Parental deprivation;

(h) Family, child, or young adult resources; and

(i) The child or young adult is placed in a certified foster or relative caregiver's home or a licensed child caring agency.

STATUTORY/OTHER AUTHORITY: ORS 409.010, 409.050, 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 418.005

ADOPT: 413-100-0125

REPEAL: Temporary 413-100-0125 from CWP 26-2018

RULE TITLE: Initial Determination Requirements

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Created guidance for eligibility for Title IV-E at time of removal.

RULE TEXT:

To be eligible for Title IV-E at the time of removal, a child must meet all the following requirements:

- (1) U.S. citizenship, as required by OAR 413-100-0210.
- (2) Age, as required by OAR 413-100-0230.
- (3) Removal from the home of the specified relative, as required by OAR 413-100-0135.
- (4) Judicial language in court orders, as required by OAR 413-100-0240.
- (5) AFDC eligibility, as required by OAR 413-100-0135 through 413-100-0200.
- (6) Parental deprivation, as required by OAR 413-100-0150.

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 418.005

REPEAL: 413-100-0130

REPEAL: Temporary 413-100-0130 from CWP 26-2018

RULE TITLE: Eligibility Determinations — AFDC Linkage

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Repealing because rule language was duplicative to 0135.

RULE TEXT:

(1) For an initial Title IV-E eligibility determination, the Department reconstructs the facts of the removal home to determine if the child or young adult, in the eligibility month, received AFDC or would have been eligible to receive AFDC under rules in effect on July 16, 1996, had an application been made.

(2) AFDC Relatedness. The child or young adult meets the "AFDC relatedness" test if the requirements of one of the following subsections are met:

(a) The child:

(A) Lived with the specified relative within six months of removal;

(B) Received or would have been eligible to receive AFDC in the removal home under the rules in effect on July 16, 1996, in the eligibility month had an application been made; and

(C) Remains within the resource limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Social Security Act, effective July 1, 1996.

(b) The young adult:

(A) Lived with the specified relative within six months of removal prior to age 18;

(B) Received or would have been eligible to receive AFDC in the removal home under the rules in effect on July 16, 1996, in the eligibility month, had an application been made; and

(C) Remains within the resource limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Social Security Act, effective July 1, 1996.

STATUTORY/OTHER AUTHORITY: ORS 409.010, 409.050, 412.144, 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 412.144, 418.005

AMEND: 413-100-0135

REPEAL: Temporary 413-100-0135 from CWP 26-2018

RULE TITLE: Removal Requirements

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Rule renamed for clarity. Some language changes for clarification.

RULE TEXT:

(1) Specified relative requirements. To meet Title IV-E eligibility requirements, the child must have lived at some point during the six months prior to removal with a specified relative.

(2) Removal requirements for a child age 17 or younger. To meet Title IV-E eligibility requirements, the child's removal from the home must occur pursuant to:

(a) A voluntary custody agreement or voluntary placement agreement, signed by a specified relative, that results in the physical or constructive removal of the child from the home; or

(b) A judicial order that requires the child's physical or constructive removal from the specified relative and gives the Department responsibility for the placement and care of the child.

(3) Removal home requirements. For Title IV-E eligibility purposes, the child's removal home must meet the requirements of one of the following subsections:

(a) Physical Removal. The Department considers a child's removal a physical removal when the judicial order or the voluntary custody or voluntary placement agreement results in the removal of the child from the physical custody of a specified relative.

(b) Constructive Removal. The Department considers a child's removal a constructive removal when the child is living in the home of an interim caretaker at the time of removal, but the child lived with a specified relative at some point during six months prior to removal.

STATUTORY/OTHER AUTHORITY: ORS 418.005, ORS 409.050

STATUTES/OTHER IMPLEMENTED: ORS 418.005, ORS 409.010, ORS 418.625, ORS 409.050

AMEND: 413-100-0150

REPEAL: Temporary 413-100-0150 from CWP 26-2018

RULE TITLE: Determining Parental Deprivation

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Revised language and formatting for clarity and consistency with federal requirements.

RULE TEXT:

Deprivation of parental support in relation to the removal home exists in any of the following circumstances:

- (1) Either parent of a child is deceased.
- (2) One or both parents are absent from the home as described by one of the following:
 - (a) One or both parents are out of the home, and the nature of the absence is such as to either interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child;
 - (b) There is evidence of continued absence of more than 30 days; or
 - (c) There is a predictable absence due to divorce, legal separation, incarceration, or other verified and documented circumstances.
- (3) Physical or mental incapacity based on one of the following:
 - (a) One or both parents receive SSI.
 - (b) One or both parents receive Social Security Benefits based on disability or blindness; or
 - (c) One or both parents have a physical or mental defect, illness, or impairment that is expected to last at least 30 days, is supported by competent medical testimony, and substantially reduces or eliminates the parent's ability to support or care for the child.
- (4) One or both parents are unemployed and the eligibility unit meets the AFDC need criteria.

STATUTORY/OTHER AUTHORITY: ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.050, ORS 418.005, ORS 409.010, ORS 412.144

AMEND: 413-100-0160

REPEAL: Temporary 413-100-0160 from CWP 26-2018

RULE TITLE: Determining Financial Need

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Rule renamed for clarity. Revised language and formatting for clarity and consistency with federal requirements.

RULE TEXT:

(1) At the time of the initial Title IV-E determination, the Department must review the income and resources available to the eligibility unit during the eligibility month to determine whether the child would have been eligible for AFDC under rules in effect on July 16, 1996.

(2) To be eligible for Title IV-E, the income and resources available to the eligibility unit must meet both the countable income limit (185 percent of the basic standard) and the adjusted income/payment standard (basic standard plus minimum wage equalization allowance).

(3) If the child is removed from the home of a specified relative that is a parent, the Department must:

(a) Determine the countable gross earned income of all members in the eligibility unit including the \$90 standard earned income deduction, when applicable;

(b) Determine the countable unearned income of all members in the eligibility unit including the \$50 child support deduction, when applicable;

(c) Exclude individuals receiving SSI or a combination of SSI and other Social Security benefits from the number in the eligibility unit for all AFDC calculations; and

(d) Apply the AFDC countable income limit (185 percent of the basic standard) with adult and the adjusted income/payment standard (basic standard plus minimum wage equalization allowance) with adult.

(4) If a child is removed from the home of a specified relative who is not a parent of the child, the Department must:

(a) Disregard the income and resources of each specified relative;

(b) Determine the countable earned income, unearned income and resources available to the child; and

(c) Apply the AFDC countable income limit (185 percent of the basic standard) with no adult and the adjusted income/payment standard (basic standard plus minimum wage equalization allowance) with no adult.

(5) If a child is removed from a minor parent who resides in his or her parents' home, and the minor parent is under age 18, has never married, and is not legally emancipated, the Department must:

(a) Exclude the resources of the parents of the minor parent;

(b) Determine the portion of income of the parents of the minor parent that is considered available to the minor parent:

(A) Determine the countable gross earned income of the parent of the minor and subtract the \$90 standard earned income deduction, if applicable; and

(B) Determine the countable unearned income of the parent of the minor parent and subtract the following, if applicable:

(i) Amounts paid to the legal dependents of the parents of the minor parent not living in the household; and

(ii) Payments of alimony and child support.

(C) Apply the Adjusted Income/Payment Standard. Any remaining income is considered income available to the minor parent.

(c) Determine the countable gross earned income of all members in the eligibility unit including the \$90 standard earned income deduction, when applicable;

(d) Determine the countable unearned income of all members in the eligibility unit including the \$50 child support deduction, when applicable;

(e) Exclude individuals receiving SSI or a combination of SSI and other Social Security benefits from the number in the eligibility unit for all AFDC calculations; and

(f) Apply the AFDC countable income limit (185 percent of the basic standard) with adult and the adjusted

income/payment standard (basic standard plus minimum wage equalization allowance) with adult.

(6) In circumstances in which the parent or caregiver is not available or willing to provide financial information to the Department, the Department may determine AFDC eligibility based on a preponderance of evidence.

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 418.005

AMEND: 413-100-0170

REPEAL: Temporary 413-100-0170 from CWP 26-2018

RULE TITLE: Determining Resources

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Rule renamed for clarity. Revised language and formatting for clarity and consistency with federal requirements.

RULE TEXT:

A child is not Title IV-E eligible if in the eligibility month all resources available to the eligibility unit that are not excluded by Department rules in effect on July 16, 1996, exceed the resource limit.

- (1) The resource limit for an eligibility unit is \$10,000.
- (2) A resource considered available to the eligibility unit includes:
 - (a) Cash on hand.
 - (b) Cash in a safe deposit box.
 - (c) Checking or savings accounts.
 - (d) Stocks, bonds and other securities including Certificates of Deposit.
 - (e) Trust fund if legally available for use.
 - (f) Equity value of prepaid burial arrangement. Of the equity value of a prepaid burial arrangement, \$1,500 is exempt.
 - (g) Equity value of life insurance policy.
 - (h) Equity value of recreational vehicles used for amusement.
 - (i) Equity value of motor vehicles. Of the equity value of a licensed motor vehicle, \$1,500 is exempt if it is utilized for day-to-day transportation. If an eligibility unit has more than one licensed motor vehicle, only one vehicle is eligible for the exemption.
 - (j) Equity value of real property (land and buildings).
 - (k) Equity value of income producing property.
 - (L) Equity value of work related equipment.
 - (m) Tax refunds.

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 412.144, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 412.144, ORS 418.005

AMEND: 413-100-0180

REPEAL: Temporary 413-100-0180 from CWP 26-2018

RULE TITLE: Earned Income of Students

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Rule renamed for clarity. Revised language and formatting for clarity and consistency with federal requirements.

RULE TEXT:

(1) The earned income of a child or young adult who has a GED or high school diploma and is included in the eligibility unit is counted when determining Title IV-E eligibility.

(2) Earned income is not counted for:

(a) A child, 18 years old or younger, who is a full-time student in grade 12 or below (or the equivalent level of vocational training or GED courses); or

(b) A child, who is a full-time or part-time student (as defined by the institution) in grade 12 or below (or in the equivalent level of vocational training or GED courses), and not employed full-time.

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 412.144, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 412.144, ORS 418.005

REPEAL: 413-100-0190

REPEAL: Temporary 413-100-0190 from CWP 26-2018

RULE TITLE: AFDC Eligibility — Unearned Income

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Repealing as rule was redundant to 0160. Removed outdated policy guidance.

RULE TEXT:

- (1) For Title IV-E foster care purposes, all unearned income and benefits potentially available to the child must be counted against his or her maintenance payment on a dollar-for-dollar basis.
- (2) Benefits awarded to the child for which the Department is not yet payee and benefits not readily available to the child still must be counted.
- (3) Effective April 1, 2010, sections (1) and (2) of this rule no longer apply to Title IV-E eligibility redeterminations.
- (4) The following are examples of countable unearned income:
 - (a) All Social Security benefits;
 - (b) Veteran's benefits;
 - (c) Cash contributions from any source;
 - (d) State or private accident or disability payments;
 - (e) Personal injury settlements;
 - (f) Lump sum income (except SOIL and IRS recoveries and lump sum support payments applied in the month of receipt to offset prior months Title IV-E maintenance costs);
 - (g) Effective April 1, 2010, subsection (f) of this section no longer applies to Title IV-E eligibility redeterminations.
 - (h) Child support;
 - (i) Railroad Retirement and other pensions;
 - (j) Annuities, dividends, interest, royalties.

STATUTORY/OTHER AUTHORITY: ORS 409.010, 409.050, 412.144, 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 412.144, 418.005

REPEAL: 413-100-0200

REPEAL: Temporary 413-100-0200 from CWP 26-2018

RULE TITLE: AFDC Eligibility — Lump Sum Benefits

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Repealing rule due to outdated policy guidance.

RULE TEXT:

(1) Lump sum benefits must be used to offset a child's cost of care. Federal lump sum benefits paid to the Department must be applied retroactively to reimburse the Department from the date paid placement was initiated. The Department must be the representative payee. This can be accomplished by contacting the Children's Benefit Unit of the Department.

(2) A Title IV-E eligible child receiving lump sum benefits exceeding the cost of care is ineligible for Title IV-E foster care during the months that the calculated lump sum exceeds the foster care maintenance payment.

(3) Effective April 1, 2010, sections (1) and (2) of this rule no longer apply to Title IV-E eligibility redeterminations.

STATUTORY/OTHER AUTHORITY: ORS 409.010, 409.050, 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 412.144, 418.005

AMEND: 413-100-0210

REPEAL: Temporary 413-100-0210 from CWP 26-2018

RULE TITLE: U.S. Citizenship and Qualified Non-citizens

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Minor formatting changes and revised rule title.

RULE TEXT:

A Title IV-E eligible child or young adult must be:

(1) A United States citizen; or

(2) A qualified non-citizen is defined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193. Under Section 431 of PRWORA, a qualified non-citizen's access to federal public benefits is restricted for five years beginning on the date of the qualified non-citizen's entry into the United States, unless subsection (b), (c), or (d) of this section applies. Under PRWORA, a qualified non-citizen is:

(a) Lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (the "Act");

(b) Granted asylum under Section 208 of the Act;

(c) A refugee admitted to the United States under section 207 of the Act;

(d) Paroled into the United States under section 212(d)(5) of the Act for a period of at least one year;

(e) An individual whose deportation is being withheld under Section 243(h) of the Act;

(f) An individual granted conditional entry under section 203(a)(7) of the Act as in effect prior to April 1, 1980;

(g) If the child is a qualified non-citizen who is placed with a qualified non-citizen or United States citizen, the date the child entered the United States is irrelevant, and the five-year restriction on federal public benefits does not apply; or

(h) If the child is a qualified non-citizen who entered the United States on or after August 22, 1996, and is placed with an unqualified qualified non-citizen, the child would be subject to the five-year residency requirement for federal public benefits at section 403(a) of PRWORA unless the child is in one of the excepted groups identified at section 403(b).

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 412.144, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 412.144, ORS 418.005

REPEAL: 413-100-0220

REPEAL: Temporary 413-100-0220 from CWP 26-2018

RULE TITLE: Residency

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Repealing rule as it is extraneous.

RULE TEXT:

There is no minimum time-of residency requirement for a child to be eligible for Title IV-E foster care. There need only be the intent that the child reside in the State of Oregon.

STATUTORY/OTHER AUTHORITY: ORS 409.010, 409.050, 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 412.144, 418.005

AMEND: 413-100-0230

REPEAL: Temporary 413-100-0230 from CWP 26-2018

RULE TITLE: Age Requirements

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Revised language and formatting for clarity and consistency with federal requirements.

RULE TEXT:

To be Title IV-E eligible, a child or young adult must be:

(1) A child at the time of removal.

(2) At redetermination:

(a) A child; or

(b) A young adult, who meets one of the following requirements:

(A) Completing his or her secondary education or a program leading to an equivalent credential;

(B) Enrolled in an institution that provides post-secondary or vocational education;

(C) Participating in a program or activity designed to promote or remove barriers to employment;

(D) Employed for at least 80 hours per month; or

(E) Determined to be unable to perform any of the activities in paragraphs (A) to (D) of this subsection due to a physical condition, mental disability or physical disability documented by medical evidence and regularly updated information in the case plan of the young adult.

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 412.144, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 412.144, ORS 418.005

AMEND: 413-100-0240

REPEAL: Temporary 413-100-0240 from CWP 26-2018

RULE TITLE: Judicial Finding Requirements for Title IV-E Eligibility

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Revised language and formatting for clarity and consistency with federal requirements.

RULE TEXT:

(1) Reasonable efforts determination. The Title IV-E agency must make reasonable efforts to maintain the family unit and prevent the unnecessary removal of a child from his or her home; to affect the safe reunification of the child and family; and to make and finalize alternate permanency plans in a timely manner when reunification is not appropriate or possible.

(a) Judicial determination of reasonable efforts to prevent a child's removal from the home. When a child is removed from his or her home, the Title IV-E agency must obtain a judicial determination that reasonable efforts were made or were not required to prevent the removal (pursuant to section (2) of this rule). This judicial determination must be obtained no later than 60 days from the date the child is removed from the home.

(b) Judicial determination of reasonable efforts to finalize a permanency plan. The Title IV-E agency must obtain a judicial determination that it has made reasonable efforts to finalize the permanency plan that is in effect within 12 months of the date the child is considered to have entered foster care and at least once every 12 months thereafter while the child is in foster care.

(c) Circumstances in which reasonable efforts are not required. Reasonable efforts to prevent a child's removal from home or to reunify the child and family are not required if the Title IV-E agency obtains a judicial determination that such efforts are not required because a court determines one of the following circumstances exists:

(A) The parent has subjected the child to aggravated circumstances including, but not limited to, one of the reasons listed in ORS 419B.340(5)(a);

(B) The parent has been convicted in any jurisdiction of one of the crimes listed in ORS 419B.340(5)(b); or

(C) The parent's rights to another child have been terminated involuntarily.

(2) Contrary to the welfare or best interest determination. The Title IV-E agency must obtain a judicial determination that continuation in the home would be contrary to the welfare, or that placement would be in the best interest, of the child.

(a) When a child is removed pursuant to a court order, the judicial determination must be made in the first court order that sanctions (even temporarily) the removal of a child from home.

(b) When a child is removed pursuant to a voluntary placement agreement, the judicial determination must be made no later than 180 days from the date of the child's placement.

(3) Documentation of judicial determinations.

(a) The judicial determinations regarding contrary to the welfare, reasonable efforts to prevent removal, and reasonable efforts to finalize the permanency plan in effect, including judicial determinations that reasonable efforts are not required, must be explicitly documented and must be made on a case-by-case basis and stated in the court order.

(b) If the reasonable efforts and contrary to the welfare judicial determinations are not included as required in the court orders identified in sections (1) and (2) of this rule, a transcript of the court proceedings is the only other documentation that will be accepted to verify these required determinations have been made.

STATUTORY/OTHER AUTHORITY: 42 U.S.C. 671, 672, ORS 409.010, ORS 409.050, ORS 418.005, ORS 419B.340

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 418.005, ORS 419B.340

REPEAL: 413-100-0250

REPEAL: Temporary 413-100-0250 from CWP 26-2018

RULE TITLE: Voluntary Custody and Voluntary Placement Agreements

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Repealing rule because language is included in 413-100-0240.

RULE TEXT:

(1) In accordance with ORS 412.084, when a child is in substitute care pursuant to a Voluntary Custody Agreement or Voluntary Placement Agreement, the Department must, within 180 days of the date of placement, obtain a judicial finding to the effect that continuation of the placement is in the best interest of the child. This best interest finding also is a requirement for continuation of the child's Title IV-E eligibility for more than 180 days. This judicial finding may be obtained in a court hearing or by a letter to the court that results in an ex parte court order containing the best interest finding. Findings of reasonable efforts to prevent or eliminate the removal and to achieve the permanency plan are not required for Title IV-E eligibility.

(2) If the finding in section (1) of this rule is not made within the first 180 days after the placement, the child or young adult becomes ineligible for Title IV-E 181 days after the placement and is not Title IV-E eligible for the duration of the substitute care episode.

STATUTORY/OTHER AUTHORITY: ORS 409.010, 409.050, 412.084, 418.005, 419B.175, 419B.180, 419B.185

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 412.084, 418.005, 419B.175, 419B.180, 419B.185

REPEAL: 413-100-0260

REPEAL: Temporary 413-100-0260 from CWP 26-2018

RULE TITLE: Voluntary Relinquishments

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Repealing rule because language is included in 413-100-0240.

RULE TEXT:

(1) A child in placement based on a voluntary relinquishment is Title IV-E eligible if:

(a) Within 60 days of placement, or within six months of a voluntary relinquishment to a private adoption agency, the first court order issued has a judicial finding to the effect that remaining in the home would be "contrary to the welfare" of the child or "placement is in the child's best interest"; and

(b) Within 60 days of placement, there is a judicial finding to the effect that "reasonable efforts" have been made to prevent or eliminate the need for removal from the home.

(2) When all other eligibility criteria are met, Title IV-E eligibility is effective the first of the month in which the judicial finding was made.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 418.005

AMEND: 413-100-0270

REPEAL: Temporary 413-100-0270 from CWP 26-2018

RULE TITLE: Redetermination Requirements

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Renamed rule and revised language and formatting for clarity and consistency with federal requirements.

RULE TEXT:

(1) The Department must complete an annual redetermination no later than 12 months from the date the child is considered to have entered foster care, and every 12 months thereafter, for the duration of the child or young adult's substitute care episode to determine whether the child or young adult continues to meet the following Title IV-E eligibility requirements during the review period:

(a) The child or young adult continues to meet the age requirements under OAR 413-100-0230;

(b) The judicial finding requirements for reasonable efforts under OAR 413-100-0240 continues to be met; and

(c) The child or young adult was placed in a fully certified foster or relative caregiver home or with a licensed child caring agency during the redetermination period.

(2) The Department must complete a redetermination as soon as possible when a child or young adult's eligibility status changes due to any of the following circumstances:

(a) The child or young adult's placement service changes and the reimbursement status of the new placement differs from that of the prior placement.

(b) The child or young adult becomes eligible, or ineligible, for SSI.

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 418.005

REPEAL: 413-100-0280

REPEAL: Temporary 413-100-0280 from CWP 26-2018

RULE TITLE: Redetermination of Deprivation at Relinquishment or Termination of Parental Rights

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Repealing rule due to outdated policy guidance.

RULE TEXT:

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (122 Stat. 3949-3981) delinked Title IV-E eligibility redeterminations from AFDC eligibility, effective April 1, 2010. A redetermination of deprivation at relinquishment or termination of parental rights is no longer required.

STATUTORY/OTHER AUTHORITY: 418.005, ORS 409.050

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 418.005

REPEAL: 413-100-0300

REPEAL: Temporary 413-100-0300 from CWP 26-2018

RULE TITLE: Parental Referral to Division of Child Support

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Repealing rule due to outdated policy guidance.

RULE TEXT:

Unless an exception is granted pursuant to Child Welfare Policy I-E.7.1, "Child Support Referrals", OAR 413-100-0800 to 413-100-0850, every case involving a Title IV-E eligible child must be referred to the Division of Child Support of the Oregon Department of Justice.

STATUTORY/OTHER AUTHORITY: ORS 409.010, 409.050, 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 418.005

REPEAL: 413-100-0310

REPEAL: Temporary 413-100-0310 from CWP 26-2018

RULE TITLE: Title XIX Medicaid Eligibility

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Repealing rule due to outdated policy guidance.

RULE TEXT:

A child found Title IV-E eligible is categorically eligible for Title XIX Medicaid benefits, as described in OAR 413-100-0430, except that a child found Title IV-E eligible who does not have a social security number is ineligible for Title XIX Medicaid benefits until a social security number application has been completed.

STATUTORY/OTHER AUTHORITY: ORS 409.010, 409.050, 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, 409.050, 418.005

AMEND: 413-100-0320

REPEAL: Temporary 413-100-0320 from CWP 26-2018

RULE TITLE: Consolidated Omnibus Reconciliation Act (COBRA) and Title XIX Medicaid

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Minor grammatical changes.

RULE TEXT:

(1) The COBRA of 1985, PL 99-272 enacted on April 7, 1986, permits a Title IV-E eligible child in paid substitute care or receiving adoption assistance to receive Title XIX Medicaid coverage from the state in which he or she resides.

(2) For a Title IV-E foster care eligible child being placed outside of Oregon, the Department must provide the following information to the foster or adoptive parents:

(a) Confirmation of the child's Title IV-E eligibility;

(b) Notification of the discontinuance of the child's Oregon Medicaid coverage; and

(c) A letter stating the child's eligibility under COBRA for applying for Title XIX Medicaid coverage in the child's new state of residence.

STATUTORY/OTHER AUTHORITY: ORS 409.010, ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.010, ORS 409.050, ORS 418.005

AMEND: 413-100-0335

REPEAL: Temporary 413-100-0335 from CWP 26-2018

RULE TITLE: Title IV-E Adoption Assistance Eligibility Determination

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Renamed rule and revised language and formatting for clarity and consistency with federal requirements.

RULE TEXT:

(1) A child is not eligible for Title IV-E adoption assistance when:

(a) The child is not a citizen or resident of the United States; and

(b) The child was adopted outside of the United States or was brought into the United States for the purpose of being adopted.

(2) A child that meets the special needs criteria as defined by OAR 413-100-0125 is eligible for Title IV-E adoption assistance when the requirements of at least one of the following subsections are met:

(a) In the case of a child who is not an applicable child, the child is eligible for Title IV-E adoption assistance when at least one of the following apply:

(A) The child was determined eligible for Title IV-E foster care, in accordance with the eligibility criteria prescribed in OAR 413-100-0125 to 413-100-0240.

(B) The child meets all eligibility requirements for SSI benefits.

(C) The child's payments in a certified foster home or private child caring agency are covered by a Title IV-E foster care maintenance payment being made for his or her minor parent.

(D) The child's eligibility for a Title IV-E adoption assistance payment was established for a prior adoption, and the child is now available for adoption because of one of the following:

(i) The prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated or relinquished; or

(ii) Each adoptive parent of the child has died.

(b) In the case of a child who does not meet at least one of the criteria in section (2) of this rule, who is an applicable child as defined by section (3) of this rule, the child is eligible for Title IV-E adoption assistance when at least one of the following apply:

(A) At the time of initiation of the adoption proceeding, the child was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to:

(i) An involuntary removal in accordance with a judicial determination that it was contrary to the child's welfare for the child to remain in the home; or

(ii) A voluntary placement agreement or voluntary relinquishment.

(B) The child meets all medical and disability requirements of Title XVI with respect to eligibility for SSI benefits.

(C) The child was residing in a family foster home or child care institution with his or her minor parent and the minor parent was removed from the home pursuant to:

(i) An involuntary removal in accordance with a judicial determination to the effect that it was contrary to the child's welfare to remain in the home; or

(ii) A voluntary placement agreement or voluntary relinquishment.

(D) The child was adopted and was determined eligible for Title IV-E adoption assistance in a prior adoption and is available for adoption because of one of the following:

(i) The prior adoption was dissolved and the parental rights of the adoptive parents have been terminated or relinquished; or

(ii) The child's adoptive parents have died.

(3) An "applicable child" as defined in section 473(e) of the Social Security Act (42 U.S.C. 673) meets at least one of the following requirements:

- (a) The child meets the applicable age requirements if during the federal fiscal year (FFY) (October 1 through September 30) in which the adoption assistance agreement is finalized, he or she attains the applicable age, as illustrated by Exhibit 1. The Department maintains this exhibit on the Department's website. A printed copy of the exhibit may be obtained by contacting the Department of Human Services, Office of Child Welfare Programs, ATTN: Federal Policy, Planning and Resources Program, PO Box E-67, 500 Summer St. NE, E93, Salem, OR 97301;
 - (b) The child has been in foster care under the responsibility of the Title IV-E agency for any 60-consecutive-month period prior to finalization of the adoption; or
 - (c) The child is a sibling of another child the Department has determined is an applicable child and both children are placed in the same adoption arrangement.
- (4) To be eligible for an extension of Title IV-E adoption assistance through age 20, the young adult must meet the requirements of OAR 413-130-0055.
- (5) Private Agency Adoptions. To be eligible for Title IV-E adoption assistance, a child voluntarily relinquished to a public or private nonprofit agency must meet the special-needs criteria described in OAR 413-130-0020 and all the following requirements:
- (a) The child must be voluntarily relinquished either to the state agency (or another public agency, including tribes with whom the state has a Title IV-E agreement), or to a private, nonprofit agency.
 - (b) Within six months of the date the child last lived with a specified relative, the entity to which the child was relinquished must file a petition with the court to remove the child from the home.
 - (c) The court must make a subsequent judicial determination that remaining in the home would be contrary to the child's welfare.
 - (d) The child must meet the Title IV-E AFDC eligibility requirements, as described in OAR 413-100-0150 through 413-100-0170.
- (6) Independent Adoptions. To be eligible for Title IV-E adoption assistance, a child voluntarily relinquished to an individual must meet the special needs criteria described in OAR 413-130-0020 and meet at least one of the following requirements:
- (a) The child meets the eligibility criteria for SSI at the time the adoption petition is filed.
 - (b) The child is in a subsequent adoption, and he or she received Title IV-E adoption assistance in a previous adoption.
- (7) Eligibility for Title IV-E adoption assistance may not be presumed for a child placed with a guardian who is receiving a guardianship assistance payment through the Department's Guardianship Assistance program. The Title IV-E Specialist must complete an adoption assistance eligibility determination on a form approved by the Department based on the original removal of the child.

STATUTORY/OTHER AUTHORITY: ORS 418.005, ORS 418.330 - 418.340

STATUTES/OTHER IMPLEMENTED: ORS 418.005, ORS 418.330 - 418.340

Exhibit 1 – Applicable Child – Age (OAR 413-100-0335)

In Federal Fiscal Year (FFY) 2010, the applicable age for a child begins at 16 years of age and decreases by 2 years of age in each FFY until FFY 2018. Effective January 1, 2018, Family First Act legislation revised the eligible age criteria by delaying the decrease in the applicable age from 2 years of age. Starting October 1, 2025, the applicable child eligibility requirements apply to a child of any age. The charts provided below illustrate the phased-in applicability of the revised eligibility criteria ([42 U.S.C. 673](#)).

In the case of fiscal year:	The applicable age is:
2010	16
2011	14
2012	12
2013	10
2014	8
2015	6
2016	4
2017 - 2023	2
2024	2 (Or in the case of a child for whom an adoption assistance agreement is entered into under this section on or after July 1, 2024, any age.)
2025 or thereafter	Any age.

AMEND: 413-100-0345

REPEAL: Temporary 413-100-0345 from CWP 26-2018

RULE TITLE: Guardianship Assistance Eligibility

NOTICE FILED DATE: 04/23/2018

RULE SUMMARY: Revised to remove duplication and potential inconsistency with 413-070-0917 – Guardianship Eligibility.

RULE TEXT:

- (1) To be eligible for Title IV-E guardianship assistance, the child and prospective guardian must meet the eligibility requirements as described in OAR 413-070-0917.
- (2) The Title IV-E guardianship assistance determination must be completed by a IV-E Specialist on a form approved by the Department.
- (3) Title IV-E Guardianship Assistance Eligibility Denial Notices and the Right to a Hearing.
 - (a) Title IV-E Guardianship Assistance Denial Notices
 - (A) The Department must complete a "Denial of Title IV-E Guardianship Assistance Eligibility" form at the time of the child's Title IV-E eligibility denial for guardianship assistance.
 - (B) The Department must send a "Denial of Title IV-E Guardianship Assistance Eligibility" form by certified mail to the prospective relative guardian when the child's eligibility for Title IVE guardianship assistance is denied.
 - (b) Rights to a Hearing.
 - (A) When the "Denial of Title IV-E Guardianship Assistance Eligibility" form is mailed to the prospective relative guardian, the Department will include information about the prospective relative guardian's right to a hearing.
 - (B) If the prospective relative guardian does not agree with the Title IV-E eligibility decision, the prospective relative guardian has the right to request a contested case hearing, as described in OAR 413-010-0500 to 413-010-0535.

STATUTORY/OTHER AUTHORITY: ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 418.005